




Bills in the 117th Congress

September 2021

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 - **Requests for Comment (H.R. 4690, Huffman)**



NEW BILLS



H.R. 4690: Sustaining America's Fisheries for the Future Act

- **Jared Huffman (D-CA)**
- **Introduced July 26, 2021**

Details at end of this presentation.



H.R. 3684: INVEST in America Act

- **Passed Senate August 10 2021**

Bipartisan infrastructure bill. Among other things, this bill:

- **Reauthorizes the Sport Fish Restoration and Boating Trust Fund, “the backbone of state-based aquatic resource conservation.”**
- **Includes funding for the following projects:**
 - **\$1 billion for the National Culvert Removal, Replacement and Restoration Program, which will benefit anadromous fish passage**
 - **Cont'd....**



INVEST in America Act

- **\$250 million for the USFS to conduct fish passage restoration in streams at road and trail crossings**
- **\$79 million for the Columbia River Basin Program**
- **\$172 million for the Pacific Coast Salmon Recovery Fund**
- **\$1.4 billion to reduce risks to vulnerable communities from significant weather events**
- **\$492 million to improve coastal resiliency**
- **\$1.9 billion for the Aquatic Ecosystem Restoration Fund**
- **\$300 million for the Emergency Watershed Protection Program**
- **Includes the REPLANT Act, which helps the U.S. Forest Service plant 1.2 billion trees on national forest lands**
- **\$11.3 billion for the Abandoned Mine Land Reclamation Program (water quality benefits)**
- **Increases funding for the Clean Water State Revolving Fund Program, which supports estuary restoration and stormwater management**



H.R. 2773: Recovering America's Wildlife Act

- **Debbie Dingell (D-MI)**
- **Introduced July 15 (13%)**

Amends the Pittman-Robertson Wildlife Restoration Act to make supplemental funds available for management of fish and wildlife species of greatest conservation need as determined by State fish and wildlife agencies.



H.R. 3692: Marine Mammal Climate Change Protection Act

- **Julia Brownley (D-CA)**
- **Introduced June 4**

Amends the Marine Mammal Protection Act to direct Commerce to establish a climate impact management plan for the conservation of certain marine mammal species.



H.R. 3748: BLUE GLOBE Act

- **Suzanne Bonamici (D-OR)**
- **Introduced June 8. Companion bill to S. 140 (Whitehouse)**

Aims to improve data collection and monitoring of the Great Lakes, oceans, bays, estuaries, and coasts.



H.R. 3817: Regional Ocean Partnership Act

- **Charlie Crist (D-FL)**
- **Introduced June 11. Companion bill S. 1894 (Wicker) introduced June 16.**

Aims to allow coastal states to participate in regional ocean partnerships with other states that share a common ocean or coastal area in order to conserve living resources, expand and protect valuable habitats, enhance coastal resilience, etc.



H.R. 3906: Blue Carbon Protection Act

- **Jared Huffman (D-CA)**
- **Introduced June 15**

Establishes a Blue Carbon program to conserve and restore marine and coastal blue carbon ecosystems.



H.R. 3952: NOAA Chief Scientist Act

- **Mikie Sherill (D-NJ)**
- **Introduced June 16 (31%)**

Strengthens the role of NOAA's Chief Scientist in order to promote scientific integrity and advance the Administration's research and development portfolio.



H.R. 4057: Albatross and Petrel Conservation Act

- **Alan Lowenthal (D-CA)**
- **Introduced June 22**

Implements the Agreement on the Conservation of Albatrosses and Petrels.



H.R. 4092/S 2194: Coastal Habitat Conservation Act

- **Jared Huffman (D-CA)/Benjamin Cardin (D-MD)**
- **Introduced June 22/23**

Authorizes Interior/USFWS to work with partners to protect, restore, and enhance important coastal areas that provide fish and wildlife habitat on which Federal trust species depend.



H.R. 4182: Extinction Crisis Emergency Act

- Marie Newman (D-IL)
- Introduced June 25

Requires the President to declare the global wildlife extinction crisis a national emergency under the National Emergencies Act.



H.R. 4235: Living Shorelines Act

- **Frank Pallone Jr. (D-NJ)**
- **Introduced June 29**

Requires NOAA to award grants to carry out climate-resilient living shoreline projects that protect coastal communities.



H.R. 4375: Twenty-First Century Dams Act

- **Ann Kuster (D-NH)**
- **Introduced July 9**

Provides funding to rehabilitate, retrofit, and remove the Nation's dams to improve the health of rivers, improve public safety, and increase clean energy production.



