

Calendar No. 586

116TH CONGRESS
2D SESSION**S. 2346****[Report No. 116–293]**

To improve the Fishery Resource Disaster Relief program of the National Marine Fisheries Service, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 30, 2019

Mr. WICKER (for himself, Ms. CANTWELL, Mr. SULLIVAN, Ms. MURKOWSKI, and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

NOVEMBER 16, 2020

Reported by Mr. WICKER, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

A BILL

To improve the Fishery Resource Disaster Relief program of the National Marine Fisheries Service, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fishery Failures: Ur-
5 gently Needed Disaster Declarations Act”.

1 **SEC. 2. FISHERY RESOURCE DISASTER RELIEF.**

2 (a) **DEFINITIONS.**—In this Act:

3 (1) **ALLOWABLE CAUSE.**—The term “allowable
4 cause” means a natural cause, man-made cause, or
5 undetermined cause.

6 (2) **FISHERY.**—The term “fishery” has the
7 meaning given the term in section 3(13) of the Mag-
8 nuson-Stevens Fishery Conservation and Manage-
9 ment Act (16 U.S.C. 1802(13)).

10 (3) **FISHERY RESOURCE DISASTER.**—The term
11 “fishery resource disaster” means a disaster that is
12 determined by the Secretary in accordance with this
13 Act and—

14 (A) is a sudden, unexpected, and large de-
15 crease in fish stock biomass or other change
16 that results in significant loss of access to the
17 fishery resource, which may include loss of fish-
18 ing vessels and gear for a substantial period of
19 time that results in revenue or subsistence loss
20 and is due to an allowable cause; and

21 (B) does not include reasonably predict-
22 able, foreseeable, and recurrent fishery resource
23 cycle of variations in species distribution or
24 stock abundance.

25 (4) **FISHING COMMUNITY.**—The term “fishing
26 community” means a community that is substan-

1 tially dependent on, or substantially engaged in, the
 2 harvest or processing of fishery resources to meet
 3 social and economic needs, and includes fishing ves-
 4 sel owners, operators, crew, aquaculture operators,
 5 and United States fish processors that are based in
 6 such community.

7 (5) INDIAN TRIBE.—The term “Indian tribe”
 8 has the meaning given such term in section 102 of
 9 the Federally Recognized Indian Tribe List Act of
 10 1994 (25 U.S.C. 5130), and the term “tribal”
 11 means of or pertaining to such an Indian tribe.

12 (6) MAN-MADE CAUSE.—The term “man-made
 13 cause” means—

14 (A) a discrete anthropogenic event, such as
 15 an oil spill or spillway opening, that could not
 16 have been addressed or prevented by fishery
 17 management measures; and

18 (B) that is otherwise beyond the control of
 19 fishery managers to mitigate through conserva-
 20 tion and management measures, including regu-
 21 latory restrictions imposed as a result of judi-
 22 cial action or to protect human health or ma-
 23 rine animals, plants, or habitats.

24 (7) NATURAL CAUSE.—The term “natural
 25 cause”—

1 (A) means a weather or biology-related
2 event, such as—

3 (i) a hurricane;

4 (ii) a flood;

5 (iii) a drought;

6 (iv) El Niño effects on water tempera-
7 ture; or

8 (v) disease; and

9 (B) does not mean a normal or cyclical
10 variation in a species distribution or stock
11 abundance.

12 (8) OVERFISHING.—The term “overfishing”
13 means a rate or level of fishing mortality that jeopardizes
14 the capacity of a fishery to produce the maximum sustainable
15 yield on a continuing basis.

16 (9) SECRETARY.—The term “Secretary” means
17 the Secretary of Commerce.

18 (10) 12-MONTH REVENUE LOSS.—The term
19 “12-month revenue loss” means the percentage reduction
20 in commercial, charter, and headboat revenue for the 12 months
21 during the fishery resource disaster period when compared to
22 average annual revenue in the most recent 5-year period or
23 equivalent for stocks with cyclical life histories.
24

1 (11) UNDETERMINED CAUSE.—The term “un-
 2 determined cause” means a cause in which the cur-
 3 rent state of knowledge does not allow the Secretary
 4 to identify the exact cause, and there is no current
 5 conclusive evidence supporting a possible cause of
 6 the fishery resource disaster.

7 (b) GENERAL AUTHORITY.—

8 (1) IN GENERAL.—The Secretary shall have the
 9 authority to determine the existence, extent, and be-
 10 ginning and end dates of a fishery resource disaster
 11 under this Act in accordance with this Act.

12 (2) AVAILABILITY OF FUNDS.—After the Sec-
 13 retary determines that a fishery resource disaster
 14 has occurred, the Secretary is authorized to make
 15 sums available, from funds appropriated under sub-
 16 section (i) and from any supplemental appropria-
 17 tions that are available, to be used by the affected
 18 State, tribal government, or interstate marine fish-
 19 eries commission, or by the Secretary in cooperation
 20 with the affected State, tribal government, or inter-
 21 state marine fisheries commission.

22 (c) INITIATION OF A FISHERY RESOURCE DISASTER
 23 REVIEW.—

24 (1) ELIGIBLE REQUESTERS.—Not later than 1
 25 year after the occurrence of a potential fishery re-

source disaster, 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—

(A) the Governor of an affected State;

(B) an official tribal resolution; or

(C) any other comparable elected or politically appointed representative as determined by the Secretary.

(2) REQUIRED INFORMATION.—A complete request for a fishery resource disaster determination under paragraph (1) shall include—

(A) identification of all presumed affected fish stocks;

(B) identification of the fishery as Federal, non-Federal, or both;

(C) the geographical boundaries of the fishery;

(D) information on causes of the fishery resource disaster, if known; and

(E) information needed to support a finding of a fishery resource disaster, including—

(i) information demonstrating the occurrence of a sudden, unexpected, large de-

crease 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; and

(ii) ~~12-month~~ revenue loss for the af-
fected fishery, or if a fishery resource dis-
aster has occurred at any time in the pre-
vious ~~5-year~~ period, an appropriate time
frame as determined by the Secretary.

~~(d)~~ REVIEW PROCESS.—

~~(1)~~ INTERIM RESPONSE.—Not later than 10
days after receipt of a request under subsection (c),
the Secretary shall provide an interim response to
the individual that—

(A) acknowledges receipt of the request;

(B) provides a regional contact within the
National Oceanographic and Atmospheric Ad-
ministration;

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

(D) requests additional information con-
cerning the fishery resource disaster, if the
original request is considered incomplete.

