

107TH CONGRESS  
1ST SESSION

# H. R. 2570

To amend the Magnuson-Stevens Fishery Conservation and Management Act to recover depleted fish stocks and promote the long-term sustainability of marine fisheries, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2001

Mr. FARR of California (for himself, Mr. BLUMENAUER, Mr. ENGLISH, Mr. GEORGE MILLER of California, Mr. FALEOMAVAEGA, Mr. GREENWOOD, Ms. WOOLSEY, Ms. MCKINNEY, Mr. MORAN of Virginia, Mr. BORSKI, Mr. LANTOS, Ms. PELOSI, Mr. BOUCHER, Ms. BALDWIN, Mr. ACEVEDO-VILÁ, Ms. LEE, Mr. WEINER, Mr. CLYBURN, Mr. HONDA, Mrs. DAVIS of California, and Ms. ESHOO) introduced the following bill; which was referred to the Committee on Resources

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## A BILL

To amend the Magnuson-Stevens Conservation and Management Act to recover depleted fish stocks and promote the long-term sustainability of marine fisheries, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Fisheries Recovery Act  
5 of 2001”.

1 **SEC. 2. REFERENCES.**

2 Except as otherwise specifically provided in this Act,  
3 any amendment to, repeal of, or reference to a section or  
4 other provision of law shall be considered to be made to  
5 such provision of the Magnuson-Stevens Fishery Con-  
6 servation and Management Act (16 U.S.C. 1801 et seq.).

7 **SEC. 3. MINIMIZING BYCATCH.**

8 (a) FINDINGS AND POLICY.—

9 (1) FINDINGS.—Section 2(a) (16 U.S.C.  
10 1801(a)) is further amended by adding at the end  
11 the following:

12 “(10) The magnitude of bycatch and discards  
13 of living marine resources in United States marine  
14 fisheries can have profound population, ecosystem,  
15 and socioeconomic effects on United States fishery  
16 resources and the fishing communities that depend  
17 on those resources.”.

18 (2) POLICY.—Section 2(c)(3) (16 U.S.C.  
19 1801(c)(3)) is amended by striking “practical meas-  
20 ures” and all that follows through “fish;” and in-  
21 serting the following: “practical measures that avoid  
22 bycatch, minimize the mortality of bycatch that can-  
23 not be avoided, and minimize waste of fish;”.

24 (b) DEFINITIONS.—Section 3(2) (16 U.S.C. 1802(2))  
25 is amended to read as follows:

26 “(2) the term ‘bycatch’ means—

1           “(A) catch of nontarget fish species and  
2           nonfish species;

3           “(B) economic and regulatory discards in-  
4           cluding discards of target species; and

5           “(C) nontarget fish and nonfish species  
6           that are otherwise killed or injured as a result  
7           of fishing.

8           Such term does not include target species of fish of  
9           a recreational catch and release fishing program  
10          that are released alive in accordance with that pro-  
11          gram.”.

12          (c) NATIONAL STANDARDS FOR FISHERY CONSERVA-  
13          TION AND MANAGEMENT.—Section 301(a)(9) (16 U.S.C.  
14          1859(a)(9)) is amended by striking “, to the extent prac-  
15          ticable, (A) minimize” and insert “, to the maximum ex-  
16          tent practicable, (A) avoid”.

17          (d) REQUIRED PROVISIONS OF FISHERY MANAGE-  
18          MENT PLANS.—Section 303(a) (16 U.S.C. 1853(a)) is  
19          amended—

20                 (1) by amending paragraph (11) to read as fol-  
21                 lows:

22                 “(11) establish and implement an accurate and  
23                 reliable standardized reporting methodology to as-  
24                 sess the amount and type of bycatch occurring in  
25                 the fishery within 1 year after the date of enactment

1 of the Fisheries Recovery Act of 2001, specify objec-  
2 tive and measurable targets to reduce bycatch on an  
3 annual basis by a statistically significant amount  
4 from the previous year, for a period of at least 5  
5 years, utilizing conservation and management meas-  
6 ures that, in the following priority—

7 “(A) avoid bycatch; and

8 “(B) minimize the mortality of bycatch  
9 which cannot be avoided;” and

10 (2) by striking “and” after the semicolon at the  
11 end of paragraph (13), by striking the period at the  
12 end of paragraph (14) and inserting a semicolon,  
13 and by adding at the end the following:

14 “(15) account for all sources of fishing mor-  
15 tality, including bycatch discard mortality, in deter-  
16 mining the maximum sustainable yield for the fish-  
17 ery, in establishing total allowable catch and other  
18 catch limits necessary to achieve the optimum yield,  
19 and in counting catch;

20 “(16) include conservation and management  
21 measures that provide catch incentives for partici-  
22 pants within and among gear categories to employ  
23 fishing practices that avoid bycatch or minimize the  
24 mortality of bycatch that cannot be avoided;”.

