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.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, SEC. 1. SHORT TITLE.

This Act may be cited as the “Sustaining America’s Fisheries for the Future Act of 2021”.

SEC. 2. TABLE OF CONTENTS.

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. 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. 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.

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

9 SEC. 4. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term “Administrator” means the Administrator of the National Oceanic and Atmospheric Administration.

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

16 SEC. 5. CONFORMING AMENDMENTS TO THE TABLE OF CONTENTS OF THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

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 au-
therity.

“Sec. 102. Highly migratory species.

“TITLE II—FOREIGN FISHING AND INTERNATIONAL FISHERY
AGREEMENTS

“Sec. 201. Foreign fishing.
“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. 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 Pro-
gram.
“Sec. 316. Bycatch Reduction Engineering Program.
“Sec. 317. Shark Feeding.
“Sec. 318. Cooperative Research and Management Program.
“Sec. 319. Herring Study.
“Sec. 320. Restoration Study.
“Sec. 321. Required possession of descending devices.
“Sec. 322. Increasing resilience of fish stocks to climate change.

“TITLE IV—FISHERY MONITORING AND RESEARCH

“Sec. 401. Registration and information management.
“Sec. 402. Information collection.
“Sec. 403. Observers.
“Sec. 404. Fisheries research.
“Sec. 405. Incidental harvest research.
“Sec. 406. Fisheries systems research.
“Sec. 407. Gulf of Mexico red snapper research.
“Sec. 408. Deep sea coral research and technology program.
“Sec. 409. Recreational data improvement program.”.
TITLE I—CLIMATE-READY FISHERIES

SEC. 101. FINDINGS, PURPOSE, AND POLICY.

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

(1) in subsection (a)—

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

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

“(A) increased fishing pressure;

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

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

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

(B) in paragraph (6), by inserting “to account for the impacts of environmental changes on stocks of fish,” after “insure conservation,”;
(C) by amending paragraph (9) to read as follows:

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

(D) by adding at the end the following:

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

“(15) The impacts of climate change on fish and their habitats are resulting in management and sustainability challenges that threaten to negatively impact marine ecosystems, fishery resources, and coastal communities.”;
(2) by amending subsection (b)(5) to read as follows:

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

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

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

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

(3) in subsection (c)—

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

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

(C) by adding at the end the following:
“(8) to promote management that accounts for changes in stocks of fish and the marine environment that result from climate change; and

“(9) to ensure that the research, resource management, and expenditures to prepare fisheries and fishing communities for climate change promote racial and socioeconomic equity with respect to environmental, economic, and social outcomes across fisheries and regions.”.

SEC. 102. PROMOTING CLIMATE RESILIENCE IN FISHERIES MANAGEMENT.

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

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

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

“(3) assess and specify the present and probable future condition of, and the maximum sustainable yield and optimum yield from, the fishery under prevailing and anticipated future environmental con-
ditions, and include a summary of the information
used in making such specification;”;

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

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

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

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

(7) by adding at the end the following:
“(16) assess and describe the anticipated im-
pacts of climate change and other environmental and
ecological changes on the fishery, including an as-
essment of whether and how the management
measures contained in the plan or plan amendment
have accounted for these changes, and a summary of
the information used in these assessments;
“(17) describe and identify the current range and distribution of, and fishing patterns on, fish stocks managed under the plan, including areas outside the jurisdiction of the Council having authority to issue the plan, and for fish stocks whose distribution crosses management boundaries, describe the measures used for coordination with other relevant management bodies for the conservation and management of the fish stock; and”.

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

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

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

“(a) VULNERABILITY ASSESSMENT.—Not later than 3 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021 and every 5 years thereafter, the Secretary shall—

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

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

“(b) COUNCIL PRIORITIZATION PLANS.—

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

“(2) HIGHLY MIGRATORY SPECIES.—With respect to stocks managed under section 302(a)(3), not later than 1 year after issuing a notification under subsection (a), the Secretary shall publish a plan to prioritize management actions to increase resilience of such fish stocks.

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

“(c) REPORT TO CONGRESS.—Not later than 3 years after the date of enactment of the Sustaining America’s
Fisheries for the Future Act of 2021 and every 5 years thereafter, the Secretary shall submit a report to Congress—

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

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

“(3) summarizing the steps taken by the Secretary and the Councils to mitigate and address the impacts on and risks of climate change to fish stocks.”.

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

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

SEC. 103. INCORPORATING CLIMATE SCIENCE.

(a) COUNCIL TRAINING PROGRAM.—Section 302(k)(1) (16 U.S.C. 1852(k)(1)) is amended—
(1) by redesignating subparagraphs (C) through (H) as subparagraphs (D) through (I), respectively;
(2) by redesignating subparagraph (I) as subparagraph (K);
(3) by inserting after subparagraph (B) the following:
“(C) climate change and its relevant impacts on fisheries health, range, and other factors that would affect the conservation and management of a stock;”;
(4) by striking “and” after the semicolon at the end of subparagraph (I), as so redesignated; and
(5) by inserting after subparagraph (I), as so redesignated, the following:
“(J) ecosystem-based fishery management; and”.

(b) Fisheries Research.—Section 404 (16 U.S.C. 1881c) is amended—

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

SEC. 104. CLIMATE-READY FISHERIES INNOVATION PROGRAM.

(a) Climate-Ready Fisheries Innovation Program.—Not later than 1 year after the date of enactment of this Act, the Administrator shall establish a program, including grants, to develop innovative tools and approaches and improve existing tools designed to increase the adaptive capacity of fishery management to the impacts of climate change. In administering such program, the Administrator shall—

(1) develop science and management approaches that address regional and national priorities to improve the conservation and management of fishery resources under current and anticipated climate impacts;

(2) provide for routine input from fishery managers, scientists, fishery participants, Tribes, and stakeholders in order to maximize opportunities to incorporate results of the program in fishery management actions;

(3) promote adoption of methods developed under the program in fishery management plans de-
developed by the Regional Fishery Management Councils;

(4) provide information and outreach to the private sector and academic sector to encourage development of tools and approaches to manage the effects of climate change on fisheries; and

(5) provide information and outreach to fishery participants to increase understanding of and encourage adoption and use of tools and approaches developed under the program.

(b) Coordination of the Program.—

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

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

(B) the Regional Fishery Management Councils;

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

(D) other relevant programs, including the cooperative research and management program under Section 318 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1867), the Integrated Ocean Observing System, and programs within the National Oce-
anic and Atmospheric Administration designed
to address ocean acidification.

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

(e) REPORT.—Every 2 years, beginning 2 years after the date of enactment of this Act, the Administrator shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Natural Resources that—

(1) describes funding provided to implement this section;

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

(3) describes how and in which fisheries these tools and approaches have been implemented; and
(4) describes improvements in fishery climate-readiness associated with implementing this section, as well as proposals to address remaining problems.

SEC. 105. MANAGING SHIFTING STOCKS.

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

“(f) Fisheries Under Authority of More Than One Council.—

“(1) Secretarial review of areas of authority.—The Secretary shall review the geographical area of authority of each Council in order to determine if a substantial portion of any fishery within such area is within the area of authority of another council—

“(A) upon request of such Council; or

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

“(2) Designation of council to prepare plan.—If the Secretary determines under paragraph (1) that a substantial portion of a fishery is located in the geographical area of authority of more than one Council, the Secretary shall—

“(A) not later than 6 months after the date of the determination under paragraph (1), notify the Councils concerned; and
“(B) require, not later than 1 year after the date on which the notification is made under subparagraph (A), that each of the Councils concerned, by a majority of the voting members present and voting—

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

“(ii) agree to jointly prepare the fishery management plan for such fishery and any amendment to such plan, if required under this Act.

“(3) SECRETARIAL DESIGNATION.—If the Councils concerned are unable to meet the requirements of paragraph (2)(B) within the relevant time period, the Secretary shall—

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

“(B) require that such plan and any such amendment, if required under this Act, be prepared jointly by the Councils concerned.
“(4) **Deadline for submission of plan.**—
Not later than 2 years after the date on which the Councils concerned make a decision pursuant to paragraph (2)(B)(ii), or the date on which the Secretary makes a decision pursuant to paragraph (3), and at such other times as required under this Act, the Council required under paragraph (2)(B) or (3) (as applicable) to prepare the fishery management plan or any such plan amendment, if required under this Act, shall prepare and submit such plan or amendment (with implementing regulations as needed) in accordance with this Act.

“(5) **Termination of cross-jurisdictional authority.**—

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

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

“(i) the Secretary shall determine

which Council has predominant geographic

authority over the fishery; and

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

“(6) ESTABLISHMENT OF CRITERIA.—The Sec-
retary shall, by regulation, identify criteria for deter-
mining under paragraphs (1) and (5) whether a sub-
stantial portion of a fishery is located in the geo-
 graphical area of authority of more than one Coun-
cil.
“(7) Establishment of Boundaries.—The Secretary shall establish the boundaries between the geographic areas of authority of adjacent Councils.

“(8) Requirement for Majority of Voting Members.—No jointly prepared plan or amendment required to be prepared under this subsection may be submitted to the Secretary unless such plan or amendment is approved by a majority of the voting members, present and voting, of each Council concerned.

“(9) Highly Migratory Species in Certain Fisheries.—This subsection shall not apply with respect to any fishery to which section 302(a)(3) applies.”.

(b) International Cooperation in the Research and Management of Cross-Jurisdictional Fisheries.—

(1) In General.—The Secretary of Commerce, in coordination with the Secretary of State and Administrator of the Agency for International Development where necessary, shall develop a strategy for coordinated research and management with other relevant nations with which the United States shares a fishery or stock of a fishery that currently or is expected to see shifts in geographic range or spatial...
distribution that does or will span international boundaries, including within the same life stage or across life stages.

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

(A) a list of fisheries that are currently or expected to see shifts in geographic range or spatial distribution that spans or will span international boundaries and the relevant countries for each fishery or stock of a fishery’s current or expected range;

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

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

(D) a 10-year strategy to implement coordinated management measures that reflect the needs for each fishery or stock of a fishery as determined by the research conducted under subparagraph (C).
SEC. 106. EMERGING FISHERIES.

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

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

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

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

“(A) a list of all fisheries, identified by corresponding Council or Secretarial management under section 302(a)(3)—

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

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

“(B) with respect to each such fishery—

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

“(ii) the jurisdiction (whether State, Federal, interstate, or otherwise) exercising management authority over such fishery;
“(iii) whether a Fishery Management Plan or analogous management structure exists for the fishery; and

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

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

(4) by redesignating paragraph (6) as paragraph (9); and

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

“(3) Not later than 18 months after the date of enactment of the ________ Act, and at least once every 5 years thereafter, each Council (or the Secretary for fisheries to which section 302(a)(3) applies) shall review the fisheries and gear on the list that are under its authority and submit to the Secretary proposed changes to such list in specific and narrow terms, including geographic range, to ensure that only active fisheries and gear are included on the list. The Secretary shall review proposed changes pursuant to the guidelines established under paragraph (2) and publish a revised list, after notice and
an opportunity for public comment, upon receiving
proposed changes from a Council (or from the Sec-
retary for fisheries to which section 302(a)(3) ap-
plies).

