

NEW ENGLAND FISHERY MANAGEMENT COUNCIL
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New England
Fishery Management Council

OPERATIONS HANDBOOK

PRACTICES AND POLICIES
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Research Review Policy

The Research Steering Committee (RSC), at the request of the New England Fishery Management Council's Executive Committee, developed a policy for the review and incorporation of new research results into the management arena. The Executive Committee's request was based on concerns that various cooperative research programs have funded a large number of projects that have relevance to management. Additionally, other types of external reports may also lack sufficient technical review prior to use in the management process. If results are to be used by managers in decision-making, the Executive Committee determined there should be some mechanism to evaluate the efficacy of the results and direct final reports to appropriate end users.

The Council reviewed and approved an initial draft of this document at its September 2003 meeting, but asked the RSC to provide more detail about the process as well as criteria for channeling projects to end users. They also asked the RSC to expand its discussions to include all new research projects that are to be used in making management decisions, not only those generated through cooperative research programs. This iteration of the policy includes those details.

In developing this process, it was the stated intent of the Research Steering Committee to be as constructive as possible in its review of research results and the preparation of advice to the Council as well as researchers. The RSC also proposes to implement the steps below as a pilot effort in order to address any unforeseen considerations or to further refine the process if necessary.

General The Council's Research Steering Committee will review final reports for projects funded through the National Marine Fisheries Service's Northeast Cooperative Research Partners Program (NCRPP), the Total Allowable Catch research set-aside programs provided for in the Council's Fishery Management Plans, and the Northeast Consortium, as well as other new research outside of the cooperative programs that may become available to the Council and its Plan Development Teams.

The RSC will provide a review of final reports prior to the use of results in the Council decision-making process. The RSC will identify the applicability of results to management and the appropriate end user of the information in the report. As part of its review, the committee will comment on whether a project has had an adequate technical review, and if not, recommend that one be undertaken. Technical reviews from other institutions may be acceptable.

Technical and contractual reviews of final project reports funded through the NCRPP will remain the responsibility of NOAA Fisheries as required protocols outlined below to potential applicants for NCRPP by its grants program. Both NOAA Fisheries and the RSC, however, will

communicate the RSC funding and to other institutions that fund cooperative and other types of research. This will create an awareness of the Council's need for the RSC management review, as well as a technical review of project results.

A potentially critical element in the management process, the RSC will ensure that an appropriate review of new research results is undertaken before those results and associated conclusions are used in a management action. This could involve several different pathways, depending on the nature of the project. All completed projects will be required to go through a sufficient technical review before results are used in the New England Council's management process.

Project Completed/Final Report Submitted It is expected that most projects are likely to fall within this category. In these cases, the RSC will review a package consisting of the project abstract (or possibly the full proposal) along with the final report, and either a summary of the technical reviews or the actual text of the review(s).

Based on the committee's discussion and a review of these materials, the RSC will develop comments and/or recommendations on whether the technical review is adequate, project results are applicable to management, whether further work needs to be undertaken to validate results and the appropriate end user(s). Comments could include recommendations for immediate or future use by the Council and its committees, PDTs, or SSC, suggestions for further investigations, broader field-testing in the form of an experimental fishery or other course of action.

The RSC also could advise that the information is not appropriate for use in a management context based on the summary of technical reviews, comments by RSC members, or other rationale related to the efficacy or appropriateness of the project. The committee could elect to forgo the development of comments if it did not feel they are warranted or because of time constraints.

If a project does not have a technical review, or the RSC determines the technical review is not sufficiently rigorous, the RSC will recommend that a technical review take place or channel the completed report to its SSC or other technical group for the review. The RSC will consider projects that have received technical reviews completed by other groups.

A package (including the summary of technical reviews, the RSC comments and a final report) will be prepared by the Council staff and forwarded to the Council and its appropriate oversight committees for use in the management process. The Council and its oversight committees will coordinate any further use of project information. This would include, but is not limited to forwarding a report to its Advisory Panels, Plan Development Teams or other groups.

Example – Typical projects would be the University of New Hampshire’s cod end mesh selectivity study in the Gulf of Maine multispecies trawl fishery or the F/V Kathleen A. Mirarchi’s observations of the effects of trawl gear on soft bottom habitats.

