

118TH CONGRESS
2D SESSION

S. _____

To support healthy fisheries in dynamic ocean conditions, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. BLUMENTHAL (for himself, Mr. MURPHY, and Ms. WARREN) introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To support healthy fisheries in dynamic ocean conditions, 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 “Supporting Healthy
5 Interstate Fisheries in Transition Act” or the “SHIFT
6 Act”.

7 **SEC. 2. SHIFTING STOCKS.**

8 Section 805(a) of the Atlantic Coastal Fisheries Co-
9 operative Management Act (16 U.S.C. 5104(a)) is amend-
10 ed by adding at the end the following:

1 “(3) The Secretary shall encourage the Commission
2 to include climate change impact data in its coastal fishery
3 management plans or plan amendments, and when estab-
4 lishing or revising quota allocations between any State,
5 Federal, or other management unit in such a plan or
6 amendment, the Secretary shall account for, using the
7 best scientific information available, any climate change
8 impact on coastal fishery resources, including—

9 “(A) any change or shifting trend in fish abun-
10 dance and distribution; and

11 “(B) any potential ecological impact, including
12 food web and habitat impacts, arising from such re-
13 vised quota allocations.”.

14 **SEC. 3. ACTION BY THE SECRETARY.**

15 Section 304(f) of the Magnuson-Stevens Fishery
16 Conservation and Management Act (16 U.S.C. 1854(f))
17 is amended—

18 (1) in paragraph (1)—

19 (A) by striking “as provided in paragraph
20 (3)” and inserting “as provided in paragraph
21 (2)”;

22 (B) by striking “No jointly prepared plan”
23 and all that follows through “each Council con-
24 cerned.”;

1 necessary amendment to such a plan, if the
2 fishery requires conservation and manage-
3 ment under this Act; or

4 “(II) agree to jointly prepare a fishery
5 management plan for such fishery, or any
6 necessary amendment to such a plan, if the
7 fishery requires conservation and manage-
8 ment under this Act.

9 “(C) In the case that the Councils concerned
10 are unable to meet the requirements of subpara-
11 graph (B)(ii) within the time period specified in such
12 subparagraph, or if their recommendations do not
13 agree, the Secretary shall—

14 “(i) designate one of the Councils con-
15 cerned to prepare a fishery management plan
16 for such fishery, or any necessary amendment
17 to such a plan, if the fishery requires conserva-
18 tion and management under this Act; or

19 “(ii) require that such a plan or any nec-
20 essary amendment be prepared jointly by the
21 Councils concerned, if the fishery requires con-
22 servation and management under this Act.

23 “(D) Not later than 2 years after the date on
24 which the last of the Councils concerned makes a de-
25 cision pursuant to subparagraph (B)(ii) or the date

1 on which the Secretary makes a decision pursuant to
2 subparagraph (C), and at such other times as re-
3 quired under this Act, the Council or Councils des-
4 ignated under subparagraph (B)(ii) or (C) (as appli-
5 cable) shall prepare and submit a fishery manage-
6 ment plan, or any necessary amendment to such a
7 plan, if the fishery requires conservation and man-
8 agement under this Act.

9 “(E)(i) At the request of a Council in accord-
10 ance with the procedures established under subpara-
11 graph (A), the Secretary shall determine whether a
12 fishery described in subparagraph (B) no longer has
13 a substantial portion that extends beyond the geo-
14 graphical area of authority of any one Council.

15 “(ii) If the Secretary determines under clause
16 (i) that a fishery no longer has a substantial portion
17 that extends beyond the geographical area of author-
18 ity of any one Council—

19 “(I) the Secretary shall determine in which
20 Council’s geographical area of authority the
21 fishery is predominant; and

22 “(II) not later than 2 years after the date
23 on which the determination under subclause (I)
24 is made, and at such other times as required
25 under this Act, the Council determined under

1 such subclause shall prepare and submit a fish-
2 ery management plan, or any necessary amend-
3 ment to such a plan, if the fishery requires con-
4 servation and management under this Act.

5 “(iii) Notwithstanding subsection (h), on the
6 date of implementation of a fishery management
7 plan under clause (ii)(II), any preceding fishery
8 management plan with respect to such fishery is re-
9 pealed.

