

117TH CONGRESS
1ST SESSION

H. R. 4690

To reauthorize and amend the Magnuson-Stevens Fishery Conservation and Management Act, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 26, 2021

Mr. HUFFMAN (for himself and Mr. CASE) introduced the following bill; which was referred to the Committee on Natural Resources, and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To reauthorize and amend the Magnuson-Stevens Fishery Conservation and Management Act, 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 “Sustaining America’s
5 Fisheries for the Future Act of 2021”.

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

7 The table of contents for this Act is the following:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Definitions.

- Sec. 5. 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.

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. Amendments to Western Pacific Sustainable Fisheries Fund.
 Sec. 307. National Oceanic and Atmospheric Administration sexual harassment and assault prevention.
 Sec. 308. Saltonstall-Kennedy Act reform.

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.

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. Depleted 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. Authorization of appropriations.

1 **SEC. 3. REFERENCES.**

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

9 **SEC. 4. DEFINITIONS.**

10 In this Act:

11 (1) ADMINISTRATOR.—The term “Adminis-
12 trator” means the Administrator of the National
13 Oceanic and Atmospheric Administration.

14 (2) SECRETARY.—The term “Secretary” means
15 the Secretary of Commerce.

16 **SEC. 5. CONFORMING AMENDMENTS TO THE TABLE OF**
17 **CONTENTS OF THE MAGNUSON-STEVENSON**
18 **FISHERY CONSERVATION AND MANAGEMENT**
19 **ACT.**

20 The table of contents is amended to read as follows:

“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.”.

1 **TITLE I—CLIMATE-READY**
2 **FISHERIES**

3 **SEC. 101. FINDINGS, PURPOSE, AND POLICY.**

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

5 (1) in subsection (a)—

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

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

13 “(A) increased fishing pressure;

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

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

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

23 (B) in paragraph (6), by inserting “to ac-
24 count for the impacts of environmental changes
25 on stocks of fish,” after “insure conservation,”;

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

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

13 (D) by adding at the end the following:

14 “(14) Environmental changes associated with
15 climate change, including changes in water tempera-
16 ture, ocean acidification, and deoxygenation, are rap-
17 idly altering the abundance, productivity, and dis-
18 tribution of fish and are affecting commercial, rec-
19 reational, and subsistence fisheries.

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

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

3 “(5) to establish Regional Fishery Management
4 Councils to exercise sound judgement in the stew-
5 ardsip of fishery resources through the preparation,
6 monitoring, and revision of such plans under cir-
7 cumstances—

8 “(A) which will enable the States, the fish-
9 ing industry, consumer and environmental orga-
10 nizations, and other interested persons to par-
11 ticipate in, and advise on, the establishment
12 and administration of such plans;

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

15 “(C) which address the impacts of environ-
16 mental conditions associated with climate
17 change on stocks of fish, marine ecosystems,
18 fisheries management, and coastal commu-
19 nities.”; and

20 (3) in subsection (c)—

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

23 (B) in paragraph (7), by striking the pe-
24 riod at the end and inserting a semicolon; and

25 (C) by adding at the end the following:

1 “(8) to promote management that accounts for
2 changes in stocks of fish and the marine environ-
3 ment that result from climate change; and

4 “(9) to ensure that the research, resource man-
5 agement, and expenditures to prepare fisheries and
6 fishing communities for climate change promote ra-
7 cial and socioeconomic equity with respect to envi-
8 ronmental, economic, and social outcomes across
9 fisheries and regions.”.

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

11 **MANAGEMENT.**

12 (a) IN GENERAL.—Section 303(a) (16 U.S.C.
13 1853(a)) is amended—

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

19 (2) by amending paragraph (3) to read as fol-
20 lows:

21 “(3) assess and specify the present and prob-
22 able future condition of, and the maximum sustain-
23 able yield and optimum yield from, the fishery under
24 prevailing and anticipated future environmental con-

1 ditions, and include a summary of the information
2 used in making such specification;”;

3 (3) in paragraph (8), by striking “1991” and
4 inserting “2021”, and by inserting “, including data
5 needed to implement the plan effectively under pre-
6 vailing and anticipated environmental or ecological
7 conditions, including climate change” before the
8 semicolon at the end;

9 (4) in paragraph (13), by inserting “as well as
10 examine the vulnerability of the fishery and fishery
11 participants to the impacts of prevailing and antici-
12 pated environmental or ecological conditions, includ-
13 ing climate change” before the semicolon at the end;

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

16 (6) by striking the period at the end of para-
17 graph (15) and inserting “; and”; and

18 (7) by adding at the end the following:

19 “(16) assess and describe the anticipated im-
20 pacts of climate change and other environmental and
21 ecological changes on the fishery, including an as-
22 sessment of whether and how the management
23 measures contained in the plan or plan amendment
24 have accounted for these changes, and a summary of
25 the information used in these assessments;

1 “(2) notify each Council of the vulnerability of
2 fish stocks within such Council’s geographical area
3 of authority; and

4 “(3) make recommendations to each Council for
5 measures to conserve and protect such fish stocks.

6 “(b) COUNCIL PRIORITIZATION PLANS.—

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

13 “(2) HIGHLY MIGRATORY SPECIES.—With re-
14 spect to stocks managed under section 302(a)(3),
15 not later than 1 year after issuing a notification
16 under subsection (a), the Secretary shall publish a
17 plan to prioritize management actions to increase re-
18 siliance of such fish stocks.

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

24 “(c) REPORT TO CONGRESS.—Not later than 3 years
25 after the date of enactment of the Sustaining America’s

1 Fisheries for the Future Act of 2021 and every 5 years
2 thereafter, the Secretary shall submit a report to Con-
3 gress—

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

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

9 “(3) summarizing the steps taken by the Sec-
10 retary and the Councils to mitigate and address the
11 impacts on and risks of climate change to fish
12 stocks.”.

13 (d) GUIDANCE FOR COUNCILS.—Section 305 is
14 amended by adding at the end the following:

15 “(n) GUIDANCE.—Not later than 1 year after the
16 date of enactment of the Sustaining America’s Fisheries
17 for the Future Act of 2021, the Secretary shall issue regu-
18 lations guidelines to assist the Councils in preparing and
19 adapting fishery management for the impacts of climate
20 change, including for consideration of climate change in
21 the conservation and management of fish stocks under
22 each Council’s geographical area of authority.”.

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

24 (a) COUNCIL TRAINING PROGRAM.—Section
25 302(k)(1) (16 U.S.C. 1852(k)(1)) is amended—

1 (1) by redesignating subparagraphs (C) through
2 (H) as subparagraphs (D) through (I), respectively;

3 (2) by redesignating subparagraph (I) as sub-
4 paragraph (K);

5 (3) by inserting after subparagraph (B) the fol-
6 lowing:

7 “(C) climate change and its relevant im-
8 pacts on fisheries health, range, and other fac-
9 tors that would affect the conservation and
10 management of a stock;”;

11 (4) by striking “and” after the semicolon at the
12 end of subparagraph (I), as so redesignated; and

13 (5) by inserting after subparagraph (I), as so
14 redesignated, the following:

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

17 (b) FISHERIES RESEARCH.—Section 404 (16 U.S.C.
18 1881c) is amended—

19 (1) in subsection (a), by inserting “; on changes
20 in geographic range, spatial distribution, and pro-
21 ductivity of a fishery or interrelated fisheries;” after
22 “management”; and

23 (2) in subsection (c)(1), by inserting “changes
24 in geographic range, spatial distribution, and pro-

1 ductivity of a fishery or interrelated fisheries,”after
2 “degradation,”.

3 **SEC. 104. CLIMATE-READY FISHERIES INNOVATION PRO-**
4 **GRAM.**

5 (a) CLIMATE-READY FISHERIES INNOVATION PRO-
6 GRAM.—Not later than 1 year after the date of enactment
7 of this Act, the Administrator shall establish a program,
8 including grants, to develop innovative tools and ap-
9 proaches and improve existing tools designed to increase
10 the adaptive capacity of fishery management to the im-
11 pacts of climate change. In administering such program,
12 the Administrator shall—

13 (1) develop science and management ap-
14 proaches that address regional and national prior-
15 ities to improve the conservation and management of
16 fishery resources under current and anticipated cli-
17 mate impacts;

18 (2) provide for routine input from fishery man-
19 agers, scientists, fishery participants, Tribes, and
20 stakeholders in order to maximize opportunities to
21 incorporate results of the program in fishery man-
22 agement actions;

23 (3) promote adoption of methods developed
24 under the program in fishery management plans de-

1 developed by the Regional Fishery Management Coun-
2 cils;

3 (4) provide information and outreach to the pri-
4 vate sector and academic sector to encourage devel-
5 opment of tools and approaches to manage the ef-
6 fects of climate change on fisheries; and

7 (5) provide information and outreach to fishery
8 participants to increase understanding of and en-
9 courage adoption and use of tools and approaches
10 developed under the program.

11 (b) COORDINATION OF THE PROGRAM.—

12 (1) The Administrator shall establish a process
13 to ensure coordination with and outreach to—

14 (A) regional offices and science centers of
15 the National Marine Fisheries Service.

16 (B) the Regional Fishery Management
17 Councils;

18 (C) the scientific and statistical committees
19 of such Fishery Management Councils; and

20 (D) other relevant programs, including the
21 cooperative research and management program
22 under Section 318 of the Magnuson-Stevens
23 Fishery Conservation and Management Act (16
24 U.S.C. 1867), the Integrated Ocean Observing
25 System, and programs within the National Oce-

1 anic and Atmospheric Administration designed
2 to address ocean acidification.

3 (2) Such coordination should include identifica-
4 tion of multi-year research priorities to study and
5 understand the current and anticipated impacts of
6 climate change on fisheries, fishing communities,
7 fisheries interactions, habitats, fishery participants,
8 fisheries science and monitoring, management and
9 the impacts of changing management due to climate
10 change, or other relevant priorities. Such priorities
11 should be routinely reviewed in a timeframe not to
12 exceed 5 years and updated as necessary.

13 (c) REPORT.—Every 2 years, beginning 2 years after
14 the date of enactment of this Act, the Administrator shall
15 transmit a report to the Senate Committee on Commerce,
16 Science, and Transportation and the House of Represent-
17 atives Committee on Natural Resources that—

18 (1) describes funding provided to implement
19 this section;

20 (2) includes descriptions of and developments in
21 tools and approaches achieved under this section;

22 (3) describes how and in which fisheries these
23 tools and approaches have been implemented; and

1 (4) describes improvements in fishery climate-
2 readiness associated with implementing this section,
3 as well as proposals to address remaining problems.

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

5 (a) **CROSS-JURISDICTIONAL MANAGEMENT.**—Section
6 304(f) (16 U.S.C. 1855(f)) is amended to read as follows:

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

9 “(1) **SECRETARIAL REVIEW OF AREAS OF AU-**
10 **THORITY.**—The Secretary shall review the geo-
11 graphical area of authority of each Council in order
12 to determine if a substantial portion of any fishery
13 within such area is within the area of authority of
14 another council—

15 “(A) upon request of such Council; or

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

18 “(2) **DESIGNATION OF COUNCIL TO PREPARE**
19 **PLAN.**—If the Secretary determines under para-
20 graph (1) that a substantial portion of a fishery is
21 located in the geographical area of authority of more
22 than one Council, the Secretary shall—

23 “(A) not later than 6 months after the
24 date of the determination under paragraph (1),
25 notify the Councils concerned; and

1 “(B) require, not later than 1 year after
2 the date on which the notification is made
3 under subparagraph (A), that each of the Coun-
4 cils concerned, by a majority of the voting
5 members present and voting—

6 “(i) designate one of the Councils con-
7 cerned to prepare the fishery management
8 plan for such fishery and any amendment
9 to such plan, if required under this Act; or

10 “(ii) agree to jointly prepare the fish-
11 ery management plan for such fishery and
12 any amendment to such plan, if required
13 under this Act.

14 “(3) SECRETARIAL DESIGNATION.—If the
15 Councils concerned are unable to meet the require-
16 ments of paragraph (2)(B) within the relevant time
17 period, the Secretary shall—

18 “(A) designate one of the Councils con-
19 cerned to prepare the fishery management plan
20 and any amendment to such plan, if required
21 under this Act; or

22 “(B) require that such plan and any such
23 amendment, if required under this Act, be pre-
24 pared jointly by the Councils concerned.

1 “(4) DEADLINE FOR SUBMISSION OF PLAN.—
2 Not later than 2 years after the date on which the
3 Councils concerned make a decision pursuant to
4 paragraph (2)(B)(ii), or the date on which the Sec-
5 retary makes a decision pursuant to paragraph (3),
6 and at such other times as required under this Act,
7 the Council required under paragraph (2)(B) or (3)
8 (as applicable) to prepare the fishery management
9 plan or any such plan amendment, if required under
10 this Act, shall prepare and submit such plan or
11 amendment (with implementing regulations as need-
12 ed) in accordance with this Act.

13 “(5) TERMINATION OF CROSS-JURISDICTIONAL
14 AUTHORITY.—

15 “(A) REQUEST OF COUNCIL.—At the re-
16 quest of a Council or as a result of the review
17 pursuant to paragraph (1), the Secretary shall
18 determine whether a fishery described in para-
19 graph (2) no longer has a substantial portion
20 located in the geographical area of authority of
21 more than one Council.

22 “(B) TERMINATION.—If the Secretary de-
23 termines under subparagraph (A) that a fishery
24 no longer has a substantial portion located in

1 the geographical area of authority of more than
2 one Council—

3 “(i) the Secretary shall determine
4 which Council has predominant geographic
5 authority over the fishery; and

6 “(ii) not later than 2 years after the
7 date on which the determination under
8 clause (i) is made, and at such other times
9 as required under this Act, the Council de-
10 termined under such clause shall directly
11 and individually adopt any previously exist-
12 ing joint fishery management plan for the
13 fishery, and shall prepare and submit any
14 plan amendments necessary for transition-
15 ing to single-Council management as well
16 as for any other purposes, in accordance
17 with the provisions of this Act.

18 “(6) ESTABLISHMENT OF CRITERIA.—The Sec-
19 retary shall, by regulation, identify criteria for deter-
20 mining under paragraphs (1) and (5) whether a sub-
21 stantial portion of a fishery is located in the geo-
22 graphical area of authority of more than one Coun-
23 cil.

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

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

11 “(9) HIGHLY MIGRATORY SPECIES IN CERTAIN
12 FISHERIES.—This subsection shall not apply with
13 respect to any fishery to which section 302(a)(3) ap-
14 plies.”.

15 (b) INTERNATIONAL COOPERATION IN THE RE-
16 SEARCH AND MANAGEMENT OF CROSS-JURISDICTIONAL
17 FISHERIES.—

18 (1) IN GENERAL.—The Secretary of Commerce,
19 in coordination with the Secretary of State and Ad-
20 ministrator of the Agency for International Develop-
21 ment where necessary, shall develop a strategy for
22 coordinated research and management with other
23 relevant nations with which the United States shares
24 a fishery or stock of a fishery that currently or is
25 expected to see shifts in geographic range or spatial

1 distribution that does or will span international
2 boundaries, including within the same life stage or
3 across life stages.

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

7 (A) a list of fisheries that are currently or
8 expected to see shifts in geographic range or
9 spatial distribution that spans or will span
10 international boundaries and the relevant coun-
11 tries for each fishery or stock of a fishery’s cur-
12 rent or expected range;

13 (B) an analysis of priority research needs
14 for each of these fisheries or stocks of fisheries
15 that should be coordinated with other affected
16 nations;

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

20 (D) a 10-year strategy to implement co-
21 ordinated management measures that reflect
22 the needs for each fishery or stock of a fishery
23 as determined by the research conducted under
24 subparagraph (C).

1 **SEC. 106. EMERGING FISHERIES.**

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

3 (1) in the subsection heading, by striking “NO-
4 TIFICATION OF ENTRY” and inserting “DEVELOP-
5 MENT OF NEW FISHERIES”;

6 (2) by amending paragraph (1) to read as fol-
7 lows:

8 “(1) The Secretary shall publish in the Federal
9 Register, subject to paragraph (3), and after notice
10 and an opportunity for public comment—

11 “(A) a list of all fisheries, identified by
12 corresponding Council or Secretarial manage-
13 ment under section 302(a)(3)—

14 “(i) located entirely or in part in the
15 exclusive economic zone; or

16 “(ii) located outside of the exclusive
17 economic zone but managed by the United
18 States;

19 “(B) with respect to each such fishery—

20 “(i) the types of fishing gear author-
21 ized for use in such fishery;

22 “(ii) the jurisdiction (whether State,
23 Federal, interstate, or otherwise) exer-
24 cising management authority over such
25 fishery;

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

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

6 (3) in paragraph (2), by striking “those” and
7 all that follows through the end of the paragraph
8 and inserting “those already listed as to constitute
9 a new fishery or gear type”;

10 (4) by redesignating paragraph (6) as para-
11 graph (9); and

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

14 “(3) Not later than 18 months after the date
15 of enactment of the _____ Act, and at least once
16 every 5 years thereafter, each Council (or the Sec-
17 retary for fisheries to which section 302(a)(3) ap-
18 plies) shall review the fisheries and gear on the list
19 that are under its authority and submit to the Sec-
20 retary proposed changes to such list in specific and
21 narrow terms, including geographic range, to ensure
22 that only active fisheries and gear are included on
23 the list. The Secretary shall review proposed changes
24 pursuant to the guidelines established under para-
25 graph (2) and publish a revised list, after notice and

1 an opportunity for public comment, upon receiving
2 proposed changes from a Council (or from the Sec-
3 retary for fisheries to which section 302(a)(3) ap-
4 plies).

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

8 “(A) the experimental fishing permit is de-
9 signed and implemented so as to yield informa-
10 tion necessary and currently lacking for the
11 analysis required under paragraph (6);

12 “(B) the Council collects, evaluates, and
13 makes public the data generated by the experi-
14 mental fishing activity at the end of each per-
15 mit year, and based on such evaluation, renders
16 a determination of whether the fishery or fish-
17 ing gear should be continued, either in the form
18 of a subsequent year of experimental fishing
19 under this paragraph, or in the form of a pro-
20 posal under paragraph (5) for a new fishery or
21 fishing gear to be added to the list; and

22 “(C) the data collected from, and the
23 Council’s evaluation of, the experimental fishing
24 activity are included in any proposal under
25 paragraph (5) for a new fishery or fishing gear

1 that may result from the experimental fishing
2 permit.

3 “(5) The Secretary may authorize a new fishery
4 or fishing gear that is not included on the list, upon
5 receiving a proposal for a new fishery or fishing gear
6 from a Council, if—

7 “(A) the Secretary determines that a suffi-
8 cient analysis supporting the proposal, as speci-
9 fied in paragraph (7), has been conducted by
10 the Council;

11 “(B) the Secretary determines that the
12 new fishery or fishing gear, as specified in the
13 proposal and the accompanying fishery manage-
14 ment plan or amendment and regulations under
15 subparagraph (C), is consistent with conserva-
16 tion and management requirements in this Act
17 and other applicable laws; and

18 “(C) the Council has prepared and sub-
19 mitted for Secretarial approval pursuant to sec-
20 tion 304, concurrently with the proposal for a
21 new fishery or fishing gear, a fishery manage-
22 ment plan for the new fishery or fishing gear or
23 an amendment to an existing fishery manage-
24 ment plan, including proposed regulations to
25 implement the plan or amendment, in accord-

1 ance with section 303. If the new fishery or
2 fishing gear will include one or more stocks of
3 fish that also substantially exist in the geo-
4 graphical area of authority of another Council,
5 the fishery management plan or amendment,
6 and implementing regulations, shall be prepared
7 pursuant to section 304(f).

8 “(6) The Secretary shall publish in the Federal
9 Register, after notice and an opportunity for public
10 comment, all authorizations for new fisheries or fish-
11 ing gear, including revisions to the list of fisheries
12 and gear as appropriate, and shall make public all
13 supporting documentation and analysis. The Sec-
14 retary also shall publish in the Federal Register,
15 after notice and an opportunity for public comment,
16 all decisions to not authorize the development of a
17 new fishery or fishing gear under this paragraph, in-
18 cluding the reasons for the decision.

19 “(7)(A) A Council shall analyze, for purposes of
20 paragraph (4)(A)—

21 “(i) the potential impacts of a new fishery
22 or fishing gear on the proposed target stock,
23 stocks of fish, or stock complexes as well as on
24 other stocks of fish and species, and the marine
25 ecosystem;

1 “(ii) the potential impacts of a new fishery
2 or fishing gear on existing fisheries and fishing
3 communities, both within the Council’s jurisdic-
4 tion and, if relevant, in neighboring jurisdic-
5 tions;

6 “(iii) different potential management strat-
7 egies for the new fishery or fishing gear, includ-
8 ing identifying any significant differences across
9 management strategies with respect to the po-
10 tential impacts described in clauses (i) and (ii);

11 “(iv) whether the proposed target stock,
12 stocks of fish, or stock complexes occur in any
13 neighboring jurisdictions, and if so, whether it
14 or they are managed by those jurisdictions; and

15 “(v) whether the proposed fishing activity
16 should be managed under an existing fishery
17 management plan, or a new plan.

18 “(B) The Secretary shall issue guidance for suf-
19 ficient analysis of these topics, to be used in making
20 determinations under paragraph (5)(A).

