

HR 200 (Don Young, 7/12/18)

S 1520 (Roger Wicker, 6/4/18)

MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT

Public Law 94-265

**As amended by the Magnuson-Stevens Fishery Conservation and
Management Reauthorization Act (P.L. 109-479)**

AN ACT

**To provide for the conservation and management of the fisheries,
and for other purposes.**

Only changes relevant to Pacific Council
included in this version

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SEC. 2. FINDINGS, PURPOSES, AND POLICY

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

- (1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, [cultural well-being¹](#), and health of the Nation and provide recreational opportunities.
- (2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.
- (3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.
- (4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.
- (5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.
- (6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild ~~overfished-depleted~~ stocks, to insure conservation, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation's fishery resources.
- (7) A national program for the development of ~~the United States fishing industry, including both commercial and recreational fisheries, which is necessary to insure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.~~ **The term "overfished" is replaced with "depleted" throughout** ~~is necessary to insure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.~~
- (8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States.²
- (9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat considerations should receive increased attention for the conservation and management of fishery resources of the United States.
- (10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circum-

1 HR 200 (7/12/18) page 4

2 HR 200 (7/12/18) does *not* include previously included wording on incorporating data from nongovernmental sources.

stances which make fisheries resources important in sustaining their economic growth and traditional ways of life³.

- (11) A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this Act.
- (12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.
- (13) While both provide significant cultural and economic benefits to the Nation, recreational fishing and commercial fishing are different activities. Therefore, management approaches should be adapted to the characteristics of each sector.⁴

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

- (1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclusive economic zone over such anadromous species and Continental Shelf fishery resources[, and fishery resources in the special areas];
- (2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;
- (3) to promote domestic commercial and recreational and subsistence⁵ fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing;
- (4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;
- (5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States;
- (6) to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska, and to that end, to ensure that optimum yield determinations promote such development in a non-wasteful manner; and
- (7) to promote the protection of essential fish habitat in the review of projects conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.

3 HR 200 (7/12/18).

4 S 1520 (6/5/18), page 23

5 HR 200 (7/12/18) page 26

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SEC. 3. DEFINITIONS

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

- (1) The term “anadromous species” means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.
- (2) The term “bycatch” means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program⁶.
- (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.⁷
- (3) The term “charter fishing” means fishing from a vessel carrying a passenger for hire (as defined in section 2101(21a) of title 46, United States Code) who is engaged in recreational fishing.
- (4) The term “commercial fishing” means fishing in which the fish harvested, either in whole or in part, are intended to enter commerce or enter commerce through sale, barter or trade.
- (5) The term “conservation and management” refers to all of the rules, regulations, conditions, methods, and other measures
 - (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and
 - (B) which are designed to assure that—
 - (i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;
 - (i) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and
 - (i) there will be a multiplicity of options available with respect to future uses of these resources.
- (6) The term “Continental Shelf ” means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.
- (7) The term “Continental Shelf fishery resources” means the following:

CNIDARIA

Bamboo Coral—*Acanella* spp.;
Black Coral—*Antipathes* spp.;
Gold Coral—*Callogorgia* spp.;
Precious Red Coral—*Corallium* spp.;
Bamboo Coral—*Keratoisis* spp.; and

6 HR 200 (7/12/18) page 4

7 HR 200 (7/12/18) page 15

Gold Coral—*Parazoanthus* spp.

CRUSTACEA

Tanner Crab—*Chionoecetes tanneri*;
Tanner Crab—*Chionoecetes opilio*;
Tanner Crab—*Chionoecetes angulatus*;
Tanner Crab—*Chionoecetes bairdi*;
King Crab—*Paralithodes camtschatica*;
King Crab—*Paralithodes platypus*;
King Crab—*Paralithodes brevipes*;
Lobster—*Homarus americanus*;
Dungeness Crab—*Cancer magister*;
California King Crab—*Paralithodes californiensis*;
California King Crab—*Paralithodes rathbuni*;
Golden King Crab—*Lithodes aequispinus*;
Northern Stone Crab—*Lithodes maja*;
Stone Crab—*Menippe mercenaria*; and
Deep-sea Red Crab—*Chaceon quinque-dens*.

MOLLUSKS

Red Abalone—*Haliotis rufescens*;
Pink Abalone—*Haliotis corrugata*;
Japanese Abalone—*Haliotis kamtschatkana*;
Queen Conch—*Strombus gigas*;
Surf Clam—*Spisula solidissima*; and
Ocean Quahog—*Arctica islandica*

SPONGES

Glove Sponge—*Spongia cheiris*;
Sheepswool Sponge—*Hippiospongia lachne*;
Grass Sponge—*Spongia graminea*; and
Yellow Sponge—*Spongia barbera*.

If the Secretary determines, after consultation with the Secretary of State, that living organisms of any other sedentary species are, at the harvestable stage, either—

- (A) immobile on or under the seabed, or
 - (B) unable to move except in constant physical contact with the seabed or subsoil, of the Continental Shelf which appertains to the United States, and publishes notices of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such term for purposes of this Act.
- (8) The term “Council” means any Regional Fishery Management Council established under section 302.
- (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.⁸
- (9) The term “economic discards” means fish which are the target of a fishery, but which are not retained because they are of an undesirable size, sex, or quality, or for other economic reasons.

- (10) The term “essential fish habitat” means those waters and substrate necessary to fish for spawning, breeding, feeding, **except that such term**
- (A) does not include any area that—
 - (i) was previously covered by land or a fresh water environment; and
 - (ii) is in a State where the average annual land loss of such State during the 20 years before the date of the enactment of the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act exceeds 10 square miles; and
 - (B) does not apply with respect to a project undertaken by a State or local government with the purpose of restoration or protection of an area described in subparagraph (A).⁹

This is aimed at Louisiana but could have implications elsewhere.

established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

- (12) The term “fish” means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.
- (13) The term “fishery” means—
- (A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and
 - (B) any fishing for such stocks.
- (14) The term ‘regional fishery association’ means an association formed for the mutual benefit of members—
- (A) to meet social and economic needs in a region or subregion; and
 - (B) comprised of persons engaging in the harvest or processing of fishery resources in that specific region or subregion or who otherwise own or operate businesses substantially dependent upon a fishery.
- (15) The term “fishery resource” means any fishery, any stock of fish, any species of fish, and any habitat of fish.
- (16) The term “fishing” means—
- (A) the catching, taking, or harvesting of fish;
 - (B) the attempted catching, taking, or harvesting of fish;
 - (C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or
 - (D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity which is conducted by a scientific research vessel.

- (17) The term “fishing community” means a community which is substantially dependent on or sub-

stantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.

- (18) The term “fishing vessel” means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—
- (A) fishing; or
 - (B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.
- (19) The term “foreign fishing” means fishing by a vessel other than a vessel of the United States.
- (20) The term “high seas” means all waters beyond the territorial sea of the United States and beyond any foreign nation’s territorial sea, to the extent that such sea is recognized by the United States.
- (21) The term “highly migratory species” means tuna species, marlin (*Tetrapturus* spp. and *Makaira* spp.), oceanic sharks, sailfishes (*Istiophorus* spp.), and swordfish (*Xiphias gladius*).
- (22) The term ‘import’—
- (A) means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States; but
 - (B) does not include any activity described in subparagraph (A) with respect to fish caught in the exclusive economic zone or by a vessel of the United States.
- (23) The term “individual fishing quota” means a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i).
- (24) The term “international fishery agreement” means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party.
- (25) The term “large-scale driftnet fishing” means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.
- (26) The term ‘limited access privilege’—
- (A) means a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person; and
 - (B) includes an individual fishing quota; but
- (A) does not include community development quotas as described in section 305(i).
- (27) The term ‘limited access system’ means a system that limits participation in a fishery to those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulation.
- (28) The term “Marine Fisheries Commission” means the Atlantic States Marine Fisheries Commission,

the Gulf States Marine Fisheries Commission, or the Pacific States Marine Fisheries Commission.

- (29) The term “migratory range” means the maximum area at a given time of the year within which fish of an anadromous species or stock thereof can be expected to be found, as determined on the basis of scale pattern analysis, tagging studies, or other reliable scientific information, except that the term does not include any part of such area which is in the waters of a foreign nation.
- (30) The term “national standards” means the national standards for fishery conservation and management set forth in section 301.
- (31) The term “observer” means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits under this Act.
- (32) The term ‘observer information’ means any information collected, observed, retrieved, or created by an observer or electronic monitoring system pursuant to authorization by the Secretary, or collected as part of a cooperative research initiative, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condition observations), and video, audio, photographic, or written documents.
- (33) The term “optimum”, with respect to the yield from a fishery, means the amount of fish which—
- (A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;
 - (B) is prescribed as such on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant economic, social, or ecological factor; and
 - (C) in the case of an ~~overfished~~ ~~depleted~~ fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery.
- (34) The terms “~~overfishing~~” and “~~overfished~~” means a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.¹⁰
- (35) The term “Pacific Insular Area” means American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, or Palmyra Atoll, as applicable, and includes all islands and reefs appurtenant to such island, reef, or atoll.
- (36) The term “person” means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.
- (37) The term “recreational fishing” means fishing for sport or pleasure.
- (38) The term “regulatory discards” means fish harvested in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.
- (39) The term “Secretary” means the Secretary of Commerce or his designee.
- (40) The term “special areas” means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990. In particular, the term refers to those areas east of the

maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.

- (41) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.
- (42) The term “stock of fish” means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.
- (43) The term ‘stock assessment’ means an evaluation of the past, present, and future status of a stock of fish, that includes—
- (A) a range of life history characteristics for such stock, including—
 - (i) the geographical boundaries of such stock; and
 - (ii) information on age, growth, natural mortality, sexual maturity and reproduction, feeding habits, and habitat preferences of such stock; and
 - (B) fishing for the stock.¹¹
- (44) (was 43) The term “treaty” means any international fishery agreement which is a treaty within the meaning of section 2 of article II of the Constitution.
- (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; and for customary exchange or 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.¹²
- (45) The term “tuna species” means the following: Albacore Tuna—*Thunnus alalunga*; Bigeye Tuna—*Thunnus obesus*; Bluefin Tuna—*Thunnus thynnus*; Skipjack Tuna—*Katsuwonus pelamis*; and Yellowfin Tuna—*Thunnus albacares*.
- (46) The term “United States”, when used in a geographical context, means all the States thereof.
- (47) The term “United States fish processors” means facilities located within the United States for, and vessels of the United States used or equipped for, the processing of fish for commercial use or consumption.
- (48) The term “United States harvested fish” means fish caught, taken, or harvested by vessels of the

11 HR 200 (7/12/18) page 28+.

12 HR 200 (7/12/18) page 5. The reference to “barter” has been removed but the definition remains.
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United States within any fishery regulated under this Act.

