



## New England Fishery Management Council

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

September 29, 2017

The Honorable Seth Moulton  
United States House of Representatives  
1408 Longworth Building  
Washington, DC 20515

Dear Mr. Moulton:

On September 19, 2017 you asked me how a possible modification to the rebuilding provisions of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) would affect how the New England Fishery Management Council would carry out its responsibilities. I took the opportunity during our September 26-28 Council meeting in historic Gloucester, MA to discuss this issue with the full Council. The following comments reflect the consensus of that discussion.

The language that we considered was:

*"(8) Notwithstanding subparagraph 4(A), if the Scientific and Statistical Committee determines that a reliable fixed rebuilding period or a reliable biomass target cannot be established, then a fishery management plan, plan amendment, or proposed regulations may use alternative rebuilding strategies, including harvest control rules and fishing mortality-rate targets to the extent they are in compliance with the other requirements of this Act."*

Subparagraph 4(A) that is referenced is the section of the MSA that specifies the time period for rebuilding an overfished stock. Our interpretation of this language is that, if it were adopted, the requirement for a fixed rebuilding period would be removed if a "reliable fixed rebuilding period or a reliable biomass target cannot be established." It would be the responsibility of the Scientific and Statistical Committee to evaluate if either, or both, of these conditions were met.

The Council has long argued that rebuilding overfished stocks should focus on controlling fishing mortality and should not be tied to a fixed rebuilding period. Our June 2015 comments on proposed revisions to the National Standard 1 guidelines emphasized the need for rebuilding flexibility and approaches that focused on fishing mortality rates rather than fixed rebuilding time periods. During development in 2016 and 2017 of a Council Coordination Committee white paper on the MSA, Council leadership reiterated this stance.

If adopted, this measure could provide additional rebuilding flexibility under limited circumstances. The Council would not need to calculate Frebuild if those circumstances were met. As discussed in our 2015 comments on proposed revisions to the National Standard 1 guidelines, we have found that calculations of Frebuild are often determined to be deficient. Since Frebuild is defined by the length of time allowed for rebuilding, removing this requirement would allow the Council to more fully weigh socio-economic impacts during the development of rebuilding plans. This would allow the development of rebuilding plans that better balance the tension between rebuilding provisions of the Act and requirements to consider the needs of fishing communities. In addition, if rebuilding plans were adopted that made use of this provision, it would simplify the required NMFS determination on adequate rebuilding progress.

Using this provision might extend rebuilding periods. It is possible that without a fixed time period, target fishing mortality rates would be higher than would be otherwise be the case. It is worth emphasizing that overfishing would not be allowed. As a result, there would still be a cap on the maximum predicted rebuilding period since the estimated rebuilding period would never exceed the time expected to rebuild at  $F_{MSY}$ .

While it is difficult to account for all the uncertainties that are encountered when rebuilding overfished stocks, a Council should balance the risks of a longer period with its benefits before making a choice. Longer rebuilding periods mean the full benefits of rebuilding - biological, economic, and social - may be delayed into the future. Analyses of proposed rebuilding periods can evaluate the cumulative benefits of different time periods, which would allow a Council to select the optimum period.

Thank you for asking us how this language would affect our operations under the Act. Please let me know if we can be of further assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Quinn". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dr. John Quinn  
Chairman