To amend the Magnuson-Stevens Fishery Conservation and Management Act to promote sustainable conservation and management for the Gulf of Mexico and South Atlantic fisheries and the communities that rely on them, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 20, 2015

Mr. RUBIO introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

A BILL

To amend the Magnuson-Stevens Fishery Conservation and Management Act to promote sustainable conservation and management for the Gulf of Mexico and South Atlantic fisheries and the communities that rely on them, and for other purposes.

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

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Florida Fisheries Improvement Act”.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:
Sec. 1. Short title; table of contents.
Sec. 2. References to the Magnuson-Stevens Fishery Conservation and Management Act.

TITLE I—CONSERVATION AND MANAGEMENT

Sec. 101. Regional fishery management councils.
Sec. 102. Contents of fishery management plans.
Sec. 103. Rebuilding overfished and depleted fisheries.
Sec. 104. Funding for stock assessments, surveys, and data collection.
Sec. 105. Capital construction.
Sec. 106. Fisheries disaster relief.
Sec. 107. Regional fishery conservation and management authorities.
Sec. 108. Study of allocations in mixed-use fisheries.

TITLE II—FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT

Sec. 201. Fisheries research.
Sec. 202. Improving science.
Sec. 203. Focusing assets for improved fisheries outcomes.
Sec. 204. Gulf of Mexico red snapper catch limits; repeal.

SEC. 2. REFERENCES TO THE MAGNUSON- STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

TITLE I—CONSERVATION AND MANAGEMENT

SEC. 101. REGIONAL FISHERY MANAGEMENT COUNCILS.

(a) Voting Members.—Section 302(b)(2)(D) (16 U.S.C. 1852(b)(2)(D)) is amended—

(1) in clause (i)—
(A) by striking “Fisheries” and inserting “Fishery”; and

(B) by inserting “or the South Atlantic Fishery Management Council” after “Management Council”; and

(2) by striking clause (iv).

(b) COMMITTEES AND ADVISORY PANELS.—Section 302(g)(1)(B) (16 U.S.C. 1852(g)(1)(B)) is amended to read as follows:

“(B) Each scientific and statistical committee shall—

“(i) provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices; and

“(ii) carry out the requirements of this subparagraph in a transparent manner, allowing for public involvement in the process.”.

(c) FUNCTIONS.—Section 302(h) (16 U.S.C. 1852(h)) is amended—
(1) in paragraph (7)(C), by striking “and” at the end;
(2) by redesignating paragraph (8) as paragraph (9); and
(3) by inserting after paragraph (7) the following:

“(8) have the authority to use alternative fishery management measures in a recreational fishery (or the recreational component of a mixed-use fishery), including extraction rates, fishing mortality, and harvest control rules, to the extent they are in accordance with the requirements of this Act; and”.

(d) Webcasts of Council Meetings.—Section 302(i)(2) (16 U.S.C. 1852(i)(2)) is amended by adding at the end the following:

“(G) Unless closed in accordance with paragraph (3), each Council shall, where practicable, make available on the Internet website of the Council a video or audio webcast of each meeting of the Council and each meeting of the scientific and statistical committee of the Council not later than 30 days after the date of the conclusion of such meeting.”.
SEC. 102. CONTENTS OF FISHERY MANAGEMENT PLANS.

Section 303 (16 U.S.C. 1853) is amended by adding at the end the following:

“(d) LIMITATIONS.—

“(1) IN GENERAL.—The requirements under subsection (a)(15) shall not—

“(A) apply to a species in a fishery that has a mean life cycle of 18 months or less, or to a species in a fishery with respect to which all spawning and recruitment occurs beyond State waters and the exclusive economic zone, unless the Secretary has determined the fishery is subject to overfishing of that species; and

“(B) limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of this Act.

“(2) CONSTRUCTION.—Nothing in this subsection shall be construed to affect any effective date regarding the requirements under subsection (a)(15) otherwise provided for under an international agreement in which the United States participates.”.

SEC. 103. REBUILDING OVERFISHED AND DEPLETED FISHERIES.