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

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

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

“(C) the data collected from, and the
Council’s evaluation of, the experimental fishing
activity are included in any proposal under
paragraph (5) for a new fishery or fishing gear
that may result from the experimental fishing permit.

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

“(A) the Secretary determines that a sufficient analysis supporting the proposal, as specified in paragraph (7), has been conducted by the Council;

“(B) the Secretary determines that the new fishery or fishing gear, as specified in the proposal and the accompanying fishery management plan or amendment and regulations under subparagraph (C), is consistent with conservation and management requirements in this Act and other applicable laws; and

“(C) the Council has prepared and submitted for Secretarial approval pursuant to section 304, concurrently with the proposal for a new fishery or fishing gear, a fishery management plan for the new fishery or fishing gear or an amendment to an existing fishery management plan, including proposed regulations to implement the plan or amendment, in accord-
ance with section 303. If the new fishery or fishing gear will include one or more stocks of fish that also substantially exist in the geographical area of authority of another Council, the fishery management plan or amendment, and implementing regulations, shall be prepared pursuant to section 304(f).

“(6) The Secretary shall publish in the Federal Register, after notice and an opportunity for public comment, all authorizations for new fisheries or fishing gear, including revisions to the list of fisheries and gear as appropriate, and shall make public all supporting documentation and analysis. The Secretary also shall publish in the Federal Register, after notice and an opportunity for public comment, all decisions to not authorize the development of a new fishery or fishing gear under this paragraph, including the reasons for the decision.

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

“(i) the potential impacts of a new fishery or fishing gear on the proposed target stock, stocks of fish, or stock complexes as well as on other stocks of fish and species, and the marine ecosystem;
“(ii) the potential impacts of a new fishery or fishing gear on existing fisheries and fishing communities, both within the Council’s jurisdiction and, if relevant, in neighboring jurisdictions;

“(iii) different potential management strategies for the new fishery or fishing gear, including identifying any significant differences across management strategies with respect to the potential impacts described in clauses (i) and (ii);

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

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

“(B) The Secretary shall issue guidance for sufficient analysis of these topics, to be used in making determinations under paragraph (5)(A).

“(8) No person or vessel may employ fishing gear or engage in a fishery not included on the list, except as provided in paragraph (4). A Council may request the Secretary to promulgate emergency regulations under subsection (e) to prohibit any persons
or vessels from using an unlisted fishing gear or en-
gaging in an unlisted fishery.”.

TITLE II—SUPPORTING FISHING
COMMUNITIES

SEC. 201. FISHERY RESOURCE DISASTER RELIEF.

(a) In General.—Section 312(a) (16 U.S.C. 1861a(a)) is amended to read as follows:

“(a) Fishery Resource Disaster Relief.—

“(1) Definitions.—In this subsection:

“(A) Allowable cause.—The term ‘al-
lowable cause’ means a natural cause, discrete
anthropogenic cause, or undetermined cause.

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

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

“(ii) that is otherwise beyond the con-
trol of fishery managers to mitigate
through conservation and management
measures, including regulatory restrictions
imposed as a result of judicial action or to
protect human health or marine animals,
plants, or habitats.
“(C) FISHERY RESOURCE DISASTER.—The term ‘fishery resource disaster’ means a disaster that is determined by the Secretary in accordance with this subsection and—

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

“(ii) does not include—

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

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

“(D) INDIAN TRIBE.—The term ‘Indian Tribe’ has the meaning given such term in section 102 of the Federally Recognized Indian Tribe List Act of 1994 (25 U.S.C. 5130), and
the term ‘Tribal’ means of or pertaining to such
an Indian Tribe.

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

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

“(I) a hurricane;
“(II) a flood;
“(III) a harmful algal bloom;
“(IV) a tsunami;
“(V) a hypoxic zone;
“(VI) ocean acidification;
“(VII) a drought;
“(VIII) El Niño effects on water
temperature;
“(IX) a marine heat wave; or
“(X) disease; and

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

“(F) 12-MONTH REVENUE LOSS.—The
term ‘12-month revenue loss’ means the per-
centage reduction, as applicable, in commercial,
charter, headboat, or processor revenue for the
12 months during which the fishery resource
disaster occurred, if compared to average annual revenue in the most recent 5-years during which no fishery resource disaster occurred or equivalent for stocks with cyclical life histories.

“(G) UNDETERMINED CAUSE.—The term ‘undetermined cause’ means a cause in which the current state of knowledge does not allow the Secretary to identify the exact cause, and there is no current conclusive evidence supporting a possible cause of the fishery resource disaster.

“(2) GENERAL AUTHORITY.—

“(A) IN GENERAL.—The Secretary shall have the authority to determine the existence, extent, and beginning and end dates of a fishery resource disaster under this subsection in accordance with this subsection.

“(B) AVAILABILITY OF FUNDS.—After the Secretary determines that a fishery resource disaster has occurred, the Secretary is authorized to make sums available, from funds appropriated for such purposes, to be used by the affected State, Tribal government, or interstate marine fisheries commission, or by the Secretary in cooperation with the affected State,
Tribal government, or interstate marine fisheries commission.

“(C) SAVINGS CLAUSE.—The requirements under this subsection shall take effect only with respect to requests for a fishery resource disaster determination submitted after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021.

“(3) INITIATION OF A FISHERY RESOURCE DISASTER REVIEW.—

“(A) ELIGIBLE REQUESTERS.—Not later than 1 year after the date of the conclusion of the fishing season, a request for a fishery resource disaster determination may be submitted to the Secretary, if the Secretary has not independently determined that a fishery resource disaster has occurred, by—

“(i) the Governor of an affected State;

“(ii) an official Tribal resolution; or

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

“(B) REQUIRED INFORMATION.—A complete request for a fishery resource disaster de-
termination under subparagraph (A) shall in-
clude—

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

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

“(iii) the geographic boundaries of the
fishery;

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

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

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

“(II) 12-month revenue loss or
subsistence loss for the affected fish-
ery, or if a fishery resource disaster
has occurred at any time in the previous 5-year period, the most recent 5-year period during which no fishery resource disaster occurred;

“(III) if applicable, information on lost resource tax revenues assessed by local communities, such as a raw fish tax or a local sourcing requirement; and

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

“(C) ASSISTANCE.—The Secretary may provide data and analysis assistance to an eligible requester described in paragraph (1), if—

“(i) the assistance is so requested;

“(ii) the Secretary is in possession of the required information described in subparagraph (B); and

“(iii) the data is not available to the requester, in carrying out the complete request under subparagraph (B).
“(D) Initiation of review.—The Secretary shall have the discretion to initiate a fishery resource disaster review without a request.

“(4) Review process.—

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

“(i) acknowledges receipt of the request;

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

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

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

“(B) Evaluation of requests.—

“(i) In general.—Based on the information provided or analyzed under paragraph (4), the Secretary shall complete a review, within the time frame de-
scribed in clause (ii), using the best scientific information available, in consultation with the affected fishing communities, States, or Tribes, of—

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

“(aa) fishery characteristics;
“(bb) stock assessments;
“(cc) the most recent fishery independent surveys and other fishery resource assessments and surveys conducted by Federal, State, or Tribal officials;
“(dd) estimates of mortality; and
“(ee) overall effects; and
“(II) the available economic information, which may include an analysis of—
“(aa) landings data;
“(bb) revenue;
“(cc) the number of participants involved;
“(dd) the number and type of jobs and persons impacted, which may include—

“(AA) fishers;

“(BB) charter fishing operators;

“(CC) subsistence users;

“(DD) United States fish processors; and

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

“(ee) an impacted Indian Tribe;

“(ff) other forms of disaster assistance made available to the fishery, including prior awards of disaster assistance for the same event;
“(gg) the length of time the
resource, or access to the re-
source, has been restricted;
“(hh) status of recovery
from previous fishery resource
disasters;
“(ii) lost resource tax reve-
 nues assessed by local commu-
nities, such as a raw fish tax;
and
“(jj) other appropriate indi-
cators to an affected fishery, as
determined by the National Ma-
rine Fisheries Service.
“(ii) TIME FRAME.—The Secretary
shall complete the review described in
clause (i), if the fishing season, applicable
to the fishery—
“(I) has concluded or there is no
defined fishing season applicable to
the fishery, not later than 120 days
after the Secretary receives a com-
plete request for a fishery resource
disaster determination;
“(II) has not concluded, not later than 120 days after the conclusion of the fishing season; or

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

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

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

“(5) CRITERIA FOR DETERMINATIONS.—

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

“(i) a natural cause;
“(ii) an anthropogenic cause;
“(iii) a combination of a natural cause and an anthropogenic cause; or
“(iv) an undetermined cause.

“(B) Revenue loss thresholds.—

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

“(I) Losses greater than 80 percent shall result in a positive determination that a fishery resource disaster has occurred.

“(II) Losses between 35 percent and 80 percent shall be evaluated to determine whether economic impacts are severe enough to declare that a fishery resource disaster has occurred, based on the information provided or analyzed under paragraph (4)(B).
“(III) Losses less than 35 percent shall not be eligible for a determination that a fishery resource disaster has occurred, except in a case in which the Secretary determines there are extenuating circumstances that justify using a lower threshold in making the determination.

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

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

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

“(D) Exceptional circumstances.—In an exceptional circumstance in which substantial economic impacts to the affected fishery and fishing community have been subject to a disaster declaration under another statutory authority, such as in the case of a natural disaster or from the direct consequences of a Federal action taken to prevent, or in response to, a natural disaster for purposes of protecting life and safety, the Secretary may determine a fishery resource disaster has occurred without a request.

“(6) Disbursement of appropriated funds.—

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

“(B) Allocation of appropriated fishery resource disaster assistance.—

“(i) Notification of funding availability.—If there are appropriated funds for 1 or more fishery resource disasters, the Secretary shall notify—

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

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

“(C) CONSIDERATIONS.—In determining the allocation of appropriations for a fishery resource disaster, the Secretary shall consider commercial, charter, headboat, or seafood processing revenue losses and may consider the following factors:

“(i) Direct economic impacts.

“(ii) Uninsured losses.

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

“(iv) Losses of recreational fishing opportunity.
“(v) Aquaculture operations revenue
loss.
“(vi) Direct revenue losses to a fishing
community.
“(vii) Treaty obligations.
“(viii) Other economic impacts.
“(D) SPEND PLANS.—To receive an allocation from funds available under paragraph (9), a requester with an affirmative fishery resource disaster determination shall submit a spend plan to the Secretary, not more than 120 days after receiving notification that funds are available, that shall include the following information, if applicable:
“(i) Objectives and outcomes, with an emphasis on addressing the factors contributing to the fishery resource disaster and minimizing future uninsured losses, if applicable.
“(ii) Statement of work.
“(iii) Budget details.
“(E) REGIONAL CONTACT.—If so requested, the Secretary shall provide a regional contact within the National Oceanic and Atmos-
pheric Administration to facilitate review of
spend plans and disbursal of funds.

“(F) DISBURSAL OF FUNDS.—

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

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

“(iii) ELIGIBLE USES.—

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

“(aa) Habitat conservation
and restoration and other activi-
ties, including scientific research,
that reduce adverse effects on the fishery or improve understanding of the affected species or its ecosystem.

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

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

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

“(ee) Direct assistance to a person, fishing community (including assistance for lost fisheries resource levies), or a business to alleviate economic loss in-
curred as a direct result of a fishery resource disaster, particularly if affected by a circumstance described in paragraph (5)(D).

