



North Pacific Fishery Management Council

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Dr. Dan Holland and Dr. Kathryn Frens
NOAA Fisheries, Office of Science and Technology
1315 East-West Highway, 12th Floor
Silver Spring, MD 20910
VIA email: dan.holland@noaa.gov and kathryn.frens@noaa.gov

Dear Dr. Holland and Dr. Frens:

The North Pacific Fishery Management Council and its Scientific and Statistical Committee (SSC) appreciates the opportunity to provide feedback on the draft Tech Memo titled “National Standard 1 Technical Guidance for Designing, Evaluating, and Implementing Carry-over and Phase-in Provisions within ABC Control Rules”. We understand that this Tech Memo is meant to support the implementation of carry-over and phase-in provisions, to assist the Councils and NOAA understand what factors to consider when deciding whether or not to implement carry-over and phase-in, and to provide examples of how these tools have been used in the past.

The Council’s SSC reviewed the draft Tech Memo at its December 2019 meeting. The SSC minutes on this issue are attached. In sum, the Council and the SSC found the draft Tech Memo to be very useful and will serve as an important guidance document should the Council ever wish to pursue any of these provisions. No revisions to the document have been recommended.

Again, thank you for the opportunity to provide comments on the draft document. We appreciate NMFS for putting together this technical guidance and thank the authors, contributors, and members of the National Standard 1 Working Group for their efforts.

Sincerely,

David Witherell
Executive Director

Excerpt from SSC minutes, December 2019

D-4 Comments on the NS1 Technical Guidance on ABC Control Rule Provisions

NPFMC SSC comments on “*National Standard 1 Technical Guidance for Designing, Evaluating and Implementing Carry-over and Phase-in Provisions within ABC Control Rules*”.

Overview

In 2016, the National Marine Fisheries Service published a final rule to revise the NS1 guidelines. The revised guidelines included two provisions that were intended to provide additional flexibility within the existing statutory limits on federal fisheries. The draft document under review provides technical guidance for designing, evaluating and implementing the carry-over and phase-in provisions. These two provisions are of great interest to some U.S. regional fishery management councils (Councils). The document is intended to provide technical guidance and is nonbinding.

The document provides: a) lessons learned from case studies where one of the two provisions was employed; b) possible approaches to apply carry-over or phase-in provisions; and c) characteristics of stocks, fisheries and management approaches that may impact the benefits and risks of applying these provisions. The document encourages Councils to seek input from their SSC’s with respect to the use of the best scientific information available to design carry-over or phase-in provisions. In response to this need, the NPFMC’s SSC formed a working group to examine the document closely to provide initial comments and suggestions for the entire SSC during the December 2019 meeting. This document summarizes the working group’s comments and suggestions for full SSC review. An SSC-approved version of these recommendations will be provided to the Council.

Comments on carry-over of unused catch

As noted in section 2.1.1 of the report, the NPFMC has experience using carry-over (and pay-back) provisions. The NPFMC currently allows limited carry-over sablefish in its IFQ fishery. This provision has provided flexibility to the NPFMC and its stakeholders.

The report provides a useful summary of the potential benefits and risks of adopting carry-over provisions. The SSC cautions extending the use of carry-over provisions to directed catch, particularly with respect to fisheries managed under the Bering Sea Aleutian Islands (BSAI) FMP. The 2 million ton OY cap on BSAI groundfish removals is constraining. Therefore, TAC negotiations require full knowledge of the amount of catch allowed under the ABC and OFL. If carry-over provisions allow a sector of the fleet to carry-over unused catch from a given year, this could disrupt the NPFMC’s approach to TAC specification. Another reason to avoid carry-over provisions for directed fisheries is that the frequency of NPFMC stock assessment updates is high relative to other Councils. If the SSC concludes that the ABC and OFL should be lowered on the basis of an assessment update, this will cause considerable disruption if a given sector considers their carry-over provision should be considered prior to the annual TAC setting process.

The SSC recognizes that the NPFMC may wish to consider carry-over provisions for special cases or sectors. For example, safety could be a special case where the NPFMC might want to consider flexibility in modest carry-over provisions in directed fisheries. However, since many fisheries are rationalized, the NPFMC’s management system already provides some opportunity to avoid severe weather. Given our concerns regarding annual negotiations regarding TAC, the issues of economic and management stability would have lesser priority.

If the NPFMC does elect to bring forward a carry-over provision for a particular fishery, the SSC recommends using the approach used by New Zealand and British Columbia where managers can reduce or eliminate carry-over if a conservation concern arises.

Comments on phase-in approach to catch limits

The report also provides a useful summary of the potential benefits and risks of adopting phase-in provisions. The NPFMC also has experience using phase-in provisions when annual status determinations indicate a large increase in the ABC. This circumstance usually arises when an assessment model produces large changes in management reference points or when a large, uncertain, year-class is entering the fishery. In these cases, the SSC has occasionally adopted a precautionary “stair-step” approach for increasing the ABC over multiple years as a buffer against assessment uncertainty. **However, the SSC is not supportive of the use of phase-in provisions when annual recommendations suggest a substantial reduction the ABC is required.**

Given that the SSC’s use of phase-in options is uncommon, we recommend that the NPFMC continues to evaluate its use on a case-by-case basis.

Comments on the implementation of carry-over provisions

Section 3.1 provides a discussion of the costs and benefits of implementing carry-over provisions with or without ABC adjustments. The SSC agrees that if this provision is proposed for a particular fishery or sector, the FMP amendment should include a clear demonstration of how the provisions will prevent overfishing, and how it would fit into existing harvest specifications (including TAC allocations). The SSC agrees that a formal management strategy evaluation would be the desired approach for this analysis.

Comments on implementation of phase-in provisions

The SSC recognizes that the assessment frequency approach taken by the NPFMC results in frequent updates and in some cases large changes in the ABC and TAC. The benefit of this approach is that the NPFMC is making decisions on the Best Scientific Information Available and thus the changes, if accepted, represent a sound foundation for decision making. The SSC recommends continuation of phase-in provisions on a case-by-case basis.

Comments on consideration of life history and fishery characteristics

Section 4 summarizes additional considerations that should be addressed prior to adoption of carry-over or phase-in provisions. The SSC notes that the wide range of characteristics that change the risk profile associated with carry-over or phase-in provisions underscores the difficulty that would be associated with adoption of carry-over provisions in the BSAI, and provide additional support for the continuation of phase-in provision as the need for it arises.

Comments on final recommendations of report

The report considers two options: (a) alternative analyses on a case-by-case basis or (b) a comprehensive evaluation of the policies before adoption. Of these two options, the authors’ preferred alternative is to conduct a comprehensive evaluation of the carry-over provisions within the ABC control rules before adopting them as revised ABC control rules in the respective FMPs. The SSC agrees that a comprehensive analysis would inform the NPFMC of the risks and benefits associated with adoption of this provision. However, the SSC recognizes that the circumstances underlying the decision to adopt

phase-in provisions are often case specific and may be difficult to “hard wire” into a new control rule for potential adoption as an FMP amendment. Given the NPFMC’s current approach to setting harvest specifications and the mechanisms already in place in most fisheries to alleviate the issues commonly addressed through these provisions, the SSC recommends that the NPFMC utilize the flexibility of the technical guidelines to address phase-in situations on a case-by-case basis without a comprehensive analysis. The SSC supports the Technical Guidelines as currently written, which indicate that a full, comprehensive analysis of phase-in options is required only if the NPFMC wishes to adopt a comprehensive phase-in policy for wide-scale implementation through a fishery management plan amendment.