

**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 amended and ordered reported by the
House Natural Resources Committee on December 13, 2017)

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.

Section 101 – 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.

Section 102 – 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 103 – 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” and would modify the existing definitions (34) of “overfishing” and “overfished” 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.”

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” as a result of something other than fishing.

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

Section 104 – Authorization of Appropriations. This section would reauthorize the Act for five years beginning in Fiscal Year 2018 at the currently authorized level.

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 contract 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 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 contract being awarded.

This section would require the applicable Councils (South Atlantic and Gulf of Mexico 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.

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. *(Note: This appears to be the new criteria for a “data-poor” fishery.)*

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). This allows flexibility but does not allow Councils to set an ACL at a level that allows overfishing.

This section would provide an exception to the requirement that Councils set 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 determine 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, of 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 as long as that stock of fish 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 noting 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 allow the Secretary, at the request of the New England Council, to include crew members who derive a significant portion of their livelihood from fishing to participate in a referendum for any fishery within that Council’s jurisdiction.

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 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 to enter into an agreement 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 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 – to develop, in consultation with 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. 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.

The Secretary is also required to develop and publish guidelines for improving data collection and analysis within one year of 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). 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 against the total allowable catch and prohibits the Secretary from counting those fish toward the quota for U.S. fishermen for the purposes of closing the fishery when the quota 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 against the total allowable catch for U.S. fishermen.

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

For each stock of fish for which a stock assessment has not 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.

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 non-governmental sources to the extent that the use of such data would be consistent with the requirements 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.

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.

This section would require that each fishery management plan, plan amendment, or proposed regulation contain a fishery impact statement which are required to assess, specify, and analyze the likely effects and impacts of the proposed action on the quality of the human environment.

This section would require that each fishery impact statement describe: the purpose of the proposed action; the environmental impact of the proposed action; any adverse environmental effects which cannot be avoided should the proposed action be implemented; a reasonable range of alternatives to the proposed action; the relationship between short-term use of the fishery resources and the enhancement of long-term productivity; the cumulative conservation and management effects; and the economic and social impacts of the proposed action on participants in the fisheries affected by the proposed action, on fishing communities affected by the proposed action, on participants in fisheries conducted in adjacent areas, and on the safety of human life at sea.

This section would require that a “substantially complete” fishery impact statement be available not less than 14 days before the beginning of the meeting at which the Council makes its final decision on the proposal. The bill would require that the availability of this fishery impact statement be announced by the same methods currently used by Councils to disseminate public information and that relevant government agencies and the public be invited to comment on the fishery impact statement.

This section would require that a completed fishery impact statement accompany the transmittal of a fishery plan or plan amendment as well as the transmittal of proposed regulations.

This section would require Councils, subject to approval by the Secretary, to establish criteria to determine actions or classes of actions of minor significance for which the preparation of a fishery impact statement is unnecessary and for which a categorical exception to the fishery impact statement may allow an exclusion from this requirement.

This section would require the Councils, subject to the approval of the Secretary, prepare procedures for compliance with the fishery impact statement requirement that provide for timely, clear, and concise analysis that will be useful to decision makers and the public as well as reducing extraneous paperwork. These procedures may include using Council meetings to determine the scope of issues to be addressed, may include the integration of the fishery impact statement development process with preliminary and final Council decisionmaking, and may include providing scientific, technical, and legal advice at an early stage of development of the fishery impact statement.

This section would require the Secretary of Commerce, when reviewing plans or plan amendments, to evaluate the adequacy of the accompanying fishery impact statement for fully considering the environmental impacts of implementing the plan or plan amendment.

This section would require the Secretary, upon the transmittal of proposed regulations by a Council, to immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan or plan amendment and an evaluation as to whether the accompanying fishery impact statement is a basis for fully considering the environmental impacts of implementing the proposed regulations. The Secretary would be required to make a determination within 15 days of initiating any such evaluation.

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.

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 require the Secretary, prior to an exempted fishing permit to be approved or issued, to: direct a joint peer review of the EFP application by the appropriate regional fisheries science center and State marine fisheries commission; certify that

the Council or federal agency has determined that the fishing activity to be conducted under the EFP will not negatively impact any conservation or management objectives in existing FMPs; certify the Council or federal agency has determined that the social and economic impacts and loss of fishing opportunities on all participants in each sector of the fishery will be minimal; certify the Council or federal agency has determined that the information collected under the EFP will have a positive and direct impact on conservation and management; and certify that the Council or federal agency has determined the Governor of each coastal state potentially impacted by the EFP has been consulted on the fishing activity to be conducted under 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 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 – Gulf of Mexico Fisheries Cooperative Research and Red Snapper Management. This section would strike section 407 of the Act.