H.R. 4458: KELP Act

- **Jared Huffman (D-CA)**
- **Introduced July 16**

Establishes a NOAA grant program to carry out projects on the conservation, restoration, or management of kelp forest ecosystems.



H.R. 4712: Desalination Development Act

- **Mike Levin (D-CA)**
- **Introduced July 27**

Promotes desalination project development and drought resilience.



H.R. 4833: Migratory Bird Protection Act

- Alan Lowenthal (D-CA)
- Introduced July 29

Amends the Migratory Bird Treaty Act to affirm that its prohibition on the unauthorized take or killing of migratory birds includes *incidental take by commercial activities*, and directs the USFWS to regulate such incidental take.



S. 192: River Democracy Act

- **Ron Wyden (D-OR)**
- **Introduced February 3**

Amends the Wild and Scenic Rivers Act to designate certain river segments in the Oregon as components of the National Wild and Scenic Rivers System.



NEPA/ESA weakening

- H.R. 3813 (Cheney, R-WY). NEPA Legal Reform Act
- H.R. 3814 (Cheney, R-WY). UNSHACKLE Act (amends NEPA)
- H.R. 3973 (Biggs, R-AZ). LIST Act (amends ESA)
- H.R. 4335 (Schweikert, R-AZ). NEPA Accountability and Enforcement Act
- H.R. 4336 (Schweikert, R-AZ). NEPA State Assignment Expansion Act
- H.R. 4370 (Pfluger, R-TX). Listing Reform Act (amends ESA)
- H.R. 4671 (Smith, R-MO). EMPOWERS Act (amends ESA)
- H.R. 4739 (Gosar, R-AZ). NEPA Data Transparency and Accountability Act (amends NEPA)
- H.R. 4740 (Gosar, R-AZ). NEPA Agency Process Accountability Act (amends NEPA)



BILL UPDATES



H.R. 3128/S. 497: American Fisheries Advisory Committee Act

- **Don Young/Dan Sullivan (R-AK)**
- ***Included in Huffman MSA reauthorization bill***

Establishes the American Fisheries Advisory Committee to assist in the awarding of fisheries research and development grants.

Reported



H.R. 3764: Ocean-Based Climate Solutions Act

- Raul Grijalva (D-AZ)
- *Reported by committee July 14*
- (Discussed in June, but summary below for reference)

Directs NOAA to provide for ocean-based climate solutions to reduce carbon emissions and global warming; to make coastal communities more resilient; and to provide for the conservation and restoration of ocean and coastal habitats, biodiversity, and marine mammal and fish populations. (Cont'd)



Reported

HR 3764: Ocean-Based Climate Solutions Act

- **Taxes virgin, single-use plastics**
- **Promotes offshore wind energy and research.**
- **Prohibits new offshore fossil fuel activity, except in already active areas.**
- **Establishes monitoring, reporting and verification requirements for greenhouse gas emissions by seafaring vessels over 5,000 gross tons.**
- **Authorizes \$50 million annually from 2022-2026 for living shoreline project design.**
- **Establishes a new grant program in the National Marine Sanctuary System to support climate research and resilience with Indigenous and local knowledge of marine and natural areas.**
- **Promotes climate-ready fisheries and eliminates fishing subsidies in trade agreements.**



S. 1995: Sport Fish Restoration and Recreational Boating Safety Act

- **Maria Cantwell (D-WA)**
- **Reported by Committee June 16 (22%)**

Reauthorizes the Sport Fish Restoration and Boating Trust Fund, which supports about \$650 million annually in fishery restoration and conservation programs, boating access and infrastructure, as well as fish stocking programs important to recreational anglers.



STATE BILLS

OR HB 3375 (in support of offshore wind)

- Signed into law on June 23.

Establishes goal of planning for development of three gigawatts of commercial scale floating offshore wind in Federal waters off OR by 2030.

Federal planning/permitting must consider the prompt decommissioning of any offshore facility after cessation of use, and to avoid future conflicts with fishing operations.

DOE must conduct literature review on benefits/challenges of integrating offshore wind, hold public meetings

California AB 525 (in support of offshore wind)

- Passed the California State Assembly on May 27. Ordered to Senate.
- Working its way through Senate committees.

Requires California Energy Commission (CEC) to develop a strategic plan for offshore wind by December 31, 2022.