Section 304(e)(4)(A) (16 U.S.C. 1854(e)(4)(A)) is amended to read as follows:
“(A) specify a time period for rebuilding the fishery that—

“(i) shall be as short as possible, taking into account the status and biology of any overfished stocks of fish, the needs of fishing communities, recommendations by international organizations in which the United States participates, and the interaction of the overfished stock of fish within the marine ecosystem; and

“(ii) except where management measures under an international agreement with the United States participates dictate otherwise, shall not exceed—

“(I) 10 years, except in cases where the biology of the stock of fish or other environmental conditions dictate otherwise; or

“(II) the sum of the time in which the affected stock of fish is expected to rebuild to its maximum sustainable yield biomass level in the absence of any fishing mortality, and the mean generation of time of the affected stock of fish, if those time val-
ues are the best scientific information available;”.

SEC. 104. FUNDING FOR STOCK ASSESSMENTS, SURVEYS, AND DATA COLLECTION.

Section 311(e)(1) (16 U.S.C. 1861(e)(1)) is amended—

(1) in subparagraph (E), by striking “; and” and inserting a semicolon;

(2) in subparagraph (F), by striking the period at the end and inserting “; and”; and

(3) by inserting after subparagraph (F) the following:

“(G) the costs of stock assessments, surveys, and data collection in fisheries managed under this Act.”.

SEC. 105. CAPITAL CONSTRUCTION.

(a) DEFINITIONS; ELIGIBLE AND QUALIFIED FISHERY FACILITIES.—Section 53501 of title 46, United States Code, is amended—

(1) by striking “(7) UNITED STATES FOREIGN TRADE.—” and inserting “(11) UNITED STATES FOREIGN TRADE.—”; 

(2) by striking “(8) VESSEL.—” and inserting “(12) VESSEL.—”;
(3) by redesignating paragraphs (5), (6), and
(7) as paragraphs (8), (9), and (10), respectively;
(4) by redesignating paragraphs (2), (3), and
(4) as paragraphs (4), (5), and (6), respectively;
(5) by redesignating paragraph (1) as para-
graph (2);
(6) by inserting before paragraph (2), as redes-
ignated, the following:
“(1) AGREEMENT FISHERY FACILITY.—The
term ‘agreement fishery facility’ means an eligible
fishery facility or a qualified fishery facility that is
subject to an agreement under this chapter.”;
(7) by inserting after paragraph (2), as redesig-
nated, the following:
“(3) ELIGIBLE FISHERY FACILITY.—
“(A) IN GENERAL.—Subject to subpara-
graph (B), the term “eligible fishery facility”
means—
“(i) for operations on land—
“(I) a structure or an appur-
tenance thereto designed for unloading
and receiving from a vessel, pro-
cessing, holding pending processing,
distribution after processing, or hold-
ing pending distribution, of fish from a fishery;

“(II) the land necessary for the structure or appurtenance described in subclause (I); and

“(III) equipment that is for use with the structure or appurtenance that is necessary to perform a function described in subclause (I);

“(ii) for operations not on land, a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, processing fish; or

“(iii) for aquaculture, including operations on land or elsewhere—

“(I) a structure or an appurtenance thereto designed for aquaculture;

“(II) the land necessary for the structure or appurtenance;

“(III) equipment that is for use with the structure or appurtenance and that is necessary to perform a function described in subclause (I); and
“(IV) a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, aquaculture.

“(B) OWNERSHIP REQUIREMENT.—Under subparagraph (A), the structure, appurtenance, land, equipment, or vessel shall be owned by—

“(i) an individual who is a citizen of the United States; or

“(ii) an entity that is—

“(I) a citizen of the United States under section 50501 of this title; and

“(II) at least 75 percent owned by citizens of the United States, as determined under section 50501 of this title.”; and

(8) by inserting after paragraph (6), as redesignated, the following:

“(7) QUALIFIED FISHERY FACILITY.—

“(A) IN GENERAL.—Subject to subparagraph (B), the term ‘qualified fishery facility’ means—

“(i) for operations on land—
“(I) a structure or an appurtenance thereto designed for unloading and receiving from a vessel, processing, holding pending processing, distribution after processing, or holding pending distribution, of fish from a fishery;

“(II) the land necessary for the structure or appurtenance; and

“(III) equipment that is for use with the structure or appurtenance and necessary to perform a function described in subclause (I);

“(ii) for operations not on land, a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, processing fish; or

“(iii) for aquaculture, including operations on land or elsewhere—

“(I) a structure or an appurtenance thereto designed for aquaculture;

“(II) the land necessary for the structure or appurtenance;
“(III) equipment that is for use with the structure or appurtenance and necessary for performing a function described in subclause (I); and

“(IV) a vessel built in the United States.

