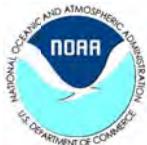


# NORTHEAST REGION COORDINATING COUNCIL

FALL 2011 MEETING

October 20-21, 2011

Hotel Providence--Providence, RI



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### E-mail distribution prior to NRCC meeting

- Updated Northeast Regional Resource Planning Matrix
- NRCC Actions Planning Performance Evaluation Spreadsheet
- History of NER Stock Assessments

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# **Northeast Region Coordinating Council (NRCC) Fall Meeting Agenda**

**October 20-21, 2011      ASFMC, Host**  
**Hotel Providence--Providence, RI**

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*All times are approximate*

## **Thursday, October 20**

### **1300-1345**

1. **SBRM:**
  - a. Update on appellate court remand of SBRM Omnibus Amendment; plan for addressing deficiencies. Gene Martin, GCNE, will provide briefing and advice on what must be addressed to satisfy court
  - b. Update on 3-yr report (Rago)
  - c. Prioritization process for 2012 (Rago; NRCC)

*Time: 45 minutes, briefing and discussion*

### **1345-1430**

2. **Baseline Working Group:** Receive report and recommendations; discuss next steps (carryover item; D. Potts/NERO SFD to present report; NRCC discussion)  
*Time: 45 minutes, presentation and discussion*

### **1430-1515**

3. **Management Review:** Update and discussion of ongoing response to management review (Kurkul, Almeida, Howard)  
*Time: 45 minute discussion*

### ***Break***

### **1530-1630**

4. **Priority Setting:** Review/establish personnel and priority matrices; review actions published by region (Annual fall item, Darcy lead, overviews from NERO PRD, ASMFC, NEFSC, NEFMC, MAFMC)  
*Time: 1 hour*

### **1630-1700**

5. **Action Performance and Consequence Matrix:** Tracking of priority matrix actions exercise (Annual fall item, Ruccio)  
*Time: 30 minutes, presentation and discussion*

### **1700-1730**

6. **TMGC and TRAC:** Discussion on how to better harmonize the US/CA process and SSC/Council processes for shared stock management (Kurkul lead)  
*Time: 30 minutes*

***Conclude Day 1; 1830 Dinner at Joe's American Bar and Grill***

## **Friday, October 21**

**0800-0930**

7. NRCC assessment methods working group update: Discuss transition to the Operational/Research Track assessment process (Merrick; Weinberg)

Assessment-Related Discussions:

- a. Operational/Research Track planning
- b. SAW/SARC schedule revisions
- c. Approve final SAW assessment TORs for SARC 54
- d. White hake assessment update issues  
(Weinberg; NRCC)

*Time: 1.5 hours*

**0930-1030**

8. MAFMC: Specifications Process: Discuss timing of processes to establish annual catch levels and recreational measures. (Robins, Moore; NRCC)

*Time: 1 hour*

***Break***

**1045-1115**

9. Marine Spatial Planning/Ocean Governance: Discussion of ongoing issues related to BOEMRE and council involvement on NOC (National Ocean Council) proposed regional planning bodies (Robins, Moore; NRCC)

*Time: 30 minutes*

**1115-Noon**

10. MRIP Update: Discuss management implications and planning necessary to utilize MRIP data; update on MRIP calibration working group process, preliminary TORs (Ruccio, Weinberg; NRCC)

*Time: 45 minutes*

***Lunch***

**1300-1330**

11. Ecosystem Management: Discuss NEFMC plan to begin discussing spatially-based ecosystem management; discuss MAFMC ecosystem plans (Robins, Moore; NRCC)

*Time: 30 minutes*

**1330-1400**

12. Reduction in Sea Day Impacts: Discuss potential impacts to reduction in NOAA vessel sea days; planning and prioritization options (Almeida; NRCC).

*Time: 30 minutes*

**1400-1430**

13. Wrap up unfinished discussions, review action items, finalize 2011 Meeting Dates

*Time: 30 minutes*

## **NRCC Spring 2011 Action Items**

April 6-7, 2011 Meeting—Providence, RI

<u>Color code key:</u>	
ASMFC	MAFMC
NEFMC	NEFSC
NERO	NRCC

### 1. Subject: Baseline Workgroup

The working group is tasked to discuss and develop a white paper that would outline the issue, look at each fishery's management program, and consider whether a change to the program might be appropriate and, if so, consider potential alternative vessel baseline options for the NRCC to consider in the fall. The report developed for the NRCC's consideration should include strawman options for alternative systems and include information on what processes would be necessary to further develop and implement program changes.

Responsible Parties: **ASMFC**, **MAFMC**, **NEFMC**, **NERO** (lead)

Timeframe: Report back to NRCC at fall 2011 Meeting

### 2. Subject: Create a Fishery Management Action Team (FMAT) for completion of the SBRM 3-year report analytical tasks.

Responsible Parties **MAFMC**, **NEFMC**, **NEFSC**, **NERO**

Timeframe: Populate FMAT by April 30, 2011

### 3. Subject: Progress report on Action Item #2 provided at NRCC mid-term update and final SBRM 3-year report for fall meeting.

Responsible Party: SBRM FMAT

Timeframe: Mid-term status report in mid-July; final 3-year report September 2011

### 4. Subject: Develop a transition plan for implementation of new assessment process in 2013; including, 1) a master schedule for operational assessments, 2) present topics and/or assessments to be included in the preliminary research track, 3) a rollout and communications plan, and 4) identify and begin necessary regulatory changes to FMPs to accommodate operational assessments.

Responsible Party: Standing NRCC ACL Working Group

Timeframe: September 2011

**Fall meeting date change:** now scheduled for October 19-20 (**ASMFC** host); Meeting location and times to be determined.

United States Court of Appeals  
FOR THE DISTRICT OF COLUMBIA CIRCUIT

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Argued May 13, 2011

Decided July 19, 2011

No. 10-5299

OCEANA, INC.,  
APPELLANT

v.

GARY F. LOCKE, IN HIS OFFICIAL CAPACITY AS SECRETARY OF  
THE UNITED STATES DEPARTMENT OF COMMERCE, ET AL.,  
APPELLEES

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Appeal from the United States District Court  
for the District of Columbia  
(No. 1:08-cv-00318)

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*Hyland Hunt* argued the cause for appellant. On the  
briefs was *Sara E. Robinson*. *Eric A. Bilsky* and *Avrum M.  
Goldberg* entered appearances.

*Robert J. Lundman*, Attorney, U.S. Department of  
Justice, argued the cause for appellees. With him on the brief  
was *John L. Smeltzer*, Attorney. *R. Craig Lawrence*,  
Assistant U.S. Attorney, entered an appearance.

Before: SENTELLE, Chief Judge, GINSBURG and  
GARLAND, Circuit Judges.

Opinion for the Court filed by *Circuit Judge GINSBURG*.

GINSBURG, *Circuit Judge*: Oceana, Inc. brought this suit against the National Marine Fisheries Service challenging as unlawful the methodology it uses to track bycatch in the fisheries off the Northeastern coast of the United States. The district court concluded the methodology satisfies applicable law, *see* 16 U.S.C. § 1853(a)(11), and entered a summary judgment for the Fisheries Service, which Oceana now appeals. Because the Fisheries Service has merely described but has not, as the Fisheries Act requires, “established” a “standardized reporting methodology” to assess bycatch in the Northeastern fisheries, we reverse the judgment and instruct the district court to vacate the rule adopting the methodology and to remand the matter to the agency for further proceedings.

### I. Background

The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act, 16 U.S.C. §§ 1801-1884 (Fisheries Act), requires the Secretary of Commerce, through the Fisheries Service,<sup>\*</sup> to adopt policies that “to the extent practicable,” reduce the volume of bycatch, § 1851(a), that is, fish that are inadvertently or unavoidably captured by nets or other gear and then discarded, *see* § 1802(2) (defining bycatch as the “fish which are harvested in a fishery, but which are not sold or kept for personal use”). *See also* § 1801(c)(3) (stating

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\* The Fisheries Service is a branch of the National Oceanic and Atmospheric Administration (NOAA), in the Department of Commerce. The Secretary of Commerce and the NOAA are also defendants and appellees in this lawsuit. For simplicity we refer only to the Service.

congressional intent to “encourage[] development of practical measures that minimize bycatch and avoid unnecessary waste of fish”). The Fisheries Act further instructs the agency, in conjunction with eight regional councils, to “establish a standardized reporting methodology to assess the amount and type of bycatch” in each fishery in each region. § 1853(a)(11); *see* § 1852 (regarding role and authority of regional councils). The councils then use the reports to develop policies to minimize bycatch and bycatch mortality. *See* 50 C.F.R. § 600.350(d) (requiring regional council to create a database on bycatch and bycatch mortality that will help it “evaluate conservation and management measures”).

In order to comply with the directive in § 1853(a)(11) to “establish a … methodology,” the Fisheries Service, working with the councils for the New England and Mid-Atlantic regions, proposed an “omnibus amendment” to the fishery management plans for each of the 13 fisheries in those regions, *see* 73 Fed. Reg. 4736 (Jan. 28, 2008). The Amendment requires the Service’s regional officials to fund and allocate independent observers to gather data on bycatch from each “fishing mode,” or combination of vessel type and fishing gear. *See id.* at 4738. The Service must fund enough observer voyages to generate statistically reliable data. *Id.* at 4738 (“The amendment is intended to ensure that the data collected … are sufficient to produce a coefficient of variation (CV) of the discard estimate of no more than 30 percent, in order to ensure that the effectiveness of the [Amendment] can be measured, tracked, and utilized to effectively allocate the appropriate number of observer sea days”).

The Amendment separately authorizes the Service to invoke a “Prioritization Process,” however, “[i]n any year in which external operational constraints would prevent the [agency] from fully implementing the required at-sea observer

coverage levels.” In those years the Service may, instead of complying with the levels set out in the Amendment, determine the “most appropriate” number and allocation of observers according to the “data needs” of the Service, its obligations under other statutes, and “any other criteria” it may identify. *Id.* The Amendment also commits the agency to consulting the regional councils about its proposed “prioritized allocations” before implementing them.\* *Id.*

Oceana filed suit in the district court claiming the Amendment violates the Fisheries Act, the Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(A), and the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332. The district court rejected all of Oceana’s statutory claims, 725 F. Supp. 2d 46 (2010), as well as its “Motion to Compel Completion of the Record” with documents the Service contends are privileged, 634 F. Supp. 2d 49 (2009). Oceana appeals both rulings.

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\* The Amendment provides in relevant part:

In any year in which external operational constraints would prevent NMFS from fully implementing the required at-sea observer coverage levels, the Regional Administrator and Science and Research Director will consult with the Councils to determine the most appropriate prioritization for how the available resources should be allocated. In order to facilitate this consultation, in these years [they] will provide the councils, at the earliest practicable opportunity [with four types of information] . . . . The Councils may choose to accept the proposed observer coverage allocation or to recommend revisions or additional considerations . . . .” 73 Fed. Reg. at 4738.

## II. Analysis

In its primary argument on appeal, Oceana contends the Fisheries Service has not “established” a standardized bycatch reporting methodology, as the term is used in the Fisheries Act, § 1853(a)(11). We will defer to the Service’s interpretation of what that provision requires so long as it is “rational and supported by the record,” *C & W Fishing Co. v. Fox*, 931 F.2d 1556, 1562, (D.C. Cir. 1994), and we will not set aside the agency’s choice of a methodology unless it is “arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law,” 5 U.S.C. § 706(2)(A); *see* § 1855(f) (providing for judicial review of regulations pursuant to the APA).\* Although the district court heard this dispute in the first instance, *see* § 1861(d), on appeal we review not the judgment of the district court but the agency’s action directly, giving “no particular deference” to the district court’s view of the law. *Natural Res. Def. Council v. Daley*, 209 F.3d 747, 752 (D.C. Cir. 2000) (quoting *Associated Builders & Contractors, Inc. v. Herman*, 166 F.3d 1248, 1254 (D.C. Cir. 1999)); *see also Am. Bioscience, Inc. v. Thompson*, 269 F.3d 1077, 1083 (D.C. Cir. 2000) (“[W]hen a party seeks review of agency action under the APA, the district judge sits as an appellate tribunal. The entire case on review is a question of law.”) (internal quotation marks omitted).

Oceana argues the Amendment is not consistent with § 1853(a)(11) because, instead of establishing a methodology

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\* Because we apply the same standard of review to the Amendment issued by the Service and to the Secretary’s approval thereof, *see Fishing Co. of Alaska v. Gutierrez*, 510 F.3d 328, 330 (D.C. Cir. 2007) (rejecting as unreasonable Secretary’s determination that a procedurally defective rule proposed by the Fisheries Service was “consistent with applicable law”), we do not distinguish further between them.

by which the agency will proceed, the Amendment describes “an optional methodology” that applies “in some years and not in others.” In response, the Service says it has established a methodology pegged to a benchmark of statistical precision that is binding upon it “unless external operational constraints, such as funding shortfalls” make compliance impossible; in other words, it is enough to satisfy § 1853(a)(11) that the Amendment “establishes” the methodology the agency will use when it can. Oceana, the Service adds, remains free to challenge the allocation of observers for any particular year.

The Fisheries Service rests its defense of the Amendment upon the scope of the phrase “external operational constraint,” which it says is a meaningful limitation upon the agency’s discretion to depart from the standardized methodology it has prescribed. To address this argument we consult our decisions addressing similar statutory mandates, in regulatory regimes other than the Fisheries Act, to “establish” (or “prescribe” or “set,” or the like) a procedure or standard. *Compare, e.g., Cement Kiln Recycling Coalition v. EPA*, 493 F.3d 207 (2007) (concluding EPA reasonably prescribed process by which it would impose “terms and conditions [in permits] ... necessary to protect human health and the environment,” as required by Resource Conservation and Recovery Act, 49 U.S.C. § 6925, despite alleged vagueness of that standard); *with Ethyl Corp. v. EPA*, 306 F.3d 1144 (2002) (holding EPA did not sufficiently “establish methods and procedures for making tests” for new automobile models, as required by Clean Air Act, because regulation did not prescribe standard by which agency would approve an emissions test proposed by a manufacturer); and *MST Express v. Dep’t of Transp.*, 108 F.3d 401 (1997) (holding Secretary of Transportation did not satisfy mandate of Motor Carrier Safety Act to “prescribe regulations establishing a procedure

to decide on the safety fitness of owners” because agency issued specific standards in informal document and left formal regulation vague).

Summarizing these cases most recently in *Cement Kiln*, 493 F.3d at 217, we considered the limits upon an agency’s authority to reserve in advance some discretion to depart on a case-by-case basis from an otherwise applicable rule: The agency must adequately define the circumstances that “trigger” the case-by-case analysis, 493 F.3d at 222-23, and it must set an “identifiable standard” to guide its judgment when operating under that procedure, *id.* at 220-21 (quoting *Ethyl Corp.*, 306 F.3d at 1149-50). The agency has broad discretion to use general terms for the “trigger” and the “identifiable standard,” however, unless the statute requires the agency to be more specific or the rule reflects an unreasonable interpretation of the statute. *See id.* at 217-18 (quoting *Ethyl Corp.*, 306 F.3d at 1149). As we said in *Cement Kiln*, showing a rule is “impermissibly vague” when the statute is silent is “always a difficult burden for a petitioner to overcome.” *Id.* at 222-23.

The Amendment at issue here fails to survive this indulgent standard of review because it creates an exception so vague as to make the rule meaningless: The Fisheries Service apparently has given itself complete discretion to determine when an “external operational constraint prevents [it] from fully implementing the required coverage levels.” 73 Fed. Reg. at 4738. As Oceana observes, nothing in the Amendment prevents the Service from announcing a “constraint” applies in any or indeed every year.

In its brief the Service tells us a “funding constraint” is the “quintessential example” of an “external operational constraint scenario.” Neither that nor any other example is

instanced in the Amendment itself but let us assume for the sake of the agency's argument the term "external operational constraint" does not comprise every ill wind that blows the agency's way but instead refers exclusively to a funding constraint. We would still have to conclude the Service failed to "establish" a standardized reporting methodology. The Amendment prescribes no criterion or formula by which the Service determines whether the funding available to it in a particular year will prevent it from "fully implementing" the standardized methodology. Consequently, the agency can declare a budgetary "constraint" in any year it finds doing so convenient, with no detectable consistency from one year to another. Perhaps the only constant is that no agency ever has enough money to do everything it might want to do. Be that as it may, no reasonable interpretation of the statutory instruction to "establish a standardized methodology" would allow the agency to reserve to itself effectively complete discretion to trigger an exemption.

Nor is it clear even a "funding constraint" is necessarily "outside the agency's control," as the Service implies: The Service nowhere claims the Congress appropriates a specific amount for the observation program or prohibits the Service from using other appropriated or, for that matter, nonappropriated funds for that purpose. *See Comments of Oceana Concerning the Northeast Region Standardized Bycatch Reporting Methodology Omnibus Amendment*, Sept. 24, 2007, at 8 ("While the ... Amendment established a mechanism which would allow regional councils to establish industry-funding for observers through future rulemakings," *see* 73 Fed. Reg. at 4740, the Fisheries Service "never considered using industry funding to ensure that the [precision] standard was always achieved"). Because the agency determines both the amount of funding required for bycatch observation and the funding it will allocate for that

purpose, it can determine the stringency of this supposedly “external” constraint and thus free itself at will from the methodology it purportedly “established.” This will not do.

In addition to setting an impermissibly vague “trigger,” *Cement Kiln*, 493 F.3d at 223, the Amendment does little to channel the agency’s exercise of discretion when it determines the “most appropriate” allocation of observers. The Amendment identifies a handful of factors upon which the agency “should” set its priorities, including the “data needs of upcoming stock assessments … [and of] fishery management actions,” and the applicable “legal mandates” of the Endangered Species Act and the Marine Mammal Protection Act. These factors, which merely restate the agency’s statutory obligations, do not meaningfully constrain the agency in setting and implementing its priorities. *Compare* 73 Fed. Reg. at 4738/3, with *Cement Kiln*, 493 F.3d at 223 (holding EPA sufficiently identified standard by referencing “nine relatively specific factors”).

In sum, the Service’s defense of the Amendment is as unpersuasive as it is conclusory. To Oceana’s argument that “key elements” of the methodology, including the standard of precision, are in fact “optional” because the agency may disregard them at will, the agency has responded, in effect, that the key elements and the methodology as a whole are binding upon it — except of course in the years when they are not. *See, e.g.*, Govt. Br. at 26 (“The methodology does not change if funding is insufficient”). The agency appears to mean the methodology is “established” in some Platonic sense, serving as the model to which the agency will aspire, though it is never itself fully realized. (Ah, but a man’s reach should exceed his grasp, or what’s a heaven for?) Here we must agree with Oceana: The “prioritization process” is the exception that proves this rule and shows it is not a rule at all.

Although the Service congratulates itself for having adopted an approach “particularly wise in this fiscal climate,” the self-proclaimed wisdom of the approach cannot save it because the Congress, in its more commanding wisdom, has not authorized it. Here, we take note of the second clause of subsection (a)(11), which directs the agency to adopt “conservation and management measures that [minimize bycatch and bycatch mortality] to the extent practicable.” The qualifier “to the extent practicable” does not appear in or modify the first clause of the same sentence, where the Service is directed to “establish” a standardized methodology. When a statute commands an agency without qualification to carry out a particular program in a particular way, the agency’s duty is clear; if it believes the statute untoward in some respect, then “it should take its concerns to Congress,” for “[i]n the meantime it must obey [the statute] as written.” *Natural Res. Def. Council v. EPA*, No. 10-1086, slip op. at 21 (D.C. Cir. Jul. 1, 2011); cf. *Pennsylvania v. Lynn*, 501 F.2d 848, 852 (D.C. Cir. 1974) (upholding Secretary’s “limited discretion” to terminate statutorily mandated housing programs he found were frustrating rather than advancing congressional intent).

### III. Conclusion

Because the Amendment grants the Fisheries Service substantial discretion both to invoke and to make allocations according to a non-standardized procedure, we hold the Service did not “establish” a standardized methodology under the Fisheries Act. At best the rule sets a benchmark from which the agency freely can and apparently does significantly depart in its annual allocation of observers.\* We therefore

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\* Experience thus far tends to support this conclusion: The agency is yet to apply the “standardized” methodology it purportedly “established” because it has found itself subject to a “constraint” in

reverse the judgment of the district court without reaching either Oceana's separate challenge under the NEPA, *see NRDC v. Daley*, 209 F.3d at 753, or its appeal of the order denying its motion for completion of the record, *see Ctr. for Auto Safety v. Ruckelshaus*, 747 F.2d 1, 6 (D.C. Cir. 1984); *Metcalf v. Daley*, 214 F.3d 1135, 1146 n.4 (9th Cir. 2000) (ruling that agency's Environmental Assessment violated NEPA "renders moot" challenge to denial of motion to compel production of administrative record material because "[w]ith the preparation of a new EA, a new administrative record will also be generated"). We remand this matter to that court for the purpose of vacating the Amendment and remanding it to the agency for further proceedings consistent herewith.

*So ordered.*

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each of the four years the final rule has been in effect. *See* Appellant Br. at 27-28 (of the observer voyages required under standardized methodology, agency funded less than 30 percent in 2008 and roughly 40 percent in 2009). The plasticity of the Amendment being apparent on its face, however, and the 30-day deadline in § 1855(f) for seeking judicial review implying a congressional preference for immediate resolution, we see no reason to withhold judgment pending a challenge to the rule as applied. *See Cement Kiln*, 493 F.3d at 215; *accord NRDC v. EPA*, slip op. at 16.



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
55 Great Republic Drive  
Gloucester, MA 01930-2276

OCT - 6 2011

Dear Permit Holder:

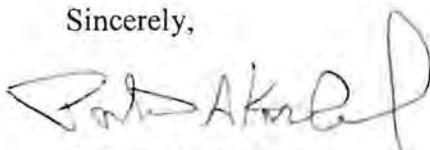
The National Marine Fisheries Service, in consultation with the Atlantic States Marine Fisheries Commission and the New England and Mid-Atlantic Fishery Management Councils, would like your input on potential changes to the vessel baseline regulations.

We have published the attached Advance Notice of Proposed Rulemaking to collect public comments on the current regulations that restrict the length, tonnage, and horsepower of a replacement fishing vessel and on possible changes to those regulations. The notice published in the *Federal Register* on October 5, 2011, and comments must be submitted by December 5, 2011. I have included a copy of the notice to give you more details about some of the potential changes and instructions for submitting comments.

We are at an early stage in this process, and there are no firm plans for if, how much, or when the vessel baseline regulations might change. I anticipate that any future regulatory change to the vessel baseline regulations would occur through an omnibus amendment jointly developed by the New England and Mid-Atlantic Councils. As potential changes are further developed, you will have additional opportunity for input into these potential changes through your Council.

Thank you for your time, and I hope you will consider sharing your thoughts on how to improve this program.

Sincerely,



Patricia A. Kurkul  
Regional Administrator

Attachment



Federal Acquisition Regulation (FAR) 2.101 related to cost or pricing data. Included within the definition of “data other than certified cost or pricing data” is a statement that such data may include the identical types of data as “certified cost or pricing data,” but without the certification. Thus, the definitions of both “certified cost or pricing data” and “data other than certified cost or pricing data” refer to cost or pricing data.

### C. Conclusion

The CAS Board believes the August 30, 2010 revisions to FAR 2.101 may cause some confusion over the applicability of CAS in view of the current wording of the (b)(15) FFP exemption. Consistent with Section 802, it has not been the CAS Board’s intent to apply CAS to FFP contracts or subcontracts awarded on the basis of adequate price competition where certified cost or pricing data was not obtained. Therefore, the CAS Board is considering a proposed change to the wording of the (b)(15) FFP exemption.

### D. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. Chapter 35, Subchapter I) does not apply to this rulemaking, because this rule imposes no additional paperwork burden on offerors, affected contractors and subcontractors, or members of the public which requires the approval of OMB under 44 U.S.C. 3501, *et seq.* The purpose of this proposed rule is to clarify the implementation of the “Streamlined Applicability of Cost Accounting Standards” at Section 802 of National Defense Authorization Act for Fiscal Year 2000.

