



New England Fishery Management Council

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

MEMORANDUM

DATE: January 3, 2020
TO: Scientific and Statistical Committee (SSC)
FROM: Tom Nies, Executive Director
SUBJECT: **Terms of Reference – Council remand back to the SSC of overfishing levels (OFLs) and acceptable biological catch (ABC) recommendations for four groundfish stocks for fishing years 2020 to 2022**

Terms of Reference (TORs)

1. Review the 2019 Groundfish Operational Assessments and work of the Groundfish Plan Development Team (PDT). Considering the Council's Risk Policy Statement, provide a final recommendation for an OFL and an ABC for American plaice, Georges Bank (GB) haddock, Gulf of Maine (GOM) haddock and pollock for each fishing year 2020, 2021, and 2022 that will prevent overfishing, consistent with the Council's ABC control rule for groundfish stocks. (See list of documents under Information below).
2. Review the information concerning GOM cod provided by members of the public at the October 17-18, 2019 meeting and, if necessary, make corrections to the minority report on GB Cod ABCs recommended from that meeting.

Background

TOR 1

The Council received the SSC's report on recommendations for OFLs and ABCs for fourteen groundfish stocks at its December 2019 meeting. At the same meeting, the Council passed the following motion:

That the Council remand back to the Scientific and Statistical Committee the ABC recommendations for American plaice, both haddock stocks (GOM and GB), and pollock and that the Council accept the SSC's OFL and ABC final recommendations once made and without objection for FY2020-FY2022.

Motion carried 11/5/1.

The purpose of the January SSC meeting is to address the Council's motion. The Council's motion is intended to mitigate any delays on implementing Framework Adjustment 59 caused by the remand by accepting without objection the final recommendations on these stocks once made by the SSC.

The Council has a policy in place to remand back recommendations to the SSC.

Council Remands to the SSC¹

The Council may remand back to its Scientific and Statistical Committee the SSC's recommendations based on the following criteria:

- (a) failure of the committee to follow the terms of reference provided to it by the Council;*
- (b) an error, in fact or omission, in the materials provided to the committee;*
- (c) an error in fact in the calculations, if any, undertaken by the Committee in developing an ABC recommendation; and*
- (d) failure of the committee to follow its standard operating procedures.*

In their rationale for the motion, Council members identified item “(a) failure of the committee to follow the terms of reference provided to it by the Council”. The Council is concerned that the SSC may not have established ABCs for these stocks that were consistent with the Council's ABC control rule for groundfish stocks and that appropriately considered the Council's risk policy. According to the 2019 Operational Assessments, each of these four stocks was rebuilt in 2018² (American plaice 116% of SSB_{MSY} , GB haddock 385% of SSB_{MSY} , GOM haddock 1,035% of SSB_{MSY} , pollock 170% of SSB_{MSY}), and overfishing was not occurring (American plaice 34% of F_{MSY} , GB haddock 18% of F_{MSY} , GOM haddock 22% of F_{MSY} , an pollock 14% of F_{MSY}). The SSC's use of a constant quota approach for these stocks does not appear to consider stock status nor past performance of the stock-specific projections. For plaice, the use of this approach represents a change from past practice. The Council believes the SSC should have used projected ABCs at 75% F_{MSY} , consistent with the Council's ABC control rule for groundfish stocks (see below for a summary) and its risk policy (Information item A1).

ABC recommendations are to be based on the fishing mortality strategies approved by the Council in Amendments 13 and 16 and related management actions. Status determination criteria should be used that are specified in Amendment 16 or subsequent actions.

The general control rule for groundfish stocks that has been adopted is:

These ABC control rules will be used in the absence of better information that may allow a more explicit determination of scientific uncertainty for a stock or stocks. If such information is available - that is, if scientific uncertainty can be characterized in a more accurate fashion -- it can be used by the SSC to determine ABCs, these ABC control rules can be modified in a future Council action (an amendment, framework, or specification package):

- a. ABC should be determined as the catch associated with 75% of F_{MSY} .*
- b. If fishing at 75% of F_{MSY} does not achieve the mandated rebuilding requirements for overfished stocks, ABC should be determined as the catch associated with the fishing mortality that meets rebuilding requirements ($F_{rebuild}$).*
- c. For stocks that cannot rebuild to B_{MSY} in the specified rebuilding period, even with no fishing, the ABC should be based on incidental bycatch, including a reduction in bycatch rate (i.e., the proportion of the stock caught as bycatch).*
- d. Interim ABCs should be determined for stocks with unknown status according to case-by-case recommendations from the SSC.*

¹ See the Council's policy (pp. 19 of the Operations Handbook located here: https://s3.amazonaws.com/nefmc.org/1.UPDATED_fin06.2019_Operations_Handbook_190625_100626.pdf)

² Stock size and fishing mortality reported in this sentence are from the base assessment models and reflect adjustments for retrospective patterns if applied by the peer review panel.

TOR 2

At the October 17-18, 2019 SSC meeting, several interested parties expressed concerns that the stock assessment and potential ABCs for GOM cod were not consistent with their on-the-water observations. They expressed the belief the stock was in better condition than the assessment indicated. For example, industry representatives noted positive signs of recruitment and increases in recreational catches. They also expressed concern that a reduction in the GOM cod ABC would cause economic hardship.

The report of the SSC meeting includes a minority report that attributes these comments to GB cod. When the report was delivered to the Council, industry members who were at the SSC meeting noted this error. While not technically a remand, the Council asks that the SSC correct its report to reflect that these comments referred to GOM cod.

Information

- A.1 Please review all relevant groundfish meeting materials from the October 2019 SSC meeting located here: <https://www.nefmc.org/calendar/oct-17-18-ssc-meeting>
- A.2 Memo from the Executive Director to the SSC on ABC Control Rule Regulations, dated January 3, 2019
- A.3 Memo SSC to Council re OFL and ABC recommendations for groundfish stocks for fishing years 2020-2022, Nov. 22, 2019.
- A.4 Memo from the Groundfish PDT to SSC re ABCs for GB haddock, GOM haddock, American plaice, and pollock stocks
- A.5 Presentation: Groundfish PDT Report (NEFMC staff)
- A.6 Correspondence the Council received requesting the remand