

Calendar No. 586

116TH CONGRESS }
2d Session }

SENATE

{ REPORT
116-293 }

FISHERY FAILURES: URGENTLY NEEDED
DISASTER DECLARATIONS ACT

R E P O R T

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND
TRANSPORTATION

ON

S. 2346



NOVEMBER 16, 2020.—Ordered to be printed

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SENATE COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

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SECOND SESSION

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FISHERY FAILURES: URGENTLY NEEDED DISASTER DECLARATIONS ACT

NOVEMBER 16, 2020.—Ordered to be printed

Mr. WICKER, from the Committee on Commerce, Science, and
Transportation, submitted the following

R E P O R T

[To accompany S. 2346]

[Including cost estimate of the Congressional Budget Office]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 2346) to improve the Fishery Resource Disaster Relief program of the National Marine Fisheries Service, and for other purposes, having considered the same, reports favorably thereon with an amendment (in the nature of a substitute) and recommends that the bill (as amended) do pass.

PURPOSE OF THE BILL

The purpose of S. 2346, the Fishery Failures: Urgently Needed Disaster Declarations Act, is to clarify and expedite the disaster declaration process, establish certain deadlines for the National Oceanic and Atmospheric Administration (NOAA), reduce delays, and clarify eligibility for assistance to ensure that charter, recreational, and Tribal fishers have access to disaster funds. Additionally, the bill would provide employment opportunities for fishery employees displaced by a fishery disaster by prioritizing their hiring to undertake restoration, conservation, and other fishery rebuilding activities funded by disaster relief funds.

BACKGROUND AND NEEDS

The productivity and profitability of marine fisheries varies significantly due to natural and anthropogenic causes, such as oceanic conditions, climate, pollution, and weather events. There are also unavoidable fluctuations in wild caught fisheries which can create

financial challenges for fishermen. For example, there are cyclical variations in some fish stocks, changes in fish stocks due to extreme conditions, stock declines due to overfishing, and changes in the ability of a fisherman to access a particular fishery. Cyclical variation in fish stocks can be very predictable. For example, certain fish stocks, such as anchovies and sardines, have large variations based on ocean currents.¹ Extreme weather conditions can also cause population changes. For example, anadromous fish² can be very sensitive to drought. Harmful algal blooms (HABs), such as red tide, can cause large and sudden fish kills or make fish unsafe to eat.³

Fishermen can also experience a lack of access to fisheries, even if the stock is healthy. This most often occurs when natural disasters, such as hurricanes or tsunamis, destroy habitat, fishing infrastructure or boats. Fishery disasters occur when fishermen endure economic hardships resulting from fish population declines or other disruptions to the fishery.

FISHERY DISASTERS

Fishery disaster assistance is administered by NOAA's National Marine Fisheries Service (NMFS) within the Department of Commerce. A combination of two pieces of legislation, the Magnuson-Stevens Fishery Conservation and Management Act⁴ and the Interjurisdictional Fisheries Act (IJFA)⁵ provide the authority and requirements for fishery disaster assistance. NOAA uses one policy document to provide guidance and clarity for these two overlapping statutes.⁶ Under both statutes, a request for a fishery disaster determination is initiated by the Governor of a State, by a fishing community, such as an Indian Tribe, or directly by the Secretary of Commerce. The Secretary determines whether the circumstances are consistent with relevant statutes and whether it warrants a fishery disaster determination. The Secretary of Commerce has used a disaster declaration by the Federal Emergency Management Agency (FEMA) to expedite declaring a fishery disaster. For example, after Hurricanes Harvey, Maria, Irma, and Sandy, and the Deepwater Horizon Oil Spill, the Secretary declared fishery disasters within days of the request.

Congress may appropriate resources for disaster assistance after the Secretary concludes that a fishery disaster has happened.⁷ Such funds are overseen by the Secretary.⁸ This funding is usually appropriated by Congress as needs arise, rather than in anticipation of future needs.⁹ If no funds have been previously appropriated and remain available for fishery disaster assistance, there is often

¹ NOAA Fisheries, "Climate Variability & Marine Fisheries," Sep. 18, 2019 (<https://www.pfeg.noaa.gov/research/climate/marine/cmffish/cmffishery.html>).

² Anadromous fish are born in fresh water, spend their lives in the sea, and return to fresh water to spawn.

³ Woods Hole Oceanographic Institution, "Fish Kills," May 9, 2018 (<https://www.whoi.edu/website/redtide/impacts/wildlife/fish-kills/>).

⁴ Public Law 109-479.

⁵ Public Law 99-659.

⁶ NOAA Fisheries, "National Marine Fisheries Service Policy 01-122," May 8, 2007 (<https://www.fisheries.noaa.gov/webdam/download/64692768>) (accessed Mar. 27, 2020).

⁷ NOAA Fisheries, "National Marine Fisheries Service Policy 01-122," May 8, 2007 (<https://www.fisheries.noaa.gov/webdam/download/64692768>) (accessed Mar. 27, 2020).

⁸ *Ibid.*

⁹ Congressional Research Service, "Commercial Fishery Disaster Assistance," Jul. 29, 2010 (<http://www.nationalaglawcenter.org/wp-content/uploads/assets/crs/RL34209.pdf>) (accessed Mar. 27, 2020).

a time delay between the determination of a disaster and the passage of an appropriations bill containing funds for disaster relief.

