

SUSTAINING AMERICA'S FISHERIES FOR THE FUTURE  
ACT OF 2022

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DECEMBER 30, 2022.—Committed to the Committee of the Whole House on the State  
of the Union and ordered to be printed

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Mr. GRIJALVA, from the Committee on Natural Resources,  
submitted the following

R E P O R T

together with

DISSENTING VIEWS

[To accompany H.R. 4690]

[Including cost estimate of the Congressional Budget Office]

The Committee on Natural Resources, to whom was referred the bill (H.R. 4690) to reauthorize and amend the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Sustaining America’s Fisheries for the Future Act of 2022”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Definitions.
- Sec. 5. Gender inclusive language.
- Sec. 6. Conforming amendments to the table of contents of the Magnuson-Stevens Fishery Conservation and Management Act.

TITLE I—CLIMATE-READY FISHERIES

- Sec. 101. Findings, purpose, and policy.
- Sec. 102. Promoting climate resilience in fisheries management.
- Sec. 103. Incorporating climate science.
- Sec. 104. Climate-ready fisheries innovation program.

- Sec. 105. Managing shifting stocks.  
 Sec. 106. Emerging fisheries.

TITLE II—SUPPORTING FISHING COMMUNITIES

- Sec. 201. Fishery Resource Disaster Relief.  
 Sec. 202. Subsistence fishing.  
 Sec. 203. Working Waterfronts Grant Program.  
 Sec. 204. Seafood marketing.  
 Sec. 205. Community participation in limited access privilege programs.  
 Sec. 206. Findings.  
 Sec. 207. Participation by fishery-dependent communities.

TITLE III—STRENGTHENING PUBLIC PROCESS AND TRANSPARENCY

- Sec. 301. Tribal representation at the Pacific Fishery Management Council.  
 Sec. 302. Tribal representation at the North Pacific Fishery Management Council.  
 Sec. 303. Atlantic Councils.  
 Sec. 304. Council procedures and participation.  
 Sec. 305. Council accountability and membership.  
 Sec. 306. Western Pacific Sustainable Fishery Fund.  
 Sec. 307. National Oceanic and Atmospheric Administration sexual harassment and assault prevention.

TITLE IV—MODERNIZING FISHERIES SCIENCE AND DATA

- Sec. 401. Data modernization.  
 Sec. 402. Expanding and improving electronic technologies.  
 Sec. 403. Stock Assessments.  
 Sec. 404. Cooperative research and management.  
 Sec. 405. Northeast Regional pilot research trawl survey and study.  
 Sec. 406. Recreational data consistency.  
 Sec. 407. Emergency operating plans.  
 Sec. 408. Zeke Grader Fisheries Conservation and Management Fund.  
 Sec. 409. Offshore wind collaboration.  
 Sec. 410. Shark populations analysis.

TITLE V—SUSTAINING FISHERIES THROUGH HEALTHY ECOSYSTEMS AND IMPROVED MANAGEMENT

- Sec. 501. Sense of Congress.  
 Sec. 502. Essential fish habitat consultation.  
 Sec. 503. Reducing bycatch.  
 Sec. 504. Improving rebuilding outcomes.  
 Sec. 505. Overfished fisheries and preventing overfishing.  
 Sec. 506. Preparation and review of secretarial plans.  
 Sec. 507. Councils.  
 Sec. 508. Forage fish conservation.  
 Sec. 509. Funding for monitoring implementation of Northeast Multispecies Fishery Management Plan.  
 Sec. 510. Highly migratory species.

TITLE VI—INTERNATIONAL FISHERIES MANAGEMENT

- Sec. 601. Conservation Commissioner of the Atlantic Tunas Convention Act.  
 Sec. 602. Conservation Commissioner to the Western and Central Pacific Fisheries Convention.  
 Sec. 603. Conservation Commissioner to the Inter-American Tropical Tuna Commission.  
 Sec. 604. Application of annual catch limit and accountability measures requirement.  
 Sec. 605. Authorization of appropriations.

**SEC. 3. REFERENCES.**

Except as otherwise expressly provided in this Act, 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 that section or other provision of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

**SEC. 4. DEFINITIONS.**

In this Act:

- (1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.  
 (2) SECRETARY.—The term “Secretary” means the Secretary of Commerce.

**SEC. 5. GENDER INCLUSIVE LANGUAGE.**

(a) The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended by striking “prepared by him” each place such term appears and inserting “prepared by the Secretary”.

(b) Each of the following provisions is amended by striking “he” each place such term appears and inserting “the Secretary”:

- (1) Section 201(h)(2) (16 U.S.C. 1821(h)(2)).  
 (2) Section 204(b) (16 U.S.C. 1824(b)).  
 (3) Section 305(c)(1) (16 U.S.C. 1855(c)(1)).  
 (4) Section 306(b)(2) (16 U.S.C. 1856(b)(2)).

(c) Each of the following provisions is amended by striking “his” each place such term appears and inserting “the Secretary’s”:

- (1) Section 3(39) (16 U.S.C. 1802(39)).  
 (2) Section 204(b)(9) (16 U.S.C. 1824(b)(9)).  
 (3) Section 306(b)(1) (16 U.S.C. 1856(b)(1)).

(4) Section 308(a) (16 U.S.C. 1858(a)).

(d) Sections 204(b)(4)(A) and 302(c)(1)(D) (16 U.S.C. 1824(b)(4)(A) and 1852(c)(1)(D)) are each amended by striking “his” and inserting “such Secretary’s”.

(e) Subsections (b)(1)(B) and (c)(1)(A) of section 302 (16 U.S.C. 1852(b)(1)(B) and (c)(1)(A)) are each amended by striking “his” and inserting “such director’s”.

(f) Section 201(e)(1)(D) (16 U.S.C. 1821(e)(1)(D)) is amended by striking “he” and inserting “such Secretary”.

(g) Section 201(i) (16 U.S.C. 1821(i)) is amended by striking “his” and inserting “such Governor’s”.

(h) Section 203(c)(5)(C) (16 U.S.C. 1823(c)(5)(C)) is amended by striking “his” and inserting “the minority leader’s”.

(i) Section 302(c)(1)(B) (16 U.S.C. 1852(c)(1)(B)) is amended by striking “his” and inserting “such commander’s”.

(j) Section 302(c)(1)(C) (16 U.S.C. 1852(c)(1)(C)) is amended by striking “his” and inserting “such executive director’s”.

(k) Section 302(f)(4) (16 U.S.C. 1852(f)(4)) is amended by striking “he” and inserting “the Administrator of General Services”.

(l) Section 302(j)(4) (16 U.S.C. 1852(j)(4)) is amended by striking “his or her” and inserting “such individual’s”.

(m) Section 302(j)(7)(D) (16 U.S.C. 1852(j)(7)(D)) is amended by striking “he or she” each place such term appears and inserting “such individual”.

(n) Section 309(a) (16 U.S.C. 1859(a)) is amended by striking “he” and inserting “such person”.

(o) Section 311(b)(1)(A)(i) (16 U.S.C. 1861(b)(1)(A)(i)) is amended by striking “he” and inserting “such officer”.

(p) Section 311(b)(2) (16 U.S.C. 1861(b)(2)) is amended—  
 (1) by striking “he” and inserting “such person”; and  
 (2) by striking “his” and inserting “such person’s”.

**SEC. 6. CONFORMING AMENDMENTS TO THE TABLE OF CONTENTS OF THE MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT.**

The table of contents is amended to read as follows:

“TABLE OF CONTENTS

“Sec. 2. Findings, purposes, and policy.

“Sec. 3. Definitions.

“Sec. 4. Authorization of appropriations.

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

“Sec. 101. United States sovereign rights to fish and fishery management authority.

“Sec. 102. Highly migratory species.

“TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

“Sec. 201. Foreign fishing.

“Sec. 202. International fishery agreements.

“Sec. 203. Congressional oversight of international fishery agreements.

“Sec. 204. Permits for foreign fishing.

“Sec. 205. Import prohibitions.

“Sec. 206. Large-scale driftnet fishing.

“Sec. 207. International monitoring and compliance.

“TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM

“Sec. 301. National standards for fishery conservation and management.

“Sec. 302. Regional fishery management councils.

“Sec. 303. Contents of fishery management plans.

“Sec. 304. Action by the Secretary.

“Sec. 305. Other requirements and authority.

“Sec. 306. State jurisdiction.

“Sec. 307. Prohibited Acts.

“Sec. 308. Civil penalties and permit sanctions.

“Sec. 309. Criminal offenses.

“Sec. 310. Civil forfeitures.

“Sec. 311. Enforcement.

“Sec. 312. Transition to sustainable fisheries.

“Sec. 313. North Pacific fisheries conservation.

“Sec. 314. Northwest Atlantic Ocean fisheries reinvestment program.

“Sec. 315. Regional Coastal Disaster Assistance, Transition, and Recovery Program.

“Sec. 316. Bycatch Reduction Engineering Program.

“Sec. 317. Shark Feeding.

“Sec. 318. Cooperative Research and Management Program.

“Sec. 319. Herring Study.

“Sec. 320. Restoration Study.

“Sec. 321. Required possession of descending devices.

“Sec. 322. Increasing resilience of fish stocks to climate change.

“TITLE IV—FISHERY MONITORING AND RESEARCH

“Sec. 401. Registration and information management.

“Sec. 402. Information collection.

“Sec. 403. Observers.

- “Sec. 404. Fisheries research.  
 “Sec. 405. Incidental harvest research.  
 “Sec. 406. Fisheries systems research.  
 “Sec. 407. Gulf of Mexico red snapper research.  
 “Sec. 408. Deep sea coral research and technology program.  
 “Sec. 409. Recreational data improvement program.”.

## TITLE I—CLIMATE-READY FISHERIES

### SEC. 101. FINDINGS, PURPOSE, AND POLICY.

Section 2 (16 U.S.C. 1801) is amended—

(1) in subsection (a)—

(A) by amending paragraph (2) to read as follows:

“(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of—

“(A) increased fishing pressure;

“(B) the inadequacy of fishery resource conservation and management practices and controls;

“(C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels; or

“(D) changing environmental conditions, including those associated with climate change.”;

(B) in paragraph (6), by inserting “to account for the impacts of environmental changes on stocks of fish,” after “insure conservation,”;

(C) by amending paragraph (9) to read as follows:

“(9) One of the greatest long term threats to the viability of commercial and recreational fisheries is the continuing degradation of marine ecosystems, including the loss of marine, estuarine, and other aquatic habitats, including as a result of changing environmental conditions associated with climate change. Habitat and ecosystem considerations should receive increased attention for the conservation and management of fishery resources of the United States.”;

(D) by adding at the end the following:

“(14) Environmental changes associated with climate change, including changes in water temperature, ocean acidification, and deoxygenation, are rapidly altering the abundance, productivity, and distribution of fish and are affecting commercial, recreational, and subsistence fisheries.

“(15) The impacts of climate change on fish and their habitats are resulting in management and sustainability challenges that threaten to negatively impact marine ecosystems, fishery resources, and coastal communities.

“(16) Many factors beyond the direct impacts of fishing can contribute to a decline in abundance of a stock of fish, resulting in depleted fish stocks and threatening the stability of ecosystems and fishing communities, including climate change, pollution, habitat and watershed degradation, inadequate freshwater resources, and industrial uses of the ocean. The designation of a stock of fish as overfished indicates that it is depleted and management actions are necessary to allow the stock to rebuild, regardless of the cause of depletion.”;

(2) by amending subsection (b)(5) to read as follows:

“(5) to establish Regional Fishery Management Councils to exercise sound judgement in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances—

“(A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans;

“(B) which take into account the social and economic needs of the States; and

“(C) which address the impacts of environmental conditions associated with climate change on stocks of fish, marine ecosystems, fisheries management, and coastal communities;”;

(3) in subsection (c)—

(A) in paragraph (6), by striking “and” after the semicolon at the end;

(B) in paragraph (7), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following:

“(8) to promote management that accounts for changes in stocks of fish and the marine environment that result from climate change; and

“(9) to ensure that the research, resource management, and expenditures to prepare fisheries and fishing communities for climate change promote racial

and socioeconomic equity with respect to environmental, economic, and social outcomes across fisheries and regions.”.

**SEC. 102. PROMOTING CLIMATE RESILIENCE IN FISHERIES MANAGEMENT.**

(a) **IN GENERAL.**—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (1)(A), by inserting “and to promote the resilience of fish stocks to cumulative stressors, including cumulative stressors associated with climate change” before the semicolon at the end;

(2) in paragraph (3), by inserting “including considering the impacts of climate change,” after “fishery,”;

(3) in paragraph (8), by striking “1991” and inserting “2022”, and by inserting “, including data needed to implement the plan effectively under prevailing and anticipated environmental or ecological conditions, including climate change” before the semicolon at the end;

(4) in paragraph (13), by inserting “as well as examine the vulnerability of the fishery and fishery participants to the impacts of prevailing and anticipated environmental or ecological conditions, including climate change” before the semicolon at the end;

(5) in paragraph (14), by striking “and;” and inserting a semicolon;

(6) by striking the period at the end of paragraph (15) and inserting “; and”; and

(7) by adding at the end the following:

“(16) assess and describe the anticipated impacts of climate change and other environmental and ecological changes on the fishery, including an assessment of whether and how the management measures contained in the plan or plan amendment have accounted for these changes, and a summary of the information used in these assessments;

“(17) describe and identify the current range and distribution of, and fishing patterns on, fish stocks managed under the plan, including areas outside the jurisdiction of the Council having authority to issue the plan, and for fish stocks whose distribution crosses management boundaries, describe the measures used for coordination with other relevant management bodies for the conservation and management of the fish stock; and”.

(b) **EFFECTIVE DATE.**—The amendments made by subsection (a) shall take effect on the date that is 4 years after the date of enactment of this section.

(c) **INCREASING RESILIENCE OF FISH STOCKS TO CLIMATE CHANGE.**—Title III is amended by adding at the end the following:

**“SEC. 322. INCREASING RESILIENCE OF FISH STOCKS TO CLIMATE CHANGE.**

“(a) **VULNERABILITY ASSESSMENT.**—Not later than 3 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022 and every 5 years thereafter, the Secretary shall—

“(1) assess the vulnerability of fish stocks within each Council’s geographical area of authority to climate change;

“(2) notify each Council of the vulnerability of fish stocks within such geographical area; and

“(3) make recommendations to each Council for measures to increase the resilience of fish stocks within such geographical area identified as vulnerable to climate change.

“(b) **COUNCIL PRIORITIZATION PLANS.**—

“(1) **IN GENERAL.**—No later than one year after receiving a notification from the Secretary under subsection (a), each Council shall publish a plan identifying management actions to increase resilience of the fish stocks identified as vulnerable to climate change and begin implementing such management actions.

“(2) **HIGHLY MIGRATORY SPECIES.**—With respect to stocks managed under section 302(a)(3), not later than one year after issuing a notification under subsection (a), the Secretary shall publish a plan identifying management actions to increase resilience of such fish stocks identified as vulnerable to climate change and begin implementing such management actions.

“(3) **REPORT.**—Not later than 3 years after publishing a plan under paragraph (1), each Council shall report to the Secretary on the actions the Council has taken to implement such plan or provide an explanation for not taking such action.

“(c) **REPORT TO CONGRESS.**—Not later than 3 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022 and every 5 years thereafter, the Secretary shall submit a report to Congress—

“(1) describing the vulnerability of fish stocks to climate change;

“(2) identifying the risks posed by climate change to the conservation and management of fish stocks; and

- “(3) summarizing the steps taken by the Secretary and the Councils to mitigate and address the impacts on and risks of climate change to fish stocks.”.
- (d) GUIDANCE FOR COUNCILS.—Section 305 is amended by adding at the end the following:
- “(n) GUIDANCE.—Not later than 2 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall issue guidelines to assist the Councils in preparing and adapting fishery management for the impacts of climate change, including for consideration of climate change in the conservation and management of fish stocks under each Council’s geographical area of authority.”.

**SEC. 103. INCORPORATING CLIMATE SCIENCE.**

(a) COUNCIL TRAINING PROGRAM.—Section 302(k)(1) (16 U.S.C. 1852(k)(1)) is amended—

- (1) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively;
- (2) by redesignating subparagraph (I) as subparagraph (K);
- (3) by inserting after subparagraph (B) the following:
 

“(C) climate change and its relevant impacts on fisheries health, range, and other factors that would affect the conservation and management of a stock;”;
- (4) by striking “and” after the semicolon at the end of subparagraph (I), as so redesignated; and
- (5) by inserting after subparagraph (I), as so redesignated, the following:
 

“(J) ecosystem-based fishery management; and”.

(b) FISHERIES RESEARCH.—Section 404 (16 U.S.C. 1881c) is amended—

- (1) in subsection (a), by inserting “; on changes in geographic range, spatial distribution, and productivity of a fishery or interrelated fisheries;” after “management”; and
- (2) in subsection (c)(1), by inserting “changes in geographic range, spatial distribution, and productivity of a fishery or interrelated fisheries,” after “degradation,”.

**SEC. 104. CLIMATE-READY FISHERIES INNOVATION PROGRAM.**

(a) CLIMATE-READY FISHERIES INNOVATION PROGRAM.—Not later than one year after the date of the enactment of this Act, the Administrator shall establish a program to develop innovative tools and approaches designed to increase the adaptive capacity of fishery management to the impacts of climate change. In administering such program, the Administrator shall—

- (1) develop science and management tools and approaches that address regional and national priorities to improve the conservation and management of fishery resources under existing and anticipated climate impacts;
- (2) provide for routine input from fishery managers and scientists in order to maximize opportunities to incorporate results of the program in fishery management actions;
- (3) promote adoption of methods developed under the program in fishery management plans developed by the Regional Fishery Management Councils;
- (4) provide information and outreach to the private sector and academic sector to encourage development and operationalization of tools and approaches to manage the effects of climate change on fisheries; and
- (5) provide information and outreach to fishery participants to increase understanding of and encourage adoption and use of tools and approaches developed under the program.

(b) COORDINATION OF THE PROGRAM.—

- (1) The Administrator shall establish a process to ensure coordination with and outreach to—
  - (A) regional offices and science centers of the National Marine Fisheries Service;
  - (B) the Regional Fishery Management Councils;
  - (C) the scientific and statistical committees of such Fishery Management Councils; and
  - (D) other relevant programs, including the cooperative research and management program under section 318 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1867), the Integrated Ocean Observing System, and programs within the National Oceanic and Atmospheric Administration designed to address ocean acidification.

(2) Such coordination should include identification of multiyear research priorities to study and understand the current and anticipated impacts of climate change on fisheries, fisheries interactions, habitats, fishery participants, fishing communities, seafood markets, fisheries science and monitoring, or other rel-

evant priority. Such priorities should be routinely reviewed in a timeframe not to exceed 5 years and updated as necessary.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Administrator to carry out this section \$5,000,000 for each of fiscal years 2023 through 2027.

**SEC. 105. MANAGING SHIFTING STOCKS.**

(a) CROSS-JURISDICTIONAL MANAGEMENT.—Section 304(f) (16 U.S.C. 1854(f)) is amended to read as follows:

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

“(1) SECRETARIAL REVIEW OF AREAS OF AUTHORITY.—The Secretary shall review the geographical area of authority of each Council in order to determine if a substantial portion of any federally managed fishery within such area is within the area of authority of another council—

“(A) upon request of such Council; or

“(B) not less frequently than every 5 years.

“(2) DESIGNATION OF COUNCIL TO PREPARE PLAN.—If the Secretary determines under paragraph (1) that a substantial portion of a fishery is located in the geographical area of authority of more than one Council, the Secretary shall, not later than 6 months after making such determination—

“(A) designate one of the Councils concerned to prepare the fishery management plan for such fishery and any amendment to such plan, if required under this Act; or

“(B) designate that such plan and any such amendment, if required under this Act, be prepared jointly by the Councils concerned.

“(3) DEADLINE FOR SUBMISSION OF PLAN.—Not later than 2 years after the Secretary makes a designation under paragraph (2), the Council or Councils concerned shall prepare and submit a fishery management plan or amendment in accordance with this Act.

“(4) TERMINATION OF CROSS-JURISDICTIONAL AUTHORITY.—

“(A) REQUEST OF COUNCIL.—At the request of a Council or as a result of the review pursuant to paragraph (1), the Secretary shall determine whether a fishery described in paragraph (2) no longer has a substantial portion located in the geographical area of authority of more than one Council.

“(B) TERMINATION.—

“(i) IN GENERAL.—If the Secretary determines under subparagraph (A) that a fishery no longer has a substantial portion located in the geographical area of authority of more than one Council—

“(I) the Secretary shall determine which Council has predominant geographic authority over the fishery; and

“(II) not later than 2 years after the date on which the determination under subclause (I) is made, and at such other times as required under this Act, the Council determined under such subclause shall adopt any existing fishery management plan for the fishery, and shall prepare and submit any plan amendments necessary for transitioning to single-Council management as well as for any other purposes, in accordance with the provisions of this Act.

“(ii) REPEAL OF PRIOR PLAN.—Notwithstanding subsection (h), upon the date of adoption of a fishery management plan under clause (i)(II), any preceding fishery management plan with respect to such fishery is repealed.

“(5) ESTABLISHMENT OF CRITERIA.—The Secretary shall, by regulation, identify criteria for determining under paragraphs (1) and (5) whether a substantial portion of a fishery is located in the geographical area of authority of more than one Council.

“(6) ESTABLISHMENT OF BOUNDARIES.—The Secretary shall establish the boundaries between the geographic areas of authority of adjacent Councils.

“(7) REQUIREMENT FOR MAJORITY OF VOTING MEMBERS.—No jointly prepared plan or amendment required to be prepared under this subsection may be submitted to the Secretary unless such plan or amendment is approved by a majority of the voting members, present and voting, of each Council concerned.

“(8) HIGHLY MIGRATORY SPECIES IN CERTAIN FISHERIES.—This subsection shall not apply with respect to any fishery to which section 302(a)(3) applies.”.

(b) INTERNATIONAL COOPERATION IN THE RESEARCH AND MANAGEMENT OF CROSS-JURISDICTIONAL FISHERIES.—

(1) IN GENERAL.—The Secretary, in coordination with the Secretary of State where necessary, shall develop a strategy for coordinated research and management with other relevant nations with which the United States shares stocks

of fish that are currently experiencing or are expected to experience shifts in geographic range or spatial distribution that spans or will span international boundaries, including within the same life stage or across life stages.

(2) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Congress a report that includes—

(A) a list of fisheries that are currently experiencing or are expected to experience shifts in geographic range or spatial distribution that spans or will span international boundaries and the relevant countries for each fishery or stock of a fishery’s current or expected range and the relevant regional fisheries management organization or other international organizations or agreement with authority over the management of each fishery or fish stock;

(B) an analysis of priority research needs for each of these fisheries or stocks of fisheries that should be coordinated with other affected nations and relevant international management organizations; and

(C) a 5-year strategy to undertake and complete such research, including a proposed budget and timeline for that work.

#### SEC. 106. EMERGING FISHERIES.

Section 305(a) (16 U.S.C. 1855(a)) is amended—

(1) in the subsection heading, by striking “NOTIFICATION OF ENTRY” and inserting “DEVELOPMENT OF NEW FISHERIES”;

(2) by amending paragraph (1) to read as follows:

“(1) The Secretary shall publish in the Federal Register, subject to paragraph

(3), and after notice and an opportunity for public comment—

“(A) a list of all fisheries managed under this Act, organized by Federal region (or Secretarial management under section 302(a)(3), as applicable); and

“(B) with respect to each such fishery—

“(i) the types of fishing gear authorized for use in such fishery;

“(ii) the jurisdiction (State, Federal, interstate, or otherwise) exercising management authority over such fishery;

“(iii) whether a Fishery Management Plan or analogous management structure exists for the fishery; and

“(iv) the species authorized to be caught and retained in such fishery.”;

(3) in paragraph (2), by striking “determining” and all that follows through the end of the paragraph and inserting “determining—”

“(A) when a fishery is sufficiently different from those listed as to constitute a new fishery; and

“(B) minimum criteria for a fishery to be considered managed under paragraph (1)(A), which, for federally managed fisheries, must include having a fishery management plan and associated regulations under this Act.”.

(4) by redesignating paragraph (6) as paragraph (7); and

(5) by striking paragraphs (3), (4), and (5) and inserting the following:

“(3) Not later than 24 months after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, and at least once every 5 years thereafter, each Council (or the Secretary for fisheries to which section 302(a)(3) applies) shall review the fisheries for which the Council is responsible on the list required under paragraph (1)(A) and submit to the Secretary proposed changes to such list in specific and narrow terms, including geographic range, to ensure that only managed fisheries are included on the list.

“(4) The Secretary shall review proposed changes pursuant to the guidelines established under paragraph (2) and publish a revised list, after notice and an opportunity for public comment.

“(5) The Secretary may permit, pursuant to section 318(d), on a limited interim basis, fishing activity that is not included on the list, if—

“(A) the experimental fishing permit is designed and implemented so as to yield information necessary and currently lacking for the development of a fishery management plan or amendment to such plan under section 302(h)(1) and section 303;

“(B) the Secretary collects, evaluates, and notwithstanding section 402(b), makes public the data generated by the experimental fishing activity at the end of each permit year, and based on such evaluation, the Council renders a determination of whether the fishing activity should be continued, either in the form of a subsequent year of experimental fishing under this paragraph, or in the form of a fishery managed under a fishery management plan pursuant to section 302(h)(1) and section 303; and



- “(C) the data collected from, and the Secretary’s evaluation of, the fishing activity are included in any fishery management plan or amendment that is prepared for management of the fishing activity.
- “(6) No person or vessel may employ fishing gear or engage in a fishery not included on the list, except as provided in paragraph (4). A Council may request the Secretary to promulgate emergency regulations under subsection (c) to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery.”.

## TITLE II—SUPPORTING FISHING COMMUNITIES

### SEC. 201. FISHERY RESOURCE DISASTER RELIEF.

Section 312(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a(a)) is amended to read as follows:

“(a) FISHERY RESOURCE DISASTER RELIEF.—

“(1) DEFINITIONS.—In this subsection:

“(A) ALLOWABLE CAUSE.—The term ‘allowable cause’ means a natural cause, discrete anthropogenic cause, or undetermined cause.

“(B) ANTHROPOGENIC CAUSE.—The term ‘anthropogenic cause’ means an anthropogenic event, such as an oil spill or spillway opening—

“(i) that could not have been addressed or prevented by fishery management measures; and

“(ii) that is otherwise beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions imposed as a result of judicial action or to protect human health or marine animals, plants, or habitats.

“(C) FISHERY RESOURCE DISASTER.—The term ‘fishery resource disaster’ means a disaster that is determined by the Secretary in accordance with this subsection and—

“(i) is an unexpected large decrease in fish stock biomass or other change that results in significant loss of access to the fishery resource, which may include loss of fishing vessels and gear for a substantial period of time and results in significant revenue loss or negative subsistence impacts due to an allowable cause; and

“(ii) does not include—

“(I) reasonably predictable, foreseeable, and recurrent fishery cyclical variations in species distribution or stock abundance; or

“(II) reductions in fishing opportunities resulting from conservation and management measures taken pursuant to this Act.

“(D) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given such term in section 102 of the Federally Recognized Indian Tribe List Act of 1994, and the term ‘Tribal’ means of or pertaining to such an Indian tribe.

“(E) NATURAL CAUSE.—The term ‘natural cause’—

“(i) means a weather, climatic, hazard, or biology-related event, such as—

“(I) a hurricane;

“(II) a flood;

“(III) a harmful algal bloom;

“(IV) a tsunami;

“(V) a hypoxic zone;

“(VI) a drought;

“(VII) El Niño effects on water temperature;

“(VIII) a marine heat wave; or

“(IX) disease; and

“(ii) does not mean a normal or cyclical variation in a species distribution or stock abundance.

“(F) 12-MONTH REVENUE LOSS.—The term ‘12-month revenue loss’—

“(i) means the percentage reduction, as applicable, in commercial, charter, headboat, or processor revenue for the affected fishery for the 12 months during which the fishery resource disaster occurred, when compared to average annual revenue in the most recent 5 years when no fishery resource disaster occurred or equivalent for stocks with cyclical life histories; and

“(ii) shall not include any revenue loss resulting from the same distinct cause as a previously determined fishery resource disaster.

- “(G) UNDETERMINED CAUSE.—The term ‘undetermined cause’ means a cause in which the current state of knowledge does not allow the Secretary to identify the exact cause, and there is no current conclusive evidence supporting a possible cause of the fishery resource disaster.
- “(2) GENERAL AUTHORITY.—
- “(A) IN GENERAL.—The Secretary shall have the authority to determine the existence, extent, and beginning and end dates of a fishery resource disaster under this subsection in accordance with this subsection.
- “(B) AVAILABILITY OF FUNDS.—After the Secretary determines that a fishery resource disaster has occurred, the Secretary is authorized to make sums available, from funds appropriated for such purposes, to be used by the affected State, Tribal government, or interstate marine fisheries commission, or by the Secretary in cooperation with the affected State, Tribal government, or interstate marine fisheries commission.
- “(C) SAVINGS CLAUSE.—The requirements under this subsection shall take effect only with respect to requests for a fishery resource disaster determination submitted after the date of enactment of the Fishery Resource Disasters Improvement Act.
- “(3) INITIATION OF A FISHERY RESOURCE DISASTER REVIEW.—
- “(A) ELIGIBLE REQUESTERS.—Not later than 1 year after the date of the conclusion of the fishing season, a request for a fishery resource disaster determination may be submitted to the Secretary, if the Secretary has not independently determined that a fishery resource disaster has occurred, by—
- “(i) the Governor of an affected State;
  - “(ii) an official Tribal representative or Tribal resolution; or
  - “(iii) any other comparable elected or politically appointed representative as determined by the Secretary.
- “(B) REQUIRED INFORMATION.—A complete request for a fishery resource disaster determination under subparagraph (A) shall include—
- “(i) identification of all presumed affected fish stocks;
  - “(ii) identification of the fishery as Federal, non-Federal, or both;
  - “(iii) the geographical boundaries of the fishery, as determined by the eligible requester, including geographic boundaries that are smaller than the area represented by the eligible requester;
  - “(iv) preliminary information on causes of the fishery resource disaster, if known; and
  - “(v) information needed to support a finding of a fishery resource disaster, including—
    - “(I) information demonstrating the occurrence of an unexpected large decrease in fish stock biomass or other change that results in significant loss of access to the fishery resource, which could include the loss of fishing vessels and gear, for a substantial period of time;
    - “(II) significant—
      - “(aa) 12-month revenue loss for the affected fishery; or
      - “(bb) negative subsistence impact for the affected fishery, or if a fishery resource disaster has occurred at any time in the previous 5-year period, the most recent 5 years when no fishery resource disaster occurred, but shall not include any impacts resulting from the same distinct cause as a previously determined fishery resource disaster;
    - “(III) if applicable, information on lost resource tax revenues assessed by local communities, such as a raw fish tax and local sourcing requirements; and
    - “(IV) if applicable and available, information on affected fishery 12-month revenue loss for charter, headboat, or processors related to the information provided under subclause (I), subject to section 402(b).
- “(C) ASSISTANCE.—The Secretary may provide data and analysis assistance to an eligible requester described in paragraph (1), if—
- “(i) the assistance is so requested;
  - “(ii) the Secretary is in possession of the required information described in subparagraph (B); and
  - “(iii) the data is not available to the requester, in carrying out the complete request under subparagraph (B).
- “(D) INITIATION OF REVIEW.—The Secretary shall have the discretion to initiate a fishery resource disaster review without a request.
- “(4) REVIEW PROCESS.—

“(A) INTERIM RESPONSE.—Not later than 20 days after receipt of a request under paragraph (3), the Secretary shall provide an interim response to the individual that—

“(i) acknowledges receipt of the request;

“(ii) provides a regional contact within the National Oceanographic and Atmospheric Administration;

“(iii) outlines the process and timeline by which a request shall be considered; and

“(iv) requests additional information concerning the fishery resource disaster, if the original request is considered incomplete.

“(B) EVALUATION OF REQUESTS.—

“(i) IN GENERAL.—The Secretary shall complete a review, within the time frame described in clause (ii), using the best scientific information available, in consultation with the affected fishing communities, States, or Tribes, of—

“(I) the information provided by the requester and any additional information relevant to the fishery, which may include—

“(aa) fishery characteristics;

“(bb) stock assessments;

“(cc) the most recent fishery independent surveys and other fishery resource assessments and surveys conducted by Federal, State, or Tribal officials;

“(dd) estimates of mortality; and

“(ee) overall effects; and

“(II) the available economic information, which may include an analysis of—

“(aa) landings data;

“(bb) revenue;

“(cc) the number of participants involved;

“(dd) the number and type of jobs and persons impacted, which may include—

“(AA) fishers;

“(BB) charter fishing operators;

“(CC) subsistence users;

“(DD) United States fish processors; and

“(EE) an owner of a related fishery infrastructure or business affected by the disaster, such as a marina operator, recreational fishing equipment retailer, or charter, headboat, or tender vessel owner, operator, or crew;

“(ee) an impacted Indian Tribe;

“(ff) other forms of disaster assistance made available to the fishery, including prior awards of disaster assistance for the same event;

“(gg) the length of time the resource, or access to the resource, has been restricted;

“(hh) status of recovery from previous fishery resource disasters;

“(ii) lost resource tax revenues assessed by local communities, such as a raw fish tax; and

“(jj) other appropriate indicators to an affected fishery, as determined by the National Marine Fisheries Service.

“(ii) TIME FRAME.—The Secretary shall complete the review described in clause (i), if the fishing season, applicable to the fishery—

“(I) has concluded or there is no defined fishing season applicable to the fishery, not later than 120 days after the Secretary receives a complete request for a fishery resource disaster determination;

“(II) has not concluded, not later than 120 days after the conclusion of the fishing season; or

“(III) is expected to be closed for the entire fishing season, not later than 120 days after the Secretary receives a complete request for a fishery resource disaster determination.

“(C) FISHERY RESOURCE DISASTER DETERMINATION.—The Secretary shall make the determination of a fishery resource disaster based on the criteria for determinations listed in paragraph (5).

“(D) NOTIFICATION.—Not later than 14 days after the conclusion of the review under this paragraph, the Secretary shall notify the requester and the Governor of the affected State or Tribal representative of the determination of the Secretary.

“(5) CRITERIA FOR DETERMINATIONS.—

“(A) IN GENERAL.—The Secretary shall make a determination about whether a fishery resource disaster has occurred, based on the revenue loss thresholds under subparagraph (B), and, if a fishery resource disaster has occurred, whether the fishery resource disaster was due to—

- “(i) a natural cause;
- “(ii) an anthropogenic cause;
- “(iii) a combination of a natural cause and an anthropogenic cause;

or

- “(iv) an undetermined cause.

“(B) REVENUE LOSS THRESHOLDS.—

“(i) IN GENERAL.—Based on the information provided or analyzed under paragraph (4)(B), the Secretary shall apply the following 12-month revenue loss thresholds in determining whether a fishery resource disaster has occurred:

“(I) Losses greater than 80 percent may result in a positive determination that a fishery resource disaster has occurred, based on the information provided or analyzed under paragraph (4)(B).

“(II) Losses between 35 percent and 80 percent shall be evaluated to determine whether economic impacts are severe enough to determine that a fishery resource disaster has occurred.

“(III) Losses less than 35 percent shall not be eligible for a determination that a fishery resource disaster has occurred.

“(ii) CHARTER FISHING.—In making a determination of whether a fishery resource disaster has occurred, the Secretary shall consider the economic impacts to the charter fishing industry to ensure financial coverage for charter fishing businesses.

“(iii) NEGATIVE SUBSISTENCE IMPACTS.—In considering negative subsistence impacts, the Secretary shall evaluate the severity of negative impacts to the fishing community instead of applying the revenue loss thresholds described in clause (i).

“(C) INELIGIBLE FISHERIES.—A fishery subject to overfishing in any of the 3 years preceding the date of a determination under this subsection is not eligible for a determination of whether a fishery resource disaster has occurred unless the Secretary determines that overfishing was not a contributing factor to the fishery resource disaster.

“(D) EXCEPTIONAL CIRCUMSTANCES.—In an exceptional circumstance where substantial economic impacts to the affected fishery and fishing community have been subject to a disaster declaration under another statutory authority, such as in the case of a natural disaster or from the direct consequences of a Federal action taken to prevent, or in response to, a natural disaster for purposes of protecting life and safety, the Secretary may determine a fishery resource disaster has occurred notwithstanding the requirements under paragraph (3) and subparagraph (B).

“(6) DISBURSAL OF APPROPRIATED FUNDS.—

“(A) AUTHORIZATION.—The Secretary shall allocate funds available under paragraph (9) for fishery resource disasters.

“(B) ALLOCATION OF APPROPRIATED FISHERY RESOURCE DISASTER ASSISTANCE.—

“(i) NOTIFICATION OF FUNDING AVAILABILITY.—When there are appropriated funds for 1 or more fishery resource disasters, the Secretary shall notify—

“(I) the public; and

“(II) representatives of affected fishing communities with a positive disaster determination that is unfunded; of the availability of funds, not more than 14 days after the date of the appropriation or the determination of a fishery resource disaster, whichever occurs later.

“(ii) EXTENSION OF DEADLINE.—The Secretary may extend the deadline under clause (i) by 90 days to evaluate and make determinations on eligible requests.

“(C) CONSIDERATIONS.—In determining the allocation of appropriations for a fishery resource disaster, the Secretary shall consider commercial, charter, headboat, or seafood processing revenue losses and negative impacts to subsistence and Tribal ceremonial fishing opportunity, for the affected fishery and may consider the following factors:

- “(i) Direct economic impacts.
- “(ii) Uninsured losses.
- “(iii) Losses of recreational fishing opportunity.
- “(iv) Aquaculture operations revenue loss.

“(v) Direct revenue losses to a fishing community.

“(vi) Treaty obligations.

“(vii) Other economic impacts.

“(D) SPEND PLANS.—To receive an allocation from funds available under paragraph (9), a requester with an affirmative fishery resource disaster determination shall submit a spend plan to the Secretary, not more than 120 days after receiving notification that funds are available, that shall include the following information, if applicable:

“(i) Objectives and outcomes, with an emphasis on addressing the factors contributing to the fishery resource disaster and minimizing future uninsured losses, if applicable.

“(ii) Statement of work.

“(iii) Budget details.

“(E) REGIONAL CONTACT.—If so requested, the Secretary shall provide a regional contact within the National Oceanic and Atmospheric Administration to facilitate review of spend plans and disbursement of funds.

“(F) DISBURSAL OF FUNDS.—

“(i) AVAILABILITY.—Funds shall be made available to grantees not later than 90 days after the date the Secretary receives a complete spend plan.

“(ii) METHOD.—The Secretary may provide an allocation of funds under this subsection in the form of a grant, direct payment, cooperative agreement, loan, or contract.

“(iii) ELIGIBLE USES.—

“(I) IN GENERAL.—Funds allocated for fishery resource disasters under this subsection shall restore the fishery affected by such a disaster, prevent a similar disaster in the future, or assist the affected fishing community, and shall prioritize the following uses, which are not in order of priority:

“(aa) Habitat conservation and restoration and other activities, including scientific research, that reduce adverse impacts to the fishery or improve understanding of the affected species or its ecosystem.

“(bb) The collection of fishery information and other activities that improve management of the affected fishery.

“(cc) In a commercial fishery, capacity reduction and other activities that improve management of fishing effort, including funds to offset budgetary costs to refinance a Federal fishing capacity reduction loan or to repay the principal of a Federal fishing capacity reduction loan.

“(dd) Developing, repairing, or improving fishery-related public infrastructure.

“(ee) Direct assistance to a person, fishing community (including assistance for lost fisheries resource levies), or a business to alleviate economic loss incurred as a direct result of a fishery resource disaster, particularly when affected by a circumstance described in paragraph (5)(D) or by negative impacts to subsistence and Tribal ceremonial fishing opportunity.

“(ff) Hatcheries and stock enhancement to help rebuild the affected stock or offset fishing pressure on the affected stock.

“(II) DISPLACED FISHERY EMPLOYEES.—Where appropriate, individuals carrying out the activities described in items (aa) through (dd) of subclause (I) shall be individuals who are, or were, employed in a commercial, charter, or Tribal fishery for which the Secretary has determined that a fishery resource disaster has occurred.

“(7) LIMITATIONS.—

“(A) FEDERAL SHARE.—

“(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.

“(ii) WAIVER.—The Secretary may waive the non-Federal share requirements of this subsection, if the Secretary determines that—

“(I) no reasonable means are available through which the recipient of the Federal share can meet the non-Federal share requirement; and

“(II) the probable benefit of 100 percent Federal financing outweighs the public interest in imposition of the non-Federal share requirement.

“(iii) EXCEPTION.—The Federal share shall be equal to 100 percent in the case of—

“(I) direct assistance as described in paragraph (6)(F)(iii)(I)(ee); or

“(II) assistance to subsistence or Tribal fisheries.

“(B) LIMITATIONS ON ADMINISTRATIVE EXPENSES.—

“(i) FEDERAL.—Not more than 3 percent of the funds available under this subsection may be used for administrative expenses by the National Oceanographic and Atmospheric Administration.

“(ii) STATE OR TRIBAL GOVERNMENTS.—Of the funds remaining after the use described in clause (i), not more than 5 percent may be used by States, Tribal governments, or interstate marine fisheries commissions for administrative expenses.

“(C) FISHING CAPACITY REDUCTION PROGRAM.—

“(i) IN GENERAL.—No funds available under this subsection may be used as part of a fishing capacity reduction program in a fishery unless the Secretary determines that adequate conservation and management measures are in place in such fishery.

“(ii) ASSISTANCE CONDITIONS.—As a condition of providing assistance under this subsection with respect to a vessel under a fishing capacity reduction program, the Secretary shall—

“(I) prohibit the vessel from being used for fishing in Federal, State, or international waters; and

“(II) require that the vessel be—

“(aa) scrapped or otherwise disposed of in a manner approved by the Secretary;

“(bb) donated to a nonprofit organization and thereafter used only for purposes of research, education, or training; or

“(cc) used for another non-fishing purpose provided the Secretary determines that adequate measures are in place to ensure that the vessel cannot reenter any fishery anywhere in the world.

“(D) NO FISHERY ENDORSEMENT.—

“(i) IN GENERAL.—A vessel that is prohibited from fishing under subparagraph (C)(ii)(I) shall not be eligible for a fishery endorsement under section 12113(a) of title 46, United States Code.

“(ii) NONEFFECTIVE.—A fishery endorsement for a vessel described in clause (i) shall not be effective.

“(iii) NO SALE.—A vessel described in clause (i) may not be sold to a foreign owner or reflagged.

“(8) PUBLIC INFORMATION ON DATA COLLECTION.—The Secretary shall make available and update as appropriate, information on data collection and submittal best practices for the information described in paragraph (4)(B).

“(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$377,000,000 for the period of fiscal years 2023 through 2028.”

#### SEC. 202. SUBSISTENCE FISHING.

(a) PURPOSES.—Section 2(b)(3) (16 U.S.C. 1801(b)(3)) is amended by inserting “, subsistence,” after “commercial”.

(b) DEFINITION OF SUBSISTENCE FISHING.—Section 3 (16 U.S.C. 1802) is amended—

(1) by redesignating the second paragraph (33) (appearing after paragraph (50) as paragraph (51); and

(2) by inserting after paragraph (42) the following:

“(42A)(A) SUBSISTENCE FISHING.—The term ‘subsistence fishing’ means fishing in which the fish harvested are intended for customary and traditional uses, including—

“(i) for direct or sharing personal, family, or community consumption, including as food, shelter, clothing, or tools;

“(ii) for the making or selling of handicraft articles out of nonedible by-products of subsistence fishing;

“(iii) for barter; and

“(iv) for customary trade.

“(B) In this paragraph—

“(i) the term ‘family’ means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and

“(ii) the term ‘barter’ means the exchange of a fish or fish part harvested through subsistence fishing—

“(I) for another fish or fish part; or

“(II) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.”.

**SEC. 203. WORKING WATERFRONTS GRANT PROGRAM.**

The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) is amended by adding at the end the following:

**“SEC. 320. WORKING WATERFRONTS GRANT PROGRAM.**

**“(a) WORKING WATERFRONTS TASK FORCE.—**

**“(1) ESTABLISHMENT AND FUNCTIONS.—**The Secretary shall establish a task force to work directly with coastal States, user groups, and coastal stakeholders to identify and address critical needs with respect to working waterfronts.

**“(2) MEMBERSHIP.—**The members of the task force shall be appointed by the Secretary, and shall include—

**“(A)** experts in the unique economic, social, cultural, ecological, geographic, and resource concerns of working waterfronts; and

**“(B)** representatives from the National Oceanic and Atmospheric Administration’s Office of Coastal Management, the United States Fish and Wildlife Service, the Department of Agriculture, the Environmental Protection Agency, the United States Geological Survey, the Navy, the National Marine Fisheries Service, the Economic Development Administration, and such other Federal agencies as the Secretary considers appropriate.

**“(3) FUNCTIONS.—**The task force shall—

**“(A)** identify and prioritize critical needs with respect to working waterfronts in States that have a management program approved by the Secretary pursuant to section 306, in the areas of—

**“(i)** economic and cultural importance of working waterfronts to communities;

**“(ii)** changing environments and threats working waterfronts face from environmental changes, trade barriers, sea level rise, extreme weather events, ocean acidification, and harmful algal blooms; and

**“(iii)** identifying working waterfronts and highlighting them within communities;

**“(B)** outline options, in coordination with coastal States and local stakeholders, to address such critical needs, including adaptation and mitigation where applicable;

**“(C)** identify Federal agencies that are responsible for addressing such critical needs; and

**“(D)** recommend Federal agencies best suited to address any critical needs for which no agency is responsible under existing law.

**“(4) INFORMATION TO BE CONSIDERED.—**In identifying and prioritizing policy gaps pursuant to paragraph (3), the task force shall consider the findings and recommendations contained in section VI of the report entitled ‘The Sustainable Working Waterfronts Toolkit: Final Report’, dated March 2013.

**“(5) REPORT.—**Not later than 18 months after the date of the enactment of this section, the task force shall submit a report to Congress on its findings.

**“(6) IMPLEMENTATION.—**The head of each Federal agency identified in the report pursuant to paragraph (3)(C) shall take such action as is necessary to implement the recommendations contained in the report by not later than one year after the date of issuance of the report.

**“(b) WORKING WATERFRONTS GRANT PROGRAM.—**

**“(1) ESTABLISHMENT.—**The Secretary shall establish a Working Waterfront Grant Program, in cooperation with appropriate State, regional, and other units of government, under which the Secretary may make a grant to any coastal State for the purpose of implementing a working waterfronts plan approved by the Secretary under subsection (c).

**“(2) GRANTS.—**The Secretary shall award matching grants under the Working Waterfronts Grant Program to coastal States with approved working waterfronts plans through a regionally equitable, competitive funding process in accordance with the following:

**“(A)** The Governor, or an agency designated by the Governor for coordinating the implementation of this section, in consultation with any appropriate local government, shall determine that the application is consistent

with the State's or territory's approved coastal zone plan, program, and policies prior to submission to the Secretary.

“(B) In developing guidelines under this section, the Secretary shall consult with coastal States, other Federal agencies, and other interested stakeholders with expertise in working waterfronts planning.

“(C) Coastal States may allocate grants to local governments, agencies, or nongovernmental organizations eligible for assistance under this section.

“(3) CONSIDERATIONS.—In awarding a grant to a coastal State, the Secretary shall consider—

“(A) the economic, cultural, and historical significance of working waterfronts to the coastal State;

“(B) the demonstrated working waterfronts needs of the coastal State as outlined by a working waterfronts plan approved for the coastal State under subsection (c), and the value of the proposed project for the implementation of such plan;

“(C) the ability to leverage funds among participating entities, including Federal agencies, regional organizations, State and other government units, landowners, corporations, or private organizations;

“(D) the potential for rapid turnover in the ownership of working waterfronts in the coastal State, and where applicable the need for coastal States to respond quickly when properties in existing or potential working waterfronts areas or public access areas as identified in the working waterfronts plan submitted by the coastal State come under threat or become available; and

“(E) the impact of the working waterfronts plan approved for the coastal State under subsection (c) on the coastal ecosystem and the users of the coastal ecosystem.

“(4) TIMELINE FOR APPROVAL.—The Secretary shall approve or reject an application for such a grant not later than 60 days after receiving an application for the grant.

“(c) WORKING WATERFRONTS PLANS.—

“(1) DEVELOPMENT AND SUBMISSION OF PLAN.—To be eligible for a grant under subsection (b), a coastal State shall submit to the Secretary a comprehensive working waterfronts plan in accordance with this subsection, or be in the process of developing such a plan and have an established working waterfronts program at the State or local level.

“(2) PLAN REQUIREMENTS.—Such plan—

“(A) shall provide for preservation and expansion of access to coastal waters to persons engaged in commercial fishing, marine recreational and tourism businesses, aquaculture, boatbuilding, or other water-dependent, coastal-related business;

“(B) shall include—

“(i) an assessment of the economic, social, cultural, and historic value of working waterfronts to the coastal State;

“(ii) a description of relevant State and local laws and regulations affecting working waterfronts in the geographic areas identified in the working waterfronts plan;

“(iii) identification of geographic areas where working waterfronts are currently under threat of conversion to uses incompatible with commercial and recreational fishing, recreational fishing and boating businesses, other marine recreational and tourism businesses, aquaculture, boatbuilding, or other water-dependent, coastal-related business, and the level of that threat;

“(iv) identification of geographic areas with a historic connection to working waterfronts where working waterfronts are not currently available, and, where appropriate, an assessment of the environmental impacts of any expansion or new development of working waterfronts on the coastal ecosystem;

“(v) identification of other working waterfronts needs including improvements to existing working waterfronts and working waterfronts areas;

“(vi) a strategic and prioritized plan for the preservation, expansion, and improvement of working waterfronts in the coastal State;

“(vii) for areas identified under clauses (iii), (iv), (v), and (vi), identification of current availability and potential for expansion of public access to coastal waters;

“(viii) a description of the degree of community support for such strategic plan; and



- “(ix) a contingency plan for properties that revert to the coastal State pursuant to determinations made by the coastal State under subsection (g)(4)(C);
- “(C) may include detailed descriptions of environmental impacts on working waterfronts, including hazards, sea level rise, inundation exposure, and other resiliency issues;
- “(D) may be part of the management program approved under section 306;
- “(E) shall utilize to the maximum extent practicable existing information contained in relevant surveys, plans, or other strategies to fulfill the information requirements under this paragraph; and
- “(F) shall incorporate the policies and regulations adopted by communities under local working waterfronts plans or strategies in existence before the date of the enactment of this section.
- “(3) A working waterfront plan—
- “(A) shall be effective for purposes of this section for the 5-year period beginning on the date it is approved by the Secretary;
- “(B) must be updated and re-approved by the Secretary before the end of such period; and
- “(C) shall be complimentary to and incorporate the policies and objectives of regional or local working waterfronts plan as in effect before the date of the enactment of this section or as subsequently revised.
- “(4) The Secretary may—
- “(A) award planning grants to coastal States for the purpose of developing or revising comprehensive working waterfronts plan;
- “(B) award grants consistent with the purposes of this section to States undertaking the working waterfronts planning process under this section, for the purpose of preserving and protecting working waterfronts during such process; and
- “(C) determine that a preexisting coastal land use plan for that State is in accordance with the requirements of this subsection.
- “(5) Any coastal State applying for a working waterfronts grant under this title shall—
- “(A) develop a working waterfronts plan, using a process that involves the public and those with an interest in the coastal zone;
- “(B) coordinate development and implementation of such a plan with other coastal management programs, regulations, and activities of the coastal State; and
- “(C) if the coastal State allows qualified holders (other than the coastal State) to enter into working waterfronts covenants, provide as part of the working waterfronts plan under this subsection a procedure to ensure that the qualified holders are fulfilling such qualified holder’s obligations under the working waterfronts covenant.
- “(d) USES, TERMS, AND CONDITIONS.—A grant under this section may be used—
- “(1) to acquire a working waterfronts, or an interest in a working waterfront;
- “(2) to make improvements to a working waterfronts, including the construction or repair of wharfs, boat ramps, or related facilities; or
- “(3) for necessary climate change adaptation or mitigation.
- “(e) PUBLIC ACCESS REQUIREMENT.—A working waterfronts project funded by grants made under this section must provide for expansion, improvement, or preservation of reasonable and appropriate public access to coastal waters at or in the vicinity of a working waterfront, except for commercial fishing or other industrial access points where the coastal State determines that public access would be unsafe.
- “(f) LIMITATIONS.—
- “(1) Except as provided in paragraph (2), a grant awarded under this section may be used to purchase working waterfronts or an interest in working waterfronts, including an easement, only from a willing seller and at fair market value.
- “(2) A grant awarded under this section may be used to acquire working waterfronts or an interest in working waterfronts at less than fair market value only if the owner certifies to the Secretary that the sale is being entered into willingly and without coercion.
- “(3) No Federal, State, or local entity may exercise the power of eminent domain to secure title to any property or facilities in connection with a project carried out under this section.
- “(g) ALLOCATION OF GRANTS TO LOCAL GOVERNMENTS AND OTHER ENTITIES.—
- “(1) DESIGNATION OF QUALIFIED HOLDER.—Subject to the approval of the Secretary, a coastal State may, as part of an approved working waterfront plan, designate as a qualified holder any unit of State or local government or non-

governmental organization, if the coastal State is ultimately responsible for ensuring that the property will be managed in a manner that is consistent with the purposes for which the land entered into the program.

“(2) ALLOCATION.—A coastal State or a qualified holder designated by a coastal State may allocate to a unit of local government, nongovernmental organization, fishing cooperative, or other entity, a portion of any grant made under this section for the purpose of carrying out this section, except that such an allocation shall not relieve the coastal State of the responsibility for ensuring that any funds so allocated are applied in furtherance of the coastal State’s approved working waterfronts plan.

“(3) EXCEPTIONS.—A qualified holder may hold title to or interest in property acquired under this section, except that—

“(A) all persons holding title to or interest in working waterfronts affected by a grant under this section shall enter into a working waterfronts covenant;

“(B) such covenant shall be held by the coastal State or a qualified holder designated under paragraph (1);

“(C) if the coastal State determines, on the record after an opportunity for a hearing, that the working waterfronts covenant has been violated—

“(i) all right, title, and interest in and to the working waterfronts covered by such covenant shall, except as provided in subparagraph (D), revert to the coastal State; and

“(ii) the coastal State shall have the right of immediate entry onto the working waterfronts; and

“(D) if a coastal State makes a determination under subparagraph (C), the coastal State may convey or authorize the qualified holder to convey the working waterfront or interest in working waterfronts to another qualified holder.

“(h) MATCHING CONTRIBUTIONS.—

“(1) IN GENERAL.—Except as provided in paragraph (2), the Secretary shall require that each coastal State that receives a grant under this section, or a qualified holder designated by that coastal State under subsection (g), shall provide matching funds in an amount equal to at least 25 percent of the total cost of the project carried out with the grant. As a condition of receipt of a grant under this section, the Secretary shall require that a coastal State provide to the Secretary such assurances as the Secretary determines are sufficient to demonstrate that the share of the cost of each eligible project that is not funded by the grant awarded under this section has been secured.

“(2) WAIVER.—The Secretary may waive the application of paragraph (1) for any qualified holder that is an underserved community, a community that has an inability to draw on other sources of funding because of the small population or low income of the community, or for other reasons the Secretary considers appropriate.

“(3) IN-KIND CONTRIBUTIONS.—A local community designated as a qualified holder under subsection (g) may use funds or other in-kind contributions donated by a nongovernmental partner to satisfy the matching funds requirement under this subsection.

“(4) FUNDING FROM OTHER FEDERAL SOURCE.—If financial assistance under this section represents only a portion of the total cost of a project, funding from other Federal sources may be applied to the cost of the project.

“(5) VALUE OF A WORKING WATERFRONT.—The Secretary shall treat as non-Federal match the value of a working waterfront or interest in a working waterfront, including conservation and other easements, that is held in perpetuity by a qualified holder, if the working waterfront or interest is identified in the application for the grant and acquired by the qualified holder not later than three years of the grant award date, or not later than three years after the submission of the application and before the end of the grant award period. Such value shall be determined by an appraisal performed at such time before the award of the grant as the Secretary considers appropriate.

“(6) OTHER CONSIDERATIONS.—The Secretary shall treat as non-Federal match the costs associated with acquisition of a working waterfront or an interest in a working waterfront, and the costs of restoration, enhancement, or other improvement to a working waterfront, if the activities are identified in the project application and the costs are incurred within the period of the grant award, or, for working waterfront described in paragraph (6), within the same time limits described in that paragraph. Such costs may include either cash or in-kind contributions.

“(i) LIMIT ON ADMINISTRATIVE COSTS.—The Secretary may not use more than 5 percent of the funds made available under this section may for planning or administration of the program under this section.

“(j) OTHER TECHNICAL AND FINANCIAL ASSISTANCE.—

“(1) The Secretary may use up to 5 percent of the funds appropriated under this section to provide technical assistance as described in this subsection.

“(2) The Secretary shall—

“(A) provide technical assistance to coastal States and local governments in identifying and obtaining other sources of available Federal technical and financial assistance for the development and revision of a working waterfronts plan and the implementation of an approved working waterfronts plan;

“(B) provide technical assistance to States and local governments for the development, implementation, and revision of comprehensive working waterfronts plans, which may include, subject to the availability of appropriations, planning grants and assistance, pilot projects, feasibility studies, research, and other projects necessary to further the purposes of this section;

“(C) assist States in developing other tools to protect working waterfronts;

“(D) collect and disseminate to States guidance for best stormwater management practices in regards to working waterfronts;

“(E) provide technical assistance to States and local governments on integrating resilience planning into working waterfronts preservation efforts; and

“(F) collect and disseminate best practices on working waterfronts and resilience planning.

“(k) REPORTS.—

“(1) The Secretary shall—

“(A) develop performance measures to evaluate and report on the effectiveness of the program under this section in accomplishing the purpose of this section; and

“(B) submit to Congress a biennial report that includes such evaluations, an account of all expenditures, and descriptions of all projects carried out using grants awarded under this section.

“(2) The Secretary may submit the biennial report under paragraph (1)(B) by including it in the biennial report required under section 316.

“(l) DEFINITIONS.—In this section, the following definitions apply:

“(1) QUALIFIED HOLDER.—The term ‘qualified holder’ means a coastal State or a unit of local or coastal State government or a non-State organization designated by a coastal State under subsection (g).

“(2) WORKING WATERFRONT.—The term ‘working waterfront’ means real property (including support structures over water and other facilities) that provides access to coastal waters to persons engaged in commercial and recreational fishing, recreational fishing and boating businesses, other marine recreational and tourism businesses, boatbuilding, aquaculture, or other water-dependent, coastal-related business and is used for, or that supports, commercial and recreational fishing, recreational fishing and boating businesses, boatbuilding, other marine recreational and tourism businesses, aquaculture, or other water-dependent, coastal-related business.

“(3) WORKING WATERFRONT COVENANT.—The term ‘working waterfront covenant’ means an agreement in recordable form between the owner of working waterfront and one or more qualified holders, that provides such assurances as the Secretary may require that—

“(A) the title to or interest in the working waterfront will be held by a grant recipient or qualified holder in perpetuity, except as provided in subparagraph (C);

“(B) the working waterfront will be managed in a manner that is consistent with the purposes for which the property is acquired pursuant to this section, and the property will not be converted to any use that is inconsistent with the purpose of this section;

“(C) if the title to or interest in the working waterfront is sold or otherwise exchanged—

“(i) all working waterfront owners and qualified holders involved in such sale or exchange shall accede to such agreement; and

“(ii) funds equal to the fair market value of the working waterfront or interest in working waterfront shall be paid to the Secretary by parties to the sale or exchange, and such funds shall, at the discretion of the Secretary, be paid to the coastal State in which the working water-

front is located for use in the implementation of the working waterfront plan of the State approved by the Secretary under this section; and  
“(D) such covenant is subject to enforcement and oversight by the coastal State or by another person as determined appropriate by the Secretary.  
“(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$12,000,000 for each of fiscal years 2023 through 2027 to carry out this section.”.

**SEC. 204. SEAFOOD MARKETING.**

(a) **OUTREACH PLAN.**—The Secretary of Agriculture, in conjunction with the Administrator, shall develop an outreach plan to expand Department of Agriculture outreach to fishing industry stakeholders to increase awareness of and assist with the use of programs in the Agricultural Marketing Service.

(b) **STUDY.**—The Administrator shall, in consultation with the Secretary of Agriculture and members of the seafood industry, study the possibility of establishing education and marketing programs within the National Oceanic and Atmospheric Administration.

(c) **REPORTS.**—Not later than 2 years after the date of enactment of this Act—

(1) the Secretary of Agriculture, in conjunction with the Administrator, shall submit a report to Congress on the outreach plan developed under subsection (a); and

(2) the Administrator shall submit a report to Congress on the findings of the study conducted under subsection (b).

**SEC. 205. COMMUNITY PARTICIPATION IN LIMITED ACCESS PRIVILEGE PROGRAMS.**

(a) **IN GENERAL.**—Section 303A(c) (16 U.S.C. 1853a(c)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (C)(iii), by inserting “, including the participation of fishing communities in the fishery” after “benefits”; and

(B) by adding at the end the following:

“(L) consider the needs of fishing communities and provide a process for fishing communities to participate in the limited access privilege program in accordance with subsection (c)(3).”; and

(2) by amending paragraph (3) to read as follows:

“(3) **FISHING COMMUNITIES.**—

“(A) **ELIGIBILITY.**—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

“(i) be located within the management area of the relevant Council;

“(ii) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council’s management area;

“(iii) seek to participate in such program for a purpose other than perfecting or realizing a security interest in such access; and

“(iv) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval.

“(B) **COMMUNITY SUSTAINABILITY PLAN APPROVAL.**—

“(i) **IN GENERAL.**—A community sustainability plan submitted by a fishing community to a Council and the Secretary for approval shall include the following components:

“(I) A description of the entity and the Board and governance for the entity that will receive the allocation.

“(II) A description of the quota allocation process that will be used by the fishing community entity, including an appeals process within the entity.

“(III) Provisions for monitoring and enforcement of the community sustainability plan.

“(IV) Goals and objectives for the fishing community and how the entity will use the allocation to meet those goals and objectives.

“(V) A description of how the entity will sustain the participation of the fishing community in the fisheries, including providing for new entry and intergenerational transfer, encouraging active participation and addressing economic barriers to access to the fisheries.

“(VI) A description of how the community sustainability plan will address the projected economic and social impacts associated with the implementation of the limited access privilege program, including the potential for strengthening economic conditions in remote

fishing communities lacking the resources to participate in harvesting activities in the fishery.

“(VII) A description of how the community sustainability plan will ensure the benefits of participating in the limited access privilege program accrue to the fishing community and participants, including limitations or measures necessary to prevent an inequitable concentration of limited access privileges within the fishing community.

“(ii) PREVIOUSLY ADOPTED PLAN.—A community sustainability plan submitted before the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022 shall not be invalidated by failure to comply with clause (i) unless such plan is amended after such date.”.

(b) AUDIT.—

(1) IN GENERAL.—The Inspector General of the Department of Commerce shall conduct an audit regarding limited access privilege programs for federally managed fisheries in the United States.

(2) DETERMINATIONS AND DISCLOSURES.—The audit required under paragraph (1) shall determine and disclose the following:

(A) The amount of harvest privileges or transferable quota that were actively harvested each year from 2017 through 2022.

(B) The amount of harvest privileges or transferable quota that were leased to other parties or entities each year from 2017 through 2022.

(C) The names of corporations, partnerships, or other authorized entities that currently hold harvesting privileges or transferable quota in Federal fisheries.

(D) The proportion of transferable quota holders (both individuals and authorized entities) who are actively fishing their harvesting privileges.

(E) The average cost of a transferable harvest share in each federally managed limited access privilege program.

(F) The average leasing cost of a transferable harvest share in each federally managed limited access privilege program where leasing is occurring.

(3) ADDITIONAL REQUIREMENTS.—In addition to the requirements under paragraph (2), the audit required under this subsection shall—

(A) evaluate the Secretary of Commerce’s performance overseeing limited access privilege programs in accordance with section 303A(c)(1)(J) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853a(c)(1)(J)); and

(B) recommend policies to strengthen transparency and achieve full disclosure of ownership of harvest privileges in limited access privilege programs.

(4) CONGRESSIONAL BRIEFING.—Not later than one year after the date of enactment of this Act, the Inspector General shall brief the appropriate committees of Congress on the preliminary findings of the audit conducted under paragraph (1).

(5) FINAL REPORT.—Not later than 30 days after the date on which a briefing occurs under paragraph (4), the Inspector General shall submit to Congress a final report setting forth the results of the audit conducted under paragraph (1).

