H. R. 4742

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

IN THE HOUSE OF REPRESENTATIVES

MAY 23, 2014

Mr. Hastings of Washington introduced the following bill; which was referred to the Committee on Natural Resources

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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

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

SECTION 2. TABLE OF CONTENTS.

The table of contents for this Act is the following:

Sec. 1. Short title.
Sec. 2. Table of contents.
TITLE I—AMENDMENTS TO THE MAGNUSON-STEVENSON FISHERY
CONSERVATION AND MANAGEMENT ACT

Sec. 101. Definitions.
Any term used in this title that is defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802) shall have the same meaning such term has under that section.

Sec. 102. References.
Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a provision, the ref-
ereence shall be considered to be made to a provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

SEC. 103. FLEXIBILITY IN REBUILDING FISH STOCKS.

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

(1) in paragraph (4)—

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

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

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

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

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

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

“(IV) the Secretary determines that recruitment, distribution, or life history of, or fishing activities for, the stock are affected by informal trans-boundary 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 im-
probable without significant economic harm to fishing communities;”;

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

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

and

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

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

(2) by adding at the end the following:

“(8) A fishery management plan, plan amendment, or proposed regulations may use alternative rebuilding strategies, including harvest control rules and fishing mortality-rate targets to the extent they are in compliance with the requirements of this Act.
“(9) A Council may terminate the application of paragraph (3) to a fishery if the Council’s scientific and statistical committee determines and the Secretary concurs that the original determination that the fishery was depleted was erroneous, either—

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

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

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

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

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

“(m) Considerations for Modifications to Annual Catch Limit Requirements.—
“(1) Consideration of ecosystem and economic impacts.—In establishing annual catch limits a Council may, consistent with section 302(h)(6), consider changes in an ecosystem and the economic needs of the fishing communities.

“(2) Limitations to annual catch limit requirement for special fisheries.—Notwithstanding subsection (h)(6), a Council is not required to develop an annual catch limit for—

“(A) an ecosystem component species;

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

“(C) a stock for which—

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

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

“(3) Relationship to international fishery efforts.—Each annual catch limit may, consistent with section 302(h)(6), take into account—
“(A) management measures under international agreements in which the United States participates; and

“(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.

“(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 non-target, incidentally harvested stock of fish in a fishery, or a non-target, incidentally harvested stock of
fish that a Council or the Secretary has deter-
mined—

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

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

SEC. 105. DISTINGUISHING BETWEEN OVERFISHED AND DE-
PLETED.

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

(1) in paragraph (34), by striking “and ‘over-
fished’ mean” and inserting “means”; and

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

“(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 sustain-
able yield on a continuing basis.”.

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

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

SEC. 106. TRANSPARENCY AND PUBLIC PROCESS.

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

(b) Meetings.—Section 302(i)(2) (16 U.S.C. 1852(i)(2)) is amended by adding at the end the following: “(G) Each Council shall make available on the Internet Web site of the Council—

“(i) to the extent practicable, a Webcast, an audio recording, or a live broadcast of each meeting of the Council, and of the Council Coordination Committee established under subsection (l), that is not closed in accordance with paragraph (3); and
“(ii) audio, video (if the meeting was in person or by video conference), or a searchable audio or written transcript of each meeting of the Council and of the meetings of committees referred to in section 302(g)(1)(B) of the Council by not later than 30 days after the conclusion of the meeting.

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

(c) FISHERY IMPACT STATEMENTS.—

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

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

(B) by adding at the end the following:

“(d) FISHERY IMPACT STATEMENT.—

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

“(2) The fishery impact statement shall describe—

“(A) a purpose of the proposed action;

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

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

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

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

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

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

“(i) participants in the fisheries and fishing communities affected by the proposed action;
“(ii) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

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

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

“(4) The completed fishery impact statement shall accompany the transmittal of a fishery management plan or plan amendment as specified in sec-
tion 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 develop-
ment of the fishery impact statement to ensure
timely transmittal and Secretarial review of the
proposed fishery management plan, plan
amendment, or regulations to the Secretary.

