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[H.R. 1335, Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act](#)

FLOOR SITUATION

On Monday, June 1, 2015, the House will consider [H.R. 1335](#), *the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act*, under a [structured rule](#). H.R. 1335 was introduced on March 4, 2015, by Rep. Don Young (R-AK) and was referred to the Committee on Natural Resources, which ordered the bill reported by a vote of 21 to 14 on April 30, 2015.

SUMMARY

H.R. 1335 amends and reauthorizes the Magnuson-Stevens Fishery Conservation and Management Act ([Public Law 94-265](#)) to provide increased flexibility in fisheries management. The bill authorizes \$397 million for each of fiscal years 2015 through 2019 to carry out activities under the Act.¹

Major provisions of the bill include:

Section 4: Basing fish stock rebuilding timeframes on that stock's biology rather than on an arbitrary, one-size-fits-all deadline. The bill does so by: 1) removing the language requiring a 10-year time frame for rebuilding overfished/depleted fisheries and replacing it with a requirement that the rebuilding timeframe be the time it would take for the fishery to rebuild without any fishing occurring plus one mean generation time; 2) allowing Councils to phase in rebuilding plans for highly dynamic fisheries over a three-year period to lessen the economic harm to fishing communities; 3) replacing the term "possible" with "practicable" in the requirement that rebuilding period "be as short as possible;" and 4) allowing Councils to take into account environmental conditions and predator/prey relationships when developing rebuilding plans.

Section 5: Allowing Councils to consider changes in the ecosystem and the economic needs of the fishing communities when setting Annual Catch Limits (ACLs) so that they have sufficient flexibility without allowing overfishing. The bill also includes a provision that adds a new exception to the

¹ See CBO [cost estimate](#)

requirement that Councils set an ACL for “ecosystem component species” (those species of fish that are not targeted and are caught incidentally) as long as that stock of fish is not subject to overfishing and is not likely to become subject to overfishing. It also provides an exemption for those short-lived stocks of fish for which a single year class will complete its lifecycle in less than 18 months as long as fishing mortality will have little impact on the stock.

Section 7: Requiring Scientific and Statistical Committees (SSCs) to develop the scientific advice provided to the Councils in a transparent manner and to allow for public involvement in the process. This section also requires that each Council, to the extent practicable, provide a webcast, audio recording, or live broadcast of each Council meeting. This section also requires audio, video, searchable audio or a written transcript for each Council and SSC meeting on the Council's website not later than 30 days after the conclusion of the meeting.

Section 8: Creating a pilot project prohibiting the New England, Mid-Atlantic, South Atlantic, and Gulf of Mexico Councils from implementing any new catch share program unless it has been approved by an industry referendum vote. This section also prevents the Secretary from implementing a catch share program for any federally-managed fishery unless first petitioned by a majority of those eligible to participate in the fishery, outside of the aforementioned Councils.

Section 10: Improving data collection by requiring each Council to identify those fisheries that are considered data-poor in its region and prioritize those fisheries based on the need for up-to-date information. Each Council is required to submit those priorities to the Secretary. The section also allows the Secretary to obligate up to 80 percent of the fishery fines and penalties collected under any marine resource law enforced by the Secretary to be used by states to survey or assess data-poor fisheries for which a fishery management plan is in place, or for cooperative research activities to improve or enhance fishery independent data used in stock assessments. The funds obligated may only be used in the region where the fines and penalties were collected.

The section also includes provisions to protect the privacy of fisherman from the use of new technology that has raised concerns about data confidentiality by: 1) requiring the Secretary to issue regulations governing the use of newly-developed electronic monitoring technology, distinguishing between monitoring for data collection and for enforcement, and instructing the Secretary to provide an opportunity for public comment; 2) updating existing data confidentiality provisions by clarifying that that information submitted to the Secretary, a state fisheries management agency, or a Marine Fisheries Commission may only be used for the purposes of fisheries management, monitoring and enforcement, and that observer information, information collected by a Vessel Monitoring System or other vessel tracking technology, or other on-board data collection or enforcement programs shall be considered confidential.

The section also prohibits the Secretary from providing any vessel-specific or aggregate vessel information from a fishery for the use by any person for coastal and marine spatial planning under [Executive Order 13547](#), unless the Secretary determines that providing such information is important for maintaining or enhancing national security or for ensuring fishermen continued access to fishing grounds.

Section 11: Expediting the implementation of cooperative research and management program by requiring the Secretary to publish a plan for implementing and conducting the program. The plan should identify and describe critical regional fishery management and research needs, possible projects to address the identified needs, and the estimated costs for such projects. The provisions are designed to build trust between fisherman and the government and lower data collection costs.

Section 13: Requiring the Secretary—in conjunction with the Gulf States, the Gulf of Mexico Council, and the charter and recreational fishing sectors—to develop and implement a real-time reporting and data collection program for the Gulf of Mexico Red Snapper fishery using available technology and a cooperative research program for fisheries in the Gulf of Mexico and the South Atlantic regions giving priority to those fisheries that are considered data-poor.

