

STAFF SUMMARY:

PROPOSED CHANGES TO MAGNUSON-STEVENSON ACT IN HUFFMAN DRAFT AND
YOUNG BILL HR 59 BY MSA SECTION

Note: Text in black refers to Huffman discussion draft. Text in red refers to HR 59.

Changes to MSA

§2(a) FINDINGS

- HR 59 adds reference to fisheries contributing to cultural wellbeing (a)(2)
- Adds reference to “traditional ways of life” to finding on insular Pacific areas
- Huffman draft adds references to climate change and ecosystem considerations in findings (a)(2)(c), (a)(9), (a)(13), (a)(14)
- Updates language to remove outdated references to foreign fisheries
- Changes “overfished” to “overfished or otherwise depleted” throughout
- Adds references to incorporating data from both government and nongovernmental sources, including fishermen, fishing communities, traditional knowledge from tribes, etc. Scientific and Statistical Committees (SSCs) should consider such information when seeking the best scientific information available. (a)(8)

§2(b) PURPOSES

- Adds references to subsistence fisheries (b)(3)
- Council planning should address the impacts climate change on fish stocks (b)(5)(c)
- Council should promote the protection of essential fish habitat (EFH) from adverse effects caused by fishing, and from Federal projects (b)(5)(7)

§2(c) POLICY

- Calls the best available climate science to be used in management (c)(3)
- Adds as purpose promoting management that accounts for changes in (fish stocks and the environment) resulting from climate change
- Adds purpose that research, management, and funds to prepare fisheries for climate promote racial and socioeconomic equity.

§3 DEFINITIONS

- Adds “living marine resources” (as defined in Section 206) to definition of bycatch. Adds exemption for fish caught for subsistence use. (2)

- HR 59 adds definition of catch share as “any fishery management program that allocates a specific percentage of the total allowable catch for a fishery, or a specific fishing area, to an individual, cooperative, community, processor, representative of a commercial sector, or regional fishery association established in accordance with section 303A(c)(4), or other entity.

DEFINITION OF DEPLETED:

Current definition	Huffman	Young (HR 59)
<p>‘The terms “overfishing” and “overfished” mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis.’</p>	<p>“The term ‘depleted’ means, with respect to a stock of fish or stock complex, that its biomass has declined below a level at which the capacity of the stock or stock complex to produce maximum sustainable yield on a continuing basis has been jeopardized. A depleted condition may be caused by numerous factors, alone or in combination, such as fishing effort, habitat loss, ecosystem changes, overfishing, inadequate forage, or other characteristics of or stressors on the stock or stock complex.</p>	<p>“...that the stock or stock complex has a biomass that has declined below a level that jeopardizes the capacity of the stock or stock complex to produce maximum sustainable yield on a continuing basis” (similar to current definition).</p>

- Huffman changes definition of fishing to exempt scientific research and marine aquaculture. (16)
- Defines forage fish as having the meaning given by the Secretary under Sec. 305(l) or identified in an approved FMP. (18A)

DEFINITION OF EFH:

Current definition	Huffman	Young (HR 59)
<p>The term “essential fish habitat” means those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity.</p>	<p>No changes</p>	<p>Those waters and substrate necessary to fish for spawning, breeding, feeding, [or growth to maturity.]? except that such term (A) does not include an area that--(i) was previously covered by land or a fresh water environment; and (ii) is in a State where the average annual land loss of such State during the 20 years before the date of the enactment of [this Act] exceeds 10 square miles; and (B) does not apply with respect to a project undertaken by a</p>

		State or a local government with the purpose of restoration or protection of an area described in subparagraph (A).”
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DEFINITION OF HAPCS:

- **Huffman and Young’s definitions of HAPCs are essentially the same. There is currently no definition of HAPCs in the MSA itself:**
- “areas within EFH that (19A): (A) provide important ecological function, including for maintaining and restoring the biomass, demographic, spatial and genetic characteristics of fish populations; (B) are sensitive to human-induced environmental degradation; (C) are or will be significantly stressed by human activities; (D) due to prevailing or anticipated future environmental conditions, are or may become important to the health of managed species; or (E) are rare.”

DEFINITION OF FISHING

- HR 59 changes the definition of fishing (15) to exclude “any scientific research activity which is conducted by a scientific research vessel; or the propagation and rearing of aquatic species in controlled or selected environments in marine waters.”

FORAGE FISH

- HR 59 defines forage fish (18A) as “the meaning given the term by the Secretary under section 305(I); and 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.”
- Huffman: for forage fish, optimum means the amount of fish which “...is reduced... 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.” (33)

SUBSISTENCE FISHING

- **Huffman and Young’s definitions of subsistence fishing are essentially the same:**
- (A) The term “subsistence fishing” means fishing in which the fish harvested are intended for customary and traditional uses, including (i) for direct personal or family consumption as food or clothing; (ii) for the making or selling of handicraft articles out of nonedible byproducts taken for personal or family consumption, for barter, or sharing for personal or family consumption; and (iii) for customary exchange or trade. [Young deletes “exchange or”]
- (B) In this paragraph—(i) the term “family” means all persons related by blood, marriage, or adoption, or any person living within the household on a permanent basis; and (ii) the term “barter” means the exchange of a fish or fish part—(I) for another fish or fish part; or (II) for other food or for nonedible items other than money if the exchange is of a limited and noncommercial nature.