**SEC. 206. FINDINGS.**

Section 2(a)(3) (16 U.S.C. 1801(a)(3)) is amended to read as follows:

“(3) Commercial, recreational, and charter fishing constitute major sources of employment and contribute significantly to the economy of the nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources; ensuring sustainable use of fishery resources is essential to the economic well-being of these areas.”.

**SEC. 207. PARTICIPATION BY FISHERY-DEPENDENT COMMUNITIES.**

(a) IN GENERAL.—Section 301(a)(8) (16 U.S.C. 1851(a)(8)) is amended to read as follows:

“(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), provide for the sustained participation by fishery-dependent communities, to the extent practicable, by using economic and social data that meets the requirements of paragraph (2) to—

“(A) minimize adverse economic impacts on such communities; and

“(B) include measurable objectives and tangible strategies that provide residents of local fishing communities with sustained access to adjacent fisheries.”.

(b) UPDATE OF ADVISORY GUIDELINES.—Not later than 60 days after the date of enactment of this section, the Secretary shall update the advisory guidelines required under section 301(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(b)) to be consistent with the amendment made by this section.

## **TITLE III—STRENGTHENING PUBLIC PROCESS AND TRANSPARENCY**

### **SEC. 301. TRIBAL REPRESENTATION AT THE PACIFIC FISHERY MANAGEMENT COUNCIL.**

- (a) IN GENERAL.—Section 302(b)(5) (16 U.S.C. 1852(b)(5)) is amended—
- (1) in subparagraph (A), by striking “of not less than 3 individuals”; and
  - (2) by adding at the end the following:
 

“(E) TERM OF TRIBAL REPRESENTATIVE.—An individual appointed under subparagraph (A) shall serve on the Pacific Council until such time as a new appointment to the tribal seat is made under subparagraph (A).”.
- (b) CONFORMING AMENDMENT.—Section 302(b)(3) is amended by striking “paragraphs (2) and (5)” and inserting “paragraph (2)”.

### **SEC. 302. TRIBAL REPRESENTATION AT THE NORTH PACIFIC FISHERY MANAGEMENT COUNCIL.**

- (a) IN GENERAL.—Section 302(a)(1)(G) (16 U.S.C. 1852(a)(1)(G)) is amended—
- (1) by striking “11” and inserting “13”; and
  - (2) by inserting “and including 2 appointed from Indian Tribes in Alaska that are identified (including parenthetically) on the most current list (as of the date of the enactment of this paragraph) published by the Secretary under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131)” before the period at the end.
- (b) APPOINTMENT.—Section 302(b) (16 U.S.C. 1852(b)) is amended by adding at the end the following:
- “(7) TRIBAL REPRESENTATIVE ON NORTH PACIFIC COUNCIL.—
- “(A) APPOINTMENT.—The Secretary shall appoint to the North Pacific Council 2 individuals described in subparagraph (B) to serve as representatives of Indian Tribes in Alaska that are identified (including parenthetically) on the most current list (as of the date of the enactment of this paragraph) published by the Secretary under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131) from a list submitted by the Tribal governments of those Tribes. The Secretary, in consultation with the Secretary of the Interior, Tribal Governments, and the Alaska Federation of Natives, shall establish by regulation the procedure for submitting a list under this subparagraph.
- “(B) REQUIRED QUALIFICATIONS.—An individual is described in this subparagraph if such individual possesses knowledge of the region’s anadromous fish, of the marine resources managed by the Council, of the effects of the Council’s actions on such resources, and of the region’s subsistence uses, customs, and traditions relating to such resources and—
- “(i) possesses knowledge of commercial and sport uses of anadromous fish and marine resources in the region; or
  - “(ii) demonstrates leadership through involvement in local or regional fish and wildlife management organizations.
- “(C) REPRESENTATION.—Representation shall be rotated among affected tribal regions, taking into consideration—
- “(i) the qualifications of the individuals on the list described in subparagraph (A);
  - “(ii) the degree to which the Indian tribes in the region are dependent on anadromous fish and marine resources in the area managed by the Council and the impact of Council actions on such resources; and
  - “(iii) the geographic area in which the tribe of the representative is located.
- “(D) FILLING OF VACANCY.—A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (C), except that the Secretary may use the list from which the vacating representative was chosen.
- “(E) DESIGNATION OF ALTERNATE.—The tribal representative appointed under subparagraph (A) may designate as an alternate an individual knowledgeable concerning tribal rights and fishing practices, Indigenous traditional knowledge, tribal law, and other marine resources of the geographical area concerned.

“(F) TERM OF APPOINTMENT.—An individual appointed under subparagraph (A) shall serve on the North Pacific Council until such time as a new appointment to the tribal seat is made under subparagraph (A).”.

**SEC. 303. ATLANTIC COUNCILS.**

Section 302(a) (16 U.S.C. 1852(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by striking “18” and inserting “19”; and

(ii) by inserting before the period at the end the following: “and a liaison who is a member of the Mid-Atlantic Fishery Management Council to represent the interests of fisheries under the jurisdiction of such Council”; and

(B) in subparagraph (B)—

(i) by striking “21” and inserting “22”; and

(ii) by inserting before the period at the end the following: “and a liaison who is a member of the New England Fishery Management Council to represent the interests of fisheries under the jurisdiction of such Council”; and

(2) by adding at the end the following:

“(4) REQUIREMENTS FOR LIAISON.—The Secretary shall appoint an individual to be a liaison between the Councils described in subparagraphs (A) and (B) of paragraph (1) who has expertise in a fishery that spans the geographical areas of both such Councils.”.

**SEC. 304. COUNCIL PROCEDURES AND PARTICIPATION.**

(a) IN GENERAL.—Section 302(e) (16 U.S.C. 1852(e)) is amended—

(1) in paragraph (5), by striking “At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council.” and inserting “Each Council shall hold a roll call vote on all nonprocedural matters before the Council. At the request of any voting member of a Council, the Council shall hold a roll call vote on any procedural matter before the Council.”; and

(2) by adding at the end the following:

“(6) To the extent possible, each Council shall—

“(A) seek to hold meetings in person; and

“(B) ensure the availability of remote meeting participation and voting.”.

(b) COUNCIL MEETINGS.—Section 302(i)(2) is amended by adding at the end the following:

“(G) Each Council shall make available on the website of the Council—

“(i) to the extent possible, a webcast or a live audio or video broadcast of each meeting of the Council, and of the Council Coordination Committee established under subsection (1), that is not closed in accordance with paragraph (3); and

“(ii) an audio or video recording (if the meeting was in person or by video conference), or a searchable audio recording or written transcript, of each meeting of the Council and of the meetings of committees referred to in section 302(g)(1)(B) of the Council, by not later than 30 days after the conclusion of the meeting.

“(H) The Secretary shall maintain and make available to the public, for a period of not less than 5 years beginning on the date of a meeting, an archive of Council and scientific and statistical committee meeting audio and video recordings and transcripts made available under clauses (i) and (ii) of subparagraph (G).”.

**SEC. 305. COUNCIL ACCOUNTABILITY AND MEMBERSHIP.**

(a) VOTING MEMBERS.—Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is amended—

(1) by amending subparagraph (A) to read as follows:

“(A) REQUIRED EXPERTISE.—In making appointments to the Council under this section, the Secretary shall appoint an individual who, by reason of occupational or other experience, scientific expertise, or training, is knowledgeable regarding—

“(i) the conservation and management, or the commercial, recreational, or subsistence harvest, of the fishery resources of the geographic area concerned; or

“(ii) ecosystem-based fishery management or climate science.”;

(2) by amending subparagraph (B) to read as follows:

“(B) APPORTIONMENT.—The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of active participants (or their

representatives) in the commercial, recreational, and subsistence fisheries under the jurisdiction of the Council and of members of the conservation community, scientists, non-consumptive users, and indigenous and tribal communities as applicable, and of the active participants (or their representatives) in the commercial, recreational, and subsistence fisheries under the jurisdiction of the Council. The Secretary shall, on an annual basis, 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 actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

“(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

“(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery and of members of the conservation community, scientists, non-consumptive users, indigenous and tribal communities; and

“(iii) state the Secretary’s plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery and for the categories of members listed in clause (ii).”; and

(3) by amending subparagraph (C) to read as follows:

“(C) APPOINTMENTS.—

“(i) LIST FROM GOVERNOR.—

“(I) APPOINTMENT FROM LIST.—The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State.

“(II) REQUIREMENTS FOR LIST.—in submitting a list for the purposes of subclause (I), a Governor—

“(aa) may only submit the name of an individual if such Governor has determined such individual is qualified under the requirements of subparagraph (A); and

“(bb) shall include the names and pertinent biographical data of not less than 3 individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A).

“(III) REVIEW.—The Secretary shall review each list submitted under this subparagraph. If the Secretary determines that any individual does not meet the requirements of this paragraph, the Secretary shall notify the appropriate Governor.

“(IV) RESPONSE TO REVIEW.—If a Governor receives notice under subclause (III), the Governor may submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question.

“(ii) INDIVIDUALS WHO DO NOT HAVE A FINANCIAL INTEREST.—The Secretary shall appoint to each Council at least one individual who does not have a financial interest in matters before the Council.

“(iii) FINANCIAL DISCLOSURE REQUIREMENTS.— An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (j).”.

(b) Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is amended by adding at the end the following:

“(F) GEOGRAPHIC REPRESENTATION.—In appointing at-large members to the Western Pacific Fishery Management Council, the Secretary shall ensure geographic representation across all constituent states of the Council.”.

(c) DISCLOSURE OF FINANCIAL INTEREST AND RECUSAL.—Section 302(j) (16 U.S.C. 1852(j)) is amended—

(1) by amending paragraph (1)(B) to read as follows:

“(B) the term ‘designated official’ means an attorney employed in the Office of the General Counsel of the National Oceanic and Atmospheric Administration with an expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).”;

(2) in paragraph (2)(C), by inserting “contractor,” after “partner,”; and

(3) in paragraph (5)(B), by striking “on the Internet” and inserting “on the website of the agency, on the website of the applicable Council.”.



(d) LOBBYING.—Section 302 (16 U.S.C. 1852) is amended by adding at the end the following:

“(m) LOBBYING.—

“(1) PROHIBITION ON COUNCIL LOBBYING.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), Regional Fishery Management Council members, members of Council advisory bodies, and Council employees and contractors, are prohibited from using Federal funds to attempt to influence the—

“(i) introduction, advancement, enactment, amendment, or repeal of Federal or State legislation; or

“(ii) issuance, modification, or overturning of an executive order, Presidential proclamation, or similar Presidential directive or decree.

“(B) TECHNICAL AND FACTUAL PRESENTATIONS.—Notwithstanding subparagraph (A), such individuals may provide a technical and factual presentation directly related to the performance of a Council’s duties, through hearing testimony or written statements, if such presentation is in response to a documented request and is made available under paragraph (4).

“(2) ADJUDICATING VIOLATIONS.—

“(A) INITIATION BY SECRETARY.—The Secretary may initiate an investigation of a potential violation of this subsection.

“(B) COMPLAINT.—The Secretary shall investigate a complaint submitted by any person or government entity regarding a potential violation of this subsection.

“(3) PENALTIES.—If the Secretary determines that an individual violated paragraph (1), such individual shall be subject to disciplinary action including suspension or expulsion from participation in, membership of, or employment by a council, advisory body, or related entity or activity.

“(4) TRAINING.—The Secretary shall provide training to individuals described in paragraph (1) on compliance with rules issued under this subsection and general limits of Federal grant recipients on contacts with members and staff of the Executive and Legislative branches.

“(5) REPORT.—The Secretary shall submit an annual report to the Committee on Natural Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that describes—

“(A) the funding provided to implement this subsection;

“(B) complaints received of and investigations into potential violations of this subsection; and

“(C) barriers associated with and proposals to improve implementation of this subsection.

“(6) REGULATIONS.—Not later than 12 months after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall issue implementing regulations for this subsection.”.

(e) WORKPLACE HARASSMENT PREVENTION.—Section 302 (16 U.S.C. 1852) is further amended by adding at the end the following:

“(n) WORKPLACE HARASSMENT PREVENTION.—

“(1) PROHIBITION.—The Secretary shall prohibit any person from harassing a covered individual during the conduct of duties under this Act.

“(2) HARASSMENT PREVENT TRAINING.—Council members and staff shall, as a condition of employment, not later than 1 year after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022 or such individual’s first day of employment by a Council and not less often than every 2 years thereafter, complete 2 hours of workplace harassment prevention training approved by the office authorized by section 3541 of the National Defense Authorization Act for Fiscal Year 2017.

“(3) DEFINITIONS.—In this subsection:

“(A) COVERED INDIVIDUAL.—The term ‘covered individuals’ means—

“(i) council members;

“(ii) council staff;

“(iii) advisory panel members;

“(iv) committee members;

“(v) Federal fishery permit holders; or

“(vi) staff, crew, employees, or contractors associated with a federally permitted vessel or a facility providing services to such vessels.

“(B) HARASSMENT.—The term ‘harassment’ means unwelcome verbal, visual, or physical conduct based on race, color, national origin, religion, age (40 and above), sex (including gender identity, sexual orientation, and pregnancy), disability, genetic information, or prior Equal Employment Opportunity activity.”.

(f) JUDICIAL REVIEW.—Section 305(f)(1) (16 U.S.C. 1855(f)(1)) is amended by striking “30” and inserting “60”.

**SEC. 306. WESTERN PACIFIC SUSTAINABLE FISHERY FUND.**

Section 204(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1824(e)) is amended—

- (1) in paragraph (1)—
  - (A) by striking “in consultation with any appropriate Council,” and inserting “at the request and with the concurrence of the Governor of the applicable Pacific Insular Area,”;
  - (B) by striking “a Pacific Insular Area—” and inserting “that Pacific Insular Area.”; and
  - (C) by striking subparagraphs (A) and (B);
- (2) in paragraph (3)(A)—
  - (A) by inserting “and” before “the Governor”;
  - (B) by striking “, and the appropriate Council”; and
  - (C) by adding at the end the following: “Such permits shall also be consistent with any applicable fishery management plan.”;
- (3) in paragraph (4)—
  - (A) in subparagraph (A)—
    - (i) by striking “the Western Pacific Council and”;
    - (ii) by inserting “of the applicable Pacific Insular Area” after “Governor”; and
    - (iii) by amending (v) to read as follows—
 

“(v) western Pacific community based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects in waters beyond the seaward boundary (as such term is defined in section 4 of the Submerged Lands Act) of any state to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.”; and
  - (B) by amending subparagraph (B) to read as follows:
 

“(B) In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor of the applicable Pacific Insular Area shall develop the marine conservation plan described in subparagraph (A) and submit such plan to the Secretary for approval. In the case of other Pacific Insular Areas, the Secretary and the appropriate Governor of the applicable Pacific Insular Area shall jointly develop the marine conservation plan described in subparagraph (A).”;
- (4) in paragraph (6)—
  - (A) in subparagraph (A), by inserting “and” at the end;
  - (B) by striking subparagraph (B); and
  - (C) by redesignating subparagraph (C) as subparagraph (B);
- (5) in paragraph (7)—
  - (A) by striking “, who shall provide such funds only to” and inserting “for the purposes of”;
  - (B) in subparagraph (A)—
    - (i) by striking “the Western Pacific Council for the purpose of”; and
    - (ii) by inserting “as determined by the Secretary, in consultation with the Western Pacific Sustainable Fishery Fund Advisory Panel established under section 204(e)(9),” after “subsection,”;
  - (C) in subparagraph (B), by inserting “providing such funds as are necessary to” before “the Secretary”;
  - (D) by amending subparagraph (C) to read as follows:
 

“(C) providing such funds as remain in the Western Pacific Sustainable Fisheries Fund after the funding requirements of subparagraphs (A) and (B) have been satisfied to the Governor of Hawaii to meet conservation and management objectives in the State of Hawaii.”; and
  - (E) by striking “Amounts deposited in such fund shall not diminish funding received by the Western Pacific Council for the purpose of carrying out other responsibilities under this Act.”; and
- (6) by adding at the end the following:
 

“(9) WESTERN PACIFIC SUSTAINABLE FISHERY FUND ADVISORY PANEL.—

“(A) IN GENERAL.—To assist in carrying out this paragraph, the Secretary shall establish and convene an advisory panel under section 302(g) to evaluate, determine the relative merits of, and annually rank applications for grants for implementation of approved marine conservation plans approved under paragraph (4). The panel shall consist of members such that—

“(i) the Governor of each applicable Pacific Insular Area selects one member; and

“(ii) no member shall be a member or employee of the Western Pacific Fishery Management Council.

“(B) AWARD NOT IN ACCORDANCE WITH RANK.—If the Secretary awards a grant for a project not in accordance with the rank given to such project by the advisory panel, the Secretary shall provide a detailed written explanation of the reasons for such award.

“(C) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory panel.

“(D) MINUTES.—Minutes of each meeting of the advisory panel shall be kept by the Secretary and shall be made available to the public.

“(E) REPORTS.—The Secretary shall, with the assistance of the Western Pacific Sustainable Fishery Fund Advisory Panel, submit an annual report to Congress identifying any projects that were funded in the previous year and the status and progress of projects carried out under this subsection.

“(F) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App) shall not apply to the advisory panel.”.

**SEC. 307. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION SEXUAL HARASSMENT AND ASSAULT PREVENTION.**

(a) POLICY ON THE PREVENTION OF AND RESPONSE TO SEXUAL HARASSMENT INVOLVING NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION PERSONNEL.—

(1) COVERED PERSONNEL.—Section 3541(a) of the National Defense Authorization Act for Fiscal Year 2017 (33 U.S.C. 894(a)) is amended—

(A) by striking “Not later” and inserting the following:

“(1) IN GENERAL.—Not later”; and

(B) by adding at the end the following:

“(2) INCLUDED PERSONNEL.—The individuals who work with or conduct business on behalf of the Administration referred to in paragraph (1) include the following:

“(A) Observers and at-sea monitors required by the National Marine Fisheries Service to be aboard commercial fishing vessels and other privately owned vessels, barges, or platforms for—

“(i) commercial fisheries observation required by the Magnuson-Stevens Fishery Conservation and Management Act;

“(ii) protected species or endangered species observation required by the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973; or

“(iii) platform removal observation.

“(B) Council members, executive and administrative staff, and advisory panel and committee members of regional fishery management councils established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act.

“(C) Federal fishery permit holders and staff, crew, employees, and contractors associated with federally permitted vessels under the Magnuson-Stevens Fishery Conservation and Management Act.”.

(2) INCLUSION OF EQUAL EMPLOYMENT IN QUARTERLY REPORTS.—Section 3541(f) of such Act (33 U.S.C. 894(f)) is amended—

(A) by inserting “and equal employment” after “sexual harassment” each place it appears; and

(B) in paragraph (2)—

(i) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(ii) by inserting after subparagraph (B) the following:

“(C) A synopsis of each case and the disciplinary action taken (if any) in each case.”.

(b) COMPREHENSIVE POLICY ON PREVENTION OF AND RESPONSE TO SEXUAL ASSAULTS.—

(1) COVERED PERSONNEL.—Section 3542(a) of such Act (33 U.S.C. 894a(a)) is amended—

(A) by striking “Not later” and inserting the following:

“(1) IN GENERAL.—Not later”; and

(B) by adding at the end the following:

“(2) INCLUDED PERSONNEL.—The individuals who work with or conduct business on behalf of the Administration referred to in paragraph (1) include the individuals described in section 3541(a)(2).”.

(2) VICTIM ADVOCATES.—

(A) IN GENERAL.—Section 3542(c)(2) of such Act (33 U.S.C. 894a(c)(2)) is amended to read as follows:

“(2) VICTIM ADVOCATES.—For purposes of this subsection, a victim advocate is a full-time permanent employee of the Administration trained in and responsible solely for matters relating to sexual assault and the comprehensive policy developed under subsection (a).”

(B) LOCATION.—Section 3542(c)(4) (33 U.S.C. 894a(c)(4)) of such Act is amended by inserting “full time” after “stationed”.

(c) ANNUAL REPORT ON SEXUAL ASSAULTS, SEXUAL HARASSMENT, AND EQUAL EMPLOYMENT.—Section 3548 of such Act (33 U.S.C. 894e) is amended—

(1) by striking the section heading and inserting the following: “ANNUAL REPORT ON SEXUAL ASSAULTS, SEXUAL HARASSMENT, AND EQUAL EMPLOYMENT IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.”;

(2) in subsection (a), by inserting “, sexual harassment, and equal employment” after “sexual assaults”; and

(3) in subsection (b)—

(A) in paragraph (4), by inserting “, including a synopsis of each case and the disciplinary action taken, if any, in each case” before the period at the end; and

(B) by adding at the end the following:

“(5) A summary of the number of change of station, unit transfer, and change of work location requests submitted to the Under Secretary under section 3544(a), including the number of such requests that were denied.

“(6) A summary of the number of cases referred to the Coast Guard under section 3550.

“(7) The number of alleged sexual assaults and sexual harassment cases involving fisheries, protected species, and endangered species observers, including—

“(A) a synopsis of each case and the status;

“(B) the disposition of any investigation; and

“(C) a description of the fishery management region and fishery or the geographic region and type of permitted operation in which the assault or harassment is alleged to have occurred, as appropriate.”.

(d) INVESTIGATION AND CRIMINAL REFERRAL REQUIREMENTS.—

(1) TECHNICAL AMENDMENT.—Sections 3548 (as amended) and 3549 of such Act (33 U.S.C. 894e and 894f) are redesignated as sections 3551 and 3552, respectively.

(2) IN GENERAL.—Subtitle C of title XXXV of such Act (33 U.S.C. 894 et seq.) is amended by inserting after section 3547 the following:

**“SEC. 3548. EXCEPTIONS REGARDING ANONYMITY OF SURVIVORS IN CERTAIN CASES.**

“(a) IN GENERAL.—In any case in which an employee, member of the commissioned officer corps, or individual conducting business on behalf of the administration elects anonymous reporting under section 3541(b)(3)(B) or 3542(b)(5)(B), disclosure of such person’s personally identifying information is authorized to the following persons or organizations when disclosure would be for the following reasons:

“(1) To National Oceanic and Atmospheric Administration staff or law enforcement personnel, when authorized by the survivor in writing.

“(2) To National Oceanic and Atmospheric Administration staff or law enforcement personnel to prevent or lessen a serious or imminent threat to the health or safety of the survivor or another person.

“(3) To a victim advocate or healthcare provider, when required for the provision of victim services.

“(4) To a State or Federal court, when ordered by such court or if disclosure is required by Federal or State statute.

“(b) NOTICE OF DISCLOSURE AND PRIVACY PROTECTION.—In any case in which information is disclosed under subsection (a), the Secretary shall—

“(1) make reasonable attempts to provide notice to the employee, member, or individual whose personally identifying information is disclosed; and

“(2) take such action as is necessary to protect the privacy and safety of the employee, member, or individual.

**“SEC. 3549. RESTRICTED REPORTING.**

“(a) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere, shall develop a mechanism to provide a system of restricted reporting.

“(b) RESTRICTED REPORTING DEFINED.—In this section the term ‘restricted reporting’ means a system of reporting that allows employees of the National Oceanic and Atmospheric Administration, members of the Commissioned Officer Corps of the Administration, and individuals who work with or conduct business on behalf of the Administration who are sexually assaulted to confidentially disclose the details of

such person's assault to specified individuals and receive the services outlined in this subtitle title—

- “(1) without the dissemination of such persons's personally identifying information except as necessary for the provision of such services; and
- “(2) without automatically triggering an investigative process.

**“SEC. 3550. MARINER REFERRAL.**

“The Under Secretary of Commerce for Oceans and Atmosphere, acting through the Director of the Office of Marine and Aviation Operations and in consultation with the Commandant of the Coast Guard, shall, not later than 180 days after the date of the enactment of this section, develop and implement a policy to report to the Coast Guard Suspension and Revocation National Center of Expertise, the names of personnel of the National Oceanic and Atmospheric Administration who—

- “(1) are the subject of a claim of an act or offense detrimental to good discipline and safety at sea, such as sexual harassment or sexual assault that is substantiated by an investigation under section 3546, or any other substantiated claim of an act or offense for which suspension or revocation of a credential is either mandatory or sought pursuant to part 5 of title 46 of the Code of Federal Regulations; and

“(2) are—

- “(A) employees or contractors of the Administration required to hold a valid merchant mariner credential as a condition of employment; or
- “(B) crew of a vessel that, at the time of such act or offense, was operating under a contract with the Administration.”.

**(e) CONFORMING AND CLERICAL AMENDMENTS.—**

(1) CONFORMING AMENDMENTS.—Subtitle C of title XXXV of such Act (33 U.S.C. 894 et seq.) is amended—

(A) by striking the term “victims” each place it appears and inserting “survivors”;

(B) in section 3541(b)(2)(B), by striking “victim” and inserting “target of sexual harassment”;

(C) in section 3542(c)(5)(A), by striking “victim of” and inserting “survivor of”;

(D) in section 3543—

(i) in the heading, by striking “VICTIM” and inserting “SURVIVOR”;

and

(ii) by striking “victim” and inserting “survivor”; and

(E) in section 3544—

(i) in subsection (a)—

(I) by striking “VICTIMS” and inserting “SURVIVORS”; and

(II) in paragraph (1), by striking “was” each place such term appears and inserting “is”; and

(ii) by striking “victim” each place such term appears and inserting “survivor”.

(2) CLERICAL AMENDMENT.—Each of the tables of contents in section 2(b) and at the beginning of title XXXV of such Act is amended—

(A) by striking the item relating to section 3543 and inserting the following:

“Sec. 3543. Rights of the survivor of a sexual assault.”;

and

(B) by striking the items relating to sections 3548 and 3549 and inserting the following:

“Sec. 3548. Exceptions regarding anonymity of survivors in certain cases.

“Sec. 3549. Restricted reporting.

“Sec. 3550. Mariner referral.

“Sec. 3551. Annual report on sexual assaults, sexual harassment, and equal employment in the National Oceanic and Atmospheric Administration.

“Sec. 3552. Sexual assault defined.”.

(f) PROHIBITED ACTS.—Section 307(1)(L) (16 U.S.C. 1857(1)(L)) is amended—

(1) by striking “forcibly”; and

(2) by striking “on a vessel”.

(g) PROHIBITION ON SERVICE IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS BY INDIVIDUALS CONVICTED OF CERTAIN SEXUAL OFFENSES.—Section 261(a) of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071(a)) is amended—

(1) by redesignating paragraphs (4) through (26) as paragraphs (5) through (27), respectively;

(2) by inserting after paragraph (3) the following:

“(4) Section 657, relating to prohibition on service by individuals convicted of certain sexual offenses.”.

## **TITLE IV—MODERNIZING FISHERIES SCIENCE AND DATA**

### **SEC. 401. DATA MODERNIZATION.**

(a) **IN GENERAL.**—Not later than 180 days after the date of enactment of this Act, the Secretary, acting through the Assistant Administrator for Fisheries, shall provide to Congress an implementation plan for the Fisheries Information Management Modernization initiative. Such plan shall include a description of—

- (1) activities for the goals and objectives of the initiative;
- (2) a schedule for implementation;
- (3) an estimated budget;
- (4) a plan for stakeholder engagement for development of user-centric systems, processes, and policies; and
- (5) how the initiative will align with other National Oceanic and Atmospheric Administration data management efforts to provide for efficiency and interoperability including such Administration’s Data Strategy, Cloud Strategy, and Artificial Intelligence strategy.

(b) **INFORMATION FROM EXPERTS.**—In carrying out this section, the Secretary shall solicit information, as needed, from data management and technology experts inside and outside the government.

(c) **REPORT.**—The Secretary shall annually report to Congress on progress in carrying out this section.

### **SEC. 402. EXPANDING AND IMPROVING ELECTRONIC TECHNOLOGIES.**

(a) **SENSE OF CONGRESS.**— It is the sense of Congress that the use of electronic technologies such as digital video cameras and monitors, digital recording systems, and other forms of electronic technology as a complement to, and in some cases a replacement for, observers may maintain, increase, or improve the amount and accuracy of observer and fishery dependent information collected from fisheries while reducing costs and logistical difficulties. To achieve optimum yields on a continuing basis while conserving and maintaining fisheries and integrating healthy ecosystem considerations, managers require reliable, timely data across all regions and fishing sectors for conservation, management, and scientific purposes. To achieve management goals especially in the context of climate change, the National Oceanic and Atmospheric Administration should work to meet evolving management needs and, in collaboration with industry stakeholders, identify appropriate data collection technologies and strategies. The National Oceanic and Atmospheric Administration should also consider the use of innovative technology in fishery independent data collection including stock and habitat assessments and environmental conditions.

(b) **FISHERY MANAGEMENT COUNCILS.**—Section 303(b)(8) (16 U.S.C. 1853(b)(8)) is amended to read as follows:

“(8) require the collection of data necessary for the conservation and management of the fishery to be collected from a vessel of the United States engaged in fishing for species that are subject to the plan through—

- “(A) electronic monitoring or other electronic technology; or
- “(B) observers carried onboard such vessel, except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;”.

(c) **INFORMATION SYSTEMS.**—Section 402(a) (16 U.S.C. 1881a(a)) is amended—

(1) in paragraph (1), by inserting “The Council shall consider the use of electronic monitoring and reporting or other electronic technology as part of an information collection program under this subsection.” after “request.”;

(2) in paragraph (2), by inserting “The Secretary shall consider the use of electronic monitoring and reporting or other electronic technology as part of an information collection program.” after “fishery.”; and

(3) by adding at the end the following:

“(3) **SECRETARIAL REVIEW.**—Not less often than once every 5 years, the Secretary shall review the procedures and policies by which information is collected, managed, and used to manage fisheries and revise information collection programs and policies needed to integrate data collection and management, improve the timeliness, quality, usability, cost-effectiveness, and to reduce unnecessary duplication within and across fishery management plans and regions.

Upon the completion of each such review, the Secretary shall publish a report for the public describing the findings of such review and planned revisions to information collection programs.”

(d) ASSESSMENT OF ELECTRONIC TECHNOLOGIES IN FISHERIES MANAGEMENT.—

(1) IN GENERAL.—The Comptroller General of the United States shall, in consultation with the relevant committees of Congress, conduct a review of the capabilities of the National Marine Fisheries Service with respect to developing, deploying, and using electronic monitoring and data collection tools to monitor fisheries and shall make recommendations to improve such capabilities, taking into consideration cost, efficiency, and collaboration with private entities.

(2) REPORT.—The Comptroller General shall submit to Congress a report describing the results of the review required by paragraph (1) and the recommendations made pursuant to such review not later than 18 months after the date of enactment of this Act.

(e) ELECTRONIC TECHNOLOGIES INNOVATION PRIZE.—The Administrator, in consultation with the Secretary of Defense and the heads of other relevant Federal agencies, and in conjunction with such nongovernmental partners as the Administrator determines appropriate, shall establish at least one electronic technologies innovation prize to catalyze the rapid development and deployment of electronic technology-based data collection to be used in fisheries management. Such prize shall focus on one or more of the following:

- (1) Improved fish species recognition software.
- (2) Confidential data management.
- (3) Cost-effective storage of electronic reports, imagery, location information, and other data.
- (4) Data analysis and visualization.
- (5) Artificial intelligence and machine learning applications for data collection and monitoring.
- (6) Battery storage and energy supply storage at sea.
- (7) Improved internet connectivity onshore and at sea in support of data uploads.
- (8) Bycatch hotspot mapping and adaptive use of protected areas.
- (9) Such other area as the Administrator determines appropriate.

(f) ADVISORY PANEL FOR ELECTRONIC TECHNOLOGIES DEVELOPMENT AND DEPLOYMENT.—

(1) ESTABLISHMENT.—The Secretary shall establish an advisory panel (referred to in this subsection as the “Advisory Panel”) to inform the Administrator, the Assistant Administrator for Fisheries, and the Regional Fishery Management Councils on developments in the advancement of electronic technologies that can be used in fisheries monitoring, data collection, and management.

(2) APPOINTMENTS.—In appointing individuals to the Advisory Panel, the Secretary shall appoint at least 2 members who are electronic technology developers, operators, or providers.

(3) SUMMARIES.—The Secretary shall publish, on an annual basis, summaries of Advisory Panel discussions, including a summary of best practices and technical guidance to support Regional Fishery Management Councils.

(4) RECOMMENDATIONS.—Not later than 2 years after the date of enactment of this Act, the Advisory Panel shall make a recommendation to the Secretary regarding the potential value of national performance standards for electronic technologies used in fisheries data collection and management. Such recommendation shall include—

(A) an assessment of how the National Marine Fisheries Service and electronic technology developers, operators, and providers could benefit from such performance standards;

(B) if the Advisory Panel recommends establishing such performance standards, a recommendation for which factors should be included in such performance standards and how the Secretary should determine the appropriate standards;

(C) an assessment of whether such performance standards are likely to spur increased use of electronic technologies by the Regional Fishery Management Councils;

(D) an assessment of how such performance standards would impact existing regional or fishery-specific technologies currently in use and recommendations on ensuring continued use or improvement of these technologies if such performance standards are established;

(E) a list of knowledge gaps or additional questions the Secretary should consider before publishing such performance standards;

(F) recommendations on ensuring cost effectiveness of electronic technologies for fisheries data collection and management;

(G) recommendations to address data storage problems of electronic technologies;

(H) recommendations on ownership of data collected using electronic technology; and

(I) recommendations on policies and procedures to develop and implement electronic technologies for fisheries data collection and management.

(5) EXEMPTION FROM THE FEDERAL ADVISORY COMMITTEES ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Advisory Panel.

(6) SAVINGS CLAUSE.—Nothing in this subsection shall preclude any regional council from independently developing electronic technologies to be used in fisheries data collection and management.

#### SEC. 403. STOCK ASSESSMENTS.

Not later than one year after the date of enactment of this Act, and annually thereafter, the Secretary shall report to the Committee on Natural Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the National Marine Fisheries Service's progress on prioritizing and improving stock assessments. Such report shall—

(1) summarize the methods used for assessments for all stocks of fish for which a fishery management plan is in effect under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and explain which stocks have not been assessed, and why;

(2) summarize each stock assessment and stock assessment update completed during the preceding year;

(3) identify each stock assessment that was planned but not completed and explain why such stock assessment was not completed;

(4) include the schedule for all upcoming stock assessments and stock assessment updates;

(5) summarize data and analysis, that, if available, would reduce uncertainty in and improve the accuracy of future stock assessments, including whether such data and analysis could be provided by fishermen, fishing communities, universities, and research institutions;

(6) summarize progress on autonomous surveys and identify opportunities to expand new technologies for stock assessments data collection; and

(7) summarize data gaps that may be a result of changing ocean and climate conditions, and actions taken to address changing assessment needs.

#### SEC. 404. COOPERATIVE RESEARCH AND MANAGEMENT.

(a) IN GENERAL.—Section 318 (16 U.S.C. 1867) is amended—

(1) in subsection (a), by inserting “fishing communities,” after “data,”;

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

“(b) ELIGIBLE PROJECTS.—The Secretary shall make funds available under the program for the support of cooperative research and management projects to address critical needs identified by the Councils. Each Council shall provide a list of such needs to the Secretary on an annual basis, identifying and prioritizing such needs. The program shall promote and encourage efforts to use sources of data maintained by other Federal agencies, State agencies, local and traditional knowledge, or academia for use in such projects.”;

(3) by amending subsection (c) to read as follows:—

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

“(1) Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology.

“(2) Projects to improve fishery dependent data collection, intake, use, and access including—

“(A) to assess the amount and type of bycatch or post-release mortality occurring in a fishery;

“(B) expanding the use of electronic technology and modernizing data management systems; and

“(C) improving monitoring coverage through the expanded use of electronic technology.

“(3) Conservation engineering or management projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies and methods to other



nations, or other regional entities, including fishing communities, regional fishery associations, and fishing sectors.

“(4) Projects for the identification of habitat areas of particular concern and for habitat conservation.

“(5) Projects designed to collect and compile economic and social data for which electronic technologies can be added.

“(6) Projects to test and expand electronic technologies for monitoring, reporting, observer coverage, and other functions.

“(7) Projects that use electronic technologies to monitor changing ocean conditions, improve methods, support adaptive management, and enhance climate resilience in fisheries.

“(8) Projects designed to identify the impacts of anticipated changing ocean conditions, including climate change, on fish stocks, fisheries, and fishing communities or designed to develop conservation and management strategies to adapt to those impacts.

“(9) Cooperative management projects that make use of data collected under this section.

“(10) Projects to better understand shark depredation, what causes increases in the behavior, and how to best address the behavior.”;

(4) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively;

(5) by inserting after subsection (d) the following:

“(e) COOPERATIVE MANAGEMENT AGREEMENTS.—

“(1) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Secretary, in consultation with the Councils and with input from the public, shall issue guidance to facilitate a transparent, timely, uniform, and regionally based process for the development, oversight, and management of cooperative management agreements.

“(2) PROCESS FOR APPROVAL.—The Secretary may use the process developed pursuant to (d) to approve cooperative management agreements as if such agreements are cooperative fishing agreements.

“(3) PERFORMANCE STANDARDS.—An agreement authorized by this subsection shall be subject to performance standards and accountability measures specified in a fishery management plan or otherwise established by the Secretary, in consultation with the Councils, and shall not allow catch in excess of annual catch limits or bycatch in excess of bycatch caps or limits.

“(4) PRE-EXISTING AGREEMENTS.—This subsection shall not apply to a cooperative management agreement submitted to, proposed by or approved by the Secretary before the date of enactment of this Act.”; and

(6) by adding at the end the following:

“(h) PUBLIC REPORT OF DATA.—With respect to any cooperative research project funded or experimental fishing permit issued under this section, the appropriate Council shall publish a report of results and data generated by such project or under such permit.

“(i) PROGRESS REPORT.—Not later than 180 days after the date of enactment of this Act, the Assistant Administrator for Fisheries shall provide a report to Congress on progress in implementing the recommendations of the Cooperative Research and Cooperative Management Working Group report entitled ‘NOAA Technical Memorandum NMFS–F/SPO–156’ and published in August 2015 and on the development and implementation of any subsequent recommendations by such Working Group.”.

(b) Section 2(a)(8) is amended by inserting “Fisheries management is most effective when it uses the best scientific information available, and incorporates such information from governmental and nongovernmental sources, including State and Federal agency staff, fishermen, fishing communities, universities, nonprofit organizations, local and traditional knowledge from Tribes, Indigenous communities, and subsistence fishermen, and research institutions. Scientific and statistical committees should consider such information when seeking the best scientific information available to form the basis of conservation and management.” after “States.”.

**SEC. 405. NORTHEAST REGIONAL PILOT RESEARCH TRAWL SURVEY AND STUDY.**

(a) INDUSTRY-BASED PILOT STUDY.—Not later than one year after the date of enactment of this Act, the Secretary shall, in coordination with the relevant Councils selected by the Secretary and the Northeast Area Monitoring and Assessment Program, develop a fishing industry-based Northeast regional pilot research trawl survey and study to enhance and provide improvement to current National Oceanic and Atmospheric Administration vessel trawl surveys.

(b) COMPONENTS.—Under the pilot survey and study—

(1) the Secretary—

(A) may select fishing industry vessels to participate in the study by issuing a request for procurement;

(B) may use the Northeast Area Monitoring and Assessment Program Southern New England/Mid-Atlantic Nearshore Trawl Survey or another methodology selected in partnership with the National Marine Fisheries Service Northeast Fisheries Science Center and the Virginia Institute of Marine Science as a model for the pilot survey;

(C) shall outfit participating vessels with a peer-reviewed net configuration; and

(D) shall ensure the pilot study uses a statistically valid sampling method and spatial coverage that allows for comparison with results from the National Oceanic and Atmospheric Administration trawl surveys; and

(2) the National Marine Fisheries Service Northeast Fisheries Science Center shall, in partnership with the selected Councils and the Virginia Institute of Marine Science, collect data for 5 years.

(c) REPORT.—Upon completion of the pilot survey and study, the Secretary and the selected Councils shall submit a detailed report on the results of the pilot survey and study to the Committee on Natural Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate.

**SEC. 406. RECREATIONAL DATA CONSISTENCY.**

(a) IN GENERAL.—Section 305 (16 U.S.C. 1855) is amended by adding at the end the following:

“(1) RECREATIONAL DATA IMPROVEMENT.—Not later than 2 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall establish guidelines for recreational catch data, which shall include the development of data standards to improve timeliness, accuracy, precision and validation of data produced by recreational surveys in order to facilitate the use of such data in assessments, for use in management actions, and for other uses as applicable. The Secretary’s guidelines shall consider the relevant recommendations developed under section 404(e), subsections (g)(4)(C) and (h) of section 401, and section 201(b) of the Modernizing Recreational Fisheries Management Act of 2018 (16 U.S.C. 1881 note). If recreational catch data for a stock of fish come from more than one survey program, such as Federal and non-Federal sources, including from States or Marine Fisheries Commissions, the Secretary shall implement measures, which may include the use of calibration methods, as needed for the timely integration of such data to ensure consistent methods and approaches are used for monitoring of catch against the relevant annual catch limits and for other fishery science and management purposes.”

(b) RECREATIONAL DATA IMPROVEMENT PROGRAM.—Title IV is amended by adding at the end the following:

**“SEC. 409. RECREATIONAL DATA IMPROVEMENT PROGRAM.**

“(a) IN GENERAL.—The Secretary shall initiate and maintain a comprehensive program to implement the requirements and associated guidelines in section 305(1). In executing the program, the Secretary shall coordinate with programs established in subsection 401(g) and promote collaboration with State and Federal partners.

“(b) STRATEGIC PLAN.—Not later than one year after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, and not less frequently than once every 5 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for recreational data improvements for the 5 years immediately following such publication. The plan shall—

“(1) improve coordination between Federal programs that implement recreational fishing surveys and other data from non-Federal sources, including data from States or Marine Fisheries Commissions;

“(2) improve the timeliness, accuracy, precision, and validation of data produced by surveys;

“(3) describe processes to calibrate data sources with historical time series data prior to being used for management;

“(4) develop methods to integrate recreational data collected from more than one source for use in assessments;

“(5) create goals, objectives, and timeframes for achievement of paragraphs (1) through (4);

“(6) consider the use and effectiveness of experimental fishing permits to carry out such research; and

“(7) describe the role of fishery participants in the program. In developing the strategic plan and subsequent plans, the Secretary shall cooperate with the Councils and affected States, provide for coordination with the Councils, affected States, and other research and data collection entities, and allow for public input.

“(c) **AREAS OF RESEARCH.**—In initiating and maintaining the program, the Secretary shall prioritize research and improvement in the following areas:

“(1) Development of data standards and validation processes for survey programs collecting data on recreational fishing catch and effort, including those produced by State agencies and considered integral or supplemental to Federal surveys.

“(2) Research to understand how surveys of recreational fishing can more effectively account for differences in fishing rate and effort, including among fishermen who use private or public access points, and fishermen who are State residents or non-residents.

“(3) Methods and policies to improve the estimation of discards in recreational fisheries, including estimation of discarded fish both during and outside of fishing seasons.

“(4) To improve understanding of best practices for minimizing discard mortality as well as estimation of adoption rates of such practices by fishermen.

“(5) To assess changes in discard mortality estimates when best fishing practices are adequately and verifiably applied.

“(6) Research on how the use of electronic applications can be used to collect data in recreational fisheries, including spatial information, depth, discard rate and disposition, release method, and socioeconomic information, while meeting data and validation standards.

“(7) Research on how electronic technologies can most effectively be incorporated into survey designs.

“(8) Research of methods to integrate recreational catch data from more than one survey source for use in assessments.

“(9) The use of approaches to improve recreational data, including the use of tag and endorsement measures to fund such data improvement, stock-wide regional effort surveys, and species-specific oversampling.

“(d) **PUBLIC NOTICE.**—In developing the plan required under subsection (b), the Secretary shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives.”.

**SEC. 407. EMERGENCY OPERATING PLANS.**

(a) **IN GENERAL.**—The Administrator, not later than one year after the date of enactment of this Act and in consultation with the Fishery Management Councils, relevant Federal, State, and international agencies, scientific and technical experts, and interested stakeholders, shall develop a contingency plan for circumstances that would make fisheries monitoring, including human observation, surveys, and other data collection to support stock assessments impractical.

(b) **REPORT.**—Not later than one year after the date of enactment of this Act, the Administrator shall submit a report to Congress on the contingency plan developed under subsection (a).

**SEC. 408. ZEKE GRADER FISHERIES CONSERVATION AND MANAGEMENT FUND.**

(a) **IN GENERAL.**—Section 208 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1891b) is amended—

(1) in the section heading, by inserting “**ZEKE GRADER**” before “**FISHERIES CONSERVATION AND MANAGEMENT FUND**”;

(2) in subsection (a), by inserting “Zeke Grader” before “Fisheries Conservation and Management Fund”; and

(3) in subsection (c), by striking “Fishery Conservation and Management Fund” each place such term appears and inserting “Zeke Grader Fisheries Conservation and Management Fund”.

(b) **ADAPTATION FOR CLIMATE CHANGE.**—Section 208(b) of such Act (16 U.S.C. 1891b(b)) is amended—

(1) in paragraph (6), by striking “and”;

(2) in paragraph (7), by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(8) conducting research and analysis to prepare and adapt fisheries and fishing communities to the effects of climate change.”.

(c) **ALLOCATION.**—Section 208(d) of such Act (16 U.S.C. 1891b(d)) is amended to read as follows:

“(d) **ALLOCATION.**—

“(1) **IN GENERAL.**—Except as provided in paragraphs (2) and (3), the Secretary shall, every 2 years, apportion amounts from the Fund among the 8 Council re-

gions according to recommendations of the Councils, based on regional priorities identified through the Council process.

“(2) MINIMUM ALLOCATION.—In the case of amounts deposited in the Fund pursuant to subsection (c)(2), unless specified otherwise, the Secretary shall allocate not less than 5 percent of the Fund in each allocation period to each region.

“(3) SPECIFICALLY APPORTIONED FUNDS.—The Secretary may apportion amounts from the Fund to a specific project or region if such amounts were identified by the Council that designated such amounts for inclusion in the Fund under subsection (c)(1), or by the appropriation Act, State, public source, or nonprofit or organization from which they were received under subsection (c)(2), as being deposited for that specific project or region.”.

(d) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the “Fisheries Conservation and Management Fund” is deemed to be a reference to the “Zeke Grader Fisheries Conservation and Management Fund”.

(e) CLERICAL AMENDMENT.—The table of contents for the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Public Law 109–479) is amended by striking the item relating to section 208 and inserting the following:

“Sec. 208. Zeke Grader Fisheries Conservation and Management Fund.”.

**SEC. 409. OFFSHORE WIND COLLABORATION.**

The Secretary and the Secretary of the Interior, acting through the Bureau of Ocean Energy Management, shall enter into a cooperative agreement to fund such survey mitigation programs, additional stock assessments, and fisheries and marine wildlife research as may be necessary as a result of actions by such Bureau related to the development of offshore wind energy.

**SEC. 410. SHARK POPULATIONS ANALYSIS.**

Not later than one year after the date of enactment of this Act, the Secretary shall enter into an agreement for an independent analysis to be done on shark populations in the Gulf of Mexico and Atlantic coasts and, before starting the survey, develop a plan to integrate the results of this study into the Secretary’s own data sets and fishery management measures.

## **TITLE V—SUSTAINING FISHERIES THROUGH HEALTHY ECOSYSTEMS AND IMPROVED MANAGEMENT**

**SEC. 501. SENSE OF CONGRESS.**

It is the sense of Congress that protection of essential fish habitat ensures healthy and resilient fisheries and marine ecosystems, particularly as oceans conditions shift due to climate change, and that impacts from both fishing gear and non-fishing activities should be considered through consistent application of essential fish habitat provisions under the Magnuson-Stevens Fishery Conservation and Management Act.

**SEC. 502. ESSENTIAL FISH HABITAT CONSULTATION.**

(a) IN GENERAL.—Section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1855(b)) is amended—

(1) in paragraph (1)(D), by inserting “and such agencies shall take action” after “agencies”;

(2) by striking paragraphs (2), (3), and (4); and

(3) by adding at the end the following:

“(2) CONSULTATIONS REGARDING FEDERAL AGENCY ACTION WITH ADVERSE EFFECTS ON ESSENTIAL FISH HABITAT.—

“(A) REQUIREMENT TO AVOID OR MITIGATE ADVERSE EFFECTS.—With respect to any Federal agency action that may have an adverse effect on—

“(i) essential fish habitat, each Federal agency shall, in consultation with the Secretary, ensure that any action authorized, funded, or undertaken by such agency avoids the adverse effect of such action on essential fish habitat or, to the extent that the adverse effect cannot be avoided, the agency shall minimize and mitigate the adverse effect; and

“(ii) a habitat area of particular concern, each Federal agency shall, in consultation with the Secretary—

“(I) for the entire period during which such adverse effect is likely to occur, monitor or require monitoring for such adverse effect;

“(II) for the entire period during which such adverse effect is likely to occur, take action to minimize and mitigate such adverse effect of the action on—

“(aa) the habitat area of particular concern; and

“(bb) the species for with respect to which the habitat area of particular concern is designated;

“(III) evaluate the effectiveness of measures described in subclause (II) and report the results of such evaluation to the Secretary annually.

“(B) CONSIDERATIONS.—In consulting with a Federal agency under subparagraph (A) for projects seeking to restore and improve the long-term resilience of habitat, particularly in estuarine environments heavily impacted by sea level rise and other climate change factors, the Secretary shall account for the consequences of not pursuing such restoration and habitat resilience projects and the long-term positive impacts on fish populations of such activities.

“(C) REGULATIONS.—The Secretary shall establish regulations for the consultation process required by subparagraph (A), including to ensure that recommendations made by the Secretary pursuant to such subparagraph would result in the avoidance, of adverse effects on essential fish habitat and, to the extent adverse effects cannot be avoided, the minimization and mitigation of any such adverse effects.

“(3) INFORMATION TO COUNCIL.—The Secretary shall inform each Council that has authority over an affected fishery of any consultation carried out under paragraph (2), including information on the proposed action and any potential adverse effects, and each such Council—

“(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning the underlying action if, in the view of the Council, such action may affect the habitat of a fishery resource under the authority of such Council; and

“(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning the underlying action if, in the view of the Council, such action is likely to adversely affect the habitat of an anadromous fishery resource under the authority of such Council.

“(4) INFORMATION FROM OTHER SOURCES.—

“(A) RECEIPT OF INFORMATION.—If the Secretary receives information from any source and determines that an action taken, funded, or authorized or proposed to be taken, funded, or authorized by a State or Federal agency may have an adverse effect on an essential fish habitat identified under this Act, the Secretary shall recommend to such agency measures that avoid such adverse effects and to the extent the adverse effects cannot be avoided, minimize and mitigate such adverse effects.

“(B) REQUIRED RESPONSE.—Not later than 30 days after receiving a recommendation under subparagraph (A), a Federal, State, or local agency shall provide a detailed response in writing to any Council comment under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding the adverse effects, or to the extent the adverse effects cannot be avoided, mitigating the adverse effects of the action on such essential fish habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal, State, or local agency shall explain how the alternative measures proposed will avoid the adverse effects of such action on essential fish habitat or, to the extent that adverse effects cannot be avoided, minimize and mitigate the adverse effects.

“(C) PUBLICATION.—The Secretary shall make available to the public—

“(i) any recommendation made under subparagraph (A) on the date on which such recommendation is made; and

“(ii) any response made by an agency under subparagraph (B) on the date on which such response is received.

“(D) MONITORING.—The Secretary shall monitor measures taken by each Federal agency to meet the requirements of this subsection.

“(E) REPORT TO CONGRESS.—Not later than 5 years after the date of the enactment of the Sustaining America’s Fisheries for the Future Act of 2022 and not less frequently than every 5 years thereafter, the Secretary shall submit a report—

“(i) describing the effectiveness of measures taken by the Secretary to ensure the conservation and enhancement of essential fish habitat; and

“(ii) identifying opportunities for partnerships between the National Oceanic and Atmospheric Administration, in consultation with other Federal agencies, State agencies, and non-Federal partners to enhance data collection, research, and monitoring of essential fish habitat.”

(b) CONTENTS OF FISHERY MANAGEMENT PLANS.—Section 303(a)(7) (16 U.S.C. 1853(a)(7)) is amended to read as follows:

“(7) describe and identify—

“(A) essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize adverse effects on essential fish habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of essential fish habitat; and

“(B) habitat areas of particular concern based on the guidelines established by the Secretary under section 305(b)(1)(A), avoid adverse effects on such habitat caused by fishing, monitor efficacy of actions to avoid adverse effects, and identify other actions to encourage the conservation and enhancement of such habitat.”

(c) PURPOSE.—Section 2(b)(7) (16 U.S.C. 1801(b)(7)) is amended by striking “in the review of projects” and inserting “from adverse effects caused by fishing and from projects”.

(d) HABITAT AREAS OF PARTICULAR CONCERN.—Section 3 (16 U.S.C. 1802) is amended—

(1) by redesignating paragraph (1) as paragraph (1A);

(2) by inserting before paragraph (1A), as redesignated, the following:

“(1) ADVERSE EFFECT.—The term ‘adverse effect’ means, with respect to essential fish habitat, any impact that reduces the quality or quantity of essential fish habitat.”; and

(3) by inserting after paragraph (19) the following:

“(19A) HABITAT AREAS OF PARTICULAR CONCERN.—The term ‘habitat areas of particular concern’ means specific types or areas of habitat that are part of or within essential fish habitat that—

“(A) provide important ecological function, including for maintaining and restoring the biomass, demographic, spatial and genetic characteristics of fish populations;

“(B) are sensitive to human-induced environmental degradation;

“(C) are or will be significantly stressed by human activities;

“(D) due to prevailing or anticipated future environmental conditions, are or may become important to the health of managed species; or

“(E) are rare.”.

#### SEC. 503. REDUCING BYCATCH.

(a) MINIMIZING BYCATCH.—

(1) NATIONAL STANDARDS FOR FISHERY CONSERVATION AND MANAGEMENT.—Section 301(a)(9) (16 U.S.C. 1851(a)(9)) is amended to read as follows:

“(9) Conservation and management measures shall—

“(A) minimize bycatch; and

“(B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.”.

(2) CONTENTS OF FISHERY MANAGEMENT PLANS.—Section 303 (16 U.S.C. 1853) is amended—

(A) in subsection (a)—

(i) in paragraph (5), by inserting “quantification of bycatch,” after “hauls;” and

(ii) in paragraph (11), by striking “to the extent practicable and”; and

(B) in subsection (b)—

(i) in paragraph (12), by striking “and” at the end; and

(ii) by inserting after paragraph (12) the following:

“(13) consider full retention requirements for species with high catch mortality rates; and”.

(3) ACTION BY THE SECRETARY.—Section 304 (16 U.S.C. 1854) is amended—

(A) by redesignating the second subsection (i) as subsection (j); and

(B) by adding at the end the following:

“(k) STANDARDIZED BYCATCH REPORTING PROGRAM.—

“(1) ESTABLISHMENT.—Not later than 3 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall establish a national standardized reporting program (referred to in this subsection as ‘the program’) to assess the amount and type of bycatch occurring in each fishery and across fisheries, determine the contribution of bycatch to the total fishing-related mortality of each fishery, and evaluate the effects of bycatch on relevant fisheries and the ecosystem.

“(2) **METHODOLOGY AND STANDARDS.**—The Secretary shall, acting through the program—

“(A) identify appropriate methodologies and standards for collecting and producing statistically accurate and precise information regarding bycatch; and

“(B) require consistent data reporting, collection, and assessment for all fisheries managed under fishery management plans.

“(3) **MULTIPLE JURISDICTIONS.**—In a case in which a species is caught in areas under the jurisdiction of more than one Council or fishery management plan, the Secretary shall require consistent reporting mechanisms across jurisdictions to ensure that data can be aggregated and compared.

“(4) **COORDINATION WITH STATES.**—The Secretary shall coordinate with State fishery managers to carry out paragraph (3).”

(b) **BYCATCH REDUCTION ENGINEERING PROGRAM.**—

(1) **IN GENERAL.**—Section 316(a) (16 U.S.C. 1865(a)) is amended by striking paragraphs (3) and (4) and inserting the following:

“(3) provide information, outreach, technical assistance, and training to Councils, Tribes, and fishery participants that will encourage adoption and use of technologies and methods developed under the program; and

“(4) provide for routine consultation with the Councils in order to maximize opportunities to incorporate results of the program in Council actions and provide incentives for adoption of technologies and methods developed under the program in fishery management plans, actions, and other measures developed by the Councils or the Secretary.”

(2) **FREQUENCY OF REPORT.**—Section 316(d) (16 U.S.C. 1865(d)) is amended—

(A) by striking “transmit an annual report” and inserting “, not less frequently than once every 3 years, transmit a report”;

(B) in paragraph (2), by striking “and” at the end;

(C) in paragraph (3), by striking the period at the end and inserting “, and”;

(D) by adding at the end the following:

“(4) includes a description of all bycatch reduction technologies and methods developed, tested, or supported by the Bycatch Reduction Engineering Program, and a summary of how such technologies and methods have been implemented into fishery management, or an explanation for why such technologies and methods have not been implemented.”

#### **SEC. 504. IMPROVING REBUILDING OUTCOMES.**

Section 304(e) (16 U.S.C. 1854(e)) is amended to read as follows:—

“(e) **REBUILDING OVERFISHED FISHERIES AND ENDING OVERFISHING.**—

“(1) **DETERMINATION OF STATUS.**—

“(A) **IN GENERAL.**—The Secretary shall, determine, based on the best scientific information available and at any time, for stocks within each Council’s geographic area of authority, (or the Secretary, for stocks managed under section 302(a)(3)), whether such stock of fish is each of the following:

“(i) Subject to overfishing.

“(ii) Overfished.

“(iii) Approaching a condition of being overfished.

“(B) **CRITERIA FOR DETERMINATION.**—

“(i) **CRITERIA PROVIDED BY MANAGING DOCUMENT.**—In making a determination under subparagraph (A), the Secretary shall, with respect to a stock of fish managed under a stock of fish management plan or international agreement, use the criteria specified in such plan or agreement.

“(ii) **APPROACHING A CONDITION OF BEING OVERFISHED.**—In making a determination under subparagraph (A), the Secretary shall classify a stock of fish as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the stock of fish will become overfished within 2 years.

“(iii) **STOCKS LACKING CRITERIA.**—For stocks that lack criteria as required under section 303(a)(10), the Secretary shall determine whether the stock is overfished or subject to overfishing using the best available scientific information.

“(2) **PUBLICATION.**—

“(A) **IN GENERAL.**—The Secretary shall publish each determination made under paragraph (1) in the Federal Register.

“(B) **NOTIFICATION OF COUNCIL.**—If the Secretary determines that a stock of fish is subject to overfishing, overfished, or approaching a condition of

being overfished under paragraph (1), the Secretary shall immediately notify the appropriate Council and request that action be taken—

“(i) to end overfishing with respect to the stock of fish immediately;

“(ii) for a stock of fish that is overfished, to end overfishing immediately and to implement conservation and management measures to rebuild affected the stock of fish; or

“(iii) for a stock of fish that is approaching an overfished condition, to end overfishing immediately and prevent the stock of fish from reaching a overfished condition.

“(C) ANNUAL REPORT.—The Secretary shall submit an annual report to Congress and the Councils. Such report—

“(i) shall list each determination made with respect to a stock of fish under paragraph (1) during the preceding year;

“(ii) shall identify each stock of fish managed under this Act that is under a rebuilding plan or in need of a rebuilding plan (as specified by this section), including—

“(I) specifying the number of years the stock of fish has been in a rebuilding plan;

“(II) the anticipated length in years of the stock of fish’s current rebuilding plan;

“(III) the number of rebuilding plans that have been implemented for the stock of fish; and

“(IV) whether a lack of adequate progress toward ending overfishing and rebuilding has been found for the stock of fish; and

“(iii) may use, as appropriate, the term ‘depleted’ to further describe an overfished stock of fish that has been significantly impacted by environmental factors in addition to (or in absence of) fishing pressure.

“(3) REQUIRED ACTION BY COUNCIL.—

“(A) DETERMINATION THAT REQUIRES ACTION.—Not later than 2 years after date on which the Secretary makes any of the following determinations, the appropriate Council (or the Secretary, for fisheries managed under section 302(a)(3)) shall take an action described in subparagraph (B):

“(i) A determination that a stock of fish is subject to overfishing, overfished, or approaching a condition of being overfished.

“(ii) A determination that a rebuilding plan has failed under paragraph (7)(C).

“(iii) A determination that a stock of fish has reached the end of the time period for a rebuilding plan under paragraph (8).

“(B) ACTIONS.—The actions described in this subparagraph are—

“(i) with respect to a stock of fish that is subject to overfishing, to end overfishing immediately and prevent overfishing of the stock;

“(ii) with respect to a stock of fish that is overfished, to end overfishing immediately and to rebuild the stock of fish; or

“(iii) with respect to a stock of fish that is approaching an overfished condition, to end overfishing immediately and prevent the stock of fish from reaching an overfished condition.

“(4) REBUILDING PLAN REQUIRED.—For a stock of fish that is overfished, any management document prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—

“(A) specify a time period for rebuilding the stock of fish that shall—

“(i) be as short as possible, taking into account the status and biology of 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) not exceed the time the stock of fish would be rebuilt in the absence of any fishing mortality plus one mean generation;

“(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery;

“(C) for a stock of fish managed under an international agreement, reflect traditional participation in the stock of fish, relative to other nations, by fishermen of the United States; and

“(D) contain objective and measurable criteria for evaluating rebuilding progress.

“(5) SECRETARIAL PLAN.—If a Council does not meet the deadline described in paragraph (3)(A) to submit a management document the Secretary shall, not later than 9 months after the expiration of such deadline, prepare such management document for the affected fish stock under subsection (c).



“(6) INTERIM MEASURES.—During the development of a management document for a stock of fish required by this subsection, a Council may request that the Secretary implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such management document. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient to stop overfishing of a fishery.

“(7) ASSESSMENT OF REBUILDING PLAN.—

“(A) SECRETARIAL REVIEW.—The Secretary shall review each management document relating to a stock of fish required by this subsection not less often than once every 2 years to determine whether such management document has resulted in adequate progress toward rebuilding affected stocks of fish. The Secretary shall find a lack of adequate progress toward rebuilding an affected stock of fish if—

“(i) the status of the stock is not improving sufficiently such that it becomes unlikely that the stock will be rebuilt within the rebuilding time period;

“(ii) the applicable fishing mortality rate or annual catch limits are exceeded, and the causes and rebuilding consequences of such exceedances have not been corrected;

“(iii) new scientific information demonstrates that assumptions regarding the stock’s biology that formed the basis for the rebuilding plan, such as stock productivity, were fundamentally inaccurate, and such inaccuracies render the current rebuilding plan unable to address the stock’s rebuilding needs; or

“(iv) for such other reasons as the Secretary determines appropriate.

“(B) FINDING OF INADEQUATE PROGRESS.—Except as provided in subparagraph (C), if the Secretary finds after a review under subparagraph (A) that a management document has not resulted in adequate progress toward rebuilding affected fish stocks, the Secretary shall—

“(i) in the case of a stock of fish to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress toward rebuilding by the deadline established under paragraph (4); or

“(ii) for all other stocks of fish, immediately notify the appropriate Council, which must make revisions necessary to achieve adequate progress toward rebuilding by not later than the deadline established under paragraph (4). If the Council fails to complete such action by the date that is 9 months after the date of such notification, the Secretary shall, not later than 18 months after the date of such notification, make such revisions as are needed to ensure adequate progress toward rebuilding by not later than the rebuilding deadline established under paragraph (4).

“(C) FAILED REBUILDING PLAN.—If the Secretary finds that revisions pursuant to subparagraph (B) cannot achieve adequate progress within the time period set under paragraph (4), the Secretary may find that the rebuilding plan has failed.

“(D) PUBLICATION.—The Secretary shall publish the results of a review performed under this paragraph in the Federal Register, including a determination of adequate progress or inadequate progress, and the basis for such determination.

“(8) SUBSEQUENT REBUILDING PLAN.—If a rebuilding time period established under paragraph (4) expires and the relevant fish stock has not been rebuilt, or the Secretary determines that an existing rebuilding plan has failed under paragraph (7)(C), the Council (or Secretary in the case of a stock to which section 302(a)(3) applies) shall prepare a new rebuilding plan pursuant to paragraphs (3) through (6), except that such plan shall have not less than a 75 percent chance of rebuilding the stock of fish by the end of the new rebuilding time period set under paragraph (4). Management measures intended to rebuild the stock shall remain in effect during such preparation of a rebuilding plan.

