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.

IN THE HOUSE OF REPRESENTATIVES

JULY 19, 2001

Mr. FARR of California (for himself, Mr. BLUMENTHAUER, Mr. ENGLISH, Mr. GEORGE MILLER of California, Mr. PALEMOMAMAEGEG, 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

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”. 
SEC. 2. REFERENCES.

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

SEC. 3. MINIMIZING BYCATCH.

(a) FINDINGS AND POLICY.—

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

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

(2) POLICY.—Section 2(c)(3) (16 U.S.C. 1801(c)(3)) is amended by striking “practical measures” and all that follows through “fish;” and inserting the following: “practical measures that avoid bycatch, minimize the mortality of bycatch that cannot be avoided, and minimize waste of fish;”.

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

“(2) the term ‘bycatch’ means—
“(A) catch of nontarget fish species and nonfish species;

“(B) economic and regulatory discards including discards of target species; and

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

Such term does not include target species of fish of a recreational catch and release fishing program that are released alive in accordance with that program.”.

(c) NATIONAL STANDARDS FOR FISHERY CONSERVATION AND MANAGEMENT.—Section 301(a)(9) (16 U.S.C. 1859(a)(9)) is amended by striking “, to the extent practicable, (A) minimize” and insert “, to the maximum extent practicable, (A) avoid”.

(d) REQUIRED PROVISIONS OF FISHERY MANAGEMENT PLANS.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) by amending paragraph (11) to read as follows:

“(11) establish and implement an accurate and reliable standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery within 1 year after the date of enactment
of the Fisheries Recovery Act of 2001, specify objective and measurable targets to reduce bycatch on an annual basis by a statistically significant amount from the previous year, for a period of at least 5 years, utilizing conservation and management measures that, in the following priority—

"(A) avoid bycatch; and

"(B) minimize the mortality of bycatch which cannot be avoided;"; and

(2) by striking "and" after the semicolon at the end of paragraph (13), by striking the period at the end of paragraph (14) and inserting a semicolon, and by adding at the end the following:

"(15) account for all sources of fishing mortality, including bycatch discard mortality, in determining the maximum sustainable yield for the fishery, in establishing total allowable catch and other catch limits necessary to achieve the optimum yield, and in counting catch;

"(16) include conservation and management measures that provide catch incentives for participants within and among gear categories to employ fishing practices that avoid bycatch or minimize the mortality of bycatch that cannot be avoided,".
(e) **Report on Implementation of Standardized Reporting Methodologies and Bycatch Reduction Targets and Timetables.**—The Secretary of Commerce shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Resources within one year after the date of enactment of this Act, and annually thereafter for the next 5 years, on the progress made in implementing the requirements of section 303(a)(11) of the Magnuson-Stevens Fishery Conservation and Management Act.

(f) **Charitable Donation of Bycatch.**—Section 303(b) (16 U.S.C. 1853(b)) is further amended by adding at the end the following:

"(13) allow the retention and donation for charitable purposes of all dead bycatch that cannot otherwise be avoided under terms that ensure, through the use of onboard fishery observers or other means, that—

"(A) such retention and donation do not allow the evasion of vessel trip limits, total allowable catch levels, or other conservation and management measures;"

"(B) participants in such program may not deduct the cost of harvesting the donated fish,"
the value of such fish, or any lost revenue from
harvesting such fish from their individual or
corporate income taxes.”.

SEC. 4. PROTECTION OF ESSENTIAL FISH HABITAT.

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

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

“(A) analyze the impacts of fishing on es-

sential fish habitat;

“(B) minimize any adverse impacts on es-

sential fish habitat from fishing;

“(C) close an area to a fishing gear or

practice if such fishing gear or practice has

been shown to adversely affect essential fish

habitat, unless the Council determines based on

the best scientific information available that a
closure is not necessary to protect such habitat;

and

“(D) identify other actions to encourage

the conservation and enhancement of such habi-
tats;”.