This section would require the Secretary to include Gulf State recreational surveys that are certified by the Secretary and include other data related to red snapper gathered by the Gulf States Marine Fisheries Commission, non-governmental organizations and other non-governmental sources (such as universities and research institutions) in establishing the acceptable biological catch and total allowable catch for Gulf of Mexico red snapper.

This section would allow a Gulf State that conducts a recreational fisheries survey to submit the survey to the Secretary for certification. The Secretary would be required to make a certification or a denial of the certification for any submitted survey within six months of the survey being submitted. If the Secretary does not make a certification or a denial, the survey will be deemed to be certified.

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 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.

This section would define “Gulf State” and “red snapper”.

This section would require the Secretary, acting through the NMFS Regional Administrator of the Southeast Region to develop a schedule of stock surveys and stock assessments for the Gulf of Mexico region and the Southeast region for the 5-year period beginning on the date of enactment and for every 5-year period thereafter giving priority to those stocks that are commercially or recreationally important and ensuring that each important stock is surveyed at least once every five years. The Secretary is required to direct the Science Center Director of the Southeast region to implement the schedule of stock surveys and stock assessments.

This section also would require that the Science Center Director of the Southeast region ensure that the information gathered as a result of research funded through the RESTORE Act be incorporated as soon as possible into any stock assessments conducted after the date of enactment.

This section would extend state management out to 9 nautical miles for the Gulf of Mexico red snapper recreational sector of the fishery.

Section 307 – Ensuring Consistent Management for Fisheries Throughout Their Range. This section would clarify that the Magnuson-Stevens Fishery Conservation and Management Act would be the controlling fishery management authority in the case of any conflict within a national marine sanctuary or an area designated under the Antiquities Act of 1906.

This section would require that if any restrictions on the management of fish in the exclusive economic zone are required to implement a recovery plan under the Endangered Species Act, the restrictions would be implemented under the authorities, processes, and timelines of the Magnuson-Stevens Fishery Conservation and Management Act.

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 Regional Administrator, beginning on January 1, 2018 and annually thereafter, to provide the allocation provided in section 803 of the Consolidated Appropriations Act (P.L. 108-199) to the Aleut Corporation for the purposes of economic development in Adak, Alaska under certain circumstances.

Prior to making this allocation, the Regional Director must receive written notification that the allocation holder specified in P.L. 108-199 will not harvest some or all of the Aleutian Islands directed pollock quota.

In allocating this quota to the Aleut Corporation, the Regional Administrator must reallocate the projected unused quota if the allocation does not exceed the total allowable catch for the Bering Sea subarea or if the allocation exceeds the total allowable catch for the Bering Sea subarea, reallocate a portion of the allocation up to the total allowable catch.

This section would mandate that the allocation holder specified in P.L. 108-199 retain control of the allocation including such portions of the allocation that may be reallocated pursuant to this section and that the allocations made under section 206(b) of the American Fisheries Act apply to the Bering Sea portion of the directed pollock fishery and not to the allocation holder specified in P.L. 108-199.

This section would require the Aleut Corporation to provide written consent for other vessels to take or process the allocation and the written consent must be on the vessel.

This section would require the North Pacific Fishery Management Council, in consultation with the National Marine Fisheries Service (NMFS), to modify all applicable regulations and management plans so that the allocation holder specified in P.L. 108-199 may harvest the reallocated Aleutian Islands directed pollock fishery in the Bering Sea subarea as soon as possible.

This section would require NMFS, in consultation with the North Pacific Fishery Management Council, to manage the Aleutian Islands directed pollock fishery to ensure compliance with the implemented statute and with the annual harvest specifications.

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 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.

Section 407 – 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 408 – Restoration of Historically Freshwater Environment. This section would amend the definition of “essential fish habitat” so that it would now read “The term ‘essential fish habitat’ means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity, *except that such term shall not include any area previously covered by land or a fresh water environment 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.*”