- (49) The term “vessel of the United States” means—
- (A) any vessel documented under chapter 121 of title 46, United States Code;
 - (B) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and measuring less than 5 net tons;
 - (C) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and used exclusively for pleasure; or
 - (D) any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.
- (50) The term “vessel subject to the jurisdiction of the United States” has the same meaning such term has in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).
- (51) The term “waters of a foreign nation” mean any part of the territorial sea or exclusive economic zone (or the equivalent) of a foreign nation, to the extent such territorial sea or exclusive economic zone is recognized by the United States.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS

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

- (1) ~~\$337,844,000 for fiscal year 2007;~~
- (2) ~~\$347,684,000 for fiscal year 2008;—~~
- (3) ~~\$357,524,000 for fiscal year 2009;~~
- (4) ~~\$367,364,000 for fiscal year 2010;~~ (5) ~~\$377,204,000 for fiscal year 2011;~~
- (6) ~~\$387,044,000 for fiscal year 2012; and~~
- (7) ~~\$396,875,000 for fiscal year 2013.~~ [2018 through 2022.](#)^{13 14}

This section was removed from the most recent version of HR 200:

In any case of a conflict between this Act and the National Marine Sanctuaries Act or the Antiquities Act of 1906, this Act shall control.

Fisheries Restrictions Under Endangered Species Act.—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 shall be implemented—using authority under this Act; and in accordance with processes and time schedules required under this Act.

13 HR 200 (7/12/18) page 6

14 HR 200 (7/12/18) removes previously suggested wording on MSA controlling in conflicts with National Marine Sanctuaries Act or Antiquities Act.

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

SEC. 101. UNITED STATES SOVEREIGN RIGHTS TO FISH AND FISHERY MANAGEMENT AUTHORITY

- (a) **IN THE EXCLUSIVE ECONOMIC ZONE.**—Except as provided in section 102, the United States claims, and will exercise in the manner provided for in this Act, sovereign rights and exclusive fishery management authority over all fish, and all Continental Shelf fishery resources, within the exclusive economic zone [and special areas]*.
- (b) **BEYOND THE EXCLUSIVE ECONOMIC ZONE.**—The United States claims, and will exercise in the manner provided for in this Act, exclusive fishery management authority over the following:
 - (1) All anadromous species throughout the migratory range of each such species beyond the exclusive economic zone; except that management authority does not extend to any such species during the time they are found within any waters of a foreign nation.
 - (2) All Continental Shelf fishery resources beyond the exclusive economic zone. [(3) All fishery resources in the special areas.]*

SEC. 102. HIGHLY MIGRATORY SPECIES

- (a) **IN GENERAL.**—The United States shall cooperate directly or through appropriate international organizations with those nations involved in fisheries for highly migratory species with a view to ensuring conservation and shall promote the achievement of optimum yield of such species throughout their range, both within and beyond the exclusive economic zone.
- (b) **TRADITIONAL PARTICIPATION.**—In managing any fisheries under an international fisheries agreement to which the United States is a party, the appropriate Council or Secretary shall take into account the traditional participation in the fishery, relative to other nations, by fishermen of the United States on fishing vessels of the United States.
- (c) **PROMOTION OF STOCK MANAGEMENT.**—If a relevant international fisheries organization does not have a process for developing a formal plan to rebuild a depleted stock, an **overfished-depleted** stock, or a stock that is approaching a condition of being **overfished-depleted**, the provisions of this Act in this regard shall be communicated to and promoted by the United States in the international or regional fisheries organization.

Did not include Title II, Foreign Fishing and International Fishing Agreements, High Seas Driftnet Fishery Enforcement Act, High Seas Driftnet Fishing Moratorium Protection Act - no changes

TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

SEC. 301. NATIONAL STANDARDS FOR FISHERY CONSERVATION AND MANAGEMENT

- (c) **IN GENERAL.**—Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management:
- (1) Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.
 - (2) Conservation and management measures shall be based upon the best scientific information available.
 - (3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.
 - (4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.
 - (5) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.
 - (6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.
 - (7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.
 - (8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of ~~overfished~~ depleted stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.
 - (9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.
 - (10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.
- (d) **GUIDELINES.**—The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans.

SEC. 302. REGIONAL FISHERY MANAGEMENT COUNCILS

(a) ESTABLISHMENT.—

- (1) There shall be established, within 120 days after the date of the enactment of this Act, eight Regional Fishery Management Councils, as follows:
 - (A) **NEW ENGLAND COUNCIL.**—The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The New England Council shall have ~~17~~19 voting members, including 11 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State) **and a liaison who is a member of the Mid-Atlantic Fishery Management Council to represent the interests of fisheries under the jurisdiction of such Council.**
 - (B) **MID-ATLANTIC COUNCIL.**—The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except North Carolina as provided in paragraph (3)). The Mid-Atlantic Council shall have ~~21~~22 voting members, including 13 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State) **and a liaison who is a member of the New England Fishery Management Council to represent the interests of fisheries under the jurisdiction of such Council**¹⁵.
 - (C) **SOUTH ATLANTIC COUNCIL.**—The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).
 - (D) **CARIBBEAN COUNCIL.**—The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States and of commonwealths, territories, and possessions of the United States in the Caribbean Sea (except as provided in paragraph (3)). The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).
 - (E) **GULF COUNCIL.**—The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States (except as provided in paragraph (3)). The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).
 - (F) **PACIFIC COUNCIL.**—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an

Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).

(G) NORTH PACIFIC COUNCIL.—The North Pacific Fishery Management Council shall consist of the States of Alaska, Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have 11 voting members, including 7 appointed by the Secretary in accordance with subsection (b)(2) (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington).

(H) WESTERN PACIFIC COUNCIL.—The Western Pacific Fishery Management Council shall consist of the States of Hawaii, American Samoa, Guam, and the Northern Mariana Islands and shall have authority over the fisheries in the Pacific Ocean seaward of such States and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean area. The Western Pacific Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each of the following States: Hawaii, American Samoa, Guam, and the Northern Mariana Islands).

- (2) Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.
- (3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

(b) VOTING MEMBERS.—

- (1) The voting members of each Council shall be:
 - (A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.
 - (B) The regional director of the National Marine Fisheries Service for the geographic area concerned, or his designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.
 - (C) The members required to be appointed by the Secretary in accordance with paragraphs (2) and (5).
- (2)
 - (A) The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational, or subsistence fishing, of the fishery resources of the geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.
 - (B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the

Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

- (i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;
 - (ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and
 - (iii) state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.
- (C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational, fishing interests of the State, [and in the case of the Governor of Alaska with the subsistence fishing interests of the State¹⁶](#), regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k)
- (D)
- (i) The Governor of a State submitting a list of names of individuals for appointment by the Secretary of Commerce to the Gulf of Mexico Fisheries Management Council under subparagraph (C) shall include—
 - (I) at least 1 nominee each from the commercial, recreational, and charter fishing sectors; and
 - (II) at least 1 other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.
 - (ii) Notwithstanding the requirements of subparagraph (C), if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of clause (i) the Secretary shall—
 - (I) publish a notice in the Federal Register asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirement not met for appointment to the Council; and
 - (II) add the name of any qualified individual submitted by the public who meets

the unmet requirement to the list of names submitted by the Governor.

- (iii) For purposes of clause (i) an individual who owns or operates a fish farm outside of the United States shall not be considered to be a representative of the commercial or recreational fishing sector.
 - (iv) The requirements of this subparagraph shall expire at the end of fiscal year 2012.
- (E) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.
- (3) Each voting member appointed to a Council by the Secretary in accordance with paragraphs (2) and (5) shall serve for a term of 3 years; except that the Secretary may designate a shorter term if necessary to provide for balanced expiration to terms of office. No member appointed after January 1, 1986, may serve more than three consecutive terms. Any term in which an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.
- (4) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.
- (5)
- (A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list of not less than 3 individuals submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.
 - (B) Representation shall be rotated among the tribes taking into consideration—
 - (i) the qualifications of the individuals on the list referred to in subparagraph (A),
 - (ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and
 - (iii) the geographic area in which the tribe of the representative is located.
 - (C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.
 - (D) The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.
- (6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs (2) or (5) if—
- (A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or
 - (B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307(1)(O).

(c) NONVOTING MEMBERS.—

- (1) The nonvoting members of each Council shall be:
 - (A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or his designee.
 - (B) The commander of the Coast Guard district for the geographical area concerned, or his designee; except that, if two Coast Guard districts are within such geographical area, the commander designated for such purpose by the commandant of the Coast Guard.
 - (C) The Executive Director of the Marine Fisheries Commission for the geographical area concerned, if any, or his designee.
 - (D) One representative of the Department of State designated for such purpose by the Secretary of State, or his designee.
- (2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

(d) COMPENSATION AND EXPENSES.—The voting members of each Council who are required to be appointed by the Secretary and who are not employed by the Federal Government or any State or local government, shall receive compensation at the daily rate for GS-15, step 7 of the General Schedule, when engaged in the actual performance of duties for such Council. The voting members of each Council, any nonvoting member described in subsection (c)(1)(C), and the nonvoting member appointed pursuant to subsection (c)(2) shall be reimbursed for actual expenses incurred in the performance of such duties, and other nonvoting members and Council staff members may be reimbursed for actual expenses.

(e) TRANSACTION OF BUSINESS.—

- (1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.
- (2) The voting members of each Council shall select a Chairman for such Council from among the voting members.
- (3) Each Council shall meet at appropriate times and places in any of the constituent States of the Council at the call of the Chairman or upon the request of a majority of its voting members.
- (4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement. The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.
- (5) At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council. The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.

(f) STAFF AND ADMINISTRATION.—

- (1) Each Council may appoint, and assign duties to, an executive director and such other full and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.
- (2) Upon the request of any Council, and after consultation with the Secretary, the head of any Fed-

eral agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this Act.