~~(2)~~ EVALUATION OF REQUESTS.—

(A) IN GENERAL.—The Secretary shall complete a review, within the time frame described in subparagraph (B), using the best scientific information available, in consultation with the affected States, of—

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

(I) fishery characteristics;

(II) stock assessments;

(III) the most recent fishery independent surveys and other fishery resource assessments and surveys conducted by Federal or State officials;

(IV) estimates of mortality; and

(V) overall effects; and

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

(I) landings data;

(II) revenue;

(III) the number of participants involved;

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

1 (aa) fishermen;

2 (bb) charter fishing opera-
3 tors;

4 (cc) subsistence users;

5 (dd) United States fish proe-
6 cessors; and

7 (ee) an owner of a related
8 fishery infrastructure or business
9 affected by the disaster;

10 (V) an impacted business, Tribe,
11 or other entity;

12 (VI) the availability of hazard in-
13 surance to address financial losses due
14 to a disaster;

15 (VII) other forms of disaster as-
16 sistance made available to the fishery;
17 including prior awards of disaster as-
18 sistance;

19 (VIII) the length of time the re-
20 source, or access to the resource, has
21 been restricted;

22 (IX) status of recovery from pre-
23 vious fishery resource disasters; and

24 (X) other appropriate indicators
25 to an affected fishery, as determined

1 by the National Marine Fisheries
2 Service.

3 ~~(B) TIME FRAME.~~—The Secretary shall
4 complete the review described in subparagraph
5 (A), if the fishing season, applicable to the fish-
6 ery—

7 (i) has concluded or there is no de-
8 fined fishing season applicable to the fish-
9 ery, not later than 120 days after the Sec-
10 retary receives a complete request for a
11 fishery resource disaster determination; or

12 (ii) has not concluded, not later than
13 120 days after the conclusion of the fish-
14 ing season.

15 ~~(3) FISHERY RESOURCE DISASTER DETERMINA-~~
16 ~~TION.~~—The Secretary shall make the determination
17 of a fishery resource disaster based on the criteria
18 for determinations listed in subsection (c).

19 ~~(4) NOTIFICATION.~~—Not later than 14 days
20 after the conclusion of the review under this sub-
21 section, the Secretary shall notify the requestor and
22 the Governor of the affected State or tribal rep-
23 resentative of the determination of the Secretary.

24 ~~(c) CRITERIA FOR DETERMINATIONS.~~—

1 (1) IN GENERAL.—The Secretary shall make a
 2 determination about whether a fishery resource dis-
 3 aster has occurred, based on the revenue loss thresh-
 4 olds under paragraph (2), and, if a fishery resource
 5 disaster has occurred, whether the fishery resource
 6 disaster was due to—

7 (A) a natural cause;

8 (B) a man-made cause; or

9 (C) an undetermined cause.

10 (2) REVENUE LOSS THRESHOLDS.—

11 (A) IN GENERAL.—The Secretary shall
 12 apply the following 12-month revenue loss
 13 thresholds in determining whether a fishery re-
 14 source disaster has occurred:

15 (i) Losses greater than 80 percent
 16 shall result in a positive determination that
 17 a fishery resource disaster has occurred.

18 (ii) Losses between 35 percent and 80
 19 percent shall be evaluated to determine
 20 whether a fishery resource disaster has oc-
 21 curred, based on the information provided
 22 or analyzed under subsection (d)(2).

23 (iii) Losses less than 35 percent shall
 24 not be eligible for a determination that a
 25 fishery resource disaster has occurred, ex-

cept where the Secretary determines there are extenuating circumstances that justify using a lower threshold in making the determination.

(B) SUBSISTENCE USES AND AQUACULTURE OPERATIONS.—In making a determination of whether a fishery resource disaster has occurred, the Secretary may consider revenue loss from aquaculture operations and loss of subsistence opportunity, where appropriate.

(3) INELIGIBLE FISHERIES.—A fishery subject to overfishing in any of the 3 years preceding the date of a determination under this section 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.

(4) 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

1 protecting life and safety, the Secretary may deter-
 2 mine a fishery resource disaster has occurred with-
 3 out a request or without conducting the required
 4 analyses in paragraphs (1) and (2).

5 (f) DISBURSAL OF APPROPRIATED FUNDS.—

6 (1) AUTHORIZATION.—The Secretary shall allo-
 7 cate funds available under subsection (i) for fishery
 8 resource disasters.

9 (2) ALLOCATION OF APPROPRIATED FISHERY
 10 RESOURCE DISASTER ASSISTANCE.—

11 (A) NOTIFICATION OF FUNDING AVAIL-
 12 ABILITY.—When there are appropriated funds
 13 for one or more fishery resource disasters, the
 14 Secretary shall notify the public and any fishery
 15 with a positive disaster determination that is
 16 unfunded of the allocation not more than 14
 17 days after the date of the appropriation or the
 18 determination of a fishery resource disaster,
 19 whichever occurs later.

20 (B) EXTENSION OF DEADLINE.—The Sec-
 21 retary may extend the deadline under subpara-
 22 graph (A) by 90 days to evaluate and make de-
 23 terminations on eligible requests.

24 (3) CONSIDERATIONS.—In determining the allo-
 25 cation of appropriations for more than 1 fishery re-

1 source disaster, the Secretary shall consider com-
 2 mercial and charter or headboat revenue losses and
 3 may consider the following factors:

4 (A) Direct economic impacts.

5 (B) Uninsured losses.

6 (C) Losses of subsistence opportunity.

7 (D) Aquaculture operations revenue loss.

8 (E) Direct revenue losses to a fishing com-
 9 munity.

10 (F) Other economic impacts.

11 (4) ~~SPEND PLANS.~~—To receive an allocation
 12 from funds available under subsection (i), a re-
 13 questor with an affirmative fishery resource disaster
 14 determination shall submit a spend plan to the Sec-
 15 retary, not more than 180 days after receiving noti-
 16 fication that funds are available, that shall include
 17 the following information, if applicable:

18 (A) Objectives and outcomes, with an em-
 19 phasis on addressing the factors contributing to
 20 the fishery resource disaster and minimizing fu-
 21 ture uninsured losses, if applicable.

