

## **Non-target Species Ad Hoc Working Group September 4, 2003**

Participants in the fourth meeting of the ad hoc working group included: Pat Livingston, Joe Terry, Anne Hollowed, Sarah Gaichas, Sue Hills, Tom Pearson, Sandra Lowe, Paul Spencer, Andy Smoker, Rebecca Reuter, Jane DiCosimo, Tory O'Connell, Ivan Vining, Mike Ruccio, and Melanie Brown. Bill Karp, Doug Limpinsel, Dave Clausen, Jon Heifetz, John Lepore, Jason Anderson, Dave Ackley, Obren Davis, Bubba Cook, and Jim Ianelli participated for parts of the meeting.

Jane DiCosimo provided an overview of past group discussions, staff reports to the Council, and the formation of a Council committee to address the management aspects of the group's recommendations. The committee chair indicated an interest in meeting for two days before the December Council meeting at the AFSC to provide for interaction with the ad hoc group. Paul Spencer was appointed to the committee and Jane DiCosimo and Sarah Gaichas will provide staff support. The group will continue to meet to guide the Council and its committee on the development of appropriate biological reference points for managing these species.

### Ad hoc committee progress to date

The fundamental management division is between target and non-target groundfish species. This distinction is being made for two reasons. First, it may be appropriate to have different management objectives for these two groups of groundfish species. Second, different management tools may be appropriate for their management.

The group was more successful in resolving discrete biological and management issues than complex policy and legal issues. It corrected its listing of target species on the Council website. Clarification was made that there is no true targeting of shortraker/rougeye rockfishes in the longline fishery and that northern rockfish, dusky rockfish, Arrowtooth flounder, and skates are a target in the GOA. It also noted that there are management overlaps with other Council management initiatives on bycatch reductions, essential fish habitat, observer program, and GOA groundfish rationalization. The proposed actions may simplify some of the bycatch aspects of the proposed rationalization program, but add to observer duties.

The target species management objective is to optimize sustainable yield. The Council will continue to apply quota specifications and in-season management as the best tool to achieve this goal. Some improvements to stock assessment summaries might be suggested, such as identifying what tier species are in, why a species is in a particular tier (what data put them there) and what might be necessary to progress to the more data rich tiers. The TAC management system will only apply to single species (there will be no complex level TACs). The exception is for species that may be genetically distinct but morphologically indistinguishable right now (e.g., the several rougeye rockfish species). However, species in completely different genera or families or phyla would not share a TAC. Therefore, there would not be a TAC for "other species". Definitions of target species were discussed, but the group's consensus was to not devise hard and fast rules because 95% of the target species definitions are obvious (e.g., pollock, P cod). Difficult cases could be determined by the Council with assistance from its committee, the Plan Teams, SSC, and AP. The group continues to recommend the objective of having sufficient data for at least tier 3 for each target species, but accepts the SSC recommendation to allow tier 4 management on a case by case basis.

The non-target species management objective was discussed at great length. In general, the objective is to monitor catch and the stock, discourage targeting and minimize bycatch to the extent practical, which includes providing additional protection from the unintended negative fishery effects where appropriate. The objective is NOT to optimize yield for non-target species, therefore setting MSY-based ABCs, OFLs, or TACs is inappropriate. First, there may not be sufficient information to set a MSY-based OFL. Second, it may not make sense to manage some species under one, even if there was sufficient information. The MSA defines the term "conservation and management" as all the rules and regulations, methods, and other measures that are designed to assure that irreversible or long-term adverse effects on the marine environment are avoided. It states that there will be a

multiplicity of options available with respect to future uses of these resources, some of which might include future fishery yield potential.

All groups in the non-target category would be monitored at the most detailed practicable taxonomic level in surveys and at some pre-agreed grouping level in fisheries for catch reporting, depending on initial priorities set for monitoring certain groups based on either future yield potential, sensitivity to harvest, or other ecological reasons. Monitoring may include age-structured population modeling for non-target stocks of interest, and often would increase the amount of scientific information about the stock. All species would be subject to at least a Maximum Retainable Amount (MRA) to discourage targeting, but the proposed system would allow for some use of incidental catch and some limited market exploration. The idea is to have new fisheries develop with constraints until sufficient data is collected to determine an appropriate harvest limit. The group understands that some non-target species are more sensitive to unintended negative fishing effects than others. Thus, it attempted to define criteria for sensitivity and additional management measures to protect more sensitive species. These additional management measures would be implemented above and beyond the MRA and monitoring put in place for all non-target species. There always will be reasons that necessitate management changes, such as uncertainty and new information, but the appropriate level of protection for non-target species should be provided in a way that is more flexible, effective, efficient, and responsive to their sensitivity. For example, in order to ensure that precautionary biological reference points are not exceeded, protection could be provided by time/area closures, gear restrictions/modifications, size limits, or bycatch allowances. Clearly, some stocks are sensitive to fishing pressure resulting from bycatch alone.