- (3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.
- (4) The Administrator of General Services shall furnish each Council with such offices, equipment, supplies, and services as he is authorized to furnish to any other agency or instrumentality of the United States.
- (5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.
- (6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such uniform standards as are prescribed by the Secretary. The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (g), must be consistent with the procedural guidelines set forth in subsection [i](2). Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.
- (7) The Secretary shall pay—
 - (A) the compensation and expenses provided for in subsection (d);
 - (B) appropriate compensation to employees appointed under paragraph (1);
 - (C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);
 - (D) the actual expenses of the members of the committees and panels established under subsection (g); and
 - (E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.

(g) COMMITTEES AND ADVISORY PANELS.—

- (1)
 - (A) Each Council shall establish, maintain, and appoint the members of a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.
 - (B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices. Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience. [Each scientific and statistical committee shall develop such advice in a transparent manner and allow for public involvement in the process.](#)¹⁷
 - (C) Each member of a scientific and statistical committee shall be treated as an affected indi-

vidual for purposes of paragraphs (2), (3)(B), (4), and (5)(A) of subsection (j). The Secretary shall keep disclosures made pursuant to this subparagraph on file.

- (D) The Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106–554—Appendix C; 114 Stat. 2763A–153).
 - (E) In addition to the provisions of section 302(f)(7), the Secretary shall, subject to the availability of appropriations, pay a stipend to members of the scientific and statistical committees or advisory panels who are not employed by the Federal Government or a State marine fisheries agency.
 - (F) A science and statistical committee shall hold its meetings in conjunction with the meeting of the Council, to the extent practicable.
- (2) Each Council shall establish such advisory panels as are necessary or appropriate to assist it in carrying out its functions under this Act.
 - (3)
 - (A) Each Council shall establish and maintain a fishing industry advisory committee which shall provide information and recommendations on, and assist in the development of, fishery management plans and amendments to such plans.
 - (B) Appointments to a committee established under subparagraph (A) shall be made by each Council in such a manner as to provide fair representation to commercial fishing interests in the geographical area of authority of the Council.
 - (4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—
 - (A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and
 - (B) other interested persons.
 - (5) Decisions and recommendations made by committees and panels established under this subsection shall be considered to be advisory in nature.

(h) FUNCTIONS.—Each Council shall, in accordance with the provisions of this Act—

- (1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);
- (2) prepare comments on any application for foreign fishing transmitted to it under section 204(b)(4) (C) or section 204(d), and any fishery management plan or amendment transmitted to it under section 304(c)(4);

- (3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act (and for purposes of this paragraph, the term “geographical area concerned” may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area);
- (4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;
- (5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 303(a)(3) and (4) with respect to the optimum yield from, the capacity and extent to which United States fish processors will process United States harvested fish from, and the total allowable level of foreign fishing in, each fishery (except as provided in section subsection (a)(3)) within its geographical area of authority;
- (6) develop annual catch limits for each of its managed fisheries that may not exceed the over 50 fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g);
- (7) develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, and other areas of research that are necessary for management purposes, that shall—
 - (A) establish priorities for 5-year periods;
 - (B) be updated as necessary; and
 - (C) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council; ~~and~~
- (8) have the authority to use alternative fishery management measures in a recreational fishery (or the recreational component of a mixed-use fishery), including extraction rates, fishing mortality targets, and harvest control rules, or traditional or cultural practices of native communities, in developing a fishery management plan, plan amendment, or proposed regulations; and.¹⁸
- (9) (previously 8) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.

(i) PROCEDURAL MATTERS.—

- (1) The Federal Advisory Committee Act (5 U.S.C. App. 2) shall not apply to the Councils, the Council coordination committee established under subsection (l), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g).
- (2) The following guidelines apply with respect to the conduct of business at meetings of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):

- (A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the public.
- (B) Emergency meetings shall be held at the call of the chairman or equivalent presiding officer.
- (C) Timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, shall be provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient. Timely notice of each regular meeting shall also be published in the Federal Register. The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c), in which case public notice shall be given immediately.
- (D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall include a brief description of the background and interests of the person in the subject of the oral or written statement.
- (E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.
- (F) Subject to the procedures established under paragraph (4), and the guidelines prescribed by the Secretary under section 402(b), relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council or the Secretary, as appropriate.

- (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 (I), 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 (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).¹⁹

(3)

- (A) Each Council, the Council Coordination Committee established under subsection (I), scien-

tific and statistical committee, other committees, and advisory panel—

- (i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and
 - (ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the Council is interested; and
- (B) If any meeting or portion is closed, the Council concerned shall provide notice by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that email notification and website postings alone are not sufficient, including in that notification the time and place of the meeting. This subparagraph does not require notification regarding any brief closure of a portion of a meeting in order to discuss employment or other internal administrative matters. Subparagraphs (D) and (F) of paragraph (2) shall not apply to any meeting or portion thereof that is so closed.
- (4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 402(b), must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics.
- (5) Each Council shall specify those procedures that are necessary or appropriate to ensure that the committees and advisory panels established under subsection (g) are involved, on a continuing basis, in the development and amendment of fishery management plans.
- (6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency, or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.

(j) DISCLOSURE OF FINANCIAL INTEREST AND RECUSAL.—

- (1) For the purposes of this subsection—
- (A) the term “affected individual” means an individual who—
 - (i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or
 - (ii) is a voting member of a Council appointed—
 - (I) under subsection (b)(2); or
 - (II) under subsection (b)(5) who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and
 - (B) the term “designated official” means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B)
- (2) Each affected individual must disclose any financial interest held by—

- (A) that individual;
 - (B) the spouse, minor child, or partner of that individual; and
 - (C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, or employee; in any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity.
- (3) The disclosure required under paragraph (2) shall be made—
- (A) in the case of an affected individual referred to in paragraph (1)(A)(i), before appointment by the Secretary; and
 - (B) in the case of an affected individual referred to in paragraph (1)(A)(ii), within 45 days of taking office.
- (4) An affected individual referred to in paragraph (1)(A)(ii) must update his or her disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2) (A), (B), or (C).
- (5) The financial interest disclosures required by this subsection shall—
- (A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe;
 - (B) be kept on file by the Council and made available on the Internet and for public inspection at the Council offices during reasonable hours; and
 - (C) be kept on file by the Secretary for use in reviewing determinations under paragraph 7(B) and made available for public inspection at reasonable hours.
- (6) The participation by an affected individual referred to in paragraph (1)(A)(ii) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.
- (7)
- (A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.
 - (B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.
 - (C) Any Council member may submit a written request to the Secretary to review any determination by the designated official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

- (D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how he or she would have voted on such decision if he or she had voted.
 - (E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.
 - (F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).
- (8) Section 208 of title 18, United States Code, does not apply to an affected individual referred to in paragraph (1)(A)(ii) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).
 - (9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection, including identification of any conflict of interest problems with respect to the Councils and scientific and statistical committees and recommendations for addressing any such problems.

(k) COUNCIL TRAINING PROGRAM.—

- (1) TRAINING COURSE.—Within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including—
 - (A) fishery science and basic stock assessment methods;
 - (B) fishery management techniques, data needs, and Council procedures;
 - (C) social science and fishery economics;
 - (D) tribal treaty rights and native customs, access, and other rights related to Western Pacific indigenous communities;
 - (E) legal requirements of this Act, including conflict of interest and disclosure provisions of this section and related policies;
 - (F) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);
 - (G) public process for development of fishery management plans;
 - (H) other topics suggested by the Council; and
 - (I) recreational and commercial fishing information, including fish harvesting techniques, gear types, fishing vessel types, and economics for the fisheries within each Council's jurisdiction.
- (2) MEMBER TRAINING.—The training course shall be available to both new and existing Council members, staff from the regional offices and regional science centers of the National Marine Fisheries Service, and may be made available to committee or advisory panel members as resources

allow.

(3) **REQUIRED TRAINING.**—Council members appointed after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall complete a training course that meets the requirements of this section not later than 1 year after the date on which they were appointed. Any Council member who has completed a training course within 24 months before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 shall be considered to have met the training requirement of this paragraph.

(l) **COUNCIL COORDINATION COMMITTEE.**—The Councils may establish a Council coordination committee consisting of the chairs, vice chairs, and executive directors of each of the 8 Councils described in subsection (a)(1), or other Council members or staff, in order to discuss issues of relevance to all Councils, including issues related to the implementation of this Act.

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

(1) **ANNUAL CATCH LIMIT REQUIREMENT FOR CERTAIN DATA-POOR FISHERIES.**—Notwithstanding subsection (h)(6), in the case of a stock of fish for which the total annual catch limit is 25 percent or more below the overfishing limit, a peer-reviewed stock survey and stock assessment have not been performed during the preceding 5 fishing years, and the stock is not subject to overfishing, a Council may, after notifying the Secretary, maintain the current annual catch limit for the stock until a peer-reviewed stock survey and stock assessment are conducted and the results are considered by the Council and its scientific and statistical committee.

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

(3) **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.

(4) **RELATIONSHIP TO INTERNATIONAL EFFORTS.**—

(A) **IN GENERAL.**—Each annual catch limit, consistent with subsection (h)(6)—

(i) may take into account management measures under international agreements in which the United States participates; and

(ii) in the case of an annual catch limit developed by a Council for a species, shall take into account fishing for the species outside the exclusive economic zone and the life-history characteristics of the species that are not subject to the jurisdiction of the Council.