“(9) MANAGEMENT DOCUMENT.—In this subsection, the term ‘management document’ means a management plan, management plan amendment, or proposed regulations for a stock of fish.”.

**SEC. 505. OVERFISHED FISHERIES AND PREVENTING OVERFISHING.**

(a) INFORMATION PROVIDED BY SCIENTIFIC AND STATISTICAL COMMITTEES.—Section 302(g)(1) (16 U.S.C. 1852(g)(1)) is amended—

- (1) in subparagraph (A), by inserting “ecological,” after “social,”; and
- (2) by amending subparagraph (B) to read as follows:

“(B) Each scientific and statistical committee shall provide its Council with ongoing scientific advice for fishery management decisions, including—

“(i) recommendations for accounting for all sources of mortality in establishing management measures, for the acceptable biological catch levels, for preventing overfishing, for maximum sustainable yield, and for achieving rebuilding targets and promoting resilience of fish stocks to climate change;

“(ii) objective and measurable criteria for determining whether a stock is overfished or experiencing overfishing; and

“(iii) reports on stock status and health, sources of mortality, bycatch, habitat status, social, ecological, and economic impacts of management measures, and sustainability of fishing practices, and prevailing and anticipated future impacts of climate change on fish stocks, fishing communities, and fishery sectors.”

(b) **MINIMUM REQUIRED PRECAUTIONARY STANDARD.**—Section 303(a)(10) (16 U.S.C. 1853(a)(10)) is amended to read as follows:

“(10) specify objective and measurable criteria for identifying when the fish stock to which the plan applies is overfished or subject to overfishing (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery), which may not be less precautionary than the recommendation of the scientific and statistical committees for such fishery, and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery.”

(c) **TECHNICAL CORRECTION.**—Section 301 of the Modernizing Recreational Fisheries Management Act of 2018 (16 U.S.C. 1801 note) is amended to read as follows:

**“SEC. 301. RULE OF CONSTRUCTION.**

“Nothing in this Act, including the amendment made by section 102(a)(3), shall be construed as modifying the requirements of sections 301(a), 302(h)(6), 303(a)(15), or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act, or the equal application of such requirements and other standards and requirements under the Magnuson-Stevens Fishery Conservation and Management Act to commercial, charter, and recreational fisheries, including each component of mixed-use fisheries.”

**SEC. 506. PREPARATION AND REVIEW OF SECRETARIAL PLANS.**

Section 304(c)(1) (16 U.S.C. 1854(c)) is amended—

(1) by striking “may” and inserting “shall”;

(2) in subparagraph (A), by inserting “not to exceed 2 years, or 9 months in the case of a management plan or amendment subject to section 304(e)(7)(B)” after “time”;

(3) in subparagraph (B), by inserting “not later than 180 days after the disapproval” before the semicolon; and

(4) by adding at the end the following:

“Not later than 30 days before the date on which a time period established in subparagraph (B) or (C) ends, the Secretary shall provide written notification to the affected Council that if such Council does not fulfill the requirements described in such subparagraph, the Secretary shall issue a Secretarial plan.”

**SEC. 507. COUNCILS.**

Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) in paragraph (5), by striking “and” at the end;

(2) in paragraph (7)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(B) by inserting after subparagraph (A) the following:

“(B) prioritize fisheries and habitats experiencing or expected to experience shifts in geographic range, spatial distribution, or productivity;”

(3) by redesignating paragraphs (8) and (9) as paragraphs (11) and (13), respectively; and

(4) by inserting after paragraph (7) the following:

“(8) approve, for each of its managed stocks, objective and measurable criteria for identifying whether the stock is overfished or experiencing overfishing, which may not be less precautionary than the recommendation of its scientific and statistical committee;

“(9) develop and implement a habitat protection plan to protect essential fish habitat in the region of the Council from adverse effects caused by fishing that shall include—

“(A) quantitative and measurable targets and goals for increasing quality, quantity, and representativeness of essential fish habitat; and

“(B) conservation and management measures in a fishery management plan to implement the habitat protection plan;

“(10) at routine intervals not less frequently than every 7 years and based on scientific evidence or other relevant information, review habitat protection plans developed under paragraph (9) by such Council and each designation of essential fish habitat and habitat areas of particular concern under section 303(a)(7) by such Council, and amend such Council’s fishery management plans as necessary and appropriate;”.

**SEC. 508. FORAGE FISH CONSERVATION.**

(a) SECRETARY TO DEFINE FORAGE FISH.—Section 305 (16 U.S.C. 1855) is further amended by adding after subsection (l), as added by this Act, the following:

“(m) FORAGE FISH.—Not later than 12 months after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall establish by regulation, in consultation with the Regional Fishery Management Councils, a definition of the term ‘forage fish’ for the purposes of this Act. In defining such term, the Secretary shall consider factors including whether a species covered by such definition, throughout such species’ lifecycle—

“(1) is at a low trophic level;

“(2) is generally small- to intermediate-sized;

“(3) occurs in schools or other dense aggregations;

“(4) contributes significantly to the diets of other fish, marine mammals, or birds; and

“(5) serves as a conduit for energy transfer to species at a higher trophic level.”.

(b) DEFINITIONS.—Section 3 (16 U.S.C. 1802) is further amended—

(1) by inserting after paragraph (18) the following:

“(18A) FORAGE FISH.—The term ‘forage fish’—

“(A) has the meaning given the term by the Secretary under section 305(m); and

“(B) with respect to a species in a fishery managed pursuant to a fishery management plan or plan amendment that is approved by the Secretary under section 304(a), means any species identified in such plan as a forage fish.”; and

(2) in paragraph (33)—

(A) in subparagraph (B), by striking “and”;

(B) in subparagraph (C), by striking the period and inserting “; and”; and

(C) by adding at the end the following:

“(D) in the case of a forage fish, is reduced, pursuant to subparagraph (B), to provide for the diet needs of fish species and other marine wildlife, including marine mammals and birds, for which forage fish is a significant dietary component.”.

(c) SCIENTIFIC ADVICE.—Section 302(g)(1)(B) (16 U.S.C. 1852(g)(1)(B)) is further amended—

(1) in clause (ii), as added by this Act, by striking “and”;

(2) in clause (iii), as added by this Act, by striking the period at the end and inserting “; and”; and

(3) by adding at the end the following:

“(iv) maintaining a sufficient abundance, diversity, and localized distribution of forage fish populations to support the role of such populations in marine ecosystems.”.

(d) COUNCIL FUNCTIONS.—

(1) RESEARCH PRIORITIES.—Section 302(h)(7) (16 U.S.C. 1852(h)(7)) is further amended by inserting “forage fish populations and distribution,” after “habitats.”.

(2) UNMANAGED FORAGE FISH.—Section 302(h) (16 U.S.C. 1852(h)) is further amended by inserting after paragraph (11), as redesignated, the following:

“(12) develop and submit to the Secretary for approval a list of unmanaged forage fish occurring in the area under its authority for which the development of any new directed forage fish fishery is prohibited until the Council has—

“(A) considered the best scientific information available and evaluated the potential impacts of forage fish harvest on existing fisheries, fishing communities, and the marine ecosystem;

“(B) determined whether conservation and management of the forage fish fishery is needed;

“(C) if a determination is made that conservation and management is needed, prepared and submitted to the Secretary a fishery management plan or amendment consistent with section 303; and

“(D) received final, approved regulations from the Secretary pursuant to section 304(b)(3); and”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect 2 years after the date of enactment of this Act.

(e) CONTENTS OF FISHERY MANAGEMENT PLANS.—

(1) FORAGE FISH MANAGEMENT.—Section 303(a) (16 U.S.C. 1853(a)) is further amended by adding at the end the following:

“(18) when setting annual catch limits for forage fish fisheries, assess, specify, and reduce such limits by the diet needs of fish species and other marine wildlife, such as marine mammals and birds, for which forage fish is a significant part of their diet.”.

(2) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 5 years after the date of enactment of this Act.

(f) ACTION BY THE SECRETARY.—Section 304 (16 U.S.C. 1854) is further amended by adding at the end the following:

“(1) FORAGE FISH MANAGEMENT GUIDELINES.—

“(1) IN GENERAL.—Not later than 18 months after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall establish by regulation guidelines to assist the Councils in implementing sections 302(h)(12) and 303(a)(18).

“(2) WORKSHOPS.—In developing the guidelines under paragraph (1), the Secretary shall conduct workshops with Councils and other scientific, fisheries, and conservation interests.

“(m) FORAGE FISH PROHIBITION.—In accordance with section 302(h)(12), the Secretary shall prohibit the development of any new directed forage fish fishery.”.

(g) RIVER HERRING AND SHAD.—

(1) DEFINITIONS.—In this section—

(A) RIVER HERRING.—The term “river herring” means blueback herring (*Alosa aestivalis*) and alewife (*Alosa pseudoharengus*).

(B) SHAD.—The term “shad” means American shad (*Alosa sapidissima*) and hickory shad (*Alosa mediocris*).

(2) AMENDMENTS OF PLANS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall—

(A) amend the fishery management plans for the Atlantic Herring and Atlantic Mackerel, Squid, and Butterfish fisheries for the New England and Mid-Atlantic Regions to add shad and river herring as managed stocks in such plans consistent with section 302(h)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(h)(1));

(B) initiate additional fishery management plan amendments to be completed in not more than one year from the date of the addition of the species identified in paragraph (1) in order to develop and implement all required conservation and management measures for such stocks consistent with the Magnuson-Stevens Fisheries Conservation and Management Act (16 U.S.C. 1801 et seq.), and all other applicable law; and

(C) notwithstanding any other law, rule, or fishery management plan provision, including conservation and management measures under section 303(a)(11) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853(a)(11)), reallocate existing resources to ensure accurate and precise catch accounting on an ongoing basis within any fishery using mid-water trawl or paired mid-water trawl fishing gear in the Atlantic herring and Atlantic mackerel fisheries through the use of human or electronic on-board observation.

(h) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as—

(1) extending or diminishing the jurisdiction or authority of any State within its boundaries; or

(2) affecting—

(A) section 306 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1856); or

(B) the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5107 et seq.).

**SEC. 509. FUNDING FOR MONITORING IMPLEMENTATION OF NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN.**

Section 311(f)(4) (16 U.S.C. 1861(f)(4)) is amended by striking “pursuant to this section” and all that follows through the end of the sentence and inserting “to enforce and monitor (including electronic monitoring) implementation of that plan.”.

**SEC. 510. HIGHLY MIGRATORY SPECIES.**

Section 304(g)(1) (16 U.S.C. 1854(g)(1)) is amended—

(1) in subparagraph (B), by inserting “a scientific and statistical committee and” after “establish”; and

(2) by amending subparagraph (C) to read as follows:

“(C) for stocks not managed pursuant to the Atlantic Tunas Convention Act of 1975, develop annual catch limits that may not exceed the fishing level recommendations of the scientific and statistical committee;”.

## **TITLE VI—INTERNATIONAL FISHERIES MANAGEMENT**

**SEC. 601. CONSERVATION COMMISSIONER OF THE ATLANTIC TUNAS CONVENTION ACT.**

(a) APPOINTMENT AND PROCEDURE OF COMMISSIONERS.—Section 3(a) of the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971a(a)) is amended to read as follows:  
“(a) APPOINTMENT AND NUMBER; RULES OF PROCEDURE; TERM.—

“(1) APPOINTMENT.—The President shall appoint four Commissioners to serve as delegates of the United States to the Commission as follows:

“(A) One Commissioner shall be a Federal employee who shall serve as Chair.

“(B) Three Commissioners shall not be Federal employees, of whom—

“(i) one shall have knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea;

“(ii) one shall have knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

“(iii) one shall have knowledge and experience in marine conservation, shall represent the public interest in marine conservation and non-consumptive uses of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

“(2) TERM OF APPOINTMENT.—

“(A) LENGTH OF TERM.—The term of a Commissioner appointed under paragraph (1) shall be three years.

“(B) CONSECUTIVE TERMS.—No individual appointed under paragraph (1) shall serve more than two consecutive terms as Commissioner.

“(C) PLEASURE OF THE PRESIDENT.—Each Commissioner appointed under paragraph (1) shall serve at the pleasure of the President.

“(3) REPRESENTATION OF THE UNITED STATES.—

“(A) IN GENERAL.—At meetings of the Commission, Council, any Panel, or any other function as provided for in the Convention, the United States shall be represented by the Commissioner described in paragraph (1)(A) and two Commissioners described in paragraph (1)(B).

“(B) PROCEDURES FOR ROTATION.—The Secretary of State, in consultation with the Secretary, shall establish procedures under which the Commissioners appointed described in paragraph (1)(B) rotate in representing the United States to the Commission.

“(C) RIGHT TO PARTICIPATION.—Each Commissioner appointed under paragraph (1) may—

“(i) attend all meetings of the Commission, Council, any Panel, or any other function as provided for in the Convention; and

“(ii) participate fully in all United States preparatory activity for any activity relating to the Convention.”.

(b) REGULATION MAY NOT DECREASE ALLOCATION OR QUOTA.—Section 6(c)(3) of such Act (16 U.S.C. 971d(c)(3)) is amended by striking “or decreasing”.

**SEC. 602. CONSERVATION COMMISSIONER TO THE WESTERN AND CENTRAL PACIFIC FISHERIES CONVENTION.**

Section 503(a) of the Western and Central Pacific Fisheries Convention Implementation Act (16 U.S.C. 6902(a)) is amended to read as follows:

“(a) IN GENERAL.—

“(1) APPOINTMENT.—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks and commercial fishing in the Western and Central Pacific Ocean—

“(A) one of whom shall be an officer or employee of the Department of Commerce;

“(B) one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council;

“(C) one of whom shall be the chairman or a member of the Pacific Fishery Management Council; and

“(D) one of whom shall be an individual with knowledge and experience in marine conservation who shall represent the public interest in marine conservation and non-consumptive uses of the Western and Central Pacific Ocean.

“(2) RULES OF PROCEDURE.—The Commissioners shall be entitled to adopt such rules of procedures as they find necessary and to select a chairman from among members who are officers or employees of the United States Government.”.

**SEC. 603. CONSERVATION COMMISSIONER TO THE INTER-AMERICAN TUNA COMMISSION.**

Section 3(a) of the Tuna Conventions Act of 1950 (16 U.S.C. 952) is amended to read as follows:

“(a) COMMISSIONERS.—

“(1) APPOINTMENT.—The President shall appoint four individuals to represent the United States on the Commission.

“(2) REMOVAL.—The Commissioners appointed under paragraph (1) shall be subject to supervision and removal by the Secretary of State, in consultation with the Secretary.

“(3) QUALIFICATIONS.—In making an appointment under paragraph (1), the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the eastern tropical Pacific Ocean—

“(A) one of whom shall be an officer or employee of the Department of Commerce; and

“(B) one of whom shall be an individual with knowledge and experience in marine conservation, and who shall represent the public interest in marine conservation and non-consumptive uses of the eastern tropical Pacific Ocean.

“(4) LIMITATION ON APPOINTMENTS.—The President may not appoint more than two Commissioners under paragraph (1) who reside in a State other than a State whose vessels maintain a substantial fishery in the area of the Convention.”.

**SEC. 604. APPLICATION OF ANNUAL CATCH LIMIT AND ACCOUNTABILITY MEASURES REQUIREMENT.**

Section 104(b) of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1853 note) is amended to read as follows:

“(b) EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)—

“(1) except as provided in paragraph (2), shall apply to any management plan for a stock of fish prepared by any Council or the Secretary, including a management plan governing a stock of fish managed under an international agreement in which the United States participates; and

“(2) shall not apply to a management plan for a stock of fish for a species that has a life cycle of approximately 1 year unless the Secretary has determined such stock of fish is subject to overfishing with respect to such species; and

“(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson Stevens Fishery Conservation and Management Act.”.

**SEC. 605. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to the Secretary the following amounts to carry out the provisions of this Act:

- (1) For fiscal year 2023, \$698,142,000.
- (2) For fiscal year 2024, \$714,200,000.
- (3) For fiscal year 2025, \$730,626,000.
- (4) For fiscal year 2026, \$747,431,000.
- (5) For fiscal year 2027, \$764,621,000.
- (6) For fiscal year 2028, \$782,207,000.

**PURPOSE OF THE BILL**

The purpose of H.R. 4690 is to reauthorize and amend the Magnuson-Stevens Fishery Conservation and Management Act.

## BACKGROUND AND NEED FOR LEGISLATION

The Magnuson-Stevens Fishery and Conservation Management Act (MSA)<sup>1</sup> governs marine fisheries management in U.S. federal waters.<sup>2</sup> MSA provides the framework to prevent overfishing, rebuild overfished stocks, increase long-term social and economic benefits, and ensure a safe and sustainable seafood supply.<sup>3</sup> Congress enacted the MSA in 1976 in response to numerous overfished fish stocks and foreign fleets fishing in the U.S. Exclusive Economic Zone (EEZ).

The MSA created eight regional fishery management councils (FMCs or Councils), comprised of voting and non-voting council members representing the commercial and recreational fishing sectors and environmental, academic, and government interests.<sup>4</sup> The FMCs include the North Pacific, Pacific, Western Pacific, Gulf of Mexico, Caribbean, South Atlantic, Mid-Atlantic, and New England. Councils develop and amend fishery management plans, convene committees and advisory panels to conduct public meetings, establish research priorities, select fishery management options, set annual catch limits (ACLs), and develop and implement rebuilding plans for depleted stocks.<sup>5</sup> The National Marine Fisheries Service (NMFS) works with the councils to designate essential fish habitats (areas necessary for reproduction, growth, feeding, and shelter) for federally managed species.

Congress has reauthorized MSA twice (in 1996 and 2006) to strengthen the legislation's ability to prevent overfishing and rebuild fish stocks informed by the best available science and through international cooperation and market-based management.<sup>6,7</sup> The most recent statutory authorization for the MSA expired in 2013, but implementation and appropriations have continued. Nevertheless, Congress must update the MSA to address the impacts of climate change on fisheries and marine habitats, improve fishery disaster response, and incorporate technological innovations.

H.R. 4690 ensures American fisheries' future ecological and economic sustainability by addressing the following key issues: climate, fishery disasters, data and technology, essential fish habitats, bycatch, rebuilding, forage fish, highly migratory species, and environmental justice.

Climate: Title I of H.R. 4690 makes U.S. fisheries climate-ready by promoting resilience in fisheries management, incorporating climate science in training for new council members, creating a climate-ready fisheries innovation program, managing shifting fish stocks, and analyzing emerging fisheries. It also creates voting seat liaisons for both the Mid-Atlantic and New England fishery management councils (FMCs) to represent the interests of the fisheries

<sup>1</sup> Magnuson-Stevens Fishery and Conservation Management Act, Pub. L. No. 94-265 (1976), as amended by Pub. L. No. 109-479 (2007).

<sup>2</sup> NOAA Fisheries, Law & Policies: Magnuson-Stevens Act (online at [www.fisheries.noaa.gov/topic/laws-policies](http://www.fisheries.noaa.gov/topic/laws-policies)).

<sup>3</sup> *Ibid.*

<sup>4</sup> Regional Fishery Management Councils. NOAA Partners. <https://www.fisheries.noaa.gov/topic/partners>

<sup>5</sup> Regional Fishery Management Councils. NOAA Partners. <https://www.fisheries.noaa.gov/topic/partners>.

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

under their jurisdictions on neighboring Councils, helping to address the growing issue of shifting fish stocks.

**Fishery disasters:** H.R. 4690 improves the National Oceanic and Atmospheric Administration's (NOAA) response to fishery disasters in section 201 by setting a timeline for the federal government to respond to fishery disasters and disperse appropriated funds, including direct compensation for impacted fishermen, habitat protection and restoration, management enhancements, job training, public awareness campaigns, and prevention techniques for future disasters.

**Data and Technology:** H.R. 4690 expands and improves electronic technologies for conservation, management, and scientific purposes. It also requires NOAA to establish guidelines to improve recreational data collection and consistency, a problem in recreational fishing, particularly for stocks such as red snapper.

**Essential Fish Habitat (EFH):** Under current law, agencies do not sufficiently address damages from fishing practices and activities unrelated to fishing to said habitats. H.R. 4690 significantly enhances EFH protections to minimize destructive fishing and non-fishing practices and support monitoring their impacts.

**Bycatch:** H.R. 4690 removes loopholes that prevent effective bycatch management and creates a nationwide standardized bycatch reporting system. It also updates NOAA's Bycatch Reduction Engineering Program<sup>8</sup> to expand outreach, technical assistance, and adoption of bycatch reduction methods.

**Rebuilding:** H.R. 4690 strengthens actions to address overfishing by requiring more detailed information on NOAA's stock reports for identifying stocks of fish in need of a rebuilding plan. It also requires that rebuilding plans and timelines consider stock-specific biology and measurable criteria, such as the consideration of fishing communities and international organizations the U.S. participates in when establishing conservation and management measures to prevent overfishing and rebuild affected fish stocks.

**Forage fish:** H.R. 4690 directs NOAA to define forage fish, assess the potential impacts of a new forage fish fishery, and consider predator fish needs in existing fishery management plans.

**Highly Migratory Species (HMS):** The MSA requires each Regional Fishery Management Council (RFMC) to establish and maintain a Scientific and Statistical Committee (SSC) to provide the best scientific information available and to assist in the development and amendment of fishery management plans. Since the Secretary of Commerce manages Atlantic/Gulf HMS fisheries, not an RFMC, the fisheries management structure lacks this scientific/technical advisory committee. H.R. 4690 reinforces the importance of reliable scientific data in fishery management by establishing an SSC as the HMS Division's scientific and technical advisory body for species not currently managed by ICCAT.

**Environmental justice:** H.R. 4690 addresses environmental justice concerns by improving representation for tribes and supporting fishing communities. Many tribes and Indigenous communities, particularly Alaska Natives, depend upon subsistence fishing for

<sup>8</sup> NOAA Fisheries, Bycatch Reduction Engineering Program (online at [www.fisheries.noaa.gov/national/bycatch/bycatch-reduction-engineering-program](http://www.fisheries.noaa.gov/national/bycatch/bycatch-reduction-engineering-program)).



nourishment.<sup>9</sup> The bill recognizes and defines subsistence fishing, in which harvested fish is intended for customary and traditional uses, and incorporates the term throughout the MSA. H.R. 4690 improves tribal representation on FMCs and removes the term limits and cap on the number of Tribal representatives nominated for the Pacific FMC Tribal seat. It also adds two seats to the North Pacific FMC to represent tribes in Alaska.

#### COMMITTEE ACTION

H.R. 4690 was introduced on July 26, 2021, by Representative Jared Huffman (D–CA). The bill was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture. Within the Committee on Natural Resources, the bill was referred to the Subcommittee on Water, Oceans, and Wildlife. On November 16, 2021, the Subcommittee held a hearing on the bill.

On September 21, 2022, the Natural Resources Committee met to consider the bill. The Subcommittee was discharged by unanimous consent. Chair Raúl M. Grijalva (D–AZ) offered an amendment in the nature of a substitute.

Rep. Huffman offered an amendment designated Huffman #1 to the amendment in the nature of a substitute. The amendment was agreed to by voice vote. Rep. Mary Sattler Peltola (D–AK) offered an amendment designated Peltola #1 to the amendment in the nature of a substitute. The amendment was agreed to by voice vote.

Rep. Robert J. Wittman (R–VA) offered an amendment designated Wittman #1 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Rep. Wittman offered an amendment designated Wittman #2 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Wittman offered an amendment designated Wittman #3 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Rep. Cliff Bentz (R–OR) offered an amendment designated Bentz #8 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Ranking Member Bruce Westerman (R–AR) offered an amendment designated Westerman #1 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Ranking Member Westerman offered an amendment designated Westerman #2 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Ranking Member Westerman offered an amendment designated Westerman #11 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Rep. Jerry L. Carl (R–AL) offered an amendment designated Carl #1 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Garret Graves (R–LA) offered an amendment designated Graves #1 to the amendment in the nature of a substitute. The amendment was withdrawn.

<sup>9</sup>University of Alaska Fairbanks, Tribal Governance—Tribal Hunting and Fishing Rights: Subsistence (ANILCA 1980) (online at <https://uaf.edu/tribal/academics/112/unit-3/tribalhuntingandfishingrightssubsistenceanilca1980.php>).

By unanimous consent, Rep. Graves offered amendments designated Graves #2, Graves #3, Graves #4 revised, Graves #12, and Graves #13 *en bloc* to the amendment in the nature of a substitute. The *en bloc* amendments were agreed to by voice vote.

Rep. Carl offered an amendment designated Carl #2 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Matthew M. Rosendale, Sr. (R-MT) offered an amendment designated Rosendale #2 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Rep. Daniel Webster (R-FL) offered an amendment designated Webster #1 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Bentz offered an amendment designated Bentz #5 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Rep. Carl offered an amendment designated Carl #13 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

By unanimous consent, Ranking Member Westerman offered an amendment designated Tiffany #4 to the amendment in the nature of a substitute on behalf of Rep. Thomas P. Tiffany (R-WI). A recorded vote was requested and postponed.

Rep. Rosendale offered an amendment designated Rosendale #1 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Rep. Pete Stauber (R-MN) offered an amendment designated Stauber #3 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Rep. Graves offered an amendment designated Graves #15 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Rep. Graves offered an amendment designated Graves #16 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Graves offered an amendment designated Graves #5 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Graves offered an amendment designated Graves #6 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Graves offered an amendment designated Graves #7 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Graves offered an amendment designated Graves #8 to the amendment in the nature of a substitute. A recorded vote was requested and postponed.

Rep. Graves offered an amendment designated Graves #9 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Graves offered an amendment designated Graves #10 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Graves offered an amendment designated Graves #11 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Graves offered an amendment designated Graves #14 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Graves offered an amendment designated Graves #17 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

The Committee adjourned.

On September 29, 2022, the Natural Resources Committee met to continue its consideration of the bill.

Rep. Wittman previously offered an amendment designated Wittman #1 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 14 yeas and 21 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Rep. Wittman amendment #1 to the ANS

Disposition: Was not agreed to by a roll call vote of 14 yeas and 21 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN			
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM			
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID			
6	Mr. Gohmert, TX			
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA			
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA			
13	Mr. Moore, UT	X		
14	Mr. Obernolte, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>14</b>	<b>21</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Rep. Wittman previously offered an amendment designated Wittman #3 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 15 yeas and 21 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Rep. Wittman amendment #3 to the ANS

Disposition: Was not agreed to by a roll call vote of 15 yeas and 21 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN			
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL			
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID			
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA			
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA			
13	Mr. Moore, UT	X		
14	Mr. Oberholte, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>15</b>	<b>21</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Rep. Bentz previously offered an amendment designated Bentz #8 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 18 yeas and 21 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Rep. Bentz amendment #8 to the ANS.

Disposition: Was not agreed to by a roll call vote of 18 yeas and 21 nays.<sup>1</sup>

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN			
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA	X		
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA			
13	Mr. Moore, UT	X		
14	Mr. Oberholte, CA	X		
15	Mrs. Radewagen, AS	X		
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>18</b>	<b>21</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

<sup>1</sup> During the markup, the totals on this vote were announced incorrectly. The numbers above are accurate and accord with the clerk's roll call.



Ranking Member Westerman previously offered an amendment designated Westerman #1 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 18 yeas and 23 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Ranking Member Westerman amendment #1 to the ANS.

Disposition: Was not agreed to by a roll call vote of 18 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID			
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA	X		
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA	X		
13	Mr. Moore, UT	X		
14	Mr. Obernolte, CA	X		
15	Mrs. Radewagen, AS	X		
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>18</b>	<b>23</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Ranking Member Westerman previously offered an amendment designated Westerman #2 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 19 yeas and 23 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Ranking Member Westerman amendment #2 to the ANS.

Disposition: Was not agreed to by a roll call vote of 19 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA	X		
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA	X		
13	Mr. Moore, UT	X		
14	Mr. Obernolte, CA	X		
15	Mrs. Radewagen, AS	X		
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>19</b>	<b>23</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Ranking Member Westerman previously offered an amendment designated Westerman #11 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 19 yeas and 23 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Ranking Member Westerman amendment #11 to the ANS.

Disposition: Was not agreed to by a roll call vote of 19 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA		X	
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bertz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA	X		
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA	X		
13	Mr. Moore, UT	X		
14	Mr. Oberholte, CA	X		
15	Mrs. Radewagen, AS	X		
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>19</b>	<b>23</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Rep. Rosendale previously offered an amendment designated Rosendale #2 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 18 yeas and 23 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Rep. Rosendale amendment #2 the ANS.

Disposition: Was not agreed to by a roll call vote of 18 yeas and 23 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA		X	
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA	X		
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA	X		
13	Mr. Moore, UT	X		
14	Mr. Oberholte, CA	X		
15	Mrs. Radewagen, AS	X		
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>18</b>	<b>23</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>



Rep. Bentz previously offered an amendment designated Bentz #5 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 18 yeas and 22 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Rep. Bentz amendment #5 the ANS.

Disposition: Was not agreed to by a roll call vote of 18 yeas and 22 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO		X	
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA	X		
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA	X		
13	Mr. Moore, UT	X		
14	Mr. Oberholte, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>18</b>	<b>22</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Rep. Carl previously offered an amendment designated Carl #13 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 18 yeas and 20 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Rep. Carl amendment #13 the ANS.

Disposition: Was not agreed to by a roll call vote of 18 yeas and 20 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN			
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO			
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA	X		
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA	X		
13	Mr. Moore, UT	X		
14	Mr. Oberholte, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>18</b>	<b>20</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Ranking Member Westerman previously offered, by unanimous consent, an amendment designated Tiffany #4 to the amendment in the nature of a substitute on behalf of Rep. Tiffany. The amendment was not agreed to by a roll call vote of 18 yeas and 21 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Rep. Tiffany amendment #4 the ANS.

Disposition: Was not agreed to by a roll call vote of 18 yeas and 21 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO			
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA	X		
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA	X		
13	Mr. Moore, UT	X		
14	Mr. Obernolte, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>18</b>	<b>21</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Rep. Rosendale previously offered an amendment designated Rosendale #1 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 18 yeas and 21 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Rep. Rosendale amendment #1 the ANS.

Disposition: Was not agreed to by a roll call vote of 18 yeas and 21 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO			
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napoitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA	X		
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA	X		
13	Mr. Moore, UT	X		
14	Mr. Obernolte, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>18</b>	<b>21</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>



Rep. Pete Stauber (R-MN) previously offered an amendment designated Stauber #3 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 18 yeas and 21 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Rep. Stauber amendment #3 to the ANS.

Disposition: Was not agreed to by a roll call vote of 18 yeas and 21 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO			
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA	X		
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA	X		
13	Mr. Moore, UT	X		
14	Mr. Obernolte, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>18</b>	<b>21</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

Rep. Graves previously offered an amendment designated Graves #15 to the amendment in the nature of a substitute. The amendment was not agreed to by voice vote.

Rep. Graves previously offered an amendment designated Graves #8 to the amendment in the nature of a substitute. The amendment was not agreed to by a roll call vote of 18 yeas and 21 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment: Rep. Graves #8 the ANS.

Disposition: Was not agreed to by a roll call vote of 18 yeas and 21 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA		X	
2	Mr. Case, HI		X	
3	Mr. Cohen, TN		X	
4	Mr. Costa, CA		X	
5	Ms. DeGette, CO			
6	Mrs. Dingell, MI		X	
7	Mr. Gallego, AZ			
8	Mr. Garcia, IL		X	
9	Mr. Grijalva, AZ (Chair)		X	
10	Mr. Huffman, CA		X	
11	Ms. Leger Fernández, NM		X	
12	Mr. Levin, CA		X	
13	Mr. Lowenthal, CA		X	
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA		X	
17	Mr. Neguse, CO		X	
18	Mrs. Peltola, AK		X	
19	Ms. Porter, CA		X	
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU		X	
22	Mr. Soto, FL		X	
23	Ms. Stansbury, NM		X	
24	Ms. Tlaib, MI		X	
25	Mr. Tonko, NY		X	
26	Ms. Velázquez, NY		X	
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR	X		
2	Mrs. Boebert, CO	X		
3	Mr. Carl, AL	X		
4	Ms. Conway, CA			
5	Mr. Fulcher, ID	X		
6	Mr. Gohmert, TX	X		
7	Miss González-Colón, PR	X		
8	Mr. Graves, LA	X		
9	Ms. Herrell, NM	X		
10	Mr. Hice, GA	X		
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA	X		
13	Mr. Moore, UT	X		
14	Mr. Obernolte, CA	X		
15	Mrs. Radewagen, AS			
16	Mr. Rosendale, MT	X		
17	Mr. Stauber, MN	X		
18	Mr. Tiffany, WI	X		
19	Mr. Webster, FL	X		
20	Mr. Westerman, AR (RM)	X		
21	Mr. Wittman, VA	X		
	<b>TOTALS</b>	<b>18</b>	<b>21</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

The amendment in the nature of a substitute, as amended, was agreed to by voice vote. The bill, as amended, was adopted and ordered favorably reported to the House of Representatives by a roll call vote of 21 yeas and 18 nays, as follows:

Date: September 29, 2022

**COMMITTEE ON NATURAL RESOURCES  
117<sup>TH</sup> CONGRESS — ROLL CALL**

Bill / Motion: H.R. 4690

Amendment:

**Disposition:** Final Passage: H.R. 4690, as amended, was adopted and ordered favorably reported to the House of Representatives by a roll call vote of 21 yeas and 18 nays.

	DEM. MEMBERS (26)	YEAS	NAYS	PRESENT
1	Ms. Brownley, CA	X		
2	Mr. Case, HI	X		
3	Mr. Cohen, TN			
4	Mr. Costa, CA	X		
5	Ms. DeGette, CO			
6	Mrs. Dingell, MI	X		
7	Mr. Gallego, AZ	X		
8	Mr. Garcia, IL	X		
9	Mr. Grijalva, AZ (Chair)	X		
10	Mr. Huffman, CA	X		
11	Ms. Leger Fernández, NM	X		
12	Mr. Levin, CA	X		
13	Mr. Lowenthal, CA	X		
14	Ms. McCollum, MN			
15	Mr. McEachin, VA			
16	Mrs. Napolitano, CA	X		
17	Mr. Neguse, CO	X		
18	Mrs. Peltola, AK	X		
19	Ms. Porter, CA	X		
20	Mr. Sablan, MP			
21	Mr. San Nicolas, GU	X		
22	Mr. Soto, FL	X		
23	Ms. Stansbury, NM	X		
24	Ms. Tlaib, MI	X		
25	Mr. Tonko, NY	X		
26	Ms. Velázquez, NY	X		
	<b>REP. MEMBERS (21)</b>	<b>Y</b>	<b>N</b>	<b>P</b>
1	Mr. Bentz, OR		X	
2	Mrs. Boebert, CO		X	
3	Mr. Carl, AL		X	
4	Ms. Conway, CA			
5	Mr. Fulcher, ID		X	
6	Mr. Gohmert, TX		X	
7	Miss González-Colón, PR		X	
8	Mr. Graves, LA		X	
9	Ms. Herrell, NM		X	
10	Mr. Hice, GA		X	
11	Mr. Lamborn, CO			
12	Mr. McClintock, CA		X	
13	Mr. Moore, UT		X	
14	Mr. Obernolte, CA		X	
15	Mrs. Radewagen, AS			
16	Mr. Rosendale, MT		X	
17	Mr. Stauber, MN		X	
18	Mr. Tiffany, WI		X	
19	Mr. Webster, FL		X	
20	Mr. Westerman, AR (RM)		X	
21	Mr. Wittman, VA		X	
	<b>TOTALS</b>	<b>21</b>	<b>18</b>	
	Total: 47 / Quorum: 16 / Report: 24	<b>YEAS</b>	<b>NAYS</b>	<b>PRESENT</b>

## HEARINGS

For the purposes of clause 3(c)(6) of House rule XIII, the following hearing was used to develop or consider this measure: hearing by the Subcommittee on Water, Oceans, and Wildlife held on November 16, 2021.

## SECTION-BY-SECTION ANALYSIS

Section 3. References.

Section 4. Definitions.

Section 5. Gender-inclusive language. Amends the MSA to add gender-inclusive language throughout the Act by replacing pronouns such as he/him/his or she/her/hers with “the Secretary.”

Section 6. Conforming amendments to the table of contents of the Magnuson-Stevens Fishery Conservation and Management Act.

## TITLE I—CLIMATE-READY FISHERIES

Section 101. Findings, purpose, and policy. Adds findings to incorporate climate change and additional factors beyond the direct impact of fishing, including that they may cause declines and threats to fish stocks and that management actions are necessary where appropriate. Adds findings that state fisheries management is most effective when using the best available science from governmental and non-governmental sources.

Section 102. Promoting climate resilience in fisheries management. Requires fishery management plans to incorporate climate change by promoting stock resilience, identifying data needs, examining the fishery’s and its participants’ vulnerability to environmental conditions, assessing the anticipated impacts of climate change, and describing the current ranges and distribution of managed fish stocks. Requires the Secretary to prepare a climate vulnerability assessment of fish stocks within each Council’s geographical area and submit the report to Congress every five years.

Section 103. Incorporating climate science. Includes climate change and ecosystem-based management as possible training topics for new council members. Adds shifting fish stocks to fisheries research priorities.

Section 104. Climate-ready fisheries innovation program. Establishes a program to increase the capacity of fisheries management to adapt to climate change through research and development, consultation, and provision of technical assistance. Authorizes \$5 million for each fiscal year 2023–2027 to carry out this section.

Section 105. Managing shifting stocks. Establishes a framework for designating Council jurisdiction for cross-jurisdictional stocks and requires developing a coordinated research and management strategy for international stocks impacted by climate change.

Section 106. Emerging fisheries. Requires the Secretary to publish in the Federal Register a list of all managed fisheries organized by federal region. Creates a framework for establishing a new fishery and requires the Secretary to analyze potential impacts and management of the fisheries within their region.

## TITLE II—SUPPORTING FISHING COMMUNITIES

Section 201. Fishery Resource Disaster Relief. Defines causes of fishery resource disasters. Sets a timeline for the Federal govern-

ment to respond to a fishery resource disaster request and for disbursement of appropriated funds. Clarifies the disaster request process to include allowing direct payments to be made to affected members of fishing communities as an eligible use of relief funds. Authorizes \$377 million for each fiscal year 2023–2028 to carry out this section.

Section 202. Subsistence fishing. Recognizes and defines subsistence fishing, in which harvested fish is intended for customary and traditional uses.

Section 203. Working Waterfronts Grant Program. Establishes a task force to identify and address critical needs of working waterfronts and outline options for addressing those needs. Establishes a Working Waterfront Grant Program for coastal states to implement a working waterfront plan. Plans must preserve and expand access to coastal waters for persons engaged in commercial fishing, recreational fishing and boating businesses, aquaculture, boatbuilding, or other water-dependent, coastal-related businesses. Authorizes \$12 million for each fiscal year 2023–2027.

Section 204. Seafood marketing. Directs USDA and NOAA to develop an outreach plan to increase seafood industry participation in USDA Agricultural Marketing Service programs. Directs NOAA to study the possibility of establishing similar marketing support programs housed within the agency.

Section 205. Community participation in limited access privilege programs. The Inspector General shall conduct an audit regarding the Limited Access Privilege Programs for federally-managed fisheries. The audit shall determine and disclose: the amount of harvest privileges or transferable quota that were actively harvested from 2017 through 2022; the amount of harvest privileges or transferable quota that were leased to other parties or entities from 2017 through 2022; the names of corporations, partnerships, or other authorized entities that currently hold privileges or transferable quota; the proportion of transferable quota holders who are actively fishing; the average cost of a transferable harvest share; and the average leasing cost of a transferable harvest share. The audit shall evaluate the Secretary's performance overseeing the limited access program in accordance with 16 U.S.C. § 1853a(c)(1)(J) and recommend policies to strengthen transparency and achieve full disclosure of ownership of harvest privileges in limited access privilege programs. Within 1 year, the Inspector General shall brief the appropriate Congressional committees of the preliminary findings and within 30 days of the briefing submit a final report to Congress.

Section 206. Findings. Technical amendment to findings.

Section 207. Participation by fishery-dependent communities. Strengthens National Standard 8 by amending it to require a fishing community plan that details how small fishing businesses will be accommodated and what strategy will be implemented to provide for the sustained participation of fishing communities.

#### TITLE III—STRENGTHENING PUBLIC PROCESS AND TRANSPARENCY

Section 301. Tribal representation at the Pacific Fishery Management Council. Removes the limit on the number of tribal representatives that must be nominated for the tribal seat on the Pacific Council and removes term limits for the Tribal seat.



Section 302. Tribal representation at the North Pacific Fishery Management Council. Adds two seats to represent Indian Tribes in Alaska that are identified (including parenthetically) on the most current list published by the Secretary under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131) from a list submitted by the Tribal governments of those Tribes. Requires the Secretary to consult with the Secretary of the Interior, Tribal Governments, and the Alaska Federation of Natives to establish regulations for appointments. Such individuals appointed to the North Pacific Fishery Management Council must possess knowledge of the region's anadromous fish, of the marine resources managed by the Council, the effects of the Council's actions on such resources and: of the region's subsistence uses, customs, and traditions relating to such resources; possess knowledge of commercial and sport uses of anadromous fish and marine resources in the region; or demonstrates leadership through involvement in local or regional fish and wildlife management organizations.

Section 303. Atlantic Councils. Adds a voting seat for a Mid-Atlantic Council member on the New England Council and a voting seat for a New England Council member on the Mid-Atlantic Council. These liaisons would represent the interests of the fisheries under their jurisdictions on neighboring Councils, which is particularly important as stocks shift with climate change.

Section 304. Council procedures and participation. Requires greater access to Council meetings and roll call votes for nonprocedural Council matters. Directs Councils to allow for remote participation in meetings and to make a webcast or recording of meetings available on their websites for at least 5 years.

Section 305. Council accountability and membership. Establishes stricter requirements related to ethics, workplace harassment prevention, sexual harassment, and assault, and lobbying by Council members. Expands the criteria for Council member nominations to ensure a balance of viewpoints and stakeholders are represented. Extends the statute of limitations on agency actions to 60 days. Requires geographic representation for at-large seats on the Western Pacific Council.

Section 306. Amendments to the Western Pacific Sustainable Fisheries Fund. Adds public notice requirements for marine conservation plans. Establishes an advisory panel for the Fund. Directs the panel to provide public notice and minutes of meetings. Requires the Secretary to submit an annual report to Congress on funded projects. Requires the Secretary to provide a written explanation for funded projects that are not ranked by the advisory panel.

Section 307. NOAA Sexual Harassment and Assault Prevention (*H.R. 2865*). Expands NOAA's sexual assault and sexual harassment policies to include coverage for fishery observers and at-sea monitors, Council members and staff, and federal fishery permit holders and staff, crew, employees, and contractors associated with federally permitted vessels under MSA. Improves resources for survivors and strengthens reporting.

## TITLE IV—MODERNIZING FISHERIES SCIENCE AND DATA

Section 401. Data modernization. Requires NOAA to provide Congress with an implementation plan for its Fisheries Information Management Modernization initiative. This will ensure continued progress in the modernization of NMFS fisheries data management systems and facilitate improvements in the collection, intake, use, storage, and access to data from federal and non-federal sources.

Section 402. Expanding and improving electronic technologies. Sense of Congress that expresses the importance of electronic technologies and adapting to management needs, especially in the context of climate change. Includes consideration of technologies in fishery-independent data collection for conservation, management, and scientific purposes. Facilitates implementation of electronic technologies for monitoring and reporting. Requires a review of existing electronic technology capabilities in NMFS. Establishes an electronic technologies innovation prize. Establishes an advisory panel on electronic technologies. Adds FACA exemption for the Advisory Panel for electronic technologies development and deployment.

Section 403. Stock assessments. Requires the Secretary to report to Congress on NMFS' progress in prioritizing and improving stock assessments.

Section 404. Cooperative research and management. Clarifies authorities for cooperative research and management projects to make them more consistent and requires public reports of project results. Updates priorities for cooperative research, including electronic technologies and climate research, and requires the Secretary to issue guidance on the development of cooperative management agreements, oversight, and enforcement. Adds to MSA findings that science and statistical committees should consider outside sources of information, including local and traditional knowledge from tribal and Indigenous communities when seeking the best scientific information available. The Secretary must prioritize the following projects: to improve stock assessments, fishery dependent data collection; conservation engineering and management to reduce bycatch, identification of habitat of particular concern, electronic technologies, identification of anticipated changing ocean conditions, and to better understand shark depredation. NMFS must report to Congress within six months of enactment of progress in implementing the recommendations of the Cooperative Research and Cooperative Management Working Group.

Section 405. Northeast regional pilot research trawl survey and study. Establishes a pilot study to develop a fishing industry-based Northeast regional research trawl survey and a study to enhance and improve current vessel trawl surveys. Studies conducted in coordination with the relevant councils and the Northeast Area Monitoring and Assessment Program.

Section 406. Recreational data consistency. Requires the Secretary to establish guidelines to improve recreational catch data and ensure data consistency. Creates a program to research and improve recreational catch data survey methods.

Section 407. Emergency operating plans. Requires NOAA, in consultation with stakeholders, to develop a contingency plan for

pandemics or other emergencies that make fish monitoring, including human observers, surveys, and other data collections for stock assessments impractical. Requires a report to Congress on the plan within one year of enactment.

Section 408. Zeke Grader Fisheries Conservation and Management Fund. Renames the Fisheries Conservation and Management Fund to the Zeke Grader Fisheries Conservation and Management Fund. Allows climate change research to be an eligible use of funds. Allows funds to be used in the region in which they were generated.

Section 409. Offshore wind collaboration. Requires the Departments of Commerce and Interior (through the Bureau of Ocean Energy Management) to enter into a cooperative agreement to fund survey mitigation programs, additional stock assessments, and research to determine the impact of offshore wind energy development on fisheries and marine wildlife.

Section 410. Shark populations analysis. NMFS must enter into an agreement for an independent analysis of shark populations in the Gulf of Mexico and Atlantic coasts and to develop a plan to integrate the results into its own data sets and fishery management measures.

TITLE V—SUSTAINING FISHERIES THROUGH HEALTHY ECOSYSTEMS  
AND IMPROVED MANAGEMENT

Section 501 Sense of Congress. States that the protection of essential fish habitat (EFH) ensures healthy fisheries and that EFH consultation should be consistently applied to fishing and non-fishing activities.

Section 502. Essential fish habitat consultation. Strengthens EFH consultation and requires federal agency actions to avoid adverse effects to EFH for the entire period they're likely to occur or minimize and mitigate the adverse effects for the entire period they're likely to occur. Adds a definition of "adverse effect" and requires monitoring of impacts to EFH. Requires Councils to identify Habitat Areas of Particular Concern (HAPC), develop plans to protect EFH, and periodically review habitat protection plans and EFH and HAPC designations.

Section 503. Reducing bycatch. Removes loopholes that prevent effective bycatch management and creates a nationwide standardized bycatch reporting system. Updates the Bycatch Reduction Engineering Program to expand outreach, technical assistance, and adoption of bycatch reduction methods.

Section 504. Improving rebuilding outcomes. Requires more detailed information in NOAA's annual status of stocks report to identify stocks subject to overfishing and in need of rebuilding plans. Replaces "fisheries" with "stocks of fish" and "depleted" with "overfished" throughout the Act. Allows the Secretary to use the term "depleted" where appropriate to describe an overfished stock that has been impacted by environmental factors in addition to, or in absence of, fishing pressure. Specifies that conservation and management measures are required to improve stock status for stocks approaching an overfished condition. Amends the rebuilding timeline to be specific to stock biology. Requires adequate and measurable criteria, including the consideration of fishing communities and international organizations the U.S. participates in, and

progress in rebuilding plans. Strengthens requirements for responding to rebuilding failures.

Section 505. Overfished fisheries and preventing overfishing. Requires that objective and measurable criteria are used to identify overfished stocks and stocks experiencing overfishing. Clarifies that Councils cannot be less precautionary than science and statistical committee (SSC) recommendations. Requires SSCs to provide advice on accounting for all sources of mortality, promoting resilience to climate change, and objective and measurable criteria for overfishing and depleted stocks. Requires recommendations from the SSC for overfishing be based solely on objective and measurable criteria. Includes a technical correction on an existing rule of construction.

Section 506. Preparation and review of secretarial plans. Requires the Secretary to develop fishery management plans (FMPs) when Councils do not complete plans within a reasonable amount of time.

Section 507. Councils. Requires Councils to prioritize climate change in research priorities, develop objective and measurable criteria for identifying overfishing and overfished fisheries, develop measurable targets for EFH, and regularly update FMPs to implement habitat protection plans.

Section 508. Forage Fish Conservation. Directs the Secretary to define forage fish and requires the definition development process to be governed by notice and comment rulemaking. Requires Councils to develop and submit to the Secretary for approval a list of unmanaged forage fish occurring in its area.

Section 509. Funding for monitoring implementation of Northeast Multispecies fishery management plan. Adds monitoring, including electronic monitoring, as a use of funds related to the implementation of the plan.

Section 510. Highly migratory species. Establishes a SSC to serve as the Highly Migratory Species. Division's scientific and technical advisory body for species not currently managed by the Atlantic Tunas Convention Act.

#### TITLE VI—INTERNATIONAL FISHERIES MANAGEMENT

Section 601. Conservation Commissioner at the Atlantic Tunas Convention Act. Amends the Atlantic Tunas Convention Act to clarify the conservation commissioner designation process and make minor technical edits.

Section 602. Conservation Commissioner to the Western and Central Pacific Fisheries. Amends the Western and Central Pacific Fisheries Convention Implementation Act to clarify the conservation commissioner designation process.

Section 603. Conservation Commissioner to the Inter-American Tropical Tuna Commission. Amends the Conservation Commissioner to the Inter-American Tropical Tuna Commission Implementation Act to clarify the conservation commissioner designation process.

Section 604. Application of annual catch limit and accountable measures requirement. Adds a new section that clarifies the requirements for annual catch limit and accountable measure requirements regarding stocks governed under an international agreement in which the U.S. participates.

Section 605. Authorization of appropriations. Authorizes funding for FY23 at \$698.1 million, increasing annually to \$782.2 million for FY28. Increases authorization levels by 50 percent, accounting for inflation, to provide the necessary resources for the new requirements in this Act and to better equip fisheries science and management.

#### COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

Regarding clause 2(b)(1) of rule X and clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee on Natural Resources' oversight findings and recommendations are reflected in the body of this report.

#### COMPLIANCE WITH HOUSE RULE XIII AND CONGRESSIONAL BUDGET ACT

1. *Cost of Legislation and the Congressional Budget Act.* With respect to the requirements of clause 3(c)(2) and (3) of rule XIII of the Rules of the House of Representatives and sections 308(a) and 402 of the Congressional Budget Act of 1974, as well as clause 3(d) of rule XIII of the Rules of the House of Representatives, the Committee has received the following materials for the bill from the Director of the Congressional Budget Office:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, November 14, 2022.*

Hon. RAÚL M. GRIJALVA,  
*Chairman, Committee on Natural Resources, House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed table summarizing estimated budgetary effects and mandates information for some of the legislation that has been ordered reported by the House Committee on Natural Resources during the 117th Congress.

If you wish further details, we will be pleased to provide them. The CBO staff contact for each estimate is listed on the enclosed table.

Sincerely,

PHILLIP L. SWAGEL,  
*Director.*

Enclosure.

#### SUMMARY ESTIMATES OF LEGISLATION ORDERED REPORTED

The Congressional Budget Act of 1974 requires the Congressional Budget Office, to the extent practicable, to prepare estimates of the budgetary effects of legislation ordered reported by Congressional authorizing committees. In order to provide the Congress with as much information as possible, the attached table summarizes information about the estimated direct spending and revenue effects of some of the legislation that has been ordered reported by the House Committee on Natural Resources during the 117th Congress. The legislation listed in this table generally would have small effects, if any, on direct spending or revenues, CBO estimates. Where possible, the table also provides information about

the legislations estimated effects on spending subject to appropriation and on intergovernmental and private-sector mandates as defined in the Unfunded Mandates Reform Act.

ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION

Bill Number	Title	Status	Last Action	Budget Function	Direct Spending, 2023-2032	Revenues, 2023-2032	Spending Subject to Appropriation, 2023-2027	Pay-As-You-Go Procedures Apply?	Increases On-Budget Deficits Beginning in 2033?	Mandates	Contact
H.R. 3600	Route 66 National Historic Trail Designation Act H.R. 3600 would designate the 2,400 miles of U.S. Highway 66 from Illinois to California as the Route 66 National Historic Trail. CBO estimates that enacting H.R. 3600 would not affect direct spending or revenues. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered reported	11/17/21	300	0	0	Not estimated	No	No	No	Madeleine Fox
H.R. 4648	Cane River Creole National Historical Park Boundary Modification Act H.R. 4648 would add about 46 acres to the Cane River Creole National Historical Park in Louisiana. CBO estimates that enacting H.R. 4648 would not affect direct spending or revenues. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered reported	11/17/21	300	0	0	Not estimated	No	No	No	Madeleine Fox
H.R. 4690	Sustaining America's Fisheries for the Future Act of 2021 H.R. 4690 would authorize the appropriation of specific amounts totaling \$4.1 billion over the 2023-2027 period and \$0.8 billion after 2027 to mitigate damage to fish populations from climate change, overfishing, oil spills, and natural disasters. The bill also would authorize grant programs and funding assistance to fishing communities that experience economic loss from damaged fisheries. CBO estimates that enacting H.R. 4690 would have an insignificant effect on direct spending and no effect on revenues over the 2023-2032 period. The legislation would authorize activities that would not necessarily be covered by the authorized appropriations; thus, CBO has not estimated the full discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered reported	09/29/22	300	Between -\$500,000 and zero	0	Not estimated	Yes	No	No	Aurora Swanson
H.R. 5444	Truth and Healing Commission on Indian Boarding School Policies Act H.R. 5444 would establish the Truth and Healing Commission on Indian Boarding School Policies to study and report on the lasting effects of policies that placed American Indian, Alaska Native, and Native Hawaiian children in boarding schools. CBO estimates that enacting H.R. 5444 would not affect direct spending or revenues. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered reported	06/15/22	500	0	0	Not estimated	No	No	No	Garrett Quenneville
H.R. 6438	Dearfield Study Act H.R. 6438 would establish the Dearfield Study Act to study and report on the lasting effects of policies that placed American Indian, Alaska Native, and Native Hawaiian children in boarding schools. CBO estimates that enacting H.R. 6438 would not affect direct spending or revenues. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered reported	07/20/22	300	0	0	Not estimated	No	No	No	Madeleine Fox

ESTIMATED BUDGETARY EFFECTS AND MANDATES INFORMATION—Continued

Bill Number	Title	Status	Last Action	Budget Function	Direct Spending, 2023-2032	Revenues, 2023- 2032	Spending Subject to Appropriation, 2023- 2027	Pay-As-You-Go Procedures Apply?	Increases On- Budget Deficits Beginning in 2033?	Man- dates	Contact
H.R. 6438	HR. 6438 would require the Department of the Interior to study and report on the suitability and feasibility of establishing the Dearfield area in Colorado as a unit of the National Park System. CBO estimates that enacting H.R. 6438 would not affect direct spending or revenues. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered re-ported	07/13/22	300	0	0	Not estimated	No	No	No	Madeleine Fox
H.R. 6442	HR. 6442 would authorize the National Park Service to enter into agreements with tribal governments, public universities, public utilities, and quasi-governmental entities to cooperatively manage adjacent parks. CBO estimates that enacting H.R. 6442 would not affect direct spending or revenues. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered re-ported	07/20/22	300	0	0	Not estimated	No	No	No	Madeleine Fox
H.R. 6799	HR. 6799 would require the Department of the Interior to study and report on the suitability and feasibility of establishing the John P. Parker House in Ohio as a unit of the National Park System. CBO estimates that enacting H.R. 6799 would not affect direct spending or revenues. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered re-ported	07/13/22	300	0	0	Not estimated	No	No	No	Madeleine Fox
H.R. 7496	HR. 7496 would direct the Department of the Interior to install a plaque at the peak of Ram Head in the United States Virgin Islands commemorating the 1733 slave rebellion. CBO estimates that enacting H.R. 7496 would not affect direct spending or revenues. CBO has not estimated the discretionary costs of implementing the bill. The bill contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act.	Ordered re-ported	07/13/22	300	0	0	Not estimated	No	No	No	Madeleine Fox



The Committee adopts as its own any finalized additional materials of the Director of the Congressional Budget Office regarding the bill, should such materials be made available before House passage of the bill.

2. *General Performance Goals and Objectives.* As required by clause 3(c)(4) of rule XIII, the general performance goals and objectives of this bill are to reauthorize and amend the Magnuson-Stevens Fishery Conservation and Management Act.

#### EARMARK STATEMENT

This bill does not contain any Congressional earmarks, limited tax benefits, or limited tariff benefits as defined under clause 9(e), 9(f), and 9(g) of rule XXI of the Rules of the House of Representatives.

#### UNFUNDED MANDATES REFORM ACT STATEMENT

According to CBO, this bill contains no unfunded mandates as defined by the Unfunded Mandates Reform Act.

#### EXISTING PROGRAMS

This bill does not establish or reauthorize a program of the federal government known to be duplicative of another program.

#### APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

#### PREEMPTION OF STATE, LOCAL, OR TRIBAL LAW

Any preemptive effect of this bill over state, local, or tribal law is intended to be consistent with the bill's purposes and text and the Supremacy Clause of Article VI of the U.S. Constitution.

#### CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, and existing law in which no change is proposed is shown in roman):

### **MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT**

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Magnuson-Stevens Fishery Conservation and Management Act".*

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#### SEC. 2. FINDINGS, PURPOSES AND POLICY.

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

(1) The fish off the coasts of the United States, the highly migratory species of the high seas, the species which dwell on or in the Continental Shelf appertaining to the United States, and the anadromous species which spawn in United States rivers or estuaries, constitute valuable and renewable natural resources. These fishery resources contribute to the food supply, economy, and health of the Nation and provide recreational opportunities.

【(2) Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been so substantially reduced in number that they could become similarly threatened as a consequence of (A) increased fishing pressure, (B) the inadequacy of fishery resource conservation and management practices and controls, or (C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels.

【(3) Commercial and recreational fishing constitutes a major source of employment and contributes significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources at an ever-increasing rate over the past decade. The activities of massive foreign fishing fleets in waters adjacent to such coastal areas have contributed to such damage, interfered with domestic fishing efforts, and caused destruction of the fishing gear of United States fishermen.】

(2) *Certain stocks of fish have declined to the point where their survival is threatened, and other stocks of fish have been*

so substantially reduced in number that they could become similarly threatened as a consequence of—

(A) increased fishing pressure;

(B) the inadequacy of fishery resource conservation and management practices and controls;

(C) direct and indirect habitat losses which have resulted in a diminished capacity to support existing fishing levels;

or

(D) changing environmental conditions, including those associated with climate change.

(3) Commercial, recreational, and charter fishing constitute major sources of employment and contribute significantly to the economy of the nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources; ensuring sustainable use of fishery resources is essential to the economic well-being of these areas.

(4) International fishery agreements have not been effective in preventing or terminating the overfishing of these valuable fishery resources. There is danger that irreversible effects from overfishing will take place before an effective international agreement on fishery management jurisdiction can be negotiated, signed, ratified, and implemented.

(5) Fishery resources are finite but renewable. If placed under sound management before overfishing has caused irreversible effects, the fisheries can be conserved and maintained so as to provide optimum yields on a continuing basis.

(6) A national program for the conservation and management of the fishery resources of the United States is necessary to prevent overfishing, to rebuild overfished stocks, to insure conservation, to account for the impacts of environmental changes on stocks of fish, to facilitate long-term protection of essential fish habitats, and to realize the full potential of the Nation's fishery resources.

(7) A national program for the development of fisheries which are underutilized or not utilized by the United States fishing industry, including bottom fish off Alaska, is necessary to assure that our citizens benefit from the employment, food supply, and revenue which could be generated thereby.

(8) The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States *Fisheries management is most effective when it uses the best scientific information available, and incorporates such information from governmental and nongovernmental sources, including State and Federal agency staff, fishermen, fishing communities, universities, nonprofit organizations, local and traditional knowledge from Tribes, Indigenous communities, and subsistence fishermen, and research institutions. Scientific and statistical committees should consider such information when seeking the best scientific information available to form the basis of conservation and management.*

[(9) One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. Habitat consid-

erations should receive increased attention for the conservation and management of fishery resources of the United States.】

(9) *One of the greatest long term threats to the viability of commercial and recreational fisheries is the continuing degradation of marine ecosystems, including the loss of marine, estuarine, and other aquatic habitats, including as a result of changing environmental conditions associated with climate change. Habitat and ecosystem considerations should receive increased attention for the conservation and management of fishery resources of the United States.*

(10) Pacific Insular Areas contain unique historical, cultural, legal, political, and geographical circumstances which make fisheries resources important in sustaining their economic growth.

(11) A number of the Fishery Management Councils have demonstrated significant progress in integrating ecosystem considerations in fisheries management using the existing authorities provided under this Act.

(12) International cooperation is necessary to address illegal, unreported, and unregulated fishing and other fishing practices which may harm the sustainability of living marine resources and disadvantage the United States fishing industry.

(13) While both provide significant cultural and economic benefits to the Nation, recreational fishing and commercial fishing are different activities. Therefore, science-based conservation and management approaches should be adapted to the characteristics of each sector.

(14) *Environmental changes associated with climate change, including changes in water temperature, ocean acidification, and deoxygenation, are rapidly altering the abundance, productivity, and distribution of fish and are affecting commercial, recreational, and subsistence fisheries.*

(15) *The impacts of climate change on fish and their habitats are resulting in management and sustainability challenges that threaten to negatively impact marine ecosystems, fishery resources, and coastal communities.*

(16) *Many factors beyond the direct impacts of fishing can contribute to a decline in abundance of a stock of fish, resulting in depleted fish stocks and threatening the stability of ecosystems and fishing communities, including climate change, pollution, habitat and watershed degradation, inadequate freshwater resources, and industrial uses of the ocean. The designation of a stock of fish as overfished indicates that it is depleted and management actions are necessary to allow the stock to rebuild, regardless of the cause of depletion.*

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

(1) to take immediate action to conserve and manage the fishery resources found off the coasts of the United States, and the anadromous species and Continental Shelf fishery resources of the United States, by exercising (A) sovereign rights for the purposes of exploring, exploiting, conserving, and managing all fish, within the exclusive economic zone established by Presidential Proclamation 5030, dated March 10, 1983, and (B) exclusive fishery management authority beyond the exclu-

sive economic zone over such anadromous species and Continental Shelf fishery resources;

(2) to support and encourage the implementation and enforcement of international fishery agreements for the conservation and management of highly migratory species, and to encourage the negotiation and implementation of additional such agreements as necessary;

(3) to promote domestic commercial, *subsistence*, and recreational fishing under sound conservation and management principles, including the promotion of catch and release programs in recreational fishing;

(4) to provide for the preparation and implementation, in accordance with national standards, of fishery management plans which will achieve and maintain, on a continuing basis, the optimum yield from each fishery;

[(5) to establish Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances (A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans, and (B) which take into account the social and economic needs of the States;]

*(5) to establish Regional Fishery Management Councils to exercise sound judgement in the stewardship of fishery resources through the preparation, monitoring, and revision of such plans under circumstances—*

*(A) which will enable the States, the fishing industry, consumer and environmental organizations, and other interested persons to participate in, and advise on, the establishment and administration of such plans;*

*(B) which take into account the social and economic needs of the States; and*

*(C) which address the impacts of environmental conditions associated with climate change on stocks of fish, marine ecosystems, fisheries management, and coastal communities;*

(6) to encourage the development by the United States fishing industry of fisheries which are currently underutilized or not utilized by United States fishermen, including bottom fish off Alaska, and to that end, to ensure that optimum yield determinations promote such development in a non-wasteful manner; and

(7) to promote the protection of essential fish habitat [in the review of projects] *from adverse effects caused by fishing and from projects* conducted under Federal permits, licenses, or other authorities that affect or have the potential to affect such habitat.