There was general agreement that the management objectives for non-target species include the following: monitoring catch and the status of stocks, discouraging targeting, and minimizing bycatch to the extent practical using one or more of a variety of management measures, including those listed above. The group proposed language adapted from USFWS<sup>1</sup> for a draft management objective and process of prioritizing species for management action:

To conserve fish diversity and to preserve future options with respect to resource use in the North Pacific, reducing the likelihood of having to propose any groundfish species for Federal listing as endangered or threatened, (maintain system integrity as a whole, sustain populations, prevent significant fishery related adverse impacts), a committee (perhaps the groundfish plan teams) would assign each non-target complex a ranking, ranging from 1 (low) to 5 (high) priority for each of the following factors: spawning distribution, non-spawning distribution, relative abundance, fishery related impact in and out of spawning season, population trend, are of importance. Higher scores reflect more concern.

The group discussed but has not identified a process for transitional species, i.e., those that may be moved from non-target to target categories as a fishery develops. The group proposed that the experimental fishing permit process, with data and observer requirements, may be an appropriate process to allow a limited fishery to develop.

Once target species are defined, the non-target category contains all other species. Note that this does not apply to species we never or rarely catch in the fishery. Just because a species is identified in a survey does not mean it is in the FMP. The groundfish plan team meetings have already refocused their efforts to concentrate on target species management at their November meetings. The September meetings could focus on ecosystem issues and non-target species management.

NMFS has the responsibility to rebuild stocks that are overfished, to prevent overfishing (where overfished and overfishing may each have different definitions for target and non-target species), and ensure that management actions would not result in a species becoming endangered or threatened. NMFS, the State of Alaska (ADF&G) and academic institutions have the responsibility to inform the Council on biologically acceptable methods of managing fisheries. The Council's responsibility is to identify issues and develop methods for efficiently

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<sup>1</sup> NonGame Birds of Management Concern B The 1995 List; Source: <http://migratorybirds.fws.gov/reports/specon/intro.html> and Birds of Conservation Concern 2002; Source: <http://migratorybirds.fws.gov/reports/BCC02/BCC2002.pdf>

managing marine stocks. But that discussion is dependent on the development of appropriate biological reference points for non-target species. To that end, the group addressed seven questions raised by Anne Hollowed.

**1. If we re-name non-specified, other species, and selected members of species complexes will they still be covered by the FMP?** John Lepore summarized some of the same legal issues that are also being addressed in (separate) NOAA GC and NMFS discussions regarding National Standard 1<sup>2</sup>. The Council has a responsibility to develop an FMP for each fishery under its authority that requires conservation and management. The management structure of an FMP, addressing both required and discretionary provisions under MSFMA, depends on how the fishery management unit (FMU) is described. A Council may develop management objectives for a fishery or portion of a fishery identified in the FMP, with advice from its scientific and public advisors. The group was attempting to resolve whether different rules could be applied to components of an FMU, e.g., some species are managed under OFLs while others are not. Target and other species are in the FMU (and are managed under an OFL). Prohibited and non-specified species have been determined not to be in the FMU (and are not managed under an OFL). Forage fish was identified as a model for proposals for non-target species management. It was not a category at the time of that legal determination, so a legal decision on that category has not been made. Some believe that forage fish should not be considered part of the FMU because we don't have an OY for it.

The group discussed whether its recommendations increased the management burden of the Council by adding all the non-specified species to the FMU (they are already in the FMP) relevant to the management objectives. If species management is relevant to FMP objectives, then it is in the FMU. The group posed the question of whether separate FMUs could be named in the FMP (one for optimizing yield and one for conserving non-target species). Creating the forage fish category did not itself increase the burden on observer program or in-season management. Management actions determine the burden. Even though species are caught incidentally in the target fishery, they are still included in the FMP. The proposal is to specifically list them as non-targets because they are: (1) caught in the fishery; (2) are often not intended to be caught; and (3) are not retained or marketed. The Magnuson-Stevens Act authorizes that MSY and OY requirements can be applied at the "fishery" level, however, it is currently applied at the individual stock level within a fishery. The Magnuson-Stevens Act also requires objective and measurable criteria for defining when a fishery is overfished, including an analysis of how the criteria were determined and the relationship of the criteria to the reproductive potential of stocks of fish in that fishery.

The group discussed whether to move non-target species out of the FMU, or keep them in with different rules. It discussed how forage fish and prohibited species are handled. All species that are caught are included under an FMP, but there is a subset relevant to the management goals that are in the FMU. The group could not resolve this issue. The Council should address which species are in the FMU and NOAA GC should advise the Council if more than one FMU may be defined in an FMP.