- (B) **EXCEPTION TO ANNUAL CATCH LIMIT REQUIREMENT.**— If fishery management activities by another country with respect to fishing 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 for which there is no informal transboundary agreement with that country in effect, then—
- (i) notwithstanding subsection (h)(6), no annual catch limit is required to be developed for the species by a Council; and
 - (ii) if an annual catch limit is developed by a Council for the species, the catch limit shall take into account fishing for the species outside the exclusive economic zone that is not subject to the jurisdiction of the Council²⁰.
- (5) **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.²¹
- (6) **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.
- (7) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed as providing an exemption from the requirements of section 301(a) of this Act.²²

20 HR 200 (7/12/18) pages 11-13

21 S 1520 (6/5/18) page 33. Underlined text only.

22 HR 200 (7/12/18) page 14. Taken at least in part from S 1520.

SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS

- (a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—
- (1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—
 - (A) necessary and appropriate for the conservation and management of the fishery to prevent overfishing and rebuild ~~overfished~~ depleted stocks, and to protect, restore, and promote the long-term health and stability of the fishery;
 - (B) described in this subsection or subsection (b), or both; and
 - (C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;
 - (2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interest in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;
 - (3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, and include a summary of the information utilized in making such specification;
 - (4) assess and specify—
 - (A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),
 - (B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and
 - (C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;
 - (5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, economic information necessary to meet the requirements of this Act, and the estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors;
 - (6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;
 - (7) describe and identify essential fish habitat for the fishery based on the guidelines established by the

Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;

- (8) in the case of a fishery management plan that, after January 1, 1991, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan;
- (9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—
 - (A) participants in the fisheries and fishing communities affected by the plan or amendment;
 - (B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and
 - (C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;
- (10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is **overfished depleted** (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an **overfished depleted** condition or is **overfished depleted**, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;
- (11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, to the extent practicable and in the following priority—
 - (A) minimize bycatch; and
 - (B) minimize the mortality of bycatch which cannot be avoided;
- (12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;
- (13) include a description of the commercial, recreational, and charter, sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter, sectors;
- (14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic im-

Not included:

Remainder of Sec. 303 (discretionary provisions, proposed regulations) - no changes
Sec. 303A (Limited Access Privilege Programs) - no changes other than changing "overfished" to "depleted"
HR 200 deletes section on New England and Gulf referendum and replaces with catch share referendum pilot program for NEFMC, SAFMC, MAFMC, and GFMC (not included here)

SEC. 304. ACTION BY THE SECRETARY

(a) REVIEW OF PLANS.—

- (1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—
 - (A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and
 - (B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.
- (2) In undertaking the review required under paragraph (1), the Secretary shall—
 - (A) take into account the information, views, and comments received from interested persons;
 - (B) consult with the Secretary of State with respect to foreign fishing; and
 - (C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).
- (3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the Council. A notice of disapproval or partial approval shall specify—
 - (A) the applicable law with which the plan or amendment is inconsistent;
 - (B) the nature of such inconsistencies; and
 - (C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

If the Secretary does not notify a Council within 30 days of the end of the comment period of the approval, disapproval, or partial approval of a plan or amendment, then such plan or amendment shall take effect as if approved.

- (4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.
- (5) For purposes of this subsection and subsection (b), the term “immediately” means on or before the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, plan amendment, or proposed regulation that the Council characterizes as final.

(b) REVIEW OF REGULATIONS.—

- (1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—
 - (A) if that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or

- (B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this Act, and other applicable law.
- (2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).
- (3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.

(c) PREPARATION AND REVIEW OF SECRETARIAL PLANS.—

- (1) The Secretary may prepare a fishery management plan, with respect to any fishery, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if—
 - (A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time, a fishery management plan for such fishery, or any necessary amendment to such a plan, if such fishery requires conservation and management;
 - (B) the Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails to submit a revised or further revised plan or amendment; or
 - (C) the Secretary is given authority to prepare such plan or amendment under this section.

In preparing any such plan or amendment, the Secretary shall consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea. The Secretary shall also prepare such proposed regulations as he deems necessary or appropriate to carry out each plan or amendment prepared by him under this paragraph.

- (2) In preparing any plan or amendment under this subsection, the Secretary shall—
 - (A) conduct public hearings, at appropriate times and locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan; and
 - (B) consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.
- (3) Notwithstanding paragraph (1) for a fishery under the authority of a Council, the Secretary may not include in any fishery management plan, or any amendment to any such plan, prepared by him, a provision establishing a limited access system, including any limited access privilege program unless such system is first approved by a majority of the voting members, present and voting, of each appropriate Council.
- (4) Whenever the Secretary prepares a fishery management plan, or plan amendment under this section, the Secretary shall immediately—
 - (A) for a plan or amendment for a fishery under the authority of a Council, submit such plan or amendment to the appropriate Council for consideration and comment; and
 - (B) publish in the Federal Register a notice stating that the plan or amendment is available and

that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

- (5) Whenever a plan or amendment is submitted under paragraph (4)(A), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in paragraph (4)(B). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, information, or comments submitted under paragraph (4)(B), may adopt such plan or amendment.
- (6) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. In the case of a plan or amendment to which paragraph (4)(A) applies, such regulations shall be submitted to the Council with such plan or amendment. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.
- (7) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (6). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the fishery management plan, with the fishery ecosystem plan, with the national standards and other provisions of this Act, and with any other applicable law.

(d) ESTABLISHMENT OF FEES.—

- (1) The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits.
- (2)
 - (A) Notwithstanding paragraph (1), the Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management, data collection, and enforcement of any—
 - (i) limited access privilege program; and
 - (ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program
 - (B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and shall be collected at either the time of the landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.
 - (i) Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be deposited in the Limited Access System Administration Fund established under section 305(h)(5)(B).
 - (ii) Upon application by a State, the Secretary shall transfer to such State up to 33 percent of any fee collected pursuant to subparagraph (A) under a community development quota program and deposited in the Limited Access System Administration Fund in order to reimburse such State for actual costs directly incurred in the man-

agement and enforcement of such program.

(e) **REBUILDING ~~OVERFISHED-DEPLETED~~ FISHERIES.—**

- (1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are ~~overfished~~ ~~depleted~~ overfished or are approaching a condition of being ~~overfished~~ ~~depleted~~. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing specified in such plan or agreement. A fishery shall be classified as approaching a condition of being ~~overfished~~ ~~depleted~~ if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become ~~overfished~~ ~~depleted~~ within two years. ~~The report shall distinguish between fisheries that are depleted (or approaching that condition) as a result of fishing and fisheries that are depleted (or approaching that condition) as a result of factors other than fishing. The report shall state, for each fishery identified as depleted or approaching that condition, whether the fishery is the target of directed fishing.~~²⁵
- (2) If the Secretary determines at any time that a fishery is ~~overfished~~ ~~depleted~~, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.
- (3) Within 2 years after an identification under paragraph (1) or notification under paragraphs (2) or (7), the appropriate Council (or the Secretary, for fisheries under section 302(a)(3)) shall prepare and implement a fishery management plan, plan amendment, or proposed regulations for the fishery to which the identification or notice applies—
 - (A) to end overfishing immediately in the fishery and to rebuild affected stocks of fish, or
 - (B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an ~~overfished~~ ~~depleted~~ condition.
- (4) For a fishery that is ~~overfished~~ ~~depleted~~, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—
 - (A) specify a time period for rebuilding the fishery that—
 - (i) shall be as short as ~~possible~~ ~~practicable~~²⁶, taking into account the status and biology of any overfished stock of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and
 - (ii) ~~not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise; may not exceed the time stock would be rebuilt without fishing occurring plus one mean generation, except in a case in which— [S 1520 version: “shall not exceed the shortest time possible within which the stock of fish would be rebuilt without fishing occurring, plus one mean generation, unless management measures under international agreements in which the United States participates dictate otherwise”]~~²⁷
 - (I) the biology of the stock of fish, other environmental conditions, or man-

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26 HR 200 (7/12/18) page 33

27 S 1520 (6/5/18) page 31. Does not include I-V.

agement 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.²⁸
- (B) take into account environmental condition including predator/prey relationships
 - (C) (previously B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and
 - (D) (previously C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States; and
 - (E) specify a schedule for reviewing the rebuilding targets, evaluating environmental impacts on rebuilding progress, and evaluating progress being made toward reaching rebuilding targets.²⁹

- (5) If, within the 2-year period beginning on the date of identification or notification that a fishery is ~~overfished~~ depleted, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regulations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c).
- (6) During the development of a fishery management plan, a plan amendment, or proposed regulations required by this subsection, the Council may request the Secretary to implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such plan, amendment, or regulations. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.

- (7) (A) The Secretary shall review any fishery management plan, plan amendment, or regulations required by this subsection at routine intervals that may not exceed two years. ~~The Secretary shall find that adequate progress toward ending overfishing and rebuilding affected fish stocks has not resulted if—~~
 - (i) ~~the status of the stock is not improving, such that it becomes unlikely that the stock will be rebuilt within the rebuilding time period;~~

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- (ii) the applicable fishing mortality rate or catch limits are exceeded, and the causes and rebuilding consequences of such exceedances have not been corrected;
- (iii) the rebuilding expectations are significantly changed due to new information about the status of the stock, and the new information indicates that less progress than expected has been made toward rebuilding the stock; or
- (iv) for other reasons, as appropriate.³⁰

(7) (B) If the Secretary finds as a result of the review that such plan, amendment, or regulations have not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks, the Secretary shall—

- (A) (i) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or
- (B) (ii) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph to achieve adequate progress.

(C) A Council shall not adopt, and the Secretary shall not approve, a fishery management plan, plan amendment, or proposed regulation required under this subsection for any fishery that has previously been under such a plan that did not rebuild such fishery to the biomass necessary to achieve maximum sustainable yield, as determined by the Council's SSC, unless the new plan, amendment, or proposed regulation has at least a 75 percent chance of rebuilding the fishery within the time limit proposed by the Council, as calculated by the Council's SSC pursuant to section 302(g)(1)(B)³¹.

(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.³²

(f) FISHERIES UNDER AUTHORITY OF MORE THAN ONE COUNCIL.—

(1) Except as provided in paragraph (3)18, if any fishery extends beyond the geographical area of authority of any one Council, the Secretary may—

- (A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan; or
- (B) may require that the plan and amendment be prepared jointly by the Councils concerned.

No jointly prepared plan or amendment may be submitted to the Secretary unless it is approved by a majority of the voting members, present and voting, of each Council concerned.

30 S 1520 (6/5/18) page 31-32

31 S 1520 (6/5/18) page 32

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- (2) The Secretary shall establish the boundaries between the geographical areas of authority of adjacent Councils.

