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117TH CONGRESS
1ST SESSION

S. 1484

To improve the management of forage fish.

IN THE SENATE OF THE UNITED STATES

APRIL 29, 2021

Mr. BLUMENTHAL (for himself and Mr. BLUNT) introduced the following bill; which was read twice and referred to the Committee on Commerce, Science, and Transportation

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A BILL

To improve the management of forage fish.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Forage Fish Conservation Act of 2021''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to the Magnuson-Stevens Fishery Conservation and Management Act.
Sec. 3. Findings.
Sec. 4. Definitions.
Sec. 5. Scientific advice.
Sec. 6. Council functions.
Sec. 7. Contents of fishery management plans.
Sec. 8. Action by the Secretary.

Sec. 9. River herring and shad.
Sec. 10. Rule of construction.

SEC. 2. REFERENCES TO THE MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT.

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

SEC. 3. FINDINGS.

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

''(14) Forage fish are generally small to intermediate-sized species, occurring in schools or dense aggregations, and function as a main pathway for energy to flow from phyto- and zooplankton to higher trophic level predators, such as tuna, Alaska pollock, and other wildlife, in marine ecosystems. While most species function as prey of others at some life stage, especially when small and young, forage fish maintain this important trophic role throughout their life. Further, fluctuations in their populations can result in significant changes in marine communities and ecosystems. Therefore, particular atten-

tion to management of forage fish species, and addressing their unique role in marine ecosystems, is critical to maintaining ecosystem function and sustainable fisheries.''.

SEC. 4. DEFINITIONS.

(a) SECRETARY TO DEFINE FORAGE FISH.—Section 305 (16 U.S.C. 1855) is amended by adding at the end the following:

''(l) FORAGE FISH.—Not later than 6 months after the date of enactment of the Forage Fish Conservation Act of 2021, the Secretary shall issue a definition of the term 'forage fish' for the purposes of this Act. In defining such term, the Secretary shall consider factors including whether a species covered by such definition, throughout such species' lifecycle—

''(1) is at a low trophic level;

''(2) is generally small- to intermediate-sized;

''(3) occurs in schools or other dense aggregations;

''(4) contributes significantly to the diets of other fish, marine mammals, or birds; and

''(5) serves as a conduit for energy transfer to species at a higher trophic level.''.

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

(1) by redesignating the second paragraph (33) (relating to waters of a foreign nation) as paragraph (53);

(2) by redesignating paragraphs (28) through (50) as paragraphs (30) through (52), respectively;

(3) by redesignating paragraphs (19) through (27) as paragraphs (20) through (28), respectively;

(4) by inserting after paragraph (18) the following:

''(19) The term 'forage fish'—

''(A) has the meaning given the term by the Secretary under section 305(l); and

''(B) with respect to a species in a fishery managed pursuant to a fishery management plan or plan amendment that is approved by the Secretary under section 304(a), means any species identified in such plan as a forage fish.'';

(5) by inserting after paragraph (28), as redesignated by paragraph (3), the following:

''(29) The term 'low trophic level' means a position in the marine food web in which the fish generally consume plankton.''; and

(6) in paragraph (35), as redesignated by paragraph (2)—

(A) in subparagraph (B), by striking ''and'';

(B) in subparagraph (C), by striking the period and inserting ''; and''; and

(C) by adding at the end the following:

''(D) in the case of a forage fish, is reduced, pursuant to subparagraph (B), to provide for the diet needs of fish species and other marine wildlife, including marine mammals and birds, for which forage fish is a significant dietary component.''.

SEC. 5. SCIENTIFIC ADVICE.

Section 302(g)(1)(B) (16 U.S.C. 1852(g)(1)(B)) is amended to read as follows:

''(B) Each scientific and statistical committee shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for—

''(i) acceptable biological catch;

''(ii) preventing overfishing;

''(iii) maximum sustainable yield;

''(iv) achieving rebuilding targets;

''(v) maintaining a sufficient abundance, diversity, and localized distribution

of forage fish populations to support their role in marine ecosystems; and

''(vi) reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices.''.

SEC. 6. COUNCIL FUNCTIONS.