22 (B) Statement of work.

23 (C) Budget details.

24 (5) ~~DISBURSAL OF FUNDS.~~—

1 ~~(A) AVAILABILITY.—~~Funds shall be avail-
2 able for disbursement not later than 90 days
3 after the date the Secretary receives a complete
4 spend plan under paragraph (4).

5 ~~(B) METHOD.—~~The Secretary may provide
6 an allocation of funds under this section in the
7 form of a grant, direct payment, cooperative
8 agreement, loan, or contract.

9 ~~(C) ELIGIBLE USES.—~~

10 ~~(i) IN GENERAL.—~~Funds allocated for
11 fishery resources disasters under this sec-
12 tion shall prioritize the following uses,
13 which are not in order of priority:

14 ~~(I) Habitat conservation and res-~~
15 ~~toration and other activities that re-~~
16 ~~duce adverse impacts to the fishery.~~

17 ~~(II) The collection of fishery in-~~
18 ~~formation and other activities that im-~~
19 ~~prove management of the affected~~
20 ~~fishery.~~

21 ~~(III) Capacity reduction and~~
22 ~~other activities that improve manage-~~
23 ~~ment of fishing effort.~~

1 (IV) Developing, repairing, or
2 improving fishery-related public infra-
3 structure.

4 (V) Job training and economic
5 transition programs.

6 (VI) Public information cam-
7 paigns on the recovery of the fishery,
8 including marketing.

9 (VII) For any purpose that the
10 Secretary determines is appropriate to
11 restore the fishery affected by such a
12 disaster or to prevent a similar dis-
13 aster in the future.

14 (VIII) Direct assistance to a per-
15 son, fishing community, or a business
16 to alleviate economic loss incurred as
17 a direct result of a fishery resource
18 disaster, particularly when affected by
19 a circumstance described in subsection
20 (e)(4).

21 (IX) Other activities that recover
22 or improve management of the af-
23 fected fishery, as determined by the
24 Secretary.

1 (ii) ~~DISPLACED FISHERY EMPLOY-~~
 2 ~~EES.~~—Where appropriate, individuals ear-
 3 rying out the activities described in sub-
 4 clauses (I) through (VI) of clause (i) shall
 5 be individuals who are, or were, employed
 6 in a fishery for which the Secretary has de-
 7 termined that a fishery resource disaster
 8 has occurred.

9 ~~(g)~~ LIMITATIONS.—

10 (1) FEDERAL SHARE.—

11 (A) IN GENERAL.—Except as provided in
 12 subparagraphs (B) and (C), the Federal share
 13 of the cost of any activity carried out under the
 14 authority of this section shall not exceed 75
 15 percent of the cost of that activity.

16 (B) WAIVER.—The Secretary may waive
 17 the non-Federal share requirements of this sec-
 18 tion, if the Secretary determines that—

19 (i) no reasonable means are available
 20 through which the recipient of the Federal
 21 share can meet the non-Federal share re-
 22 quirement; and

23 (ii) the probable benefit of 100 per-
 24 cent Federal financing outweighs the pub-

1 lie interest in imposition of the non-Fed-
2 eral share requirement.

3 ~~(C) EXCEPTION.—~~The Federal share of di-
4 rect assistance as described in subsection
5 ~~(f)(5)(C)(i)(VIII)~~ shall be equal to 100 percent.

6 ~~(2) LIMITATIONS ON ADMINISTRATIVE EX-~~
7 ~~PENSES.—~~

8 ~~(A) FEDERAL.—~~Not more than 3 percent
9 of the funds available under this section may be
10 used for administrative expenses by the Na-
11 tional Oceanographic and Atmospheric Admin-
12 istration.

13 ~~(B) STATE OR TRIBAL GOVERNMENTS.—~~Of
14 the funds remaining after the use described in
15 subparagraph ~~(B)~~, not more than 5 percent
16 may be used by States, tribal governments, or
17 interstate marine fisheries commissions for ad-
18 ministrative expenses.

19 ~~(3) FISHING CAPACITY REDUCTION PRO-~~
20 ~~GRAM.—~~

21 ~~(A) IN GENERAL.—~~No funds available
22 under this section may be used as part of a
23 fishing capacity reduction program in a fishery
24 unless the Secretary determines that adequate

1 conservation and management measures are in
2 place in such fishery.

3 ~~(B) ASSISTANCE CONDITIONS.—~~As a con-
4 dition of providing assistance under this section
5 with respect to a vessel under a fishing capacity
6 reduction program, the Secretary shall—

7 (i) prohibit the vessel from being used
8 for fishing; and

9 (ii) require that the vessel be—

10 (I) scrapped or otherwise dis-
11 posed of in a manner approved by the
12 Secretary;

13 (II) donated to a nonprofit orga-
14 nization and thereafter used only for
15 purposes of research, education, or
16 training; or

17 (III) used for another non-fishing
18 purpose provided the Secretary deter-
19 mines that adequate measures are in
20 place to ensure that the vessel cannot
21 reenter any fishery anywhere in the
22 world.

23 (4) NO FISHERY ENDORSEMENT.—

24 ~~(A) IN GENERAL.—~~A vessel that is prohib-
25 ited from fishing under paragraph ~~(3)(B)(i)~~

1 shall not be eligible for a fishery endorsement
2 under section 12113(a) of title 46, United
3 States Code.

4 ~~(B) NONEFFECTIVE.—~~A fishery endorse-
5 ment for a vessel described in subparagraph (A)
6 shall not be effective.

7 ~~(C) NO SALE.—~~A vessel described in sub-
8 paragraph (A) shall not sold to a foreign owner
9 or reflagged.

10 ~~(5) DIRECT ASSISTANCE ELIGIBILITY.—~~Eligi-
11 bility for direct assistance under this section to a
12 person or business shall be limited to a person or
13 business that has less than \$2,000,000 in net reve-
14 nues annually from commercial fishing, as deter-
15 mined by the Secretary.

16 ~~(h) PUBLIC INFORMATION ON DATA COLLECTION.—~~
17 The Secretary shall make available and update as appro-
18 priate, information on data collection and submittal best
19 practices for the information described in subsection
20 ~~(d)(2).~~

21 ~~(i) AUTHORIZATION OF APPROPRIATIONS.—~~

22 ~~(1) AUTHORIZATION.—~~There are authorized to
23 be appropriated to carry out this section such sums
24 as may be necessary.

