

MSA REAUTHORIZATION BILLS
Summary of Proposed Changes
(not including changes that do not affect the Pacific Council)

TOPIC & SECTION	HR 200 (Young)	S 1520 (Wicker)	HR 2023 (Graves)	S 1748 (Rubio)	COUNCIL POSITION AND NOTES
ACLs: ECOSYSTEM CHANGES §302(m)(1)	In establishing ACLs, Councils may consider ecosystem changes and the economic needs of fishing communities.	—	In establishing ACLs, Councils may consider ecosystem changes and economic needs of fishing communities.	—	The Council supports this.
ACLs: EXEMPTIONS	<p>Exempts from ACLs:</p> <ul style="list-style-type: none"> • ecosystem component species • species with life cycle of 1 year (unless overfishing) • stocks where more than half of a given year-class will complete their lifecycle in < 18 months AND where fishing mortality has little impact on the stock • See below for international stocks 	<p>“In the case of a stock of fish for which the TAC limit is 25 percent or more below the overfishing limit, a ... 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 ACL for the stock until a ... stock assessment [is] conducted and the results can be considered by the Council and its SSC.”</p>	<p>Exempts from ACLs:</p> <ul style="list-style-type: none"> • ecosystem component species • species with life cycle of 1 year (unless overfishing) • <i>stocks without recent assessment and "below the fishing mortality target,"</i> • stocks not subject to overfishing, and • sectors of a fishery that are not monitored by a data collection program. This includes most recreational sectors (details complicated). 	<p>Exempts from ACLs:</p> <ul style="list-style-type: none"> • Stocks with a mean life cycle of 12 months or less, unless subject to overfishing • species where the vast majority of spawning and recruitment occurs beyond State waters and the exclusive economic zone, unless subject to overfishing • See below for international stocks 	<p>NOTE: Under HR 2023, Ocean Conservancy analysis suggests ACLs would only apply to a small subset of PFMC stocks (around ten: Kelp greenling, Pacific sanddab, Rex sole, Brown Rockfish, Rougheye rockfish, Aurora rockfish, China rockfish, Copper rockfish, Sharpchin rockfish, and Stripetail rockfish.) Under subsection (D) alone, 286 stocks nationwide would be exempted from ACLs, out of a total of 316 stocks with known overfishing status (i.e., 91% of stocks) in the year 2016. Under HR 200, ACLs likely would apply to 20 PFMC stocks (OC).</p>

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ACLs: INTERNATIONAL FISHERIES §302(m)(1)	<p>ACLs may take into account:</p> <ul style="list-style-type: none"> • Management measures under international agreements in which the US participates. • Fishing for the species outside the EEZ and the life-history characteristics of the species that are not subject to the jurisdiction of the Council. <p>No ACL is required for transboundary stocks where activities by another country may hinder U.S. conservation efforts, when there is no informal agreement.</p> <p>If an ACL is developed for that species, it shall take into account fishing outside the EEZ that is not subject to the jurisdiction of the Council.</p>	—	—	Same as HR 200.	The Council has expressed support for these provisions in the past. The implications of the “no informal agreement” wording are unclear. This maybe targeted at another fishery in a different region.
ACLs: STOCK COMPLEXES §302(m)(4)	<p>Would state that councils can establish ACLs for stock complexes, and ACLs for "each year in any continuous period that is not more than three years in duration."</p>	Same as HR 200.	Same as HR 200.	—	The Council supports this.
ACLs: RECREATIONAL FISHERIES (see also “RECREATIONAL FISHERIES”) §407(d)	—	Same as HR 2023	Deletes this section, which requires GMFMC to establish separate red snapper quotas for recreational and commercial sectors. Appears to be related to effort (in other sections) to exempt recreational fisheries from ACLs.	n/a	

