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(Original Signature of Member)

114TH CONGRESS
1ST SESSION

H. R.

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

IN THE HOUSE OF REPRESENTATIVES

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

A BILL

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

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

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

1 **SEC. 2. DEFINITIONS.**

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

6 **SEC. 3. 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.).

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

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

16 (1) in paragraph (4)—

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

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

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

25 “(I) the biology of the stock of
26 fish, other environmental conditions,

1 or management measures under an
2 international agreement in which the
3 United States participates dictate oth-
4 erwise;

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

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

20 “(IV) the Secretary determines
21 that recruitment, distribution, or life
22 history of, or fishing activities for, the
23 stock are affected by informal
24 transboundary agreements under
25 which management activities outside

1 the exclusive economic zone by an-
2 other country may hinder conservation
3 and management efforts by United
4 States fishermen; and

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

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

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

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

23 “(E) specify a schedule for reviewing the
24 rebuilding targets, evaluating environmental im-
25 pacts on rebuilding progress, and evaluating

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

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

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

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

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

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

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

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

3 **SEC. 5. MODIFICATIONS TO THE ANNUAL CATCH LIMIT RE-**
4 **QUIREMENT.**

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

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

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

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

18 “(A) an ecosystem component species;

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

23 “(C) a stock for which—

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

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

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

9 “(A) management measures under inter-
10 national agreements in which the United States
11 participates;

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

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

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

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

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

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

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

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

22 **SEC. 6. DISTINGUISHING BETWEEN OVERFISHED AND DE-**
23 **PLETED.**

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

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

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

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

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

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

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

2 (a) **ADVICE.**—Section 302(g)(1)(B) (16 U.S.C.
3 1852(g)(1)(B)) is amended by adding at the end the fol-
4 lowing: “Each scientific and statistical committee shall de-
5 velop such advice in a transparent manner and allow for
6 public involvement in the process.”.

7 (b) **MEETINGS.**—Section 302(i)(2) (16 U.S.C.
8 1852(i)(2)) is amended by adding at the end the following:

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

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

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

24 “(H) The Secretary shall maintain and make
25 available to the public an archive of Council and sci-
26 entific and statistical committee meeting audios, vid-

1 eos, and transcripts made available under clauses (i)
2 and (ii) subparagraph (G).”.

3 (c) FISHERY IMPACT STATEMENTS.—

4 (1) REQUIREMENT.—Section 303 (16 U.S.C.
5 1853) is amended—

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

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

11 “(d) FISHERY IMPACT STATEMENT.—

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

20 “(2) The fishery impact statement shall de-
21 scribe—

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

23 “(B) the environmental impact of the pro-
24 posed action;

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

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

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

9 “(F) the cumulative conservation and man-
10 agement effects; and

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

13 “(i) participants in the fisheries and
14 fishing communities affected by the pro-
15 posed action;

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

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

1 “(3) A substantially complete fishery impact
2 statement, which may be in draft form, shall be
3 available not less than 14 days before the beginning
4 of the meeting at which a Council makes its final de-
5 cision on the proposal (for plans, plan amendments,
6 or proposed regulations prepared by a Council pur-
7 suant to subsection (a) or (c)). Availability of this
8 fishery impact statement will be announced by the
9 methods used by the council to disseminate public
10 information and the public and relevant government
11 agencies will be invited to comment on the fishery
12 impact statement.

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

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

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

7 “(A) using Council meetings to determine
8 the scope of issues to be addressed and identi-
9 fying significant issues related to the proposed
10 action;

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

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

23 (2) EVALUATION OF ADEQUACY.—Section
24 304(a)(2) (16 U.S.C. 1854(a)(2)) is amended by
25 striking “and” after the semicolon at the end of sub-

1 paragraph (B), striking the period at the end of sub-
2 paragraph (C) and inserting “; and”, and by adding
3 at the end the following:

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

9 (3) REVIEW OF REGULATIONS.—Section 304(b)
10 (16 U.S.C. 1854(b)) is amended by striking so much
11 as precedes subparagraph (A) of paragraph (1) and
12 inserting the following:

13 “(b) REVIEW OF REGULATIONS.—

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

1 mination
2 and—”.

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

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

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. 1853a(c)(6)(D)) is amended to read as fol-
24 lows:

1 “(D) CATCH SHARE REFERENDUM PILOT
2 PROGRAM.—

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

1 it may be revised and submitted for ap-
2 proval in a subsequent referendum.