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

Section 16: Allowing 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 17: Improving recreational fishing data collection by NMFS by: 1) requiring the Secretary to establish partnerships with states to develop best practices for implementing state recreational fisheries programs and to develop guidance that detail best practices for administering state programs; 2) requiring a grant program to states to improve implementation of state recreational data collection programs and requiring the Secretary to prioritize the grants based on the ability of the grant to improve the quality and accuracy of the data collection programs; and, 3) requiring the Secretary to enter into an agreement with the National Research Council (NRC) to study the implementation of the existing recreational data collection programs. The study must provide an updated assessment of recreational survey methods, an evaluation of the extent to which the 2006 NRC's recommendations have been implemented, and an examination of any limitations to the previous and current NOAA recreational data collection programs.

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

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

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

Section 23: Defining subsistence fishing to mean “fishing in which the fish harvested are intended for customary and traditional uses, including for direct personal or family consumption as food or clothing; for the making or selling of handicraft articles out of nonedible byproducts taken for personal or family consumption, for barter, or sharing for personal or family consumption; and for customary trade” and requiring the Governor of Alaska, when submitting nominations for the North Pacific Council, to consult with subsistence fishing interests of the State. In addition, this section adds the knowledge of subsistence fishing as a qualification that could be required of Council appointees.

BACKGROUND

The Magnuson-Stevens Fishery and Conservation Management Act (MSA), enacted in 1976, has been the primary law governing fisheries resources and fishing activities in federal waters. The Secretary of Commerce, working through the National Oceanic and Atmospheric Administration (NOAA), enforces the MSA.²

The original MSA created eight Regional Fisheries Management Councils charged with implementing the goals of MSA, in coordination with NOAA. This process of managing fisheries is accomplished through Council-based Fisheries Management Plans (FMPs) for each fishery. FMPs require scientific stock assessments of the fishery. Following the Council's development of an FMP, the Council forwards the plan to the Commerce Secretary for approval. If the plan is approved, the National Marine Fisheries Service (NMFS) within NOAA must then issue regulations to implement a plan.³

Congress reauthorized MSA in 1996 and 2006. In implementing the 2006 amendments, NOAA added layers of precaution when dealing with both scientific and management uncertainty, according to some.⁴ H.R. 1335 is designed to improve the management process by affording regional fisheries managers the flexibility to manage stocks effectively and to better tailor management plans to the needs of their regions.⁵

COST

The Congressional Budget Office (CBO) estimates that implementing H.R. 1335 would cost \$1.5 billion over the 2016 to 2020 period and \$72 million after 2020, assuming appropriation of the authorized and necessary amounts. Enacting the bill would not affect direct spending or revenues; therefore, pay-as-you-go procedures do not apply. The funding authorization included in the bill is the same level as current law.

AMENDMENTS

1. [Rep. Debbie Dingell \(D-MI\)](#) – The amendment eliminates the requirement to fast-track analyses under the National Environmental Policy Act.
2. [Rep. Sam Farr \(D-CA\)](#) – The amendment allows the use of vessel information under [Executive Order 13547](#) to aid in restoring fisheries habitat at the Secretary's discretion.

² [House Report 114-116](#) at 13.

³ www.fisheriescouncil.org

⁴ See [Testimony](#) of Mr. Richard Robins, Jr. before the House Committee on Natural Resources, September 11, 2013.

⁵ [House Report 114-116](#) at 14.

3. [Rep. William Keating \(D-MA\)](#) – The amendment amends Section 10 (3) Use of Asset Forfeiture Fund for Fishery Independent Data Collection to include fishery research and independent stock assessments, conservation gear engineering, at-sea and shore side monitoring, fishery impact statements, and other priorities established by the Council as necessary to rebuild or maintain sustainable fisheries, ensure healthy ecosystems, and maintain fishing communities.
4. [Rep. Alan Lowenthal \(D-CA\)](#) – The amendment allows the National Ocean Council, operating under Executive Order 13547, to develop a process for decommissioning oil and gas rigs that eliminates harm to the red snapper stock and improves habitat.
5. [Rep. Don Young \(R-AK\)](#) – The amendment provides for additional information for stock assessments, the use of students to collect marine recreational fishing data and clarifies information for Council reviews.
6. [Rep. Garret Graves \(R-LA\)](#) – The amendment confers management of snapper fisheries to Gulf of Mexico states similar to the management of Atlantic Striped Bass to Atlantic states. Seeks to improve the science of snapper fisheries monitoring.
7. [Rep. Rob Wittman \(R-VA\)](#) – The amendment gives NOAA the authority to use alternative fishery management measures.
8. [Rep. Jared Huffman \(D-CO\)](#) – The Amendment in the Nature of a Substitute reauthorizes the Magnuson-Stevens Fishery Conservation and Management Act and improves fisheries management and data collection.

STAFF CONTACT

For questions or further information please contact [Jerry White](#) with the House Republican Policy Committee by email or at 5-0190.