### E. Executive Order 12866, the Congressional Review Act, and the Regulatory Flexibility Act

This rule serves to clarify the elimination of certain administrative requirements associated with the application and administration of the Cost Accounting Standards by covered Government contractors and subcontractors, consistent with the provisions of “Streamlined Applicability of Cost Accounting Standards” at Section 802 of National Defense Authorization Act for Fiscal Year 2000. The economic impact on contractors and subcontractors is, therefore, expected to be minor. As a result, the CAS Board has determined that this proposed rule will not result in the promulgation of an “economically significant rule” under the provisions of Executive Order 12866, and that a regulatory impact analysis will not be

required. Finally, this rule does not have a significant effect on a substantial number of small entities because small businesses are exempt from the application of the Cost Accounting Standards. Therefore, this proposed rule does not require a regulatory flexibility analysis under the Regulatory Flexibility Act of 1980, 5 U.S.C. Chapter 6.

### List of Subjects in 48 CFR Part 9903

Cost accounting standards, Government procurement.

#### Daniel J. Gordon,

*Chair, Cost Accounting Standards Board.*

For the reasons set forth in this preamble, chapter 99 of Title 48 of the Code of Federal Regulations is proposed to be amended as set forth below:

### PART 9903—CONTRACT COVERAGE

1. The authority citation for Part 9903 continues to read as follows:

**Authority:** Public Law 111–350, 124 Stat. 3677, 41 U.S.C. 1502.

### SUBPART 9903.2—CAS PROGRAM REQUIREMENTS

2. Section 9903.201–1 is amended by revising paragraph (b)(15) to read as follows:

#### 9903.201–1 CAS applicability.

\* \* \* \* \*

(b) \* \* \*

(15) Firm-fixed-price contracts or subcontracts awarded on the basis of adequate price competition without submission of certified cost or pricing data.

\* \* \* \* \*

[FR Doc. 2011–25623 Filed 10–4–11; 8:45 am]

BILLING CODE P

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

[Docket No. 110907562–1598–01]

RIN 0648–BB40

### Fisheries of the Northeastern United States; Changes to Vessel Replacement and Upgrade Provisions for Fishing Vessels Issued Limited Access Federal Fishery Permits

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** NMFS, in consultation with the Atlantic States Marine Fisheries Commission (Commission) and the New England and Mid-Atlantic Fishery Management Councils (Councils), is considering changes to the current system of regulations that limit the potential size of a replacement vessel. This advance notice of proposed rulemaking (ANPR) provides background information and requests public comment on the administrative and financial burdens of the current system, as well as on what type of changes would be appropriate to reduce that burden and the regulatory complexity without adversely affecting the fishery. NMFS will consider all recommendations received in response to this ANPR prior to any proposed rulemaking.

**DATES:** Comments must be received on or before December 5, 2011.

**ADDRESSES:** You may submit comments on this document, identified by NOAA–NMFS–2011–0213, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e–Rulemaking Portal <http://www.regulations.gov>. To submit comments via the e–Rulemaking Portal, first click the “submit a comment” icon, and then enter NOAA–NMFS–2011–0213 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.

- **Mail and hand delivery:** Submit written comments to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: “Comments on Vessel Upgrade ANPR.”

• **Fax:** (978) 281–9135.

**Instructions:** Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on <http://www.regulations.gov> without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected

information. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:**  
Douglas Potts, Fishery Policy Analyst, (978) 281–9341, fax (978) 281–9135.

**SUPPLEMENTARY INFORMATION:**

**Background**

Measures to limit the potential size of a replacement vessel were first implemented in the Northeast Region in 1994 in conjunction with the adoption of limited access permits in the Northeast Multispecies and Atlantic Scallop Fishery Management Plans (FMP). NMFS enacted these measures to promote conservation of the fish species by limiting the potential increase in fishing capacity of the fleet and thereby maintaining total fishing mortality within the requirements of the respective rebuilding schedule of the FMP. In the following years, NMFS adopted limited access permits for other fisheries in the Northeast, some of which included various restrictions on how a permitted vessel could be replaced. In 1999, an omnibus amendment (Consistency Amendment) to all the FMPs of the Councils was implemented (64 FR 8263, February 19, 1999) to expand and standardize the upgrade restrictions to encompass most of the limited access fisheries in the Northeast.

The current regulations restrict the size and horsepower of any replacement vessel, or modifications to the current vessel, based on the specifications of a baseline vessel. The baseline vessel for each limited access permit is typically the first vessel issued the limited access permit in that fishery at the time that permit was issued. In the case of fisheries that adopted baseline restrictions through the Consistency Amendment, the permitted vessel as of the date of the final rule's implementation sets the baseline. In some cases, this methodology resulted in a single vessel with permits for multiple fisheries having more than one baseline. In that situation, the most restrictive combination of baseline specifications applies, unless the vessel owner chooses to relinquish permanently the permit with the more restrictive baseline(s).

Current regulations allow vessel owners to increase (or upgrade) a specification either by moving the limited access permit to a new vessel or by modifying the current vessel, up to

10 percent above of the baseline vessel's length overall, gross registered tonnage, and net tonnage and up to 20 percent above the baseline vessel's horsepower. As a matter of NMFS policy, all calculated maximum upgrade values are rounded up to the next whole number. The baseline size and horsepower specifications associated with a permit can only be upgraded once, although the vessel size characteristics (length overall, gross registered tonnage, and net tonnage) and engine horsepower can be upgraded at different times. For example, a vessel owner looking to replace his current vessel, which has a baseline engine horsepower of 300, may, if the horsepower on that permit was not upgraded before, move it to a vessel with up to 360 horsepower (20 percent greater than the 300-horsepower baseline). If the owner opts for a new vessel with a 340-horsepower engine, that action counts as the one-time upgrade, and any future replacement vessel could not exceed that new 340-horsepower maximum limit. The baseline size characteristics can be upgraded through this same vessel replacement or used another time. However, since size characteristics are upgraded as a group, if the baseline length overall is upgraded but not the gross and net tonnages, the baseline tonnage specifications cannot be upgraded in the future.

When a vessel owner wants to move a limited access Federal fishery permit to a replacement vessel, as part of the application he must provide documentation from a third party to demonstrate that the length, gross registered tonnage, net tonnage, and horsepower are within the limits for that permit. Many vessels use the U.S. Coast Guard vessel documentation certificate for length and tonnages, although the documentation certificate should then reflect the length overall as required by NMFS regulation, rather than the typical registered length. Vessels that are not documented by the U.S. Coast Guard must provide other documentation for vessel size. Obtaining vessel specification documents may involve the time and expense of having the new vessel measured by a marine surveyor or other qualified individual. Engine horsepower documentation may require testing by a marine mechanic and documentation of the results on formal letterhead. On the other hand, all of this information might be routinely obtained for other purposes (*e.g.*, for insurance coverage) and it could be a minimal additional cost to provide copies as part of a permit transfer application. The cost of documenting vessel

specifications has been previously estimated at \$375 for calculating the burden to the public under the requirements of the Paperwork Reduction Act. The full cost to the industry of this process is not clear, and the public is encouraged to submit comments on how much of a financial and time burden this process has been.

Some members of the fishing industry have reported that it can be difficult to find a suitable replacement vessel within allowed upgrades, especially for small boats. For example, a replacement for a 25-ft (7.6-m) baseline vessel could not exceed 28 ft (8.5 m), and manufacturers may not make vessels in the allowed size range that also meet other specific needs of a vessel owner. Similarly, modern marine engines are manufactured to meet more stringent emissions standards, and horsepower ratings may not be as adjustable as in the past without violating those limits. The safety of a vessel at sea, especially in adverse weather conditions, is affected by many factors, including the size of the vessel. NMFS encourages comments from the public on the availability of suitable replacement vessels, and the impact this has on safety at sea.

The primary justification for the adoption of upgrade restrictions was to control the potential increase in catch from each permitted vessel that could occur with increases in vessel size and horsepower and, therefore, to prevent unexpected increases in fishing mortality that could hinder a rebuilding program. Since the initial implementation of vessel upgrade and replacement restrictions, many fisheries have also adopted trip limits or other measures that control the potential harvest of a vessel beyond just restricting vessel size. In addition, the recent adoption in all fisheries of annual catch limits that cap total harvest in a given year may reduce the concern over excessive fishing mortality. In light of these other measures, it is possible that vessel baseline restrictions could be relaxed without adversely affecting stock rebuilding. However, the upgrade restriction is considered one factor that is helping to preserve the small vessel character of the fishing fleet in the Northeast region. Larger and more powerful vessels could also have increased impacts on habitat or bycatch of non-target species. Further, fishery management actions adopted by the coastal states through the Commission may rely on the baseline upgrade restrictions for federally permitted vessels to control harvest potential. These considerations will have to be more fully understood before a change

to current regulation can be implemented.

A wide range of options could be considered as part of any action to change vessel baseline regulations. NMFS would like public input on the full range of potential actions, including suggestions for other changes to baseline regulations that are not specifically listed in this announcement, such as how to treat vessels that have multiple baselines and/or have already upgraded under the current system. Potential changes may include one or more of the following.

1. *Eliminate tonnages from vessel baseline regulations.* The tonnages are often considered the most malleable of baseline specifications. The gross registered tonnage can vary significantly depending on whether exact measurements or the simplified calculation method is used. Similarly, net tonnage can be calculated based either on the gross tonnage or from measurements of the vessel, and may be changed by modifying internal bulkheads. Tonnage has also been a concern for owners of vessels built outside of the United States that are determined to be under 5 net tons (14.16 m<sup>3</sup>) for import purposes.

2. *Eliminate the one-time upgrade provision.* This would eliminate the incentive to use as much of the available upgrade as possible to avoid “losing” some amount of future upgrade. The change could also simplify upgrade considerations by establishing the

maximum specifications of any future vessel without needing to know whether any specification has already been upgraded. For example, under this option, if the permit on your vessel has a baseline horsepower specification of 300, and at some point moved to a vessel with 340 horsepower, a future replacement vessel could still be up to 360 horsepower (20 percent greater than the 300-horsepower baseline).

3. *Change from a system of fixed upgrades to a system of size classes.* This option would allow a vessel owner to move a permit to any vessel that fits within the specified size class. The specifics of this type of change, including the number and size of the size classes, have not been fully developed, and NMFS seeks comment to this end. Specific size classes could be based on vessel length, horsepower, or a combination. Such a system would simplify the vessel replacement considerations by making them uniform for all vessels in a particular size class rather than the current system where potential upgrades are unique to each permit. However, determining specific size classes that are appropriate for all fisheries may be difficult, and such a system might disadvantage vessels that are already at the upper limit of a size class.

4. *Remove baseline upgrade restrictions for vessels under 30 ft (9.1 m).* The Councils discussed this potential measure in 1998 during the development of the Consistency

Amendment, and again in 2003, but took no formal action at either time. This approach would remove the burden on the smallest vessels as long as they stay under 30 ft (9.1 m), but would establish upgrade provisions that are not uniform for all vessels, which might be confusing or seen as unfair.

5. *Complete removal of upgrade restrictions.* This would allow any vessel owner to move his/her permit to any other vessel. It would provide maximum flexibility to the industry, but would remove the baseline system’s restrictions on fleet structure and would likely have the largest impacts on the fishery and the environment.

The long comment period for this ANPR is intended to overlap with meetings of both Councils. While this topic may be discussed at the Council meetings, please submit written comments on the burden of the current vessel baseline system, the potential changes outlined here, or any suggestions for other changes that might be appropriate through one of the methods identified in the **ADDRESSES** section of this ANPR, to ensure that they are fully considered.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: September 30, 2011.

**Samuel D. Rauch III,**

Deputy Assistant Administrator for  
Regulatory Programs, National Marine  
Fisheries Service.

[FR Doc. 2011-25746 Filed 10-4-11; 8:45 am]

**BILLING CODE 3510-22-P**

**Baseline Working Group**  
**White Paper**

**Evaluating Options to Simplify Vessel Baseline, Upgrade, and Replacement  
Restrictions**

**October 18, 2011**

Joint Project with Partners from the National Marine Fisheries Service (NMFS) Northeast Regional Office, New England Fishery Management Council, Mid-Atlantic Fishery Management Council, and Atlantic States Marine Fisheries Commission

## **Abstract**

The establishment of limited access fisheries in the Northeast has been accompanied by strict limits on vessel upgrades and replacements. While the 1999 Consistency Amendment made such restrictions consistent across fisheries to ensure that effort did not increase significantly, the resulting upgrade and replacement process is complex and can be burdensome for industry members and administrators. While the original intent of such restrictions was to limit increases in harvest capacity in limited access fisheries, management programs have evolved and there are currently many other effort controls that may be limiting effort more effectively. With the development of more effective input controls such as trip limits, gear restrictions, closed areas and others; as well as output controls such as annual catch limits, accountability measures, and catch share programs, the vessel upgrade and replacement restrictions could be simplified to reduce burden on fishing communities without compromising Northeast fish stocks. Options to simplify vessel upgrade and replacement restrictions could include: Eliminating tonnages from vessel baseline regulations; eliminating the one-time upgrade provision; changing from a system of fixed upgrades to a system of size classes; removing baseline upgrade restrictions for vessels under 30 ft; or removing the restrictions entirely. While some preliminary work has been done to develop these options, there are likely other options that should be considered. The baseline working group recommends that the Northeast Region Coordinating Council set simplifying vessel upgrade and replacement restrictions as a priority and form a joint New England and Mid-Atlantic Council committee to explore and analyze potential options.

## **Background**

### *Limited Access Fisheries*

The Mid-Atlantic Fishery Management Council (MAFMC) developed the first limited entry program in 1977 for the surfclam/quahog fishery, which only allowed replacement by a vessel of “substantially similar capacity”. A limited entry program for the summer flounder fishery was implemented in 1992, which prohibited any vessel upgrades and only allowed replacements if a vessel was documented as unseaworthy. As more limited access programs were implemented, vessel upgrade and replacement restrictions were made more flexible. Based on recommendations from fishing industry members, when the New England Fishery Management Council (NEFMC) implemented a moratorium program for the Northeast (NE) multispecies fishery in Amendment 5 to the Fishery Management Plan (FMP) and for the Atlantic sea scallop (scallop) fishery in Amendment 4 to the FMP, the NEFMC decided to allow vessel upgrades and replacements, but restrict the size and horsepower of any replacement vessel, or modifications to the current vessel, based on the specifications of a baseline vessel. The definition of a baseline vessel varied in each limited access fishery, but was typically the first vessel issued the limited access permit in that fishery at the time the permit was issued. After the baseline vessel has been established, vessel owners are restricted in changing the specifications of their vessel. When upgrading or replacing a vessel, the vessel can only increase up to 10 percent above the baseline vessel’s length overall (LOA), gross registered tonnage (GRT), and net tonnage (NT); and/or up to 20 percent above the baseline vessel’s horsepower (HP). The size and horsepower specifications associated with a vessel permit can only be upgraded once, although the vessel size characteristics (LOA, GRT, NT) and HP can be upgraded at different times. When baseline

vessel specifications for limited access vessels were established, vessel owners were allowed to submit documentation correcting the vessel baseline specifications if they were incorrect.

As more limited access programs were implemented, vessel upgrade and replacement restrictions became increasingly varied. The MAFMC used the strict summer flounder vessel upgrade and replacement restrictions as a guide when developing the scup, Longfin squid/butterfish, and *Illex* squid moratorium programs. Limited access scup, Longfin squid/butterfish, and *Illex* vessel owners were limited to vessel replacements if the vessel was documented to be unseaworthy and weren't allowed any vessel upgrades. However, as the black sea bass fishery limited access program was being developed, industry members urged the MAFMC to adopt some of the more flexible measures regarding vessel upgrades and replacements that had been adopted in New England. Amendment 10 to the summer flounder FMP also resulted in increasing flexibility in vessel upgrade restrictions.

#### *Development of the 1999 Consistency Amendment*

While the goal of requiring baseline specifications and limiting vessel upgrades and replacements was to control fishing effort, prior to the 1999 Consistency Amendment, the regulations were different across fisheries managed by the NEFMC and MAFMC. There were 1,261 vessels with one limited access permit and 2,506 vessels with multiple limited access permits in the 1997-1998 fishing year. The upgrade restrictions became confusing for fishing industry members with more than one limited access permit, because each permit had the potential to have different vessel upgrade regulations apply. In response, the 1999 Consistency Amendment was developed jointly by the NEFMC and MAFMC to standardize baselines, and vessel upgrade and replacement restrictions across all limited access fisheries.

The 1999 Consistency Amendment was implemented for the following FMPs:

- Summer Flounder, Scup, Black Sea Bass
- Northeast Multispecies
- Atlantic Mackerel, Squid, and Butterfish
- Atlantic Surf Clam/Ocean Quahog
- Atlantic Sea Scallop
- American Lobster

While baseline vessel specifications for limited access vessels were already in place for the summer flounder, black sea bass, Northeast multispecies, surfclam/quahog, and scallop fisheries, the Longfin squid/butterfish, *Illex*, and scup fisheries implemented vessel baseline specifications through the 1999 Consistency Amendment. The baseline vessel specifications for Longfin squid, butterfish, *Illex*, and scup were set as the specifications of permitted vessel as of the date the 1999 Consistency Amendment was implemented. In some cases, this resulted in a single vessel with permits for multiple fisheries having more than one baseline. In that situation, the most restrictive combination of baseline specifications applied, unless the vessel owner chose to relinquish permanently the permit with the more restrictive baseline(s). As a part of the Amendment, baselines were eliminated for American lobster permits. While American lobster permits can only be replaced or upgraded once a year, similar to the other limited access permits, they are not held to the same upgrade restrictions and have no restrictions on increasing vessel

size and horsepower. However, vessels issued an American lobster permit and other limited access permits are subject to the vessel upgrade restrictions of the other permits on the vessel.

#### *Limiting fishing effort through upgrade restrictions*

The main reason for implementing strict vessel upgrade regulations in the surfclam/quahog fishery was to control fishing effort and limit the expansion of the fishing fleet. While the original upgrade restrictions only allowed replacements by a vessel of a “substantial similar capacity,” the 1999 Consistency Amendment aimed to limit permitting complications associated with commercial vessels that have multiple limited access permits whenever they are bought, sold, transferred, or upgraded. It also simplified regulations for vessel replacements, permit transfers, and vessel upgrades and made them less restrictive to help to facilitate business transactions by making the regulations consistent and less confusing. Such flexibility in upgrade restrictions still controlled fishing effort, while allowing for more flexibility for industry members to make improvements to their vessels. Vessel upgrade restrictions were also expected to provide some biological benefit to fishery stocks because vessels were limited in increasing fishing capacity through increasing horsepower and vessel size. Such limits were expected to have positive impacts on overfished stocks and aid in the success of rebuilding programs by limiting future fishing mortality through vessel upgrade restrictions.

#### *Current vessel upgrade and replacement restrictions*

Since the implementation of the Consistency Amendment, vessel upgrade and replacement restrictions have been implemented in other limited access fisheries, such as monkfish and Atlantic herring. They are also likely to be implemented in the upcoming approved limited access mackerel program. In 2011, there are currently 743 vessels with one limited access permits and 1359 vessels with multiple limited access permits that are affected by the baseline requirements. The limited access mackerel program is expected to add another 400 vessels that will be subject to the same requirements, plus an additional hold certification baseline<sup>1</sup>.

Despite the Consistency Amendment’s efforts to streamline the implementation process, upgrade and replacement restrictions, including establishing a baseline vessel, have become complex over the years. For instance, the vessel that currently holds a limited access permit may not be the baseline vessel that was established for that permit. If a vessel was issued a NE multispecies permit in 1994 and then did a vessel replacement, the old “original” vessel that was first issued the multispecies permit would remain the baseline vessel. If the permit was transferred several times, as NMFS allows permits to be transferred once a year, or the size specifications (LOA, GRT, and NT) and horsepower were upgraded at different times, permit histories become even more intricate.

Additionally, having a vessel with multiple permits may result in a suite of permits with multiple baseline vessels if the limited access fisheries were established at different times. For instance, if

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<sup>1</sup> Amendment 11 to the Mackerel, Squid, Butterfish FMP, which will implement a limited access program in the mackerel fishery, has been approved by the MAFMC. A proposed rule was published on August 1, 2011 (76 FR 45742) and included a provision that will restrict increases in hold capacity for Tier 1 and 2 permitted vessels to 10 percent above the baseline hold capacity.

a vessel was issued a NE multispecies permit in 1994, did a vessel replacement in 1998, and the replacement vessel was subsequently issued a limited access black sea bass permit, dual baselines were created. Since the two permits are tied together as a suite, the more restrictive (i.e., the smaller) specification of these two baselines becomes the determining factor for any future vessel replacement for the two permits.

Though the vessel size specifications and HP may be upgraded independent of each other, the size specifications are tied together and must be upgraded together or the vessel owner loses the ability to upgrade any of the size specifications in the future. For example, if a vessel replacement uses its full 10-percent upgrade in LOA, but the GRT and NT remain static, the GRT and NT cannot be increased in the future as these three specifications are tied together and increasing the LOA exhausted the one-time size upgrade allowed. Also, if an upgrade is not used to its full potential (i.e., 10 or 20 percent), the upgrade amount becomes the new maximum allowed for all prospective replacements and the ability to utilize the full upgrade allowance in future replacements is lost. For example, if during a vessel replacement, the HP of a vessel is upgraded but the full 20-percent allowance is not utilized, the upgrade becomes locked and no further increase in HP is permitted.

Because permits in the Northeast region are issued to vessels, they cannot be bought or sold separately from the vessel. In cases where a vessel owner wants to sell a permit but retain the vessel, the owner will often transfer the permit to a skiff, and then sell the skiff and permit together. In these cases, the owner must provide documentation from a disinterested third party of the length, tonnages, and HP of the skiff in order to comply with vessel replacement regulations. The new owner can then transfer the permit from the skiff onto a larger fishing vessel. In other cases, a permit holder may transfer a permit to a skiff in order to lease out the days-at-sea (DAS) associated with the permit without the expense of maintaining a larger vessel. In 2007, NMFS determined that the number of replacements that used such an intermediate vessel had been increasing, and that these transfers were placing a financial and time burden on vessel owners and an administrative burden on NMFS staff. Analysis of vessel trip reports showed the smallest vessel to fish under a limited access permit (excluding lobster) was 17 feet. Therefore, NMFS adopted a policy that recognized a replacement vessel under 17 feet as a non-fishing skiff, which would not need additional documentation of the vessel size or HP.

In addition, if a vessel has a NE multispecies permit, the multispecies DAS program has leasing/transfer restrictions that are based on the LOA and HP of the permit's baseline vessel. The NE multispecies DAS leasing/transfer program utilizes the baseline specifications that were associated with the vessel as of January 29, 2004 (date of the proposed rule for Amendment 13 to the NE multispecies FMP). If, for some reason, a correction was made after that date, under no circumstance would the leasing baseline be allowed to be changed. This means that a vessel could potentially have a leasing baseline that is different from the baseline specifications used for determining eligibility for a vessel replacement.

## **Industry Costs and Burden of Vessel Upgrade Restrictions**

The analysis for the Consistency Amendment assumed only benefits from implementing consistent regulations for establishing vessel baselines, vessel upgrades, and replacement restrictions across multiple limited access fisheries, and analysis for the Amendment showed that consistent regulations prevented overcapitalization at very little to no cost to the fishing industry. The Amendment was thought to be a net benefit for fishing industry because the upgrade restrictions provided the opportunity for slight increases in size and HP (more than the summer flounder, Longfin squid, butterfish, *Illex*, and scup limited access programs had originally implemented). Additionally, the Amendment provided some flexibility to industry members seeking new vessels, while allowing only a limited increase in fishing capacity. The Amendment aimed to simplify regulations and make it easier for vessel owners to upgrade their vessels and for NMFS staff to process vessel upgrades and replacements.