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

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

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

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

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

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

1 requirements for the referendum proc-
2 ess.

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

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

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

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

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

4 **SEC. 9. REPORT ON FEE.**

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

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

11 “(i) Congress; and

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

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

15 (a) **ELECTRONIC MONITORING.—**

16 (1) **ISSUANCE OF REGULATIONS.—**

17 (A) **REQUIREMENT.—**The Secretary shall
18 issue regulations governing the use of electronic
19 monitoring for the purposes of monitoring fish-
20 eries that are subject to the Magnuson-Stevens
21 Fishery Conservation and Management Act (16
22 U.S.C. 1801 et seq.).

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

24 (i) distinguish between monitoring for
25 data collection and research purposes and

1 monitoring for compliance and enforcement
2 purposes; and

3 (ii) include minimum criteria, objec-
4 tives, or performance standards for elec-
5 tronic monitoring.

6 (C) PROCESS.—In issuing the regulations
7 the Secretary shall—

8 (i) consult with the Councils and fish-
9 ery management commissions;

10 (ii) publish the proposed regulations;
11 and

12 (iii) provide an opportunity for the
13 submission by the public of comments on
14 the proposed regulations.

15 (2) IMPLEMENTATION OF MONITORING.—

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

1 issued by the Council or the Secretary, respec-
2 tively, amend such plan—

3 (i) to incorporate electronic moni-
4 toring as an alternative tool for data col-
5 lection and monitoring purposes or for
6 compliance and enforcement purposes (or
7 both); and

8 (ii) to allow for the replacement of a
9 percentage of on-board observers with elec-
10 tronic monitoring.

11 (B) COMPARABILITY.—Subparagraph (A)
12 shall apply to a fishery only if the Council or
13 Secretary, respectively, determines that such
14 monitoring will yield comparable data collection
15 and compliance results.

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

1 (4) DEADLINE.—The Secretary shall issue final
2 regulations under this subsection by not later than
3 12 months after the date of enactment of this Act.

4 (b) VIDEO AND ACOUSTIC SURVEY TECH-
5 NOLOGIES.—The Secretary shall work with the Regional
6 Fishery Management Councils and nongovernmental enti-
7 ties to develop and implement the use pursuant to the
8 Magnuson-Stevens Fishery Conservation and Manage-
9 ment Act (16 U.S.C. 1801 et seq.) of video survey tech-
10 nologies and expanded use of acoustic survey technologies.

11 (c) CONFIDENTIALITY OF INFORMATION.—

12 (1) IN GENERAL.—Section 402(b) (16 U.S.C.
13 1881a(b)) is amended—

14 (A) in paragraph (1)—

15 (i) by amending subparagraph (B) to
16 read as follows:

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

1 (ii) in subparagraph (E), by striking
2 “limited access” and inserting “catch
3 share”; and

4 (iii) in subparagraph (G), by striking
5 “limited access” and inserting “catch
6 share”;

7 (B) in paragraph (2)—

8 (i) in the matter preceding subpara-
9 graph (A), by inserting “, and information
10 obtained through a vessel monitoring sys-
11 tem or other technology used onboard a
12 fishing vessel for enforcement or data col-
13 lection purposes,” after “information”;

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

16 (iii) by striking subparagraph (C) and
17 inserting the following:

18 “(C) as authorized by any regulations
19 issued under paragraph (6) allowing the collec-
20 tion of observer information, pursuant to a con-
21 fidentiality agreement between the observers,
22 observer employers, and the Secretary prohib-
23 iting disclosure of the information by the ob-
24 servers or observer employers, in order—

1 “(i) to allow the sharing of observer
2 information among observers and between
3 observers and observer employers as nec-
4 essary to train and prepare observers for
5 deployments on specific vessels; or

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

8 “(D) to other persons if the Secretary has
9 obtained written authorization from the person
10 who submitted such information or from the
11 person on whose vessel the information was col-
12 lected, to release such information for reasons
13 not otherwise provided for in this subsection.”;

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

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

18 “(3) Any information submitted to the Sec-
19 retary, a State fisheries management agency, or a
20 Marine Fisheries Commission by any person in com-
21 pliance with the requirements of this Act, including
22 confidential information, may only be used for pur-
23 poses of fisheries management and monitoring and
24 enforcement under this Act.

