

MSA Workgroup #1 Reauthorization (Stock Rebuilding Requirements)

Question 1: Stock rebuilding timelines. Should there be more flexibility in the stock rebuilding requirements and how should that be reflected in the rebuilding requirements?

- Eliminate fixed rebuilding altogether – don't have information to determine targets, etc. (NE); more important to meet a target F (which we can calculate) rather than a fixed timeline for rebuilding.
- $F = 0 + 1$ mean generation time (SA/North Pacific); levels the playing field and eliminates contradiction that if a stock can't be rebuilt within 10 years, a council could potentially be allowed extended rebuilding time periods (i.e., 20 to 30 years).
- No clear guidance from Congress on having a fixed rebuilding plan – need more clarity in the NS1 guidelines on what a fixed rebuilding plan means.
- If F is maintained below/at 90% MFMT, theoretically biomass should asymptote near MSY; consider this as an approach to rebuilding, (need to acknowledge that good information on catch and biomass and consistent/stable recruitment is necessary).
- If F is reduced in direct proportion to stock biomass when the stock falls below B_{msy} , rebuilding should occur automatically, providing higher yields in the long term and avoiding the social and economic pain of implementing a rebuilding plan; consider this as an approach to rebuilding.
- Difference in how MSST is being applied in regions ($(1-M)*SSB_{msy}$ vs. $0.5*SSB_{msy}$) & consider how that impacts rebuilding.
- NPFMC: have rebuilding plans for stocks w/zero fishing mortality that consider gear modifications, habitat protection, etc. (measures beyond the control of fishing).
- Depleted: when stock is below some minimum biomass due to factors unrelated to fishing; should consider use of depleted rather than overfished.
- **Possible consensus summary:** All the Councils agree on the need to consider an alternative term (such as depleted) to reflect conditions that are not the result of fishing activity, but note that there are some specific uses of "depleted" in other statutes; some degree of additional flexibility with respect to stock rebuilding would allow Councils to balance biological imperative to rebuild overfished stocks with need to minimize negative social and economic impacts associated with rebuilding.

Question 2: Exemptions for implementation of rebuilding plans. Should the Act provide for delayed implementation of rebuilding plans?

- What does this question really mean? Does it mean delay ratcheting down to rebuilding F , or does it mean delaying the regulations implementing the rebuilding strategy? Appears to be some blurring of the issues of phasing in "ending overfishing" vs. phasing in "rebuilding"

Question 3: Exemptions to stock rebuilding requirements. Which circumstances or factors should exempt a stock from rebuilding requirements?

- Stocks w/significant F outside of U.S. jurisdiction should be considered; while Section 304(i) of the MSA does address international overfishing, it is unclear if this addresses the question of rebuilding.
- Limited exemptions for mixed stock fisheries should be considered, but no stock should be allowed to decline below a minimum biomass level. This minimum stock level might be the MSST or at another level between the current MSST definitions and a lower threshold (see NAS report for a further discussion of this concept).
- Currently, if there is no international agreement, U.S. fishermen are disadvantaged when it comes to implementation of rebuilding.
- (NE currently has exemption for rebuilding period due to Canadian harvest)
- Tough conceptual problem; could codify the exemption, and flesh out the guidance in the NS guidelines.

Question 4: Ending overfishing. Should there be any change to the current requirements to end overfishing, and if so, under which circumstances?

- Need some exception for stocks that are healthy or not overfished: if stock is above B_{msy} , overfishing can be reduced in some 3-5 year period by $X\%$ per year, as long as it doesn't reduce stock to below B_{msy}
 - More likely that stock will be between MSST and B_{msy} ; allow that flexibility for stocks in this area.

- Perhaps consider net present value.
- F can be highly uncertain from assessment.
- Perhaps consider stock size when allowing for phasing in ending overfishing?
- Need to have some kind of threshold for being able to demonstrate that stock rebuilding is showing signs of success.
- House bill exception to allow flexibility is an improvement but will not address all situations.
- **Possible consensus statement:** General agreement that there should be some flexibility in ending overfishing when our understanding of the stock status changes dramatically (new assessment and/or data); F would need to be reduced immediately by some percentage or measure and a rebuilding plan put in place.
- **Possible exception language (underlined phrases could be further explored):**
 “A fishery for which recent catches have not exceeded the fishing level recommendations of the Scientific and Statistical Committee, or for a stock that is above its target biomass level, and for which an immediate end to overfishing will result in significant adverse economic impacts to fishing communities, the Secretary may authorize a Council to phase in fishing restrictions over a continuous period of not more than 3 years if the following conditions apply:
 - a recent assessment has resulted in a substantial change in the understanding of stock status;
 - fishing mortality must be reduced by at least 25 percent in the first year of the of the phase in period;
 - overfishing must be ended in the final year of the three-year phase-in period;
 - the net benefits to the nation are greater under this phased approach than would result from an immediate end to overfishing.”