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

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

“(7) LIMITATIONS.—

“(A) FEDERAL SHARE.—

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

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

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

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

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

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

“(II) assistance to subsistence or Tribal fisheries.

“(B) **LIMITATIONS ON ADMINISTRATIVE EXPENSES.**—
“(i) **Federal.**—Not more than 3 percent of the funds available under this subsection may be used for administrative expenses by the National Oceanographic and Atmospheric Administration.

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

“(C) **Fishing Capacity Reduction Program.**—

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

“(ii) **Assistance Conditions.**—As a condition of providing assistance under this subsection with respect to a vessel under a fishing capacity reduction program, the Secretary shall—
“(I) prohibit the vessel from being used for fishing in Federal, State, or international waters; and

“(II) require that the vessel be—

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

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

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

“(D) NO FISHERY ENDORSEMENT.—

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

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

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

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

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

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

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

(B) in the matter preceding subparagraph (A), by striking “Not later than 2 years after the date of enactment of this Act, and annually thereafter” and inserting “Not later than 2
years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021, and biennially thereafter”; and

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

(e) INTERJURISDICTIONAL FISHERIES ACT OF 1986.—


(2) TECHNICAL EDIT.—Section 3(k)(1) of the Small Business Act (15 U.S.C. 632(k)(1)) is amended by striking “(as determined by the Secretary of Commerce under section 308(b) of the Interjurisdictional Fisheries Act of 1986)” and inserting “(as determined by the Secretary of Commerce under the Sustaining America’s Fisheries for the Future Act of 2021)”.

(d) BUDGET REQUESTS; REPORTS.—

(1) BUDGET REQUEST.—In the budget justification materials submitted to Congress in support of the budget of the Department of Commerce for each fiscal year (as submitted with the budget of the President under section 1105(a) of title 31, United

•HR 4690 IH
States Code), the Secretary of Commerce shall include a separate statement of the amount requested to be appropriated for that fiscal year for outstanding unfunded fishery resource disasters.

(2) Driftnet Act Amendments of 1990 Report and Bycatch Reduction Agreements.—

(A) In General.—The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended—

(i) in section 202(h), by striking paragraph (3); and

(ii) in section 206—

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

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

(B) Biennial Report on International Compliance.—Section 607 of the High Seas Driftnet Fishing Moratorium Protection Act (16 U.S.C. 1826h) is amended—

(i) by inserting “(a) In General.—” before “The Secretary” and indenting appropriately; and
(ii) by adding at the end the following:

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

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

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

“(B) a list and description of any new fisheries developed by nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the exclusive economic zone of any nation; and

“(C) a list of the nations that conduct, or authorize their nationals to conduct, large-scale driftnet fishing beyond the exclusive economic zone of any nation in a manner that diminishes the effectiveness of or is inconsistent with any international agreement governing large-scale
driftnet fishing to which the United States is a party or otherwise subscribes; and
“(2) a description of the actions taken to carry out the provisions of section 202(h) of the Magnu-
son-Stevens Fishery Conservation and Management Act (16 U.S.C. 1822(h)).
“(c) CERTIFICATION.—If, at any time, the Secretary, in consultation with the Secretary of State and the Sec-
retary of the department in which the Coast Guard is oper-
ing, identifies any nation that warrants inclusion in the list described under subsection (b)(1)(C), due to large
scale drift net fishing, the Secretary shall certify that fact to the President. Such certification shall be deemed to be a certification for the purposes of section 8(a) of the Fish-
ermen’s Protective Act of 1967 (22 U.S.C. 1978(a)).”.

SEC. 202. SUBSISTENCE FISHING.

(a) PURPOSES.—Section 2(b)(3) (16 U.S.C. 1801(b)(3)) is amended by inserting “, subsistence,” after “commercial”.
(b) DEFINITION OF SUBSISTENCE FISHING.—Section 3 is amended—
(1) by redesignating the second paragraph (33) (appearing after paragraph (50) as paragraph (51);
(2) by inserting after paragraph (42) the following:

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

“(i) for direct personal or family consumption as food or clothing;

“(ii) for the making or selling of handicraft articles out of nonedible byproducts taken for personal or family consumption, for barter, or sharing for personal or family consumption; and

“(iii) for customary trade.

“(B) In this paragraph—

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

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

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

“(II) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.”.
SEC. 203. WORKING WATERFRONTS GRANT PROGRAM.

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

“SEC. 320. WORKING WATERFRONTS GRANT PROGRAM.

“(a) WORKING WATERFRONT TASK FORCE.—

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

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

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

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

“(3) FUNCTIONS.—The task force shall—

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

“(i) economic and cultural importance of working water-fronts to communities;

“(ii) changing environments and threats working water-fronts face from en-
vironment changes, trade barriers, sea level rise, extreme weather events, ocean acidifi-
cation, and harmful algal blooms; and

“(iii) identifying working water-fronts and highlighting them within communities;

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

“(C) identify Federal agencies that are re-
sponsible under existing law for addressing such critical needs; and
“(D) recommend Federal agencies best suited to address any critical needs for which no agency is responsible under existing law.

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

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

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

“(b) WORKING WATERFRONT GRANT PROGRAM.—

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

“(2) Subject to the availability of appropriations, the Secretary shall award matching grants under the Working Waterfronts Grant Program to coastal States with approved working waterfront plans through a regionally equitable, competitive funding process in accordance with the following:

“(A) The Governor, or the lead agency designated by the Governor for coordinating the implementation of this section, where appropriate in consultation with the appropriate local government, shall determine that the application is consistent with the State’s or territory’s approved coastal zone plan, program, and policies prior to submission to the Secretary.

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

“(C) Coastal States may allocate grants to local governments, Indian Tribes, agencies, or nongovernmental organizations eligible for assistance under this section.
“(3) In awarding a grant to a coastal State, the Secretary shall consider—

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

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

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

“(D) the potential for rapid turnover in the ownership of working waterfront in the coastal State, and where applicable the need for coastal States to respond quickly when properties in existing or potential working waterfront areas or public access areas as identified in the working waterfront plan submitted by the coastal State come under threat or become available; and
“(E) the impact of the working waterfront plan approved for the coastal State under subsection (c) on the coastal ecosystem and the users of the coastal ecosystem.

“(4) The Secretary shall approve or reject an application for such a grant within 60 days after receiving an application for the grant.

“(c) WORKING WATERFRONT PLANS.—

“(1) To be eligible for a grant under subsection (b), a coastal State must submit and have approved by the Secretary a comprehensive working waterfront plan in accordance with this subsection, or be in the process of developing such a plan and have an established working waterfront program at the State or local level, or the Secretary determines that an existing coastal land use plan for that State is in accordance with this subsection.

“(2) Such plan—

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

“(B) shall include one or more of—
“(i) an assessment of the economic, social, cultural, and historic value of working waterfront to the coastal State;

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

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

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

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

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

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

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

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

“(C) may include detailed environmental impacts on working waterfronts, including hazards, sea level rise, inundation exposure, and other resiliency issues;

“(D) may be part of the management program approved under section 306;
“(E) shall utilize to the maximum extent practicable existing information contained in relevant surveys, plans, or other strategies to fulfill the information requirements under this paragraph; and

“(F) shall incorporate the policies and regulations adopted by communities under local working waterfront plans or strategies in existence before the date of the enactment of this section.

“(3) A working waterfront plan—

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

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

“(C) shall be complimentary to and incorporate the policies and objectives of regional or local working waterfront plans as in effect before the date of enactment of this section or as subsequently revised.

“(4) The Secretary may—

“(A) award planning grants to coastal States for the purpose of developing or revising comprehensive working waterfront plans; and
“(B) award grants consistent with the purposes of this section to States undertaking the working waterfront planning process under this section, for the purpose of preserving and protecting working waterways during such process.

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

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

“(B) coordinate development and implementation of such a plan with other coastal management programs, regulations, and activities of the coastal State; and

“(C) if the coastal State allows qualified holders (other than the coastal State) to enter into working waterfront covenants, provide as part of the working waterfront plan under this subsection a mechanism or procedure to ensure that the qualified holders are complying their duties to enforce the working waterfront covenant.

“(d) Uses, Terms, and Conditions.—
“(1) Each grant made by the Secretary under this section shall be subject to such terms and conditions as may be appropriate to ensure that the grant is used for purposes consistent with this section.

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

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

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

“(C) for necessary climate adaptation mitigation.

“(e) Public Access Requirement.—A working waterfront project funded by grants made under this section must provide for expansion, improvement, or preservation of reasonable and appropriate public access to coastal waters at or in the vicinity of a working waterfront, except for commercial fishing or other industrial access points where the coastal State determines that public access would be unsafe.

“(f) Limitations.—

“(1) Except as provided in paragraph (2), a grant awarded under this section may be used to purchase working waterfront or an interest in work-
ing waterfront, including an easement, only from a willing seller and at fair market value.

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

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

“(g) Allocation of Grants to Local Governments and Other Entities.—

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

“(2) Subject to the approval of the Secretary, a coastal State may, as part of an approved working waterfront plan, designate as a qualified holder any unit of State or local government or nongovernmental organization, if the coastal State is ultimately responsible for ensuring that the property
will be managed in a manner that is consistent with
the purposes for which the land entered into the pro-
gram.

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

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

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

“(B) such covenant shall be held by the
coastal State or a qualified holder designated
under paragraph (2);
“(C) if the coastal State determines, on
the record after an opportunity for a hearing,
that the working waterfront covenant has been
violated—

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

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

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

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

“(h) MATCHING CONTRIBUTIONS.—

“(1) Except as provided in paragraph (2), the
Secretary shall require that each coastal State that
receives a grant under this section, or a qualified
holder designated by that coastal State under subsection (g), shall provide matching funds in an amount equal to at least 25 percent of the total cost of the project carried out with the grant.

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

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

“(4) As a condition of receipt of a grant under this section, the Secretary shall require that a coastal State provide to the Secretary such assurances as the Secretary determines are sufficient to demonstrate that the share of the cost of each eligible project that is not funded by the grant awarded under this section has been secured.

“(5) If financial assistance under this section represents only a portion of the total cost of a
project, funding from other Federal sources may be applied to the cost of the project. Each portion shall be subject to match requirements under the applicable provision of law.

“(6) The Secretary shall treat as non-Federal match the value of a working waterfront or interest in a working waterfront, including conservation and other easements, that is held in perpetuity by a qualified holder, if the working waterfront or interest is identified in the application for the grant and acquired by the qualified holder within 3 years of the grant award date, or within 3 years after the submission of the application and before the end of the grant award period. Such value shall be determined by an appraisal performed at such time before the award of the grant as the Secretary considers appropriate.

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

“(i) Limit on Administrative Costs.—No more than 5 percent of the funds made available to the Secretary under this section may be used by the Secretary for planning or administration of the program under this section.

“(j) Other Technical and Financial Assistance.—

“(1) Up to 5 percent of the funds appropriated under this section may be used by the Secretary for purposes of providing technical assistance as described in this subsection.

“(2) The Secretary shall—

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

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

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

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

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

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

“(k) REPORTS.—

“(1) The Secretary shall—

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

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

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

“(l) DEFINITIONS.—In this section:

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

“(2) The term ‘Secretary’ means the Secretary, acting through the National Oceanic and Atmospheric Administration.