Since the implementation of the program, the realized costs have become greater than originally expected. The search for a suitable replacement vessel within allowed upgrades can often be difficult and can take a very long time. Because manufacturers often make vessels of only certain types and sizes, upgrades are denied when the replacement vessel is outside the upgrade value, even if the difference is a matter of inches. Similarly, modern marine engines are manufactured to meet more stringent emissions standards and HP ratings may not be as adjustable as they were in the past. It can be challenging to find a suitable replacement engine without violating the horsepower upgrade limits.

It has been estimated that at least 300 vessels would be required to get vessel specifications (size or horsepower) verified by a marine surveyor annually, as required by the current regulations. Marine surveys for either size or horsepower are estimated to cost at least \$375 each. In addition to obtaining marine surveys, vessel owners use marine documentation services to assist with finding a vessel to purchase, requesting the vessel baseline documentation from the seller or from NMFS, and completing the paperwork to complete the upgrade or replacement. Because of the complexity of the entire process, vessel owners often hire a marine documentation service, which is an additional cost to obtaining a marine survey and additional time to go through the vessel replacement process. Analysis in the 1999 Consistency Amendment assumed that vessel owners would no longer need to hire marine documentation specialists to assist with vessel replacement and upgrade transactions because the vessel upgrade and replacement process was intended to become simpler and easier to understand. However, anecdotal information indicates that more vessel owners than ever before are using marine documentation services. Although the costs of such documentation services have not been analyzed to date, they are an additional cost burden on industry members.

In addition, a vessel may have had multiple owners since the fishery became limited access and the baseline was established. Without meticulous documentation, this makes it especially difficult for the current owner to know if an upgrade has been used for size or HP, what corrections have been made to a baseline, or what other decisions have been made in the past regarding a vessel's baseline. Therefore, industry members and marine documentation services regularly request baseline information from NMFS prior to purchasing or selling a vessel. The process to submit a baseline request, and for NMFS to complete it, may take several weeks given the number of such requests and the complexities of determining baselines for vessels with

multiple limited access permits. The processing time to answer such requests for baseline information has the potential to delay business decisions the buyer or seller must make.

### **Implementation burden of vessel upgrade restrictions**

Baseline requirements have also become a burden on NMFS to administer. Requests for documentation on baseline vessel specifications have become so common that NMFS has staff dedicated to drafting these letters. In 2009 and 2010, NMFS processed approximately 250 and 150 baseline requests, respectively. In 2009, NMFS experienced a significant increase in requests due to the implementation of sectors in the NE multispecies fishery. So far in 2011, NMFS has already processed 140 baseline requests. Processing time to complete an individual request can vary anywhere from 2 days to several weeks, depending on the request, since each request is unique due to the potential complexity of the permit suite and transfer histories associated with the permits. So far in 2011, the average processing time has been 11 days, with 1 day being the shortest and 32 days the longest. NMFS also periodically receives baseline correction requests and exemptions from the baseline provisions, which can take several weeks or longer to process.

Once a vessel owner has decided to replace a vessel, a replacement request is submitted to NMFS. There are numerous vessel replacement provisions and processing steps to accomplish such a replacement. The baseline component of the replacement process is very similar to the baseline requests process in that tracking a vessel's baseline information is often time consuming and complex. This work is necessary to determine if a vessel upgrade has already been used or if replacement vessel is within the allowable size and HP allowances. Vessel replacements typically take up to 30 days to process, provided the application is complete. If an application is not complete, the replacement can take considerably longer, depending on the applicant's response time.

At the time of the Consistency Amendment, it was identified that a vessel replacement involved over fifty discrete steps pertaining to the various replacement provisions dealing with vessel size and horsepower upgrades, vessel ownership, and vessel condition. While the Consistency Amendment standardized these provisions, the size and horsepower upgrades and baseline history remains a substantial administrative burden on NMFS.

### **Alternatives to control fishing effort and harvest capacity**

Since the Consistency Amendment, additional input controls have been put into place that limit fishing effort and harvesting capacity, preserve fish stocks, and ensure the success of rebuilding programs. While some input controls such as DAS and trip limits were in place in 1999, additional effort control measures across different fisheries, implemented with rebuilding programs, have contributed to improving the status of Northeast fish stocks. When the Consistency Amendment was finalized, 24 out of 49 stocks in the Northeast (NEFMC and MAFMC managed fisheries) were considered overfished. In the 2010 Status of the Fisheries Report to Congress, 16 out of 48 stocks are considered overfished. While it is difficult to determine which particular measures of a rebuilding program cause a fishery to rebound, it can be assumed that input controls on harvest capacity have played some role in decreasing the number of overfished stocks in the Northeast.

In addition, with the reauthorization of the Magnuson-Stevens Act in 2007 and the implementation of annual catch limits (ACL) and accountability measures (AM) in the majority of Northeast fisheries, NMFS and the Councils are turning more towards output controls to ensure healthy fish stocks and thriving fishing communities. Output controls, such as ACLs, AMs and catch share fisheries may be more effective than stringent vessel upgrade restrictions. As more input and output controls are being developed by the Councils across various fisheries, there may be opportunities for vessel upgrade restrictions to be simplified without compromising fish stocks and fleet diversity. Potential alternatives for controlling fishing capacity and preserving fleet diversity include trip limits, DAS, catch share programs (individual fishing quotas), ownership caps, permit banks, gear restrictions, etc. (Table 2).

#### *Trip Limits as an Effort Control*

Trip limits have been used as an effort control in limited access and open access fisheries. With trip limits in place, vessels are often limited in the amount of fish they can catch, regardless of vessel size or HP. Therefore, a small vessel is held to the same landing limit as a larger vessel. Two fisheries have linked vessel size (e.g., permit type) with landing limits. In the NE multispecies fishery, small vessel category permits must be on a vessel 30 ft or less in length, and are allowed a much smaller landing limit of three key species (i.e., cod, haddock, and yellowtail flounder) than vessels with a DAS or a limited access handgear permit. Similarly, in the monkfish fishery, there are two permit categories in which vessels less than 51 GRT have a lower landing limit than vessels without a size restriction. In the Atlantic sea scallop fishery, trip limits on access area trips work in conjunction with HP upgrade restrictions to limit fishing capacity.

Although open-access fisheries such as those for the NE skate complex and spiny dogfish are not held to vessel upgrade restrictions, skates and spiny dogfish are often incidentally caught species and may be controlled by effort controls in other fisheries. While there aren't any trip limits in the summer flounder, scup, and black sea bass FMP, individual states often set trip limits to control fishing effort and how fast the quota is taken throughout the fishing year. Absent trip limits set by the states, baselines may be the only effort control in such fisheries outside of annual catch limits (ACLs).

#### *Days-at-Sea (DAS)*

There are 4 fisheries that have DAS as an effort control: NE multispecies; limited access scallops; monkfish; and to some extent, skate. DAS are allocated to an individual permit and allow a vessel a specific number days in a year to fish. Because some vessels may choose to fish more or less than others, the groundfish fishery has a leasing program that allows the temporary transfer of DAS from one permit to another. Traditionally, baseline upgrade rules have prevented larger size vessels from acquiring DAS from smaller vessels. That is, vessels were only able to lease their DAS to other vessels that were 10-percent larger in size or less, and 20-percent larger in HP or less. However, with the implementation of sectors, exemptions have been given to allow vessels to temporarily transfer DAS to any size vessel; the baseline restrictions remain in place for vessels in the common pool.

### *Gear Restrictions*

Three fisheries use gear restrictions to control effort: red crab; surfclam/quahog; and American lobster. Red crab also has trip limits in combination with trap limits. In the surfclam/quahog fishery, individual entities are allocated a certain number of trap tags, where each tag is equal to a number of bushels, and subsequently to a number of cages in which product is landed. The number of tags allocated to the fishery as a whole is equal to a certain number of cages, and therefore controls catch. While the red crab and Maine mahogany quahog fisheries have vessel upgrade restrictions and baseline specifications, the lobster fishery does not and fishing effort is controlled by trap limits alone.

### *Ownership Caps*

While vessel upgrade restrictions were originally put in place to control overharvest, it is also believed that such restrictions can maintain fleet diversity and prevent consolidation to some degree. Other arguments have been made that implementing ownership caps, especially in catch share fisheries, can have the same effect. Some fisheries already have ownership cap measures to prevent consolidation of allocation, regardless of vessel size. In the tilefish fishery, an individual cannot own more than 49% of the total allowable landings (TAL). Both the limited access and limited access general category scallop fisheries have ownership caps. In the limited access general category scallop fishery, no single person or entity is allowed to have an ownership interest in more than 5% of the annual allocation, and no more than 2.5% may be allocated to an individual vessel. In the limited access scallop fishery, one person cannot have an ownership interest in more than 5% of the total number of permits in the entire fleet, regardless of whether the permit is in confirmation of permit history (CPH)<sup>2</sup> or on an active vessel. Although the NE multispecies and surfclam/quahog fisheries do not currently have ownership caps, they are being considered in future amendments to their respective fisheries management plans (FMPs).

### *Catch Share Fisheries*

Catch share programs, while without trip limits, offer vessel owners flexibility to maximize their landings on a single trip because there is an allocation in place for a given vessel, (e.g., individual fishing quota (IFQ)), group of vessels (e.g., sectors), or vessel owner through an allocation system. While catch share fisheries such as NE multispecies, tilefish, limited access general category scallop open area trips, and surfclam/quahog do not have trip limits; they are held to an individual allocation so that the entire fleet stays within the allotted quota. In some cases, should an individual or group allocation be exhausted during a fishing year, individuals or groups are able to transfer allocation to other individuals or groups (through leasing programs), which may allow for additional trips.

### *Additional Effort Controls*

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<sup>2</sup>A Confirmation of Permit History (CPH) allows a vessel owner to retain permit eligibility in the event the vessel has been destroyed or sold but the owner retains the permit eligibility. The permit in CPH may then be placed on a vessel at a later date.

While trip limits, DAS, size caps, catch shares, and trap limits are some of the traditional effort control measures used in Northeast fisheries, there are a few additional effort controls that are unrelated to vessel size and HP restrictions. In the monkfish fishery, Category A and B vessels are not allowed to fish with more than 160 gillnets at any time while fishing on a DAS. Category C, D, F, and G vessels are not allowed to have more than 150 gillnets at any time while fishing on a DAS. In the limited access scallop fishery, on DAS trips where there is no trip limit, there is a cap on the number of people on board the vessels, and no automatic shucking machines are allowed. The limitation on crew size controls the amount of scallops the vessel is able to shuck and therefore controls the amount of catch per unit of effort or DAS.

### **Simplifying Vessel Baseline, Upgrade, and Replacement Restrictions**

In light of these other measures to control harvest, it is possible that vessel baseline, upgrade, and replacement restrictions could be relaxed without adversely affecting the stocks. However, many factors need to be considered before moving forward with modifying or removing the restrictions. There are some arguments that relieving the vessel upgrade restriction would lead to increases in larger and more powerful vessels, which could have increased impacts on habitat or bycatch of non-target species. In addition, fishery management actions adopted by the coastal states through the Atlantic States Marine Fisheries Commission may rely on the baseline upgrade restrictions for federally permitted vessels to control harvest potential. Tilefish and lobster are examples of management programs without baseline programs and vessel upgrade restrictions. If more fisheries move towards catch share management similar to the tilefish fishery, there may be less of a need for strict vessel upgrade restrictions.

In many Northeast fisheries, the upgrade restriction may be one factor that is helping to preserve the small-vessel character of the fishing fleet. It is assumed that removing vessel baselines and relieving restrictions on vessel size and horsepower upgrades could lead to consolidation of the Northeast fishing fleet. While the vessel upgrade and replacement restrictions were originally put in place to control fishing effort, it may be that such restrictions are rarely functioning in this regard in current fisheries management programs. If this is the case, one of the primary roles of maintaining baselines and restricting vessel upgrades may be to preserve fleet diversity in the Northeast, rather than directly control fishing effort. However, there may be other ways to preserve diversity of the fleet and ensure the small-vessel character of the fleet, if that is the objective of the Councils. One example is the further use of ownership caps in fisheries managed under catch share programs. While an ownership cap may not prevent consolidation, it could be used in conjunction with other measure to preserve the small boat characteristic of the Northeast fishing fleet.

### **Options to Simplify Vessel Baseline, Upgrade, and Replacement Restrictions**

A wide range of options could be considered as part of any action to change vessel baseline regulations. NMFS published an Advance Notice of Proposed Rulemaking on October 5, 2011 (76 FR 61661), to solicit public input on all of the options below, including suggestions for other changes to baseline regulations that are not specifically listed here, such as how to treat vessels that have multiple baselines and/or have already upgraded under the current system. While some of the potential pros and cons are highlighted here, these options have not yet been analyzed, and

NMFS is seeking comments on the feasibility of these options, the validity of the pros and cons, and suggestions for other options to simplify vessel upgrade restrictions.

- Eliminate tonnages from vessel baseline regulations. Tonnages are often considered the most malleable of baseline specifications. The GRT can vary significantly, depending on whether exact measurements or the simplified calculation method is used. Similarly, NT can be calculated based either on the GRT or from measurements of the vessel, and may be changed by modifying internal bulkheads. Tonnage has also been a concern for owners of vessels built outside of the United States that are determined to be under 5 net tons for import purposes.

Pros: Tonnages are the most malleable of the baseline specifications and can be changed by adding or removing bulkheads or by using different calculation methods. Eliminating tonnage as a specification removes the need to determine the width and depth of a vessel, which may be more difficult or expensive for a third party to document. Tonnages likely have less of an impact on fishing capacity than length or HP, though further analysis is necessary.

Cons: Could allow vessel owner to increase the size of the fish hold and land more fish on the same length vessel. Does not relieve the industry or agency from all of the burdens associated with the replacement process.

- Eliminate the one-time upgrade provision. This would eliminate the incentive to use as much of the available upgrade as possible to avoid “losing” some amount of future upgrade. The change could also simplify upgrade considerations by establishing the maximum specifications of any future vessel without needing to know whether any specification has already been upgraded. For example, under this option, if the permit on a vessel has a baseline HP specification of 300, and at some point is moved to a vessel with 340 HP, a future replacement vessel could still be up to 360 horsepower (20 percent greater than the 300-HPbaseline).

Pros: Allows more flexibility to choose a vessel without “losing” an upgrade allowance. Avoids “lost upgrade” that can result by upgrading length but not tonnage or vice versa. Makes researching baseline history simpler in that once the size of the baseline vessel is established, it is not necessary to know the sizes of all vessels the permit has been on since.

Cons: May disadvantage those who have already upgraded and been limited in choice of subsequent vessel. Could result in some increase in fishing capacity as vessels previously limited reach maximum upgrades.

- Change from a system of fixed upgrades to a system of size classes. The intent of this option would be to allow a vessel owner to move a permit to any vessel that fits within the specified size class. The specifics of this type of change, including the number and size of the size classes, have not been fully developed, and NMFS seeks comment to this end. Specific size classes could be based on vessel length, HP, or a combination. Such a system would simplify the vessel replacement considerations by making them uniform for all vessels in a particular size class rather than the current

system where potential upgrades are unique to each permit. However, determining specific size classes that are appropriate for all fisheries may be difficult. Tables 3 and 4 show the current distribution of vessel size (using length overall) and the potential number of vessels in 20 ft size bins.

Pros: Allows more flexibility to industry.

Cons: Complete change of the system would require significant analysis of potential impacts to the fleet and the environment. Also requires analysis to determine the appropriate size classes. Classes suitable for one fishery may not be the best fit for all fisheries.

- Remove baseline upgrade restrictions for vessels under 30 ft (9.1 m). An option to remove baseline upgrade restrictions for vessels of any size may be considered after further analysis. Thirty feet is one option, as it is an alternative that was previously considered by both Councils when this option was added to the Consistency Amendment. Comments from industry members were varied, with small-vessel owners commenting that restricting the ability for small boats to upgrade limits their ability to obtain a safer vessel, and that it was difficult to find a new boat within the upgrade limits. Opponents to the measure suggested that without the restrictions on vessel upgrades, owners of small vessels would move to larger vessels with more fishing capacity, which could have negative impacts on fish stocks. Ultimately, it was rejected by the MAFMC and the NEFMC could not reach a consensus and decided to take a closer look at eliminating vessel upgrades for vessels under 30 ft at a later date.

In March 2003, the topic was taken up again, and the MAFMC and NEFMC agreed by consensus that the issue should be evaluated by a working group; however, no such working group was formed as other more pressing management issues in these fisheries overtook the small-vessel exemption issue. The NMFS policy on eliminating the baseline requirement for vessels under 17 ft is similar in scope to this alternative and has been shown to reduce the time and effort to process permit transfers to skiffs for replacement transactions, and saved vessel owners the need to document to size of these non-fishing vessels.

If simplifying vessel baselines is taken up by the NEFMC and MAFMC as a priority, further analysis could show whether there is an alternate vessel size that is more appropriate as a cutoff for eliminating upgrade restrictions.

Pros: Simple and easily administered. Specifically benefits the smallest boats, giving them more flexibility.

Cons: Does not benefit a large portion of the fleet. Sets up a two tier system with different rules for different vessel, which could cause confusion. Vessels in this category could not be upgraded to more than 30 ft.

- Complete removal of upgrade restrictions. This would allow any vessel owner to move their permit to any other vessel. It provides maximum flexibility to the industry, but removes the baseline system's restrictions on fleet structure, and would likely have the largest impacts on the fishery and the environment.

Pros: Provides maximum flexibility to the fleet. This option is likely to greatly reduce the burden in time and cost to industry members and administrators.

Cons: Has potential for impact on fleet structure, the environment, fishing communities and ports, and fishing capacity. Eliminating vessel upgrade restrictions may cause increases in fishing effort and harvest in particular fisheries (e.g. horsepower upgrades in the scallop fishery). Eliminating vessel upgrade restrictions may impact fleet diversity, although further analysis must be completed to understand the nature of such changes.

- Other potential options to simplify vessel upgrade and replacement restrictions can and should be considered. Limits on time did not allow this working group to explore all possible options to simplifying vessel upgrade restrictions.

## Conclusions and Recommendations:

Vessel upgrade and replacement restrictions are considered to be confusing and cost fishing industry members and NMFS administrators substantial amounts of time and resources. While such restrictions were originally put in place to prevent overharvesting, expansion of fishing effort, and overcapitalization in limited access fisheries, preliminary evidence has been presented here that shows that there are a variety of other management methods currently used to accomplish many of the same goals. While input controls such as trip limits are effective at controlling effort, recent implementation of output controls such as annual catch limits and catch share fisheries have the potential to be even more effective at limiting harvest and preventing consolidation. Considering the burden of upgrade restrictions on industry and administrators, and the expansion of output controls in fisheries management, it seems an appropriate time to consider simplifying the vessel upgrade and replacement restrictions. Although a number of considerations for simplifying the restrictions are presented here, there are likely other options that should be considered. An Advance Notice of Proposed Rulemaking was published on October 5, 2011, to alert the public to the possible changes to these programs and to solicit ideas and input. While the baseline working group members did not come to a consensus on recommendations, they did agree that any action to change vessel upgrade restrictions will require thorough analysis of the impacts.

## Recommendations of the Baseline Working Group:

- If the NRCC would like to move forward with simplifying vessel upgrade restrictions and reducing the burden to the fishing industry and NMFS from such restrictions, they should make this task a priority for 2012.

- We recommend that the NRCC request a joint New England and Mid-Atlantic Council Committee similar to a fisheries management action team (FMAT) or plan development team (PDT) be developed to further analyze how vessel upgrade restrictions can be simplified and to expand on the work of this white paper.
- We recommend that the FMAT explore whether a joint Council action similar to the 1999 Omnibus Consistency Amendment is appropriate.
- Further analysis conducted by the FMAT may include:
  - Technical evaluation of fleet capacity over the life of the upgrade restriction;
  - Analysis of the need for upgrade restrictions in each FMP depending on the various input and output controls already in place (the need for such restrictions appears to vary across fisheries);
  - Whether vessel upgrade restrictions are still necessary for those fisheries who have implemented catch share management programs;
  - Whether harvest, fishing effort, capacity, and consolidation can be adequately controlled through methods other than vessel upgrade restrictions;
  - Potential bycatch and habitat impacts of larger vessels.

#### Members of the Baseline Working Group

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**Table 1. Limited Access Fisheries and Implementation Dates**

<u>Limited Access Fishery</u>	<u>Established Baseline Years</u>
Multispecies*	1994
Multispecies Hookgear	1996
Atlantic Sea Scallop**	1994
Red Crab	1999 or date the vessel was first issued LA permit
Monkfish	2000 or date the vessel was first issued LA permit
Atlantic Herring	2007 or date the vessel was first issued LA permit
Mackerel	TBD
Summer Flounder	March 22, 1999
Scup	March 22, 1999
Black Sea Bass	March 22, 1999
Illex	March 22, 1999
Longfin squid/Butterfish	March 22, 1999
Maine Mahogany Quahog	March 22, 1999

\*All categories except for Multispecies Handgear A Category

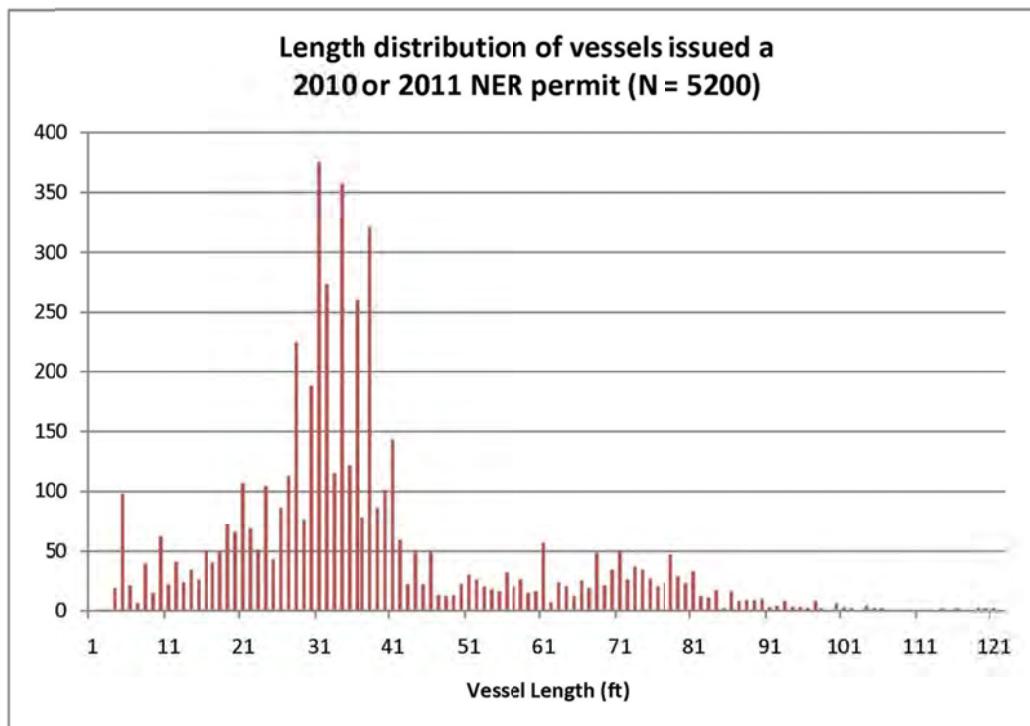
\*\*Excluding Limited Access General Category Scallop permit categories