Requires the CEC, w/others, to quantify the maximum capacity of offshore wind, establish megawatt targets; identify suitable sea space in Federal waters; develop a plan to improve waterfront facilities to support offshore wind; convene a stakeholder working group, and more.

H.R. 4690: Sustaining America's Fisheries for the Future Act of 2021

(Jared Huffman)

MSA Sec. 2(a): Findings

- Adds references to **climate change** throughout (purposes, policy, science requirements, FMPs, SSCs)
- Changes “**overfished**” to “**depleted**” throughout
- Adds references to incorporating data from **both government and NGO sources**

Sec. 2(b) (purposes)

- Council planning should address the **impacts climate change on fish stocks** (b)(5)(c)
- Council should **promote the protection of EFH** from adverse effects caused by fishing, and from federal projects (b)(5)(7) (as in current NMFS guidelines)

Sec. 2(c): Policy

- 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 change, promote racial and socioeconomic equity.**

MSA Sec. 3: Definitions

- (1) ADVERSE EFFECT.—The term 'adverse effects' means, with respect to essential fish habitat, any impact that reduces the quality or quantity of essential fish habitat. (NEW)

MSA Sec. 3: Definitions

(8A) Depleted

The terms 'depleted' means... 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 [same as current definition of *overfishing* and *overfished*.]

Adds: A depleted condition may be caused by numerous factors, alone or in combination, such as fishing effort, habitat loss, ecosystem changes or climate change, overfishing, inadequate forage, or other characteristics of or stressors on the stock or stock complex.

(B) 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.

MSA Sec. 3: Definitions

(18A) defines forage fish as having the same meaning given by the Secretary, or any species identified in an FMP as forage fish.

(19A) defines HAPCs (similar to current NMFS definition).

(32) defines OY for forage fish: 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.”**

(43a) defines subsistence fishing.

Sec. 301: National Standards

- Revises NSg: "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."

Sec. 302: Councils

- Adds **subsistence, ecosystem-based fishery management** or **climate science** as a type of required expertise for Council members (302(b)(2)(A))
- In making appointments to Council, Secretary should also consider **subsistence, NGOs, scientists, nonconsumptive users, and indigenous communities/representatives** (302(b)(2)(B))
- Removes requirement that **Governor consult with commercial and recreational fishing representatives** before making appointments. (302(b)(2)(C)(i)(II)(bb))
- Requires Secretary to appoint to each Council **at least one individual who does not have a financial interest** in matters before the Council. (302(b)(2)(C)(ii))
- **Removes requirement that tribal governments must submit at least three names** for Council appointees. Makes tribal term **indefinite**. (302(b)(5))

Sec. 302: Councils

- Encourages (to the extent possible) Councils to provide **remote meeting participation and voting but adds new clause that Councils should seek to hold meetings in person** (302(e)(6))
- Council employees, “including executive directors, **shall be deemed Federal employees** with respect to any requirement that applies to Federal employees.” (302(f))
- Adds **committee and advisory panel members as being subject to ethics and sexual harrassment laws** (302(f)(8)).

Sec. 302(g): SSCs

- In establishing management measures, SSCs 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, **fishing communities** and fishing sectors
 - **maintaining sufficient forage fish populations to support their role in marine ecosystems.**

Sec. 302(h): Functions

- Each Council/SSC shall develop research **priorities** for fisheries, forage fish and habitats, prioritizing those that are or may experience **a shift in geographic range, distribution, or productivity** (302)(h)(7))
- Councils must implement plans to **protect EFH from adverse fishing effects**, including targets, goals, and conservation and management measures. (Similar to current guidelines) (302)(h)(9))
- Councils must develop list of unmanaged forage fish (PFMC already does)

Sec. 302(i): Procedural Matters

- Councils must make available on their websites... 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)
- Details prohibition on Council **lobbying**.

Sec. 303: Contents of Fishery Management Plans

- Adds references to **climate change** throughout.
 - FMPs must promote the resilience of fish stocks to stressors including **climate change**.
 - FMPs must include an assessment of the effects of **anticipated future environmental conditions** on fish stocks
- “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.” (303(a)(18))*
- Encourages **electronic monitoring**

*The Council commented on this in July 2019 – Forage Fish Protection Act

Sec. 303A: Limited Access Privilege Programs

Adds references to **fishing community participation** and addressing the needs of fishing communities.

Describes requirements of a community sustainability plan.

Sec. 304: Action by the Secretary: Rebuilding

304(c) - adds a new requirement that the Secretary notify a Council that **if a Council is not fulfilling its rebuilding requirements, the Secretary shall issue a Secretarial plan.**

304(e)(4)(ii) - [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...**

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...