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ALLOCATION IN MIXED-USED FISHERIES	—	Essentially the same as HR 2023.	Would provide for a NAS study of whether MRIP is compatible with the needs of in-season management and whether recreational sectors should use ACLs (applies to all Councils). Would require Secretary to report on the study, with recommendations for improving MRIP. (This provision is likely intended to build a factual record to support the position that recreational fisheries should not be managed with ACLs and accountability measures.)	Calls for the National Academy of Sciences to study allocation in mixed-use fisheries in the South Atlantic and Gulf regions.	The Council has not discussed this.
ALTERNATIVE MANAGEMENT MEASURES §302(h)(8)*	Councils may use “alternative fishery management measures in a recreational fishery (or the recreational component of a mixed-use fishery) in developing a fishery management plan, including extraction rates, fishing mortality targets, and harvest control rules, in developing a fishery management plan, plan amendment, or proposed regulations.”	Same as HR 2023 except for report to Congress.	Same as HR 200, but adds traditional and cultural practices of native communities. Such approaches currently allowed, but main feature seems to be a lack of hard cap on catch. Unlike S 1520, calls for Commerce to submit a report summarizing the alternative fishery management measures each Council plans to implement in mixed-use fisheries.	Essentially the same as HR 200. Councils may use “alternative fishery management measures in a recreational fishery (or the recreational component of a mixed-use fishery), including extraction rates, fishing mortality, and harvest control rules...”	This was included in the 2014 Begich/Rubio discussion draft. There were concerns that this provision was too vague.
CAPITAL CONSTRUCTION FUNDS	—	—	—	Makes fisheries facilities (such as processors) and aquaculture facilities eligible for capital construction funds.	The Council has not specifically addressed this issue, which was included in the Begich discussion draft in the 113th Congress.

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<p>COOPERATIVE RESEARCH §318(a)</p>	<p>Notes that “Fisheries management is most effective when it incorporates information provided by governmental and nongovernmental sources, including State and Federal agency staff, fishermen, fishing communities, universities, and research institutions. As appropriate, such information should be considered the best scientific information available and form the basis of conservation and management measures as required by this Act.”</p> <p>Requires Secretary to publish plan for implementing cooperative research program (318(a)). Secretary shall publish guidelines to facilitate greater incorporation of data from non-governmental sources, including fishermen, fishing communities, universities, etc. (404(g), new section).</p>	<p>Same as HR 2023.</p>	<p>Similar to HR 200. The Secretary and SSCs shall develop a report on incorporation of data from nongovernmental sources (fishermen, fishing communities, universities, etc.) into fisheries management decisions. Report to be submitted to Congress within one year after the Act passes. Should identify types of data, especially concerning recreational fishing, that can be used, set standards for its collection and use, provide recommendations for data collection data and use to improve accuracy of stock assessments, and consider establishing a registry of persons submitting data, etc.</p>	<p>Similar to HR 200 and HR 2023.</p> <p>The Secretary and SSCs shall develop a report on facilitating greater incorporation of data, analysis, stock assessments and surveys from nongovernmental sources (fishermen, fishing communities, universities, etc.) into fisheries management decisions. The report is to be submitted to Congress within one year after the Act passes. (Provides much detail on contents of report).</p>	<p>The Council supports the HR 200 provisions.</p> <p>There is concern among some ENGOs that this would weaken requirements for “best available science.”</p>

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COST REDUCTION	Within 1 year, Commerce shall submit a report to Congress that identifies the monitoring & enforcement goals for each fishery; identifies methods to accomplish those goals, including human observers, electronic monitoring, and VMS; certifies which are most cost effective; and explains why such most-cost-effective methods are not required, if applicable.	—	—	—	
DEFINITIONS: CATCH SHARE/LAPP §3(8a)	The term catch share means 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.	Defines LAPP: The term <i>limited access privilege program</i> means a program that meets the requirements of section 303A of the MSA.	—	—	The Council generally supports the catch share definition in HR 200.
DEFINITIONS: OTHER §3(8a)	Defines “stock assessment,” “subsistence fishing,” “tuna species.”	Defines “appropriate committees of Congress” as the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Natural Resources of the House of Representatives. Defines Council (not controversial). Defines mixed-use fishery as a Federal fishery in which two or more of the following occur: recreational, charter, or commercial fishing.	—	—	