Funding can also be delayed by a lack of clear deadlines within the process, a lack of clarity about allowable uses, as well as the lengthy process of developing a spend plan and obtaining approval for the dispersal of funds from the Office of Management and Budget. Since 1994, fishery disaster declarations have been made a total of 87 times, totaling approximately \$1.4 billion in Federal funding dollars. Within these 87 events, funds have been appropriated to the Gulf of Mexico, New England, South Atlantic, Mid-Atlantic, Caribbean, North Pacific, and Western Pacific regions. Fisheries with multiple commercial fishery failure determinations include: the West Coast salmon troll fishery; the Puget Sound sock-eye salmon fishery; the Northeast multispecies fishery; Gulf of Mexico fisheries following hurricanes, floods, and HABs; New England shellfish fisheries; Alaska salmon fisheries; and the Bering Sea snow crab fishery.¹⁰

Historically, assistance has been provided to fishermen and fishing communities in the form of grants, job retraining, employment, and low interest loans. Disaster assistance has also included fishery data collection, resource restoration, research, and fishing capacity reduction programs to prevent or lessen the effects of future disruptions to fisheries. Currently, funding under section 308(d) of the IJFA may be used to provide direct assistance to fishermen or to provide assistance indirectly through State agencies, local government, and nonprofit organizations for activities such as capacity reduction programs like fishing vessel buybacks, gear reduction, or fishing permit retirement. Funding may also be used for compensation, community grants, training, loans, debt refinancing, and employment on fishery-related projects.¹¹

The current system of fishery disaster relief has raised concerns regarding the timing of relief to meet crucial needs, the relationship between disaster relief and long-term fisheries management, the definition of a fishery failure, and determination of the beneficiaries of relief.¹²

TIME DELAY BETWEEN DISASTER AND RELIEF

Delay in the distribution of financial relief is a major concern surrounding disaster assistance. Fishery disasters often occur suddenly and can have immediate socio-economic impacts to fishing communities. As such, many stakeholders believe there should be an avenue for receiving direct financial assistance soon after a disaster is declared. Alaska fishermen faced long delays for disaster relief from a failure in the run of pink salmon from 2016 due to a missed June 1, 2019, sign off deadline.¹³ In 2011, the Mississippi River reached flood stage and caused \$60 million in economic losses

¹⁰ NOAA Fisheries, "Fishery Disaster Determinations," Jan. 27, 2020 (<https://www.fisheries.noaa.gov/national/funding-and-financial-services/fishery-disaster-determinations>) (accessed Mar. 27, 2020).

¹¹ Congressional Research Service, "Commercial Fishery Disaster Assistance," Jul. 29, 2010 (<http://www.nationalaglawcenter.org/wp-content/uploads/assets/crs/RL34209.pdf>) (accessed Mar. 27, 2020).

¹² *Ibid.*

¹³ Laine Welch, "Alaska Fishermen Still Waiting For 2016 Disaster Relief Funds." *National Fisherman*, Jun. 11, 2019 (<https://www.nationalfisherman.com/alaska/alaska-fishermen-still-waiting-for-2016-disaster-relief-funds/>) (accessed Mar. 27, 2020).

to the Mississippi oyster industry.¹⁴ However, NOAA delayed an announcement that this event would receive fishery disaster declaration funding until 2014. The State of Washington declared multiple fishery disasters from 2014–2016 including coho salmon, Dungeness crab, and sockeye salmon.¹⁵ Washington did not receive funding until 2019 for these disasters. The expanse of time between fishery disaster determinations and funding authorization creates the risk of jeopardizing maritime industries.

CONSEQUENCES OF FLOODING AND DROUGHT

The rate of freshwater outflow from rivers and streams can have enormous impacts to fisheries. Fisheries can be harmed by extremes in salinity when there is too much or too little fresh water. From 2010 to 2013, the Apalachicola Chattahoochee-Flint River Basin was frequently classified by the National Integrated Drought Information System as in an exceptional drought. The resulting high salinity levels were correlated to unprecedented declines in oyster landings,¹⁶ followed by a fishery disaster declaration in 2013.¹⁷ Salmon, which spawn in freshwater rivers and streams, are particularly vulnerable to drought, and several drought-related fishery disasters have been declared on the West Coast.¹⁸ More recently, historic high flooding in the Midwest caused every site on the Mississippi river to record a top-five crest and led to FEMA disaster declarations in multiple Midwestern States.¹⁹ Floodwaters from the Mississippi River Basin flowed downstream, where the Army Corps of Engineers opened the gates of the Bonnet Carré spillway twice in the same year for the first time since the spillway was constructed in 1928.²⁰ The freshwater influx into the Mississippi Sound resulted in the deaths of up to 100 percent of oysters in several areas.²¹ In addition to deadly changes in salinity, increased flooding can bring with it an influx of nutrients and bacteria, leading to HABs. HABs release biotoxins that can harm people, fish, shellfish, marine mammals and birds.²² For example, excess nutrient runoff from the opening of the Bonnet Carré Spillway has caused a HAB event in Lake Pontchartrain, which drains into the Gulf of Mexico. Overall, HABs account for the loss of \$34 mil-

¹⁴ Adrian Sainz, “Mississippi River Flood of 2011 Caused \$2.8B in Economic Damage: Army Corps,” *Insurance Journal*, Feb. 27, 2013 (<https://www.insurancejournal.com/news/national/2013/02/27/282875.htm>) (accessed Mar. 27, 2020).

¹⁵ Christine Blank, “Washington’s Senators Call for Salmon, Crab Fishing Seasons To Be Declared ‘Disasters,’” *Seafood Source*, Dec. 6, 2016 (<https://www.seafoodsource.com/news/supply-trade/washington-s-senators-call-for-salmon-crab-fishing-seasons-to-be-declared-disasters>) (accessed Mar. 27, 2020).

¹⁶ Florida Sea Grant, “Apalachicola Bay Oyster Situation Report,” Apr. 24, 2013 (http://www.flseagrant.org/wp-content/uploads/tp200—apalachicola_oyster_situation_report.pdf) (accessed Mar. 27, 2020).