1           (e) REPORT ON IMPLEMENTATION OF STANDARD-  
2 IZED REPORTING METHODOLOGIES AND BYCATCH RE-  
3 Duction TARGETS AND TIMETABLES.—The Secretary of  
4 Commerce shall report to the Senate Committee on Com-  
5 merce, Science, and Transportation and the House of Rep-  
6 resentatives Committee on Resources within one year after  
7 the date of enactment of this Act, and annually thereafter  
8 for the next 5 years, on the progress made in imple-  
9 menting the requirements of section 303(a)(11) of the  
10 Magnuson-Stevens Fishery Conservation and Manage-  
11 ment Act.

12           (f) CHARITABLE DONATION OF BYCATCH.—Section  
13 303(b) (16 U.S.C. 1853(b)) is further amended by adding  
14 at the end the following:

15                   “(13) allow the retention and donation for char-  
16 itable purposes of all dead bycatch that cannot oth-  
17 erwise be avoided under terms that ensure, through  
18 the use of onboard fishery observers or other means,  
19 that—

20                           “(A) such retention and donation do not  
21 allow the evasion of vessel trip limits, total al-  
22 lowable catch levels, or other conservation and  
23 management measures;

24                           “(B) participants in such program may not  
25 deduct the cost of harvesting the donated fish,

1           the value of such fish, or any lost revenue from  
2           harvesting such fish from their individual or  
3           corporate income taxes.”.

4 **SEC. 4. PROTECTION OF ESSENTIAL FISH HABITAT.**

5           (a) **REQUIRED PROVISIONS OF FISHERY MANAGE-**  
6 **MENT PLANS.**—Section 303(a)(7) (16 U.S.C. 1853(a)(7))  
7 is amended to read as follows:

8           “(7) describe and identify essential fish habitat  
9           based on the guidelines established by the Secretary  
10          under section 305(b)(1)(A), and—

11                  “(A) analyze the impacts of fishing on es-  
12                  sential fish habitat;

13                  “(B) minimize any adverse impacts on es-  
14                  sential fish habitat from fishing;

15                  “(C) close an area to a fishing gear or  
16                  practice if such fishing gear or practice has  
17                  been shown to adversely affect essential fish  
18                  habitat, unless the Council determines based on  
19                  the best scientific information available that a  
20                  closure is not necessary to protect such habitat;  
21                  and

22                  “(D) identify other actions to encourage  
23                  the conservation and enhancement of such habi-  
24                  tats;”.

1 (b) RESTRICTIONS ON FISHING GEAR AND FISH-  
2 ING.—Section 305(b) (16 U.S.C. 1855(b)) is amended by  
3 adding at the end the following:

4 “(5) No person or vessel may—

5 “(A) employ fishing gear or engage in a fishery  
6 in an area closed to that fishing gear or fishery un-  
7 less the Secretary, after notice and opportunity for  
8 public comment, finds that the fishing gear or fish-  
9 ery will have a minimal adverse impact on essential  
10 fish habitat and minimal bycatch of nontarget spe-  
11 cies; or

12 “(B) use fishing gear in a fishery that is not  
13 currently used in the fishery, or that is not included  
14 on the list published pursuant to subsection (a)(1),  
15 unless the Secretary, after notice and opportunity  
16 for public comment, finds that the fishing gear will  
17 have a minimal adverse impact on essential fish  
18 habitat and result in minimal bycatch of nontarget  
19 species.

20 “(6) The Secretary, in consultation with the appro-  
21 priate Council or Councils, shall conduct a program to  
22 identify and facilitate the introduction of fishing gear or  
23 practices that have minimal adverse impact on essential  
24 fish habitat and minimal bycatch of nontarget species.”.

1 **SEC. 5. REFORM OF THE REGIONAL FISHERY MANAGE-**  
2 **MENT COUNCILS.**

3 (a) MEMBERSHIP.—Section 302(b)(2) (16 U.S.C.  
4 1852(b)(2)) is amended—

5 (1) in subparagraph (B) in the first sentence—

6 (A) by striking “of the active participants”  
7 and inserting “among the active participants”;  
8 and

9 (B) by inserting before the period the fol-  
10 lowing: “and representatives of the public inter-  
11 est in marine fish conservation, including indi-  
12 viduals who do not derive any of their annual  
13 income from commercial or recreational fishing  
14 and who are knowledgeable regarding the con-  
15 servation and management of the fishery re-  
16 sources of the geographic area concerned”;

17 (2) in subparagraph (B) in the second sentence  
18 by striking “Merchant Marine and Fisheries” and  
19 insert “Resources”; and

20 (3) in subparagraph (C) in the second sentence  
21 by inserting “and representatives of conservation or-  
22 ganizations” after “commercial and recreational  
23 fishery interests”.

