

MSA REAUTHORIZATION BILLS

Summary of Proposed Changes
(excluding changes that do not affect the Pacific Council)

HR 200: Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act (Young)
ANS 200: *Substitute HR 200 plus approved amendments.*
HR 2023: Modernizing Recreational Fisheries Management Act (Graves)
S 1520: Modernizing Recreational Fisheries Management Act (Wicker)
S 1749: Florida Fisheries Improvement Act (Rubio)
Huffman: Huffman Discussion Draft (D-CA)
HR 2991 Begich (113th Congress. Council was asked to comment on this)

ACLS: Ecosystem changes (§302(m)(1))

HR 200 In establishing ACLs, Councils may consider ecosystem changes and the economic needs of fishing communities.

HR 2023 Same.

ACLS: Exemptions

HR 200 Exempts from ACLs:

- ecosystem component species
- species with life cycle of 1 year (unless subject to 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 international fisheries below

ANS 200 *Provides flexibility in the requirement to set ACLs for data poor fisheries that meet certain requirements*

HR 2023 Exempts from ACLs:

- ecosystem component species
- species with life cycle of 1 year (unless subject to overfishing)
- stocks without recent assessment and "below the fishing mortality target"
- stocks not subject to overfishing
- sectors of a fishery that are not monitored by a data collection program. This includes most recreational sectors (details complicated).

S 1520 Exempts from ACLs:

- stocks of fish for which the TAC limit is 25 percent or more below the overfishing limit, AND a stock survey and stock assessment have not been performed during the preceding five years, AND the stock is not subject to overfishing (in this case, a Council may maintain the current ACL for the stock until a stock assessment is conducted and the results can be considered by the Council).

S 1748 Exempts from ACLs:

- 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.

Huffman Exempts from ACLs:

- ecosystem component species
- species that have a natural life cycle of approximately 1 year (unless subject to overfishing/depleted, or likely to become overfished/depleted).

Huffman Councils may account for relevant economic, social, and ecological factors in establishing the annual catch limits for a fishery as long as these actions remain consistent with the definition of “optimum.”

S 2991 ACL exemptions:

- Stocks with a mean life cycle of 18 months or less
- Species where *all* spawning and recruitment occur beyond state waters and the EEZ, unless overfished
- Must be consistent with National Standards and rebuilding

ACLs: International Fisheries (§302(m)(1))

HR 200 ACLs may take into account 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. No ACL is required for transboundary stocks where activities by another country may hinder U.S. conservation efforts, when there is no informal agreement. 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.

S 1748 Same.

Huffman ACLs may take into account 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.

ACLs: Recreational Fisheries (§407(d))

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.

ANS 200 Similar; does not affect PFMC.

S 1520 Same.

ACLs: Stock Complexes (§302(m)(4))

HR 200 Councils may establish ACLs for stock complexes, and ACLs for "each year in any continuous period that is not more than three years in duration."

S 1520 Same.

HR 2023 Same.

Huffman Councils may establish ACLs for a stock complex if that ACL prevents overfishing on all species in the complex; ACLs may be set for up to three years.

Administrative Adjudication

S 2991 Administrative functions may be performed by another agency (other than Commerce) on a reimbursable basis (S 2991, page 28).

Agency Procedures

S 2991 Secretary must revise and update agency procedures as under 304(i) mandate.

Allocation in Mixed-Use Fisheries

ANS 200 *Calls for the National Academy of Sciences to study allocation in mixed-use fisheries in the South Atlantic and Gulf regions, and requires SAFMC and GMFMC to review allocations within two years and every 5 years after (from S 1748).*

S 2991 Similar to ANS 200, but for all Councils.

Alternative Management Measures §302(h)(8)*

HR 200 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.”

HR 2023 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. Calls for Commerce to submit a report summarizing the alternative fishery management measures each Council plans to implement in mixed-use fisheries.

S 1520 Same as HR 2023 except for report to Congress.

S 1748 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...”

Huffman Essentially the same as HR 200.

S 2991 Same as 1748; similar to HR 200.