OTHER DEFINITIONS

- Removes “and overfished” from definition of “overfishing.” (34)
- Defines subsistence fishing, family, and barter. (42a)
- **HR 59 defines “stock assessment” as an evaluation of the past, present, and future status of a stock of fish, that includes--(A) a range of life history characteristics for such a stock, including— (i) the geographical boundaries of such stock; and (ii) information on age, growth, natural mortality, sexual maturity and reproduction, feeding habits, and habitat preferences of such stocks; and (B) fishing for the stock. (43)**

§4 APPROPRIATIONS

- Both Huffman and Young update appropriation dates and/or amounts.

§202 INTERNATIONAL FISHERY AGREEMENTS

- Removes language requiring a report. (h)(3)

§204(4) THROUGH (9) - PERMITS FOR FOREIGN FISHING

- Makes changes related to Western Pacific Council’s Marine Conservation Plans, Sustainable Fisheries Fund. Creates a Western Pacific Sustainable Fishery Fund Advisory Panel.

§206 LARGE-SCALE DRIFTNET FISHING

- Progress report and certification requirement moved to Section 607. (e), (f)

§301 NATIONAL STANDARDS

- Revises NS9: “Conservation and management measures shall – to the extent practicable, (a) minimize bycatch, and (b) to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.” (9)

§302 REGIONAL FISHERY MANAGEMENT COUNCILS

- Both Huffman and Young make changes to the makeup of the NEFMC (add a liaison). (a)(1)(A)
- Both Huffman and Young make slightly different changes to the makeup of the NEFMC and SAFMC.
- Adds subsistence, ecosystem-based fishery management or climate science as a type of required expertise for Council members. Removes some outdated language. (b)(2)(A)
- Adds subsistence fisheries as a considering in apportionment of Council members. Calls for Secretary to consider members of the conservation community, scientists, nonconsumptive users, and indigenous and tribal communities as applicable during apportionment. (b)(2)(B)
- Removes requirement that Governor consult with commercial and recreational fishing representatives before making appointments. Requires Secretary to appoint to each Council at

least two individuals who do not have a financial interest in matters before the Council. Calls for representation from across relevant states. (b)(2)(C)

- Young adds requirement that Governor of Alaska consult with the subsistence fishing interests of the state when making Council appointments. (b)(2)(C)
- Changes that apply only to SAFMC. (b)(2)(D)
- Removes requirement that tribal governments must submit at least three names for Council appointees. Makes tribal term indefinite. (b)(5)

§302(E)-(F) COUNCIL OPERATIONS

- Removes requirement for roll call vote whenever requested by a voting member. Requires Councils to hold a recorded vote on all nonprocedural matters before the Council. (e)(5)
- Encourages (to the extent possible) Councils to provide remote meeting participation and voting. (e)(6)
- Council employees, “including executive directors, shall be deemed Federal employees with respect to any requirement that applies to Federal employees.” (f)(1)
- Council members shall be subject to all law, rules, and policies regarding ethics and sexual harassment and assault that apply to Federal employees... (f)(8)

§302 (g) SSCs

- Call for SSCs to review ecological information. (g)(1)
- In establishing management measures, must provide recommendations for accounting and reporting on all sources of mortality; promoting resilience of fish stocks to climate change; anticipated future impacts of climate change on fish stocks and sectors; maintaining sufficient forage fish populations to support their role in marine ecosystems. (g)(1)(B)
- Young adds in this section that “Each scientific and statistical committee shall develop such advice in a transparent manner and allow for public involvement in the process.”
- Each Council shall develop, with its SSC, priorities that include fish, stocks, or habitats that are or may experience a shift in geographic range, distribution, or productivity during the next 5 years. (h)(7)

§302(H) EFH AND HAPCS

- Councils shall approve criteria to identify whether each managed stock is depleted or is experiencing overfishing, which may not be less precautionary than the SSC’s recommendations. (h)(8)
- Councils must develop and implement plans to protect EFH from adverse fishing effects, including measurable targets and goals and conservation and management measures to implement such a plan. (h)(9)
- At least every 7 years, Councils must review habitat protection plans, including EFH and HAPC designations, and amend their FMPs as appropriate. (h)(10)
- Councils must develop a list of unmanaged forage fish and prohibit the development of new fisheries until the BSIA has been considered, etc. (h)(12)