**Table 2. Effort controls in Northeast fisheries**

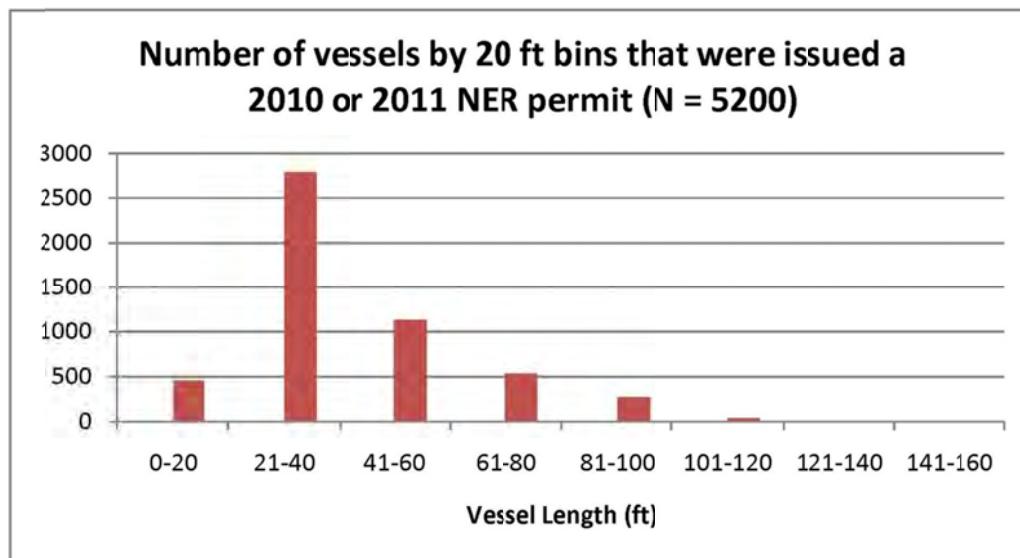
Fishery	Trip Limits	DAS	Size Cap	Permit Categories Differentiated by Size	IFQ/PSC allocation	Ownership Cap	Trap Limits
Monkfish	Yes	Yes	No	No	No	No	
Red Crab	No	No	No	No	No	No	Yes
Surf Clam/Quahog	No	No	No	No	Yes	No-Am 15	No
Multispecies-Sector	No	No	No	Yes - Small Vessel Category	Yes	No-Am 18	n/a
Multispecies-Common Pool	Yes	Yes	No	Yes - Small Vessel Category	No	No-Am 18	n/a
Whiting	Yes	No	No	No	No	No	No
Skates	Yes	Yes-linked to Mults DAS	No	No	No	No	n/a
Herring	Yes (except for Category A and B vessels)	No	Yes - 165 ft.	No	No	No	n/a
Mackerel	Will be with Am. 11 (Except Tier 1)	No	Yes - 165 ft.	No	No	No	n/a
Squids	Yes (only incidental permits)	No	No	No	No	No	n/a
Butterfish	Yes	No	No	No	No	No	n/a

Scallop-Limited Access	Yes (only on access area trips)	Yes	No	No	No	Yes - one owner cannot have more than 5% of the # of vessels (CPH or active) in the entire fleet	n/a
Scallop-Limited Access General Category	Yes	No	No	No	Yes	Yes - 5% of the LAGC TAC (2.5% per vessel)	n/a
Spiny Dogfish	Yes	No - but tied to Mults DAS	No	No	No	No	n/a
Bluefish	No (Recreational Only)	No	No	No	No	No	n/a
Summer Flounder	No for Moratorium Fleet(Recreational Only)	No	No	No	No	No	n/a
Scup	Yes	No	No	No	No	No	n/a
Black Sea Bass	No for Moratorium Fleet	No	No	No	No	No	
Tilefish	Yes-for non-IFQ vessels	No	No	No	Yes	Yes-no more than 49% of the total TAL	n/a
Lobster	No	No	No	No	No	No	Yes

**Table 3. Vessel size distribution (2010/2011) using length overall (LOA)**



**Table 4. Vessels classified in 20 ft bins as a potential option for simplifying upgrade and replacement restrictions using length overall (LOA).**



Summary Information	2010	2011	
Actions scheduled for completion within timeframe		107	
Completion statistics		Number	Percent of total actions
Action completed on time	31%	46	43%
Undetermined	7%	3	3%
Ongoing actions	11%	7	7%
Actions not undertaken	9%	4	4%
Completed after scheduled time	42%	47	44%
<i>Total</i>	100%	107	100%
<i>Specifics for late actions :</i>		Percent of late actions	
Additional Consideration Delay		9	19%
Post Submission Delay		7	15%
Rulemaking Delay		10	21%
Implementation Delay		1	2%
Process Delay		3	6%
Overtaken by events		0	0%
Ongoing actions		6	13%
Initial schedule overly optimistic		3	6%
Unanticipated Intervening Factors		8	17%
<i>Total</i>		47	100%
Consequence statistics		Number	Percent of total actions
No consequences	27%	42	53%
No consequences (action late)	22%	1	1%
Start of fishing year missed	16%	8	10%
APA cooling off waived	16%	6	8%
Comment period less than 30 d	2%	2	3%
Other	9%	12	15%
Action not completed within schedule (end point moved)	n/a	6	8%
Grant and/or EFP issued late	9%	3	4%
<i>Total</i>	100%	80	100%

# **DRAFT Stock Assessment Terms of Reference for SAW/SARC-54**

(file vers.: 8/30/2011, 10/8/2011)

**This draft is being submitted to the NRCC for Final Approval. Red text was revised after 8/30 based on NRCC comments. These TORs have been developed as described below:**

Completed	Date	Step
X	8/10/2011	Start with Generic SAW/SARC TORs which were edited/approved by the SSCs in 2009-2010
X	8/11/2011	Met with Chief of Pop. Dyn. Branch to edit TORs for each stock
X	8/25/2011	Met with lead Assessment Scientists and SAW WG Chairs for additional editing
X	8/29/2011	Met with lead Assessment Scientists and SAW WG Chairs for additional editing
X	8/30/2011	Sent draft TORs to NRCC to get comments from their orgs .
X	10/8/2011	SAW Chair and Pop Dy Chief revised draft TORs based on comments from NRCC reps (NEFMC, MAFMC, NERO, ASMFC )
	10/10/2011	SAW Chair submits TORs to NRCC for final approval

## A. SNE/Mid-Atlantic Yellowtail Flounder

1. **Estimate landings and discards by gear type and where possible by fleet, from all sources.** Describe the spatial distribution of fishing effort. Characterize uncertainty in these sources of data.
2. Present the survey data being used in the assessment (e.g., regional indices of abundance, recruitment, state surveys, age-length data, etc.). Investigate the utility of commercial or recreational LPUE as a measure of relative abundance, and characterize the uncertainty and any bias in these sources of data.
3. Evaluate the validity of the current stock definition, and determine whether it should be changed. Take into account what is known about migration among stock areas.
4. Estimate annual fishing mortality, recruitment and stock biomass (both total and spawning stock) for the time series (integrating results from TOR-5), and estimate their uncertainty. Include a historical retrospective analysis to allow a comparison with previous assessment results and previous projections.
5. Investigate causes of annual recruitment variability, particularly the effect of temperature. If possible, integrate the results into the stock assessment (TOR-4).
6. State the existing stock status definitions for “overfished” and “overfishing”. Then update or redefine biological reference points (BRPs; point estimates or proxies for  $B_{MSY}$ ,  $B_{THRESHOLD}$ ,  $F_{MSY}$  and MSY) and provide estimates of their uncertainty. If analytic model-based estimates are unavailable, consider recommending alternative measurable proxies for BRPs. Comment on the scientific adequacy of existing BRPs and the “new” (i.e., updated, redefined, or alternative) BRPs.
7. Evaluate stock status with respect to the existing model (from previous peer reviewed accepted assessment) and with respect to a new model, should one be developed for this peer review. In both cases, evaluate whether the stock is rebuilt (if in a rebuilding plan).
  - a. When working with the existing model, update it with new data and evaluate stock status (overfished and overfishing) with respect to the existing BRP estimates.
  - b. Then use the newly proposed model and evaluate stock status with respect to “new” BRPs and their estimates (from TOR-6).
8. Develop approaches and apply them to conduct stock projections and to compute the pdf (probability density function) of the OFL (overfishing level) and candidate ABCs (Acceptable Biological Catch; see Appendix to the SAW TORs).
  - a. Provide numerical annual projections (3 years). Each projection should estimate and report annual probabilities of exceeding threshold BRPs for F, and probabilities of falling below threshold BRPs for biomass. Use a sensitivity analysis approach in which a range of assumptions about the most important uncertainties in the assessment are considered (e.g., terminal year abundance, variability in recruitment, **and recruitment as a function of stock size**).
  - b. Comment on which projections seem most realistic. Consider the major uncertainties in the assessment as well as sensitivity of the projections to various assumptions.

- c. Describe this stock's vulnerability (see "Appendix to the SAW TORs") to becoming overfished, and how this could affect the choice of ABC.
- 9. Review, evaluate and report on the status of research recommendations listed in most recent peer reviewed assessment and review panel reports. Identify new research recommendations.

## B. Atlantic herring

1. Estimate catch from all sources including landings and discards. Describe the spatial distribution of fishing effort. Characterize uncertainty in these sources of data.
2. Present the survey data being used in the assessment (e.g., regional indices of abundance, recruitment, state surveys, larval surveys, age-length data, predator consumption rates, etc.). Investigate the utility of commercial LPUE as a measure of relative abundance, and characterize the uncertainty and any bias in these sources of data.
3. Evaluate the utility of the NEFSC fall acoustic survey to the stock assessment of herring. Consider degree of spatial and temporal overlap between the survey and the stock. Compare acoustic survey results with measures derived from bottom trawl surveys.
4. Evaluate the validity of the current stock definition, and determine whether it should be changed. Take into account what is known about migration among stock areas.
5. Estimate annual fishing mortality, recruitment and stock biomass (both total and spawning stock) for the time series (integrating results from TOR-6), and estimate their uncertainty. Include a historical retrospective analysis to allow a comparison with previous assessment results and previous projections.
6. Consider the implications of consumption of herring, at various life stages, for use in estimating herring natural mortality rate ( $M$ ) and to inform the herring stock-recruitment relationship. Characterize the uncertainty of the consumption estimates. If possible integrate the results into the stock assessment.
7. State the existing stock status definitions for “overfished” and “overfishing”. Then update or redefine biological reference points (BRPs; point estimates or proxies for  $B_{MSY}$ ,  $B_{THRESHOLD}$ ,  $F_{MSY}$  and MSY) and provide estimates of their uncertainty. If analytic model-based estimates are unavailable, consider recommending alternative measurable proxies for BRPs. Comment on the scientific adequacy of existing BRPs and the “new” (i.e., updated, redefined, or alternative) BRPs.
8. Evaluate stock status with respect to the existing model (from previous peer reviewed accepted assessment) and with respect to a new model, should one be developed for this peer review. In both cases, evaluate whether the stock is rebuilt (if in a rebuilding plan).
  - a. When working with the existing model, update it with new data and evaluate stock status (overfished and overfishing) with respect to the existing BRP estimates.
  - b. Then use the newly proposed model and evaluate stock status with respect to “new” BRPs and their estimates (from TOR-7).
9. Using simulation/estimation methods, evaluate consequences of alternative harvest policies in light of uncertainties in model formulation, presence of retrospective patterns, and incomplete information on magnitude and variability in  $M$ .

**10. Develop approaches and apply them to conduct stock projections and to compute the pdf (probability density function) of the OFL (overfishing level) and candidate ABCs (Acceptable Biological Catch; see Appendix to the SAW TORs).**

- a. Provide numerical annual projections (3 years). Each projection should estimate and report annual probabilities of exceeding threshold BRPs for F, and probabilities of falling below threshold BRPs for biomass. Use a sensitivity analysis approach in which a range of assumptions about the most important uncertainties in the assessment are considered (e.g., terminal year abundance, variability in recruitment).**
- b. Comment on which projections seem most realistic. Consider the major uncertainties in the assessment as well as sensitivity of the projections to various assumptions.**
- c. Describe this stock's vulnerability (see "Appendix to the SAW TORs") to becoming overfished, and how this could affect the choice of ABC.**

**11. For any research recommendations listed in recent peer reviewed assessment and review panel reports, review, evaluate and report on the status of those research recommendations. Identify new research recommendations.**

## ***Appendix to the SAW Assessment TORs:***

### **Clarification of Terms used in the SAW/SARC Terms of Reference**

#### **On “Acceptable Biological Catch” (DOC Nat. Stand. Guidel. Fed. Reg., v. 74, no. 11, 1-16-2009):**

*Acceptable biological catch (ABC)* is a level of a stock or stock complex’s annual catch that accounts for the scientific uncertainty in the estimate of [overfishing limit] OFL and any other scientific uncertainty...” (p. 3208) [*In other words, OFL  $\geq$  ABC.*] (p. 3208)

*ABC for overfished stocks.* For overfished stocks and stock complexes, a rebuilding ABC must be set to reflect the annual catch that is consistent with the schedule of fishing mortality rates in the rebuilding plan. (p. 3209)

NMFS expects that in most cases ABC will be reduced from OFL to reduce the probability that overfishing might occur in a year. (p. 3180)

ABC refers to a level of “catch” that is “acceptable” given the “biological” characteristics of the stock or stock complex. As such, [optimal yield] OY does not equate with ABC. The specification of OY is required to consider a variety of factors, including social and economic factors, and the protection of marine ecosystems, which are not part of the ABC concept. (p. 3189)

#### **On “Vulnerability” (DOC Natl. Stand. Guidelines. Fed. Reg., v. 74, no. 11, 1-16-2009):**

*“Vulnerability.* A stock’s vulnerability is a combination of its productivity, which depends upon its life history characteristics, and its susceptibility to the fishery. Productivity refers to the capacity of the stock to produce MSY and to recover if the population is depleted, and susceptibility is the potential for the stock to be impacted by the fishery, which includes direct captures, as well as indirect impacts to the fishery (e.g., loss of habitat quality).” (p. 3205)

#### **Rules of Engagement among members of a SAW Assessment Working Group:**

Anyone participating in SAW assessment working group meetings that will be running or presenting results from an assessment model is expected to supply the source code, a compiled executable, an input file with the proposed configuration, and a detailed model description in advance of the model meeting. Source code for NOAA Toolbox programs is available on request. These measures allow transparency and a fair evaluation of differences that emerge between models.

**NOAA Fisheries Response to NRCC Tasking to Develop**

**A New Process for Assessment of Managed Fishery Resources off the Northeastern United States**

**Task 2: Develop prioritization and scheduling system for operational assessments** - with consideration of the intrinsic biological properties of stock, ripeness of or availability of new fishery-related data and/or research results, changes in stock status (i.e., Overfished; rebuilding program required), rebuilding program status, and miscellaneous external factors. Also considered should be the NRCC role in process, and the management process itself. Finally, develop a strawman schedule of operational assessments.

a. Develop criteria including considerations of the following:

i. Overview of Optimal Timing Concept - The issue of optimal timing of assessments has been addressed in various reports by teams charged with organizing stock assessments at the regional and national level. This report attempts to build on those previous studies. The conceptual framework for a biological rationale is described but there does not appear to be an unequivocal metric for assessment frequency. Ultimately, the assignment of an assessment frequency to each stock is at some point a subjective, but essential step.

If there is any advancement in this essay it is the concept of identifying the relative assessment workload for each stock. The workload is expressed in terms of effort by the lead analyst as well as the indirect effort of colleagues. The indirect efforts include not only technical assistance on logistics but also attending intermediate meetings and so forth. Effort is expressed in units of person months. The total person month effort for each assessment, divided by the assessment frequency provides a measure of annualized person months. The sum of all annualized person months provides a measure of overall staffing needs for the Branch to conduct assessments.

The implications of any particular assessment schedule can be quantified as the sum of the person-months of effort. A scheduling matrix is introduced as a useful tool for evaluating the relative costs of alternative schedules. The scheduling matrix consists of a tableau of species (rows) and years (columns) with zero entries indicating no assessment and ones identifying assessment years. The sum product of the total person-month vector and the schedule vector is the total “cost” of a particular schedule.

This report is a strawman document designed to define the scope of the assessment process conducted by the NEFSC, to identify relevant factors for identifying assessment frequency, and to introduce a structured approach for matching assessment schedules with available staffing.

ii. Biological and Fishery Factors Influencing Assessment Frequency

*Life History* - A common feature of most previous white papers and planning documents is that the optimal timing of assessments must first begin with the basic biology of the resource and the primary sources of mortality. Factors influencing stock assessment frequency include :

- Underlying life history attributes, e.g.
- Natural mortality (M), Longevity
- Growth (K, max size)
- Reproductive strategy
- Derived quantities such as net reproductive rate or maximum spawning potential.
- Evidence of gradual trends in biological characteristics such as average size or maturity,
- Evidence of abrupt changes such as large-scale recruitment events, i.e., temporal and (occasionally) spatial variation in recruitment.
- A major change in the fishery selectivity (such as an increase in discarding due to a management regulation or development of a new fishery)

There may be some advantages of conducting assessments on groups of stocks that share similar life-history traits, are harvested by similar fisheries, or represent regional differences. For example the “round” groundfish (cod, haddock, white hake, pollock) and “flat” groundfish (e.g. yellowtail flounder, winter flounder, plaice, witch flounder, halibut) would constitute similar life history traits and often support different fleets.

*Stock Status* - The status of a population with respect to biological reference points for biomass and fishing mortality is another primary determinant of assessment frequency. Current population status can be expressed as a fraction of the desired population biomass and the desired fishing mortality rate. For species in a rebuilding program the number of years remaining in the rebuilding schedule is important, especially if management measures need to be adjusted. In general terms the need for stock assessments would increase as the rebuilding deadline approached and as the disparity between rebuilding waypoints and actual abundance increases. The frequency of assessments should increase as the ratio of  $F/F_{msy}$  increases, especially when the ratio exceeds one. Conversely, assessment frequency should diminish when  $B/B_{msy}$  is above one.

*Use of Indicators* - The ability to identify conditions that necessitate increased or allow decreased frequency of assessments often depends on the availability of reliable indicators. Although conceptually simple, there does not appear to be any formal framework for decisions. Conflicting trends in underlying information can be addressed in an assessment models, but formal decision-theoretic approaches do not appear to have been used in actual management. Instead managers and scientists often rely on a convergence of evidence approach, gathering information from several different sources to affirm underlying trends. For example a strong year class might be indicated by high abundance in one or more surveys, high rates of discarding, and various reports from fishermen.

For assessments that depend entirely on the use of surveys, it would be advantageous to monitor stock status more frequently, say every two years. Staffing costs for such assessments are relatively low and checking model assumptions is important. Changes in fishery selectivity or pulses of recruitment could invalidate the simple assumptions underlying such models.

*Data, Model and Staffing Constraints* - The ability to conduct an assessment in a given year depends on a number of factors including the:

- Availability of critical data, especially age data, state surveys, etc.
- Complexity of model (e.g., index assessments can be more frequent).
- Availability of key scientific personnel, especially the lead scientist who may have more than more than one species responsibility.
- Stability of model performance in recent years. Example—models with strong retrospective patterns often require greater allocation of staff resources.
- Need for team efforts to accomplish modeling tasks, especially when technical challenges arise.
- Calibration coefficients for Bigelow to Albatross
- Discard issues
- Hindcasting
- Reformulation of model in response to retrospective patterns.
- The degree of external peer review required. Formal meetings with external reviewers require longer planning horizons.
- Conflicts with other major assessment initiatives.

It is particularly important to identify instances where data or modeling issues are limiting factors for assessments. An assessment that fails due to lack of information on migration patterns, or violations of existing stock boundary assumptions will not improve without new information on these processes.

*Forecasting Models* - For stocks with reliable forecasting models, assessment frequency can be decreased but all forecasts are ultimately constrained by the need to validate assumptions related to incoming recruitment. As the length of the forecast period increases, predicted population size gradually becomes more dependent on the magnitude of incoming recruitment because the initial population is replaced with assumed levels of recruitment. The degradation of forecast quality is a function of the difference between average predicted recruitment and the realized recruitment in the forecast period. An unobserved sequence of weaker than expected year classes could make catch projections too high, leading to overfishing or delays in rebuilding. The importance of incoming recruitment for defining ACLs depends on when the recruits enter the fishery. A fishery with an average age at entry of say 5 years would be able to have longer periods between assessments than a species with average age at entry of 2 years.

For a population subjected to an overall mortality annual of  $Z$ , the expected average age is  $1/Z$ . As a rule of thumb, most groundfish stocks would tend to have  $F \sim M \sim 0.2$  so that  $1/Z \sim 2.5$  years.

iii. Additional Considerations - A suite of other biological, economic, social and political factors can also affect the timing of stock assessments. These are not easily categorized but include such as:

- Interactions among fleets, ports, states for access
- Interactions among fishery management plans, e.g.,
- Haddock in the herring fisheries
- Butterfish in the loligo fishery

- Yellowtail flounder in the scallop fishery
- River herring
- Ecological conditions such as direct evidence of changes in natural mortality
- Spatial variations in populations or fisheries, especially sessile stocks where localized declines may warrant consideration of alternatives (e.g. recruitment events in scallop fishery, or regional declines in commercial LPUE in clam fisheries).
- Concerns about previous assessments particularly if low ACLs impinge on other fisheries.
- National criteria for reporting requirements (e.g. 5 year staleness factor)
- Direct political intervention

Ultimately the purely biological or fishery related considerations will contribute to but not necessarily determine the assessment schedule or optimal frequency.

b. Develop a strawman schedule of operational assessments

i. NEFSC Assessment Responsibilities - The Population Dynamics Branch contributes to the assessments of 62 stocks in the Northeast. The Branch provides assessment information to the New England and Mid –Atlantic Councils and the Atlantic States Marine Fisheries Commission. Of these stocks, Atlantic salmon is assessed in collaboration with US Fish and Wildlife Service and states as part of the US Atlantic Salmon Assessment Committee. Hagfish has not been assessed but data on this resource is now being collected prior to the possible creation of an FMP. ASMFC has lead responsibility for American eel, Atlantic sturgeon, shortnose sturgeon, river herring, American shad, and 3 stocks of American lobster. For the purpose of this planning exercise we will consider 60 stocks (Table 1) with the three management units for American lobster will be considered as one group. Assessment responsibilities for these stocks are summarized in Appendix 1.

Even though several of these species have not been assessed, it is important to remember that any quantitative analyses of these stocks will reduce the amount of staff time available for other stocks. Recent examples include river herring, Atlantic sturgeon , and cusk. Moreover, any stock that presently does not have an approved assessment will require a substantial investment to improve the assessment methodology.

ii. Key Determinants of Assessment Frequency - Table 2 is intended to be a start towards identifying a reduced set of parameters to determine stock assessment frequency. I have selected the primary factors that govern the shelf life of an assessment product and its projections. In general terms stock assessments are needed when status depends primarily on assumptions about the stock recruitment process. Reliance on such assumptions increases as fishing mortality increases, as the mean age of recruitment to the fishery decreases, and as recruitment variability increases. Stocks that are above  $B_{msy}$  have some buffering, so schedules could be relaxed for such species. The ratio of average age of entry to the fishery and age at maturity is important also. Values below one would be undesirable since unintentional increases in  $F$  could rapidly deplete future SSB. The data elements in Table 2 could be changed but it should be recognized that there is unlikely to be a non-arbitrary metric of assessment frequency. Ultimately the assessment frequency will need to be adjusted based on non-biological factors.