24 (b) DISCLOSURE OF FINANCIAL INTEREST AND  
25 RECUSAL.—Section 302(j) (16 U.S.C. 1852(j)) is  
26 amended—

1           (1) in paragraph (6) by striking “may not” and  
2 inserting “shall”; and

3           (2) in paragraph (7)—

4                 (A) by amending so much as precedes sub-  
5 paragraph (C) to read as follows:

6           “(7)(A) After the effective date of regulations  
7 promulgated under subparagraph (F) of this para-  
8 graph, an affected individual required to disclose a  
9 financial interest under paragraph (2), or an indi-  
10 vidual convicted of violating section 309, shall not  
11 vote on a Council decision which would have a sig-  
12 nificant and predictable effect on such financial in-  
13 terest. A Council decision shall be considered to have  
14 a significant and predictable effect on a financial in-  
15 terest if there is a close causal link between the  
16 Council decision and a significant expected benefit to  
17 the financial interest of the affected individual. An  
18 affected individual who may not vote may participate  
19 in Council deliberations relating to the decision after  
20 notifying the Council of the voting recusal and iden-  
21 tifying the financial interest that would be affected.

22                 “(B) At the request of an affected individual or  
23 a member of the public, or upon the initiative of the  
24 appropriate designated official, the designated offi-  
25 cial shall make a determination for the record

1 whether a Council decision would have a significant  
2 and predictable effect on the financial interest of an  
3 affected individual”;

4 (B) in subparagraph (C) by inserting “or  
5 member of the public” after “Any Council  
6 Member”;

7 (C) by amending subparagraph (E) to read  
8 as follows:

9 “(E) If the Council makes a decision before the  
10 Secretary has reviewed a determination under sub-  
11 paragraph (C), and the Secretary determines in a  
12 review under subparagraph (C) that the Council de-  
13 cision had a significant and predictable effect on the  
14 financial interest of an affected individual and the  
15 affected individual’s vote decided the Council action,  
16 then the decision by the Council shall have no force  
17 or effect.”; and

18 (D) in subparagraph (F) by striking “Sus-  
19 tainable Fisheries Act” and inserting “Fisheries  
20 Recovery Act of 2001”.

21 **SEC. 6. CONSERVING ATLANTIC HIGHLY MIGRATORY SPE-**  
22 **CIES.**

23 (a) **MAGNUSON-STEVENS FISHERY CONSERVATION**  
24 **ACT AMENDMENTS.**—Section 304 (16 U.S.C. 1854) is  
25 amended—

1 (1) in subsection (e)(1)—

2 (A) by striking “or international agree-  
3 ment”; and

4 (B) by striking “or agreement”;

5 (2) in subsection (e)(4)—

6 (A) in subparagraph (A)(i) by striking “,  
7 recommendations by international organizations  
8 in which the United States participates,”;

9 (B) in subparagraph (A)(ii) by striking “,  
10 or management measures under an inter-  
11 national agreement in which the United States  
12 participates”; and

13 (C) by adding “and” after the semicolon at  
14 the end of subparagraph (A), striking “; and”  
15 at the end of subparagraph (B) and inserting a  
16 period, and striking subparagraph (C);

17 (3) in subsection (g)(1) by redesignating sub-  
18 paragraphs (A) through (G) in order as subpara-  
19 graphs (B) through (H), and inserting before sub-  
20 paragraph (B) (as so redesignated) the following:

21 “(A) ensure that all conservation and man-  
22 agement measures promulgated under this sub-  
23 section are consistent with the national stand-  
24 ards and other provisions of this Act;”;

1           (4) in subparagraph (D) (as so redesignated)  
2           by striking “minimize, to the extent practicable,”  
3           and inserting “take into account”; and

4           (5) in subparagraph (E) (as so redesignated) by  
5           inserting before the semicolon at the end the fol-  
6           lowing: “, if the Secretary has determined that such  
7           harvest prevents overfishing, minimizes bycatch, and  
8           is otherwise consistent with the national standards  
9           and other provisions of this Act”.

10          (b) ATLANTIC TUNAS CONVENTION ACT OF 1975  
11 AMENDMENTS.—The Atlantic Tunas Convention Act of  
12 1975 is amended in section 6(e)(3) (16 U.S.C. 971d(e)(3))  
13 in the matter following subparagraph (K) by striking  
14 “have the effect of increasing or decreasing” and inserting  
15 “increase or decrease”.

16 **SEC. 7. MANDATORY FISHERY OBSERVER PROGRAM.**

17          (a) FINDING.—Section 2(a)(6) (16 U.S.C.  
18 1801(a)(6)) is amended by inserting “, including a na-  
19 tional fisheries observer program,” after “United States”.

