

# TOPIC 1. REBUILDING REQUIREMENTS

## Background

The MSA currently mandates that the time to rebuild depleted fish populations must be “as short as possible,” but no more than 10 years (with exceptions for biology, etc.). Some have argued that this time requirement results in inconsistent management approaches depending on the life history of the stock. For example, a stock that is expected to rebuild in slightly less than 10 years in the absence of fishing mortality could require much more restrictive management than a stock that is expected to rebuild in slightly more than ten years. This results from the fact that the maximum rebuilding timeframe ( $T_{MAX}$ ) for a stock that cannot be rebuilt within 10 years is the minimum time that it would take to rebuild the stock in the absence of fishing plus one mean generation time.

In addition, Councils and stakeholders have expressed concern that the 10-year rebuilding timeframe precludes the Councils from adequately considering the social and economic needs of fishing communities.

In 2018, an early draft of Senate legislation included a provision that would require modification of a rebuilding program if a determination was made that the stock was not making adequate progress; however, this was not included in the approved bill. If this were approved, the Council would be required to adopt a new rebuilding plan with at least a 75 percent chance of rebuilding the fishery with the time limit as calculated by the Council’s scientific and statistical committee. A similar provision was included in a proposed amendment in a House bill.

## Consensus position

The CCC developed the following consensus position on rebuilding timeframes:

*“In general, the CCC believes the addition of measures that would increase flexibility with respect to stock rebuilding for certain types of fisheries would improve the ability of Councils to achieve management objectives.*

*We acknowledge that rebuilding often comes with necessary and unavoidable social and economic consequences, but we believe that targeted changes to the law would enable the development of rebuilding plans that more effectively address the biological imperative to rebuild overfished stocks while mitigating the social and economic impacts.*

*Under the rebuilding requirements currently in the Act, Councils determine the rebuilding schedule based on scientific information supplied by NMFS. Rebuilding timeframes balance the biology of the fish and the economic needs of those involved in the fishery to rebuild the fishery within the time limits allowed in the Act. There is often considerable uncertainty involved in the calculation of the rebuilding timeframe and, with changing ocean conditions occurring in some regions, rebuilding success can be even more uncertain. That is why the Act already requires that Councils assess rebuilding progress at regular intervals.*

*Requiring that a rebuilding plan meet an arbitrary goal (75 percent probability of success) if a rebuilding plan is not meeting the expected progress by the first assessment would almost certainly result in significant adverse impacts to fishermen and fishing communities. The experience of several Councils shows that this requirement could lead to closing fisheries, with severe impacts on communities. The suggested language would take away the flexibility that Councils currently have in*

*balancing the need to rebuild overfished fisheries with the need to minimize the economic effects on fishing communities.*

*Often, changes to an assessment model can lead to an unexpected change in the understanding of stock status. Limiting a Council's ability to adapt to these changes because of a mandatory requirement would limit a Council's ability to modify the rebuilding program in light of the new information. As a result, fishermen and their communities would be penalized for improvements in science."*

## TOPIC 14. STOCK ASSESSMENT AND SURVEY DATA

### Background

States and fishermen have collected and provided data for stock assessments. There is some dissatisfaction with how or whether the data were used in a stock assessment. Proposed revisions include: defining the term "stock assessment"; requiring the Secretary to complete a peer-reviewed stock survey and stock assessments for all FMP species within two years; requiring the development of guidelines for incorporation of stock assessment information from a wide variety of nongovernmental sources; requiring such information to be considered "best information available," based upon meeting the guidelines; and requiring the Secretary to develop a "cost reduction report," to assess and compare costs of monitoring and enforcement programs for each fishery (for example, human observers vs. EM).

### Consensus Position

The CCC developed the following consensus position:

*"Surveys and stock assessments provide the fundamental information necessary to successfully manage sustainable fisheries. As such, the CCC believes that it would be beneficial for the MSA to include a requirement for the Secretary to develop a comprehensive plan and schedule to address stock assessment needs on a national basis. Increasing stock assessment frequencies and improving stock assessment methods to reduce the uncertainty in setting harvest limits and achieving management objectives will also improve the ability of Councils to establish scientifically-based ACLs, including for those fisheries that are currently considered data limited. However, the CCC is concerned that requiring the Secretary to complete a peer-reviewed stock survey and stock assessments for all FMP species within two years is unrealistic. Comprehensive stock surveys have not been done for coral reef and other areas because they would have been prohibitively expensive and would provide little benefit at great expense. While new emerging drone technology may reduce costs of some surveys, the CCC remains concerned about potential redistribution of survey and assessment resources from stocks with high commercial and recreational interest to those of lower concern. Should Congress insist on completion of these surveys, substantial increases in funding should be provided to NOAA Fisheries for this work.*

*In addition, there has been some discussion of establishing guidelines to facilitate incorporation of data from non-governmental sources in fishery management decisions. There are existing legal requirements that govern data collection and quality (e.g., Data Quality Act) that dictate what NMFS is required to use for stock assessments. Data from fishermen, the states, and universities are*

*already considered and evaluated for inclusion in stock assessment, as appropriate for the methodology and use of the data collected. These data sources are reviewed by the assessment analysts and through the peer review process that usually includes the Councils' scientific and statistical committees. The CCC believes prescriptive requirements for use of any data source are not appropriate. The implementing guidelines for when such information should be utilized will be critical to its veracity and usefulness to assessment authors and managers.*

*A cost comparison report on monitoring programs (for example, human observers versus electronic monitoring) would be extremely beneficial to development of such monitoring programs."*

## TOPIC 19. AQUACULTURE

### Background

Aquaculture is being promoted as a way to reduce the seafood import/export deficit. The Magnuson-Stevens Act (MSA) treats aquaculture as fishing based on a legal opinion by NOAA General Counsel that landings or possession of fish in the exclusive economic zone from commercial marine aquaculture production of species managed under fishery management plans constitutes "fishing" as defined in the MSFCMA [Sec. 3(16)]. Fishing includes activities and operations related to the taking, catching, or harvesting of fish.

In 1994, the South Atlantic and Gulf of Mexico Councils established a live rock aquaculture permitting system for state and federal waters off the coast of Florida under Amendment 2 to the Coral FMP. Live rock is defined as living marine organisms or an assemblage thereof attached to a hard, calcareous substrate, including dead coral or rock. Live rock is used in the marine aquarium trade. This permitting system allows deposition and harvest of material for purposes of live rock aquaculture while maximizing protection of bottom habitat, EFH, and HAPC in federal waters of the South Atlantic Council.

The Gulf of Mexico Council approved an Aquaculture FMP in January 2009. There is a lawsuit underway challenging provision of the FMP.

### Consensus Position

#### **Current wording in the 1/11/19 version:**

The CCC developed the following consensus position:

*"The CCC believes that the Councils' existing authority under the Magnuson-Stevens Act allows them to develop fishery management plans to regulate aquaculture in their respective exclusive economic zone (EEZ) waters to address major topics like permitting process and duration, approval of systems and siting, species that may be cultured, and record keeping and reporting. The Gulf Council has an existing fishery management plan and other Councils have programs and/or policies addressing aquaculture in the EEZ. Individual Councils are in the process of determining whether they will develop a fishery management plan and do not feel a consultation role alone would adequately address Council concerns."*

#### **Proposed wording:**

The CCC developed the following consensus position:

*"The CCC believes that aquaculture (mariculture) should be included in the MSA to take advantage of the transparent, public Council process to address major issues such as siting, species to be cultivated, potential law enforcement impacts of a cultures species and wild catches of the same species, and permit review, including the potential for leasing permits and financial guarantees for decommissioning a facility."*