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FISHERIES**
Alaska Fisheries
Science Center

Report of the NPFMC special working group on the NS proposed rule

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Background

- NS1 guidelines last revised in 2009
- ANPR on possible new revisions issued in 2012
- NPFMC and SSC supplied many comments on ANPR
- Proposed rule (PR) published in January of this year
- PR contains a **very large number** of changes to the guidelines for NS1 (optimum yield and overfishing)
 - Plus a few for NS3 (management units) and NS7 (minimize costs)

Timetable

- Comment period is open through June 30
- In March, NPFMC staff appointed a working group (WG) to evaluate changes suggested in PR
- Briefing books contain WG report, proposed rule text (“clean” and redline/strikeout versions)
- SSC has the option to finalize comments this week
 - For the ANPR, SSC appointed subcommittee to develop final comments between meetings
- Council will hear WG and SSC reports this week, craft comments in June



WG general comments (1 of 2)

- Difficult to map ANPR issues, SSC comments, and PR topics
 - ANPR listed 11 issues; SSC commented on 8 of these
 - PR preamble identifies 13 topics (labeled III-XV)
 - 2 ANPR issues are not addressed in PR
 - 5 PR topics were not included in ANPR
- In the WG’s opinion:
 - Changes referenced in 4 PR topics are responsive to SSC comments on the corresponding ANPR issues
 - Changes referenced in 4 PR topics are not responsive to SSC comments on the corresponding ANPR issues
 - Remaining 5 PR topics are new and therefore do not pertain to SSC comments on the ANPR



WG general comments (2 of 2)

- Some of the proposed language is particularly vague or open-ended, and so may have unintended consequences or cause confusion
- PR preamble states that new FMP amendments would not be required, yet some of the proposed language includes new “should” or “must” statements that may be interpreted as inconsistent with existing NPFMC FMPs
- The following slides highlight WG comments, organized by PR topic, and *do not* cover every change suggested in the PR



III. Goals and objectives of FMPs

- This topic is new in the PR (i.e., not in the ANPR)
- PR suggests that Councils “should reassess the objectives of the fishery on a regular basis”
- WG notes that MSA does not require specification of objectives
- NPFMC routinely reviews its objectives for the groundfish FMPs already
- WG feels that “fishery objectives” is not a good term; “management objectives” would be better



IV. Stocks that require C&M (1 of 3)

- PR is partially responsive to SSC's ANPR comments
- PR includes list of 10 factors for use in deciding whether a stock requires C&M, of which the three that should be "considered first" are: 1) important component of the ecosystem, 2) caught by the fishery, 3) condition can be maintained or improved by management under an FMP
- PR does note that "no single factor is dispositive"
- However, WG is concerned that the list may be interpreted as requiring specification of SDC, ACLs, etc., not only for target species, but for all species taken incidentally in the fishery



IV. Stocks that require C&M (2 of 3)

- PR removes the four existing criteria for determining whether a stock can be included in the EC (non-target, not overfished, not likely to become overfished, not generally retained)
- This is responsive to SSC's ANPR comment
- WG feels that this will provide helpful flexibility
- PR moves some of NS7 guidelines into NS1, but omits the NS7 guidelines stating that not every fishery needs C&M and that costs associated with an FMP should be balanced against benefits
- WG feels that these NS7 provisions should be retained



IV. Stocks that require C&M (3 of 3)

- Overall, WG feels that PR misplaces the emphasis on “stocks” requiring C&M, whereas the MSA is explicit that “fisheries” are to be the subject of C&M
- WG report describes an alternative approach that is simple, sensible, fully protective of both target and non-target stocks, and explicitly consistent with the language of the MSA
 - See page 9 of WG report (middle of the page)



V. Data limited stocks

- PR is partially responsive to SSC's ANPR comments
- PR includes new options for proxies that can be used in place of standard SDC in cases where data are especially sparse or uninformative
- WG feels that these changes are improvements
 - Acknowledge the reality that certain reference points cannot be estimated in data-poor cases
 - Achievable alternatives are identified



VI. Stock complexes and indicator stocks

- This topic is new in the PR (i.e., not in the ANPR)
- PR preamble notes that the methods actually used to identify stock complexes often differ from the existing definition (similar distribution, life history, vulnerability)
 - PR prefaces existing definition with, “Where practicable...”
- WG feels that this provides helpful flexibility, but still implies that other methods are not as good
- PR replaces text stating that MSY “should” be estimated for each stock in a complex with a suggestion that MSY be estimated for indicator stocks
- WG feels that this is an improvement, as non-indicator stocks are often data-poor



VII. Aggregate MSY estimates

- This topic is new in the PR (i.e., not in the ANPR)
- PR retains the requirement that MSY be estimated for each stock or stock complex, and adds that it “may also” be specified for the fishery as a whole
- MSA requires specification only at the fishery level
- WG feels that PR should allow an option for specification at the fishery level *instead of*, rather than in addition to, the stock/complex level
- WG feels that “FMP level” should be added as an option, to allow for multiple fisheries under a single FMP