1 “(4) The Secretary may enter into a memo-
2 randum of understanding with the heads of other
3 Federal agencies for the sharing of confidential in-
4 formation to ensure safety of life at sea or for fish-
5 eries enforcement purposes, including information
6 obtained through a vessel monitoring system or
7 other electronic enforcement and monitoring sys-
8 tems, if—

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

11 “(B) the heads of the other Federal agen-
12 cies agree—

13 “(i) to maintain the confidentiality of
14 the information in accordance with the re-
15 quirements that apply to the Secretary
16 under this section; and

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

20 “(5) The Secretary may not provide any vessel-
21 specific or aggregate vessel information from a fish-
22 ery that is collected for monitoring and enforcement
23 purposes to any person for the purposes of coastal
24 and marine spatial planning under Executive Order
25 13547, unless the Secretary determines that pro-

1 viding such information is important for maintaining
2 or enhancing national security or for ensuring fish-
3 ermen continued access to fishing grounds.”.

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

7 “(4a) The term ‘confidential information’
8 means—

9 “(A) trade secrets;

10 “(B) proprietary information;

11 “(C) observer information; and

12 “(D) commercial or financial information
13 the disclosure of which is likely to result in
14 harm to the competitive position of the person
15 that submitted the information to the Sec-
16 retary.”.

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

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

23 “(1) IN GENERAL.—

24 “(A) The Secretary, subject to appropria-
25 tions, may obligate for data collection purposes

1 in accordance with prioritizations under para-
2 graph (3) a portion of amounts received by the
3 United States as fisheries enforcement pen-
4 alties.

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

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

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

15 “(B) cooperative research activities author-
16 ized under section 318 to improve or enhance
17 the fishery independent data used in fishery
18 stock assessments.

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

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

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

1 “(C) provide those priorities to the Sec-
2 retary.

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

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

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

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

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

14 “(B) The term ‘fisheries enforcement pen-
15 alties’ means any fine or penalty imposed, or
16 proceeds of any property seized, for a violation
17 of this Act or of any other marine resource law
18 enforced by the Secretary.

19 “(5) AUTHORIZATION OF APPROPRIATIONS.—
20 There is authorized to be appropriated to the Sec-
21 retary for each fiscal year to carry out this sub-
22 section up to 80 percent of the fisheries enforcement
23 penalties collected during the preceding fiscal year.”.

1 **SEC. 11. COOPERATIVE RESEARCH AND MANAGEMENT**
2 **PROGRAM.**

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

4 (1) in subsection (a), by inserting “(1)” before
5 the first sentence, and by adding at the end the fol-
6 lowing:

7 “(2) Within one year after the date of enactment of
8 the Strengthening Fishing Communities and Increasing
9 Flexibility in Fisheries Management Act, and after con-
10 sultation with the Councils, the Secretary shall publish a
11 plan for implementing and conducting the program estab-
12 lished in paragraph (1). Such plan shall identify and de-
13 scribe critical regional fishery management and research
14 needs, possible projects that may address those needs, and
15 estimated costs for such projects. The plan shall be revised
16 and updated every 5 years, and updated plans shall in-
17 clude a brief description of projects that were funded in
18 the prior 5-year period and the research and management
19 needs that were addressed by those projects.”; and

20 (2) in subsection (c)—

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

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

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

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

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

8 **SEC. 12. COUNCIL JURISDICTION FOR OVERLAPPING FISH-**
9 **ERIES.**

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

11 (1) in subparagraph (A), in the second sen-
12 tence—

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

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

20 (2) in subparagraph (B), in the second sen-
21 tence—

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

24 (B) by inserting before the period at the
25 end “and a liaison who is a member of the New

1 England Fishery Management Council to rep-
2 resent the interests of fisheries under the juris-
3 diction of such Council”.