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

(2) Evaluation of Adequacy.—Section
304(a)(2) (16 U.S.C. 1854(a)(2)) is amended by
striking “and” after the semicolon at the end of sub-
paragraph (B), striking the period at the end of sub-
paragraph (C) and inserting “; and”, and by adding
at the end the following:

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

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

“(b) REVIEW OF REGULATIONS.—

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

(4) EFFECT ON TIME REQUIREMENTS.—Section 305(e) (16 U.S.C. 1855(e)) is amended by inserting “the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.),” after “the Regulatory Flexibility Act (5 U.S.C. 601 et seq.)”.
SEC. 107. LIMITATION ON FUTURE CATCH SHARE PROGRAMS.

(a) Catch Share Defined.—Section 3 (16 U.S.C. 1802) is amended by inserting after paragraph (2) the following:

“(2a) The term ‘catch share’ means any fishery management program that allocates a specific percentage of the total allowable catch for a fishery, or a specific fishing area, to an individual, cooperative, community, processor, 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 crew-
members 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 sick-
ness, injury, or other unavoidable hardship prevented the permit holder from engaging in such fishing.

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

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

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

SEC. 108. REPORT ON FEE.

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

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

“(i) Congress; and

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

SEC. 109. DATA COLLECTION AND DATA CONFIDENTIALITY.

(a) Electronic Monitoring.—

(1) Issuance of regulations.—

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

(B) Content.—The regulations shall—

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

(ii) include minimum criteria, objectives, or performance standards for electronic monitoring.
(C) Process.—In issuing the regulations the Secretary shall—

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

(ii) publish the proposed regulations;

and

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

(2) Implementation of Monitoring.—

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

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

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

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

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

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

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

(c) CONFIDENTIALITY OF INFORMATION.—

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

(A) in paragraph (1)—

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

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

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

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

(B) in paragraph (2)—
(i) in the matter preceding subparagraph (A), by inserting “, and information obtained through a vessel monitoring system or other technology used onboard a fishing vessel for enforcement or data collection purposes,” after “information;”;

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

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

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

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

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

(C) by redesignating and moving paragraph (3) to be paragraph (6); and

(D) by striking paragraphs (4) and (5) and inserting 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 has obtained written authorization to release such information from the person on whose vessel the information was collected.”.

(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 Sec-
retary.”.

(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 fol-
lowing:

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

“(1) IN GENERAL.—

“(A) The Secretary, subject to appropria-
tions, may obligate for data collection purposes
in accordance with prioritizations under para-
graph (3) a portion of amounts received by the
United States as fisheries enforcement pen-
alties.

“(B) Amounts may be obligated under this
paragraph only in the fishery management re-


“(2) INCLUDED PURPOSES.—The purposes re-
ferred to in paragraph (1) include—
“(A) the use of State personnel and resources, including fishery survey vessels owned and maintained by States to survey or assess data-poor fisheries for which fishery management plans are in effect under this Act; and

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

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

Each Council shall—

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

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

“(C) provide those priorities to the Secretary.

“(4) DEFINITIONS.—In this subsection:

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

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

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

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

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

SEC. 110. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.

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

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

“(2) Within one year after the date of enactment of the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act, and after con-
sultation with the Councils, the Secretary shall publish a
plan for implementing and conducting the program estab-
lished in paragraph (1). Such plan shall identify and de-
scribe 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 in-
clude a brief description of projects that were funded in
the prior 5-year period and the research and management
needs that were addressed by those projects.”; and

(2) in subsection (c)—

(A) in the heading, by striking “FUNDING”

and inserting “PRIORITIES”; and

(B) in paragraph (1), by striking all after

“including” and inserting an em dash, followed

on the next line by the following:

“(A) the use of fishing vessels or acoustic

or other marine technology;

“(B) expanding the use of electronic catch

reporting programs and technology; and

“(C) improving monitoring and observer

coverage through the expanded use of electronic

monitoring devices.”.
SEC. 111. COUNCIL JURISDICTION FOR OVERLAPPING FISHERIES.

