

114TH CONGRESS } <i>1st Session</i>	HOUSE OF REPRESENTATIVES	{ REPORT 114-116
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STRENGTHENING FISHING COMMUNITIES AND INCREAS-
ING FLEXIBILITY IN FISHERIES MANAGEMENT ACT

MAY 15, 2015.—Committed to the Committee of the Whole House on the State of
the Union and ordered to be printed

Mr. BISHOP of Utah, from the Committee on Natural Resources,
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 1335]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 1335) to amend the Magnuson-Stevens Fishery Conservation and Management Act to provide flexibility for fishery managers and stability for fishermen, and for other purposes, having considered the same, report favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. DEFINITIONS.

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

SEC. 3. REFERENCES.

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

SEC. 4. FLEXIBILITY IN REBUILDING FISH STOCKS.

- (a) GENERAL REQUIREMENTS.—Section 304(e) (16 U.S.C. 1854(e)) is amended—
(1) in paragraph (4)—

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

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

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

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

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

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

“(IV) the Secretary determines that recruitment, distribution, or life history of, or fishing activities for, the stock are affected by informal transboundary agreements under which management activities outside the exclusive economic zone by another country may hinder conservation and management efforts by United States fishermen; and

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

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

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

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

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

(2) by adding at the end the following:

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

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

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

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

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

SEC. 5. MODIFICATIONS TO THE ANNUAL CATCH LIMIT REQUIREMENT.

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

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

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

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

“(A) an ecosystem component species;

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

“(C) a stock for which—

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 6. DISTINGUISHING BETWEEN OVERFISHED AND DEPLETED.

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

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

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

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

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

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

(2) by striking “overfished” each place it appears and inserting “depleted”.

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

SEC. 7. TRANSPARENCY AND PUBLIC PROCESS.

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

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

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

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

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

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

(c) FISHERY IMPACT STATEMENTS.—

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

(A) in subsection (a), by striking paragraph (9) and redesignating paragraphs (10) through (15) as paragraphs (9) through (14), respectively; and
(B) by adding at the end the following:

“(d) FISHERY IMPACT STATEMENT.—

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

“(2) The fishery impact statement shall describe—

“(A) a purpose of the proposed action;
“(B) the environmental impact of the proposed action;
“(C) any adverse environmental effects which cannot be avoided should the proposed action be implemented;
“(D) a reasonable range of alternatives to the proposed action;
“(E) the relationship between short-term use of fishery resources and the enhancement of long-term productivity;
“(F) the cumulative conservation and management effects; and
“(G) economic, and social impacts of the proposed action on—

“(i) participants in the fisheries and fishing communities affected by the proposed action;
“(ii) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and
“(iii) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery.

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

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

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

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

“(A) using Council meetings to determine the scope of issues to be addressed and identifying significant issues related to the proposed action;
“(B) integration of the fishery impact statement development process with preliminary and final Council decisionmaking in a manner that provides opportunity for comment from the public and relevant government agencies prior to these decision points; and
“(C) providing scientific, technical, and legal advice at an early stage of the development of the fishery impact statement to ensure timely transmittal and Secretarial review of the proposed fishery management plan, plan amendment, or regulations to the Secretary.

“(7) Actions taken in accordance with this section are deemed to fulfill the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and all related implementing regulations.”

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

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

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

“(b) REVIEW OF REGULATIONS.—

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

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

SEC. 8. LIMITATION ON FUTURE CATCH SHARE PROGRAMS.

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

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

(b) CATCH SHARE REFERENDUM PILOT PROGRAM.—

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

“(D) CATCH SHARE REFERENDUM PILOT PROGRAM.—

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

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

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

“(I) a copy of the proposed program;

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

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

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

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

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

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

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

SEC. 9. REPORT ON FEE.

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

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

“(i) Congress; and

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

SEC. 10. DATA COLLECTION AND DATA CONFIDENTIALITY.

(a) **ELECTRONIC MONITORING.**—

(1) **ISSUANCE OF REGULATIONS.**—

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

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

(i) distinguish between monitoring for data collection and research purposes and monitoring for compliance and enforcement purposes; and

(ii) include minimum criteria, objectives, or performance standards for electronic monitoring.