(c) POLICY.—It is further declared to be the policy of the Congress in this Act—

(1) to maintain without change the existing territorial or other ocean jurisdiction of the United States for all purposes other than the conservation and management of fishery resources, as provided for in this Act;

(2) to authorize no impediment to, or interference with, recognized legitimate uses of the high seas, except as necessary for the conservation and management of fishery resources, as provided for in this Act;

(3) to assure that the national fishery conservation and management program utilizes, and is based upon, the best scientific information available; involves, and is responsive to the needs of, interested and affected States and citizens; considers efficiency; draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effects of fishing on immature fish and encourages development of practical measures that minimize bycatch and avoid unnecessary waste of fish; and is workable and effective;

(4) to permit foreign fishing consistent with the provisions of this Act;

(5) to support and encourage active United States efforts to obtain internationally acceptable agreements which provide for effective conservation and management of fishery resources, and to secure agreements to regulate fishing by vessels or persons beyond the exclusive economic zones of any nation;

(6) to foster and maintain the diversity of fisheries in the United States; **[and]**

(7) to ensure that the fishery resources adjacent to a Pacific Insular Area, including resident or migratory stocks within the exclusive economic zone adjacent to such areas, be explored, developed, conserved, and managed for the benefit of the people of such area and of the United States**[.];**

*(8) to promote management that accounts for changes in stocks of fish and the marine environment that result from climate change; and*

*(9) to ensure that the research, resource management, and expenditures to prepare fisheries and fishing communities for climate change promote racial and socioeconomic equity with respect to environmental, economic, and social outcomes across fisheries and regions.*

### SEC. 3. DEFINITIONS.

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

(1) *ADVERSE EFFECT.*—*The term “adverse effect” means, with respect to essential fish habitat, any impact that reduces the quality or quantity of essential fish habitat.*

**[(1)] (1A)** The term “anadromous species” means species of fish which spawn in fresh or estuarine waters of the United States and which migrate to ocean waters.

(2) The term “bycatch” means fish which are harvested in a fishery, but which are not sold or kept for personal use, and includes economic discards and regulatory discards. Such term does not include fish released alive under a recreational catch and release fishery management program.

(3) The term “charter fishing” means fishing from a vessel carrying a passenger for hire (as defined in section 2101(30) of title 46, United States Code) who is engaged in recreational fishing.

(4) The term “commercial fishing” means fishing in which the fish harvested, either in whole or in part, are intended to

enter commerce or enter commerce through sale, barter or trade.

(5) The term “conservation and management” refers to all of the rules, regulations, conditions, methods, and other measures (A) which are required to rebuild, restore, or maintain, and which are useful in rebuilding, restoring, or maintaining, any fishery resource and the marine environment; and (B) which are designed to assure that—

(i) a supply of food and other products may be taken, and that recreational benefits may be obtained, on a continuing basis;

(ii) irreversible or long-term adverse effects on fishery resources and the marine environment are avoided; and

(iii) there will be a multiplicity of options available with respect to future uses of these resources.

(6) The term “Continental Shelf” means the seabed and subsoil of the submarine areas adjacent to the coast, but outside the area of the territorial sea, of the United States, to a depth of 200 meters or, beyond that limit, to where the depth of the superjacent waters admits of the exploitation of the natural resources of such areas.

(7) The term “Continental Shelf fishery resources” means the following:

#### COLEENTERATA

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

#### CRUSTACEA

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

#### MOLLUSKS

Red Abalone—*Haliotis rufescens*;  
 Pink Abalone—*Haliotis corrugata*;  
 Japanese Abalone—*Haliotis kamtschatkana*;



Queen Conch—*Strombus gigas*;  
 Surf Clam—*Spisula solidissima*, and  
 Ocean Quahog—*Arctica islandica*.

## SPONGES

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

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

(A) immobile on or under the seabed, or

(B) unable to move except in constant physical contact with the seabed or subsoil,

of the Continental Shelf which appertains to the United States, and publishes notice of such determination in the Federal Register, such sedentary species shall be considered to be added to the foregoing list and included in such term for purposes of this Act.

(8) The term “Council” means any Regional Fishery Management Council established under section 302.

(9) The term “economic discards” means fish which are the target of a fishery, but which are not retained because they are of an undesirable size, sex, or quality, or for other economic reasons.

(10) The term “essential fish habitat” means those waters and substrate necessary to fish for spawning, breeding, feeding or growth to maturity.

(11) The term “exclusive economic zone” means the zone established by Proclamation Numbered 5030, dated March 10, 1983. For purposes of applying this Act, the inner boundary of that zone is a line coterminous with the seaward boundary of each of the coastal States.

(12) The term “fish” means finfish, mollusks, crustaceans, and all other forms of marine animal and plant life other than marine mammals and birds.

(13) The term “fishery” means—

(A) one or more stocks of fish which can be treated as a unit for purposes of conservation and management and which are identified on the basis of geographical, scientific, technical, recreational, and economic characteristics; and

(B) any fishing for such stocks.

(14) The term “regional fishery association” means an association formed for the mutual benefit of members—

(A) to meet social and economic needs in a region or subregion; and

(B) comprised of persons engaging in the harvest or processing of fishery resources in that specific region or subregion or who otherwise own or operate businesses substantially dependent upon a fishery.

(15) The term “fishery resource” means any fishery, any stock of fish, any species of fish, and any habitat of fish.

(16) The term “fishing” means—

(A) the catching, taking, or harvesting of fish;

- (B) the attempted catching, taking, or harvesting of fish;
- (C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or
- (D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

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

(17) The term “fishing community” means a community which is substantially dependent on or substantially engaged in the harvest or processing of fishery resources to meet social and economic needs, and includes fishing vessel owners, operators, and crew and United States fish processors that are based in such community.

(18) The term “fishing vessel” means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for—

(A) fishing; or

(B) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

(18A) *FORAGE FISH.*—*The term “forage fish”—*

(A) *has the meaning given the term by the Secretary under section 305(m); and*

(B) *with respect to a species in a fishery managed pursuant to a fishery management plan or plan amendment that is approved by the Secretary under section 304(a), means any species identified in such plan as a forage fish.*

(19) The term “foreign fishing” means fishing by a vessel other than a vessel of the United States.

(19A) *HABITAT AREAS OF PARTICULAR CONCERN.*—*The term “habitat areas of particular concern” means specific types or areas of habitat that are part of or within essential fish habitat that—*

(A) *provide important ecological function, including for maintaining and restoring the biomass, demographic, spatial and genetic characteristics of fish populations;*

(B) *are sensitive to human-induced environmental degradation;*

(C) *are or will be significantly stressed by human activities;*

(D) *due to prevailing or anticipated future environmental conditions, are or may become important to the health of managed species; or*

(E) *are rare.*

(20) The term “high seas” means all waters beyond the territorial sea of the United States and beyond any foreign nation’s territorial sea, to the extent that such sea is recognized by the United States.

(21) The term “highly migratory species” means tuna species, marlin (*Tetrapturus* spp. and *Makaira* spp.), oceanic sharks, sailfishes (*Istiophorus* spp.), and swordfish (*Xiphias gladius*).

(22) The term “import”—

(A) means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing, bringing, or introduction constitutes an importation within the meaning of the customs laws of the United States; but

(B) does not include any activity described in subparagraph (A) with respect to fish caught in the exclusive economic zone or by a vessel of the United States.

(23) The term “individual fishing quota” means a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person. Such term does not include community development quotas as described in section 305(i).

(24) The term “international fishery agreement” means any bilateral or multilateral treaty, convention, or agreement which relates to fishing and to which the United States is a party.

(25) The term “large-scale driftnet fishing” means a method of fishing in which a gillnet composed of a panel or panels of webbing, or a series of such gillnets, with a total length of two and one-half kilometers or more is placed in the water and allowed to drift with the currents and winds for the purpose of entangling fish in the webbing.

(26) The term “limited access privilege”—

(A) means a Federal permit, issued as part of a limited access system under section 303A to harvest a quantity of fish expressed by a unit or units representing a portion of the total allowable catch of the fishery that may be received or held for exclusive use by a person; and

(B) includes an individual fishing quota; but

(C) does not include community development quotas as described in section 305(i).

(27) The term “limited access system” means a system that limits participation in a fishery to those satisfying certain eligibility criteria or requirements contained in a fishery management plan or associated regulation.

(28) The term “Marine Fisheries Commission” means the Atlantic States Marine Fisheries Commission, the Gulf States Marine Fisheries Commission, or the Pacific Marine Fisheries Commission.

(29) The term “migratory range” means the maximum area at a given time of the year within which fish of an anadromous species or stock thereof can be expected to be found, as determined on the basis of scale pattern analysis, tagging studies, or other reliable scientific information, except that the term does not include any part of such area which is in the waters of a foreign nation.

(30) The term “national standards” means the national standards for fishery conservation and management set forth in section 301.

(31) The term “observer” means any person required or authorized to be carried on a vessel for conservation and management purposes by regulations or permits under this Act.

(32) The term “observer information” means any information collected, observed, retrieved, or created by an observer or electronic monitoring system pursuant to authorization by the Secretary, or collected as part of a cooperative research initiative, including fish harvest or processing observations, fish sampling or weighing data, vessel logbook data, vessel or processor-specific information (including any safety, location, or operating condition observations), and video, audio, photographic, or written documents.

(33) The term “optimum”, with respect to the yield from a fishery, means the amount of fish which—

(A) will provide the greatest overall benefit to the Nation, particularly with respect to food production and recreational opportunities, and taking into account the protection of marine ecosystems;

(B) is prescribed on the basis of the maximum sustainable yield from the fishery, as reduced by any relevant social, economic, or ecological factor; **[and]**

(C) in the case of an overfished fishery, provides for rebuilding to a level consistent with producing the maximum sustainable yield in such fishery**[.]; and**

*(D) in the case of a forage fish, is reduced, pursuant to subparagraph (B), to provide for the diet needs of fish species and other marine wildlife, including marine mammals and birds, for which forage fish is a significant dietary component.*

(34) The terms “overfishing” and “overfished” mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.

(35) The term “Pacific Insular Area” means American Samoa, Guam, the Northern Mariana Islands, Baker Island, Howland Island, Jarvis Island, Johnston Atoll, Kingman Reef, Midway Island, Wake Island, or Palmyra Atoll, as applicable, and includes all islands and reefs appurtenant to such island, reef, or atoll.

(36) The term “person” means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(37) The term “recreational fishing” means fishing for sport or pleasure.

(38) The term “regulatory discards” means fish harvested in a fishery which fishermen are required by regulation to discard whenever caught, or are required by regulation to retain but not sell.

(39) The term “Secretary” means the Secretary of Commerce or **[his]** *the Secretary’s* designee.

(40) The term “special areas” means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990; in particular, the term refers to those areas east of the maritime

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

(41) The term “special areas” means the areas referred to as eastern special areas in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990. In particular, the term refers to those areas east of the maritime boundary, as defined in that Agreement, that lie within 200 nautical miles of the baselines from which the breadth of the territorial sea of Russia is measured but beyond 200 nautical miles of the baselines from which the breadth of the territorial sea of the United States is measured.

(42) The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(42A)(A) *SUBSISTENCE FISHING.*—*The term “subsistence fishing” means fishing in which the fish harvested are intended for customary and traditional uses, including—*

*(i) for direct or sharing personal, family, or community consumption, including as food, shelter, clothing, or tools;*

*(ii) for the making or selling of handicraft articles out of nonedible byproducts of subsistence fishing;*

*(iii) for barter; and*

*(iv) for customary trade.*

*(B) In this paragraph—*

*(i) the term “family” means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and*

*(ii) the term “barter” means the exchange of a fish or fish part harvested through subsistence fishing—*

*(I) for another fish or fish part; or*

*(II) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.*

(43) The term “stock of fish” means a species, subspecies, geographical grouping, or other category of fish capable of management as a unit.

(44) The term “treaty” means any international fishery agreement which is a treaty within the meaning of section 2 of article II of the Constitution.

(45) The term “tuna species” means the following:

Albacore Tuna—*Thunnus alalunga*;

Bigeye Tuna—*Thunnus obesus*;

Bluefin Tuna—*Thunnus thynnus*;

Skipjack Tuna—*Katsuwonus pelamis*; and

Yellowfin Tuna—*Thunnus albacares*.

(46) The term “United States”, when used in a geographical context, means all the States thereof.

(47) The term “United States fish processors” means facilities located within the United States for, and vessels of the

United States used or equipped for, the processing of fish for commercial use or consumption.

(48) The term “United States harvested fish” means fish caught, taken, or harvested by vessels of the United States within any fishery for which a fishery management plan prepared under title III or a preliminary fishery management plan prepared under section 201(h) has been implemented.

(49) The term “vessel subject to the jurisdiction of the United States” has the same meaning such term has in section 3(c) of the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1903(c)).

(50) The term “vessel of the United States” means—

(A) any vessel documented under chapter 121 of title 46, United States Code;

(B) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and measuring less than 5 net tons;

(C) any vessel numbered in accordance with chapter 123 of title 46, United States Code, and used exclusively for pleasure; or

(D) any vessel not equipped with propulsion machinery of any kind and used exclusively for pleasure.

[(33)] (51) The term “waters of a foreign nation” means any part of the territorial sea or exclusive economic zone (or the equivalent) of a foreign nation, to the extent such territorial sea or exclusive economic zone is recognized by the United States.

\* \* \* \* \*

## TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHERY AGREEMENTS

### SEC. 201. FOREIGN FISHING.

(a) IN GENERAL.—After February 28, 1977, no foreign fishing is authorized within the exclusive economic zone, or for anadromous species or Continental Shelf fishery resources beyond the exclusive economic zone, unless such foreign fishing—

(1) is authorized under subsections (b) or (c) or section 204(e), or under a permit issued under section 204(d);

(2) is not prohibited under subsection (f); and

(3) is conducted under, and in accordance with, a valid and applicable permit issued pursuant to section 204.

(b) EXISTING INTERNATIONAL FISHERY AGREEMENTS.—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (subject to the provisions of section 202(b) or (c)), if such agreement—

(1) was in effect on the date of enactment of this Act; and

(2) has not expired, been renegotiated, or otherwise ceased to be of force and effect with respect to the United States.

(c) GOVERNING INTERNATIONAL FISHERY AGREEMENTS.—Foreign fishing described in subsection (a) may be conducted pursuant to an international fishery agreement (other than a treaty) which meets the requirements of this subsection if such agreement becomes effective after application of section 203. Any such inter-

national fishery agreement shall hereafter in this Act be referred to as a “governing international fishery agreement”. Each governing international fishery agreement shall acknowledge the exclusive fishery management authority of the United States, as set forth in this Act. It is the sense of the Congress that each such agreement shall include a binding commitment, on the part of such foreign nation and its fishing vessels, to comply with the following terms and conditions:

(1) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by all regulations promulgated by the Secretary pursuant to this Act, including any regulations promulgated to implement any applicable fishery management plan or any preliminary fishery management plan.

(2) The foreign nation, and the owner or operator of any fishing vessel fishing pursuant to such agreement, will abide by the requirement that—

(A) any officer authorized to enforce the provisions of this Act (as provided for in section 311) be permitted—

(i) to board, and search or inspect, any such vessel at any time,

(ii) to make arrests and seizures provided for in section 311(b) whenever such officer has reasonable cause to believe, as a result of such a search or inspection, that any such vessel or any person has committed an act prohibited by section 307, and

(iii) to examine and make notations on the permit issued pursuant to section 204 for such vessel;

(B) the permit issued for any such vessel pursuant to section 204 be prominently displayed in the wheelhouse of such vessel;

(C) transponders, or such other appropriate position-fixing and identification equipment as the Secretary of the department in which the Coast Guard is operating determines to be appropriate, be installed and maintained in working order on each such vessel;

(D) United States observers required under subsection (h) be permitted to be stationed aboard any such vessel and that all of the costs incurred incident to such stationing, including the costs of data editing and entry and observer monitoring, be paid for, in accordance with such subsection, by the owner or operator of the vessel;

(E) any fees required under section 204(b)(10) be paid in advance;

(F) agents be appointed and maintained within the United States who are authorized to receive and respond to any legal process issued in the United States with respect to such owner or operator; and

(G) responsibility be assumed, in accordance with any requirements prescribed by the Secretary, for the reimbursement of United States citizens for any loss of, or damage to, their fishing vessels, fishing gear, or catch which is caused by any fishing vessel of that nation;

and will abide by any other monitoring, compliance, or enforcement requirement related to fishery conservation and management which is included in such agreement.

(3) The foreign nation and the owners or operators of all of the fishing vessels of such nation shall not, in any year, harvest an amount of fish which exceeds such nation's allocation of the total allowable level of foreign fishing, as determined under subsection (e).

(4) The foreign nation will—

(A) apply, pursuant to section 204, for any required permits;

(B) deliver promptly to the owner or operator of the appropriate fishing vessel any permit which is issued under that section for such vessel;

(C) abide by, and take appropriate steps under its own laws to assure that all such owners and operators comply with, section 204(a) and the applicable conditions and restrictions established under section 204(b)(7); and

(D) take, or refrain from taking, as appropriate, actions of the kind referred to in subsection (e)(1) in order to receive favorable allocations under such subsection.

(d) **TOTAL ALLOWABLE LEVEL OF FOREIGN FISHING.**—The total allowable level of foreign fishing, if any, with respect to any fishery subject to the exclusive fishery management authority of the United States, is that portion of the optimum yield of such fishery which cannot, or will not, be harvested by vessels of the United States, as determined in accordance with this Act. Allocations of the total allowable level of foreign fishing are discretionary, except that the total allowable level shall be zero for fisheries determined by the Secretary to have adequate or excess domestic harvest capacity.

(e) **ALLOCATION OF ALLOWABLE LEVEL.**—(1)(A) The Secretary of State, in cooperation with the Secretary, may make allocations to foreign nations from the total allowable level of foreign fishing which is permitted with respect to each fishery subject to the exclusive fishery management authority of the United States.

(B) From the determinations made under subparagraph (A), the Secretary of State shall compute the aggregate of all of the fishery allocations made to each foreign nation.

(C) The Secretary of State shall initially release to each foreign nation for harvesting up to 50 percent of the allocations aggregate computed for such nation under subparagraph (B), and such release of allocation shall be apportioned by the Secretary of State, in cooperation with the Secretary, among the individual fishery allocations determined for that nation under subparagraph (A). The basis on which each apportionment is made under this subparagraph shall be stated in writing by the Secretary of State.

(D) After the initial release of fishery allocations under subparagraph (C) to a foreign nation, any subsequent release of an allocation for any fishery to such nation shall only be made—

(i) after the lapse of such period of time as may be sufficient for purposes of making the determination required under clause (ii); and

(ii) if the Secretary of State and the Secretary, after taking into account the size of the allocation for such fishery and the



length and timing of the fishing season, determine in writing that such nation is complying with the purposes and intent of this paragraph with respect to such fishery.

If the foreign nation is not determined under clause (ii) to be in such compliance, the Secretary of State shall reduce, in a manner and quantity [he] *such Secretary* considers to be appropriate (I) the remainder of such allocation, or (II) if all of such allocation has been released, the next allocation of such fishery, if any, made to such nation.

(E) The determinations required to be made under subparagraphs (A) and (D)(ii), and the apportionments required to be made under subparagraph (C), with respect to a foreign nation shall be based on—

(i) whether, and to what extent, such nation imposes tariff barriers or nontariff barriers on the importation, or otherwise restricts the market access, of both United States fish and fishery products, particularly fish and fishery products for which the foreign nation has requested an allocation;

(ii) whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors, and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;

(iii) whether, and to what extent, such nation and the fishing fleets of such nation have cooperated with the United States in the enforcement of United States fishing regulations;

(iv) whether, and to what extent, such nation requires the fish harvested from the exclusive economic zone for its domestic consumption;

(v) whether, and to what extent, such nation otherwise contributes to, or fosters the growth of, a sound and economic United States fishing industry, including minimizing gear conflicts with fishing operations of United States fishermen, and transferring harvesting or processing technology which will benefit the United States fishing industry;

(vi) whether, and to what extent, the fishing vessels of such nation have traditionally engaged in fishing in such fishery;

(vii) whether, and to what extent, such nation is cooperating with the United States in, and making substantial contributions to, fishery research and the identification of fishery resources; and

(viii) such other matters as the Secretary of State, in cooperation with the Secretary, deems appropriate.

(2)(A) For the purposes of this paragraph—

(i) The term “certification” means a certification made by the Secretary that nationals of a foreign country, directly or indirectly, are conducting fishing operations or engaging in trade or taking which diminishes the effectiveness of the International Convention for the Regulation of Whaling. A certification under this section shall also be deemed a certification for the purposes of section 8(a) of the Fishermen’s Protective Act of 1967 (22 U.S.C. 1978(a)).

(ii) The term “remedial period” means the 365-day period beginning on the date on which a certification is issued with respect to a foreign country.

(B) If the Secretary issues a certification with respect to any foreign country, then each allocation under paragraph (1) that—

(i) is in effect for that foreign country on the date of issuance; or

(ii) is not in effect on such date but would, without regard to this paragraph, be made to the foreign country within the remedial period;

shall be reduced by the Secretary of State, in consultation with the Secretary, by not less than 50 percent.

(C) The following apply for purposes of administering subparagraph (B) with respect to any foreign country:

(i) If on the date of certification, the foreign country has harvested a portion, but not all, of the quantity of fish specified under any allocation, the reduction under subparagraph (B) for that allocation shall be applied with respect to the quantity not harvested as of such date.

(ii) If the Secretary notified the Secretary of State that it is not likely that the certification of the foreign country will be terminated under section 8(d) of the Fishermen’s Protective Act of 1967 before the close of the period for which an allocation is applicable or before the close of the remedial period (whichever close first occurs) the Secretary of State, in consultation with the Secretary, shall reallocate any portion of any reduction made under subparagraph (B) among one or more foreign countries for which no certification is in effect.

(iii) If the certification is terminated under such section 8(d) during the remedial period, the Secretary of State shall return to the foreign country that portion of any allocation reduced under subparagraph (B) that was not reallocated under clause (ii); unless the harvesting of the fish covered by the allocation is otherwise prohibited under this Act.

(iv) The Secretary may refund or credit, by reason of reduction of any allocation under this paragraph, any fee paid under section 204.

(D) If the certification of a foreign country is not terminated under section 8(d) of the Fishermen’s Protective Act of 1967 before the close of the last day of the remedial period, the Secretary of State—

(i) with respect to any allocation made to that country and in effect (as reduced under subparagraph (B)) on such last day, shall rescind, effective on and after the day after such last day, any unharvested portion of such allocation; and

(ii) may not thereafter make any allocation to that country under paragraph (1) until the certification is terminated.

(f) RECIPROCITY.—Foreign fishing shall not be authorized for the fishing vessels of any foreign nation unless such nation satisfies the Secretary and the Secretary of State that such nation extends substantially the same fishing privileges to fishing vessels of the United States, if any, as the United States extends to foreign fishing vessels.

(g) PRELIMINARY FISHERY MANAGEMENT PLANS.—The Secretary, when notified by the Secretary of State that any foreign nation has

submitted an application under section 204(b), shall prepare a preliminary fishery management plan for any fishery covered by such application if the Secretary determines that no fishery management plan for that fishery will be prepared and implemented, pursuant to title III, before March 1, 1977. To the extent practicable, each such plan—

(1) shall contain a preliminary description of the fishery and a preliminary determination as to—

(A) the optimum yield from such fishery;

(B) when appropriate, the capacity and extent to which United States fish processors will process that portion of such optimum yield that will be harvested by vessels of the United States; and

(C) the total allowable level of foreign fishing with respect to such fishery;

(2) shall require each foreign fishing vessel engaged or wishing to engage in such fishery to obtain a permit from the Secretary;

(3) shall require the submission of pertinent data to the Secretary, with respect to such fishery, as described in section 303(a)(5); and

(4) may, to the extent necessary to prevent irreversible effects from overfishing, with respect to such fishery, contain conservation and management measures applicable to foreign fishing which—

(A) are determined to be necessary and appropriate for the conservation and management of such fishery,

(B) are consistent with the national standards, the other provisions of this Act, and other applicable law, and

(C) are described in section 303(b)(2), (3), (4), (5), and (7).

Each preliminary fishery management plan shall be in effect with respect to foreign fishing for which permits have been issued until a fishery management plan is prepared and implemented, pursuant to title III, with respect to such fishery. The Secretary may, in accordance with section 553 of title 5, United States Code, also prepare and promulgate interim regulations with respect to any such preliminary plan. Such regulations shall be in effect until regulations implementing the applicable fishery management plan are promulgated pursuant to section 305.

(h) FULL OBSERVER COVERAGE PROGRAM.—(1)(A) Except as provided in paragraph (2), the Secretary shall establish a program under which a United States observer will be stationed aboard each foreign fishing vessel while that vessel is engaged in fishing within the exclusive economic zone.

(B) The Secretary shall by regulation prescribe minimum health and safety standards that shall be maintained aboard each foreign fishing vessel with regard to the facilities provided for the quartering of, and the carrying out of observer functions by, United States observers.

(2) The requirement in paragraph (1) that a United States observer be placed aboard each foreign fishing vessel may be waived by the Secretary if [he] *the Secretary* finds that—

(A) in a situation where a fleet of harvesting vessels transfers its catch taken within the exclusive economic zone to an-

other vessel, aboard which is a United States observer, the stationing of United States observers on only a portion of the harvesting vessel fleet will provide a representative sampling of the by-catch of the fleet that is sufficient for purposes of determining whether the requirements of the applicable management plans for the by-catch species are being complied with;

(B) in a situation where the foreign fishing vessel is operating under a Pacific Insular Area fishing agreement, the Governor of the applicable Pacific Insular Area, in consultation with the Western Pacific Council, has established an observer coverage program or other monitoring program that the Secretary, in consultation with the Western Pacific Management Council, determines is adequate to monitor harvest, bycatch, and compliance with the laws of the United States by vessels fishing under the agreement;

(C) the time during which a foreign fishing vessel will engage in fishing within the exclusive economic zone or special areas will be of such short duration that the placing of a United States observer aboard the vessel would be impractical; or

(D) for reasons beyond the control of the Secretary, an observer is not available.

(3) Observers, while stationed aboard foreign fishing vessels, shall carry out such scientific, compliance monitoring, and other functions as the Secretary deems necessary or appropriate to carry out the purposes of this Act; and shall cooperate in carrying out such other scientific programs relating to the conservation and management of living resources as the Secretary deems appropriate.

(4) In addition to any fee imposed under section 204(b)(10) of this Act and section 10(e) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1980(e)) with respect to foreign fishing for any year after 1980, the Secretary shall impose, with respect to each foreign fishing vessel for which a permit is issued under such section 204, a surcharge in an amount sufficient to cover all the costs of providing a United States observer aboard that vessel. The failure to pay any surcharge imposed under this paragraph shall be treated by the Secretary as a failure to pay the permit fee for such vessel under section 204(b)(10). All surcharges collected by the Secretary under this paragraph shall be deposited in the Foreign Fishing Observer Fund established by paragraph (5).

(5) There is established in the Treasury of the United States the Foreign Fishing Observer Fund. The Fund shall be available to the Secretary as a revolving fund for the purpose of carrying out this subsection. The Fund shall consist of the surcharges deposited into it as required under paragraph (4). All payments made by the Secretary to carry out this subsection shall be paid from the Fund, only to the extent and in the amounts provided for in advance in appropriation Acts. Sums in the Fund which are not currently needed for the purposes of this subsection shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(6) If at any time the requirement set forth in paragraph (1) cannot be met because of insufficient appropriations, the Secretary shall, in implementing a supplementary observer program:

(A) certify as observers, for the purposes of this subsection, individuals who are citizens or nationals of the United States and who have the requisite education or experience to carry out the functions referred to in paragraph (3);

(B) establish standards of conduct for certified observers equivalent to those applicable to Federal personnel;

(C) establish a reasonable schedule of fees that certified observers or their agents shall be paid by the owners and operators of foreign fishing vessels for observer services; and

(D) monitor the performance of observers to ensure that it meets the purposes of this Act.

(i) RECREATIONAL FISHING.—Notwithstanding any other provision of this title, foreign fishing vessels which are not operated for profit may engage in recreational fishing within the exclusive economic zone and the waters within the boundaries of a State subject to obtaining such permits, paying such reasonable fees, and complying with such conditions and restrictions as the Secretary and the Governor of the State (or [his] *such Governor's* designee) shall impose as being necessary or appropriate to insure that the fishing activity of such foreign vessels within such zone or waters, respectively, is consistent with all applicable Federal and State laws and any applicable fishery management plan implemented under section 304. The Secretary shall consult with the Secretary of State and the Secretary of the Department in which the Coast Guard is operating in formulating the conditions and restrictions to be applied by the Secretary under the authority of this subsection.

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#### SEC. 203. CONGRESSIONAL OVERSIGHT OF INTERNATIONAL FISHERY AGREEMENTS.

(a) IN GENERAL.—No governing international fishery agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement shall become effective with respect to the United States before the close of the first 120 days (excluding any days in a period for which the Congress is adjourned sine die) after the date on which the President transmits to the House of Representatives and to the Senate a document setting forth the text of such governing international fishery agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement. A copy of the document shall be delivered to each House of Congress on the same day and shall be delivered to the Clerk of the House of Representatives, if the House is not in session, and to the Secretary of the Senate, if the Senate is not in session.

(b) REFERRAL TO COMMITTEES.—Any document described in subsection (a) shall be immediately referred in the House of Representatives to the Committee on Merchant Marine and Fisheries, and in the Senate to the Committees on Commerce, Science, and Transportation and on Foreign Relations.

(c) CONGRESSIONAL PROCEDURES.—

(1) RULES OF THE HOUSE OF REPRESENTATIVE AND SENATE.—

The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be fol-

lowed in that House in the case of fishery agreement resolutions described in paragraph (2), and they supersede other rules only to the extent that they are inconsistent therewith; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as they relate to the procedure of that House) at any time, and in the same manner and to the same extent as in the case of any other rule of that House.

(2) DEFINITION.—For purposes of this subsection, the term “fishery agreement resolution” refers to a joint resolution of either House of Congress—

(A) the effect of which is to prohibit the entering into force and effect of any governing international fishery agreement, bycatch reduction agreement, or Pacific Insular Area fishery agreement the text of which is transmitted to the Congress pursuant to subsection (a); and

(B) which is reported from the Committee on Merchant Marine and Fisheries of the House of Representatives or the Committee on Commerce, Science, and Transportation or the Committee on Foreign Relations of the Senate, not later than 45 days after the date on which the document described in subsection (a) relating to that agreement is transmitted to the Congress.

(3) PLACEMENT ON CALENDAR.—Any fishery agreement resolution upon being reported shall immediately be placed on the appropriate calendar.

(4) FLOOR CONSIDERATION IN THE HOUSE.—

(A) A motion in the House of Representatives to proceed to the consideration of any fishery agreement resolution shall be highly privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the House of Representatives on any fishery agreement resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate shall not be debatable. It shall not be in order to move to recommit any fishery agreement resolution or to move to reconsider the vote by which any fishery agreement resolution is agreed to or disagreed to.

(C) Motions to postpone, made in the House of Representatives with respect to the consideration of any fishery agreement resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(D) All appeals from the decisions of the Chair relating to the application of the Rules of the House of Representatives to the procedure relating to any fishery agreement resolution shall be decided without debate.

(E) Except to the extent specifically provided in the preceding provisions of this subsection, consideration of any fishery agreement resolution shall be governed by the

Rules of the House of Representatives applicable to other bills and resolutions in similar circumstances.

(5) FLOOR CONSIDERATION IN THE SENATE.—

(A) A motion in the Senate to proceed to the consideration of any fishery agreement resolution shall be privileged and not debatable. An amendment to the motion shall not be in order, nor shall it be in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(B) Debate in the Senate on any fishery agreement resolution and on all debatable motions and appeals in connection therewith shall be limited to not more than 10 hours. The time shall be equally divided between, and controlled by, the majority leader and the minority leader or their designees.

(C) Debate in the Senate on any debatable motion or appeal in connection with any fishery agreement resolution shall be limited to not more than 1 hour, to be equally divided between, and controlled by, the mover of the motion or appeal and the manager of the resolution, except that if the manager of the resolution is in favor of any such motion or appeal, the time in opposition thereto shall be controlled by the minority leader or [his] *the minority leader's* designee. The majority leader and the minority leader, or either of them, may allot additional time to any Senator during the consideration of any debatable motion or appeal, from time under their control with respect to the applicable fishery agreement resolution.

(D) A motion in the Senate to further limit debate is not debatable. A motion to recommit any fishery agreement resolution is not in order.

**SEC. 204. PERMITS FOR FOREIGN FISHING.**

(a) IN GENERAL.—After February 28, 1977, no foreign fishing vessel shall engage in fishing within the exclusive economic zone, or for anadromous species or Continental Shelf fishery resources beyond such zone, unless such vessel has on board a valid permit issued under this section for such vessel.

(b) APPLICATIONS AND PERMITS UNDER GOVERNING INTERNATIONAL FISHERY AGREEMENTS.—

(1) ELIGIBILITY.—Each foreign nation with which the United States has entered into a governing international fishery agreement shall submit an application to the Secretary of State each year for a permit for each of its fishing vessels that wishes to engage in fishing described in subsection (a). No permit issued under this section may be valid for longer than a year; and section 558(c) of title 5, United States Code, does not apply to the renewal of any such permit.

(2) FORMS.—The Secretary, in consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall prescribe the forms for permit applications submitted under this subsection and for permits issued pursuant to any such application.

(3) CONTENTS.—Any application made under this subsection shall specify—

- (A) the name and official number or other identification of each fishing vessel for which a permit is sought, together with the name and address of the owner thereof;
  - (B) the tonnage, hold capacity, speed, processing equipment, type and quantity of fishing gear, and such other pertinent information with respect to characteristics of each such vessel as the Secretary may require;
  - (C) each fishery in which each such vessel wishes to fish;
  - (D) the estimated amount of tonnage of fish which will be caught, taken, or harvested in each such fishery by each such vessel during the time the permit is in force;
  - (E) the amount or tonnage of United States harvested fish, if any, which each such vessel proposes to receive at sea from vessels of the United States;
  - (F) the ocean area in which, and the season or period during which, such fishing will be conducted; and
  - (G) all applicable vessel safety standards imposed by the foreign country, and shall include written certification that the vessel is in compliance with those standards;
- and shall include any other pertinent information and material which the Secretary may require.

(4) TRANSMITTAL FOR ACTION.—Upon receipt of any application which complies with the requirements of paragraph (3), the Secretary of State shall publish a notice of receipt of the application in the Federal Register. Any such notice shall summarize the contents of the applications from each nation included therein with respect to the matters described in paragraph (3). The Secretary of State shall promptly transmit—

- (A) such application, together with [his] *such Secretary's* comments and recommendations thereon, to the Secretary;
- (B) a copy of the application to the Secretary of the department in which the Coast Guard is operating; and
- (C) a copy or a summary of the application to the appropriate Council.

(5) ACTION BY COUNCIL.—After receiving a copy or summary of an application under paragraph (4)(C), the Council may prepare and submit to the Secretary such written comments on the application as it deems appropriate. Such comments shall be submitted within 45 days after the date on which the application is received by the Council and may include recommendations with respect to approval of the application and, if approval is recommended, with respect to appropriate conditions and restrictions thereon. Any interested person may submit comments to such Council with respect to any such application. The Council shall consider any such comments in formulating its submission to the Secretary.

(6) APPROVAL.—(A) After receipt of any application transmitted under paragraph (4)(A), the Secretary shall consult with the Secretary of State and, with respect to enforcement, with the Secretary of the department in which the Coast Guard is operating. The Secretary after taking into consideration the views and recommendations of such Secretaries, and any comments submitted by any Council under paragraph (5), may approve, subject to subparagraph (B), the application, if [he] *the Secretary* determines that the fishing described in the



application will meet the requirements of this Act, or [he] *the Secretary* may disapprove all or any portion of the application.

(B)(i) In the case of any application which specifies that one or more foreign fishing vessels propose to receive at sea United States harvested fish from vessels of the United States, the Secretary may approve the application unless the Secretary determines, on the basis of the views, recommendations, and comments referred to in subparagraph (A) and other pertinent information, that United States fish processors have adequate capacity, and will utilize such capacity, to process all United States harvested fish from the fishery concerned.

(ii) The amount or tonnage of United States harvested fish which may be received at sea during any year by foreign fishing vessels under permits approved under this paragraph may not exceed that portion of the optimum yield of the fishery concerned which will not be utilized by United States fish processors.

(iii) In deciding whether to approve any application under this subparagraph, the Secretary may take into account, with respect to the foreign nation concerned, such other matters as the Secretary deems appropriate.

(7) ESTABLISHMENT OF CONDITIONS AND RESTRICTIONS.—The Secretary shall establish conditions and restrictions which shall be included in each permit issued pursuant to any application approved under paragraph (6) or subsection (d) and which must be complied with by the owner or operator of the fishing vessel for which the permit is issued. Such conditions and restrictions shall include the following:

(A) All of the requirements of any applicable fishery management plan, or preliminary fishery management plan, and any applicable Federal or State fishing regulations.

(B) The requirement that no permit may be used by any vessel other than the fishing vessel for which it is issued.

(C) The requirements described in section 201(c)(1), (2), and (3).

(D) If the permit is issued other than pursuant to an application approved under paragraph (6)(B) or subsection (d), the restriction that the foreign fishing vessel may not receive at sea United States harvested fish from vessels of the United States.

(E) If the permit is issued pursuant to an application approved under paragraph (6)(B), the maximum amount or tonnage of United States harvested fish which may be received at sea from vessels of the United States.

(F) Any other condition and restriction related to fishery conservation and management which the Secretary prescribes as necessary and appropriate.

(8) NOTICE OF APPROVAL.—The Secretary shall promptly transmit a copy of each application approved under paragraph (6) and the conditions and restrictions established under paragraph (7) to—

(A) the Secretary of State for transmittal to the foreign nation involved;

(B) the Secretary of the department in which the Coast Guard is operating; and

(C) any Council which has authority over any fishery specified in such application.

(9) DISAPPROVAL OF APPLICATIONS.—If the Secretary does not approve any application submitted by a foreign nation under this subsection, [he] *the Secretary* shall promptly inform the Secretary of State of the disapproval and [his] *the Secretary's* reasons therefore. The Secretary of State shall notify such foreign nation of the disapproval and the reasons therefor. Such foreign nation, after taking into consideration the reasons for disapproval, may submit a revised application under this subsection.

(10) FEES.—

(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit has been issued pursuant to this section. The Secretary, in consultation with the Secretary of State, shall establish a schedule of reasonable fees that shall apply nondiscriminatorily to each foreign nation.

(B) Amounts collected by the Secretary under this paragraph shall be deposited in the general fund of the Treasury.

(11) ISSUANCE OF PERMITS.—If a foreign nation notifies the Secretary of State of its acceptance of the conditions and restrictions established by the Secretary under paragraph (7), the Secretary of State shall promptly transmit such notification to the Secretary. Upon payment of the applicable fees established pursuant to paragraph (10), the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all conditions and restrictions established under paragraph (7) which apply to the fishing vessel for which the permit is issued.

(c) REGISTRATION PERMITS.—The Secretary of State, in cooperation with the Secretary, shall issue annually a registration permit for each fishing vessel of a foreign nation which is a party to an international fishery agreement under which foreign fishing is authorized by section 201(b) and which wishes to engage in fishing described in subsection (a). Each such permit shall set forth the terms and conditions contained in the agreement that apply with respect to such fishing, and shall include the additional requirement that the owner or operator of the fishing vessel for which the permit is issued shall prominently display such permit in the wheelhouse of such vessel and show it, upon request, to any officer authorized to enforce the provisions of this Act (as provided for in section 311). The Secretary of State, after consultation with the Secretary and the Secretary of the department in which the Coast Guard is operating, shall prescribe the form and manner in which applications for registration permits may be made, and the forms of such permits. The Secretary of State may establish, require the payment of, and collect fees for registration permits; except that the level of such fees shall not exceed the administrative costs incurred by him in issuing such permits.

(d) TRANSSHIPMENT PERMITS.—

(1) **AUTHORITY TO ISSUE PERMITS.**—The Secretary may issue a transshipment permit under this subsection which authorizes a vessel other than a vessel of the United States to engage in fishing consisting solely of transporting fish or fish products at sea from a point within the exclusive economic zone or, with the concurrence of a State, within the boundaries of that State, to a point outside the United States to any person who—

(A) submits an application which is approved by the Secretary under paragraph (3); and

(B) pays a fee imposed under paragraph (7).

(2) **TRANSMITTAL.**—Upon receipt of an application for a permit under this subsection, the Secretary shall promptly transmit copies of the application to the Secretary of State, Secretary of the department in which the Coast Guard is operating, any appropriate Council, and any affected State.

(3) **APPROVAL OF APPLICATION.**—The Secretary may approve, in consultation with the appropriate Council or Marine Fisheries Commission, an application for a permit under this section if the Secretary determines that—

(A) the transportation of fish or fish products to be conducted under the permit, as described in the application, will be in the interest of the United States and will meet the applicable requirements of this Act;

(B) the applicant will comply with the requirements described in section 201(c)(2) with respect to activities authorized by any permit issued pursuant to the application;

(C) the applicant has established any bonds or financial assurances that may be required by the Secretary; and

(D) no owner or operator of a vessel of the United States which has adequate capacity to perform the transportation for which the application is submitted has indicated to the Secretary an interest in performing the transportation at fair and reasonable rates.

(4) **WHOLE OR PARTIAL APPROVAL.**—The Secretary may approve all or any portion of an application under paragraph (3).

(5) **FAILURE TO APPROVE APPLICATION.**—If the Secretary does not approve any portion of an application submitted under paragraph (1), the Secretary shall promptly inform the applicant and specify the reasons therefor.

(6) **CONDITIONS AND RESTRICTIONS.**—The Secretary shall establish and include in each permit under this subsection conditions and restrictions, including those conditions and restrictions set forth in subsection (b)(7), which shall be complied with by the owner and operator of the vessel for which the permit is issued.

(7) **FEES.**—The Secretary shall collect a fee for each permit issued under this subsection, in an amount adequate to recover the costs incurred by the United States in issuing the permit, except that the Secretary shall waive the fee for the permit if the foreign nation under which the vessel is registered does not collect a fee from a vessel of the United States engaged in similar activities in the waters of such foreign nation.

(e) **PACIFIC INSULAR AREAS.**—

(1) **NEGOTIATION OF PACIFIC INSULAR AREA FISHERY AGREEMENTS.**—The Secretary of State, with the concurrence of the

Secretary and [in consultation with any appropriate Council,] *at the request and with the concurrence of the Governor of the applicable Pacific Insular Area*, may negotiate and enter into a Pacific Insular Area fishery agreement to authorize foreign fishing within the exclusive economic zone adjacent to [a Pacific Insular Area—] *that Pacific Insular Area*.

[(A) in the case of American Samoa, Guam, or the Northern Mariana Islands, at the request and with the concurrence of, and in consultation with, the Governor of the Pacific Insular Area to which such agreement applies; and

[(B) in the case of a Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands, at the request of the Western Pacific Council.]

(2) AGREEMENT TERMS AND CONDITIONS.—A Pacific Insular Area fishery agreement—

(A) shall not be considered to supersede any governing international fishery agreement currently in effect under this Act, but shall provide an alternative basis for the conduct of foreign fishing within the exclusive economic zone adjacent to Pacific Insular Areas;

(B) shall be negotiated and implemented consistent only with the governing international fishery agreement provisions of this title specifically made applicable in this subsection;

(C) may not be negotiated with a nation that is in violation of a governing international fishery agreement in effect under this Act;

(D) shall not be entered into if it is determined by the Governor of the applicable Pacific Insular Area with respect to agreements initiated under paragraph (1)(A), or the Western Pacific Council with respect to agreements initiated under paragraph (1)(B), that such an agreement will adversely affect the fishing activities of the indigenous people of such Pacific Insular Area;

(E) shall be valid for a period not to exceed three years and shall only become effective according to the procedures in section 203; and

(F) shall require the foreign nation and its fishing vessels to comply with the requirements of paragraphs (1), (2), (3) and (4)(A) of section 201(c), section 201(d), and section 201(h).

(3) PERMITS FOR FOREIGN FISHING.—

(A) Application for permits for foreign fishing authorized under a Pacific Insular Areas fishing agreement shall be made, considered and approved or disapproved in accordance with paragraphs (3), (4), (5), (6), (7)(A) and (B), (8), and (9) of subsection (b), and shall include any conditions and restrictions established by the Secretary in consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, *and the Governor of the applicable Pacific Insular Area*, and the appropriate Council]. *Such permits shall also be consistent with any applicable fishery management plan.*

(B) If a foreign nation notifies the Secretary of State of its acceptance of the requirements of this paragraph, paragraph (2)(F), and paragraph (5), including any conditions and restrictions established under subparagraph (A), the Secretary of State shall promptly transmit such notification to the Secretary. Upon receipt of any payment required under a Pacific Insular Area fishing agreement, the Secretary shall thereupon issue to such foreign nation, through the Secretary of State, permits for the appropriate fishing vessels of that nation. Each permit shall contain a statement of all of the requirements, conditions, and restrictions established under this subsection which apply to the fishing vessel for which the permit is issued.

(4) MARINE CONSERVATION PLANS.—

(A) Prior to entering into a Pacific Insular Area fishery agreement, **the Western Pacific Council and** the appropriate Governor of the applicable Pacific Insular Area shall develop a 3-year marine conservation plan detailing uses for funds to be collected by the Secretary pursuant to such agreement. Such plan shall be consistent with any applicable fishery management plan, identify conservation and management objectives (including criteria for determining when such objectives have been met), and prioritize planned marine conservation projects. Conservation and management objectives shall include, but not be limited to—

(i) Pacific Insular Area observer programs, or other monitoring programs, that the Secretary determines are adequate to monitor the harvest, bycatch, and compliance with the laws of the United States by foreign fishing vessels that fish under Pacific Insular Area fishing agreements;

(ii) conduct of marine and fisheries research, including development of systems for information collection, analysis, evaluation, and reporting;

(iii) conservation, education, and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies;

(iv) grants to the University of Hawaii for technical assistance projects by the Pacific Island Network, such as education and training in the development and implementation of sustainable marine resources development projects, scientific research, and conservation strategies; and

**[(v) western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.]**

*(v) western Pacific community based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects in waters beyond the seaward boundary (as such term is defined in section 4 of the Submerged Lands Act) of*

*any state to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.*

【(B) In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor, with the concurrence of the Western Pacific Council, shall develop the marine conservation plan described in subparagraph (A) and submit such plan to the Secretary for approval. In the case of other Pacific Insular Areas, the Western Pacific Council shall develop and submit the marine conservation plan described in subparagraph (A) to the Secretary for approval.】

*(B) In the case of American Samoa, Guam, and the Northern Mariana Islands, the appropriate Governor of the applicable Pacific Insular Area shall develop the marine conservation plan described in subparagraph (A) and submit such plan to the Secretary for approval. In the case of other Pacific Insular Areas, the Secretary and the appropriate Governor of the applicable Pacific Insular Area shall jointly develop the marine conservation plan described in subparagraph (A).*

(C) If a Governor or the Western Pacific Council intends to request that the Secretary of State renew a Pacific Insular Area fishery agreement, a subsequent 3-year plan shall be submitted to the Secretary for approval by the end of the second year of the existing 3-year plan.

(5) RECIPROCAL CONDITIONS.—Except as expressly provided otherwise in this subsection, a Pacific Insular Area fishing agreement may include terms similar to the terms applicable to United States fishing vessels for access to similar fisheries in waters subject to the fisheries jurisdiction of another nation.

(6) USE OF PAYMENTS BY AMERICAN SAMOA, GUAM, NORTHERN MARIANA ISLANDS.—Any payments received by the Secretary under a Pacific Insular Area fishery agreement for American Samoa, Guam, or the Northern Mariana Islands shall be deposited into the United States Treasury and then covered over to the Treasury of the Pacific Insular Area for which those funds were collected. Amounts deposited in the Treasury of a Pacific Insular Area shall be available, without appropriation or fiscal year limitation, to the Governor of the Pacific Insular Area—

(A) to carry out the purposes of this subsection; and

【(B) to compensate (i) the Western Pacific Council for mutually agreed upon administrative costs incurred relating to any Pacific Insular Area fishery agreement for such Pacific Insular Area, and (ii) the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(A); and】

【(C)】 *(B) to implement a marine conservation plan developed and approved under paragraph (4).*

(7) WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.—There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which any payments received by the Secretary under a Pacific Insular Area fishery agreement and any funds or contributions received in support of

conservation and management objectives under a marine conservation plan for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Western Pacific Sustainable Fisheries Fund shall be made available, without appropriation or fiscal year limitation, to the Secretary, who shall provide such funds only to] *for the purposes of—*

(A) [the Western Pacific Council for the purpose of] carrying out the provisions of this subsection, *as determined by the Secretary, in consultation with the Western Pacific Sustainable Fishery Fund Advisory Panel established under section 204(e)(9)*, including implementation of a marine conservation plan approved under paragraph (4);

(B) *providing such funds as are necessary to the Secretary of State for mutually agreed upon travel expenses for no more than 2 Federal representatives incurred as a direct result of complying with paragraph (1)(B); and*

[(C) the Western Pacific Council to meet conservation and management objectives in the State of Hawaii if monies remain in the Western Pacific Sustainable Fisheries Fund after the funding requirements of subparagraphs (A) and (B) have been satisfied.]

*(C) providing such funds as remain in the Western Pacific Sustainable Fisheries Fund after the funding requirements of subparagraphs (A) and (B) have been satisfied to the Governor of Hawaii to meet conservation and management objectives in the State of Hawaii.*

[Amounts deposited in such fund shall not diminish funding received by the Western Pacific Council for the purpose of carrying out other responsibilities under this Act.]

(8) USE OF FINES AND PENALTIES.—In the case of violations occurring within the exclusive economic zone off American Samoa, Guam, or the Northern Mariana Islands, amounts received by the Secretary which are attributable to fines or penalties imposed under this Act, including such sums collected from the forfeiture and disposition or sale of property seized subject to its authority, after payment of direct costs of the enforcement action to all entities involved in such action, shall be deposited into the Treasury of the Pacific Insular Area adjacent to the exclusive economic zone in which the violation occurred, to be used for fisheries enforcement and for implementation of a marine conservation plan under paragraph (4). In the case of violations by foreign vessels occurring within the exclusive economic zones off Midway Atoll, Johnston Atoll, Kingman Reef, Palmyra Atoll, Jarvis, Howland, Baker, and Wake Islands, amounts received by the Secretary attributable to fines and penalties imposed under this Act, shall be deposited into the Western Pacific Sustainable Fisheries Fund established under paragraph (7) of this subsection.

(9) WESTERN PACIFIC SUSTAINABLE FISHERY FUND ADVISORY PANEL.—

(A) *IN GENERAL.—To assist in carrying out this paragraph, the Secretary shall establish and convene an advisory panel under section 302(g) to evaluate, determine the relative merits of, and annually rank applications for*

*grants for implementation of approved marine conservation plans approved under paragraph (4). The panel shall consist of members such that—*

*(i) the Governor of each applicable Pacific Insular Area selects one member; and*

*(ii) no member shall be a member or employee of the Western Pacific Fishery Management Council.*

*(B) AWARD NOT IN ACCORDANCE WITH RANK.—If the Secretary awards a grant for a project not in accordance with the rank given to such project by the advisory panel, the Secretary shall provide a detailed written explanation of the reasons for such award.*

*(C) NOTICE.—The Secretary shall provide to the public timely notice of each meeting of the advisory panel.*

*(D) MINUTES.—Minutes of each meeting of the advisory panel shall be kept by the Secretary and shall be made available to the public.*

*(E) REPORTS.—The Secretary shall, with the assistance of the Western Pacific Sustainable Fishery Fund Advisory Panel, submit an annual report to Congress identifying any projects that were funded in the previous year and the status and progress of projects carried out under this subsection.*

*(F) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App) shall not apply to the advisory panel.*

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**TITLE III—NATIONAL FISHERY MANAGEMENT PROGRAM**

**SEC. 301. NATIONAL STANDARDS FOR FISHERY CONSERVATION AND MANAGEMENT.**

(a) **IN GENERAL.**—Any fishery management plan prepared, and any regulation promulgated to implement any such plan, pursuant to this title shall be consistent with the following national standards for fishery conservation and management:

(1) Conservation and management measures shall prevent over-fishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

(2) Conservation and management measures shall be based upon the best scientific information available.

(3) To the extent practicable, an individual stock of fish shall be managed as a unit throughout its range, and interrelated stocks of fish shall be managed as a unit or in close coordination.

(4) Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such manner that



no particular individual, corporation, or other entity acquires an excessive share of such privileges.

(5) Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.

(6) Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.

(7) Conservation and management measures shall, where practicable, minimize costs and avoid unnecessary duplication.

[(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities by utilizing economic and social data that meet the requirements of paragraph (2), in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impacts on such communities.]

[(9) Conservation and management measures shall, to the extent practicable, (A) minimize bycatch and (B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.]

*(8) Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), provide for the sustained participation by fishery-dependent communities, to the extent practicable, by using economic and social data that meets the requirements of paragraph (2) to—*

*(A) minimize adverse economic impacts on such communities; and*

*(B) include measurable objectives and tangible strategies that provide residents of local fishing communities with sustained access to adjacent fisheries.*

*(9) Conservation and management measures shall—*

*(A) minimize bycatch; and*

*(B) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.*

(10) Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.

(b) The Secretary shall establish advisory guidelines (which shall not have the force and effect of law), based on the national standards, to assist in the development of fishery management plans.

**SEC. 302. REGIONAL FISHERY MANAGEMENT COUNCILS.**

(a) ESTABLISHMENT.—(1) There shall be established, within 120 days after the date of the enactment of this Act, eight Regional Fishery Management Councils, as follows:

(A) NEW ENGLAND COUNCIL.—The New England Fishery Management Council shall consist of the States of Maine, New Hampshire, Massachusetts, Rhode Island, and Connecticut and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The New England Council shall have [18] 19 voting members, including 12 appointed by the Secretary in accordance with

subsection (b)(2) (at least one of whom shall be appointed from each such State) *and a liaison who is a member of the Mid-Atlantic Fishery Management Council to represent the interests of fisheries under the jurisdiction of such Council.*

(B) MID-ATLANTIC COUNCIL.—The Mid-Atlantic Fishery Management Council shall consist of the States of New York, New Jersey, Delaware, Pennsylvania, Maryland, Virginia, and North Carolina and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except North Carolina, and as provided in paragraph (3)). The Mid-Atlantic Council shall have [21] 22 voting members, including 13 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State) *and a liaison who is a member of the New England Fishery Management Council to represent the interests of fisheries under the jurisdiction of such Council.*

(C) SOUTH ATLANTIC COUNCIL.—The South Atlantic Fishery Management Council shall consist of the States of North Carolina, South Carolina, Georgia, and Florida and shall have authority over the fisheries in the Atlantic Ocean seaward of such States (except as provided in paragraph (3)). The South Atlantic Council shall have 13 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(D) CARIBBEAN COUNCIL.—The Caribbean Fishery Management Council shall consist of the Virgin Islands and the Commonwealth of Puerto Rico and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States and of commonwealths, territories, and possessions of the United States in the Caribbean Sea (except as provided in paragraph (3)). The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(E) GULF COUNCIL.—The Gulf of Mexico Fishery Management Council shall consist of the States of Texas, Louisiana, Mississippi, Alabama, and Florida and shall have authority over the fisheries in the Gulf of Mexico seaward of such States (except as provided in paragraph (3)). The Gulf Council shall have 17 voting members, including 11 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State).

(F) PACIFIC COUNCIL.—The Pacific Fishery Management Council shall consist of the States of California, Oregon, Washington, and Idaho and shall have authority over the fisheries in the Pacific Ocean seaward of such States. The Pacific Council shall have 14 voting members, including 8 appointed by the Secretary in accordance with subsection (b)(2) (at least one of whom shall be appointed from each such State), and including one appointed from an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho in accordance with subsection (b)(5).

(G) NORTH PACIFIC COUNCIL.—The North Pacific Fishery Management Council shall consist of the States of Alaska,

Washington, and Oregon and shall have authority over the fisheries in the Arctic Ocean, Bering Sea, and Pacific Ocean seaward of Alaska. The North Pacific Council shall have **[11]** 13 voting members, including 7 appointed by the Secretary in accordance with subsection (b)(2) (5 of whom shall be appointed from the State of Alaska and 2 of whom shall be appointed from the State of Washington) *and including 2 appointed from Indian Tribes in Alaska that are identified (including parenthetically) on the most current list (as of the date of the enactment of this paragraph) published by the Secretary under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131).*

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

(2) Each Council shall reflect the expertise and interest of the several constituent States in the ocean area over which such Council is granted authority.

(3) The Secretary shall have authority over any highly migratory species fishery that is within the geographical area of authority of more than one of the following Councils: New England Council, Mid-Atlantic Council, South Atlantic Council, Gulf Council, and Caribbean Council.

(4) *REQUIREMENTS FOR LIAISON.*—*The Secretary shall appoint an individual to be a liaison between the Councils described in subparagraphs (A) and (B) of paragraph (1) who has expertise in a fishery that spans the geographical areas of both such Councils.*

(b) VOTING MEMBERS.—(1) The voting members of each Council shall be:

(A) The principal State official with marine fishery management responsibility and expertise in each constituent State, who is designated as such by the Governor of the State, so long as the official continues to hold such position, or the designee of such official.

(B) The regional director of the National Marine Fisheries Service for the geographic area concerned, or **[his]** *such director's* designee, except that if two such directors are within such geographical area, the Secretary shall designate which of such directors shall be the voting member.

(C) The members required to be appointed by the Secretary in accordance with paragraphs (2) and (5).

(2)**[A]** The members of each Council required to be appointed by the Secretary must be individuals who, by reason of their occupational or other experience, scientific expertise, or training, are knowledgeable regarding the conservation and management, or the commercial or recreational harvest, of the fishery resources of the

geographical area concerned. Within nine months after the date of enactment of the Fishery Conservation Amendments of 1990, the Secretary shall, by regulation, prescribe criteria for determining whether an individual satisfies the requirements of this subparagraph.】

【(B) The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of the active participants (or their representatives) in the commercial and recreational fisheries under the jurisdiction of the Council. On January 31, 1991, and each year thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—

【(i) list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;

【(ii) assess the membership of each Council in terms of the apportionment of the active participants in each such fishery; and

【(iii) state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery.

【(C) The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State. A Governor may not submit the names of individuals to the Secretary for appointment unless the Governor has determined that each such individual is qualified under the requirements of subparagraph (A) and unless the Governor has, to the extent practicable, first consulted with representatives of the commercial and recreational fishing interests of the State regarding those individuals. Each such list shall include the names and pertinent biographical data of not less than three individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A). The Secretary shall review each list submitted by a Governor to ascertain if the individuals on the list are qualified for the vacancy on the basis of such requirements. If the Secretary determines that any individual is not qualified, the Secretary shall notify the appropriate Governor of that determination. The Governor shall then submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question. An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (k).】

*(A) REQUIRED EXPERTISE.—In making appointments to the Council under this section, the Secretary shall appoint an individual who, by reason of occupational or other experience, scientific expertise, or training, is knowledgeable regarding—*

- (i) *the conservation and management, or the commercial, recreational, or subsistence harvest, of the fishery resources of the geographic area concerned; or*
- (ii) *ecosystem-based fishery management or climate science.*

(B) *APPORTIONMENT.—The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of active participants (or their representatives) in the commercial, recreational, and subsistence fisheries under the jurisdiction of the Council and of members of the conservation community, scientists, non-consumptive users, and indigenous and tribal communities as applicable, and of the active participants (or their representatives) in the commercial, recreational, and subsistence fisheries under the jurisdiction of the Council. The Secretary shall, on an annual basis, 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 actions taken by the Secretary to ensure that such fair and balanced apportionment is achieved. The report shall—*

- (i) *list the fisheries under the jurisdiction of each Council, outlining for each fishery the type and quantity of fish harvested, fishing and processing methods employed, the number of participants, the duration and range of the fishery, and other distinguishing characteristics;*

- (ii) *assess the membership of each Council in terms of the apportionment of the active participants in each such fishery and of members of the conservation community, scientists, non-consumptive users, indigenous and tribal communities; and*

- (iii) *state the Secretary's plans and schedule for actions to achieve a fair and balanced apportionment on the Council for the active participants in any such fishery and for the categories of members listed in clause (ii).*

(C) *APPOINTMENTS.—*

- (i) *LIST FROM GOVERNOR.—*

- (I) *APPOINTMENT FROM LIST.—The Secretary shall appoint the members of each Council from a list of individuals submitted by the Governor of each applicable constituent State.*

- (II) *REQUIREMENTS FOR LIST.—in submitting a list for the purposes of subclause (I), a Governor—*

- (aa) *may only submit the name of an individual if such Governor has determined such individual is qualified under the requirements of subparagraph (A); and*

- (bb) *shall include the names and pertinent biographical data of not less than 3 individuals for each applicable vacancy and shall be accompanied by a statement by the Governor explaining how each such individual meets the requirements of subparagraph (A).*

- (III) *REVIEW.—The Secretary shall review each list submitted under this subparagraph. If the Secretary*

determines that any individual does not meet the requirements of this paragraph, the Secretary shall notify the appropriate Governor.

(IV) *RESPONSE TO REVIEW.*—If a Governor receives notice under subclause (III), the Governor may submit a revised list or resubmit the original list with an additional explanation of the qualifications of the individual in question.

(ii) *INDIVIDUALS WHO DO NOT HAVE A FINANCIAL INTEREST.*—The Secretary shall appoint to each Council at least one individual who does not have a financial interest in matters before the Council.

(iii) *FINANCIAL DISCLOSURE REQUIREMENTS.*—An individual is not eligible for appointment by the Secretary until that individual complies with the applicable financial disclosure requirements under subsection (j).

(D)(i) The Governor of a State submitting a list of names of individuals for appointment by the Secretary of Commerce to the Gulf of Mexico Fisheries Management Council under subparagraph (C) shall include—

(I) at least 1 nominee each from the commercial, recreational, and charter fishing sectors; and

(II) at least 1 other individual who is knowledgeable regarding the conservation and management of fisheries resources in the jurisdiction of the Council.

(ii) Notwithstanding the requirements of subparagraph (C), if the Secretary determines that the list of names submitted by the Governor does not meet the requirements of clause (i) the Secretary shall—

(I) publish a notice in the Federal Register asking the residents of that State to submit the names and pertinent biographical data of individuals who would meet the requirement not met for appointment to the Council; and

(II) add the name of any qualified individual submitted by the public who meets the unmet requirement to the list of names submitted by the Governor.

(iii) For purposes of clause (i) an individual who owns or operates a fish farm outside of the United States shall not be considered to be a representative of the commercial or recreational fishing sector.

(iv) The requirements of this subparagraph shall expire at the end of fiscal year 2012.

(E) Whenever the Secretary makes an appointment to a Council, the Secretary shall make a public announcement of such appointment not less than 45 days before the first day on which the individual is to take office as a member of the Council.

(F) *GEOGRAPHIC REPRESENTATION.*—In appointing at-large members to the Western Pacific Fishery Management Council, the Secretary shall ensure geographic representation across all constituent states of the Council.

(3) Each voting member appointed to a Council by the Secretary in accordance with [paragraphs (2) and (5)] paragraph (2) shall serve for a term of 3 years; except that the Secretary may designate a shorter term if necessary to provide for balanced expiration to terms of office. No member appointed after January 1, 1986, may serve more than three consecutive terms. Any term in which

an individual was appointed to replace a member who left office during the term shall not be counted in determining the number of consecutive terms served by that Council member.

(4) Successors to the voting members of any Council shall be appointed in the same manner as the original voting members. Any individual appointed to fill a vacancy occurring prior to the expiration of any term of office shall be appointed for the remainder of that term.

(5)(A) The Secretary shall appoint to the Pacific Council one representative of an Indian tribe with Federally recognized fishing rights from California, Oregon, Washington, or Idaho from a list [of not less than 3 individuals] submitted by the tribal governments. The Secretary, in consultation with the Secretary of the Interior and tribal governments, shall establish by regulation the procedure for submitting a list under this subparagraph.

(B) Representation shall be rotated among the tribes taking into consideration—

(i) the qualifications of the individuals on the list referred to in subparagraph (A),

(ii) the various rights of the Indian tribes involved and judicial cases that set forth how those rights are to be exercised, and

(iii) the geographic area in which the tribe of the representative is located.

(C) A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.

(D) The tribal representative appointed under subparagraph (A) may designate as an alternate, during the period of the representative's term, an individual knowledgeable concerning tribal rights, tribal law, and the fishery resources of the geographical area concerned.

*(E) TERM OF TRIBAL REPRESENTATIVE.—An individual appointed under subparagraph (A) shall serve on the Pacific Council until such time as a new appointment to the tribal seat is made under subparagraph (A).*

(6) The Secretary may remove for cause any member of a Council required to be appointed by the Secretary in accordance with paragraphs (2) or (5) if—

(A) the Council concerned first recommends removal by not less than two-thirds of the members who are voting members and submits such removal recommendation to the Secretary in writing together with a statement of the basis for the recommendation; or

(B) the member is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307(1)(O).