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

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

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

11 (1) in conjunction with the States, the Gulf of
12 Mexico Fishery Management Council, and the rec-
13 reational fishing sectors, develop and implement a
14 real-time reporting and data collection program for
15 the Gulf of Mexico red snapper fishery using avail-
16 able technology; and

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

22 (c) FISHERIES COOPERATIVE RESEARCH PRO-
23 GRAM.—The Secretary of Commerce—

24 (1) shall, in conjunction with the States, the
25 Gulf States Marine Fisheries Commission and the

1 Atlantic States Marine Fisheries Commission, the
2 Gulf of Mexico and South Atlantic Fishery Manage-
3 ment Councils, and the commercial, charter, and
4 recreational fishing sectors, develop and implement a
5 cooperative research program authorized under sec-
6 tion 318 for the fisheries of the Gulf of Mexico and
7 South Atlantic regions, giving priority to those fish-
8 eries that are considered data-poor; and

9 (2) may, subject to the availability of appropria-
10 tions, use funds received by the Secretary under sec-
11 tion 2 of the Act of August 11, 1939 (commonly
12 known as the “Saltonstall-Kennedy Act”) (15 U.S.C.
13 713c–3) to implement this subsection.

14 (d) STOCK SURVEYS AND STOCK ASSESSMENTS.—
15 The Secretary of Commerce, acting through the National
16 Marine Fisheries Service Regional Administrator of the
17 Southeast Regional Office, shall for purposes of the Mag-
18 nuson-Stevens Fishery Conservation and Management Act
19 (16 U.S.C. 1801 et seq.)—

20 (1) develop a schedule of stock surveys and
21 stock assessments for the Gulf of Mexico Region and
22 the South Atlantic Region for the 5-year period be-
23 ginning on the date of the enactment of this Act and
24 for every 5-year period thereafter;

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

3 (3) in such development and implementation—

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

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

8 (e) USE OF FISHERIES INFORMATION IN STOCK AS-
9 SESSMENTS.—The Southeast Science Center Director
10 shall ensure that fisheries information made available
11 through fisheries programs funded under Public Law
12 112–141 is incorporated as soon as possible into any fish-
13 eries stock assessments conducted after the date of the
14 enactment of this Act.

15 (f) STATE FISHERIES MANAGEMENT IN THE GULF
16 OF MEXICO WITH RESPECT TO RED SNAPPER.—Section
17 306(b) (16 U.S.C. 1856(b)) is amended by adding at the
18 end the following:

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

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

8 **SEC. 14. NORTH PACIFIC FISHERY MANAGEMENT CLARI-**
9 **FICATION.**

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

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

13 and

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

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

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

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

22 “(a) NATIONAL MARINE SANCTUARIES ACT AND AN-
23 TIQUITIES ACT OF 1906.—In any case of a conflict be-
24 tween this Act and the National Marine Sanctuaries Act

1 (16 U.S.C. 1431 et seq.) or the Antiquities Act of 1906
2 (16 U.S.C. 431 et seq.), this Act shall control.

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

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

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

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

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

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

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

21 “(1) HARVESTING.—

22 “(A) LIMITATION.—No particular indi-
23 vidual, corporation, or other entity may harvest,
24 through a fishery cooperative or otherwise, a

1 percentage of the pollock available to be har-
2 vested in the directed pollock fishery that ex-
3 ceeds the percentage established for purposes of
4 this paragraph by the North Pacific Council.

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

10 **SEC. 17. RECREATIONAL FISHING DATA.**

11 (a) RECREATIONAL DATA COLLECTION.—Section
12 401(g) (16 U.S.C. 1881(g)) is amended by redesignating
13 paragraph (4) as paragraph (5), and by inserting after
14 paragraph (3) the following:

15 “(4) FEDERAL-STATE PARTNERSHIPS.—

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

21 “(B) GUIDANCE.—The Secretary shall de-
22 velop guidance, in cooperation with the States,
23 that details best practices for administering
24 State programs pursuant to paragraph (2), and
25 provide such guidance to the States.

1 “(C) BIENNIAL REPORT.—The Secretary
2 shall submit to the Congress and publish bien-
3 nial reports that include—

4 “(i) the estimated accuracy of the reg-
5 istry program established under paragraph
6 (1) and of State programs that are ex-
7 empted under paragraph (2);

8 “(ii) priorities for improving rec-
9 reational fishing data collection; and

10 “(iii) an explanation of any use of in-
11 formation collected by such State programs
12 and by the Secretary, including a descrip-
13 tion of any consideration given to the in-
14 formation by the Secretary.

15 “(D) STATES GRANT PROGRAM.—The Sec-
16 retary shall make grants to States to improve
17 implementation of State programs consistent
18 with this subsection. The Secretary shall
19 prioritize such grants based on the ability of the
20 grant to improve the quality and accuracy of
21 such programs.”.

