



New England Fishery Management Council

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E.F. "Terry" Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

**MEMORANDUM**

**DATE:** January 23, 2014  
**TO:** Council  
**FROM:** Executive Director, Tom Nies  
**SUBJECT:** **House Committee on Natural Resources Discussion Draft for Magnuson-Stevens Act Reauthorization**

1. On Tuesday, January 28, 2014, the Council will review the discussion draft for MSA reauthorization provided by the House Committee on Natural Resources. The Council may consider developing Council positions on the draft language. These positions may be communicated to the Chair of the Committee, or may be used by Council leaders during reauthorization discussions that will be held by the Council Coordination Committee in February.

2. This draft was provided to the Council by Committee staff acting on behalf of the Chair, who invited Council comments. Based on this request, NOAA General Counsel advised that the Council discussion or development of comments would not conflict with anti-lobbying provisions.

3. In order to facilitate the Council discussion, the Executive Committee has prepared suggested statements for the Council's review (attachment 1).

Attachment 1: Draft Council Comments on the Discussion Draft for Magnuson-Stevens Reauthorization

**New England Fishery Management Council**

**DRAFT Council Comments**

**on**

**Discussion Draft for Magnuson-Stevens Act Reauthorization**

“Strengthening Fishing Communities and Increasing Flexibility in Fisheries Management Act”

**Section 3: Flexibility in Rebuilding Fish Stocks**

The Council supports provisions providing additional flexibility in rebuilding fish stocks. The discussion draft moves in this direction by modifying the rebuilding period and provides several additional exceptions to the requirement to adhere to this period. It does not, however, adopt the finding of the National Academy of Sciences: “Emphasis on meeting fishing mortality targets rather than on exact schedules for attaining biomass targets may result in strategies that are more robust to assessment uncertainties, natural variability and ecosystem considerations, and less prone to rapid changes in management measures, which have social and economic impacts that may be more severe than more gradual changes.” The Council supports a focus on ending overfishing without regard to a fixed rebuilding time period.

**Section 4: Modifications to the Annual Catch Limit Requirement**

This section suffers from a lack of clarity and potential inconsistencies with other sections of the Magnuson-Stevens (M-S) Act. It is not clear if the consideration of ecosystem and economic impacts when setting Annual Catch Limits (ACLs) authorizes a deviation from other requirements of the M-S Act, such as ending overfishing or achieving optimum yield (as currently defined). While the section would authorize specification of an Annual Catch Limit for a “stock complex”, that term is undefined and it is not clear how this provision would interact with requirements to rebuild individual stocks of fish.

**Section 5: Distinguishing Between Overfished and Depleted**

The Council supports the use of a term for low stock size that acknowledges that overfishing is just one possible cause for this state. The term “depleted”, however, is used by some management agencies in a different context and may cause confusion.

**Section 6: Transparency and Public Process for Scientific and Management Actions**

The Council supports a transparent public process. As such, all Council meetings are currently webcast and recordings of all Council and Scientific and Statistical Committee (SSC) meetings are readily available. Transcripts of Council meetings are not currently prepared due to the cost, but could be prepared with adequate funding. Video recordings of Council and SSC meetings seem unnecessary and expensive and would create issues related to storage of large data files, and collection of video release forms.

The Council supports streamlining the M-S Act and National Environmental Policy Act (NEPA) processes. The goal of NEPA is to provide the information needed for decision makers and the

public to evaluate policy choices, but unfortunately this goal has been subsumed by a rigid adherence to bureaucratic requirements in order to withstand any potential legal challenge. The proposed language in the discussion draft would streamline the fishery management process while still ensuring that decisions are based on careful analyses.

### **Section 7: Limitation on Future Catch Share Programs**

The discussion draft language in this section continues to hamper the Council's ability to use all of the fishery management tools that are available by extending the referendum requirement before implementing any catch share program in New England and other regions. While the Council would prefer this requirement be removed, the discussion draft does reduce the requirement for approval to a majority of permit holders (rather than 2/3), and the Council supports this change. It is not clear if the draft language would prohibit allowing crew members to participate in the vote, and the language on which permit holders could participate lacks clarity.

### **Section 8: Data Collection and Data Confidentiality**

The Council supports increased emphasis on electronic monitoring tools. The draft language, however, reduces the effectiveness and applicability of those tools by prohibiting the use of information collected through electronic monitoring for the purpose of fishery law enforcement.

The draft language on data confidentiality does not appear to improve the ability of Councils to use fishery data to evaluate management programs.

There is an increasing need for coordination between competing ocean user groups. Marine spatial planning is one way to fill that need. The fishing industry needs to be at the table for those discussions, well prepared with data that supports the industry's need to access specific areas of the ocean and its seabed. The draft language prohibition on using data collected through electronic monitoring in marine spatial planning is short-sighted and will only hurt the fishing industry.

### **Section 9: Council Jurisdiction for Overlapping Fisheries**

The New England and Mid-Atlantic Fishery Management Councils coordinate closely on fisheries issues. Providing Council liaisons the ability to vote will improve that coordination.

### **Section 13: Ensuring Consistent Fisheries Management Under Other Federal Laws**

The Council supports the draft discussion language that would require fishing restrictions adopted within National Marine Sanctuaries to be adopted through the M-S Act process. This is an important and needed clarification.

The Council supports the draft discussion language that would require any fishery management restrictions needed to implement Endangered Species Act recovery plans to be adopted through the M-S Act process.