(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—

- (1) **PREPARATION AND IMPLEMENTATION OF PLAN OR PLAN AMENDMENT.**—The Secretary shall prepare a fishery management plan or plan amendment under subsection (c) with respect to any highly migratory species fishery to which section 302(a)(3) applies. In preparing and implementing any such plan or amendment, the Secretary shall—
 - (A) consult with and consider the comments and views of affected Councils, commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species, and the advisory panel established under section 302(g);
 - (B) establish an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph;
 - (C) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;
 - (D) with respect to a highly migratory species for which the United States is authorized to harvest an allocation, quota, or at a fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or at such fishing mortality level;
 - (E) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;
 - (F) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and
 - (G) ensure that conservation and management measures under this subsection—
 - (i) promote international conservation of the affected fishery;
 - (ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;
 - (iii) are fair and equitable in allocating fishing privileges among United States fishermen and do not have economic allocation as the sole purpose; and
 - (iv) promote, to the extent practicable, implementation of scientific research programs that include the tagging and release of Atlantic highly migratory species.
- (2) **CERTAIN FISH EXCLUDED FROM “BYCATCH” DEFINITION.**— Notwithstanding section 3(2), fish harvested in a commercial fishery managed by the Secretary under this subsection or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d), or highly migratory species harvested in a commercial fishery managed by a Council under this Act or the Western and Central Pacific Fisheries Convention Implementation Act, that are not regulatory discards and that are tagged and released alive under a scientific tagging and release program established by the Secretary shall not be considered bycatch for purposes of this Act.

- (h) **REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.**—The Secretary may repeal or revoke a fishery management plan for a fishery under the authority of a Council only if the Council approves the repeal or revocation by a three-quarters majority of the voting members of the Council.
- (i) **ENVIRONMENTAL REVIEW PROCESS.**—
- (1) **PROCEDURES.**—The Secretary shall, in consultation with the Councils and the Council on Environmental Quality, revise and update agency procedures for compliance with the National Environmental Policy Act (42 U.S.C. 4231 et seq.). The procedures shall—
 - (A) conform to the time lines for review and approval of fishery management plans and plan amendments under this section; and
 - (B) integrate applicable environmental analytical procedures, including the time frames for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to this Act in order to provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork, and effectively involve the public.
 - (2) **USAGE.**—The updated agency procedures promulgated in accordance with this section used by the Councils or the Secretary shall be the sole environmental impact assessment procedure for fishery management plans, amendments, regulations, or other actions taken or approved pursuant to this Act.
 - (3) **SCHEDULE FOR PROMULGATION OF FINAL PROCEDURES.**—The Secretary shall—
 - (A) propose revised procedures within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006;
 - (B) provide 90 days for public review and comments; and
 - (C) promulgate final procedures no later than 12 months after the date of enactment of that Act.
 - (4) **PUBLIC PARTICIPATION.**—The Secretary is authorized and directed, in cooperation with the Council on Environmental Quality and the Councils, to involve the affected public in the development of revised procedures, including workshops or other appropriate means of public involvement.
- (j) [(i) sic] **INTERNATIONAL OVERFISHING.**—The provisions of this subsection shall apply in lieu of subsection (e) to a fishery that the Secretary determines is **overfished depleted** or approaching a condition of being **overfished depleted** due to excessive international fishing pressure, and for which there are no management measures to end overfishing under an international agreement to which the United States is a party. For such fisheries—
- (1) the Secretary, in cooperation with the Secretary of State, **shall** immediately take appropriate action at the international level to end the overfishing; and
 - (2) within 1 year after the Secretary's determination, the appropriate Council, or Secretary, for fisheries under section 302(a)(3) shall—
 - (A) develop recommendations for domestic regulations to address the relative impact of fishing vessels of the United States on the stock and, if developed by a Council, the Council shall submit such recommendations to the Secretary; and
 - (B) develop and submit recommendations to the Secretary of State, and to the Congress, for international actions that will end overfishing in the fishery and rebuild the affected stocks,

taking into account the relative impact of vessels of other nations and vessels of the United States on the relevant stock.

- (k) STOCK SURVEYS AND ASSESSMENTS.—Not later than 2 years after the date that the Secretary receives notice from a Council under section 302(m), the Secretary shall complete a peer-reviewed stock survey and stock assessment of the applicable stock of fish and transmit the results of the survey and assessment to the Council.³³

(Did not include notes on interim management of HMS fisheries, comprehensive management for Atlantic pelagic longline fishery, American lobster fishery)

SEC. 305. OTHER REQUIREMENTS AND AUTHORITY

(a) GEAR EVALUATION AND NOTIFICATION OF ENTRY—

- (1) Not later than 18 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register, after notice and an opportunity for public comment, a list of all fisheries—
 - (A) under the authority of each Council and all fishing gear used in such fisheries, based on information submitted by the Councils under section 303(a); and
 - (B) to which section 302(a)(3) applies and all fishing gear used in such fisheries.
- (2) The Secretary shall include with such list guidelines for determining when fishing gear or a fishery is sufficiently different from those listed as to require notification under paragraph (3).
- (3) Effective 180 days after the publication of such list, no person or vessel may employ fishing gear or engage in a fishery not included on such list without giving 90 days advance written notice to the appropriate Council, or the Secretary with respect to a fishery to which section 302(a)(3) applies. A signed return receipt shall serve as adequate evidence of such notice and as the date upon which the 90-day period begins.
- (4) A Council may submit to the Secretary any proposed changes to such list or such guidelines the Council deems appropriate. The Secretary shall publish a revised list, after notice and an opportunity for public comment, upon receiving any such proposed changes from a Council. A Council may request the Secretary to promulgate emergency regulations under subsection (c) to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that such unlisted gear or unlisted fishery would compromise the effectiveness of conservation and management efforts under this Act.
- (5) Nothing in this subsection shall be construed to permit a person or vessel to engage in fishing or employ fishing gear when such fishing or gear is prohibited or restricted by regulation under a fishery management plan or plan amendment, or under other applicable law.

(b) FISH HABITAT.—

- (1)
 - (A) The Secretary shall, within 6 months of the date of enactment of the Sustainable Fisheries Act, establish by regulation guidelines to assist the Councils in the description and identification of essential fish habitat in fishery management plans (including adverse impacts on such habitat) and in the consideration of actions to ensure the conservation and enhancement of such habitat. The Secretary shall set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat and for the review and updating of such identifications based on new scientific evidence or other relevant information.
 - (B) The Secretary, in consultation with participants in the fishery, shall provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat.
 - (C) The Secretary shall review programs administered by the Department of Commerce and ensure that any relevant programs further the conservation and enhancement of essential

fish habitat.

- (D) The Secretary shall coordinate with and provide information to other Federal agencies to further the conservation and enhancement of essential fish habitat.
- (2) Each Federal agency shall consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that may adversely affect any essential fish habitat identified under this Act.
- (3) Each Council—
 - (A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any Federal or State agency that, in the view of the Council, may affect the habitat, including essential fish habitat, of a fishery resource under its authority; and
 - (B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority.
- (4)
 - (A) If the Secretary receives information from a Council, ~~or~~ Federal or State agency, or determines from other sources that an action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any State or Federal agency would adversely affect any essential fish habitat identified under this Act, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat.
 - (B) Within 30 days after receiving a recommendation under subparagraph (A), a Federal agency shall provide a detailed response in writing to any Council commenting under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations.

(c) EMERGENCY ACTIONS AND INTERIM MEASURES.—

- (1) If the Secretary finds that an emergency or overfishing exists or that interim measures are needed to reduce overfishing for any fishery, he may promulgate emergency regulations or interim measures necessary to address the emergency or overfishing, without regard to whether a fishery management plan exists for such fishery.
- (2) If a Council finds that an emergency or overfishing exists or that interim measures are needed to reduce overfishing for any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—
 - (A) the Secretary shall promulgate emergency regulations or interim measures under paragraph (1) to address the emergency or overfishing if the Council, by unanimous vote of the members who are voting members, requests the taking of such actions; and
 - (B) the Secretary may promulgate emergency regulations or interim measures under paragraph (1) to address the emergency or overfishing if the Council, by less than a unanimous vote, requests the taking of such action.

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

(A) shall be published in the Federal Register together with the reasons therefor;

(B) shall, except as provided in subparagraph (C), remain in effect for not more than 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 ~~180 days after the date of publication, and may be extended by publication in the Federal Register for one additional period of not more than 180 days, provided~~³⁴ the public has had an opportunity to comment on the emergency regulation or interim measure, and, in the case of a Council recommendation for emergency regulations or interim measures, the Council is actively preparing a fishery management plan, plan amendment, or proposed regulations to address the emergency or overfishing on a permanent basis;

(C) that responds to a public health emergency or an oil spill may remain in effect until the circumstances that created the emergency no longer exist, Provided, That the public has an opportunity to comment after the regulation is published, and, in the case of a public health emergency, the Secretary of Health and Human Services concurs with the Secretary's action; and

(D) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination, except for emergency regulations or interim measures promulgated under paragraph (2) in which case such early termination may be made only upon the agreement of the Secretary and the Council concerned.

(d) RESPONSIBILITY OF THE SECRETARY.—The Secretary shall have general responsibility to carry out any fishery management plan or amendment approved or prepared by him, in accordance with the provisions of this Act. The Secretary may promulgate such regulations, in accordance with section 553 of title 5, United States Code, as may be necessary to discharge such responsibility or to carry out any other provision of this Act.

(e) EFFECT OF CERTAIN LAWS ON CERTAIN TIME REQUIREMENTS.—

(1) The Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.), the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), and Executive Order Numbered 12866, dated September 30, 1993, shall be complied with within the time limitations specified in subsections (a), (b), and (c) of section 304 as they apply to the functions of the Secretary under such provisions.

(f) JUDICIAL REVIEW.—

(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on

Not included:

Remainder of Sec. 305 (Other Requirements and Authority) - no changes that affect the PFMC. (One change relating to votes on Alaska and Western Pacific community development programs.)

Sec. 306 (no substantive changes)

Sec. 307 (no changes affecting PFMC. HR 200 adds provision to prohibit shark fishing off Florida).

Secs. 308, 309, 310 (no changes)

Sec. 311 (no changes affecting PFMC; minor change relating to NE fisheries enforcement)

SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES

(a) FISHERIES DISASTER RELIEF.—

(1)

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

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

(B) The Secretary shall publish the estimated cost of recovery from a fishery resource disaster no later than 30 days after the Secretary makes the determination under subparagraph (A) with respect to such disaster.³⁹

- (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.⁴⁰
- (3) (previously 2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.
- (4) (previously 3) The Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.
- (5) (previously 4) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 2007 through 2013.

(b) FISHING CAPACITY REDUCTION PROGRAM.—

Not included:

Remainder of Sec. 312 (no changes)

Sec. 313 (North Pacific Fisheries Conservation). One change: 10% of any future arctic FMP catches set aside for CDQ.