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

(1) in subparagraph (A), in the second sentence—

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

and

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

(2) in subparagraph (B), in the second sentence—

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

and

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

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

(a) REPEAL.—Section 407 (16 U.S.C. 1883), and the item relating to such section in the table of contents in the first section, are repealed.
(b) Reporting and Data Collection Program.—The Secretary of Commerce shall—

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

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

(c) Fisheries Cooperative Research Program.—The Secretary of Commerce—

(1) shall, in conjunction with the States, the Gulf States Marine Fisheries Commission and the Atlantic States Marine Fisheries Commission, the Gulf of Mexico and South Atlantic Fishery Management Councils, and the commercial, charter, and recreational fishing sectors, develop and implement a cooperative research program authorized under section 318 for the fisheries of the Gulf of Mexico and South Atlantic regions, giving priority to those fisheries that are considered data-poor; and
(2) may, subject to the availability of appropriations, use funds received by the Secretary under section 2 of the Act of August 11, 1939 (commonly known as the “Saltonstall-Kennedy Act”) (15 U.S.C. 713c–3) to implement this subsection.

(d) Stock Surveys and Stock Assessments.—

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

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

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

(3) in such development and implementation—

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

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

(e) Use of Fisheries Information in Stock Assessments.—The Southeast Science Center Director
shall ensure that fisheries information made available through fisheries programs funded under Public Law 112–141 is incorporated as soon as possible into any fisheries stock assessments conducted after the date of the enactment of this Act.

(f) State Fisheries Management in the Gulf of Mexico With Respect to Red Snapper.—Section 306(b) (16 U.S.C. 1856(b)) is amended by adding at the end the following:

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

SEC. 113. NORTH PACIFIC FISHERY MANAGEMENT CLARIFICATION.

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

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

and

(2) by striking “on August 1, 1996”.
SEC. 114. ENSURING CONSISTENT MANAGEMENT FOR FISHERIES THROUGHOUT THEIR RANGE.

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

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

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

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

"(1) using authority under this Act; and

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

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

"Sec. 5. Ensuring consistent fisheries management under other Federal laws.".
SEC. 115. LIMITATION ON HARVEST IN NORTH PACIFIC DIRECTED POLLOCK FISHERY.

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

“(1) HARVESTING.—

“(A) LIMITATION.—No particular individual, corporation, or other entity may harvest, through a fishery cooperative or otherwise, a percentage of the pollock available to be harvested in the directed pollock fishery that 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. 116. AUTHORIZATION OF APPROPRIATIONS.

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

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

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

• HR 4742 IH
TITLE II—REVITALIZING THE ECONOMY OF FISHERIES IN THE PACIFIC

SEC. 201. SHORT TITLE.

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

SEC. 202. FINDINGS; PURPOSE.

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

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

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

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

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

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

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

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

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

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

SEC. 203. REFINANCING OF PACIFIC COAST GROUNDFISH FISHING CAPACITY REDUCTION LOAN.

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

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

(c) LOAN TERM.—

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

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

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

(e) INTEREST RATE.—

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

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

(A) shall receive the interest rate described
in paragraph (1); and

(B) may be paid off at any time notwith-
standing subsection (c)(1).

(f) EX-VEssel LANDING Fee.—

(1) CALCULATIONS AND ACCURACY.—The Sec-
retary shall set the ex-vessel landing fee to be col-
lected for payment of the loan under this section—

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

(B) upon issuance of the loan in accord-
ance with paragraph (2); and

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

(2) DEADLINE FOR INITIAL EX-VEssel LAND-
ings Fee CALCULATION.—Not later than 60 days
after the date of issuance of the loan under this sec-
tion, the Secretary shall recalculate the ex-vessel landing fee based on the most recent value of the fishery.

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