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

(i) consult with the Councils and fishery management commissions;

(ii) publish the proposed regulations; and

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

(2) **IMPLEMENTATION OF MONITORING.**—

(A) **IN GENERAL.**—Subject to subparagraph (B), and after the issuance of the final regulations, a Council, or the Secretary for fisheries referred to in section 302(a)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(3)), may, in accordance with the regulations, on a fishery-by-fishery basis and consistent with the existing objectives and management goals of a fishery management plan and the Act for a fishery issued by the Council or the Secretary, respectively, amend such plan—

(i) to incorporate electronic monitoring as an alternative tool for data collection and monitoring purposes or for compliance and enforcement purposes (or both); and

(ii) to allow for the replacement of a percentage of on-board observers with electronic monitoring.

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

(3) **PILOT PROJECTS.**—Before the issuance of final regulations, a Council, or the Secretary for fisheries referred to in section 302(a)(3), may, subject to the requirements of the Magnuson-Stevens Fishery Conservation and Management Act, on a fishery-by-fishery basis, and consistent with the existing objectives and management goals of a fishery management plan for a fishery issued by the Council or the Secretary, respectively, conduct a pilot project for the use of electronic monitoring for the fishery.

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

(b) VIDEO AND ACOUSTIC SURVEY TECHNOLOGIES.—The Secretary shall work with the Regional Fishery Management Councils and nongovernmental entities to develop and implement the use pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) of video survey technologies and expanded use of acoustic survey technologies.

(c) CONFIDENTIALITY OF INFORMATION.—

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

(A) in paragraph (1)—

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

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

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

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

(B) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by inserting “, and information obtained through a vessel monitoring system or other technology used onboard a fishing vessel for enforcement or data collection purposes,” after “information”;

(ii) by striking “or” after the semicolon at the end of subparagraph (B); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(A) trade secrets;

“(B) proprietary information;

- “(C) observer information; and
“(D) commercial or financial information the disclosure of which is likely to result in harm to the competitive position of the person that submitted the information to the Secretary.”.
- (d) INCREASED DATA COLLECTION AND ACTIONS TO ADDRESS DATA-POOR FISHERIES.—Section 404 (16 U.S.C. 1881c) is amended by adding at the end the following:
- “(e) USE OF THE ASSET FORFEITURE FUND FOR FISHERY INDEPENDENT DATA COLLECTION.—
- “(1) IN GENERAL.—
- “(A) The Secretary, subject to appropriations, may obligate for data collection purposes in accordance with prioritizations under paragraph (3) a portion of amounts received by the United States as fisheries enforcement penalties.
- “(B) Amounts may be obligated under this paragraph only in the fishery management region with respect to which they are collected.
- “(2) INCLUDED PURPOSES.—The purposes referred to in paragraph (1) include—
- “(A) the use of State personnel and resources, including fishery survey vessels owned and maintained by States to survey or assess data-poor fisheries for which fishery management plans are in effect under this Act; and
“(B) cooperative research activities authorized under section 318 to improve or enhance the fishery independent data used in fishery stock assessments.
- “(3) DATA-POOR FISHERIES PRIORITY LISTS.—Each Council shall—
- “(A) identify those fisheries in its region considered to be data-poor fisheries;
“(B) prioritize those fisheries based on the need of each fishery for up-to-date information; and
“(C) provide those priorities to the Secretary.
- “(4) DEFINITIONS.—In this subsection:
- “(A) The term ‘data-poor fishery’ means a fishery—
- “(i) that has not been surveyed in the preceding 5-year period;
“(ii) for which a fishery stock assessment has not been performed within the preceding 5-year period; or
“(iii) for which limited information on the status of the fishery is available for management purposes.
- “(B) The term ‘fisheries enforcement penalties’ means any fine or penalty imposed, or proceeds of any property seized, for a violation of this Act or of any other marine resource law enforced by the Secretary.
- “(5) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary for each fiscal year to carry out this subsection up to 80 percent of the fisheries enforcement penalties collected during the preceding fiscal year.”.

SEC. 11. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.