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

25 “(6) STUDY ON PROGRAM IMPLEMENTATION.—

1 “(A) IN GENERAL.—Not later than 60
2 days after the enactment of this paragraph, the
3 Secretary shall enter into an agreement with
4 the National Research Council of the National
5 Academy of Sciences to study the implementa-
6 tion of the programs described in this section.
7 The study shall—

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

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

17 “(iii) examine any limitations of the
18 Marine Recreational Fishery Statistics
19 Survey and the Marine Recreational Infor-
20 mation Program established under para-
21 graph (1).

22 “(B) REPORT.—Not later than 1 year
23 after entering into an agreement under sub-
24 paragraph (A), the Secretary shall submit a re-

1 port to Congress on the results of the study
2 under subparagraph (A).”.

3 **SEC. 18. STOCK ASSESSMENTS USED FOR FISHERIES MAN-**
4 **AGED UNDER GULF OF MEXICO COUNCIL’S**
5 **REEF FISH MANAGEMENT PLAN.**

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

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

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

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

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

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

21 “(B) to the extent practicable, use State,
22 university, and private assets to conduct fish-
23 eries surveys.

24 “(2) SURVEYS AT ARTIFICIAL REEFS.—Any
25 such fishery stock assessment conducted after the

1 date of the enactment of the Strengthening Fishing
2 Communities and Increasing Flexibility in Fisheries
3 Management Act shall incorporate fishery surveys
4 conducted, and other relevant fisheries information
5 collected, on and around natural and artificial reefs.

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

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

10 “(2) contain all of the raw data used in the as-
11 sessment and a description of the methods used to
12 collect that data; and

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

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

18 “(B) a panel of independent experts to re-
19 view the data and assessment and make rec-
20 ommendations on the most appropriate values
21 of critical population and management quan-
22 tities.”.

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

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

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

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

5 (1) by inserting “(A)” after “(1)”;

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

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

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

15 **SEC. 20. DEADLINE FOR ACTION ON REQUEST BY GOV-**
16 **ERNOR FOR DETERMINATION REGARDING**
17 **FISHERY RESOURCE DISASTER.**

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

22 “(2) The Secretary shall make a decision regarding
23 a request from a Governor under paragraph (1) within 90
24 days after receiving an estimate of the economic impact

1 of the fishery resource disaster from the entity requesting
2 the relief.”.

3 **SEC. 21. PROHIBITION ON CONSIDERING RED SNAPPER**
4 **KILLED DURING REMOVAL OF OIL RIGS.**

5 Any red snapper that are killed during the removal
6 of any offshore oil rig in the Gulf of Mexico shall not be
7 considered in determining under the Magnuson-Stevens
8 Fishery Conservation and Management Act (16 U.S.C.
9 1801 et seq.) whether the total allowable catch for red
10 snapper has been reached.

11 **SEC. 22. PROHIBITION ON CONSIDERING FISH SEIZED**
12 **FROM FOREIGN FISHING.**

13 Any fish that are seized from a foreign vessel engaged
14 in illegal fishing activities in the Exclusive Economic Zone
15 shall not be considered in determining under the Magnu-
16 son-Stevens Fishery Conservation and Management Act
17 (16 U.S.C. 1801 et seq.) the total allowable catch for that
18 fishery.

19 **SEC. 23. SUBSISTENCE FISHING.**

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

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

1 for the making or selling of handicraft articles out
2 of nonedible byproducts taken for personal or family
3 consumption, for barter, or sharing for personal or
4 family consumption; and for customary trade.

5 “(B) In this paragraph—

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

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

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

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

16 (b) COUNCIL SEAT.—Section 302(b)(2) (16 U.S.C.
17 1852(b)(2)) is amended—

18 (1) in subparagraph (A), by striking “or rec-
19 reational” and inserting “, recreational, or subsist-
20 ence fishing”; and

21 (2) in subparagraph (C), in the second sen-
22 tence, by inserting “, and in the case of the Gov-
23 ernor of Alaska with the subsistence fishing interests
24 of the State,” after “interests of the State”.

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

4 **SEC. 24. INTER-SECTOR TRADING OF COMMERCIAL CATCH**
5 **SHARE ALLOCATIONS IN THE GULF OF MEX-**
6 **ICO.**

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

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

15 **SEC. 25. AUTHORIZATION OF APPROPRIATIONS.**

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

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

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