

MSA REAUTHORIZATION BILLS
Summary of Changes to MSA Proposed in HR 1335 and S 1403
and Comparison to HR 4742 (Hastings, 113th Congress)¹

SECTION	HR 1335 (Young)	S 1403 (Rubio)	COUNCIL POSITION
Overfished/Depleted			
All	Replaces “overfished” with “depleted” throughout. (Same as HR 4742)	No similar provision.	The Council supports this.
§304(e)(1) p. 80	Calls for Report to Congress to distinguish between fish that are depleted due to fishing, and those that are depleted for other reasons. (Same as HR 4742)	No similar provision.	The Council supports this.
§3(8a) p. 10	Defines “depleted” as “...with respect to a <u>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.</u> ” (Same as HR 4742)	No similar provision.	This is essentially the same as the current definition of “overfished,” and therefore is tied to changing the word “overfished” to “depleted.”
Rebuilding			
§304(e)(4)(A)(ii) (new) p. 81	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	Rebuilding may not exceed 10 years, with exceptions for biology, environmental conditions; <u>or</u> the sum of the time in which the affected stock is expected to rebuild to its MSY biomass level in the absence of fishing mortality, and the mean	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

¹ Only provisions that affect the PFMC are included. **Numbers refer to annotated MSA** (F.1.a Att. 3).

	events. Requires a schedule for reviewing rebuilding progress - §304(e)(4)(E). (Same as HR 4742)	generation of time of the affected stock of fish.	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.
§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 2 years of the effective date of a relevant FMP, amendment or regulation, or within 90 days after the next stock assessment after the determination. (Same as HR 4742)	No similar provision.	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.
§304(e)(4)(A)(1) p. 81	Rebuilding times shall be as short as practicable (as opposed to "possible") (Same as HR 4742)	No similar provision.	The Council supports this.
§304(e)(8)* p. 82	Councils may use alternative rebuilding strategies, including harvest control rules and fishing mortality targets (p 82) (Same as HR 4742)	No similar provision, but see use of alternative management measures in recreational fisheries below.	The Council supports this.
ACL Exceptions			
§302(m)(2) p. 66	ACLs not required for ecosystem component species, or for species that have life cycles of approximately 1 year (unless subject to overfishing); or for species in which more than half of a single year-class will complete their lifecycle in less than 18 months, and stocks where	ACLs not required for species with a mean life cycle of 18 months or less, or species for which all spawning and recruitment occurs beyond State waters and the EEZ, unless subject to overfishing.	The Council generally supports the HR 1335 version. The S 1403 version appeared in the earlier Begich/Rubio discussion draft, where there were some concerns about the spawning and recruitment phrase.

	fishing mortality will have little impact on the stock. (Same as HR 4742)		
§302(m)(1) p. 60	In establishing ACLs, Councils may consider ecosystem changes and economic needs of fishing communities (Same as HR 4742)	No similar provision	The Council supports this.
§302(m)(3) p. 61	ACLs may take into account management measures under international agreements and informal transboundary agreements, and, when there is no transboundary agreement, activities by other countries that hinder conservation efforts for transboundary stocks. (Same as HR 4742)	No similar provision	The Council supports this.
§302(m)(4) p. 61	ACLs may be established for stock complexes; ACLs may be set for three years. (Same as HR 4742)	No similar provision	The Council supports this.
§302(h)(8)* p. 20	No similar provision.	Councils may use “alternative management measures” in recreational fisheries (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.
Ecosystem-Based Management			
§302(m)(1) p. 61	In establishing ACLs, Councils may consider ecosystem changes (Same as HR 4742)	No similar provision	The Council supports this.
§302(m)(5) p. 62	Defines ecosystem component species (Same as HR 4742)	No similar provision	The Council supports this.

§302(m)(2) p. 61	Councils do not have to establish ACLs for EC species (Same as HR 4742)	No similar provision	The Council generally supports this.
Electronic Monitoring			
p. 151*	Calls for the Secretary to issue regulations governing the use of electronic monitoring. Regulations shall distinguish between monitoring for data collection and research, and monitoring for enforcement. Shall include objectives, regulations, performance standards. (Same as HR 4742)	No similar provision. Does not address electronic monitoring.	The Council generally supports this. However, the Council does not want to have to wait until regulations are put in place to begin our electronic monitoring program.
p. 151*	After final regulations are implemented, Councils may amend FMPs to incorporate electronic monitoring for research or enforcement, and allow for replacement of a percentage observers with electronic monitoring. (Same as HR 4742)	No similar provision.	See above.
p. 152*	Councils may conduct pilot projects before the final regulations are put in place. (Same as HR 4742)	No similar provision.	See above.
NEPA			
§303(d)(7)* p. 67	Adds details on fishery impact statement requirement; fulfillment of these stipulations satisfies the requirements of NEPA. (Same as HR 4742. This clause was originally removed from HR 1335 and then replaced in committee).	No similar provision.	The Council supports this.
Transparency			
§302(i)(G)* p. 57	Calls for each Council to provide a webcast, audio recording, or live broadcast of Council and CCC meetings; and audio,	Calls for Councils to (where practicable) make a video or audio webcast of each meeting of the Council and each	The Council does not support adding additional broadcast requirements; what we already do is sufficient. The