- Young adds “Councils have the authority to use alternative fishery management measures in a recreational fishery (or the recreational component of a mixed-use fishery), including extraction rates, fishing mortality targets, and harvest control rules, in developing a fishery management plan, plan amendment, or proposed regulations”. (h)(9)

COUNCIL MEETING COMMUNICATIONS

- **Both Huffman and Young** state (basically in the same language) that Councils must make available on their websites, to the extent practicable, a webcast or a live audio or video broadcast of each (open) meeting of the Council, and of the CCC; an audio or video recording (if the meeting was in person or by video conference), or a searchable audio recording or written transcript, of each meeting of the Council and the meetings of committees within 30 days of the meeting. (302)(i)(2)(G))
- **Both Huffman and Young:** The Secretary must maintain a public archive of Council and SSC meeting audio and video recordings and transcripts. (i)(2)(H)
- Relates to role of NOAA Counsel in financial disclosures. Later section requires financial interest disclosures to be put on the Council website. (j)(1)(B)

§(302)(J) VOTING

- Prohibition on voting with conflict of interest: makes minor changes, removes requirement for there to be a “substantially disproportionate” benefit on a Council decision for it to be a conflict of interest. Changes notification requirements. Allows a member of the public or of the Council to ask NOAA Counsel to determine whether a Council decision would affect a financial interest. Prevents ineligible Council members from commenting on anything but technical and factual information during relevant deliberations. Requires Council to post any such determinations on their websites. States that error is not a basis for reconsideration. (j)(7)

§302(K) COUNCIL MEMBER TRAINING

- Adds climate change and relevant impacts, as well as ecosystem management, to the topics covered under a Council member training program. (k)\

§302(M) PROHIBITION ON LOBBYING

- Council members, advisory body members, employees, etc. are prohibited from using Federal funds to attempt to influence any Federal or State legislation, executive orders, etc. They may provide a technical and factual presentation directly related to the performance of a Council’s duties, if in response to a documented request... The Secretary may investigate potential violations; anyone may submit a complaint. If found in violation, such individual shall be subject to civil penalties. Councils must make relevant information available on their websites. Secretary must provide training.

§302(M) MODIFICATIONS TO ACL REQUIREMENTS

- Young adds the following (summarized):
 - (1) ACL requirement for certain data-poor fisheries: ...in the case of a stock of fish for which the total annual catch limit is 25 percent or more below the overfishing limit, a peer-reviewed stock survey and stock assessment have not been performed during the preceding 5 fishing years, and the stock is not subject to overfishing, a Council may, after notifying the Secretary, maintain the current annual catch limit for the stock until a peer-reviewed stock survey and stock assessment are conducted and the results are considered by the Council and its scientific and statistical committee.
 - (2) CONSIDERATION OF ECOSYSTEM AND ECONOMIC IMPACTS.—In establishing ACLs a Council may ... consider changes in an ecosystem and the economic needs of the fishing communities.
 - (3) LIMITATIONS TO ACL REQUIREMENT FOR SPECIAL FISHERIES.—...A Council is not required to develop an ACL for—
 - a. an ecosystem-component species;
 - b. a fishery for a species that has a life cycle of approximately 1 year, unless the Secretary has determined the fishery is subject to overfishing; or
 - c. a stock for which—(i) more than half of a single-year class will complete their life cycle in less than 18 months; and (ii) fishing mortality will have little impact on the stock.
 - (4) RELATIONSHIP TO INTERNATIONAL FISHERY EFFORTS.—
 - a. IN GENERAL.—Each annual catch limit... (i) may take into account management measures under international agreements in which the United States participates; and (ii) in the case of an annual catch limit developed by a Council for a species, shall take into account fishing for the species outside the exclusive economic zone and the life history characteristics of the species that are not subject to the jurisdiction of the Council.
 - b. EXCEPTION TO ANNUAL CATCH LIMIT REQUIREMENT.—If fishery management activities by another country with respect to fishing outside the exclusive economic zone may hinder conservation efforts by United States fishermen for a fish species for which any of the recruitment, distribution, life history, or fishing activities are transboundary, and for which there is no informal transboundary agreement with that country in effect, then—(i) notwithstanding subsection (h)(6), no annual catch limit is required to be developed for the species by a Council; and (ii) if an annual catch limit is developed by a Council for the species, the catch limit shall take into account fishing for the species outside the exclusive economic zone that is not subject to the jurisdiction of the Council.
 - (5) AUTHORIZATION FOR MULTISPECIES COMPLEXES AND MULTIYEAR ANNUAL CATCH LIMITS.—... a Council may establish—
 - a. an annual catch limit for a stock complex; or
 - b. annual catch limits for each year in any continuous period that is not more than 3 years in duration.
 - (6) ECOSYSTEM-COMPONENT SPECIES DEFINED.—In this subsection the term ‘ecosystem component species’ means a stock of fish that is a non-target, incidentally harvested stock of fish in a fishery, or a nontarget, incidentally harvested stock of fish that a Council or the Secretary has determined—

- a. is not subject to overfishing, approaching a depleted condition or depleted; and
- b. is not likely to become subject to overfishing or depleted in the absence of conservation and management measures.