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

- (1) in subsection (a), by inserting “(1)” before the first sentence, and by adding at the end the following:
- “(2) Within one year after the date of enactment of the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act, and after consultation with the Councils, the Secretary shall publish a plan for implementing and conducting the program established in paragraph (1). Such plan shall identify and describe critical regional fishery management and research needs, possible projects that may address those needs, and estimated costs for such projects. The plan shall be revised and updated every 5 years, and updated plans shall include a brief description of projects that were funded in the prior 5-year period and the research and management needs that were addressed by those projects.”; and
- (2) in subsection (c)—
- (A) in the heading, by striking “FUNDING” and inserting “PRIORITIES”; and
(B) in paragraph (1), by striking all after “including” and inserting an em dash, followed on the next line by the following:
- “(A) the use of fishing vessels or acoustic or other marine technology;
“(B) expanding the use of electronic catch reporting programs and technology; and
“(C) improving monitoring and observer coverage through the expanded use of electronic monitoring devices.”.

SEC. 12. COUNCIL JURISDICTION FOR OVERLAPPING FISHERIES.

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

- (1) in subparagraph (A), in the second sentence—
 - (A) by striking “18” and inserting “19”; and
 - (B) by inserting before the period at the end “and a liaison who is a member of the Mid-Atlantic Fishery Management Council to represent the interests of fisheries under the jurisdiction of such Council”; and
- (2) in subparagraph (B), in the second sentence—
 - (A) by striking “21” and inserting “22”; and
 - (B) by inserting before the period at the end “and a liaison who is a member of the New England Fishery Management Council to represent the interests of fisheries under the jurisdiction of such Council”.

SEC. 13. GULF OF MEXICO FISHERIES COOPERATIVE RESEARCH AND RED SNAPPER MANAGEMENT.

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

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

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

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

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

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

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

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

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

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

(3) in such development and implementation—

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

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

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

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

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

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

SEC. 14. NORTH PACIFIC FISHERY MANAGEMENT CLARIFICATION.

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

- (1) by striking “was no” and inserting “is no”; and
- (2) by striking “on August 1, 1996”.

SEC. 15. ENSURING CONSISTENT MANAGEMENT FOR FISHERIES THROUGHOUT THEIR RANGE.

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

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

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

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

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

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

“Sec. 4. Authorization of appropriations.

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

SEC. 16. LIMITATION ON HARVEST IN NORTH PACIFIC DIRECTED POLLOCK FISHERY.

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

“(1) **HARVESTING.**—

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

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

SEC. 17. RECREATIONAL FISHING DATA.

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

“(4) **FEDERAL-STATE PARTNERSHIPS.**—

“(A) **ESTABLISHMENT.**—The Secretary shall establish partnerships with States to develop best practices for implementation of State programs established pursuant to paragraph (2).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SEC. 18. STOCK ASSESSMENTS USED FOR FISHERIES MANAGED UNDER GULF OF MEXICO COUNCIL’S REEF FISH MANAGEMENT PLAN.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) CLERICAL AMENDMENT.—The table of contents in the first section is amended by adding at the end of the items relating to title IV the following:

“Sec. 408. Deep sea coral research and technology program.

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

SEC. 19. ESTIMATION OF COST OF RECOVERY FROM FISHERY RESOURCE DISASTER.

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

(1) by inserting “(A)” after “(1)”;

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

(3) by adding at the end the following:

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

SEC. 20. DEADLINE FOR ACTION ON REQUEST BY GOVERNOR FOR DETERMINATION REGARDING FISHERY RESOURCE DISASTER.

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

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

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

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

SEC. 22. PROHIBITION ON CONSIDERING FISH SEIZED FROM FOREIGN FISHING.

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

SEC. 23. SUBSISTENCE FISHING.

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

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

“(B) In this paragraph—

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

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

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

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

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

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

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

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

SEC. 24. INTER-SECTOR TRADING OF COMMERCIAL CATCH SHARE ALLOCATIONS IN THE GULF OF MEXICO.

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

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

SEC. 25. ARCTIC COMMUNITY DEVELOPMENT QUOTA.

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

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

SEC. 26. PREFERENCE FOR STUDENTS STUDYING WATER RESOURCE ISSUES.

Section 402(e) (16 U.S.C. 1881a(e)) is amended by adding at the end the following:

“(4) The Secretary shall require that in the hiring of individuals to collect information regarding marine recreational fishing under this subsection, preference shall be given to individuals who are students studying water resource issues at an institution of higher education.”.