20          (b) REQUIRED FISHERY MANAGEMENT PLAN PROVI-  
21 SIONS.—

22           (1) IN GENERAL.—Section 303(a) (16 U.S.C.  
23 1853(a)) is further amended by adding at the end  
24           the following:

1           “(17) to the extent necessary to collect statis-  
2           tically significant and reliable data, require that one  
3           or more observers be carried on board a vessel of the  
4           United States (other than vessels engaged in charter  
5           fishing that are carrying 6 or fewer passengers for  
6           hire) engaged in commercial fishing for species that  
7           are subject to the plan, for the purpose of collecting  
8           statistically significant and reliable data necessary  
9           for the conservation and management of the fishery,  
10          including monitoring and reporting of bycatch and  
11          discards, landings, impacts on essential fish habitat,  
12          and other relevant information; except that—

13                 “(A) such a vessel shall not be required to  
14                 carry an observer on board if the facilities of  
15                 the vessel for the quartering of an observer, or  
16                 for carrying out observer functions, are so inad-  
17                 equate or unsafe that the health or safety of the  
18                 observer or the safe operation of the vessel  
19                 would be jeopardized;

20                 “(B) such a vessel shall not be required to  
21                 carry an observer on board if the fishery has  
22                 demonstrated, through previous observer or  
23                 other data, that it has avoided and minimized  
24                 bycatch to the maximum extent practicable; or

1           “(C) vessels required to carry an observer  
2           pursuant to an international agreement are not  
3           required to carry an observer under this sub-  
4           section;

5           “(18) except for fishing vessels or operators of  
6           such vessels required to obtain a permit from a  
7           State or international fishery management agency,  
8           require a permit to be obtained from, and fees to be  
9           paid to, the Secretary, with respect to—

10           “(A) any fishing vessel of the United  
11           States fishing—

12                   “(i) in the exclusive economic zone or  
13                   special areas; or

14                   “(ii) for anadromous species of Conti-  
15                   nental Shelf fishery resources beyond such  
16                   zone or areas;

17           “(B) the operator of any such vessel; or

18           “(C) any United States fish processor who  
19           first receives fish that are subject to the plan;

20           “(19) assess user fees based on the value of fish  
21           landings sufficient to fund fishery observer and per-  
22           mit programs for the fisheries under the jurisdiction  
23           of the Council established pursuant to paragraphs  
24           (17) and (18), and deposit such fees in a dedicated  
25           account that shall be available for use by the Sec-

1       retary exclusively to fund those programs for such  
2       Council; except that—

3               “(A) the total amount of such fees shall be  
4               matched dollar-for-dollar with funds transferred  
5               pursuant to section 2(a)(5) of the Act of Au-  
6               gust 11, 1939 (chapter 696; 15 U.S.C. 713c-  
7               2), popularly known as the Saltonstall-Kennedy  
8               Act; and

9               “(B) the Secretary may phase in imple-  
10              mentation of such a user fee for a fishery that  
11              has been declared a disaster;

12             “(20) shall require that a written receipt be  
13             issued by a fish processor to a fishing vessel owner  
14             or operator for all commercially caught fish, that  
15             records—

16               “(A) the weight, or number in any case in  
17               which regulations are based on numbers of fish,  
18               of fish landed for each trip;

19               “(B) the species of fish or complex of fish  
20               taken; and

21               “(C) the true price per pound paid to the  
22               owner or operator of the vessel;”.

23             (2) CONFORMING AMENDMENT.—(A) Section  
24             303(b) (16 U.S.C. 1853(b)) is amended by striking  
25             paragraphs (1) and (8).

1 (B) Section 304(d)(1) (16 U.S.C. 1854(d)(1))  
2 is amended by striking “section 303(b)(1)” and in-  
3 serting “section 303(a)(18)”.

4 **SEC. 8. CONSERVING MARINE ECOSYSTEMS.**

5 (a) FINDINGS, PURPOSES, AND POLICY.—Section 2  
6 (16 U.S.C. 1801) is amended—

7 (1) in subsection (a) by striking paragraph (7)  
8 and redesignating paragraphs (8), (9), and (10) as  
9 paragraphs (7), (8), and (9);

10 (2) in subsection (b) by striking paragraph (6),  
11 redesignating paragraph (7) as paragraph (8), and  
12 inserting after paragraph (5) the following:

13 “(6) to assure that development of fisheries by  
14 the United States fishing industry takes into consid-  
15 eration the ecosystem needs of target species and  
16 the impacts of fishing on other species in the eco-  
17 system;

18 “(7) to promote management decisions incor-  
19 porating the precautionary approach, especially in  
20 cases in which the effects of fishing are unknown or  
21 uncertain, in order to maintain ecosystem health and  
22 sustainability; and”;

23 (3) in subsection (c)(3)—

24 (A) by striking “considers efficiency;” and  
25 inserting “incorporates and applies ecosystem

1 principles; considers how fishing affects pred-  
2 ator-prey and other important ecological rela-  
3 tionships within marine ecosystems;” and

4 (B) by striking “avoid unnecessary waste”  
5 and inserting “avoid waste”.

6 (b) DEFINITIONS.—Section 3(29) (16 U.S.C.  
7 1802(29)) is amended—

8 (1) by striking “fishery” and inserting “stock  
9 of fish”; and

10 (2) by inserting before the period the following:  
11 “or, through direct or indirect impacts on other spe-  
12 cies, jeopardizes the ecological integrity and sustain-  
13 ability of marine ecosystems”.