§303A CONTENTS OF FISHERY MANAGEMENT PLANS (adds climate change)

- FMPs must promote the resilience of fish stocks to cumulative stressors, including climate change (a)(1)(A)
- FMPs must assess and specify the present and probable future condition of, and the MSY and OY from, the fishery under prevailing and anticipated future environmental conditions (a)(3)
- Adds “quantification of bycatch” to pertinent data included in FMPs (a)(5)
- Removes “to the extent practicable” from “minimize adverse effects on EFH caused by fishing” (a)(7)(A)
- Councils must describe and identify HAPCs based on current guidelines ... avoid adverse effects on such habitat caused by fishing, monitor efficacy of actions to avoid adverse effects, and identify other actions to encourage the conservation and enhancement of such habitat (a)(7)(B)
- FMPs submitted to Secretary for review must describe “data needed to implement the plan effectively under prevailing and anticipated environmental or ecological conditions, including climate change” (a)(8)
- When identifying which stocks are overfished or otherwise depleted, criteria cannot be less precautionary than proposed by the SSC (a)(10)
- Removes “to the extent practicable” from requirement to describe conservation measures that minimize bycatch, mortality (a)(11)
- In FMP descriptions of fisheries, must examine the vulnerability of the fishery and participants to the impacts of (and expected impacts of) environmental or ecological conditions, including climate change (a)(13)
- FMPs must “assess and describe the anticipated impacts of climate change and other environmental and ecological changes..., including an assessment of whether and how the management measures... have accounted for these changes, and a summary of the information used in these assessments” (a)(16)
- FMPs must “describe and identify the current range and distribution of, and fishing patterns on, fish stocks ..., including areas outside the jurisdiction of the Council ..., and for fish stocks whose distribution crosses management boundaries, describe the measures used for coordination with other relevant management bodies ...” (a)(17)
- “When setting annual catch limits for forage fish fisheries, [Councils must] 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.” (a)(18)
- Any FMP may require data to be collected from a fishing vessel via electronic monitoring or other technologies, or observers (unless too small/unsafe) (b)(8)
- FMPs may consider full retention requirements for species with high catch mortality rates (b)(13)

§303A LIMITED ACCESS PRIVILEGE PROGRAMS

- LAPPs must promote social and economic benefits including the participation of fishing communities in the fishery. (c)(1)(C)

- LAPPs must consider the needs of fishing communities and provide a process for fishing communities to participate... (c)(1)(L)
- Strikes requirement that fishing communities must meet criteria developed by the relevant Council, approved by Secretary, and published in FR in order to be eligible to participate in a LAPP.
- Clarifies and expands on requirement than a fishing community submit a Community Sustainability Plan in order to participate in a LAPP. (c)(3)
- **Young strikes the text on the New England and Gulf Referendum (c)(6)(D) and replaces it with referendum text. Applies only to NEFMC, MAFMC, SAFMC, GMFMC.**

§304 ACTION BY THE SECRETARY (rebuilding)

- Changes “Secretary may prepare a fishery management plan” to “Secretary shall...”; adds 180-day deadline for Councils to prepare a plan (or plan revision) before Secretarial action (c)
- Rebuilding overfished/depleted fisheries: adds requirement to Secretarial report to Congress on status of stocks. Secretary must use BSIA to determine if a stock that “lacks criteria” is depleted or being overfished. Secretary must identify stocks being rebuilt or in need of a rebuilding plan, with details and progress. If Secretary determines a stock is “depleted or approaching a depleted status,” s/he must request Council end overfishing immediately and put rebuilding plan in place; for those that are approaching a depleted status, end overfishing immediately and prevent the stock from reaching a depleted condition. Councils must respond accordingly. (e)
- **Young adds that the report under (e)(1) “shall distinguish between fisheries that are depleted (or approaching that condition) as a result of fishing and fisheries that are depleted (or approaching that condition) as a result of factors other than fishing. The report shall state, for each fishery identified as depleted or approaching that condition, whether that fishery is the target of directed fishing.”**

§304(E)(4)(iii) REBUILDING TIME

Current language	[a time period for rebuilding that shall...] not exceed 10 years , except in cases where the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in with the United States participates dictate otherwise
Huffman	[a time period for rebuilding that shall...] not exceed the time the stock of fish would be rebuilt without fishing occurring plus one mean generation , unless management measures under an international agreement in with the United States participates dictate otherwise
Young	(iii) not exceed the time the stock would be rebuilt without fishing occurring plus one mean generation, except in a case in which-- (I) the biology of the stock of fish, other environmental conditions, or management measures under an international agreement in which the United States participates dictate otherwise;