10 “(F) The Secretary shall, through notice and
11 comment rulemaking, identify its criteria in deter-
12 mining under subparagraphs (B) and (E) whether a
13 substantial portion of a fishery extends beyond the
14 geographical area of authority of any one Council.”;
15 and

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

17 “(4) No jointly prepared plan or amendment, as
18 described in paragraph (1)(B), (2)(B)(ii)(II), or
19 (2)(C)(ii) may be submitted to the Secretary unless
20 it is approved by a majority of the voting members,
21 present and voting, of each Council concerned.

22 “(5) This subsection shall not apply with re-
23 spect to any fishery to which section 302(a)(3) ap-
24 plies.

1 “(6) Nothing in this subsection shall be con-
2 strued as modifying or superseding subsection (e),
3 section 302(h)(1), or any other provision of this
4 Act.”.

5 **SEC. 4. FISHERY AUTHORIZATION.**

6 Section 305(a) of the Magnuson-Stevens Fishery
7 Conservation and Management Act (16 U.S.C. 1855(a))
8 is amended—

9 (1) in paragraph (2), by striking “as to require
10 notification under paragraph (3)” and inserting
11 “under this subsection”;

12 (2) by striking paragraphs (3) and (4) and in-
13 serting the following:

14 “(3) The Secretary may add a new fishery or fishing
15 gear for inclusion on the list under this subsection only
16 after the Secretary determines that a sufficient analysis,
17 in accordance with the guidance under paragraph (7), has
18 been conducted by an appropriate Council, and the anal-
19 ysis concludes the potential new fishery or fishing gear will
20 have minimal adverse effects (as defined in section
21 600.810(a) of title 50, Code of Federal Regulations (or
22 successor regulations)) on essential fish habitat, existing
23 fisheries, fishing communities, and the marine ecosystem.

24 “(4)(A) Not later than 18 months after the date of
25 enactment of the Supporting Healthy Interstate Fisheries

1 in Transition Act, and at least once every 5 years there-
2 after, each Council shall review the fisheries and gear on
3 the list under this subsection that are under its authority
4 and submit to the Secretary proposed changes to such list,
5 if needed, in specific and narrow terms, including geo-
6 graphic range. Such proposed changes may include recom-
7 mending new fisheries or gear or removal of fisheries or
8 gear and shall be accompanied by information on the ef-
9 fects of new fisheries or gear or removal of fisheries or
10 gear on essential fish habitat, existing fisheries, fishing
11 communities, and the marine ecosystems, for the Sec-
12 retary to review under paragraph (3).

13 “(B) As soon as practicable after receiving a pro-
14 posed change under subparagraph (A) to add a new fish-
15 ery or gear to the list under this subsection, the Secretary
16 shall make a determination under paragraph (3). If the
17 Secretary determines that the proposed change is con-
18 sistent with such paragraph, this Act, and other applicable
19 law, the Secretary shall publish a proposed list under this
20 subsection to include such fishery or gear, along with the
21 appropriate Council’s analysis and the Secretary’s deter-
22 mination of sufficiency of the analysis consistent with
23 paragraph (3), and provide an opportunity for public com-
24 ment before publishing the final, revised list.

1 “(C) As soon as practicable after publication of a
2 final, revised list under this subsection in accordance with
3 subparagraph (B), the appropriate Council shall, in ac-
4 cordance with section 303, prepare a fishery management
5 plan or a plan amendment, if such fishery requires con-
6 servation and management under this Act, and the Sec-
7 retary has approved and implemented such plan or amend-
8 ment. Nothing in the preceding sentence shall affect the
9 authority to operate under a permit issued under section
10 318(d).

11 “(D) No person or vessel may employ fishing gear
12 or engage in fisheries that are not listed under this sub-
13 section without prior written notice to the Council. Upon
14 receiving notice pursuant to the preceding sentence, the
15 Council shall make a determination to either prohibit the
16 person or vessel to employ the fishing gear or engage in
17 the fishery that is not listed or make a recommendation
18 to the Secretary to add the fishery or fishing gear for in-
19 clusion on the list under this subsection in accordance with
20 the requirements under this subsection.”; and

21 (3) by adding at the end the following:

22 “(7) The Secretary shall issue guidance for making
23 a determination under paragraph (3).

24 “(8) Nothing in this subsection shall restrict the
25 issuance of or requirements for the experimental permit-

1 ting process under section 318(d), the cooperative re-
2 search and management program under section 318, the
3 bycatch reduction engineering program under section 316,
4 or other research or data collection activities authorized
5 under this Act.”.