Sec. 314 (NW Atlantic Ocean Fisheries Reinvestment Program)- no changes

Sec. 315 (Regional Coastal Disaster Assistance, Transition, and Recovery Program) - no changes

Sec. 316 (Bycatch Reduction Engineering Program) - no changes

³⁹ HR 200 (7/12/18) page 43.

⁴⁰ HR 200 (7/12/18) page 44

SEC. 317. SHARK FEEDING

- (1) Except to the extent determined by the Secretary, or under State law, as presenting no public health hazard or safety risk, or when conducted as part of a research program funded in whole or in part by appropriated funds, it is unlawful to introduce, or attempt to introduce, food or any other substance into the water to attract sharks for any purpose other than to harvest sharks within the Exclusive Economic Zone seaward of the State of Hawaii and of the Commonwealths, territories, and possessions of the United States in the Pacific Ocean Area.

SEC. 318. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM

(a) IN GENERAL.—

- (1) The Secretary of Commerce, in consultation with the Councils, shall establish a cooperative research and management program to address needs identified under this Act and under any other marine resource laws enforced by the Secretary. The program shall be implemented on a regional basis and shall be developed and conducted through partnerships among Federal, State, and Tribal managers and scientists (including interstate fishery commissions), fishing industry participants (including use of commercial charter or recreational vessels for gathering data), and educational institutions.
- (2) Within 1 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.⁴²

(b) ELIGIBLE PROJECTS.—The Secretary shall make funds available under the program for the support of projects to address critical needs identified by the Councils in consultation with the Secretary. The program shall promote and encourage efforts to utilize sources of data maintained by other Federal agencies, State agencies, or academia for use in such projects.

(c) FUNDING. PRIORITIES.⁴³—In making funds available the Secretary shall award funding on a competitive basis and based on regional fishery management needs, select programs that form part of a coherent program of research focused on solving priority issues identified by the Councils, and shall give priority to the following projects:

- (1) Projects to collect data to improve, supplement, or enhance stock assessments, including—~~the use of fishing vessels or acoustic or other marine technology~~
 - (A) the use of fishing vessels or acoustic or other marine technology;
 - (B) expanding the use of electronic catch reporting programs and technology; and
 - (C) improving monitoring and observer coverage through the expanded use of electronic moni-

42 HR 200 (7/12/18) page 38.

43 HR 200 (7/12/18) page 39.

- (2) Projects to assess the amount and type of bycatch or post-release mortality occurring in a fishery.
 - (3) Conservation engineering projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies to other nations.
 - (4) Projects for the identification of habitat areas of particular concern and for habitat conservation.
 - (5) Projects designed to collect and compile economic and social data.
- (d) **EXPERIMENTAL PERMITTING PROCESS.**—Not later than 180 days after the date of enactment of the Magnuson Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall promulgate regulations that create an expedited, uniform, and regionally-based process to promote issuance, where practicable, of experimental fishing permits.
- (e) **GUIDELINES.**—The Secretary, in consultation with the Councils, shall establish guidelines to ensure that participation in a research project funded under this section does not result in loss of a participant’s catch history or unexpended days-at-sea as part of a limited entry system.
- (f) **EXEMPTED PROJECTS.**—The procedures of this section shall not apply to research funded by quota set-asides in a fishery.

SEC. 319. HERRING STUDY

- (a) **IN GENERAL.**—The Secretary may conduct a cooperative research program to study the issues of abundance, distribution and the role of herring as forage fish for other commercially important fish stocks in the Northwest Atlantic, and the potential for local scale depletion from herring harvesting and how it relates to other fisheries in the Northwest Atlantic. In planning, designing, and implementing this program, the Secretary shall engage multiple fisheries sectors and stakeholder groups concerned with herring management.
- (b) **REPORT.**—The Secretary shall present the final results of this study to Congress within 3 months following the completion of the study, and an interim report at the end of fiscal year 2008.
- (c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$2,000,000 for fiscal year 2007 through fiscal year 2009 to conduct this study.

SEC. 320. RESTORATION STUDY

- (a) **IN GENERAL.**—The Secretary may conduct a study to update scientific information and protocols needed to improve restoration techniques for a variety of coast habitat types and synthesize the results in a format easily understandable by restoration practitioners and local communities.
- (b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$500,000 for fiscal year 2007 to conduct this study.

TITLE IV—FISHERY MONITORING AND RESEARCH

SEC. 401. REGISTRATION AND INFORMATION MANAGEMENT

- (a) **STANDARDIZED FISHING VESSEL REGISTRATION AND INFORMATION MANAGEMENT SYSTEM.**—The Secretary shall, in cooperation with the Secretary of the department in which the Coast Guard is operating, the States, the Councils, and Marine Fisheries Commissions, develop recommendations for implementation of a standardized fishing vessel registration and information management system on a regional basis. The recommendations shall be developed after consultation with interested governmental and nongovernmental parties and shall—
- (1) be designed to standardize the requirements of vessel registration and information collection systems required by this Act, the Marine Mammal Protection Act (16 U.S.C. 1361 et seq.), and any other marine resource law implemented by the Secretary, and, with the permission of a State, any marine resource law implemented by such State;
 - (2) integrate information collection programs under existing fishery management plans into a non-duplicative information collection and management system;
 - (3) avoid duplication of existing State, tribal, or Federal systems and shall utilize, to the maximum extent practicable, information collected from existing systems;
 - (4) provide for implementation of the system through cooperative agreements with appropriate State, regional, or tribal entities and Marine Fisheries Commissions;
 - (5) provide for funding (subject to appropriations) to assist appropriate State, regional, or tribal entities and Marine Fisheries Commissions in implementation;
 - (6) establish standardized units of measurement, nomenclature, and formats for the collection and submission of information;
 - (7) minimize the paperwork required for vessels registered under the system;
 - (8) include all species of fish within the geographic areas of authority of the Councils and all fishing vessels including charter fishing vessels, but excluding recreational fishing vessels;
 - (9) require United States fish processors, and fish dealers and other first ex-vessel purchasers of fish that are subject to the proposed system, to submit information (other than economic information) which may be necessary to meet the goals of the proposed system; and
 - (10) include procedures necessary to ensure—
 - (A) the confidentiality of information collected under this section in accordance with section 402(b); and
 - (B) the timely release or availability to the public of information collected under this section consistent with section 402(b).
- (b) **FISHING VESSEL REGISTRATION.**—The proposed registration system should, at a minimum, obtain the following information for each fishing vessel—
- (1) the name and official number or other identification, together with the name and address of the owner or operator or both;
 - (2) gross tonnage, vessel capacity, type and quantity of fishing gear, mode of operation (catcher, catch-

er processor, or other), and such other pertinent information with respect to vessel characteristics as the Secretary may require; and

- (3) identification (by species, gear type, geographic area of operations, and season) of the fisheries in which the fishing vessel participates.

(c) **FISHERY INFORMATION.**—The proposed information management system should, at a minimum, provide basic fisheries performance information for each fishery, including—

- (1) the number of vessels participating in the fishery including charter fishing vessels;
- (2) the time period in which the fishery occurs;
- (3) the approximate geographic location or official reporting area where the fishery occurs;
- (4) a description of fishing gear used in the fishery, including the amount and type of such gear and the appropriate unit of fishing effort; and
- (5) other information required under subsection 303(a)(5) or requested by the Council under section 402.

(d) **USE OF REGISTRATION.**—Any registration recommended under this section shall not be considered a permit for the purposes of this Act, and the Secretary may not propose to revoke, suspend, deny, or impose any other conditions or restrictions on any such registration or the use of such registration under this Act.

(e) **PUBLIC COMMENT.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register for a 60-day public comment period a proposal that would provide for implementation of a standardized fishing vessel registration and information collection system that meets the requirements of subsections (a) through (c). The proposal shall include—

- (1) a description of the arrangements of the Secretary for consultation and cooperation with the department in which the Coast Guard is operating, the States, the Councils, Marine Fisheries Commissions, the fishing industry and other interested parties; and
- (2) any proposed regulations or legislation necessary to implement the proposal.

(f) **CONGRESSIONAL TRANSMITTAL.**—Within 60 days after the end of the comment period and after consideration of comments received under subsection (e), the Secretary shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a recommended proposal for implementation of a national fishing vessel registration system that includes—

- (1) any modifications made after comment and consultation;
- (2) a proposed implementation schedule, including a schedule for the proposed cooperative agreements required under subsection (a)(4); and
- (3) recommendations for any such additional legislation as the Secretary considers necessary or desirable to implement the proposed system.

(g) **RECREATIONAL FISHERIES.**—

(1) **FEDERAL PROGRAM.**—The Secretary shall establish and implement a regionally based registry program for recreational fishermen in each of the 8 fishery management regions. The program, which shall not require a fee before January 1, 2011, shall provide for—

- (A) the registration (including identification and contact information) of individuals who engage in recreational fishing—
 - (i) in the Exclusive Economic Zone;

- (ii) for anadromous species; or
 - (iii) for Continental Shelf fishery resources beyond the Exclusive Economic Zone; and
 - (B) if appropriate, the registration (including the ownership, operator, and identification of the vessel) of vessels used in such fishing.
- (2) STATE PROGRAMS.—The Secretary shall exempt from registration under the program recreational fishermen and charter fishing vessels licensed, permitted, or registered under the laws of a State if the Secretary determines that information from the State program is suitable for the Secretary’s use or is used to assist in completing marine recreational fisheries statistical surveys, or evaluating the effects of proposed conservation and management measures for marine recreational fisheries.
- (3) DATA COLLECTION.—
- (A) IMPROVEMENT OF THE MARINE RECREATIONAL FISHERY STATISTICS SURVEY.—Within 24 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with representatives of the recreational fishing industry and experts in statistics, technology, and other appropriate fields, shall establish a program to improve the quality and accuracy of information generated by the Marine Recreational Fishery Statistics Survey, with a goal of achieving acceptable accuracy and utility for each individual fishery.
 - (B) NRC REPORT RECOMMENDATIONS.—The program shall take into consideration and, to the extent feasible, implement the recommendations of the National Research Council in its report Review of Recreational Fisheries Survey Methods (2006), including—
 - (i) redesigning the Survey to improve the effectiveness and appropriateness of sampling and estimation procedures, its applicability to various kinds of management decisions, and its usefulness for social and economic analyses; and
 - (ii) providing for ongoing technical evaluation and modification as needed to meet emerging management needs.
 - (C) METHODOLOGY.—Unless the Secretary determines that alternate methods will achieve this goal more efficiently and effectively, the program shall, to the extent possible, include—
 - (i) an adequate number of intercepts to accurately estimate recreational catch and effort;
 - (ii) use of surveys that target anglers registered or licensed at the State or Federal level to collect participation and effort data;
 - (iii) collection and analysis of vessel trip report data from charter fishing vessels;
 - (iv) development of a weather corrective factor that can be applied to recreational catch and effort estimates; and
 - (v) an independent committee composed of recreational fishermen, academics, persons with expertise in stock assessments and survey design, and appropriate personnel from the National Marine Fisheries Service to review the collection estimates, geographic, and other variables related to dockside intercepts and to identify deficiencies in recreational data collection, and possible correction measures.
 - (D) DEADLINE.—The Secretary shall complete the program under this paragraph and implement the improved Marine Recreational Fishery Statistics Survey not later than January 1, 2009.