14 (c) NATIONAL STANDARDS.—Section 301(a) (16  
15 U.S.C. 1851(a)) is further amended by adding at the end  
16 the following:

17 “(11) Conservation and management measures  
18 shall—

19 “(A) in any case in which information is  
20 uncertain, unreliable, or inadequate, reduce  
21 risks by setting reference points for each stock  
22 of fish that take into account such uncertainty,  
23 unreliability, or inadequacy and the action to be  
24 taken if such a reference point is approached or  
25 exceeded;

1           “(B) take into account the direct and indi-  
2           rect impacts of fishing on other species and  
3           their habitats and the conservation of those  
4           species and their habitats as important compo-  
5           nents of the ecosystem; and

6           “(C) allow the expansion of existing fish-  
7           eries or the development of new fisheries only  
8           after measures are in place to prevent adverse  
9           impacts on the stocks, associated species, and  
10          the ecosystem.”.

11          (d) REQUIRED FISHERY MANAGEMENT PLAN PROVI-  
12          SIONS.—Section 303(a) (16 U.S.C. 1853(a)) is further  
13          amended—

14               (1) in paragraph (1)(A) by inserting before the  
15               semicolon the following “and the ecosystem within  
16               which the fishery functions”; and

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

18               “(21) include a fishery impact statement for  
19               the plan or amendment that shall assess, specify,  
20               and describe the likely effects, if any, of the con-  
21               servation and management measures on other spe-  
22               cies, including key predator-prey interactions, in the  
23               ecosystem, for the purpose of determining consist-  
24               ency with the relevant Fisheries Ecosystem Plan as  
25               required under section 305(j).”.

1 (e) FISHERIES ECOSYSTEM PLANS.—Section 305 (16  
2 U.S.C. (1855)) is amended by adding at the end the fol-  
3 lowing:

4 “(j) FISHERIES ECOSYSTEM PLANS.—(1) No later  
5 than 24 months after the date of the enactment of the  
6 Fisheries Recovery Act of 2001—

7 “(A) the Secretary shall prepare, in conjunction  
8 with the Councils and other scientific, fisheries, and  
9 conservation interests as appropriate, and publish  
10 guidance for development of Fisheries Ecosystem  
11 Plans under this subsection and provide them to the  
12 Councils to facilitate development and implementa-  
13 tion of such plans within the time period prescribed  
14 by this subsection; and

15 “(B) the Secretary shall issue regulations that  
16 establish a process for preparing and developing  
17 such Fisheries Ecosystem Plans that is consistent  
18 with the fishery management plan process under sec-  
19 tion 304.

20 “(2) To assist in developing the guidance and regula-  
21 tions under paragraph (1), the Secretary shall—

22 “(A) conduct workshops with the Councils and  
23 other scientific, fisheries, and conservation interests;

24 “(B) identify the major ecosystems within each  
25 Council’s jurisdiction; and

1           “(C) develop at least one pilot fisheries eco-  
2           system plan.

3           “(3) Each Council shall, within 24 months after the  
4           publication of the guidance and regulations under para-  
5           graph (1) and based on the best scientific information  
6           available, prepare and submit to the Secretary a Fisheries  
7           Ecosystem Plan for each major marine ecosystem within  
8           its jurisdiction. In the case in which significant portions  
9           of a major ecosystem are in the jurisdictions of adjacent  
10          Councils, the Councils shall jointly prepare a plan for the  
11          major ecosystem.

12          “(4) Each Fisheries Ecosystem Plan shall—

13                 “(A) contain information on the structure and  
14                 function of the ecosystem in which fishing activities  
15                 occur, including the geographic extent of the eco-  
16                 system and its biological, physical, and chemical dy-  
17                 namics, a description of the significant food web in-  
18                 cluding key predator-prey relationships, and the  
19                 habitat needs of different life stages of species that  
20                 make up the significant food web;

21                 “(B) establish indices of ecosystem health and  
22                 integrity;

23                 “(C) describe how the information on ecosystem  
24                 structure and function is to be incorporated into the  
25                 context of fishery-specific management plans;

1           “(D) include specific recommendations for im-  
2           plementing ecosystem protections in fishery manage-  
3           ment plans; and

4           “(E) outline a long-term monitoring program to  
5           evaluate fishery-dependent and fishery-independent  
6           changes in the ecosystem.

7           “(5) The Secretary shall review each Fisheries Eco-  
8           system Plan according to the guidance prepared pursuant  
9           to paragraph (1) and approve or disapprove the plan, in  
10          whole or in part, according to the process described in sec-  
11          tion 304. If the Secretary disapproves or partially ap-  
12          proves a plan, the Council shall revise and resubmit the  
13          plan within 9 months after its disapproval.

14          “(6) If, within the 24-month period after publication  
15          of the guidance and regulations required pursuant to para-  
16          graph (1), a Council fails to develop and submit to the  
17          Secretary a Fisheries Ecosystem Plan as required under  
18          this subsection, or if the Secretary disapproves in whole  
19          or in part such a plan, the Secretary shall prepare a plan  
20          for that ecosystem concerned within 33 months after the  
21          publication of the guidance and regulations.