	<p>(II) the Secretary determines that the cause of the stock being depleted is outside the jurisdiction of the Council or the rebuilding program cannot be effective only by limiting fishing activities;</p> <p>(III) the Secretary determines that one or more components of a mixed-stock fishery is depleted but cannot be rebuilt within that timeframe without significant economic harm to the fishery, or cannot be rebuilt without causing another component of the mixed-stock fishery to approach a depleted status;</p> <p>(IV) the Secretary determines that recruitment, distribution, or life history of, or fishing activities for, the stock are affected by informal transboundary agreements under which management activities outside the exclusive economic zone by another country may hinder conservation and management efforts by United States fishermen; and</p> <p>(V) the Secretary determines that the stock has been affected by unusual events that make rebuilding within the specified time period improbable without significant economic harm to fishing communities</p>
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- Young changes time period for rebuilding from “as short as possible” to “as short as practicable” (e)(4)(A)(i)
- Rebuilding must take into account environmental conditions including predator/prey relationships (e)(4)(B)
- An FMP must specify a schedule for reviewing the rebuilding targets, evaluating environmental impacts on rebuilding progress, and evaluating progress being made toward reaching rebuilding targets (e)(4)(E)
- If a Council doesn’t act on rebuilding within 2 years, the Secretary must do so within 6 months after that 2-year period. (e)(5)
- Provides new criteria for the Secretary to determine if a stock is not making progress in rebuilding. If Secretary determines there is not enough rebuilding progress, Council must be notified and must make revisions. If this does not occur within 9 months, the Secretary must do so within 15 months. The rebuilding time must not be changed as a result. Includes steps to take if there is still no progress. (e)(7)
- “If a stock managed under a plan [etc.] exceeds the time period for rebuilding but has not rebuilt, the Council (or Secretary ...) shall prepare a new rebuilding plan ..., except that such plan shall have no less than a 75 percent chance, as calculated by the relevant scientific and statistical committee pursuant, of rebuilding the fishery by the end of the new time period ...” (e)(8)
- An FMP, amendment, etc., may use alternative rebuilding strategies, including harvest control rules and fishing mortality-rate targets... (e)(8)
- A Council may terminate (a rebuilding plan) if the Council’s SSC determines and the Secretary concurs that the original determination was erroneous (e)(9)
- Includes details for stocks that are under the provisions of more than one Council.
- Makes changes related to Atlantic HMS.
- Establishes a Standardized Bycatch Reporting program. (k)
- STOCK SURVEYS AND ASSESSMENTS.—Not later than 2 years after the date that the Secretary receives notice from a Council under section 302(m), the Secretary shall complete a

peer-reviewed stock survey and stock assessment of the applicable stock of fish and transmit the results of the survey and assessment to the Council. (k)

- Requires Secretary to establish regulation guidelines to help Councils implement Section 302(h)(12) [develop list of unmanaged forage fish] and 303(a)(16) [assess and describe the anticipated impacts of climate change on fisheries.]

§305 OTHER REQUIREMENTS AND AUTHORITY

- List of fisheries: Within 18 months, and at least every 5 years after, Councils must review their list of fisheries and gear and submit proposed changes to the Secretary. Details list requirements. Allows Secretary to permit certain fisheries (EFPs). Outlines requirements for new fisheries (analyses required, etc.) (a)(1)
- Habitat: Paragraph (D) changed to read “The Secretary shall coordinate with and provide information to other Federal agencies and such agencies shall take action to further the conservation and enhancement of essential fish habitat.” (b)(1)
- Strikes paragraphs 2, 3, 4 and replaces them with paragraph (7)(A):
 - (i) **ESSENTIAL FISH HABITAT.**—With respect to any Federal agency action that may have an adverse effect on essential fish habitat, each Federal agency shall, in consultation with the Secretary, ensure that any action authorized, funded, or undertaken by such agency **avoids the adverse effect of such action** on essential fish habitat or, to the extent that the adverse effect cannot be avoided, the agency shall minimize and mitigate the adverse effect.
 - (ii) **HABITAT AREA OF PARTICULAR CONCERN.**—**No Federal agency may authorize, fund, or undertake an action if such agency determines, in consultation with the Secretary, that such action would have an adverse effect** on a habitat area of particular concern.
- In consulting with a Federal agency on EFH and HAPCs for projects seeking to restore and improve the long-term resilience of habitat, particularly in estuarine environments heavily impacted by sea level rise and other climate change factors, the Secretary shall account for the consequences of not pursuing such restoration and habitat resilience projects and the long-term positive impacts on fish populations of such activities. (b)(7)(B)
- The Secretary shall establish regulations for this consultation process...
- The Secretary must inform Council of any consultations carried about above; Council may make comments on whether the action may affect the habitat of a fishery resource. Council **MUST** comment on actions that adversely affect anadromous fish habitat. (b)(3)
- Information from other sources: if the Secretary receives information from any source and determines that an action may have an adverse impact on EFH, the Secretary must recommend measures to avoid/minimize/mitigate such impacts. Agencies must respond within 30 days with a detailed proposal to meet these requirements, etc. (b)(4)
- Extends deadline for judicial review of Secretarial regulations to 60 days from 30 days. (f)
- Recreational data improvement: Within 2 years, Secretary shall establish guidelines to improve recreational catch data. (l)
- Forage fish: Within 6 months, Secretary shall issue a definition of the term “forage fish.” (m)