“(3) The term ‘working waterfront’ means real property (including support structures over water and other facilities) that provides access to coastal waters to persons engaged in commercial and recreational fishing, recreational fishing and boating businesses, boatbuilding, aquaculture, or other water-dependent, coastal-related business and is used for, or that supports, commercial and recreational fishing, recreational fishing and boating businesses, boatbuilding, aquaculture, or other water-dependent, coastal-related business.
“(4) The term ‘working waterfront covenant’ means an agreement in recordable form between the owner of working waterfront and one or more qualified holders, that provides such assurances as the Secretary may require that—

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

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

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

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

“(ii) funds equal to the fair market value of the working waterfront or interest in working waterfront shall be paid to the Secretary by parties to the sale or ex-
change, and such funds shall, at the discretion of the Secretary, be paid to the coastal State in which the working waterfront is located for use in the implementation of the working waterfront plan of the State approved by the Secretary under this section; and

“(D) such covenant is subject to enforcement and oversight by the coastal State or by another person as determined appropriate by the Secretary.

“(m) Authorization of Appropriations.—There is authorized to be appropriated to the Grant Program $15,000,000.”.

(b) Working Waterfronts Preservation Loan Fund.—The Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) is further amended by adding at the end the following:


“(a) Fund.—There is established in the Treasury a separate account that shall be known as the ‘Working Waterfronts Preservation Loan Fund’ (in this section referred to as the ‘Fund’).

“(b) Use.—
“(1) Subject to the availability of appropriations, amounts in the Fund may be used by the Secretary to make loans to coastal States for the purpose of implementing a working waterfront plan approved by the Secretary under section 320(c) through preservation, improvement, restoration, rehabilitation, acquisition of working waterfront properties under criteria established by the Secretary.

“(2) Upon enactment of this section, the Secretary of Commerce shall conduct a feasibility study on the administration of the development and management of a Working Waterfronts Preservation Loan Fund.

“(3) Upon the completion of the study under paragraph (2), the Secretary shall establish a fund in accordance with the results of that study, and establish such criteria as referenced in subsection (c) in consultation with States that have a management program approved by the Secretary of Commerce pursuant to section 306 and local government coastal management programs.

“(c) AWARD CRITERIA.—The Secretary shall award loans under this section through a regionally equitable, competitive funding process, and in accordance with the following:
“(1) The Governor, or the lead agency designated by the Governor for coordinating the implementation of this section, where appropriate in consultation with the appropriate local government, shall determine that an application for a loan is consistent with the State’s approved coastal zone plan, program, and policies prior to submission to the Secretary.

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

“(3) Coastal States may allocate amounts loaned under this section to local governments, Indian Tribes, agencies, or nongovernmental organizations eligible for loans under this section.

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

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

“(B) the demonstrated working waterfront needs of the coastal State as outlined by a working waterfront plan approved for the coastal State under section 320(c), and the value of
the proposed loan for the implementation of such plan;

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

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

“(E) the impact of the loan on the coastal ecosystem and the users of the coastal ecosystem; and

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

“(d) LOAN AMOUNT AND TERMS.—

“(1) The amount of a loan under this section—
“(A) shall be not less than $100,000; and

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

“(2) The interest rate for a loan under this section shall not exceed 4 percent.

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

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

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

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

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

SEC. 204. SEAFOOD MARKETING.

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

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

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

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

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

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

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

(1) in paragraph (1)—

(A) in subparagraph (C)(iii), by inserting “, including the participation of fishing communities in the fishery” after “benefits”; and
(B) by adding at the end the following:

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

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

“(3) FISHING COMMUNITIES.—

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

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

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

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

“(B) COMMUNITY SUSTAINABILITY PLAN
APPROVAL.—

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

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

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

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

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

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

“(VI) A description of how the community sustainability plan will address the projected economic and social impacts associated with the implementation of the limited access program, including the potential for strengthening economic conditions in remote fishing communities lacking the resources to participate in harvesting activities in the fishery.

“(VII) A description of how the community sustainability plan will ensure the benefits of participating in the limited access privilege program accrue to the fishing community and participants.

“(ii) PREVIOUSLY ADOPTED PLAN.—A community sustainability plan submitted before the date of enactment of the Sus-
taining America’s Fisheries for the Future Act of 2021 shall not be invalidated by failure to comply with clause (i) unless such plan is amended after such date.”.

SEC. 206. FINDINGS.

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

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

TITLE III—STRENGTHENING PUBLIC PROCESS AND TRANSPARENCY

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

(a) In general.—Section 302(b)(5) (16 U.S.C. 1852(b)(5)) is amended—

(1) in subparagraph (A), by striking “of not less than 3 individuals”; and
(2) by adding at the end the following:

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

(b) CONFORMING AMENDMENT.—Section 302(b)(3) is amended by striking “paragraphs (2) and (5)” and inserting “paragraph (2)”.

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

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

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

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

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

“(7) TRIBAL REPRESENTATIVE ON NORTH PACIFIC COUNCIL.—

“(A) APPOINTMENT.—The Secretary shall appoint to the North Pacific Council 2 representatives of Indian tribes in Alaska from a list submitted by Tribal governments. The Sec-
Secretary, in consultation with the Secretary of Interior and Tribal governments shall determine the procedure for submitting a list under this subparagraph.

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

“(i) the qualifications of the individuals on the list described in subparagraph (A);

“(ii) the degree to which the Indian tribes in the region are dependent on anadromous fish and marine resources in the area managed by the Council and the impact of Council actions on such resources; and

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

“(C) FILLING OF VACANCY.—A vacancy occurring prior to the expiration of any term shall be filled in the same manner as set out in subparagraphs (A) and (B), except that the Secretary may use the list from which the vacating representative was chosen.
“(D) DESIGNATION OF ALTERNATE.—The tribal representative appointed under subparagraph (A) may designate as an alternate an individual knowledgeable concerning tribal rights and fishing practices, Indigenous traditional knowledge, tribal law, and other marine resources of the geographical area concerned.

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

SEC. 303. ATLANTIC COUNCILS.

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

(1) in paragraph (1)—

(A) in subparagraph (A)—

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

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

(B) in subparagraph (B)—
(i) by striking “21” and inserting “22”; and

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

(2) by adding at the end the following:

“(4) REQUIREMENTS FOR LIAISON.—The Secretary may only appoint an individual to be a liaison between 2 Councils under this subsection if such individual has expertise in a fishery that spans the geographical areas of both such Councils.”.

SEC. 304. COUNCIL PROCEDURES AND PARTICIPATION.

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

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

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

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

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

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

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

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

“(ii) an audio or video recording (if the meeting was in person or by video conference), or a searchable audio recording or written transcript, of each meeting of the Council and of the meetings of committees referred to in section 302(g)(1)(B) of the Council, by not later than 30 days after the conclusion of the meeting.
“(H) The Secretary shall maintain and make available to the public an archive of Council and scientific and statistical committee meeting audio and video recordings and transcripts made available under clauses (i) and (ii) of subparagraph (G).”.

SEC. 305. COUNCIL ACCOUNTABILITY AND MEMBERSHIP.

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

(1) in paragraph (1), by inserting “Such employees, including executive directors, shall be deemed Federal employees with respect to any requirement that applies to Federal employees.” after “functions.”; and

(2) by adding at the end the following:

“(8) Council, committee, and advisory panel members shall be subject to all law, rules, and policies regarding ethics and sexual harassment and assault that apply to Federal employees. Council, committee, and advisory panel members found to have violated such laws, rules, or policies shall be held individually liable for their actions. The Secretary may impose civil penalties for violations including suspension or expulsion from participation or membership
in a council, advisory body, or related entity or activ-
ity.”.

(b) Disclosure of Financial Interest and Recusal.—Section 302(j) (16 U.S.C. 1852(j)) is amend-
ed—

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

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

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

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

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

“(m) Lobbying.—

“(1) Prohibition on Council Lobbying.—
Regional Fishery Management Council members,
members of Council advisory bodies, and Council
employees and contractors, are prohibited from
using Federal funds to attempt to influence the in-
troduction, advancement, enactment, amendment, or
repeal of Federal or State legislation, as well as the
issuance, advancement, modification, or overturning
of an executive order, Presidential proclamation, or
similar Presidential directive or decree. Notwith-
standing the foregoing, such individuals may provide
a technical and factual presentation directly related
to the performance of a Council’s duties, through
hearing testimony or written statements, if such
presentation is in response to a documented request
and is made available under paragraph (4).

“(2) ADJUDICATING VIOLATIONS.—

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

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

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

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

“(A) copies of all documents and communication relevant to paragraph (1), including any relevant Council meeting minutes, briefing book materials, and correspondence, including with a office of general counsel of a regional office of the National Oceanic and Atmospheric Administration;

“(B) copies of all communication with Federal or State legislators, or any communication with executive branch officials on subjects other than routine fishery management in the region; and

“(C) documentation of verbal communication with Federal or State legislators or with Federal executive branch officials on subjects other than routine fishery management in the region.

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

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

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

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

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

“(7) REGULATIONS.—Not later than 12 months after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021, the Secretary shall issue implementing regulations for this subsection.”.

(d) VOTING MEMBERS.—Section 302(b)(2) (16 U.S.C. 1852(b)(2)) is amended—
(1) by amending subparagraph (A) to read as follows:

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

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

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

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

“(B) APPORTIONMENT.—The Secretary, in making appointments under this section, shall, to the extent practicable, ensure a fair and balanced apportionment, on a rotating or other basis, of active participants or representatives of such participants in the commercial, recreational, and subsistence fisheries under the jurisdiction of the Council and of members of
the conservation community, scientists, non-
consumptive users, and indigenous and tribal
communities as applicable, and of the active
participants (or their representatives) in the
commercial, recreational, and subsistence fish-
eries under the jurisdiction of the Council. The
Secretary shall, on an annual basis, submit to
the Committee on Commerce, Science, and
Transportation of the Senate and the Com-
mittee on Natural Resources of the House of
Representatives a report on the actions taken
by the Secretary to ensure that such fair and
balanced apportionment is achieved. The report
shall—

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

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

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

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

“(C) APPOINTMENTS.—

“(i) LIST FROM GOVERNOR.—

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

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

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

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

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

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

“(ii) **INDIVIDUALS WHO DO NOT HAVE A FINANCIAL INTEREST.**—The Secretary shall appoint to each Council at least 1 individual who does not have a financial interest in matters before the Council.

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

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

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

(f) **JUDICIAL REVIEW.**—Section 305(f)(1) is amended by striking “30” and inserting “60”.

SEC. 306. **AMENDMENTS TO WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.**

Section 204(e) is amended—
(1) in paragraph (4)—

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

“(A) IN GENERAL.—

“(i) REQUIREMENT.—Prior to entering into a Pacific Insular Area fishery agreement, the Western Pacific Council and the appropriate Governor shall develop a 3-year marine conservation plan including detailing uses for funds to be collected by the Secretary pursuant to such agreement.

“(ii) PROCESS.—Not later than 30 days before submitting a marine conservation plan to the Secretary for approval, the Western Pacific Council shall issue a public notice of intent to submit such plan to the Secretary, including publishing such plan.