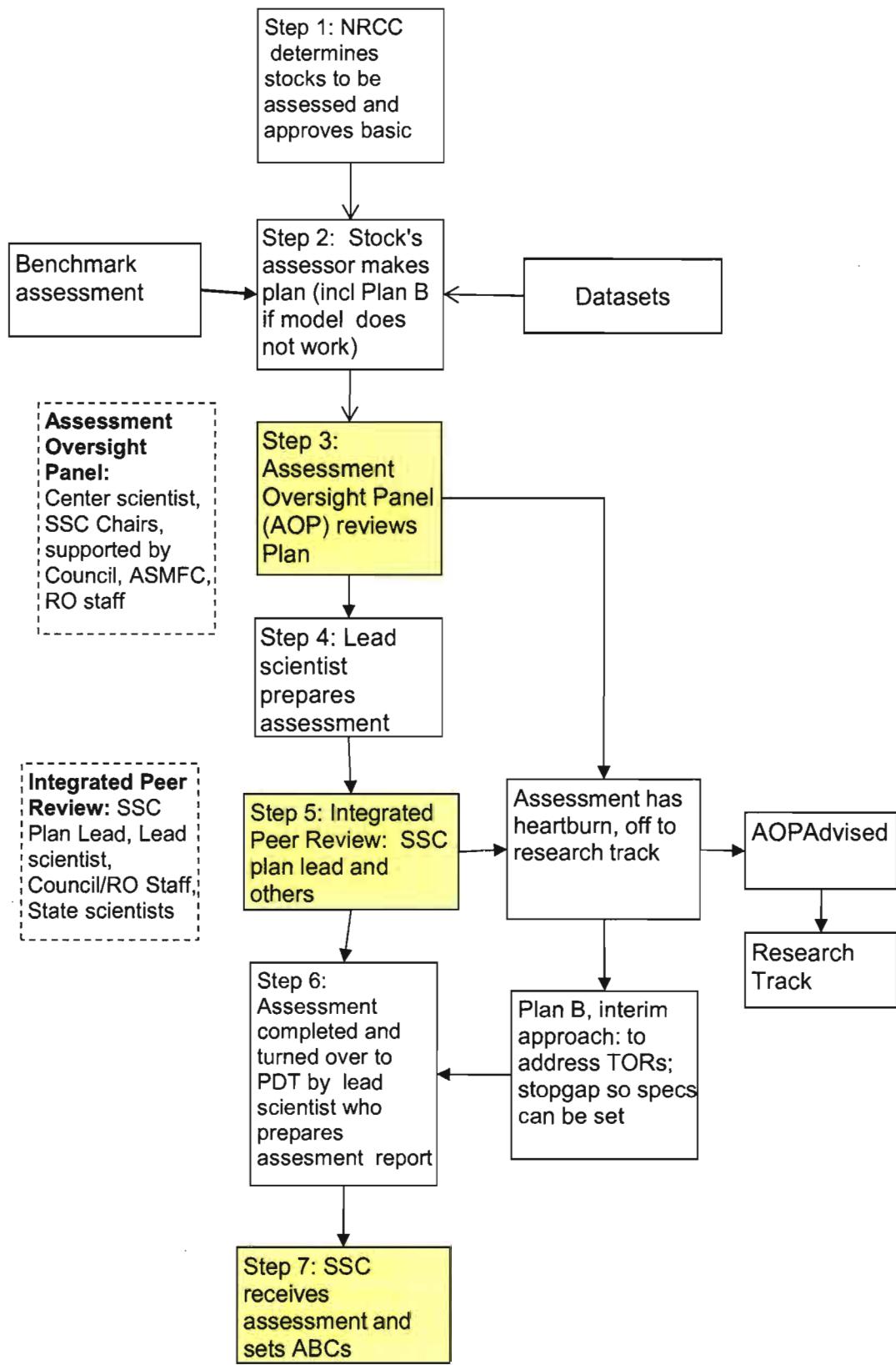
iii. Assessment Workload - Table 3 provides a rough idea of the workload associated with each assessment. It attempts to incorporate a broad range of factors but factors in the need for age samples and recent model performance. Assessments that have been or are likely to be controversial have increased workloads. Results suggest that annual assessments of all species would require approximately 76 staff years of which 55 years would be for lead analysts. The sum of the annualized estimates, using the candidate assessment frequencies is approximately 24 staff years. The staffing workload estimates will be refined by further discussions with staff.

iv. Strawman Schedule - The implications of a candidate assessment schedule are explored in Table 4. Table 4 is not intended to be a proposal. Instead it demonstrates several salient features of the assessment process and allows planners to gauge the impacts of various scenarios with respect to total workload. For example the proposed schedule requires about 27 and 29 person years in 2012 and 2013, but drops to 15.8 years in 2014. Alternative schedules could be devised to reduce the effects of bottlenecks and spread workloads out more uniformly. It should be emphasized that any scheduling system that requires nearly full utilization of available staff will greatly diminish scientific research productivity that would otherwise be possible. Moreover, a fully saturated schedule will also be less flexible because the input data, particularly age samples, must be closely matched with the schedule.

**Task 3: Define system for delivering operational assessments** - Establish general framework for how system will function, outlining:

- a. Roles and responsibilities of participant groups: NEFSC; Council and Commission PDTs, working groups, and technical committees; SSCs ; external scientific expertise; public participation - The NRCC will remain responsible for final scheduling of assessments, and for oversight on the general Terms of Reference for assessments. Operational assessments themselves will be prepared by NEFSC or Council/Commission staff. A senior NEFSC assessment scientist, and the chairs of the Mid-Atlantic and New England SSCs will constitute the Assessment Oversight Panel and will be advised by staff of the NERO, NEFMC, MAFMC, and ASMFC. The public may participate in the deliberations of the AOP. Finally, peer review of operational assessments will be conducted by an Integrated Peer Review team including at least the lead assessor(s), the SSC member responsible for the stock, and an assessment scientist either from outside of NMFS or if from within NMFS, from outside of the lead assessor's working group. Results from the peer review will then be forwarded to the PDT/TC/SSC for the Councils' use in the ABC setting process.
- b. Terms of reference - The baseline model, developed as part of a previous benchmark assessment or through the research track, will be used to produce operational assessments. Typically, this will be the model used at the last operational assessment and the process for application of the model will follow Figure 1:
  - i. Step 1 - In the year prior to an operational assessment year, the NRCC will meet to determine the final operational assessment schedule for the next year. This schedule will build off of the 2-5 year assessment intervals for stocks that reflect the NEFMC /MAFMC/ASMFC specification setting cycles and stock biology.
  - ii. Step 2 - After the NRCC has set the schedule but prior to initiating the operational assessments, each lead assessor will determine how the baseline model will be applied in his/her upcoming operational assessment. Little, if any, change is expected or encouraged in the application of the baseline model in the operational assessments. However, it is incumbent upon the lead assessor to consider all relevant results from the research track, and to explore applying them in the operational track. Each assessment will be guided by the following generic Terms of Reference prepared to guide all operational assessments, with some tailoring to meet the characteristics of individual stocks:
    1. Update all fishery-dependent data (landings, discards, catch-at-age, etc.) and all fishery-independent data (research survey information) used as inputs in the baseline model or in the last operational assessment.
    2. Estimate fishing mortality and stock size for the current year, and update estimates of these parameters in previous years, if these have been revised.
    3. Identify and quantify data and model uncertainty that can be considered for setting Acceptable Biological Catch limits.
    4. If appropriate, update the values of biological reference points (BRPs).
    5. Evaluate stock status with respect to updated status determination criteria.
    6. Perform short-term projections; compare results to rebuilding schedules.
    7. Comment on whether assessment diagnostics—or the availability of new types of assessment input data—indicate that a new assessment approach is warranted (i.e., referral to the research track).

8. Should the baseline model fail when applied in the operational assessment, provide guidance on how stock status might be evaluated. Should an alternative assessment approach not be readily available, provide guidance on the type of scientific and management advice that can be.
- iii. Step 3 - The Assessment Oversight Panel (AOP) will meet with all of the lead stock assessors to review each stock's proposed operational assessment. All stocks proposed for the assessment year will be reviewed by the Assessment Oversight Panel at this meeting(s).
  1. The Assessment Oversight Panel will be composed, at a minimum, of a senior NEFSC assessment scientist, and the chairs of the Mid-Atlantic and New England SSCs, and will be advised by staff of the NERO, NEFMC, MAFMC, and ASMFC. Should an SSC Chair be a NEFSC scientist or not have the appropriate skills to technically review assessments, the SSC will appoint an alternative member scientist to the Assessment Oversight Panel.
  2. The Assessment Oversight Panel meeting will be open to the public.
  3. The purpose of the AOC's review is to finalize the Terms of Reference for each assessment and review the assessor's proposed approach for every assessment.
  4. Each assessor is also expected to provide an alternative approach to the assessment should the baseline model fail.
  5. The Assessment Oversight Panel review will focus on any proposed changes in the baseline model proposed by the lead assessor, recognizing that the proposed modeling approach should follow the baseline model as closely as possible (Terms of Reference need development for this review). Other possible approaches to the assessment can be discussed, and proposals from other potential assessors can also be tabled. However, any approaches significantly different from the baseline model will be referred to be research track for study, development, and peer review.
  6. The Assessment Oversight Panel may determine that, based on advice from the lead assessor, that the baseline model will not work; if so, the alternative approach will be implemented in the operational assessment, and the stock will be referred to the research track.



**Figure 1. New Stock Assessment Framework**

- iv. Step 4 - The operational assessment will then be developed by the lead assessment scientist.
  - v. Step 5 – The operational assessment will be subjected to an Integrated Peer.
  - vi. Step 6 – PDT/TC review of assessment with conclusions forwarded to SSC.
  - vii. Step 7 – SSC review of assessment with ABC recommendations forwarded to Council.
- c. Operational assessment development completion process and finalization - Following the Integrated Peer Review of an operational assessment, two reports will be provided to the appropriate PDT/TC. One report will summarize the results of the Integrated Peer Review (and authored by the Chair of the Integrated Peer Review). The second report will be the assessment document, which will be an NEFSC Reference Document, and will serve as the basis for the stock status determination (and will be authored by the stock's assessment scientist). A standardized template will be used in preparing this report (see attached Appendix Figure 1). The SSC will then review the two reports, and the PDT/TC recommendations. The SSC will also review situations where the Integrated Peer Review determined the baseline model was inappropriate and where the Integrated Peer Review subsequently provided scientific and management guidance based on an alternative approach.
- d. Process for identifying interim year stock evaluation metrics through operational assessment - In years between operational assessments, the PDT/TC will provide assessment data and information to the SSC. Such information could include: a) Recent survey indices, and recent landings and discard estimates, b) projections based on the last operational assessment, and c) resource status and/or fishery performance metrics. The PDT/TC (as supported by the NEFSC) will be responsible for obtaining the above data, updating projections, and providing the relevant information to the SSC.
- e. Peer review of operational assessment outputs (uncertainties, interim year stock evaluation metrics, etc.), Process to be applied (integrated/internal, handoff/external) - The operational assessment will be subjected to an Integrated Peer Review by a team including at least the lead assessor(s), the SSC member responsible for the stock, and an assessment scientist either from outside of NMFS or if from within NMFS, from outside of the lead assessor's working group. Terms of Reference remain to be developed for the Integrated Peer Review. The Integrated Peer Review will make the determination whether the completed operational assessment is technically sufficient to (a) evaluate stock status and (b) provide scientific advice; (c) successfully address the Terms of Reference. The Integrated Peer Review may determine that application of the baseline model in the operational assessment has not worked; if so, the alternative approach to the assessment will be implemented, and the stock will be referred to the research track.
- f. Define amount of latitude/modification of methods is permissible from established assessment baseline - A stock assessment will be a candidate for development of a new (or substantially revised) assessment approach via the research track if one or more of the following criteria apply, as determined during the peer review of the operational assessment:
- i. A change in stock definition is contemplated.
  - ii. Diagnostics from the operational assessment indicate the assessment model is inadequate to continue to serve as a scientific basis for management.
  - iii. New types of input data are available which, if incorporated into the assessment, might significantly change the assessment results. A significant change is one in which the estimates of stock size and OFL might differ by a stock specific amount (e.g., 20-30% for groundfish) from the assessment estimates without incorporating such new types of data.
  - iv. A significant retrospective pattern has become evident in the assessment estimates of stock size, fishing mortality, or recruitment.

- v. A significantly different value of natural mortality (e.g., derived from analysis of trophic interactions) is considered appropriate in characterizing non-fishing stock dynamics.
  - vi. Significant changes in management practices have occurred that have markedly reduced the accuracy and utility of the existing assessment data inputs, or significantly diminished the reliability or validity of the assessment model itself.
  - vii. If any of the above criteria are met, the issue will be referred (through the Center Director/appropriate SSC Chair) to the research track for development of a new baseline model. However, until the issue is resolved for use in an operational assessment, either the existing baseline model or the alternative assessment approach will be followed. Note that not all topics referred to the research track will indicate that the baseline model is an inappropriate analytic tool.
  - viii. If the assessment is considered acceptable by the Integrated Peer Review but involves significant deviations from the approach outlined from in the Assessment Oversight Panel review, then the assessment may be referred back to the Assessment Oversight Panel with a brief description of changes that were made from what was agreed to during the Assessment Oversight Panel review. The Assessment Oversight Panel can then review as necessary (and likely by correspondence) the assessment, and determine the course of action for the assessment.
- a. Protocols for incorporation of results into fishery management plans (as needed, i.e., regulatory changes or specifications process) – See Task 5, but an example of how the process would work (compared to the prior years) is shown in the Figure 2.

**Task 4: Define system for research track** - Establish general framework for how system will function, outlining:

- a. Roles and responsibilities of participant groups: NEFSC; Council and Commission PDTs, working groups, and technical committees; SSCs; external scientific expertise, and public participation - SSC Chairs, and the NEFSC Science and Research Director will refer stocks to the NEFSC for development of new approaches to the assessment through the research track. The NRCC will be responsible, as appropriate, with prioritizing the research projects. External experts will participate in the development and peer review of the research, and the public will be invited to sit in on the peer review.
- b. Protocols for remand, re-examination, addressing errors or new information (as needed) - The research track will be used to develop improved stock assessment models and approaches, and will not provide stock status determinations. Three general types of research projects will be referred to the research track: (1) stocks where the analytic method works but some biological issue requires investigation (e.g., stock structure), (2) stocks where application of the baseline model has not worked, or where a competing model has been suggested as a better analytic approach, and (3) stocks where an acceptable assessment has not yet been developed. The research track is not, however, meant as the repository for a host of research items. A stock assessment will be a candidate for development of a new (or substantially revised) assessment approach via the research track if one or more of the following criteria apply, as determined during the peer review of the operational assessment:
  - i. A change in stock definition is contemplated.
  - ii. Diagnostics from the operational assessment indicate the assessment model is inadequate to continue to serve as a scientific basis for management.
  - iii. New types of input data are available which, if incorporated into the assessment, might significantly change the assessment results. A significant change is one in which the estimates of stock size and OFL might differ by a stock specific amount (e.g., 20-30% for groundfish) from the assessment estimates without incorporating such new types of data.
  - iv. A significant retrospective pattern has become evident in the assessment estimates of stock size, fishing mortality, or recruitment.
  - v. A significantly different value of natural mortality (e.g., derived from analysis of trophic interactions) is considered appropriate in characterizing non-fishing stock dynamics.
  - vi. Significant changes in management practices have occurred that have markedly reduced the accuracy and utility of the existing assessment data inputs, or significantly diminished the reliability or validity of the assessment model itself.
- c. Terms of Reference – TORs for research track activities will vary depending on the reason for forwarding a project to the research track. Research track TORs for new baseline assessment models would include:
  - i. Develop scientifically valid methodologies and models to serve as the baseline model in future operational assessments. All new assessment models/approaches will be tested on datasets from the last operational assessment.
  - ii. Identify a framework /protocol for using available data to monitor the fishery and stock, and for setting specifications during the interval between operational assessments.
  - iii. Identify the metrics most useful to monitor in evaluating whether a management change may be needed

- iv. Develop BRPs that are consistent with any newly-developed assessment model or methodologies
  - v. Suggest alternative approaches to assessing the stock should the baseline model fail when applied in a future operational assessment
- d. Peer review of transitional assessment results - Work products developed in the research track will undergo an independent peer review process, which may be similar to that used in the Stock Assessment Review Committee/SARC (e.g., a sequential peer review involving the Center for Independent Experts and chaired by an SSC member).
- e. Process for transitioning a research assessment to an operational assessment baseline - The timing of research within the research track should be such that all work is completed and peer reviewed before the next scheduled operational assessment. At end of research track:
  - i. A decision will be made by the peer reviewers as to whether (a) the work products are adequate to replace the existing baseline model; (b) the new model or methods can be run either from the assessment model toolbox or through other available software; and (c) the revised/new BRPs are technically appropriate.
  - ii. Once accepted by the peer review panel, the new assessment model/approach will become the new baseline model.
  - iii. To facilitate timely incorporation of new, peer-reviewed baseline research into the operational track, the NRCC will review the operational assessment schedule in response to research track output and may amend the operational assessment schedule, subject to the availability of resources.

**Task 5: Develop transition plan** - Establish general framework for how system will function, outlining:

- a. Identify FMPs that would require regulatory changes to be more responsive to scientific advice. To better match available resources to management needs, because the current assessment process cannot meet the increased management needs of an annual catch limit (ACL)-based management program for every fishery. If the current practices are significantly changed, FMPs and implementing regulations will need to be amended accordingly.

There are currently 50 managed stocks in the Northeast Region, in 13 Fishery Management Plans (FMPs), managed under Magnuson-Stevens Act (MSA) authority. Each FMP and its implementing regulations describe a process for setting specifications or making framework adjustments to the fishery on a periodic basis.

Although the MSA requires ACLs to be set for each stock in a fishery, ACLs can be set for more than 1 year at a time (e.g., a 3-year specification action could set ACLs for each of the 3 years; the ACLs could be the same for each year in the cycle, or different). With the exception of Atlantic salmon, for which there is no fishery, the authority currently exists, or will likely soon exist through the MAFMC's Omnibus ACL/AM Amendment, in every FMP, for setting multi-year specifications (see Table 5). The currently authorized specification periods are from 2 to 5 years, but generally are 2 or 3 years. In the Mid-Atlantic, the ACLs and related specifications are established through specification actions, which are implemented through proposed and final rulemaking. In New England, fishery specifications are established through Framework Adjustments, which are also implemented through proposed and final rulemaking.

While the authority for multi-year specification setting has existed in most fisheries for several years, it has been used only to a limited extent. In the Mid-Atlantic, only the surfclam and ocean quahog fisheries have routinely been managed through multi-year specifications, though tilefish has been operating under a constant-catch scenario, pending the next stock assessment. Two-year specifications were set for the summer flounder fishery once, but the specifications were subsequently changed in the second year in response to new information; multi-year specifications in this fishery have not been used again. In New England, the scallop, groundfish, skate, and monkfish fisheries are managed through biennial Framework Adjustments; the herring fishery is currently under a 3-year specification cycle, and it is anticipated that the small-mesh groundfish species will be managed through 3-year specifications, beginning in FY 2012. In some cases (e.g., groundfish and scallops), "biennial" adjustments in New England have established specifications for 3 years, as a default in case the next biennial adjustment specifications are delayed.

If use of multi-year specifications is to be expanded, the ACL Working Group has recommended that there be objective criteria identified that would be used to determine a rational schedule for operational assessments; biologically-based criteria are being developed by the Task 2 Working Group ("Develop prioritization and scheduling system for operational assessments"). These criteria are based on the properties of each stock, including such factors as life history, stock condition, recruitment patterns, stock resilience, etc. It is envisioned that these criteria would be used, at least in part, to determine the optimal frequency of operational assessments for each stock or group of stocks,

and that the operational assessments would be coupled with specification/adjustment processes to convert the results of the assessments into management action. In addition to the biological criteria, there are other aspects of management that should be considered by the NRCC in determining the frequency of assessments and specification setting; these other factors are discussed under item 5.b. below.

If, based on the criteria developed by the Task 2 Working Group and consideration of the information described under item b. below, the NRCC concludes that the optimal frequency of assessment and specification setting for a stock is not consistent with the authority in the FMP (e.g., if the NRCC determines that assessments and specifications for surfclams be done every 7 years, but the Surfclam Ocean Quahog FMP only allows specifications to be set for up to 3 years), then that FMP will need to be amended to provide that authority. This could be done through either an FMP amendment or framework action, as appropriate, either as part of another action (i.e., combined with changes to other management measures in the FMP), or as a stand-alone action. Such a change should be relatively straightforward, from a technical standpoint. If the optimal frequency of assessment and specification setting is within the existing authority in an FMP, no change to the FMP or implementing regulations would be required.

Each FMP and its implementing regulations define the fishing year for each stock or groups of stocks (see Table 6). Fishing years can be changed, if doing so would spread workloads or make it easier to use the most recent scientific and/or fishery information for the operational assessment and associated specification setting. The issues associated with changing fishing years are discussed in item c. below. If the NRCC determines that the timing of assessments and/or the resultant specifications is such that it is desirable and/or necessary to change the starting date of any fishing year, this could be accomplished through either an FMP amendment or framework action, as appropriate to the FMP, with an associated proposed and final rule to change the implementing regulations. This would require analysis of the environmental, economic, and social impacts of such a change.

Each FMP and its implementing regulations also describe a process for specification setting or framework adjustments, including the parties involved (e.g., Plan Development Teams (PDTs), Fishery Management Action Teams (FMATs), Technical Committees, Monitoring Committees, Councils, Scientific and Statistical Committees (SSCs), etc.) and their respective roles; the timing of the process; and the range of specifications and/or adjustments that can be made through that process. If the new assessment/specification process approved by the NRCC requires changes to the existing process in a given FMP, there would need to be a change to that FMP and to its implementing regulations to define the new process for setting specifications and/or adjustments.

If multi-year specifications are used more extensively, which is recommended by the ACL Working Group, it is likely that the Councils will want some way to ensure that the specifications for out-years (e.g., years 2 and 3 in a 3-year specification cycle) are still appropriate. The approaches to doing this are discussed in item d. below. If the Councils choose to provide for out-year adjustments or responses to new information, establishing the process and criteria to be used to do that may require changes to the FMP and its implementing regulations. This could be done through an FMP amendment or framework, as appropriate to the FMP, and implemented through proposed and final

rulemaking, which would likely be relatively straightforward. If the existing process in an FMP is sufficient to accommodate the adjustment approach (e.g., if the Council chooses to use the current specification process to make the out-year adjustment), no changes to the FMP or regulations would be necessary.

Summary/Recommendations: Changes in multi-year authorities, fishing years, specification processes, and/or out-year adjustment procedures that result from the NRCC's decisions on the new assessment process will need to be made through FMP amendments or frameworks, as appropriate to the FMP, with accompanying changes to the implementing regulations, and the expected impacts of those changes will need to be analyzed as part of that process. If multiple FMPs need to be amended, an omnibus amendment could be an efficient way to accomplish this. The regulatory sections of 50 CFR that would potentially need to be amended are listed in Tables 6 and 7 (these could be different if/when the MAFMC's Omnibus ACL/AM amendment is implemented). The administrative/regulatory changes would take several months for the Councils to develop, and 5 -7 months for NMFS to review, approve, and implement.

- b. Define optimal duration of specifications by stock (connected to Task 2) - To match assessment advice to the management cycle, provide greater stability and predictability to the process and for the industry, and streamline the process to better balance workloads of Council and NMFS staff. Staggering the assessment and specification processes for different fisheries and/or stocks would spread out the assessment and specification setting workloads.

As discussed above under item 5.a., authority already exists to use multi-year specifications, and any additional authorities could be obtained through FMP amendments and/or frameworks, if necessary. To rationalize the frequency of operational assessments and the setting of multi-year specifications, the ACL Working Group has recommended that criteria should be established to determine the most appropriate duration of specifications for each stock and/or fishery. The Task 2 Working Group is developing biologically-based criteria for this purpose, to consider such things as life histories, generation times, stock status, stock resiliency, etc. However, there are other issues that are also relevant to these decisions, such as the importance of the fishery (value, number of participants, etc.), the stability of the fishery and the resources, whether the stock is overfished or experiencing overfishing, where the stock is relative to the end of a rebuilding plan, past performance of the management program, etc. Table 8 summarizes information for each managed stock that could be relevant for determining optimal assessment and specification cycles, but does not include the results of the Task 2 workgroup, which are not yet available. A first cut at estimating what appropriate assessment and specification frequencies might look like is also provided, as a strawman for further discussion. The frequencies vary from 3 to 7 years. The largest challenge will be the 20 multispecies stocks; it would be very difficult to assess all 20 stocks in the same year. It is possible, however, that the multispecies stocks could be grouped in such a way that the most important stocks (e.g., cod, haddock, yellowtail flounder, etc.) are assessed more often than the minor stocks (e.g., ocean pout, wolffish, cusk, halibut, etc.), and/or that groups of stocks could be assessed at staggered times (e.g., the roundfish in the same year, and the flatfish in a different year).