22          “(7)(A) The Secretary may not approve a fisheries  
23          management plan or an amendment to such a plan, and  
24          such a plan or amendment shall not be effective after the  
25          30-month period beginning on the date the Secretary ap-

1 proves or prepares a relevant Fisheries Ecosystem Plan,  
2 unless the Secretary determines that the fisheries manage-  
3 ment plan or amendment is consistent with the principles,  
4 goals, policies, and recommendations of each relevant  
5 Fisheries Ecosystem Plan approved or prepared by the  
6 Secretary.

7 “(B) Within 30 months after the date the Secretary  
8 approves or prepares a final Fisheries Ecosystem Plan,  
9 each Council shall submit to the Secretary any fishery  
10 management plans or plan amendments required to make  
11 all fishery management plans under its jurisdiction con-  
12 sistent with the principles, goals, policies, and rec-  
13 ommendations of the Fisheries Ecosystem Plan.

14 “(C) If a Council fails to submit any fishery manage-  
15 ment plan or amendment required under subparagraph  
16 (A) before the end of the 30-month period beginning on  
17 the date of such approval, or if the Secretary disapproves  
18 in whole or in part such plan or amendment, the Secretary  
19 shall prepare such plan or amendment within 39 months  
20 after the date of such approval.”.

21 **SEC. 9. COOPERATIVE RESEARCH AND DATA COLLECTION.**

22 Section 305 (16 U.S.C. 1855) is further amended by  
23 adding at the end the following:

24 “(k) COOPERATIVE RESEARCH, DATA COLLECTION,  
25 AND GEAR MODIFICATION PROGRAM.—In cooperation

1 with the Councils, the fishing industry, the conservation  
2 community, and interested academics, the Secretary shall  
3 establish and conduct a cooperative research, data collec-  
4 tion, and gear modification program to—

5 “(1) conduct conservation engineering projects  
6 designed to avoid bycatch, minimize the mortality of  
7 unavoidable bycatch, or minimize fishery impacts on  
8 essential fish habitat through modifications of fish-  
9 ing gear and practices;

10 “(2) identify ecosystem effects of fishing, to  
11 monitor marine ecosystem trends and dynamics;

12 “(3) collect information on the status of stocks  
13 and the life history of managed species;

14 “(4) provide financial assistance to fishermen to  
15 offset the costs of modifying fishing practices and  
16 gear to meet the requirements of this Act; and

17 “(5) provide financial or other incentives for  
18 fishermen to develop and utilize fishing gear and  
19 practices that avoid bycatch, the mortality of un-  
20 avoidable bycatch, and adverse impacts on essential  
21 fish habitat.”.

22 **SEC. 10. ELIMINATION OF OVERFISHING AND REBUILDING**  
23 **OF OVERFISHED POPULATIONS.**

24 (a) FINDINGS, PURPOSES, AND POLICY.—Section 2  
25 (16 U.S.C. 1801) is further amended—

1           (1) in subsection (a)(1) by striking “valuable”  
2           and inserting “ecologically and economically valu-  
3           able”;

4           (2) in subsection (b)(3) by striking “promote”  
5           and inserting “provide for”; and

6           (3) in subsection (c)(6) by striking “diversity”  
7           and inserting “abundance and diversity”.

8           (b) DEFINITIONS.—Section 3 (16 U.S.C. 1802) is  
9           amended—

10           (1) in paragraph (5) by striking subparagraphs  
11           (ii) and (iii) and inserting the following:

12                   “(ii) irreversible, long-term, or significant  
13                   short-term adverse effects on fishery resources  
14                   and the marine environment are avoided;

15                   “(iii) there will be a multiplicity of options  
16                   available with respect to future uses of these re-  
17                   sources; and

18                   “(iv) when scientific uncertainty exists, ex-  
19                   plicit buffers are established to account for such  
20                   uncertainty to prevent and stop overfishing.”;  
21                   and

22           (2) in paragraph (37) by inserting before the  
23           period the following: “but, does not, in any case, in-  
24           clude more than one species of fish”.

1 (c) NATIONAL STANDARDS FOR FISHERY CONSERVA-  
2 TION AND MANAGEMENT.—Section 301(a) (16 U.S.C.  
3 1851(a)) is amended—

4 (1) by amending paragraph (1) to read as fol-  
5 lows:

6 “(1) Conservation and management measures  
7 shall prevent overfishing of each stock of fish while  
8 achieving, on a continuing basis, the optimum yield  
9 from each fishery for the United States.”;

10 (2) in paragraph (3) by striking “as a unit” the  
11 second place it appears;

12 (3) in paragraph (5) by striking “shall” and in-  
13 sserting “should”;

14 (4) in paragraph (6) by inserting before the pe-  
15 riod the following: “but no such measures shall allow  
16 the overfishing of any stock of fish at any time”;  
17 and

18 (5) by amending paragraph (7) to read as fol-  
19 lows:

20 “(7) Conservation and management measures  
21 shall, where practicable, and consistent with needed  
22 conservation measures, minimize costs and avoid un-  
23 necessary duplication.”.