¹⁷ NOAA Fisheries, “Fishery Disaster Determinations,” May 22, 2019 (<https://www.fisheries.noaa.gov/national/funding-and-financial-services/fishery-disaster-determinations>) (accessed Mar. 27, 2020).

¹⁸ *Ibid.*
¹⁹ FEMA, “Disaster Declarations by Year,” 2019 (https://www.fema.gov/disasters/year/2019?field_dv2_declaration_type_value=All) (accessed Mar. 27, 2020).

²⁰ U.S. Army Corps of Engineers, “Bonnet Carré Spillway Overview” (<https://www.mvn.usace.army.mil/Missions/Mississippi-River-Flood-Control/Bonnet-Carre-Spillway-Overview/Spillway-Operation-Information/>) (accessed Mar. 27, 2020).

²¹ University of Southern Mississippi, “2019 Bonnet Carré Spillway Monitoring Update,” Jun. 21, 2019 (<https://gcr1.usm.edu/bonny.carre.spillway/2019%20Bonnet%20Carre%20Spillway%20Overview%20-%20June%202021%202019%20-%20Final%20Version%20v2.pdf>) (accessed Mar. 27, 2020).

²² NOAA Fisheries, “Joining Forces to Understand the Impacts of Harmful Algal Blooms on Aquaculture,” press release, Sep. 29, 2017 (https://www.nefsc.noaa.gov/press_release/pr2017/features/harmful-algal-blooms-aquaculture/) (accessed Mar. 27, 2020).

lion a year in commercial fisheries. After HABs die and decompose, the decomposition process uses up the available oxygen in the water, leading to the formation of a hypoxic “dead zone.”²³ Dead zones have been known to occur across the United States, including in the Gulf of Mexico, Puget Sound, Great Lakes, Chesapeake Bay, and Long Island Sound.

Climate variability and change impact the ocean in many ways, from extreme events to winds to temperatures and other ocean parameters that directly and indirectly impact fish stocks.²⁴ This variability also can have dramatic impacts on fisheries,²⁵ as evidenced by the impact of the warm water “blob” that occurred off the West Coast between 2015 and 2016 and decimated salmon stocks.²⁶ Sustainable fisheries management necessitates an understanding of how climate, environment, fishing, and other factors impact fish stocks, and thus fisheries and the communities that rely on fishing.²⁷ Marine fisheries are vulnerable to changes in climate, which influence the occurrence of events such as flooding and HABs²⁸ that have caused federally declared fishery disasters.²⁹

SUMMARY OF PROVISIONS

S. 2346, the Fishery Failures: Urgently Needed Disaster Declarations Act, would do the following:

- Clarify redundancies in fishery resource disaster legislation.
- Provide a more efficient process for requesters seeking disaster assistance when the fishery disaster is a result of a Federal response to a natural disaster.
- Expedite disaster review process by requiring NOAA to notify requesters of positive fishery disaster declarations sooner.
- Provide opportunities for employment for fishery employees displaced by a fishery disaster by prioritizing hiring to undertake restoration, conservation, and other fishery rebuilding activities funded by disaster relief funds.
- Make information available to requesters to clarify fishery disaster request process.
- Clarify the eligibility of charter, recreational, and Tribal fishermen to have access to disaster funds.

LEGISLATIVE HISTORY

S. 2346 was introduced on July 30, 2019, by Senator Wicker and was referred to the Committee on Commerce, Science, and Transportation of the Senate. Senators Cantwell, Sullivan, Murkowski, and Cassidy later became cosponsors. On November 13, 2019, the

²³ Centers for Disease Control and Prevention, “Harmful Algal Bloom (HAB)-Associated Illness,” Dec. 14, 2017 (<https://www.cdc.gov/habs/illness-symptoms-freshwater.html>) (accessed Mar. 27, 2020).

²⁴ *Ibid.*

²⁵ Coastal and Ocean Climate Applications (COCA) Fisheries and Climate Program (<https://cpo.noaa.gov/Meet-the-Divisions/Climate-and-Societal-Interactions/COCA/Climate-Fisheries>).

²⁶ Elizabeth A. Daly, Richard D. Brodeur, and Toby D. Auth, “Anomalous Ocean Conditions in 2015: Impacts on Spring Chinook Salmon And Their Prey Field,” *Marine Ecology Progress Series* 566 (2017): 169–182.

²⁷ Coastal and Ocean Climate Applications (COCA) Fisheries and Climate Program (<https://cpo.noaa.gov/Meet-the-Divisions/Climate-and-Societal-Interactions/COCA/Climate-Fisheries>).

²⁸ The Food and Agriculture Organization of the United Nations, “Impacts of Climate Change on Fisheries and Aquaculture,” 2018 (<http://www.fao.org/3/i9705en/i9705en.pdf>).

²⁹ NOAA Fisheries, “Fishery Disaster Determinations,” Jan. 27, 2020 (<https://www.fisheries.noaa.gov/national/funding-and-financial-services/fishery-disaster-determinations>).

Committee met in open Executive Session and, by voice vote, ordered S. 2346 reported favorably with an amendment (in the nature of a substitute).

On September 25, 2019, the Committee held a hearing entitled “Fishery Failures: Improving the Disaster Declaration and Relief Process,” in which witnesses made suggestions for improvements to the fishery disaster relief process.

