

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

**Sponsor – Congressman Young (R-Alaska)**

**Introduced on January 3, 2017**

(Section-by-section of the bill as passed by the House of Representatives – July 11, 2018)

**Section 1 – Short Title.**

**Section 2 – Table of Contents.**

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

**Section 4 – References.** This section clarifies that unless otherwise specified, the amendments made by the bill are made to the Magnuson-Stevens Fishery Conservation and Management Act.

**Title I – Magnuson-Stevens Act Findings and Definitions Amendments and Authorization**

**Section 101 – Amendments to Findings.** This section would amend two findings to insert “cultural well-being” to finding #1, and to add “traditional way of life” to finding #10.

**Section 102 – Amendments to Definitions.** This section would amend the definition of “bycatch” to remove the words “management program” at the end of the definition. This section would add a definition of “depleted”, would modify the existing definition (34) of “overfishing” to clarify that the definition for the term “overfishing” means “a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce maximum sustainable yield on a continuing basis”, and strike the definition of “overfished”. This section would replace the term “overfished” with the term “depleted” wherever it appears in the Act.

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

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

This section would require the Secretary when issuing the annual report on the status of fisheries note if a stock was “depleted” (or approaching that condition) as a result of fishing or as a result of factors other than fishing.

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

**Section 103 – Authorization of Appropriations.** This section would reauthorize the Act for Fiscal Years 2018 – 2022 at the currently authorized level.

## **Title II – Fisheries Management Flexibility and Modernization**

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

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

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

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

This section would require the NAS to report back to the Secretary within one year of the agreement being entered into.

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

This section clarifies that the “applicable Councils” are the South Atlantic and Gulf of Mexico Councils.

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

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

This section would allow Councils to consider changes in the ecosystem and the economic needs of the fishing communities when setting annual catch limits (ACLs); however, this must be consistent with the

requirement to establish annual catch limits that do not exceed the fishing level recommendation of the science and statistical committee or the peer review process.

This section would allow Councils to not establish an ACL for “ecosystem component species” or for those stocks of fish with a life cycle of approximately 1 year as long as the Secretary has determined the fishery is not subject to overfishing. This section would also provide an exemption to the ACL requirement for a stock for which more than half of a single year class will complete their life cycle in less than 18 months and for which fishing mortality will have little impact on the stock.

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

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

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

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

This section would clarify that nothing in this subsection is to be construed to provide an exemption from the National Standards in the Act.

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

**Section 205 – Limitation on Future Catch Share Programs.** This section would define the term “catch share” and create a pilot program for four Councils - the New England, Mid-Atlantic, South Atlantic, and Gulf of Mexico Councils - which would prohibit those Councils from submitting and prohibit the Secretary from approving or implementing any new catch share program from those Councils or under a secretarial plan or amendment unless the final program has been approved in a referendum by a majority of the permit holders eligible to participate in the fishery.

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

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

This section would also require that prior to the referendum, the Secretary must provide all eligible permit holders with a copy of the proposed program, an estimate of the costs of the program (including the costs to participants), an estimate of the amount of fish or percentage of the quota each permit holder would be allocated, and information on the schedule, procedures and eligibility criteria for the referendum.

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

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

This section clarifies that the requirement for the referendum does not apply to any catch share program that is submitted to or proposed by the Secretary before the date of enactment of the bill.

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

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

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

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

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

**Section 207 – Cooperative Data Collection.** This section would require the Secretary – within 1 year of the date of the enactment of this legislation – to develop, in consultation with the science and statistical committees of the Councils and the Marine Fisheries Commissions a report to Congress on facilitating greater incorporation of data, analysis, stock assessments and surveys from State agencies and non-governmental sources into fishery management decisions. This section also includes a list of entities considered to be non-governmental sources to include fishermen, fishing communities, universities, and research and philanthropic institutions.

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

In the report, the Secretary would also be required to consider the extent to which it is possible to establish a registry of persons collecting or submitting data and performing analyses and consider the extent to which the acceptance and use of such data and analyses in fishery management decisions identified in the report is practicable.

The Secretary would be required to make the report available on the NOAA website no later than one year after the date of the enactment of this legislation.

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

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

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

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

This section would require the Secretary to develop guidance, in cooperation with the States, that detail best practices for administering State programs and to provide the guidance to the States.