- Emergency measures may remain in place for 1 year and may be extended for another year. (c)(3)(B)

§307 PROHIBITED ACTS

- Young adds prohibition on shark feeding off coast of Florida. (307)(b)

§312 TRANSITION TO SUSTAINABLE FISHERIES

- Huffman removes and replaces first four paragraphs on fisheries disaster relief.
- Young keeps these and adds “The Secretary shall publish the estimated cost of recovery from a fishery resource disaster no later than 30 days after the Secretary makes the determination under subparagraph (A) with respect to such disaster.” (312)(a)(1)(B) and
- The Secretary shall make a decision regarding a request from a Governor under paragraph (1) within 90 days after receiving an estimate of the economic impact of the fishery resource disaster from the entity requesting the relief. (312)(a)(2)
- Defines allowable causes of disasters, including anthropogenic causes; defines anthropogenic causes; defines fishery resource disaster. Defines Indian tribes, natural causes, 12-month revenue loss, undetermined cause.
- Describes Secretarial authority in determining fishery resource disasters.
- Sets out a process for initiating a fishery resource disaster review.
- Sets out a review process for responding to disaster declaration requests.
- Describes criteria for disaster determinations.
- Describes how funds are to be dispersed.
- Requires the Federal share of any disaster relief to be 100% in the case of direct assistance. Funds may not be used for fishing capacity reduction programs unless the Secretary determines that proper conservation and management measures are in place in the fishery. Lays out requirements for such fishing capacity reduction programs.

§313 NORTH PACIFIC FISHERIES CONSERVATION

- Young adds section on Arctic Community Development Quota.

§315 REGIONAL COASTAL DISASTER ASSISTANCE, TRANSITION, AND RECOVERY PROGRAM – repealed.

§318 COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM

- Adds fishing communities as partners in cooperative research and management programs.
- Young adds “Within 1 year ..., and after consultation with the Councils, the Secretary shall publish a plan for implementing and conducting the program established in paragraph (1). Such plan shall identify and describe critical regional fishery management and research needs, possible projects that may address those needs, and estimated costs for such projects. The plan shall be revised and updated every 5 years, and updated plans shall include a brief description of projects that were funded in the prior 5-year period and the research and management needs that were addressed by those projects.”

- Requires Councils to provide a prioritized list of research needs to the Secretary annually.
- Adds “expanding the use of electronic technology and modernizing data management systems” and “improving monitoring coverage through the expanded use of electronic technology” as research priorities. Promotes electronic technologies for fishery monitoring, environmental monitoring, ensuring climate-resilient fisheries, researching impacts of climate change, etc.
- Young also prioritizes acoustic technologies, electronic catch reporting technology, electronic monitoring.
- Requires Secretary to issue guidance to facilitate process for developing cooperative management agreements. Sets out process, reporting requirements.

§321 REQUIRED POSSESSION OF DESCENDING DEVICES IN THE GULF REEF FISHERY

§401 REGISTRATION AND INFORMATION MANAGEMENT

- Young calls for Secretary to establish partnerships with states to develop best practices to implement state recreational fishery data programs.

§402 INFORMATION COLLECTION

- Requires Councils to consider the use of electronic monitoring in information collection programs. Requires Secretarial review every 5 years. (a)

§404 FISHERIES RESEARCH

- Adds changes in geographic range, spatial distribution and productivity of fish stocks to fishery research program.
- Young calls for Secretary to develop, with SSCs, a report on facilitating great incorporation of data, analysis, stock assessments, and surveys from state agencies and NGO sources such as fishermen, fishing communities, universities, and research and philanthropic institutions. (404)(f)
- Young calls for a plan to conduct stock assessments for all stocks of fish for which FMPs are in effect. (404)(g)

§410 RECREATIONAL DATA IMPROVEMENT PROGRAM

- Calls for Secretary to develop a strategic plan for improving recreational data. Outlines areas of research, public notice requirements.

Appendices

§208 FISHERIES CONSERVATION AND MANAGEMENT FUND

Renames this the Zeke Grader Fisheries Conservation and Management Fund. Allows funds to be used for research to prepare and adapt fisheries to climate change. Adds a minimum allocation amount for each region (5% of the fund), allows apportionment for specific projects or regions.

§113(b) SALMON PLAN AND STUDY.

Requires report on Klamath River Coho salmon biennially instead of annually.