ESTIMATED COSTS

In accordance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate and section 403 of the Congressional Budget Act of 1974, the Committee provides the following cost estimate, prepared by the Congressional Budget Office:

S. 2346, Fishery Failures: Urgently Needed Disaster Declarations Act			
As ordered reported by the Senate Committee on Commerce, Science, and Transportation on November 13, 2019			
By Fiscal Year, Millions of Dollars	2020	2020-2025	2020-2030
Direct Spending (Outlays)	0	0	0
Revenues	0	0	0
Increase or Decrease (-) in the Deficit	0	0	0
Spending Subject to Appropriation (Outlays)	*	3	not estimated
Statutory pay-as-you-go procedures apply?	No	Mandate Effects	
Increases on-budget deficits in any of the four consecutive 10-year periods beginning in 2031?	No	Contains intergovernmental mandate?	No
		Contains private-sector mandate?	No
* = between zero and \$500,000.			

Under current law, the National Oceanic and Atmospheric Administration (NOAA) may provide financial assistance to commercial fisheries that experience economic hardship because of natural or manmade disasters. S. 2346 would explicitly define terms that are used to determine if a fishery is eligible for assistance. The bill also would require NOAA to adhere to a faster application review process and to fulfill additional reporting requirements. Finally, S. 2346 would require the Government Accountability Office to report to the Congress on efforts by the Regional Fishery Management Councils, the Atlantic States Marine Fisheries Commission, and the National Marine Fisheries Service to prepare and adapt to climate change.

Using information from NOAA, CBO expects that implementing S. 2346 would not substantially change the way the program is administered under current law. However, to review applications more quickly, CBO estimates that NOAA would need three additional employees each year at an average cost of \$160,000 per employee. In total, CBO expects that implementing the bill’s requirements would cost \$3 million over the 2020–2025 period; any spending would be subject to the availability of appropriated funds.

The CBO staff contact for this estimate is David Hughes. The estimate was reviewed by H. Samuel Papenfuss, Deputy Director of Budget Analysis.

REGULATORY IMPACT STATEMENT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee provides the following evaluation of the regulatory impact of the legislation, as reported:

NUMBER OF PERSONS COVERED

S. 2346, as reported, would not create any new programs or impose any new regulatory requirements, and therefore would not subject any individuals or businesses to new regulations.

ECONOMIC IMPACT

S. 2346, as reported, is not expected to have a negative impact on the Nation's economy. It is likely to have a net positive benefit by expediting the recovery of fisheries communities from unexpected disasters.

PRIVACY

The reported bill would have no impact on the personal privacy of individuals. Additional paperwork requirements for industries would be covered under section 402(b) of the Magnuson Stevens Act, which protects proprietary information.

PAPERWORK

S. 2346, as reported, would require additional revenue data from communities that collect a fish tax and from fish processors if they are seeking fishery disaster funds. The additional paperwork burden on these groups would be offset by the benefit of Federal recovery funding in the event of a fishery disaster declaration.

CONGRESSIONALLY DIRECTED SPENDING

In compliance with paragraph 4(b) of rule XLIV of the Standing Rules of the Senate, the Committee provides that no provisions contained in the bill, as reported, meet the definition of congressionally directed spending items under the rule.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section would provide that the bill may be cited as the "Fishery Failures: Urgently Needed Disaster Declarations Act".

Section 2. Fishery resource disaster relief

This section would define several terms used throughout the legislation. These terms include "allowable cause", "anthropogenic cause", "fishery resource disaster", "Indian Tribe", "Tribal", "natural cause", "12-month revenue loss", and "undetermined cause".

This section also would give the Secretary of Commerce authority to determine the existence, extent, and beginning and end dates of a fishery disaster. After a disaster is determined, the Secretary

would make funds available to be used by State or regional groups for assessment of impacts of the disaster as well as other activities that help to support fishing activity, such as restoration and prevention of future disasters.

This section also would describe the fishery disaster review process. The initiation of a fishery disaster review would occur after the appropriate representative submits a request, within 1 year of the potential fishery disaster. This section would define the required fishery and disaster information for a request, which would include the affected stock, geographical boundaries, cause of disaster, and information that supports a disaster claim. This section would allow the Secretary to assist the requester in providing required data.

The review of a fishery disaster would begin with an interim response provided by the Secretary within 20 days of receipt acknowledging the request and requesting additional information if necessary. This section would assign a 120-day timeline for the Secretary to evaluate a request, unless the fishing season is not over, in which case the Secretary would complete evaluation after the close of the fishery season. This section would require the Secretary to use the best fishery science and sociocultural and economic information available to evaluate the disaster.

This section would define the criteria for the Secretary to determine a fishery resource disaster, including revenue loss thresholds, ineligible fisheries, and exceptional circumstances. Fisheries subject to overfishing would not be eligible for disaster assistance unless overfishing did not contribute to the disaster. In the case of obvious substantial economic impacts to a fishery which has also been subject to a disaster declaration under another statutory authority (e.g., a natural disaster or a fishery disaster resulting from a Federal action in response to a natural disaster), revenue loss analysis would not be required. This section would direct the Secretary to allocate funds for fishery resource disasters.

This section would list criteria the Secretary shall consider when determining allocation of appropriations and the methods by which funds may be appropriated. This section also would direct the requester to submit a spend plan within 120 days after receiving a notification affirming a fishery disaster. In the case where a fishery disaster is declared but funds have not been appropriated, the requester would still be required to submit a spend plan 120 days after notification of a positive disaster determination. Direct assistance would be allowed on the spend plan. The Secretary would provide allocation of funds within 90 days.

This section would list the eligible uses of fishery disaster relief funds, including habitat restoration and conservation, efforts to improve management of the affected fishery, repair or improvement of fishery-related public infrastructure, job training, public information campaigns, and other purposes to restore or prevent future disasters to the fishery. This section would prioritize hiring fishery employees displaced by the fishery disaster to undertake these tasks. This section also would restrict the use of funds for administrative costs. No financial assistance would be used to fund fishery reduction programs under this section. This section would direct NOAA to make information on data collection procedures and best

practices for submitting fishery disaster requests. This section would authorize appropriated funds for fishery disasters.