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

under the jurisdiction of the Mid-Atlantic Council and add one voting seat to the Mid-Atlantic Council to provide a liaison – and require that this additional seat be a current member of the New England Council - to represent the interests of fisheries under the jurisdiction of the New England Council.

In addition, this section would add subsistence fishing as a qualification that could be required of Council appointees (to be individuals who are knowledgeable regarding the conservation and management of commercial, recreational, or subsistence fisheries). This section would add a requirement that the Governor of Alaska to consult, to the extent practicable, with representatives of subsistence fishing interests of the State of Alaska prior to submitting nominations to the Secretary in addition to the already listed groups.

In addition, the amendment would amend the purposes section of the Act to add the promotion of subsistence fishing as a purpose of the Act (it is a purpose of the Act “to promote domestic commercial, recreational, and subsistence fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing”).

This section would prohibit the Secretary of Commerce from counting red snapper mortality that is a result of the removal of offshore oil rigs in determining whether the total allowable catch has been reached.

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

#### **Section 210 – Northeast Regional Pilot Research Trawl Survey and Study**

This section would require the Secretary, within one year of the date of enactment of this legislation, to develop a fishing industry-based Northeast regional pilot research trawl survey to study to enhance and provide improvement to the current NOAA vessel trawl surveys. The Secretary shall develop this program in coordination with the relevant Councils selected by the Secretary and with the Northeast Area Monitoring and Assessment Program (NEAMAP).

Under the pilot survey and study, the Secretary would be authorized to select fishing industry vessels to participate in the study by issuing a request for procurement, is authorized to use the NEAMAP Southern New England/Mid-Atlantic Nearshore Trawl Survey as a model, and is required to outfit participating vessels with a peer-reviewed net configuration.

The selected Councils, in partnership with the NMFS Northeast Fisheries Science Center and the Virginia Institute of Marine Sciences, would be required to collect data and evaluate discrepancies between fishing industry vessel data and NOAA data for five years.

Upon completion of the pilot survey and study, the Secretary and the selected Councils would be required to submit a detailed report to Congress.

### **Title III – Healthy Fisheries Through Better Science**

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

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

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

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

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

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

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

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

This section would also require that each Council, to the extent practicable, provide a Webcast, an audio recording or a live broadcast of each Council meeting and for the Council Coordination Committee meetings. In addition, the bill would require audio, video, searchable audio or written transcript for each Council and SSC meeting on the Council's website not more than 30 days after the conclusion of the meeting. The bill would require that the Secretary maintain these audios, videos and transcripts and make them available to the public.

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

This section would remove the language requiring a 10-year time frame for rebuilding overfished/depleted fisheries and replace it with a requirement that the rebuilding timeframe be the time it would take for the fishery to rebuild without any fishing occurring plus one mean generation time except in the case that: the biology of the stock, other environmental conditions, or management

measures under an international agreement dictate otherwise; the Secretary determines that the cause of the stock being overfished/depleted is outside the jurisdiction of the Council or the rebuilding program cannot be effective only by limiting fishing activities; the Secretary determines that one or more components of a mixed-stock fishery is depleted but cannot be rebuilt within the timeframe without significant economic harm to the fishery or cannot be rebuilt without causing another component of the mixed-stock fishery to approach a depleted status; the Secretary determines that recruitment, distribution, or life history of or fishing activities for are affected by informal transboundary agreements under which management activities outside the EEZ by another country may hinder conservation and management efforts by the US; and the Secretary determines that the stock has been affected by unusual events that make rebuilding within the specified time period improbable without significant economic harm to fishing communities.

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

This section would also require that the fishery management plan for any fishery that is considered overfished/depleted must specify a schedule for reviewing the rebuilding targets, evaluating environmental impacts on rebuilding progress, and evaluating the progress that is being made toward reaching the rebuilding targets.

This section would allow a fishery management plan for any fishery that is considered overfished/depleted to use alternative rebuilding strategies including harvest control rules and fishing mortality rate targets to the extent those alternatives are in compliance with the requirements of the Act.

This section would allow a Council to terminate any rebuilding plan for a fishery that was initially determined to be overfished/depleted and then found not to be overfished/depleted within two years or within 90 days after the completion of the next stock assessment.