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DEFINITIONS: DEPLETED §3(8a)	Defines “depleted” as “with respect to a stock of fish or stock complex, 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.”	—	—	—	Depletion definition in HR 200 is essentially the same as the current definition of “overfished,” and therefore is tied to changing the word “overfished” to “depleted.”
DEFINITIONS: ECOSYSTEM COMPONENT SPECIES §302(m)(5)	Defines ecosystem component species as a non-target, incidentally harvested stock, OR such a stock that is not subject to overfishing or depleted, and not likely to become overfished. This could include a large number of PFMC-managed stocks currently subject to ACLs, depending on NMFS interpretation.	—	Same as HR 200.	—	The Council supported the past but has not discussed it recently. NOTE: “Ecosystem component species” is already defined in the NS1 guidelines as a stock that is not in need of conservation or management; this could add confusion.
DEPLETED vs. OVERFISHED	Replaces “overfished” with “depleted” throughout.	—	—	—	The Council supports this.
DEPLETION: CAUSES §304(e)(1)	Calls for Report to Congress to distinguish between fish that are depleted due to fishing, and those that are depleted for other reasons.	—	—	—	The Council supports this.
DISASTERS: COST OF RECOVERY §312(a)	Requires the Secretary of Commerce to make a decision regarding a disaster relief request within 90 days, and to publish the estimated cost of recovery from a fishery resource disaster no later than 30 days after the disaster determination is made.	—	—	Requires the Secretary to make a decision regarding a disaster relief request within 90 days after the Secretary receives an estimate of the economic impact of the fishery disaster.	Re HR 200, the Council believes 30 days is too short a timeline for a determination of cost.
ELECTRONIC MONITORING	In funding cooperative research, secretary shall prioritize electronic catch reporting systems, improved monitoring & observer programs through technology. (318(c))	Same as HR 2023.	Secretary shall prioritize electronic data collection in regard to improving MRIP.	—	The Council generally supports this (HR 200).

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EMERGENCY ACTIONS §305(c)(3)(b)	Emergency actions shall remain in effect for up to two years (as opposed to 180 days).	—	—	—	The Council supports this.
EXEMPTED FISHING PERMITS	—	Same as HR 2023.	Would require peer review of all EFP proposals, would require all EFPs to expire after 12 months, and would impose a number of strict procedural requirements before EFPs can be issued (consultation with state governors, minimal loss of fishing opportunity for existing participants, etc.). This section would tighten the requirements for EFPs, by adding a number of procedural hurdles as well as a mandatory 12-month expiration time. Recreational fishing advocates in the Southeast have expressed the view that EFPs are being used to "reallocate" fish to commercial sectors, and this section of H.R. 2023 appears designed to reduce the availability and usage of EFPs.	—	
FINDINGS	—	Same as HR 2023.	Adds a section stating that commercial and recreational fishing are "fundamentally different activities" and require different management approaches. This lays a foundation for exempting recreational fisheries from ACLs.	—	

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FOREIGN FISHING	Any fish 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.	—	—	—	
LAPPS: CATCH SHARE REVIEW §303(a)(C)(1)(g)	Adds some clarifying details about five-year review of catch share programs.	—	—	—	
LAPPS: FEE COLLECTION REPORT §304(d)(2)(D)	Requires the Secretary to report annually on the amount of fees collected from limited access privilege/community development programs and detail how the funds were spent.	—	—	—	The Council has not discussed this.
LAPPS: STUDY IN MIXED-USED FISHERIES	—	Calls for NAS study of the use of LAPPs in mixed-use fisheries ¹ .	—	—	
NEPA/FISHERY IMPACT STATEMENTS §303(d)(7)*	Adds details on fishery impact statement requirement; fulfillment of these stipulations satisfies the requirements of NEPA, but also adds NEPA to list of Acts that must be complied with in 305(e)(1). Deletes requirement for fishery impact statement in 303(a)(9).	—	—	—	The Council supports this.