1 (d) REQUIRED FISHERY MANAGEMENT PLAN PROVI-  
2 SIONS.—Section 303(a) (16 U.S.C. 1853(a)) is  
3 amended—

4 (1) in paragraph (1)(B) by striking “and” after  
5 the semicolon;

6 (2) by striking paragraph (1)(C) and inserting  
7 the following:

8 “(C) consistent with the national standards  
9 and the other provisions of this Act, except  
10 such consistency is not required if the regula-  
11 tions would likely cause overfishing, allow con-  
12 tinued overfishing, or delay the rebuilding of  
13 any overfished species or stock of fish managed  
14 under this Act; and

15 “(D) consistent with any other applicable  
16 law;”;

17 (3) in paragraph (5) by inserting after “number  
18 of hauls,” the following: “the number and species of  
19 all fish caught in the course of the fishery,”; and

20 (4) by amending paragraph (10) to read as fol-  
21 lows:

22 “(10)(A) specify objective and measurable cri-  
23 teria for identifying when the fishery to which the  
24 plan applies is overfished;

1           “(B) for purposes of such criteria, apply a defi-  
2           nition of the term ‘overfished’ that is developed and  
3           expressed in terms of a minimum level of spawning  
4           biomass and maximum level or rate of fishing mor-  
5           tality, designed to ensure the restoration and main-  
6           tenance of a fish population’s abundance, age struc-  
7           ture, sex ratio, and size structure so as to prevent  
8           the population from dropping below a level capable  
9           of producing maximum sustainable yield and main-  
10          tain ecological integrity;

11           “(C) include an analysis of how the criteria  
12          were determined and the relationship of the criteria  
13          to the reproductive potential of stocks of fish in that  
14          fishery; and

15           “(D) in the case of a fishery that the Council  
16          or the Secretary has determined is approaching an  
17          overfished condition or is overfished, contain con-  
18          servation and management measures to prevent  
19          overfishing or end overfishing and rebuild the fish-  
20          ery;”.

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

23           (1) in paragraph (4), by striking “and” after  
24          the semicolon at the end of subparagraph (B), strik-  
25          ing the period at the end of subparagraph (C) and

1 inserting “; and”, and adding at the end the fol-  
2 lowing:

3 “(D) incorporate measures to protect es-  
4 sential fish habitat for each overfished stock.”;

5 (2) by amending paragraph (5) to read as fol-  
6 lows:

7 “(5) If, within the one-year period beginning on  
8 the date of identification or notification that a fish-  
9 ery is overfished or is approaching an overfished  
10 condition, the Council does not submit to the Sec-  
11 retary a fishery management plan, plan amendment,  
12 or proposed regulations required by paragraph (3),  
13 the Secretary shall prepare a fishery management  
14 plan or amendment and any accompanying regula-  
15 tions to prevent or stop overfishing and rebuild af-  
16 fected stocks of fish within 9 months under sub-  
17 section (c).”; and

18 (3) by striking paragraph (7) and inserting the  
19 following:

20 “(7) The Secretary shall review any fishery  
21 management plan, plan amendment, or regulations  
22 required by this subsection at routine intervals that  
23 may not exceed two years. If the Secretary finds as  
24 a result of the review or as a result of any informa-  
25 tion provided to the Secretary that such plan,

1 amendment, or regulations have not resulted or are  
2 not likely to result in ending overfishing and rebuild-  
3 ing affected fish stocks in the timeframe required by  
4 subsection (4), the Secretary shall—

5 “(A) in the case of a fishery to which sec-  
6 tion 302(a)(3) applies, immediately make revi-  
7 sions necessary to end overfishing and rebuild  
8 overfished stocks as required by this section; or

9 “(B) for all other fisheries, immediately  
10 notify the appropriate Council and recommend  
11 to the Council further conservation and man-  
12 agement measures that the Council should take  
13 under paragraph (3).”.

14 **SEC. 11. PRECAUTIONARY APPROACH TO FISHERIES MAN-**  
15 **AGEMENT.**

16 (a) FINDINGS AND POLICY.—Section 2 (16 U.S.C.  
17 1801) is amended—

18 (1) in subsection (a) by adding at the end the  
19 following:

20 “(11) Fishery management shall be based on  
21 the best scientific information available and shall  
22 weigh in favor of conservation when data are absent,  
23 uncertain, unreliable, or inadequate.”; and

1           (2) in subsection (c)(3) by striking “utilizes,  
2           and is based upon,” and inserting “utilizes the pre-  
3           cautionary approach and is based upon”.

4           (b) PRECAUTIONARY APPROACH DEFINED.—Section  
5 3 (16 U.S.C. 1802) is amended by adding at the end the  
6 following:

7           “(46) The term ‘precautionary approach’  
8           means—

9                   “(A) exercising additional caution in favor  
10                   of conservation in any case in which informa-  
11                   tion is absent, uncertain, unreliable, or inad-  
12                   equate as to the effects of any existing or pro-  
13                   posed action on fish, essential fish habitat,  
14                   other marine species, and the marine ecosystem  
15                   in which a fishery occurs;

16                   “(B) selecting and implementing any ac-  
17                   tion that will be significantly more likely than  
18                   not to satisfy the conservation objectives of this  
19                   Act; and

20                   “(C) taking into account past sustainable  
21                   fishing levels.”.