Finally, current law allows the Secretary to implement emergency interim measures for fisheries in which overfishing is taking place. If the action is taken for a fishery that is under a fishery management plan, the interim measure may only remain in place for 180 days; however, the measures may then be extended for an additional 186 days (with the extension, this allows the Secretary to implement interim measures for a year and a day). This section would modify this authority to allow the Secretary to implement the interim measures for one year with the ability to extend for a second year. Current law allows a Council to take up to two years to prepare and implement a fishery management plan or plan amendment to address a fishery that is overfished yet current law only allows interim measure to be implemented for one year (assuming the extension is granted). This provision would allow the interim measure authority to be consistent with the time period allowed for a Council to prepare and implement a rebuilding plan for a fishery identified overfished.

**Section 304 – Exempted Fishing Permits.** This section would allow a relevant Council, Interstate Marine Fisheries Commission, or the fish and wildlife agency of an affected State to object to the approval or issuance of an exempted fishing permit (EFP). If such an objection is made, the Regional Administrator of the National Marine Fisheries Service who issued the EFP shall respond to the entity in writing detailing why the EFP had been issued.



This section would require that at the end of the 12-month period after the EFP was issued, the Council that prepared the EFP (or the Secretary in the case of an FMP prepared and implemented by the Secretary) to review the EFP and determine whether any unintended negative impacts had occurred that would warrant discontinuation of the EFP.

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

**Section 305 – Cooperative Research and Management Program.** This section would amend Section 318 of the Act to require the Secretary, within one year of the enactment of this Act and after consulting with the Councils, to publish a plan for implementing and conducting a cooperative research and management program. This section would require that the plan identify and describe critical regional fishery management and research needs, possible projects to address the identified needs, and the estimated costs for such projects.

This section would require that the plan be updated every five years and each update must include a description of projects that were funded during the previous five years and which management and research needs were addressed by those projects.

This section would also amend current language in the Act to give priority to projects that use fishing vessels or acoustic or other marine technology, expand the use of electronic catch reporting programs and technology, and improve monitoring and observer coverage through the expanded use of electronic monitoring devices.

**Section 306 – Federal Gulf of Mexico Red Snapper Management.** This section would strike section 407 of the Act and replace it with the language below.

This section would allow a Gulf State - that conducts a recreational fisheries survey to make catch estimates for the red snapper fishery landed in the State - to submit the survey to the Secretary for certification.

This section would require the Secretary, within 90 days of the enactment of this legislation, to establish standards for certifying State marine recreational fisheries statistical survey and provide those standards to the Gulf States. The standards must ensure that the State marine recreational fisheries statistical surveys are appropriately pilot tested, independently peer reviewed, and endorsed for implementation by the reviewers. The standards must use designs consistent with accepted survey sampling practices and must minimize the potential for bias and known sources of survey error.

The Secretary would be required to make a certification or a denial of the certification for any submitted survey within six month of the survey being submitted under the standards established by the Secretary. If the Secretary does not make a certification or a denial, the survey will be deemed to be certified at the end of that six month period.

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

revisions to the fewest possible provisions of the survey; and may not unduly burden the ability of the Gulf State to revise the survey.

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

#### **Title IV – Strengthening Fishing Communities**

**Section 401 – Estimation of Cost of Recovery from Fishery Resource Disaster.** This section would require the Secretary to publish the estimated cost of recovery from a fishery resource disaster within 30 days from the time the Secretary makes the disaster determination.

**Section 402 – Deadline for Action on Request by Governor for Determination Regarding Fishery Resource Disaster.** This section would require the Secretary of Commerce to make a decision regarding a disaster assistance request - submitted under the provisions of section 312(a) of the Magnuson-Stevens Act - within 90 days of receiving an estimate of the economic impact of the fishery resource disaster from the entity seeking the disaster declaration.

**Section 403 – North Pacific Fishery Management Clarification.** This section would remove a specific date that is currently in the Act regarding State management of vessels in the North Pacific region.

**Section 404 – Limitation on Harvest in North Pacific Directed Pollock Fishery.** This section would allow the North Pacific Council to change the harvest limitation under the American Fisheries Act for entities engaged in the directed pollock fishery as long as that percentage does not exceed 24 percent.

