H. R. 2236

To improve the management of forage fish.

IN THE HOUSE OF REPRESENTATIVES

APRIL 10, 2019

Mrs. DINGELL (for herself, Mr. MAST, Mr. CARTWRIGHT, Mr. LONG, Mr. UPTON, and Mr. HUFFMAN) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To improve the management of forage fish.

Be it enacted by the Senate and House of Representa-
tives 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”.

(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. 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:

“(13) 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 ad-

dressing their unique role in marine ecosystems, is
critical to maintaining ecosystem function and sus-
tainable fisheries.”.

SEC. 4. 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 fol-

lowing:

“(19) The term ‘forage fish’ means—

“(A) any fish that, throughout its life

 cycle—

“(i) is at a low trophic level;

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

“(iii) serves as a conduit for energy
transfer to species at a higher trophic
level; or
“(B) any other fish specified as a forage fish for purposes of this paragraph in a fishery management plan or amendment that is transmitted by a Council and approved by the Secretary in accordance with section 304(a).”; 

(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”;

(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, such as marine mammals and birds, for which forage fish is a significant part of their diet.”.
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 for-
age fish fisheries, assess, specify, and reduce such
limits by the diet needs of fish species and other ma-
rine 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, 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 medioebris).

(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 60 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. 5107 et seq.).