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(b) Restrictions on Fishing Gear and Fishing.—Section 305(b) (16 U.S.C. 1855(b)) is amended by adding at the end the following:

"(5) No person or vessel may—

"(A) employ fishing gear or engage in a fishery in an area closed to that fishing gear or fishery unless the Secretary, after notice and opportunity for public comment, finds that the fishing gear or fishery will have a minimal adverse impact on essential fish habitat and minimal bycatch of nontarget species; or

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

"(6) The Secretary, in consultation with the appropriate Council or Councils, shall conduct a program to identify and facilitate the introduction of fishing gear or practices that have minimal adverse impact on essential fish habitat and minimal bycatch of nontarget species."
SEC. 5. REFORM OF THE REGIONAL FISHERY MANAGEMENT COUNCILS.

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

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

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

(B) by inserting before the period the following: “and representatives of the public interest in marine fish conservation, including individuals who do not derive any of their annual income from commercial or recreational fishing and who are knowledgeable regarding the conservation and management of the fishery resources of the geographic area concerned”;

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

(3) in subparagraph (C) in the second sentence by inserting “and representatives of conservation organizations” after “commercial and recreational fishery interests”.

(b) DISCLOSURE OF FINANCIAL INTEREST AND RECUSAL.—Section 302(j) (16 U.S.C. 1852(j)) is amended—
(1) in paragraph (6) by striking "may not" and inserting "shall"; and

(2) in paragraph (7)—

(A) by amending so much as precedes subparagraph (C) to read as follows:

"(7)(A) After the effective date of regulations promulgated under subparagraph (F) of this para-
graph, an affected individual required to disclose a financial interest under paragraph (2), or an indi-
vidual convicted of violating section 309, shall not vote on a Council decision which would have a signif-
ificant and predictable effect on such financial inter-
est. A Council decision shall be considered to have a significant and predictable effect on a financial in-
terest if there is a close causal link between the Council decision and a significant expected benefit to the financial interest of the affected individual. An affected individual who may not vote may participate in Council deliberations relating to the decision after notifying the Council of the voting recusal and ident-
ifying the financial interest that would be affected.

(B) At the request of an affected individual or a member of the public, or upon the initiative of the appropriate designated official, the designated offi-
cial shall make a determination for the record
whether a Council decision would have a significant
and predictable effect on the financial interest of an
affected individual’;

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

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

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

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

SEC. 6. CONSERVING ATLANTIC HIGHLY MIGRATORY SPE-
CIES. 

(a) MAGNUSON-STEVENS FISHERY CONSERVATION
ACT AMENDMENTS.—Section 304 (16 U.S.C. 1854) is
amended—
(1) in subsection (e)(1)—

(A) by striking "or international agreement"; and

(B) by striking "or agreement";

(2) in subsection (e)(4)—

(A) in subparagraph (A)(i) by striking ", recommendations by international organizations in which the United States participates,";

(B) in subparagraph (A)(ii) by striking ", or management measures under an international agreement in which the United States participates"; and

(C) by adding "and" after the semicolon at the end of subparagraph (A), striking "; and" at the end of subparagraph (B) and inserting a period, and striking subparagraph (C);

(3) in subsection (g)(1) by redesignating subparagraphs (A) through (G) in order as subparagraphs (B) through (H), and inserting before subparagraph (B) (as so redesignated) the following:

"(A) ensure that all conservation and management measures promulgated under this subsection are consistent with the national standards and other provisions of this Act;";
(4) in subparagraph (D) (as so redesignated) by striking "minimize, to the extent practicable," and inserting "take into account"; and

(5) in subparagraph (E) (as so redesignated) by inserting before the semicolon at the end the following: "if the Secretary has determined that such harvest prevents overfishing, minimizes bycatch, and is otherwise consistent with the national standards and other provisions of this Act".

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

SEC. 7. MANDATORY FISHERY OBSERVER PROGRAM.

(a) FINDING.—Section 2(a)(6) (16 U.S.C. 1801(a)(6)) is amended by inserting "including a national fisheries observer program," after "United States".

