

Wicker substitute (modified)

AEG19853

S.I.C.  
*Ag. J. Wicker*

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: In the nature of a substitute.

**IN THE SENATE OF THE UNITED STATES—116th Cong., 1st Sess.**

**S. 2346**

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

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT IN THE NATURE OF A SUBSTITUTE intended to be proposed by \_\_\_\_\_

Viz:

1 Strike all after the enacting clause and insert the fol-

2 lowing:

3 **SECTION 1. SHORT TITLE.**

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

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

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

10 "(a) FISHERY RESOURCE DISASTER RELIEF.—

11 "(1) DEFINITIONS.—In this subsection:

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

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

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

10                   “(ii) that is otherwise beyond the con-  
11                   trol of fishery managers to mitigate  
12                   through conservation and management  
13                   measures, including regulatory restrictions  
14                   imposed as a result of judicial action or to  
15                   protect human health or marine animals,  
16                   plants, or habitats.

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

21                   “(i) is a sudden, unexpected, and  
22                   large decrease in fish stock biomass or  
23                   other change that results in significant loss  
24                   of access to the fishery resource, which  
25                   may include loss of fishing vessels and gear

1 for a substantial period of time that results  
 2 in significant revenue or subsistence loss  
 3 and is due to an allowable cause; and

4 “(ii) does not include reasonably pre-  
 5 dictable, foreseeable, and recurrent fishery  
 6 resource cycle of variations in species dis-  
 7 tribution or stock abundance.

8 “(D) INDIAN TRIBE.—The term ‘Indian  
 9 tribe’ has the meaning given such term in sec-  
 10 tion 102 of the Federally Recognized Indian  
 11 Tribe List Act of 1994 (25 U.S.C. 5130), and  
 12 the term ‘Tribal’ means of or pertaining to such  
 13 an Indian tribe.

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

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

18 “(I) a hurricane;

19 “(II) a flood;

20 “(III) a harmful algal bloom;

21 “(IV) a hypoxic zone;

22 “(V) a drought;

23 “(VI) El Niño effects on water  
 24 temperature; or

25 “(VII) disease; and

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

4                   “(F) 12-MONTH REVENUE LOSS.—The  
5                   term ‘12-month revenue loss’ means the per-  
6                   centage reduction in commercial, headboat, and  
7                   processor revenue for the 12 months during the  
8                   fishery resource disaster period that is due to  
9                   the fishery resource disaster, when compared to  
10                  average annual revenue in the most recent 5-  
11                  year period or equivalent for stocks with cyclical  
12                  life histories.

13                  “(G) UNDETERMINED CAUSE.—The term  
14                  ‘undetermined cause’ means a cause in which  
15                  the current state of knowledge does not allow  
16                  the Secretary to identify the exact cause, and  
17                  there is no current conclusive evidence sup-  
18                  porting a possible cause of the fishery resource  
19                  disaster.

20                  “(2) GENERAL AUTHORITY.—

21                  “(A) IN GENERAL.—The Secretary shall  
22                  have the authority to determine the existence,  
23                  extent, and beginning and end dates of a fish-  
24                  ery resource disaster under this subsection in  
25                  accordance with this subsection.



1                   “(iii) any other comparable elected or  
2                   politically appointed representative as de-  
3                   termined by the Secretary.

4                   “(B) REQUIRED INFORMATION.—A com-  
5                   plete request for a fishery resource disaster de-  
6                   termination under subparagraph (A) shall in-  
7                   clude—

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

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

12                   “(iii) the geographical boundaries of  
13                   the fishery;

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

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

20                   “(I) information demonstrating  
21                   the occurrence of a sudden, unex-  
22                   pected, large decrease in fish stock  
23                   biomass or other change that results  
24                   in significant loss of access to the  
25                   fishery resource, which could include

1 the loss of fishing vessels and gear,  
2 for a substantial period of time;

3 “(II) 12-month revenue loss or  
4 subsistence loss for the affected Fed-  
5 eral fishery, or if a fishery resource  
6 disaster has occurred at any time in  
7 the previous 5-year period, an appro-  
8 priate time frame as determined by  
9 the Secretary;

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

14 “(IV) if applicable, information  
15 on 12-month revenue loss for proc-  
16 essors related to the information pro-  
17 vided under subclause (I), subject to  
18 section 402(b).