Other additions

CLIMATE-READY FISHERIES INNOVATION PROGRAM

- Requires Administrator to establish a program, with grants, to develop tools and approaches to increase the capacity of fishery management to adapt to the impacts of climate change.
- Administrator shall develop science and management approaches that address priorities to improve fishery management under current and anticipated climate impacts; provide for routine consultation with fishery managers and scientists in order to help incorporate results into fishery management; promote adoption of methods in Council management; provide information and outreach to the private and academic sectors to encourage development of tools to manage the effects of climate change on fisheries and encourage adoption of these tools.
- Program requires coordination with NOAA Regions, Science Centers, Councils, SSCs, etc., including identifying multi-year research priorities which need to be regularly reviewed and updated.
- Every 2 years, beginning 2 years after the date of enactment, NOAA shall report to Congress on this process.

SHIFTING STOCKS TASK FORCE

- Administrator shall establish a “Shifting Stocks Task Force” with 10 members, including 1 member from each Council and the Highly Migratory Species Advisory Panel, plus the Administrator or their designee. Establishes terms, criteria for appointment, etc.
- The Task Force shall develop decision-making criteria to make allocation determinations that minimize the risk of overfishing and maximize stock and ecosystem resilience to the effects of climate change and must make recommendations to the Administrator and Councils on the allocation and distribution of fishing privileges based on these criteria.

- Any member of the public may submit a petition to request the review of a potentially shifting stock. (Outlines petition and review requirements). After a review is completed, the Task Force must determine which Council it applies to and then submit allocation recommendations to that Council. At that point, Administrator must work with Council to change FMPs as necessary.

INTERNATIONAL COOPERATION IN THE RESEARCH AND MANAGEMENT OF CROSS-JURISDICTIONAL FISHERIES

- Commerce, State and Agency for International Development (when necessary) must develop a strategy for coordinating research and management with other nations with which the U.S. shares a fishery or stock that currently, or is expected to, see shifts in geographic range or spatial distribution that spans international boundaries.
- Within 2 years, Secretary shall submit report to Congress with a list of such fisheries/stocks, prioritized research needs, 5-year strategy to complete research, and 10-year strategy to create coordinated management plan.

BUDGET REQUEST

- In the annual budget request, the Secretary of Commerce must state the amount requested for outstanding unfunded fishery resource disasters.

SEAFOOD MARKETING

- The Administrator, working with Secretary of Agriculture, shall establish a National Seafood Council and develop a plan to expand USDA outreach to fishing industry stakeholders to increase awareness of and assist with the use of programs in the Agricultural Marketing Service. The Administrator shall also (with USDA and members of the seafood industry) study the possibility of establishing education and marketing programs within NOAA. Requires reports to Congress.

MODERNIZING FISHERIES SCIENCE AND DATA

- *Data Modernization:* Within 180 days, NOAA shall provide to Congress an implementation plan for the Fisheries Information Management Modernization initiative, including a plan for stakeholder engagement, and how the initiative will align with NOAA data management efforts related to data, cloud strategy, and artificial intelligence. Requires report to Congress.
- *Expanding and improving electronic technologies:* States that it is the sense of Congress that the use of electronic technologies such as digital video cameras and monitors, digital recording systems, and other forms of electronic technology are a complement to, and in some cases a replacement for, observers to improve observer and fishery-dependent information collected from fisheries while reducing costs and logistical difficulties.
- *Fishery Management Councils* (see changes made to section 303(b)(8) of Act)

- *Assessment of Electronic Technologies in Fisheries Management:* The Comptroller General shall... review NMFS' capabilities related to using electronic monitoring and data collection tools to monitor fisheries and shall make recommendations to improve them. Requires report to Congress.
- *Electronic Technologies Innovation Prize:* The Administrator, with the Secretary of Defense and others, shall establish electronic technology innovation prize(s) to catalyze the rapid development and deployment of electronic technology-based data collection to be used in fisheries management. Provides some examples of types of prizes.
- *Advisory Panel for Electronic Technologies Development and Deployment:* The Secretary shall establish an advisory panel to inform NOAA/Councils on developments in electronic technologies that can be used in fisheries monitoring, data collection, and management. Includes details of advisory panel membership, types of recommendations, etc.
- *Stock Assessments:* Within a year, and annually thereafter, the Secretary shall report to Congress on NMFS' progress in prioritizing and improving stock assessments. Report must summarize the methods used for assessments and explain which stocks have not been assessed, and why; summarize each stock assessment and assessment update completed during the preceding year; include the schedule for all upcoming stock assessments and updates; identify data and analysis that would reduce uncertainty in and improve the accuracy of future stock assessments; summarize progress on autonomous surveys and identify opportunities to expand new technologies for stock assessments, and summarize data gaps that may be a result of changing ocean and climate conditions, and actions to address changing assessment needs.
- *Cooperative Research and Management* (see changes Section 318)

NORTHEAST REGIONAL PILOT RESEARCH TRAWL SURVEY AND STUDY

- Secretary and Councils shall develop a fishing industry-based pilot trawl survey to enhance NOAA vessel trawl surveys.