1 (2) AVAILABILITY OF FUNDS.—Amounts appro-
 2 priated under this section shall remain available
 3 until expended.

4 (3) TAX EXEMPT STATUS.—The Fisheries Dis-
 5 asters Fund appropriated under this Act shall be a
 6 tax exempt fund.

7 (4) SUPPLEMENTAL APPROPRIATIONS.—The
 8 Secretary may use any supplemental appropriations
 9 that are available to carry out this section.

10 **SEC. 3. MAGNUSON-STEVENSON FISHERY CONSERVATION AND**
 11 **MANAGEMENT ACT.**

12 (a) IN GENERAL.—The Magnuson-Stevens Fishery
 13 Conservation and Management Act (16 U.S.C. 1801 et
 14 seq.) is amended—

15 (1) in section 307(1)(B), by striking “section
 16 312(b)(2)” and inserting “section 312(a)(2)”; and

17 (2) in section 312—

18 (A) by striking subsection (a);

19 (B) by redesignating subsections (b)
 20 through (e) as subsections (a) through (d), re-
 21 spectively;

22 (C) in subsection (b), as redesignated by
 23 clause (ii)—

1 (i) in paragraph (1)(C), by striking
 2 “subsection (d)” and inserting “subsection
 3 (e)”; and

4 (ii) in paragraph (2), by striking
 5 “subsection (d)” and inserting “subsection
 6 (e)”.

7 (b) REPEAL.—Section 315 of the Magnuson-Stevens
 8 Fishery Conservation and Management Act (16 U.S.C.
 9 1864) is repealed.

10 **SEC. 4. INTERJURISDICTIONAL FISHERIES ACT OF 1986.**

11 (a) REPEAL.—Section 308 of the Interjurisdictional
 12 Fisheries Act of 1986 (16 U.S.C. 4107) is repealed.

13 (b) TECHNICAL EDIT.—Section 3(k)(1) of the Small
 14 Business Act (15 U.S.C. 632(k)(1)) is amended by strik-
 15 ing “(as determined by the Secretary of Commerce under
 16 section 308(b) of the Interjurisdictional Fisheries Act of
 17 1986)” and inserting “(as determined by the Secretary of
 18 Commerce under the Fishery Failures: Urgently Needed
 19 Disaster Declarations Act)”.

20 **SECTION 1. SHORT TITLE.**

21 *This Act may be cited as the “Fishery Failures: Ur-*
 22 *gently Needed Disaster Declarations Act”.*

1 **SEC. 2. FISHERY RESOURCE DISASTER RELIEF.**

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

5 “(a) *FISHERY RESOURCE DISASTER RELIEF.*—

6 “(1) *DEFINITIONS.*—In this subsection:

7 “(A) *ALLOWABLE CAUSE.*—The term ‘allow-
8 able cause’ means a natural cause, discrete an-
9 thropogenic cause, or undetermined cause.

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

13 “(i) that could not have been addressed
14 or prevented by fishery management meas-
15 ures; and

16 “(ii) that is otherwise beyond the con-
17 trol of fishery managers to mitigate through
18 conservation and management measures, in-
19 cluding regulatory restrictions imposed as a
20 result of judicial action or to protect human
21 health or marine animals, plants, or habi-
22 tats.

23 “(C) *FISHERY RESOURCE DISASTER.*—The
24 term ‘fishery resource disaster’ means a disaster
25 that is determined by the Secretary in accord-
26 ance with this subsection and—

1 “(i) is an unexpected decrease in fish
 2 stock biomass or other change that results in
 3 significant loss of access to the fishery re-
 4 source, which may include loss of fishing
 5 vessels and gear for a substantial period of
 6 time and results in significant revenue or
 7 subsistence loss due to an allowable cause;
 8 and

9 “(ii) does not include—

10 “(I) reasonably predictable, fore-
 11 seeable, and recurrent fishery cyclical
 12 variations in species distribution or
 13 stock abundance; or

14 “(II) reductions in fishing oppor-
 15 tunities resulting from conservation
 16 and management measures taken pur-
 17 suant to this Act.

18 “(D) INDIAN TRIBE.—The term ‘Indian
 19 Tribe’ has the meaning given such term in sec-
 20 tion 102 of the Federally Recognized Indian
 21 Tribe List Act of 1994 (25 U.S.C. 5130), and the
 22 term ‘Tribal’ means of or pertaining to such an
 23 Indian tribe.

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

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

3 “(I) a hurricane;

4 “(II) a flood;

5 “(III) a harmful algal bloom;

6 “(IV) a tsunami;

7 “(V) a hypoxic zone;

8 “(VI) a drought;

9 “(VII) El Niño effects on water
10 temperature;

11 “(VIII) a marine heat wave; or

12 “(IX) disease; and

13 “(ii) does not mean a normal or cycli-
14 cal variation in a species distribution or
15 stock abundance.

16 “(F) 12-MONTH REVENUE LOSS.—The term
17 ‘12-month revenue loss’ means the percentage re-
18 duction in commercial, charter, headboat, and
19 processor revenue for the 12 months during the
20 fishery resource disaster period that is due to the
21 fishery resource disaster, when compared to aver-
22 age annual revenue in the most recent 5-year pe-
23 riod or equivalent for stocks with cyclical life
24 histories.