19 “(4) REVIEW PROCESS.—

20 “(A) INTERIM RESPONSE.—Not later than  
21 20 days after receipt of a request under para-  
22 graph (3), the Secretary shall provide an in-  
23 terim response to the individual that—

24 “(i) acknowledges receipt of the re-  
25 quest;





1 surveys conducted by Federal,  
2 State, or Tribal officials;  
3 “(dd) estimates of mortality;  
4 and  
5 “(ee) overall effects; and  
6 “(II) the available economic in-  
7 formation, which may include an anal-  
8 ysis of—  
9 “(aa) landings data;  
10 “(bb) revenue;  
11 “(cc) the number of partici-  
12 pants involved;  
13 “(dd) the number and type  
14 of jobs and persons impacted,  
15 which may include—  
16 “(AA) fishers;  
17 “(BB) subsistence  
18 users;  
19 “(CC) United States  
20 fish processors; and  
21 “(DD) an owner of a  
22 related fishery infrastructure  
23 or business affected by the  
24 disaster, such as a marina  
25 operator, recreational fishing

1 equipment retailer, or char-  
2 ter, headboat, or tender ves-  
3 sel owner, operator, or crew;

4 “(ee) an impacted Indian  
5 tribe;

6 “(ff) an impacted business  
7 or other entity;

8 “(gg) the availability of haz-  
9 ard insurance to address finan-  
10 cial losses due to a disaster;

11 “(hh) other forms of dis-  
12 aster assistance made available to  
13 the fishery, including prior  
14 awards of disaster assistance for  
15 the same event;

16 “(ii) the length of time the  
17 resource, or access to the re-  
18 source, has been restricted;

19 “(jj) status of recovery from  
20 previous fishery resource disas-  
21 ters;

22 “(kk) lost resource tax reve-  
23 nues assessed by local commu-  
24 nities, such as a raw fish tax;  
25 and

1                   “(II) other appropriate indi-  
2                   cators to an affected fishery, as  
3                   determined by the National Ma-  
4                   rine Fisheries Service.

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

9                   “(I) has concluded or there is no  
10                  defined fishing season applicable to  
11                  the fishery, not later than 120 days  
12                  after the Secretary receives a com-  
13                  plete request for a fishery resource  
14                  disaster determination;

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

18                  “(III) has not been opened, not  
19                  later than 120 days after the Sec-  
20                  retary receives a complete request for  
21                  a fishery resource disaster determina-  
22                  tion.

23                  “(C) FISHERY RESOURCE DISASTER DE-  
24                  TERMINATION.—The Secretary shall make the  
25                  determination of a fishery resource disaster

1 based on the criteria for determinations listed  
2 in paragraph (5).

3 “(D) NOTIFICATION.—Not later than 14  
4 days after the conclusion of the review under  
5 this paragraph, the Secretary shall notify the  
6 requestor and the Governor of the affected  
7 State of the determination of the Secretary.

8 “(5) CRITERIA FOR DETERMINATIONS.—

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

16 “(i) a natural cause;

17 “(ii) an anthropogenic cause; or

18 “(iii) an undetermined cause.

19 “(B) REVENUE LOSS THRESHOLDS.—

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

24 “(I) Losses greater than 80 per-  
25 cent shall result in a positive deter-

1                   mination that a fishery resource dis-  
2                   aster has occurred.

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

9                   “(III) Losses less than 35 per-  
10                  cent shall not be eligible for a deter-  
11                  mination that a fishery resource dis-  
12                  aster has occurred, except where the  
13                  Secretary determines there are ex-  
14                  tenuating circumstances that justify  
15                  using a lower threshold in making the  
16                  determination.

17                  “(ii) SUBSISTENCE USES AND AQUA-  
18                  CULTURE OPERATIONS.—In making a de-  
19                  termination of whether a fishery resource  
20                  disaster has occurred, the Secretary may  
21                  consider revenue loss from aquaculture op-  
22                  erations and loss of subsistence oppor-  
23                  tunity, where appropriate.

24                  “(C) INELIGIBLE FISHERIES.—A fishery  
25                  subject to overfishing in any of the 3 years pre-

1 ceding the date of a determination under this  
2 subsection is not eligible for a determination of  
3 whether a fishery resource disaster has occurred  
4 unless—

5 “(i) the Secretary determines that  
6 overfishing was not a contributing factor  
7 to the fishery resource disaster; or

8 “(ii) the—

9 “(I) regional council in question  
10 is taking action to address over-  
11 fishing; and

12 “(II) requester of a determina-  
13 tion of a fishery resource disaster—

14 “(aa) has a plan to use fish-  
15 ery resource disaster funding to  
16 address the underlying causes of  
17 overfishing; and

18 “(bb) has submitted a plan  
19 that doesn't reward or exacerbate  
20 overfishing.

21 “(D) EXCEPTIONAL CIRCUMSTANCES.—In  
22 an exceptional circumstance where substantial  
23 economic impacts to the affected fishery and  
24 fishing community have been subject to a dis-  
25 aster declaration under another statutory au-

1           thority, such as in the case of a natural disaster  
2           or from the direct consequences of a Federal  
3           action taken to prevent, or in response to, a  
4           natural disaster for purposes of protecting life  
5           and safety, the Secretary may determine a fish-  
6           ery resource disaster has occurred without a re-  
7           quest or without conducting the required anal-  
8           yses in subparagraphs (A) and (B).