(4) FEDERAL-STATE PARTNERSHIPS.—

(A) ESTABLISHMENT.—The Secretary shall establish partnerships with States to develop best practices for implementation the State program 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 State(s).⁴⁵

(C) BIENNIAL REPORT —The Secretary shall submit to the appropriate committees of Congress and publish biennial reports that include—

(i) the estimated accuracy of—

(I) the information provided under subparagraphs (A) and (B) of paragraph (1) for each registry program established under that paragraph; and

(II) the information from each State program that is used to assist in completing surveys or evaluating effects of conservation and management measures 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.

(D) STATES GRANT PROGRAM.—The Secretary may make grants to States to improve implementation of State programs consistent with this subsection, and assist such programs in complying with requirements related to changes in recreational data collection under paragraph (3). Any funds awarded through such grants shall be used to support data collection, quality assurance, and outreach to entities submitting such data. The Secretary shall prioritize such grants based on the ability of the grant to improve the quality and accuracy of such programs.⁴⁶

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

(h) ACTION BY SECRETARY—The Secretary shall—

(1) within 90 days after the date of the enactment of the Modernizing Recreational Fisheries Management Act of 2018, enter into an agreement with the National Academy of Sciences to evaluate, in the form of a report—

(A) how the design of the MRIP Program, for the purposes of stock assessment and the determination of stock management reference points, can be improved to better meet the needs of in-season management of annual catch limits under section 303(a)(15); and

(B) what actions the Secretary, Councils, and states could take to improve the accuracy and timeliness of data collection and analysis to improve the MRIP program and facilitate in-season management; and

(2) within 6 months after receiving the report under paragraph (1), submit to Congress recommendations regarding—

45 HR 200 (7/12/18) page 24+ (ends at B) and S 1520 (underlined and in green)

46 S 1520 (6/5/18) pages 38-39

- (A) changes to be made to the MRIP program to make the program better meet the needs of in-season management of annual catch limits and other requirements under such section; and
- (B) alternative management approaches that could be applied to recreational fisheries for which the MRIP program is not meeting the needs of inseason management of ACLs, consistent with other requirements of this Act, until such time as the changes in subparagraph (A) are implemented.⁴⁷

Sec. 402 not included (Information Collection) - no changes

SEC. 403. OBSERVERS

- (a) **GUIDELINES FOR CARRYING OBSERVERS.**—Within one year after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations, after notice and opportunity for public comment, for fishing vessels that carry observers. The regulations shall include guidelines for determining—
- (1) when a vessel is not required to carry an observer on board because the facilities of such vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; and
 - (2) actions which vessel owners or operators may reasonably be required to take to render such facilities adequate and safe.
- (b) **TRAINING.**—The Secretary, in cooperation with the appropriate States and the National Sea Grant College Program, shall—
- (1) establish programs to ensure that each observer receives adequate training in collecting and analyzing the information necessary for the conservation and management purposes of the fishery to which such observer is assigned;
 - (2) require that an observer demonstrate competence in fisheries science and statistical analysis at a level sufficient to enable such person to fulfill the responsibilities of the position;
 - (3) ensure that an observer has received adequate training in basic vessel safety; and
 - (4) make use of university and any appropriate private nonprofit organization training facilities and resources, where possible, in carrying out this subsection.
- (c) **OBSERVER STATUS.**—An observer on a vessel and under contract to carry out responsibilities under this Act or the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) shall be deemed to be a Federal employee for the purpose of compensation under the Federal Employee Compensation Act (5 U.S.C. 8101 et seq.).

SEC. 404 FISHERIES RESEARCH

- (a) **IN GENERAL.**—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowledge and information, including statistics, on fishery conservation and management and on the economics and social characteristics of the fisheries.
- (b) **STRATEGIC PLAN.**—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the 5 years immediately following such publication. The plan shall—
- (1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);
 - (2) indicate goals and timetables for the program described in paragraph (1);
 - (3) provide a role for commercial fishermen in such research, including involvement in field testing;
 - (4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under

this section; and

- (5) be developed in cooperation with the Councils and affected States, and provide for coordination with the Councils, affected States, and other research entities.

(c) AREAS OF RESEARCH.—Areas of research are as follows:

- (1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, and other factors affecting the abundance and availability of fish.
- (2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.
- (3) Research on the fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.
- (4) Information management research, including the development of a fishery information base and an information management system that will permit the full use of information in the support of effective fishery conservation and management.

(d) PUBLIC NOTICE.—In developing the plan required under subsection (a), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. The Secretary shall ensure that affected commercial fishermen are actively involved in the development of the portion of the plan pertaining to conservation engineering research. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

(e) STOCK ASSESSMENT PLAN.—

- (1) **IN GENERAL.—**The Secretary, shall develop and publish in the Federal Register, on the same schedule as required for the strategic plan required under subsection (b) of this section, a plan to conduct stock assessments for all stocks of fish for which a fishery management plan is in effect under this Act.
- (2) **CONTENTS.—**The plan shall—
 - (A) for each stock of fish for which a stock assessment has previously been conducted—
 - (i) establish a schedule for updating the stock assessment that is reasonable given the biology and characteristics of the stock; and
 - (ii) subject to the availability of appropriations, require completion of a new stock assessment, or an update of the most recent stock assessment—
 - (I) every 5 years; or
 - (II) within such other time period specified and justified by the Secretary in the plan;
 - (B) for each stock of fish for which a stock assessment has not previously been conducted—

- (i) establish a schedule for conducting an initial stock assessment that is reasonable given the biology and characteristics of the stock; and
 - (ii) subject to the availability of appropriations, require completion of the initial stock assessment within 3 years after the plan is published in the Federal Register unless another time period is specified and justified by the Secretary in the plan; and
- (C) identify data and analysis, especially concerning recreational fishing, that, if available, would reduce uncertainty in and improve the accuracy of future stock assessments, including whether such data and analysis could be provided by fishermen, fishing communities, universities, and research institutions, *to the extent that use of such data would be consistent with the requirements in section 301(a)(2) to base conservation and management measures on the best scientific information available.*
- (3) **WAIVER OF STOCK ASSESSMENT REQUIREMENT.**—Notwithstanding subparagraphs (A)(ii) and (B)(ii), a stock assessment is not required for a stock of fish in the plan if the Secretary determines that such a stock assessment is not necessary and justifies such determination in the Federal Register notice required by this subsection.

DEADLINE.—Notwithstanding paragraph (1) of section 404(f) of the Magnuson-Stevens Fishery Conservation and Management Act, as added by this section, the Secretary of Commerce shall issue the first stock assessment plan under such section by not later than 2 years after the date of the enactment of this Act.⁴⁸

(f) IMPROVING DATA COLLECTION AND ANALYSIS —

- (1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall develop, in consultation with the science and statistical committees of the Councils established under section 302(g) and the Marine Fisheries Commissions, and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on facilitating greater incorporation of data, analysis, stock assessments, and surveys from State agencies and non-governmental sources described in paragraph (2), to the extent such information is consistent with section 301(a)(2), into fisheries management decisions.
- (2) **NONGOVERNMENTAL SOURCES.**—Non-governmental sources referred to in paragraph (1) include the following:
- (A) Fishermen.
 - (B) Fishing communities.
 - (C) Universities.
 - (D) Research and philanthropic institutions.
- (3) CONTENT.—In developing the report under paragraph (1), the Secretary shall—
- (A) identify types of data and analysis, especially concerning recreational fishing, that can be reliably used for purposes of this Act as the basis for establishing conservation and management measures as required by section 303(a)(1), including setting standards for the collection and use of that data and analysis in stock assessments and surveys and for other purposes as determined by the Secretary;

- (B) provide specific recommendations for collecting data and performing analyses identified as necessary to reduce uncertainty in and improve the accuracy of future stock assessments, including whether such data and analysis could be provided by nongovernmental sources, including fishermen, fishing communities, universities, and research institutions;
- (C) consider the extent to which it is possible to establish a registry of persons collecting or submitting the data and performing the analyses identified under subparagraphs (A) and (B); and
- (D) consider the extent to which the acceptance and use of data and analyses identified in the report in fishery management decisions is practicable and compatible with the requirements of section 301(a)(2).⁴⁹

PUBLICATION—The Secretary of Commerce shall make available on the Internet Website of (NOAA) the report required under the amendment made by subsection (a) by not later than 1 year after the date of the enactment of this Act.

NAS REPORT RECOMMENDATIONS.-The Secretary of Commerce shall take into consideration and, to the extent feasible, implement the recommendations of the National Academy of Sciences in the report entitled “Review of the Marine Recreational Information Program (2017)”, and shall submit, every 2 years following the date of enactment of this Act, a report to the appropriate committees of Congress detailing progress made implementing those recommendations. Recommendations considered shall include— including—

- (1) prioritizing the evaluation of electronic data collection, including smartphone applications, electronic diaries for prospective data collection, and an Internet website option for panel members or for the public;
- (2) evaluating whether the design of the Marine Recreational Information Program for the purposes of stock assessment and the determination of stock management reference points is compatible with the needs of in-season management of annual catch limits; and
- (3) if the Marine Recreational Information Program is incompatible with the needs of in-season management of annual catch limits, determining an alternative method for in-season management.⁵⁰

Not included:

Sec. 405 (Incidental Harvest Research) - no changes.

Sec. 406 (Fisheries System Research) - no changes.

Sec. 407 (Gulf of Mexico Red Snapper Research). HR 200 repeals section. Does not affect PFMC.