SEC. 27. PROCESS FOR ALLOCATION REVIEW FOR SOUTH ATLANTIC AND GULF OF MEXICO MIXED-USE FISHERIES.

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

(1) to provide guidance to Regional Fishery Management Councils established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852) on criteria that could be used for allocating fishing privileges, including consideration of the conservation and socioeconomic benefits of the commercial, recreational, and charter components of a fishery, in the preparation of a fishery management plan under that Act;

(2) to identify sources of information that could reasonably support the use of such criteria in allocation decisions; and

(3) to develop procedures for allocation reviews and potential adjustments in allocations based on the guidelines and requirements established by this section.

(b) **PROCESS FOR ALLOCATION REVIEW AND ESTABLISHMENT.**—The South Atlantic Fishery Management Council and the Gulf of Mexico Fishery Management Council shall—

(1) within 2 years after the date of the enactment of this Act, review the allocations of all mixed-use fisheries in the Councils' respective jurisdictions; and

(2) every 3 years thereafter, perform subsequent reviews of such allocations; and

(3) consider the conservation and socioeconomic benefits of each sector in any allocation decisions for such fisheries.

SEC. 28. AUTHORIZATION OF APPROPRIATIONS.

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

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

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

PURPOSE OF THE BILL

The purpose of H.R. 1335 is to amend the Magnuson-Stevens Fishery Conservation and Management Act to provide flexibility for fishery management and stability for fishermen.

BACKGROUND AND NEED FOR LEGISLATION

According to a Department of Commerce report, in 2012 the U.S. seafood industry had a sales impact of \$141 billion, \$59 billion in value-added impacts and supported approximately 1.3 million jobs earning \$39 billion in income. U.S. commercial fishermen directly contributed to these impacts with 9.6 billion pounds of fish and shellfish harvested, earning \$5.1 billion in revenue. Commercial fishermen support U.S. seafood processors, dealers, wholesalers, distributors, importers and retailers. Recreational saltwater anglers also contributed greatly to the economy in 2012, totaling 11 million anglers. These recreational anglers spent a total of \$24.6 billion on trips and gear in 2012, generating \$58 billion in sales impacts and supported 381,000 U.S. jobs.

The Magnuson-Stevens Fishery and Conservation Management Act (MSA) was enacted in 1976 and since then, has been the primary law governing fisheries resources and fishing activities in federal waters. The Secretary of Commerce, working through the National Oceanic and Atmospheric Administration (NOAA), enforces the MSA.

The original MSA created eight Regional Fisheries Management Councils charged with implementing the goals of MSA, in coordination with NOAA. This process of managing fisheries is accom-

plished through Council-based Fisheries Management Plans (FMPs) for each fishery. FMPs require scientific stock assessments of the fishery. Following the Council's development of an FMP, the Council forwards the plan to the Commerce Secretary for approval. If the plan is approved, the National Marine Fisheries Service (NMFS) within NOAA must then issue regulations to implement a plan.¹

Congress reauthorized MSA in 1996 and 2006. In implementing the 2006 amendments, NOAA added layers of precaution when dealing with both scientific and management uncertainty, according to some.² H.R. 1335 aims to improve the management process by affording regional fisheries managers the flexibility to manage stocks effectively and to better tailor management plans to the needs of their regions.

Section 4 of H.R. 1335 aims to further improve fisheries science by basing fish stock rebuilding timeframes on that stock's biology rather than on an arbitrary, one-size-fits-all deadline. It does so specifically by: 1) removing the language requiring a 10-year time frame for rebuilding overfished/depleted fisheries and replacing 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; 2) allowing Councils to phase in rebuilding plans for highly dynamic fisheries over a three-year period to lessen the economic harm to fishing communities; 3) replacing the term "possible" with "practicable" in the requirement that rebuilding period "be as short as possible"; and 4) allowing Councils to take into account environmental conditions and predator/prey relationships when developing rebuilding plans.

