

## **New Changes in H.R. 4690 Compared to Discussion Draft**

*Note:* All changes noted below represent differences between the Huffman discussion draft and H.R. 4690, not between H.R. 4690 and the existing Magnuson-Stevens Act.

### ***Changes to MSA***

#### **SEC.2 FINDINGS, PURPOSES AND POLICY**

- (2)(a)(6) H.R. 4690 changes “overfished” to “depleted” rather than “overfished or otherwise depleted” (this change or similar changes throughout document).
- (2)(c)(3): Requirement for “best available climate science” is removed

#### **SEC. 3 DEFINITIONS**

- (1) H.R. 4690 adds definition of ‘adverse effect:’ “with respect to essential fish habitat, any impact that reduces the quality or quantity of essential fish habitat.”
- (2) H.R. 4690 removes suggested term “living marine resources” from definition of bycatch, removes exemption for fish caught for subsistence use.
- (8a) H.R. 4690 adds climate change as a cause of depleted fisheries. Adds the following text:
  - INCLUSION OF CASE LAW.—The term ‘depleted’ has the meaning given to the term ‘overfished’ by this section before the date of enactment of the Sustaining America’s Fisheries for the Future Act of 2021 for the purposes of determining the application of any court precedent issued before such date.
- (16) Removes discussion draft’s suggested change in definition of fishing to exempt scientific research and marine aquaculture.

#### **301 NATIONAL STANDARDS.**

Adds “rule of construction.”

#### **302 REGIONAL FISHERY MANAGEMENT COUNCILS.**

- (a) Removes addition of liaison to SAFMC; makes other changes that apply only to SAFMC. Adds two tribal appointees to NPFMC and outlines requirements regarding these representatives.

- (e)(5) H.R. 4690 removes the DD suggestion that any voting Council member can request a roll call vote on any procedural matter.
- (e)(6) Adds that Councils “shall seek to hold meetings in person” and ensure the availability of remote meeting participation and voting.”
- (f)(8) Adds requirement that committee and advisory panel members (in addition to Council members) also be subject to laws regarding ethics and sexual harassment.
- (g)(1)(B) Under types of information the SSC provides, adds underlined text: “reports on sources of mortality, prevailing and anticipated future impacts of climate change on fish stocks, fishing communities and fishery sectors.”
- (h)(7) Removes requirement that each Council shall develop, with its SSC, priorities that include developing the best available climate science; removes five-year requirement on priorities. (Assume that climate science is removed because it is already included under ‘best scientific information available.’)
- (j)(7) Removes section on conflict of interest in Council voting.

**304 ACTION BY THE SECRETARY**

- (c) Adds that the Secretary must notify a Council in writing if it is not fulfilling the requirements of this section.
- (e)(2) Reorganizes this section. Does not seem to change fundamental meaning.
- (e)(3) Within 2 years after a fishery is identified as being depleted or approaching a depleted condition, or if a rebuilding plan has been found to have failed, the affected Council must take action to end overfishing immediately and, if applicable, prevent the stock from reaching a depleted condition.
- (e)(7) Adds that a new rebuilding plan may be required if the original scientific information demonstrates that scientific assumptions were inaccurate. Outlines timeline requirements, notification.
- (e)(8) Adds that management measures intended to rebuild a stock shall remain in effect during the preparation of a rebuilding plan if a Council’s plan has failed.  
Includes details for stocks that are under the provisions of more than one Council.
- (g) Makes changes related to Atlantic HMS.

**305 OTHER REQUIREMENTS AND AUTHORITY**

- (ii) Rewrites discussion draft’s section on HAPCs. Previously this stated: “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.” Rewritten version follows:

- (ii) a habitat area of particular concern, each Federal agency shall, in consultation with the Secretary—
  - (I) monitor or require monitoring for possible adverse effects;
  - (II) take action to minimize and mitigate any adverse effect of the action on—
    - (aa) the habitat area of particular concern;
    - (bb) the species for with respect to which the habitat area of particular concern is designated; and
    - (cc) for the entire period during which such adverse effects are likely to occur; and
  - (III) evaluate the effectiveness of measures described in subclause (II) and report the results of such evaluation to the Secretary annually.