21 “(8) No person or vessel may employ fishing
22 gear or engage in a fishery not included on the list,
23 except as provided in paragraph (4). A Council may
24 request the Secretary to promulgate emergency reg-
25 ulations under subsection (c) to prohibit any persons

1 or vessels from using an unlisted fishing gear or en-
2 gaging in an unlisted fishery.”.

3 **TITLE II—SUPPORTING FISHING**
4 **COMMUNITIES**

5 **SEC. 201. FISHERY RESOURCE DISASTER RELIEF.**

6 (a) IN GENERAL.—Section 312(a) (16 U.S.C.
7 1861a(a)) is amended to read as follows:

8 “(a) FISHERY RESOURCE DISASTER RELIEF.—

9 “(1) DEFINITIONS.—In this subsection:

10 “(A) ALLOWABLE CAUSE.—The term ‘al-
11 lowable cause’ means a natural cause, discrete
12 anthropogenic cause, or undetermined cause.

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

16 “(i) that could not have been ad-
17 dressed or prevented by fishery manage-
18 ment measures; and

19 “(ii) that is otherwise beyond the con-
20 trol of fishery managers to mitigate
21 through conservation and management
22 measures, including regulatory restrictions
23 imposed as a result of judicial action or to
24 protect human health or marine animals,
25 plants, or habitats.

1 “(C) FISHERY RESOURCE DISASTER.—The
2 term ‘fishery resource disaster’ means a dis-
3 aster that is determined by the Secretary in ac-
4 cordance with this subsection and—

5 “(i) is an unexpected large decrease in
6 fish stock biomass or other change that re-
7 sults in significant loss of access to the
8 fishery resource, which may include loss of
9 fishing vessels and gear for a substantial
10 period of time and results in significant
11 revenue or subsistence loss due to an al-
12 lowable cause; and

13 “(ii) does not include—

14 “(I) reasonably predictable, fore-
15 seeable, and recurrent fishery cyclical
16 variations in species distribution or
17 stock abundance; or

18 “(II) reductions in fishing oppor-
19 tunities resulting from conservation
20 and management measures taken pur-
21 suant to this Act.

22 “(D) INDIAN TRIBE.—The term ‘Indian
23 Tribe’ has the meaning given such term in sec-
24 tion 102 of the Federally Recognized Indian
25 Tribe List Act of 1994 (25 U.S.C. 5130), and

1 the term ‘Tribal’ means of or pertaining to such
2 an Indian Tribe.

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

5 “(i) means a weather, climatic, haz-
6 ard, or biology-related event, such as—

7 “(I) a hurricane;

8 “(II) a flood;

9 “(III) a harmful algal bloom;

10 “(IV) a tsunami;

11 “(V) a hypoxic zone;

12 “(VI) ocean acidification;

13 “(VII) a drought;

14 “(VIII) El Niño effects on water
15 temperature;

16 “(IX) a marine heat wave; or

17 “(X) disease; and

18 “(ii) does not mean a normal or cycli-
19 cal variation in a species distribution or
20 stock abundance.

21 “(F) 12-MONTH REVENUE LOSS.—The
22 term ‘12-month revenue loss’ means the per-
23 centage reduction, as applicable, in commercial,
24 charter, headboat, or processor revenue for the
25 12 months during which the fishery resource

1 disaster occurred, if compared to average an-
2 nual revenue in the most recent 5-years during
3 which no fishery resource disaster occurred or
4 equivalent for stocks with cyclical life histories.

5 “(G) UNDETERMINED CAUSE.—The term
6 ‘undetermined cause’ means a cause in which
7 the current state of knowledge does not allow
8 the Secretary to identify the exact cause, and
9 there is no current conclusive evidence sup-
10 porting a possible cause of the fishery resource
11 disaster.

12 “(2) GENERAL AUTHORITY.—

13 “(A) IN GENERAL.—The Secretary shall
14 have the authority to determine the existence,
15 extent, and beginning and end dates of a fish-
16 ery resource disaster under this subsection in
17 accordance with this subsection.

18 “(B) AVAILABILITY OF FUNDS.—After the
19 Secretary determines that a fishery resource
20 disaster has occurred, the Secretary is author-
21 ized to make sums available, from funds appro-
22 priated for such purposes, to be used by the af-
23 fected State, Tribal government, or interstate
24 marine fisheries commission, or by the Sec-
25 retary in cooperation with the affected State,

1 Tribal government, or interstate marine fish-
2 eries commission.

3 “(C) SAVINGS CLAUSE.—The requirements
4 under this subsection shall take effect only with
5 respect to requests for a fishery resource dis-
6 aster determination submitted after the date of
7 enactment of the Sustaining America’s Fish-
8 eries for the Future Act of 2021.

9 “(3) INITIATION OF A FISHERY RESOURCE DIS-
10 ASTER REVIEW.—

11 “(A) ELIGIBLE REQUESTERS.—Not later
12 than 1 year after the date of the conclusion of
13 the fishing season, a request for a fishery re-
14 source disaster determination may be submitted
15 to the Secretary, if the Secretary has not inde-
16 pendently determined that a fishery resource
17 disaster has occurred, by—

18 “(i) the Governor of an affected State;

19 “(ii) an official Tribal resolution; or

20 “(iii) any other comparable elected or
21 politically appointed representative as de-
22 termined by the Secretary.

23 “(B) REQUIRED INFORMATION.—A com-
24 plete request for a fishery resource disaster de-

1 termination under subparagraph (A) shall in-
2 clude—

3 “(i) identification of all presumed af-
4 fected fish stocks;

5 “(ii) identification of the fishery as
6 Federal, non-Federal, or both;

7 “(iii) the geographic boundaries of the
8 fishery;

9 “(iv) preliminary information on
10 causes of the fishery resource disaster, if
11 known; and

12 “(v) information needed to support a
13 finding of a fishery resource disaster, in-
14 cluding—

15 “(I) information demonstrating
16 the occurrence of an unexpected large
17 decrease in fish stock biomass or
18 other change that results in signifi-
19 cant loss of access to the fishery re-
20 source, which could include the loss of
21 fishing vessels and gear, for a sub-
22 stantial period of time;

23 “(II) 12-month revenue loss or
24 subsistence loss for the affected fish-
25 ery, or if a fishery resource disaster

1 has occurred at any time in the pre-
2 vious 5-year period, the most recent
3 5-year period during which no fishery
4 resource disaster occurred;

5 “(III) if applicable, information
6 on lost resource tax revenues assessed
7 by local communities, such as a raw
8 fish tax or a local sourcing require-
9 ment; and

10 “(IV) if applicable and available,
11 information on 12-month revenue loss
12 for charter, headboat, or processors
13 related to the information provided
14 under subclause (I), subject to section
15 402(b).

16 “(C) ASSISTANCE.—The Secretary may
17 provide data and analysis assistance to an eligi-
18 ble requester described in paragraph (1), if—

19 “(i) the assistance is so requested;

20 “(ii) the Secretary is in possession of
21 the required information described in sub-
22 paragraph (B); and

23 “(iii) the data is not available to the
24 requester, in carrying out the complete re-
25 quest under subparagraph (B).

1 “(D) INITIATION OF REVIEW.—The Sec-
2 retary shall have the discretion to initiate a
3 fishery resource disaster review without a re-
4 quest.

5 “(4) REVIEW PROCESS.—

6 “(A) INTERIM RESPONSE.—Not later than
7 20 days after receipt of a request under para-
8 graph (3), the Secretary shall provide an in-
9 terim response to the individual that—

10 “(i) acknowledges receipt of the re-
11 quest;

12 “(ii) provides a regional contact with-
13 in the National Oceanographic and Atmos-
14 pheric Administration;

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

17 “(iv) requests additional information
18 concerning the fishery resource disaster, if
19 the original request is considered incom-
20 plete.

21 “(B) EVALUATION OF REQUESTS.—

22 “(i) IN GENERAL.—Based on the in-
23 formation provided or analyzed under
24 paragraph (4), the Secretary shall com-
25 plete a review, within the time frame de-

1 scribed in clause (ii), using the best sci-
2 entific information available, in consulta-
3 tion with the affected fishing communities,
4 States, or Tribes, of—

5 “(I) the information provided by
6 the requester and any additional in-
7 formation relevant to the fishery,
8 which may include—

9 “(aa) fishery characteristics;

10 “(bb) stock assessments;

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

16 “(dd) estimates of mortality;

17 and

18 “(ee) overall effects; and

19 “(II) the available economic in-
20 formation, which may include an anal-
21 ysis of—

22 “(aa) landings data;

23 “(bb) revenue;

24 “(cc) the number of partici-
25 pants involved;

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

4 “(AA) fishers;

5 “(BB) charter fishing
6 operators;

7 “(CC) subsistence
8 users;

9 “(DD) United States
10 fish processors; and

11 “(EE) an owner of a
12 related fishery infrastructure
13 or business affected by the
14 disaster, such as a marina
15 operator, recreational fishing
16 equipment retailer, or char-
17 ter, headboat, or tender ves-
18 sel owner, operator, or crew;

19 “(ee) an impacted Indian
20 Tribe;

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

1 “(gg) the length of time the
2 resource, or access to the re-
3 source, has been restricted;

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

7 “(ii) lost resource tax reve-
8 nues assessed by local commu-
9 nities, such as a raw fish tax;
10 and

11 “(jj) other appropriate indi-
12 cators to an affected fishery, as
13 determined by the National Ma-
14 rine Fisheries Service.

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

19 “(I) has concluded or there is no
20 defined fishing season applicable to
21 the fishery, not later than 120 days
22 after the Secretary receives a com-
23 plete request for a fishery resource
24 disaster determination;

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

4 “(III) is expected to be closed for
5 the entire fishing season, not later
6 than 120 days after the Secretary re-
7 ceives a complete request for a fishery
8 resource disaster determination.

9 “(C) FISHERY RESOURCE DISASTER DE-
10 TERMINATION.—The Secretary shall make the
11 determination of a fishery resource disaster
12 based on the criteria for determinations listed
13 in paragraph (5).

14 “(D) NOTIFICATION.—Not later than 14
15 days after the conclusion of the review under
16 this paragraph, the Secretary shall notify the
17 requester and the Governor of the affected
18 State or Tribal representative of the determina-
19 tion of the Secretary.

20 “(5) CRITERIA FOR DETERMINATIONS.—

21 “(A) IN GENERAL.—The Secretary shall
22 make a determination about whether a fishery
23 resource disaster has occurred, based on the
24 revenue loss thresholds under subparagraph
25 (B), and, if a fishery resource disaster has oc-

1 curred, whether the fishery resource disaster
2 was due to—

3 “(i) a natural cause;

4 “(ii) an anthropogenic cause;

5 “(iii) a combination of a natural cause
6 and an anthropogenic cause; or

7 “(iv) an undetermined cause.

8 “(B) REVENUE LOSS THRESHOLDS.—

9 “(i) IN GENERAL.—Based on the in-
10 formation provided or analyzed under
11 paragraph (4)(B), the Secretary shall
12 apply the following 12-month revenue loss
13 thresholds in determining whether a fish-
14 ery resource disaster has occurred:

15 “(I) Losses greater than 80 per-
16 cent shall result in a positive deter-
17 mination that a fishery resource dis-
18 aster has occurred.

19 “(II) Losses between 35 percent
20 and 80 percent shall be evaluated to
21 determine whether economic impacts
22 are severe enough to declare that a
23 fishery resource disaster has occurred,
24 based on the information provided or
25 analyzed under paragraph (4)(B).

1 “(III) Losses less than 35 per-
2 cent shall not be eligible for a deter-
3 mination that a fishery resource dis-
4 aster has occurred, except in a case in
5 which the Secretary determines there
6 are extenuating circumstances that
7 justify using a lower threshold in
8 making the determination.

9 “(ii) CHARTER FISHING.—In making
10 a determination of whether a fishery re-
11 source disaster has occurred, the Secretary
12 shall consider the economic impacts to the
13 charter fishing industry to ensure financial
14 coverage for charter fishing businesses.

15 “(iii) SUBSISTENCE LOSS.—In consid-
16 ering subsistence loss, the Secretary shall
17 evaluate the severity of loss to the fishing
18 community instead of applying the revenue
19 loss thresholds described in clause (i).

20 “(C) INELIGIBLE FISHERIES.—A fishery
21 subject to overfishing in any of the 3 years pre-
22 ceding the date of a determination under this
23 subsection is not eligible for a determination of
24 whether a fishery resource disaster has occurred
25 unless the Secretary determines that overfishing

1 was not a contributing factor to the fishery re-
2 source disaster.

3 “(D) EXCEPTIONAL CIRCUMSTANCES.—In
4 an exceptional circumstance in which substan-
5 tial economic impacts to the affected fishery
6 and fishing community have been subject to a
7 disaster declaration under another statutory au-
8 thority, such as in the case of a natural disaster
9 or from the direct consequences of a Federal
10 action taken to prevent, or in response to, a
11 natural disaster for purposes of protecting life
12 and safety, the Secretary may determine a fish-
13 ery resource disaster has occurred without a re-
14 quest.

15 “(6) DISBURSAL OF APPROPRIATED FUNDS.—

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

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

21 “(i) NOTIFICATION OF FUNDING
22 AVAILABILITY.—If there are appropriated
23 funds for 1 or more fishery resource disas-
24 ters, the Secretary shall notify—

25 “(I) the public; and

1 “(II) representatives of affected
2 fishing communities with a positive
3 disaster determination that is un-
4 funded,
5 of the availability of funds, not more than
6 14 days after the date of the appropriation
7 or the determination of a fishery resource
8 disaster, whichever occurs later.

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

13 “(C) CONSIDERATIONS.—In determining
14 the allocation of appropriations for a fishery re-
15 source disaster, the Secretary shall consider
16 commercial, charter, headboat, or seafood proc-
17 essing revenue losses and may consider the fol-
18 lowing factors:

19 “(i) Direct economic impacts.

20 “(ii) Uninsured losses.

21 “(iii) Losses of subsistence and Tribal
22 ceremonial fishing opportunity.

23 “(iv) Losses of recreational fishing op-
24 portunity.

1 “(v) Aquaculture operations revenue
2 loss.

3 “(vi) Direct revenue losses to a fishing
4 community.

5 “(vii) Treaty obligations.

6 “(viii) Other economic impacts.

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

15 “(i) Objectives and outcomes, with an
16 emphasis on addressing the factors con-
17 tributing to the fishery resource disaster
18 and minimizing future uninsured losses, if
19 applicable.

20 “(ii) Statement of work.

21 “(iii) Budget details.

22 “(E) REGIONAL CONTACT.—If so re-
23 quested, the Secretary shall provide a regional
24 contact within the National Oceanic and Atmos-

1 pheric Administration to facilitate review of
2 spend plans and disbursement of funds.

3 “(F) DISBURSAL OF FUNDS.—

4 “(i) AVAILABILITY.—Funds shall be
5 made available to grantees not later than
6 90 days after the date the Secretary re-
7 ceives a complete spend plan.

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

13 “(iii) ELIGIBLE USES.—

14 “(I) IN GENERAL.—Funds allo-
15 cated for fishery resources disasters
16 under this subsection shall restore the
17 fishery affected by such a disaster,
18 prevent a similar disaster in the fu-
19 ture, or assist the affected fishing
20 community, and shall prioritize the
21 following uses, which are not in order
22 of priority:

23 “(aa) Habitat conservation
24 and restoration and other activi-
25 ties, including scientific research,

1 that reduce adverse effects on the
2 fishery or improve understanding
3 of the affected species or its eco-
4 system.

5 “(bb) The collection of fish-
6 ery information and other activi-
7 ties that improve management of
8 the affected fishery.

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

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

21 “(ee) Direct assistance to a
22 person, fishing community (in-
23 cluding assistance for lost fish-
24 eries resource levies), or a busi-
25 ness to alleviate economic loss in-

1 curred as a direct result of a
2 fishery resource disaster, particu-
3 larly if affected by a cir-
4 cumstance described in para-
5 graph (5)(D).

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

10 “(II) DISPLACED FISHERY EM-
11 PLOYEES.—If appropriate, individuals
12 carrying out the activities described in
13 items (aa) through (ff) of subclause
14 (I) shall be individuals who are, or
15 were, employed in a commercial, char-
16 ter, or Tribal fishery for which the
17 Secretary has determined that a fish-
18 ery resource disaster has occurred.

19 “(7) LIMITATIONS.—

20 “(A) FEDERAL SHARE.—

21 “(i) IN GENERAL.—Except as pro-
22 vided in clauses (ii) and (iii), the Federal
23 share of the cost of any activity carried out
24 under the authority of this subsection shall

1 not exceed 75 percent of the cost of that
2 activity.

3 “(ii) WAIVER.—The Secretary may
4 waive the non-Federal share requirements
5 of this subsection, if the Secretary deter-
6 mines that—

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

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

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

18 “(I) direct assistance as de-
19 scribed in paragraph
20 (6)(F)(iii)(I)(hh); or

21 “(II) assistance to subsistence or
22 Tribal fisheries.

23 “(B) LIMITATIONS ON ADMINISTRATIVE
24 EXPENSES.—

1 “(i) FEDERAL.—Not more than 3 per-
2 cent of the funds available under this sub-
3 section may be used for administrative ex-
4 penses by the National Oceanographic and
5 Atmospheric Administration.

6 “(ii) STATE OR TRIBAL GOVERN-
7 MENTS.—Of the funds remaining after the
8 use described in clause (i), not more than
9 5 percent may be used by States, Tribal
10 governments, or interstate marine fisheries
11 commissions for administrative expenses.

12 “(C) FISHING CAPACITY REDUCTION PRO-
13 GRAM.—

14 “(i) IN GENERAL.—No funds available
15 under this subsection may be used as part
16 of a fishing capacity reduction program in
17 a fishery unless the Secretary determines
18 that adequate conservation and manage-
19 ment measures are in place in such fishery.

20 “(ii) ASSISTANCE CONDITIONS.—As a
21 condition of providing assistance under
22 this subsection with respect to a vessel
23 under a fishing capacity reduction pro-
24 gram, the Secretary shall—

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

4 “(II) require that the vessel be—

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

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

12 “(cc) used for another non-
13 fishing purpose provided the Sec-
14 retary determines that adequate
15 measures are in place to ensure
16 that the vessel cannot reenter
17 any fishery anywhere in the
18 world.

19 “(D) NO FISHERY ENDORSEMENT.—

20 “(i) IN GENERAL.—A vessel that is
21 prohibited from fishing under subpara-
22 graph (C)(ii)(I) shall not be eligible for a
23 fishery endorsement under section
24 12113(a) of title 46, United States Code.

1 “(ii) NONREFLECTIVE.—A fishery en-
2 dorsement for a vessel described in clause
3 (i) shall not be effective.

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

7 “(8) PUBLIC INFORMATION ON DATA COLLEC-
8 TION.—The Secretary shall make available and up-
9 date as appropriate, information on data collection
10 and submission best practices for the information
11 described in paragraph (4)(B).”.

12 (b) MAGNUSON-STEVENS FISHERY CONSERVATION
13 AND MANAGEMENT ACT.—

14 (1) REPEAL.—Section 315 (16 U.S.C. 1864) is
15 repealed.

16 (2) REPORT.—Section 113(b)(2) of the Magnu-
17 son-Stevens Fishery Conservation and Management
18 Reauthorization Act of 2006 (16 U.S.C. 460ss note)
19 is amended—

20 (A) in the paragraph heading, by striking
21 “ANNUAL REPORT” and inserting “REPORT”;

22 (B) in the matter preceding subparagraph
23 (A), by striking “Not later than 2 years after
24 the date of enactment of this Act, and annually
25 thereafter” and inserting “Not later than 2

1 years after the date of enactment of the Sus-
2 taining America’s Fisheries for the Future Act
3 of 2021, and biennially thereafter”; and

4 (C) in subparagraph (D), by striking “the
5 calendar year 2003” and inserting “the most
6 recent”.

7 (c) INTERJURISDICTIONAL FISHERIES ACT OF
8 1986.—

9 (1) REPEAL.—Section 308 of the Interjurisdic-
10 tional Fisheries Act of 1986 (16. U.S.C. 4107) is re-
11 pealed.

12 (2) TECHNICAL EDIT.—Section 3(k)(1) of the
13 Small Business Act (15 U.S.C. 632(k)(1)) is amend-
14 ed by striking “(as determined by the Secretary of
15 Commerce under section 308(b) of the Interjurisdic-
16 tional Fisheries Act of 1986)” and inserting “(as de-
17 termined by the Secretary of Commerce under the
18 Sustaining America’s Fisheries for the Future Act
19 of 2021)”.

20 (d) BUDGET REQUESTS; REPORTS.—

21 (1) BUDGET REQUEST.—In the budget jus-
22 tification materials submitted to Congress in support
23 of the budget of the Department of Commerce for
24 each fiscal year (as submitted with the budget of the
25 President under section 1105(a) of title 31, United

1 States Code), the Secretary of Commerce shall in-
2 clude a separate statement of the amount requested
3 to be appropriated for that fiscal year for out-
4 standing unfunded fishery resource disasters.

5 (2) DRIFTNET ACT AMENDMENTS OF 1990 RE-
6 PORT AND BYCATCH REDUCTION AGREEMENTS.—

7 (A) IN GENERAL.—The Magnuson-Stevens
8 Fishery Conservation and Management Act (16
9 U.S.C. 1801 et seq.) is amended—

10 (i) in section 202(h), by striking para-
11 graph (3); and

12 (ii) in section 206—

13 (I) by striking subsections (e)
14 and (f); and

15 (II) by redesignating subsections
16 (g) and (h) as subsections (e) and (f),
17 respectively.