**Summary/Recommendations:** For the proposed process of operational assessments to make meaningful and necessary changes to better match assessment resources to management needs, the use of multi-year specifications will need to be expanded. To rationalize the decision process, it is recommended that there be science-based criteria developed (by Task 2 Working Group), and that other factors such as those in Table 8 also be considered by the NRCC, such that the assessment/specification process can be optimized consistent with available assessment resources. The implications of doing this are explored further under item c. below. One hurdle to be overcome is the timing of the start-up of a new process, because the benefits of a staggered assessment/specification process will not be realized immediately.

- c. **Examine modifications to fishing years, specifications cycles to optimize available resources (i.e., offset FMPs by years, change seasons to better synchronize with survey data and analytical availability)** - Establish a schedule that ensures that operational assessment results are available at the right times to feed into the Councils' specification/adjustment processes; stagger the process such that the assessment workloads are manageable with existing resources.; and make best use of scientific and fishery-dependent data in the operational assessment and specification setting process.

Table 6 shows the current fishing years for Northeast MSA-managed stocks. Most fishing years are based on calendar years, and begin on January 1. Four fishing years (groundfish, spiny dogfish, skates, and monkfish) start May 1. Two fishing years (scallops and red crab) begin on March 1. Only one fishing year (tilefish) begins November 1. The current staggered fishing years provide some administrative benefits, in that they spread out the specification processes such that not all specifications are being developed, submitted, reviewed, published, and implemented at the same time. On the other hand, having different fishing years for different fisheries could be more confusing to the public and the industry than a standard fishing year across all fisheries. Also, having fishing years not aligned with calendar years causes some complications in data reporting and use in assessments (assessments are generally based on calendar year data, and specifications for some fisheries are not). A downside of having all fishing years begin January 1 is that the specification packages and implementing rules must be processed late in the year, when holidays and weather can cause delays, and when many Federal agencies, including other regions of NMFS, are trying to get year-end actions in place and published in the Federal Register.

Making changes to fishing years to facilitate availability of assessment and/or data (surveys, landings data, recreational data, etc.) is administratively straightforward, but may be complicated by resistance from the fishing industry, since there are practical aspects of the timing of the fishing year such as fish availability (inshore/offshore, north/south, among different states or regions, etc.), fish prices, fish quality, weather, etc. For example, recent attempts to change the Atlantic sea scallop fishing year were vigorously opposed by industry. Nevertheless, this remains an available mechanism to better align scientific advice and the management process, as well as to stagger assessments and specification setting within the same year.

The ability to change fishing years is not explicitly framework in any FMP, though the frameworkable measure descriptions for many fisheries are broad (see Table 7). FMP amendments would likely be needed to change the fishing years in most, if not all, FMPs, given recent litigation

that found that framework options may be narrower than previously assumed. The impacts of any changes to a fishing year would need to be analyzed along with the amendment.

Changes to the specification/adjustment processes are listed as frameworkable measures in several FMPs (Atlantic Mackerel, Squid, Butterfish; NE Multispecies; Summer Flounder, Scup, and Black Seabass; Tilefish), and may be possible under the broad interpretation of frameworkable measures in others (Table 7). Depending on the FMP and the magnitude and impacts of such changes, they could be accomplished through FMP amendments or frameworks.

The staggering of specification/adjustment cycles will be necessary to accomplish meaningful resource-smoothing, i.e., to ensure that assessment resources are deployed to provide the necessary scientific advice on a schedule that is appropriate to each fishery. The frequency of assessments and specifications will depend on the results of the Working Group for Task 2 regarding biological criteria for assessment frequency, and on the other factors discussed above in item b., and in Table 8. Regardless of the final decisions on assessment/specification frequency made by the NRCC, it will be necessary to schedule assessments such that they meet the timelines of the Council and ASMFC processes (i.e., that the final operational assessment results feed into the management process in a way to allow them to be used quickly), and that they are sufficiently spaced to allow the assessment process to be completed with existing resources. In addition, to allow flexibility in making out-year changes to multi-year specifications, changes to the analyses accompanying the specification/adjustment actions will be necessary (see item 5.e. below).

The current status of specification and adjustment schedules is shown in Table 9, and the frequency and timing of specifications and adjustments based on the strawman assumptions in Table 8 are shown in Table 10. There would be a significant start-up workload, because the new process would necessitate a large number of specifications/adjustments to be performed in the first year as the new processes and schedules are phased in. The information in Table 10 is for illustrative purposes, and is subject to change based on decisions by the NRCC. Table 11 illustrates an example comparing the status quo process with the proposed operational/research track process.

**Summary/Recommendations:** Changing fishing years is possible, but may be opposed by the industry, if there are significant practical implications of the changes. Nevertheless, it is a tool available to stagger the starts of fishing years and/or to align assessments and specification setting with the availability of input data. It will be necessary to stagger the operational assessments and specification setting for different fisheries, consistent with biological and management factors discussed under item b. above. The start-up of the new process will require a large investment of resources to transition to the new process, since most fisheries will need initial specifications set in the first year or two, before the staggered schedules are effective at spreading out the assessments and specification setting.

- d. **Discuss issues/policy for interim year modifications to established multiple year specifications.** - If multi-year specifications are used more extensively, and there are limited resources available to provide assessment advice to the Councils and/or ASMFC outside of the operational assessment process, there needs to be a way to ensure that the specifications remain appropriate throughout the

specification cycle, through an out-year examination process, with at least some ability to make changes, if deemed necessary (not through MSA emergency or interim rules).

Under multi-year specifications, there needs to be some assurance that the original specifications remain adequate to protect the stocks from overfishing, to rebuild overfished stocks in the specified time frame, and to prevent ACLs from being exceeded. There also will be industry/public interest in determining whether the stock status has improved more than anticipated, such that the catch levels could be increased in the out-years. However, there will be no operational assessment possible while the multi-year specifications are in place. This will require a disciplined approach to avoid reacting to “noise” in the information; without this, the process will revert to the existing process whereby specifications are set or adjusted every year or two. It also would undermine the objective of a more stable and predictable assessment and management program.

At a minimum, there needs to be an annual examination of the performance of the fishery relative to the ACL(s), including the discard mortality associated with each stock. If an ACL is exceeded, associated accountability measures will be triggered, as specified in each FMP. Regardless of the number of years that specifications are set for, ACLs need to be established for each year in the time series (through the initial specification setting), and the performance of the fishery will need to be examined every year, relative to the ACL. This process is to ensure that ACLs are not exceeded, and to take appropriate measures to correct the overages and to prevent them from occurring again, but it does not examine whether the ACLs are still appropriate for the out years. This is a requirement of the MSA, and is not reflective of the new proposed process.

To address the issue of whether the ACLs as set for the out-years are still appropriate, the Councils have at least two alternatives. One approach is to set the multi-year specifications and to agree to leave them in place, without change, unless something unexpected and significant were to occur, and to not undertake any formal examination in the out-years. A second approach is, in years between operational assessments and the associated specification/adjustment process, to have the Council’s PDT and/or Technical Committee (TC) provide assessment data and information to the Council’s SSC (but note there would be no new assessment). Such information could include: Recent survey indices, and recent landings and discard estimates; projections based on the last operational assessment; and resource status and/or fishery performance metrics. The PDT/TC (as supported by the NEFSC) would be responsible for obtaining these data, updating projections, and providing the relevant information to the Council’s SSC. This could include a staff recommendation from the Council, or not. Based on the SSC’s review of the out-year information, the SSC would recommend to the Council whether there should be a change to the out-year specifications, and what that change should be. If the SSC recommends, and the Council agrees, that a change should be made, a regulatory response would be required.

The regulatory response to the SSC’s recommendation and Council’s determination to make an out-year change could take at least two forms. In the first, the Council could recommend a new set of specifications that would be sent to NMFS for consideration, and proposed and final rules would be used to implement the changes, much the way the existing processes work. This would take 5-7 months to implement any change. Alternatively, it may be possible/advantageous to identify very

specific criteria that the SSC and the Council would use to determine whether any adjustments are necessary, and to specify what the regulatory response to a triggering of the criteria would be. For example, the Council could pre-determine that, if Criterion X is exceeded by Amount Y, the ACL for the stock would be increased/decreased by Amount Z. The better defined the linkages (i.e., the less discretionary the decision), the faster the response could likely be. It is possible that, if the response is sufficiently non-discretionary, and the impacts of the change have been anticipated and analyzed in advance (see also the discussion under item e. below), the change could be made directly through a final rule.

Whichever out-year process is chosen (and a Council could choose to apply one process to some FMPs, and the other to other FMPs), to achieve stability in the fishery and the management process, it is recommended that any out-year changes should be made only in response to significant deviations from the established specifications; it would not be productive to require changes to the specifications in out-years if only small deviations have occurred. Further, any such changes should be triggered whether the stock condition is improving or worsening (i.e., whether the news is good or bad).

Another consideration of out-year adjustments is timing of the availability of the information needed, when the decision can be made as to whether a criterion is triggered, and whether an adjustment can be made part way through the fishing year. Because data on the performance of a fishery is typically not available until a few months after the fishing year ends, determinations on ACLs typically cannot be made until the next fishing year has begun. The same would be true for adjustment criteria that are based on fishery-dependent information. It would likely be necessary to wait to make any adjustment until the beginning of the following fishing year (e.g., if information from fishing year 2012, examined in fishing year 2013, indicated an adjustment to the specifications would be necessary, that adjustment would be made in fishing year 2014. Fishery-independent data, such as survey results, could potentially be obtained and examined prior to the start of, or very early in a fishing year. In this case, it is possible that an out-year adjustment could be made in that same fishing year.

**Summary/Recommendations:** To be effective and consistent with the overall goals of the ACL Working Group recommendations, the out-year examination process needs to be simple, structured, have well-defined criteria, and strive for stability. Non-discretionary adjustments could likely be accomplished most quickly. Adjustments should be responsive to either improving or declining stock conditions. MSA emergency rules and interim rules should be avoided.

- e. Discuss ways to streamline and improve required analyses (e.g., NEPA, RIR) in multiple year specification packages; provide recommendations for NERO and Council consideration. - To facilitate the use of multi-year specifications, including out-year adjustments, by anticipating and satisfying analytical requirements at the beginning of the process.

It appears that it would be relatively easy to address analytical issues associated with multi-year specifications, including any necessary out-year adjustments. The key to making this work is to appropriately determine the range of possible outcomes that could reasonably be expected, including the out-year adjustments. For example, assume the preferred alternative for the ACLs for the fishery over a 3-year specification cycle is 10,000 mt in year 1; 12,000 mt in year 2; and 14,000 mt in year 3,

and that there is an adjustment criterion that could change the ACLs by up to 2,000 mt, up or down. The analyses of the initial specification package would then include, at a minimum, the no action alternative, the preferred alternative, and alternatives that would include a year-2 ACL of between 10,000 and 14,000 mt (if an adjustment can be made in year 2), and a year-3 ACL of between 12,000 and 16,000 mt. So long as any adjustments stay within the range of those alternatives, the analyses under the National Environmental Policy Act (NEPA), the Endangered Species Act (ESA section 7), the Regulatory Flexibility Act (RFA), E.O. 12866, and essential fish habitat (EFH) should be adequate to cover any out-year adjustment(s). This would make adjustments easier and faster.

**Summary/Recommendations:** In most circumstances, analytical requirements should not be an impediment to using multi-year specifications, or to making out-year adjustments. Planning for a reasonable range of anticipated outcomes will be necessary, but should make any out-year adjustments easier and quicker to do.

- f. Recommend consolidation of species/stocks into FMPs; discuss logical species/stocks groupings. - To determine whether combining stocks into fewer FMPs would make the assessment/specification process more efficient.

It is possible that some efficiencies in assessments and specification setting could be obtained from changing the way species are grouped into FMPs. Any such changes in stocks in the fisheries would need to be done through FMP amendments. However, it is not clear that any such changes would necessarily result in changes to how often the stocks would be assessed.

Several of the fisheries appear unique enough that they would likely not be easily combined with others. These are:

- Atlantic Salmon (no fishery),
- Tilefish,
- Surfclams/Ocean Quahogs,
- Sea Scallops,
- Deep-sea Red Crab, and
- Spiny Dogfish.

Other fisheries have at least some characteristics sufficiently in common that it might be possible to combine them into a single FMP. These are:

- Northeast Multispecies; Monkfish; Skates
- Atlantic Herring; Atlantic Mackerel, Squid, and Butterfish
- Summer Flounder, Scup, Black Sea Bass; Atlantic Bluefish

The first group of species (multispecies, monkfish, skates) are caught by many of the same fishermen, using similar gear (bottom trawls, gillnets, hook gear). The fisheries for multispecies and monkfish are already somewhat linked though days-at-sea provisions in both FMPs. One potential complication of this grouping is that the Monkfish FMP is a joint FMP, with the NEFMC the lead; the other FMPs are solely the responsibility of the NEFMC. Another consideration is the Limited Access Privilege (LAPP) referendum requirements for NEFMC-managed fisheries. If these FMPs

were combined into one, it is unclear how the referendum requirements would apply. For example, to approve a monkfish IFQ program, would it require a referendum approval by everyone with a multispecies, skates, and/or monkfish permit? Or only those with monkfish permits?

The second potential grouping (Atlantic herring; Atlantic mackerel, squid, and butterfish) consists of species caught with much the same gear (trawls and/or purse seines), in large volumes (with the exception of butterfish in recent years), with relatively short life spans, and with similar roles in the ecosystem (e.g., as important prey species for other fish, marine mammals, and seabirds, as well as being predators themselves). Many of the industry participants in these fisheries are the same. A complication in this grouping, however, is that herring are currently managed by the NEFMC and the ASMFC; whereas mackerel, squid, and butterfish are managed by the MAFMC.

The third grouping (summer flounder, scup, black sea bass; Atlantic bluefish) contains fisheries with significant recreational components, as well as commercial components. The management processes for these two FMPs are already similar, and all of these species are managed by the MAFMC and the ASMFC.

**Summary/Recommendations:** Combining species/stocks into fewer FMPs is possible, and would be done through FMP amendments. However, there are potentially significant jurisdictional and statutory (i.e., LAPP referendum) issues that would need to be addressed. This is likely not something that could be accomplished quickly or easily, and it is not clear that making such changes would result in meaningful improvements to stock assessment or management workloads or efficiencies.

Table 1. Summary of stock status in the Northeast Region

FMP	Species	Stock	Assessment Type	Project Method	Overfishing?	Overfished?	Rebuild Date	Fishing Year
Northeast Multispecies	Cod	GB	VPA	AGEPR O	Yes	Yes	2026	1-May
	Cod	GOM	VPA	AGEPR O	Yes	No	2014	1-May
	Haddock	GB	VPA	AGEPR O	No	No	rebuilt	1-May
	Haddock	GOM	VPA	AGEPR O	No	No	rebuilt	1-May
	Yellowtail Flounder	GB	VPA	AGEPR O	Yes	Yes	2014	1-May
	Yellowtail Flounder	SNE/ MA	VPA	AGEPR O	Yes	Yes	2014	1-May
	Yellowtail Flounder	CC/G OM	VPA	AGEPR O	Yes	Yes	2023	1-May
	American Plaice	GB/G OM	VPA	AGEPR O	No	No	2014	1-May
	Witch Flounder		VPA	AGEPR O	Yes	Yes	2017	1-May
	Winter Flounder	GB	VPA	AGEPR O	Yes	Yes	2017	1-May
	Winter Flounder	GOM	none	none	Unknown	Unknown	N/A	1-May
	Winter Flounder	SNE/ MA	VPA	AGEPR O	Yes	Yes	2014	1-May
	Redfish		ASAP	AGEPR O	No	No	2051	1-May
	White Hake	GB/G OM	SCAA	AGEPR O	Yes	Yes	2014	1-May
	Pollock	GB/G OM	ASAP	AGEPR O	No	No	rebuilt	1-May
	Windowpane Flounder	GB/G OM	AIM	none	Yes	Yes	2017	1-May
	Windowpane Flounder	SNE/ MA	AIM	none	Yes	No	2014	1-May
	Ocean Pout		Index	none	No	Yes	2014	1-May
Northeast Multispecies (small mesh)	Atlantic Halibut		Repl. Yield	none	No	Yes	2055	1-May
	Atlantic Wolffish		SCALE	none	Unknown	Yes	N/A	1-May
	Silver Hake	North	Survey Index	none	No	No	N/A	1-May
	Silver Hake	South	Survey Index	none	No	No	N/A	1-May
	Red Hake	North	Survey Index	none	Unknown	No	N/A	1-May

FMP	Species	Stock	Assessment Type	Project Method	Overfishing?	Overfished?	Rebuild Date	Fishing Year
	Red Hake	South	Survey Index	none	Undefined	No	N/A	1-May
	Offshore Hake		Survey Index	none	Undefined	No	N/A	1-May
NEFMC (potential)	Cusk		SCALE	none	Unknown	Unknown	Not defined	N/A
Northeast Skate Complex	Little Skate		Survey Index	none	No	No	rebuilt	1-May
	Winter Skate		Survey Index	none	No	No	rebuilt	1-May
	Barndoor Skate		Survey Index	none	No	No	N/A	1-May
	Thorny Skate		Survey Index	none	No	Yes	Not defined	1-May
	Clearnose Skate		Survey Index	none	No	No	rebuilt	1-May
	Rosette Skate		Survey Index	none	No	No	N/A	1-May
	Smooth Skate		Survey Index	none	No	No	N/A	1-May
Atlantic Herring	Atlantic Herring		ASAP	AGEPRO	No	No	N/A	1-Jan
Deep-Sea Red Crab	Deep-Sea Red Crab		Survey	none	Unknown	Unknown	N/A	1-Jan
Atlantic Sea Scallop	Atlantic Sea Scallop		CASA	SAMS	No	No	rebuilt	1-Mar
Monkfish	Monkfish	North	SCALE	none	No	No	rebuilt	1-May
	Monkfish	South	SCALE	none	No	No	rebuilt	1-May
Spiny Dogfish	Spiny Dogfish		Catch at Length	length-based	No	No	rebuilt	1-May
Summer flounder, scup and black sea bass	Summer Flounder		ASAP	AGEPRO	No	No	N/A	1-Jan
	Scup		ASAP	AGEPRO	No	No	rebuilt	1-Jan
	Black Sea Bass		SCALE	none	Yes	No	rebuilt	1-Jan
Squid, Mackerel, Butterfish	Atlantic Mackerel		ASAP	AGEPRO	Unknown	Unknown	N/A	1-Jan
	<i>Loligo</i> Squid		Survey Index	N/A	No	No	N/A	1-Jan
	<i>Illex</i> Squid		Survey Index	N/A	No	Unknown	N/A	1-Jan
	Atlantic		KLAMZ	KLAMZ	No	Yes	Not defined	1-Jan

FMP	Species	Stock	Assessment Type	Project Method	Overfishing?	Overfished?	Rebuild Date	Fishing Year
	Butterfish							
Atlantic surfclam and ocean quahog	Atlantic surfclam		KLAMZ	KLAMZ	No	No	rebuilt	1-Jan ??
	Ocean Quahog		KLAMZ/VPA	KLAMZ	No	No	rebuilt	1-Jan ??
Bluefish	Bluefish		ASAP	AGEPRO	No	No	rebuilt	1-Jan
Tilefish	Golden Tilefish		ASPIC	ASPIC	No	No	N/A	1-Nov
American Lobster	American Lobster	GB	CKWM	N/A	No	No	N/A	1-Jan ??
	American Lobster	GOM	CKWM	N/A	No	No	N/A	1-Jan ??
	American Lobster	SNE	CKWM	N/A	No	Yes	Not defined	1-Jan ??
Northern Shrimp	Northern Shrimp		CSA/ASPI C	N/A	No	No	N/A	1-Dec
Striped Bass	Striped Bass		SCA/MARK	N/A	No	No	rebuilt	1-Jan
NEFMC (potential)	Atlantic Hagfish		none	none	N/A	N/A	N/A	N/A
Atlantic Salmon	Atlantic Salmon		Run reconstruction	none	N/A	N/A	N/A	N/A
American Eel	American Eel		none	none	N/A	N/A	N/A	N/A
Atlantic Sturgeon	Atlantic Sturgeon		none	none	N/A	N/A	N/A	N/A
ASMFC	Shortnose Sturgeon		none	none	N/A	N/A	N/A	N/A
Shad and River Herring	River Herring		none	none	N/A	N/A	N/A	N/A
	American Shad		none	none	N/A	N/A	N/A	N/A

**Table 2. Summary of key biological and fishery determinants of assessment frequency**

Species Common Name	--additional detail to be provided										
	Ages Required ?	Rebuild Program ?	Max Age (yr)	M (yr <sup>-1</sup> )	Approx Age at Maturity (yr)	Ave Age in Catch (yr)	Mean Generation Time (yr)	Recruitment Variability (H,M,L,U)	F/Fmsy	B/Bmsy	Potential Freq (lyr)
Atlantic Cod GB	Yes			0.2							3
Atlantic Cod GM	Yes			0.2							3
Haddock - GB	Yes			0.2							3
Haddock - GOM	Yes			0.2							3
Yellowtail Flounder - GB	Yes			0.2							3
Yellowtail Flounder - SNE/MA	Yes			0.2							3
Yellowtail Flounder - CC	Yes			0.2							3
American Plaice	Yes			0.2							3
Witch Flounder	Yes			0.2							3
Winter Flounder - GB	Yes			0.2							3
Winter Flounder - GM	Yes			0.2							3
Winter Flounder - SNE MA	Yes			0.2							3
Acadian Redfish	Yes		50	.1??							6
White Hake	Yes			0.2							3
Pollock	Yes			0.2							3
Windowpane - N	No			NA							2
Windowpane - S	No			NA							2
Ocean Pout	No			NA							2
Atlantic Halibut	No			0.06							6
Atlantic Wolffish	No			.2??							6
Silverhake - N	Yes			NA							2
Silverhake - S	Yes			NA							2
Red Hake - N	No			NA							2
Red Hake - S	No			NA							2
Offshore Hake	No			NA							2
Cusk	No			NA							9
Skates--Little	No			NA							2
Skates--Winter	No			NA							2
Skates--Barndoor	No			NA							2
Skates--Thorny	No			NA							2
Skates--Clearnose	No			NA							2
Skates--Rosette	No			NA							2
Skates--Smooth	No			NA							2
Atlantic Herring	Yes			NA							3
Deep Sea Red Crab	No			NA							5
Sea Scallops	Yes			0.1							3
Goosefish - N	Yes			NA							3
Goosefish - S	Yes			NA							3
Spiny Dogfish	No			40							2
Summer Flounder	Yes			NA							3
Scup	Yes			NA							3
Black Sea Bass	Yes			NA							3
Atlantic Mackerel	Yes			NA							3
Longfin Squid	No			>1							5
Northern Shortfin Squid	No			>1							5
Butterfish	Yes			0.8							2
Atlantic Surfclam	Yes			.15??							3
Ocean Quahog	Yes			.02??							3
Bluefish	Yes			0.2							2
Tilefish	No			NA							4
American Lobster	No			0.15							5
Northern Shrimp	No			0.15							1
Striped Bass	No			0.15							3
Atlantic Hagfish	No			.8??							9
Atlantic Salmon	Yes			0.15							9
American Eel	No			NA							9
Atlantic Sturgeon	No			NA							9
Shortnose Sturgeon	No			NA							9
River Herring	No			NA							9
American Shad	No			NA							9

i.

Table 3. Estimated staff time necessary for stock assessments. Annual person months are total person months/assessment frequency.

