



**Council Coordination Committee**

**NS1 Questions**

**February 10, 2017**

**General**

What MSA reauthorization issues does the agency believe it has addressed by these revisions? (Note: The CCC Legislative Working Group suggests this be discussed during the MSA agenda item.)

**Stocks in Need of Conservation and Management**

What process can the Council use in applying the ten criteria to determine if a stock is in need of conservation and management measures? (WPFMC)

What does 'consider' mean in the context of the 10 factors/ i.e., is there any minimum or weighting implied? How does it relate to 'in the FMP' vs being an EC species? (NPFMC)

How does NMFS interpret the clause "any stocks that are predominantly caught in federal waters AND are overfished or subject to overfishing, are considered to require conservation and management"? Does it mean in order for a stock to require CMMs it must conform to the two2 requirements? (WPFMC)

Regarding stocks requiring management, what is the definition of "predominately" when referring to stocks predominately caught in federal waters? (SAFMC)

Response to Comment 7: "With respect to factor (x), NMFS continues to believe that MSA section 302(h) (1) does not require preparation of FMPs for all fisheries in the EEZ." Will NMFS revisit this guidance in light of the Court of Appeals for the Ninth Circuit decision in the case of UNITED COOK INLET DRIFT ASS'N V. NMFS? (NEFMC)

## **Stock Complexes and Aggregate MSY**

“Stocks may be grouped into complexes for various reasons, including where stocks in a multispecies fishery cannot be targeted independent of one another; where there is insufficient data to measure a stock’s status relative to SDC; or when it is not feasible for fishermen to distinguish individual stocks among their catch.” The three examples used for grouping stocks into a stock complex are related to uncertain data or a lack of selective fishing activity. Can stocks be grouped into a stock complex to facilitate EBFM even if data on individual stocks is adequate to allow single-stock management and reference points? (NEFMC)

Response to Comment 17: “Even when aggregate level MSY is estimated, stock-specific MSY must still be used to inform single stock management. Other annual reference points (within the ACL framework) must also be specified in order to prevent overfishing from occurring in single stocks.” Does this response mean that there must be individual ACLs for every stock that is in a stock complex? For example:

- Several species are caught in a mixed-fishery. Because of difficulty in identification, industry practice is to identify the catch by product (bait, food, etc.) rather than species. Identification in survey and observer data is at the species level. Survey indices at the species level are used for determining overfished/overfishing. An aggregate MSY is not specified. Are species specific ACLs required?
- A number of species are caught together in a multispecies fishery. All are identified by species in the catch. Analytic assessments for most species are available, and at present individual OFLs/ABCs/ACLs are specified for each stock. The Council wants to aggregate the species into stock complexes, determine an aggregate MSY for each complex, and specify an ACL for each aggregate group as well as an overall cap. Are individual ACLs required for each species/stock? (NEFMC)
- A fisheries Ecosystem Plan (FEP) is developed with an Ecosystem Catch Cap derived from estimates of energy available to caught and/or managed stocks of fish and shellfish. Stocks are managed together by functional group with reference points for stock complexes. Each stock complex has an MSY estimate, an ABC (a mortality limit), and an ACL (annual catch limit) and each individual stock also has a minimum biomass threshold. What other SDCs (if any) would be required by NS1 in this situation? (NEFMC)

“Fundamentally, aggregate MSY is an additional limit on the management system that encourages more conservative EBFM-based measures. Even when aggregate level MSY is estimated, stock-specific MSY must still be used to inform single stock management. Other annual reference points (within the ACL framework) must also be specified in order to prevent overfishing from occurring in single stocks.” If there is a basis for determining an aggregate MSY, doesn’t it only make sense to base management on individual species MSYs if they are continuously updated to take account of other species? This is impractical. (NEFMC)

## **Response to Overfished/Overfishing Status**

If only overfishing (i.e., not overfished), how long do we have to end overfishing? (SAFMC)

If overfished and undergoing overfishing, we need to finalize a plan/amendment within two years to immediately end overfishing:

(a) Does “immediately end overfishing” imply that we should always request an emergency/interim rule? This would be the fastest approach to end overfishing but is not immediate.