(b) REQUIRED FISHERY MANAGEMENT PLAN PROVISIONS.—

(1) IN GENERAL.—Section 303(a) (16 U.S.C. 1853(a)) is further amended by adding at the end the following:
“(17) to the extent necessary to collect statistically significant and reliable data, require that one or more observers be carried on board a vessel of the United States (other than vessels engaged in charter fishing that are carrying 6 or fewer passengers for hire) engaged in commercial fishing for species that are subject to the plan, for the purpose of collecting statistically significant and reliable data necessary for the conservation and management of the fishery, including monitoring and reporting of bycatch and discards, landings, impacts on essential fish habitat, and other relevant information; except that—

“(A) such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized;

“(B) such a vessel shall not be required to carry an observer on board if the fishery has demonstrated, through previous observer or other data, that it has avoided and minimized bycatch to the maximum extent practicable; or
“(C) vessels required to carry an observer pursuant to an international agreement are not required to carry an observer under this subsection;
“(18) except for fishing vessels or operators of such vessels required to obtain a permit from a State or international fishery management agency, require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to—
“(A) any fishing vessel of the United States fishing—
“(i) in the exclusive economic zone or special areas; or
“(ii) for anadromous species of Continental Shelf fishery resources beyond such zone or areas;
“(B) the operator of any such vessel; or
“(C) any United States fish processor who first receives fish that are subject to the plan;
“(19) assess user fees based on the value of fish landings sufficient to fund fishery observer and permit programs for the fisheries under the jurisdiction of the Council established pursuant to paragraphs (17) and (18), and deposit such fees in a dedicated account that shall be available for use by the Sec-
retary exclusively to fund those programs for such Council; except that—

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

"(B) the Secretary may phase in implementation of such a user fee for a fishery that has been declared a disaster;

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

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

"(B) the species of fish or complex of fish taken; and

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

(2) CONFORMING AMENDMENT.—(A) Section 303(b) (16 U.S.C. 1853(b)) is amended by striking paragraphs (1) and (8).
(B) Section 304(d)(1) (16 U.S.C. 1854(d)(1))
is amended by striking “section 303(b)(1)” and in-
serting “section 303(a)(18)”.

SEC. 8. CONSERVING MARINE ECOSYSTEMS.

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

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

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

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

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

(3) in subsection (c)(3)—

(A) by striking “considers efficiency;” and
inserting “incorporates and applies ecosystem
principles; considers how fishing affects predator-prey and other important ecological relationships within marine ecosystems;”; and

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

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

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

(2) by inserting before the period the following:

“or, through direct or indirect impacts on other species, jeopardizes the ecological integrity and sustainability of marine ecosystems”.

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

“(11) Conservation and management measures shall—

“(A) in any case in which information is uncertain, unreliable, or inadequate, reduce risks by setting reference points for each stock of fish that take into account such uncertainty, unreliability, or inadequacy and the action to be taken if such a reference point is approached or exceeded;
“(B) take into account the direct and indirect impacts of fishing on other species and their habitats and the conservation of those species and their habitats as important components of the ecosystem; and

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

(d) **REQUIRED FISHERY MANAGEMENT PLAN PROVISIONS.**—Section 303(a) (16 U.S.C. 1853(a)) is further amended—

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

(2) by adding at the end the following:

“(21) include a fishery impact statement for the plan or amendment that shall assess, specify, and describe the likely effects, if any, of the conservation and management measures on other species, including key predator-prey interactions, in the ecosystem, for the purpose of determining consistency with the relevant Fisheries Ecosystem Plan as required under section 305(j).”.

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(e) **FISHERIES ECOSYSTEM PLANS.**—Section 305 (16 U.S.C. (1855)) is amended by adding at the end the following:

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

“(A) the Secretary shall prepare, in conjunction with the Councils and other scientific, fisheries, and conservation interests as appropriate, and publish guidance for development of Fisheries Ecosystem Plans under this subsection and provide them to the Councils to facilitate development and implementation of such plans within the time period prescribed by this subsection; and

“(B) the Secretary shall issue regulations that establish a process for preparing and developing such Fisheries Ecosystem Plans that is consistent with the fishery management plan process under section 304.

“(2) To assist in developing the guidance and regulations under paragraph (1), the Secretary shall—

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

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

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“(C) develop at least one pilot fisheries ecosystem plan.