Counter	Orig index	Species Common Name	Potential frequency (yr)	Last assessment	Per Assessment Workload			Annualized workload
					Direct Person Months	Indirect Person Months	Total Person Months	
1	27	Northern Shrimp	1	2011	4	2	6	6.0
2	17	Bluefish	2	2010	6	1	7	3.5
3	18	Butterfish	2	2009	6	3	9	4.5
4	28	Ocean Pout	2	2008	3	1	4	2.0
5	30	Offshore Hake	2	2010	2	1	3	1.5
6	32	Red Hake - N	2	2010	4	1	5	2.5
7	33	Red Hake - S	2	2010	4	1	5	2.5
8	38	Silverhake - N	2	2010	4	1	5	2.5
9	39	Silverhake - S	2	2010	4	1	5	2.5
10	40	Skates--Winter	2	2011	2	1	3	1.5
11	41	Skates--Little	2	2011	2	1	3	1.5
12	42	Skates--Barndoor	2	2011	2	1	3	1.5
13	43	Skates--Thorny	2	2011	2	1	3	1.5
14	44	Skates--Clearnose	2	2011	2	1	3	1.5
15	45	Skates--Rosette	2	2011	2	1	3	1.5
16	46	Skates--Smooth	2	2011	2	1	3	1.5
17	47	Spiny Dogfish	2	2010	4	2	6	3.0
18	52	Windowpane - N	2	2008	3	1	4	2.0
19	53	Windowpane - S	2	2008	3	1	4	2.0
20	4	American Plaice	3	2008	12	4	16	5.3
21	6	Atlantic Cod GB	3	2008	24	8	32	10.7
22	7	Atlantic Cod GM	3	2008	24	8	32	10.7
23	10	Atlantic Herring	3	2009	36	12	48	16.0
24	11	Atlantic Mackerel	3	2010	36	12	48	16.0
25	16	Black Sea Bass	3	2010	12	3	15	5.0
26	21	Goosefish - N	3	2010	12	12	24	8.0
27	22	Goosefish - S	3	2010	12	12	24	8.0
28	23	Haddock - GB	3	2008	24	8	32	10.7
29	24	Haddock - GOM	3	2008	24	8	32	10.7
30	29	Ocean Quahog	3	2009	12	12	24	8.0
31	31	Pollock	3	2010	24	8	32	10.7
32	35	Scup	3	2008	12	4	16	5.3
33	36	Sea Scallops	3	2010	24	12	36	12.0
34	48	Striped Bass	3	2008	6	2	8	2.7
35	49	Summer Flounder	3	2010	12	4	16	5.3
36	51	White Hake	3	2008	24		24	8.0
37	54	Winter Flounder - GB	3	2011	12	4	16	5.3
38	55	Winter Flounder - GM	3	2011	12	4	16	5.3
39	56	Winter Flounder - SNE MA	3	2011	12	4	16	5.3
40	57	Witch Flounder	3	2008	24	8	32	10.7
41	58	Yellowtail Flounder - CC	3	2008	12	4	16	5.3
42	59	Yellowtail Flounder - GB	3	2010	12	8	20	6.7
43	60	Yellowtail Flounder - SNE/M	3	2010	12	4	16	5.3
44	14	Atlantic Surfclam	3	2009	12	12	24	8.0
45	50	Tilefish	4	2009	6	2	8	2.0
46	20	Deep Sea Red Crab	5	2008	12	4	16	3.2
47	25	Longfin Squid	5	2010	12	8	20	4.0
48	26	Northern Shortfin Squid	5	2005	12	8	20	4.0
49	1	Acadian Redfish	6	2008	24	8	32	5.3
50	9	Atlantic Halibut	6	2008	3	1	4	0.7
51	15	Atlantic Wolffish	6	2008	6	3	9	1.5
52	2	American Eel	9	xx	4	0	4	0.4
53	3	American Lobster	5	2008	24	8	32	6.4
54	5	American Shad	9	xx	4	0	4	0.4
55	8	Atlantic Hagfish	9	2003	4	1	5	0.6
56	12	Atlantic Salmon	9	2011	12	0	12	1.3
57	13	Atlantic Sturgeon	9	xx	12	4	16	1.8
58	19	Cusk	9	2010	6	2	8	0.9
59	34	River Herring	9	xx	12	4	16	1.8
60	37	Shortnose Sturgeon	9	xx	12	2	14	1.6
		person months			664	255	919	285.9
		person years			55.3	21.3	76.6	23.8

ii.

**Table 4. Example application of assessment frequency and work load factors for an example assessment schedule.**

Assessment Frequency (yr)	Species Common Name	Last assessment	Example Assessment Schedule								Total Events
			2012	2013	2014	2015	2016	2017	2018		
1	Northern Shrimp	2011	1	1	1	1	1	1	1	7	
2	Bluefish	2010	1		1		1		1	4	
2	Butterfish	2009	1		1		1		1	4	
2	Ocean Pout	2008		1		1		1		3	
2	Offshore Hake	2010		1		1		1		3	
2	Red Hake - N	2010		1		1		1		3	
2	Red Hake - S	2010		1		1		1		3	
2	Silverhake - N	2010		1		1		1		3	
2	Silverhake - S	2010		1		1		1		3	
2	Skates--Winter	2011	1		1		1		1	4	
2	Skates--Little	2011	1		1		1		1	4	
2	Skates--Barndoor	2011	1		1		1		1	4	
2	Skates--Thorny	2011	1		1		1		1	4	
2	Skates--Clearnose	2011	1		1		1		1	4	
2	Skates--Rosette	2011	1		1		1		1	4	
2	Skates--Smooth	2011	1		1		1		1	4	
2	Spiny Dogfish	2010	1		1		1		1	4	
2	Windowpane - N	2008		1		1		1		3	
2	Windowpane - S	2008		1		1		1		3	
3	American Plaice	2008	1			1			1	3	
3	Atlantic Cod GB	2008	1			1			1	3	
3	Atlantic Cod GM	2008			1			1		2	
3	Atlantic Herring	2009	1			1			1	3	
3	Atlantic Mackerel	2010		1			1			2	
3	Black Sea Bass	2010			1			1		2	
3	Goosefish - N	2010		1						1	
3	Goosefish - S	2010		1						1	
3	Haddock - GB	2008	1			1				2	
3	Haddock - GOM	2008	1			1				2	
3	Ocean Quahog	2009	1			1			1	3	
3	Pollock	2010		1			1			2	
3	Scup	2008	1			1			1	3	
3	Sea Scallops	2010		1			1			2	
3	Striped Bass	2008	1			1			1	3	
3	Summer Flounder	2010	1			1			1	3	
3	White Hake	2008		1			1			2	
3	Winter Flounder - GB	2011			1					1	
3	Winter Flounder - GM	2011			1					1	
3	Winter Flounder - SNE MA	2011			1					1	
3	Witch Flounder	2008		1						1	
3	Yellowtail Flounder - CC	2008		1			1			2	
3	Yellowtail Flounder - GB	2010	1	1	1	1	1	1	1	7	
3	Yellowtail Flounder - SNE/MA	2010		1			1			2	
3	Atlantic Surfclam	2009	1			1			1	3	
4	Tilefish	2009		1				1		2	
5	Deep Sea Red Crab	2008			1					1	
5	Longfin Squid	2010				1				1	
5	Northern Shortfin Squid	2005				1				1	
6	Acadian Redfish	2008		1						1	
6	Atlantic Halibut	2008						1		1	
6	Atlantic Wolffish	2008			1					1	
9	American Eel	xx								0	
5	American Lobster	2008								0	
9	American Shad	xx								0	
9	Atlantic Hagfish	2003								0	
9	Atlantic Salmon	2011								0	
9	Atlantic Sturgeon	xx								0	
9	Cusk	2010	1							1	
9	River Herring	xx								0	
9	Shortnose Sturgeon	xx								0	
Number of assessments			23	21	19	22	18	14	20		
Estimated Annual Workload (pers mon)			325	353	189	349	241	120	253		
Estimated Annual Workload (pers yrs)			27.1	29.4	15.8	29.1	20.1	10.0	21.1		

Table 5. Specification duration authority (assumes approval of Mid-Atlantic Omnibus).

<b>Stock</b>	<b>Council</b>	<b>Specification Authority</b>
Atlantic salmon	NEFMC	No specifications
Atlantic herring	NEFMC	Up to 3 years
Monkfish	NEFMC/MAFMC	Up to 3 years
NE multispecies	NEFMC	Biennial adjustments
Small-mesh groundfish	NEFMC	Expected to be 3-yr adjustment cycle
Atlantic sea scallop	NEFMC	Biennial review, DAS allocations for 2 years
Deep-sea red crab	NEFMC	Up to 3 years
Skates	NEFMC	Biennial, with PDT review, baseline reviews
Summer flounder	MAFMC	Up to 3 years
Scup	MAFMC	Up to 3 years
Black seabass	MAFMC	Up to 3 years
<i>Loligo</i> squid	MAFMC	Up to 3 years, annual review
<i>Illex</i> squid	MAFMC	Up to 3 years, annual review
Atlantic mackerel	MAFMC	Up to 3 years, annual review
Butterfish	MAFMC	Up to 3 years, annual review
Atlantic bluefish	MAFMC	Up to 3 years proposed in Omnibus Amendment
Surf clams/ocean quahogs	MAFMC	Up to 3 years, annual review
Spiny dogfish	MAFMC/NEFMC	Up to 5 years
Golden tilefish	MAFMC	Following new stock assessment or establishment of RSA

Table 6. Current Fishing Years

<b>Stock</b>	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D
Atlantic salmon																								
Atlantic herring																								
Monkfish																								
NE Multispecies																								
Small-mesh groundfish																								
Atlantic Sea Scallops																								
Deep-sea red crab																								
Skates																								
Summer flounder																								
Scup																								
Black seabass																								
<i>Loligo</i> squid																								
<i>Illex</i> squid																								
Atlantic mackerel																								
Butterfish																								
Atlantic bluefish																								
Surfclams/ocean quahogs																								
Spiny dogfish																								

Table 7. Frameworkable provisions for fishing year and specification/adjustment process.

Fishery	50 CFR Framework Regs	Fishing Year Frameworkable?	Specifications Process Frameworkable?
Mackerel, squid, butterfish	§ 648.24	Maybe (not explicit)	Yes
Atlantic salmon	§ 648.41	NA	NA
Atlantic sea scallops	§ 648.55	Maybe	Maybe
Surfclams, ocean quahogs	§ 648.77	No	No
NE multispecies	§ 648.90	Maybe	Yes
Monkfish	§ 648.96	Maybe	Maybe
Summer flounder	§ 648.108	Maybe	Yes
Scup	§ 648.127	Maybe	Yes
Black sea bass	§ 648.147	Maybe	Yes
Atlantic bluefish	§ 648.165	Maybe	Maybe
Atlantic herring	§ 648.206	Maybe	Maybe
Spiny dogfish	§ 648.237	Maybe	Maybe
Deepsea red crab	§ 648.261	Maybe	Maybe
Tilefish	§ 648.294	No	Yes
Skates	§ 648.321	No	No

Table 8. Regulations for procedures and frequency of specifications/adjustments.

<b>Fishery</b>	<b>50 CFR Regs for Specification and Adjustment Procedures</b>	<b>50 CFR Regs for Specification and Adjustment Frequency</b>
Mackerel, squid, butterfish	§ 648.21	§ 648.21
Atlantic salmon	NA	NA
Atlantic sea scallops	§ 648.55	§ 648.55
Surfclams, ocean quahogs	§ 648.71	§ 648.71
NE multispecies	§ 648.90	§ 648.90
Monkfish	§ 648.96	§ 648.96
Summer flounder	§ 648.100	§ 648.100
Scup	§ 648.120	§ 648.120
Black sea bass	§ 648.140	§ 648.140
Atlantic bluefish	§ 648.160	§ 648.160
Atlantic herring	§ 648.200	§ 648.200
Spiny dogfish	§ 648.230	§ 648.230
Deepsea red crab	§ 648.260	§ 648.260
Tilefish	§ 648.290	§ 648.290
Skates	§ 648.320	§ 648.320

Table 9. Current status of specification/adjustment schedules for Northeast Fisheries.

FMP	2011	2012	2013	2014	2015
Atlantic Bluefish	1 yr; specs; set for 1-3 yr; specs (2012-?)	Undetermined	Undetermined	Undetermined	Undetermined
Mackerel, Squid, Butterfish	1 yr; specs; set for 1-3 yr; specs (2012-?)	Undetermined	Undetermined	Undetermined	Undetermined
Summer Flounder, Scup, Black Sea Bass	1 yr; specs; set for 1-3 yr; specs (2012-?)	Undetermined	Undetermined	Undetermined	Undetermined
Tilefish	Roll over	Following new assessment or RSA	Following new assessment or RSA	Following new assessment or RSA	Following new assessment or RSA
Spiny Dogfish	1 yr; specs; set for 1-5 yr; specs (2012-?)	Undetermined	Undetermined	Undetermined	Undetermined
Surfclams, Ocean Quahogs	3 yr; specs	3 yrs; specs	3 yrs; specs; need to be set for 1-3 yr; specs	Undetermined	Undetermined
Atlantic Salmon	NA	NA	NA	NA	NA
Monkfish	3 yr; Amend. 5	3 yr; Amend. 5	3 yr; Amend. 5; need to be set for 3 yr (2014-2016); FW or Amend.	Set through FW or Amend.	Set through FW or Amend.
Deep-sea Red Crab	3 yr; Amend. 3	3 yr; Amend. 3	3 yr; Amend. 3; need to be set for 1-3 yr (2014-2016); FW or Amend.	Set through FW or Amend.	Set through FW or Amend.
Skates	2 yr; Amend. 3	2 yr; Amend. 3; set for 2 yr (2013-2014); FW or Amend.	Set through FW or Amend.	Need to be set for 2 yr (2015-2016); FW or Amend.	Set through FW or Amend.
Atlantic Herring	3 yr; Amend. 4	3 yr; Amend. 4	3 yr; Amend. 4; need to be set for 1-3 yr (2014-?); FW or Amend.	Undetermined	Undetermined
NE Multispecies (U.S./Canada stocks currently assessed)	2 yr; FW 44; set for 2 yr (2012-2013,	2 yr; FW 45	2 yr; FW 45; set for 2 yr (2014-2015, w	Default specs in place under FW 45; new	2 yr; FW or Amend.

FMP	2011	2012	2013	2014	2015
and adjusted annually)	default 2014); FW 45		default 2016?); FW or Amend.	specs in place under FW or Amend.	
Small-mesh Groundfish	set for 3 yr (2012-2014); Amend. 19	3 yr; Amend. 19	3 yr; Amend. 19	set for 3 yr (2015-2017); FW or Amend.	3 yr; FW or Amend.
Sea Scallops	2 yr (2011-2012, w 2013 default); FW 22	2 yr, (w. 2013 default); FW 22; set for 2 yr (2013-2014, w 2015 default ?)	Default 2013 specs in place under FW 22; new specs under FW or Amend.	2 yr, (w. 2015 default?); FW or Amend.; set for 2 yr (2015-2016, w 2017 default ?); FW or Amend.	Default 2015 specs in place?; new specs under FW or Amend.

Table 10. Example of specification/adjustment schedules for Northeast Fisheries, if multiyear specifications/adjustments are used in all fisheries, and assuming the frequency of assessments in Table 5. Numbers in parentheses after each FMP are the number of stocks for which specifications would be set. The notation “set” means the year in which the Council must develop the specifications for the next fishing year(s) (e.g., the MAFMC would “set” summer flounder specs in 2012 for the fishing year(s) starting 2013). Numbers in parentheses next to “Set” are the numbers of years that the specifications are to be set for. The results of the operational assessment for each stock would need to be available at least 1-2 months prior to the Council taking action, to allow for recommendations from the technical committees and SSCs to be developed. Assumes that new process starts with next specification/adjustment cycle in or after 2013 (the Council development of specs in 2013 for FY(s) 2014 and beyond).

FMP	2011	2012	2013	2014	2015	2016	2017	2018	2019
Atlantic Bluefish (1)	X Set 1 (2012)	X Set 1 (2013)	Set 3 (2014- 2016)	X	X	Set 3 (2017- 2019)	X	X	Set 3 (2020- 2022)
Mackerel, Squid, Butterfish (4)	X Set 1 (2012)	X Set 1 (2013)	Set 3 (2014- 2016)	X	X	Set 3 (2017- 2019)	X	X	Set 3 (2020- 2022)
Summer Flounder, Scup, Black Sea Bass (3)	X Set 1 (2012)	X Set 1 (2013)	Set 3 (2014- 2016)	X	X	Set 3 (2017- 2019)	X	X	Set 3 (2020- 2022)
Tilefish (1)	X	X	X Set 5 (2014- 2018)	X	X	X	X	Set 5 (2019- 2023)	X
Spiny Dogfish (1)	X Set 1 (2012)	X Set 1 (2013)	Set 5 (2014- 2018)	X	X	X	X	Set 5 (2019- 2023)	X
Surfclams, Ocean Quahogs (2)	X	X	X Set 7 (2014- 2020)	X	X	X	X	X	X
Atlantic Salmon	NA	NA	NA	NA	NA	NA	NA	NA	NA
Monkfish (2)	X	X	X Set 4 (2014- 2017)	X	X	X	X	X	X
Deep-sea Red Crab (1)	X	X	X Set 5	X	X	X	X	X	Set 5

FMP	2011	2012	2013	2014	2015	2016	2017	2018	2019
			(2014-2018)					(2019-2023)	
Skates (7)	X	X Set 2 (2013-2014)	X	X Set 3 (2015-2017)	X	X	X Set 3 (2018-2020)	X	X
Atlantic Herring (1)	X	X	X Set 3 (2014-2016)	X	X	X Set 3 (2017-2019)	X	X	X Set 3 (2020-2022)
Major Groundfish <sup>1</sup> (13)	X Set 2 (2012-2013)	X	X Set 3 (2014-2016)	X	X	X Set 3 (2017-2019)	X	X	X Set 3 (2020-2022)
U.S./Canada Groundfish <sup>2</sup> (3)	X Set 1 (2012)	X Set 1 (2013)	X Set 2 (2014-2015)	X	X Set 2 (2016-2017)	X	X Set 2 (2018-2019)	X	X Set 2 (2020-2021)
Other Groundfish <sup>3</sup> (6)	X Set 2 (2012-2013)	X	X Set 5 (2014-2018)	X	X	X	X	X	X Set 5 (2019-2023)
Atlantic Halibut (1)	X Set 2 (2012-2013)	X	X Set 7 (2014-2020)	X	X	X	X	X	X Set 7 (2021-2027)
Small-mesh Groundfish (5)	X Set 3 (2012-2014)	X	X	X Set 5 (2015-2019)	X	X	X	X	X Set 5 (2020-2024)
Sea Scallops (1)	X	X Set 2 (2013-2014)	X	X Set 3 (2015-2017)	X	X	X Set 3 (2019-2021)	X	X
<b>No. of Stocks Set</b>	<b>37</b>	<b>20</b>	<b>39</b>	<b>13</b>	<b>3</b>	<b>22</b>	<b>13</b>	<b>9</b>	<b>31</b>

X = Specifications already established or under development

Orange X = Specifications would be in place

<sup>1</sup> For purposes of this strawman, “major groundfish” are GB cod, GOM cod, GB haddock, GOM haddock, pollock, white hake, CC/GOM yellowtail flounder, GB yellowtail flounder, SNE/MA yellowtail flounder, American plaice, GB winter flounder, GOM winter flounder, SNE/MA winter flounder, witch flounder.

<sup>2</sup> For purposes of this strawman, “U.S./Canada groundfish” are Eastern GB cod, Eastern GB haddock, GB yellowtail flounder. There are discussions of changing this to a 2-year assessment/adjustment cycle.

<sup>3</sup> For purposes of this strawman, “other groundfish” are Acadian redfish, northern windowpane flounder, southern windowpane flounder, wolffish, ocean pout, cusk.

Draft 22 March 2011

Table 11. Example of proposed process for assessments/specifications versus status quo process. Summer flounder is used as the example.

	Status Quo Assessment Processes		Proposed Framework for NE Assessments		
	SAW/SARC track	annual stock assessment update track	Operational Assessment Year	No Operational Assessment Conducted (interim years)	Research Track to Operational Assessment (new baseline available)
Periodicity	dependent on NRCC agreed schedule (2-5 yrs).	annual	every 2-5 years (T.B.D.)	Intervening years between 2-5 year operational schedule	Dependent on 1) need of research track development, 2) completion of accepted baseline model
Action(s) by group					
Prior year	SDWG: TORS for SAW developed and finalized				Prior year (or years); Development of new baseline model, methods, etc.; TORS for SAW developed
Jan					
Feb	SDWG: data and model meetings, NEFSC: Data collection and analyses		NRCC schedules Operational Assessment cycle (Oct. prior year), adopts ToRs; Assessment Oversight Panel to review Operational Assessment Plan developed by lead stock assessment scientist; assessment plan, including interim approach, approved for use <u>or</u> assessment deferred to research track and interim approach implemented		SDWG: data and model meetings, NEFSC: Data collection and analyses
March	SDWG: Finalization of data and model meetings, NEFSC: Data collection and analyses				SDWG: Finalization of data and model meetings, NEFSC: Data collection and analyses
April					
May	SDWG: data and model meetings, NEFSC: Final model runs, report work	NEFSC/SDWG: Data assembly (Survey and Age data); stock assessment update analyses	NEFSC lead scientist consult with PDT/TC/SSC (integrated peer review); develop, prepare, and finalize operational assessment using current baseline model <u>or</u> interim approach finalized	PDT/TC data collection and assembly (with support by NEFSC, as needed)	SDWG: data and model meetings, NEFSC: Final model runs, report work
June	SARC meeting; Peer review report and recommendation finalization; NEFSC summary report; information conveyed to MAFMC staff	NEFSC/SDWG: Stock assmnt. update review mtg.	Integrated peer review, Initiation of research track decision point --Research Track started, as needed; NEFSC reports made final; PDT/TC provides operational information to SSC <u>or</u> interim approach forwarded for management use	PDT/TC update interim year operational assessment-related performance metrics; provide information to SSC	SARC (or SARC-type) meeting; Peer review report and recommendation finalization; NEFSC summary report; information conveyed to MAFMC staff
July	Peer review report and recommendation finalization; NEFSC summary report; information conveyed to MAFMC staff; SSC/MC: Meetings (pre-decisional, ABC, and TAC/TAL recommendation)	SSC/MC: Meetings (pre-decisional, ABC, and TAC/TAL recommendation)	SSC/MC: Meetings (pre-decisional, ABC, and TAC/TAL recommendation)	SSC/MC: Meetings (pre-decisional, ABC, and TAC/TAL recommendation)	Peer review report and recommendation finalization; NEFSC summary report; NEW operational model FINAL using prior year or outdated data
Aug	MAFMC: Meeting; receives and reviews SSC ABC and MC TAC/TAL recommendations; action on specifications	MAFMC: Meeting; receives and reviews SSC ABC and MC TAC/TAL recommendations; action on specifications	MAFMC: Meeting; receives and reviews SSC ABC and MC TAC/TAL recommendations; action on specifications	MAFMC: Meeting; receives and reviews SSC ABC and MC TAC/TAL recommendations; action on specifications	Process continues as outlined in either the operational year or interim year descriptions
Sept	MAFMC: Submits EA/RIR/IRFA, specs Recommendation to NMFS	MAFMC: Submits EA/RIR/IRFA, specs Recommendation to NMFS	MAFMC: Submits EA/RIR/IRFA, specs Recommendation to NMFS	MAFMC: Submits EA/RIR/IRFA, specs Recommendation to NMFS	
Oct	NMFS: Proposed Rule on specifications	NMFS: Proposed Rule on specifications	NMFS: Proposed Rule on specifications	NMFS: Proposed Rule on specifications	
Nov	NMFS: Public comment; development of final specifications rule	NMFS: Public comment; development of final specifications rule	NMFS: Public comment; development of final specifications rule	NMFS: Public comment; development of final specifications rule	
Dec	NMFS: Final Rule; Specifications	NMFS: Final Rule; Specifications	NMFS: Final Rule; Specifications; restart track with next year's Assessment Oversight Panel	NMFS: Final Rule; Specifications	

(Prepared by Jessica Coakley and Michael Ruccio)

Appendix Figure 1. Draft Template

**Assessment of Stock XXXXX**

NEFSC Author

Date

**I. Executive Summary**

- A. Summary of Assessment Changes
  - 1. Changes in input data
  - 2. Changes in assessment methodology
- B. Summary of Results

Quantity/Status	Last year		This year	
	2010	2011	2011	2012
Fishing Mortality				
Stock Size				
Fishing Mortality Threshold				
Stock Size Threshold				
Is the stock overfished or being subjected to overfishing?				