SARC/Peer Review Projects that fall within this category are generally long-term or unique and would be integrated into the databases used for management. This would include the results of long-term projects such as industry-based resource surveys, study fleet initiatives, the cod tagging program and possibly other projects.

Example – The Northeast Fisheries Science Center Science, the Massachusetts Division of Marine Fisheries, the School of Marine Science and Technology and Rhode Island Fish and Wildlife, along with fishermen throughout New England are engaged in a project to tag yellowtail flounder in an on-going collaboration to better understand yellowtail movements, mortality and aging. Data will augment Center assessments of this species.

Responsibilities of Principal Investigators (PIs) To ensure the use of the research results for management purposes, PIs will be required to identify project objectives, expected impact on or use in the management process and the end users of their results. Typically this should be stated at the proposal stage, but minimally should be detailed in a final report.

Recognizing that researchers have a proprietary interest in protecting data until publication, at some point yet to be established, all PIs will be asked to provide the raw data on which their research conclusions are based. If these data are intended to be used in a publication, data access should be provided following the publication of research papers. Agreements can be reached to ensure data will be used only in the development of a fishery management plan and not by Council staff or its PDT members for publication purposes.

In all cases if research is to be used by the Council for management purposes, raw data must be accessible to the Council staff and its Plan Development Teams in a readily usable format and accompanied by the relevant analyses and results prior to use in the development of a management action.

Technical Review Criteria (Approved by the NEFMC, September 2004)

General The following points were developed by the Council’s Research Steering Committee for use as guidance during in the technical review of cooperative and other research results that are to be considered in management decision-making. Based on a discussion at the September 14-16, 2004 Council meeting, those considerations have been subsequently appended to the Council’s Research Review Policy.

Levels of technical review that could be deemed sufficient for Council decision-making purposes:

- Publication in a peer-review journal
- Publication in a Federal/State Agency or academic technical report series in which papers are subject to internal peer review
- Review by a peer-review forum such as a SARC, TRAC, SEDAR (Southeast Data, Assessment and Review - SEFSC' stock assessment review process), or the SSC or NRCC, etc.
- Expedited review by NMFS and/or other appropriately qualified scientists
- Review of the research paper by two or more independent experts, unaffiliated with the PIs (with proof that any review comments provided by the reviewers were subsequently addressed by the PIs); this might pertain to the Center reviews of final reports of state/federal grants and contracts, or to reviews specifically solicited by the PIs themselves from independent scientists.
- Academic dissertations and theses (presuming that the research in these reports have been reviewed for technical sufficiency and rigor by faculty members)
- A peer-review forum (perhaps a workshop) developed specifically to review/vet draft research reports (this might be something that could be convened under the auspices of the Cooperative Partners Research Initiative or the Northeast Consortium)
- Review by scientists familiar with the research topic area (this is the PDT model in which PDT members assess the technical merits of unvetted research results); the PDT may also recommend an outside review by additional scientists.

Some approaches that would NOT qualify as sufficient to consider a research document as having had a valid technical review would include:

- Oral presentation of the research results at a scientific meeting (AFS, ICES, etc) and publication of an abstract
- Preparation/submission of a Working Paper/Research Document to a Meeting/Working Group at which peer review is not the main objective of the Group (e.g., ICES Working Papers; NAFO Research Documents, ICES ASC Documents; etc.) or in which the review is likely to be perfunctory

Additional Comments There are still gray areas concerning whether analyses generated at PDT meetings or reviews undertaken by those groups receive adequate vetting. Pending experience with this process and further discussion, the committee may modify this document.

Management Review Checklist The RSC policy concerning the committee's review of final reports for applicability to the management process states that it will develop comments and/or recommendations on whether a technical review is adequate, project results are applicable to management, whether further work needs to be undertaken to validate results and the likely end user(s). Comments could include recommendations for immediate or future use by the Council and its committees, PDTs, or SSC, suggestions for further investigations, broader field-testing in the form of an experimental fishery, or other course of action.

The RSC may advise that the information contained in a given final report is not appropriate for use in a management context based on the summary of technical reviews, comments by RSC members, or other rationale related to the efficacy or appropriateness of the project. The committee also could elect to forgo the development of comments if it does not feel they are warranted or because of time constraints.