**(7) TRIBAL REPRESENTATIVE ON NORTH PACIFIC COUNCIL**

*(A) APPOINTMENT The Secretary shall appoint to the North Pacific Council 2 individuals described in subparagraph (B) to serve as representatives of Indian Tribes in Alaska that are identified (including parenthetically) on the*

most current list (as of the date of the enactment of this paragraph) published by the Secretary under section 104 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5131) from a list submitted by the Tribal governments of those Tribes. The Secretary, in consultation with the Secretary of the Interior, Tribal Governments, and the Alaska Federation of Natives, shall establish by regulation the procedure for submitting a list under this subparagraph.

(B) **REQUIRED QUALIFICATIONS** An individual is described in this subparagraph if such individual possesses knowledge of the region's anadromous fish, of the marine resources managed by the Council, of the effects of the Council's actions on such resources, and of the region's subsistence uses, customs, and traditions relating to such resources and—

(i) possesses knowledge of commercial and sport uses of anadromous fish and marine resources in the region; or

(ii) demonstrates leadership through involvement in local or regional fish and wildlife management organizations.

(C) **REPRESENTATION** Representation shall be rotated among affected tribal regions, taking into consideration—

(i) the qualifications of the individuals on the list described in subparagraph (A);

(ii) the degree to which the Indian tribes in the region are dependent on anadromous fish and marine resources in the area managed by the Council and the impact of Council actions on such resources; and

(iii) the geographic area in which the tribe of the representative is located.

(D) **FILLING OF VACANCY** A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (C), except that the Secretary may use the list from which the vacating representative was chosen.

(E) **DESIGNATION OF ALTERNATE** The tribal representative appointed under subparagraph (A) may designate as an alternate an individual knowledgeable concerning tribal rights and fishing practices, Indigenous traditional knowledge, tribal law, and other marine resources of the geographical area concerned.

(F) **TERM OF APPOINTMENT** An individual appointed under subparagraph (A) shall serve on the North Pacific Council until such time as a new appointment to the tribal seat is made under subparagraph (A).

(c) **NONVOTING MEMBERS.**—(1) The nonvoting members of each Council shall be:

(A) The regional or area director of the United States Fish and Wildlife Service for the geographical area concerned, or [his] such director's designee.

(B) The commander of the Coast Guard district for the geographical area concerned, or [his] such commander's designee; except that, if two Coast Guard districts are within such geo-



graphical area, the commander designated for such purpose by the commandant of the Coast Guard.

(C) The executive director of the Marine Fisheries Commission for the geographical area concerned, if any, or [his] *such executive director's* designee.

(D) One representative of the Department of State designated for such purpose by the Secretary of State, or [his] *such Secretary's* designee.

(2) The Pacific Council shall have one additional nonvoting member who shall be appointed by, and serve at the pleasure of, the Governor of Alaska.

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

(e) TRANSACTION OF BUSINESS.—

(1) A majority of the voting members of any Council shall constitute a quorum, but one or more such members designated by the Council may hold hearings. All decisions of any Council shall be by majority vote of the voting members present and voting.

(2) The voting members of each Council shall select a Chairman for such Council from among the voting members.

(3) Each Council shall meet at appropriate times and places in any of the constituent States of the Council at the call of the Chairman or upon the request of a majority of its voting members.

(4) If any voting member of a Council disagrees with respect to any matter which is transmitted to the Secretary by such Council, such member may submit a statement to the Secretary setting forth the reasons for such disagreement. The regional director of the National Marine Fisheries Service serving on the Council, or the regional director's designee, shall submit such a statement, which shall be made available to the public upon request, if the regional director disagrees with any such matter.

(5) [At the request of any voting member of a Council, the Council shall hold a roll call vote on any matter before the Council.] *Each Council shall hold a roll call vote on all non-procedural matters before the Council. At the request of any voting member of a Council, the Council shall hold a roll call vote on any procedural matter before the Council.* The official minutes and other appropriate records of any Council meeting shall identify all roll call votes held, the name of each voting member present during each roll call vote, and how each member voted on each roll call vote.

(6) *To the extent possible, each Council shall—*

(A) *seek to hold meetings in person; and*

(B) ensure the availability of remote meeting participation and voting.

(f) STAFF AND ADMINISTRATION.—

(1) Each Council may appoint, and assign duties to, an executive director and such other full- and part-time administrative employees as the Secretary determines are necessary to the performance of its functions.

(2) Upon the request of any Council, and after consultation with the Secretary, the head of any Federal agency is authorized to detail to such Council, on a reimbursable basis, any of the personnel of such agency, to assist such Council in the performance of its functions under this Act.

(3) The Secretary shall provide to each Council such administrative and technical support services as are necessary for the effective functioning of such Council.

(4) The Administrator of General Services shall furnish each Council with such offices, equipment, supplies, and services as [he] *the Administrator of General Services* is authorized to furnish to any other agency or instrumentality of the United States.

(5) The Secretary and the Secretary of State shall furnish each Council with relevant information concerning foreign fishing and international fishery agreements.

(6) Each Council shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this Act, in accordance with such uniform standards as are prescribed by the Secretary. The procedures of a Council, and of its scientific and statistical committee and advisory panels established under subsection (g), must be consistent with the procedural guidelines set forth in subsection (i)(2). Each Council shall publish and make available to the public a statement of its organization, practices, and procedures.

(7) The Secretary shall pay—

(A) the compensation and expenses provided for in subsection (d);

(B) appropriate compensation to employees appointed under paragraph (1);

(C) the amounts required for reimbursement of other Federal agencies under paragraphs (2) and (4);

(D) the actual expenses of the members of the committees and panels established under subsection (g); and

(E) such other costs as the Secretary determines are necessary to the performance of the functions of the Councils.

(g) COMMITTEES AND ADVISORY PANELS.—

(1)(A) Each Council shall establish, maintain, and appoint the members of a scientific and statistical committee to assist it in the development, collection, evaluation, and peer review of such statistical, biological, economic, social *ecological*, and other scientific information as is relevant to such Council's development and amendment of any fishery management plan.

[(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, and

achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.】

*(B) Each scientific and statistical committee shall provide its Council with ongoing scientific advice for fishery management decisions, including—*

*(i) recommendations for accounting for all sources of mortality in establishing management measures, for the acceptable biological catch levels, for preventing overfishing, for maximum sustainable yield, and for achieving rebuilding targets and promoting resilience of fish stocks to climate change;*

*(ii) objective and measurable criteria for determining whether a stock is overfished or experiencing overfishing; and*

*(iii) reports on stock status and health, sources of mortality, bycatch, habitat status, social, ecological, and economic impacts of management measures, and sustainability of fishing practices, and prevailing and anticipated future impacts of climate change on fish stocks, fishing communities, and fishery sectors.*

*(iv) maintaining a sufficient abundance, diversity, and localized distribution of forage fish populations to support the role of such populations in marine ecosystems.*

(C) Members appointed by the Councils to the scientific and statistical committees shall be Federal employees, State employees, academicians, or independent experts and shall have strong scientific or technical credentials and experience.

(D) Each member of a scientific and statistical committee shall be treated as an affected individual for purposes of paragraphs (2), (3)(B), (4), and (5)(A) of subsection (j). The Secretary shall keep disclosures made pursuant to this subparagraph on file.

(E) The Secretary and each Council may establish a peer review process for that Council for scientific information used to advise the Council about the conservation and management of the fishery. The review process, which may include existing committees or panels, is deemed to satisfy the requirements of the guidelines issued pursuant to section 515 of the Treasury and General Government Appropriations Act for Fiscal year 2001 (Public Law 106–554—Appendix C; 114 Stat. 2763A–153).

(F) In addition to the provisions of section 302(f)(7), the Secretary shall, subject to the availability of appropriations, pay a stipend to members of the scientific and statistical committees or advisory panels who are not employed by the Federal Government or a State marine fisheries agency.

(G) A science and statistical committee shall hold its meetings in conjunction with the meeting of the Council, to the extent practicable.

(2) Each Council shall establish such advisory panels as are necessary or appropriate to assist it in carrying out its functions under this Act.

(3)(A) Each Council shall establish and maintain a fishing industry advisory committee which shall provide information and recommendations on, and assist in the development of, fishery management plans and amendments to such plans.

(B) Appointments to a committee established under subparagraph (A) shall be made by each Council in such a manner as to provide fair representation to commercial fishing interests in the geographical area of authority of the Council.

(4) The Secretary shall establish advisory panels to assist in the collection and evaluation of information relevant to the development of any fishery management plan or plan amendment for a fishery to which subsection (a)(3) applies. Each advisory panel shall participate in all aspects of the development of the plan or amendment; be balanced in its representation of commercial, recreational, and other interests; and consist of not less than 7 individuals who are knowledgeable about the fishery for which the plan or amendment is developed, selected from among—

(A) members of advisory committees and species working groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species; and

(B) other interested persons.

(5) Decisions and recommendations made by committees and panels established under this subsection shall be considered to be advisory in nature.

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

(1) for each fishery under its authority that requires conservation and management, prepare and submit to the Secretary (A) a fishery management plan, and (B) amendments to each such plan that are necessary from time to time (and promptly whenever changes in conservation and management measures in another fishery substantially affect the fishery for which such plan was developed);

(2) prepare comments on any application for foreign fishing transmitted to it under section 204(b)(4)(C) or section 204(d), and any fishery management plan or amendment transmitted to it under section 304(c)(4);

(3) conduct public hearings, at appropriate times and in appropriate locations in the geographical area concerned, so as to allow all interested persons an opportunity to be heard in the development of fishery management plans and amendments to such plans, and with respect to the administration and implementation of the provisions of this Act (and for purposes of this paragraph, the term “geographical area concerned” may include an area under the authority of another Council if the fish in the fishery concerned migrate into, or occur in, that area or if the matters being heard affect fishermen of that area; but not unless such other Council is first consulted regarding the conduct of such hearings within its area);

(4) submit to the Secretary such periodic reports as the Council deems appropriate, and any other relevant report which may be requested by the Secretary;

(5) review on a continuing basis, and revise as appropriate, the assessments and specifications made pursuant to section 303(a)(3) and (4) with respect to the optimum yield from, the capacity and extent to which United States fish processors will process United States harvested fish from, and the total allowable level of foreign fishing in, each fishery (except as provided in subsection (a)(3)) within its geographical area of authority; **and**

(6) develop annual catch limits for each of its managed fisheries that may not exceed the fishing level recommendations of its scientific and statistical committee or the peer review process established under subsection (g);

(7) develop, in conjunction with the scientific and statistical committee, multi-year research priorities for fisheries, fisheries interactions, habitats, *forage fish populations and distribution*, and other areas of research that are necessary for management purposes, that shall—

(A) establish priorities for 5-year periods;

(B) *prioritize fisheries and habitats experiencing or expected to experience shifts in geographic range, spatial distribution, or productivity;*

**[(B)]** (C) be updated as necessary; and

**[(C)]** (D) be submitted to the Secretary and the regional science centers of the National Marine Fisheries Service for their consideration in developing research priorities and budgets for the region of the Council;

(8) *approve, for each of its managed stocks, objective and measurable criteria for identifying whether the stock is overfished or experiencing overfishing, which may not be less precautionary than the recommendation of its scientific and statistical committee;*

(9) *develop and implement a habitat protection plan to protect essential fish habitat in the region of the Council from adverse effects caused by fishing that shall include—*

(A) *quantitative and measurable targets and goals for increasing quality, quantity, and representativeness of essential fish habitat; and*

(B) *conservation and management measures in a fishery management plan to implement the habitat protection plan;*

(10) *at routine intervals not less frequently than every 7 years and based on scientific evidence or other relevant information, review habitat protection plans developed under paragraph (9) by such Council and each designation of essential fish habitat and habitat areas of particular concern under section 303(a)(7) by such Council, and amend such Council's fishery management plans as necessary and appropriate;*

**[(8)]** (11) in addition to complying with the standards and requirements under paragraph (6), sections 301(a), 303(a)(15), and 304(e), and other applicable provisions of this Act, have the authority to use fishery management measures in a recreational fishery (or the recreational component of a mixed-use fishery) in developing a fishery management plan, plan amendment, or proposed regulations, such as extraction rates, fishing mortality targets, harvest control rules, or traditional or cul-

tural practices of native communities in such fishery or fishery component; and

*(12) develop and submit to the Secretary for approval a list of unmanaged forage fish occurring in the area under its authority for which the development of any new directed forage fish fishery is prohibited until the Council has—*

*(A) considered the best scientific information available and evaluated the potential impacts of forage fish harvest on existing fisheries, fishing communities, and the marine ecosystem;*

*(B) determined whether conservation and management of the forage fish fishery is needed;*

*(C) if a determination is made that conservation and management is needed, prepared and submitted to the Secretary a fishery management plan or amendment consistent with section 303; and*

*(D) received final, approved regulations from the Secretary pursuant to section 304(b)(3); and*

**[(9)]** *(13) conduct any other activities which are required by, or provided for in, this Act or which are necessary and appropriate to the foregoing functions.*

(i) PROCEDURAL MATTERS.—(1) The Federal Advisory Committee Act (5 U.S.C. App. 1) shall not apply to the Councils, the Council coordination committee established under subsection (l), or to the scientific and statistical committees or other committees or advisory panels established under subsection (g).

(2) The following guidelines apply with respect to the conduct of business at meetings of a Council, and of a Council, of the Council coordination committee established under subsection (l), and of the scientific and statistical committees or other committees or advisory panels established under subsection (g):

(A) Unless closed in accordance with paragraph (3), each regular meeting and each emergency meeting shall be open to the public.

(B) Emergency meetings shall be held at the call of the chairman or equivalent presiding officer.

(C) Timely public notice of each regular meeting and each emergency meeting, including the time, place, and agenda of the meeting, shall be provided by any means that will result in wide publicity in the major fishing ports of the region (and in other major fishing ports having a direct interest in the affected fishery), except that e-mail notification and website postings alone are not sufficient. Timely notice of each regular meeting shall also be published in the Federal Register. The published agenda of the meeting may not be modified to include additional matters for Council action without public notice or within 14 days prior to the meeting date, unless such modification is to address an emergency action under section 305(c), in which case public notice shall be given immediately.

(D) Interested persons shall be permitted to present oral or written statements regarding the matters on the agenda at meetings. All written information submitted to a Council by an interested person shall include a statement of the source and date of such information. Any oral or written statement shall

include a brief description of the background and interests of the person in the subject of the oral or written statement.

(E) Detailed minutes of each meeting of the Council, except for any closed session, shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all statements filed. The Chairman shall certify the accuracy of the minutes of each such meeting and submit a copy thereof to the Secretary. The minutes shall be made available to any court of competent jurisdiction.

(F) Subject to the procedures established under paragraph (4), and the guidelines prescribed by the Secretary under section 402(b), relating to confidentiality, the administrative record, including minutes required under subparagraph (E), of each meeting, and records or other documents which were made available to or prepared for or by the Council, committee, or panel incident to the meeting, shall be available for public inspection and copying at a single location in the offices of the Council or the Secretary, as appropriate.

(G) *Each Council shall make available on the website of the Council—*

*(i) to the extent possible, a webcast or a live audio or video broadcast of each meeting of the Council, and of the Council Coordination Committee established under subsection (1), that is not closed in accordance with paragraph (3); and*

*(ii) an audio or video recording (if the meeting was in person or by video conference), or a searchable audio recording or written transcript, of each meeting of the Council and of the meetings of committees referred to in section 302(g)(1)(B) of the Council, by not later than 30 days after the conclusion of the meeting.*

(H) *The Secretary shall maintain and make available to the public, for a period of not less than 5 years beginning on the date of a meeting, an archive of Council and scientific and statistical committee meeting audio and video recordings and transcripts made available under clauses (i) and (ii) of subparagraph (G).*

(3)(A) Each Council, the Council Coordination Committee established under subsection (1), scientific and statistical committee, other committees, and advisory panel—

(i) shall close any meeting, or portion thereof, that concerns matters or information that bears a national security classification; and

(ii) may close any meeting, or portion thereof, that concerns matters or information that pertains to national security, employment matters, or briefings on litigation in which the Council is interested.

Subparagraphs (D) and (F) of paragraph (2) shall not apply to any meeting or portion thereof that is so closed.

(B) If any meeting or portion is closed, the Council concerned shall notify local newspapers in the major fishing ports within its region (and in other major, affected fishing ports), including in that notification the time and place of the meeting. This subparagraph does not require notification regarding any brief closure of a por-

tion of a meeting in order to discuss employment or other internal administrative matters.

(4) Each Council shall establish appropriate procedures applicable to it and to its committee and advisory panels for ensuring the confidentiality of the statistics that may be submitted to it by Federal or State authorities, and may be voluntarily submitted to it by private persons; including, but not limited to, procedures for the restriction of Council employee access and the prevention of conflicts of interest; except that such procedures, in the case of statistics submitted to the Council by a State or by the Secretary under section 402(b), must be consistent with the laws and regulations of that State, or with the procedures of the Secretary, as the case may be, concerning the confidentiality of the statistics.

(5) Each Council shall specify those procedures that are necessary or appropriate to ensure that the committees and advisory panels established under subsection (g) are involved, on a continuing basis, in the development and amendment of fishery management plans.

(6) At any time when a Council determines it appropriate to consider new information from a State or Federal agency or from a Council advisory body, the Council shall give comparable consideration to new information offered at that time by interested members of the public. Interested parties shall have a reasonable opportunity to respond to new data or information before the Council takes final action on conservation and management measures.

(j) DISCLOSURE OF FINANCIAL INTEREST.—

(1) For the purposes of this subsection—

(A) the term “affected individual” means an individual who—

(i) is nominated by the Governor of a State for appointment as a voting member of a Council in accordance with subsection (b)(2); or

(ii) is a voting member of a Council appointed—

(I) under subsection (b)(2); or

(II) under subsection (b)(5) who is not subject to disclosure and recusal requirements under the laws of an Indian tribal government; and

[(B) the term “designated official” means a person with expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).]

*(B) the term “designated official” means an attorney employed in the Office of the General Counsel of the National Oceanic and Atmospheric Administration with an expertise in Federal conflict-of-interest requirements who is designated by the Secretary, in consultation with the Council, to attend Council meetings and make determinations under paragraph (7)(B).*

(2) Each affected individual must disclose any financial interest held by—

(A) that individual;

(B) the spouse, minor child, or partner of that individual;

and



(C) any organization (other than the Council) in which that individual is serving as an officer, director, trustee, partner, *contractor*, or employee;

in any harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity.

(3) The disclosure required under paragraph (2) shall be made—

(A) in the case of an affected individual referred to in paragraph (1)(A)(i), before appointment by the Secretary; and

(B) in the case of an affected individual referred to in paragraph (1)(A)(ii), within 45 days of taking office.

(4) An affected individual referred to in paragraph (1)(A)(ii) must update **[his or her]** *such individual's* disclosure form at any time any such financial interest is acquired, or substantially changed, by any person referred to in paragraph (2)(A), (B), or (C).

(5) The financial interest disclosures required by this subsection shall—

(A) be made on such forms, in accordance with such procedures, and at such times, as the Secretary shall by regulation prescribe;

(B) be kept on file by the Council and made available **[on the Internet]** *on the website of the agency, on the website of the applicable Council*, and for public inspection at the Council offices during reasonable hours; and

(C) be kept on file by the Secretary for use in reviewing determinations under paragraph (7)(B) and made available for public inspection at reasonable hours.

(6) The participation by an affected individual referred to in paragraph (1)(A)(ii) in an action by a Council during any time in which that individual is not in compliance with the regulations prescribed under paragraph (5) may not be treated as cause for the invalidation of that action.

(7)(A) After the effective date of regulations promulgated under subparagraph (F) of this paragraph, an affected individual required to disclose a financial interest under paragraph (2) shall not vote on a Council decision which would have a significant and predictable effect on such financial interest. A Council decision shall be considered to have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interests of other participants in the same gear type or sector of the fishery. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and identifying the financial interest that would be affected.

(B) At the request of an affected individual, or upon the initiative of the appropriate designated official, the designated official shall make a determination for the record whether a Council decision would have a significant and predictable effect on a financial interest.

(C) Any Council member may submit a written request to the Secretary to review any determination by the designated

official under subparagraph (B) within 10 days of such determination. Such review shall be completed within 30 days of receipt of the request.

(D) Any affected individual who does not vote in a Council decision in accordance with this subsection may state for the record how **[he or she]** *such individual* would have voted on such decision if **[he or she]** *such individual* had voted.

(E) If the Council makes a decision before the Secretary has reviewed a determination under subparagraph (C), the eventual ruling may not be treated as cause for the invalidation or reconsideration by the Secretary of such decision.

(F) The Secretary, in consultation with the Councils and by not later than one year from the date of enactment of the Sustainable Fisheries Act, shall promulgate regulations which prohibit an affected individual from voting in accordance with subparagraph (A), and which allow for the making of determinations under subparagraphs (B) and (C).

(8) Section 208 of title 18, United States Code, does not apply to an affected individual referred to in paragraph (1)(A)(ii) during any time in which that individual is in compliance with the regulations prescribed under paragraph (5).

(9) On January 1, 2008, and annually thereafter, the Secretary shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements of this subsection, including identification of any conflict of interest problems with respect to the Councils and scientific and statistical committees and recommendations for addressing any such problems.

(k) COUNCIL TRAINING PROGRAM.—

(1) TRAINING COURSE.—Within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils and the National Sea Grant College Program, shall develop a training course for newly appointed Council members. The course may cover a variety of topics relevant to matters before the Councils, including—

(A) fishery science and basic stock assessment methods;

(B) fishery management techniques, data needs, and Council procedures;

(C) *climate change and its relevant impacts on fisheries health, range, and other factors that would affect the conservation and management of a stock;*

**[(C)]** (D) social science and fishery economics;

**[(D)]** (E) tribal treaty rights and native customs, access, and other rights related to Western Pacific indigenous communities;

**[(E)]** (F) legal requirements of this Act, including conflict of interest and disclosure provisions of this section and related policies;

**[(F)]** (G) other relevant legal and regulatory requirements, including the National Environmental Policy Act (42 U.S.C. 4321 et seq.);

~~[(G)]~~ (H) public process for development of fishery management plans;

~~[(H)]~~ (I) other topics suggested by the Council; ~~[and]~~  
(J) ecosystem-based fishery management; and

~~[(I)]~~ (K) recreational and commercial fishing information, including fish harvesting techniques, gear types, fishing vessel types, and economics for the fisheries within each Council's jurisdiction.

(2) MEMBER TRAINING.—The training course shall be available to both new and existing Council members, staff from the regional offices and regional science centers of the National Marine Fisheries Service, and may be made available to committee or advisory panel members as resources allow.

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

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

(m) LOBBYING.—

(1) PROHIBITION ON COUNCIL LOBBYING.—

(A) IN GENERAL.—*Except as provided in subparagraph (B), Regional Fishery Management Council members, members of Council advisory bodies, and Council employees and contractors, are prohibited from using Federal funds to attempt to influence the—*

*(i) introduction, advancement, enactment, amendment, or repeal of Federal or State legislation; or*

*(ii) issuance, modification, or overturning of an executive order, Presidential proclamation, or similar Presidential directive or decree.*

(B) TECHNICAL AND FACTUAL PRESENTATIONS.—*Notwithstanding subparagraph (A), such individuals may provide a technical and factual presentation directly related to the performance of a Council's duties, through hearing testimony or written statements, if such presentation is in response to a documented request and is made available under paragraph (4).*

(2) ADJUDICATING VIOLATIONS.—

(A) INITIATION BY SECRETARY.—*The Secretary may initiate an investigation of a potential violation of this subsection.*

(B) COMPLAINT.—*The Secretary shall investigate a complaint submitted by any person or government entity regarding a potential violation of this subsection.*

(3) *PENALTIES.*—If the Secretary determines that an individual violated paragraph (1), such individual shall be subject to disciplinary action including suspension or expulsion from participation in, membership of, or employment by a council, advisory body, or related entity or activity.

(4) *TRAINING.*—The Secretary shall provide training to individuals described in paragraph (1) on compliance with rules issued under this subsection and general limits of Federal grant recipients on contacts with members and staff of the Executive and Legislative branches.

(5) *REPORT.*—The Secretary shall submit an annual report to the Committee on Natural Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate that describes—

(A) the funding provided to implement this subsection;

(B) complaints received of and investigations into potential violations of this subsection; and

(C) barriers associated with and proposals to improve implementation of this subsection.

(6) *REGULATIONS.*—Not later than 12 months after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall issue implementing regulations for this subsection.

(n) *WORKPLACE HARASSMENT PREVENTION.*—

(1) *PROHIBITION.*—The Secretary shall prohibit any person from harassing a covered individual during the conduct of duties under this Act.

(2) *HARASSMENT PREVENT TRAINING.*—Council members and staff shall, as a condition of employment, not later than 1 year after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022 or such individual’s first day of employment by a Council and not less often than every 2 years thereafter, complete 2 hours of workplace harassment prevention training approved by the office authorized by section 3541 of the National Defense Authorization Act for Fiscal Year 2017.

(3) *DEFINITIONS.*—In this subsection:

(A) *COVERED INDIVIDUAL.*—The term “covered individuals” means—

(i) council members;

(ii) council staff;

(iii) advisory panel members;

(iv) committee members;

(v) Federal fishery permit holders; or

(vi) staff, crew, employees, or contractors associated with a federally permitted vessel or a facility providing services to such vessels.

(B) *HARASSMENT.*—The term “harassment” means unwelcome verbal, visual, or physical conduct based on race, color, national origin, religion, age (40 and above), sex (including gender identity, sexual orientation, and pregnancy), disability, genetic information, or prior Equal Employment Opportunity activity.

**SEC. 303. CONTENTS OF FISHERY MANAGEMENT PLANS.**

(a) **REQUIRED PROVISIONS.**—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, shall—

(1) contain the conservation and management measures, applicable to foreign fishing and fishing by vessels of the United States, which are—

(A) necessary and appropriate for the conservation and management of the fishery, to prevent overfishing and rebuild overfished stocks, and to protect, restore, and promote the long-term health and stability of the fishery *and to promote the resilience of fish stocks to cumulative stressors, including cumulative stressors associated with climate change*;

(B) described in this subsection or subsection (b), or both; and

(C) consistent with the national standards, the other provisions of this Act, regulations implementing recommendations by international organizations in which the United States participates (including but not limited to closed areas, quotas, and size limits), and any other applicable law;

(2) contain a description of the fishery, including, but not limited to, the number of vessels involved, the type and quantity of fishing gear used, the species of fish involved and their location, the cost likely to be incurred in management, actual and potential revenues from the fishery, any recreational interests in the fishery, and the nature and extent of foreign fishing and Indian treaty fishing rights, if any;

(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery, *including considering the impacts of climate change*, and include a summary of the information utilized in making such specification;

(4) assess and specify—

(A) the capacity and the extent to which fishing vessels of the United States, on an annual basis, will harvest the optimum yield specified under paragraph (3),

(B) the portion of such optimum yield which, on an annual basis, will not be harvested by fishing vessels of the United States and can be made available for foreign fishing, and

(C) the capacity and extent to which United States fish processors, on an annual basis, will process that portion of such optimum yield that will be harvested by fishing vessels of the United States;

(5) specify the pertinent data which shall be submitted to the Secretary with respect to commercial, recreational, charter fishing, and fish processing in the fishery, including, but not limited to, information regarding the type and quantity of fishing gear used, catch by species in numbers of fish or weight thereof, areas in which fishing was engaged in, time of fishing, number of hauls, *quantification of bycatch*, economic information necessary to meet the requirements of this Act, and the

estimated processing capacity of, and the actual processing capacity utilized by, United States fish processors,

(6) consider and provide for temporary adjustments, after consultation with the Coast Guard and persons utilizing the fishery, regarding access to the fishery for vessels otherwise prevented from harvesting because of weather or other ocean conditions affecting the safe conduct of the fishery; except that the adjustment shall not adversely affect conservation efforts in other fisheries or discriminate among participants in the affected fishery;

[(7) describe and identify essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat;]

(7) *describe and identify—*

(A) *essential fish habitat for the fishery based on the guidelines established by the Secretary under section 305(b)(1)(A), minimize adverse effects on essential fish habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of essential fish habitat; and*

(B) *habitat areas of particular concern based on the guidelines established by the Secretary under section 305(b)(1)(A), avoid adverse effects on such habitat caused by fishing, monitor efficacy of actions to avoid adverse effects, and identify other actions to encourage the conservation and enhancement of such habitat;*

(8) in the case of a fishery management plan that, after January 1, [1991] 2022, is submitted to the Secretary for review under section 304(a) (including any plan for which an amendment is submitted to the Secretary for such review) or is prepared by the Secretary, assess and specify the nature and extent of scientific data which is needed for effective implementation of the plan, *including data needed to implement the plan effectively under prevailing and anticipated environmental or ecological conditions, including climate change;*

(9) include a fishery impact statement for the plan or amendment (in the case of a plan or amendment thereto submitted to or prepared by the Secretary after October 1, 1990) which shall assess, specify, and analyze the likely effects, if any, including the cumulative conservation, economic, and social impacts, of the conservation and management measures on, and possible mitigation measures for—

(A) participants in the fisheries and fishing communities affected by the plan or amendment;

(B) participants in the fisheries conducted in adjacent areas under the authority of another Council, after consultation with such Council and representatives of those participants; and

(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;

[(10) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery) and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;]

*(10) specify objective and measurable criteria for identifying when the fish stock to which the plan applies is overfished or subject to overfishing (with an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery), which may not be less precautionary than the recommendation of the scientific and statistical committees for such fishery, and, in the case of a fishery which the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery.*

(11) establish a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery, and include conservation and management measures that, [to the extent practicable and] in the following priority—

(A) minimize bycatch; and

(B) minimize the mortality of bycatch which cannot be avoided;

(12) assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish;

(13) include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery, including its economic impact, and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors *as well as examine the vulnerability of the fishery and fishery participants to the impacts of prevailing and anticipated environmental or ecological conditions, including climate change;*

(14) to the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector, any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery [and;];

(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability[.]; and

*(16) assess and describe the anticipated impacts of climate change and other environmental and ecological changes on the fishery, including an assessment of whether and how the management measures contained in the plan or plan amendment have accounted for these changes, and a summary of the information used in these assessments;*

*(17) describe and identify the current range and distribution of, and fishing patterns on, fish stocks managed under the plan, including areas outside the jurisdiction of the Council having authority to issue the plan, and for fish stocks whose distribution crosses management boundaries, describe the measures used for coordination with other relevant management bodies for the conservation and management of the fish stock; and*

*(18) when setting annual catch limits for forage fish fisheries, assess, specify, and reduce such limits by the diet needs of fish species and other marine wildlife, such as marine mammals and birds, for which forage fish is a significant part of their diet.*

(b) DISCRETIONARY PROVISIONS.—Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may—

(1) require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—

(A) any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone or for anadromous species or Continental Shelf fishery resources beyond such zone;

(B) the operator of any such vessel; or

(C) any United States fish processor who first receives fish that are subject to the plan;

(2)(A) designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear;

(B) designate such zones in areas where deep sea corals are identified under section 408, to protect deep sea corals from physical damage from fishing gear or to prevent loss or damage to such fishing gear from interactions with deep sea corals, after considering long-term sustainable uses of fishery resources in such areas; and

(C) with respect to any closure of an area under this Act that prohibits all fishing, ensure that such closure—

(i) is based on the best scientific information available;

(ii) includes criteria to assess the conservation benefit of the closed area;

(iii) establishes a timetable for review of the closed area's performance that is consistent with the purposes of the closed area; and

(iv) is based on an assessment of the benefits and impacts of the closure, including its size, in relation to other management measures (either alone or in combination with such measures), including the benefits and impacts of limiting access to: users of the area, overall fishing activity, fishery science, and fishery and marine conservation;



(3) establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the—

(A) catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);

(B) sale of fish caught during commercial, recreational, or charter fishing, consistent with any applicable Federal and State safety and quality requirements; and

(C) transshipment or transportation of fish or fish products under permits issued pursuant to section 204;

(4) prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act;

(5) incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery and take into account the different circumstances affecting fisheries from different States and ports, including distances to fishing grounds and proximity to time and area closures;

(6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—

(A) present participation in the fishery;

(B) historical fishing practices in, and dependence on, the fishery;

(C) the economics of the fishery;

(D) the capability of fishing vessels used in the fishery to engage in other fisheries;

(E) the cultural and social framework relevant to the fishery and any affected fishing communities;

(F) the fair and equitable distribution of access privileges in the fishery; and

(G) any other relevant considerations;

(7) require fish processors who first receive fish that are subject to the plan to submit data which are necessary for the conservation and management of the fishery;

[(8) require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;]

*(8) require the collection of data necessary for the conservation and management of the fishery to be collected from a vessel of the United States engaged in fishing for species that are subject to the plan through—*

*(A) electronic monitoring or other electronic technology;*

*or*

*(B) observers carried onboard such vessel, except that such a vessel shall not be required to carry an observer on*

*board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;*

(9) assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region;

(10) include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch;

(11) reserve a portion of the allowable biological catch of the fishery for use in scientific research;

(12) include management measures in the plan to conserve target and non-target species and habitats, considering the variety of ecological factors affecting fishery populations; **[and]**

*(13) consider full retention requirements for species with high catch mortality rates; and*

(14) prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.

(c) PROPOSED REGULATIONS.—Proposed regulations which the Council deems necessary or appropriate for the purposes of—

(1) implementing a fishery management plan or plan amendment shall be submitted to the Secretary simultaneously with the plan or amendment under section 304; and

(2) making modifications to regulations implementing a fishery management plan or plan amendment may be submitted to the Secretary at any time after the plan or amendment is approved under section 304.

#### **SEC. 303A. LIMITED ACCESS PRIVILEGE PROGRAMS.**

(a) IN GENERAL.—After the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, a Council may submit, and the Secretary may approve, for a fishery that is managed under a limited access system, a limited access privilege program to harvest fish if the program meets the requirements of this section.

(b) NO CREATION OF RIGHT, TITLE, OR INTEREST.—Limited access privilege, quota share, or other limited access system authorization established, implemented, or managed under this Act—

(1) shall be considered a permit for the purposes of sections 307, 308, and 309;

(2) may be revoked, limited, or modified at any time in accordance with this Act, including revocation if the system is found to have jeopardized the sustainability of the stock or the safety of fishermen;

(3) shall not confer any right of compensation to the holder of such limited access privilege, quota share, or other such limited access system authorization if it is revoked, limited, or modified;

(4) shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested by the holder; and

- (5) shall be considered a grant of permission to the holder of the limited access privilege or quota share to engage in activities permitted by such limited access privilege or quota share.
- (c) REQUIREMENTS FOR LIMITED ACCESS PRIVILEGES.—
- (1) IN GENERAL.—Any limited access privilege program to harvest fish submitted by a Council or approved by the Secretary under this section shall—
- (A) if established in a fishery that is overfished or subject to a rebuilding plan, assist in its rebuilding;
  - (B) if established in a fishery that is determined by the Secretary or the Council to have over-capacity, contribute to reducing capacity;
  - (C) promote—
    - (i) fishing safety;
    - (ii) fishery conservation and management; and
    - (iii) social and economic benefits, *including the participation of fishing communities in the fishery*;
  - (D) prohibit any person other than a United States citizen, a corporation, partnership, or other entity established under the laws of the United States or any State, or a permanent resident alien, that meets the eligibility and participation requirements established in the program from acquiring a privilege to harvest fish, including any person that acquires a limited access privilege solely for the purpose of perfecting or realizing on a security interest in such privilege;
  - (E) require that all fish harvested under a limited access privilege program be processed on vessels of the United States or on United States soil (including any territory of the United States);
  - (F) specify the goals of the program;
  - (G) include provisions for the regular monitoring and review by the Council and the Secretary of the operations of the program, including determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals, with a formal and detailed review 5 years after the implementation of the program and thereafter to coincide with scheduled Council review of the relevant fishery management plan (but no less frequently than once every 7 years);
  - (H) include an effective system for enforcement, monitoring, and management of the program, including the use of observers or electronic monitoring systems;
  - (I) include an appeals process for administrative review of the Secretary's decisions regarding initial allocation of limited access privileges;
  - (J) provide for the establishment by the Secretary, in consultation with appropriate Federal agencies, for an information collection and review process to provide any additional information needed to determine whether any illegal acts of anti-competition, anti-trust, price collusion, or price fixing have occurred among regional fishery associations or persons receiving limited access privileges under the program; and

(K) provide for the revocation by the Secretary of limited access privileges held by any person found to have violated the antitrust laws of the United States.

(L) *consider the needs of fishing communities and provide a process for fishing communities to participate in the limited access privilege program in accordance with subsection (c)(3).*

(2) **WAIVER.**—The Secretary may waive the requirement of paragraph (1)(E) if the Secretary determines that—

(A) the fishery has historically processed the fish outside of the United States; and

(B) the United States has a seafood safety equivalency agreement with the country where processing will occur.

[(3) **FISHING COMMUNITIES.**—

[(A) **IN GENERAL.**—

[(i) **ELIGIBILITY.**—To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—

[(I) be located within the management area of the relevant Council;

[(II) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;

[(III) consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area; and

[(IV) develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

[(ii) **FAILURE TO COMPLY WITH PLAN.**—The Secretary shall deny or revoke limited access privileges granted under this section for any person who fails to comply with the requirements of the community sustainability plan. Any limited access privileges denied or revoked under this section may be reallocated to other eligible members of the fishing community.

[(B) **PARTICIPATION CRITERIA.**—In developing participation criteria for eligible communities under this paragraph, a Council shall consider—

[(i) traditional fishing or processing practices in, and dependence on, the fishery;

[(ii) the cultural and social framework relevant to the fishery;

[(iii) economic barriers to access to fishery;

[(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other busi-

nesses substantially dependent upon the fishery in the region or subregion;

[(v) the expected effectiveness, operational transparency, and equitability of the community sustainability plan; and

[(vi) the potential for improving economic conditions in remote coastal communities lacking resources to participate in harvesting or processing activities in the fishery.]

(3) *FISHING COMMUNITIES.*—

(A) *ELIGIBILITY.*—*To be eligible to participate in a limited access privilege program to harvest fish, a fishing community shall—*

(i) *be located within the management area of the relevant Council;*

(ii) *consist of residents who conduct commercial or recreational fishing, processing, or fishery-dependent support businesses within the Council's management area;*

(iii) *seek to participate in such program for a purpose other than perfecting or realizing a security interest in such access; and*

(iv) *develop and submit a community sustainability plan to the Council and the Secretary that demonstrates how the plan will address the social and economic development needs of coastal communities, including those that have not historically had the resources to participate in the fishery, for approval.*

(B) *COMMUNITY SUSTAINABILITY PLAN APPROVAL.*—

(i) *IN GENERAL.*—*A community sustainability plan submitted by a fishing community to a Council and the Secretary for approval shall include the following components:*

(I) *A description of the entity and the Board and governance for the entity that will receive the allocation.*

(II) *A description of the quota allocation process that will be used by the fishing community entity, including an appeals process within the entity.*

(III) *Provisions for monitoring and enforcement of the community sustainability plan.*

(IV) *Goals and objectives for the fishing community and how the entity will use the allocation to meet those goals and objectives.*

(V) *A description of how the entity will sustain the participation of the fishing community in the fisheries, including providing for new entry and intergenerational transfer, encouraging active participation and addressing economic barriers to access to the fisheries.*

(VI) *A description of how the community sustainability plan will address the projected economic and social impacts associated with the implementation of the limited access privilege program, including the potential for strengthening*

*economic conditions in remote fishing communities lacking the resources to participate in harvesting activities in the fishery.*

*(VII) A description of how the community sustainability plan will ensure the benefits of participating in the limited access privilege program accrue to the fishing community and participants, including limitations or measures necessary to prevent an inequitable concentration of limited access privileges within the fishing community.*

*(ii) PREVIOUSLY ADOPTED PLAN.—A community sustainability plan submitted before the date of enactment of the Sustaining America's Fisheries for the Future Act of 2022 shall not be invalidated by failure to comply with clause (i) unless such plan is amended after such date.*

(4) REGIONAL FISHERY ASSOCIATIONS.—

(A) IN GENERAL.—To be eligible to participate in a limited access privilege program to harvest fish, a regional fishery association shall—

(i) be located within the management area of the relevant Council;

(ii) meet criteria developed by the relevant Council, approved by the Secretary, and published in the Federal Register;

(iii) be a voluntary association, among willing parties with established by-laws and operating procedures;

(iv) consist of participants in the fishery who hold quota share that are designated for use in the specific region or subregion covered by the regional fishery association, including commercial or recreational fishing, processing, fishery-dependent support businesses, or fishing communities;

(v) not be eligible to receive an initial allocation of a limited access privilege but may acquire such privileges after the initial allocation, and may hold the annual fishing privileges of any limited access privileges it holds or the annual fishing privileges that its members contribute; and

(vi) develop and submit a regional fishery association plan to the Council and the Secretary for approval based on criteria developed by the Council that have been approved by the Secretary and published in the Federal Register.

(B) FAILURE TO COMPLY WITH PLAN.—The Secretary shall deny or revoke limited access privileges granted under this section to any person participating in a regional fishery association who fails to comply with the requirements of the regional fishery association plan.

(C) PARTICIPATION CRITERIA.—In developing participation criteria for eligible regional fishery associations under this paragraph, a Council shall consider—

(i) traditional fishing or processing practices in, and dependence on, the fishery;

(ii) the cultural and social framework relevant to the fishery;

(iii) economic barriers to access to fishery;

(iv) the existence and severity of projected economic and social impacts associated with implementation of limited access privilege programs on harvesters, captains, crew, processors, and other businesses substantially dependent upon the fishery in the region or sub-region;

(v) the administrative and fiduciary soundness of the association; and

(vi) the expected effectiveness, operational transparency, and equitability of the fishery association plan.

(5) ALLOCATION.—In developing a limited access privilege program to harvest fish a Council or the Secretary shall—

(A) establish procedures to ensure fair and equitable initial allocations, including consideration of—

(i) current and historical harvests;

(ii) employment in the harvesting and processing sectors;

(iii) investments in, and dependence upon, the fishery; and

(iv) the current and historical participation of fishing communities;

(B) consider the basic cultural and social framework of the fishery, especially through—

(i) the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, including regional or port-specific landing or delivery requirements; and

(ii) procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors of the fishery;

(C) include measures to assist, when necessary and appropriate, entry-level and small vessel owner-operators, captains, crew, and fishing communities through set-asides of harvesting allocations, including providing privileges, which may include set-asides or allocations of harvesting privileges, or economic assistance in the purchase of limited access privileges;

(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

(i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and

(ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges; and

(E) authorize limited access privileges to harvest fish to be held, acquired, used by, or issued under the system to persons who substantially participate in the fishery, in-

cluding in a specific sector of such fishery, as specified by the Council.

(6) PROGRAM INITIATION.—

(A) LIMITATION.—Except as provided in subparagraph (D), a Council may initiate a fishery management plan or amendment to establish a limited access privilege program to harvest fish on its own initiative or if the Secretary has certified an appropriate petition.

(B) PETITION.—A group of fishermen constituting more than 50 percent of the permit holders, or holding more than 50 percent of the allocation, in the fishery for which a limited access privilege program to harvest fish is sought, may submit a petition to the Secretary requesting that the relevant Council or Councils with authority over the fishery be authorized to initiate the development of the program. Any such petition shall clearly state the fishery to which the limited access privilege program would apply. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the limited access program shall be eligible to sign a petition for such a program and shall serve as the basis for determining the percentage described in the first sentence of this subparagraph.

(C) CERTIFICATION BY SECRETARY.—Upon the receipt of any such petition, the Secretary shall review all of the signatures on the petition and, if the Secretary determines that the signatures on the petition represent more than 50 percent of the permit holders, or holders of more than 50 percent of the allocation in the fishery, as described by subparagraph (B), the Secretary shall certify the petition to the appropriate Council or Councils.

(D) NEW ENGLAND AND GULF REFERENDUM.—

(i) Except as provided in clause (iii) for the Gulf of Mexico commercial red snapper fishery, the New England and Gulf Councils may not submit, and the Secretary may not approve or implement, a fishery management plan or amendment that creates an individual fishing quota program, including a Secretarial plan, unless such a system, as ultimately developed, has been approved by more than  $\frac{2}{3}$  of those voting in a referendum among eligible permit holders, or other persons described in clause (v), with respect to the New England Council, and by a majority of those voting in the referendum among eligible permit holders with respect to the Gulf Council. For multispecies permits in the Gulf of Mexico, only those participants who have substantially fished the species proposed to be included in the individual fishing quota program shall be eligible to vote in such a referendum. If an individual fishing quota program fails to be approved by the requisite number of those voting, it may be revised and submitted for approval in a subsequent referendum.

(ii) The Secretary shall conduct a referendum under this subparagraph, including notifying all persons eli-



gible to participate in the referendum and making available to them information concerning the schedule, procedures, and eligibility requirements for the referendum process and the proposed individual fishing quota program. Within 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall publish guidelines and procedures to determine procedures and voting eligibility requirements for referenda and to conduct such referenda in a fair and equitable manner.

(iii) The provisions of section 407(c) of this Act shall apply in lieu of this subparagraph for an individual fishing quota program for the Gulf of Mexico commercial red snapper fishery.

(iv) Chapter 35 of title 44, United States Code, (commonly known as the Paperwork Reduction Act) does not apply to the referenda conducted under this subparagraph.

(v) The Secretary shall promulgate criteria for determining whether additional fishery participants are eligible to vote in the New England referendum described in clause (i) in order to ensure that crew members who derive a significant percentage of their total income from the fishery under the proposed program are eligible to vote in the referendum.

(vi) In this subparagraph, the term “individual fishing quota” does not include a sector allocation.

(7) TRANSFERABILITY.—In establishing a limited access privilege program, a Council shall—

(A) establish a policy and criteria for the transferability of limited access privileges (through sale or lease), that is consistent with the policies adopted by the Council for the fishery under paragraph (5); and

(B) establish, in coordination with the Secretary, a process for monitoring of transfers (including sales and leases) of limited access privileges.

(8) PREPARATION AND IMPLEMENTATION OF SECRETARIAL PLANS.—This subsection also applies to a plan prepared and implemented by the Secretary under section 304(c) or 304(g).

(9) ANTITRUST SAVINGS CLAUSE.—Nothing in this Act shall be construed to modify, impair, or supersede the operation of any of the antitrust laws. For purposes of the preceding sentence, the term “antitrust laws” has the meaning given such term in subsection (a) of the first section of the Clayton Act, except that such term includes section 5 of the Federal Trade Commission Act to the extent that such section 5 applies to unfair methods of competition.

(d) AUCTION AND OTHER PROGRAMS.—In establishing a limited access privilege program, a Council shall consider, and may provide, if appropriate, an auction system or other program to collect royalties for the initial, or any subsequent, distribution of allocations in a limited access privilege program if—

(1) the system or program is administered in such a way that the resulting distribution of limited access privilege shares meets the program requirements of this section; and

(2) revenues generated through such a royalty program are deposited in the Limited Access System Administration Fund established by section 305(h)(5)(B) and available subject to annual appropriations.

(e) COST RECOVERY.—In establishing a limited access privilege program, a Council shall—

(1) develop a methodology and the means to identify and assess the management, data collection and analysis, and enforcement programs that are directly related to and in support of the program; and

(2) provide, under section 304(d)(2), for a program of fees paid by limited access privilege holders that will cover the costs of management, data collection and analysis, and enforcement activities.

(f) CHARACTERISTICS.—A limited access privilege established after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 is a permit issued for a period of not more than 10 years that—

(1) will be renewed before the end of that period, unless it has been revoked, limited, or modified as provided in this subsection;

(2) will be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have failed to comply with any term of the plan identified in the plan as cause for revocation, limitation, or modification of a permit, which may include conservation requirements established under the plan;

(3) may be revoked, limited, or modified if the holder is found by the Secretary, after notice and an opportunity for a hearing under section 554 of title 5, United States Code, to have committed an act prohibited by section 307 of this Act; and

(4) may be acquired, or reacquired, by participants in the program under a mechanism established by the Council if it has been revoked, limited, or modified under paragraph (2) or (3).

(g) LIMITED ACCESS PRIVILEGE ASSISTED PURCHASE PROGRAM.—

(1) IN GENERAL.—A Council may submit, and the Secretary may approve and implement, a program which reserves up to 25 percent of any fees collected from a fishery under section 304(d)(2) to be used, pursuant to section 53706(a)(7) of title 46, United States Code, to issue obligations that aid in financing—

(A) the purchase of limited access privileges in that fishery by fishermen who fish from small vessels; and

(B) the first-time purchase of limited access privileges in that fishery by entry level fishermen.

(2) ELIGIBILITY CRITERIA.—A Council making a submission under paragraph (1) shall recommend criteria, consistent with the provisions of this Act, that a fisherman must meet to qualify for guarantees under subparagraphs (A) and (B) of para-

graph (1) and the portion of funds to be allocated for guarantees under each subparagraph.

(h) **EFFECT ON CERTAIN EXISTING SHARES AND PROGRAMS.**—Nothing in this Act, or the amendments made by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, shall be construed to require a reallocation or a reevaluation of individual quota shares, processor quota shares, cooperative programs, or other quota programs, including sector allocation in effect before the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006.

(i) **TRANSITION RULES.**—The requirements of this section shall not apply to any quota program, including any individual quota program, cooperative program, or sector allocation for which a Council has taken final action or which has been submitted by a Council to the Secretary, or approved by the Secretary, within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, except that—

(1) the requirements of section 303(d) of this Act in effect on the day before the date of enactment of that Act shall apply to any such program;

(2) the program shall be subject to review under subsection (c)(1)(G) of this section not later than 5 years after the program implementation; and

(3) nothing in this subsection precludes a Council from incorporating criteria contained in this section into any such plans.

**SEC. 304. ACTION BY THE SECRETARY.**

(a) **REVIEW OF PLANS.**—

(1) Upon transmittal by the Council to the Secretary of a fishery management plan or plan amendment, the Secretary shall—

(A) immediately commence a review of the plan or amendment to determine whether it is consistent with the national standards, the other provisions of this Act, and any other applicable law; and

(B) immediately publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(2) In undertaking the review required under paragraph (1), the Secretary shall—

(A) take into account the information, views, and comments received from interested persons;

(B) consult with the Secretary of State with respect to foreign fishing; and

(C) consult with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea and to fishery access adjustments referred to in section 303(a)(6).

(3) The Secretary shall approve, disapprove, or partially approve a plan or amendment within 30 days of the end of the comment period under paragraph (1) by written notice to the

Council. A notice of disapproval or partial approval shall specify—

- (A) the applicable law with which the plan or amendment is inconsistent;
- (B) the nature of such inconsistencies; and
- (C) recommendations concerning the actions that could be taken by the Council to conform such plan or amendment to the requirements of applicable law.

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

(4) If the Secretary disapproves or partially approves a plan or amendment, the Council may submit a revised plan or amendment to the Secretary for review under this subsection.

(5) For purposes of this subsection and subsection (b), the “term immediately” means on or before the 5th day after the day on which a Council transmits to the Secretary a fishery management plan, plan amendment, or proposed regulation that the Council characterizes as final.

(b) REVIEW OF REGULATIONS.—

(1) Upon transmittal by the Council to the Secretary of proposed regulations prepared under section 303(c), the Secretary shall immediately initiate an evaluation of the proposed regulations to determine whether they are consistent with the fishery management plan, plan amendment, this Act and other applicable law. Within 15 days of initiating such evaluation the Secretary shall make a determination and—

(A) if that determination is affirmative, the Secretary shall publish such regulations in the Federal Register, with such technical changes as may be necessary for clarity and an explanation of those changes, for a public comment period of 15 to 60 days; or

(B) if that determination is negative, the Secretary shall notify the Council in writing of the inconsistencies and provide recommendations on revisions that would make the proposed regulations consistent with the fishery management plan, plan amendment, this Act, and other applicable law.

(2) Upon receiving a notification under paragraph (1)(B), the Council may revise the proposed regulations and submit them to the Secretary for reevaluation under paragraph (1).

(3) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (1)(A). The Secretary shall consult with the Council before making any revisions to the proposed regulations, and must publish in the Federal Register an explanation of any differences between the proposed and final regulations.

(c) PREPARATION AND REVIEW OF SECRETARIAL PLANS.— (1) The Secretary **[may]** *shall* prepare a fishery management plan, with respect to any fishery, or any amendment to any such plan, in accordance with the national standards, the other provisions of this Act, and any other applicable law, if—

(A) the appropriate Council fails to develop and submit to the Secretary, after a reasonable period of time *not to exceed*

2 years, or 9 months in the case of a management plan or amendment subject to section 304(e)(7)(B), a fishery management plan for such fishery, or any necessary amendment to such a plan, if such fishery requires conservation and management;

(B) the Secretary disapproves or partially disapproves any such plan or amendment, or disapproves a revised plan or amendment, and the Council involved fails to submit a revised or further revised plan or amendment *not later than 180 days after the disapproval*; or

(C) the Secretary is given authority to prepare such plan or amendment under this section.

*Not later than 30 days before the date on which a time period established in subparagraph (B) or (C) ends, the Secretary shall provide written notification to the affected Council that if such Council does not fulfill the requirements described in such subparagraph, the Secretary shall issue a Secretarial plan.*

(2) In preparing any plan or amendment under this subsection, the Secretary shall—

(A) conduct public hearings, at appropriate times and locations in the geographical areas concerned, so as to allow interested persons an opportunity to be heard in the preparation and amendment of the plan and any regulations implementing the plan; and

(B) consult with the Secretary of State with respect to foreign fishing and with the Secretary of the department in which the Coast Guard is operating with respect to enforcement at sea.

(3) Notwithstanding paragraph (1) for a fishery under the authority of a Council, the Secretary may not include in any fishery management plan, or any amendment to any such plan, **[prepared by him]** *prepared by the Secretary*, a provision establishing a limited access system, including any limited access privilege program, unless such system is first approved by a majority of the voting members, present and voting, of each appropriate Council.

(4) Whenever the Secretary prepares a fishery management plan or plan amendment under this section, the Secretary shall immediately—

(A) for a plan or amendment for a fishery under the authority of a Council, submit such plan or amendment to the appropriate Council for consideration and comment; and

(B) publish in the Federal Register a notice stating that the plan or amendment is available and that written information, views, or comments of interested persons on the plan or amendment may be submitted to the Secretary during the 60-day period beginning on the date the notice is published.

(5) Whenever a plan or amendment is submitted under paragraph (4)(A), the appropriate Council must submit its comments and recommendations, if any, regarding the plan or amendment to the Secretary before the close of the 60-day period referred to in paragraph (4)(B). After the close of such 60-day period, the Secretary, after taking into account any such comments and recommendations, as well as any views, infor-

mation, or comments submitted under paragraph (4)(B), may adopt such plan or amendment.

(6) The Secretary may propose regulations in the Federal Register to implement any plan or amendment prepared by the Secretary. In the case of a plan or amendment to which paragraph (4)(A) applies, such regulations shall be submitted to the Council with such plan or amendment. The comment period on proposed regulations shall be 60 days, except that the Secretary may shorten the comment period on minor revisions to existing regulations.

(7) The Secretary shall promulgate final regulations within 30 days after the end of the comment period under paragraph (6). The Secretary must publish in the Federal Register an explanation of any substantive differences between the proposed and final rules. All final regulations must be consistent with the fishery management plan, with the national standards and other provisions of this Act, and with any other applicable law.

(d) ESTABLISHMENT OF FEES.—(1) The Secretary shall by regulation establish the level of any fees which are authorized to be charged pursuant to section 303(b)(1). The Secretary may enter into a cooperative agreement with the States concerned under which the States administer the permit system and the agreement may provide that all or part of the fees collected under the system shall accrue to the States. The level of fees charged under this subsection shall not exceed the administrative costs incurred in issuing the permits.

(2)(A) Notwithstanding paragraph (1), the Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management, data collection, and enforcement of any—

(i) limited access privilege program; and

(ii) community development quota program that allocates a percentage of the total allowable catch of a fishery to such program.

(B) Such fee shall not exceed 3 percent of the ex-vessel value of fish harvested under any such program, and shall be collected at either the time of the landing, filing of a landing report, or sale of such fish during a fishing season or in the last quarter of the calendar year in which the fish is harvested.

(C)(i) Fees collected under this paragraph shall be in addition to any other fees charged under this Act and shall be deposited in the Limited Access System Administration Fund established under section 305(h)(5)(B).

(ii) Upon application by a State, the Secretary shall transfer to such State up to 33 percent of any fee collected pursuant to subparagraph (A) under a community development quota program and deposited in the Limited Access System Administration Fund in order to reimburse such State for actual costs directly incurred in the management and enforcement of such program.

(e) REBUILDING OVERFISHED FISHERIES.—

(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council's geographical area of authority and identify those fisheries that are overfished or are approaching a condition of being over-

fished. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing specified in such plan or agreement. A fishery shall be classified as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the fishery will become overfished within two years.

[(2) If the Secretary determines at any time that a fishery is overfished, the Secretary shall immediately notify the appropriate Council and request that action be taken to end overfishing in the fishery and to implement conservation and management measures to rebuild affected stocks of fish. The Secretary shall publish each notice under this paragraph in the Federal Register.

[(3) Within 2 years after an identification under paragraph (1) or notification under paragraphs (2) or (7), the appropriate Council (or the Secretary, for fisheries under section 302(a)(3)) shall prepare and implement a fishery management plan, plan amendment, or proposed regulations for the fishery to which the identification or notice applies—

[(A) to end overfishing immediately in the fishery and to rebuild affected stocks of fish; or

[(B) to prevent overfishing from occurring in the fishery whenever such fishery is identified as approaching an overfished condition.

[(4) For a fishery that is overfished, any fishery management plan, amendment, or proposed regulations prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—

[(A) specify a time period for rebuilding the fishery that shall—

[(i) 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) not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

[(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery; and

[(C) for fisheries managed under an international agreement, reflect traditional participation in the fishery, relative to other nations, by fishermen of the United States.

[(5) If, within the 2-year period beginning on the date of identification or notification that a fishery is overfished, the Council does not submit to the Secretary a fishery management plan, plan amendment, or proposed regulations required by paragraph (3)(A), the Secretary shall prepare a fishery management plan or plan amendment and any accompanying regu-

lations to stop overfishing and rebuild affected stocks of fish within 9 months under subsection (c).

[(6) During the development of a fishery management plan, a plan amendment, or proposed regulations required by this subsection, the Council may request the Secretary to implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such plan, amendment, or regulations. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient by themselves to stop overfishing of a fishery.]

[(7) The Secretary shall review any fishery management plan, plan amendment, or regulations required by this subsection at routine intervals that may not exceed two years. If the Secretary finds as a result of the review that such plan, amendment, or regulations have not resulted in adequate progress toward ending overfishing and rebuilding affected fish stocks, the Secretary shall—

[(A) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress; or

[(B) for all other fisheries, immediately notify the appropriate Council. Such notification shall recommend further conservation and management measures which the Council should consider under paragraph (3) to achieve adequate progress.]

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

[(A) designate which Council shall prepare the fishery management plan for such fishery and any amendment to such plan; or

[(B) may require that the plan and amendment be prepared jointly by the Councils concerned.]

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

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

(e) *REBUILDING OVERFISHED FISHERIES AND ENDING OVERFISHING.*—

(1) *DETERMINATION OF STATUS.*—

(A) *IN GENERAL.*—*The Secretary shall, determine, based on the best scientific information available and at any time, for stocks within each Council's geographic area of authority, (or the Secretary, for stocks managed under section 302(a)(3)), whether such stock of fish is each of the following:*

(i) *Subject to overfishing.*

(ii) *Overfished.*

(iii) *Approaching a condition of being overfished.*

(B) *CRITERIA FOR DETERMINATION.*—

(i) *CRITERIA PROVIDED BY MANAGING DOCUMENT.*—*In making a determination under subparagraph (A), the Secretary shall, with respect to a stock of fish managed*



under a stock of fish management plan or international agreement, use the criteria specified in such plan or agreement.

(ii) *APPROACHING A CONDITION OF BEING OVERFISHED.*—In making a determination under subparagraph (A), the Secretary shall classify a stock of fish as approaching a condition of being overfished if, based on trends in fishing effort, fishery resource size, and other appropriate factors, the Secretary estimates that the stock of fish will become overfished within 2 years.

(iii) *STOCKS LACKING CRITERIA.*—For stocks that lack criteria as required under section 303(a)(10), the Secretary shall determine whether the stock is overfished or subject to overfishing using the best available scientific information.

(2) *PUBLICATION.*—

(A) *IN GENERAL.*—The Secretary shall publish each determination made under paragraph (1) in the Federal Register.

(B) *NOTIFICATION OF COUNCIL.*—If the Secretary determines that a stock of fish is subject to overfishing, overfished, or approaching a condition of being overfished under paragraph (1), the Secretary shall immediately notify the appropriate Council and request that action be taken—

(i) to end overfishing with respect to the stock of fish immediately;

(ii) for a stock of fish that is overfished, to end overfishing immediately and to implement conservation and management measures to rebuild affected the stock of fish; or

(iii) for a stock of fish that is approaching an overfished condition, to end overfishing immediately and prevent the stock of fish from reaching a overfished condition.

(C) *ANNUAL REPORT.*—The Secretary shall submit an annual report to Congress and the Councils. Such report—

(i) shall list each determination made with respect to a stock of fish under paragraph (1) during the preceding year;

(ii) shall identify each stock of fish managed under this Act that is under a rebuilding plan or in need of a rebuilding plan (as specified by this section), including—

(I) specifying the number of years the stock of fish has been in a rebuilding plan;

(II) the anticipated length in years of the stock of fish's current rebuilding plan;

(III) the number of rebuilding plans that have been implemented for the stock of fish; and

(IV) whether a lack of adequate progress toward ending overfishing and rebuilding has been found for the stock of fish; and

(iii) may use, as appropriate, the term “depleted” to further describe an overfished stock of fish that has

*been significantly impacted by environmental factors in addition to (or in absence of) fishing pressure.*

**(3) REQUIRED ACTION BY COUNCIL.—**

**(A) DETERMINATION THAT REQUIRES ACTION.—***Not later than 2 years after date on which the Secretary makes any of the following determinations, the appropriate Council (or the Secretary, for fisheries managed under section 302(a)(3)) shall take an action described in subparagraph (B):*

*(i) A determination that a stock of fish is subject to overfishing, overfished, or approaching a condition of being overfished.*

*(ii) A determination that a rebuilding plan has failed under paragraph (7)(C).*

*(iii) A determination that a stock of fish has reached the end of the time period for a rebuilding plan under paragraph (8).*

**(B) ACTIONS.—***The actions described in this subparagraph are—*

*(i) with respect to a stock of fish that is subject to overfishing, to end overfishing immediately and prevent overfishing of the stock;*

*(ii) with respect to a stock of fish that is overfished, to end overfishing immediately and to rebuild the stock of fish; or*

*(iii) with respect to a stock of fish that is approaching an overfished condition, to end overfishing immediately and prevent the stock of fish from reaching an overfished condition.*

**(4) REBUILDING PLAN REQUIRED.—***For a stock of fish that is overfished, any management document prepared pursuant to paragraph (3) or paragraph (5) for such fishery shall—*

**(A) specify a time period for rebuilding the stock of fish that shall—**

*(i) be as short as possible, taking into account the status and biology of 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) not exceed the time the stock of fish would be rebuilt in the absence of any fishing mortality plus one mean generation;*

**(B) allocate both overfishing restrictions and recovery benefits fairly and equitably among sectors of the fishery;**

**(C) for a stock of fish managed under an international agreement, reflect traditional participation in the stock of fish, relative to other nations, by fishermen of the United States; and**

**(D) contain objective and measurable criteria for evaluating rebuilding progress.**

**(5) SECRETARIAL PLAN.—***If a Council does not meet the deadline described in paragraph (3)(A) to submit a management document the Secretary shall, not later than 9 months after the*

expiration of such deadline, prepare such management document for the affected fish stock under subsection (c).

(6) *INTERIM MEASURES.*—During the development of a management document for a stock of fish required by this subsection, a Council may request that the Secretary implement interim measures to reduce overfishing under section 305(c) until such measures can be replaced by such management document. Such measures, if otherwise in compliance with the provisions of this Act, may be implemented even though they are not sufficient to stop overfishing of a fishery.

(7) *ASSESSMENT OF REBUILDING PLAN.*—

(A) *SECRETARIAL REVIEW.*—The Secretary shall review each management document relating to a stock of fish required by this subsection not less often than once every 2 years to determine whether such management document has resulted in adequate progress toward rebuilding affected stocks of fish. The Secretary shall find a lack of adequate progress toward rebuilding an affected stock of fish if—

(i) the status of the stock is not improving sufficiently such that it becomes unlikely that the stock will be rebuilt within the rebuilding time period;

(ii) the applicable fishing mortality rate or annual catch limits are exceeded, and the causes and rebuilding consequences of such exceedances have not been corrected;

(iii) new scientific information demonstrates that assumptions regarding the stock's biology that formed the basis for the rebuilding plan, such as stock productivity, were fundamentally inaccurate, and such inaccuracies render the current rebuilding plan unable to address the stock's rebuilding needs; or

(iv) for such other reasons as the Secretary determines appropriate.