“(B) OWNERSHIP REQUIREMENT.—Under subparagraph (A), the structure, appurtenance, land, equipment, or vessel shall be owned by—

“(i) an individual who is a citizen of the United States; or

“(ii) an entity that is—

“(I) a citizen of the United States under section 50501 of this title; and

“(II) at least 75 percent owned by citizens of the United States, as determined under section 50501 of this title.”.

(b) ELIGIBLE FISHERY FACILITIES.—

(1) DEFINITION OF SECRETARY.—Paragraph (9)(A) of section 53501 of title 46, United States Code, as redesignated by subsection (a) of this section, is amended to read as follows:
“(A) the Secretary of Commerce with re-
spect to—

“(i) an eligible vessel or a qualified
vessel operated or to be operated in the
fisheries of the United States; or

“(ii) an eligible fishery facility or a
qualified fishery facility; and”.

(2) Establishing a Capital Construction
Fund.—Section 53503 of title 46, United States
Code, is amended—

(A) in subsection (a)—

(i) by inserting “or eligible fishery fa-
cility” after “eligible vessel”; and

(ii) by striking the period at the end
and inserting “or fishery facility.”; and

(B) by amending subsection (b) to read as
follows:

“(b) Allowable Purpose.—The purpose of the
agreement shall be—

“(1) to provide replacement vessels, additional
vessels, or reconstructed vessels, built in the United
States and documented under the laws of the United
States, for operation in the United States foreign,
Great Lakes, noncontiguous domestic, or short sea
14 transportation trade or in the fisheries of the United States; or

“(2) to provide for the acquisition, construction, or reconstruction of a fishery facility owned by—

“(A) an individual who is a citizen of the United States; or

“(B) an entity that is—

“(i) a citizen of the United States under section 50501; and

“(ii) at least 75 percent owned by citizens of the United States, as determined under section 50501.”.

(e) AGREEMENT FISHERY FACILITIES.—

(1) DEPOSITS AND WITHDRAWALS.—Section 53504(b) of title 46, United States Code, is amended by striking the period at the end and inserting “or an agreement fishery facility.”.

(2) CEILING ON DEPOSITS.—Section 53505 of title 46, United States Code, is amended—

(A) in subsection (a)—

(i) paragraphs (1), by inserting “or agreement fishery facilities” after “agreement vessels”;
(ii) in paragraph (2), by striking the semicolon at the end and inserting “or agreement fishery facilities;” and

(iii) in paragraph (3) by inserting “or agreement fishery facility” after “agreement vessel” both places that term appears; and

(B) in subsection (b)—

(i) by inserting “or agreement fishery facility” after “an agreement vessel”; and

(ii) by inserting “or fishery facility” after “the vessel”.

(d) QUALIFIED FISHERY FACILITIES.—

1 QUALIFIED WITHDRAWALS.—Section 53509(a) of title 46, United States Code, is amended—

(A) in paragraph (1), by striking “qualified vessel; or” and inserting “qualified vessel, or the acquisition, construction, or reconstruction of a qualified fishery facility; or”; and

(B) in paragraph (2), by striking “qualified vessel.” and inserting “qualified vessel, or the acquisition, construction, or reconstruction, of a qualified fishery facility.”.
(2) Tax treatment of qualified withdrawals and basis of property.—Section 53510 of title 46, United States Code, is amended—

(A) in subsections (b) and (c), by striking “or container” each place that term appears and inserting “container, or fishery facility”; and

(B) in subsection (d), by striking “and containers” and inserting “containers, and fishery facilities”.

(3) Tax treatment of nonqualified withdrawals.—Section 53511(e)(4) of title 46, United States Code, is amended by inserting “or fishery facility” after “vessel”.

(e) Technical Amendment.—Paragraph (8)(A)(iii) of section 53501 of title 46, United States Code, as redesignated by subsection (a) of this section, is amended by striking “trade trade” and inserting “trade”.

SEC. 106. FISHERIES DISASTER RELIEF.