18 (B) BIENNIAL REPORT ON INTERNATIONAL
19 COMPLIANCE.—Section 607 of the High Seas
20 Driftnet Fishing Moratorium Protection Act
21 (16 U.S.C. 1826h) is amended—

22 (i) by inserting “(a) IN GENERAL.—”
23 before “The Secretary” and indenting ap-
24 propriately; and

1 (ii) by adding at the end the fol-
2 lowing:

3 “(b) ADDITIONAL INFORMATION.—In addition to the
4 information described in paragraphs (1) through (5) of
5 subsection (a), the report shall include—

6 “(1) a description of the actions taken to carry
7 out the provisions of section 206 of the Magnuson-
8 Stevens Fishery Conservation and Management Act
9 (16 U.S.C. 1826), including—

10 “(A) an evaluation of the progress of those
11 efforts, the impacts on living marine resources,
12 including available observer data, and specific
13 plans for further action;

14 “(B) a list and description of any new fish-
15 eries developed by nations that conduct, or au-
16 thorize their nationals to conduct, large-scale
17 driftnet fishing beyond the exclusive economic
18 zone of any nation; and

19 “(C) a list of the nations that conduct, or
20 authorize their nationals to conduct, large-scale
21 driftnet fishing beyond the exclusive economic
22 zone of any nation in a manner that diminishes
23 the effectiveness of or is inconsistent with any
24 international agreement governing large-scale

1 driftnet fishing to which the United States is a
2 party or otherwise subscribes; and

3 “(2) a description of the actions taken to carry
4 out the provisions of section 202(h) of the Magnu-
5 son-Stevens Fishery Conservation and Management
6 Act (16 U.S.C. 1822(h)).

7 “(c) CERTIFICATION.—If, at any time, the Secretary,
8 in consultation with the Secretary of State and the Sec-
9 retary of the department in which the Coast Guard is op-
10 erating, identifies any nation that warrants inclusion in
11 the list described under subsection (b)(1)(C), due to large
12 scale drift net fishing, the Secretary shall certify that fact
13 to the President. Such certification shall be deemed to be
14 a certification for the purposes of section 8(a) of the Fish-
15 ermen’s Protective Act of 1967 (22 U.S.C. 1978(a)).”.

16 **SEC. 202. SUBSISTENCE FISHING.**

17 (a) PURPOSES.—Section 2(b)(3) (16 U.S.C.
18 1801(b)(3)) is amended by inserting “, subsistence,” after
19 “commercial”.

20 (b) DEFINITION OF SUBSISTENCE FISHING.—Section
21 3 is amended—

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

1 (2) by inserting after paragraph (42) the fol-
2 lowing:

3 “(42A)(A) SUBSISTENCE FISHING.—The term
4 ‘subsistence fishing’ means fishing in which the fish
5 harvested are intended for customary and traditional
6 uses, including—

7 “(i) for direct personal or family con-
8 sumption as food or clothing;

9 “(ii) for the making or selling of
10 handicraft articles out of nonedible byprod-
11 ucts taken for personal or family consump-
12 tion, for barter, or sharing for personal or
13 family consumption; and

14 “(iii) for customary trade.

15 “(B) In this paragraph—

16 “(i) the term ‘family’ means all persons re-
17 lated by blood, marriage, or adoption, or any
18 person living within the household on a perma-
19 nent basis; and

20 “(ii) the term ‘barter’ means the exchange
21 of a fish or fish part—

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

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

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

2 (a) IN GENERAL.—The Coastal Zone Management
3 Act of 1972 (16 U.S.C. 1451 et seq.) is amended by add-
4 ing at the end the following:

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

6 “(a) WORKING WATERFRONT TASK FORCE.—

7 “(1) ESTABLISHMENT AND FUNCTIONS.—The
8 Secretary of Commerce shall establish a task force
9 to work directly with coastal States, user groups,
10 and coastal stakeholders to identify and address crit-
11 ical needs with respect to working waterfronts.

12 “(2) MEMBERSHIP.—The members of the task
13 force shall be appointed by the Secretary of Com-
14 merce, and shall include—

15 “(A) experts in the unique economic, so-
16 cial, cultural, ecological, geographic, and re-
17 source concerns of working waterfronts; and

18 “(B) representatives from the National
19 Oceanic and Atmospheric Administration’s Of-
20 fice of Coastal Management, the United States
21 Fish and Wildlife Service, the Department of
22 Agriculture, the Environmental Protection
23 Agency, the United States Geological Survey,
24 the Navy, the National Marine Fisheries Serv-
25 ice, the Economic Development Agency, and

1 such other Federal agencies as the Secretary
2 considers appropriate.

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

4 “(A) identify and prioritize critical needs
5 with respect to working waterfronts in States
6 that have a management program approved by
7 the Secretary of Commerce pursuant to section
8 306, in the areas of—

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

11 “(ii) changing environments and
12 threats working waterfronts face from en-
13 vironment changes, trade barriers, sea level
14 rise, extreme weather events, ocean acidifi-
15 cation, and harmful algal blooms; and

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

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

22 “(C) identify Federal agencies that are re-
23 sponsible under existing law for addressing such
24 critical needs; and

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

4 “(4) INFORMATION TO BE CONSIDERED.—In
5 identifying and prioritizing policy gaps pursuant to
6 paragraph (3), the task force shall consider the find-
7 ings and recommendations contained in section VI of
8 the report entitled ‘The Sustainable Working Water-
9 fronts Toolkit: Final Report’, dated March 2013.

10 “(5) REPORT.—Not later than 18 months after
11 the date of the enactment of this section, the task
12 force shall submit a report to Congress on its find-
13 ings.

14 “(6) IMPLEMENTATION.—The head of each
15 Federal agency identified in the report pursuant to
16 paragraph (3)(C) shall take such action as is nec-
17 essary to implement the recommendations contained
18 in the report by not later than 1 year after the date
19 of the issuance of the report.

20 “(b) WORKING WATERFRONT GRANT PROGRAM.—

21 “(1) The Secretary shall establish a Working
22 Waterfront Grant Program, in cooperation with ap-
23 propriate State, regional, and other units of govern-
24 ment, under which the Secretary may make a grant
25 to any coastal State for the purpose of implementing

1 a working waterfront plan approved by the Secretary
2 under subsection (c).

3 “(2) Subject to the availability of appropria-
4 tions, the Secretary shall award matching grants
5 under the Working Waterfronts Grant Program to
6 coastal States with approved working waterfront
7 plans through a regionally equitable, competitive
8 funding process in accordance with the following:

9 “(A) The Governor, or the lead agency
10 designated by the Governor for coordinating the
11 implementation of this section, where appro-
12 priate in consultation with the appropriate local
13 government, shall determine that the applica-
14 tion is consistent with the State’s or territory’s
15 approved coastal zone plan, program, and poli-
16 cies prior to submission to the Secretary.

17 “(B) In developing guidelines under this
18 section, the Secretary shall consult with coastal
19 States, other Federal agencies, and other inter-
20 ested stakeholders with expertise in working
21 waterfront planning.

22 “(C) Coastal States may allocate grants to
23 local governments, Indian Tribes, agencies, or
24 nongovernmental organizations eligible for as-
25 sistance under this section.

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

3 “(A) the economic, cultural, and historical
4 significance of working waterfront to the coast-
5 al State;

6 “(B) the demonstrated working waterfront
7 needs of the coastal State as outlined by a
8 working waterfront plan approved for the coast-
9 al State under subsection (c), and the value of
10 the proposed project for the implementation of
11 such plan;

12 “(C) the ability to successfully leverage
13 funds among participating entities, including
14 Federal programs, regional organizations, State
15 and other government units, landowners, cor-
16 porations, or private organizations;

17 “(D) the potential for rapid turnover in
18 the ownership of working waterfront in the
19 coastal State, and where applicable the need for
20 coastal States to respond quickly when prop-
21 erties in existing or potential working water-
22 front areas or public access areas as identified
23 in the working waterfront plan submitted by
24 the coastal State come under threat or become
25 available; and

1 “(E) the impact of the working waterfront
2 plan approved for the coastal State under sub-
3 section (c) on the coastal ecosystem and the
4 users of the coastal ecosystem.

5 “(4) The Secretary shall approve or reject an
6 application for such a grant within 60 days after re-
7 ceiving an application for the grant.

8 “(c) WORKING WATERFRONT PLANS.—

9 “(1) To be eligible for a grant under subsection
10 (b), a coastal State must submit and have approved
11 by the Secretary a comprehensive working water-
12 front plan in accordance with this subsection, or be
13 in the process of developing such a plan and have an
14 established working waterfront program at the State
15 or local level, or the Secretary determines that an
16 existing coastal land use plan for that State is in ac-
17 cordance with this subsection.

18 “(2) Such plan—

19 “(A) must provide for preservation and ex-
20 pansion of access to coastal waters to persons
21 engaged in commercial fishing, recreational
22 fishing and boating businesses, aquaculture,
23 boatbuilding, or other water-dependent, coastal-
24 related business;

25 “(B) shall include one or more of—

1 “(i) an assessment of the economic,
2 social, cultural, and historic value of work-
3 ing waterfront to the coastal State;

4 “(ii) a description of relevant State
5 and local laws and regulations affecting
6 working waterfront in the geographic areas
7 identified in the working waterfront plan;

8 “(iii) identification of geographic
9 areas where working waterfronts are cur-
10 rently under threat of conversion to uses
11 incompatible with commercial and rec-
12 reational fishing, recreational fishing and
13 boating businesses, aquaculture, boatbuild-
14 ing, or other water-dependent, coastal-re-
15 lated business, and the level of that threat;

16 “(iv) identification of geographic areas
17 with a historic connection to working wa-
18 terfronts where working waterfronts are
19 not currently available, and, where appro-
20 priate, an assessment of the environmental
21 impacts of any expansion or new develop-
22 ment of working waterfronts on the coastal
23 ecosystem;

24 “(v) identification of other working
25 waterfront needs including improvements

1 to existing working waterfronts and work-
2 ing waterfront areas;

3 “(vi) a strategic and prioritized plan
4 for the preservation, expansion, and im-
5 provement of working waterfronts in the
6 coastal State;

7 “(vii) for areas identified under
8 clauses (iii), (iv), (v), and (vi), identifica-
9 tion of current availability and potential
10 for expansion of public access to coastal
11 waters;

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

15 “(ix) a contingency plan for properties
16 that revert to the coastal State pursuant to
17 determinations made by the coastal State
18 under subsection (g)(4)(C);

19 “(C) may include detailed environmental
20 impacts on working waterfronts, including haz-
21 ards, sea level rise, inundation exposure, and
22 other resiliency issues;

23 “(D) may be part of the management pro-
24 gram approved under section 306;

1 “(E) shall utilize to the maximum extent
2 practicable existing information contained in
3 relevant surveys, plans, or other strategies to
4 fulfill the information requirements under this
5 paragraph; and

6 “(F) shall incorporate the policies and reg-
7 ulations adopted by communities under local
8 working waterfront plans or strategies in exist-
9 ence before the date of the enactment of this
10 section.

11 “(3) A working waterfront plan—

12 “(A) shall be effective for purposes of this
13 section for the 5-year period beginning on the
14 date it is approved by the Secretary;

15 “(B) must be updated and re-approved by
16 the Secretary before the end of such period; and

17 “(C) shall be complimentary to and incor-
18 porate the policies and objectives of regional or
19 local working waterfront plans as in effect be-
20 fore the date of enactment of this section or as
21 subsequently revised.

22 “(4) The Secretary may—

23 “(A) award planning grants to coastal
24 States for the purpose of developing or revising
25 comprehensive working waterfront plans; and

1 “(B) award grants consistent with the pur-
2 poses of this section to States undertaking the
3 working waterfront planning process under this
4 section, for the purpose of preserving and pro-
5 tecting working waterfronts during such pro-
6 cess.

7 “(5) Any coastal State applying for a working
8 waterfront grant under this title shall—

9 “(A) develop a working waterfront plan,
10 using a process that involves the public and
11 those with an interest in the coastal zone;

12 “(B) coordinate development and imple-
13 mentation of such a plan with other coastal
14 management programs, regulations, and activi-
15 ties of the coastal State; and

16 “(C) if the coastal State allows qualified
17 holders (other than the coastal State) to enter
18 into working waterfront covenants, provide as
19 part of the working waterfront plan under this
20 subsection a mechanism or procedure to ensure
21 that the qualified holders are complying their
22 duties to enforce the working waterfront cov-
23 enant.

24 “(d) USES, TERMS, AND CONDITIONS.—

1 “(1) Each grant made by the Secretary under
2 this section shall be subject to such terms and condi-
3 tions as may be appropriate to ensure that the grant
4 is used for purposes consistent with this section.

5 “(2) A grant under this section may be used—

6 “(A) to acquire a working waterfront, or
7 an interest in a working waterfront;

8 “(B) to make improvements to a working
9 waterfront, including the construction or repair
10 of wharfs, boat ramps, or related facilities; or

11 “(C) for necessary climate adaptation miti-
12 gation.

13 “(e) PUBLIC ACCESS REQUIREMENT.—A working
14 waterfront project funded by grants made under this sec-
15 tion must provide for expansion, improvement, or preser-
16 vation of reasonable and appropriate public access to
17 coastal waters at or in the vicinity of a working water-
18 front, except for commercial fishing or other industrial ac-
19 cess points where the coastal State determines that public
20 access would be unsafe.

21 “(f) LIMITATIONS.—

22 “(1) Except as provided in paragraph (2), a
23 grant awarded under this section may be used to
24 purchase working waterfront or an interest in work-

1 ing waterfront, including an easement, only from a
2 willing seller and at fair market value.

3 “(2) A grant awarded under this section may
4 be used to acquire working waterfront or an interest
5 in working waterfront at less than fair market value
6 only if the owner certifies to the Secretary that the
7 sale is being entered into willingly and without coer-
8 cion.

9 “(3) No Federal, State, or local entity may ex-
10 ercise the power of eminent domain to secure title to
11 any property or facilities in connection with a
12 project carried out under this section.

13 “(g) ALLOCATION OF GRANTS TO LOCAL GOVERN-
14 MENTS AND OTHER ENTITIES.—

15 “(1) The Secretary shall encourage coastal
16 States to broadly allocate amounts received as
17 grants under this section among working water-
18 fronts identified in working waterfront plans ap-
19 proved under subsection (c).

20 “(2) Subject to the approval of the Secretary,
21 a coastal State may, as part of an approved working
22 waterfront plan, designate as a qualified holder any
23 unit of State or local government or nongovern-
24 mental organization, if the coastal State is ulti-
25 mately responsible for ensuring that the property

1 will be managed in a manner that is consistent with
2 the purposes for which the land entered into the pro-
3 gram.

4 “(3) A coastal State or a qualified holder des-
5 ignated by a coastal State may allocate to a unit of
6 local government, nongovernmental organization,
7 fishing cooperative, or other entity, a portion of any
8 grant made under this section for the purpose of
9 carrying out this section, except that such an alloca-
10 tion shall not relieve the coastal State of the respon-
11 sibility for ensuring that any funds so allocated are
12 applied in furtherance of the coastal State’s ap-
13 proved working waterfront plan.

14 “(4) A qualified holder may hold title to or in-
15 terest in property acquired under this section, except
16 that—

17 “(A) all persons holding title to or interest
18 in working waterfront affected by a grant under
19 this section, including a qualified holder, private
20 citizen, private business, nonprofit organization,
21 fishing cooperative, or other entity, shall enter
22 into a working waterfront covenant;

23 “(B) such covenant shall be held by the
24 coastal State or a qualified holder designated
25 under paragraph (2);

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

5 “(i) all right, title, and interest in and
6 to the working waterfront covered by such
7 covenant shall, except as provided in sub-
8 paragraph (D), revert to the coastal State;
9 and

10 “(ii) the coastal State shall have the
11 right of immediate entry onto the working
12 waterfront;

13 “(D) if a coastal State makes a determina-
14 tion under subparagraph (C), the coastal State
15 may convey or authorize the qualified holder to
16 convey the working waterfront or interest in
17 working waterfront to another qualified holder;
18 and

19 “(E) nothing in this subsection waives any
20 legal requirement under any Federal or State
21 law.

22 “(h) MATCHING CONTRIBUTIONS.—

23 “(1) Except as provided in paragraph (2), the
24 Secretary shall require that each coastal State that
25 receives a grant under this section, or a qualified

1 holder designated by that coastal State under sub-
2 section (g), shall provide matching funds in an
3 amount equal to at least 25 percent of the total cost
4 of the project carried out with the grant.

5 “(2) The Secretary may waive the application
6 of paragraph (1) for any qualified holder that is an
7 underserved community, a community that has an
8 inability to draw on other sources of funding because
9 of the small population or low income of the commu-
10 nity, or for other reasons the Secretary considers ap-
11 propriate.

12 “(3) A local community designated as a quali-
13 fied holder under subsection (g) may utilize funds or
14 other in-kind contributions donated by a nongovern-
15 mental partner to satisfy the matching funds re-
16 quirement under this subsection.

17 “(4) As a condition of receipt of a grant under
18 this section, the Secretary shall require that a coast-
19 al State provide to the Secretary such assurances as
20 the Secretary determines are sufficient to dem-
21 onstrate that the share of the cost of each eligible
22 project that is not funded by the grant awarded
23 under this section has been secured.

24 “(5) If financial assistance under this section
25 represents only a portion of the total cost of a

1 project, funding from other Federal sources may be
2 applied to the cost of the project. Each portion shall
3 be subject to match requirements under the applica-
4 ble provision of law.

5 “(6) The Secretary shall treat as non-Federal
6 match the value of a working waterfront or interest
7 in a working waterfront, including conservation and
8 other easements, that is held in perpetuity by a
9 qualified holder, if the working waterfront or inter-
10 est is identified in the application for the grant and
11 acquired by the qualified holder within 3 years of
12 the grant award date, or within 3 years after the
13 submission of the application and before the end of
14 the grant award period. Such value shall be deter-
15 mined by an appraisal performed at such time before
16 the award of the grant as the Secretary considers
17 appropriate.

18 “(7) The Secretary shall treat as non-Federal
19 match the costs associated with acquisition of a
20 working waterfront or an interest in a working wa-
21 terfront, and the costs of restoration, enhancement,
22 or other improvement to a working waterfront, if the
23 activities are identified in the project application and
24 the costs are incurred within the period of the grant
25 award, or, for working waterfront described in para-

1 graph (6), within the same time limits described in
2 that paragraph. These costs may include either cash
3 or in-kind contributions.

4 “(i) LIMIT ON ADMINISTRATIVE COSTS.—No more
5 than 5 percent of the funds made available to the Sec-
6 retary under this section may be used by the Secretary
7 for planning or administration of the program under this
8 section.

9 “(j) OTHER TECHNICAL AND FINANCIAL ASSIST-
10 ANCE.—

11 “(1) Up to 5 percent of the funds appropriated
12 under this section may be used by the Secretary for
13 purposes of providing technical assistance as de-
14 scribed in this subsection.

15 “(2) The Secretary shall—

16 “(A) provide technical assistance to coastal
17 States and local governments in identifying and
18 obtaining other sources of available Federal
19 technical and financial assistance for the devel-
20 opment and revision of a working waterfront
21 plan and the implementation of an approved
22 working waterfront plan;

23 “(B) provide technical assistance to States
24 and local governments for the development, im-
25 plementation, and revision of comprehensive

1 working waterfront plans, which may include,
2 subject to the availability of appropriations,
3 planning grants and assistance, pilot projects,
4 feasibility studies, research, and other projects
5 necessary to further the purposes of this sec-
6 tion;

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

9 “(D) collect and disseminate to States
10 guidance for best storm water management
11 practices in regards to working waterfronts;

12 “(E) provide technical assistance to States
13 and local governments on integrating resilience
14 planning into working waterfront preservation
15 efforts; and

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

18 “(k) REPORTS.—

19 “(1) The Secretary shall—

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

24 “(B) submit to Congress a biennial report
25 that includes such evaluations, an account of all

1 expenditures, and descriptions of all projects
2 carried out using grants awarded under this
3 section.

4 “(2) The Secretary may submit the biennial re-
5 port under paragraph (1)(B) by including it in the
6 biennial report required under section 316.

7 “(1) DEFINITIONS.—In this section:

8 “(1) The term ‘qualified holder’ means a coast-
9 al State or a unit of local or coastal State govern-
10 ment or a non-State organization designated by a
11 coastal State under subsection (g).

12 “(2) The term ‘Secretary’ means the Secretary,
13 acting through the National Oceanic and Atmos-
14 pheric Administration.

15 “(3) The term ‘working waterfront’ means real
16 property (including support structures over water
17 and other facilities) that provides access to coastal
18 waters to persons engaged in commercial and rec-
19 reational fishing, recreational fishing and boating
20 businesses, boatbuilding, aquaculture, or other
21 water-dependent, coastal-related business and is
22 used for, or that supports, commercial and rec-
23 reational fishing, recreational fishing and boating
24 businesses, boatbuilding, aquaculture, or other
25 water-dependent, coastal-related business.