(B) *FINDING OF INADEQUATE PROGRESS.*—Except as provided in subparagraph (C), if the Secretary finds after a review under subparagraph (A) that a management document has not resulted in adequate progress toward rebuilding affected fish stocks, the Secretary shall—

(i) in the case of a stock of fish to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress toward rebuilding by the deadline established under paragraph (4); or

(ii) for all other stocks of fish, immediately notify the appropriate Council, which must make revisions necessary to achieve adequate progress toward rebuilding by not later than the deadline established under paragraph (4). If the Council fails to complete such action by the date that is 9 months after the date of such notification, the Secretary shall, not later than 18 months after the date of such notification, make such revisions as are needed to ensure adequate progress toward rebuilding by not later than the rebuilding deadline established under paragraph (4).

(C) *FAILED REBUILDING PLAN.*—If the Secretary finds that revisions pursuant to subparagraph (B) cannot achieve adequate progress within the time period set under paragraph (4), the Secretary may find that the rebuilding plan has failed.

(D) *PUBLICATION.*—The Secretary shall publish the results of a review performed under this paragraph in the Federal Register, including a determination of adequate progress or inadequate progress, and the basis for such determination.

(8) *SUBSEQUENT REBUILDING PLAN.*—If a rebuilding time period established under paragraph (4) expires and the relevant fish stock has not been rebuilt, or the Secretary determines that an existing rebuilding plan has failed under paragraph (7)(C), the Council (or Secretary in the case of a stock to which section 302(a)(3) applies) shall prepare a new rebuilding plan pursuant to paragraphs (3) through (6), except that such plan shall have not less than a 75 percent chance of rebuilding the stock of fish by the end of the new rebuilding time period set under paragraph (4). Management measures intended to rebuild the stock shall remain in effect during such preparation of a rebuilding plan.

(9) *MANAGEMENT DOCUMENT.*—In this subsection, the term “management document” means a management plan, management plan amendment, or proposed regulations for a stock of fish.

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

(1) *SECRETARIAL REVIEW OF AREAS OF AUTHORITY.*—The Secretary shall review the geographical area of authority of each Council in order to determine if a substantial portion of any federally managed fishery within such area is within the area of authority of another council—

(A) upon request of such Council; or

(B) not less frequently than every 5 years.

(2) *DESIGNATION OF COUNCIL TO PREPARE PLAN.*—If the Secretary determines under paragraph (1) that a substantial portion of a fishery is located in the geographical area of authority of more than one Council, the Secretary shall, not later than 6 months after making such determination—

(A) designate one of the Councils concerned to prepare the fishery management plan for such fishery and any amendment to such plan, if required under this Act; or

(B) designate that such plan and any such amendment, if required under this Act, be prepared jointly by the Councils concerned.

(3) *DEADLINE FOR SUBMISSION OF PLAN.*—Not later than 2 years after the Secretary makes a designation under paragraph (2), the Council or Councils concerned shall prepare and submit a fishery management plan or amendment in accordance with this Act.

(4) *TERMINATION OF CROSS-JURISDICTIONAL AUTHORITY.*—

(A) *REQUEST OF COUNCIL.*—At the request of a Council or as a result of the review pursuant to paragraph (1), the Secretary shall determine whether a fishery described in paragraph (2) no longer has a substantial portion located

*in the geographical area of authority of more than one Council.*

**(B) TERMINATION.—**

*(i) IN GENERAL.—If the Secretary determines under subparagraph (A) that a fishery no longer has a substantial portion located in the geographical area of authority of more than one Council—*

*(I) the Secretary shall determine which Council has predominant geographic authority over the fishery; and*

*(II) not later than 2 years after the date on which the determination under subclause (I) is made, and at such other times as required under this Act, the Council determined under such subclause shall adopt any existing fishery management plan for the fishery, and shall prepare and submit any plan amendments necessary for transitioning to single-Council management as well as for any other purposes, in accordance with the provisions of this Act.*

*(ii) REPEAL OF PRIOR PLAN.—Notwithstanding subsection (h), upon the date of adoption of a fishery management plan under clause (i)(II), any preceding fishery management plan with respect to such fishery is repealed.*

*(5) ESTABLISHMENT OF CRITERIA.—The Secretary shall, by regulation, identify criteria for determining under paragraphs (1) and (5) whether a substantial portion of a fishery is located in the geographical area of authority of more than one Council.*

*(6) ESTABLISHMENT OF BOUNDARIES.—The Secretary shall establish the boundaries between the geographic areas of authority of adjacent Councils.*

*(7) REQUIREMENT FOR MAJORITY OF VOTING MEMBERS.—No jointly prepared plan or amendment required to be prepared under this subsection may be submitted to the Secretary unless such plan or amendment is approved by a majority of the voting members, present and voting, of each Council concerned.*

*(8) HIGHLY MIGRATORY SPECIES IN CERTAIN FISHERIES.—This subsection shall not apply with respect to any fishery to which section 302(a)(3) applies.*

**(g) ATLANTIC HIGHLY MIGRATORY SPECIES.—(1) PREPARATION AND IMPLEMENTATION OF PLAN OR PLAN AMENDMENT.—**The Secretary shall prepare a fishery management plan or plan amendment under subsection (c) with respect to any highly migratory species fishery to which section 302(a)(3) applies. In preparing and implementing any such plan or amendment, the Secretary shall—

**(A)** consult with and consider the comments and views of affected Councils, commissioners and advisory groups appointed under Acts implementing relevant international fishery agreements pertaining to highly migratory species, and the advisory panel established under section 302(g);

**(B)** establish a scientific and statistical committee and an advisory panel under section 302(g) for each fishery management plan to be prepared under this paragraph;

[(C) evaluate the likely effects, if any, of conservation and management measures on participants in the affected fisheries and minimize, to the extent practicable, any disadvantage to United States fishermen in relation to foreign competitors;]

*(C) for stocks not managed pursuant to the Atlantic Tunas Convention Act of 1975, develop annual catch limits that may not exceed the fishing level recommendations of the scientific and statistical committee;*

(D) with respect to a highly migratory species for which the United States is authorized to harvest an allocation, quota, or at a fishing mortality level under a relevant international fishery agreement, provide fishing vessels of the United States with a reasonable opportunity to harvest such allocation, quota, or at such fishing mortality level;

(E) review, on a continuing basis (and promptly whenever a recommendation pertaining to fishing for highly migratory species has been made under a relevant international fishery agreement), and revise as appropriate, the conservation and management measures included in the plan;

(F) diligently pursue, through international entities (such as the International Commission for the Conservation of Atlantic Tunas), comparable international fishery management measures with respect to fishing for highly migratory species; and

(G) ensure that conservation and management measures under this subsection—

(i) promote international conservation of the affected fishery;

(ii) take into consideration traditional fishing patterns of fishing vessels of the United States and the operating requirements of the fisheries;

(iii) are fair and equitable in allocating fishing privileges among United States fishermen and do not have economic allocation as the sole purpose; and

(iv) promote, to the extent practicable, implementation of scientific research programs that include the tagging and release of Atlantic highly migratory species.

(2) CERTAIN FISH EXCLUDED FROM “BYCATCH” DEFINITION.—Notwithstanding section 3(2), fish harvested in a commercial fishery managed by the Secretary under this subsection or the Atlantic Tunas Convention Act of 1975 (16 U.S.C. 971d), or highly migratory species harvested in a commercial fishery managed by a Council under this Act or the Western and Central Pacific Fisheries Convention Implementation Act, that are not regulatory discards and that are tagged and released alive under a scientific tagging and release program established by the Secretary shall not be considered bycatch for purposes of this Act.

(h) REPEAL OR REVOCATION OF A FISHERY MANAGEMENT PLAN.—The Secretary may repeal or revoke a fishery management plan for a fishery under the authority of a Council only if the Council approves the repeal or revocation by a three-quarters majority of the voting members of the Council.

(i) ENVIRONMENTAL REVIEW PROCESS.—

(1) PROCEDURES.—The Secretary shall, in consultation with the Councils and the Council on Environmental Quality, revise and update agency procedures for compliance with the Na-

tional Environmental Policy Act (42 U.S.C. 4231 et seq.). The procedures shall—

(A) conform to the time lines for review and approval of fishery management plans and plan amendments under this section; and

(B) integrate applicable environmental analytical procedures, including the time frames for public input, with the procedure for the preparation and dissemination of fishery management plans, plan amendments, and other actions taken or approved pursuant to this Act in order to provide for timely, clear and concise analysis that is useful to decision makers and the public, reduce extraneous paperwork, and effectively involve the public.

(2) USAGE.—The updated agency procedures promulgated in accordance with this section used by the Councils or the Secretary shall be the sole environmental impact assessment procedure for fishery management plans, amendments, regulations, or other actions taken or approved pursuant to this Act.

(3) SCHEDULE FOR PROMULGATION OF FINAL PROCEDURES.—The Secretary shall—

(A) propose revised procedures within 6 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006;

(B) provide 90 days for public review and comments; and

(C) promulgate final procedures no later than 12 months after the date of enactment of that Act.

(4) PUBLIC PARTICIPATION.—The Secretary is authorized and directed, in cooperation with the Council on Environmental Quality and the Councils, to involve the affected public in the development of revised procedures, including workshops or other appropriate means of public involvement.

[(i)] (j) INTERNATIONAL OVERFISHING.—The provisions of this subsection shall apply in lieu of subsection (e) to a fishery that the Secretary determines is overfished or approaching a condition of being overfished due to excessive international fishing pressure, and for which there are no management measures to end overfishing under an international agreement to which the United States is a party. For such fisheries—

(1) the Secretary, in cooperation with the Secretary of State, immediately take appropriate action at the international level to end the overfishing; and

(2) within 1 year after the Secretary's determination, the appropriate Council, or Secretary, for fisheries under section 302(a)(3) shall—

(A) develop recommendations for domestic regulations to address the relative impact of fishing vessels of the United States on the stock and, if developed by a Council, the Council shall submit such recommendations to the Secretary; and

(B) develop and submit recommendations to the Secretary of State, and to the Congress, for international actions that will end overfishing in the fishery and rebuild the affected stocks, taking into account the relative impact of vessels of other nations and vessels of the United States on the relevant stock.

*(k) STANDARDIZED BYCATCH REPORTING PROGRAM.—*

*(1) ESTABLISHMENT.—Not later than 3 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall establish a national standardized reporting program (referred to in this subsection as “the program”) to assess the amount and type of bycatch occurring in each fishery and across fisheries, determine the contribution of bycatch to the total fishing-related mortality of each fishery, and evaluate the effects of bycatch on relevant fisheries and the ecosystem.*

*(2) METHODOLOGY AND STANDARDS.—The Secretary shall, acting through the program—*

*(A) identify appropriate methodologies and standards for collecting and producing statistically accurate and precise information regarding bycatch; and*

*(B) require consistent data reporting, collection, and assessment for all fisheries managed under fishery management plans.*

*(3) MULTIPLE JURISDICTIONS.—In a case in which a species is caught in areas under the jurisdiction of more than one Council or fishery management plan, the Secretary shall require consistent reporting mechanisms across jurisdictions to ensure that data can be aggregated and compared.*

*(4) COORDINATION WITH STATES.—The Secretary shall coordinate with State fishery managers to carry out paragraph (3).*

*(l) FORAGE FISH MANAGEMENT GUIDELINES.—*

*(1) IN GENERAL.—Not later than 18 months after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall establish by regulation guidelines to assist the Councils in implementing sections 302(h)(12) and 303(a)(18).*

*(2) WORKSHOPS.—In developing the guidelines under paragraph (1), the Secretary shall conduct workshops with Councils and other scientific, fisheries, and conservation interests.*

*(m) FORAGE FISH PROHIBITION.—In accordance with section 302(h)(12), the Secretary shall prohibit the development of any new directed forage fish fishery.*

**SEC. 305. OTHER REQUIREMENTS AND AUTHORITY.****(a) GEAR EVALUATION AND [NOTIFICATION OF ENTRY] DEVELOPMENT OF NEW FISHERIES.—**

**[(1) Not later than 18 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall publish in the Federal Register, after notice and an opportunity for public comment, a list of all fisheries—**

**[(A) under the authority of each Council and all fishing gear used in such fisheries, based on information submitted by the Councils under section 303(a); and**

**[(B) to which section 302(a)(3) applies and all fishing gear used in such fisheries.]**

**(1) The Secretary shall publish in the Federal Register, subject to paragraph (3), and after notice and an opportunity for public comment—**

**(A) a list of all fisheries managed under this Act, organized by Federal region (or Secretarial management under section 302(a)(3), as applicable); and**



(B) with respect to each such fishery—

(i) the types of fishing gear authorized for use in such fishery;

(ii) the jurisdiction (State, Federal, interstate, or otherwise) exercising management authority over such fishery;

(iii) whether a Fishery Management Plan or analogous management structure exists for the fishery; and

(iv) the species authorized to be caught and retained in such fishery.

(2) The Secretary shall include with such list guidelines for [determining when fishing gear or a fishery is sufficiently different from those listed as to require notification under paragraph (3).] *determining—*

(A) when a fishery is sufficiently different from those listed as to constitute a new fishery; and

(B) minimum criteria for a fishery to be considered managed under paragraph (1)(A), which, for federally managed fisheries, must include having a fishery management plan and associated regulations under this Act.;

[(3) Effective 180 days after the publication of such list, no person or vessel may employ fishing gear or engage in a fishery not included on such list without giving 90 days advance written notice to the appropriate Council, or the Secretary with respect to a fishery to which section 302(a)(3) applies. A signed return receipt shall serve as adequate evidence of such notice and as the date upon which the 90-day period begins.

[(4) A Council may submit to the Secretary any proposed changes to such list or such guidelines the Council deems appropriate. The Secretary shall publish a revised list, after notice and an opportunity for public comment, upon receiving any such proposed changes from a Council.

[(5) A Council may request the Secretary to promulgate emergency regulations under subsection (c) to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery if the appropriate Council, or the Secretary for fisheries to which section 302(a)(3) applies, determines that such unlisted gear or unlisted fishery would compromise the effectiveness of conservation and management efforts under this Act.]

*(3) Not later than 24 months after the date of enactment of the Sustaining America's Fisheries for the Future Act of 2022, and at least once every 5 years thereafter, each Council (or the Secretary for fisheries to which section 302(a)(3) applies) shall review the fisheries for which the Council is responsible on the list required under paragraph (1)(A) and submit to the Secretary proposed changes to such list in specific and narrow terms, including geographic range, to ensure that only managed fisheries are included on the list.*

*(4) The Secretary shall review proposed changes pursuant to the guidelines established under paragraph (2) and publish a revised list, after notice and an opportunity for public comment.*

*(5) The Secretary may permit, pursuant to section 318(d), on a limited interim basis, fishing activity that is not included on the list, if—*

(A) *the experimental fishing permit is designed and implemented so as to yield information necessary and currently lacking for the development of a fishery management plan or amendment to such plan under section 302(h)(1) and section 303;*

(B) *the Secretary collects, evaluates, and notwithstanding section 402(b), makes public the data generated by the experimental fishing activity at the end of each permit year, and based on such evaluation, the Council renders a determination of whether the fishing activity should be continued, either in the form of a subsequent year of experimental fishing under this paragraph, or in the form of a fishery managed under a fishery management plan pursuant to section 302(h)(1) and section 303; and*

(C) *the data collected from, and the Secretary's evaluation of, the fishing activity are included in any fishery management plan or amendment that is prepared for management of the fishing activity.*

(6) *No person or vessel may employ fishing gear or engage in a fishery not included on the list, except as provided in paragraph (4). A Council may request the Secretary to promulgate emergency regulations under subsection (c) to prohibit any persons or vessels from using an unlisted fishing gear or engaging in an unlisted fishery.*

[(6)] (7) Nothing in this subsection shall be construed to permit a person or vessel to engage in fishing or employ fishing gear when such fishing or gear is prohibited or restricted by regulation under a fishery management plan or plan amendment, or under other applicable law.

(b) FISH HABITAT.—(1)(A) The Secretary shall, within 6 months of the date of enactment of the Sustainable Fisheries Act, establish by regulation guidelines to assist the Councils in the description and identification of essential fish habitat in fishery management plans (including adverse impacts on such habitat) and in the consideration of actions to ensure the conservation and enhancement of such habitat. The Secretary shall set forth a schedule for the amendment of fishery management plans to include the identification of essential fish habitat and for the review and updating of such identifications based on new scientific evidence or other relevant information.

(B) The Secretary, in consultation with participants in the fishery, shall provide each Council with recommendations and information regarding each fishery under that Council's authority to assist it in the identification of essential fish habitat, the adverse impacts on that habitat, and the actions that should be considered to ensure the conservation and enhancement of that habitat.

(C) The Secretary shall review programs administered by the Department of Commerce and ensure that any relevant programs further the conservation and enhancement of essential fish habitat.

(D) The Secretary shall coordinate with and provide information to other Federal agencies *and such agencies shall take action to further the conservation and enhancement of essential fish habitat.*

[(2)] Each Federal agency shall consult with the Secretary with respect to any action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by such agency that

may adversely affect any essential fish habitat identified under this Act.

[(3) Each Council—

[(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning any activity authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any Federal or State agency that, in the view of the Council, may affect the habitat, including essential fish habitat, of a fishery resource under its authority; and

[(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning any such activity that, in the view of the Council, is likely to substantially affect the habitat, including essential fish habitat, of an anadromous fishery resource under its authority.

[(4)(A) If the Secretary receives information from a Council or Federal or State agency or determines from other sources that an action authorized, funded, or undertaken, or proposed to be authorized, funded, or undertaken, by any State or Federal agency would adversely affect any essential fish habitat identified under this Act, the Secretary shall recommend to such agency measures that can be taken by such agency to conserve such habitat.

[(B) Within 30 days after receiving a recommendation under subparagraph (A), a Federal agency shall provide a detailed response in writing to any Council commenting under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding, mitigating, or offsetting the impact of the activity on such habitat. In the case of a response that is inconsistent with the recommendations of the Secretary, the Federal agency shall explain its reasons for not following the recommendations.]

(2) CONSULTATIONS REGARDING FEDERAL AGENCY ACTION WITH ADVERSE EFFECTS ON ESSENTIAL FISH HABITAT.—

(A) REQUIREMENT TO AVOID OR MITIGATE ADVERSE EFFECTS.—*With respect to any Federal agency action that may have an adverse effect on—*

*(i) essential fish habitat, each Federal agency shall, in consultation with the Secretary, ensure that any action authorized, funded, or undertaken by such agency avoids the adverse effect of such action on essential fish habitat or, to the extent that the adverse effect cannot be avoided, the agency shall minimize and mitigate the adverse effect; and*

*(ii) a habitat area of particular concern, each Federal agency shall, in consultation with the Secretary—*

*(I) for the entire period during which such adverse effect is likely to occur, monitor or require monitoring for such adverse effect;*

*(II) for the entire period during which such adverse effect is likely to occur, take action to minimize and mitigate such adverse effect of the action on—*

*(aa) the habitat area of particular concern; and*

(bb) the species for with respect to which the habitat area of particular concern is designated;

(III) evaluate the effectiveness of measures described in subclause (II) and report the results of such evaluation to the Secretary annually.

(B) *CONSIDERATIONS.*—In consulting with a Federal agency under subparagraph (A) for projects seeking to restore and improve the long-term resilience of habitat, particularly in estuarine environments heavily impacted by sea level rise and other climate change factors, the Secretary shall account for the consequences of not pursuing such restoration and habitat resilience projects and the long-term positive impacts on fish populations of such activities.

(C) *REGULATIONS.*—The Secretary shall establish regulations for the consultation process required by subparagraph (A), including to ensure that recommendations made by the Secretary pursuant to such subparagraph would result in the avoidance, of adverse effects on essential fish habitat and, to the extent adverse effects cannot be avoided, the minimization and mitigation of any such adverse effects.

(3) *INFORMATION TO COUNCIL.*—The Secretary shall inform each Council that has authority over an affected fishery of any consultation carried out under paragraph (2), including information on the proposed action and any potential adverse effects, and each such Council—

(A) may comment on and make recommendations to the Secretary and any Federal or State agency concerning the underlying action if, in the view of the Council, such action may affect the habitat of a fishery resource under the authority of such Council; and

(B) shall comment on and make recommendations to the Secretary and any Federal or State agency concerning the underlying action if, in the view of the Council, such action is likely to adversely affect the habitat of an anadromous fishery resource under the authority of such Council.

(4) *INFORMATION FROM OTHER SOURCES.*—

(A) *RECEIPT OF INFORMATION.*—If the Secretary receives information from any source and determines that an action taken, funded, or authorized or proposed to be taken, funded, or authorized by a State or Federal agency may have an adverse effect on an essential fish habitat identified under this Act, the Secretary shall recommend to such agency measures that avoid such adverse effects and to the extent the adverse effects cannot be avoided, minimize and mitigate such adverse effects.

(B) *REQUIRED RESPONSE.*—Not later than 30 days after receiving a recommendation under subparagraph (A), a Federal, State, or local agency shall provide a detailed response in writing to any Council comment under paragraph (3) and the Secretary regarding the matter. The response shall include a description of measures proposed by the agency for avoiding the adverse effects, or to the extent the adverse effects cannot be avoided, mitigating the adverse effects of the action on such essential fish habitat. In

*the case of a response that is inconsistent with the recommendations of the Secretary, the Federal, State, or local agency shall explain how the alternative measures proposed will avoid the adverse effects of such action on essential fish habitat or, to the extent that adverse effects cannot be avoided, minimize and mitigate the adverse effects.*

*(C) PUBLICATION.—The Secretary shall make available to the public—*

*(i) any recommendation made under subparagraph (A) on the date on which such recommendation is made; and*

*(ii) any response made by an agency under subparagraph (B) on the date on which such response is received.*

*(D) MONITORING.—The Secretary shall monitor measures taken by each Federal agency to meet the requirements of this subsection.*

*(E) REPORT TO CONGRESS.—Not later than 5 years after the date of the enactment of the Sustaining America’s Fisheries for the Future Act of 2022 and not less frequently than every 5 years thereafter, the Secretary shall submit a report—*

*(i) describing the effectiveness of measures taken by the Secretary to ensure the conservation and enhancement of essential fish habitat; and*

*(ii) identifying opportunities for partnerships between the National Oceanic and Atmospheric Administration, in consultation with other Federal agencies, State agencies, and non-Federal partners to enhance data collection, research, and monitoring of essential fish habitat.*

**(c) EMERGENCY ACTIONS AND INTERIM MEASURES.—**(1) If the Secretary finds that an emergency or overfishing exists or that interim measures are needed to reduce overfishing for any fishery, [he] *the Secretary* may promulgate emergency or overfishing regulations or interim measures necessary to address the emergency or overfishing, without regard to whether a fishery management plan exists for such fishery.

(2) If a Council finds that an emergency or overfishing exists or that interim measures are needed to reduce overfishing for any fishery within its jurisdiction, whether or not a fishery management plan exists for such fishery—

(A) the Secretary shall promulgate emergency or overfishing regulations or interim measures under paragraph (1) to address the emergency or overfishing if the Council, by unanimous vote of the members who are voting members, requests the taking of such action; and

(B) the Secretary may promulgate emergency or overfishing regulations or interim measures under paragraph (1) to address the emergency or overfishing if the Council, by less than a unanimous vote, requests the taking of such action.

(3) Any emergency regulation or interim measure which changes any existing fishery management plan or amendment shall be treated as an amendment to such plan for the period in which such

regulation is in effect. Any emergency regulation or interim measure promulgated under this subsection—

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

(B) shall, except as provided in subparagraph (C), remain in effect for not more than 180 days after the date of publication, and may be extended by publication in the Federal Register for one additional period of not more than 186 days, provided the public has had an opportunity to comment on the emergency regulation or interim measure, and, in the case of a Council recommendation for emergency regulations or interim measures, the Council is actively preparing a fishery management plan, plan amendment, or proposed regulations to address the emergency or overfishing on a permanent basis;

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

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

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

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

(f) JUDICIAL REVIEW.—(1) Regulations promulgated by the Secretary under this Act and actions described in paragraph (2) shall be subject to judicial review to the extent authorized by, and in accordance with, chapter 7 of title 5, United States Code, if a petition for such review is filed within 30 days after the date on which the regulations are promulgated or the action is published in the Federal Register, as applicable; except that—

(A) section 705 of such title is not applicable, and

(B) the appropriate court shall only set aside any such regulation or action on a ground specified in section 706(2)(A), (B), (C), or (D) of such title.

(2) The actions referred to in paragraph (1) are actions that are taken by the Secretary under regulations which implement a fishery management plan, including but not limited to actions that es-

tablish the date of closure of a fishery to commercial or recreational fishing.

(3)(A) Notwithstanding any other provision of law, the Secretary shall file a response to any petition filed in accordance with paragraph (1), not later than 45 days after the date the Secretary is served with that petition, except that the appropriate court may extend the period for filing such a response upon a showing by the Secretary of good cause for that extension.

(B) A response of the Secretary under this paragraph shall include a copy of the administrative record for the regulations that are the subject of the petition.

(4) Upon a motion by the person who files a petition under this subsection, the appropriate court shall assign the matter for hearing at the earliest possible date and shall expedite the matter in every possible way.

(g) NEGOTIATED CONSERVATION AND MANAGEMENT MEASURES.—

(1)(A) In accordance with regulations promulgated by the Secretary pursuant to this paragraph, a Council may establish a fishery negotiation panel to assist in the development of specific conservation and management measures for a fishery under its authority. The Secretary may establish a fishery negotiation panel to assist in the development of specific conservation and management measures required for a fishery under section 304(e)(5), for a fishery for which the Secretary has authority under section 304(g), or for any other fishery with the approval of the appropriate Council.

(B) No later than 180 days after the date of enactment of the Sustainable Fisheries Act, the Secretary shall promulgate regulations establishing procedures, developed in cooperation with the Administrative Conference of the United States, for the establishment and operation of fishery negotiation panels. Such procedures shall be comparable to the procedures for negotiated rulemaking established by subchapter III of chapter 5 of title 5, United States Code.

(2) If a negotiation panel submits a report, such report shall specify all the areas where consensus was reached by the panel, including, if appropriate, proposed conservation and management measures, as well as any other information submitted by members of the negotiation panel. Upon receipt, the Secretary shall publish such report in the Federal Register for public comment.

(3) Nothing in this subsection shall be construed to require either a Council or the Secretary, whichever is appropriate, to use all or any portion of a report from a negotiation panel established under this subsection in the development of specific conservation and management measures for the fishery for which the panel was established.

(h) CENTRAL REGISTRY SYSTEM FOR LIMITED ACCESS SYSTEM PERMITS.—

(1) Within 6 months after the date of enactment of the Sustainable Fisheries Act, the Secretary shall establish an exclusive central registry system (which may be administered on a regional basis) for limited access system permits established under section 303(b)(6) or other Federal law, including limited access privileges, which shall provide for the registration of

title to, and interests in, such permits, as well as for procedures for changes in the registration of title to such permits upon the occurrence of involuntary transfers, judicial or non-judicial foreclosure of interests, enforcement of judgments thereon, and related matters deemed appropriate by the Secretary. Such registry system shall—

(A) provide a mechanism for filing notice of a nonjudicial foreclosure or enforcement of a judgment by which the holder of a senior security interest acquires or conveys ownership of a permit, and in the event of a nonjudicial foreclosure, by which the interests of the holders of junior security interests are released when the permit is transferred;

(B) provide for public access to the information filed under such system, notwithstanding section 402(b); and

(C) provide such notice and other requirements of applicable law that the Secretary deems necessary for an effective registry system.

(2) The Secretary shall promulgate such regulations as may be necessary to carry out this subsection, after consulting with the Councils and providing an opportunity for public comment. The Secretary is authorized to contract with non-Federal entities to administer the central registry system.

(3) To be effective and perfected against any person except the transferor, its heirs and devisees, and persons having actual notice thereof, all security interests, and all sales and other transfers of permits described in paragraph (1), shall be registered in compliance with the regulations promulgated under paragraph (2). Such registration shall constitute the exclusive means of perfection of title to, and security interests in, such permits, except for Federal tax liens thereon, which shall be perfected exclusively in accordance with the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.). The Secretary shall notify both the buyer and seller of a permit if a lien has been filed by the Secretary of the Treasury against the permit before collecting any transfer fee under paragraph (5) of this subsection.

(4) The priority of security interests shall be determined in order of filing, the first filed having the highest priority. A validly-filed security interest shall remain valid and perfected notwithstanding a change in residence or place of business of the owner of record. For the purposes of this subsection, “security interest” shall include security interests, assignments, liens and other encumbrances of whatever kind.

(5)(A) Notwithstanding section 304(d)(1), the Secretary shall collect a reasonable fee of not more than one-half of one percent of the value of a limited access system permit upon registration of the title to such permit with the central registry system and upon the transfer of such registered title. Any such fee collected shall be deposited in the Limited Access System Administration Fund established under subparagraph (B).

(B) There is established in the Treasury a Limited Access System Administration Fund. The Fund shall be available, without appropriation or fiscal year limitation, only to the Secretary for the purposes of—



- (i) administering the central registry system; and
- (ii) administering and implementing this Act in the fishery in which the fees were collected. Sums in the Fund that are not currently needed for these purposes shall be kept on deposit or invested in obligations of, or guaranteed by, the United States.

(i) ALASKA AND WESTERN PACIFIC COMMUNITY DEVELOPMENT PROGRAMS.—

(1) WESTERN ALASKA COMMUNITY DEVELOPMENT QUOTA PROGRAM.—

(A) IN GENERAL.—There is established the western Alaska community development quota program in order—

- (i) to provide eligible western Alaska villages with the opportunity to participate and invest in fisheries in the Bering Sea and Aleutian Islands Management Area;
- (ii) to support economic development in western Alaska;
- (iii) to alleviate poverty and provide economic and social benefits for residents of western Alaska; and
- (iv) to achieve sustainable and diversified local economies in western Alaska.

(B) PROGRAM ALLOCATION.—

(i) IN GENERAL.—Except as provided in clause (ii), the annual percentage of the total allowable catch, guideline harvest level, or other annual catch limit allocated to the program in each directed fishery of the Bering Sea and Aleutian Islands shall be the percentage approved by the Secretary, or established by Federal law, as of March 1, 2006, for the program. The percentage for each fishery shall be either a directed fishing allowance or include both directed fishing and nontarget needs based on existing practice with respect to the program as of March 1, 2006, for each fishery.

(ii) EXCEPTIONS.—Notwithstanding clause (i)—

(I) the allocation under the program for each directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) shall be a total allocation (directed and nontarget combined) of 10.7 percent effective January 1, 2008; and

(II) the allocation under the program in any directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) established after the date of enactment of this subclause shall be a total allocation (directed and nontarget combined) of 10.7 percent.

The total allocation (directed and nontarget combined) for a fishery to which subclause (I) or (II) applies may not be exceeded.

(iii) PROCESSING AND OTHER RIGHTS.—Allocations to the program include all processing rights and any

other rights and privileges associated with such allocations as of March 1, 2006.

(iv) REGULATION OF HARVEST.—The harvest of allocations under the program for fisheries with individual quotas or fishing cooperatives shall be regulated by the Secretary in a manner no more restrictive than for other participants in the applicable sector, including with respect to the harvest of nontarget species.

(C) ALLOCATIONS TO ENTITIES.—Each entity eligible to participate in the program shall be authorized under the program to harvest annually the same percentage of each species allocated to the program under subparagraph (B) that it was authorized by the Secretary to harvest of such species annually as of March 1, 2006, except to the extent that its allocation is adjusted under subparagraph (H). Such allocation shall include all processing rights and any other rights and privileges associated with such allocations as of March 1, 2006. Voluntary transfers by and among eligible entities shall be allowed, whether before or after harvesting. Notwithstanding the first sentence of this subparagraph, seven-tenths of one percent of the total allowable catch, guideline harvest level, or other annual catch limit, within the amount allocated to the program by subclause (I) or subclause (II) of subparagraph (B)(ii), shall be allocated among the eligible entities by the panel established in subparagraph (G), or allocated by the Secretary based on the nontarget needs of eligible entities in the absence of a panel decision.

(D) ELIGIBLE VILLAGES.—The following villages shall be eligible to participate in the program through the following entities:

(i) The villages of Akutan, Atka, False Pass, Nelson Lagoon, Nikolski, and Saint George through the Aleutian Pribilof Island Community Development Association.

(ii) The villages of Aleknagik, Clark's Point, Dillingham, Egegik, Ekuk, Ekwok, King Salmon/Savonoski, Levelock, Manokotak, Naknek, Pilot Point, Port Heiden, Portage Creek, South Naknek, Togiak, Twin Hills, and Ugashik through the Bristol Bay Economic Development Corporation.

(iii) The village of Saint Paul through the Central Bering Sea Fishermen's Association.

(iv) The villages of Chefornak, Chevak, Eek, Goodnews Bay, Hooper Bay, Kipnuk, Kongiganak, Kwigillingok, Mekoryuk, Napakiak, Napaskiak, Newtok, Nightmute, Oscarville, Platinum, Quinhagak, Scammon Bay, Toksook Bay, Tuntutuliak, and Tununak through the Coastal Villages Region Fund.

(v) The villages of Brevig Mission, Diomedea, Elim, Gambell, Golovin, Koyuk, Nome, Saint Michael, Savoonga, Shaktoolik, Stebbins, Teller, Unalakleet, Wales, and White Mountain through the Norton Sound Economic Development Corporation.

(vi) The villages of Alakanuk, Emmonak, Grayling, Kotlik, Mountain Village, and Nunam Iqua through the Yukon Delta Fisheries Development Association.

(E) ELIGIBILITY REQUIREMENTS FOR PARTICIPATING ENTITIES.—To be eligible to participate in the program, an entity referred to in subparagraph (D) shall meet the following requirements:

(i) BOARD OF DIRECTORS.—The entity shall be governed by a board of directors. At least 75 percent of the members of the board shall be resident fishermen from the entity's member villages. The board shall include at least one director selected by each such member village.

(ii) PANEL REPRESENTATIVE.—The entity shall elect a representative to serve on the panel established by subparagraph (G).

(iii) OTHER INVESTMENTS.—The entity may make up to 20 percent of its annual investments in any combination of the following:

(I) For projects that are not fishery-related and that are located in its region.

(II) On a pooled or joint investment basis with one or more other entities participating in the program for projects that are not fishery-related and that are located in one or more of their regions.

(III) For matching Federal or State grants for projects or programs in its member villages without regard to any limitation on the Federal or State share, or restriction on the source of any non-Federal or non-State matching funds, of any grant program under any other provision of law.

(iv) FISHERY-RELATED INVESTMENTS.—The entity shall make the remainder percent of its annual investments in fisheries-related projects or for other purposes consistent with the practices of the entity prior to March 1, 2006.

(v) ANNUAL STATEMENT OF COMPLIANCE.—Each year the entity, following approval by its board of directors and signed by its chief executive officer, shall submit a written statement to the Secretary and the State of Alaska that summarizes the purposes for which it made investments under clauses (iii) and (iv) during the preceding year.

(vi) OTHER PANEL REQUIREMENTS.—The entity shall comply with any other requirements established by the panel under subparagraph (G).

(F) ENTITY STATUS, LIMITATIONS, AND REGULATION.—The entity—

(i) shall be subject to any excessive share ownership, harvesting, or processing limitations in the fisheries of the Bering Sea and Aleutian Islands Management Area only to the extent of the entity's proportional ownership, excluding any program allocations, and notwithstanding any other provision of law;

(ii) shall comply with State of Alaska law requiring annual reports to the entity's member villages summarizing financial operations for the previous calendar year, including general and administrative costs and compensation levels of the top 5 highest paid personnel;

(iii) shall comply with State of Alaska laws to prevent fraud that are administered by the Alaska Division of Banking and Securities, except that the entity and the State shall keep confidential from public disclosure any information if the disclosure would be harmful to the entity or its investments; and

(iv) is exempt from compliance with any State law requiring approval of financial transactions, community development plans, or amendments thereto, except as required by subparagraph (H).

(G) ADMINISTRATIVE PANEL.—

(i) ESTABLISHMENT.—There is established a community development quota program panel.

(ii) MEMBERSHIP.—The panel shall consist of 6 members. Each entity participating in the program shall select one member of the panel.

(iii) FUNCTIONS.—The panel shall—

(I) administer those aspects of the program not otherwise addressed in this paragraph, either through private contractual arrangement or through recommendations to the North Pacific Council, the Secretary, or the State of Alaska, as the case may be; and

(II) coordinate and facilitate activities of the entities under the program.

(iv) VOTING REQUIREMENT.—The panel may act only by the affirmative vote of at least 5 of its members, except that any decision made pursuant to the last sentence of subparagraph (C) shall require the unanimous vote of all 6 members of the panel.

(H) DECENNIAL REVIEW AND ADJUSTMENT OF ENTITY ALLOCATIONS.—

(i) IN GENERAL.—During calendar year 2012 and every 10 years thereafter, the State of Alaska shall evaluate the performance of each entity participating in the program based on the criteria described in clause (ii).

(ii) CRITERIA.—The panel shall establish a system to be applied under this subparagraph that allows each entity participating in the program to assign relative values to the following criteria to reflect the particular needs of its villages:

(I) Changes during the preceding 10-year period in population, poverty level, and economic development in the entity's member villages.

(II) The overall financial performance of the entity, including fishery and nonfishery investments by the entity.

(III) Employment, scholarships, and training supported by the entity.

(IV) Achieving of the goals of the entity's community development plan.

(iii) ADJUSTMENT OF ALLOCATIONS.—After the evaluation required by clause (i), the State of Alaska shall make a determination, on the record and after an opportunity for a hearing, with respect to the performance of each entity participating in the program for the criteria described in clause (ii). If the State determines that the entity has maintained or improved its overall performance with respect to the criteria, the allocation to such entity under the program shall be extended by the State for the next 10-year period. If the State determines that the entity has not maintained or improved its overall performance with respect to the criteria—

(I) at least 90 percent of the entity's allocation for each species under subparagraph (C) shall be extended by the State for the next 10-year period; and

(II) the State may determine, or the Secretary may determine (if State law prevents the State from making the determination), and implement an appropriate reduction of up to 10 percent of the entity's allocation for each species under subparagraph (C) for all or part of such 10-year period.

(iv) REALLOCATION OF REDUCED AMOUNT.—If the State or the Secretary reduces an entity's allocation under clause (iii), the reduction shall be reallocated among other entities participating in the program whose allocations are not reduced during the same period in proportion to each such entity's allocation of the applicable species under subparagraph (C).

(I) SECRETARIAL APPROVAL NOT REQUIRED.—Notwithstanding any other provision of law or regulation thereunder, the approval by the Secretary of a community development plan, or an amendment thereof, under the program is not required.

(J) COMMUNITY DEVELOPMENT PLAN DEFINED.—In this paragraph, the term "community development plan" means a plan, prepared by an entity referred to in subparagraph (D), for the program that describes how the entity intends—

(i) to harvest its share of fishery resources allocated to the program, or

(ii) to use its share of fishery resources allocated to the program, and any revenue derived from such use, to assist its member villages with projects to advance economic development,

but does not include a plan that allocates fishery resources to the program.

(2)(A) The Western Pacific Council and the Secretary may establish a western Pacific community development program for any fishery under the authority of such Council in order to pro-

vide access to such fishery for western Pacific communities that participate in the program.

(B) To be eligible to participate in the western Pacific community development program, a community shall—

(i) be located within the Western Pacific Regional Fishery Management Area;

(ii) meet criteria developed by the Western Pacific Council, approved by the Secretary and published in the Federal Register;

(iii) consist of community residents who are descended from the aboriginal people indigenous to the area who conducted commercial or subsistence fishing using traditional fishing practices in the waters of the Western Pacific region;

(iv) not have previously developed harvesting or processing capability sufficient to support substantial participation in fisheries in the Western Pacific Regional Fishery Management Area; and

(v) develop and submit a Community Development Plan to the Western Pacific Council and the Secretary.

(C) In developing the criteria for eligible communities under subparagraph (B)(ii), the Western Pacific Council shall base such criteria on traditional fishing practices in or dependence on the fishery, the cultural and social framework relevant to the fishery, and economic barriers to access to the fishery.

(D) For the purposes of this subsection “Western Pacific Regional Fishery Management Area” means the area under the jurisdiction of the Western Pacific Council, or an island within such area.

(E) Notwithstanding any other provision of this Act, the Western Pacific Council shall take into account traditional indigenous fishing practices in preparing any fishery management plan.

(3) The Secretary shall deduct from any fees collected from a community development quota program under section 304(d)(2) the costs incurred by participants in the program for observer and reporting requirements which are in addition to observer and reporting requirements of other participants in the fishery in which the allocation to such program has been made.

(4) After the date of enactment of the Sustainable Fisheries Act, the North Pacific Council and Western Pacific Council may not submit to the Secretary a community development quota program that is not in compliance with this subsection.

(j) WESTERN PACIFIC AND NORTHERN PACIFIC REGIONAL MARINE EDUCATION AND TRAINING.—

(1) IN GENERAL.—The Secretary shall establish a pilot program for regionally-based marine education and training programs in the Western Pacific and the Northern Pacific to foster understanding, practical use of knowledge (including native Hawaiian, Alaskan Native, and other Pacific Islander-based knowledge), and technical expertise relevant to stewardship of living marine resources. The Secretary shall, in cooperation with the Western Pacific and the North Pacific Regional Fishery Management Councils, regional educational institutions,

and local Western Pacific and Northern Pacific community training entities, establish programs or projects that will improve communication, education, and training on marine resource issues throughout the region and increase scientific education for marine-related professions among coastal community residents, including indigenous Pacific islanders, Native Hawaiians, Alaskan Natives, and other underrepresented groups in the region.

(2) PROGRAM COMPONENTS.—The program shall—

(A) include marine science and technology education and training programs focused on preparing community residents for employment in marine related professions, including marine resource conservation and management, marine science, marine technology, and maritime operations;

(B) include fisheries and seafood-related training programs, including programs for fishery observers, seafood safety and seafood marketing, focused on increasing the involvement of coastal community residents in fishing, fishery management, and seafood-related operations;

(C) include outreach programs and materials to educate and inform consumers about the quality and sustainability of wild fish or fish products farmed through responsible aquaculture, particularly in Hawaii, Alaska, the Western Pacific, the Northern Pacific, and the Central Pacific;

(D) include programs to identify, with the fishing industry, methods and technologies that will improve the data collection, quality, and reporting and increase the sustainability of fishing practices, and to transfer such methods and technologies among fisheries sectors and to other nations in the Western, Northern, and Central Pacific;

(E) develop means by which local and traditional knowledge (including Pacific islander, Native Hawaiian, and Alaskan Native knowledge) can enhance science-based management of fishery resources of the region; and

(F) develop partnerships with other Western Pacific Island and Alaskan agencies, academic institutions, and other entities to meet the purposes of this section.

(k) MULTISPECIES GROUND FISH.—

(1) IN GENERAL.—Within 60 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary of Commerce shall determine whether fishing in State waters—

(A) without a New England multispecies groundfish fishery permit on regulated species within the multispecies complex is not consistent with the applicable Federal fishery management plan; or

(B) without a Federal bottomfish and seamount groundfish permit in the Hawaiian archipelago on regulated species within the complex is not consistent with the applicable Federal fishery management plan or State data are not sufficient to make such a determination.

(2) CURE.—If the Secretary makes a determination that such actions are not consistent with the plan, the Secretary shall, in consultation with the Council, and after notifying the af-

affected State, develop and implement measures to cure the inconsistency pursuant to section 306(b).

(l) *RECREATIONAL DATA IMPROVEMENT.*—Not later than 2 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall establish guidelines for recreational catch data, which shall include the development of data standards to improve timeliness, accuracy, precision and validation of data produced by recreational surveys in order to facilitate the use of such data in assessments, for use in management actions, and for other uses as applicable. The Secretary’s guidelines shall consider the relevant recommendations developed under section 404(e), subsections (g)(4)(C) and (h) of section 401, and section 201(b) of the Modernizing Recreational Fisheries Management Act of 2018 (16 U.S.C. 1881 note). If recreational catch data for a stock of fish come from more than one survey program, such as Federal and non-Federal sources, including from States or Marine Fisheries Commissions, the Secretary shall implement measures, which may include the use of calibration methods, as needed for the timely integration of such data to ensure consistent methods and approaches are used for monitoring of catch against the relevant annual catch limits and for other fishery science and management purposes.

(m) *FORAGE FISH.*—Not later than 12 months after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall establish by regulation, in consultation with the Regional Fishery Management Councils, a definition of the term “forage fish” for the purposes of this Act. In defining such term, the Secretary shall consider factors including whether a species covered by such definition, throughout such species’ lifecycle—

- (1) is at a low trophic level;
- (2) is generally small- to intermediate-sized;
- (3) occurs in schools or other dense aggregations;
- (4) contributes significantly to the diets of other fish, marine mammals, or birds; and
- (5) serves as a conduit for energy transfer to species at a higher trophic level.

(n) *GUIDANCE.*—Not later than 2 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022, the Secretary shall issue guidelines to assist the Councils in preparing and adapting fishery management for the impacts of climate change, including for consideration of climate change in the conservation and management of fish stocks under each Council’s geographical area of authority.

#### **SEC. 306. STATE JURISDICTION.**

(a) *IN GENERAL.*—

(1) Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries.

(2) For the purposes of this Act, except as provided in subsection (b), the jurisdiction and authority of a State shall extend—

- (A) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party;



(B) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich; and

(C) to the waters of southeastern Alaska (for the purpose of regulating fishing for other than any species of crab) that are—

(i) north of the line representing the international boundary at Dixon Entrance and the westward extension of that line; east of 138 degrees west longitude; and not more than three nautical miles seaward from the coast, from the lines extending from headland to headland across all bays, inlets, straits, passes, sounds, and entrances, and from any island or group of islands, including the islands of the Alexander Archipelago (except Forrester Island); or

(ii) between the islands referred to in clause (i) (except Forrester Island) and the mainland.

(3) A State may regulate a fishing vessel outside the boundaries of the State in the following circumstances:

(A) The fishing vessel is registered under the law of that State, and (i) there is no fishery management plan or other applicable Federal fishing regulations for the fishery in which the vessel is operating; or (ii) the State's laws and regulations are consistent with the fishery management plan and applicable Federal fishing regulations for the fishery in which the vessel is operating.

(B) The fishery management plan for the fishery in which the fishing vessel is operating delegates management of the fishery to a State and the State's laws and regulations are consistent with such fishery management plan. If at any time the Secretary determines that a State law or regulation applicable to a fishing vessel under this circumstance is not consistent with the fishery management plan, the Secretary shall promptly notify the State and the appropriate Council of such determination and provide an opportunity for the State to correct any inconsistencies identified in the notification. If, after notice and opportunity for corrective action, the State does not correct the inconsistencies identified by the Secretary, the authority granted to the State under this subparagraph shall not apply until the Secretary and the appropriate Council find that the State has corrected the inconsistencies. For a fishery for which there was a fishery management plan in place on August 1, 1996 that did not delegate management of the fishery to a State as of that date, the authority provided by this subparagraph applies only if the Council approves the delegation of management of the fishery to the State by a three-quarters majority vote of the voting members of the Council.

(C) The fishing vessel is not registered under the law of the State of Alaska and is operating in a fishery in the exclusive economic zone off Alaska for which there was no fishery management plan in place on August 1, 1996, and the Secretary and the North Pacific Council find that there is a legitimate interest of the State of Alaska in the con-

ervation and management of such fishery. The authority provided under this subparagraph shall terminate when a fishery management plan under this Act is approved and implemented for such fishery.

(b) EXCEPTION.—(1) If the Secretary finds, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, that—

(A) the fishing is a fishery, which is covered by a fishery management plan implemented under this Act, is engaged in predominately within the exclusive economic zone and beyond such zone; and

(B) any State has taken any action, or omitted to take any action, the results of which will substantially and adversely affect the carrying out of such fishery management plan;

the Secretary shall promptly notify such State and the appropriate Council of such finding and of [his] *the Secretary's* intention to regulate the applicable fishery within the boundaries of such State (other than its internal waters), pursuant to such fishery management plan and the regulations promulgated to implement such plan.

(2) If the Secretary, pursuant to this subsection, assumes responsibility for the regulation of any fishery, the State involved may at any time thereafter apply to the Secretary for reinstatement of its authority over such fishery. If the Secretary finds that the reasons for which [he] *the Secretary* assumed such regulation no longer prevail, [he] *the Secretary* shall promptly terminate such regulation.

(3) If the State involved requests that a hearing be held pursuant to paragraph (1), the Secretary shall conduct such hearing prior to taking any action under paragraph (1).

(c) EXCEPTION REGARDING FOREIGN FISH PROCESSING IN INTERNAL WATERS.—(1) A foreign fishing vessel may engage in fish processing within the internal waters of a State if, and only if—

(A) the vessel is qualified for purposes of this paragraph pursuant to paragraph (4)(C) or has received a permit under section 204(d);

(B) the owner or operator of the vessel applies to the Governor of the State for, and (subject to paragraph (2)) is granted, permission for the vessel to engage in such processing and the application specifies the species to be processed; and

(C) the owner or operator of the vessel submits reports on the tonnage of fish received from vessels of the United States and the locations from which such fish were harvested, in accordance with such procedures as the Secretary by regulation shall prescribe.

(2) The Governor of a State may not grant permission for a foreign fishing vessel to engage in fish processing under paragraph (1)—

(A) for a fishery which occurs in the waters of more than one State or in the exclusive economic zone, except after—

(i) consulting with the appropriate Council and Marine Fisheries Commission, and

(ii) considering any comments received from the Governor of any other State where the fishery occurs; and

(B) if the Governor determines that fish processors within the State have adequate capacity, and will utilize such capacity, to process all of the United States harvested fish from the fishery concerned that are landed in the State.

(3) Nothing in this subsection may be construed as relieving a foreign fishing vessel from the duty to comply with all applicable Federal and State laws while operating within the internal waters of a State incident to permission obtained under paragraph (1)(B).

(4) For purposes of this subsection—

(A) The term “fish processing” includes, in addition to processing, the performance of any other activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, or transportation.

(B) The phrase “internal waters of a State” means all waters within the boundaries of a State except those seaward of the baseline from which the territorial sea is measured.

(C) A foreign fishing vessel shall be treated as qualified for purposes of paragraph (1) if the foreign nation under which it is flagged will be a party to (i) a governing international fishery agreement or (ii) a treaty described in section 201(b) of this Act (16 U.S.C. 1821(b)) during the time the vessel will engage in the fish processing for which permission is sought under paragraph (1)(B).

**SEC. 307. PROHIBITED ACTS.**

It is unlawful—

(1) for any person—

(A) to violate any provision of this Act or any regulation or permit issued pursuant to this Act;

(B) to use any fishing vessel to engage in fishing after the revocation, or during the period of suspension, of an applicable permit issued pursuant to this Act;

(C) to violate any provision of, or regulation under, an applicable governing international fishery agreement entered into pursuant to section 201(c);

(D) to refuse to permit any officer authorized to enforce the provisions of this Act (as provided for in section 311) to board a fishing vessel subject to such person’s control for purposes of conducting any search or inspection in connection with the enforcement of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(E) to forcibly assault, resist, oppose, impede, intimidate, or interfere with any such authorized officer in the conduct of any search or inspection described in subparagraph (D);

(F) to resist a lawful arrest for any act prohibited by this section;

(G) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or agreement referred to in subparagraph (A) or (C);

(H) to interfere, with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section;

(I) to knowingly and willfully submit to a Council, the Secretary, or the Governor of a State false information (including, but not limited to, false information regarding the capacity and extent to which a United States fish processor, on an annual basis, will process a portion of the optimum yield of a fishery that will be harvested by fishing vessels of the United States) regarding any matter that the Council, Secretary, or Governor is considering in the course of carrying out this Act;

(J) to ship, transport, offer for sale, sell, or purchase, in interstate or foreign commerce, any whole live lobster of the species *Homarus americanus*, that—

(i) is smaller than the minimum possession size in effect at the time under the American Lobster Fishery Management Plan, as implemented by regulations published in part 649 of title 50, Code of Federal Regulations, or any successor to that plan implemented under this title, or in the absence of any such plan, is smaller than the minimum possession size in effect at the time under a coastal fishery management plan for American lobster adopted by the Atlantic States Marine Fisheries Commission under the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.);

(ii) is bearing eggs attached to its abdominal appendages; or

(iii) bears evidence of the forcible removal of extruded eggs from its abdominal appendages;

(K) to knowingly steal, or without authorization, to remove, damage, or tamper with—

(i) fishing gear owned by another person, which is located in the exclusive economic zone, or

(ii) fish contained in such fishing gear;

(L) to **forcibly** assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with any observer **[on a vessel]** under this Act, or any data collector employed by the National Marine Fisheries Service or under contract to any person to carry out responsibilities under this Act;

(M) to engage in large-scale driftnet fishing that is subject to the jurisdiction of the United States, including use of a fishing vessel of the United States to engage in such fishing beyond the exclusive economic zone of any nation;

(N) to strip pollock of its roe and discard the flesh of the pollock;

(O) to knowingly and willfully fail to disclose, or to falsely disclose, any financial interest as required under section 302(j), or to knowingly vote on a Council decision in violation of section 302(j)(7)(A);

(P)(i) to remove any of the fins of a shark (including the tail) at sea;

(ii) to have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;

(iii) to transfer any such fin from one vessel to another vessel at sea, or to receive any such fin in such transfer, without the fin naturally attached to the corresponding carcass; or

(iv) to land any such fin that is not naturally attached to the corresponding carcass, or to land any shark carcass without such fins naturally attached;

(Q) to import, export, transport, sell, receive, acquire, or purchase in interstate or foreign commerce any fish taken, possessed, transported, or sold in violation of any foreign law or regulation or any treaty or in contravention of any binding conservation measure adopted by an international agreement or organization to which the United States is a party; or

(R) to use any fishing vessel to engage in fishing in Federal or State waters, or on the high seas or in the waters of another country, after the Secretary has made a payment to the owner of that fishing vessel under section 312(b)(2).

For purposes of subparagraph (P), there shall be a rebuttable presumption that if any shark fin (including the tail) is found aboard a vessel, other than a fishing vessel, without being naturally attached to the corresponding carcass, such fin was transferred in violation of subparagraph (P)(iii) or that if, after landing, the total weight of shark fins (including the tail) landed from any vessel exceeds five percent of the total weight of shark carcasses landed, such fins were taken, held, or landed in violation of subparagraph (P). In such subparagraph, the term “naturally attached”, with respect to a shark fin, means attached to the corresponding shark carcass through some portion of uncut skin.

(2) for any vessel other than a vessel of the United States, and for the owner or operator of any vessel other than a vessel of the United States, to engage—

(A) in fishing within the boundaries of any State, except—

(i) recreational fishing permitted under section 201(i);

(ii) fish processing permitted under section 306(c); or

(iii) transshipment at sea of fish or fish products within the boundaries of any State in accordance with a permit approved under section 204(d);

(B) in fishing, except recreational fishing permitted under section 201(i), within the exclusive economic zone, or for any anadromous species or Continental Shelf fishery resources beyond such zone or areas, unless such fishing is authorized by, and conducted in accordance with, a valid and applicable permit issued pursuant to section 204(b), (c), or (d); or

(C) except as permitted under section 306(c), in fish processing (as defined in paragraph (4)(A) of such section) within the internal waters of a State (as defined in paragraph (4)(B) of such section);

(3) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to transfer at sea

directly or indirectly, or attempt to so transfer at sea, any United States harvested fish to any foreign fishing vessel, while such foreign vessel is within the exclusive economic zone or within the boundaries of any State except to the extent that the foreign fishing vessel has been permitted under section 204(d) or section 306(c) to receive such fish;

(4) for any fishing vessel other than a vessel of the United States to operate, and for the owner or operator of a fishing vessel other than a vessel of the United States to operate such vessel, in the exclusive economic zone or within the boundaries of any State or special areas, if—

(A) all fishing gear on the vessel is not stored below deck or in an area where it is not normally used, and not readily available, for fishing; or

(B) all fishing gear on the vessel which is not so stored is not secured and covered so as to render it unusable for fishing;

unless such vessel is authorized to engage in fishing in the area in which the vessel is operating; and

(5) for any vessel of the United States, and for the owner or operator of any vessel of the United States, to engage in fishing in the waters of a foreign nation in a manner that violates an international fishery agreement between that nation and the United States that has been subject to Congressional oversight in the manner described in section 203, or any regulations issued to implement such an agreement; except that the binding provisions of such agreement and implementing regulations shall have been published in the Federal Register prior to such violation.

**SEC. 308. CIVIL PENALTIES AND PERMIT SANCTIONS.**

(a) **ASSESSMENT OF PENALTY.**—Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 307 or section 321 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed \$100,000 for each violation. Each day of a continuing violation shall constitute a separate offense. The amount of such civil penalty shall be assessed by the Secretary, or [his] *the Secretary's* designee, by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require. In assessing such penalty the Secretary may also consider any information provided by the violator relating to the ability of the violator to pay. *Provided*, That the information is served on the Secretary at least 30 days prior to an administrative hearing.

(b) **REVIEW OF CIVIL PENALTY.**—Any person against whom a civil penalty is assessed under subsection (a) or against whom a permit sanction is imposed under subsection (g) (other than a permit suspension for nonpayment of penalty or fine) may obtain review thereof in the United States district court for the appropriate district by filing a complaint against the Secretary in such court within 30 days from the date of such order. The Secretary shall prompt-

ly file in such court a certified copy of the record upon which such violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the Secretary shall be set aside by such court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

(c) ACTION UPON FAILURE TO PAY ASSESSMENT.—If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

(d) IN REM JURISDICTION.—A fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 307 shall be liable in rem for any civil penalty assessed for such violation under section 308 and may be proceeded against in any district court of the United States having jurisdiction thereof. Such penalty shall constitute a maritime lien on such vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

(e) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(f) SUBPENAS.—For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(g) PERMIT SANCTIONS.—(1) In any case in which (A) a vessel has been used in the commission of an act prohibited under section 307, (B) the owner or operator of a vessel or any other person who has been issued or has applied for a permit under this Act has acted in violation of section 307, (C) any amount in settlement of a civil forfeiture imposed on a vessel or other property, or any civil penalty or criminal fine imposed on a vessel or owner or operator of a vessel or any other person who has been issued or has applied for a permit under any marine resource law enforced by the Secretary has not been paid and is overdue, or (D) any payment required for observer services provided to or contracted by an owner or operator who has been issued a permit or applied for a permit

under any marine resource law administered by the Secretary has not been paid and is overdue, the Secretary may—

- (i) revoke any permit issued with respect to such vessel or person, with or without prejudice to the issuance of subsequent permits;
  - (ii) suspend such permit for a period of time considered by the Secretary to be appropriate;
  - (iii) deny such permit; or
  - (iv) impose additional conditions and restrictions on any permit issued to or applied for by such vessel or person under this Act and, with respect to foreign fishing vessels, on the approved application of the foreign nation involved and on any permit issued under that application.
- (2) In imposing a sanction under this subsection, the Secretary shall take into account—
- (A) the nature, circumstances, extent, and gravity of the prohibited acts for which the sanction is imposed; and
  - (B) with respect to the violator, the degree of culpability, any history of prior offenses, and such other matters as justice may require.
- (3) Transfer of ownership of a vessel, by sale or otherwise, shall not extinguish any permit sanction that is in effect or is pending at the time of transfer of ownership. Before executing the transfer of ownership of a vessel, by sale or otherwise, the owner shall disclose in writing to the prospective transferee the existence of any permit sanction that will be in effect or pending with respect to the vessel at the time of the transfer.
- (4) In the case of any permit that is suspended under this subsection for nonpayment of a civil penalty or criminal fine, the Secretary shall reinstate the permit upon payment of the penalty or fine and interest thereon at the prevailing rate.
- (5) No sanctions shall be imposed under this subsection unless there has been a prior opportunity for a hearing on the facts underlying the violation for which the sanction is imposed, either in conjunction with a civil penalty proceeding under this section or otherwise.

**SEC. 309. CRIMINAL OFFENSES.**

- (a) OFFENSES.—A person is guilty of an offense if [he] *such person* commits any act prohibited by—
- (1) section 307(1)(D), (E), (F), (H), (I), or (L); or
  - (2) section 307(2).
- (b) PUNISHMENT.—Any offense described in subsection (a)(1) is punishable by a fine of not more than \$100,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any observer described in section 307(1)(L) or any officer authorized to enforce the provisions of this Act (as provided for in section 311), or places any such observer or officer in fear of imminent bodily injury, the offense is punishable by a fine of not more than \$200,000, or imprisonment for not more than 10 years, or both. Any offense described in subsection (a)(2) is punishable by a fine of not more than \$200,000.



(c) JURISDICTION.—There is Federal jurisdiction over any offense described in this section.

\* \* \* \* \*

**SEC. 311. ENFORCEMENT.**

(a) RESPONSIBILITY.—The provisions of this Act shall be enforced by the Secretary and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may, by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency, including all elements of the Department of Defense, and of any State agency, in the performance of such duties.

(b) POWERS OF AUTHORIZED OFFICERS.—(1) Any officer who is authorized (by the Secretary, the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an agreement with such Secretaries under subsection (a)) to enforce the provisions of this Act may—

(A) with or without a warrant or other process—

(i) arrest any person, if [he] *such officer* has reasonable cause to believe that such person has committed an act prohibited by section 307;

(ii) board, and search or inspect, any fishing vessel which is subject to the provisions of this Act;

(iii) seize any fishing vessel (together with its fishing gear, furniture, appurtenances, stores, and cargo) used or employed in, or with respect to which it reasonably appears that such vessel was used or employed in, the violation of any provisions of this Act;

(iv) seize any fish (wherever found) taken or retained in violation of any provision of this Act;

(v) seize any other evidence related to any violation of any provisions of this Act; and

(vi) access, directly or indirectly, for enforcement purposes any data or information required to be provided under this title or regulations under this title, including data from vessel monitoring systems, satellite-based maritime distress and safety systems, or any similar system, subject to the confidentiality provisions of section 402;

(B) execute any warrant or other process issued by any court of competent jurisdiction; and

(C) exercise any other lawful authority.

(2) Subject to the direction of the Secretary, a person charged with law enforcement responsibilities by the Secretary who is performing a duty related to enforcement of a law regarding fisheries or other marine resources may make an arrest without a warrant for an offense against the United States committed in [his] *such person's* presence, or for a felony cognizable under the laws of the United States, if [he] *such person* has reasonable grounds to believe that the person to be arrested has committed or is committing a felony. The arrest authority described in the preceding sentence may be conferred upon an officer or employee of a State agency, subject to such conditions and restrictions as are set forth by agreement between the State agency, the Secretary, and, with respect to

enforcement operations within the exclusive economic zone, the Secretary of the department in which the Coast Guard is operating.

(c) ISSUANCE OF CITATIONS.—If any officer authorized to enforce the provisions of this Act (as provided for in this section) finds that a fishing vessel is operating or has been operated in violation of any provision of this Act, such officer may, in accordance with regulations issued jointly by the Secretary and the Secretary of the department in which the Coast Guard is operating, issue a citation to the owner or operator of such vessel in lieu of proceeding under subsection (b). If a permit has been issued pursuant to this Act for such vessel, such officer shall note the issuance of any citation under this subsection, including the date thereof and the reason therefor, on the permit. The Secretary shall maintain a record of all citations issued pursuant to this subsection.

(d) JURISDICTION OF COURTS.—The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act. In the case of Hawaii or any possession of the United States in the Pacific Ocean, the appropriate court is the United States District Court for the District of Hawaii, except that in the case of Guam and Wake Island, the appropriate court is the United States District Court for the District of Guam, and in the case of the Northern Mariana Islands, the appropriate court is the United States District Court for the District of the Northern Mariana Islands. Any such court may, at any time—

- (1) enter restraining orders or prohibitions;
  - (2) issue warrants, process in rem, or other process;
  - (3) prescribe and accept satisfactory bonds or other security;
- and
- (4) take such other actions as are in the interest of justice.