This section would include a savings clause to allow requesters already experiencing the fishery disaster process to complete the process prior to the implementation of a new process.

Section 3. Magnuson-Stevens Fishery Conservation and Management Act

This section would repeal section 315, the Regional Coastal Disaster Assistance, Transition, and Recovery Program, of the Magnuson-Stevens Fishery Conservation and Management Act. This section would also modify the annual report required for the Klamath River coho salmon to include the most recent National Research Council recommendations regarding Klamath River Basin salmon stocks, and make the reporting requirement biennial.

Section 4. Interjurisdictional Fisheries Act of 1986

This section would repeal section 308 of the Interjurisdictional Fisheries Act of 1986. It would include a technical conforming edit to the Small Business Act.

Section 5. Budget requests; reports

This section would require the Secretary to submit a list of and amount requested for outstanding fishery disaster requests with the annual budget request. It would reduce the frequency of certain reports. It would require a report on climate change and the impact on fisheries from the Government Accountability Office.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes made by the bill, as reported, to existing law at the time the bill was ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in brackets, new matter is printed in italic, and existing law in which no change is proposed is shown in roman):

**HIGH SEAS DRIFTNET FISHING
MORATORIUM PROTECTION ACT**

* * * * *

[16 U.S.C. 1826h]

SEC. 607. BIENNIAL REPORT ON INTERNATIONAL COMPLIANCE.

(a) *IN GENERAL.*—The Secretary, in consultation with the Secretary of State, shall provide to Congress, by not later than 2 years after the date of enactment of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, and every 2 years thereafter, on June 1 of that year a report that includes—

(1) the state of knowledge on the status of international living marine resources shared by the United States or subject to treaties or agreements to which the United States is a party, including a list of all such fish stocks classified as overfished, overexploited, depleted, endangered, or threatened with extinc-

tion by any international or other authority charged with management or conservation of living marine resources;

(2) a list of nations that have been identified under section 1826j(a) or 1826k(a) of this title, including the specific offending activities and any subsequent actions taken pursuant to section 1826j or 1826k of this title;

(3) a description of efforts taken by nations on those lists to comply take appropriate corrective action consistent with sections 1826j and 1826k of this title, and an evaluation of the progress of those efforts, including steps taken by the United States to implement those sections and to improve international compliance;

(4) progress at the international level, consistent with section 1826i of this title, to strengthen the efforts of international fishery management organizations to end illegal, unreported, or unregulated fishing; and

(5) steps taken by the Secretary at the international level to adopt international measures comparable to those of the United States to reduce impacts of fishing and other practices on protected living marine resources, if no international agreement to achieve such goal exists, or if the relevant international fishery or conservation organization has failed to implement effective measures to end or reduce the adverse impacts of fishing practices on such species.

(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 Magnuson-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 Secretary of the department in which the Coast Guard is operating, 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 certifi-*

ation for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)).

* * * * *

INTERJURISDICTIONAL FISHERIES ACT OF 1986

* * * * *

[16 U.S.C. 4107]

§ 308. AUTHORIZATION OF APPROPRIATIONS.

[(a) GENERAL APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Commerce for apportionment to carry out the purposes of this title \$5,000,000 for each of fiscal years 2007 through 2010, and \$2,500,000 for each of fiscal years 2011 and 2012.

[(b) ADDITIONAL APPROPRIATIONS.—In addition to the amounts authorized in subsection (a), there are authorized to be appropriated to the Department of Commerce \$65,000,000 for each of the fiscal years 1994 and 1995, which shall be available in such amounts as the Secretary may determine appropriate for the purposes of this title; except that—

[(1) in providing funds to States under this subsection, the Secretary shall give a preference to those States regarding which the Secretary determines there is a commercial fishery failure or serious disruption affecting future production due to a fishery resource disaster arising from natural or undetermined causes, and any sums made available under this subsection may be used either by the States or directly by the Secretary in cooperation with the States for any purpose that the Secretary determines is appropriate to restore the fishery affected by such a failure or to prevent a similar failure in the future; and

[(2) the funds authorized to be appropriated under this subsection shall not be available to the Secretary for use as grants for chartering fishing vessels; and

[(3) the Federal share of the cost of any activity carried out with an amount appropriated under the authority of this subsection shall be 75 percent of the cost of that activity.

[Amounts appropriated under this subsection shall remain available until expended.

[(c) DEVELOPMENT OF MANAGEMENT PLANS.—In addition to the amounts authorized under subsections (a) and (b), there are authorized to be appropriated to the Department of Commerce \$900,000 for each of fiscal years 2007 through 2012, to support the efforts of the following interstate commissions to develop interstate fishery management plans for interjurisdictional fishery resources:

[(1) The commission established by the Atlantic States Marine Fisheries Compact, as consented to and approved by Public Law 77-539 (56 Stat. 267), approved May 4, 1942.

[(2) The commission established by the Pacific Marine Fisheries Compact, as consented to and approved by Public Law 80-232 (61 Stat. 419), approved July 24, 1947.

[(3) The commission established by the Gulf States Marine Fisheries Compact, as consented to and approved by Public Law 81–66 (63 Stat. 70), approved May 19, 1949.