Bycatch

Huffman Requires each Council to develop and implement a plan for reducing bycatch in the region under the authority of that Council which will prioritize the reduction of bycatch of those species with high ecological, economic, or cultural importance. This plan would need to include quantitative and measurable milestones for decreasing bycatch and would need to include conservation and management measures to implement the plan. Within two years after the plan is completed, each Council must amend its fishery management plans as necessary and appropriate. (Section 204) In addition, the Secretary must review these new plans at least every five years, and if there is not adequate progress, the Secretary must recommend plan revisions which the Council must consider (Section 206).

Capitol Construction Funds

S 1748 Makes fisheries facilities (such as processors) and aquaculture facilities eligible for capital construction funds.

S 2991 Same as S 1748.

Cooperative Research

- HR 200 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.” 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).
- ANS 200 Adds requirement for a report to Congress. Removes requirement that Councils use all data or explain why it was not used.*
- S 2991 Similar to HR 2023, 200. The Secretary and SSCs shall develop a report on incorporation of data, analysis, stock assessments, and surveys from nongovernmental sources, including fishermen, fishing communities, universities, and research institutions, into fisheries management decisions. (No time frame specified)
- HR 2023 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.
- S 1520 Same as HR 2023.
- S 1748 Similar to HR 200 and HR 2023.
- Huffman Like HR 200, requires the Secretary and Councils, within one year of enactment, to publish a plan for implementing and conducting the cooperative research and management program already required under section 318 of the Act. Same plan requirements as HR 200. Also requires that each Council provide a prioritized list of research and management needs to the Secretary each year.
- Huffman Requires Secretary, when funding, to focus on expanded use of electronic catch reporting programs and technology, and improving the use of monitoring and observer coverage through the expanded use of electronic monitoring devices and satellite tracking systems. Also authorizes Secretary to accept and use funding from other Federal agencies, academic institutions, persons, including fishery participants, and non-governmental organizations to expand cooperative fisheries research and management efforts. Allows Secretary to allocate funds from the Fisheries Conservation and Management Fund to a specific project or region regardless of the existing restrictions if the funds were identified by the Council that designated them for inclusion in the fund or if another source of the funds deposited those funds into the account for that specific project or region.

Cost Reduction/Monitoring/Enforcement

- HR 200 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.
- S 2991 Establishes a Fisheries Enforcement Fund under the Treasury where fines, etc. are deposited and which the Secretary may spend on certain management and science-related activities. (S 2991 page 27)

Data – Modernizing

- Huffman Section 304 (“Modernizing Fisheries Data Collection and Storage”) requires the Secretary, with Councils and nongovernmental entities, to implement the use of video survey technologies and the extended use of acoustic survey technologies. Secretary must enter into an agreement with the United

States Digital Service (Service) within 90 days of enactment which would require the Service to make recommendations to modernize and streamline NMFS' fishery data collection, processing, analysis and storage systems. The Service would be allowed access to all NMFS' data collection and storage systems to allow modernization. Secretary, Councils must consider and implement changes. Secretary must report to Congress one year after enactment and every two years after that.

- S 2991 Adds a "sense of Congress" statement in favor of electronic monitoring. Within 2 years, Councils/Commerce must assess fishery-dependent data needs and develop recommendations for an integrated data collection program to gather and analyze data required for fisheries management. Includes details about which types of EM can be best used in which fisheries, and system of fees required to support integrated data collection program. Lays out details of plans. Council to amend FMPs within four years.

Definitions: Catch Share/LAPP (Section 3)

- HR 200 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.

ANS 200 LAPP defined as "a program that meets the requirements of Section 303A of the Magnuson-Stevens Fishery Conservation and Management Act."

- S 1520 The term limited access privilege program means a program that meets the requirements of section 303A of the MSA.

Definitions: Depleted and Overfished (Section 3)

- HR 200 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."

Huffman Adds "The term 'overfished or otherwise depleted' means, with respect to a stock or stock complex, that its biomass has declined below the level at which the capacity of the stock or stock complex to produce maximum sustainable yield on a continuing basis has been jeopardized."

Huffman Edits definition of "overfishing": "The terms "overfishing" and "overfished" mean a rate or level of fishing mortality that jeopardizes the capacity of a fishery to produce the maximum sustainable yield on a continuing basis."