1 “(G) *UNDETERMINED CAUSE.*—*The term*
 2 *‘undetermined cause’ means a cause in which the*
 3 *current state of knowledge does not allow the Sec-*
 4 *retary to identify the exact cause, and there is no*
 5 *current conclusive evidence supporting a possible*
 6 *cause of the fishery resource disaster.*

7 “(2) *GENERAL AUTHORITY.*—

8 “(A) *IN GENERAL.*—*The Secretary shall*
 9 *have the authority to determine the existence, ex-*
 10 *tent, and beginning and end dates of a fishery*
 11 *resource disaster under this subsection in accord-*
 12 *ance with this subsection.*

13 “(B) *AVAILABILITY OF FUNDS.*—*After the*
 14 *Secretary determines that a fishery resource dis-*
 15 *aster has occurred, the Secretary is authorized to*
 16 *make sums available, from funds appropriated*
 17 *under paragraph (9) that are available, to be*
 18 *used by the affected State, Tribal government, or*
 19 *interstate marine fisheries commission, or by the*
 20 *Secretary in cooperation with the affected State,*
 21 *Tribal government, or interstate marine fisheries*
 22 *commission.*

23 “(C) *SAVINGS CLAUSE.*—*The requirements*
 24 *under this subsection shall take effect only with*
 25 *respect to requests for a fishery resource disaster*

determination submitted after the date of enactment of the *Fishery Failures: Urgently Needed Disaster Declarations 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 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;

1 “(iii) the geographical boundaries of
2 the fishery;

3 “(iv) preliminary information on
4 causes of the fishery resource disaster, if
5 known; and

6 “(v) information needed to support a
7 finding of a fishery resource disaster, in-
8 cluding—

9 “(I) information demonstrating
10 the occurrence of an unexpected de-
11 crease in fish stock biomass or other
12 change that results in significant loss
13 of access to the fishery resource, which
14 could include the loss of fishing vessels
15 and gear, for a substantial period of
16 time;

17 “(II) 12-month revenue loss or
18 subsistence loss for the affected Federal
19 fishery, or if a fishery resource disaster
20 has occurred at any time in the pre-
21 vious 5-year period, an appropriate
22 time frame as determined by the Sec-
23 retary;

24 “(III) if applicable, information
25 on lost resource tax revenues assessed

1 *by local communities, such as a raw*
 2 *fish tax; and*

3 “(IV) *if applicable, information*
 4 *on 12-month revenue loss for processors*
 5 *related to the information provided*
 6 *under subclause (I), subject to section*
 7 *402(b).*

8 “(C) *ASSISTANCE.—The Secretary may pro-*
 9 *vide assistance, data, and analysis to an eligible*
 10 *requester described in paragraph (1), if so re-*
 11 *quested and the data is not available to the re-*
 12 *quester, in carrying out the complete request*
 13 *under subparagraph (A).*

14 “(4) *REVIEW PROCESS.—*

15 “(A) *INTERIM RESPONSE.—Not later than*
 16 *20 days after receipt of a request under para-*
 17 *graph (3), the Secretary shall provide an interim*
 18 *response to the individual that—*

19 “(i) *acknowledges receipt of the request;*

20 “(ii) *provides a regional contact with-*
 21 *in the National Oceanographic and Atmos-*
 22 *pheric Administration;*

23 “(iii) *outlines the process and timeline*
 24 *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

1 “(II) the available economic infor-
2 mation, which may include an anal-
3 ysis of—
4 “(aa) landings data;
5 “(bb) revenue;
6 “(cc) the number of partici-
7 pants involved;
8 “(dd) the number and type of
9 jobs and persons impacted, which
10 may include—
11 “(AA) fishers;
12 “(BB) charter fishing
13 operators;
14 “(CC) subsistence users;
15 “(DD) United States
16 fish processors; and
17 “(EE) an owner of a re-
18 lated fishery infrastructure
19 or business affected by the
20 disaster, such as a marina
21 operator, recreational fishing
22 equipment retailer, or char-
23 ter, headboat, or tender vessel
24 owner, operator, or crew;

1 “(ee) an impacted Indian
2 Tribe;

3 “(ff) an impacted business or
4 other entity;

5 “(gg) the availability of haz-
6 ard insurance to address financial
7 losses due to a disaster;

8 “(hh) other forms of disaster
9 assistance made available to the
10 fishery, including prior awards of
11 disaster assistance for the same
12 event;

13 “(ii) the length of time the
14 resource, or access to the resource,
15 has been restricted;

16 “(jj) status of recovery from
17 previous fishery resource disasters;

18 “(kk) lost resource tax reve-
19 nues assessed by local commu-
20 nities, such as a raw fish tax; and

21 “(ll) other appropriate indi-
22 cators to an affected fishery, as
23 determined by the National Ma-
24 rine Fisheries Service.

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

5 “(I) *has concluded or there is no*
 6 *defined fishing season applicable to the*
 7 *fishery, not later than 120 days after*
 8 *the Secretary receives a complete re-*
 9 *quest for a fishery resource disaster de-*
 10 *termination;*

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

14 “(III) *has not been opened, not*
 15 *later than 120 days after the Secretary*
 16 *receives a complete request for a fishery*
 17 *resource disaster determination.*

18 “(C) *FISHERY RESOURCE DISASTER DETER-*
 19 *MINATION.*—*The Secretary shall make the deter-*
 20 *mination of a fishery resource disaster based on*
 21 *the criteria for determinations listed in para-*
 22 *graph (5).*

23 “(D) *NOTIFICATION.*—*Not later than 14*
 24 *days after the conclusion of the review under this*
 25 *paragraph, the Secretary shall notify the re-*

1 *quester and the Governor of the affected State or*
 2 *Tribal representative of the determination of the*
 3 *Secretary.*

4 “(5) *CRITERIA FOR DETERMINATIONS.—*

5 “(A) *IN GENERAL.—The Secretary shall*
 6 *make a determination about whether a fishery*
 7 *resource disaster has occurred, based on the rev-*
 8 *enue loss thresholds under subparagraph (B),*
 9 *and, if a fishery resource disaster has occurred,*
 10 *whether the fishery resource disaster was due*
 11 *to—*

12 “(i) *a natural cause;*

13 “(ii) *an anthropogenic cause;*

14 “(iii) *a combination of a natural cause*
 15 *and an anthropogenic cause; or*

16 “(iv) *an undetermined cause.*

17 “(B) *REVENUE LOSS THRESHOLDS.—*

18 “(i) *IN GENERAL.—The Secretary shall*
 19 *apply the following 12-month revenue loss*
 20 *thresholds in determining whether a fishery*
 21 *resource disaster has occurred:*

22 “(I) *Losses greater than 80 per-*
 23 *cent shall result in a positive deter-*
 24 *mination that a fishery resource dis-*
 25 *aster has occurred.*

1 “(II) *Losses between 35 percent*
2 *and 80 percent shall be evaluated to*
3 *determine whether a fishery resource*
4 *disaster has occurred, based on the in-*
5 *formation provided or analyzed under*
6 *paragraph (4)(B).*