“(iii) CONTENTS.—The marine conservation management plan required by clause (i) shall be consistent with any applicable fishery management plan, identify conservation and management objectives (including criteria for determining when
such objectives have been met), and prioritize planned marine conservation projects. Conservation and management objectives shall include—

“(I) Pacific Insular Area observer programs, or other monitoring programs, that the Secretary determines are adequate to monitor the harvest, bycatch, and compliance with the laws of the United States by foreign fishing vessels that fish under Pacific Insular Area fishing agreements;

“(II) conduct of marine and fisheries research, including development of systems for information collection, analysis, evaluation, and reporting;

“(III) conservation, education, and enforcement activities related to marine and coastal management, such as living marine resource assessments, habitat monitoring and coastal studies;

“(IV) grants to the University of Hawaii for technical assistance
projects by the Pacific Island Network, such as education and training in the development and implementation of sustainable marine resources development projects, scientific research, and conservation strategies; and

“(V) western Pacific community-based demonstration projects under section 112(b) of the Sustainable Fisheries Act and other coastal improvement projects in waters beyond the seaward boundary (as such term is defined in section 4 of the Submerged Lands Act) of any State to foster and promote the management, conservation, and economic enhancement of the Pacific Insular Areas.

“(iv) APPLICABILITY OF RECUSAL REQUIREMENTS.—The development of a marine conservation plan under this subparagraph shall be a Council decision for the purposes of section 302(j).”; and

(B) in subparagraph (B), by inserting “Hawaii,” before “American Samoa,”;
(2) by amending paragraph (7) to read as follows:

“(7) WESTERN PACIFIC SUSTAINABLE FISHERIES FUND.—There is established in the United States Treasury a Western Pacific Sustainable Fisheries Fund into which any payments received by the Secretary under a Pacific Insular Area fishery agreement and any funds or contributions received in support of conservation and management objectives under a marine conservation plan for any Pacific Insular Area other than American Samoa, Guam, or the Northern Mariana Islands shall be deposited. The Western Pacific Sustainable Fisheries Fund shall be made available, without appropriation or fiscal year limitation, to the Secretary, who shall provide such funds only—

“(A) for the purpose of carrying out the provisions of this subsection, as determined by the Secretary in consultation with the Western Pacific Sustainable Fishery Fund Advisory panel under paragraph (9), including implementation of a marine conservation plan approved under paragraph (4);

“(B) to the Secretary of State for mutually agreed upon travel expenses for no more than
2 Federal representatives incurred as a direct
result of complying with paragraph (1)(B); and

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

(3) by adding at the end the following:

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

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

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

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

“(ii) One individual selected by the
Governor of the Northern Mariana Islands.
“(iii) One individual selected by the Governor of Guam.

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

“(10) WRITTEN EXPLANATION.—In any case in which the Secretary issues a grant that is inconsistent with the ranking given by such advisory panel under subparagraph (A), the Secretary shall provide a detailed written explanation of such deviation.

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

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

“(13) REPORT.—The Secretary shall, in consultation with such advisory panel, submit an annual report to Congress identifying any projects funded in the previous year under this subsection and the status and progress of projects carried out under this subsection.

“(14) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App) shall not apply to such advisory panel.”.
SEC. 307. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION SEXUAL HARASSMENT AND ASSAULT PREVENTION.

(a) Policy on the Prevention of and Response to Sexual Harassment Involving National Oceanic and Atmospheric Administration Personnel.—

(1) Covered Personnel.—Section 3541(a) of Public Law 114–328 (33 U.S.C. 894(a)) is amended—

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

“(1) In general.—Not later”; and

(B) by adding at the end the following:

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

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

“(i) commercial fisheries observation required by the Magnuson-Stevens Fishery Conservation and Management Act;
“(ii) protected species or endangered species observation required by the Marine Mammal Protection Act of 1972 or the Endangered Species Act of 1973; or
“(iii) platform removal observation.
“(B) Voting members and executive and administrative staff of regional fishery management councils established by section 302 of the Magnuson-Stevens Fishery Conservation and Management Act.”.

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

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

(B) in paragraph (2)—

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

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

“(C) A synopsis of each case and the disciplinary action taken (if any) in each case.”.
(b) Comprehensive Policy on Prevention of and Response to Sexual Assaults.—

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

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

“(1) IN GENERAL.—Not later”; and

(B) by adding at the end the following:

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

(2) Victim Advocates.—

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

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

(B) Location.—Section 3542(c)(4) (33 U.S.C. 894a(c)(4)) of such Act is amended by inserting “full time” after “stationed”.
(c) Annual Report on Sexual Assaults, Sexual Harassment, and Equal Employment.—Section 3548 of such Act (33 U.S.C. 894e) is amended—

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

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

(3) in subsection (b)—

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

(B) by adding at the end the following:

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

“(6) A summary of the number of cases referred to the Coast Guard under section 3550.
“(7) The number of alleged sexual assaults and sexual harassment cases involving fisheries, protected species, and endangered species observers, including—

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

“(B) the disposition of any investigation; and

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

(d) INVESTIGATION AND CRIMINAL REFERRAL REQUIREMENTS.—

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

(2) IN GENERAL.—Subtitle C of title XXXV of such Act (33 U.S.C. 894 et seq.) is amended by inserting after section 3547 the following:
SEC. 3548. EXCEPTIONS REGARDING ANONYMITY OF SURVIVORS IN CERTAIN CASES.

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

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

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

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

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

"(b) Notice of Disclosure and Privacy Protection.—In any case in which information is disclosed under subsection (a), the Secretary shall—
“(1) make reasonable attempts to provide no-
tice to the employee, member, or individual whose
personally identifying information is disclosed; and
“(2) take such action as is necessary to protect
the privacy and safety of the employee, member, or
individual.

“SEC. 3549. RESTRICTED REPORTING.

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

“(b) RESTRICTED REPORTING DEFINED.—In this
section the term ‘restricted reporting’ means a system of
reporting that allows employees of the National Oceanic
and Atmospheric Administration, members of the Com-
misioned Officer Corps of the Administration, and indi-
viduals who work with or conduct business on behalf of
the Administration who are sexually assaulted to confiden-
tially disclose the details of such person’s assault to speci-
fied individuals and receive the services outlined in this
subtitle title—
“(1) without the dissemination of such
persons’s personally identifying information except
as necessary for the provision of such services; and
“(2) without automatically triggering an investigative process.

“SEC. 3550. MARINER REFERRAL.

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

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

“(2) are—

“(A) employees or contractors of the Administration required to hold a valid merchant
mariner credential as a condition of employment; or

“(B) crew of a vessel that, at the time of such act or offence, was operating under a contract with the Administration.”.

(e) CONFORMING AND CLERICAL AMENDMENTS.—

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

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

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

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

(D) in section 3543—

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

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

(E) in section 3544—

(i) in subsection (a)—

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

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

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

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

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

and

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

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

“Sec. 3549. Restricted reporting.

“Sec. 3550. Mariner referral.

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

“Sec. 3552. Sexual assault defined.”.

(f) Prohibited Acts.—Section 307(1)(L) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1857(1)(L)) is amended—

(1) by striking “forcibly”; and

(2) by striking “on a vessel”.

VerDate Sep 11 2014 22:13 Aug 06, 2021 Jkt 019200 PO 00000 Frm 00118 Fmt 6652 Sfmt 6201 E:\BILLS\H4690.IH H4690pbinns on DSKJLVW7X2PROD with BILLS
(g) Prohibition on Service in the National Oceanic and Atmospheric Administration Commissioned Officer Corps by Individuals Convicted of Certain Sexual Offenses.—Section 261(a) of the National Oceanic and Atmospheric Administration Commissioned Officer Corps Act of 2002 (33 U.S.C. 3071(a)) is amended—

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

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

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

SEC. 308. SALTONSTALL-KENNEDY ACT REFORM.

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

(1) by redesignating subsection (e) as subsection (f); and

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

“(e) American Fisheries Advisory Committee.—

“(1) Definitions.—In this subsection:
“(A) COMMITTEE.—The term ‘Committee’ means the American Fisheries Advisory Committee established under paragraph (2).

“(B) FISHING COMMUNITY.—The term ‘fishing community’ means harvesters, marketers, growers, processors, recreational fishermen, charter fishermen, and persons providing goods and services to such persons.

“(C) MARKETING AND PROMOTION.—The term ‘marketing and promotion’ means an activity aimed at encouraging the consumption of seafood or expanding or maintaining commercial markets for seafood.

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

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

“(2) ESTABLISHMENT.—Not later than 90 days after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021, the Sec-
retary shall establish the American Fisheries Advi-
sory Committee. Such Committee shall use the fol-
lowing division of regions for organizational pur-
poses:

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

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

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

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

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

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

“(3) MEMBERSHIP.—The Committee shall be
composed of the following members:
“(A) Regional representation.—The Secretary shall appoint 3 members to the Committee from each of the regions described in paragraph (2)—

“(i) who reside in a State or territory in the region that the member will represent;

“(ii) of which—

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

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

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

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

“(B) At-large members.—The Secretary shall appoint to the Committee at-large members as follows:
“(i) One individual with experience in food distribution, marketing, retail, or food service.

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

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

“(iv) One individual who is an employee of the National Marine Fisheries Service with expertise in fisheries research.

“(C) Balanced Representation.—In selecting the members described in subparagraphs (A) and (B), the Secretary shall seek to maximize on the Committee, to the extent practicable, a balanced representation of expertise in United States fisheries, seafood production, and science.

“(4) Member Terms.—The term for a member of the Committee shall be 3 years, except that the Secretary shall designate staggered terms for the members initially appointed to the Committee.
“(5) Responsibilities.—The Committee shall be responsible for—

“(A) identifying needs of the fishing community that may be addressed by a project funded with a grant under subsection (c);

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

“(C) reviewing applications for such grants; and

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

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

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

“(8) Meetings.—

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

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

“(C) Minimizing costs.—The Committee shall seek to minimize the operational costs as-
associated with meetings, hearings, or other business of the Committee, including through the use of video or teleconference.

“(9) DESIGNATION OF STAFF MEMBER.—The Secretary shall designate a staff member to coordinate the activities of the Committee and to assist with administrative and other functions as requested by the Committee.

“(10) PER DIEM AND EXPENSES AND FUNDING.—

“(A) IN GENERAL.—A member of the Committee shall serve without compensation, but shall be reimbursed in accordance with section 5703 of title 5, United States Code, for reasonable travel costs and expenses incurred in performing duties as a member of the Committee.

“(B) FUNDING.—The costs of reimbursements under subparagraph (A) and the other costs associated with the Committee shall be paid from funds made available to carry out this section (which may include funds described in subsection (f)(1)(B)), except that no funds allocated for grants under subsection (f)(1)(A)
shall be expended for any purpose under this subsection.

“(11) CONFLICT OF INTEREST.—The conflict of interest and recusal provisions set out in section 302(j) of the Magnuson-Stevens Fishery Conservation and Management Act shall apply to any decision by the Committee and to all members of the Committee as if each member of the Committee is an affected individual within the meaning of such section 302(j), except that in addition to the disclosure requirements of section 302(j)(2)(C) of such Act, each member of the Committee shall disclose any financial interest or relationship in an organization or with an individual that is applying for a grant under subsection (c) held by the member of the Committee, including an interest as an officer, director, trustee, partner, employee, contractor, agent, or other representative.