(b)(4) Adds requirement that the Secretary monitor measures taken by each Council to meet EFH/HAPC requirements. Adds report to Congress within five years, and every subsequent 5 years.

(l) Recreational data improvement: Within 2 years, Secretary shall establish guidelines to improve recreational catch data. HR 4690 adds:  
 Not later than 1 year after the date of enactment..., the Secretary shall issue regulations guidelines to assist the Councils in preparing and adapting fishery management for the impacts of climate change, including for consideration of climate change in the conservation and management of fish stocks under each Council’s geographical area of authority

(m) Removes requirement for Secretary to define “forage fish” within 6 months.

**316 BYCATCH REDUCTION ENGINEERING PROGRAM (DO LATER)**

(a) H.R. 4690 makes some minor changes to make involvement more inclusive; requires a Secretarial report every 3 years instead of annually; and adds additional requirements to the Secretarial report.

**318 COOPERATIVE RESEARCH AND MANAGEMENT PROGRAM**

(a) Removes suggestion to adds fishing communities as partners in cooperative research and management programs, but (b) adds local and traditional knowledge as a source of data.

**321 REQUIRED POSSESSION OF DESCENDING DEVICES**

This section removed.

**322 INCREASING RESILIENCE OF FISH STOCKS TO CLIMATE CHANGE**

Adds the following:

- (b) Vulnerability assessment—Within three years of enactment, the Secretary must assess the vulnerability of U.S. fish stocks to climate change, notify each relevant Council, and make recommendations to conserve and protect these stocks.
- (c) Within one year of receiving such a notification, Councils must publish a plan to prioritize management to increase resilience of vulnerable fish stocks. Within 3 years after publishing the plan, Councils must provide a progress report.
- (d) Three years after enactment and every five years after that, the Secretary must report to Congress on the vulnerability of fish stocks to climate change, associated risks, and steps being taken to mitigate and address these risks.

### *Appendices*

#### **Sense of Congress**

Adds the following “sense of Congress” statement:

“It is the sense of Congress that protection of essential fish habitat ensures healthy and resilient fisheries and marine ecosystems, particularly as oceans conditions shift due to climate change, and that impacts from both fishing gear and non-fishing activities should be considered through consistent application of essential fish habitat provisions under the Magnuson-Stevens Fishery Conservation and Management Act.”

#### *Other additions*

#### **CLIMATE-READY FISHERIES INNOVATION PROGRAM**

Adds requirement for Administrator to consult with fishery participants, tribes, and stakeholders (in addition to others) in developing science and management approaches.

#### **SHIFTING STOCKS TASK FORCE**

This section is removed in HR 4690.

#### **SEAFOOD MARKETING**

Removes requirement to establish a National Seafood Council.

#### **MODERNIZING FISHERIES SCIENCE AND DATA**

Adds that NOAA should also consider the use of innovative technology in fishery independent data collection, including stock and habitat assessments and environmental conditions.

## **EMERGENCY OPERATING PLANS**

Adds requirement that Administrator consult with the Councils, relevant agencies and experts, and stakeholders in developing contingency plan for circumstances that make fisheries monitoring impractical.

## **OFFSHORE WIND COLLABORATION**

Adds underlined text: “The Secretary and the Secretary of the Interior, acting through the Bureau of Ocean Energy Management, shall enter into a cooperative agreement to fund such additional stock assessments and fisheries and marine wildlife research as may be necessary as a result of actions by BOEM related to the development of wind energy.”

## **SENSE OF CONGRESS ON SNAPPER CONSERVATION**

Removes this section (SAFMC only)

## **Changes Made to Other Acts**

Saltonstall-Kennedy Act Reform: Adds the American Fisheries Advisory Committee Act to establish an American Fisheries Advisory Committee to oversee grant distribution related to fishing community needs.