EMERGENCY OPERATING PLANS

- Within a year, the Administrator must develop a contingency plan for circumstances that make fisheries monitoring, including human observation, and stock assessments impractical. Must submit a report to Congress.

OFFSHORE WIND COLLABORATION

- The Secretary and Interior, acting through the Bureau of Ocean Energy Management, shall enter into a cooperative agreement to fund additional stock assessments that may be necessary as a result of actions by BOEM related to the development of wind energy.

RIVER HERRING (Applies to MAFMC and NEFMC only)

SENSE OF CONGRESS ON SNAPPER CONSERVATION (Applies to Gulf Council only)

Young includes several appendices that do not apply to the PFMFC:

- **STUDY OF ALLOCATION IN MIXED-USE FISHERIES (SAFMC AND GMFC ONLY)**
- **PROHIBITION ON CONSIDERING RED SNAPPER KILLED DURING REMOVAL OF OIL RIGS**
- **NORTHEAST REGIONAL PILOT RESEARCH TRAWL SURVEY AND STUDY**
- **AMENDMENT TO AMERICAN FISHERIES ACT (LIMITATION ON HARVEST IN NORTH PACIFIC DIRECTED POLLOCK FISHERY)**
- **REALLOCATION OF CERTAIN UNUSED HARVEST ALLOCATION**
- **MITIGATION FOR IMPACTS TO SUBMERGED AQUATIC VEGETATION**
- **PLAN FOR ELECTRONIC MONITORING AND REPORTING PROCEDURES FOR THE NORTHEAST MULTISPECIES FISHERY**
- **STUDY OF FEES CHARGED TO LOBSTER FISHING INDUSTRY**
- **LIMITATION ON APPLICATION OF PROHIBITION ON ATLANTIC STRIPED BASS FISHING IN BLOCK ISLAND SOUND TRANSIT ZONE**
- **REEF ASSASSIN ACT**

STUDY OF LIMITED ACCESS PRIVILEGE PROGRAMS FOR MIXED-USED FISHERIES

- Young calls for this study and for a temporary moratorium on LAPP programs in mixed-use fisheries.

PROHIBITION ON CONSIDERING FISH SEIZED FROM FOREIGN FISHING

- Any fish that are seized from a foreign vessel engaged in illegal fishing activities in the EEZ shall not be considered in determining the total allowable catch for that fishery.

EXEMPTED FISHING PERMITS

- If a Council, Interstate Marine Fisheries Commission, or fish and wildlife agency of an affected State objects to the approval and issuance of an EFP, the NMFS Regional Administrator must respond to them in writing detailing why such exempted fishing permit was issued.
- 12 months after an EFP is issued, the responsible Council must review it to determine whether any unintended negative impacts have occurred that would warrant the discontinuation of the permit.
- The Secretary may not issue EFPs that establish a limited access systems.

Changes Made to Other Acts (Huffman only)

National Defense Authorization Act: Policy on the Prevention of and Response to Sexual Harassment Involving NOAA Personnel

- The Huffman discussion draft includes the text of the NOAA Sexual Harassment and Assault Prevention Improvements Act of 2020.

Interjurisdictional Fisheries Act

- Repeals Section 308 of the Interjurisdictional Fisheries Act of 1986.

Small Business Act

- Makes a technical edit to update with the eventual name of Huffman's Act.

Coastal Zone Management Act

- Establishes a Working Waterfront Task Force to work with coastal States, user groups, and coastal stakeholders to address critical needs with respect to working waterfronts. Outlines membership. The task force shall identify and prioritize critical needs with respect to working waterfronts in the areas of economic and cultural importance of working waterfronts to communities; changing environments and threats working waterfronts face from environmental changes, trade barriers, sea level rise, extreme weather events, ocean acidification, and harmful algal blooms; and identifying working waterfronts and highlighting them within communities.
- The task force must outline options to address these critical needs and identify Federal agencies that are responsible for addressing such needs.
- Requires report to Congress. Each named agency must take action to implement these options.
- Establishes a Working Waterfronts Grant Program under which the Secretary may make a grant to any coastal State in order to implement a working waterfront plan.
- If funds allow, the Secretary shall award matching grants under this Program. Outlines criteria for grants, eligibility.
- Working waterfront projects funded by these grants must provide for expansion, improvement, or preservation of reasonable public access to coastal waters at or near a working waterfront, except for commercial fishing or other industrial access points where public access would be unsafe.
- Includes various limitations on grants, methods for allocating funds, requirement for matching contributions from states, limits on administrative costs, use of funds for technical assistance, appropriations.
- Creates a Working Waterfronts Preservation Loan Fund. Outlines uses, award criteria, amounts, terms, etc. Loans must be for \$100,000 or more.
- Appropriates \$12 million for this section.