(a) RESEARCH PRIORITIES.—Section 302(h)(7) (16 U.S.C. 1852(h)(7)) is amended, in the matter preceding subparagraph (A), by inserting ''forage fish populations and distribution,'' after ''habitats,''.

(b) UNMANAGED FORAGE FISH.—Section 302(h) (16 U.S.C. 1852(h)) is amended—

(1) in paragraph (8), by striking ''; and'' and inserting ''; '';

(2) by redesignating paragraph (9) as paragraph (10); and

(3) by inserting after paragraph (8) the following:

''(9) develop a list of unmanaged forage fish occurring in the area under its authority and prohibit the development of any new directed forage fish fishery until the Council has—

''(A) considered the best scientific information available and evaluated the potential impacts of forage fish harvest on existing fisheries, fishing communities, and the marine ecosystem;

''(B) determined whether conservation and management of the forage fish fishery is needed;

''(C) if a determination is made that conservation and management is needed, prepared and submitted to the Secretary a fishery management plan or amendment consistent with section 303; and

''(D) received final, approved regulations from the Secretary pursuant to section 304(b)(3); and''.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect 2 years after the date of enactment of this Act.

SEC. 7. CONTENTS OF FISHERY MANAGEMENT PLANS.

(a) FORAGE FISH MANAGEMENT.—Section 303(a) (16 U.S.C. 1853(a)) is amended—

(1) in paragraph (14), by striking ''and;'' and inserting '';'';

(2) in paragraph (15), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(16) when setting annual catch limits for forage fish fisheries, assess, specify, and reduce such limits by the diet needs of fish species and other marine wildlife, such as marine mammals and birds, for which forage fish is a significant part of their diet.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect 5 years after the date of enactment of this Act.

SEC. 8. ACTION BY THE SECRETARY.

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

(1) by redesignating the second subsection (i) (relating to international overfishing) as subsection (j); and

(2) by adding at the end the following:

''(k) FORAGE FISH MANAGEMENT GUIDELINES.—

''(1) IN GENERAL.—Not later than 18 months after the date of enactment of the Forage Fish Conservation Act of 2021, the Secretary shall establish by regulation guidelines to assist the Councils in implementing sections 3(19), 302(h)(9), and 303(a)(16).

''(2) WORKSHOPS.—In developing the guidelines under paragraph (1), the Secretary shall conduct workshops with Councils and other scientific, fisheries, and conservation interests.''.

SEC. 9. RIVER HERRING AND SHAD.

(a) DEFINITIONS.—In this section—

(1) RIVER HERRING.—The term ''river herring'' means blueback herring (Alosa aestivalis) and alewife (Alosa pseudoharengus).

(2) SHAD.—The term ''shad'' means American shad (Alosa sapidissima) and hickory shad (Alosa mediocris).

(b) AMENDMENTS OF PLANS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Commerce shall—

(1) amend the fishery management plans for the Atlantic Herring and Atlantic Mackerel, Squid, and Butterfish fisheries for the New England and Mid-Atlantic Regions to add shad and river herring as managed stocks in such plans consistent with section 302(h)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(h)(1));

(2) initiate additional fishery management plan amendments to be completed in not more than 1

year from the date of the addition of the species identified in paragraph (1) in order to develop and implement all required conservation and management measures for such stocks consistent with the Magnuson-Stevens Fisheries Conservation and Management Act (16 U.S.C. 1801 et seq.), and all other applicable law; and

(3) notwithstanding any other law, rule, or fishery management plan provision, including conservation and management measures under section 303(a)(11) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853(a)(11)), reallocate existing resources to provide, for not less than 50 percent of all relevant fishing trips, not fewer than one at-sea observer or an on-board electronic or video means of producing equivalent at-sea monitoring information, for any vessel using mid-water trawl or paired mid-water trawl fishing gear in the Atlantic herring and Atlantic mackerel fisheries.

SEC. 10. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed as—

(1) extending or diminishing the jurisdiction or authority of any State within its boundaries; or

(2) affecting—

(A) section 306 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1856); or

(B) the Atlantic Coastal Fisheries Cooperative Management Act (16 U.S.C. 5101 et seq.).

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