Question 5: Mixed stock exception. Please review the current exception, the House draft exception, the NAS/NRC discussion on this issue, and provide recommendations for any changes to the mixed stock exception.

- The statutory basis for the current mixed stock exception is unclear.
- What should the exception be? From the rebuilding timeline? From the requirement to rebuild to Bmsy?
- General agreement:
 - Using a three stock example, could have higher net present value if one stock is allowed to be fished above Fmsy for some limited period of time
 - Current House language doesn't allow for overfishing to occur for some period of time
 - Relatively minor stock that is not part of mixed fishery, but serves as choke species for another fishery; may not be overfished and overfishing not occurring
- Would like to see exception that would allow for some level of overfishing to occur over some period of time. The mixed stock exception should not be limited to applicability within one fishery; it may be the exception is needed to facilitate harvest of a stock in another fishery.
- If analyses show that benefit to nation would be greater by allowing some level of overfishing (above OFL) to occur, where would the harm be? (need to consider how “greater benefit to nation” can be defined).
- Criteria should be developed for applying a mixed stock exception.
- Draft language should be vague – council should be able to demonstrate that by applying the mixed stock exception that they will achieve greater net benefits to the nation (i.e., if it will help you achieve OY).
- **Possible Consensus Statement:** Current high degree of prescription relative to single species biological reference point/stock rebuilding requirements may be incompatible with ecosystem approaches. However, development of criteria for application of a mixed stock exception would ideally ensure ecosystem principles are being adhered to.

Question 6: ACL exemptions. Should there be any changes to the current ACL requirements for incidentally caught species, short-lived species, or species with other characteristics?

- Note recent MAFMC court decision that an ACL is not required for every stock.
- Need exemptions for data poor species in the southeast, where we don't have the science to determine ACLs.
- House bill: general agreement w/these exemptions.
- Senate bill: would like to see an interpretation of target and non-target.

Question 7: SSC's role in quota-setting. Should the SSC's role in quota-setting process be changed as proposed by the House draft?

- Note that the proposed change doesn't modify SSC's role, just modifies what councils are bound to adhere to in setting catch limits.
- **Differing views on this question**
 - Lack of support for House change due to concern that fishing at OFL will drive stock into overfishing; most councils supportive of law as written and are satisfied w/current SSC involvement.
 - Support for House change based on the fact that the OFL is based on some distribution; there is "buffering/potentially double-buffering" between this OFL distribution and ABC (which incorporates scientific uncertainty).
- Perhaps what we would like is for the SSC to determine a catch level that cannot be exceeded (using one method when employing the mixed stock exception and another method when not).
- Could write an exception in the law to allow catch level to exceed the ABC under specific circumstances.
- There might be instances (such as spiny dogfish) where a council may want to exceed Fmsy (in order to address ecosystem impacts of this species on others).
- Sometimes Fmsy proxies are being used to set OFL, and these proxies are by nature usually more conservative
- Rather than "compiling" uncertainty through multiple layers (scientific = layer 1, management = layer 2), perhaps consider all sources of uncertainty at the same time.

Question 8: Other related priorities. Please off any specific, additional recommendations that the WG believes will improve the Act with respect to stock rebuilding, ACLs, AMs, or related requirements.

- Conflict between holistic, ecosystem-based management approaches and some of the rebuilding requirements currently in the Act (noted under Question 5).
- Allowance for consideration of ecosystem changes and economic needs of communities in determining OY is reasonable, but defining economic needs could be challenging.
- Consideration of alternative definitions of overfishing – MSY-based approaches are difficult to determine for some of the data-poor, mixed-stock complexes in certain areas of the country.
- Delays in the review process beyond those specified in the law can impact conservation efforts, e.g., councils can respond quickly to ACL changes to accommodate stock assessment updates, but delays in review impact ability to implement change.
- From an overall perspective, it appears that some of the regional differences or nuances in the discussions related to Questions 1-7 stem from regional differences in data quality, which are generally related to lack of agency resources to pursue additional data collection efforts.
- Many of the regional differences in perspective appear to stem from different experiences in attempting to comply with the statute. Those regions that have struggled to rebuild overfished stocks and end overfishing while addressing community impacts tend to view the need for changes in the statute as more pressing than those regions that have not faced the same challenges.