- S 2991 Defines "depleted" and "depletion" as "...the stock is of a size that jeopardizes the capacity of the fishery to produce the maximum sustainable yield on a continuing basis."

Definitions: Ecosystem Component Species

- HR 200 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.

HR 2023 Same.

Huffman EC species defined as "a stock of fish that a Council or Secretary has determined does not require conservation and management, but has determined should be listed in a fishery management plan in order to achieve ecosystem management objectives."

Definitions: Other (Section 3)

ANS 200 EFH "shall not include any area previously covered by land or a fresh water environment in a State where the average annual land loss of such State during the 20 years before the date of the enactment of the Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act exceeds 10 square miles." (Graves amendment)

HR 200 Defines “stock assessment,” “subsistence fishing,” “tuna species.”

ANS 200 Defines “mixed use fishery” as a Federal fishery in which two or more of the following occur: recreational fishing, charter fishing, and commercial fishing.

S 1520 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.

Huffman Adds: “The term ‘marine aquaculture’ means the propagation and rearing of aquatic species in controlled or selected environments in the exclusive economic zone and other marine waters.” [in paragraph (16), in the matter following subparagraph (D), by adding at the end the following “Such term does not include marine aquaculture.’” .]

Huffman Defines subsistence fishing as “fishing in which the fish harvested are intended for customary and traditional uses, including for direct personal or family consumption as food or clothing; for the making or selling of handicraft articles out of nonedible byproducts taken for personal or family consumption, for barter, or sharing for personal or family consumption; and for customary trade.” (Goes on to define family, barter, etc.).

Huffman Defines “habitat areas of particular concern” as specific types or areas of habitat within essential fish habitat that are of particular concern based on one or more of the following considerations: (A) The importance of the ecological function provided by the habitat, including for maintaining and restoring the biomass, demographic, spatial and genetic characteristics of fish populations; (B) The extent to which the habitat is sensitive to human-induced environmental degradation; (C) Whether, and to what extent, human activities currently, or are anticipated to result in an adverse effect to the habitat; (D) The rarity of the habitat type.

Huffman Defines “forage fish” as any low-trophic level fish that, throughout their life cycle, contribute significantly to the diets of other fish, marine mammals, or birds and that serve as a conduit for energy transfer from lower to higher trophic levels.

Depleted vs. Overfished

HR 200 Replaces “overfished” with “depleted” throughout.

Huffman Replaces “overfished” with “overfished and otherwise depleted” wherever it is found.

S 2991 Uses “overfished or otherwise depleted”

Depletion: Causes (§304(e)(1))

HR 200 Calls for Report to Congress to distinguish between fish that are depleted due to fishing, and those that are depleted for other reasons.

Disasters: Cost of Recovery §312(a)

HR 200 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.

S 1748 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.

Huffman Requires the Secretary of Commerce to make a decision regarding a disaster relief request within 120 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. The estimate must include financial impacts to the broader seafood economy and coastal communities and not limited to harvesters, processor, charter fishing companies, ports and related infrastructure owners, service providers, and seafood shipping companies. Also changes the way fisheries disaster funds appropriations are scored.

- S 2991 Requires the Secretary of Commerce to make a decision regarding a disaster relief request within 90 days.

Ecosystems and Ecosystem-Based Management

Huffman Amends Findings (#9) to read as follows: “One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing degradation of marine ecosystems, including the loss of marine, estuarine, and other aquatic habitats. Habitat and ecosystem considerations should receive increased attention for the conservation and management of fishery resources of the United States.”

States that it is the sense of Congress that “healthy fisheries and the coastal economies they support depend upon healthy marine ecosystems” and that “applying ecosystem science to fisheries decisionmaking reduces management uncertainty and increases the resiliency of valuable fish stocks” and that “the National Marine Fisheries Service should continue to refine and implement ecosystem-based approaches to the management of marine fishery resources.” (Section 208)

Amends section 305 (a) of the Act to prohibit the Secretary from authorizing the development of any new fishery not currently on the List of Fisheries unless the Secretary determines that the fishery’s ecosystem impacts have been analyzed. This section further notes that this prohibition will not restrict the requirements for the experimental fishing permit process also under this section of the Act.