9           “(6) DISBURSAL OF APPROPRIATED FUNDS.—

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

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

15           “(i) NOTIFICATION OF FUNDING  
16           AVAILABILITY.—When there are appro-  
17           priated funds for 1 or more fishery re-  
18           source disasters, the Secretary shall notify  
19           the public and representatives of affected  
20           fishing communities with a positive dis-  
21           aster determination that is unfunded of the  
22           allocation under paragraph (2)(B) not  
23           more than 14 days after the date of the  
24           appropriation or the determination of a

1 fishery resource disaster, whichever occurs  
2 later.

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

7 “(C) CONSIDERATIONS.—In determining  
8 the allocation of appropriations for a fishery re-  
9 source disaster, the Secretary shall consider  
10 commercial, headboat, or seafood processing  
11 revenue losses and may consider the following  
12 factors:

13 “(i) Direct economic impacts.

14 “(ii) Uninsured losses.

15 “(iii) Losses of subsistence fishing.

16 “(iv) Losses of recreational fishing op-  
17 portunity.

18 “(v) Aquaculture operations revenue  
19 loss.

20 “(vi) Direct revenue losses to a fishing  
21 community.

22 “(vii) Treaty obligations.

23 “(viii) Other economic impacts.

24 “(D) SPEND PLANS.—To receive an alloca-  
25 tion from funds available under paragraph (9),



1 a requestor with an affirmative fishery resource  
2 disaster determination shall submit a spend  
3 plan to the Secretary, not more than 120 days  
4 after receiving notification that funds are avail-  
5 able, that shall include the following informa-  
6 tion, if applicable:

7 “(i) Objectives and outcomes, with an  
8 emphasis on addressing the factors con-  
9 tributing to the fishery resource disaster  
10 and minimizing future uninsured losses, if  
11 applicable.

12 “(ii) Statement of work.

13 “(iii) Budget details.

14 “(E) REGIONAL CONTACT.—The Secretary  
15 shall provide a regional contact within the Na-  
16 tional Oceanic and Atmospheric Administration  
17 to facilitate review of spend plans and disbursement  
18 of funds.

19 “(F) DISBURSAL OF FUNDS.—

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

24 “(ii) METHOD.—The Secretary may  
25 provide an allocation of funds under this

1 subsection in the form of a grant, direct  
2 payment, cooperative agreement, loan, or  
3 contract.

4 “(iii) ELIGIBLE USES.—

5 “(I) IN GENERAL.—Funds allo-  
6 cated for fishery resources disasters  
7 under this subsection shall prioritize  
8 the following uses, which are not in  
9 order of priority:

10 “(aa) Habitat conservation  
11 and restoration and other activi-  
12 ties, including scientific research,  
13 that reduce adverse impacts to  
14 the fishery.

15 “(bb) The collection of fish-  
16 ery information and other activi-  
17 ties that improve management of  
18 the affected fishery.

19 “(cc) In a commercial fish-  
20 ery, capacity reduction and other  
21 activities that improve manage-  
22 ment of fishing effort, including  
23 funds to offset budgetary costs to  
24 refinance a Federal fishing ca-  
25 pacity reduction loan or to repay

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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 cir-

1 cumstance described in para-  
2 graph (5)(D).

3 “(ii) Appropriate economic  
4 and other incentives to encourage  
5 commercial fisherman to return  
6 to the fishery once it has recov-  
7 ered from the disaster.

8 “(jj) Hatcheries and stock  
9 enhancement to help rebuild the  
10 affected stock or offset fishing  
11 pressure on the affected stock.

12 “(kk) Other activities that  
13 recover or improve management  
14 of the affected fishery, as deter-  
15 mined by the Secretary.

16 “(II) DISPLACED FISHERY EM-  
17 PLOYEES.—Where appropriate, indi-  
18 viduals carrying out the activities de-  
19 scribed in items (aa) through (ff) of  
20 subclause (I) shall be individuals who  
21 are, or were, employed in a fishery for  
22 which the Secretary has determined  
23 that a fishery resource disaster has  
24 occurred.

25 “(7) LIMITATIONS.—

1                   “(A) FEDERAL SHARE.—

2                   “ (i) IN GENERAL.—Except as pro-  
3                   vided in clauses (ii) and (iii), the Federal  
4                   share of the cost of any activity carried out  
5                   under the authority of this subsection shall  
6                   not exceed 75 percent of the cost of that  
7                   activity.