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OTHER STATUTES §5*	Notes that in case of conflict between MSA & NMSA, MSA shall control. Also notes that restriction on fisheries that are necessary to implement a recovery plan under ESA shall be done under the authority of the MSA.	—	—	—	The Council supports the MSA and NMSA language. For the ESA, the Council recommends the kind of ESA integration with MSA that has recently occurred in Columbia River tule stock management.
PRACTICABLE VS POSSIBLE §304(e)(4)(A)(1)	Rebuilding times shall be as short as practicable (as opposed to “possible”)	The Wicker bill maintains the “possible” language (vs. “practicable”).	Same as HR 200	—	The Council supports this.
PREFERENCE TO STUDENTS §402(e)(4)*	In hiring people to collect information on marine recreational fishing, students studying water resource issues at an institute of higher education should be given preference.	—	—	—	This does not seem like an appropriate requirement to include in the MSA.

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REBUILDING: TIME §304(e)(4)(A)	Rebuilding may not exceed the time the stock would be rebuilt without fishing, plus one mean generation , with exceptions for biology, environmental conditions, international agreements, cause of depletion outside the jurisdiction of the Council, mixed-stock fisheries, informal transboundary agreements, “unusual events.” Rebuilding may take into account predator/prey relationships. For fisheries managed under an international agreement, rebuilding times should reflect traditional participation in the fishery, relative to other nations, by US fishermen. Requires a schedule for reviewing rebuilding progress.	Same as HR 2023 but does not include “except in cases where the biology of the stock of fish or other environmental conditions dictate otherwise...” This phrase in HR 2023 was believed to create a loophole that the drafters did not intend.	Except when management measures under an international agreement dictate otherwise, rebuilding time shall not exceed 10 years , except when the biology of the stock or other environmental conditions dictate otherwise, or the sum of time in which the stock is expected to surpass its MSY biomass level without fishing, and the mean generation time of the stock of fish ⁱⁱ .	—	Re HR 1335, the Council endorses the deletion of the ten-year rebuilding time requirement and supports a maximum standard tied to the biology of the fish stock (one mean generation time). The Council supports exceptions due to changing environmental conditions, depletion due to international fisheries outside U.S. control, and a mixed stock exception that would rarely be instituted. The Council does not support broad exceptions that might be exercised frequently or that might weaken incentives to conserve stocks.
REBUILDING: ALTERNATIVE STRATEGIES §304(e)(8)*	Councils may use alternative rebuilding strategies, including harvest control rules and fishing mortality targets.	—	—	—	