1 “(4) The term ‘working waterfront covenant’
2 means an agreement in recordable form between the
3 owner of working waterfront and one or more quali-
4 fied holders, that provides such assurances as the
5 Secretary may require that—

6 “(A) the title to or interest in the working
7 waterfront will be held by a grant recipient or
8 qualified holder in perpetuity, except as pro-
9 vided in subparagraph (C);

10 “(B) the working waterfront will be man-
11 aged in a manner that is consistent with the
12 purposes for which the property is acquired
13 pursuant to this section, and the property will
14 not be converted to any use that is inconsistent
15 with the purpose of this section;

16 “(C) if the title to or interest in the work-
17 ing waterfront is sold or otherwise exchanged—

18 “(i) all working waterfront owners
19 and qualified holders involved in such sale
20 or exchange shall accede to such agree-
21 ment; and

22 “(ii) funds equal to the fair market
23 value of the working waterfront or interest
24 in working waterfront shall be paid to the
25 Secretary by parties to the sale or ex-

1 change, and such funds shall, at the dis-
2 cretion of the Secretary, be paid to the
3 coastal State in which the working water-
4 front is located for use in the implementa-
5 tion of the working waterfront plan of the
6 State approved by the Secretary under this
7 section; and

8 “(D) such covenant is subject to enforce-
9 ment and oversight by the coastal State or by
10 another person as determined appropriate by
11 the Secretary.

12 “(m) AUTHORIZATION OF APPROPRIATIONS.—There
13 is authorized to be appropriated to the Grant Program
14 \$15,000,000.”.

15 (b) WORKING WATERFRONTS PRESERVATION LOAN
16 FUND.—The Coastal Zone Management Act of 1972 (16
17 U.S.C. 1451 et seq.) is further amended by adding at the
18 end the following:

19 **“SEC. 321. WORKING WATERFRONTS PRESERVATION LOAN**
20 **FUND.**

21 “(a) FUND.—There is established in the Treasury a
22 separate account that shall be known as the ‘Working Wa-
23 terfronts Preservation Loan Fund’ (in this section re-
24 ferred to as the ‘Fund’).

25 “(b) USE.—

1 “(1) Subject to the availability of appropria-
2 tions, amounts in the Fund may be used by the Sec-
3 retary to make loans to coastal States for the pur-
4 pose of implementing a working waterfront plan ap-
5 proved by the Secretary under section 320(c)
6 through preservation, improvement, restoration, re-
7 habilitation, acquisition of working waterfront prop-
8 erties under criteria established by the Secretary.

9 “(2) Upon enactment of this section, the Sec-
10 retary of Commerce shall conduct a feasibility study
11 on the administration of the development and man-
12 agement of a Working Waterfronts Preservation
13 Loan Fund.

14 “(3) Upon the completion of the study under
15 paragraph (2), the Secretary shall establish a fund
16 in accordance with the results of that study, and es-
17 tablish such criteria as referenced in subsection (c)
18 in consultation with States that have a management
19 program approved by the Secretary of Commerce
20 pursuant to section 306 and local government coast-
21 al management programs.

22 “(c) AWARD CRITERIA.—The Secretary shall award
23 loans under this section through a regionally equitable,
24 competitive funding process, and in accordance with the
25 following:

1 “(1) The Governor, or the lead agency des-
2 ignated by the Governor for coordinating the imple-
3 mentation of this section, where appropriate in con-
4 sultation with the appropriate local government,
5 shall determine that an application for a loan is con-
6 sistent with the State’s approved coastal zone plan,
7 program, and policies prior to submission to the Sec-
8 retary.

9 “(2) In developing guidelines under this section,
10 the Secretary shall consult with coastal States, other
11 Federal agencies, and other interested stakeholders
12 with expertise in working waterfront planning.

13 “(3) Coastal States may allocate amounts
14 loaned under this section to local governments, In-
15 dian Tribes, agencies, or nongovernmental organiza-
16 tions eligible for loans under this section.

17 “(4) In awarding a loan for activities in a
18 coastal State, the Secretary shall consider—

19 “(A) the economic and cultural significance
20 of working waterfront to the coastal State;

21 “(B) the demonstrated working waterfront
22 needs of the coastal State as outlined by a
23 working waterfront plan approved for the coast-
24 al State under section 320(c), and the value of

1 the proposed loan for the implementation of
2 such plan;

3 “(C) the ability to successfully leverage
4 loan funds among participating entities, includ-
5 ing Federal programs, regional organizations,
6 State and other government units, landowners,
7 corporations, or private organizations;

8 “(D) the potential for rapid turnover in
9 the ownership of working waterfront in the
10 coastal State, and where applicable the need for
11 coastal States to respond quickly when prop-
12 erties in existing or potential working water-
13 front areas or public access areas as identified
14 in the working waterfront plan submitted by
15 the coastal State come under threat or become
16 available;

17 “(E) the impact of the loan on the coastal
18 ecosystem and the users of the coastal eco-
19 system; and

20 “(F) the extent of the historic connection
21 between working waterfronts for which the loan
22 will be used and the local communities within
23 the coastal State.

24 “(d) LOAN AMOUNT AND TERMS.—

25 “(1) The amount of a loan under this section—

1 “(A) shall be not less than \$100,000; and

2 “(B) shall not exceed 15 percent of the
3 amount in the Fund as of July 1 of the fiscal
4 year in which the loan is made.

5 “(2) The interest rate for a loan under this sec-
6 tion shall not exceed 4 percent.

7 “(3) The repayment term for a loan under this
8 section shall not exceed 20 years.

9 “(e) DEADLINE FOR APPROVAL.—The Secretary
10 shall approve or reject an application for a loan under this
11 section within 60 days after receiving an application for
12 the loan.

13 “(f) LIMIT ON ADMINISTRATIVE COSTS.—No more
14 than 5 percent of the funds made available to the Sec-
15 retary under this section may be used by the Secretary
16 for planning or administration of the program under this
17 section.

18 “(g) DEFINITIONS.—The definitions in section 320(l)
19 shall apply to this section.

20 “(h) AUTHORIZATION OF APPROPRIATIONS.—There
21 is authorized to be appropriated to the Fund
22 \$15,000,000.”.

23 **SEC. 204. SEAFOOD MARKETING.**

24 (a) OUTREACH PLAN.—The Secretary of Agriculture,
25 in conjunction with the Administrator, shall develop an

1 outreach plan to expand Department of Agriculture out-
2 reach to fishing industry stakeholders to increase aware-
3 ness of and assist with the use of programs in the Agricul-
4 tural Marketing Service.

5 (b) STUDY.—The Administrator shall, in consultation
6 with the Secretary of Agriculture and members of the sea-
7 food industry, study the possibility of establishing edu-
8 cation and marketing programs within the National Oee-
9 anic and Atmospheric Administration.

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

12 (1) the Secretary of Agriculture, in conjunction
13 with the Administrator, shall submit a report to
14 Congress on the outreach plan developed under sub-
15 section (a); and

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

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

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

22 (1) in paragraph (1)—

23 (A) in subparagraph (C)(iii), by inserting
24 “, including the participation of fishing commu-
25 nities in the fishery” after “benefits”; and

1 (B) by adding at the end the following:

2 “(L) consider the needs of fishing commu-
3 nities and provide a process for fishing commu-
4 nities to participate in the limited access privi-
5 lege program in accordance with subsection
6 (c)(3).”; and

7 (2) by amending paragraph (3) to read as fol-
8 lows:

9 “(3) FISHING COMMUNITIES.—

10 “(A) ELIGIBILITY.—To be eligible to par-
11 ticipate in a limited access privilege program to
12 harvest fish, a fishing community shall—

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

15 “(ii) consist of residents who conduct
16 commercial or recreational fishing, proc-
17 essing, or fishery-dependent support busi-
18 nesses within the Council’s management
19 area; and

20 “(iii) develop and submit a community
21 sustainability plan to the Council and the
22 Secretary that demonstrates how the plan
23 will address the social and economic devel-
24 opment needs of coastal communities, in-
25 cluding those that have not historically had

1 the resources to participate in the fishery,
2 for approval.

3 “(B) COMMUNITY SUSTAINABILITY PLAN
4 APPROVAL.—

5 “(i) IN GENERAL.—A community sus-
6 tainability plan submitted by a fishing
7 community to a Council for approval shall
8 include the following components:

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

12 “(II) A description of the quota
13 allocation process that will be used by
14 the fishing community entity, includ-
15 ing an appeals process within the enti-
16 ty.

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

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

24 “(V) A description of how the en-
25 tity will sustain the participation of

1 the fishing community in the fisheries,
2 including providing for new entry and
3 intergenerational transfer, encour-
4 aging active participation and ad-
5 dressing economic barriers to access
6 to the fisheries.

7 “(VI) A description of how the
8 community sustainability plan will ad-
9 dress the projected economic and so-
10 cial impacts associated with the imple-
11 mentation of the limited access pro-
12 gram, including the potential for
13 strengthening economic conditions in
14 remote fishing communities lacking
15 the resources to participate in har-
16 vesting activities in the fishery.

17 “(VII) A description of how the
18 community sustainability plan will en-
19 sure the benefits of participating in
20 the limited access privilege program
21 accrue to the fishing community and
22 participants.

23 “(ii) PREVIOUSLY ADOPTED PLAN.—A
24 community sustainability plan submitted
25 before the date of enactment of the Sus-

1 taining America’s Fisheries for the Future
2 Act of 2021 shall not be invalidated by
3 failure to comply with clause (i) unless
4 such plan is amended after such date.”.

5 **SEC. 206. FINDINGS.**

6 Section 2(a)(3) (16 U.S.C. 1802(a)(3)) is amended
7 to read as follows:

8 “(3) Commercial and recreational fishing (in-
9 cluding charter fishing) constitutes a major source
10 of employment and contributes significantly to the
11 economy of the Nation. Many coastal areas are de-
12 pendent upon fishing and related activities, and their
13 economies have been badly damaged by the over-
14 fishing of fishery resources; ensuring sustainable use
15 of fishery resources is essential to the economic well-
16 being of these areas.”.

17 **TITLE III—STRENGTHENING**
18 **PUBLIC PROCESS AND**
19 **TRANSPARENCY**

20 **SEC. 301. TRIBAL REPRESENTATION AT THE PACIFIC FISH-**
21 **ERY MANAGEMENT COUNCIL.**

22 (a) IN GENERAL.—Section 302(b)(5) (16 U.S.C.
23 1852(b)(5)) is amended—

24 (1) in subparagraph (A), by striking “of not
25 less than 3 individuals”; and

1 (2) by adding at the end the following:

2 “(E) TERM OF TRIBAL REPRESENTA-
3 TIVE.—An individual appointed under subpara-
4 graph (A) shall serve on the Pacific Council
5 until such time as a new appointment to the
6 tribal seat is made under subparagraph (A).”.

7 (b) CONFORMING AMENDMENT.—Section 302(b)(3)
8 is amended by striking “paragraphs (2) and (5)” and in-
9 serting “paragraph (2)”.

10 **SEC. 302. TRIBAL REPRESENTATION AT THE NORTH PA-
11 CIFIC FISHERY MANAGEMENT COUNCIL.**

12 (a) IN GENERAL.—Section 302(a)(1)(G) (16 U.S.C.
13 1852(a)(1)(G)) is amended—

14 (1) by striking “11” and inserting “13”; and

15 (2) by inserting “and including 2 appointed
16 from Indian tribes in Alaska selected in accordance
17 with subsection (b)(7)” before the period at the end.

18 (b) APPOINTMENT.—Section 302(b) (16 U.S.C.
19 1852(b)) is amended by adding at the end the following:

20 “(7) TRIBAL REPRESENTATIVE ON NORTH PA-
21 CIFIC COUNCIL.—

22 “(A) APPOINTMENT.—The Secretary shall
23 appoint to the North Pacific Council 2 rep-
24 resentatives of Indian tribes in Alaska from a
25 list submitted by Tribal governments. The Sec-

1 retary, in consultation with the Secretary of In-
2 terior and Tribal governments shall determine
3 the procedure for submitting a list under this
4 subparagraph.

5 “(B) REPRESENTATION.—Representation
6 shall be rotated among affected tribal regions,
7 taking into consideration—

8 “(i) the qualifications of the individ-
9 uals on the list described in subparagraph
10 (A);

11 “(ii) the degree to which the Indian
12 tribes in the region are dependent on anad-
13 romous fish and marine resources in the
14 area managed by the Council and the im-
15 pact of Council actions on such resources;
16 and

17 “(iii) the geographic area in which the
18 tribe of the representative is located.

19 “(C) FILLING OF VACANCY.—A vacancy
20 occurring prior to the expiration of any term
21 shall be filled in the same manner as set out in
22 subparagraphs (A) and (B), except that the
23 Secretary may use the list from which the
24 vacating representative was chosen.

1 “(D) DESIGNATION OF ALTERNATE.—The
2 tribal representative appointed under subpara-
3 graph (A) may designate as an alternate an in-
4 dividual knowledgeable concerning tribal rights
5 and fishing practices, Indigenous traditional
6 knowledge, tribal law, and other marine re-
7 sources of the geographical area concerned.

8 “(E) TERM OF APPOINTMENT.—An indi-
9 vidual appointed under subparagraph (A) shall
10 serve on the North Pacific Council until such
11 time as new appointment to the tribal seat is
12 made under subparagraph (A).”.

13 **SEC. 303. ATLANTIC COUNCILS.**

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

15 (1) in paragraph (1)—

16 (A) in subparagraph (A)—

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

19 (ii) by inserting before the period at
20 the end “and a liaison who is a member of
21 the Mid-Atlantic Fishery Management
22 Council to represent the interests of fish-
23 eries under the jurisdiction of such Coun-
24 cil”; and

25 (B) in subparagraph (B)—

1 (i) by striking “21” and inserting
2 “22”; and

3 (ii) by inserting before the period at
4 the end “and a liaison who is a member of
5 the New England Fishery Management
6 Council to represent the interests of fish-
7 eries under the jurisdiction of such Coun-
8 cil”; and

9 (2) by adding at the end the following:

10 “(4) REQUIREMENTS FOR LIAISON.—The Sec-
11 retary may only appoint an individual to be a liaison
12 between 2 Councils under this subsection if such in-
13 dividual has expertise in a fishery that spans the
14 geographical areas of both such Councils.”.

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

16 (a) IN GENERAL.—Section 302(e) (16 U.S.C.
17 1852(e)) is amended—

18 (1) in paragraph (5), by striking “At the re-
19 quest of any voting member of a Council, the Coun-
20 cil shall hold a roll call vote on any matter before
21 the Council.” and inserting “Each Council shall hold
22 a roll call vote on all nonprocedural matters before
23 the Council. At the request of any voting member of
24 a Council, the Council shall hold a roll call vote on
25 any procedural matter before the Council.”; and

1 (2) by adding at the end the following:

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

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

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

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

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

11 “(i) to the extent practicable, a
12 webcast or a live audio or video broadcast
13 of each meeting of the Council, and of the
14 Council Coordination Committee estab-
15 lished under subsection (l), that is not
16 closed in accordance with paragraph (3);
17 and

18 “(ii) an audio or video recording (if
19 the meeting was in person or by video con-
20 ference), or a searchable audio recording
21 or written transcript, of each meeting of
22 the Council and of the meetings of commit-
23 tees referred to in section 302(g)(1)(B) of
24 the Council, by not later than 30 days
25 after the conclusion of the meeting.

1 “(H) The Secretary shall maintain and
2 make available to the public an archive of
3 Council and scientific and statistical committee
4 meeting audio and video recordings and tran-
5 scripts made available under clauses (i) and (ii)
6 of subparagraph (G).”.

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

8 (a) ETHICS.—Section 302(f) (16 U.S.C. 1852(f)) is
9 amended—

10 (1) in paragraph (1), by inserting “Such em-
11 ployees, including executive directors, shall be
12 deemed Federal employees with respect to any re-
13 quirement that applies to Federal employees.” after
14 “functions.”; and

15 (2) by adding at the end the following:

16 “(8) Council, committee, and advisory panel
17 members shall be subject to all law, rules, and poli-
18 cies regarding ethics and sexual harassment and as-
19 sault that apply to Federal employees. Council, com-
20 mittee, and advisory panel members found to have
21 violated such laws, rules, or policies shall be held in-
22 dividually liable for their actions. The Secretary may
23 impose civil penalties for violations including suspen-
24 sion or expulsion from participation or membership

1 in a council, advisory body, or related entity or activ-
2 ity.”.

3 (b) DISCLOSURE OF FINANCIAL INTEREST AND
4 RECUSAL.—Section 302(j) (16 U.S.C. 1852(j)) is amend-
5 ed—

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

8 “(B) the term ‘designated official’ means an at-
9 torney employed in the Office of the General Counsel
10 of the National Oceanic and Atmospheric Adminis-
11 tration with an expertise in Federal conflict-of-inter-
12 est requirements who is designated by the Secretary,
13 in consultation with the Council, to attend Council
14 meetings and make determinations under paragraph
15 (7)(B).”;

16 (2) in paragraph (2)(C), by inserting “con-
17 tractor,” after “partner,”; and

18 (3) in paragraph (5)(B), by striking “on the
19 Internet” and inserting “on the website of the agen-
20 cy, on the website of the applicable Council,”.

21 (c) LOBBYING.—Section 302 is amended by adding
22 at the end the following:

23 “(m) LOBBYING.—

24 “(1) PROHIBITION ON COUNCIL LOBBYING.—
25 Regional Fishery Management Council members,

1 members of Council advisory bodies, and Council
2 employees and contractors, are prohibited from
3 using Federal funds to attempt to influence the in-
4 troduction, advancement, enactment, amendment, or
5 repeal of Federal or State legislation, as well as the
6 issuance, advancement, modification, or overturning
7 of an executive order, Presidential proclamation, or
8 similar Presidential directive or decree. Notwith-
9 standing the foregoing, such individuals may provide
10 a technical and factual presentation directly related
11 to the performance of a Council's duties, through
12 hearing testimony or written statements, if such
13 presentation is in response to a documented request
14 and is made available under paragraph (4).

15 “(2) ADJUDICATING VIOLATIONS.—

16 “(A) INITIATION BY SECRETARY.—The
17 Secretary may initiate an investigation of a po-
18 tential violation of this subsection.

19 “(B) COMPLAINT.—The Secretary shall in-
20 vestigate a complaint submitted by any person
21 or government entity regarding a potential vio-
22 lation of this subsection.

23 “(3) PENALTIES.—If the Secretary determines
24 that an individual violated paragraph (1), such indi-
25 vidual shall be subject to civil penalties including

1 suspension or expulsion from participation in, mem-
2 bership of, or employment by a council, advisory
3 body, or related entity or activity.

4 “(4) CONTENT OF COMMUNICATIONS.—Councils
5 shall maintain and make publicly available Council
6 websites—

7 “(A) copies of all documents and commu-
8 nication relevant to paragraph (1), including
9 any relevant Council meeting minutes, briefing
10 book materials, and correspondence, including
11 with a office of general counsel of a regional of-
12 fice of the National Oceanic and Atmospheric
13 Administration;

14 “(B) copies of all communication with
15 Federal or State legislators, or any communica-
16 tion with executive branch officials on subjects
17 other than routine fishery management in the
18 region; and

19 “(C) documentation of verbal communica-
20 tion with Federal or State legislators or with
21 Federal executive branch officials on subjects
22 other than routine fishery management in the
23 region.

24 “(5) TRAINING.—The Secretary shall provide
25 training to individuals described in paragraph (1) on

1 compliance with rules issued under this subsection
2 and general limits of Federal grant recipients on
3 contacts with members and staff of the Executive
4 and Legislative branches.

5 “(6) REPORT.—The Secretary shall submit an
6 annual report to the Committee on Natural Re-
7 sources of the House of Representatives and the
8 Committee on Commerce, Science, and Transpor-
9 tation of the Senate that describes—

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

12 “(B) complaints received of and investiga-
13 tions into potential violations of this subsection;
14 and

15 “(C) barriers associated with and pro-
16 posals to improve implementation of this sub-
17 section.

18 “(7) REGULATIONS.—Not later than 12 months
19 after the date of enactment of the Sustaining Amer-
20 ica’s Fisheries for the Future Act of 2021, the Sec-
21 retary shall issue implementing regulations for this
22 subsection.”.

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

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

3 “(A) REQUIRED EXPERTISE.—In making
4 appointments to the Council under this section,
5 the Secretary shall appoint an individual who,
6 by reason of occupational or other experience,
7 scientific expertise, or training, is knowledge-
8 able regarding—

9 “(i) the conservation and manage-
10 ment, or the commercial, recreational, or
11 subsistence harvest, of the fishery re-
12 sources of the geographic area concerned;
13 or

14 “(ii) ecosystem-based fishery manage-
15 ment or climate science.”;

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

18 “(B) APPORTIONMENT.—The Secretary, in
19 making appointments under this section, shall,
20 to the extent practicable, ensure a fair and bal-
21 anced apportionment, on a rotating or other
22 basis, of active participants or representatives
23 of such participants in the commercial, rec-
24 reational, and subsistence fisheries under the
25 jurisdiction of the Council and of members of

1 the conservation community, scientists, non-
2 consumptive users, and indigenous and tribal
3 communities as applicable, and of the active
4 participants (or their representatives) in the
5 commercial, recreational, and subsistence fish-
6 eries under the jurisdiction of the Council. The
7 Secretary shall, on an annual basis, submit to
8 the Committee on Commerce, Science, and
9 Transportation of the Senate and the Com-
10 mittee on Natural Resources of the House of
11 Representatives a report on the actions taken
12 by the Secretary to ensure that such fair and
13 balanced apportionment is achieved. The report
14 shall—

15 “(i) list the fisheries under the juris-
16 diction of each Council, outlining for each
17 fishery the type and quantity of fish har-
18 vested, fishing and processing methods em-
19 ployed, the number of participants, the du-
20 ration and range of the fishery, and other
21 distinguishing characteristics;

22 “(ii) assess the membership of each
23 Council in terms of the apportionment of
24 the active participants in each such fishery
25 and of members of the conservation com-

1 munity, scientists, non-consumptive users,
2 indigenous and tribal communities; and

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

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

11 “(C) APPOINTMENTS.—

12 “(i) LIST FROM GOVERNOR.—

13 “(I) APPOINTMENT FROM
14 LIST.—The Secretary shall appoint
15 the members of each Council from a
16 list of individuals submitted by the
17 Governor of each applicable con-
18 stituent State.