“(12) TECHNICAL REVIEW OF APPLICATIONS.—

“(A) IN GENERAL.—Prior to review of an application for a grant under subsection (c) by the Committee, the Secretary shall obtain an independent written technical evaluation from 3 or more appropriate Federal, private, or public
sector experts (such as industry, academia, or governmental experts) who—

“(i) have subject matter expertise to determine the technical merit of the proposal in the application;

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

“(iii) shall certify that the expert does not have a conflict of interest concerning the application that the expert is reviewing.

“(B) GUIDANCE.—Not later than 180 days after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021, the Secretary shall issue guidance related to carrying out the technical evaluations under subparagraph (A). Such guidance shall include criteria for the elimination by the National Oceanic and Atmospheric Administration of applications that fail to meet a minimum level of technical merit as determined by the review described in subparagraph (A)).”.

(b) ROLE IN APPROVAL OF GRANTS.—Section 2(c)(3) of the Act of August 11, 1939 (15 U.S.C. 713c–3(c)(3)), is amended to read as follows:
“(3)(A) No application for a grant under this sub-
section may be approved unless the Secretary—

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

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

“(I) soundness of design;

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

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

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

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

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

“(B) If the Secretary fails to provide funds to a grant
selected by the American Fisheries Advisory Committee,
the Secretary shall provide a written document to the
Committee justifying the decision.”.

(c) Public Availability of Grants Proposals.—
Section 2(e) of the Act of August 11, 1939 (15 U.S.C.
713c–3(e)), is amended by adding at the end the following:

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

(d) Funding from Customs Receipts on Fish-
ery Products.—Section 2 of the Act of August 11, 1939
(15 U.S.C. 713c–3(b)), is amended—

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

“(b) Transfer of Funds.—The Secretary of Agri-
culture shall transfer to the Secretary each fiscal year,
from funds made available to carry out section 32 of the
Act of August 24, 1935, an amount equal to 30 percent
of the gross receipts from duties collected under the cus-
toms laws on fishery products (including fish, shellfish,
mollusks, crustaceans, aquatic plants and animals, and any products thereof, including processed and manufactured products), which shall be used only for the purposes described in subsection (c).”; and

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

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

“(A) assist persons in carrying out research and development projects addressed to any aspect of United States fisheries, including fisheries science, recreational fishing, harvesting, processing, marketing, and associated infrastructures; or

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

“(i) local or domestic fishery products;

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

“(iii) well-managed but less known species.”.
TITLE IV—MODERNIZING
FISHERIES SCIENCE AND DATA

SEC. 401. DATA MODERNIZATION.

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

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

(2) a schedule for implementation;

(3) an estimated budget;

(4) a plan for stakeholder engagement for development of user-centric systems, processes, and policies; and

(5) how the initiative will align with other National Oceanic and Atmospheric Administration data management efforts to provide for efficiency and interoperability including such Administration’s Data Strategy, Cloud Strategy, and Artificial Intelligence strategy.

(b) Assistance From Experts.—The Secretary shall seek assistance from data management and tech-
ology experts inside and outside the government in carrying out this section.

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

SEC. 402. EXPANDING AND IMPROVING ELECTRONIC TECHNOLOGIES.

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

(b) Fishery Management Councils.—Section
303(b)(8) is amended to read as follows:

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

“(A) electronic monitoring or other elec-
tronic technology; or

“(B) on-board observation, except that
such a vessel shall not be required to carry an
observer on board if the facilities of the vessel
for the quartering of an observer, or for car-
rying out observer functions, are so inadequate
or unsafe that the health or safety of the ob-
server or the safe operation of the vessel would
be jeopardized;”.

(c) Information Systems.—Section 402(a) (16
U.S.C. 1881a(a)) is amended—

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

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

(3) by adding at the end the following:

“(3) SECRETARIAL REVIEW.—Not less often than once every 5 years, the Secretary shall review the procedures and policies by which information is collected, managed, and used to manage fisheries and revise information collection programs and policies needed to integrate data collection and management, improve the timeliness, quality, usability, cost-effectiveness, and to reduce unnecessary duplication within and across fishery management plans and regions. Upon the completion of each such review, the Secretary shall publish a report for the public describing the findings of such review and planned revisions to information collection programs.”.

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

(1) IN GENERAL.—The Comptroller General of the United States shall, in consultation with the rel-
evant committees of Congress, conduct a review of
the capabilities of the National Marine Fisheries
Service with respect to developing, deploying, and
using electronic monitoring and data collection tools
to monitor fisheries and shall make recommenda-
tions to improve such capabilities, taking into con-
sideration cost and efficiency.

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

(e) ELECTRONIC TECHNOLOGIES INNOVATION
PRIZE.—The Administrator, in consultation with the Sec-
retary of Defense and the heads of other relevant Federal
agencies, and in conjunction with such nongovernmental
partners as the Administrator determines appropriate,
shall establish at least 1 electronic technologies innovation
prize to catalyze the rapid development and deployment
of electronic technology-based data collection to be used
in fisheries management. Such prize shall focus on one
or more of the following:

(1) Improved fish species recognition software.

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

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

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

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

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

(4) RECOMMENDATIONS.—Not later than 1 year after the date of enactment of this Act, the Advisory Panel shall make a recommendation to the Secretary regarding the potential value of national performance standards for electronic technologies used in fisheries data collection and management. Such recommendation shall include—

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

(B) if the Advisory Panel recommends establishing such performance standards, a recommendation for which factors should be included in such performance standards and how the Secretary should determine the appropriate standards;
(C) an assessment of whether such performance standards are likely to spur increased use of electronic technologies by the Regional Fishery Management Councils;

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

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

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

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

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

(I) recommendations on policies and procedures to develop and implement electronic technologies for fisheries data collection and management.
(5) **Savings Clause.**—Nothing in this subsection shall preclude any regional council from independently developing electronic technologies to be used in fisheries data collection and management.

### SEC. 403. STOCK ASSESSMENTS.

Not later than 1 year after the date of enactment of this Act, and annually thereafter, the Secretary shall report to the Committee on Natural Resources of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the National Marine Fisheries Service’s progress on prioritizing and improving stock assessments. Such report shall—

1. summarize the methods used for assessments for all stocks of fish for which a fishery management plan is in effect under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), and explain which stocks have not been assessed, and why;
2. summarize each stock assessment and stock assessment update completed during the preceding year;
3. identify each stock assessment that was not completed and explain why such stock assessment was not completed;
(4) include the schedule for all upcoming stock assessments and stock assessment updates;

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

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

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

SEC. 404. COOPERATIVE RESEARCH AND MANAGEMENT.

(a) In General.—Section 318 (16 U.S.C. 1867) is amended—

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

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

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

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

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

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

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

“(A) to assess the amount and type of by-catch or post-release mortality occurring in a fishery;
“(B) expanding the use of electronic technology and modernizing data management systems; and

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

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

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

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

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

“(7) Projects that use electronic technologies to monitor changing ocean conditions, improve meth-
ods, support adaptive management, and ensure climate resilient fisheries.

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

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

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

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

“(e) COOPERATIVE MANAGEMENT AGREEMENTS.—

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

“(2) PROCESS FOR APPROVAL.—The Secretary may use the process developed pursuant to (d) to approve cooperative management agreements as if such agreements are cooperative fishing agreements.
“(3) PERFORMANCE STANDARDS.—An agreement authorized by this subsection shall be subject to performance standards and accountability measures specified in a fishery management plan or otherwise established by the Secretary, in consultation with the Councils, and shall not allow catch in excess of annual catch limits or bycatch in excess of bycatch caps or limits.

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

(6) by adding at the end the following:

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

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

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

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

(a) INDUSTRY-BASED PILOT STUDY.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, in coordination with the relevant Councils selected by the Secretary and the Northeast Area Monitoring and Assessment Program, develop a fishing industry-based Northeast regional pilot research trawl survey and study to enhance and provide improvement to current
National Oceanic and Atmospheric Administration vessel trawl surveys.

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

(1) the Secretary—

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

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

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

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

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

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

SEC. 406. RECREATIONAL DATA CONSISTENCY.

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

“(l) RECREATIONAL DATA IMPROVEMENT.—Not later than 2 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021, the Secretary shall establish guidelines for recreational catch data, which shall include the development of data standards to improve timeliness, accuracy, precision and validation of data produced by recreational surveys in order to facilitate the use of such data in assessments, for use in management actions, and for other uses as applicable. The Secretary’s guidelines shall consider the relevant recommendations developed under section 404(e), subsections (g)(4)(C) and (h) of section 401, and section 201(b) of the Modernizing Recreational Fisheries Management Act of 2018 (16 U.S.C. 1881 note). If recreational
catch data for a stock of fish come from more than one
survey program, such as Federal and non-Federal sources,
including from States or Marine Fisheries Commissions,
the Secretary shall implement measures, which may in-
clude the use of calibration methods, as needed for the
timely integration of such data to ensure consistent meth-
ods and approaches are used for monitoring of catch
against the relevant annual catch limits and for other fish-
ery science and management purposes.’’.

(b) RECREATIONAL DATA IMPROVEMENT PRO-
GRAM.—Title IV is amended by adding at the end the fol-
lowing:

‘‘SEC. 409. RECREATIONAL DATA IMPROVEMENT PROGRAM.

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

‘‘(b) STRATEGIC PLAN.—Not later than one year
after the date of enactment of the Sustaining America’s
Fisheries for the Future Act of 2021, and not less fre-
quently than once every 5 years thereafter, the Secretary
shall develop and publish in the Federal Register a stra-
tegic plan for recreational data improvements for the 5
years immediately following such publication. The plan shall—

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

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

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

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

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

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

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

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

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

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

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

“(4) To improve understanding of best practices for minimizing discard mortality as well as estimation of adoption rates of such practices by fishermen.
“(5) To assess changes in discard mortality estimates when best fishing practices are adequately and verifiably applied.

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

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

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

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

“(d) PUBLIC NOTICE.—In developing the plan required under subsection (b), the Secretary shall consult with relevant Federal, State, and international agencies, scientific and technical experts, and other interested persons, public and private, and shall publish a proposed plan
in the Federal Register for the purpose of receiving public comment on the plan. Upon final publication in the Federal Register, the plan shall be submitted by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Natural Resources of the House of Representatives.”.

SEC. 407. EMERGENCY OPERATING PLANS.

(a) IN GENERAL.—The Administrator, not later than 1 year after the date of enactment of this Act and in consultation with the Fishery Management Councils, relevant Federal, State, and international agencies, scientific and technical experts, and interested stakeholders, shall develop a contingency plan for circumstances that would make fisheries monitoring, including human observation, and stock assessments impractical.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Administrator shall submit a report to Congress on the contingency plan developed under subsection (a).

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

(a) IN GENERAL.—Section 208 of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (16 U.S.C. 1891b) is amended—
(1) in the section heading, by inserting “ZEKE GRADER” before “FISHERIES CONSERVATION AND MANAGEMENT FUND”;

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

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

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

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

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

(3) by adding at the end the following:

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

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

“(d) ALLOCATION.—

“(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the Secretary shall, every 2 years, apportion amounts from the Fund among the
8 Council regions according to recommendations of
the Councils, based on regional priorities identified
through the Council process.