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REBUILDING: ENDING §304(e)(9)* p. 83	Councils may end rebuilding program if the Council's SSC determines and the Secretary agrees that a fishery is not depleted, either within two years of the effective date of a relevant FMP, amendment or regulation, or within 90 days after the next stock assessment after the determination.	—	—	—	The Council recommends language specifying that stocks later determined never overfished should not be held to rebuilding provisions, a matter not specifically addressed by this language.
RECREATION: REGISTRATION	—	Same as HR 2023.	Would require Secretary to create partnerships with states and issue guidance, to improve state angler registration programs. Would require biennial reports to Congress, and would allocate a portion of MRIP funding to state grants for the purpose of improving rec fishing data collection.	—	
RECREATION: DATA COLLECTION 401(g)(4)* p. 128	Requires Federal-state partnerships to develop best practices for implementing recreational fishery data collection programs, and create a grant program to States to improve these programs, and require a National Research Council study of recreational fisheries data survey methods.	Generally the same as HR 200, but adds funds from Saltonstall-Kennedy program to implement this section.	Generally the same as HR 200, but adds funds from MRIP program to implement this section.	See "cooperative research."	The Council has generally supported the use of cooperative research when collected and used in a scientifically rigorous manner, but may have concerns regarding mandates on use of certain types of data.
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RECREATION: NAS REPORT ON MRIP DATA		Same as HR 2023.	Secretary shall consider and implement recommendations of the NAS in “Review of the Marine Recreational Information Program” report (2017), including prioritizing the evaluation of electronic data collection, including smartphone applications, electronic diaries for prospective data collection, and an Internet website option for panel members or for the public; evaluating whether the design of MRIP for the purposes of stock assessment is compatible with the needs of in-season management of ACLs; and, if not, determine an alternative method for in-season management. Secretary must submit report to Congress.	Same as HR 2023.	
SALTONSTALL-KENNEDY FUNDS	—	Uses S/K funds to improve MRIP program.			The Council has not specifically addressed this issue.
STOCK ASSESSMENTS 404(e) (new section)	Secretary must publish plan to conduct stock assessments for all stocks of fish under an FMP. For each previously-assessed stock, the plan should establish a reasonable schedule for updating the assessment. Subject to appropriations, require completion of a new stock assessment or update every five years, or as specified by the Secretary. For unassessed stocks, establish a reasonable schedule and require an assessment within 3 years or as specified by the Secretary. Identify data, esp. concerning recreational fishing, that would reduce uncertainty, and whether could be provided through cooperative research. Stock assessments not necessary if Secretary determines such. Plan must be issued within 2 years after enactment of Act.	—	—	Essentially the same as HR 200 (which took its language from a previous Rubio bill). Adds that proceeds from fines may be used to fund stock assessments, surveys, and data collection. And instead of two years, the Secretary has one year to complete the plan.	The Council has opposed previous versions of this requirement based on the fact that it would require a great deal of new science and reporting that would require more staff and funding, and could reduce flexibility.

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WEBCASTS/ TRANSPARENCY §302(i)(G)*	<p>Calls for each Council to provide a webcast, audio recording, or live broadcast of Council and CCC meetings; and audio, video, or a searchable audio or written transcript of each Council and SSC meeting online within 30 days of the meeting. Secretary will maintain archive.</p> <p>Also adds provision that each SSC shall “carry out [its duties] in a transparent manner, allowing for public involvement in the process.”</p>	—	—	Councils must post video or audio webcast of each Council and SSC meeting within 30 days of the meeting. Also adds provision that each SSC shall “carry out [its duties] in a transparent manner, allowing for public involvement in the process.”	The Council does not support adding additional broadcast requirements, and is particularly concerned about the workload associated with the SSC requirement.

ⁱ Including inequities caused by such programs, policies to address such inequities, referenda, auctions, lotteries, limited duration of LAPPs, mandatory sector allocation analyses, compensated reallocation plans, ways to mitigate inequities, loss of public resource rent, etc. Calls for a moratorium on the submission and approval of LAPPs in mixed-used fisheries until the report is submitted (unless already planned.) Councils that approve LAPPs must review & revise them consistent with the recommendations of the report. Does not apply to existing LAPP programs.

ⁱⁱ This section would take the "Tmin + 1 mean generation" formula from the NS1 Guidelines and put it into the statute, as an alternative to the existing 10-year timeline. The way this bill restructures Section 304(e)(4)(A)(ii) would create some ambiguity due to the retention of the exceptions to the 10-year timeline ("except in cases where . . ."), but presumably the bill author(s) mean that rebuilding must be accomplished in either 10 years or Tmin + 1 mean generation time. If the intent of this amendment is to address the current discontinuity in rebuilding timelines, it is unclear why 10 years is retained as an option. Doing so would create a new inconsistency: for stocks that can rebuild quickly, 10 years creates a windfall of extra years (beyond the Tmin + 1 mean generation formula) that slower-to-rebuild stocks do not receive. (Ocean Conservancy)