[(d) ASSISTANCE TO COMMERCIAL FISHERMEN.—(1) In addition to the amounts authorized under subsections (a), (b), and (c), there are authorized to be appropriated to the Department of Commerce \$65,000,000 for fiscal year 1992 to enable the Secretary to help persons engaged in commercial fisheries, either by providing assistance directly to those persons or by providing assistance indirectly through States and local government agencies and nonprofit organizations, for projects or other measures to alleviate harm determined by the Secretary to have been incurred as a direct result of a fishery resource disaster arising from Hurricane Hugo, Hurricane Andrew, Hurricane Iniki, or any other natural disaster. Amounts appropriated under this subsection shall remain available until expended.

[(2) The Secretary shall determine the extent, and the beginning and ending dates, of any fishery resource disaster under this subsection.

[(3) Eligibility for direct assistance to a person under this subsection shall be limited to any person that has less than \$2,000,000 in net revenues annually from commercial fishing, as determined by the Secretary.

[(4)(A) Assistance may not be provided under this subsection 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 that fishery.

[(B) As a condition of awarding assistance with respect to a vessel under a fishing capacity reduction program, the Secretary shall—

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

[(ii) require that the vessel be—

[(I) scrapped or otherwise disposed of in a manner approved by the Secretary; or

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

[(III) 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.

[(C) A vessel that is prohibited from fishing under subparagraph (B) shall not be eligible for a fishery endorsement under section 12108(a) of title 46, United States Code, and any such endorsement for the vessel shall not be effective.

[(5) The Secretary shall establish, after notice and opportunity for public comment, appropriate limitations, terms, and conditions for receiving assistance under this subsection.

[(6) As used in this subsection, the term “person” means any individual or any corporation, partnership, trust, association, or other nongovernmental entity.

[(7) With respect to funds available for the New England region, the Secretary shall submit to the Congress by January 1, 1997, with annual updates thereafter as appropriate, a report on the New England fishing capacity reduction initiative which provides—

[(A) the total number of Northeast multispecies permits in each permit category and calculates the maximum potential fishing capacity of vessels holding such permits based on the principal gear, gross registered tonnage, engine horsepower, length, age, and other relevant characteristics;

[(B) the total number of days at sea available to the permitted Northeast multispecies fishing fleet and the total days at sea weighted by the maximum potential fishing capacity of the fleet;

[(C) an analysis of the extent to which the weighted days at sea are used by the active participants in the fishery and of the reduction in such days as a result of the fishing capacity reduction program; and

[(D) an estimate of conservation benefits (such as reduction in fishing mortality) directly attributable to the fishing capacity reduction program.]

* * * * *

MAGNUSON-STEVENSON FISHERY CONSERVATION AND MANAGEMENT ACT

* * * * *

[16 U.S.C. 1801 et seq.]

SEC. 202. INTERNATIONAL FISHERY AGREEMENTS.

(a) * * *

* * * * *

(h) BYCATCH REDUCTION AGREEMENTS.—

(1) The Secretary of State, in cooperation with the Secretary, shall seek to secure an international agreement to establish standards and measures for bycatch reduction that are comparable to the standards and measures applicable to United States fishermen for such purposes in any fishery regulated pursuant to this Act for which the Secretary, in consultation with the Secretary of State, determines that such an international agreement is necessary and appropriate.

(2) An international agreement negotiated under this subsection shall be—

(A) consistent with the policies and purposes of this Act; and

(B) subject to approval by Congress under section 203.

[(3) Not later than January 1, 1997, and annually thereafter, the Secretary, in consultation with the Secretary of State, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Resources of the House of Representatives a report describing actions taken under this subsection.]

SEC. 203. * * *

SEC. 204. * * *

SEC. 205. * * *

SEC. 206. LARGE-SCALE DRIFTNET FISHING.

(a) * * *

* * * * *

[(e) REPORT.—Not later than January 1, 1991, and every year thereafter until the purposes of this section are met, the Secretary, after consultation with the Secretary of State and the Secretary of the department in which the Coast Guard is operating, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report—

[(1) describing the steps taken to carry out the provisions of this section, particularly subsection (c);

[(2) evaluating the progress of those efforts, the impacts on living marine resources, including available observer data, and specifying plans for further action;

[(3) containing 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

[(4) containing 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.

[(f) CERTIFICATION.—If at any time the Secretary, in consultation with the the Secretary of State and the Secretary of the department in which the Coast Guard is operating, identifies any nation that warrants inclusion in the list described under subsection (e)(4), 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 Fishermen’s Protective Act of 1967 (22 U.S.C. 1978(a)).]

[(g)] (e) EFFECT ON SOVEREIGN RIGHTS.—This section shall not serve or be construed to expand or diminish the sovereign rights of the United States, as stated by Presidential Proclamation Numbered 5030, dated March 10, 1983, and reflected in this Act or other existing law.

[(h)] (f) DEFINITION.—As used in this section, the term “living marine resources” includes fish, marine mammals, sea turtles, and seabirds and other waterfowl.

* * * * *

[16 U.S.C. 1861a(a)]

SEC. 312. TRANSITION TO SUSTAINABLE FISHERIES.

[(a) FISHERIES DISASTER RELIEF.—(1) At the discretion of the Secretary or at the request of the Governor of an affected State or a fishing community, the Secretary shall determine whether there is a commercial fishery failure due to a fishery resource disaster as a result of—

[(A) natural causes;

[(B) man-made causes beyond the control of fishery managers to mitigate through conservation and management measures, including regulatory restrictions (including those imposed as a result of judicial action) imposed to protect human health or the marine environment; or

[(C) undetermined causes.