- S 2991 Adds reference to marine ecosystems to findings. Also adds ecosystem-based fishery management as a topic for the Council training program.

Also see “new fisheries,” below.

Electronic Monitoring (see also data)

HR 200 In funding cooperative research, Secretary shall prioritize electronic catch reporting systems, improved monitoring & observer programs through technology. (318(c))

HR 2023 Secretary shall prioritize electronic data collection in regard to improving MRIP.

S 1520 Same as HR 2023.

Emergency Actions §305(c)(3)(b)

HR 200 Emergency actions shall remain in effect for up to two years (as opposed to 180 days).

Essential Fish Habitat

Huffman Each Council must develop and implement a plan to protect and recover essential fish habitat in the region under the authority of the Council. This plan would need to include quantitative and measurable milestones and goals for increasing the quality and quantity of such habitat and would need to include conservation and management measures to implement the plan. Within two years after the plan is completed, each Council must amend its fishery management plans as necessary and appropriate. (Section 204) In addition, the Secretary must review these new plans at least every five years, and if there is not adequate progress, the Secretary must recommend plan revisions which the Council must consider (Section 206).

Huffman Each Council must review its designations of EFH and HAPCs at routine intervals not to exceed 5 years and base these reviews on new scientific evidence or other relevant information. This section would require each Council to amend its fishery management plans as necessary and appropriate.

Huffman If the Secretary determines that an action undertaken by a State or Federal agency could adversely affect EFH or any stock of fish, the Secretary would be required to recommend measures that could be taken to avoid the adverse effects on such habitat or, to the extent that adverse impacts cannot be avoided, measures to mitigate or offset such effects. (Currently the Secretary is required to recommend measures that can be taken to conserve such habitat.) The Federal agency must ensure that any action

avoids adverse effects on habitat or, to the extent that the adverse impacts cannot be avoided, the agency must mitigate or offset such adverse impacts. FMPs must describe and identify HAPCs based on the Secretarial guidelines to prevent adverse effects on habitat caused by fishing, require that the plan monitor efficacy of actions to prevent adverse effects, and require that the plan identify other actions to encourage the conservation and enhancement of such habitat. (Section 207).

Exempted Fishing Permits

ANS 200 Adds new requirements that must be met prior to approval of EFPs, including: a requirement for a joint peer review of the EFP application by the appropriate regional fisheries science center and State marine fisheries commission; a determination by the Council or federal agency that the fishing activity to be conducted under the EFP will not negatively impact any conservation or management objectives in existing FMPs; a determination that the social and economic impacts and loss of fishing opportunities will be minimal; that the information collected under the EFP will have a positive and direct impact on conservation and management; and the Governor of each coastal state potentially impacted by the EFP be consulted. Prohibits the Secretary from issuing an EFP if the EFP establishes a limited access system or establishes a catch share program (does not apply to existing EFPs). Similar to HR 2023, but without expiration of EFPs after 12 months.

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.

S 1520 Same.

Fees

S 1520 Secretary may collect fees to recover costs for managing LAPP programs. Must first prepare an analysis that identifies costs, to be included in FMP.

Financial Report

Huffman The Comptroller General must report to Congress, within 180 days of the enactment of this legislation, on the operations of the Regional Fishery Management Councils. This report would require a full accounting of all grant money received and distributed by the Councils for the preceding 10 years including an analysis of the deliverables and results of all grant-funded projects. In addition, the review would require an assessment of interactions of the Councils and Council staff with Congress for the 10-years preceding the enactment of this legislation including an analysis of the extent to which such interactions comply with prohibitions on lobbying Congress and prohibitions included in the conditions of any grants received by the Councils from NMFS. The section would also require an assessment of Council member and Council staff conflicts of interest. (Section 204)

Findings

HR 2023 Adds a section stating that commercial and recreational fishing are “fundamentally different activities” and require different management approaches.

S 1520 Same as HR 2023.

Huffman Similar to HR 2023. Also amends another Finding (#3) to make it read as follows “Commercial and recreational fishing (including charter fishing) constitute major sources of employment and contribute significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related

activities, and their economies have been badly damaged by the overfishing of fishery resources; ensuring sustainable utilization of fishery resources is essential to the economic wellbeing of these areas.”

