



To: House Committee on Natural Resources Republican Members
From: House Committee on Natural Resources Republican Staff
Date: September 19, 2022
Subject: Hybrid Markup of H.R. 4690

The Natural Resources Committee will hold a hybrid markup on **Wednesday, September 21, 2022, at 10:00 a.m. EDT** in room 1324 Longworth House Office Building and via Cisco WebEx. The bill being considered is an amendment in the nature of a substitute (ANS) to H.R. 4690 (Grijalva).

Republican Members are encouraged to take advantage of the opportunity to participate in person.

Member offices are requested to notify Will Layden (Will.Layden@mail.house.gov) and Baylee Seeman (Baylee.Seeman@mail.house.gov) no later than **4:30 p.m. EDT on Tuesday, September 20, 2022**, if their Member intends to participate in person in the hearing room or remotely via his/her laptop from another location. Members may vote either by electronic device in the hearing room or by voice (while visible) if participating remotely.

Submissions for the hearing record must be submitted through the Committee's electronic repository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- The ANS to H.R. 4690, the *Sustaining America's Fisheries for the Future Act of 2021* (Huffman), is expected to move by regular order. There will not be a package of bills to move by unanimous consent.
- At a time of out-of-control inflation, H.R. 4690 would add to that burden by reducing commercial fishing, decreasing seafood availability in stores and restaurants, and increasing food prices. H.R. 4690 would also limit access to our natural resources.
- H.R. 4690 would reauthorize the *Magnuson-Stevens Act (MSA)*, the primary law governing fisheries resources and fishing activities in federal waters, create inflexible new requirements and grant the Secretary of Commerce expansive new authorities. It would authorize more than \$698 million in appropriations for fiscal year 2023 and increase to more than \$782 million by fiscal year 2028.

- The late Congressman Don Young – one of the original authors of the *MSA* – introduced a bill this Congress (H.R. 59) that would also reauthorize the *MSA*. A similar version of his bill (H.R. 200 in the 115th Congress) passed the House of Representatives by a 222 to 193 vote on July 11, 2018. His legislation was the product of multiple oversight and legislative hearings on the successes and challenges of the *MSA*.

II. EXPECTED LEGISLATION

H.R. 4690 (Huffman) – Sustaining America’s Fisheries for the Future Act of 2021

The ANS for H.R. 4690 would overhaul the *Magnuson-Stevens Fishery and Conservation Management Act of 1976 (MSA)*, 16 U.S.C. 1801 et seq.) the primary law governing fisheries resources and fishing activities in federal waters. Initially passed in 1976, the *MSA* set out to prevent overfishing, rebuild over-fished stocks, increase long-term social and economic benefits, and ensure a safe sustainable seafood supply. To accomplish these goals, the law established eight Regional Fishery Management Councils (Councils) that include representation from coastal states and various fishery stakeholders.¹

H.R. 4690 could have devastating impacts not only on the ability to fish, but also on military readiness and naval operations. Currently, federal actions that might adversely affect an essential fish habitat (EFH) must consult with the Secretary of Commerce and respond to any recommendations on avoiding, mitigating, or offsetting impacts of the action. H.R. 4690 would make EFH conservation or mitigation requirements mandatory. H.R. 4690 would create a new consultation requirement for a habitat area of particular concern (HACP) with monitoring for possible adverse effects for an unlimited amount of time.

H.R. 4690 would expand the federal government’s power over what is currently under regional control. If the eight Councils do not complete their fishery management plans or amendments within 180 days, the Secretary would be required to develop the plans. H.R. 4690 would limit flexibility for the Councils. The National Oceanic and Atmospheric Administration (NOAA) said in its written testimony that “Sections 502 and 503 of H.R. 4690 remove practicability clauses for minimizing bycatch and impacts to essential fish habitat. We strongly support the goal of reducing bycatch and ensuring healthy habitat for fish. However, this change would substantially reduce the ability of councils to tailor conservation and management measures commensurate with the specific needs of their region’s fisheries and ecosystems.”² These concerns or recommendations were ignored in the ANS.

The ANS to H.R. 4690 worsens the originally introduced bill by proposing new sections on gender inclusive language (Sec. 5), participation by fishery-dependent communities (Sec. 207),

¹ “About the MSA.” U.S. Regional Fishery Management Councils, <http://www.fisherycouncils.org/about-the-msa>.

² Testimony of Ms. Janet Coit, Assistant Administrator for National Marine Fisheries before the House Natural Resources Committee’s Subcommittee on Water, Oceans, and Wildlife. Legislative Hearing on H.R. 4690, H.R. 59, and H.R. 5770, November 16, 2021. Page 7. <https://docs.house.gov/meetings/II/II13/20211116/114241/HHRG-117-II13-Wstate-CoitI-20211116.pdf>.

tribal representation (Sec. 301), and other items. The ANS also contains a new title (Title VI) on international fisheries management that would create conservation commissioners to represent the U.S. to certain international fish conventions.

Unlike previous *MSA* reauthorizations, the Committee on Natural Resources has not held a single oversight hearing in this or last Congress on what improvements can be made to *MSA*. While Congressman Huffman held a “*MSA* listening tour” last Congress, those events were not connected to official committee business. The Subcommittee on Water, Oceans, and Wildlife held a legislative hearing on H.R. 4690 in November 2021. At that hearing, Mr. Marc Gorelnik, who testified on behalf of the Councils, stated that “H.R. 4690, as drafted, will increase the workload on the Councils and the agency, create demands for data and analyses that in many cases cannot be supported, could increase the risk of litigation on several important topics, appears to reduce the flexibility and the role of the Councils, and does not appear to authorize sufficient funding to meet its requirements.”³ The quickly cobbled together ANS includes an entirely new Title (Title VI) that has not had a hearing and a section that is already being implemented at NOAA (Sec. 308).

Hearing information, including testimony, may be viewed [here](#) and the hearing memo may be viewed [here](#). H.R. 4690 has 10 Democrat cosponsors. *The Ranking Member opposes this bill, and it is expected to move by regular order.*

Staff contacts: Kiel Weaver (Kiel.Weaver@mail.house.gov) or Annick Miller (Annick.Miller@mail.house.gov).

III. CBO SCORE

CBO has not conducted an analysis of this legislation.

IV. EFFECT ON CURRENT LAW (RAMSEYER)

[H.R. 4690 \(Huffman\)](#)

³ Testimony of Mr. Marc Gorelnik, Pacific Fishery Management Council and Council Coordination Committee Chair, before the House Natural Resources Committee’s Subcommittee on Water, Oceans, and Wildlife. Legislative Hearing on H.R. 4690, H.R. 59, and H.R. 5770, November 16, 2021. Page 3. <https://docs.house.gov/meetings/II/II13/20211116/114241/HHRG-117-II13-Wstate-GorelnikM-20211116.pdf>.