[(2) Upon the determination under paragraph (1) that there is a commercial fishery failure, the Secretary is authorized to make sums available to be used by the affected State, fishing community, or by the Secretary in cooperation with the affected State or fishing community for assessing the economic and social effects of the commercial fishery failure, or any activity that the Secretary determines is appropriate to restore the fishery or prevent a similar failure in the future and to assist a fishing community affected by such failure. Before making funds available for an activity authorized under this section, the Secretary shall make a determination that such activity will not expand the size or scope of the commercial fishery failure in that fishery or into other fisheries or other geographic regions.

[(3) The Federal share of the cost of any activity carried out under the authority of this subsection shall not exceed 75 percent of the cost of that activity.

[(4) There are authorized to be appropriated to the Secretary such sums as are necessary for each of the fiscal years 2007 through 2013.]

(a) *FISHERY RESOURCE DISASTER RELIEF.*—

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

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

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

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

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

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

(i) is an unexpected 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) a drought;

(VII) El Niño effects on water temperature;

(VIII) a marine heat wave; or

(IX) disease; and

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

(F) 12-MONTH REVENUE LOSS.—The term “12-month revenue loss” means the percentage reduction in commercial, charter, headboat, and processor revenue for the 12 months during the fishery resource disaster period that is due to the fishery resource disaster, when compared to average annual revenue in the most recent 5-year period 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 under paragraph (9) that are available, to be used by the affected State, Tribal government, or interstate marine fisheries commission, or by the Secretary in cooperation with the affected State, Tribal government, or interstate marine fisheries commission.

(C) SAVINGS CLAUSE.—The requirements under this subsection shall take effect only with respect to requests for a fishery resource disaster determination submitted after the date of enactment of the Fishery Failures: Urgently Needed Disaster Declarations Act.

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

(A) ELIGIBLE REQUESTERS.—Not later than 1 year after the date of the conclusion of the fishing season, a request

for a fishery resource disaster determination may be submitted to the Secretary, if the Secretary has not independently determined that a fishery resource disaster has occurred, by—

- (i) the Governor of an affected State;
- (ii) an official Tribal resolution; or
- (iii) any other comparable elected or politically appointed representative as determined by the Secretary.

(B) **REQUIRED INFORMATION.**—A complete request for a fishery resource disaster determination under subparagraph (A) shall include—

- (i) identification of all presumed affected fish stocks;
- (ii) identification of the fishery as Federal, non-Federal, or both;
- (iii) the geographical 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, including—

(I) information demonstrating the occurrence of an unexpected decrease in fish stock biomass or other change that results in significant loss of access to the fishery resource, which could include the loss of fishing vessels and gear, for a substantial period of time;

(II) 12-month revenue loss or subsistence loss for the affected Federal fishery, or if a fishery resource disaster has occurred at any time in the previous 5-year period, an appropriate time frame as determined by the Secretary;

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

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

(C) **ASSISTANCE.**—The Secretary may provide assistance, data, and analysis to an eligible requester described in paragraph (1), if so requested and the data is not available to the requester, in carrying out the complete request under subparagraph (A).

(4) **REVIEW PROCESS.**—

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

- (i) acknowledges receipt of the request;
- (ii) provides a regional contact within the National Oceanographic and Atmospheric Administration;
- (iii) outlines the process and timeline by which a request shall be considered; and
- (iv) requests additional information concerning the fishery resource disaster, if the original request is considered incomplete.

(B) **EVALUATION OF REQUESTS.**—

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

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

(aa) fishery characteristics;

(bb) stock assessments;

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

(dd) estimates of mortality; and

(ee) overall effects; and

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

(aa) landings data;

(bb) revenue;

(cc) the number of participants involved;

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

(AA) fishers;

(BB) charter fishing operators;

(CC) subsistence users;

(DD) United States fish processors; and

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

(ee) an impacted Indian Tribe;

(ff) an impacted business or other entity;

(gg) the availability of hazard insurance to address financial losses due to a disaster;

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

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

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

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

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

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

(I) has concluded or there is no defined fishing season applicable to the fishery, not later than 120

days after the Secretary receives a complete request for a fishery resource disaster determination;

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

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

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

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

(5) **CRITERIA FOR DETERMINATIONS.**—

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

(i) a natural cause;

(ii) an anthropogenic cause;

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

(iv) an undetermined cause.

(B) **REVENUE LOSS THRESHOLDS.**—

(i) **IN GENERAL.**—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 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 where 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 USES.**—In making a determination of whether a fishery resource disaster has occurred, the Secretary may consider loss of subsistence opportunity, where appropriate.

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

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

(6) *DISBURSAL OF APPROPRIATED FUNDS.*—

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

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

(i) *NOTIFICATION OF FUNDING AVAILABILITY.*—When there are appropriated funds for 1 or more fishery resource disasters, the Secretary shall notify the public and representatives of affected fishing communities with a positive disaster determination that is unfunded of the allocation under paragraph (2)(B) 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.—The Secretary shall provide a regional contact within the National Oceanic and Atmospheric Administration to facilitate review of spend plans and disbursement of funds.

(F) DISBURSAL OF FUNDS.—

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

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

(iii) ELIGIBLE USES.—

(I) IN GENERAL.—Funds allocated for fishery resources disasters under this subsection shall prioritize the following uses, which are not in order of priority:

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

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

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

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

(ee) Job training and economic transition programs.

(ff) Public information campaigns on the recovery of the fishery, including marketing.

(gg) For any purpose that the Secretary determines is appropriate to restore the fishery affected by such a disaster or to prevent a similar disaster in the future.

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

(ii) *Appropriate economic and other incentives to encourage commercial fishermen to return to the fishery once it has recovered from the disaster.*

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

(kk) *Other activities that recover or improve management of the affected fishery, as determined by the Secretary.*

(II) *DISPLACED FISHERY EMPLOYEES.—Where 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 applied to Tribes and 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 of direct assistance as described in paragraph (6)(F)(iii)(I)(hh) shall be equal to 100 percent.*

(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; and

(II) require that the vessel be—

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

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

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

(D) NO FISHERY ENDORSEMENT.—

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

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

(iii) NO SALE.—A vessel described in clause (i) 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 submittal best practices for the information described in paragraph (4)(B).