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

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

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

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

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

SEC. 409. OFFSHORE WIND COLLABORATION.
The Secretary and the Secretary of the Interior, acting through the Bureau of Ocean Energy Management, shall enter into a cooperative agreement to fund such additional stock assessments and fisheries and marine wildlife research as may be necessary as a result of actions by such Bureau related to the development of offshore wind energy.

TITLE V—SUSTAINING FISHERIES THROUGH HEALTHY ECOSYSTEMS AND IMPROVED MANAGEMENT

SEC. 501. SENSE OF CONGRESS.
It is the sense of Congress that protection of essential fish habitat ensures healthy and resilient fisheries and marine ecosystems, particularly as oceans conditions shift due to climate change, and that impacts from both fishing gear and non-fishing activities should be considered through consistent application of essential fish habitat provisions under the Magnuson-Stevens Fishery Conservation and Management Act.
SEC. 502. ESSENTIAL FISH HABITAT CONSULTATION.

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

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

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

(3) by adding at the end the following:

“(2) Consultations Regarding Federal Agency Action With Adverse Effects on Essential Fish Habitat.—

“(A) Requirement to Avoid or Mitigate Adverse Effects.—With respect to any Federal agency action that may have an adverse effect on—

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

“(ii) any other specified fish habitat, each Federal agency shall, in consultation with the Secretary, ensure that any action authorized, funded, or undertaken by such agency avoids the adverse effect of such action on any other specified fish habitat or, to the extent that the adverse effect cannot be avoided, the agency shall minimize and mitigate the adverse effect.”
“(ii) a habitat area of particular concern, each Federal agency shall, in consultation with the Secretary—

“(I) monitor or require monitoring for possible adverse effects;

“(II) take action to minimize and mitigate any adverse effect of the action on—

“(aa) the habitat area of particular concern;

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

“(cc) for the entire period during which such adverse effects are likely to occur; and

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

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

“(C) REGULATIONS.—The Secretary shall
establish regulations for the consultation proc-
ess required by subparagraph (A), including to
ensure that recommendations made by the Sec-
retary pursuant to such subparagraph would re-
sult in the avoidance, if possible, of adverse ef-
fects on essential fish habitat and, if avoidance
is not possible, the minimization and mitigation
of any such adverse effects.

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

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

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

“(4) INFORMATION FROM OTHER SOURCES.—

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

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

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

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

“(ii) any response made by an agency under subparagraph (B) on the date on which such response is received.
“(D) MONITORING.—The Secretary shall monitor measures taken by each Federal agency to meet the requirements of this subsection.

“(E) REPORT TO CONGRESS.—Not later than 5 years after the date of the enactment of the Sustaining America’s Fisheries for the Future Act of 2021 and not less frequently than every 5 years thereafter, the Secretary shall submit a report—

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

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

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

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

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

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

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

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

(2) by inserting before paragraph (1A), as redesignated, the following:
“(1) Adverse Effect.—The term ‘adverse effect’ means, with respect to essential fish habitat, any impact that reduces the quality or quantity of essential fish habitat.”; and

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

“(19A) Habitat Areas of Particular Concern.—The term ‘habitat areas of particular concern’ means specific types or areas of habitat that are part of or within essential fish habitat that—

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

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

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

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

“(E) are rare.”.

SEC. 503. REDUCING BYCATCH.

(a) Minimizing Bycatch.—
(1) National standards for fishery conservation and management.—Section 301(a)(9) (16 U.S.C. 1851(a)(9)) is amended to read as follows:

“(9) Conservation and management measures shall—

“(A) minimize bycatch; and

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

(2) Contents of fishery management plans.—Section 303 (16 U.S.C. 1853) is amended—

(A) in subsection (a)—

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

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

(B) in subsection (b)—

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

(ii) by inserting after paragraph (12) the following:
“(13) consider full retention requirements for species with high catch mortality rates; and”.

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

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

(B) by adding at the end the following:

“(k) STANDARDIZED BYCATCH REPORTING PROGRAM.—

“(1) ESTABLISHMENT.—Not later than 2 years after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021, the Secretary shall establish a national standardized reporting program (referred to in this subsection as ‘the program’) to assess the amount and type of bycatch occurring in each fishery and across fisheries, determine the contribution of bycatch to the total fishing-related mortality of each fishery, and evaluate the effects of bycatch on relevant fisheries and the ecosystem.

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

“(A) identify appropriate methodologies and standards for collecting and producing sta-
tistically accurate and precise information re-
garding bycatch; and

“(B) require consistent data reporting, col-
lection, and assessment for all fisheries man-
aged under fishery management plans.

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

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

(b) BYCATCH REDUCTION ENGINEERING PRO-
GRAM.—

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

“(3) provide information, outreach, technical
assistance, and training to Councils, Tribes, and
fishery participants that will encourage adoption and
use of technologies and methods developed under the
program; and
“(4) provide for routine consultation with the Councils in order to maximize opportunities to incorporate results of the program in Council actions and provide incentives for adoption of technologies and methods developed under the program in fishery management plans, actions, and other measures developed by the Councils or the Secretary.”.

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

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

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

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

(D) by adding at the end the following:

“(4) includes a cumulative description of all bycatch reduction technologies and methods developed, tested, or supported by the Bycatch Reduction Engineering Program, an assessment of the effectiveness of those techniques, a summary on how and in which fisheries those techniques have been fully implemented and to what degree, and, if those techniques have not been implemented into fishery manage-
ment, an explanation for why those techniques have not been used and an estimate of the reduction of bycatch that could be achieved if those techniques were implemented.”

SEC. 504. IMPROVING REBUILDING OUTCOMES.

Section 304(e) (16 U.S.C. 1854(e)) is amended—

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

“(1) The Secretary shall report annually to the Congress and the Councils on the status of fisheries within each Council’s geographical area of authority. In this report, the Secretary shall do the following:

“(A) Identify those fisheries that are subject to overfishing, are depleted, or are approaching a condition of being depleted. For those fisheries managed under a fishery management plan or international agreement, the status shall be determined using the criteria for overfishing and depleted status specified in such plan or agreement. For stocks that lack criteria as required under Sec 303(a)(10), the Secretary shall determine whether the stock is depleted or subject to overfishing using the best available scientific information. A fishery shall be classified as approaching a condition of being de-
pleted if, based on trends in fishing effort, fish-
ery resource size, and other appropriate factors,
the Secretary estimates that the fishery will be-
come depleted within 2 years.

“(B) Identify those stocks that are under
a rebuilding plan or in need of a rebuilding plan
(as specified by this section), including speci-
fying the number of years the stock has been in
a rebuilding plan, the length in years of the
stock’s current rebuilding plan, the number of
rebuilding plans that have been implemented
for the stock, and whether a lack of adequate
progress toward ending overfishing and rebuild-
ing has been found for the stock.”;

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

“(2) If the Secretary determines at any time
that a fishery is subject to overfishing, is depleted,
or is approaching a depleted status, the Secretary
shall immediately notify the appropriate Council and
request that action be taken—

“(A) to end overfishing in the fishery im-
mediately and prevent overfishing in the fish-
ery;
“(B) for stocks that are depleted, to end
overfishing immediately in the fishery and to
implement conservation and management meas-
ures to rebuild affected stocks of fish; or
“(C) for stocks that are approaching a de-
pleted condition, to end overfishing in the fish-
ery immediately and prevent the stock from
reaching a depleted condition.

The Secretary shall publish each notice under this
paragraph in the Federal Register.’’;

(3) by amending paragraph (3) to read as fol-

ows:

“(3) Not later than 2 years after the date on
which a fishery is newly identified as or determined
to be depleted or approaching a depleted condition
under paragraph (1)(A) or paragraph (2), a fish-
ery’s rebuilding plan has been found to have failed
under paragraph (7)(C), or a fishery reaches the end
of the time period for rebuilding pursuant to para-

graph (8), the appropriate Council (or the Secretary,
for fisheries under section 302(a)(3)) shall prepare
and implement a fishery management plan, plan
amendment, or proposed regulations for the fishery
to which the identification or notice applies—
“(A) for stocks that are depleted, to end overfishing immediately in the fishery and to rebuild affected stocks of fish; or

“(B) for stocks that are approaching a depleted condition, to end overfishing immediately and prevent the stock from reaching a depleted condition.”;

(4) in paragraph (4)—

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

“(ii) not exceed the time the stock of fish would be rebuilt without fishing occurring plus one mean generation, unless management measures under an international agreement in which the United States participates dictate otherwise;”;

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

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

(D) by adding at the end the following:

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

(5) by amending paragraph (5) to read as follows:
“(5) If, during the 2-year period beginning on
the date of identification or notification, the Council
does not submit to the Secretary a fishery manage-
ment plan, plan amendment, or proposed regulations
required by paragraph (3), the Secretary shall pre-
pare under subsection (e) not later than 6 months
after the end of such 2-year period, a fishery man-
agement plan or plan amendment and any accom-
panying regulations to, for stocks that are depleted,
end overfishing immediately and rebuild affected
stocks of fish, or, for stocks that are approaching an
deprecated condition, to end overfishing immediately
and prevent the stock from reaching an deprecated
condition.”;

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

“(7)(A) The Secretary shall review any fishery
management plan, plan amendment, or regulations
required by this subsection at routine intervals that
may not exceed 2 years to determine whether such
plan, amendment, or regulations have resulted in
adequate progress toward rebuilding affected fish
stocks. The Secretary shall find a lack of adequate
progress toward rebuilding an affected fish stock
if—
“(i) the status of the stock is not improving sufficiently such that it becomes unlikely that the stock will be rebuilt within the rebuilding time period;

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

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

“(iv) for other reasons, as appropriate.

“(B) If, as a result of the review, the Secretary finds that such plan, amendment, or regulations have not resulted in adequate progress toward rebuilding affected fish stocks, the Secretary shall—

“(i) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to achieve adequate progress toward rebuilding by the deadline established under paragraph (4); or
“(ii) for all other fisheries, immediately notify the appropriate Council, which must make revisions necessary to achieve adequate progress toward rebuilding by not later than the deadline established under paragraph (4). If the Council fails to take such action by the date that is 9 months after the date of such notification, the Secretary shall, not later than 15 months after such date, make such revisions as are needed to ensure adequate progress toward rebuilding by not later than the deadline established under paragraph (4).

“(C) If, as a result of the review, the Secretary finds that revisions pursuant to subparagraph (B) cannot achieve adequate progress within the time period set under paragraph (4), the Secretary may find that the rebuilding plan has failed. Upon such a finding, the Council (or the Secretary in the case of a stock to which section 302(a)(3) applies) shall prepare and implement a new rebuilding plan pursuant to the requirements in paragraph (8).

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

(7) by adding at the end the following:

“(8) If the time period established under a
plan, amendment, or regulations pursuant to this
subsection expires, or the Secretary determines that
an existing rebuilding plan has failed under para-
graph (7)(C), but relevant stock has not rebuilt, the
Council (or Secretary in the case of a stock to which
section 302(a)(3) applies) shall prepare a new re-
building plan pursuant to paragraphs (3) through
(6) of this subsection, except that such plan shall
have no less than a 75 percent chance of rebuilding
the fishery by the end of the new time period set
under paragraph (4). Management measures in-
tended to rebuild the stock shall remain in effect
during such preparation of a rebuilding plan.”.