22           (c) NATIONAL STANDARD FOR FISHERY CONSERVA-  
23 TION AND MANAGEMENT.—Section 301(a) (16 U.S.C.  
24 1851) is amended by adding at the end the following:

1           “(12) The precautionary approach shall apply  
2           to conservation and management measures, in par-  
3           ticular, and without limitation, to the application of  
4           the national standard set forth in paragraph (1).”.

5 **SEC. 12. AUTHORIZATION OF APPROPRIATIONS.**

6           (a) IN GENERAL.—Section 4 (16 U.S.C. 1803) is  
7           amended to read as follows:

8 **“SEC. 4. AUTHORIZATION OF APPROPRIATIONS.**

9           “There are authorized to be appropriated to the Sec-  
10          retary to carry out this Act the following:

11           “(1) For information collection and analysis—

12                   “(A) \$205,000,000 for fiscal year 2002;

13                   “(B) \$215,000,000 for fiscal year 2003;

14                   “(C) \$225,000,000 for fiscal year 2004;

15                   “(D) \$235,000,000 for fiscal year 2005;

16                   and

17                   “(E) \$240,000,000 for fiscal year 2006.

18           “(2) For conservation and management  
19          operations—

20                   “(A) \$126,000,000 for fiscal year 2002;

21                   “(B) \$132,000,000 for fiscal year 2003;

22                   “(C) \$139,000,000 for fiscal year 2004;

23                   “(D) \$146,000,000 for fiscal year 2005;

24                   and

25                   “(E) \$151,000,000 for fiscal year 2006.

1           “(3) For State and industry assistance pro-  
2           grams, \$3,000,000 for each of fiscal years 2001,  
3           2002, 2003, 2004, 2005, and 2006.

4           “(4) For the conservation of marine ecosystems  
5           under section 305(j)—

6                   “(A) \$20,000,000 for fiscal year 2002;

7                   “(B) \$25,000,000 for fiscal year 2003;

8                   “(C) \$30,000,000 for fiscal year 2004;

9                   “(D) \$35,000,000 for fiscal year 2005;

10           and

11                   “(E) \$40,000,000 for fiscal year 2006.”.

12           (b) CLERICAL AMENDMENT.—The table of sections  
13 at the end of the first section is amended by inserting after  
14 the item relating to section 3 the following:

“Sec. 4. Authorization of appropriations.”.

15 **SEC. 13. SALTONSTALL-KENNEDY ACT CHANGES.**

16           Section 2 of the Act of August 11, 1939 (chapter  
17 696; 15 U.S.C. 713c–3), popularly known as the  
18 Saltonstall-Kennedy Act, is amended—

19                   (1) in subsection (a)—

20                           (A) in paragraph (1) by—

21                                   (i) striking subparagraph (B); and

22                                   (ii) striking “(1) The Secretary” and  
23                           inserting “The Secretary”;

24                           (B) by striking paragraph (2);

1 (C) by redesignating clauses (i) through  
2 (iv) as paragraphs (1) through (4), and moving  
3 such paragraphs 4 ems to the left; and

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

5 “(5) to implement sections 303(a)(19) and  
6 305(k) of the Magnuson-Stevens Fishery Conserva-  
7 tion and Management Act (16 U.S.C. 1853(a)(19),  
8 1855(k)).”; and

9 (2) in subsection (e), by striking so much as  
10 precedes paragraph (2) and inserting the following:

11 “(e) ALLOCATION OF FUND MONEYS.—(1) Notwith-  
12 standing any other provision of law, all moneys in the fund  
13 shall be used exclusively for the purpose of promoting  
14 United States fisheries in accordance with the provisions  
15 of this section and such other purposes as are authorized  
16 by this Act, and no such moneys shall be transferred from  
17 the fund for any other purpose. Allocation of moneys pur-  
18 suant to this subsection shall be in addition to moneys  
19 appropriated for National Marine Fisheries Service oper-  
20 ations in a fiscal year. With respect to any fiscal year,  
21 all moneys in the fund, including the sum of all unex-  
22 pended moneys carried over into that fiscal year and all  
23 moneys transferred to the fund under subsection (b) of  
24 this section or any other provision of law with respect to  
25 that fiscal year, shall be allocated as follows:

1           “(A) The Secretary shall use \$5,000,000 to  
2           make direct industry assistance grants to develop  
3           United States fisheries and to expand domestic and  
4           foreign markets for United States fishery products  
5           pursuant to subsection (c).

6           “(B) The Secretary shall use \$50,000,000 pur-  
7           suant to section 2(a)(5).

8           “(C) The Secretary shall use the balance of the  
9           moneys in the fund to finance those activities of the  
10          National Marine Fisheries Service that are directly  
11          related to implementation of the Magnuson-Stevens  
12          Fishery Conservation and Management Act.”.

○