19 “(II) REQUIREMENTS FOR
20 LIST.—in submitting a list for the
21 purposes of subclause (I), a Gov-
22 ernor—

23 “(aa) may only submit the
24 name of an individual if such
25 Governor has determined such in-

1 individual is qualified under the re-
2 quirements of subparagraph (A);
3 and

4 “(bb) shall include the
5 names and pertinent biographical
6 data of not less than 3 individ-
7 uals for each applicable vacancy
8 and shall be accompanied by a
9 statement by the Governor ex-
10 plaining how each such individual
11 meets the requirements of sub-
12 paragraph (A).

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

20 “(IV) RESPONSE TO REVIEW.—If
21 a Governor receives notice under sub-
22 clause (III), the Governor may submit
23 a revised list or resubmit the original
24 list with an additional explanation of

1 the qualifications of the individual in
2 question.

3 “(ii) INDIVIDUALS WHO DO NOT HAVE
4 A FINANCIAL INTEREST.—The Secretary
5 shall appoint to each Council at least 1 in-
6 dividual who does not have a financial in-
7 terest in matters before the Council.

8 “(iii) FINANCIAL DISCLOSURE RE-
9 QUIREMENTS.— An individual is not eligi-
10 ble for appointment by the Secretary until
11 that individual complies with the applicable
12 financial disclosure requirements under
13 subsection (j).”.

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

16 “(F) In appointing at-large members to
17 the Western Pacific Fishery Management Coun-
18 cil, the Secretary shall ensure geographic rep-
19 resentation across all constituent states of the
20 Council.”.

21 (f) JUDICIAL REVIEW.—Section 305(f)(1) is amend-
22 ed by striking “30” and inserting “60”.

23 **SEC. 306. AMENDMENTS TO WESTERN PACIFIC SUSTAIN-**
24 **ABLE FISHERIES FUND.**

25 Section 204(e) is amended—

1 (1) in paragraph (4)—

2 (A) by amending subparagraph (A) to read
3 as follows:

4 “(A) IN GENERAL.—

5 “(i) REQUIREMENT.—Prior to enter-
6 ing into a Pacific Insular Area fishery
7 agreement, the Western Pacific Council
8 and the appropriate Governor shall develop
9 a 3-year marine conservation plan includ-
10 ing detailing uses for funds to be collected
11 by the Secretary pursuant to such agree-
12 ment.

13 “(ii) PROCESS.—Not later than 30
14 days before submitting a marine conserva-
15 tion plan to the Secretary for approval, the
16 Western Pacific Council shall issue a pub-
17 lic notice of intent to submit such plan to
18 the Secretary, including publishing such
19 plan.

20 “(iii) CONTENTS.—The marine con-
21 servation management plan required by
22 clause (i) shall be consistent with any ap-
23 plicable fishery management plan, identify
24 conservation and management objectives
25 (including criteria for determining when

1 such objectives have been met), and
2 prioritize planned marine conservation
3 projects. Conservation and management
4 objectives shall include—

5 “(I) Pacific Insular Area ob-
6 server programs, or other monitoring
7 programs, that the Secretary deter-
8 mines are adequate to monitor the
9 harvest, bycatch, and compliance with
10 the laws of the United States by for-
11 eign fishing vessels that fish under
12 Pacific Insular Area fishing agree-
13 ments;

14 “(II) conduct of marine and fish-
15 eries research, including development
16 of systems for information collection,
17 analysis, evaluation, and reporting;

18 “(III) conservation, education,
19 and enforcement activities related to
20 marine and coastal management, such
21 as living marine resource assessments,
22 habitat monitoring and coastal stud-
23 ies;

24 “(IV) grants to the University of
25 Hawaii for technical assistance

1 projects by the Pacific Island Net-
2 work, such as education and training
3 in the development and implementa-
4 tion of sustainable marine resources
5 development projects, scientific re-
6 search, and conservation strategies;
7 and

8 “(V) western Pacific community-
9 based demonstration projects under
10 section 112(b) of the Sustainable
11 Fisheries Act and other coastal im-
12 provement projects in waters beyond
13 the seaward boundary (as such term
14 is defined in section 4 of the Sub-
15 merged Lands Act) of any State to
16 foster and promote the management,
17 conservation, and economic enhance-
18 ment of the Pacific Insular Areas.

19 “(iv) APPLICABILITY OF RECUSAL RE-
20 QUIREMENTS.—The development of a ma-
21 rine conservation plan under this subpara-
22 graph shall be a Council decision for the
23 purposes of section 302(j).”; and

24 (B) in subparagraph (B), by inserting
25 “Hawaii,” before “American Samoa,”;

1 (2) by amending paragraph (7) to read as fol-
2 lows:

3 “(7) WESTERN PACIFIC SUSTAINABLE FISH-
4 ERIES FUND.—There is established in the United
5 States Treasury a Western Pacific Sustainable Fish-
6 eries Fund into which any payments received by the
7 Secretary under a Pacific Insular Area fishery
8 agreement and any funds or contributions received
9 in support of conservation and management objec-
10 tives under a marine conservation plan for any Pa-
11 cific Insular Area other than American Samoa,
12 Guam, or the Northern Mariana Islands shall be de-
13 posited. The Western Pacific Sustainable Fisheries
14 Fund shall be made available, without appropriation
15 or fiscal year limitation, to the Secretary, who shall
16 provide such funds only—

17 “(A) for the purpose of carrying out the
18 provisions of this subsection, as determined by
19 the Secretary in consultation with the Western
20 Pacific Sustainable Fishery Fund Advisory
21 panel under paragraph (9), including implemen-
22 tation of a marine conservation plan approved
23 under paragraph (4);

24 “(B) to the Secretary of State for mutually
25 agreed upon travel expenses for no more than

1 Federal representatives incurred as a direct
2 result of complying with paragraph (1)(B); and

3 “(C) to meet conservation and manage-
4 ment objectives in the State of Hawaii if funds
5 remain in the Western Pacific Sustainable Fish-
6 eries Fund after the funding requirements of
7 subparagraphs (A) and (B) have been satis-
8 fied.”; and

9 (3) by adding at the end the following:

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

12 “(A) ESTABLISHMENT.—The Secretary
13 shall establish an advisory panel under section
14 302(g) to evaluate and annually rank applica-
15 tions for grants under paragraph (7).

16 “(B) MEMBERSHIP.—The Secretary shall
17 appoint to such advisory panel the following in-
18 dividuals who shall not be members or employ-
19 ees of the Western Pacific Fishery Management
20 Council:

21 “(i) One individual selected by the
22 Governor of Hawaii.

23 “(ii) One individual selected by the
24 Governor of the Northern Mariana Islands.

1 “(iii) One individual selected by the
2 Governor of Guam.

3 “(iv) One individual selected by the by
4 the Governor of American Samoa.

5 “(10) WRITTEN EXPLANATION.—In any case in
6 which the Secretary issues a grant that is incon-
7 sistent with the ranking given by such advisory
8 panel under subparagraph (A), the Secretary shall
9 provide a detailed written explanation of such devi-
10 ation.

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

14 “(12) MINUTES.—The Secretary shall publish
15 minutes of each meeting of such advisory panel.

16 “(13) REPORT.—The Secretary shall, in con-
17 sultation with such advisory panel, submit an annual
18 report to Congress identifying any projects funded in
19 the previous year under this subsection and the sta-
20 tus and progress of projects carried out under this
21 subsection.

22 “(14) EXEMPTION FROM FEDERAL ADVISORY
23 COMMITTEE ACT.—The Federal Advisory Committee
24 Act (5 U.S.C. App) shall not apply to such advisory
25 panel.”.

1 **SEC. 307. NATIONAL OCEANIC AND ATMOSPHERIC ADMIN-**
2 **ISTRATION SEXUAL HARASSMENT AND AS-**
3 **SAULT PREVENTION.**

4 (a) POLICY ON THE PREVENTION OF AND RESPONSE
5 TO SEXUAL HARASSMENT INVOLVING NATIONAL OCE-
6 ANIC AND ATMOSPHERIC ADMINISTRATION PER-
7 SONNEL.—

8 (1) COVERED PERSONNEL.—Section 3541(a) of
9 Public Law 114–328 (33 U.S.C. 894(a)) is amend-
10 ed—

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

13 “(1) IN GENERAL.—Not later”; and

14 (B) by adding at the end the following:

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

19 “(A) Observers and at-sea monitors re-
20 quired by the National Marine Fisheries Service
21 to be aboard commercial fishing vessels and
22 other privately owned vessels, barges, or plat-
23 forms for—

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

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

5 “(iii) platform removal observation.

6 “(B) Voting members and executive and
7 administrative staff of regional fishery manage-
8 ment councils established by section 302 of the
9 Magnuson-Stevens Fishery Conservation and
10 Management Act.”.

11 (2) INCLUSION OF EQUAL EMPLOYMENT IN
12 QUARTERLY REPORTS.—Section 3541(f) of such Act
13 (33 U.S.C. 894(f)) is amended—

14 (A) by inserting “and equal employment”
15 after “sexual harassment” each place it ap-
16 pears; and

17 (B) in paragraph (2)—

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

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

23 “(C) A synopsis of each case and the dis-
24 ciplinary action taken (if any) in each case.”.

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

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

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

7 “(1) IN GENERAL.—Not later”; and

8 (B) by adding at the end the following:

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

13 (2) VICTIM ADVOCATES.—

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

17 “(2) VICTIM ADVOCATES.—For purposes of this
18 subsection, a victim advocate is a full-time perma-
19 nent employee of the Administration trained in and
20 responsible solely for matters relating to sexual as-
21 sault and the comprehensive policy developed under
22 subsection (a).”.

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

1 (c) ANNUAL REPORT ON SEXUAL ASSAULTS, SEX-
2 UAL HARASSMENT, AND EQUAL EMPLOYMENT.—Section
3 3548 of such Act (33 U.S.C. 894e) is amended—

4 (1) by striking the section heading and insert-
5 ing the following: “**ANNUAL REPORT ON SEXUAL**
6 **ASSAULTS, SEXUAL HARASSMENT, AND EQUAL**
7 **EMPLOYMENT IN THE NATIONAL OCEANIC AND**
8 **ATMOSPHERIC ADMINISTRATION.**”;

9 (2) in subsection (a), by inserting “, sexual har-
10 assment, and equal employment” after “sexual as-
11 saults”; and

12 (3) in subsection (b)—

13 (A) in paragraph (4), by inserting “, in-
14 cluding a synopsis of each case and the discipli-
15 nary action taken, if any, in each case” before
16 the period at the end; and

17 (B) by adding at the end the following:

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

23 “(6) A summary of the number of cases re-
24 ferred to the Coast Guard under section 3550.

1 “(7) The number of alleged sexual assaults and
2 sexual harassment cases involving fisheries, pro-
3 tected species, and endangered species observers, in-
4 cluding—

5 “(A) a synopsis of each case and the sta-
6 tus;

7 “(B) the disposition of any investigation;
8 and

9 “(C) a description of the fishery manage-
10 ment region and fishery or the geographic re-
11 gion and type of permitted operation in which
12 the assault or harassment is alleged to have oc-
13 curred, as appropriate.”.

14 (d) INVESTIGATION AND CRIMINAL REFERRAL RE-
15 QUIREMENTS.—

16 (1) TECHNICAL AMENDMENT.—Sections 3548
17 (as amended) and 3549 of such Act (33 U.S.C. 894e
18 and 894f) are redesignated as sections 3551 and
19 3552, respectively.

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

1 **“SEC. 3548. EXCEPTIONS REGARDING ANONYMITY OF SUR-**
2 **VIVORS IN CERTAIN CASES.**

3 “(a) IN GENERAL.—In any case in which an em-
4 ployee, member of the commissioned officer corps, or indi-
5 vidual conducting business on behalf of the administration
6 elects anonymous reporting under section 3541(b)(3)(B)
7 or 3542(b)(5)(B), disclosure of such person’s personally
8 identifying information is authorized to the following per-
9 sons or organizations when disclosure would be for the fol-
10 lowing reasons:

11 “(1) To National Oceanic and Atmospheric Ad-
12 ministration staff or law enforcement personnel,
13 when authorized by the survivor in writing.

14 “(2) To National Oceanic and Atmospheric Ad-
15 ministration staff or law enforcement personnel to
16 prevent or lessen a serious or imminent threat to the
17 health or safety of the survivor or another person.

18 “(3) To a victim advocate or healthcare pro-
19 vider, when required for the provision of victim serv-
20 ices.

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

24 “(b) NOTICE OF DISCLOSURE AND PRIVACY PROTEC-
25 TION.—In any case in which information is disclosed
26 under subsection (a), the Secretary shall—

1 “(1) make reasonable attempts to provide no-
2 tice to the employee, member, or individual whose
3 personally identifying information is disclosed; and

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

7 **“SEC. 3549. RESTRICTED REPORTING.**

8 “(a) IN GENERAL.—Not later than 3 years after the
9 date of enactment of this section, the Secretary of Com-
10 merce, acting through the Under Secretary for Oceans and
11 Atmosphere, shall develop a mechanism to provide a sys-
12 tem of restricted reporting.

13 “(b) RESTRICTED REPORTING DEFINED.—In this
14 section the term ‘restricted reporting’ means a system of
15 reporting that allows employees of the National Oceanic
16 and Atmospheric Administration, members of the Com-
17 missioned Officer Corps of the Administration, and indi-
18 viduals who work with or conduct business on behalf of
19 the Administration who are sexually assaulted to confiden-
20 tially disclose the details of such person’s assault to speci-
21 fied individuals and receive the services outlined in this
22 subtitle title—

23 “(1) without the dissemination of such
24 persons’s personally identifying information except
25 as necessary for the provision of such services; and

1 “(2) without automatically triggering an inves-
2 tigative process.

3 **“SEC. 3550. MARINER REFERRAL.**

4 “The Under Secretary of Commerce for Oceans and
5 Atmosphere, acting through the Director of the Office of
6 Marine and Aviation Operations and in consultation with
7 the Commandant of the Coast Guard, shall, not later than
8 180 days after the date of the enactment of this section,
9 develop and implement a policy to report to the Coast
10 Guard Suspension and Revocation National Center of Ex-
11 pertise, the names of personnel of the National Oceanic
12 and Atmospheric Administration who—

13 “(1) are the subject of a claim of an act or of-
14 fense detrimental to good discipline and safety at
15 sea, such as sexual harassment or sexual assault
16 that is substantiated by an investigation under sec-
17 tion 3546, or any other substantiated claim of an
18 act or offense for which suspension or revocation of
19 a credential is either mandatory or sought pursuant
20 to part 5 of title 46 of the Code of Federal Regula-
21 tions; and

22 “(2) are—

23 “(A) employees or contractors of the Ad-
24 ministration required to hold a valid merchant

1 mariner credential as a condition of employ-
2 ment; or

3 “(B) crew of a vessel that, at the time of
4 such act or offence, was operating under a con-
5 tract with the Administration.”.

6 (e) CONFORMING AND CLERICAL AMENDMENTS.—

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

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

12 (B) in section 3541(b)(2)(B), by striking
13 “victim” and inserting “target of sexual harass-
14 ment”;

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

17 (D) in section 3543—

18 (i) in the heading, by striking “**VIC-**
19 **TIM**” and inserting “**SURVIVOR**”; and

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

22 (E) in section 3544—

23 (i) in subsection (a)—

24 (I) by striking “VICTIMS” and in-
25 serting “SURVIVORS”; and

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

4 (ii) by striking “victim” each place
5 such term appears and inserting “sur-
6 vivor”.

7 (2) CLERICAL AMENDMENT.—Each of the ta-
8 bles of contents in section 2(b) and at the beginning
9 of title XXXV of such Act is amended—

10 (A) by striking the item relating to section
11 3543 and inserting the following:

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

12 and

13 (B) by striking the items relating to sec-
14 tions 3548 and 3549 and inserting the fol-
15 lowing:

“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 Adminis-
tration.

“Sec. 3552. Sexual assault defined.”.

16 (f) PROHIBITED ACTS.—Section 307(1)(L) of the
17 Magnuson-Stevens Fishery Conservation and Manage-
18 ment Act (16 U.S.C. 1857(1)(L)) is amended—

19 (1) by striking “forcibly”; and

20 (2) by striking “on a vessel”.

1 (g) PROHIBITION ON SERVICE IN THE NATIONAL
 2 OCEANIC AND ATMOSPHERIC ADMINISTRATION COMMIS-
 3 SIONED OFFICER CORPS BY INDIVIDUALS CONVICTED OF
 4 CERTAIN SEXUAL OFFENSES.—Section 261(a) of the Na-
 5 tional Oceanic and Atmospheric Administration Commis-
 6 sioned Officer Corps Act of 2002 (33 U.S.C. 3071(a)) is
 7 amended—

8 (1) by redesignating paragraphs (4) through
 9 (16) as paragraphs (5) through (17), respectively;
 10 and

11 (2) by inserting after paragraph (3) the fol-
 12 lowing:

13 “(4) Section 657, relating to prohibition on
 14 service by individuals convicted of certain sexual of-
 15 fenses.”.

16 **SEC. 308. SALTONSTALL-KENNEDY ACT REFORM.**

17 (a) ESTABLISHMENT.—Section 2 of the Act of Au-
 18 gust 11, 1939 (15 U.S.C. 713e-3), is amended—

19 (1) by redesignating subsection (e) as sub-
 20 section (f); and

21 (2) by inserting after subsection (d) the fol-
 22 lowing:

23 “(e) AMERICAN FISHERIES ADVISORY COM-
 24 MITTEE.—

25 “(1) DEFINITIONS.—In this subsection:

1 “(A) COMMITTEE.—The term ‘Committee’
2 means the American Fisheries Advisory Com-
3 mittee established under paragraph (2).

4 “(B) FISHING COMMUNITY.—The term
5 ‘fishing community’ means harvesters, market-
6 ers, growers, processors, recreational fishermen,
7 charter fishermen, and persons providing goods
8 and services to such persons.

9 “(C) MARKETING AND PROMOTION.—The
10 term ‘marketing and promotion’ means an ac-
11 tivity aimed at encouraging the consumption of
12 seafood or expanding or maintaining commer-
13 cial markets for seafood.

14 “(D) PROCESSOR.—The term ‘processor’
15 means any person in the business of preparing
16 or packaging seafood (including seafood of the
17 processor’s own harvesting) for sale.

18 “(E) SEAFOOD.—The term ‘seafood’
19 means farm-raised and wild-caught fish, shell-
20 fish, or marine algae harvested in the United
21 States or by a United States flagged vessel for
22 human consumption.

23 “(2) ESTABLISHMENT.—Not later than 90 days
24 after the date of enactment of the Sustaining Amer-
25 ica’s Fisheries for the Future Act of 2021, the Sec-

1 retary shall establish the American Fisheries Advi-
2 sory Committee. Such Committee shall use the fol-
3 lowing division of regions for organizational pur-
4 poses:

5 “(A) Region 1 shall consist of Alaska, Ha-
6 waii, the Commonwealth of the Northern Mar-
7 iana Islands, and the Territories of Guam and
8 American Samoa.

9 “(B) Region 2 shall consist of Maine, New
10 Hampshire, Massachusetts, Rhode Island, and
11 Connecticut.

12 “(C) Region 3 shall consist of Texas, Ala-
13 bama, Louisiana, Mississippi, Florida, Arkan-
14 sas, Puerto Rico, and the Territory of the Vir-
15 gin Islands of the United States.

16 “(D) Region 4 shall consist of California,
17 Washington, Oregon, and Idaho.

18 “(E) Region 5 shall consist of New Jersey,
19 New York, Delaware, Maryland, Virginia,
20 North Carolina, South Carolina, and Georgia.

21 “(F) Region 6 shall consist of Michigan,
22 Minnesota, Wisconsin, Illinois, Indiana, Ohio,
23 and Pennsylvania.

24 “(3) MEMBERSHIP.—The Committee shall be
25 composed of the following members:

1 “(A) REGIONAL REPRESENTATION.—The
2 Secretary shall appoint 3 members to the Com-
3 mittee from each of the regions described in
4 paragraph (2)—

5 “(i) who reside in a State or territory
6 in the region that the member will rep-
7 resent;

8 “(ii) of which—

9 “(I) one shall have experience as
10 a seafood harvester or processor;

11 “(II) one shall have experience as
12 recreational or commercial fisher or
13 have experience growing seafood; and

14 “(III) one shall be an individual
15 who represents the fisheries science
16 community or the relevant Regional
17 Fishery Management Council; and

18 “(iii) that are selected so that the
19 members of the Committee have experience
20 or expertise with as many seafood species
21 as practicable.