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

“(4) Each Fisheries Ecosystem Plan shall—

“(A) contain information on the structure and function of the ecosystem in which fishing activities occur, including the geographic extent of the ecosystem and its biological, physical, and chemical dynamics, a description of the significant food web including key predator-prey relationships, and the habitat needs of different life stages of species that make up the significant food web;

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

“(C) describe how the information on ecosystem structure and function is to be incorporated into the context of fishery-specific management plans;
“(D) include specific recommendations for implementing ecosystem protections in fishery management plans; and

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

“(5) The Secretary shall review each Fisheries Ecosystem Plan according to the guidance prepared pursuant to paragraph (1) and approve or disapprove the plan, in whole or in part, according to the process described in section 304. If the Secretary disapproves or partially approves a plan, the Council shall revise and resubmit the plan within 9 months after its disapproval.

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

“(7)(A) The Secretary may not approve a fisheries management plan or an amendment to such a plan, and such a plan or amendment shall not be effective after the 30-month period beginning on the date the Secretary ap-
proves or prepares a relevant Fisheries Ecosystem Plan,
unless the Secretary determines that the fisheries manage-
ment plan or amendment is consistent with the principles,
goals, policies, and recommendations of each relevant
Fisheries Ecosystem Plan approved or prepared by the
Secretary.

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

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

SEC. 9. COOPERATIVE RESEARCH AND DATA COLLECTION.
Section 305 (16 U.S.C. 1855) is further amended by
adding at the end the following:

"(k) COOPERATIVE RESEARCH, DATA COLLECTION,
AND GEAR MODIFICATION PROGRAM.—In cooperation
with the Councils, the fishing industry, the conservation
community, and interested academies, the Secretary shall
establish and conduct a cooperative research, data collec-
tion, and gear modification program to—

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

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

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

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

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

SEC. 10. ELIMINATION OF OVERFISHING AND REBUILDING
OF OVERFISHED POPULATIONS.

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


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(1) in subsection (a)(1) by striking “valuable” and inserting “ecologically and economically valuable”;

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

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

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

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

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

“(iii) there will be a multiplicity of options available with respect to future uses of these resources; and

“(iv) when scientific uncertainty exists, explicit buffers are established to account for such uncertainty to prevent and stop overfishing.”;

and

(2) in paragraph (37) by inserting before the period the following: “but, does not, in any case, include more than one species of fish”.
(c) NATIONAL STANDARDS FOR FISHERY CONSERVA-
TION AND MANAGEMENT.—Section 301(a) (16 U.S.C.
1851(a)) is amended—

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

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

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

(3) in paragraph (5) by striking “shall” and in-
serting “should”;

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

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

“(7) Conservation and management measures
shall, where practicable, and consistent with needed
conservation measures, minimize costs and avoid un-
necessary duplication.”.
(d) REQUIRED FISHERY MANAGEMENT PLAN PROVISIONS.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

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

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

“(C) consistent with the national standards and the other provisions of this Act, except such consistency is not required if the regulations would likely cause overfishing, allow continued overfishing, or delay the rebuilding of any overfished species or stock of fish managed under this Act; and

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

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

(4) by amending paragraph (10) to read as follows:

“(10)(A) specify objective and measurable criteria for identifying when the fishery to which the plan applies is overfished;
“(B) for purposes of such criteria, apply a definition of the term ‘overfished’ that is developed and expressed in terms of a minimum level of spawning biomass and maximum level or rate of fishing mortality, designed to ensure the restoration and maintenance of a fish population’s abundance, age structure, sex ratio, and size structure so as to prevent the population from dropping below a level capable of producing maximum sustainable yield and maintain ecological integrity;

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

“(D) in the case of a fishery that the Council or the Secretary has determined is approaching an overfished condition or is overfished, contain conservation and management measures to prevent overfishing or end overfishing and rebuild the fishery;”.

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

(1) in paragraph (4), by striking “and” after the semicolon at the end of subparagraph (B), striking the period at the end of subparagraph (C) and
inserting "; and", and adding at the end the fol-
lowing:

"(D) incorporate measures to protect es-
sential fish habitat for each overfished stock.";

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

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

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

"(7) The Secretary shall review any fishery
management plan, plan amendment, or regulations
required by this subsection at routine intervals that
may not exceed two years. If the Secretary finds as
a result of the review or as a result of any informa-
tion provided to the Secretary that such plan,
amendment, or regulations have not resulted or are not likely to result in ending overfishing and rebuilding affected fish stocks in the timeframe required by subsection (4), the Secretary shall—

“(A) in the case of a fishery to which section 302(a)(3) applies, immediately make revisions necessary to end overfishing and rebuild overfished stocks as required by this section; or

“(B) for all other fisheries, immediately notify the appropriate Council and recommend to the Council further conservation and management measures that the Council should take under paragraph (3).”.