Huffman Finding is amended to read “One of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing degradation of marine ecosystems, loss of marine, estuarine, and other aquatic habitats. Habitat and ecosystem considerations should receive increased attention for the conservation and management of fishery resources of the United States.

Foreign Fishing

HR 200 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.

Groundfish Buyback Loan

Huffman Requires that the Secretary implement the fishing capacity reduction loan refinancing program within 90 days of the enactment and without further appropriations from Congress.

Highly Migratory Species

Huffman Requires Secretary to ensure participation for U.S. territories and their fishing communities in the management of HMS that frequent the EEZ adjoining these territories, and to consider the interests of these U.S. territories in the management of highly migratory species in the EEZ adjoining these territories. Also amends the Western and Central Pacific Fisheries Convention Implementation Act to require that the U.S. be represented on the Commission by five U.S. Commissioners to be appointed by the President. Amends the Western Pacific Sustainable Fisheries Fund so that the Secretary (rather than the Western Pacific Fishery Management Council) accepts and deposit funds and authorizes U.S. Participating Territories to use these funds for other purposes as these entities determine.

International Fisheries

S 2991 The Secretary shall designate a senior officer who is appointed by the President to serve as the Secretarial Representative for International Fisheries as a Commissioner under international agreements. This person will advise the Secretary and NOAA on international policy and management.

LAPPs: Catch Share Review §303(a)(C)(1)(g)

~~HR 200 Adds some clarifying details about five year review of catch share programs.~~

~~ANS 200 Removes requirement for regular LAPP review.~~

LAPPs: Fee Collection Report §304(d)(2)(D)

~~HR 200 Requires the Secretary to report annually on the amount of fees collected from LAPP/community development programs and detail how the funds were spent. (Removed in ANS 200)~~

LAPPs: Study in Mixed-Use Fisheries

S 1520 Calls for NAS study of the use of LAPPs in mixed-use fisheries.

~~ANS 200 Same. Requires the NAS to identify inequities of LAPPs in mixed use fisheries and recommend potential factors which should be used in designing and establishing LAPPs in mixed use fisheries. Places a temporary moratorium on new LAPPs (if not already proposed) until NAS report is submitted.~~

Marketing

S 2991 Secretary must analyze costs and benefits of establishing a seafood marketing program. Provides details of such program.

NEPA/Fishery Impact Statements §303(d)(7)*

HR 200 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).

ANS 200 Removes statement that “actions taken in accordance with this section are deemed to fulfill the requirements of the National Environmental Policy Act of 1969 and all implementing regulations.”

New Fisheries (Section 305(a))

Huffman Secretary may not authorize the development of any new fishery not currently on the List of Fisheries unless the fishery’s ecosystem impacts have been analyzed. This does not restrict EFP requirements. In addition, each Council must revise its list of approved fisheries and gear within 18 months of the date of enactment and at least once every five years thereafter. This revision must include specific and narrow terms and include the geographic range to ensure only active fisheries or new fisheries intended for Secretarial review are included. Secretary must make a determination related to any new fishery’s ecosystem impacts, and then publish a revised list after public comment. Council must prepare a FMP or amendment for any new fishery on the revised list before that fishery can begin. Secretary must issue guidance regarding how fisheries are added to the list and how to know when a new fishery’s ecosystem impacts are sufficiently analyzed. (Section 306)

Other Statutes (Section 5)

HR 200 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.

Practicable vs. Possible §304(e)(4)(A)(I)

HR 200 Rebuilding times shall be as short as practicable (as opposed to “possible”)

HR 2023 Same as HR 200.

S 1520 The Wicker bill maintains the “possible” language (vs. “practicable”).

S 2991 Uses “possible.”

Preference to Students (§402(e)(4)*)

~~HR 200 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. (Removed in ANS 200)~~

Rebuilding: Alternative Strategies §304(e)(8)*

HR 200 Councils may use alternative rebuilding strategies, including harvest control rules and fishing mortality targets.