If a project does not have a technical review, or the RSC determines the technical review is not sufficiently rigorous, the RSC will recommend that a technical review take place or channel the completed report to its SSC or other technical group for the review. The RSC will consider projects that have received technical reviews completed by other groups and subsequently undertake its own review. The RSC review may include a presentation by the principal investigators.

Following the RSC review, a package (including the summary of technical reviews, the RSC comments and a final report) will be prepared by the Council staff and forwarded to the Council and its appropriate oversight committees for use in the management process. The Council and its oversight committees will coordinate any further use of project information. This would include, but is not limited to forwarding a report to the Advisory Panels, Plan Development Teams or other groups.

Suggestions for Specific Comments

- 1) Has there been a sufficient technical review of the project results and, if so, is that information available to the Research Steering Committee?
- 2) Did the project accomplish all of its stated goals and objectives?
- 3) Are project deliverables available and formatted for use by the Council and its technical committees?

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- 4) Does the project address an immediate management need or contribute to a long-term strategy to rebuild and sustain stocks?
 - 5) Does the project support past work and/or provide new information?
 - 6) Does it point to a management action not in place now, or offer an innovative solution to a problem?
 - 7) Did the project elucidate other information not specifically stated in the goals and objectives?
 - 8) Is there a need for further work or follow-on research such as wider field-testing?
 - 9) Who is the appropriate end-user and are there recommendations/caveats about how this information should be used?
 - 10) Overall rating based on the above criteria: excellent, very good, good, fair, or poor.
 - 11) Additional comments.

Use of New Gears in the B-Regular DAS Program and the Eastern U.S./Canada Haddock SAP

In response to a Council request in June 2007, NMFS issued a final rule (72 FR 72965) on December 26, 2007 to amend the procedures and requirements for approval of additional gear types for use in the Eastern U.S./Canada Haddock Special Access Program (SAP) or additional trawl gear in the Northeast multispecies Regular B DAS (Days-at-Sea) Program.

The regulations allow the Council or its Executive Committee to request the Regional Administrator to authorize additional gear for use in both programs through a notice action if the proposed gear meets one of two standards in the regulations.

The standards require that new gear either reduce the catch of each regulated stock of species of concern or other non-groundfish stocks that are overfished or subject to overfishing, by at least 50% (by weight on a trip-by-trip basis); or that its catch of each regulated stock of species of concern, or other non-groundfish stocks that are overfished or subject to overfishing, be less than 5% of the total catch of regulated groundfish (also by weight on a trip-by-trip basis). The approval process is as follows:

- 1) Before the Council considers recommending a new gear for either program, the proposed gear must have been the subject of a completed experiment and results reviewed by the Council's Research Steering Committee (RSC) in accordance with that committee's research review policy. (This step is specified in the final rule cited above). The RSC report to the Council will contain a recommendation concerning the sufficiency of the experimental results for management decision-making.
- 2) The Research Steering Committee will forward its findings to the full Council or the Council's Executive Committee, if time constraints are an issue, for development of a recommendation to the Regional Administrator.
- 3) If approved, a formal request will be forwarded to the National Marine Fisheries Service Regional Administrator recommending that the new gear type be added to the allowed gears that may be used in the B Regular DAS program or the Haddock SAP.

Regulations relevant to approval of additional gear

02 December 2014

848.85(b)(6)(iv)(J)(2) *Approval of additional gear.* At the request of the Council or the Council's Executive Committee, the Regional Administrator may authorize additional gear for use in the Regular B DAS Program, through notice consistent with the Administrative Procedure Act. The proposed gear must satisfy standards specified in paragraph (b)(6)(iv)(J)(2)(i) or (ii) of this section in a completed experiment that has been reviewed according to the standards established by the Council's research policy before the gear can be considered and approved by the Regional Administrator. Comparisons of the criteria specified in this paragraph (b)(6)(iv)(J)(2) will be made to an appropriately selected control gear.

(i) The gear must show a statistically significant reduction in catch of at least 50 percent (by weight, on a trip-by-trip basis) of each regulated species stock of concern, unless otherwise allowed in this paragraph (b)(6)(iv)(J)(2)(i), or other non-groundfish stocks that are overfished or subject to overfishing identified by the Council. This requirement does not apply to regulated species identified by the Council as not being subject to gear performance standards; or

(ii) The catch of each regulated species stock of concern, unless otherwise allowed in this paragraph (b)(6)(iv)(J)(2)(ii), or other non-groundfish stocks that are overfished or subject to overfishing identified by the Council, must be less than 5 percent of the total catch of regulated groundfish (by weight, on a trip-by-trip basis). This requirement does not apply to regulated species identified by the Council as not being subject to gear performance standards.