SEC. 11. PRECAUTIONARY APPROACH TO FISHERIES MANAGEMENT.

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

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

“(11) Fishery management shall be based on the best scientific information available and shall weigh in favor of conservation when data are absent, uncertain, unreliable, or inadequate.”; and
(2) in subsection (c)(3) by striking "utilizes, and is based upon," and inserting "utilizes the precautionary approach and is based upon".

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

"(46) The term 'precautionary approach' means—

"(A) exercising additional caution in favor of conservation in any case in which information is absent, uncertain, unreliable, or inadequate as to the effects of any existing or proposed action on fish, essential fish habitat, other marine species, and the marine ecosystem in which a fishery occurs;

"(B) selecting and implementing any action that will be significantly more likely than not to satisfy the conservation objectives of this Act; and

"(C) taking into account past sustainable fishing levels."

(c) NATIONAL STANDARD FOR FISHERY CONSERVATION AND MANAGEMENT.—Section 301(a) (16 U.S.C. 1851) is amended by adding at the end the following:
“(12) The precautionary approach shall apply to conservation and management measures, in particular, and without limitation, to the application of the national standard set forth in paragraph (1).”.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

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

"SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Secretary to carry out this Act the following:

"(1) For information collection and analysis—

"(A) $205,000,000 for fiscal year 2002;

"(B) $215,000,000 for fiscal year 2003;

"(C) $225,000,000 for fiscal year 2004;

"(D) $235,000,000 for fiscal year 2005;

and

"(E) $240,000,000 for fiscal year 2006.

"(2) For conservation and management operations—

"(A) $126,000,000 for fiscal year 2002;

"(B) $132,000,000 for fiscal year 2003;

"(C) $139,000,000 for fiscal year 2004;

"(D) $146,000,000 for fiscal year 2005;

and

"(E) $151,000,000 for fiscal year 2006."
“(4) For the conservation of marine ecosystems under section 305(j)—
“(A) $20,000,000 for fiscal year 2002;
“(B) $25,000,000 for fiscal year 2003;
“(C) $30,000,000 for fiscal year 2004;
“(D) $35,000,000 for fiscal year 2005;
and
“(E) $40,000,000 for fiscal year 2006.”.
(b) CLERICAL AMENDMENT.—The table of sections at the end of the first section is amended by inserting after the item relating to section 3 the following:
“Sec. 4. Authorization of appropriations.”.

SEC. 13. SALTONSTALL-KENNEDY ACT CHANGES.
Section 2 of the Act of August 11, 1939 (chapter 696; 15 U.S.C. 713c–3), popularly known as the Saltonstall-Kennedy Act, is amended—
(1) in subsection (a)—
(A) in paragraph (1) by—
(i) striking subparagraph (B); and
(ii) striking “(1) The Secretary” and inserting “The Secretary”;
(B) by striking paragraph (2);
(C) by redesignating clauses (i) through (iv) as paragraphs (1) through (4), and moving such paragraphs 4 ems to the left; and

(D) by adding at the end the following:

"(5) to implement sections 303(a)(19) and 305(k) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853(a)(19), 1855(k))."; and

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

"(e) ALLOCATION OF FUND MONEYS.—(1) Notwithstanding any other provision of law, all moneys in the fund shall be used exclusively for the purpose of promoting United States fisheries in accordance with the provisions of this section and such other purposes as are authorized by this Act, and no such moneys shall be transferred from the fund for any other purpose. Allocation of moneys pursuant to this subsection shall be in addition to moneys appropriated for National Marine Fisheries Service operations in a fiscal year. With respect to any fiscal year, all moneys in the fund, including the sum of all unexpended moneys carried over into that fiscal year and all moneys transferred to the fund under subsection (b) of this section or any other provision of law with respect to that fiscal year, shall be allocated as follows:
“(A) The Secretary shall use $5,000,000 to make direct industry assistance grants to develop United States fisheries and to expand domestic and foreign markets for United States fishery products pursuant to subsection (e).

“(B) The Secretary shall use $50,000,000 pursuant to section 2(a)(5).

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