	video, or a searchable audio or written transcript of each Council and SSC meeting online within 30 days of the meeting (page 56). (Same as HR 4742)	meeting of the SSC within 30 days of the meeting. (Does not require live coverage)	Council is particularly concerned about the workload associated with the SSC requirement.
Data Collection and Use			
§404(e)* p. 134-135	No similar provision.	Requires stock assessments for all stocks of fish under an FMP. For those that have already been assessed, a reasonable schedule must be developed to update the assessment. Subject to appropriations, a new stock assessment or update should be done once every 5-8 years. For economically important fish that have not been assessed, a first assessment must be scheduled (and completed within 3 years unless approved by the Secretary). Identify data and analysis, especially concerning recreational fishing, that would improve assessments, including whether that data and analysis could be provided by nongovernmental sources (fishermen, fishing communities, universities, and research institutions.). Stock assessments may be waived by Secretary.	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.

<p>§404(e)* p. 135</p>	<p>No similar provision.</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 the Senate Committee on Commerce, Science, and Transportation and the House Committee on Natural Resources within one year after the Act passes. (Provides much detail on contents of report).</p>	<p>A similar provision was included in the Begich/Rubio discussion draft. The Council has not specifically commented on this.</p>
<p>§402(b) p. 131</p>	<p>Describes uses of confidential information. Places limits on use of observer information. Vessel information collected for monitoring/enforcement shall not be used for coastal & marine spatial planning under EO 13547. (Same as HR 4742)</p>	<p>No similar provisions.</p>	<p>The Council recommends no reduction in requirements for data aggregation, or distribution of bycatch information, which is important to the Council decision-making process. The Council recommends improving access to currently confidential harvest or processing information to improve socioeconomic analyses. In addition, the Council is concerned that the prohibition on use of data for marine spatial planning could have unintended consequences.</p>
<p>§402(e)(4)* p. 133</p>	<p>In hiring people to collect information on marine recreational fishing, students studying water resource issues at an institute of higher education should be</p>	<p>No similar provisions.</p>	<p>The Council has not discussed this yet.</p>

	given preference. (New. Added in committee).		
Data-Poor Species			
§404(e)* p. 136	Councils shall identify data-poor fisheries in their regions, prioritize them, and provide the list to the Secretary. (Same as HR 4742)	No similar provisions.	The Council supports this.
National Marine Sanctuaries Act & Endangered Species Act			
§5* p. 14-15	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. (Same as HR 4742)	No similar provisions.	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.
Scientific and Statistical Committee			
§302(g)(1)(B) p. 54	Each scientific and statistical committee shall develop such scientific advice in a transparent manner and allow for public involvement in the process.	Each SSC shall provide its Council ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch, preventing overfishing, maximum sustainable yield, achieving rebuilding targets, and reports on stock status and health, bycatch, habitat status, social and economic impacts of management measures, and sustainability of fishing practices ... in a transparent manner, allowing for public involvement in the process	The Council's SSC already fulfills these requirements.

Enforcement penalties			
§404(e)* p. 137	Up to 80% of fishery enforcement penalties may be allocated for data collection (only for the region in which they are collected). Funds may be used for data-poor fisheries and cooperative research. (Same as HR 4742)	No similar provisions.	The Council supports this as long as it doesn't siphon funds away from NMFS priorities.
Other changes and notes			
	HR 1335 does not incorporate the REFI Act, which was included in HR 4742 (the Act has been signed into law but has not been implemented)	N/A	N/A
305(c)(3)(b) p. 87	Emergency actions shall remain in effect for one year (as opposed to 180 days) (Same as HR 4742)	No similar provisions.	The Council supports this.
312(a)(2) p. 110	Requires the Secretary of Commerce to publish the estimated cost of recovery from a fishery resource disaster no later than 30 days after making a disaster determination. (Same as HR 4742)	Requires the Secretary to make a decision regarding a disaster relief request within 90 days.	Re HR 1335, the Council believes 30 days is too short a timeline for this determination.
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. (Same as HR 4742)	Calls for increased use of data from non-governmental sources such as fishermen, fishing communities, universities, and research institutions. (P. 67)	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.