Section 312(a) (16 U.S.C. 1861a(a)) is amended—

(1) by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively; and

(2) by inserting after paragraph (1) the following:
“(2) The Secretary shall make a decision regarding a request under paragraph (1) not later than 90 days after the date the Secretary receives a complete estimate of the economic impact of the fishery resource disaster from the affected State, tribal government, or fishing community.”

SEC. 107. REGIONAL FISHERY CONSERVATION AND MANAGEMENT AUTHORITIES.

(a) IN GENERAL.—Title III (16 U.S.C. 1851 et seq.) is amended by inserting after section 313, the following:

“SEC. 313A. GULF OF MEXICO FISHERIES CONSERVATION AND MANAGEMENT.

“At least once every 5 years, the Gulf of Mexico Fishery Management Council shall review, in accordance with the provisions of this Act, any allocation of fishing privileges among the commercial, recreational, and charter components of a fishery managed under a fishery management plan prepared by the Council, except that the Council may delay action for not more than 3 additional 1 year periods if necessary.

SEC. 313B. SOUTH ATLANTIC FISHERIES CONSERVATION AND MANAGEMENT.

“At least once every 5 years, the South Atlantic Fishery Management Council shall review, in accordance with the provisions of this Act, any allocation of fishing privileges among the commercial, recreational, and charter
components of a fishery managed under a fishery management plan prepared by the Council, except that the Council may delay action for not more than 3 additional 1 year periods if necessary.”.

(b) TABLE OF CONTENTS.—The table of contents in the first section is amended by inserting after the item relating to section 313, the following:

“313A. Gulf of Mexico fisheries conservation and management.
313B. South Atlantic fisheries conservation and management.”.

8 SEC. 108. STUDY OF ALLOCATIONS IN MIXED-USE FISHERIES.

(a) STUDY REQUIREMENTS.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Commerce shall enter into an arrangement with the National Academy of Sciences to conduct a study—

(1) to provide guidance on criteria that could be used for allocating fishing privileges, including consideration of the conservation and socioeconomic benefits of the commercial, recreational, and charter components of a fishery, to a Regional Fishery Management Council established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852) in the preparation of a fishery management plan under that Act; and
(2) to identify sources of information that could reasonably support the use of such criteria in allocation decisions.

(b) REPORT.—Not later than 1 year after the date a contract is awarded under subsection (a), the National Academy of Sciences shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on the study conducted under subsection (a).

TITLE II—FISHERY INFORMATION, RESEARCH, AND DEVELOPMENT

SEC. 201. FISHERIES RESEARCH.

(a) Stock Assessment Plan.—Section 404 (16 U.S.C. 1881e) is amended by adding at the end the following:

“(e) Stock Assessment Plan.—

“(1) In general.—The Secretary, in consultation with the Councils, shall develop and publish in the Federal Register, on the same schedule as required for the strategic plan required under subsection (b), a plan to conduct stock assessments for all stocks of fish for which a fishery management plan is in effect under this Act.
“(2) CONTENTS.—The plan shall—

“(A) for each stock of fish for which a 
stock assessment has previously been con-
ducted—

“(i) establish a schedule for updating 
the stock assessment that is reasonable 
given the biology and characteristics of the 
stock; and

“(ii) subject to the availability of ap-
propriations, require completion of a new 
stock assessment, or an update of the most 
recent stock assessment—

“(I) at least once every 5 years, 
except a Council may delay action for 
not more than 3 additional 1-year pe-
riods; or

“(II) within such other time pe-
period specified and justified by the Sec-
retary in the plan;

“(B) for each economically important stock 
of fish for which a stock assessment has not 
previously been conducted—

“(i) establish a schedule for con-
ducting an initial stock assessment that is
reasonable given the biology and characteristics of the stock; and

“(ii) subject to the availability of appropriations, require completion of the initial stock assessment not later than 3 years after the date that the plan is published in the Federal Register unless another time period is specified and justified by the Secretary in the plan; and

“(C) identify data and analysis, especially concerning recreational fishing, that, if available, would reduce uncertainty in and improve the accuracy of future stock assessments, including whether that data and analysis could be provided by nongovernmental sources, including fishermen, fishing communities, universities, and research institutions.