8                   “ (ii) WAIVER.—The Secretary may  
9                   waive the non-Federal share requirements  
10                  of this subsection, if the Secretary deter-  
11                  mines that—

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

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

20                  “ (iii) EXCEPTION.—The Federal  
21                  share of direct assistance as described in  
22                  paragraph (6)(F)(iii)(I)(hh) shall be equal  
23                  to 100 percent.

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

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

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

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

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

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

1                   “(I) prohibit the vessel from  
2 being used for fishing; and

3                   “(II) require that the vessel be—

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

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

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

18                   “(D) NO FISHERY ENDORSEMENT.—

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

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

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

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

12                  “(9) AUTHORIZATION OF APPROPRIATIONS.—

13                  “(A) AUTHORIZATION.—There are author-  
14                  ized to be appropriated to carry out this sub-  
15                  section such sums as may be necessary.

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

19                  “(C) TAX EXEMPT STATUS.—The Fish-  
20                  eries Disasters Fund appropriated under this  
21                  subsection shall be a tax exempt fund.

22                  “(D) SUPPLEMENTAL APPROPRIATIONS.—  
23                  The Secretary may use any supplemental ap-  
24                  propriations that are available to carry out this  
25                  subsection.”.



1 **SEC. 3. MAGNUSON-STEVENSON FISHERY CONSERVATION AND**  
2 **MANAGEMENT ACT.**

3 (a) **REPEAL.**—Section 315 of the Magnuson-Stevens  
4 Fishery Conservation and Management Act (16 U.S.C.  
5 1864) is repealed.

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

9 (1) in the paragraph heading, by striking “AN-  
10 NUAL REPORT” and inserting “REPORT”;

11 (2) in the matter preceding subparagraph (A),  
12 by striking “Not later than 2 years after the date  
13 of enactment of this Act, and annually thereafter”  
14 and inserting “Not later than 2 years after the date  
15 of enactment of the Fishery Failures: Urgently  
16 Needed Disaster Declarations Act, and biennially  
17 thereafter”; and

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

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

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

23 (b) **TECHNICAL EDIT.**—Section 3(k)(1) of the Small  
24 Business Act (15 U.S.C. 632(k)(1)) is amended by strik-  
25 ing “(as determined by the Secretary of Commerce under  
26 section 308(b) of the Interjurisdictional Fisheries Act of

1 1986)” and inserting “(as determined by the Secretary of  
2 Commerce under the Fishery Failures: Urgently Needed  
3 Disaster Declarations Act)”.

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

5 (a) BUDGET REQUEST.—In the budget justification  
6 materials submitted to Congress in support of the budget  
7 of the Department of Commerce for each fiscal year (as  
8 submitted with the budget of the President under section  
9 1105(a) of title 31, United States Code), the Secretary  
10 of Commerce shall include a separate statement of the  
11 amount requested to be appropriated for that fiscal year  
12 for outstanding unfunded fishery resource disasters.

13 (b) DRIFTNET ACT AMENDMENTS OF 1990 REPORT  
14 AND BYCATCH REDUCTION AGREEMENTS.—

15 (1) IN GENERAL.—The Magnuson-Stevens  
16 Fishery Conservation and Management Act (16  
17 U.S.C. 1801 et seq.) is amended—

18 (A) in section 202(h), by striking para-  
19 graph (3); and

20 (B) in section 206—

21 (i) by striking subsections (e) and (f);

22 and

23 (ii) by redesignating subsections (g)  
24 and (h) as subsections (e) and (f), respec-  
25 tively.

1           (2) BIENNIAL REPORT ON INTERNATIONAL  
2 COMPLIANCE.—Section 607 of the High Seas  
3 Driftnet Fishing Moratorium Protection Act (16  
4 U.S.C. 1826h) is amended—

5           (A) by inserting “(a) IN GENERAL.—” be-  
6 fore “The Secretary” and indenting appro-  
7 priately; and

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

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

12           “(1) a description of the actions taken to carry  
13 out the provisions of section 206 of the Magnuson-  
14 Stevens Fishery Conservation and Management Act  
15 (16 U.S.C. 1826), including—

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

20           “(B) a list and description of any new fish-  
21 eries developed by nations that conduct, or au-  
22 thorize their nationals to conduct, large-scale  
23 driftnet fishing beyond the exclusive economic  
24 zone of any nation; and

1           “(C) a list of the nations that conduct, or  
2 authorize their nationals to conduct, large-scale  
3 driftnet fishing beyond the exclusive economic  
4 zone of any nation in a manner that diminishes  
5 the effectiveness of or is inconsistent with any  
6 international agreement governing large-scale  
7 driftnet fishing to which the United States is a  
8 party or otherwise subscribes; and

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

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