7 “(III) *Losses less than 35 percent*
8 *shall not be eligible for a determina-*
9 *tion that a fishery resource disaster*
10 *has occurred, except where the Sec-*
11 *retary determines there are extenuating*
12 *circumstances that justify using a*
13 *lower threshold in making the deter-*
14 *mination.*

15 “(ii) *CHARTER FISHING.—In making*
16 *a determination of whether a fishery re-*
17 *source disaster has occurred, the Secretary*
18 *shall consider the economic impacts to the*
19 *charter fishing industry to ensure financial*
20 *coverage for charter fishing businesses.*

21 “(iii) *SUBSISTENCE USES.—In making*
22 *a determination of whether a fishery re-*
23 *source disaster has occurred, the Secretary*
24 *may consider loss of subsistence oppor-*
25 *tunity, where appropriate.*

1 “(C) *INELIGIBLE FISHERIES.*—A fishery
 2 *subject to overfishing in any of the 3 years pre-*
 3 *ceding the date of a determination under this*
 4 *subsection is not eligible for a determination of*
 5 *whether a fishery resource disaster has occurred*
 6 *unless the Secretary determines that overfishing*
 7 *was not a contributing factor to the fishery re-*
 8 *source disaster.*

9 “(D) *EXCEPTIONAL CIRCUMSTANCES.*—In
 10 *an exceptional circumstance where substantial*
 11 *economic impacts to the affected fishery and fish-*
 12 *ing community have been subject to a disaster*
 13 *declaration under another statutory authority,*
 14 *such as in the case of a natural disaster or from*
 15 *the direct consequences of a Federal action taken*
 16 *to prevent, or in response to, a natural disaster*
 17 *for purposes of protecting life and safety, the*
 18 *Secretary may determine a fishery resource dis-*
 19 *aster has occurred without a request or without*
 20 *conducting the required analyses in subpara-*
 21 *graphs (A) and (B).*

22 “(6) *DISBURSAL OF APPROPRIATED FUNDS.*—

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

1 “(B) *ALLOCATION OF APPROPRIATED FISH-*
2 *ERY RESOURCE DISASTER ASSISTANCE.*—

3 “(i) *NOTIFICATION OF FUNDING AVAIL-*
4 *ABILITY.*—When there are appropriated
5 funds for 1 or more fishery resource disas-
6 ters, the Secretary shall notify the public
7 and representatives of affected fishing com-
8 munities with a positive disaster deter-
9 mination that is unfunded of the allocation
10 under paragraph (2)(B) not more than 14
11 days after the date of the appropriation or
12 the determination of a fishery resource dis-
13 aster, whichever occurs later.

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

18 “(C) *CONSIDERATIONS.*—In determining the
19 allocation of appropriations for a fishery re-
20 source disaster, the Secretary shall consider com-
21 mercial, charter, headboat, or seafood processing
22 revenue losses and may consider the following
23 factors:

24 “(i) *Direct economic impacts.*

25 “(ii) *Uninsured losses.*

1 “(iii) *Losses of subsistence and Tribal*
2 *ceremonial fishing opportunity.*

3 “(iv) *Losses of recreational fishing op-*
4 *portunity.*

5 “(v) *Aquaculture operations revenue*
6 *loss.*

7 “(vi) *Direct revenue losses to a fishing*
8 *community.*

9 “(vii) *Treaty obligations.*

10 “(viii) *Other economic impacts.*

11 “(D) *SPEND PLANS.—To receive an alloca-*
12 *tion from funds available under paragraph (9),*
13 *a requester with an affirmative fishery resource*
14 *disaster determination shall submit a spend plan*
15 *to the Secretary, not more than 120 days after*
16 *receiving notification that funds are available,*
17 *that shall include the following information, if*
18 *applicable:*

19 “(i) *Objectives and outcomes, with an*
20 *emphasis on addressing the factors contrib-*
21 *uting to the fishery resource disaster and*
22 *minimizing future uninsured losses, if ap-*
23 *plicable.*

24 “(ii) *Statement of work.*

25 “(iii) *Budget details.*

1 “(E) *REGIONAL CONTACT.*—*The Secretary*
 2 *shall provide a regional contact within the Na-*
 3 *tional Oceanic and Atmospheric Administration*
 4 *to facilitate review of spend plans and disbursal*
 5 *of funds.*

6 “(F) *DISBURSAL OF FUNDS.*—

7 “(i) *AVAILABILITY.*—*Funds shall be*
 8 *disbursed not later than 90 days after the*
 9 *date the Secretary receives a complete spend*
 10 *plan under subparagraph (D).*

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

16 “(iii) *ELIGIBLE USES.*—

17 “(I) *IN GENERAL.*—*Funds allo-*
 18 *cated for fishery resources disasters*
 19 *under this subsection shall prioritize*
 20 *the following uses, which are not in*
 21 *order of priority:*

22 “(aa) *Habitat conservation*
 23 *and restoration and other activi-*
 24 *ties, including scientific research,*
 25 *that reduce adverse impacts to the*

1 *fishery or improve understanding*
2 *of the affected species or its eco-*
3 *system.*

4 “(bb) *The collection of fishery*
5 *information and other activities*
6 *that improve management of the*
7 *affected fishery.*

8 “(cc) *In a commercial fish-*
9 *ery, capacity reduction and other*
10 *activities that improve manage-*
11 *ment of fishing effort, including*
12 *funds to offset budgetary costs to*
13 *refinance a Federal fishing capac-*
14 *ity reduction loan or to repay the*
15 *principal of a Federal fishing ca-*
16 *capacity reduction loan.*

17 “(dd) *Developing, repairing,*
18 *or improving fishery-related pub-*
19 *lic infrastructure.*

20 “(ee) *Job training and eco-*
21 *nomie transition programs.*

22 “(ff) *Public information*
23 *campaigns on the recovery of the*
24 *fishery, including marketing.*

1 “(gg) For any purpose that
2 the Secretary determines is appro-
3 priate to restore the fishery af-
4 fected by such a disaster or to pre-
5 vent a similar disaster in the fu-
6 ture.

7 “(hh) Direct assistance to a
8 person, fishing community (in-
9 cluding assistance for lost fisheries
10 resource levies), or a business to
11 alleviate economic loss incurred as
12 a direct result of a fishery re-
13 source disaster, particularly when
14 affected by a circumstance de-
15 scribed in paragraph (5)(D).