“(3) WAIVER OF STOCK ASSESSMENT REQUIREMENT.—Notwithstanding subparagraphs (A)(ii) and (B)(ii) of paragraph (2), a stock assessment shall not be required for a stock of fish in the plan if the Secretary determines that such a stock assessment is not necessary and justifies the determination in the Federal Register notice required by this subsection.”.
(b) DEADLINE.—Notwithstanding paragraph (1) of section 404(e) of the Magnuson-Stevens Fishery Conservation and Management Act, as added by this section, the Secretary of Commerce shall issue the first stock assessment plan under that section by not later than 1 year after the date of the enactment of this Act.

SEC. 202. IMPROVING SCIENCE.

(a) IMPROVING DATA COLLECTION AND ANALYSIS.—

(1) IN GENERAL.—Section 404 (16 U.S.C. 1881c), as amended by section 201 of this Act, is further amended by adding at the end the following:

“(f) IMPROVING DATA COLLECTION AND ANALYSIS.—

“(1) IN GENERAL.—The Secretary, in consultation with the scientific and statistical committees of the Councils established under section 302(g), shall develop and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on facilitating greater incorporation of data, analysis, stock assessments, and surveys from nongovernmental sources, including fishermen, fishing communities, universities, and research institutions, into fisheries management decisions.
“(2) CONTENT.—The report under paragraph (1) shall—

“(A) identify types of data and analysis, especially concerning recreational fishing, that can be reliably used for purposes of this Act and the basis for establishing conservation and management measures as required by section 303(a)(1), including setting standards for the collection and use of that data and analysis in stock assessments and surveys and for other purposes;

“(B) provide specific recommendations for collecting data and performing analyses identified as necessary to reduce the uncertainty referred to in section 404(e)(2)(C);

“(C) consider the extent to which it is possible to establish a registry of persons providing such information; and

“(D) consider the extent to which the acceptance and use of data and analysis identified in the report in fishery management decisions is practicable.”.

(b) DEADLINE.—The Secretary of Commerce shall submit the report required under the amendment made
by subsection (a) not later than 1 year after the date of
the enactment of this Act.

SEC. 203. FOCUSING ASSETS FOR IMPROVED FISHERIES
OUTCOMES.

(a) IN GENERAL.—Section 2(b) of the Act of August
11, 1939 (15 U.S.C. 713c–3(b)), is amended—

(1) in paragraph (1)—

(A) by striking “beginning with the fiscal
year commencing July 1, 1954, and ending on
June 30, 1957,”;

(B) by striking “moneys” the first place
that term appears and inserting “monies”; and

(C) by striking “shall be maintained in a
separate fund only for” and all that follows
through the end and inserting “shall only be
used for the purposes described under sub-
section (c).”; and

(2) by striking paragraph (2).

(b) LIMITATIONS ON BILLS TRANSFERRING
FUNDS.—Section 2(b) of the Act of August 11, 1939 (15
U.S.C. 713c–3(b)), as amended by subsection (a) of this
section, is further amended by adding at the end the fol-
lowing:

“(2) LIMITATIONS ON BILLS TRANSFERRING
FUNDS.—
“(A) In General.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that reduces any amount in the fund referred to in paragraph (1) in a manner that is inconsistent with such paragraph.

“(B) Limitation on Changes to This Paragraph.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report that would repeal or otherwise amend this paragraph.

“(C) Waiver.—A provision of this paragraph may be waived or suspended in the Senate only by the affirmative vote of three-fifths of the Members, duly chosen and sworn.

“(D) Appeals.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required to sustain an appeal of the ruling of the Chair on the point of order raised under this paragraph.

“(E) Rules of the Senate and the House of Representatives.—This paragraph is enacted by Congress—
“(i) as an exercise of the rulemaking power of the Senate and the House of Representa-
tives, respectively, and is deemed to be part of the rules of each house, respec-
tively, but applicable only with respect to the procedure to be followed in the House in the case of a bill, resolution, amend-
ment, or conference report under this paragraph, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

“(ii) with full recognition of the constitu-
tional right of either House to change the rules (so far as they relate to the pro-
cedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.”.

SEC. 204. GULF OF MEXICO RED SNAPPER CATCH LIMITS;
REPEAL.

Section 407 (16 U.S.C. 1883) is amended by striking subsection (d).