Section 5 of the bill builds on this support for Councils by allowing them to consider changes in the ecosystem and the economic needs of the fishing communities when setting Annual Catch Limits (ACLs). This will allow flexibility but will not allow Councils to set ACLs at a level that allows overfishing. This section also adds a new exception to the requirement that Councils set an ACL for "ecosystem component species"—those species of fish that are not targeted and are caught incidentally—as long as that stock of fish is not subject to overfishing and is not likely to become subject to overfishing. It also provides an exemption for those short-lived stocks of fish for which a single year class will complete its lifecycle in less than 18 months as long as fishing mortality will have little impact on the stock.

Transparency and public oversight are key to ensuring that NMFS manages our nation's fisheries to the benefit of the stocks and our fishermen. Section 7 of the bill works to improve transparency in NMFS' science and management by requiring Scientific and Statistical Committees (SSCs) develop the scientific advice provided to the Councils in a transparent manner and to allow for public involvement in the process. This section also requires that each Council, to the extent practicable, provide a webcast, audio recording, or live broadcast of each Council meeting. This section also requires audio, video, searchable audio or a written transcript for

¹<http://www.fisherycouncils.org/>

²Testimony of Mr. Richard Robins, Jr. before the House Committee on Natural Resources, September 11, 2013

each Council and SSC meeting on the Council's website not later than 30 days after the conclusion of the meeting.

Section 8 of H.R. 1335 brings stakeholders into the fisheries management process by creating a pilot project prohibiting the New England, Mid-Atlantic, South Atlantic, and Gulf of Mexico Councils from implementing any new catch share program unless it has been approved by an industry referendum vote. Any federal permit holder who has fished in at least three of the five years preceding the referendum—unless sickness, injury or other unavoidable hardship prevented the permit holder from fishing—would be eligible to vote in the referendum. Prior to any such referendum vote, the Secretary would be required to 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), and an estimate of the amount of fish or percentage of the quota each permit holder would be allocated. Outside of the four Councils referenced above, this section prevents the Secretary from implementing a catch share program for any federally managed fishery unless first petitioned by a majority of those eligible to participate in the fishery.

An issue that is plaguing numerous fisheries around the nation is the lack of up-to-date data. Poor data results in regulatory decisions that can devastate fishing communities and further diminish NMFS' credibility. Section 10 of the bill works to improve data collection by requiring each Council to identify those fisheries that are considered data-poor in its region and prioritize those fisheries based on the need for up-to-date information. Each Council is required to submit those priorities to the Secretary. The section also allows the Secretary to obligate up to 80 percent of the fishery fines and penalties collected under any marine resource law enforced by the Secretary to be used by states to survey or assess data-poor fisheries for which a fishery management plan is in place, or for cooperative research activities to improve or enhance fishery independent data used in stock assessments. The funds obligated may only be used in the region where the fines and penalties were collected.

With new, innovative technologies to monitor vessels and catch, new concerns have been raised surrounding data confidentiality, and this section takes several steps to address these new technologies while also protecting the privacy of fishermen. Section 10 specifically: 1) requires the Secretary to issue regulations governing the use of newly developed electronic monitoring technology, distinguishing between monitoring for data collection and for enforcement, and instructs the Secretary to provide an opportunity for public comment; 2) updates existing data confidentiality provisions by clarifying that that information submitted to the Secretary, a state fisheries management agency, or a Marine Fisheries Commission may only be used for the purposes of fisheries management, monitoring and enforcement, and that that observer information, information collected by a Vessel Monitoring System or other vessel tracking technology, or other on-board data collection or enforcement programs shall be considered confidential.

With continued concerns about the Administration's implementation of its National Ocean Policy and marine spatial planning, the section also prohibits the Secretary from providing any vessel-spe-

cific or aggregate vessel information from a fishery for the use by any person for coastal and marine spatial planning under Executive Order 13547, unless the Secretary determines that providing such information is important for maintaining or enhancing national security or for ensuring fishermen continued access to fishing grounds.

Cooperative research and management together have the benefits of building trust between fishermen and the government and lowering data collection costs. Section 11 of the bill expedites the implementation of cooperative research and management program by requiring the Secretary to publish a plan for implementing and conducting the program. The plan should identify and describe critical regional fishery management and research needs, possible projects to address the identified needs, and the estimated costs for such projects.