(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—(1) Notwithstanding any other provision of law, the Secretary or the Secretary of the Treasury may pay from sums received as fines, penalties, and forfeitures of property for violations of any provisions of this Act or of any other marine resource law enforced by the Secretary, including the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.)—

(A) the reasonable and necessary costs incurred in providing temporary storage, care, and maintenance of seized fish or other property pending disposition of any civil or criminal proceeding alleging a violation of any provision of this Act or any other marine resource law enforced by the Secretary with respect to that fish or other property;

(B) a reward of not less than 20 percent of the penalty collected or \$20,000, whichever is the lesser amount, to any person who furnishes information which leads to an arrest, conviction, civil penalty assessment, or forfeiture of property for any violation of any provision of this Act or any other marine resource law enforced by the Secretary;

(C) any expenses directly related to investigations and civil or criminal enforcement proceedings, including any necessary expenses for equipment, training, travel, witnesses, and contracting services directly related to such investigations or proceedings;

(D) any valid liens or mortgages against any property that has been forfeited;

(E) claims of parties in interest to property disposed of under section 612(b) of the Tariff Act of 1930 (19 U.S.C. 1612(b)), as made applicable by section 310(c) of this Act or by any other marine resource law enforced by the Secretary, to seizures made by the Secretary, in amounts determined by the Secretary to be applicable to such claims at the time of seizure; and

(F) reimbursement to any Federal or State agency, including the Coast Guard, for services performed, or personnel, equipment, or facilities utilized, under any agreement with the Secretary entered into pursuant to subsection (a), or any similar agreement authorized by law.

(2) Any person found in an administrative or judicial proceeding to have violated this Act or any other marine resource law enforced by the Secretary shall be liable for the cost incurred in the sale, storage, care, and maintenance of any fish or other property lawfully seized in connection with the violation.

(f) ENFORCEMENT OF NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN.—

(1) ENFORCEMENT AGREEMENTS.—Beginning not later than October 1, 1993, the Secretary shall, if requested by the Governor of a State represented on the New England Fishery Management Council, enter into an agreement under subsection (a), with each of the States represented on such Council, that authorizes the marine law enforcement agency of such State to perform duties of the Secretary relating to enforcement of the Northeast Multispecies Fishery Management Plan.

(2) REIMBURSEMENT.—An agreement with a State under this subsection shall provide, subject to the availability of appropriations, for reimbursement of the State for expenses incurred in detection and prosecution of violations of any fishery management plan approved by the Secretary.

(3) COAST GUARD ENFORCEMENT WORKING GROUP.—

(A) ESTABLISHMENT.—The Commander of the First Coast Guard District shall establish an informal fisheries enforcement working group to improve the overall compliance with and effectiveness of the regulations issued under the Northeast Multispecies Fishery Management Plan.

(B) MEMBERSHIP.—The working group shall consist of members selected by the Commander, and shall include—

(i) individuals who are representatives of various fishing ports located in the States represented on the New England Fishery Management Council;

(ii) captains of fishing vessels that operate in waters under the jurisdiction of that Council; and

(iii) other individuals the Commander considers appropriate.

(C) NON-FEDERAL STATUS OF WORKING GROUP MEMBERS.—An individual shall not receive any compensation for, and shall not be considered to be a Federal employee based on, membership in the working group.

(D) MEETINGS.—The working group shall meet, at the call of the Commander, at least 4 times each year. The meetings shall be held at various major fishing ports in States represented on the New England Fishery Management Council, as specified by the Commander.

(4) USE OF FINES AND PENALTIES.—Amounts available to the Secretary under this Act which are attributable to fines and penalties imposed for violations of the Northeast Multispecies Fishery Management Plan shall be used by the Secretary [pursuant to this section to enforce that Plan.] *to enforce and monitor (including electronic monitoring) implementation of that plan.*

(g) ENFORCEMENT IN THE PACIFIC INSULAR AREAS.—The Secretary, in consultation with the Governors of the Pacific Insular Areas and the Western Pacific Council, shall to the extent practicable support cooperative enforcement agreements between Federal and Pacific Insular Area authorities.

(h) JOINT ENFORCEMENT AGREEMENTS.—

(1) IN GENERAL.—The Governor of an eligible State may apply to the Secretary for execution of a joint enforcement agreement with the Secretary that will authorize the deputization and funding of State law enforcement officers with marine law enforcement responsibilities to perform duties of the Secretary relating to law enforcement provisions under this title or any other marine resource law enforced by the Secretary. Upon receiving an application meeting the requirements of this subsection, the Secretary may enter into a joint enforcement agreement with the requesting State.

(2) ELIGIBLE STATE.—A State is eligible to participate in the cooperative enforcement agreements under this section if it is in, or bordering on, the Atlantic Ocean (including the Caribbean Sea), the Pacific Ocean, the Arctic Ocean, the Gulf of Mexico, Long Island Sound, or 1 or more of the Great Lakes.

(3) REQUIREMENTS.—Joint enforcement agreements executed under paragraph (1)—

(A) shall be consistent with the purposes and intent of this section to the extent applicable to the regulated activities;

(B) may include specifications for joint management responsibilities as provided by the first section of Public Law 91-412 (15 U.S.C. 1525); and

(C) shall provide for confidentiality of data and information submitted to the State under section 402.

(4) ALLOCATION OF FUNDS.—The Secretary shall include in each joint enforcement agreement an allocation of funds to assist in management of the agreement. The allocation shall be fairly distributed among all eligible States participating in cooperative enforcement agreements under this subsection, based upon consideration of Federal marine enforcement needs, the specific marine conservation enforcement needs of each participating eligible State, and the capacity of the State to undertake the marine enforcement mission and assist with enforcement needs. The agreement may provide for amounts to be withheld by the Secretary for the cost of any technical or other

assistance provided to the State by the Secretary under the agreement.

(i) **IMPROVED DATA SHARING.**—

(1) **IN GENERAL.**—Notwithstanding any other provision of this Act, as soon as practicable but no later than 21 months after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary shall implement data-sharing measures to make any data required to be provided by this Act from satellite-based maritime distress and safety systems, vessel monitoring systems, or similar systems—

(A) directly accessible by State enforcement officers authorized under subsection (a) of this section; and

(B) available to a State management agency involved in, or affected by, management of a fishery if the State has entered into an agreement with the Secretary under section 402(b)(1)(B) of this Act.

(2) **AGREEMENT REQUIRED.**—The Secretary shall promptly enter into an agreement with a State under section 402(b)(1)(B) of this Act if—

(A) the Attorney General or highest ranking legal officer of the State provides a written opinion or certification that State law allows the State to maintain the confidentiality of information required by Federal law to be kept confidential; or

(B) the Secretary is provided other reasonable assurance that the State can and will protect the identity or business of any person to which such information relates.

(j) **DEFINITIONS.**—For purposes of this section—

(1) The term “provisions of this Act” includes (A) any regulation or permit issued pursuant to this Act, and (B) any provision of, or regulation issued pursuant to, any international fishery agreement under which foreign fishing is authorized by section 201 (b) or (c), with respect to fishing subject to the exclusive fishery management authority of the United States.

(2) The term “violation of any provision of this Act” includes (A) the commission of any act prohibited by section 307, and (B) the violation of any regulation, permit, or agreement referred to in paragraph (1).

**SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES.**

[(a) **FISHERIES DISASTER RELIEF.**—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

[(A) natural causes;

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

[(C) undetermined causes.

[(2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community,

or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.

[(3) The Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.

[(4) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 2007 through 2013.]

(a) *FISHERY RESOURCE DISASTER RELIEF.*—

(1) *DEFINITIONS.*—*In this subsection:*

(A) *ALLOWABLE CAUSE.*—*The term “allowable cause” means a natural cause, discrete anthropogenic cause, or undetermined cause.*

(B) *ANTHROPOGENIC CAUSE.*—*The term “anthropogenic cause” means an anthropogenic event, such as an oil spill or spillway opening—*

(i) *that could not have been addressed or prevented by fishery management measures; and*

(ii) *that is otherwise beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions imposed as a result of judicial action or to protect human health or marine animals, plants, or habitats.*

(C) *FISHERY RESOURCE DISASTER.*—*The term “fishery resource disaster” means a disaster that is determined by the Secretary in accordance with this subsection and—*

(i) *is an unexpected large decrease in fish stock biomass or other change that results in significant loss of access to the fishery resource, which may include loss of fishing vessels and gear for a substantial period of time and results in significant revenue loss or negative subsistence impacts due to an allowable cause; and*

(ii) *does not include—*

(I) *reasonably predictable, foreseeable, and recurrent fishery cyclical variations in species distribution or stock abundance; or*

(II) *reductions in fishing opportunities resulting from conservation and management measures taken pursuant to this Act.*

(D) *INDIAN TRIBE.*—*The term “Indian Tribe” has the meaning given such term in section 102 of the Federally Recognized Indian Tribe List Act of 1994, and the term “Tribal” means of or pertaining to such an Indian tribe.*

(E) *NATURAL CAUSE.*—*The term “natural cause”—*

(i) *means a weather, climatic, hazard, or biology-related event, such as—*

(I) *a hurricane;*

- (II) a flood;
- (III) a harmful algal bloom;
- (IV) a tsunami;
- (V) a hypoxic zone;
- (VI) a drought;
- (VII) El Niño effects on water temperature;
- (VIII) a marine heat wave; or
- (IX) disease; and

(ii) does not mean a normal or cyclical variation in a species distribution or stock abundance.

(F) 12-MONTH REVENUE LOSS.—The term “12-month revenue loss”—

(i) means the percentage reduction, as applicable, in commercial, charter, headboat, or processor revenue for the affected fishery for the 12 months during which the fishery resource disaster occurred, when compared to average annual revenue in the most recent 5 years when no fishery resource disaster occurred or equivalent for stocks with cyclical life histories; and

(ii) shall not include any revenue loss resulting from the same distinct cause as a previously determined fishery resource disaster.

(G) UNDETERMINED CAUSE.—The term “undetermined cause” means a cause in which the current state of knowledge does not allow the Secretary to identify the exact cause, and there is no current conclusive evidence supporting a possible cause of the fishery resource disaster.

(2) GENERAL AUTHORITY.—

(A) IN GENERAL.—The Secretary shall have the authority to determine the existence, extent, and beginning and end dates of a fishery resource disaster under this subsection in accordance with this subsection.

(B) AVAILABILITY OF FUNDS.—After the Secretary determines that a fishery resource disaster has occurred, the Secretary is authorized to make sums available, from funds appropriated for such purposes, to be used by the affected State, Tribal government, or interstate marine fisheries commission, or by the Secretary in cooperation with the affected State, Tribal government, or interstate marine fisheries commission.

(C) SAVINGS CLAUSE.—The requirements under this subsection shall take effect only with respect to requests for a fishery resource disaster determination submitted after the date of enactment of the Fishery Resource Disasters Improvement Act.

(3) INITIATION OF A FISHERY RESOURCE DISASTER REVIEW.—

(A) ELIGIBLE REQUESTERS.—Not later than 1 year after the date of the conclusion of the fishing season, a request for a fishery resource disaster determination may be submitted to the Secretary, if the Secretary has not independently determined that a fishery resource disaster has occurred, by—

- (i) the Governor of an affected State;
- (ii) an official Tribal representative or Tribal resolution; or

(iii) any other comparable elected or politically appointed representative as determined by the Secretary.

(B) *REQUIRED INFORMATION.*—A complete request for a fishery resource disaster determination under subparagraph (A) shall include—

(i) identification of all presumed affected fish stocks;  
 (ii) identification of the fishery as Federal, non-Federal, or both;

(iii) the geographical boundaries of the fishery, as determined by the eligible requester, including geographic boundaries that are smaller than the area represented by the eligible requester;

(iv) preliminary information on causes of the fishery resource disaster, if known; and

(v) information needed to support a finding of a fishery resource disaster, including—

(I) information demonstrating the occurrence of an unexpected large decrease in fish stock biomass or other change that results in significant loss of access to the fishery resource, which could include the loss of fishing vessels and gear, for a substantial period of time;

(II) significant—

(aa) 12-month revenue loss for the affected fishery; or

(bb) negative subsistence impact for the affected fishery, or if a fishery resource disaster has occurred at any time in the previous 5-year period, the most recent 5 years when no fishery resource disaster occurred, but shall not include any impacts resulting from the same distinct cause as a previously determined fishery resource disaster;

(III) if applicable, information on lost resource tax revenues assessed by local communities, such as a raw fish tax and local sourcing requirements; and

(IV) if applicable and available, information on affected fishery 12-month revenue loss for charter, headboat, or processors related to the information provided under subclause (I), subject to section 402(b).

(C) *ASSISTANCE.*—The Secretary may provide data and analysis assistance to an eligible requester described in paragraph (1), if—

(i) the assistance is so requested;  
 (ii) the Secretary is in possession of the required information described in subparagraph (B); and  
 (iii) the data is not available to the requester, in carrying out the complete request under subparagraph (B).

(D) *INITIATION OF REVIEW.*—The Secretary shall have the discretion to initiate a fishery resource disaster review without a request.

(4) *REVIEW PROCESS.*—



(A) *INTERIM RESPONSE.*—Not later than 20 days after receipt of a request under paragraph (3), the Secretary shall provide an interim response to the individual that—

- (i) acknowledges receipt of the request;
- (ii) provides a regional contact within the National Oceanographic and Atmospheric Administration;
- (iii) outlines the process and timeline by which a request shall be considered; and
- (iv) requests additional information concerning the fishery resource disaster, if the original request is considered incomplete.

(B) *EVALUATION OF REQUESTS.*—

(i) *IN GENERAL.*—The Secretary shall complete a review, within the time frame described in clause (ii), using the best scientific information available, in consultation with the affected fishing communities, States, or Tribes, of—

(I) the information provided by the requester and any additional information relevant to the fishery, which may include—

- (aa) fishery characteristics;
- (bb) stock assessments;
- (cc) the most recent fishery independent surveys and other fishery resource assessments and surveys conducted by Federal, State, or Tribal officials;
- (dd) estimates of mortality; and
- (ee) overall effects; and

(II) the available economic information, which may include an analysis of—

- (aa) landings data;
- (bb) revenue;
- (cc) the number of participants involved;
- (dd) the number and type of jobs and persons impacted, which may include—
  - (AA) fishers;
  - (BB) charter fishing operators;
  - (CC) subsistence users;
  - (DD) United States fish processors; and
  - (EE) an owner of a related fishery infrastructure or business affected by the disaster, such as a marina operator, recreational fishing equipment retailer, or charter, headboat, or tender vessel owner, operator, or crew;
- (ee) an impacted Indian Tribe;
- (ff) other forms of disaster assistance made available to the fishery, including prior awards of disaster assistance for the same event;
- (gg) the length of time the resource, or access to the resource, has been restricted;
- (hh) status of recovery from previous fishery resource disasters;

(ii) lost resource tax revenues assessed by local communities, such as a raw fish tax; and  
 (jj) other appropriate indicators to an affected fishery, as determined by the National Marine Fisheries Service.

(ii) *TIME FRAME.*—The Secretary shall complete the review described in clause (i), if the fishing season, applicable to the fishery—

(I) has concluded or there is no defined fishing season applicable to the fishery, not later than 120 days after the Secretary receives a complete request for a fishery resource disaster determination;

(II) has not concluded, not later than 120 days after the conclusion of the fishing season; or

(III) is expected to be closed for the entire fishing season, not later than 120 days after the Secretary receives a complete request for a fishery resource disaster determination.

(C) *FISHERY RESOURCE DISASTER DETERMINATION.*—The Secretary shall make the determination of a fishery resource disaster based on the criteria for determinations listed in paragraph (5).

(D) *NOTIFICATION.*—Not later than 14 days after the conclusion of the review under this paragraph, the Secretary shall notify the requester and the Governor of the affected State or Tribal representative of the determination of the Secretary.

(5) *CRITERIA FOR DETERMINATIONS.*—

(A) *IN GENERAL.*—The Secretary shall make a determination about whether a fishery resource disaster has occurred, based on the revenue loss thresholds under subparagraph (B), and, if a fishery resource disaster has occurred, whether the fishery resource disaster was due to—

(i) a natural cause;

(ii) an anthropogenic cause;

(iii) a combination of a natural cause and an anthropogenic cause; or

(iv) an undetermined cause.

(B) *REVENUE LOSS THRESHOLDS.*—

(i) *IN GENERAL.*—Based on the information provided or analyzed under paragraph (4)(B), the Secretary shall apply the following 12-month revenue loss thresholds in determining whether a fishery resource disaster has occurred:

(I) Losses greater than 80 percent may result in a positive determination that a fishery resource disaster has occurred, based on the information provided or analyzed under paragraph (4)(B).

(II) Losses between 35 percent and 80 percent shall be evaluated to determine whether economic impacts are severe enough to determine that a fishery resource disaster has occurred.

(III) Losses less than 35 percent shall not be eligible for a determination that a fishery resource disaster has occurred.

(ii) *CHARTER FISHING.*—In making a determination of whether a fishery resource disaster has occurred, the Secretary shall consider the economic impacts to the charter fishing industry to ensure financial coverage for charter fishing businesses.

(iii) *NEGATIVE SUBSISTENCE IMPACTS.*—In considering negative subsistence impacts, the Secretary shall evaluate the severity of negative impacts to the fishing community instead of applying the revenue loss thresholds described in clause (i).

(C) *INELIGIBLE FISHERIES.*—A fishery subject to overfishing in any of the 3 years preceding the date of a determination under this subsection is not eligible for a determination of whether a fishery resource disaster has occurred unless the Secretary determines that overfishing was not a contributing factor to the fishery resource disaster.

(D) *EXCEPTIONAL CIRCUMSTANCES.*—In an exceptional circumstance where substantial economic impacts to the affected fishery and fishing community have been subject to a disaster declaration under another statutory authority, such as in the case of a natural disaster or from the direct consequences of a Federal action taken to prevent, or in response to, a natural disaster for purposes of protecting life and safety, the Secretary may determine a fishery resource disaster has occurred notwithstanding the requirements under paragraph (3) and subparagraph (B).

(6) *DISBURSAL OF APPROPRIATED FUNDS.*—

(A) *AUTHORIZATION.*—The Secretary shall allocate funds available under paragraph (9) for fishery resource disasters.

(B) *ALLOCATION OF APPROPRIATED FISHERY RESOURCE DISASTER ASSISTANCE.*—

(i) *NOTIFICATION OF FUNDING AVAILABILITY.*—When there are appropriated funds for 1 or more fishery resource disasters, the Secretary shall notify—

(I) the public; and

(II) representatives of affected fishing communities with a positive disaster determination that is unfunded; of the availability of funds, not more than 14 days after the date of the appropriation or the determination of a fishery resource disaster, whichever occurs later.

(ii) *EXTENSION OF DEADLINE.*—The Secretary may extend the deadline under clause (i) by 90 days to evaluate and make determinations on eligible requests.

(C) *CONSIDERATIONS.*—In determining the allocation of appropriations for a fishery resource disaster, the Secretary shall consider commercial, charter, headboat, or seafood processing revenue losses and negative impacts to subsistence and Tribal ceremonial fishing opportunity, for the affected fishery and may consider the following factors:

(i) Direct economic impacts.

(ii) Uninsured losses.

(iii) Losses of recreational fishing opportunity.

(iv) Aquaculture operations revenue loss.

(v) *Direct revenue losses to a fishing community.*

(vi) *Treaty obligations.*

(vii) *Other economic impacts.*

(D) *SPEND PLANS.*—To receive an allocation from funds available under paragraph (9), a requester with an affirmative fishery resource disaster determination shall submit a spend plan to the Secretary, not more than 120 days after receiving notification that funds are available, that shall include the following information, if applicable:

(i) *Objectives and outcomes, with an emphasis on addressing the factors contributing to the fishery resource disaster and minimizing future uninsured losses, if applicable.*

(ii) *Statement of work.*

(iii) *Budget details.*

(E) *REGIONAL CONTACT.*—If so requested, the Secretary shall provide a regional contact within the National Oceanic and Atmospheric Administration to facilitate review of spend plans and disbursement of funds.

(F) *DISBURSAL OF FUNDS.*—

(i) *AVAILABILITY.*—Funds shall be made available to grantees not later than 90 days after the date the Secretary receives a complete spend plan.

(ii) *METHOD.*—The Secretary may provide an allocation of funds under this subsection in the form of a grant, direct payment, cooperative agreement, loan, or contract.

(iii) *ELIGIBLE USES.*—

(I) *IN GENERAL.*—Funds allocated for fishery resources disasters under this subsection shall restore the fishery affected by such a disaster, prevent a similar disaster in the future, or assist the affected fishing community, and shall prioritize the following uses, which are not in order of priority:

(aa) *Habitat conservation and restoration and other activities, including scientific research, that reduce adverse impacts to the fishery or improve understanding of the affected species or its ecosystem.*

(bb) *The collection of fishery information and other activities that improve management of the affected fishery.*

(cc) *In a commercial fishery, capacity reduction and other activities that improve management of fishing effort, including funds to offset budgetary costs to refinance a Federal fishing capacity reduction loan or to repay the principal of a Federal fishing capacity reduction loan.*

(dd) *Developing, repairing, or improving fishery-related public infrastructure.*

(ee) *Direct assistance to a person, fishing community (including assistance for lost fisheries resource levies), or a business to alleviate*

*economic loss incurred as a direct result of a fishery resource disaster, particularly when affected by a circumstance described in paragraph (5)(D) or by negative impacts to subsistence and Tribal ceremonial fishing opportunity.*

*(ff) Hatcheries and stock enhancement to help rebuild the affected stock or offset fishing pressure on the affected stock.*

*(II) DISPLACED FISHERY EMPLOYEES.—Where appropriate, individuals carrying out the activities described in items (aa) through (dd) of subclause (I) shall be individuals who are, or were, employed in a commercial, charter, or Tribal fishery for which the Secretary has determined that a fishery resource disaster has occurred.*

**(7) LIMITATIONS.—**

**(A) FEDERAL SHARE.—**

*(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), the Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.*

*(ii) WAIVER.—The Secretary may waive the non-Federal share requirements of this subsection, if the Secretary determines that—*

*(I) no reasonable means are available through which the recipient of the Federal share can meet the non-Federal share requirement; and*

*(II) the probable benefit of 100 percent Federal financing outweighs the public interest in imposition of the non-Federal share requirement.*

*(iii) EXCEPTION.—The Federal share shall be equal to 100 percent in the case of—*

*(I) direct assistance as described in paragraph (6)(F)(iii)(I)(ee); or*

*(II) assistance to subsistence or Tribal fisheries.*

**(B) LIMITATIONS ON ADMINISTRATIVE EXPENSES.—**

*(i) FEDERAL.—Not more than 3 percent of the funds available under this subsection may be used for administrative expenses by the National Oceanographic and Atmospheric Administration.*

*(ii) STATE OR TRIBAL GOVERNMENTS.—Of the funds remaining after the use described in clause (i), not more than 5 percent may be used by States, Tribal governments, or interstate marine fisheries commissions for administrative expenses.*

**(C) FISHING CAPACITY REDUCTION PROGRAM.—**

*(i) IN GENERAL.—No funds available under this subsection may be used as part of a fishing capacity reduction program in a fishery unless the Secretary determines that adequate conservation and management measures are in place in such fishery.*

*(ii) ASSISTANCE CONDITIONS.—As a condition of providing assistance under this subsection with respect to*

a vessel under a fishing capacity reduction program, the Secretary shall—

(I) prohibit the vessel from being used for fishing in Federal, State, or international waters; and

(II) require that the vessel be—

(aa) scrapped or otherwise disposed of in a manner approved by the Secretary;

(bb) donated to a nonprofit organization and thereafter used only for purposes of research, education, or training; or

(cc) used for another non-fishing purpose provided the Secretary determines that adequate measures are in place to ensure that the vessel cannot reenter any fishery anywhere in the world.

(D) NO FISHERY ENDORSEMENT.—

(i) IN GENERAL.—A vessel that is prohibited from fishing under subparagraph (C)(ii)(I) shall not be eligible for a fishery endorsement under section 12113(a) of title 46, United States Code.

(ii) NONEFFECTIVE.—A fishery endorsement for a vessel described in clause (i) shall not be effective.

(iii) NO SALE.—A vessel described in clause (i) may not be sold to a foreign owner or reflagged.

(8) PUBLIC INFORMATION ON DATA COLLECTION.—The Secretary shall make available and update as appropriate, information on data collection and submittal best practices for the information described in paragraph (4)(B).

(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$377,000,000 for the period of fiscal years 2023 through 2028.

(b) FISHING CAPACITY REDUCTION PROGRAM.—(1) The Secretary, at the request of the appropriate Council for fisheries under the authority of such Council, the Governor of a State for fisheries under State authority, or a majority of permit holders in the fishery, may conduct a voluntary fishing capacity reduction program (referred to in this section as the “program”) in a fishery if the Secretary determines that the program—

(A) is necessary to prevent or end overfishing, rebuild stocks of fish, or achieve measurable and significant improvements in the conservation and management of the fishery;

(B) is consistent with the Federal or State fishery management plan or program in effect for such fishery, as appropriate, and that the fishery management plan—

(i) will prevent the replacement of fishing capacity removed by the program through a moratorium on new entrants, practicable restrictions on vessel upgrades, and other effort control measures, taking into account the full potential fishing capacity of the fleet; and

(ii) establishes a specified or target total allowable catch or other measures that trigger closure of the fishery or adjustments to reduce catch; and

(C) is cost-effective and, in the instance of a program involving an industry fee system, prospectively capable of repaying

any debt obligation incurred under section 1111 of title XI of the Merchant Marine Act, 1936.

(2) The objective of the program shall be to obtain the maximum sustained reduction in fishing capacity at the least cost and in a minimum period of time. To achieve that objective, the Secretary is authorized to pay—

(A) the owner of a fishing vessel, if the permit authorizing the participation of the vessel in the fishery is surrendered for permanent revocation and the vessel owner and permit holder relinquish any claim associated with the vessel or permit that could qualify such owner or holder for any present or future limited access system permit in the fishery for which the program is established or in any other fishery and such vessel is (i) scrapped, or (ii) through the Secretary of the department in which the Coast Guard is operating, subjected to title restrictions (including loss of the vessel's fisheries endorsement) that permanently prohibit and effectively prevent its use in fishing in federal or state waters, or fishing on the high seas or in the waters of a foreign nation; or

(B) the holder of a permit authorizing participation in the fishery, if such permit is surrendered for permanent revocation, and such holder relinquishes any claim associated with the permit and vessel used to harvest fishery resources under the permit that could qualify such holder for any present or future limited access system permit in the fishery for which the program was established.

(3) Participation in the program shall be voluntary, but the Secretary shall ensure compliance by all who do participate.

(4) The harvester proponents of each program and the Secretary shall consult, as appropriate and practicable, with Councils, Federal agencies, State and regional authorities, affected fishing communities, participants in the fishery, conservation organizations, and other interested parties throughout the development and implementation of any program under this section.

(5) PAYMENT CONDITION.—The Secretary may not make a payment under paragraph (2) with respect to a vessel that will not be scrapped unless the Secretary certifies that the vessel will not be used for fishing in the waters of a foreign nation or fishing on the high seas.

(6) REPORT.—

(A) IN GENERAL.—Subject to the availability of funds, the Secretary shall, within 12 months after the date of the enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 submit to the Congress a report—

(i) identifying and describing the 20 fisheries in United States waters with the most severe examples of excess harvesting capacity in the fisheries, based on value of each fishery and the amount of excess harvesting capacity as determined by the Secretary;

(ii) recommending measures for reducing such excess harvesting capacity, including the retirement of any latent fishing permits that could contribute to further excess harvesting capacity in those fisheries; and

(iii) potential sources of funding for such measures.

(B) BASIS FOR RECOMMENDATIONS.—The Secretary shall base the recommendations made with respect to a fishery on—

(i) the most cost effective means of achieving voluntary reduction in capacity for the fishery using the potential for industry financing; and

(ii) including measures to prevent the capacity that is being removed from the fishery from moving to other fisheries in the United States, in the waters of a foreign nation, or on the high seas.

(c) PROGRAM FUNDING.—(1) The program may be funded by any combination of amounts—

(A) available under clause (iv) of section 2(b)(1)(A) of the Act of August 11, 1939 (15 U.S.C. 713c-3(b)(1)(A); the Saltonstall-Kennedy Act);

(B) appropriated for the purposes of this section;

(C) provided by an industry fee system established under subsection (d) and in accordance with section 1111 of title XI of the Merchant Marine Act, 1936; or

(D) provided from any State or other public sources or private or non-profit organizations.

(2) All funds for the program, including any fees established under subsection (d), shall be paid into the fishing capacity reduction fund established under section 1111 of title XI of the Merchant Marine Act, 1936.

(d) INDUSTRY FEE SYSTEM.—(1)(A) If an industry fee system is necessary to fund the program, the Secretary may conduct a referendum on such system. Prior to the referendum, the Secretary shall—

(i) identify, to the extent practicable, and notify all permit or vessel owners who would be affected by the program; and

(ii) make available to such owners information about the industry fee system describing the schedule, procedures, and eligibility requirements for the referendum, the proposed program, and the amount and duration and any other terms and conditions of the proposed fee system.

(B) The industry fee system shall be considered approved if the referendum votes which are cast in favor of the proposed system constitute at least a majority of the permit holders in the fishery, or 50 percent of the permitted allocation of the fishery, who participated in the fishery.

(2) Notwithstanding section 304(d) and consistent with an approved industry fee system, the Secretary is authorized to establish such a system to fund the program and repay debt obligations incurred pursuant to section 1111 of title XI of the Merchant Marine Act, 1936. The fees for a program established under this section shall—

(A) be determined by the Secretary and adjusted from time to time as the Secretary considers necessary to ensure the availability of sufficient funds to repay such debt obligations;

(B) not exceed 5 percent of the ex-vessel value of all fish harvested from the fishery for which the program is established;

(C) be deducted by the first ex-vessel fish purchaser from the proceeds otherwise payable to the seller and accounted for and forwarded by such fish purchasers to the Secretary in such manner as the Secretary may establish, unless the Secretary



determines that such fees should be collected from the seller; and

(D) be in effect only until such time as the debt obligation has been fully paid.

(e) IMPLEMENTATION PLAN.—

(1) FRAMEWORK REGULATIONS.—The Secretary shall propose and adopt framework regulations applicable to the implementation of all programs under this section.

(2) PROGRAM REGULATIONS.—The Secretary shall implement each program under this section by promulgating regulations that, together with the framework regulations, establish each program and control its implementation.

(3) HARVESTER PROPONENTS' IMPLEMENTATION PLAN.—The Secretary may not propose implementation regulations for a program to be paid for by an industry fee system until the harvester proponents of the program provide to the Secretary a proposed implementation plan that, among other matters—

(A) proposes the types and numbers of vessels or permits that are eligible to participate in the program and the manner in which the program shall proceed, taking into account—

- (i) the requirements of this section;
- (ii) the requirements of the framework regulations;
- (iii) the characteristics of the fishery and affected fishing communities;
- (iv) the requirements of the applicable fishery management plan and any amendment that such plan may require to support the proposed program;
- (v) the general needs and desires of harvesters in the fishery;
- (vi) the need to minimize program costs; and
- (vii) other matters, including the manner in which such proponents propose to fund the program to ensure its cost effectiveness, as well as any relevant factors demonstrating the potential for, or necessary to obtain, the support and general cooperation of a substantial number of affected harvesters in the fishery (or portion of the fishery) for which the program is intended; and

(B) proposes procedures for program participation (such as submission of owner bids under an auction system or fair market-value assessment), including any terms and conditions for participation, that the harvester proponents deem to be reasonably necessary to meet the program's proposed objectives.

(4) PARTICIPATION CONTRACTS.—The Secretary shall contract with each person participating in a program, and each such contract shall, in addition to including such other matters as the Secretary deems necessary and appropriate to effectively implement each program (including penalties for contract non-performance) be consistent with the framework and implementing regulations and all other applicable law.

(5) REDUCTION AUCTIONS.—Each program not involving fair market assessment shall involve a reduction auction that scores the reduction price of each bid offer by the data relevant

to each bidder under an appropriate fisheries productivity factor. If the Secretary accepts bids, the Secretary shall accept responsive bids in the rank order of their bid scores, starting with the bid whose reduction price is the lowest percentage of the productivity factor, and successively accepting each additional responsive bid in rank order until either there are no more responsive bids or acceptance of the next bid would cause the total value of bids accepted to exceed the amount of funds available for the program.

(6) BID INVITATIONS.—Each program shall proceed by the Secretary issuing invitations to bid setting out the terms and conditions for participation consistent with the framework and implementing regulations. Each bid that the Secretary receives in response to the invitation to bid shall constitute an irrevocable offer from the bidder.

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**SEC. 316. BYCATCH REDUCTION ENGINEERING PROGRAM.**

(a) BYCATCH REDUCTION ENGINEERING PROGRAM.—Not later than 1 year after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in cooperation with the Councils and other affected interests, and based upon the best scientific information available, shall establish a bycatch reduction program, including grants, to develop technological devices and other conservation engineering changes designed to minimize bycatch, seabird interactions, bycatch mortality, and post-release mortality in Federally managed fisheries. The program shall—

(1) be regionally based;

(2) be coordinated with projects conducted under the cooperative research and management program established under this Act;

[(3) provide information and outreach to fishery participants that will encourage adoption and use of technologies developed under the program; and

[(4) provide for routine consultation with the Councils in order to maximize opportunities to incorporate results of the program in Council actions and provide incentives for adoption of methods developed under the program in fishery management plans developed by the Councils.]

*(3) provide information, outreach, technical assistance, and training to Councils, Tribes, and fishery participants that will encourage adoption and use of technologies and methods developed under the program; and*

*(4) provide for routine consultation with the Councils in order to maximize opportunities to incorporate results of the program in Council actions and provide incentives for adoption of technologies and methods developed under the program in fishery management plans, actions, and other measures developed by the Councils or the Secretary.*

(b) INCENTIVES.—Any fishery management plan prepared by a Council or by the Secretary may establish a system of incentives to reduce total bycatch and seabird interactions, amounts, bycatch rates, and post-release mortality in fisheries under the Council's or Secretary's jurisdiction, including—

(1) measures to incorporate bycatch into quotas, including the establishment of collective or individual bycatch quotas;

(2) measures to promote the use of gear with verifiable and monitored low bycatch and seabird interactions, rates; and

(3) measures that, based on the best scientific information available, will reduce bycatch and seabird interactions, bycatch mortality, post-release mortality, or regulatory discards in the fishery.

(c) COORDINATION ON SEABIRD INTERACTIONS.—The Secretary, in coordination with the Secretary of Interior, is authorized to undertake projects in cooperation with industry to improve information and technology to reduce seabird bycatch, including—

(1) outreach to industry on new technologies and methods;

(2) projects to mitigate for seabird mortality; and

(3) actions at appropriate international fishery organizations to reduce seabird interactions in fisheries.

(d) REPORT.—The Secretary shall **【transmit an annual report】**, *not less frequently than once every 3 years, transmit a report* to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources that—

(1) describes funding provided to implement this section;

(2) describes developments in gear technology achieved under this section; **【and】**

(3) describes improvements and reduction in bycatch and seabird interactions associated with implementing this section, as well as proposals to address remaining bycatch or seabird interaction problems**【.】**; *and*

(4) *includes a description of all bycatch reduction technologies and methods developed, tested, or supported by the Bycatch Reduction Engineering Program, and a summary of how such technologies and methods have been implemented into fishery management, or an explanation for why such technologies and methods have not been implemented.*

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#### **SEC. 318. COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM.**

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

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

**【(c) FUNDING.—**In making funds available the Secretary shall award funding on a competitive basis and based on regional fishery management needs, select programs that form part of a coherent

program of research focused on solving priority issues identified by the Councils, and shall give priority to the following projects:

【(1) Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology.

【(2) Projects to assess the amount and type of bycatch or post-release mortality occurring in a fishery.

【(3) Conservation engineering projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies to other nations.

【(4) Projects for the identification of habitat areas of particular concern and for habitat conservation.

【(5) Projects designed to collect and compile economic and social data.】

(b) *ELIGIBLE PROJECTS.*—*The Secretary shall make funds available under the program for the support of cooperative research and management projects to address critical needs identified by the Councils. Each Council shall provide a list of such needs to the Secretary on an annual basis, identifying and prioritizing such needs. The program shall promote and encourage efforts to use sources of data maintained by other Federal agencies, State agencies, local and traditional knowledge, or academia for use in such projects.*

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

(1) *Projects to collect data to improve, supplement, or enhance stock assessments, including the use of fishing vessels or acoustic or other marine technology.*

(2) *Projects to improve fishery dependent data collection, intake, use, and access including—*

(A) *to assess the amount and type of bycatch or post-release mortality occurring in a fishery;*

(B) *expanding the use of electronic technology and modernizing data management systems; and*

(C) *improving monitoring coverage through the expanded use of electronic technology.*

(3) *Conservation engineering or management projects designed to reduce bycatch, including avoidance of post-release mortality, reduction of bycatch in high seas fisheries, and transfer of such fishing technologies and methods to other nations, or other regional entities, including fishing communities, regional fishery associations, and fishing sectors.*

(4) *Projects for the identification of habitat areas of particular concern and for habitat conservation.*

(5) *Projects designed to collect and compile economic and social data for which electronic technologies can be added.*

(6) *Projects to test and expand electronic technologies for monitoring, reporting, observer coverage, and other functions.*

(7) *Projects that use electronic technologies to monitor changing ocean conditions, improve methods, support adaptive management, and enhance climate resilience in fisheries.*

(8) *Projects designed to identify the impacts of anticipated changing ocean conditions, including climate change, on fish stocks, fisheries, and fishing communities or designed to develop conservation and management strategies to adapt to those impacts.*

(9) *Cooperative management projects that make use of data collected under this section.*

(10) *Projects to better understand shark depredation, what causes increases in the behavior, and how to best address the behavior.*

(d) **EXPERIMENTAL PERMITTING PROCESS.**—Not later than 180 days after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, the Secretary, in consultation with the Councils, shall promulgate regulations that create an expedited, uniform, and regionally-based process to promote issuance, where practicable, of experimental fishing permits.

(e) **COOPERATIVE MANAGEMENT AGREEMENTS.**—

(1) **IN GENERAL.**—Not later than one year after the date of enactment of this Act, the Secretary, in consultation with the Councils and with input from the public, shall issue guidance to facilitate a transparent, timely, uniform, and regionally based process for the development, oversight, and management of cooperative management agreements.

(2) **PROCESS FOR APPROVAL.**—The Secretary may use the process developed pursuant to (d) to approve cooperative management agreements as if such agreements are cooperative fishing agreements.

(3) **PERFORMANCE STANDARDS.**—An agreement authorized by this subsection shall be subject to performance standards and accountability measures specified in a fishery management plan or otherwise established by the Secretary, in consultation with the Councils, and shall not allow catch in excess of annual catch limits or bycatch in excess of bycatch caps or limits.

(4) **PRE-EXISTING AGREEMENTS.**—This subsection shall not apply to a cooperative management agreement submitted to, proposed by or approved by the Secretary before the date of enactment of this Act.

**[(e)] (f) GUIDELINES.**—The Secretary, in consultation with the Councils, shall establish guidelines to ensure that participation in a research project funded under this section does not result in loss of a participant’s catch history or unexpended days-at-sea as part of a limited entry system.

**[(f)] (g) EXEMPTED PROJECTS.**—The procedures of this section shall not apply to research funded by quota set-asides in a fishery.

(h) **PUBLIC REPORT OF DATA.**—With respect to any cooperative research project funded or experimental fishing permit issued under this section, the appropriate Council shall publish a report of results and data generated by such project or under such permit.

(i) **PROGRESS REPORT.**—Not later than 180 days after the date of enactment of this Act, the Assistant Administrator for Fisheries shall provide a report to Congress on progress in implementing the recommendations of the Cooperative Research and Cooperative Management Working Group report entitled “NOAA Technical Memorandum NMFS–F/SPO–156” and published in August 2015

*and on the development and implementation of any subsequent recommendations by such Working Group.*

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**SEC. 322. INCREASING RESILIENCE OF FISH STOCKS TO CLIMATE CHANGE.**

(a) *VULNERABILITY ASSESSMENT.*—Not later than 3 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022 and every 5 years thereafter, the Secretary shall—

- (1) *assess the vulnerability of fish stocks within each Council’s geographical area of authority to climate change;*
- (2) *notify each Council of the vulnerability of fish stocks within such geographical area; and*
- (3) *make recommendations to each Council for measures to increase the resilience of fish stocks within such geographical area identified as vulnerable to climate change.*

(b) *COUNCIL PRIORITIZATION PLANS.*—

(1) *IN GENERAL.*—No later than one year after receiving a notification from the Secretary under subsection (a), each Council shall publish a plan identifying management actions to increase resilience of the fish stocks identified as vulnerable to climate change and begin implementing such management actions.

(2) *HIGHLY MIGRATORY SPECIES.*—With respect to stocks managed under section 302(a)(3), not later than one year after issuing a notification under subsection (a), the Secretary shall publish a plan identifying management actions to increase resilience of such fish stocks identified as vulnerable to climate change and begin implementing such management actions.

(3) *REPORT.*—Not later than 3 years after publishing a plan under paragraph (1), each Council shall report to the Secretary on the actions the Council has taken to implement such plan or provide an explanation for not taking such action.

(c) *REPORT TO CONGRESS.*—Not later than 3 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2022 and every 5 years thereafter, the Secretary shall submit a report to Congress—

- (1) *describing the vulnerability of fish stocks to climate change;*
- (2) *identifying the risks posed by climate change to the conservation and management of fish stocks; and*
- (3) *summarizing the steps taken by the Secretary and the Councils to mitigate and address the impacts on and risks of climate change to fish stocks.*

**TITLE IV—FISHERY MONITORING AND RESEARCH**

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**SEC. 402. INFORMATION COLLECTION.**

(a) *COLLECTION PROGRAMS.*—

(1) *COUNCIL REQUESTS.*—If a Council determines that additional information would be beneficial for developing, implementing, or revising a fishery management plan or for determining whether a fishery is in need of management, the Coun-

cil may request that the Secretary implement an information collection program for the fishery which would provide the types of information specified by the Council. The Secretary shall undertake such an information collection program if he determines that the need is justified, and shall promulgate regulations to implement the program within 60 days after such determination is made. If the Secretary determines that the need for an information collection program is not justified, the Secretary shall inform the Council of the reasons for such determination in writing. The determinations of the Secretary under this paragraph regarding a Council request shall be made within a reasonable period of time after receipt of that request. *The Council shall consider the use of electronic monitoring and reporting or other electronic technology as part of an information collection program under this subsection.*

(2) SECRETARIAL INITIATION.—If the Secretary determines that additional information is necessary for developing, implementing, revising, or monitoring a fishery management plan, or for determining whether a fishery is in need of management, the Secretary may, by regulation, implement an information collection or observer program requiring submission of such additional information for the fishery. *The Secretary shall consider the use of electronic monitoring and reporting or other electronic technology as part of an information collection program.*

(3) SECRETARIAL REVIEW.—*Not less often than once every 5 years, the Secretary shall review the procedures and policies by which information is collected, managed, and used to manage fisheries and revise information collection programs and policies needed to integrate data collection and management, improve the timeliness, quality, usability, cost-effectiveness, and to reduce unnecessary duplication within and across fishery management plans and regions. Upon the completion of each such review, the Secretary shall publish a report for the public describing the findings of such review and planned revisions to information collection programs.*

(b) CONFIDENTIALITY OF INFORMATION.—

(1) Any information submitted to the Secretary, a State fishery management agency, or a marine fisheries commission by any person in compliance with the requirements of this Act shall be confidential and shall not be disclosed except—

(A) to Federal employees and Council employees who are responsible for fishery management plan development, monitoring, or enforcement;

(B) to State or Marine Fisheries Commission employees as necessary to further the Department's mission, subject to a confidentiality agreement that prohibits public disclosure of the identity of business of any person;

(C) to State employees who are responsible for fishery management plan enforcement, if the States employing those employees have entered into a fishery enforcement agreement with the Secretary and the agreement is in effect;

(D) when required by court order;

(E) when such information is used by State, Council, or Marine Fisheries Commission employees to verify catch under a limited access program, but only to the extent that such use is consistent with subparagraph (B);

(F) when the Secretary has obtained written authorization from the person submitting such information to release such information to persons for reasons not otherwise provided for in this subsection, and such release does not violate other requirements of this Act;

(G) when such information is required to be submitted to the Secretary for any determination under a limited access program; or

(H) in support of homeland and national security activities, including the Coast Guard's homeland security missions as defined in section 888(a)(2) of the Homeland Security Act of 2002 (6 U.S.C. 468(a)(2)).

(2) Any observer information shall be confidential and shall not be disclosed, except in accordance with the requirements of subparagraphs (A) through (H) of paragraph (1), or—

(A) as authorized by a fishery management plan or regulations under the authority of the North Pacific Council to allow disclosure to the public of weekly summary bycatch information identified by vessel or for haul-specific bycatch information without vessel identification;

(B) when such information is necessary in proceedings to adjudicate observer certifications; or

(C) as authorized by any regulations issued under paragraph (3) allowing the collection of observer information, pursuant to a confidentiality agreement between the observers, observer employers, and the Secretary prohibiting disclosure of the information by the observers or observer employers, in order—

(i) to allow the sharing of observer information among observers and between observers and observer employers as necessary to train and prepare observers for deployments on specific vessels; or

(ii) to validate the accuracy of the observer information collected.

(3) The Secretary shall, by regulation, prescribe such procedures as may be necessary to preserve the confidentiality of information submitted in compliance with any requirement or regulation under this Act, except that the Secretary may release or make public any such information in any aggregate or summary form which does not directly or indirectly disclose the identity or business of any person who submits such information. Nothing in this subsection shall be interpreted or construed to prevent the use for conservation and management purposes by the Secretary, or with the approval of the Secretary, the Council, of any information submitted in compliance with any requirement or regulation under this Act or the use, release, or publication of bycatch information pursuant to paragraph (2)(A).

(c) RESTRICTION ON USE OF CERTAIN INFORMATION.—(1) The Secretary shall promulgate regulations to restrict the use, in civil enforcement or criminal proceedings under this Act, the Marine



Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.), and the Endangered Species Act (16 U.S.C. 1531 et seq.), of information collected by voluntary fishery data collectors, including sea samplers, while aboard any vessel for conservation and management purposes if the presence of such a fishery data collector aboard is not required by any of such Acts or regulations thereunder.

(2) The Secretary may not require the submission of a Federal or State income tax return or statement as a prerequisite for issuance of a permit until such time as the Secretary has promulgated regulations to ensure the confidentiality of information contained in such return or statement, to limit the information submitted to that necessary to achieve a demonstrated conservation and management purpose, and to provide appropriate penalties for violation of such regulations.

(d) CONTRACTING AUTHORITY.—Notwithstanding any other provision of law, the Secretary may provide a grant, contract, or other financial assistance on a sole-source basis to a State, Council, or Marine Fisheries Commission for the purpose of carrying out information collection or other programs if—

(1) the recipient of such a grant, contract, or other financial assistance is specified by statute to be, or has customarily been, such State, Council, or Marine Fisheries Commission; or

(2) the Secretary has entered into a cooperative agreement with such State, Council, or Marine Fisheries Commission.

(e) RESOURCE ASSESSMENTS.—(1) The Secretary may use the private sector to provide vessels, equipment, and services necessary to survey the fishery resources of the United States when the arrangement will yield statistically reliable results.

(2) The Secretary, in consultation with the appropriate Council and the fishing industry—

(A) may structure competitive solicitations under paragraph (1) so as to compensate a contractor for a fishery resources survey by allowing the contractor to retain for sale fish harvested during the survey voyage;

(B) in the case of a survey during which the quantity or quality of fish harvested is not expected to be adequately compensatory, may structure those solicitations so as to provide that compensation by permitting the contractor to harvest on a subsequent voyage and retain for sale a portion of the allowable catch of the surveyed fishery; and

(C) may permit fish harvested during such survey to count toward a vessel's catch history under a fishery management plan if such survey was conducted in a manner that precluded a vessel's participation in a fishery that counted under the plan for purposes of determining catch history.

(3) The Secretary shall undertake efforts to expand annual fishery resource assessments in all regions of the Nation.

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#### SEC. 404. FISHERIES RESEARCH.

(a) IN GENERAL.—The Secretary shall initiate and maintain, in cooperation with the Councils, a comprehensive program of fishery research to carry out and further the purposes, policy, and provisions of this Act. Such program shall be designed to acquire knowl-

edge and information, including statistics, on fishery conservation and management; *on changes in geographic range, spatial distribution, and productivity of a fishery or interrelated fisheries*; and on the economics and social characteristics of the fisheries.

(b) STRATEGIC PLAN.—Within one year after the date of enactment of the Sustainable Fisheries Act, and at least every 3 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for fisheries research for the 5 years immediately following such publication. The plan shall—

(1) identify and describe a comprehensive program with a limited number of priority objectives for research in each of the areas specified in subsection (c);

(2) indicate goals and timetables for the program described in paragraph (1);

(3) provide a role for commercial fishermen in such research, including involvement in field testing;

(4) provide for collection and dissemination, in a timely manner, of complete and accurate information concerning fishing activities, catch, effort, stock assessments, and other research conducted under this section; and

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

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

(1) Research to support fishery conservation and management, including but not limited to, biological research concerning the abundance and life history parameters of stocks of fish, the interdependence of fisheries or stocks of fish, the identification of essential fish habitat, the impact of pollution on fish populations, the impact of wetland and estuarine degradation, *changes in geographic range, spatial distribution, and productivity of a fishery or interrelated fisheries*, and other factors affecting the abundance and availability of fish.

(2) Conservation engineering research, including the study of fish behavior and the development and testing of new gear technology and fishing techniques to minimize bycatch and any adverse effects on essential fish habitat and promote efficient harvest of target species.

(3) Research on the fisheries, including the social, cultural, and economic relationships among fishing vessel owners, crew, United States fish processors, associated shoreside labor, seafood markets and fishing communities.

(4) Information management research, including the development of a fishery information base and an information management system that will permit the full use of information in the support of effective fishery conservation and management.

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

plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives.

(e) IMPROVING DATA COLLECTION AND ANALYSIS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of the Modernizing Recreational Fisheries Management Act of 2017, the Secretary shall develop, in consultation with the science and statistical committees of the Councils established under section 302(g) and the Marine Fisheries Commissions, and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives a report on facilitating greater incorporation of data, analysis, stock assessments, and surveys from State agencies and nongovernmental sources described in paragraph (2), to the extent such information is consistent with section 301(a)(2), into fisheries management decisions.

(2) CONTENT.—In developing the report under paragraph (1), the Secretary shall—

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

(B) provide specific recommendations for collecting data and performing analyses identified as necessary to reduce uncertainty in and improve the accuracy of future stock assessments, including whether such data and analysis could be provided by nongovernmental sources; and

(C) consider the extent to which the acceptance and use of data and analyses identified in the report in fishery management decisions is practicable and compatible with the requirements of section 301(a)(2).

\* \* \* \* \*

**SEC. 409. RECREATIONAL DATA IMPROVEMENT PROGRAM.**

(a) IN GENERAL.—*The Secretary shall initiate and maintain a comprehensive program to implement the requirements and associated guidelines in section 305(l). In executing the program, the Secretary shall coordinate with programs established in subsection 401(g) and promote collaboration with State and Federal partners.*

(b) STRATEGIC PLAN.—*Not later than one year after the date of enactment of the Sustaining America's Fisheries for the Future Act of 2022, and not less frequently than once every 5 years thereafter, the Secretary shall develop and publish in the Federal Register a strategic plan for recreational data improvements for the 5 years immediately following such publication. The plan shall—*

(1) *improve coordination between Federal programs that implement recreational fishing surveys and other data from non-Federal sources, including data from States or Marine Fisheries Commissions;*

(2) *improve the timeliness, accuracy, precision, and validation of data produced by surveys;*

(3) describe processes to calibrate data sources with historical time series data prior to being used for management;

(4) develop methods to integrate recreational data collected from more than one source for use in assessments;

(5) create goals, objectives, and timeframes for achievement of paragraphs (1) through (4);

(6) consider the use and effectiveness of experimental fishing permits to carry out such research; and

(7) describe the role of fishery participants in the program. In developing the strategic plan and subsequent plans, the Secretary shall cooperate with the Councils and affected States, provide for coordination with the Councils, affected States, and other research and data collection entities, and allow for public input.

(c) **AREAS OF RESEARCH.**—In initiating and maintaining the program, the Secretary shall prioritize research and improvement in the following areas:

(1) Development of data standards and validation processes for survey programs collecting data on recreational fishing catch and effort, including those produced by State agencies and considered integral or supplemental to Federal surveys.

(2) Research to understand how surveys of recreational fishing can more effectively account for differences in fishing rate and effort, including among fishermen who use private or public access points, and fishermen who are State residents or non-residents.

(3) Methods and policies to improve the estimation of discards in recreational fisheries, including estimation of discarded fish both during and outside of fishing seasons.

(4) To improve understanding of best practices for minimizing discard mortality as well as estimation of adoption rates of such practices by fishermen.

(5) To assess changes in discard mortality estimates when best fishing practices are adequately and verifiably applied.

(6) Research on how the use of electronic applications can be used to collect data in recreational fisheries, including spatial information, depth, discard rate and disposition, release method, and socioeconomic information, while meeting data and validation standards.

(7) Research on how electronic technologies can most effectively be incorporated into survey designs.

(8) Research of methods to integrate recreational catch data from more than one survey source for use in assessments.

(9) The use of approaches to improve recreational data, including the use of tag and endorsement measures to fund such data improvement, stock-wide regional effort surveys, and species-specific oversampling.

(d) **PUBLIC NOTICE.**—In developing the plan required under subsection (b), the Secretary shall publish a proposed plan in the Federal Register for the purpose of receiving public comment on the plan. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives.

**COASTAL ZONE MANAGEMENT ACT OF 1972**

**TITLE III—MANAGEMENT OF THE COASTAL ZONE**

\* \* \* \* \*

**SEC. 320. WORKING WATERFRONTS GRANT PROGRAM.**

*(a) WORKING WATERFRONTS TASK FORCE.—*

*(1) ESTABLISHMENT AND FUNCTIONS.—The Secretary shall establish a task force to work directly with coastal States, user groups, and coastal stakeholders to identify and address critical needs with respect to working waterfronts.*

*(2) MEMBERSHIP.—The members of the task force shall be appointed by the Secretary, and shall include—*

*(A) experts in the unique economic, social, cultural, ecological, geographic, and resource concerns of working waterfronts; and*

*(B) representatives from the National Oceanic and Atmospheric Administration’s Office of Coastal Management, the United States Fish and Wildlife Service, the Department of Agriculture, the Environmental Protection Agency, the United States Geological Survey, the Navy, the National Marine Fisheries Service, the Economic Development Administration, and such other Federal agencies as the Secretary considers appropriate.*

*(3) FUNCTIONS.—The task force shall—*

*(A) identify and prioritize critical needs with respect to working waterfronts in States that have a management program approved by the Secretary pursuant to section 306, in the areas of—*

*(i) economic and cultural importance of working waterfronts to communities;*

*(ii) changing environments and threats working waterfronts face from environmental changes, trade barriers, sea level rise, extreme weather events, ocean acidification, and harmful algal blooms; and*

*(iii) identifying working waterfronts and highlighting them within communities;*

*(B) outline options, in coordination with coastal States and local stakeholders, to address such critical needs, including adaptation and mitigation where applicable;*

*(C) identify Federal agencies that are responsible for addressing such critical needs; and*

*(D) recommend Federal agencies best suited to address any critical needs for which no agency is responsible under existing law.*

*(4) INFORMATION TO BE CONSIDERED.—In identifying and prioritizing policy gaps pursuant to paragraph (3), the task force shall consider the findings and recommendations contained in section VI of the report entitled “The Sustainable Working Waterfronts Toolkit: Final Report”, dated March 2013.*

*(5) REPORT.—Not later than 18 months after the date of the enactment of this section, the task force shall submit a report to Congress on its findings.*

*(6) IMPLEMENTATION.—The head of each Federal agency identified in the report pursuant to paragraph (3)(C) shall take such*

action as is necessary to implement the recommendations contained in the report by not later than one year after the date of issuance of the report.

(b) **WORKING WATERFRONTS GRANT PROGRAM.**—

(1) **ESTABLISHMENT.**—The Secretary shall establish a Working Waterfront Grant Program, in cooperation with appropriate State, regional, and other units of government, under which the Secretary may make a grant to any coastal State for the purpose of implementing a working waterfronts plan approved by the Secretary under subsection (c).

(2) **GRANTS.**—The Secretary shall award matching grants under the Working Waterfronts Grant Program to coastal States with approved working waterfronts plans through a regionally equitable, competitive funding process in accordance with the following:

(A) The Governor, or an agency designated by the Governor for coordinating the implementation of this section, in consultation with any appropriate local government, shall determine that the application is consistent with the State's or territory's approved coastal zone plan, program, and policies prior to submission to the Secretary.

(B) In developing guidelines under this section, the Secretary shall consult with coastal States, other Federal agencies, and other interested stakeholders with expertise in working waterfronts planning.

(C) Coastal States may allocate grants to local governments, agencies, or nongovernmental organizations eligible for assistance under this section.

(3) **CONSIDERATIONS.**—In awarding a grant to a coastal State, the Secretary shall consider—

(A) the economic, cultural, and historical significance of working waterfronts to the coastal State;

(B) the demonstrated working waterfronts needs of the coastal State as outlined by a working waterfronts plan approved for the coastal State under subsection (c), and the value of the proposed project for the implementation of such plan;

(C) the ability to leverage funds among participating entities, including Federal agencies, regional organizations, State and other government units, landowners, corporations, or private organizations;

(D) the potential for rapid turnover in the ownership of working waterfronts in the coastal State, and where applicable the need for coastal States to respond quickly when properties in existing or potential working waterfronts areas or public access areas as identified in the working waterfronts plan submitted by the coastal State come under threat or become available; and

(E) the impact of the working waterfronts plan approved for the coastal State under subsection (c) on the coastal ecosystem and the users of the coastal ecosystem.

(4) **TIMELINE FOR APPROVAL.**—The Secretary shall approve or reject an application for such a grant not later than 60 days after receiving an application for the grant.

(c) **WORKING WATERFRONTS PLANS.**—

(1) *DEVELOPMENT AND SUBMISSION OF PLAN.*—To be eligible for a grant under subsection (b), a coastal State shall submit to the Secretary a comprehensive working waterfronts plan in accordance with this subsection, or be in the process of developing such a plan and have an established working waterfronts program at the State or local level.

(2) *PLAN REQUIREMENTS.*—Such plan—

(A) shall provide for preservation and expansion of access to coastal waters to persons engaged in commercial fishing, marine recreational and tourism businesses, aquaculture, boatbuilding, or other water-dependent, coastal-related business;

(B) shall include—

(i) an assessment of the economic, social, cultural, and historic value of working waterfronts to the coastal State;

(ii) a description of relevant State and local laws and regulations affecting working waterfronts in the geographic areas identified in the working waterfronts plan;

(iii) identification of geographic areas where working waterfronts are currently under threat of conversion to uses incompatible with commercial and recreational fishing, recreational fishing and boating businesses, other marine recreational and tourism businesses, aquaculture, boatbuilding, or other water-dependent, coastal-related business, and the level of that threat;

(iv) identification of geographic areas with a historic connection to working waterfronts where working waterfronts are not currently available, and, where appropriate, an assessment of the environmental impacts of any expansion or new development of working waterfronts on the coastal ecosystem;

(v) identification of other working waterfronts needs including improvements to existing working waterfronts and working waterfronts areas;

(vi) a strategic and prioritized plan for the preservation, expansion, and improvement of working waterfronts in the coastal State;

(vii) for areas identified under clauses (iii), (iv), (v), and (vi), identification of current availability and potential for expansion of public access to coastal waters;

(viii) a description of the degree of community support for such strategic plan; and

(ix) a contingency plan for properties that revert to the coastal State pursuant to determinations made by the coastal State under subsection (g)(4)(C);

(C) may include detailed descriptions of environmental impacts on working waterfronts, including hazards, sea level rise, inundation exposure, and other resiliency issues;

(D) may be part of the management program approved under section 306;

(E) shall utilize to the maximum extent practicable existing information contained in relevant surveys, plans, or

*other strategies to fulfill the information requirements under this paragraph; and*

*(F) shall incorporate the policies and regulations adopted by communities under local working waterfronts plans or strategies in existence before the date of the enactment of this section.*

*(3) A working waterfront plan—*

*(A) shall be effective for purposes of this section for the 5-year period beginning on the date it is approved by the Secretary;*

*(B) must be updated and re-approved by the Secretary before the end of such period; and*

*(C) shall be complimentary to and incorporate the policies and objectives of regional or local working waterfronts plan as in effect before the date of the enactment of this section or as subsequently revised.*

*(4) The Secretary may—*

*(A) award planning grants to coastal States for the purpose of developing or revising comprehensive working waterfronts plan;*

*(B) award grants consistent with the purposes of this section to States undertaking the working waterfronts planning process under this section, for the purpose of preserving and protecting working waterfronts during such process; and*

*(C) determine that a preexisting coastal land use plan for that State is in accordance with the requirements of this subsection.*

*(5) Any coastal State applying for a working waterfronts grant under this title shall—*

*(A) develop a working waterfronts plan, using a process that involves the public and those with an interest in the coastal zone;*

*(B) coordinate development and implementation of such a plan with other coastal management programs, regulations, and activities of the coastal State; and*

*(C) if the coastal State allows qualified holders (other than the coastal State) to enter into working waterfronts covenants, provide as part of the working waterfronts plan under this subsection a procedure to ensure that the qualified holders are fulfilling such qualified holder's obligations under the working waterfronts covenant.*

*(d) USES, TERMS, AND CONDITIONS.—A grant under this section may be used—*

*(1) to acquire a working waterfronts, or an interest in a working waterfront;*

*(2) to make improvements to a working waterfronts, including the construction or repair of wharfs, boat ramps, or related facilities; or*

*(3) for necessary climate change adaptation or mitigation.*

*(e) PUBLIC ACCESS REQUIREMENT.—A working waterfronts project funded by grants made under this section must provide for expansion, improvement, or preservation of reasonable and appropriate public access to coastal waters at or in the vicinity of a working waterfront, except for commercial fishing or other industrial access*



points where the coastal State determines that public access would be unsafe.

(f) *LIMITATIONS.*—

(1) *Except as provided in paragraph (2), a grant awarded under this section may be used to purchase working waterfronts or an interest in working waterfronts, including an easement, only from a willing seller and at fair market value.*

(2) *A grant awarded under this section may be used to acquire working waterfronts or an interest in working waterfronts at less than fair market value only if the owner certifies to the Secretary that the sale is being entered into willingly and without coercion.*

(3) *No Federal, State, or local entity may exercise the power of eminent domain to secure title to any property or facilities in connection with a project carried out under this section.*

(g) *ALLOCATION OF GRANTS TO LOCAL GOVERNMENTS AND OTHER ENTITIES.*—

(1) *DESIGNATION OF QUALIFIED HOLDER.*—*Subject to the approval of the Secretary, a coastal State may, as part of an approved working waterfront plan, designate as a qualified holder any unit of State or local government or nongovernmental organization, if the coastal State is ultimately responsible for ensuring that the property will be managed in a manner that is consistent with the purposes for which the land entered into the program.*

(2) *ALLOCATION.*—*A coastal State or a qualified holder designated by a coastal State may allocate to a unit of local government, nongovernmental organization, fishing cooperative, or other entity, a portion of any grant made under this section for the purpose of carrying out this section, except that such an allocation shall not relieve the coastal State of the responsibility for ensuring that any funds so allocated are applied in furtherance of the coastal State's approved working waterfronts plan.*

(3) *EXCEPTIONS.*—*A qualified holder may hold title to or interest in property acquired under this section, except that—*

(A) *all persons holding title to or interest in working waterfronts affected by a grant under this section shall enter into a working waterfronts covenant;*

(B) *such covenant shall be held by the coastal State or a qualified holder designated under paragraph (1);*

(C) *if the coastal State determines, on the record after an opportunity for a hearing, that the working waterfronts covenant has been violated—*

(i) *all right, title, and interest in and to the working waterfronts covered by such covenant shall, except as provided in subparagraph (D), revert to the coastal State; and*

(ii) *the coastal State shall have the right of immediate entry onto the working waterfronts; and*

(D) *if a coastal State makes a determination under subparagraph (C), the coastal State may convey or authorize the qualified holder to convey the working waterfront or interest in working waterfronts to another qualified holder.*

(h) *MATCHING CONTRIBUTIONS.*—

(1) *IN GENERAL.*—Except as provided in paragraph (2), the Secretary shall require that each coastal State that receives a grant under this section, or a qualified holder designated by that coastal State under subsection (g), shall provide matching funds in an amount equal to at least 25 percent of the total cost of the project carried out with the grant. As a condition of receipt of a grant under this section, the Secretary shall require that a coastal State provide to the Secretary such assurances as the Secretary determines are sufficient to demonstrate that the share of the cost of each eligible project that is not funded by the grant awarded under this section has been secured.

(2) *WAIVER.*—The Secretary may waive the application of paragraph (1) for any qualified holder that is an underserved community, a community that has an inability to draw on other sources of funding because of the small population or low income of the community, or for other reasons the Secretary considers appropriate.