16 “(ii) Appropriate economic
17 and other incentives to encourage
18 commercial fishermen to return to
19 the fishery once it has recovered
20 from the disaster.

21 “(jj) Hatcheries and stock en-
22 hancement to help rebuild the af-
23 fected stock or offset fishing pres-
24 sure on the affected stock.

1 “(kk) *Other activities that re-*
 2 *cover or improve management of*
 3 *the affected fishery, as determined*
 4 *by the Secretary.*

5 “(II) *DISPLACED FISHERY EM-*
 6 *PLOYEES.—Where appropriate, indi-*
 7 *viduals carrying out the activities de-*
 8 *scribed in items (aa) through (ff) of*
 9 *subclause (I) shall be individuals who*
 10 *are, or were, employed in a commer-*
 11 *cial, charter, or Tribal fishery for*
 12 *which the Secretary has determined*
 13 *that a fishery resource disaster has oc-*
 14 *curred.*

15 “(7) *LIMITATIONS.—*

16 “(A) *FEDERAL SHARE.—*

17 “(i) *IN GENERAL.—Except as applied*
 18 *to Tribes and as provided in clauses (ii)*
 19 *and (iii), the Federal share of the cost of*
 20 *any activity carried out under the author-*
 21 *ity of this subsection shall not exceed 75*
 22 *percent of the cost of that activity.*

23 “(ii) *WAIVER.—The Secretary may*
 24 *waive the non-Federal share requirements of*

1 *this subsection, if the Secretary determines*
 2 *that—*

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

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

11 “(iii) *EXCEPTION.—The Federal share*
 12 *of direct assistance as described in para-*
 13 *graph (6)(F)(iii)(I)(hh) shall be equal to*
 14 *100 percent.*

15 “(B) *LIMITATIONS ON ADMINISTRATIVE EX-*
 16 *PENSES.—*

17 “(i) *FEDERAL.—Not more than 3 per-*
 18 *cent of the funds available under this sub-*
 19 *section may be used for administrative ex-*
 20 *penses by the National Oceanographic and*
 21 *Atmospheric Administration.*

22 “(ii) *STATE OR TRIBAL GOVERN-*
 23 *MENTS.—Of the funds remaining after the*
 24 *use described in clause (i), not more than 5*
 25 *percent may be used by States, Tribal gov-*

ernments, 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 manage-
ment 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; 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, edu-
cation, or training; or

1 “(cc) *used for another non-*
 2 *fishing purpose provided the Sec-*
 3 *retary determines that adequate*
 4 *measures are in place to ensure*
 5 *that the vessel cannot reenter any*
 6 *fishery anywhere in the world.*

7 “(D) *NO FISHERY ENDORSEMENT.—*

8 “(i) *IN GENERAL.—A vessel that is*
 9 *prohibited from fishing under subparagraph*
 10 *(C)(ii)(I) shall not be eligible for a fishery*
 11 *endorsement under section 12113(a) of title*
 12 *46, United States Code.*

13 “(ii) *NONEFFECTIVE.—A fishery en-*
 14 *dorsement for a vessel described in clause (i)*
 15 *shall not be effective.*

16 “(iii) *NO SALE.—A vessel described in*
 17 *clause (i) shall not be sold to a foreign*
 18 *owner or reflagged.*

19 “(8) *PUBLIC INFORMATION ON DATA COLLEC-*
 20 *TION.—The Secretary shall make available and up-*
 21 *date as appropriate, information on data collection*
 22 *and submittal best practices for the information de-*
 23 *scribed in paragraph (4)(B).*

24 “(9) *AUTHORIZATION OF APPROPRIATIONS.—*

1 “(A) *AUTHORIZATION.*—*There are author-*
 2 *ized to be appropriated to carry out this sub-*
 3 *section such sums as may be necessary.*

4 “(B) *AVAILABILITY OF FUNDS.*—*Amounts*
 5 *appropriated under this subsection shall remain*
 6 *available until expended.*

7 “(C) *TAX EXEMPT STATUS.*—*The Fisheries*
 8 *Disaster Fund appropriated under this sub-*
 9 *section shall be a tax exempt fund.”.*

10 **SEC. 3. MAGNUSON-STEVEN'S FISHERY CONSERVATION AND**
 11 **MANAGEMENT ACT.**

12 (a) *REPEAL.*—*Section 315 of the Magnuson-Stevens*
 13 *Fishery Conservation and Management Act (16 U.S.C.*
 14 *1864) is repealed.*

15 (b) *REPORT.*—*Section 113(b)(2) of the Magnuson-Ste-*
 16 *vens Fishery Conservation and Management Reauthoriza-*
 17 *tion Act of 2006 (16 U.S.C. 460ss note) is amended—*

18 (1) *in the paragraph heading, by striking “AN-*
 19 *NUAL REPORT” and inserting “REPORT”;*

20 (2) *in the matter preceding subparagraph (A),*
 21 *by striking “Not later than 2 years after the date of*
 22 *enactment of this Act, and annually thereafter” and*
 23 *inserting “Not later than 2 years after the date of en-*
 24 *actment of the Fishery Failures: Urgently Needed*

1 *Disaster Declarations Act, and biennially thereafter*”;
 2 *and*

3 (3) *in subparagraph (D), by striking “the cal-*
 4 *endar year 2003” and inserting “the most recent”.*

5 **SEC. 4. INTERJURISDICTIONAL FISHERIES ACT OF 1986.**

6 (a) *REPEAL.*—*Section 308 of the Interjurisdictional*
 7 *Fisheries Act of 1986 (16. U.S.C. 4107) is repealed.*

8 (b) *TECHNICAL EDIT.*—*Section 3(k)(1) of the Small*
 9 *Business Act (15 U.S.C. 632(k)(1)) is amended by striking*
 10 *“(as determined by the Secretary of Commerce under sec-*
 11 *tion 308(b) of the Interjurisdictional Fisheries Act of*
 12 *1986)” and inserting “(as determined by the Secretary of*
 13 *Commerce under the Fishery Failures: Urgently Needed*
 14 *Disaster Declarations Act)”.*