3(2a), (4a), (8a)	Defines “catch share,” “confidential information,” and “subsistence fishing” (Same as HR 4742)	No similar provisions.	The Council generally supports these definitions.
	There is no mention of state management of the Dungeness crab fishery, which was included in previous MSA reauthorization bills. This issue is addressed in HR 2168 and S 1143.	No mention of Dungeness crab.	The Council supports continuing state management of the Dungeness crab fishery.
318(a) p. 123	Establishes a regional cooperative research and management program with required five-year plan. (Same as HR 4742)	Calls for increased use of data from non-governmental sources such as fishermen, fishing communities, universities, and research institutions. (P. 67)	The Council supports the HR 1335 provisions but has not discussed S 1403. (See above)
304(d)(2)(D) p. 80	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. (New. Added in committee.)	No similar provisions.	The Council has not discussed this.
p. 154	Calls for the National Academy of Sciences to study allocation in mixed-used fisheries only in the South Atlantic and Gulf of Mexico Councils.	Calls for the National Academy of Sciences to study allocation in mixed-used fisheries in all Councils.	The Council has not discussed this.
p. 154	No similar provisions.	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.
p. 158	No similar provisions.	Addresses concerns that Saltonstall-Kennedy Act funds have been going to NOAA’s Operations, Research and Facilities account for general use rather than going to fisheries promotion and development. Includes language that would establish a budget point of order	The Council has not specifically addressed this issue, which was included in the Begich discussion draft in the 113th Congress.

		that could be used during House or senate consideration of an appropriations bill that authorizes transfer of S-K funds to NOAA's Operations account.	
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OTHER HOUSE BILLS THAT PROPOSE TO CHANGE THE MSA

Except for HR 1207, these bills are essentially “dead,” since they were not included in HR 1335, the main House bill addressing MSA reauthorization. They are included here only as an FYI; the themes in these bills may resurface at another time.

Bill	Changes
HR 2012 (Keating)	<ul style="list-style-type: none"> • Creates a competitive grant program to address the needs of fishing communities by providing health promotion and disease prevention services, financial planning education, supporting positive community response to tragedies at sea, and workforce development training. Any entity that provides shoreside support would be eligible. • Requires the Secretary to conduct a demographic survey of commercial fishermen and their families to identify needs of fishing communities that can be addressed through the program.
HR 1207 (Wittman) (included in S 1403)	<ul style="list-style-type: none"> • Requires stock assessments on all fish managed under a Federal fishery management plan within 3-5 years, unless the Secretary determines such a stock assessment is not necessary. • Includes measures to broaden the scope of data used in managing fisheries. • Requires a cost reduction report from each Council identifying program goals and methods and discussing their cost-effectiveness.
HR 1826 (Sablan/Huffman)	<ul style="list-style-type: none"> • Defines artisanal fishing. • Defines marine aquaculture and specifies that definition of “fishing” does not include marine aquaculture. • Calls on Secretary to ensure participation of U.S. territories in managing HMS species. • Creates shoreside fishing support grants as in HR 2012. • Calls for Councils to minimize staff travel as much as possible through the use of electronic communication (webinars), including for voting. • Calls for Secretary to determine that a fishery resource disaster exists for fisheries originating within California’s Central Valley. • Calls for basically the same cooperative research program and A/V reporting requirements as HR 1335. • Calls for Commerce, EPA and other agencies to submit report detailing a framework for permitting and regulating marine aquaculture, and recommending ways to ensure that such operations do not harm fisheries or ecosystems.

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| | <ul style="list-style-type: none">• Names the Fisheries Conservation and Management Fund after Zeke Grader.• Amends the Western and Central Pacific Fisheries Convention Implementation Act; US to be represented by 5 commissioners (one from Commerce, one from WPFMC, one from PFMC, one from American Samoa, Guam or Northern Mariana Islands)• Makes other changes aimed at increasing the influence of U.S. Pacific territories.• Calls for report on the Western Pacific Fishery Management Council accounting for all grant money received and distributed for the last 10 years, and involvement of Council staff in submitting petition to remove green sea turtle protections under the ESA.• Calls for retaining state management of Dungeness crab authority.• Calls on Commerce to work with the U.S. Digital Service to modernize and streamline NMFS' fishery data collection, processing, storage, etc. |
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