22 “(B) AT-LARGE MEMBERS.—The Secretary
23 shall appoint to the Committee at-large mem-
24 bers as follows:

1 “(i) One individual with experience in
2 food distribution, marketing, retail, or food
3 service.

4 “(ii) One individual with experience in
5 the recreational fishing industry supply
6 chain, such as fishermen, manufacturers,
7 retailers, and distributors.

8 “(iii) One individual with experience
9 in the commercial fishing industry supply
10 chain, such as fishermen, manufacturers,
11 retailers, and distributors.

12 “(iv) One individual who is an em-
13 ployee of the National Marine Fisheries
14 Service with expertise in fisheries research.

15 “(C) BALANCED REPRESENTATION.—In
16 selecting the members described in subpara-
17 graphs (A) and (B), the Secretary shall seek to
18 maximize on the Committee, to the extent prac-
19 ticable, a balanced representation of expertise
20 in United States fisheries, seafood production,
21 and science.

22 “(4) MEMBER TERMS.—The term for a member
23 of the Committee shall be 3 years, except that the
24 Secretary shall designate staggered terms for the
25 members initially appointed to the Committee.

1 “(5) RESPONSIBILITIES.—The Committee shall
2 be responsible for—

3 “(A) identifying needs of the fishing com-
4 munity that may be addressed by a project
5 funded with a grant under subsection (c);

6 “(B) developing the request for proposals
7 for such grants;

8 “(C) reviewing applications for such
9 grants; and

10 “(D) selecting applications for approval
11 under subsection (c)(2)(B).

12 “(6) CHAIR.—The Committee shall elect a chair
13 by a majority of those voting, if a quorum is
14 present.

15 “(7) QUORUM.—A simple majority of members
16 of the Committee shall constitute a quorum, but a
17 lesser number may hold hearings.

18 “(8) MEETINGS.—

19 “(A) FREQUENCY.—The Committee shall
20 meet not more than 2 times each year.

21 “(B) LOCATION.—The meetings of the
22 Committee shall rotate between the geographic
23 regions described under paragraph (2).

24 “(C) MINIMIZING COSTS.—The Committee
25 shall seek to minimize the operational costs as-

1 sociated with meetings, hearings, or other busi-
2 ness of the Committee, including through the
3 use of video or teleconference.

4 “(9) DESIGNATION OF STAFF MEMBER.—The
5 Secretary shall designate a staff member to coordi-
6 nate the activities of the Committee and to assist
7 with administrative and other functions as requested
8 by the Committee.

9 “(10) PER DIEM AND EXPENSES AND FUND-
10 ING.—

11 “(A) IN GENERAL.—A member of the
12 Committee shall serve without compensation,
13 but shall be reimbursed in accordance with sec-
14 tion 5703 of title 5, United States Code, for
15 reasonable travel costs and expenses incurred in
16 performing duties as a member of the Com-
17 mittee.

18 “(B) FUNDING.—The costs of reimburse-
19 ments under subparagraph (A) and the other
20 costs associated with the Committee shall be
21 paid from funds made available to carry out
22 this section (which may include funds described
23 in subsection (f)(1)(B)), except that no funds
24 allocated for grants under subsection (f)(1)(A)

1 shall be expended for any purpose under this
2 subsection.

3 “(11) CONFLICT OF INTEREST.—The conflict of
4 interest and recusal provisions set out in section
5 302(j) of the Magnuson-Stevens Fishery Conserva-
6 tion and Management Act shall apply to any deci-
7 sion by the Committee and to all members of the
8 Committee as if each member of the Committee is
9 an affected individual within the meaning of such
10 section 302(j), except that in addition to the disclo-
11 sure requirements of section 302(j)(2)(C) of such
12 Act, each member of the Committee shall disclose
13 any financial interest or relationship in an organiza-
14 tion or with an individual that is applying for a
15 grant under subsection (c) held by the member of
16 the Committee, including an interest as an officer,
17 director, trustee, partner, employee, contractor,
18 agent, or other representative.

19 “(12) TECHNICAL REVIEW OF APPLICATIONS.—

20 “(A) IN GENERAL.—Prior to review of an
21 application for a grant under subsection (c) by
22 the Committee, the Secretary shall obtain an
23 independent written technical evaluation from 3
24 or more appropriate Federal, private, or public

1 sector experts (such as industry, academia, or
2 governmental experts) who—

3 “(i) have subject matter expertise to
4 determine the technical merit of the pro-
5 posal in the application;

6 “(ii) shall independently evaluate each
7 such proposal; and

8 “(iii) shall certify that the expert does
9 not have a conflict of interest concerning
10 the application that the expert is review-
11 ing.

12 “(B) GUIDANCE.—Not later than 180 days
13 after the date of enactment of the Sustaining
14 America’s Fisheries for the Future Act of 2021,
15 the Secretary shall issue guidance related to
16 carrying out the technical evaluations under
17 subparagraph (A). Such guidance shall include
18 criteria for the elimination by the National Oce-
19 anic and Atmospheric Administration of appli-
20 cations that fail to meet a minimum level of
21 technical merit as determined by the review de-
22 scribed in subparagraph (A).”.

23 (b) ROLE IN APPROVAL OF GRANTS.—Section
24 2(c)(3) of the Act of August 11, 1939 (15 U.S.C. 713c–
25 3(c)(3)), is amended to read as follows:

1 “(3)(A) No application for a grant under this sub-
2 section may be approved unless the Secretary—

3 “(i) is satisfied that the applicant has the req-
4 uisite technical and financial capability to carry out
5 the project; and

6 “(ii) based on the recommendations of the
7 American Fisheries Advisory Committee established
8 in subsection (e), evaluates the proposed project as
9 to—

10 “(I) soundness of design;

11 “(II) the possibilities of securing produc-
12 tive results;

13 “(III) minimization of duplication with
14 other fisheries research and development
15 projects;

16 “(IV) the organization and management of
17 the project;

18 “(V) methods proposed for monitoring and
19 evaluating the success or failure of the project;
20 and

21 “(VI) such other criteria as the Secretary
22 may require.

23 “(B) If the Secretary fails to provide funds to a grant
24 selected by the American Fisheries Advisory Committee,

1 the Secretary shall provide a written document to the
2 Committee justifying the decision.”.

3 (c) PUBLIC AVAILABILITY OF GRANTS PROPOSALS.—
4 Section 2(c) of the Act of August 11, 1939 (15 U.S.C.
5 713c–3(c)), is amended by adding at the end the following:

6 “(6) Any person awarded a grant under this
7 subsection shall make publicly available a title and
8 abstract of the project to be carried out by the grant
9 funds that serves as the public justification for fund-
10 ing the project that includes a statement describing
11 how the project serves to enhance United States
12 fisheries, including harvesting, processing, mar-
13 keting, and associated infrastructures, if applica-
14 ble.”.

15 (d) FUNDING FROM CUSTOMS RECEIPTS ON FISH-
16 ERY PRODUCTS.—Section 2 of the Act of August 11, 1939
17 (15 U.S.C. 713c–3(b)), is amended—

18 (1) by amending subsection (b) to read as fol-
19 lows:

20 “(b) TRANSFER OF FUNDS.—The Secretary of Agri-
21 culture shall transfer to the Secretary each fiscal year,
22 from funds made available to carry out section 32 of the
23 Act of August 24, 1935, an amount equal to 30 percent
24 of the gross receipts from duties collected under the cus-
25 toms laws on fishery products (including fish, shellfish,

1 mollusks, crustaceans, aquatic plants and animals, and
2 any products thereof, including processed and manufac-
3 tured products), which shall be used only for the purposes
4 described in subsection (e).”; and

5 (2) by amending subsection (e)(1) to read as
6 follows:

7 “(1) The Secretary shall make grants from the
8 fund made available under subsection (b) to—

9 “(A) assist persons in carrying out re-
10 search and development projects addressed to
11 any aspect of United States fisheries, including
12 fisheries science, recreational fishing, har-
13 vesting, processing, marketing, and associated
14 infrastructures; or

15 “(B) assist persons to market and promote
16 the consumption of—

17 “(i) local or domestic fishery products;

18 “(ii) environmentally and climate
19 friendly fishery products; or

20 “(iii) well-managed but less known
21 species.”.

1 **TITLE IV—MODERNIZING**
2 **FISHERIES SCIENCE AND DATA**

3 **SEC. 401. DATA MODERNIZATION.**

4 (a) **IN GENERAL.**—Not later than 180 days after the
5 date of enactment of this Act, the Secretary, acting
6 through the Assistant Administrator for Fisheries, shall
7 provide to Congress an implementation plan for the Fish-
8 eries Information Management Modernization initiative.

9 Such plan shall include a description of—

10 (1) activities for the goals and objectives of the
11 initiative;

12 (2) a schedule for implementation;

13 (3) an estimated budget;

14 (4) a plan for stakeholder engagement for de-
15 velopment of user-centric systems, processes, and
16 policies; and

17 (5) how the initiative will align with other Na-
18 tional Oceanic and Atmospheric Administration data
19 management efforts to provide for efficiency and
20 interoperability including such Administration’s
21 Data Strategy, Cloud Strategy, and Artificial Intel-
22 ligence strategy.

23 (b) **ASSISTANCE FROM EXPERTS.**—The Secretary
24 shall seek assistance from data management and tech-

1 nology experts inside and outside the government in car-
2 rying out this section.

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

5 **SEC. 402. EXPANDING AND IMPROVING ELECTRONIC TECH-**
6 **NOLOGIES.**

7 (a) SENSE OF CONGRESS.— It is the sense of Con-
8 gress that the use of electronic technologies such as digital
9 video cameras and monitors, digital recording systems,
10 and other forms of electronic technology as a complement
11 to, and in some cases a replacement for, observers may
12 maintain, increase, or improve the amount and accuracy
13 of observer and fishery dependent information collected
14 from fisheries while reducing costs and logistical difficul-
15 ties. To achieve optimum yields while maintaining sustain-
16 able fisheries and healthy ecosystems, managers require
17 timely, accurate, and comprehensive stock assessment and
18 catch accounting across all regions and fishing sectors. To
19 achieve management goals especially in the context of cli-
20 mate change, the National Oceanic and Atmospheric Ad-
21 ministration should work to meet evolving management
22 needs and, in collaboration with industry stakeholders,
23 identify appropriate data collection technologies and strat-
24 egies. The National Oceanic and Atmospheric Administra-
25 tion should also consider the use of innovative technology

1 in fishery independent data collection including stock and
2 habitat assessments and environmental conditions.

3 (b) FISHERY MANAGEMENT COUNCILS.—Section
4 303(b)(8) is amended to read as follows:

5 “(8) require the collection of data necessary for
6 the conservation and management of the fishery to
7 be collected from a vessel of the United States en-
8 gaged in fishing for species that are subject to the
9 plan while that vessel is at-sea through—

10 “(A) electronic monitoring or other elec-
11 tronic technology; or

12 “(B) on-board observation, except that
13 such a vessel shall not be required to carry an
14 observer on board if the facilities of the vessel
15 for the quartering of an observer, or for car-
16 rying out observer functions, are so inadequate
17 or unsafe that the health or safety of the ob-
18 server or the safe operation of the vessel would
19 be jeopardized;”.

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

22 (1) in paragraph (1), by inserting “The Council
23 shall consider the use of electronic monitoring and
24 reporting or other electronic technology as part of an

1 information collection program under this sub-
2 section.” after “request.”;

3 (2) in paragraph (2), by inserting “The Sec-
4 retary shall consider the use of electronic monitoring
5 and reporting or other electronic technology as part
6 of an information collection program.” after “fish-
7 ery.”; and

8 (3) by adding at the end the following:

9 “(3) SECRETARIAL REVIEW.—Not less often
10 than once every 5 years, the Secretary shall review
11 the procedures and policies by which information is
12 collected, managed, and used to manage fisheries
13 and revise information collection programs and poli-
14 cies needed to integrate data collection and manage-
15 ment, improve the timeliness, quality, usability, cost-
16 effectiveness, and to reduce unnecessary duplication
17 within and across fishery management plans and re-
18 gions. Upon the completion of each such review, the
19 Secretary shall publish a report for the public de-
20 scribing the findings of such review and planned re-
21 visions to information collection programs.”.

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

24 (1) IN GENERAL.—The Comptroller General of
25 the United States shall, in consultation with the rel-

1 evant committees of Congress, conduct a review of
2 the capabilities of the National Marine Fisheries
3 Service with respect to developing, deploying, and
4 using electronic monitoring and data collection tools
5 to monitor fisheries and shall make recommenda-
6 tions to improve such capabilities, taking into con-
7 sideration cost and efficiency.

8 (2) REPORT.—The Comptroller General shall
9 submit to Congress a report describing the results of
10 the review required by paragraph (1) and the rec-
11 ommendations made pursuant to such review not
12 later than 18 months after the date of enactment of
13 this Act.

14 (e) ELECTRONIC TECHNOLOGIES INNOVATION
15 PRIZE.—The Administrator, in consultation with the Sec-
16 retary of Defense and the heads of other relevant Federal
17 agencies, and in conjunction with such nongovernmental
18 partners as the Administrator determines appropriate,
19 shall establish at least 1 electronic technologies innovation
20 prize to catalyze the rapid development and deployment
21 of electronic technology-based data collection to be used
22 in fisheries management. Such prize shall focus on one
23 or more of the following:

24 (1) Improved fish species recognition software.

25 (2) Confidential data management.

1 (3) Cost-effective storage of electronic reports,
2 imagery, location information, and other data.

3 (4) Data analysis and visualization.

4 (5) Artificial intelligence and machine learning
5 applications for data collection and monitoring.

6 (6) Battery storage and energy supply storage
7 at sea.

8 (7) Improved internet connectivity onshore and
9 at sea in support of data uploads.

10 (8) Bycatch hotspot mapping and adaptive use
11 of protected areas.

12 (9) Such other area as the Administrator deter-
13 mines appropriate.

14 (f) ADVISORY PANEL FOR ELECTRONIC TECH-
15 NOLOGIES DEVELOPMENT AND DEPLOYMENT.—

16 (1) ESTABLISHMENT.—The Secretary shall es-
17 tablish an advisory panel (referred to in this sub-
18 section as the “Advisory Panel”) to inform the Ad-
19 ministrators, the Assistant Administrator for Fish-
20 eries, and the Regional Fishery Management Coun-
21 cils on developments in the advancement of elec-
22 tronic technologies that can be used in fisheries
23 monitoring, data collection, and management.

24 (2) APPOINTMENTS.—In appointing individuals
25 to the Advisory Panel, the Secretary shall appoint at

1 least 2 members who are electronic technology devel-
2 opers, operators, or providers.

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

8 (4) RECOMMENDATIONS.—Not later than 1
9 year after the date of enactment of this Act, the Ad-
10 visory Panel shall make a recommendation to the
11 Secretary regarding the potential value of national
12 performance standards for electronic technologies
13 used in fisheries data collection and management.
14 Such recommendation shall include—

15 (A) an assessment of how the National
16 Marine Fisheries Service and electronic tech-
17 nology developers, operators, and providers
18 could benefit from such performance standards;

19 (B) if the Advisory Panel recommends es-
20 tablishing such performance standards, a rec-
21 ommendation for which factors should be in-
22 cluded in such performance standards and how
23 the Secretary should determine the appropriate
24 standards;

1 (C) an assessment of whether such per-
2 formance standards are likely to spur increased
3 use of electronic technologies by the Regional
4 Fishery Management Councils;

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

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

14 (F) recommendations on ensuring cost ef-
15 fectiveness of electronic technologies for fish-
16 eries data collection and management;

17 (G) recommendations to address data stor-
18 age problems of electronic technologies;

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

21 (I) recommendations on policies and proce-
22 dures to develop and implement electronic tech-
23 nologies for fisheries data collection and man-
24 agement.

1 (5) SAVINGS CLAUSE.—Nothing in this sub-
2 section shall preclude any regional council from inde-
3 pendently developing electronic technologies to be
4 used in fisheries data collection and management.

5 **SEC. 403. STOCK ASSESSMENTS.**

6 Not later than 1 year after the date of enactment
7 of this Act, and annually thereafter, the Secretary shall
8 report to the Committee on Natural Resources of the
9 House of Representatives and the Committee on Com-
10 merce, Science, and Transportation of the Senate, on the
11 National Marine Fisheries Service’s progress on
12 prioritizing and improving stock assessments. Such report
13 shall—

14 (1) summarize the methods used for assess-
15 ments for all stocks of fish for which a fishery man-
16 agement plan is in effect under the Magnuson-Ste-
17 vens Fishery Conservation and Management Act (16
18 U.S.C. 1801 et seq.), and explain which stocks have
19 not been assessed, and why;

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

23 (3) identify each stock assessment that was not
24 completed and explain why such stock assessment
25 was not completed;

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

3 (5) identify data and analysis, that, if available,
4 would reduce uncertainty in and improve the accu-
5 racy of future stock assessments, including whether
6 such data and analysis could be provided by fisher-
7 men, fishing communities, universities, and research
8 institutions;

9 (6) summarize progress on autonomous surveys
10 and identify opportunities to expand new tech-
11 nologies for stock assessments; and

12 (7) summarize data gaps that may be a result
13 of changing ocean and climate conditions, and ac-
14 tions taken to address changing assessment needs.

15 **SEC. 404. COOPERATIVE RESEARCH AND MANAGEMENT.**

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

18 (1) in subsection (a), by inserting “fishing com-
19 munities,” after “data,”;

20 (2) by amending subsection (b) to read as fol-
21 lows:

22 “(b) ELIGIBLE PROJECTS.—The Secretary shall
23 make funds available under the program for the support
24 of cooperative research and management projects to ad-
25 dress critical needs identified by the Councils. Each Coun-

1 cil shall provide a list of such needs to the Secretary on
2 an annual basis, identifying and prioritizing such needs.
3 The program shall promote and encourage efforts to use
4 sources of data maintained by other Federal agencies,
5 State agencies, local and traditional knowledge, or aca-
6 demia for use in such projects.”;

7 (3) by amending subsection (c) to read as fol-
8 lows:—

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

16 “(1) Projects to collect data to improve, supple-
17 ment, or enhance stock assessments, including the
18 use of fishing vessels or acoustic or other marine
19 technology.

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

22 “(A) to assess the amount and type of by-
23 catch or post-release mortality occurring in a
24 fishery;

1 “(B) expanding the use of electronic tech-
2 nology and modernizing data management sys-
3 tems; and

4 “(C) improving monitoring coverage
5 through the expanded use of electronic tech-
6 nology.

7 “(3) Conservation engineering or management
8 projects designed to reduce bycatch, including avoid-
9 ance of post-release mortality, reduction of bycatch
10 in high seas fisheries, and transfer of such fishing
11 technologies and methods to other nations, or other
12 regional entities, including fishing communities, re-
13 gional fishery associations, and fishing sectors.

14 “(4) Projects for the identification of habitat
15 areas of particular concern and for habitat conserva-
16 tion.

17 “(5) Projects designed to collect and compile
18 economic and social data for which electronic tech-
19 nologies can be added.

20 “(6) Projects to test and expand electronic
21 technologies for monitoring, reporting, observer cov-
22 erage, and other functions.

23 “(7) Projects that use electronic technologies to
24 monitor changing ocean conditions, improve meth-

1 ods, support adaptive management, and ensure cli-
2 mate resilient fisheries.

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

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

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

12 (5) by inserting after subsection (d) the fol-
13 lowing:

14 “(e) COOPERATIVE MANAGEMENT AGREEMENTS.—

15 “(1) IN GENERAL.—Not later than 1 year after
16 the date of enactment of this Act, the Secretary, in
17 consultation with the Councils and with input from
18 the public, shall issue guidance to facilitate a trans-
19 parent, timely, uniform, and regionally based process
20 for the development, oversight, and management of
21 cooperative management agreements.

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

1 “(3) PERFORMANCE STANDARDS.—An agree-
2 ment authorized by this subsection shall be subject
3 to performance standards and accountability meas-
4 ures specified in a fishery management plan or oth-
5 erwise established by the Secretary, in consultation
6 with the Councils, and shall not allow catch in excess
7 of annual catch limits or bycatch in excess of by-
8 catch caps or limits.

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

14 (6) by adding at the end the following:

15 “(g) PUBLIC REPORT OF DATA.—With respect to
16 any cooperative research project funded or experimental
17 fishing permit issued under this section, the appropriate
18 Council shall publish a report of results and data gen-
19 erated by such project or under such permit.

20 “(h) PROGRESS REPORT.—Not later than 180 days
21 after the date of enactment of this Act, the Assistant Ad-
22 ministrators for Fisheries shall provide a report to Con-
23 gress on progress in implementing the recommendations
24 of the Cooperative Research and Cooperative Management
25 Working Group report entitled ‘NOAA Technical Memo-

1 random NMFS–F/SPO–156’ and published in August
2 2015 and on the development and implementation of any
3 subsequent recommendations by such Working Group.”.

4 (b) Section 2(a)(8) is amended by inserting “Fish-
5 eries management is most effective when it uses the best
6 scientific information available, and incorporates such in-
7 formation from governmental and nongovernmental
8 sources, including State and Federal agency staff, fisher-
9 men, fishing communities, universities, nonprofit organi-
10 zations, local and traditional knowledge from Tribes, In-
11 digenous communities, and subsistence fishermen, and re-
12 search institutions. Scientific and statistical committees
13 should consider such information when seeking the best
14 scientific information available to form the basis of con-
15 servation and management.” after “States”.