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

**Section 406 – Reallocation of Certain Unused Harvest Allocation.**

This section would require the Secretary to reallocate annually any unused portion of the allocation of fish authorized under section 803 of division B of the Consolidated Appropriations Act, 2004 if the allocation holder named in that statute notifies the Secretary in writing that the holder will not harvest all or part of the allocation. This written notification must be made annually. In the case that part or all of the allocation will not be harvested, the Secretary shall reallocate the unused portion to the Bering Sea subarea of the Aleutian Islands/Bering Sea and shall assign the reallocated portion only to eligible vessels as described in section 208 of the American Fisheries Act or any vessels authorized to replace such vessels and consistent with any agreement described later.

In allocating this quota, the Secretary may not reallocate the projected unused quota if the allocation will exceed the total allowable catch for the Bering Sea. This section clarifies that the reallocation may not be used in calculating harvesting or processing excessive share under the American Fisheries Act and the reallocation may not violate the requirements of section 206(b) of the American Fisheries Act.

This section would authorize the allocation holder under section 803 of division B of the Consolidated Appropriations Act, 2004 to annually establish one or more agreements with owners of some or all of the eligible vessels. Each of these agreements must specify the eligible vessels that may receive the reallocation and may contain other requirements or compensation agreed to by the allocation holder and the owners or such eligible vessels provided those requirements or compensation are consistent with the American Fisheries Act, the Magnuson-Stevens Act, and any other applicable law.

This section would clarify that, except for the measures required by this section, nothing in this section shall be construed to limit the authority of the North Pacific Fishery Management Council or the Secretary under the Magnuson-Stevens Act or other applicable law.

This section would clarify that the taking or processing of any part of the allocation made by section 803 of P.L. 108-199 and reallocated under this section in a manner that is not consistent with the reallocation authorized by the Secretary shall be considered violations of section 307 of the Magnuson-Stevens Fishery Conservation and Management Act and subject to the penalties and sanctions under section 308 of that Act. In addition, any fish harvested or processed under such taking or possessing shall be subject to forfeiture.

This section would clarify that, consistent with subsection (d) of section 803 of division B of the Consolidated Appropriations Act, 2004, the reallocation of the unused portion of the allocation is for the purposes of economic development in Adak, Alaska pursuant to the requirements of the Magnuson-Stevens Act.

#### **Section 407 – Community Development Quota Program Panel Voting Procedures.**

This section would amend section 305 of the Act to change the voting requirement that currently requires a unanimous vote of the CDQ Administrative Panel for the Panel to act to require an affirmative vote of five of the six members of the Panel.

**Section 408 – Prohibition on Shark Feeding Off Coast of Florida.** This section would amend section 307 of the Act to make it unlawful for any diver to engage in shark feeding in covered waters and for any person to operate a vessel for hire for the purpose of carrying a passenger to a site if the person knew or should have known the passenger intended to be a diver who engaged in shark feeding in covered waters or engaged in observing shark feeding in covered waters.

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

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

**Section 409 – Restoration of Historically Freshwater Environment.** This section would amend the definition of “essential fish habitat” so that it would now read (new language in *italics*) “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 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 paragraph (A).*”

## **Title V – Miscellaneous Provisions**

**Section 501 – Mitigation for Impacts to Submerged Aquatic Vegetation.** This section would exempt a non-Federal entity from the requirements of the Act to conserve or provide compensatory mitigation for impacts to submerged aquatic vegetation under section 305 of the Act if that entity conducts maintenance dredging for an authorized Federal navigation project on an inland waterway, inlet, or harbor located in North Carolina, South Carolina, Georgia, or Florida pursuant to a permit issued under section 404 of the Water Pollution Control Act or section 10 of the Act of March 3, 1899.

**Section 502 – Report on Limited Access Privilege Programs and Conflicts of Interest with Respect to Gulf of Mexico and South Atlantic Ocean Red Snapper.** This section would require the Comptroller General of the United States, within 90 days of the enactment of this legislation, to submit a report to Congress on the resource rent of limited access privilege programs for red snapper in the Gulf of Mexico and the South Atlantic Ocean. The Comptroller General must also report on how to reclaim resource rent for red snapper in the Gulf of Mexico and the South Atlantic Ocean as revenue to the United States Treasury and on the fiduciary conflicts of interest in the Gulf of Mexico Fishery Management Council and the South Atlantic Fishery Management Council relating to red snapper and ways of effectively eliminating such conflicts.