The Gulf of Mexico Red Snapper is a stock that has become the poster child for poor data and management by NMFS. H.R. 1335 makes several revisions, in sections 13, 18, and 21 of the bill, to the research and management of this species in the Gulf. Section 13 specifically requires the Secretary—in conjunction with the Gulf States, the Gulf of Mexico Council, and the charter and recreational fishing sectors—to develop and implement a real-time reporting and data collection program for the Gulf of Mexico Red Snapper fishery using available technology and a cooperative research program for fisheries in the Gulf of Mexico and the South Atlantic regions giving priority to those fisheries that are considered data poor.

The section further improves the data collection of stocks in the Gulf of Mexico by requiring the Secretary to develop a schedule of stock surveys and stock assessments for the five-year period beginning on the date of enactment and for every five-year period thereafter, giving priority to those stocks that are commercially or recreationally important and ensuring that each important stock is surveyed at least once every five years. The section also corrects a discrepancy between management of Red Snapper by the Gulf States by extending state management out to nine nautical miles for the recreational sector of the Gulf of Mexico Red Snapper fishery.

Section 18 requires the Gulf States, acting through the Gulf States Marine Fisheries Commission, to act as the entity responsible for providing the stock assessment information for the Gulf of Mexico Fishery Management Council for fisheries managed under the Reef Fish Plan. This section requires that the stock assessments incorporate fisheries survey information collected by university researchers and, to the extent practicable, use state, university, and private assets to conduct fisheries surveys.

Section 21 works to ensure that fishermen are not adversely impacted by Red Snapper mortality outside of their control. This section prohibits the Secretary from counting Red Snapper mortality that is a result of the removal of offshore oil rigs against the total allowable catch of that fish and from counting those fish toward the quota for U.S. fishermen for the purposes of closing the fishery when the quota has been reached.

Many of the provisions in H.R. 1335 result in greater flexibility for Councils to manage to the needs of their region. Section 16 al-

lows 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.

According to a recent NOAA report, roughly 12 million recreational anglers took saltwater fishing trips in the U.S. annually from 2003–2012. An industry that supported 381,000 American jobs in 2012, the recreational saltwater fishing industry is a significant economic player. To address the growth of this industry, H.R. 1335 takes several steps to improve the collection of recreational fishing data to improve management and ensure maximum access to our marine resources by the recreational industry.

Section 17 improves recreational fishing data collection by NMFS by: 1) requiring the Secretary to establish partnerships with states to develop best practices for implementing state recreational fisheries programs and to develop guidance that detail best practices for administering state programs; 2) requiring a grant program to states to improve implementation of state recreational data collection programs and requiring the Secretary to prioritize the grants based on the ability of the grant to improve the quality and accuracy of the data collection programs; and 3) requiring the Secretary to enter into an agreement with the National Research Council (NRC) to study the implementation of the existing recreational data collection programs. The study must provide an updated assessment of recreational survey methods, an evaluation of the extent to which the 2006 NRC's recommendations have been implemented, and an examination of any limitations to the previous and current NOAA recreational data collection programs.

Illegal, unreported, and unregulated fishing is an international problem with significant domestic impacts. Section 22 prohibits the Secretary from counting any fish seized from a foreign vessel engaging in illegal fishing in the U.S. Exclusive Economic Zone against the total allowable catch for U.S. fishermen.

Section 23 of the bill defines “subsistence fishing” and requires the Governor of Alaska, when submitting nominations for the North Pacific Council, to consult with subsistence fishing interests of the State. In addition, this section adds the knowledge of subsistence fishing as a qualification that could be required of Council appointees.

COMMITTEE ACTION

H.R. 1335 was introduced on March 4, 2015, by Congressman Don Young (R-AK). The bill was referred to the Committee on Natural Resources, and within the Committee to the Subcommittee on Water, Power and Oceans. On April 29, 2015, the Natural Resources Committee met to consider the bill. The Subcommittee on Water, Power and Oceans was discharged by unanimous consent. On April 30, 2015, the Natural Resources Committee resumed consideration of the bill. Congressman Thomas MacArthur (R-NJ) offered an amendment designated 014; it was adopted by voice vote. Congressman Robert J. Wittman (R-VA) offered and withdrew an amendment designated 013. Congressman Jeff Duncan (R-SC) offered an amendment designated 018; it was adopted by voice vote. Congressman Don Young (R-AK) offered an en bloc amendment designated 053; it was adopted by voice vote. Congresswoman Lois