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

18 (a) **INDUSTRY-BASED PILOT STUDY.**—Not later than
19 1 year after the date of enactment of this Act, the Sec-
20 retary shall, in coordination with the relevant Councils se-
21 lected by the Secretary and the Northeast Area Moni-
22 toring and Assessment Program, develop a fishing indus-
23 try-based Northeast regional pilot research trawl survey
24 and study to enhance and provide improvement to current

1 National Oceanic and Atmospheric Administration vessel
2 trawl surveys.

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

5 (1) the Secretary—

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

9 (B) may use the Northeast Area Moni-
10 toring and Assessment Program Southern New
11 England/Mid-Atlantic Nearshore Trawl Survey
12 or another methodology selected in partnership
13 with the National Marine Fisheries Service
14 Northeast Fisheries Science Center and the Vir-
15 ginia Institute of Marine Science as a model for
16 the pilot survey;

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

19 (D) shall ensure the pilot study uses a sta-
20 tistically valid sampling method and spatial cov-
21 erage that allows for comparison with results
22 from the National Oceanic and Atmospheric
23 Administration trawl surveys; and

24 (2) the National Marine Fisheries Service
25 Northeast Fisheries Science Center shall, in partner-

1 ship with the selected Councils and the Virginia In-
2 stitute of Marine Science, collect data for 5 years.

3 (c) REPORT.—Upon completion of the pilot survey
4 and study, the Secretary and the selected Councils shall
5 submit a detailed report on the results of the pilot survey
6 and study to the Committee on Natural Resources of the
7 House of Representatives and the Committee on Com-
8 merce, Science, and Transportation of the Senate.

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

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

12 “(l) RECREATIONAL DATA IMPROVEMENT.—Not
13 later than 2 years after the date of enactment of the Sus-
14 taining America’s Fisheries for the Future Act of 2021,
15 the Secretary shall establish guidelines for recreational
16 catch data, which shall include the development of data
17 standards to improve timeliness, accuracy, precision and
18 validation of data produced by recreational surveys in
19 order to facilitate the use of such data in assessments,
20 for use in management actions, and for other uses as ap-
21 plicable. The Secretary’s guidelines shall consider the rel-
22 evant recommendations developed under section 404(e),
23 subsections (g)(4)(C) and (h) of section 401, and section
24 201(b) of the Modernizing Recreational Fisheries Manage-
25 ment Act of 2018 (16 U.S.C. 1881 note). If recreational

1 catch data for a stock of fish come from more than one
2 survey program, such as Federal and non-Federal sources,
3 including from States or Marine Fisheries Commissions,
4 the Secretary shall implement measures, which may in-
5 clude the use of calibration methods, as needed for the
6 timely integration of such data to ensure consistent meth-
7 ods and approaches are used for monitoring of catch
8 against the relevant annual catch limits and for other fish-
9 ery science and management purposes.”.

10 (b) RECREATIONAL DATA IMPROVEMENT PRO-
11 GRAM.—Title IV is amended by adding at the end the fol-
12 lowing:

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

14 “(a) IN GENERAL.—The Secretary shall initiate and
15 maintain a comprehensive program to implement the re-
16 quirements and associated guidelines in section 305(l). In
17 executing the program, the Secretary shall coordinate with
18 programs established in subsection 401(g) and promote
19 collaboration with State and Federal partners.

20 “(b) STRATEGIC PLAN.—Not later than one year
21 after the date of enactment of the Sustaining America’s
22 Fisheries for the Future Act of 2021, and not less fre-
23 quently than once every 5 years thereafter, the Secretary
24 shall develop and publish in the Federal Register a stra-
25 tegic plan for recreational data improvements for the 5

1 years immediately following such publication. The plan
2 shall—

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

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

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

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

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

17 “(6) consider the use and effectiveness of exper-
18 imental fishing permits to carry out such research;
19 and

20 “(7) describe the role of fishery participants in
21 the program. In developing the strategic plan and
22 subsequent plans, the Secretary shall cooperate with
23 the Councils and affected States, provide for coordi-
24 nation with the Councils, affected States, and other

1 research and data collection entities, and allow for
2 public input.

3 “(c) AREAS OF RESEARCH.—In initiating and main-
4 taining the program, the Secretary shall prioritize re-
5 search and improvement in the following areas:

6 “(1) Development of data standards and valida-
7 tion processes for survey programs collecting data on
8 recreational fishing catch and effort, including those
9 produced by State agencies and considered integral
10 or supplemental to Federal surveys.

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

17 “(3) Methods and policies to improve the esti-
18 mation of discards in recreational fisheries, including
19 estimation of discarded fish both during and outside
20 of fishing seasons.

21 “(4) To improve understanding of best prac-
22 tices for minimizing discard mortality as well as esti-
23 mation of adoption rates of such practices by fisher-
24 men.

1 “(5) To assess changes in discard mortality es-
2 timates when best fishing practices are adequately
3 and verifiably applied.

4 “(6) Research on how the use of electronic ap-
5 plications can be used to collect data in recreational
6 fisheries, including spatial information, depth, dis-
7 card rate and disposition, release method, and socio-
8 economic information, while meeting data and vali-
9 dation standards.

10 “(7) Research on how electronic technologies
11 can most effectively be incorporated into survey de-
12 signs.

13 “(8) Research of methods to integrate rec-
14 reational catch data from more than one survey
15 source for use in assessments.

16 “(9) The use of approaches to improve rec-
17 reational data, including the use of tag and endorse-
18 ment measures to fund such data improvement,
19 stock-wide regional effort surveys, and species-spe-
20 cific oversampling.

21 “(d) PUBLIC NOTICE.—In developing the plan re-
22 quired under subsection (b), the Secretary shall consult
23 with relevant Federal, State, and international agencies,
24 scientific and technical experts, and other interested per-
25 sons, public and private, and shall publish a proposed plan

1 in the Federal Register for the purpose of receiving public
2 comment on the plan. Upon final publication in the Fed-
3 eral Register, the plan shall be submitted by the Secretary
4 to the Committee on Commerce, Science, and Transpor-
5 tation of the Senate and the Committee on Natural Re-
6 sources of the House of Representatives.”.

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

8 (a) IN GENERAL.—The Administrator, not later than
9 1 year after the date of enactment of this Act and in con-
10 sultation with the Fishery Management Councils, relevant
11 Federal, State, and international agencies, scientific and
12 technical experts, and interested stakeholders, shall de-
13 velop a contingency plan for circumstances that would
14 make fisheries monitoring, including human observation,
15 and stock assessments impractical.

16 (b) REPORT.—Not later than 1 year after the date
17 of enactment of this Act, the Administrator shall submit
18 a report to Congress on the contingency plan developed
19 under subsection (a).

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

22 (a) IN GENERAL.—Section 208 of the Magnuson-Ste-
23 vens Fishery Conservation and Management Reauthoriza-
24 tion Act of 2006 (16 U.S.C. 1891b) is amended—

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

4 (2) in subsection (a), by inserting “Zeke Grad-
5 er” before “Fisheries Conservation and Management
6 Fund”; and

7 (3) in subsection (c), by striking “Fishery Con-
8 servation and Management Fund” each place such
9 term appears and inserting “Zeke Grader Fisheries
10 Conservation and Management Fund”.

11 (b) ADAPTATION FOR CLIMATE CHANGE.—Section
12 208(b) (16 U.S.C. 1891b(b)) is amended—

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

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

16 (3) by adding at the end the following:

17 “(8) conducting research and analysis to pre-
18 pare and adapt fisheries and fishing communities to
19 the effects of climate change.”.

20 (c) ALLOCATION.—Section 208(d) (16 U.S.C.
21 1891b(d)) is amended to read as follows:

22 “(d) ALLOCATION.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graphs (2) and (3), the Secretary shall, every 2
25 years, apportion amounts from the Fund among the

1 8 Council regions according to recommendations of
2 the Councils, based on regional priorities identified
3 through the Council process.

4 “(2) MINIMUM ALLOCATION.—In the case of
5 amounts deposited in the Fund pursuant to sub-
6 section (c)(2), unless specified otherwise, the Sec-
7 retary shall allocate not less than 5 percent of the
8 Fund in each allocation period to each region.

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

18 (d) REFERENCES.—Any reference in a law, map, reg-
19 ulation, document, paper, or other record of the United
20 States to the “Fisheries Conservation and Management
21 Fund” is deemed to be a reference to the “Zeke Grader
22 Fisheries Conservation and Management Fund”.

23 (e) CLERICAL AMENDMENT.—The table of contents
24 for the Magnuson-Stevens Fishery Conservation and Man-
25 agement Reauthorization Act of 2006 (Public Law 109–

1 479) is amended by striking the item relating to section
2 208 and inserting the following:

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

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

4 The Secretary and the Secretary of the Interior, act-
5 ing through the Bureau of Ocean Energy Management,
6 shall enter into a cooperative agreement to fund such addi-
7 tional stock assessments and fisheries and marine wildlife
8 research as may be necessary as a result of actions by
9 such Bureau related to the development of offshore wind
10 energy.

11 **TITLE V—SUSTAINING FISH-**
12 **ERIES THROUGH HEALTHY**
13 **ECOSYSTEMS AND IMPROVED**
14 **MANAGEMENT**

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

16 It is the sense of Congress that protection of essential
17 fish habitat ensures healthy and resilient fisheries and ma-
18 rine ecosystems, particularly as oceans conditions shift
19 due to climate change, and that impacts from both fishing
20 gear and non-fishing activities should be considered
21 through consistent application of essential fish habitat
22 provisions under the Magnuson-Stevens Fishery Conserva-
23 tion and Management Act.

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

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

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

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

9 (3) by adding at the end the following:

10 “(2) CONSULTATIONS REGARDING FEDERAL
11 AGENCY ACTION WITH ADVERSE EFFECTS ON ES-
12 SENTIAL FISH HABITAT.—

13 “(A) REQUIREMENT TO AVOID OR MITI-
14 GATE ADVERSE EFFECTS.—With respect to any
15 Federal agency action that may have an ad-
16 verse effect on—

17 “(i) essential fish habitat, each Fed-
18 eral agency shall, in consultation with the
19 Secretary, ensure that any action author-
20 ized, funded, or undertaken by such agency
21 avoids the adverse effect of such action on
22 essential fish habitat or, to the extent that
23 the adverse effect cannot be avoided, the
24 agency shall minimize and mitigate the ad-
25 verse effect; and

1 “(ii) a habitat area of particular con-
2 cern, each Federal agency shall, in con-
3 sultation with the Secretary—

4 “(I) monitor or require moni-
5 toring for possible adverse effects;

6 “(II) take action to minimize and
7 mitigate any adverse effect of the ac-
8 tion on—

9 “(aa) the habitat area of
10 particular concern;

11 “(bb) the species for with
12 respect to which the habitat area
13 of particular concern is des-
14 ignated; and

15 “(cc) for the entire period
16 during which such adverse effects
17 are likely to occur; and

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

22 “(B) CONSIDERATIONS.—In consulting
23 with a Federal agency under subparagraph (A)
24 for projects seeking to restore and improve the
25 long-term resilience of habitat, particularly in

1 estuarine environments heavily impacted by sea
2 level rise and other climate change factors, the
3 Secretary shall account for the consequences of
4 not pursuing such restoration and habitat resil-
5 ience projects and the long-term positive im-
6 pacts on fish populations of such activities.

7 “(C) REGULATIONS.—The Secretary shall
8 establish regulations for the consultation proc-
9 ess required by subparagraph (A), including to
10 ensure that recommendations made by the Sec-
11 retary pursuant to such subparagraph would re-
12 sult in the avoidance, if possible, of adverse ef-
13 fects on essential fish habitat and, if avoidance
14 is not possible, the minimization and mitigation
15 of any such adverse effects.

16 “(3) INFORMATION TO COUNCIL.—The Sec-
17 retary shall inform each Council that has authority
18 over an affected fishery of any consultation carried
19 out under paragraph (2), including information on
20 the proposed action and any potential adverse ef-
21 fects, and each such Council—

22 “(A) may comment on and make rec-
23 ommendations to the Secretary and any Federal
24 or State agency concerning the underlying ac-
25 tion if, in the view of the Council, such action

1 may affect the habitat of a fishery resource
2 under the authority of such Council; and

3 “(B) shall comment on and make rec-
4 ommendations to the Secretary and any Federal
5 or State agency concerning the underlying ac-
6 tion if, in the view of the Council, such action
7 is likely to adversely affect the habitat of an
8 anadromous fishery resource under the author-
9 ity of such Council.

10 “(4) INFORMATION FROM OTHER SOURCES.—

11 “(A) RECEIPT OF INFORMATION.—If the
12 Secretary receives information from any source
13 and determines that an action taken, funded, or
14 authorized or proposed to be taken, funded, or
15 authorized by a State or Federal agency may
16 have an adverse effect on an essential fish habi-
17 tat identified under this Act, the Secretary shall
18 recommend to such agency measures that avoid
19 such adverse effects and to the extent the ad-
20 verse effects cannot be avoided, minimize and
21 mitigate such adverse effects.

22 “(B) REQUIRED RESPONSE.—Not later
23 than 30 days after receiving a recommendation
24 under subparagraph (A), a Federal, State, or
25 local agency shall provide a detailed response in

1 writing to any Council comment under para-
2 graph (3) and the Secretary regarding the mat-
3 ter. The response shall include a description of
4 measures proposed by the agency for avoiding
5 the adverse effects, or to the extent the adverse
6 effects cannot be avoided, mitigating the ad-
7 verse effects of the action on such essential fish
8 habitat. In the case of a response that is incon-
9 sistent with the recommendations of the Sec-
10 retary, the Federal agency shall explain how the
11 alternative measures proposed will avoid the ad-
12 verse effects of such action on essential fish
13 habitat or, to the extent that adverse effects
14 cannot be avoided, minimize and mitigate the
15 adverse effects.

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

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

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

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

4 “(E) REPORT TO CONGRESS.—Not later
5 than 5 years after the date of the enactment of
6 the Sustaining America’s Fisheries for the Fu-
7 ture Act of 2021 and not less frequently than
8 every 5 years thereafter, the Secretary shall
9 submit a report—

10 “(i) describing the effectiveness of
11 measures taken by the Secretary to ensure
12 the conservation and enhancement of es-
13 sential fish habitat; and

14 “(ii) identifying opportunities for
15 partnerships between the National Oceanic
16 and Atmospheric Administration, in con-
17 sultation with other Federal agencies,
18 State agencies, and non-Federal partners
19 to enhance data collection, research, and
20 monitoring of essential fish habitat.”.

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

24 “(7) describe and identify—

1 “(A) essential fish habitat for the fishery
2 based on the guidelines established by the Sec-
3 retary under section 305(b)(1)(A), minimize ad-
4 verse effects on essential fish habitat caused by
5 fishing, and identify other actions to encourage
6 the conservation and enhancement of essential
7 fish habitat; and

8 “(B) habitat areas of particular concern
9 based on the guidelines established by the Sec-
10 retary under section 305(b)(1)(A), avoid ad-
11 verse effects on such habitat caused by fishing,
12 monitor efficacy of actions to avoid adverse ef-
13 fects, and identify other actions to encourage
14 the conservation and enhancement of such habi-
15 tat;”.

16 (c) PURPOSE.—Section 2(b)(7) (16 U.S.C.
17 1801(b)(7)) is amended by striking “in the review of
18 projects” and inserting “from adverse effects caused by
19 fishing and from projects”.

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

22 (1) by redesignating paragraph (1) as para-
23 graph (1A);

24 (2) by inserting before paragraph (1A), as re-
25 designated, the following:

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

5 (3) by inserting after paragraph (19) the fol-
6 lowing:

7 “(19A) HABITAT AREAS OF PARTICULAR CON-
8 CERN.—The term ‘habitat areas of particular con-
9 cern’ means specific types or areas of habitat that
10 are part of or within essential fish habitat that—

11 “(A) provide important ecological function,
12 including for maintaining and restoring the bio-
13 mass, demographic, spatial and genetic charac-
14 teristics of fish populations;

15 “(B) are sensitive to human-induced envi-
16 ronmental degradation;

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

19 “(D) due to prevailing or anticipated fu-
20 ture environmental conditions, are or may be-
21 come important to the health of managed spe-
22 cies; or

23 “(E) are rare.”.

24 **SEC. 503. REDUCING BYCATCH.**

25 (a) MINIMIZING BYCATCH.—

1 (1) NATIONAL STANDARDS FOR FISHERY CON-
2 SERVATION AND MANAGEMENT.—Section 301(a)(9)
3 (16 U.S.C. 1851(a)(9)) is amended to read as fol-
4 lows:

5 “(9) Conservation and management measures
6 shall—

7 “(A) minimize bycatch; and

8 “(B) to the extent bycatch cannot be
9 avoided, minimize the mortality of such by-
10 catch.”.

11 (2) CONTENTS OF FISHERY MANAGEMENT
12 PLANS.—Section 303 (16 U.S.C. 1853) is amend-
13 ed—

14 (A) in subsection (a)—

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

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

20 (B) in subsection (b)—

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

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

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

3 (3) ACTION BY THE SECRETARY.—Section 304
4 (16 U.S.C. 1854) is amended—

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

7 (B) by adding at the end the following:

8 “(k) STANDARDIZED BYCATCH REPORTING PRO-
9 GRAM.—

10 “(1) ESTABLISHMENT.—Not later than 2 years
11 after the date of enactment of the Sustaining Amer-
12 ica’s Fisheries for the Future Act of 2021, the Sec-
13 retary shall establish a national standardized report-
14 ing program (referred to in this subsection as ‘the
15 program’) to assess the amount and type of bycatch
16 occurring in each fishery and across fisheries, deter-
17 mine the contribution of bycatch to the total fishing-
18 related mortality of each fishery, and evaluate the
19 effects of bycatch on relevant fisheries and the eco-
20 system.

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

23 “(A) identify appropriate methodologies
24 and standards for collecting and producing sta-

1 tistically accurate and precise information re-
2 garding bycatch; and

3 “(B) require consistent data reporting, col-
4 lection, and assessment for all fisheries man-
5 aged under fishery management plans.

6 “(3) MULTIPLE JURISDICTIONS.—In a case in
7 which a species is caught in areas under the jurisdic-
8 tion of more than one Council or fishery manage-
9 ment plan, the Secretary shall require consistent re-
10 porting mechanisms across jurisdictions to ensure
11 that data can be aggregated and compared.

12 “(4) COORDINATION WITH STATES.—The Sec-
13 retary shall coordinate with State fishery managers
14 to carry out paragraph (3).”.

15 (b) BYCATCH REDUCTION ENGINEERING PRO-
16 GRAM.—

17 (1) IN GENERAL.—Section 316(a) (16 U.S.C.
18 1865(a)) is amended by striking paragraphs (3) and
19 (4) and inserting the following:

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

1 “(4) provide for routine consultation with the
2 Councils in order to maximize opportunities to incor-
3 porate results of the program in Council actions and
4 provide incentives for adoption of technologies and
5 methods developed under the program in fishery
6 management plans, actions, and other measures de-
7 veloped by the Councils or the Secretary.”.

8 (2) FREQUENCY OF REPORT.—Section 316(d)
9 (16 U.S.C. 1865(d)) is amended—

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

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

15 (C) in paragraph (3), by striking the pe-
16 riod at the end and inserting “; and”; and

17 (D) by adding at the end the following:

18 “(4) includes a cumulative description of all by-
19 catch reduction technologies and methods developed,
20 tested, or supported by the Bycatch Reduction Engi-
21 neering Program, an assessment of the effectiveness
22 of those techniques, a summary on how and in which
23 fisheries those techniques have been fully imple-
24 mented and to what degree, and, if those techniques
25 have not been implemented into fishery manage-

1 ment, an explanation for why those techniques have
2 not been used and an estimate of the reduction of
3 bycatch that could be achieved if those techniques
4 were implemented.”.

5 **SEC. 504. IMPROVING REBUILDING OUTCOMES.**

6 Section 304(e) (16 U.S.C. 1854(e)) is amended—

7 (1) by amending paragraph (1) to read as fol-
8 lows:

9 “(1) The Secretary shall report annually to the
10 Congress and the Councils on the status of fisheries
11 within each Council’s geographical area of authority.
12 In this report, the Secretary shall do the following:

13 “(A) Identify those fisheries that are sub-
14 ject to overfishing, are depleted, or are ap-
15 proaching a condition of being depleted. For
16 those fisheries managed under a fishery man-
17 agement plan or international agreement, the
18 status shall be determined using the criteria for
19 overfishing and depleted status specified in such
20 plan or agreement. For stocks that lack criteria
21 as required under Sec 303(a)(10), the Secretary
22 shall determine whether the stock is depleted or
23 subject to overfishing using the best available
24 scientific information. A fishery shall be classi-
25 fied as approaching a condition of being de-

1 pleted if, based on trends in fishing effort, fish-
2 ery resource size, and other appropriate factors,
3 the Secretary estimates that the fishery will be-
4 come depleted within 2 years.