(b) In general we have been advised to get the final amendment to NMFS within 18 months so they have 6 months to implement. Is this still the case? (SAFMC)

What is the rationale for the two additional rebuilding time options? (NPFMC)

## **Status Determination Criteria**

If the stock is data limited and there is little data to support determination of MSY and SDCs, does the guideline allow for the use Spawning Potential Ratio for data limited stocks? (WPFMC)

In paragraph (e)(2)(i)(C), it talks about the Maximum Fishing Mortality Threshold (MFMT) and its proxy expressed either as a single number (F value) or as a function of spawning biomass or other measure of reproductive potential. Can the fishing mortality – fishing mortality associated with the 30% spawning potential ratio (F/F30) be used as a proxy for MFMT? (WPFMC)

In paragraph (e)(2)(ii)(B), it talks about Minimum Stock Size Threshold (MSST) and its proxy expressed in terms of spawning biomass or other reproductive potential. Can SPR30 be used as a proxy for MSST? (WPFMC)

Regarding Optimum Yield, in cases where the stock is relatively unfished or close to pristine where the fishery can extract above MSY on a short term because the biomass is so large. The assessment of this stock generated an MSY lower than the OFL, how can a long term OY be specified? OY is a reduction from MSY accounting for the ecological, economic, and social factors. (WPFMC)

## **Phase-In Provisions**

Does the control rule need to be modified to include a phase-in provision, with the input from the SSC similar to how the original control rule was developed, and the amendment including the modified control rule approved/effective BEFORE the Councils could use the phase-in provision? (SAFMC)

## **Carry-Over Provisions**

The NSGs suggest carry-over should be addressed in the ABC control rule. Can you give an example of how that would be done? (NEFMC)

Can carry-over provisions be adopted in an FMP in ways other than a harvest control rule? As an example of existing provisions, 81 *Federal Register* 26427 describes an existing carry-over provision for

NE groundfish that is not incorporated into a harvest control rule. AN example for the Atlantic Sea Scallop fishery is in 50 CFR 648.59(c). (NEFMC)

What is envisioned as additional “comprehensive analysis” for the ABC rule justifying that the carry over provision will prevent overfishing, given that the phase in allowance is still bound by MFMT? The MFMT-not overfishing-not exceed OFL bound means that any phase in landings level must prevent overfishing, so what more is there to say with regards to establishing such provisions in the control rule? (SAFMC)

How can you use the carry-over provision of unused ACL to the following fishing year if the ACL is set equal to ABC that will not be too burdensome on the SSC to adjust the ABCs? (PFMC; WPFMC)

Council staff were briefed during new Council member orientation that the ACL underage carry over provision can only be used in situations where the stock biomass is increasing – yet the final rule does not explicitly state this. So, does the stock biomass need to be increasing to carry over unused ACL? Also, how can we be sure that increases in abundance are due to an underage of ACL? (MAFMC)

Another question that arises relates to timing and availability of final catch data. Due to significant time lags in acquiring the final annual catch estimates for a given year (up to 6-12 months), our ability to re-estimate ABC within the time frame necessary to adjust the next year’s ABC is severely limited. How would this work in practice, and how would it impact multi-year specifications? Does a rollover of unused ACL have to be applied to the ensuing year in a multi-year specification cycle, or could it be applied to subsequent years in the same specifications cycle? Can the approach work on an annual basis given the year lag in reconciled estimates of annual total mortality (i.e., landings plus dead discards) of groundfish stocks provided by the West Coast Groundfish Observer Program? (MAFMC; PFMC)

The relative uncertainty in estimating the OFL is factored into the Pacific groundfish management framework by designating the size of the ABC buffer through the sigma ( $\sigma$ ) designation, which addresses scientific uncertainty in estimating an OFL and the overfishing probability ( $P^*$ ) designation, which represents the level of risk tolerance in potentially exceeding an OFL (i.e., the risk of future overfishing). Should the inherent uncertainty in estimating the OFL (i.e.,  $\sigma$ ) or the ABC buffer size be a consideration in developing a carryover provision? (PFMC)

How do carry-over provisions work with associated bycatch or an OY cap? (NPFMC)