Sec. 408 (Deep Sea Coral Research and Technology Program). No changes.

⁴⁹ HR 200 (7/12/18) page 21+ and S. 1520 (underlined text and text in green), page 35-36

⁵⁰ HR 200 (7/12/18) page 23+ and S. 1520 (underlined text and text in green), page 36-37
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Appendix

INVESTMENT IN UNITED STATES SEAFOOD PROCESSING FACILITIES.—

The Secretary of Commerce shall work with the Small Business Administration and other Federal agencies to develop financial and other mechanisms to encourage United States investment in seafood processing facilities in the United States for fisheries that lack capacity needed to process fish harvested by United States vessels in compliance with the Magnuson Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

COMMUNITY-BASED RESTORATION PROGRAM FOR FISHERY AND COASTAL HABITATS.

- (a) **IN GENERAL.**—The Secretary of Commerce shall establish a community-based fishery and coastal habitat restoration program to implement and support the restoration of fishery and coastal habitats.
- (b) **AUTHORIZED ACTIVITIES.**—In carrying out the program, the Secretary may—
- (1) provide funding and technical expertise to fishery and coastal communities to assist them in restoring fishery and coastal habitat;
 - (2) advance the science and monitoring of coastal habitat restoration;
 - (3) transfer restoration technologies to the private sector, the public, and other governmental agencies;
 - (4) develop public-private partnerships to accomplish sound coastal restoration projects;
 - (5) promote significant community support and volunteer participation in fishery and coastal habitat restoration; promote stewardship of fishery and coastal habitats; and
 - (6) leverage resources through national, regional, and local public-private partnerships.

FISHERIES CONSERVATION AND MANAGEMENT FUND.

Not included (no changes or does not affect PFMC):

U.S. Catch History

Secretarial Representative for Int'l Fisheries

Report

Salmon Plan and Study

Oregon and California Salmon Fishery

Clarification of Flexibility

Conversion to Catcher/Processor Shares

New England Groundfish Fishery

Report on Council Management Coordination

Study of Shortage of Number of Individuals with Baccalaureate Degrees....

Pacific Fishery Management Council

Study of the Acidification of the Oceans and Effect on Fisheries

Limitation on Harvest in North Pacific Directed Pollock Fishery (HR 200 addition; does not affect PFMC)

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.⁵⁴

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.⁵⁵

NORTHEAST REGIONAL PILOT RESEARCH TRAWL SURVEY AND STUDY

- (a) **INDUSTRY-BASED PILOT STUDY.**—Within 1 year after the date of the enactment of this Act, the Secretary of Commerce shall, in coordination with the relevant Councils selected by the Secretary and the Northeast Area Monitoring and Assessment Program (NEAMAP), develop a fishing industry-based Northeast regional pilot research trawl survey and study to enhance and provide improvement to current (NOAA) vessel trawl surveys.
- (b) **COMPONENTS.**—Under the pilot survey and study—
 - (1) the Secretary—
 - (A) may select fishing industry vessels to participate in the study by issuing a request for procurement;
 - (B) may use the NEAMAP Southern New England/Mid-Atlantic Nearshore Trawl Survey as a model for the pilot survey; and
 - (C) shall outfit participating vessels with a peer-reviewed net configuration; and
 - (2) the selected Councils shall, in partnerships with (NMFS NEFSC) and the Virginia Institute of Marine Science, collect data and evaluate discrepancies between fishing industry vessel data and (NOAA) vessel data, for 5 years.
- (c) **REPORT.**—Upon completion of the pilot survey and study, the Secretary and the selected Councils shall submit a detailed report on the results of the pilot survey and study to the Committee on Natural Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.⁵⁶

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55 HR 200 (7/12/18) page 26

56 HR 200 (7/12/18) page 27+. NEW to this version.
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EXEMPTED FISHING PERMITS

OBJECTIONS—If the relevant Council, the Interstate Marine Fisheries Commission, or the fish and wildlife agency of an affected State objects to the approval and issuance of an exempted fishing permit under section 600.745 of title 50, Code of Federal Regulations, or any successor regulation, the Regional Administrator of the National Marine Fisheries Service who issued such exempted fishing permit shall respond to such entity in writing detailing why such exempted fishing permit was issued.

12-MONTH FINDING. At the end of the 12-month period beginning on the date the exempted fishing permit is issued under section 600.745 of title 50, Code of Federal Regulations, or any successor regulation, the Council that prepared the fishery management plan, or the Secretary in the case of a fishery management plan prepared and implemented by the Secretary, shall review the exempted fishing permit and determine whether any unintended negative impacts have occurred that would warrant the discontinuation of the permit.⁵⁷

CLARIFICATION. The Secretary may not issue an exempted fishing permit under section 600.745 of title 50, Code of Federal Regulations, or any successor regulation that—

- (1) establishes a limited access system as defined in section 3 of the (MSA);
- (2) is consistent with section 303A of such Act; or
- (3) establishes a catch share program as defined in section 206(a) of this Act.⁵⁸

SAVINGS PROVISION—Except for subsection (b), nothing in this section may be construed to affect an exempted fishing permit approved under section 600.745... before the date of enactment of this Act.⁵⁹

REALLOCATION OF CERTAIN UNUSED HARVEST ALLOCATION.

- (a) **REALLOCATION.**—Notwithstanding any other provision of law, each year upon receipt by the Secretary of Commerce (referred to in this section as the “Secretary”) of written notice from the allocation holder named in section 803 of division B of the Consolidated Appropriations Act, 2004 [CAA] (...) that such holder will not harvest all or a part of the allocation authorized pursuant to that Act, the Secretary shall reallocate for that year the unused portion of such allocations to the Bering Sea subarea of the BSAI (...) and shall assign the reallocated unused portion of the allocation only to eligible vessels as described in subsection (b)(1) for harvest in the Bering Sea subarea of the BSAI, consistent with any agreements as described in subsection (c).
- (b) **ELIGIBILITY TO RECEIVE REALLOCATION.**—

Not included:

Remainder of "Reallocation of Certain Unused Harvest Allocation" (NPFMC only)

Study of Allocations in Mixed-Use Fisheries (SAFMC and GFMC only)

Mitigation of Impacts to Submerged Aquatic Vegetation (SAFMC and GFMC only)

Report on LAPPS and Conflicts of Interest With Respect to SAFMC and GMFC Red Snapper

Plan for Electronic Monitoring and Reporting Procedures for the Northeast Multispecies Fishery

Study of Fees Charged to Lobster Fishing Industry

(all HR 200)

⁵⁷ HR 200 (7/12/18) page 37 and S 1520. (New)

⁵⁸ HR 200 (7/12/18) page 38. New.

⁵⁹ HR 200 (7/12/18) page 38. and S 1520. (New)
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LIMITATION ON APPLICATION OF PROHIBITION ON ATLANTIC STRIPED BASS FISHING IN BLOCK ISLAND SOUND TRANSIT ZONE.

Any prohibition on fishing for Atlantic striped bass in the EEZ of the U.S. under EO 13449... shall not apply in the area described... commonly referred to as the Block Island Sound transit zone.⁶⁹

REEF ASSASSIN ACT.

(Adds the Reef Assassin Act to encourage the elimination of lionfish. Not included here.).⁷⁰

STUDY OF LIMITED ACCESS PRIVILEGE PROGRAMS FOR MIXED-USE FISHERIES.

- (a) **STUDY ON LIMITED ACCESS PRIVILEGE PROGRAMS.**—Not later than 1 year [2 years⁷¹] after the date of enactment of this Act, the Secretary of Commerce shall seek to enter into an arrangement under which the Ocean Studies Board of the National Academies of Sciences, Engineering, and Medicine shall—
- (1) study the use of limited access privilege programs in mixed-use fisheries, including—
 - (A) identifying any inequities caused by a limited access privilege program;
 - (B) recommending policies to address the inequities identified in subparagraph (A); and
 - (C) identifying and recommending the different factors and information a mixed-use fishery should consider when designing, establishing, or maintaining a (LAPP) to mitigate any inequities identified in subparagraph (A); and
 - (2) submit to the appropriate committees of Congress a report on the study under paragraph (1), including the recommendations under subparagraphs (B) and (C) of paragraph (1).
 - (3) **S 1520 version requires:**
 - (i) an assessment of progress in meeting the goals of this Act
 - (ii) an assessment of the social, economic, and ecological effects of the program, considering each sector of a mixed-use fishery and related businesses, coastal communities, and the environment;
 - (iii) an assessment of any impacts to stakeholders in a mixed-use fishery caused by a limited access privilege program;
 - (iv) recommendations of policies to address any impacts identified under clause (iii); and
 - (v) identification of and recommendation of the different factors and information

69 HR 200 (7/12/18) page 56. New to this version.

70 HR 200 (7/12/18) page 57+. New to this version.

71 S 1520, page 28
(Appdx)159

that should be considered when designing, establishing, or maintaining a LAPP in a mixed-used fishery to mitigate any impacts identified in clause (iii); and

- (A) submit to the appropriate committees of Congress a report on the study under subparagraph (A), including the recommendations under clauses (iv) and (v) of subparagraph (A).
- (B) [Excludes the North Pacific Council.]

(b) TEMPORARY MORATORIUM.—

- (1) **IN GENERAL.**—Except as provided in paragraph (2), there shall be a moratorium on the submission and approval of a limited access privilege program for a mixed-used fishery [for two years] until the date that the report is submitted under subsection (a)(1)(B).
- (2) **EXCEPTION.**— Subject to paragraph (3), a Council may submit, and the Secretary of Commerce may approve, for a mixed-use fishery that is managed under a limited access system, a limited access privilege program if such program was part of a pending fishery management plan or plan amendment before the date of enactment of this Act.
- (3) **MANDATORY REVIEW.**— A Council that approves a limited access privilege program under paragraph (2) shall, upon issuance of the report required under subparagraph (a), review and, to the extent practicable, revise the limited access privilege program to be consistent with the recommendations of the report or any subsequent statutory or regulatory requirements designed to implement the recommendations of the report.
- (4) **RULE OF CONSTRUCTION.** Nothing in this section may be construed to affect a limited access privilege program approved by the Secretary of Commerce before the date of enactment of this Act.⁷²
- (5) **APPLICABLE COUNCIL.**—[This subsection applies only to GMFMC, SAFMC, MAFMC].