This section would clarify that the Comptroller General shall not consider fishery management programs in any region other than the Gulf of Mexico and the South Atlantic Ocean and shall not consider any fishery management programs for species other than red snapper.

**Section 503 – Plan for Electronic Monitoring and Reporting Procedures for the Northeast Multispecies Fishery.** This section would require the Secretary, acting through NOAA, to submit a plan to Congress within 180 days of the enactment of this legislation that will establish fully operational electronic monitoring and reporting procedures for the Northeast Multispecies Fishery by September 30, 2021.

The plan must include the proposal of NOAA to cover vessel equipment and installation costs, with daily, half-day, or quarter-day operational costs to be borne by the fishing vessels.

**Section 504 – Study of Fees Charged to Lobster Fishing Industry.** This section would require the Secretary, acting through NOAA and within 6 months of the enactment of this legislation, to study and report to Congress on all fees imposed by the Administration on the lobster fishing industry.

**Section 505 – Limitation on the Application of Prohibition on Atlantic Striped Bass Fishing in Block Island Sound Transit Zone.** This section would exempt the area commonly referred to as the Block Island Sound Transit Zone from any prohibition on fishing for Atlantic striped bass in the U.S. EEZ.

**Section 506 – Funding for Monitoring Implementation of Northeast Multispecies Fishery Management Plan.** This section would amend section 311 of the Act (which allows fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan to be used by the Secretary to enforce that Plan) to allow fines and penalties to also be used to enforce and monitor (including electronic monitoring) implementation of that Plan.

## **Title VI – Reef Assassin Act**

### **Section 601 – Short Title.**

**Section 602 – Encouraging Elimination of Lionfish.** This section would amend Title III of the Act to require the Secretary (subject to the approval of an exempted fishing permit submitted by a participating State) to issue regulations under which a participating State may issue a tag authorizing an individual to take a fish of a covered species in Federal waters (in addition to any fish which can already be legally taken in Federal waters) for submitting lionfish taken in Federal or State waters.

The regulations must require that in order to qualify for this tag to take additional covered fish, an individual must submit 100 lionfish for each tag issued. The regulations must also require that lionfish taken in State waters must be taken by an individual holding a valid license to fish issued by that State and that each lionfish must be submitted by removing the tail, placing it in a resealable plastic bag and submitting the bag to the participating State before the tail has significantly deteriorated.

This section would clarify that there is no limit on the number of tags an individual may be issued.

This section would require that the regulations specify that the tags issued will be valid for 5 years from the date the tag is issued, that the tag shall only authorize the recreational or commercial taking of a fish that complies with any size limits that apply to that fishery, and that the tag authorizes the taking of the covered fish without regard to any seasonal limitations that applies to the fishery.

This section would require that the regulations allow for the transfer of a tag to another person and the use of the tag will be the same as the use authorized for the person originally issued the tag.

This section would require that the regulations clarify that any fish taken under the tag outside of the seasonal limitations of the fishery must have the tag fastened between the mouth and the gill before being placed in a cooler and that the tag shall only be utilized for species caught in the same waters adjacent to the State where the lionfish were originally caught.

This section would require that the regulations a State to designate a repository for lionfish submitted as a condition of the Secretary approving the State to issue tags. In addition, the Secretary must provide each participating State with a freezer for the storage of the lionfish tails at a cost of no more than \$500 for each freezer.

This section would require that the Secretary encourage States to: use existing infrastructure and staff or volunteers to conduct the State's program; to include information about the program on the NMFS website; and encourage State and local governments to work with retailers and distributors to advance the purchase and consumption of lionfish.

This section would clarify that this provision is intended to protect native fish species in the U.S. EEZ and is not construed to constrain any fishery, fishing quota or fishing allocation. In addition, this section would clarify that this provision shall not be considered in determining fishing levels, quotas, or allocations.

This section would define “covered fish” as red snapper, gag grouper, triggerfish, amberjack, and does not include any species listed as threatened or endangered under the Endangered Species Act.

This section would also define “participating State” as a State that has applied and been approved by the Secretary to issue tags under the regulations.

This section would require the Secretary to issue regulations no later than 60 days after the approval of an exempted fishing permit submitted by a participating State.

This section would clarify that nothing in this provision shall be construed as allowing the transfer of fisheries allocated for catch among the various States.