5 “(B) Identify those stocks that are under
6 a rebuilding plan or in need of a rebuilding plan
7 (as specified by this section), including speci-
8 fying the number of years the stock has been in
9 a rebuilding plan, the length in years of the
10 stock’s current rebuilding plan, the number of
11 rebuilding plans that have been implemented
12 for the stock, and whether a lack of adequate
13 progress toward ending overfishing and rebuild-
14 ing has been found for the stock.”;

15 (2) by amending paragraph (2) to read as fol-
16 lows:

17 “(2) If the Secretary determines at any time
18 that a fishery is subject to overfishing, is depleted,
19 or is approaching a depleted status, the Secretary
20 shall immediately notify the appropriate Council and
21 request that action be taken—

22 “(A) to end overfishing in the fishery im-
23 mediately and prevent overfishing in the fish-
24 ery;

1 “(B) for stocks that are depleted, to end
2 overfishing immediately in the fishery and to
3 implement conservation and management meas-
4 ures to rebuild affected stocks of fish; or

5 “(C) for stocks that are approaching a de-
6 pleted condition, to end overfishing in the fish-
7 ery immediately and prevent the stock from
8 reaching a depleted condition.

9 The Secretary shall publish each notice under this
10 paragraph in the Federal Register.”;

11 (3) by amending paragraph (3) to read as fol-
12 lows:

13 “(3) Not later than 2 years after the date on
14 which a fishery is newly identified as or determined
15 to be depleted or approaching a depleted condition
16 under paragraph (1)(A) or paragraph (2), a fish-
17 ery’s rebuilding plan has been found to have failed
18 under paragraph (7)(C), or a fishery reaches the end
19 of the time period for rebuilding pursuant to para-
20 graph (8), the appropriate Council (or the Secretary,
21 for fisheries under section 302(a)(3)) shall prepare
22 and implement a fishery management plan, plan
23 amendment, or proposed regulations for the fishery
24 to which the identification or notice applies—

1 “(A) for stocks that are depleted, to end
2 overfishing immediately in the fishery and to
3 rebuild affected stocks of fish; or

4 “(B) for stocks that are approaching a de-
5 pleted condition, to end overfishing immediately
6 and prevent the stock from reaching a depleted
7 condition.”;

8 (4) in paragraph (4)—

9 (A) by amending subparagraph (A)(ii) to
10 read as follows:

11 “(ii) not exceed the time the stock of
12 fish would be rebuilt without fishing occur-
13 ring plus one mean generation, unless
14 management measures under an inter-
15 national agreement in which the United
16 States participates dictate otherwise;”;

17 (B) in subparagraph (B), by striking
18 “and” at the end;

19 (C) in subparagraph (C), by striking the
20 period at the end and inserting “; and”; and

21 (D) by adding at the end the following:

22 “(D) contain objective and measurable cri-
23 teria for evaluating rebuilding progress.”;

24 (5) by amending paragraph (5) to read as fol-
25 lows:

1 “(5) If, during the 2-year period beginning on
2 the date of identification or notification, the Council
3 does not submit to the Secretary a fishery manage-
4 ment plan, plan amendment, or proposed regulations
5 required by paragraph (3), the Secretary shall pre-
6 pare under subsection (c) not later than 6 months
7 after the end of such 2-year period, a fishery man-
8 agement plan or plan amendment and any accom-
9 panying regulations to, for stocks that are depleted,
10 end overfishing immediately and rebuild affected
11 stocks of fish, or, for stocks that are approaching an
12 depleted condition, to end overfishing immediately
13 and prevent the stock from reaching an depleted
14 condition.”;

15 (6) by amending paragraph (7) to read as fol-
16 lows:

17 “(7)(A) The Secretary shall review any fishery
18 management plan, plan amendment, or regulations
19 required by this subsection at routine intervals that
20 may not exceed 2 years to determine whether such
21 plan, amendment, or regulations have resulted in
22 adequate progress toward rebuilding affected fish
23 stocks. The Secretary shall find a lack of adequate
24 progress toward rebuilding an affected fish stock
25 if—

1 “(i) the status of the stock is not improv-
2 ing sufficiently such that it becomes unlikely
3 that the stock will be rebuilt within the rebuild-
4 ing time period;

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

9 “(iii) new scientific information dem-
10 onstrates that assumptions regarding the
11 stock’s biology that formed the basis for the re-
12 building plan, such as stock productivity, were
13 fundamentally inaccurate, and such inaccura-
14 cies render the current rebuilding plan unable
15 to address the stock’s rebuilding needs; or

16 “(iv) for other reasons, as appropriate.

17 “(B) If, as a result of the review, the Secretary
18 finds that such plan, amendment, or regulations
19 have not resulted in adequate progress toward re-
20 building affected fish stocks, the Secretary shall—

21 “(i) in the case of a fishery to which sec-
22 tion 302(a)(3) applies, immediately make revi-
23 sions necessary to achieve adequate progress to-
24 ward rebuilding by the deadline established
25 under paragraph (4); or

1 “(ii) for all other fisheries, immediately no-
2 tify the appropriate Council, which must make
3 revisions necessary to achieve adequate progress
4 toward rebuilding by not later than the deadline
5 established under paragraph (4). If the Council
6 fails to take such action by the date that is 9
7 months after the date of such notification, the
8 Secretary shall, not later than 15 months after
9 such date, make such revisions as are needed to
10 ensure adequate progress toward rebuilding by
11 not later than the deadline established under
12 paragraph (4).

13 “(C) If, as a result of the review, the Secretary
14 finds that revisions pursuant to subparagraph (B)
15 cannot achieve adequate progress within the time pe-
16 riod set under paragraph (4), the Secretary may
17 find that the rebuilding plan has failed. Upon such
18 a finding, the Council (or the Secretary in the case
19 of a stock to which section 302(a)(3) applies) shall
20 prepare and implement a new rebuilding plan pursu-
21 ant to the requirements in paragraph (8).

22 “(D) The Secretary shall publish the results of
23 a review performed under this paragraph in the Fed-
24 eral Register, including a determination of adequate

1 progress or lack of adequate progress, and the basis
2 for such determination.”; and

3 (7) by adding at the end the following:

4 “(8) If the time period established under a
5 plan, amendment, or regulations pursuant to this
6 subsection expires, or the Secretary determines that
7 an existing rebuilding plan has failed under para-
8 graph (7)(C), but relevant stock has not rebuilt, the
9 Council (or Secretary in the case of a stock to which
10 section 302(a)(3) applies) shall prepare a new re-
11 building plan pursuant to paragraphs (3) through
12 (6) of this subsection, except that such plan shall
13 have no less than a 75 percent chance of rebuilding
14 the fishery by the end of the new time period set
15 under paragraph (4). Management measures in-
16 tended to rebuild the stock shall remain in effect
17 during such preparation of a rebuilding plan.”.

18 **SEC. 505. DEPLETED FISHERIES AND PREVENTING OVER-**

19 **FISHING.**

20 (a) DEPLETED FISHERIES.—

21 (1) DEFINITION.—Section 3 (16 U.S.C. 1802)
22 is amended by inserting after paragraph (8) the fol-
23 lowing:

24 “(8A) DEPLETED.—

1 “(A) DEFINITION.—The term ‘depleted’
2 means, with respect to a stock or stock com-
3 plex, that its biomass has declined below the
4 level at which the capacity of the stock or stock
5 complex to produce maximum sustainable yield
6 on a continuing basis is jeopardized. A depleted
7 condition may be caused by numerous factors,
8 alone or in combination, such as fishing effort,
9 habitat loss, ecosystem changes or climate
10 change, overfishing, inadequate forage, or other
11 characteristics of or stressors on the stock or
12 stock complex.

13 “(B) INCLUSION OF CASE LAW.—The term
14 ‘depleted’ has the meaning given to the term
15 ‘overfished’ by this section before the date of
16 enactment of the Sustaining America’s Fish-
17 eries for the Future Act of 2021 for the pur-
18 poses of determining the application of any
19 court precedent issued before such date.”.

20 (2) SUBSTITUTION.—The Magnuson-Stevens
21 Fishery Conservation and Management Act (16
22 U.S.C. 1801 et seq.) is amended—

23 (A) in section 3 (16 U.S.C. 1802), by
24 amending paragraph (34) to read as follows:

1 “(34) OVERFISHING.—The term ‘overfishing’
2 means a rate or level of fishing mortality that jeop-
3 ardizes the capacity of a fishery to produce the max-
4 imum sustainable yield on a continuing basis.”;

5 (B) by striking the term “overfished” each
6 place such term appears and inserting “de-
7pleted”;

8 (C) in the heading of subsection (e) of sec-
9 tion 304, by striking “OVERFISHED” and in-
10serting “DEPLETED”.

11 (3) REFERENCES IN THIS ACT.—The provisions
12 of this Act and the amendments made by this Act
13 are not intended to alter the legal mandate to pre-
14 vent depletion of fisheries and to rebuild depleted
15 fisheries upon determination of their depleted status,
16 which includes among other things ending or cur-
17 tailing fishing while the fishery rebuilds.

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

21 (1) in subparagraph (A), by inserting “ecologi-
22 cal,” after “social”; and

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

1 “(B) Each scientific and statistical com-
2 mittee shall provide the appropriate Council
3 with ongoing scientific advice for fishery man-
4 agement decisions, including—

5 “(i) recommendations for accounting
6 for all sources of mortality in establishing
7 management measures, for the acceptable
8 biological catch levels, for preventing over-
9 fishing, for maximum sustainable yield,
10 and for achieving rebuilding targets and
11 promoting resilience of fish stocks to cli-
12 mate change;

13 “(ii) objective and measurable criteria
14 for determining whether a stock is depleted
15 or experiencing overfishing; and

16 “(iii) reports on stock status and
17 health, sources of mortality, bycatch, habi-
18 tat status, social, ecological, and economic
19 impacts of management measures, and
20 sustainability of fishing practices, and pre-
21 vailing and anticipated future impacts of
22 climate change on fish stocks, fishing com-
23 munities, and fishery sectors.”.

24 (c) MINIMUM REQUIRED PRECAUTIONARY STAND-
25 ARD.—Section 303(a)(10) (16 U.S.C. 1853(a)(10)) is

1 amended by inserting “, which may not be less pre-
2 cautionary than the recommendation of the scientific and
3 statistical committees for such fishery,” before “and,”.

4 (d) TECHNICAL CORRECTION.—Section 301 of the
5 Modernizing Recreational Fisheries Management Act of
6 2018 (16 U.S.C. 1801 note) is amended to read as follows:

7 **“SEC. 301. RULE OF CONSTRUCTION.**

8 “Nothing in this Act, including the amendment made
9 by section 102(a)(3), shall be construed as modifying the
10 requirements of sections 301(a), 302(h)(6), 303(a)(15), or
11 304(e) of the Magnuson-Stevens Fishery Conservation
12 and Management Act, or the equal application of such re-
13 quirements and other standards and requirements under
14 the Magnuson-Stevens Fishery Conservation and Manage-
15 ment Act to commercial, charter, and recreational fish-
16 eries, including each component of mixed-use fisheries.”.

17 **SEC. 506. PREPARATION AND REVIEW OF SECRETARIAL**
18 **PLANS.**

19 Section 304(c)(1) (16 U.S.C. 1854(c)) is amended—

20 (1) by striking “may” and inserting “shall”;

21 (2) in subparagraph (A), by inserting “not to
22 exceed 180 days” after “time”;

23 (3) in subparagraph (B), by inserting “not later
24 than 180 days after the disapproval” before the
25 semicolon; and

1 (4) by adding at the end the following:
2 “Not later than 30 days before the last day of a time pe-
3 riod established in subparagraph (B) or (C), the Secretary
4 shall provide written notification to the affected Council
5 that if such Council does not fulfill the requirements de-
6 scribed in such subparagraph, the Secretary shall issue a
7 Secretarial plan.”.

8 **SEC. 507. COUNCILS.**

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

10 (1) in paragraph (5), by striking “and” at the
11 end;

12 (2) in paragraph (7)—

13 (A) by redesignating subparagraphs (B)
14 and (C) as subparagraphs (C) and (D), respec-
15 tively; and

16 (B) by inserting after subparagraph (A)
17 the following:

18 “(B) prioritize fisheries and habitats expe-
19 riencing or expected to experience shifts in geo-
20 graphic range, spatial distribution, or produc-
21 tivity;”;

22 (3) by redesignating paragraphs (8) and (9) as
23 paragraphs (11) and (13), respectively; and

24 (4) by inserting after paragraph (7) the fol-
25 lowing:

1 “(8) approve, for each of its managed stocks,
2 objective and measurable criteria for identifying
3 whether the stock is depleted or experiencing over-
4 fishing, which may not be less precautionary than
5 the recommendation of its scientific and statistical
6 committee;

7 “(9) develop and implement a plan to protect
8 essential fish habitat in the region of the Council
9 from adverse effects caused by fishing that shall in-
10 clude—

11 “(A) quantitative and measurable targets
12 and goals for increasing quality, quantity, and
13 representativeness of essential fish habitat; and

14 “(B) conservation and management meas-
15 ures to implement the plan;

16 “(10) at routine intervals not less frequently
17 than every 7 years and based on scientific evidence
18 or other relevant information, review habitat protec-
19 tion plans developed under paragraph (9) by such
20 Council and each designation of essential fish habi-
21 tat and habitat areas of particular concern under
22 section 303(a)(7) by such Council, and amend such
23 Council’s fishery management plans as necessary
24 and appropriate;”.

1 **SEC. 508. FORAGE FISH CONSERVATION.**

2 (a) SECRETARY TO DEFINE FORAGE FISH.—Section
3 305 (16 U.S.C. 1855) is further amended by adding at
4 the end the following:

5 “(m) FORAGE FISH.—Not later than 6 months after
6 the date of enactment of the Sustaining America’s Fish-
7 eries for the Future Act of 2021, the Secretary shall issue
8 a definition of the term ‘forage fish’ for the purposes of
9 this Act. In defining such term, the Secretary shall con-
10 sider factors including whether a species covered by such
11 definition, throughout such species’ lifecycle—

12 “(1) is at a low trophic level;

13 “(2) is generally small- to intermediate-sized;

14 “(3) occurs in schools or other dense aggrega-
15 tions;

16 “(4) contributes significantly to the diets of
17 other fish, marine mammals, or birds; and

18 “(5) serves as a conduit for energy transfer to
19 species at a higher trophic level.”.

20 (b) DEFINITIONS.—Section 3 (16 U.S.C. 1802) is
21 further amended—

22 (1) by inserting after paragraph (18) the fol-
23 lowing:

24 “(18A) FORAGE FISH.—The term ‘forage
25 fish’—

1 “(A) has the meaning given the term by
2 the Secretary under section 305(m); and

3 “(B) with respect to a species in a fishery
4 managed pursuant to a fishery management
5 plan or plan amendment that is approved by
6 the Secretary under section 304(a), means any
7 species identified in such plan as a forage
8 fish.”; and

9 (2) in paragraph (33)—

10 (A) in subparagraph (B), by striking
11 “and”;

12 (B) in subparagraph (C), by striking the
13 period and inserting “; and”; and

14 (C) by adding at the end the following:

15 “(D) in the case of a forage fish, is re-
16 duced, pursuant to subparagraph (B), to pro-
17 vide for the diet needs of fish species and other
18 marine wildlife, including marine mammals and
19 birds, for which forage fish is a significant die-
20 tary component.”.

21 (c) SCIENTIFIC ADVICE.—Section 302(g)(1)(B) (16
22 U.S.C. 1852(g)(1)(B)) is further amended by adding at
23 the end the following:

24 “(iv) maintaining a sufficient abun-
25 dance, diversity, and localized distribution

1 of forage fish populations to support the
2 role of such populations in marine eco-
3 systems.”.

4 (d) COUNCIL FUNCTIONS.—

5 (1) RESEARCH PRIORITIES.—Section 302(h)(7)
6 (16 U.S.C. 1852(h)(7)) is further amended by in-
7 sserting “forage fish populations and distribution,”
8 after “habitats,”.

9 (2) UNMANAGED FORAGE FISH.—Section
10 302(h) (16 U.S.C. 1852(h)) is further amended by
11 inserting after paragraph (11) the following:

12 “(12) develop a list of unmanaged forage fish
13 occurring in the area under its authority and pro-
14 hibit the development of any new directed forage fish
15 fishery until the Council has—

16 “(A) considered the best scientific informa-
17 tion available and evaluated the potential im-
18 pacts of forage fish harvest on existing fish-
19 eries, fishing communities, and the marine eco-
20 system;

21 “(B) determined whether conservation and
22 management of the forage fish fishery is need-
23 ed;

24 “(C) if a determination is made that con-
25 servation and management is needed, prepared

1 and submitted to the Secretary a fishery man-
2 agement plan or amendment consistent with
3 section 303; and

4 “(D) received final, approved regulations
5 from the Secretary pursuant to section
6 304(b)(3); and”.

7 (3) EFFECTIVE DATE.—The amendments made
8 by subsections (a) and (b) shall take effect 2 years
9 after the date of enactment of this Act.

10 (e) CONTENTS OF FISHERY MANAGEMENT PLANS.—

11 (1) FORAGE FISH MANAGEMENT.—Section
12 303(a) (16 U.S.C. 1853(a)) is further amended by
13 adding at the end the following:

14 “(18) when setting annual catch limits for for-
15 age fish fisheries, assess, specify, and reduce such
16 limits by the diet needs of fish species and other ma-
17 rine wildlife, such as marine mammals and birds, for
18 which forage fish is a significant part of their diet.”.

19 (2) EFFECTIVE DATE.—The amendment made
20 by subsection (a) shall take effect 5 years after the
21 date of enactment of this Act.

22 (f) ACTION BY THE SECRETARY.—Section 304 (16
23 U.S.C. 1854) is further amended by adding at the end
24 the following:

25 “(l) FORAGE FISH MANAGEMENT GUIDELINES.—

1 “(1) IN GENERAL.—Not later than 18 months
2 after the date of enactment of the Sustaining Amer-
3 ica’s Fisheries for the Future Act of 2021, the Sec-
4 retary shall establish by regulation guidelines to as-
5 sist the Councils in implementing sections
6 302(h)(12), and 303(a)(16).

7 “(2) WORKSHOPS.—In developing the guide-
8 lines under paragraph (1), the Secretary shall con-
9 duct workshops with Councils and other scientific,
10 fisheries, and conservation interests.”.

11 (g) RIVER HERRING AND SHAD.—

12 (1) DEFINITIONS.—In this section—

13 (A) RIVER HERRING.—The term “river
14 herring” means blueback herring (*Alosa*
15 *aestivalis*) and alewife (*Alosa pseudoharengus*).

16 (B) SHAD.—The term “shad” means
17 American shad (*Alosa sapidissima*) and hickory
18 shad (*Alosa mediocris*).

19 (2) AMENDMENTS OF PLANS.—Not later than
20 180 days after the date of enactment of this Act, the
21 Secretary of Commerce shall—

22 (A) amend the fishery management plans
23 for the Atlantic Herring and Atlantic Mackerel,
24 Squid, and Butterfish fisheries for the New
25 England and Mid-Atlantic Regions to add shad

1 and river herring as managed stocks in such
2 plans consistent with section 302(h)(1) of the
3 Magnuson-Stevens Fishery Conservation and
4 Management Act (16 U.S.C. 1852(h)(1));

5 (B) initiate additional fishery management
6 plan amendments to be completed in not more
7 than 1 year from the date of the addition of the
8 species identified in paragraph (1) in order to
9 develop and implement all required conservation
10 and management measures for such stocks con-
11 sistent with the Magnuson-Stevens Fisheries
12 Conservation and Management Act (16 U.S.C.
13 1801 et seq.), and all other applicable law; and

14 (C) notwithstanding any other law, rule, or
15 fishery management plan provision, including
16 conservation and management measures under
17 section 303(a)(11) of the Magnuson-Stevens
18 Fishery Conservation and Management Act (16
19 U.S.C. 1853(a)(11)), reallocate existing re-
20 sources to provide, for not less than 60 percent
21 of all relevant fishing trips, not fewer than one
22 at-sea observer or an on-board electronic or
23 video means of producing equivalent at-sea
24 monitoring information, for any vessel using
25 mid-water trawl or paired mid-water trawl fish-

1 ing gear in the Atlantic herring and Atlantic
2 mackerel fisheries.

3 (h) **RULE OF CONSTRUCTION.**—Nothing in this sec-
4 tion shall be construed as—

5 (1) extending or diminishing the jurisdiction or
6 authority of any State within its boundaries; or

7 (2) affecting—

8 (A) section 306 of the Magnuson-Stevens
9 Fishery Conservation and Management Act (16
10 U.S.C. 1856); or

11 (B) the Atlantic Coastal Fisheries Cooper-
12 ative Management Act (16 U.S.C. 5107 et
13 seq.).

14 **SEC. 509. FUNDING FOR MONITORING IMPLEMENTATION**
15 **OF NORTHEAST MULTISPECIES FISHERY**
16 **MANAGEMENT PLAN.**

17 Section 311(f)(4) (16 U.S.C. 1861(f)(4)) is amended
18 by striking “pursuant to this section” and all that follows
19 through the end of the sentence and inserting “to enforce
20 and monitor (including electronic monitoring) implementa-
21 tion of that plan.”.

22 **SEC. 510. AUTHORIZATION OF APPROPRIATIONS.**

23 There is authorized to be appropriated to the Sec-
24 retary the following amounts to carry out the provisions
25 of this Act:

- 1 (1) For fiscal year 2022, \$682,446,000.
- 2 (2) For fiscal year 2023, \$698,142,000.
- 3 (3) For fiscal year 2024, \$714,200,000.
- 4 (4) For fiscal year 2025, \$730,626,000.
- 5 (5) For fiscal year 2026, \$747,431,000.
- 6 (6) For fiscal year 2027, \$764,621,000.

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