(3) *IN-KIND CONTRIBUTIONS.*—A local community designated as a qualified holder under subsection (g) may use funds or other in-kind contributions donated by a nongovernmental partner to satisfy the matching funds requirement under this subsection.

(4) *FUNDING FROM OTHER FEDERAL SOURCE.*—If financial assistance under this section represents only a portion of the total cost of a project, funding from other Federal sources may be applied to the cost of the project.

(5) *VALUE OF A WORKING WATERFRONT.*—The Secretary shall treat as non-Federal match the value of a working waterfront or interest in a working waterfront, including conservation and other easements, that is held in perpetuity by a qualified holder, if the working waterfront or interest is identified in the application for the grant and acquired by the qualified holder not later than three years of the grant award date, or not later than three years after the submission of the application and before the end of the grant award period. Such value shall be determined by an appraisal performed at such time before the award of the grant as the Secretary considers appropriate.

(6) *OTHER CONSIDERATIONS.*—The Secretary shall treat as non-Federal match the costs associated with acquisition of a working waterfront or an interest in a working waterfront, and the costs of restoration, enhancement, or other improvement to a working waterfront, if the activities are identified in the project application and the costs are incurred within the period of the grant award, or, for working waterfront described in paragraph (6), within the same time limits described in that paragraph. Such costs may include either cash or in-kind contributions.

(i) *LIMIT ON ADMINISTRATIVE COSTS.*—The Secretary may not use more than 5 percent of the funds made available under this section may for planning or administration of the program under this section.

(j) *OTHER TECHNICAL AND FINANCIAL ASSISTANCE.*—

(1) The Secretary may use up to 5 percent of the funds appropriated under this section to provide technical assistance as described in this subsection.

(2) *The Secretary shall—*

(A) *provide technical assistance to coastal States and local governments in identifying and obtaining other sources of available Federal technical and financial assistance for the development and revision of a working waterfronts plan and the implementation of an approved working waterfronts plan;*

(B) *provide technical assistance to States and local governments for the development, implementation, and revision of comprehensive working waterfronts plans, which may include, subject to the availability of appropriations, planning grants and assistance, pilot projects, feasibility studies, research, and other projects necessary to further the purposes of this section;*

(C) *assist States in developing other tools to protect working waterfronts;*

(D) *collect and disseminate to States guidance for best stormwater management practices in regards to working waterfronts;*

(E) *provide technical assistance to States and local governments on integrating resilience planning into working waterfronts preservation efforts; and*

(F) *collect and disseminate best practices on working waterfronts and resilience planning.*

(k) *REPORTS.—*(1) *The Secretary shall—*

(A) *develop performance measures to evaluate and report on the effectiveness of the program under this section in accomplishing the purpose of this section; and*

(B) *submit to Congress a biennial report that includes such evaluations, an account of all expenditures, and descriptions of all projects carried out using grants awarded under this section.*

(2) *The Secretary may submit the biennial report under paragraph (1)(B) by including it in the biennial report required under section 316.*

(l) *DEFINITIONS.—In this section, the following definitions apply:*

(1) *QUALIFIED HOLDER.—The term “qualified holder” means a coastal State or a unit of local or coastal State government or a non-State organization designated by a coastal State under subsection (g).*

(2) *WORKING WATERFRONT.—The term “working waterfront” means real property (including support structures over water and other facilities) that provides access to coastal waters to persons engaged in commercial and recreational fishing, recreational fishing and boating businesses, other marine recreational and tourism businesses, boatbuilding, aquaculture, or other water-dependent, coastal-related business and is used for, or that supports, commercial and recreational fishing, recreational fishing and boating businesses, boatbuilding, other marine recreational and tourism businesses, aquaculture, or other water-dependent, coastal-related business.*

(3) *WORKING WATERFRONT COVENANT.—The term “working waterfront covenant” means an agreement in recordable form between the owner of working waterfront and one or more*

qualified holders, that provides such assurances as the Secretary may require that—

(A) the title to or interest in the working waterfront will be held by a grant recipient or qualified holder in perpetuity, except as provided in subparagraph (C);

(B) the working waterfront will be managed in a manner that is consistent with the purposes for which the property is acquired pursuant to this section, and the property will not be converted to any use that is inconsistent with the purpose of this section;

(C) if the title to or interest in the working waterfront is sold or otherwise exchanged—

(i) all working waterfront owners and qualified holders involved in such sale or exchange shall accede to such agreement; and

(ii) funds equal to the fair market value of the working waterfront or interest in working waterfront shall be paid to the Secretary by parties to the sale or exchange, and such funds shall, at the discretion of the Secretary, be paid to the coastal State in which the working waterfront is located for use in the implementation of the working waterfront plan of the State approved by the Secretary under this section; and

(D) such covenant is subject to enforcement and oversight by the coastal State or by another person as determined appropriate by the Secretary.

(m) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary \$12,000,000 for each of fiscal years 2023 through 2027 to carry out this section.

**NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2017**

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**SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS; TABLE OF CONTENTS.**

(a) DIVISIONS.—This Act is organized into five divisions as follows:

(1) \* \* \*

\* \* \* \* \*

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title.

\* \* \* \* \*

**TITLE XXXV—MARITIME MATTERS**

\* \* \* \* \*

**Subtitle C—Sexual Harassment and Assault Prevention at the National Oceanic and Atmospheric Administration**

Sec. 3541. Actions to address sexual harassment at National Oceanic and Atmospheric Administration.

\* \* \* \* \*

**[Sec. 3543. Rights of the victim of a sexual assault.]**

*Sec. 3543. Rights of the survivor of a sexual assault.*

\* \* \* \* \*

【Sec. 3548. Annual report on sexual assaults in the National Oceanic and Atmospheric Administration.  
 【Sec. 3549. Sexual assault defined.】  
*Sec. 3548. Exceptions regarding anonymity of survivors in certain cases.*  
*Sec. 3549. Restricted reporting.*  
*Sec. 3550. Mariner referral.*  
*Sec. 3551. Annual report on sexual assaults, sexual harassment, and equal employment in the National Oceanic and Atmospheric Administration.*  
*Sec. 3552. Sexual assault defined.*

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## DIVISION C—DEPARTMENT OF ENERGY NATIONAL SECURITY AUTHORIZATIONS AND OTHER AUTHORIZATIONS

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### TITLE XXXV—MARITIME MATTERS

\* \* \* \* \*

#### Subtitle C—Sexual Harassment and Assault Prevention at the National Oceanic and Atmospheric Administration

Sec. 3541. Actions to address sexual harassment at National Oceanic and Atmospheric Administration.

\* \* \* \* \*

【Sec. 3543. Rights of the victim of a sexual assault.】  
*Sec. 3543. Rights of the survivor of a sexual assault.*

\* \* \* \* \*

【Sec. 3548. Annual report on sexual assaults in the National Oceanic and Atmospheric Administration.  
 【Sec. 3549. Sexual assault defined.】

*Sec. 3548. Exceptions regarding anonymity of survivors in certain cases.*  
*Sec. 3549. Restricted reporting.*  
*Sec. 3550. Mariner referral.*  
*Sec. 3551. Annual report on sexual assaults, sexual harassment, and equal employment in the National Oceanic and Atmospheric Administration.*  
*Sec. 3552. Sexual assault defined.*

\* \* \* \* \*

### Subtitle C—Sexual Harassment and Assault Prevention at the National Oceanic and Atmospheric Administration

#### SEC. 3541. ACTIONS TO ADDRESS SEXUAL HARASSMENT AT NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.

(a) REQUIRED POLICY.—【Not later】

(1) *IN GENERAL.*—Not later than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall, acting through the Under Secretary for Oceans and Atmosphere, develop a policy on the prevention of and response to sexual harassment involving employees of the National Oceanic and Atmospheric Administration, members of the commissioned officer corps of the Administration, and individuals who work with or conduct business on behalf of the Administration.

(2) *INCLUDED PERSONNEL.*—The individuals who work with or conduct business on behalf of the Administration referred to in paragraph (1) include the following:

(A) *Observers and at-sea monitors required by the National Marine Fisheries Service to be aboard commercial fishing vessels and other privately owned vessels, barges, or platforms for—*

(i) *commercial fisheries observation required by the Magnuson-Stevens Fishery Conservation and Management Act;*

(ii) *protected species or endangered species observation required by the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973; or*

(iii) *platform removal observation.*

(B) *Council members, executive and administrative staff, and advisory panel and committee members of regional fishery management councils established under section 302 of the Magnuson-Stevens Fishery Conservation and Management Act.*

(C) *Federal fishery permit holders and staff, crew, employees, and contractors associated with federally permitted vessels under the Magnuson-Stevens Fishery Conservation and Management Act.*

(b) *MATTERS TO BE SPECIFIED IN POLICY.*—The policy developed under subsection (a) shall include—

(1) *establishment of a program to promote awareness of the incidence of sexual harassment;*

(2) *clear procedures an individual should follow in the case of an occurrence of sexual harassment, including—*

(A) *a specification of the person or persons to whom an alleged occurrence of sexual harassment should be reported by an individual and options for confidential reporting, including—*

(i) *options and contact information for after-hours contact; and*

(ii) *a procedure for obtaining assistance and reporting sexual harassment while working in a remote scientific field camp, at sea, or in another field status; and*

(B) *a specification of any other person whom the [victim] target of sexual harassment should contact;*

(3) *establishment of a mechanism by which—*

(A) *questions regarding sexual harassment can be confidentially asked and confidentially answered; and*

(B) *incidents of sexual harassment can be reported on a restricted or unrestricted basis; and*

(4) *a prohibition on retaliation and consequences for retaliatory actions.*

(c) *CONSULTATION AND ASSISTANCE.*—In developing the policy required by subsection (a), the Secretary may consult or receive assistance from such State, local, and national organizations and subject matter experts as the Secretary considers appropriate.

(d) *AVAILABILITY OF POLICY.*—The Secretary shall ensure that the policy developed under subsection (a) is available to—

(1) all employees of the Administration and members of the commissioned officer corps of the Administration, including those employees and members who conduct field work for the Administration; and

(2) the public.

(e) **GEOGRAPHIC DISTRIBUTION OF EQUAL EMPLOYMENT OPPORTUNITY PERSONNEL.**—The Secretary shall designate out of existing staff at least 1 employee of the Administration who is tasked with handling matters relating to equal employment opportunity or sexual harassment at each marine and aviation center of the Administration.

(f) **QUARTERLY REPORTS.**—

(1) **IN GENERAL.**—Not less frequently than 4 times each year, the Director of the Civil Rights Office of the Administration shall submit to the Under Secretary a report on sexual harassment *and equal employment* in the Administration.

(2) **CONTENTS.**—Each report submitted under paragraph (1) shall include the following:

(A) The number of sexual harassment *and equal employment* cases, both actionable and non-actionable, involving individuals covered by the policy developed under subsection (a).

(B) The number of open actionable sexual harassment *and equal employment* cases and how long the cases have been open.

(C) *A synopsis of each case and the disciplinary action taken (if any) in each case.*

**[(C)]** (D) Such trends or region-specific issues as the Director may have discovered with respect to sexual harassment *and equal employment* in the Administration.

**[(D)]** (E) Such recommendations as the Director may have with respect to sexual harassment *and equal employment* in the Administration.

**SEC. 3542. ACTIONS TO ADDRESS SEXUAL ASSAULT AT NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.**

(a) **COMPREHENSIVE POLICY ON PREVENTION OF AND RESPONSE TO SEXUAL ASSAULTS.**—**[Not later]**

(1) **IN GENERAL.**—*Not later* than 1 year after the date of the enactment of this Act, the Secretary of Commerce shall, acting through the Under Secretary for Oceans and Atmosphere, develop a comprehensive policy on the prevention of and response to sexual assaults involving employees of the National Oceanic and Atmospheric Administration, members of the commissioned officer corps of the Administration, and individuals who work with or conduct business on behalf of the Administration.

(2) **INCLUDED PERSONNEL.**—*The individuals who work with or conduct business on behalf of the Administration referred to in paragraph (1) include the individuals described in section 3541(a)(2).*

(b) **ELEMENTS OF COMPREHENSIVE POLICY.**—The comprehensive policy developed under subsection (a) shall, at minimum, address the following matters:

(1) Prevention measures.

(2) Education and training on prevention and response.

(3) A list of support resources an individual may use in the occurrence of sexual assault, including—

(A) options and contact information for after-hours contact; and

(B) a procedure for obtaining assistance and reporting sexual assault while working in a remote scientific field camp, at sea, or in another field status.

(4) Easy and ready availability of information described in paragraph (3).

(5) Establishing a mechanism by which—

(A) questions regarding sexual assault can be confidentially asked and confidentially answered; and

(B) incidents of sexual assault can be reported on a restricted or unrestricted basis.

(6) Protocols for the investigation of complaints by command and law enforcement personnel.

(7) Prohibiting retaliation and consequences for retaliatory actions against someone who reports a sexual assault.

(8) Oversight by the Under Secretary of administrative and disciplinary actions in response to substantiated incidents of sexual assault.

(9) Victim advocacy, including establishment of and the responsibilities and training requirements for victim advocates as described in subsection (c).

(10) Availability of resources for **[victims]** *survivors* of sexual assault within other Federal agencies and State, local, and national organizations.

(c) VICTIM ADVOCACY.—

(1) **IN GENERAL.**—The Secretary, acting through the Under Secretary, shall establish victim advocates to advocate for **[victims]** *survivors* of sexual assaults involving employees of the Administration, members of the commissioned officer corps of the Administration, and individuals who work with or conduct business on behalf of the Administration.

**[(2) VICTIM ADVOCATES.**—For purposes of this subsection, a victim advocate is an existing permanent employee of the Administration who—

**[(A)** is trained in matters relating to sexual assault and the comprehensive policy developed under subsection (a); and

**[(B)** serves as a victim advocate voluntarily and in addition to the employee's other duties as an employee of the Administration.]

(2) **VICTIM ADVOCATES.**—*For purposes of this subsection, a victim advocate is a full-time permanent employee of the Administration trained in and responsible solely for matters relating to sexual assault and the comprehensive policy developed under subsection (a).*

(3) **PRIMARY DUTIES.**—The primary duties of a victim advocate established under paragraph (1) shall include the following:

(A) Supporting **[victims]** *survivors* of sexual assault and informing them of their rights and the resources available to them as **[victims]** *survivors*.



- (B) Acting as a companion in navigating investigative, medical, mental and emotional health, and recovery processes relating to sexual assault.
- (C) Helping to identify resources to ensure the safety of **[victims]** *survivors* of sexual assault.
- (4) **LOCATION.**—The Secretary shall ensure that at least 1 victim advocate established under paragraph (1) is stationed *full time*—
- (A) in each region in which the Administration conducts operations; and
- (B) in each marine and aviation center of the Administration.
- (5) **HOTLINE.**—
- (A) **IN GENERAL.**—In carrying out this subsection, the Secretary shall provide a telephone number at which a **[victim of]** *survivor* of a sexual assault can contact a victim advocate.
- (B) **24-HOUR ACCESS.**—The Secretary shall ensure that the telephone number established under subparagraph (A) is monitored at all times.
- (C) **PARTNERSHIP.**—The Secretary shall, where possible, use established hotlines for purposes of this paragraph.
- (6) **FORMAL RELATIONSHIPS WITH OTHER ENTITIES.**—The Secretary may enter into formal relationships with other entities to make available additional victim advocates.
- (d) **AVAILABILITY OF POLICY.**—The Secretary shall ensure that the policy developed under subsection (a) is available to—
- (1) all employees of the Administration and members of the commissioned officer corps of the Administration, including those employees and members who conduct field work for the Administration; and
- (2) the public.
- (e) **CONSULTATION AND ASSISTANCE.**—In developing the policy required by subsection (a), the Secretary may consult or receive assistance from such State, local, and national organizations and subject matter experts as the Secretary considers appropriate.

**SEC. 3543. RIGHTS OF THE [VICTIM] SURVIVOR OF A SEXUAL ASSAULT.**

A **[victim]** *survivor* of a sexual assault covered by the comprehensive policy developed under section 3542(a) has the right to be reasonably protected from the accused.

**SEC. 3544. CHANGE OF STATION.**

(a) **CHANGE OF STATION, UNIT TRANSFER, OR CHANGE OF WORK LOCATION OF [VICTIMS] SURVIVORS.**—

(1) **TIMELY CONSIDERATION AND ACTION UPON REQUEST.**—The Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere, shall—

(A) in the case of a member of the commissioned officer corps of the National Oceanic and Atmospheric Administration who **[was]** *is* a **[victim]** *survivor* of a sexual assault, in order to reduce the possibility of retaliation or further sexual assault, provide for timely determination and action on an application submitted by the **[victim]**

*survivor* for consideration of a change of station or unit transfer of the [victim] *survivor*; and

(B) in the case of an employee of the Administration who [was] *is* a [victim] *survivor* of a sexual assault, to the degree practicable and in order to reduce the possibility of retaliation against the employee for reporting the sexual assault, accommodate a request for a change of work location of the [victim] *survivor*.

(2) PROCEDURES.—

(A) PERIOD FOR APPROVAL AND DISAPPROVAL.—The Secretary, acting through the Under Secretary, shall ensure that an application or request submitted under paragraph (1) for a change of station, unit transfer, or change of work location is approved or denied within 72 hours of the submission of the application or request.

(B) REVIEW.—If an application or request submitted under paragraph (1) by a [victim] *survivor* of a sexual assault for a change of station, unit transfer, or change of work location of the [victim] *survivor* is denied—

- (i) the [victim] *survivor* may request the Secretary to review the denial; and
- (ii) the Secretary, acting through the Under Secretary, shall, not later than 72 hours after receiving such request, affirm or overturn the denial.

(b) CHANGE OF STATION, UNIT TRANSFER, AND CHANGE OF WORK LOCATION OF ALLEGED PERPETRATORS.—

(1) IN GENERAL.—The Secretary, acting through the Under Secretary, shall develop a policy for the protection of [victims] *survivors* of sexual assault described in subsection (a)(1) by providing the alleged perpetrator of the sexual assault with a change of station, unit transfer, or change of work location, as the case may be, if the alleged perpetrator is a member of the commissioned officer corps of the Administration or an employee of the Administration.

(2) POLICY REQUIREMENTS.—The policy required by paragraph (1) shall include the following:

- (A) A means to control access to the [victim] *survivor*.
- (B) Due process for the [victim] *survivor* and the alleged perpetrator.

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall promulgate regulations to carry out this section.

(2) CONSISTENCY.—When practicable, the Secretary shall make regulations promulgated under this section consistent with similar regulations promulgated by the Secretary of Defense.

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**SEC. 3548. EXCEPTIONS REGARDING ANONYMITY OF SURVIVORS IN CERTAIN CASES.**

(a) IN GENERAL.—*In any case in which an employee, member of the commissioned officer corps, or individual conducting business on behalf of the administration elects anonymous reporting under section 3541(b)(3)(B) or 3542(b)(5)(B), disclosure of such person's personally identifying information is authorized to the following*

persons or organizations when disclosure would be for the following reasons:

(1) To National Oceanic and Atmospheric Administration staff or law enforcement personnel, when authorized by the survivor in writing.

(2) To National Oceanic and Atmospheric Administration staff or law enforcement personnel to prevent or lessen a serious or imminent threat to the health or safety of the survivor or another person.

(3) To a victim advocate or healthcare provider, when required for the provision of victim services.

(4) To a State or Federal court, when ordered by such court or if disclosure is required by Federal or State statute.

(b) NOTICE OF DISCLOSURE AND PRIVACY PROTECTION.—In any case in which information is disclosed under subsection (a), the Secretary shall—

(1) make reasonable attempts to provide notice to the employee, member, or individual whose personally identifying information is disclosed; and

(2) take such action as is necessary to protect the privacy and safety of the employee, member, or individual.

**SEC. 3549. RESTRICTED REPORTING.**

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this section, the Secretary of Commerce, acting through the Under Secretary for Oceans and Atmosphere, shall develop a mechanism to provide a system of restricted reporting.

(b) RESTRICTED REPORTING DEFINED.—In this section the term “restricted reporting” means a system of reporting that allows employees of the National Oceanic and Atmospheric Administration, members of the Commissioned Officer Corps of the Administration, and individuals who work with or conduct business on behalf of the Administration who are sexually assaulted to confidentially disclose the details of such person’s assault to specified individuals and receive the services outlined in this subtitle title—

(1) without the dissemination of such persons’s personally identifying information except as necessary for the provision of such services; and

(2) without automatically triggering an investigative process.

**SEC. 3550. MARINER REFERRAL.**

The Under Secretary of Commerce for Oceans and Atmosphere, acting through the Director of the Office of Marine and Aviation Operations and in consultation with the Commandant of the Coast Guard, shall, not later than 180 days after the date of the enactment of this section, develop and implement a policy to report to the Coast Guard Suspension and Revocation National Center of Expertise, the names of personnel of the National Oceanic and Atmospheric Administration who—

(1) are the subject of a claim of an act or offense detrimental to good discipline and safety at sea, such as sexual harassment or sexual assault that is substantiated by an investigation under section 3546, or any other substantiated claim of an act or offense for which suspension or revocation of a credential is either mandatory or sought pursuant to part 5 of title 46 of the Code of Federal Regulations; and

(2) are—

(A) *employees or contractors of the Administration required to hold a valid merchant mariner credential as a condition of employment; or*

(B) *crew of a vessel that, at the time of such act or offence, was operating under a contract with the Administration.*

**[SEC. 3548. ANNUAL REPORT ON SEXUAL ASSAULTS IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.]**

**SEC. 3551. ANNUAL REPORT ON SEXUAL ASSAULTS, SEXUAL HARASSMENT, AND EQUAL EMPLOYMENT IN THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.**

(a) IN GENERAL.—Not later than January 15 of each year, the Secretary of Commerce 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 sexual assaults, *sexual harassment, and equal employment* involving employees of the National Oceanic and Atmospheric Administration, members of the commissioned officer corps of the Administration, and individuals who work with or conduct business on behalf of the Administration.

(b) CONTENTS.—Each report submitted under subsection (a) shall include, with respect to the previous calendar year, the following:

(1) The number of alleged sexual assaults involving employees, members, and individuals described in subsection (a).

(2) A synopsis of each case and the disciplinary action taken, if any, in each case.

(3) The policies, procedures, and processes implemented by the Secretary, and any updates or revisions to such policies, procedures, and processes.

(4) A summary of the reports received by the Under Secretary for Oceans and Atmosphere under section 3541(f), *including a synopsis of each case and the disciplinary action taken, if any, in each case.*

(5) *A summary of the number of change of station, unit transfer, and change of work location requests submitted to the Under Secretary under section 3544(a), including the number of such requests that were denied.*

(6) *A summary of the number of cases referred to the Coast Guard under section 3550.*

(7) *The number of alleged sexual assaults and sexual harassment cases involving fisheries, protected species, and endangered species observers, including—*

(A) *a synopsis of each case and the status;*

(B) *the disposition of any investigation; and*

(C) *a description of the fishery management region and fishery or the geographic region and type of permitted operation in which the assault or harassment is alleged to have occurred, as appropriate.*

(c) PRIVACY PROTECTION.—In preparing and submitting a report under subsection (a), the Secretary shall ensure that no individual involved in an alleged sexual assault can be identified by the contents of the report.

**SEC. [3549.] 3552. SEXUAL ASSAULT DEFINED.**

In this subtitle, the term “sexual assault” shall have the meaning given such term in section 40002(a) of the Violence Against Women Act of 1994 (42 U.S.C. 13925(a)).

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**NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS ACT OF 2002**

\* \* \* \* \*

**TITLE II—NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMISSIONED OFFICER CORPS**

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**Subtitle E—Rights and Benefits**

**SEC. 261. APPLICABILITY OF CERTAIN PROVISIONS OF TITLE 10, UNITED STATES CODE.**

(a) PROVISIONS MADE APPLICABLE TO THE CORPS.—The rules of law that apply to the Armed Forces under the following provisions of title 10, United States Code, as those provisions are in effect from time to time, apply also to the commissioned officer corps of the Administration:

- (1) Chapter 40, relating to leave.
- (2) Section 533(b), relating to constructive service.
- (3) Section 716, relating to transfers between the armed forces and to and from National Oceanic and Atmospheric Administration.
- (4) *Section 657, relating to prohibition on service by individuals convicted of certain sexual offenses.*
- [(4)] (5) Section 771, relating to unauthorized wearing of uniforms.
- [(5)] (6) Section 774, relating to wearing religious apparel while in uniform.
- [(6)] (7) Section 982, relating to service on State and local juries.
- [(7)] (8) Section 1031, relating to administration of oaths.
- [(8)] (9) Section 1034, relating to protected communications and prohibition of retaliatory personnel actions.
- [(9)] (10) Section 1035, relating to deposits of savings.
- [(10)] (11) Section 1036, relating to transportation and travel allowances for escorts for dependents of members.
- [(11)] (12) Section 1052, relating to reimbursement for adoption expenses.
- [(12)] (13) Section 1074n, relating to annual mental health assessments.
- [(13)] (14) Section 1090a, relating to referrals for mental health evaluations.
- [(14)] (15) Chapter 58, relating to the Benefits and Services for members being separated or recently separated.
- [(15)] (16) Section 1174a, relating to special separation benefits (except that benefits under subsection (b)(2)(B) of such section are subject to the availability of appropriations for such

purpose and are provided at the discretion of the Secretary of Commerce).

[(16)] (17) Chapter 61, relating to retirement or separation for physical disability.

[(17)] (18) Chapter 69, relating to retired grade, except sections 1370, 1375, and 1376.

[(18)] (19) Chapter 71, relating to computation of retired pay.

[(19)] (20) Chapter 73, relating to annuities based on retired or retainer pay.

[(20)] (21) Subchapter II of chapter 75, relating to death benefits.

[(21)] (22) Subchapter I of chapter 88, relating to Military Family Programs, applicable on an as-available and fully reimbursable basis.

[(22)] (23) Section 2005, relating to advanced education assistance, active duty agreements, and reimbursement requirements.

[(23)] (24) Section 2634, relating to transportation of motor vehicles for members on permanent change of station.

[(24)] (25) Sections 2731 and 2735, relating to property loss incident to service.

[(25)] (26) Section 2771, relating to final settlement of accounts of deceased members.

[(26)] (27) Such other provisions of subtitle A of that title as may be adopted for applicability to the commissioned officer corps of the National Oceanic and Atmospheric Administration by any other provision of law.

(b) REFERENCES.—The authority vested by title 10, United States Code, in the “military departments”, “the Secretary concerned”, or “the Secretary of Defense” with respect to the provisions of law referred to in subsection (a) shall be exercised, with respect to the commissioned officer corps of the Administration, by the Secretary of Commerce or the Secretary’s designee. For purposes of paragraph (8) of subsection (a), the term “Inspector General” in section 1034 of such title 10 shall mean the Inspector General of the Department of Commerce.

(c) REGULATIONS REGARDING PROTECTED COMMUNICATIONS AND PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.—The Secretary may prescribe regulations to carry out the application of section 1034 of title 10, United States Code, to the commissioned officer corps of the Administration, including by prescribing such administrative procedures for investigation and appeal within the commissioned officer corps as the Secretary considers appropriate.

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## MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT REAUTHORIZATION ACT OF 2006

### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

\* \* \* \* \*

TITLE II—INFORMATION AND RESEARCH

\* \* \* \* \*

【Sec. 208. Fisheries conservation and management fund.】

*Sec. 208. Zeke Grader Fisheries Conservation and Management Fund.*

\* \* \* \* \*

**TITLE I—CONSERVATION AND MANAGEMENT**

\* \* \* \* \*

**SEC. 104. FISHERY MANAGEMENT PLAN REQUIREMENTS.**

(a) IN GENERAL.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) by striking “and charter fishing” in paragraph (5) and inserting “charter fishing, and fish processing”;

(2) by inserting “economic information necessary to meet the requirements of this Act,” in paragraph (5) after “number of hauls,”;

(3) by striking “and” after the semicolon in paragraph (9)(A);

(4) by inserting “and” after the semicolon in paragraph (9)(B);

(5) by inserting after paragraph (9)(B) the following:

“(C) the safety of human life at sea, including whether and to what extent such measures may affect the safety of participants in the fishery;”;

(6) by striking “fishery” the first place it appears in paragraph (13) and inserting “fishery, including its economic impact,”;

(7) by striking “and” after the semicolon in paragraph (13);

(8) by striking “allocate” in paragraph (14) and inserting “allocate, taking into consideration the economic impact of the harvest restrictions or recovery benefits on the fishery participants in each sector,”;

(9) by striking “fishery.” in paragraph (14) and inserting “fishery and,”; and

(10) by adding at the end the following:

“(15) establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.”.

【(b) EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.—The amendment made by subsection (a)(10)—

【(1) shall, unless otherwise provided for under an international agreement in which the United States participates, take effect—

【(A) in fishing year 2010 for fisheries determined by the Secretary to be subject to overfishing; and

【(B) in fishing year 2011 for all other fisheries; and

【(2) shall not apply to a fishery for species that have a life cycle of approximately 1 year unless the Secretary has determined the fishery is subject to overfishing of that species; and  
 【(3) shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a)(1) or 1854(e), respectively).】

(b) *EFFECTIVE DATES; APPLICATION TO CERTAIN SPECIES.*—*The amendment made by subsection (a)(10)—*

(1) *except as provided in paragraph (2), shall apply to any management plan for a stock of fish prepared by any Council or the Secretary, including a management plan governing a stock of fish managed under an international agreement in which the United States participates; and*

(2) *shall not apply to a management plan for a stock of fish for a species that has a life cycle of approximately 1 year unless the Secretary has determined such stock of fish is subject to overfishing with respect to such species; and*

(3) *shall not limit or otherwise affect the requirements of section 301(a)(1) or 304(e) of the Magnuson Stevens Fishery Conservation and Management Act.*

(c) *CLARIFICATION OF REBUILDING PROVISION.*—Section 304(e) (16 U.S.C. 1854(e)) is amended—

(1) by striking “one year of” in paragraph (3) and inserting “2 years after”;

(2) by inserting “and implement” after “prepare” in paragraph (3);

(3) by inserting “immediately” after “overfishing” in paragraph (3)(A);

(4) by striking “ending overfishing and” in paragraph (4)(A); and

(5) by striking “one-year” in paragraph (5) and inserting “2-year”.

(d) *EFFECTIVE DATE FOR SUBSECTION (C).*—The amendments made by subsection (c) shall take effect 30 months after the date of enactment of this Act.

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## TITLE II—INFORMATION AND RESEARCH

\* \* \* \* \*

### SEC. 208. *ZEKE GRADER FISHERIES CONSERVATION AND MANAGEMENT FUND*

(a) *IN GENERAL.*—The Secretary shall establish and maintain a fund, to be known as the “*Zeke Grader Fisheries Conservation and Management Fund*”, which shall consist of amounts retained and deposited into the Fund under subsection (c).

(b) *PURPOSES.*—Subject to the allocation of funds described in subsection (d), amounts in the Fund shall be available to the Secretary of Commerce, without appropriation or fiscal year limitation, to disburse as described in subsection (e) for—



(1) efforts to improve fishery harvest data collection including—

(A) expanding the use of electronic catch reporting programs and technology; and

(B) improvement of monitoring and observer coverage through the expanded use of electronic monitoring devices and satellite tracking systems such as VMS on small vessels;

(2) cooperative fishery research and analysis, in collaboration with fishery participants, academic institutions, community residents, and other interested parties;

(3) development of methods or new technologies to improve the quality, health safety, and value of fish landed;

(4) conducting analysis of fish and seafood for health benefits and risks, including levels of contaminants and, where feasible, the source of such contaminants;

(5) marketing of sustainable United States fishery products, including consumer education regarding the health or other benefits of wild fishery products harvested by vessels of the United States;

(6) improving data collection under the Marine Recreational Fishery Statistics Survey in accordance with section 401(g)(3) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1881(g)(3)); **[and]**

(7) providing financial assistance to fishermen to offset the costs of modifying fishing practices and gear to meet the requirements of this Act, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and other Federal laws in pari materia**【.】**; and

(8) *conducting research and analysis to prepare and adapt fisheries and fishing communities to the effects of climate change.*

(c) DEPOSITS TO THE FUND.—

(1) QUOTA SET-ASIDES.—Any amount generated through quota set-asides established by a Council under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) and designated by the Council for inclusion in the **【Fishery Conservation and Management Fund】** *Zeke Grader Fisheries Conservation and Management Fund*, may be deposited in the Fund.

(2) OTHER FUNDS.—In addition to amounts received pursuant to paragraph (1) of this subsection, the **【Fishery Conservation and Management Fund】** *Zeke Grader Fisheries Conservation and Management Fund* may also receive funds from—

(A) appropriations for the purposes of this section; and

(B) States or other public sources or private or non-profit organizations for purposes of this section.

**【(d) REGIONAL ALLOCATION.—The Secretary shall, every 2 years, apportion monies from the Fund among the eight Council regions according to recommendations of the Councils, based on regional priorities identified through the Council process, except that no region shall receive less than 5 percent of the Fund in each allocation period.】**

(d) ALLOCATION.—

(1) *IN GENERAL.*—Except as provided in paragraphs (2) and (3), the Secretary shall, every 2 years, apportion amounts from the Fund among the 8 Council regions according to recommendations of the Councils, based on regional priorities identified through the Council process.

(2) *MINIMUM ALLOCATION.*—In the case of amounts deposited in the Fund pursuant to subsection (c)(2), unless specified otherwise, the Secretary shall allocate not less than 5 percent of the Fund in each allocation period to each region.

(3) *SPECIFICALLY APPORTIONED FUNDS.*—The Secretary may apportion amounts from the Fund to a specific project or region if such amounts were identified by the Council that designated such amounts for inclusion in the Fund under subsection (c)(1), or by the appropriation Act, State, public source, or nonprofit organization from which they were received under subsection (c)(2), as being deposited for that specific project or region.

(e) *LIMITATION ON THE USE OF THE FUND.*—No amount made available from the Fund may be used to defray the costs of carrying out requirements of this Act or the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) other than those uses identified in this section.

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**MODERNIZING RECREATIONAL FISHERIES  
MANAGEMENT ACT OF 2018**

\* \* \* \* \*

**TITLE III—RULE OF CONSTRUCTION**

**[SEC. 301. RULE OF CONSTRUCTION.**

Nothing in this Act shall be construed as modifying the requirements of sections 301(a), 302(h)(6), 303(a)(15), or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851(a), 1852(h)(6), 1853(a)(15), and 1854(e)), or the equal application of such requirements and other standards and requirements under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) to commercial, charter, and recreational fisheries, including each component of mixed-use fisheries.]

**SEC. 301. RULE OF CONSTRUCTION.**

Nothing in this Act, including the amendment made by section 102(a)(3), shall be construed as modifying the requirements of sections 301(a), 302(h)(6), 303(a)(15), or 304(e) of the Magnuson-Stevens Fishery Conservation and Management Act, or the equal application of such requirements and other standards and requirements under the Magnuson-Stevens Fishery Conservation and Management Act to commercial, charter, and recreational fisheries, including each component of mixed-use fisheries.

**ATLANTIC TUNAS CONVENTION ACT OF 1975**

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## COMMISSIONERS

SEC. 3. [(a)(1) The United States shall be represented by not more than three Commissioners who shall serve as delegates of the United States on the Commission, and who may serve on the Council and Panels of the Commission as provided for in the Convention. Such Commissioners shall be appointed by and serve at the pleasure of the President. Not more than one such Commissioner shall be a salaried employee of any State or political subdivision thereof, or the Federal Government. Individuals serving as such Commissioners shall not be considered to be Federal employees while performing such service, except for purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code. The Commissioners shall be entitled to select a Chairman to adopt such rules of procedure as they find necessary.

[(2) Of the Commissioners appointed under paragraph (1) who are not governmental employees—

[(A) one shall be appointed from among individuals with knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and

[(B) one shall be appointed from among individuals with knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea.

[(3)(A) The term of a Commissioner shall be three years.

[(B) An individual appointed in accordance with paragraph (2) shall not be eligible to serve more than two consecutive terms as a Commissioner.]

(a) *APPOINTMENT AND NUMBER; RULES OF PROCEDURE; TERM.—*

(1) *APPOINTMENT.—The President shall appoint four Commissioners to serve as delegates of the United States to the Commission as follows:*

(A) *One Commissioner shall be a Federal employee who shall serve as Chair.*

(B) *Three Commissioners shall not be Federal employees, of whom—*

(i) *one shall have knowledge and experience regarding commercial fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea;*

(ii) *one shall have knowledge and experience regarding recreational fishing in the Atlantic Ocean, Gulf of Mexico, or Caribbean Sea; and*

(iii) *one shall have knowledge and experience in marine conservation, shall represent the public interest in marine conservation and non-consumptive uses of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.*

(2) *TERM OF APPOINTMENT.—*

(A) *LENGTH OF TERM.—The term of a Commissioner appointed under paragraph (1) shall be three years.*

(B) *CONSECUTIVE TERMS.—No individual appointed under paragraph (1) shall serve more than two consecutive terms as Commissioner.*

(C) *PLEASURE OF THE PRESIDENT.—Each Commissioner appointed under paragraph (1) shall serve at the pleasure of the President.*

## (3) REPRESENTATION OF THE UNITED STATES.—

(A) *IN GENERAL.*—At meetings of the Commission, Council, any Panel, or any other function as provided for in the Convention, the United States shall be represented by the Commissioner described in paragraph (1)(A) and two Commissioners described in paragraph (1)(B).

(B) *PROCEDURES FOR ROTATION.*—The Secretary of State, in consultation with the Secretary, shall establish procedures under which the Commissioners appointed described in paragraph (1)(B) rotate in representing the United States to the Commission.

(C) *RIGHT TO PARTICIPATION.*—Each Commissioner appointed under paragraph (1) may—

(i) attend all meetings of the Commission, Council, any Panel, or any other function as provided for in the Convention; and

(ii) participate fully in all United States preparatory activity for any activity relating to the Convention.

(b) The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to section 4 of this Act, all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

(d)(1) The Secretary of State shall pay the necessary travel expenses of United States Commissioners, Alternate United States Commissioners, and authorized advisors in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(2) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

(e) *SENSE OF CONGRESS REGARDING FISH HABITAT.*—It is the sense of the Congress that the United States Commissioners should seek to include ecosystem considerations in fisheries management, including the conservation of fish habitat.

\* \* \* \* \*

## ADMINISTRATION

SEC. 6. (a) The Secretary is authorized and directed to administer and enforce all of the provisions of the Convention, this Act, and regulations issued pursuant thereto, except to the extent otherwise provided for in this Act. In carrying out such functions the Secretary is authorized and directed to adopt such regulations as

may be necessary to carry out the purposes and objectives of the Convention and this Act, and with the concurrence of the Secretary of State, he may cooperate with the duly authorized officials of the government of any party to the Convention. In addition, the Secretary may utilize, with the concurrence of the Secretary of the department in which the Coast Guard is operating insofar as such utilization involves enforcement at sea, with or without reimbursement and by agreement with any other Federal department or agency, or with any agency of any State, the personnel, services, and facilities of that agency for enforcement purposes with respect to any vessel in the fisheries zone, or wherever found, with respect to any vessel documented under the laws of the United States, and any vessel numbered or otherwise licensed under the laws of any State. When so utilized, such personnel of the States of the United States are authorized to function as Federal law enforcement agents for these purposes, but they shall not be held and considered as employees of the United States for the purposes of any laws administered by the Civil Service Commission.

(b) Enforcement activities at sea under the provisions of this Act for fishing vessels subject to the jurisdiction of the United States shall be primarily the responsibility of the Secretary of the department in which the Coast Guard is operating, in cooperation with the Secretary and the United States Customs Service. The Secretary after consultation with the Secretary of the department in which the Coast Guard is operating, shall adopt such regulations as may be necessary to provide for procedures and methods of enforcement pursuant to article IX of the Convention.

(c)(1)(A) Upon favorable action by the Secretary of State under section 5(a) of this Act on any recommendation of the Commission made pursuant to article VIII of the Convention, the Secretary shall promulgate, pursuant to this subsection, such regulations as may be necessary and appropriate to carry out such recommendation.

(B) Not later than June 30, 1991, the Secretary shall promulgate any additional regulations necessary to ensure that the United States is in full compliance with all recommendations made by the Commission that have been accepted by the United States and with other agreements under the Convention between the United States and any nation which is a party to the Convention.

(C) Regulations promulgated under this paragraph shall, to the extent practicable, be consistent with fishery management plans prepared and implemented under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).

(2)(A) To promulgate regulations referred to in paragraph (1) of this subsection, the Secretary shall publish in the Federal Register a general notice of proposed rulemaking and shall afford interested persons an opportunity to participate in the rulemaking through (i) submission of written data, views, or arguments, and (ii) oral presentation at a public hearing. Such regulations shall be published in the Federal Register and shall be accompanied by a statement of the considerations involved in the issuance of the regulations, and by a statement, based on inquiries and investigations, assessing the nature and effectiveness of the measures for the implementation of the Commission's recommendations which are being or will be carried out by countries whose vessels engage in fishing the

species subject to such recommendations within the waters to which the Convention applies. After publication in the Federal Register, such regulations shall be applicable to all vessels and persons subject to the jurisdiction of the United States on such date as the Secretary shall prescribe. The Secretary shall suspend at any time the application of any such regulation when, after consultation with the Secretary of State and the United States Commissioners, he determines that fishing operations in the Convention area of a contracting party for whom the regulations are effective are such as to constitute a serious threat to the achievement of the Commission's recommendations.

(B) Notwithstanding the requirements of subparagraph (A) and subsections (b) and (c) of section 553 of title 5, United States Code, the Secretary may issue final regulations to implement Commission recommendations referred to in paragraph (1) concerning trade restrictive measures against nations or fishing entities.

(3) The regulations required to be promulgated under paragraph (1) of this subsection may—

(A) select for regulation one or more of the species covered by the Convention;

(B) divide the Convention waters into areas;

(C) establish one or more open or closed seasons as to each such area;

(D) limit the size of the fish and quantity of the catch which may be taken from each area within any season during which fishing is allowed;

(E) limit or prohibit the incidental catch of a regulated species which may be retained, taken, possessed, or landed by vessels or persons fishing for other species of fish;

(F) require records of operations to be kept by any master or other person in charge of any fishing vessel;

(G) require such clearance certificates for vessels as may be necessary to carry out the purposes of the Convention and this Act;

(H) require proof satisfactory to the Secretary that any fish subject to regulation pursuant to a recommendation of the Commission offered for entry into the United States has not been taken or retained contrary to the recommendations of the Commission made pursuant to article VIII of the Convention which have been adopted as regulations pursuant to this section;

(I) require any commercial or recreational fisherman to obtain a permit from the Secretary and report the quantity of the catch of a regulated species;

(J) require that observers be carried aboard fishing vessels for the purpose of providing statistically reliable scientific data; and

(K) impose such other requirements and provide for such other measures as the Secretary may determine necessary to implement any recommendation of the Convention or to obtain scientific data necessary to accomplish the purpose of the Convention;

except that no regulation promulgated under this section may have the effect of increasing [or decreasing] any allocation or quota of

fish or fishing mortality level to the United States agreed to pursuant to a recommendation of the Commission.

(4) Upon the promulgation of regulations provided for in paragraph (3) of this subsection, the Secretary shall promulgate, with the concurrence of the Secretary of State and pursuant to the procedures prescribed in paragraph (2) of this subsection, additional regulations which shall become effective simultaneously with the application of the regulations provided for in paragraph (3) of this subsection, which prohibit—

(A) the entry into the United States of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission; and

(B) the entry into the United States, from any country when the vessels of such country are being used in the conduct of fishing operations in the Convention area in such manner or in such circumstances as would tend to diminish the effectiveness of the conservation recommendations of the Commission, of fish in any form of those species which are subject to regulation pursuant to a recommendation of the Commission and which were taken from the Convention area.

(5) In the case of repeated and flagrant fishing operations in the Convention area by the vessels of any country which seriously threaten the achievement of the objectives of the Commission's recommendations, the Secretary with the concurrence of the Secretary of State, may by regulations promulgated pursuant to paragraph (2) of this subsection prohibit the entry in any form from such country of other species covered by the Convention as may be under investigation by the Commission and which were taken in the Convention area. Any such prohibition shall continue until the Secretary is satisfied that the condition warranting the prohibition no longer exists, except that all fish in any form of the species under regulation which were previously prohibited from entry shall continue to be prohibited from entry.

(6) IDENTIFICATION AND NOTIFICATION.—

(A) Not later than July 1, 1996, and annually thereafter, the Secretary, in consultation with the Secretary of State, the Commissioners, and the advisory committee, shall—

(i) identify those nations whose fishing vessels are fishing, or have fished during the preceding calendar year, within the convention area in a manner or under circumstances that diminish the effectiveness of a conservation recommendation;

(ii) notify the President and the nation so identified, including an explanation of the reasons therefor; and

(iii) publish a list of those Nations identified under clause (i).

(B) In identifying those Nations, the Secretary shall consider, based on the best available information, whether those Nations have measures in place for reporting, monitoring, and enforcement, and whether those measures diminish the effectiveness of any conservation recommendation.

(7) CONSULTATION.—Not later than 30 days after a Nation is notified under paragraph (6), the President may enter into consultations with the Government of that Nation for the purpose of obtaining an agreement that will—

(A) effect the immediate termination and prevent the resumption of any fishing operation by vessels of that Nation within the Convention area which is conducted in a manner or under circumstances that diminish the effectiveness of the conservation recommendation;

(B) when practicable, require actions by that Nation, or vessels of that Nation, to mitigate the negative impacts of fishing operations on the effectiveness of the conservation recommendation involved, including but not limited to, the imposition of subsequent-year deductions for quota overages; and

(C) result in the establishment, if necessary, by such Nation of reporting, monitoring, and enforcement measures that are adequate to ensure the effectiveness of conservation recommendations.

(d)(1) It is the sense of the Congress that the Secretary, in consultation with the Secretary of State, should seek support for a recommendation by the Commission to ban large-scale driftnet fishing (as that term is defined in section 3(16) of the Magnuson-Stevens Fishery Conservation and Management Act) in the Convention area.

(2) The Secretary, in consultation with the Secretary of State, shall request the Commission to adopt recommendations necessary for the conservation and management of Atlantic swordfish. In making the request, the Secretary shall seek the establishment of an international minimum harvest size and a reduction in harvest levels to the extent necessary to conserve the stock. Until the Commission adopts all the conservation and management measures requested by the Secretary, the Secretary, within 3 months after each annual meeting of the Commission, shall notify Congress as to the nature and results of his request. These notifications shall identify those nations not acting to conserve and manage Atlantic swordfish, and recommend measures which could be taken to achieve effective international conservation and management of the stock.

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**WESTERN AND CENTRAL PACIFIC FISHERIES  
CONVENTION IMPLEMENTATION ACT**

\* \* \* \* \*

**TITLE V—IMPLEMENTATION OF WEST-  
ERN AND CENTRAL PACIFIC FISH-  
ERIES CONVENTION**

\* \* \* \* \*



**SEC. 503. APPOINTMENT OF UNITED STATES COMMISSIONERS.**

[(a) **IN GENERAL.**—The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks and commercial fishing in the Western and Central Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce, and one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council, and one of whom shall be the chairman or a member of the Pacific Fishery Management Council. The Commissioners shall be entitled to adopt such rules of procedures as they find necessary and to select a chairman from among members who are officers or employees of the United States Government.]

(a) **IN GENERAL.**—

(1) **APPOINTMENT.**—*The United States shall be represented on the Commission by 5 United States Commissioners. The President shall appoint individuals to serve on the Commission at the pleasure of the President. In making the appointments, the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks and commercial fishing in the Western and Central Pacific Ocean—*

(A) *one of whom shall be an officer or employee of the Department of Commerce;*

(B) *one of whom shall be the chairman or a member of the Western Pacific Fishery Management Council;*

(C) *one of whom shall be the chairman or a member of the Pacific Fishery Management Council; and*

(D) *one of whom shall be an individual with knowledge and experience in marine conservation who shall represent the public interest in marine conservation and non-consumptive uses of the Western and Central Pacific Ocean.*

(2) **RULES OF PROCEDURE.**—*The Commissioners shall be entitled to adopt such rules of procedures as they find necessary and to select a chairman from among members who are officers or employees of the United States Government.*

(b) **ALTERNATE COMMISSIONERS.**—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise at any meeting of the Commission, Council, any Panel, or the advisory committee established pursuant to subsection (d), all powers and duties of a United States Commissioner in the absence of any Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meeting shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) **ADMINISTRATIVE MATTERS.**—

(1) **EMPLOYMENT STATUS.**—Individuals serving as such Commissioners, other than officers or employees of the United

States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(2) COMPENSATION.—The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as such Commissioners or Alternate Commissioners.

(3) TRAVEL EXPENSES.—

(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

(d) ADVISORY COMMITTEES.—

(1) ESTABLISHMENT OF PERMANENT ADVISORY COMMITTEE.—

(A) MEMBERSHIP.—There is established an advisory committee which shall be composed of—

(i) not less than 15 nor more than 20 individuals appointed by the Secretary of Commerce in consultation with the United States Commissioners, who shall select such individuals from the various groups concerned with the fisheries covered by the WCPFC Convention, providing, to the maximum extent practicable, an equitable balance among such groups;

(ii) the chair of the Western Pacific Fishery Management Council's Advisory Committee or the chair's designee; and

(iii) officials of the fisheries management authorities of American Samoa, Guam, and the Northern Mariana Islands (or their designees).

(B) TERMS AND PRIVILEGES.—Each member of the advisory committee appointed under subparagraph (A) shall serve for a term of 2 years and shall be eligible for reappointment. The advisory committee shall be invited to attend all non-executive meetings of the United States Commissioners and at such meetings shall be given opportunity to examine and to be heard on all proposed programs of investigation, reports, recommendations, and regulations of the Commission.

(C) PROCEDURES.—The advisory committee established by subparagraph (A) shall determine its organization, and prescribe its practices and procedures for carrying out its functions under this chapter, the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and the WCPFC Convention. The advisory committee shall publish and make available to the public a statement of its organization, practices, and procedures. A majority of the members of the advisory committee shall constitute a quorum. Meetings of the advisory committee, except when in executive session, shall be open to the public, and prior notice of meetings shall be made public in a

timely fashion, and the advisory committee shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(D) PROVISION OF INFORMATION.—The Secretary and the Secretary of State shall furnish the advisory committee with relevant information concerning fisheries and international fishery agreements.

(E) AGENDA RECOMMENDATIONS.—No later than 30 days before each annual meeting of the Commission, the Advisory Committee shall transmit to the United States Commissioners recommendations relating to the agenda of the annual meeting. The recommendations must be agreed to by a majority of the Advisory Committee members. The United States Commissioners shall consider such recommendations, along with additional views transmitted by Advisory Committee members, in the formulation of the United States position for the Commission meeting and during the negotiations at that meeting.

(2) ADMINISTRATIVE MATTERS.—

(A) SUPPORT SERVICES.—The Secretary shall provide to advisory committees in a timely manner such administrative and technical support services as are necessary for their effective functioning.

(B) COMPENSATION; STATUS; EXPENSES.—Individuals appointed to serve as a member of an advisory committee—

(i) shall serve without pay, but while away from their homes or regular places of business in the performance of services for the advisory committee shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code; and

(ii) shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(f) MEMORANDUM OF UNDERSTANDING.—For highly migratory species in the Pacific, the Secretary, in coordination with the Secretary of State, shall develop a memorandum of understanding with the Western Pacific, Pacific, and North Pacific Fishery Management Councils, that clarifies the role of the relevant Council or Councils with respect to—

(1) participation in United States delegations to international fishery organizations in the Pacific Ocean, including government-to-government consultations;

(2) providing formal recommendations to the Secretary and the Secretary of State regarding necessary measures for both domestic and foreign vessels fishing for these species;

(3) coordinating positions with the United States delegation for presentation to the appropriate international fishery organization; and

(4) recommending those domestic fishing regulations that are consistent with the actions of the international fishery organi-

zation, for approval and implementation under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.)

\* \* \* \* \*

### TUNA CONVENTIONS ACT OF 1950

\* \* \* \* \*

#### SEC. 3. COMMISSIONERS.

[(a) COMMISSIONERS.—The United States shall be represented on the Commission by four United States Commissioners. The President shall appoint individuals to serve on the Commission. The United States Commissioners shall be subject to supervision and removal by the Secretary of State, in consultation with the Secretary. In making the appointments, the President shall select United States Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the eastern tropical Pacific Ocean, one of whom shall be an officer or employee of the Department of Commerce. Not more than two United States Commissioners may be appointed who reside in a State other than a State whose vessels maintain a substantial fishery in the area of the Convention.]

(a) COMMISSIONERS.—

(1) APPOINTMENT.—*The President shall appoint four individuals to represent the United States on the Commission.*

(2) REMOVAL.—*The Commissioners appointed under paragraph (1) shall be subject to supervision and removal by the Secretary of State, in consultation with the Secretary.*

(3) QUALIFICATIONS.—*In making an appointment under paragraph (1), the President shall select Commissioners from among individuals who are knowledgeable or experienced concerning highly migratory fish stocks in the eastern tropical Pacific Ocean—*

(A) *one of whom shall be an officer or employee of the Department of Commerce; and*

(B) *one of whom shall be an individual with knowledge and experience in marine conservation, and who shall represent the public interest in marine conservation and non-consumptive uses of the eastern tropical Pacific Ocean.*

(4) LIMITATION ON APPOINTMENTS.—*The President may not appoint more than two Commissioners under paragraph (1) who reside in a State other than a State whose vessels maintain a substantial fishery in the area of the Convention.*

(b) ALTERNATE COMMISSIONERS.—The Secretary of State, in consultation with the Secretary, may designate from time to time and for periods of time deemed appropriate Alternate United States Commissioners to the Commission. Any Alternate United States Commissioner may exercise, at any meeting of the Commission or of the General Advisory Committee or Scientific Advisory Subcommittee established pursuant to section 4(b), all powers and duties of a United States Commissioner in the absence of any United States Commissioner appointed pursuant to subsection (a) of this section for whatever reason. The number of such Alternate United States Commissioners that may be designated for any such meet-

ing shall be limited to the number of United States Commissioners appointed pursuant to subsection (a) of this section who will not be present at such meeting.

(c) ADMINISTRATIVE MATTERS.—

(1) EMPLOYMENT STATUS.—Individuals serving as United States Commissioners, other than officers or employees of the United States Government, shall not be considered Federal employees except for the purposes of injury compensation or tort claims liability as provided in chapter 81 of title 5, United States Code, and chapter 171 of title 28, United States Code.

(2) COMPENSATION.—The United States Commissioners or Alternate Commissioners, although officers of the United States while so serving, shall receive no compensation for their services as United States Commissioners or Alternate Commissioners.

(3) TRAVEL EXPENSES.—

(A) The Secretary of State shall pay the necessary travel expenses of United States Commissioners and Alternate United States Commissioners to meetings of the Inter-American Tropical Tuna Commission and other meetings the Secretary of State deems necessary to fulfill their duties, in accordance with the Federal Travel Regulations and sections 5701, 5702, 5704 through 5708, and 5731 of title 5, United States Code.

(B) The Secretary may reimburse the Secretary of State for amounts expended by the Secretary of State under this subsection.

\* \* \* \* \*

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COMMITTEE CORRESPONDENCE

**U.S. House of Representatives**  
Committee on Agriculture

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December 7, 2022

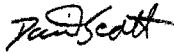
The Honorable Raul M. Grijalva  
Chairman, Committee on Natural Resources  
U.S. House of Representatives  
1324 Longworth House Office Building  
Washington, D.C. 20515

Dear Mr. Chairman:

This letter confirms our mutual understanding regarding bills H.R. 3686, the "Ski Hill Resources for Economic Development Act," H.R. 3326, the "Public Land Renewable Energy Development Act of 2021," H.R. 6936, the "Stamp Out Invasive Species Act," H.R. 6435, "To provide for the application of certain provisions of the Secure Rural Schools and Community Self-Determination Act of 2000 for fiscal year 2021," H.R. 1503, the "Restoring Community Input and Public Protections in Oil and Gas Leasing Act of 2021," H.R. 1506, the "Transparency in Energy Production Act of 2021," H.R. 3670, the "Simplifying Outdoor Access for Recreation Act," H.R. 2021, the "Environmental Justice For All Act," and H.R. 4690, the "Sustaining America's Fisheries for the Future Act of 2021." Thank you for collaborating with the Committee on Agriculture.

Our Committee will forgo consideration of the above listed bills for the limited purpose of completing and filing bill reports. However, if floor action becomes a possibility, the Committee on Agriculture will require the opportunity to take up these measures. The Committee on Agriculture reserves the right to seek the appointment of any House-Senate conference and requests consultation on any matters within our jurisdiction.

Sincerely,



David Scott  
Chairman

Cc:

The Honorable Glenn "GT" Thompson, Ranking Member  
The Honorable Nancy Pelosi, Speaker of The House of Representatives  
The Honorable Jason Smith, Parliamentarian

RAÚL M. GRIJALVA OF ARIZONA  
CHAIRMAN

DAVID WATKINS  
STAFF DIRECTOR

BRUCE WESTERMAN OF ARKANSAS  
RANKING REPUBLICAN

VIVIAN MOEGLEIN  
REPUBLICAN STAFF DIRECTOR

**U.S. House of Representatives**  
**Committee on Natural Resources**  
**Washington, DC 20515**

December 7, 2022

The Honorable David Scott  
Chair  
Committee on Agriculture  
U.S. House of Representatives  
1301 Longworth House Office Building  
Washington, DC 20515

Dear Chair Scott:

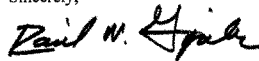
I write to you concerning H.R. 1503, the "Restoring Community Input and Public Protections in Oil and Gas Leasing Act of 2021;" H.R. 1506, the "Transparency in Energy Production Act of 2021;" H.R. 2021, the "Environmental Justice For All Act;" H.R. 3326, the "Public Land Renewable Energy Development Act of 2021;" H.R. 3670, the "Simplifying Outdoor Access for Recreation Act;" H.R. 3686, the "Ski Hill Resources for Economic Development Act;" H.R. 4690, the "Sustaining America's Fisheries for the Future Act of 2021;" H.R. 6435, "To provide for the application of certain provisions of the Secure Rural Schools and Community Self-Determination Act of 2000 for fiscal year 2021;" and H.R. 6936, the "Stamp Out Invasive Species Act."

I recognize that the bills contain provisions that fall within the jurisdiction of the Committee on Agriculture. I acknowledge that your Committee will not formally consider these bills for the limited purpose of completing and filing the bill reports.

Additionally, I confirm our mutual understanding that any floor action on these bills would still require further consultation with, and a separate approval from, the Committee on Agriculture. I would be pleased to support the appointment of members of the Committee on Agriculture to any conference committee to consider such provisions.

I will ensure that our exchange of letters is included in the committee reports for the bills. I appreciate your cooperation regarding this legislation and look forward to continuing to work with you.

Sincerely,



Chair Raúl M. Grijalva  
Committee on Natural Resources

Cc: The Honorable Nancy Pelosi, Speaker of the House  
The Honorable Bruce Westerman, Ranking Member, Committee on Natural Resources  
The Honorable Glen 'GT' Thompson, Ranking Member, Committee on Agriculture  
The Honorable Jason Smith, Parliamentarian

## DISSENTING VIEWS

Unlike past bipartisan reauthorizations of the Magnuson-Stevens Act (MSA), H.R. 4690 is a partisan exercise that would increase food prices and reduce fishing access to our federal waters. The original MSA and its subsequent reauthorizations were the product of bipartisan compromises that involved rigorous oversight and numerous hearings. In sharp contrast, H.R. 4690 is a product of one hearing and a variety of non-committee events that hardly constitute regular order through the legislative process.

The MSA, as originally enacted, recognized that the federal government should not impose one-size-fits-all standards. It created eight regional councils to oversee fisheries in our federal waters, thereby empowering state and local input and decision-making at the regional level. This landmark law made the United States the world's premier manager of fisheries.

The late Dean of the House, Congressman Don Young of Alaska, knew firsthand that environmental regulation and economic empowerment can co-exist. Although his name may not have titled the MSA, he was widely recognized as the lawmaker who shepherded the policy and its reauthorizations through his five decades in the House. Congressman Young was proud of his role in making this law a success. Yet, he also recognized that our laws should not be static, and proposed reauthorizations over the last three Congresses to improve the law. While H.R. 4690 includes a few of Mr. Young's proposals, it falls far short of the goals embodied in Mr. Young's last MSA reauthorization bill.

H.R. 4690 would undermine current law and harm our commercial and recreational fisheries while lining lawyers' pockets. This concern was echoed by the Chair of the Regional Councils, Mr. Marc Gorelnik, who testified to the Committee that H.R. 4690 "would create demands for data and analyses that, in many cases, cannot be supported, could increase the risk of litigation on several important topics, appears to reduce the flexibility and the role of the Councils and does not appear to authorize sufficient funding to meet its requirements".<sup>1</sup>

In addition, a large consortium of fishing organizations who depend on access to our federal waters, wrote the day before the Committee markup that ". . . detailed testimony was presented by expert witnesses about sections of H.R. 4690 that raise alarms for fishery managers and participants. Unfortunately, those detailed and specific concerns appear to have been ignored. As a result, the legislation that will come before the House Committee on Natural

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<sup>1</sup> <https://naturalresources.house.gov/imo/media/doc/Gorelnik%20Testimony%20-%20WOW%20Leg%20Hrg%2011.16.21.pdf>, at 3.



Resources, tomorrow, if enacted, will unquestionably throw the U.S. fishing and seafood sector into chaos”.<sup>2</sup>

To make matters worse, H.R. 4690 would undermine seafood reliability and affordability. In a letter to the Committee prior to the markup, the National Restaurant Association, the National Retail Federation, the National Fisheries Institute, and the National Council of Chain Restaurants wrote:

“With respect, H.R. 4690 would put that success at risk by needlessly restricting fishing opportunities and inviting protracted litigation. We are especially concerned by H.R. 4690’s proposed new requirements relating to forage fish protection, essential fish habitat conservation, and bycatch avoidance. In each case, the existing responsibility of fishery managers to balance complex competing interests would be curtailed. Working under rigid new strictures, fishery managers—or judges responding to the claims of plaintiffs—would shut down or severely restrict some of our nation’s largest commercial fisheries to satisfy narrow legislative mandates and for reasons unrelated to marine ecosystem health. This would be harmful for the hundreds of millions of American consumers we serve.

Now more than ever, legislators should be keenly aware of the relationship between food supply disruptions and prices paid by consumers for groceries and restaurant meals. Food costs in the United States have increased by 11.4 percent in the last year alone, the highest rate of food inflation since 1979. This inflation is highly regressive, disproportionately harming lower income families and in some cases limiting the seafood choices they would otherwise enjoy. It is critical to avoid further hardship for American families, especially in the form of legislation that risks limiting reliable supplies of U.S.-harvested products whose sustainability is beyond question.”<sup>3</sup>

As a result of these and other concerns, Committee Republicans offered numerous amendments to strike provisions in this bill that are harmful, those that would encourage unnecessary litigation, to exempt the Department of Defense from portions of the bill in order to preserve military readiness, and to condition enactment of the bill to ensure that it would not: (1) increase the cost of school lunches and seafood; (2) cause litigation; or (3) create additional fishing restrictions, among others. In addition, an amendment was offered by Ranking Member Bruce Westerman to allow Indian tribes in the Puget Sound of Washington State to kill sea lions that are devastating tribal salmon fisheries. All those amendments were rejected by the Democrat Majority, who then jammed the bill through in an unnecessary partisan vote.

In summary, this deeply flawed bill will undermine long-standing regional approaches, bolster litigation, decrease domestic seafood

<sup>2</sup> [https://republicans-naturalresources.house.gov/uploadedfiles/220920\\_msa\\_house\\_mark-up\\_letter\\_for\\_sign\\_on.pdf](https://republicans-naturalresources.house.gov/uploadedfiles/220920_msa_house_mark-up_letter_for_sign_on.pdf), at 2.

<sup>3</sup> [https://republicans-naturalresources.house.gov/uploadedfiles/letter\\_to\\_chairman\\_grijalva\\_and\\_ranking\\_member\\_westerman\\_in\\_opposition\\_to\\_the\\_sustaining\\_america\\_fisheries\\_for\\_the\\_future\\_act\\_of\\_2021.pdf](https://republicans-naturalresources.house.gov/uploadedfiles/letter_to_chairman_grijalva_and_ranking_member_westerman_in_opposition_to_the_sustaining_america_fisheries_for_the_future_act_of_2021.pdf), at 2.

availability and affordability, and send jobs overseas, making us more dependent on foreign seafood.

For these reasons I oppose H.R. 4690.

BRUCE WESTERMAN.