Huffman Same

Rebuilding: Ending §304(e)(9)*

- HR 200 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.
- Huffman Councils may end a rebuilding program if the Council’s SSC determines and the Secretary agrees that the stock was not overfished in the year the overfishing determination was based on, and that the stock has never been overfished since then, including the current year.

Rebuilding: Secretarial Review

- Huffman The Secretary must review any FMP, amendment, or regulations required under the rebuilding provisions at routine intervals not to exceed 2 years. The Secretary would be required to find that adequate progress toward ending overfishing and rebuilding of the affected stocks has not resulted if: the biomass of the stock is not increasing at a sufficient rate (a rate that it is unlikely that the stock will be rebuilt within the time period for rebuilding established in the rebuilding plan without changes); the level of fishing mortality or catch consistent with the FMP is exceeded, and the causes and rebuilding consequences and harvests exceeding the management plan are not corrected; when rebuilding expectations are significantly changed due to new information; or for other appropriate reasons. If the rebuilding plans, etc. have not resulted in adequate progress toward ending overfishing and rebuilding, the Secretary must assess the extent to which bycatch, the lack of forage fish, or adverse effects on EFH are causing or contributing to the lack of adequate progress. If an overfished *highly migratory species* is not making adequate progress toward rebuilding, the Secretary must immediately make necessary revisions to achieve adequate progress. For all other fisheries, if adequate progress is not being made, the Secretary must notify the appropriate Council and make recommendations on further conservation and management measures. If the Secretary determines that adequate progress is not being made toward rebuilding, a revised rebuilding plan should be developed. This requirement does not change the deadline for rebuilding a stock or stock complex unless the rebuilding expectations are significantly changed due to new information. Councils may not adopt an FMP, amendment, etc., for any fishery that has previously been under a rebuilding plan that did not rebuild the fishery to the biomass necessary to achieve MSY unless the new plan has at least a 75 percent chance of rebuilding within the time limit proposed by the Council. (Section 206)

Rebuilding: Time (§304(e)(4)(A))

- HR 200 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.
- HR 2023 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 fish¹**.
- S 1520 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.
- Huffman Removes the requirement to rebuild within 10 years and replaces it with the requirement for rebuilding to “**not exceed the time the stock of fish would be rebuilt without fishing occurring plus one mean generation**, unless management measures under an international agreement in which the U.S. participates dictate otherwise.” Each rebuilding plan must “specify a schedule for reviewing the

rebuilding targets, evaluating environmental impacts on rebuilding progress, and evaluating progress being made toward reaching rebuilding targets.” (Section 206)

- S 2991 Similar to HR 2023. 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 rebuild to its MSY biomass level without fishing, and the mean generation time of the stock of fish**, if those values are the best scientific information available.

Recreation: Data Collection 401(g)(4)*

- HR 200 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.

ANS 200 Adds requirement for Secretary to develop guidance for best practices.

- S 1520 Generally the same as HR 200, but adds funds from Saltonstall-Kennedy program to implement this section.

HR 2023 Generally the same as HR 200, but adds funds from MRIP program to implement this section.

S 1748 See “cooperative research.”

Huffman Similar to HR 200.

Recreation: NAS Report on MRIP Data §304(e)(8)*

ANS 200 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.

HR 2023 Same as ANS 200, except Secretary must submit report to Congress.

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.

S 1520 Same.

S 1748 Same.

Recreation: Registration

~~HR 200 Requires Secretary to create partnerships with states and issue guidance to improve state angler registration programs. Requires biennial reports to Congress, and would allocate a portion of MRIP funding to state grants for the purpose of improving rec fishing data collection. (Removed in ANS 200)~~

HR 2023 Requires Secretary to create partnerships with states and issue guidance, to improve state angler registration programs. Requires biennial reports to Congress, and would allocate a portion of MRIP funding to state grants for the purpose of improving rec fishing data collection.

S 1520 Same.

Reports (other)

- S 2991 Requires yearly Secretarial report on Western Pacific Sustainable Fisheries Fund, Limited Access System Administration Fund, North Pacific Fishery Observer Fund, Fisheries Conservation and Management Fund, Fisheries Enforcement Fund.

Saltonstall-Kennedy Funds

S 1520 Uses S/K funds to improve MRIP program.