(9) AUTHORIZATION OF APPROPRIATIONS.—

(A) AUTHORIZATION.—There are authorized to be appropriated to carry out this subsection such sums as may be necessary.

(B) AVAILABILITY OF FUNDS.—Amounts appropriated under this subsection shall remain available until expended.

(C) TAX EXEMPT STATUS.—The Fisheries Disaster Fund appropriated under this subsection shall be a tax exempt fund.

* * * * *

[16 U.S.C. 1864]

[SEC. 315. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.

[(a) IN GENERAL.—When there is a catastrophic regional fishery disaster the Secretary may, upon the request of, and in consultation with, the Governors of affected States, establish a regional economic transition program to provide immediate disaster relief assistance to the fishermen, charter fishing operators, United States fish processors, and owners of related fishery infrastructure affected by the disaster.

[(b) PROGRAM COMPONENTS.—

[(1) IN GENERAL.—Subject to the availability of appropriations, the program shall provide funds or other economic assistance to affected entities, or to governmental entities for disbursement to affected entities, for—

[(A) meeting immediate regional shoreside fishery infrastructure needs, including processing facilities, cold storage facilities, ice houses, docks, including temporary docks and storage facilities, and other related shoreside fishery support facilities and infrastructure while ensuring that those projects will not result in an increase or replacement of fishing capacity;

[(B) financial assistance and job training assistance for fishermen who wish to remain in a fishery in the region that may be temporarily closed as a result of environmental or other effects associated with the disaster;

[(C) funding, pursuant to the requirements of section 312(b), to fishermen who are willing to scrap a fishing vessel and permanently surrender permits for fisheries named on that vessel; and

[(D) any other activities authorized under section 312 of this Act or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).

[(2) JOB TRAINING.—Any fisherman who decides to scrap a fishing vessel under the program shall be eligible for job training assistance.

[(3) STATE PARTICIPATION OBLIGATION.—The participation by a State in the program shall be conditioned upon a commitment by the appropriate State entity to ensure that the relevant State fishery meets the requirements of section 312(b) of this Act to ensure excess capacity does not re-enter the fishery.

[(4) NO MATCHING REQUIRED.—The Secretary may waive the matching requirements of section 312 of this Act, section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107), and any other provision of law under which the Federal share of the cost of any activity is limited to less than 100 percent if the Secretary determines that—

[(A) no reasonable means are available through which applicants can meet the matching requirement; and

[(B) the probable benefit of 100 percent Federal financing outweighs the public interest in imposition of the matching requirement.

[(5) NET REVENUE LIMIT INAPPLICABLE.—Section 308(d)(3) of the Interjurisdictional Fisheries Act (16 U.S.C. 4107(d)(3)) shall not apply to assistance under this section.

[(c) REGIONAL IMPACT EVALUATION.—Within 2 months after a catastrophic regional fishery disaster the Secretary shall provide the Governor of each State participating in the program a comprehensive economic and socio-economic evaluation of the affected region's fisheries to assist the Governor in assessing the current and future economic viability of affected fisheries, including the economic impact of foreign fish imports and the direct, indirect, or environmental impact of the disaster on the fishery and coastal communities.

[(d) CATASTROPHIC REGIONAL FISHERY DISASTER DEFINED.—In this section the term “catastrophic regional fishery disaster” means a natural disaster, including a hurricane or tsunami, or a regulatory closure (including regulatory closures resulting from judicial action) to protect human health or the marine environment, that—

- [(1) results in economic losses to coastal or fishing communities;
- [(2) affects more than 1 State or a major fishery managed by a Council or interstate fishery commission; and
- [(3) is determined by the Secretary to be a commercial fishery failure under section 312(a) of this Act or a fishery resource disaster or section 308(d) of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107(d)).]

* * * * *

MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT RE-AUTHORIZATION ACT OF 2006

[16 U.S.C. 460ss note; Pub. L. 109-479]

SEC. 113. REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM.

(a) * * *

(b) SALMON PLAN AND STUDY.—

(1) * * *

(2) **[ANNUAL REPORT] REPORT.**—[Not later than 2 years after the date of enactment of this Act, and annually thereafter] *Not later than 2 years after the date of enactment of the Fishery Failures: Urgently Needed Disaster Declarations Act, and biennially thereafter,* the Secretary of Commerce shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources on—

(A) * * *

* * * * *

(D) the actions taken by the Secretary to address [the calendar year 2003] *the most recent* National Research Council recommendations regarding monitoring and research on Klamath River Basin salmon stocks.

* * * * *

SMALL BUSINESS ACT

[15 U.S.C. 632(k)(1)]

SEC. 3. DEFINITIONS.

(a) * * *

* * * * *

(k)(1) For the purposes of this Act, the term “disaster” means a sudden event which causes severe damage including, but not limited to, floods, hurricanes, tornadoes, earthquakes, fires, explosions, volcanoes, windstorms, landslides or mudslides, tidal waves, commercial fishery failures or fishery resource disasters [(as determined by the Secretary of Commerce under section 308(b) of the Interjurisdictional Fisheries Act of 1986)] *(as determined by the Secretary of Commerce under the Fishery Failures: Urgently Needed*

Disaster Declarations Act), ocean conditions resulting in the closure of customary fishing waters, riots, civil disorders or other catastrophes, except it does not include economic dislocations.

* * * * *