15 **SEC. 5. BUDGET REQUESTS; REPORTS.**

16 (a) *BUDGET REQUEST.*—*In the budget justification*
 17 *materials submitted to Congress in support of the budget*
 18 *of the Department of Commerce for each fiscal year (as sub-*
 19 *mitted with the budget of the President under section*
 20 *1105(a) of title 31, United States Code), the Secretary of*
 21 *Commerce shall include a separate statement of the amount*
 22 *requested to be appropriated for that fiscal year for out-*
 23 *standing unfunded fishery resource disasters.*

24 (b) *DRIFTNET ACT AMENDMENTS OF 1990 REPORT*
 25 *AND BYCATCH REDUCTION AGREEMENTS.*—

1 (1) *IN GENERAL.*—*The Magnuson-Stevens Fish-*
 2 *ery Conservation and Management Act (16 U.S.C.*
 3 *1801 et seq.) is amended—*

4 (A) *in section 202(h), by striking para-*
 5 *graph (3); and*

6 (B) *in section 206—*

7 (i) *by striking subsections (e) and (f);*

8 *and*

9 (ii) *by redesignating subsections (g)*
 10 *and (h) as subsections (e) and (f), respec-*
 11 *tively.*

12 (2) *BIENNIAL REPORT ON INTERNATIONAL COM-*
 13 *PLIANCE.*—*Section 607 of the High Seas Driftnet*
 14 *Fishing Moratorium Protection Act (16 U.S.C.*
 15 *1826h) is amended—*

16 (A) *by inserting “(a) IN GENERAL.—” be-*
 17 *fore “The Secretary” and indenting appro-*
 18 *priately; and*

19 (B) *by adding at the end the following:*

20 “(b) *ADDITIONAL INFORMATION.*—*In addition to the*
 21 *information described in paragraphs (1) through (5) of sub-*
 22 *section (a), the report shall include—*

23 “(1) *a description of the actions taken to carry*
 24 *out the provisions of section 206 of the Magnuson-Ste-*

1 *vens Fishery Conservation and Management Act (16*
 2 *U.S.C. 1826), including—*

3 “(A) *an evaluation of the progress of those*
 4 *efforts, the impacts on living marine resources,*
 5 *including available observer data, and specific*
 6 *plans for further action;*

7 “(B) *a list and description of any new fish-*
 8 *eries developed by nations that conduct, or au-*
 9 *thorize their nationals to conduct, large-scale*
 10 *driftnet fishing beyond the exclusive economic*
 11 *zone of any nation; and*

12 “(C) *a list of the nations that conduct, or*
 13 *authorize their nationals to conduct, large-scale*
 14 *driftnet fishing beyond the exclusive economic*
 15 *zone of any nation in a manner that diminishes*
 16 *the effectiveness of or is inconsistent with any*
 17 *international agreement governing large-scale*
 18 *driftnet fishing to which the United States is a*
 19 *party or otherwise subscribes; and*

20 “(2) *a description of the actions taken to carry*
 21 *out the provisions of section 202(h) of the Magnuson-*
 22 *Stevens Fishery Conservation and Management Act*
 23 *(16 U.S.C. 1822(h)).*

24 “(c) *CERTIFICATION.—If, at any time, the Secretary,*
 25 *in consultation with the Secretary of State and the Sec-*

1 retary of the department in which the Coast Guard is oper-
 2 ating, identifies any nation that warrants inclusion in the
 3 list described under subsection (b)(1)(C), due to large scale
 4 drift net fishing, the Secretary shall certify that fact to the
 5 President. Such certification shall be deemed to be a certifi-
 6 cation for the purposes of section 8(a) of the Fishermen’s
 7 Protective Act of 1967 (22 U.S.C. 1978(a)).”.

8 (c) *REPORT ON EFFORTS TO PREPARE AND ADAPT*
 9 *UNITED STATES FISHERY MANAGEMENT FOR THE IMPACTS*
 10 *OF CLIMATE CHANGE.*—

11 (1) *IN GENERAL.*—Not later than 2 years after
 12 the date of enactment of this Act, the Comptroller
 13 General of the United States shall submit a report to
 14 Congress examining efforts by the Regional Fishery
 15 Management Councils, the Atlantic States Marine
 16 Fisheries Commission, and the National Marine Fish-
 17 eries Service to prepare and adapt to the impacts of
 18 climate change.

19 (2) *CONTENTS OF STUDY.*—The report required
 20 under paragraph (1) shall include—

21 (A) an examination of current or previous
 22 efforts (including the 2016 GAO Report on Fed-
 23 eral Fisheries Management), and whether those
 24 efforts have resulted in changes to management,
 25 by the Regional Fishery Management Councils,

1 *the Atlantic States Marine Fisheries Commis-*
2 *sion, and the National Marine Fisheries Service*
3 *to prepare and adapt Federal and jointly man-*
4 *aged fisheries for the impacts of climate change;*

5 *(B) an examination of any guidance issued*
6 *to the Regional Fishery Management Councils by*
7 *the National Marine Fisheries Service to prepare*
8 *and adapt Federal fishery management for the*
9 *impacts of climate change and whether and how*
10 *that guidance has been utilized;*

11 *(C) identification of and recommendations*
12 *for how best to address the most significant eco-*
13 *nomi c, social, ecological, or other knowledge*
14 *gaps, as well as key funding gaps, that would in-*
15 *crease the ability of the Regional Fishery Man-*
16 *agement Councils, the Atlantic States Marine*
17 *Fisheries Commission, or the National Marine*
18 *Fisheries Service to prepare and adapt fishery*
19 *management for the impacts of climate change;*

20 *(D) recommendations for how the Regional*
21 *Fishery Management Councils, the Atlantic*
22 *States Marine Fisheries Commission, and the*
23 *National Marine Fisheries Service can better*
24 *adapt fishery management and prepare associ-*

1 *ated fishing industries and dependent commu-*
2 *nities for the impacts of climate change; and*
3 *(E) recommendations for how to enhance*
4 *the capacity of the National Marine Fisheries*
5 *Service to monitor climate-related changes to*
6 *fisheries and marine ecosystems, to understand*
7 *the mechanisms of change, to evaluate risks and*
8 *priorities, to provide forecasts and projections of*
9 *future conditions, to communicate scientific ad-*
10 *vice, and to better manage fisheries under chang-*
11 *ing conditions due to climate change.*

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[Report No. 116-293]

A BILL

To improve the Fishery Resource Disaster Relief program of the National Marine Fisheries Service, and for other purposes.

NOVEMBER 16, 2020

Reported with an amendment