State the current stock status based on the previous peer reviewed assessment (i.e., is the stock in a rebuilding program, is it overfished, overfishing?)

**II. Introduction**

**III. Fishery/Catch Statistics**

**IV. Data**

- A. Fishery Catch Statistics
- B. Survey Data
- C. Other Data

**V. Analytic Approach**

**VI. Overfishing Definition and Biological Reference Points**

- A. State the current official overfishing definition (for overfished and overfishing).
- B. State the current BRPs ( $F_{MSY}$ ,  $B_{MSY}$ , MSY, or their proxies)
- C. Give the updated estimates of the BRPs (FMSY, BMSY, MSY, or their proxies)

**VII. Results**

- A. Provide estimates of B, SSB, F, recruitment, and catch (landings, discards) for the entire time series.
- B. Make a stock status determination based on the latest results.

- C. OFL recommendations (if possible, provide the pdf of OFL)

**VIII. Discussion**

- A. Ecosystem considerations
- B. Analytic issues and key sources of uncertainty in the assessment
- C. Research priorities and data gaps

**IX. Literature Cited**

**Scheduling Worksheet for Stock Assessments.****date: 04/11/11 (-a)****Basis for entries in Table: Spring 2011 NRCC meeting**

<b>SARC 48, June 2009</b>		<b>SARC 49, Nov 30 - Dec 3 2009 (11/30-12/3)</b>
1	Ocean quahog	Atlantic surfclam
2	Tilefish	Butterfish
3	Weakfish	
4		
5	(Updates: Bluefish, BlkSeaBass, Scup, SMB, Fluke, Dog )	(TRAC - Mackerel - Data - Oct 22-23 '09 )
6	(Vessel Calibration, Aug)	
7	(TRAC - EGBK Cod - Data - Jan)	
8	(TRAC - EGBK Cod - Modeling - April)	
9	(TRAC - (EGBK Cod, EGBK Hadd, GB YT), Herring - June)	
10	(TRAC - Dogfish - Data - April '09)	
11	(Wolffish Status Review - Jun '09)	

<b>SARC 50, June 1-4, 2010</b>		<b>SARC 51, Dec. 2010 (11/29-12/3)</b>
1	Sea scallop	Loligo
2	Monkfish	Silver hake: 2 stocks
3	Pollock	Red hake: 2 stocks
4		Offshore hake
5		
6	(TRAC - Dogfish - Benchmark - Jan 25-29 '10)	
7	(TRAC - Mackerel - Benchmark - Mar 1-5 '10)	
8	(TRAC - EGB cod, EGB haddock, GB YT - Jul 19-23 '10)	
9	(Updates: Bluefish, BlkSeaBass, Scup, Fluke, Dog)	

<b>SARC 52, June 6-10, 2011</b>		<b>SARC 53, Dec. 2011</b>
1	Winter flounder: Gulf of Maine	Black sea bass
2	Winter flounder: GBK	GOM Cod
3	Winter flounder: SNE	
4		
5		
6	(Multisp. Grndfsh catch&surv analy - for biennial ACLs )	
7	(TRAC - EGB cod, EGB haddock, GB YT )	
8	(Updates: Bluefish, BlkSeaBass, Scup, Fluke, Dog- [Spring-Fall])	

<b>SARC 54, June 2012</b>		<b>SARC 55, Dec. 2012</b>
1	SNE YT flounder	Atlantic surfclam
2	Herring	GB Cod
3		Windowpane flounder -N
4		Windowpane flounder -S
5		
6	(TRAC - EGB cod, EGB haddock, GB YT )	
7	(Updates: Bluefish, BlkSeaBass, Scup, Fluke, Dog- [Spring-Fall])	

<b>SARC 56, June 2013</b>		<b>SARC 57, Dec. 2013</b>
1	Striped bass	<i>Illex</i>
2	Tilefish	<i>Bluefish</i>
3		<i>N. shrimp</i>
4		
5	( Multisp. Groundfish catch and survey analyses - for biennial ACLs )	
6	(TRAC - EGB cod, EGB haddock, GB YT )	
7	(Updates: Bluefish, BlkSeaBass, Scup, Fluke, Dog- [Spring-Fall])	

Key:

*Italics* = Under consideration, but not officially scheduled. Transitioning to redesigned NE Assessment Process.

"( )" = not in the SARC process.

Cells filled with gray = work completed.

~/sarc/boilerplate/Schedule-worksheet-assessments(date).xls 04-11-11a.

**DRAFT Scheduling Worksheet for Stock Assessments.**

**date: 10/17/11 (-a)**

**Basis for entries in Table: Spring 2011 NRCC meeting + recent plans**

<b>SARC 50</b> , June 1-4, 2010	<b>SARC 51</b> , Dec. 2010 (11/29-12/3)
1 Sea scallop	Loligo
2 Monkfish	Silver hake: 2 stocks
3 Pollock	Red hake: 2 stocks
4	Offshore hake
5	
6 (TRAC - Dogfish - Benchmark - Jan 25-29 '10)	
7 (TRAC - Mackerel - Benchmark - Mar 1-5 '10)	
8 (TRAC - EGB cod, EGB haddock, GB YT - Jul 19-23 '10)	
9 (Updates: Bluefish, BlkSeaBass, Scup, Fluke, Dog)	

<b>SARC 52</b> , June 6-10, 2011	<b>SARC 53</b> , Dec. 2011
1 Winter flounder: Gulf of Maine	Black sea bass
2 Winter flounder: GBK	GOM Cod
3 Winter flounder: SNE	
4	
5	
6 (Multisp. Grndfish catch&surv analy - for biennial ACLs )	(Summer flounder and Scup Updates)
7 (TRAC - EGB cod, EGB haddock, GB YT )	(NE Groundfish Updates, AOP, Nov 22 , Operational Track test run)
8 (Updates: Bluefish, BlkSeaBass, Scup, Fluke, Dog- [Spring-Fall])	

<b>SARC 54</b> , June 2012	<b>SARC 55</b> , Dec. 2012
1 SNE YT flounder	Atlantic surfclam
2 Herring	GB Cod
3	<i>Windowpane flounder-N</i>
4	<i>Windowpane flounder-S</i>
5 (NE Groundfish Updates, Peer Review, Feb. 13-17, Operat. Track test run)	White hake
6 (MRIP-MRFSS Workshop)	
7 (TRAC - EGB cod, EGB haddock, GB YT )	
8 (Bluef, BlkSeaBass, Scup, Fluke, Dog, AOP, Dates TBD, Operat. Track test run )	(Bluef, BlkSeaBass, Scup, Fluke, Dog, Peer Rev., Dates TBD, Operat. Track test run )

<b>SARC 56</b> , June 2013	<b>SARC 57</b> , Dec. 2013
1 Striped bass	<i>Illex</i>
2 Tilefish	Bluefish
3	<i>N. shrimp</i>
4 (Multisp. Groundfish catch & survey anal. - for biennial ACLs, AOP, Operat. Track test run )	
5 (Multisp. Groundfish catch & survey anal. - for biennial ACLs, Peer Review, Operat. Track test run )	
6 (TRAC - EGB cod, EGB haddock, GB YT )	
7 (Bluef, BlkSeaBass, Scup, Fluke, Dog, AOP, Dates TBD, Operat. Track test run )	(Bluef, BlkSeaBass, Scup, Fluke, Dog, Peer Rev., Dates TBD, Operat. Track test run )

<b>2014: 1st half</b>	<b>2014: 2nd half</b>
1	
2	
3	(Operational Track: Stock Assessments)
4 (Research Track , possible topics: Cod stock structure/ stock ID, scup, mack, GB YT, or MRIP)	
5	

Key:

*Italics* = Under consideration, but not officially scheduled.

"( )" = not in the SARC process. Transitioning to new NE Stock Assessment Process.

Cells filled with gray = work completed.

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## Regional Fishery Management Council Coordination Committee



February 3, 2011

Ms. Nancy Sutley and Dr. John P. Holdren, Co-Chairs  
National Ocean Council  
730 Jackson Place, NW  
Washington, DC 20503

Dear Ms. Sutley and Dr. Holdren:

The purpose of this letter is to inform the National Ocean Council (NOC) of the Regional Fishery Management Councils' (RFMCs) interest in participating in the Coastal and Marine Spatial Planning (CMSP) process through the regional planning bodies being created by the NOC. Also, because of this interest, the RFMCs would like to be included to participate in the national CMSP workshop scheduled for May, 2011.

The Council Coordination Committee (CCC) recently met with NOAA Fisheries Senior staff and discussed the National Ocean Council and Coastal and Marine Spatial Planning. The CCC is the coordinating body of the RFMCs, established under Section 302(l) of the Magnuson-Stevens Fishery Conservation and Management Act. It consists of the chairs, vice chairs, and executive directors of each of the eight RFMCs.

Specifically, we are requesting that the RFMCs have an integrated role in the CMSP process, including membership in the appropriate regional planning bodies, and through other mechanisms (such as the national workshop) that will facilitate Council input in the development of CMS Plans.

We note that under the NOC priority objective for CMSP - Regional Planning Bodies it states "The members of the regional planning bodies will consist of Federal, State, and tribal authorities relevant to CMSP for that area. In addition, the regional planning bodies will provide a formal mechanism for consultation with their respective Regional Fishery Management Councils (RFMCs) on fishery related issues."

Further, the final recommendations of the Interagency Ocean Policy Task Force state "Some comments suggested adding a Regional Fishery Management Council (RFMC) representative to the regional planning bodies given their unique quasi-regulatory role under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Task Force is interested in finding the most effective opportunity for sustained and meaningful engagement with the RFMCs as it is their statutory responsibility to develop fishery

management plans and management measures for fisheries which NOAA then reviews and, if approves, implements through regulation. While the Task Force acknowledges the relatively unique role that RFMCs play, it did not want to prescribe a particular method for how RFMCs should be included in the CMSP process without more thoughtful consideration and analysis. The recommendations describe that the regional planning bodies would provide a formal mechanism for consultation with the RFMCs across their respective regions on fishery related issues and that the NOC would further assess if representation on the regional planning bodies is the best method for this engagement.” The CCC firmly believes that the best method for engagement with the RFMCs in CMSP is for each of the regional Councils to have a dedicated seat on the appropriate regional planning body in their jurisdictions.

The RFMCs have already been engaged with regional planning bodies where they exist. We have made significant efforts to work with the states in the development of the regional governor’s ocean partnerships/alliances and other entities addressing CMSP.

The Western Pacific Fishery Management Council (WPFMC) has been engaged as project partners in two funding proposals for NOAA’s FY-2011 Regional Ocean Funding Program. One of these proposals was to establish a process in Hawaii to bring together State, Federal, County, and other stakeholder groups to begin to implement CMSP. The other proposal was to establish a Pacific Regional Ocean Partnership that would include government representation from American Samoa, Guam, Northern Mariana Islands, and Hawaii. The WPFMC has also been in discussions with the Pacific Basin Development Council (PBDC) on their potential interest in forming a Pacific Regional Ocean Partnership. The PBDC is a non-profit organization that was established in the early 1980s by the governors of the Northern Mariana Islands, American Samoa, Guam, and Hawaii.

The Mid-Atlantic Fishery Management Council (MAFMC) passed a resolution expressing support for the Mid-Atlantic Regional Council on the Ocean (MARCO), and has requested representation on the MARCO Management Board. In addition to representation on the Management Board, the Council also requested representation on the appropriate MARCO Action Teams through participation of Council technical staff. The Council Chairman briefed MARCO on Council activities at the MARCO August 2010 meeting and the Council has had presentations from MARCO representatives at both their October and December 2010 meetings. However, it is unclear whether or not MARCO will become the regional planning body established by the Executive Order.

The Gulf of Mexico Fishery Management Council has interacted with the Gulf of Mexico Governor’s Alliance through their Council Chairman. The Chairman currently serves on the Gulf of Mexico Governor’s Alliance grant review board.

The New England Fishery Management Council (NEFMC) contacted the Northeast Regional Ocean Council (NROC), requesting a seat on their regional planning body. The NROC has invited the NEFMC to participate in all future NROC meetings and conference calls. The NROC has also verbally assured the NEFMC that they will support NEFMC membership on the regional planning body. However, as is the case with MARCO in the

Mid Atlantic, it is unclear whether or not NROC will become the regional planning body established under the NOC.

Currently no regional planning bodies exist in the Alaska Region; however, the North Pacific Fishery Management Council (NPFMC) has been engaged in numerous activities related to CMSP. Over 673,000 square nautical miles of the EEZ (over half of the area under the Council's jurisdiction) have been closed to various forms of fishing, or in some cases to all fishing, to conserve habitat or to minimize impacts of fishing on vulnerable species. The Council has established fishery management plans for the Arctic region, the Bering Sea and Aleutian Islands, as well as, a Fishery Ecosystem Plan for the Aleutian Islands area, which is an ecologically and historically unique ecosystem area. In 2005, in response to the U.S. Ocean Action Plan, the Council initiated the establishment of the Alaska Marine Ecosystem Forum, comprised of major State and Federal agencies involved in various aspects of resource management. While not designed as a 'Regional Ocean Partnership' at the time, this body currently functions in much the same manner as that envisioned for regional planning bodies under the Executive Order.

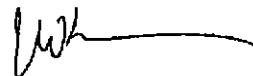
The South Atlantic Fishery Management Council has been involved in the development of the Governor's South Atlantic Alliance through participation of its state agency Council members and the Council staff. Council members and staff serve on the Executive Planning Team that developed the South Atlantic Alliance Action Plan. This has been an ongoing endeavour over the past several years.

At its September 2010 meeting, the Pacific Fishery Management Council (PFMC) formally considered Executive Order 13547 regarding marine spatial planning in United States territorial waters in an open, public meeting. The PFMC received a presentation from the West Coast Governors Agreement on Ocean Health (WCGA) Executive Committee members. They described the current status and activities of the WCGA, and emphasized the many areas of common interest with the Pacific Council. They also requested that the Pacific Council assign a point of contact with regard to participation in the marine spatial planning process, especially as it evolves into regional implementation led by regional planning bodies. As you know, the Pacific Council has also officially requested a dedicated seat on the West Coast regional planning body for a representative of the Pacific Council, something that has drawn broad support in general. Discussions are currently underway between the Pacific Council and the WCGA regarding a proposed organizational structure for a West Coast regional planning body, including the optimal role for the Pacific Council.

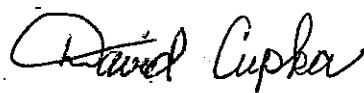
Since 1976, the RFMC model has proved to be an excellent operational design for regional governance. We believe the experience gained by the Councils', coupled with our successful science-based process, existing infrastructure and public interface processes will make us effective partners for implementing marine spatial planning in the future.

We look forward to working with the NOC and appreciate your thoughtful consideration of our request.

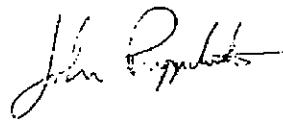
Sincerely,



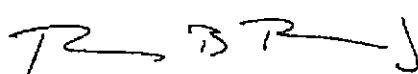
Mr. Mark Cedergreen  
Pacific Fishery Management  
Council Chair



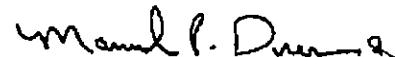
Mr. David Cupka  
South Atlantic Fishery Management  
Council Chair



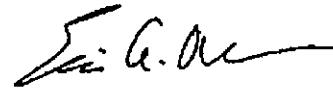
Mr. John Pappalardo  
New England Fishery Management  
Council Chair



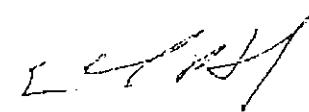
Mr. Rick Robins  
Mid-Atlantic Fishery Management  
Council Chair



Mr. Manny Duenas  
Western Pacific Fishery Management  
Council Chair



Mr. Eric Olsen  
North Pacific Fishery Management  
Council Chair



Mr. Eugenio Poleiro-Soler  
Caribbean Fishery Management  
Council Chair



Mr. Robert Shipp  
Gulf of Mexico Fishery Management  
Council Chair

Cc:      Regional Fishery Management Council Executive Directors  
          Mr. John Oliver  
          Mr. Sam Rauch  
          Mr. Gary Reisner

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Written testimony of Richard B. Robins, Jr.,  
Chairman, Mid-Atlantic Fishery Management Council,  
submitted for the House Natural Resources Committee  
Oversight Hearing on the National Ocean Policy

October 4, 2011

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Chairman Hastings and distinguished members of the Committee, I sincerely appreciate the invitation and opportunity to provide written testimony regarding the National Ocean Policy. I will focus my remarks on one of the nine priority objectives identified in the policy that has important implications for the Mid-Atlantic region; specifically, Coastal Marine Spatial Planning (CMSP).

It is widely anticipated that the Mid-Atlantic region will become a modern epicenter of offshore energy development as the private and public sectors work to develop a large scale renewable wind energy system in the region. As an example of the scale of proposed development, the Atlantic Wind Connection project proposes to connect up to 1.9 million households with 6,000 MW of offshore wind turbine capacity from Virginia through New Jersey.

In addition to having a reliable corridor of winds that make the region favorable for emerging wind energy development, the marine ecosystem within the region supports billions of dollars of economic activity related to traditional uses of the area, including recreational and commercial fishing, shipping, military and national security, and other recreational and commercial activities that are powerful drivers of the nation's economy.

CMSP, as contemplated in the National Ocean Policy, is expected to provide for a more integrated and proactive approach to evaluate complex interactions between traditional and emerging uses of the ocean than those currently in place. The current processes for managing potentially conflicting uses of the ocean related to offshore energy development do allow for public input but lack transparency in the decision making process and do not benefit fully from interdisciplinary and interjurisdictional integration. If CMSP is implemented effectively at the regional level, it has the potential to improve the transparency and coordination in the planning

and decision-making process which will lead to better coordination of uses of the ocean environment.

In 2010, BOEMRE proposed a Massachusetts RFI area of 3,000 square miles, south of Nantucket, for offshore wind energy development. The proposed area overlaid shipping lanes, the Nantucket Lightship Habitat Closure Area, the Nantucket Lightship Groundfish Closed Area, and one of the most productive scallop grounds in the region—the Nantucket Lightship Scallop Access Area. The proposal met with extensive protest and the RFI area was subsequently reduced by over 50 percent. This is a contemporary example of what we might expect in the absence of a proactive, integrated CMSP approach that would anticipate and evaluate conflicting uses of the ocean across a broader spectrum of regulatory entities and user groups to facilitate appropriate planning.

The Mid-Atlantic Fishery Management Council was established by the Magnuson-Stevens Fishery Conservation and Management Act and has authority over the fisheries in the Atlantic Ocean seaward of the states of New York, New Jersey, Delaware, Pennsylvania, Maryland, and Virginia. For the past 35 years, the Mid-Atlantic Council, along with the other U.S. Regional Fishery Management Councils (RFMCs), has been engaged in the geospatial management of fisheries within complex marine ecosystems.<sup>1</sup> The Council has identified essential fish habitat (EFH) for its 13 managed species, in addition to habitat areas of particular concern (HAPC), and gear restricted access (GRA) areas to manage discrete portions of the marine environment for specific fisheries management objectives and related ecosystem and habitat considerations.

The Mid-Atlantic Fishery Management Council has also been actively engaged with the Mid-Atlantic Regional Council on the Ocean (MARCO) since it was formed by five Mid-Atlantic governors in 2009. Earlier this year, the Council has named a staff representative to MARCO's CMSP and Habitat Action Teams, in order to make the fisheries-related expertise available to the teams and to provide a conduit between the two organizations. MARCO has made early progress in developing a mapping and planning portal that will benefit future planning processes in the Mid-Atlantic region. Our engagement with MARCO is typical of the other RFMCs in regions around the U.S. that have established regional ocean agreements that are viewed as potential precursors to the Regional Planning Bodies (RPBs) described in the National Ocean Policy.

The National Ocean Policy describes the role of the RFMCs as a consultative role and leaves further specification of the role to the National Ocean Council (NOC). The Mid-Atlantic Fishery Management Council, together with our peer Councils, has requested that the NOC grant the RFMCs membership on the RPBs. The RFMCs have extensive experience and specialized

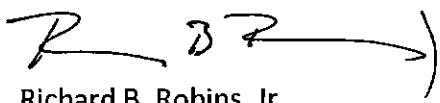
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<sup>1</sup> Reference <http://www.fisherycouncils.org/MSPFlier.pdf>

expertise in the management of the marine environment and well established conduits for stakeholder input that can and should be harnessed in the CMSP process to contribute to the success of the RPBs. The Massachusetts RFI example underscores the shortcomings of the current limitations of the system to anticipate and resolve conflicting uses of the ocean in a cohesive manner, and suggests that a CMSP framework would facilitate a more robust planning process in the Mid-Atlantic region. RFMC membership in the RPBs will contribute to the success of the RPBs and will ensure that fisheries resources and uses are considered at appropriate points in the process.

Working with limited resources, MARCO has experienced early success with their portal development but full CMSP implementation will require significant additional resources. As future decisions concerning funding are considered, I would encourage the Committee to identify funding opportunities for CMSP implementation that do not diminish the budgets of NOAA Fisheries that are already challenged to support the scientific and management programs that are critical to the core mission of the Agency and the RFMCs.

Sincerely,

A handwritten signature consisting of the letters 'R' and 'B.R.' followed by a curved arrow pointing to the right.

Richard B. Robins, Jr.

Chairman, Mid-Atlantic Fishery Management Council

## MRFSS/MRIP Calibration Workshop Steering Committee

### DRAFT Terms of Reference

1. Review ongoing and completed studies comparing MRFSS methodologies to those slated for use in MRIP, and propose any additional work that would further facilitate MRFSS/MRIP calibration.
2. Propose a methodology for calibrating MRFSS data to MRIP data, based on the years in which paired estimates are available (currently expected to be 2004-2011), and demonstrate how it would work in hind-casting catch and effort for select data sets (pre-2004).
3. Recommend a plan for implementing the calibration methodology into updated and benchmark stock assessments.

**Background (from committee meeting summaries):** The focus of the calibration workshop is to develop a peer-reviewed calibration methodology for assessed stocks that is consistent across all species, including a timeline for its implementation. The workshop will also seek to derive a calibration technique for landings data used to set ABCs and ACLs for data poor stocks that can be utilized with existing control rules.

The current plan is to use both the MRFSS and MRIP data collection and estimation methodologies side by side until 2013. This will enable some comparison work to be done. Beginning in 2013, only MRIP methodologies will be used. An analogous situation occurred in the northeast, when the BIGELOW replaced the ALBATROSS IV as the primary fisheries survey vessel. The peer-reviewed process of calculating calibration coefficients for the survey indices, so data collected by both vessels could be combined, serves as a potential model for how MRFSS data can be calibrated to MRIP data.

The Steering Committee agreed to have one technical workshop in mid-winter to early spring, which would be preceded by development of working papers. Several peer review models could be used, all with pros and cons: (1) have outside peer reviewers attend and participate in the workshop; (2) have the reviewers attend the workshop as observers only, then meet and independently evaluate the outcome; or (3) have the reviewers evaluate to workshop report and not attend the workshop. A decision will need to be reached soon as to which peer-review model will be used.

Working papers will be developed to address the terms of reference as well as other topics identified by the committee.

**Current Steering Committee Membership:** John Boreman (Chair), Jim Weinberg (NEFSC), Andy Strelcheck (SERO), Steve Turner (SEFSC), Sarah Heil (NERO), Wes Patrick (SF, HQ) and Ron Salz (ST). Ad hoc support and input from Gordon Colvin (ST) and other S&T staff.