Huffman Amends S/K Act to remove a sunset date and to require that all funds collected by the Secretary of Agriculture and transferred to the Secretary of Commerce shall be used only for the purposes of providing grants for fisheries research and development projects.

Science

Huffman Section 301 includes the “Healthy Fisheries Through Better Science” Act. This section would require that the Secretary report to Congress within one year (and annually thereafter) on progress being made toward prioritizing and improving stock assessments. The report would summarize the methods used for assessing all stocks of fish for which a FMP is in effect and explain which stocks have been assessed and why. It must summarize each stock assessment and update completed during the preceding year, include the schedule for all upcoming stock assessments and updates, and identify data and analysis (especially re recreational fishing) that would reduce uncertainty in and improve the accuracy of future stock assessments, including whether such data and analysis could be provided by fishermen, fishing communities, universities and research institutions.

This section would also amend an existing Finding such that it would read (with new language in italics), “The collection of reliable data is essential to the effective conservation, management, and scientific understanding of the fishery resources of the United States. *Fisheries management is most effective when it uses the best scientific information available, and incorporates such information from governmental and nongovernmental sources, including State and Federal agency staff, fishermen, fishing communities, universities, nonprofit organizations, traditional knowledge from Tribes and subsistence fishermen, and research institutions. Scientific and statistical committees should consider such information when seeing the best scientific information available to form the basis of conservation and management.*” (Similar to HR 200)

Stock Assessments

HR 200 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 by fishermen, fishing communities, universities, and research institutions. Stock assessments not necessary if Secretary determines such. Plan must be issued within 2 years after enactment of Act.

S 1748 Essentially the same as HR 200. 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.

S 2991 Proceeds from fines may be used to fund stock assessments, surveys, and data collection.

S 2991 Similar to HR 200 (differences italicized): Secretary, *in consultation with Councils*, 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 *at least once* every five years, *except a Council may delay action for up to three years*; or as specified by the Secretary. For *economically important* 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 *nongovernmental sources*, such as fishermen, fishing communities, universities, and research institutions. Stock assessments not necessary if Secretary determines such. Plan must be issued within *one year* after enactment of Act.

Subsistence

HR 200 Adds “and subsistence” to several references to recreational fisheries.

Huffman Same.

S 2991 Same. Also adds references to tribes throughout (as in state, tribal, Federal agencies)

Labeling/Traceability

S 2991 Fish are considered “sustainably caught” if harvest in accordance with the MSA (or equivalent management measures), and if not overfished/overfishing.

S 2991 Falsely labeling or identifying fish, fish parts, etc., is unlawful (S 2991 page 24)

Technical Corrections

Huffman Section 2(a)(3) is amended to read as follows “Commercial and recreational fishing (including charter fishing) constitute major sources of employment and contribute significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities, and their economies have been badly damaged by the overfishing of fishery resources; ensuring sustainable utilization of fishery resources is essential to the economic wellbeing of these areas.” (Removes reference to damage caused by foreign fishing).

HR 2023 Changes this section to read “Commercial and recreational fishing (including charter fishing) constitute major sources of employment and contribute significantly to the economy of the Nation. Many coastal areas are dependent upon fishing and related activities.”

Travel and Votes

Huffman Requires each Council, to the extent possible, to minimize the amount and cost of member and staff travel by the use of electronic means for remote participation during meetings, including for voting. Also requires that, at the request of any Council voting member, the Council hold a roll call vote on any matter before the Council. Requires Councils to hold a recorded vote on all nonprocedural matters before the Council. (Section 204)

Webcasts/Transparency §302(i)(G)*

HR 200 Requires 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. Also adds provision that each SSC shall “carry out [its duties] in a transparent manner, allowing for public involvement in the process.”

S 1748 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.”

Huffman This section would require that decisions and recommendations of the committees and panels of the Councils be developed in a transparent manner. (Section 203)

Huffman Webcast/recording/archiving requirements are the same as HR 200. (Section 203)

S 2991 Same as 1748. Similar to HR 200.

ⁱ 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 $T_{min} + 1$ mean generation formula) that slower-to-rebuild stocks do not receive. (Ocean Conservancy)