648.90(a)(5)(i)(D)(1) *Windowpane flounder and ocean pout.* If NMFS determines the overall ACL for either stock of windowpane flounder or ocean pout is exceeded, as described in this paragraph (a)(5)(i)(D)(1), by any amount greater than the management uncertainty buffer, the applicable small AM area for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section. If the overall ACL is exceeded by 21 percent or more, the applicable large AM area(s) for the stock shall be implemented, as specified in paragraph (a)(5)(i)(D) of this section, and the Council shall revisit the AM in a future action. The AM areas defined below are bounded by the following coordinates, connected in the order listed by rhumb lines, unless otherwise noted. Vessels fishing with trawl gear in these areas may only use a haddock separator trawl, as specified in §648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in §648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in §648.84(e); or any other gear approved consistent with the process defined in §648.85(b)(6). If an overage of the overall ACL for SNE/MA windowpane flounder is as a result of an overage of the sub-ACL allocated to exempted fisheries pursuant to paragraph (a)(4)(iii)(F) of this section, the applicable AM area(s) shall be in effect for any trawl vessel fishing with a codend mesh size of greater than or equal to 5-inch (12.7-cm) in other, non-specified sub-components of the fishery, including, but not limited to, exempted fisheries that occur in Federal waters and fisheries harvesting exempted species specified in §648.80(b)(3). If an overage of the overall ACL for SNE/MA windowpane flounder is as a result of an overage of the sub-ACL allocated to the groundfish fishery pursuant to paragraph (a)(4)(iii)(H)(2) of this section, the applicable AM Area(s) shall be in effect for any limited access NE multispecies permitted vessel fishing on a NE multispecies DAS or sector trip. If an overage of the overall ACL for SNE/MA windowpane flounder is as a result of overages of both the groundfish fishery and exempted fishery sub-ACLs, the applicable AM area(s) shall be in effect for both the groundfish fishery and exempted fisheries. If a sub-ACL for either stock of windowpane flounder or ocean pout is allocated to another fishery, consistent with the process specified at §648.90(a)(4), and AMs are otherwise developed for that fishery, the groundfish fishery AM shall only be implemented if the sub-ACL allocated to the groundfish fishery is exceeded (i.e., the sector and common pool catch for a particular stock, including the common pool's share of any overage of the overall ACL caused by excessive catch by other sub-components of the fishery pursuant to §648.90(a)(5) exceeds the common pool sub-ACL) and the overall ACL is also exceeded.

648.90(a)(5)(v) *AM if the small-mesh fisheries GB yellowtail flounder sub-ACL is exceeded.* If NMFS determines that the sub-ACL of GB yellowtail flounder allocated to the small-mesh fisheries, pursuant to paragraph (a)(4)(iii)(G) of this section, is exceeded, NMFS shall implement the AM specified in this paragraph consistent with the Administrative Procedures Act. The AM requires that small-mesh fisheries vessels, as defined in paragraph (a)(4)(iii)(G)(1) of this section, use one of the following approved selective trawl gear in the GB yellowtail flounder stock area, as defined at §648.85(b)(6)(v)(H): A haddock separator trawl, as specified in §648.85(a)(3)(iii)(A); a Ruhle trawl, as specified in §648.85(b)(6)(iv)(J)(3); a rope separator trawl, as specified in §648.84(e); **or any other gear approved consistent with the process defined in §648.85(b)(6).** If reliable information is available, the AM shall be implemented in the fishing year immediately following the year in which the overage occurred only if there is sufficient time to do so in a manner consistent with the Administrative Procedures Act. Otherwise, the AM shall be implemented in the second fishing year after the fishing year in which the overage occurred. For example, if NMFS determined after the start of Year 2 that the small-mesh fisheries sub-ACL for GB yellowtail flounder was exceeded in Year 1, the applicable AM would be implemented at the start of Year 3. If updated catch information becomes available subsequent to the implementation of an AM that indicates that an overage of the small-mesh fisheries sub-ACL did not occur, NMFS shall rescind the AM, consistent with the Administrative Procedure Act.