SEC. 505. DEPLETED FISHERIES AND PREVENTING OVER-
FISHING.

(a) DEPLETED FISHERIES.—

(1) DEFINITION.—Section 3 (16 U.S.C. 1802)
is amended by inserting after paragraph (8) the fol-
lowing:

“(8A) DEPLETED.—
“(A) DEFINITION.—The term ‘depleted’ means, with respect to a stock or stock complex, that its biomass has declined below the level at which the capacity of the stock or stock complex to produce maximum sustainable yield on a continuing basis is jeopardized. A depleted condition may be caused by numerous factors, alone or in combination, such as fishing effort, habitat loss, ecosystem changes or climate change, overfishing, inadequate forage, or other characteristics of or stressors on the stock or stock complex.

“(B) INCLUSION OF CASE LAW.—The term ‘depleted’ has the meaning given to the term ‘overfished’ by this section before the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021 for the purposes of determining the application of any court precedent issued before such date.”.

(2) SUBSTITUTION.—The Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended—

(A) in section 3 (16 U.S.C. 1802), by amending paragraph (34) to read as follows:
“(34) OVERFISHING.—The term ‘overfishing’
means a rate or level of fishing mortality that jeop-
ardizes the capacity of a fishery to produce the max-
imum sustainable yield on a continuing basis.”;

(B) by striking the term “overfished” each
place such term appears and inserting “de-
pleted”;

(C) in the heading of subsection (e) of sec-
tion 304, by striking “OVERFISHED” and in-
serting “DEPLETED”.

(3) REFERENCES IN THIS ACT.—The provisions
of this Act and the amendments made by this Act
are not intended to alter the legal mandate to pre-
vent depletion of fisheries and to rebuild depleted
fisheries upon determination of their depleted status,
which includes among other things ending or cur-
tailing fishing while the fishery rebuilds.

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

(1) in subparagraph (A), by inserting “ecologi-
cal,” after “social”; and

(2) by amending subparagraph (B) to read as
follows:
“(B) Each scientific and statistical committee shall provide the appropriate Council with ongoing scientific advice for fishery management decisions, including—

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

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

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

(c) Minimum Required Precautionary Standard.—Section 303(a)(10) (16 U.S.C. 1853(a)(10)) is
amended by inserting “, which may not be less pre-
cautionary than the recommendation of the scientific and
statistical committees for such fishery,” before “and,”.

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

“SEC. 301. RULE OF CONSTRUCTION.

“Nothing in this Act, including the amendment made
by section 102(a)(3), shall be construed as modifying the
requirements of sections 301(a), 302(h)(6), 303(a)(15), or
304(e) of the Magnuson-Stevens Fishery Conservation
and Management Act, or the equal application of such re-
quirements and other standards and requirements under
the Magnuson-Stevens Fishery Conservation and Manage-
ment Act to commercial, charter, and recreational fish-
eries, including each component of mixed-use fisheries.”.

SEC. 506. PREPARATION AND REVIEW OF SECRETARIAL
PLANS.

Section 304(c)(1) (16 U.S.C. 1854(c)) is amended—

(1) by striking “may” and inserting “shall”;

(2) in subparagraph (A), by inserting “not to
exceed 180 days” after “time”;

(3) in subparagraph (B), by inserting “not later
than 180 days after the disapproval” before the
semicolon; and
(4) by adding at the end the following:

“Not later than 30 days before the last day of a time pe-
riod established in subparagraph (B) or (C), the Secretary
shall provide written notification to the affected Council
that if such Council does not fulfill the requirements de-
scribed in such subparagraph, the Secretary shall issue a
Secretarial plan.”.

SEC. 507. COUNCILS.

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

(1) in paragraph (5), by striking “and” at the
end;

(2) in paragraph (7)—

(A) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respec-
tively; and

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

“(B) prioritize fisheries and habitats expe-
riencing or expected to experience shifts in geo-
graphic range, spatial distribution, or produc-
tivity;”;

(3) by redesignating paragraphs (8) and (9) as paragraphs (11) and (13), respectively; and

(4) by inserting after paragraph (7) the fol-
lowing:
“(8) approve, for each of its managed stocks, objective and measurable criteria for identifying whether the stock is depleted or experiencing overfishing, which may not be less precautionary than the recommendation of its scientific and statistical committee;

“(9) develop and implement a plan to protect essential fish habitat in the region of the Council from adverse effects caused by fishing that shall include—

“(A) quantitative and measurable targets and goals for increasing quality, quantity, and representativeness of essential fish habitat; and

“(B) conservation and management measures to implement the plan;

“(10) at routine intervals not less frequently than every 7 years and based on scientific evidence or other relevant information, review habitat protection plans developed under paragraph (9) by such Council and each designation of essential fish habitat and habitat areas of particular concern under section 303(a)(7) by such Council, and amend such Council’s fishery management plans as necessary and appropriate;”.

•HR 4690 IH
SEC. 508. FORAGE FISH CONSERVATION.

(a) Secretary To Define Forage Fish.—Section 305 (16 U.S.C. 1855) is further amended by adding at the end the following:

“(m) Forage Fish.—Not later than 6 months after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021, the Secretary shall issue a definition of the term ‘forage fish’ for the purposes of this Act. In defining such term, the Secretary shall consider factors including whether a species covered by such definition, throughout such species’ lifecycle—

“(1) is at a low trophic level;

“(2) is generally small- to intermediate-sized;

“(3) occurs in schools or other dense aggregations;

“(4) contributes significantly to the diets of other fish, marine mammals, or birds; and

“(5) serves as a conduit for energy transfer to species at a higher trophic level.”.

(b) Definitions.—Section 3 (16 U.S.C. 1802) is further amended—

(1) by inserting after paragraph (18) the following:

“(18A) Forage Fish.—The term ‘forage fish’—
“(A) has the meaning given the term by
the Secretary under section 305(m); and

“(B) with respect to a species in a fishery
managed pursuant to a fishery management
plan or plan amendment that is approved by
the Secretary under section 304(a), means any
species identified in such plan as a forage
fish.”; and

(2) in paragraph (33)—

(A) in subparagraph (B), by striking
“and”;

(B) in subparagraph (C), by striking the
period and inserting “; and”; and

(C) by adding at the end the following:

“(D) in the case of a forage fish, is re-
duced, pursuant to subparagraph (B), to pro-
vide for the diet needs of fish species and other
marine wildlife, including marine mammals and
birds, for which forage fish is a significant die-
tary component.”.

(e) SCIENTIFIC ADVICE.—Section 302(g)(1)(B) (16
U.S.C. 1852(g)(1)(B)) is further amended by adding at
the end the following:

“(iv) maintaining a sufficient abun-
dance, diversity, and localized distribution
of forage fish populations to support the role of such populations in marine ecosystems.”

(d) COUNCIL FUNCTIONS.—

(1) RESEARCH PRIORITIES.—Section 302(h)(7) (16 U.S.C. 1852(h)(7)) is further amended by inserting “forage fish populations and distribution,” after “habitats,”.

(2) UNMANAGED FORAGE FISH.—Section 302(h) (16 U.S.C. 1852(h)) is further amended by inserting after paragraph (11) the following:

“(12) develop a list of unmanaged forage fish occurring in the area under its authority and prohibit the development of any new directed forage fish fishery until the Council has—

“(A) considered the best scientific information available and evaluated the potential impacts of forage fish harvest on existing fisheries, fishing communities, and the marine ecosystem;

“(B) determined whether conservation and management of the forage fish fishery is needed;

“(C) if a determination is made that conservation and management is needed, prepared
and submitted to the Secretary a fishery man-
agement plan or amendment consistent with
section 303; and

“(D) received final, approved regulations
from the Secretary pursuant to section
304(b)(3); and”.

(3) EFFECTIVE DATE.—The amendments made
by subsections (a) and (b) shall take effect 2 years
after the date of enactment of this Act.

(c) CONTENTS OF FISHERY MANAGEMENT PLANS.—

(1) FORAGE FISH MANAGEMENT.—Section
303(a) (16 U.S.C. 1853(a)) is further amended by
adding at the end the following:

“(18) when setting annual catch limits for for-
age fish fisheries, assess, specify, and reduce such
limits by the diet needs of fish species and other ma-
rine wildlife, such as marine mammals and birds, for
which forage fish is a significant part of their diet.”.

(2) EFFECTIVE DATE.—The amendment made
by subsection (a) shall take effect 5 years after the
date of enactment of this Act.

(f) ACTION BY THE SECRETARY.—Section 304 (16
U.S.C. 1854) is further amended by adding at the end
the following:

“(l) FORAGE FISH MANAGEMENT GUIDELINES.—
“(1) IN GENERAL.—Not later than 18 months after the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021, the Secretary shall establish by regulation guidelines to assist the Councils in implementing sections 302(h)(12), and 303(a)(16).

“(2) WORKSHOPS.—In developing the guidelines under paragraph (1), the Secretary shall conduct workshops with Councils and other scientific, fisheries, and conservation interests.”.

(g) RIVER HERRING AND SHAD.—

(1) DEFINITIONS.—In this section—

(A) RIVER HERRING.—The term “river herring” means blueback herring (Alosa aestivalis) and alewife (Alosa pseudoharengus).

(B) SHAD.—The term “shad” means American shad (Alosa sapidissima) and hickory shad (Alosa mediocris).

(2) AMENDMENTS OF PLANS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall—

(A) amend the fishery management plans for the Atlantic Herring and Atlantic Mackerel, Squid, and Butterfish fisheries for the New England and Mid-Atlantic Regions to add shad
and river herring as managed stocks in such
plans consistent with section 302(h)(1) of the
Magnuson-Stevens Fishery Conservation and
Management Act (16 U.S.C. 1852(h)(1));

(B) initiate additional fishery management
plan amendments to be completed in not more
than 1 year from the date of the addition of the
species identified in paragraph (1) in order to
develop and implement all required conservation
and management measures for such stocks con-
sistent with the Magnuson-Stevens Fisheries
Conservation and Management Act (16 U.S.C.
1801 et seq.), and all other applicable law; and

(C) notwithstanding any other law, rule, or
fishery management plan provision, including
conservation and management measures under
section 303(a)(11) of the Magnuson-Stevens
Fishery Conservation and Management Act (16
U.S.C. 1853(a)(11)), reallocate existing re-
sources to provide, for not less than 60 percent
of all relevant fishing trips, not fewer than one
at-sea observer or an on-board electronic or
video means of producing equivalent at-sea
monitoring information, for any vessel using
mid-water trawl or paired mid-water trawl fish-
ing gear in the Atlantic herring and Atlantic mackerel fisheries.

(h) **Rule of Construction.**—Nothing in this section shall be construed as—

(1) extending or diminishing the jurisdiction or authority of any State within its boundaries; or

(2) affecting—

(A) section 306 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1856); or

(B) the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5107 et seq.).

**SEC. 509. FUNDING FOR MONITORING IMPLEMENTATION OF NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN.**

Section 311(f)(4) (16 U.S.C. 1861(f)(4)) is amended by striking “pursuant to this section” and all that follows through the end of the sentence and inserting “to enforce and monitor (including electronic monitoring) implementation of that plan.”.

**SEC. 510. AUTHORIZATION OF APPROPRIATIONS.**

There is authorized to be appropriated to the Secretary the following amounts to carry out the provisions 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.