Sec. 304: Action by the Secretary: Rebuilding

304(e)(7) outlines the conditions under which the **Secretary would develop and implement a rebuilding plan if a Council's rebuilding plan is deemed to have failed.**

304(f) adds a clause whereby **the Secretary shall review the geographic area of authority of a Council** in order to determine whether a substantial portion of it is under the jurisdiction of another Council every five years, or upon demand by a Council. (Not applicable to PFMC).

304(k) creates a **standardized bycatch reporting program.**

304(l) requires the Secretary to develop **forage fish management guidelines.**

Sec. 305: Other Requirements and Authority

- Replaces current EFH consultation requirement in Sec. 305(b):
 - if any Federal action may have an adverse effect on EFH, that agency is required to avoid adverse effects [and minimize/mitigate if avoidance is not possible].
 - HAPC section replaced: **with respect to any Federal action that may have an adverse effect on a HAPC, each Federal agency shall (with Secretary) monitor adverse effects; take action to minimize and mitigate any adverse effects on the HAPC and on HAPC species during the entire period where the adverse effect is likely to occur; and evaluate and report on the effectiveness of these measures. (305)(b)(7)**
 - Secretary shall consider the **cost of not pursuing** certain restoration and habitat resilience projects. ((305(b)(7)(C))

Sec. 305(b) (EFH)

- If the Secretary receives information from **any source** that a Federal or state action or proposed action may have an adverse impact on EFH, Secretary must recommend measures to **avoid, minimize, or mitigate** the adverse effects.
- Any agency receiving these recommendations from the Secretary must provide a detailed response to NOAA and Council within 30 days.
- The Secretary **will monitor measures taken by each Federal agency** to meet these requirements. Requires regular reports to Congress.

Sec. 305(l)

- Requires Secretary to establish guidelines to improve recreational data

Sec. 305(m)

- Requires Secretary to issue a definition of 'forage fish'

Sec. 305(m)

- Requires Secretary to issue "regulations guidelines" (sic) within one year to assist Councils in preparing/adapting fishery management for the impacts of climate change

Sec. 312: Transition to Sustainable Fisheries

Adds extensive details about **fishery resource disasters**, including definitions, timelines, clarifications, eligible uses, etc.

Sec. 318: Cooperative Research and Management Program

Adds references to local and traditional knowledge, climate change, public reporting of data

Sec. 322: Increasing Resilience of Fish Stocks to Climate Change

Within 3 years and every 5 years thereafter, Secretary must assess vulnerability of managed fish stocks to climate change, notify each Council of vulnerability, and make recommendations to protect such stocks. Councils must develop prioritization plans. Requires report to Congress.

Secs. 404, 410, appendices

- Adds changes in **geographic range, spatial distribution** and **productivity** of fish stocks to fishery research program. (404)
- Calls for Secretary to develop a **strategic plan for improving recreational data**. (410)
- Renames the [**Zeke Grader**] Fisheries Conservation and Management Fund. Allows funds to be used for research to prepare and adapt fisheries to climate change.

Climate-ready fisheries innovation program

Requires Administrator to establish a program, with grants, to develop tools to increase the capacity of fishery management to **adapt to the impacts of climate change**.

Seafood Marketing

Calls for the USDA/NOAA to develop 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, etc.

Modernizing fisheries science and data

- Requires NOAA to provide Congress with an implementation plan for a Fisheries Information Management Modernization initiative within 180 days.

Offshore Wind Collaboration

- The Secretary and Interior, acting through BOEM, shall enter into a cooperative agreement to **fund additional stock assessments and fisheries and marine wildlife research that may be necessary as a result of actions by BOEM** related to the development of wind energy.

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

- Includes the text of the NOAA Sexual Harassment and Assault Prevention Improvements Act of 2020.

Changes to **Coastal Zone Management Act**

- Establishes a **Working Waterfront Task Force** and **Working Waterfronts Grant Program** to address needs with respect to working waterfronts.
- The Task Force charged with identifying and prioritizing working waterfronts and their critical needs.
- Makes grants to coastal states for implementing a working waterfront plan.
- Grants may be used to acquire a working waterfront or an interest in one, to make improvements to a working waterfront, or be used for climate adaptation mitigation.

Saltonstall-Kennedy Act Reform

- Creates American Fisheries Advisory Committee (includes HR 3128, S 497).