VIII. Developing a “depleted” definition (1 of 2)

- This topic is new in the PR (i.e., not in the ANPR)
- PR preamble notes concern that “overfished” implies low biomass is always caused by overfishing
- PR defines a new category, “depleted,” as a subset of the “overfished” category
- WG notes that the definition does not address the concern, because only an overfished stock can be declared “depleted” under the PR
- Better to add an option for a stock that has declined below MSST for reasons other than overfishing
- It has never made sense to call a stock “overfished” when it has never been subjected to overfishing



VIII. Developing a “depleted” definition (2 of 2)

- PR changes the MSST definition by eliminating the requirement for rebuilding to BMSY within 10 years when fishing at the MFMT, and instead adds a list of several new factors that “could” be considered when specifying MSST
- WG notes that this would not require amending the NPFMC FMPs, but it would allow additional flexibility should the NPFMC wish to revisit its MSST specifications



IX. Multi-year overfishing definition

- SSC had no comments on this ANPR issue
- WG has no substantive comments



X. Revising OY guidance (1 of 3)

- PR is not responsive to SSC's ANPR comment calling for additional guidance on how to account for social and economic effects of management actions
- PR strikes the sentence, "All catch must be counted against OY, including that resulting from bycatch, scientific research, and all fishing activities"
- WG feels that this is inconsistent with PR's new requirement that all such catches be considered in status determinations
- WG also notes that the PR does not provide additional guidance on total catch accounting—an ANPR issue on which the SSC commented extensively
 - WG report lists the specific sub-issues identified previously by the SSC (pages 14-15)



X. Revising OY guidance (2 of 3)

- MSA defines OY, in part, as the yield that “will provide the greatest overall benefit to the Nation”
- Existing guidelines state, “An FMP must contain an assessment and specification of OY, including a summary of information utilized in making such specifications....”
- PR adds new requirement that each FMP “documents how the OY will produce the greatest benefits to the nation and prevent overfishing”—this is part of the “must” above
- WG feels that this would require amendments to most, if not all, of the NPFMC’s FMPs
- WG also feels that documenting how OY will prevent overfishing seems contrary to NS1 itself



X. Revising OY guidance (3 of 3)

- However, WG was unable to reach consensus regarding some other possible implications of the new requirement
- WG report instead provides two alternatives (“A” and “B” on pages 15-16 of the WG report), which differ in details, but which are in agreement that:
 - NMFS needs to issue technical guidance describing how the statutory definition of OY can be satisfied in practice
 - Requiring extensive documentation of the OY specification within the FMP itself is unnecessarily cumbersome



XI. ABC and ACL guidance

- PR is responsive to SSC's ANPR comments
- PR provides two new sub-paragraphs defining management uncertainty and scientific uncertainty
- PR removes the requirement that ABC control rules be based on the P* approach
 - Preamble explicitly mentions decision theory as a an acceptable alternative



XII. Accountability measures

- PR is not responsive to SSC's ANPR comment
- PR suggests that management uncertainty be accounted for in ACL whenever the (optional) concept of ACT is not used
- WG feels that this may warrant either:
 - Revisiting the ABC control rules, or
 - Formally adopting use of ACT terminology
 - NPFMC has not adopted ACT terminology, because existing NS1 guidelines state that an ACT control rule must then be used, but PR relaxes this requirement
- WG suggests "functional equivalents" of ACTs be allowed to satisfy requirement for including management uncertainty



XIII. Establishing ACL mechanisms and AMs

- SSC had no comments on this ANPR issue
- WG feels that the paragraph affording greater flexibility in application of the NS1 guidelines to stocks with unusual life history characteristics should be repositioned, so as to avoid the impression that it applies only to ACL mechanisms and AMs



XIV. Adding flexibility in rebuilding (1 of 2)

- PR is partially responsive to SSC's ANPR comments
- PR identifies the starting date for calculating T_{min}
- WG feels is a helpful clarification
- PR retains the existing discontinuity in the formula for T_{max} (T_{max} can be no greater than 10 years if T_{min} is slightly below 10 years, but T_{max} can be much greater than 10 years if T_{min} is even slightly above 10 years)
- This is hard to rationalize, but the MSA requires it
- PR adds two new alternative methods for calculating T_{max} when T_{min} is greater than 10 years
- WG feels that this provides helpful flexibility



XIV. Adding flexibility in rebuilding (2 of 2)

- PR provides significant new text on determining “adequate progress” under a rebuilding plan
- WG feels that this is helpful
- PR emphasizes keeping catch below the level associated with F rebuild
- WG feels that this is helpful because it places the focus on something that managers can control, but it may also de-emphasize the progress of the stock toward BMSY
- WG suggests encouraging rebuilding plans to identify a “reasonable level of statistical significance that will be used to evaluate progress of the stock toward BMSY”



XV. Recreational fisheries

- This topic is new in the PR (i.e., not in the ANPR)
- All changes referenced under this topic in the PR preamble were previously referenced under topics III, V, and XII
- WG has no additional comments on this topic



NS3. Management units

- PR retains the existing paragraph on analysis of management units, which suggests that each FMP include a discussion of several things, such as alternative specifications of management units and the reasons for selecting the preferred alternative
- WG feels that such documentation is important, but suggests that it appear in supporting analyses such as EAs and RIRs rather than the FMP itself



NS7. Minimize costs

- Changes suggested in the PR are addressed above under topic IV (Stocks that require C&M)
- WG has no additional comments on NS7