- 2. Will they still be covered by MSFCMA?** The short answer to this question is yes.
- 3. If all non-specified species are now in our FMP and they are no longer called "fisheries" are we responsible for managing them as single species? A key point of MSFCMA was that it allows us to manage complexes as "fisheries" if we remove this designation will we be mandated to set retention limits or time area restrictions specific for each species?** Much more information is needed to address the legal issues this question poses.
- 4. If we designate the species currently covered by the FMP as "non-targets" does this mean that we can assume that we can overfish these species as long as we do not drive them to a threatened or endangered status?** Section 303(a)(1)(a) of the Magnuson-Stevens Act requires that FMPs contain conservation and management measures for a fishery to prevent overfishing and rebuild overfished stocks. The group discussed whether there is some other level of conservation that precedes ESA. The forage fish

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<sup>2</sup> Conservation and management measures shall prevent overfishing while achieving on a continuing basis, the optimum yield from each fishery for the United States fishing industry.

model was discussed again in this context and it was noted that the implementation of National Standard 9 could require the use of biological reference points for bycatch species..

The following policy questions were identified as being more appropriately addressed by the Council or its committee.

5. **Is it okay for these species to fall into an overfished status as long as they are not threatened or endangered?**
6. **If we go forward with the non-target designation what are the criteria for establishing retention limits or time area closures? How will we ensure that species are sustainable if we do not have these criteria defined (e.g. they will not become endangered)?**
7. **The prioritization matrix could be used to identify high priority species currently managed within a complex. If we used this matrix to identify candidates for breakout from complexes would we achieve the same level of conservation under status quo as we would if we re-named the complexes “non-targets?”**

The group reviewed some draft case studies for the proposed management process:

- BSAI northern rockfish (not in a complex but not necessarily a target species, definition of stock structure, and small TACs),
- BSAI dusky rockfish (in a complex and not a target species but bad information to provide protection just with a TAC so need ability to apply alternative management measures),
- BSAI squid (not a target complex, information to set TAC is very weak, CDQ squid box issue made us remove them from that program, so already bending our rules indicating the need for more flexibility, could manage bycatch of squid just with closures of some portions of shelf break to EBS pollock pelagic trawl fishery),
- GOA Atka mackerel (not a target species anymore, very poor information, why treat like a target when nobody fishes for them in the area anymore), and
- GOA skates (rapidly developing target fishery on two species within a 12-14 species complex that is managed without OFL or ABC and under a five group aggregate TAC.

Jane DiCosimo raised the question of Council process for how to implement this major change to groundfish management. It could be completed in one large BSAI/GOA plan amendment that would identify a new non-target species category, and implement unique MRAs for each species/group. Sensitive non-target species, currently covered by at least complex level TACs (rockfish complexes, flatfish complexes), would remain under target species management as a complex until separate, specific, additional management measures are designed to provide better protection than the complex level TACs. Under another approach, three separate BSAI/GOA plan amendments could be developed for rockfishes, flatfishes, and other species. The Council or its committee would identify which approach to initiate and the priority for development of the three analyses if that approach is selected. Three separate analytical teams could be assembled to concentrate on each complex with concurrent or sequential timelines.

The group addressed the following management issues but did not develop recommendations.

- Outline a process for monitoring and identifying species of conservation concern to ensure the protection of these stocks at current or an increased level. Bycatch reduction (National Standard 9<sup>3</sup>) is one way to achieve the goal of protection from negative fishery effects. The proposed action to create a new non-target species category may be better than managing those species under the OFL tier system. What non-target indicators trigger an action, and when is it no longer needed? Can it be addressed reasonably (acceptable cost)?
- How to define the non-target complexes? How to assess appropriate MRA level for each species/complex as a minimum measure. MRAs should be constraining enough to ensure fisheries develop under control but not

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<sup>3</sup> Conservation and management measures shall, to the extent practicable, a. minimize bycatch and b. to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

so restrictive that fishery/market exploration can't happen How to identify whether MRA is sufficient protection?

- How do we manage the remaining species?
- Revise the overfishing level tier system to eliminate tier 6 for target species, because a target fishery would not occur if the biomass is unknown under the proposed system.
- What are the problems in the fishery? What are the potential losses and gains from the proposed system? Examples would be dusky or northern rockfish and GOA skates.
- Encourage the continuing efforts to revise the observer program.
- Is there a process to transition target species to non-targets? GOA Atka mackerel may be a good example. Would this require a plan amendment or could it be part of the specification process?
- Define the threshold between target and non-target (tells you when to move between categories). Is it a target fishery if one guy is catching it and selling it? A rapid increase in catch or retained catch, or a change in average fish size over time are possible indicators.
- Define role of (target and non-target) groundfish species in the ecosystem
- Define the role of the groundfish plan teams.
- Expand in-season authority (prohibited species status, hotspot closures) to protect non-target species.

After reviewing the BSAI/GOA skate case study, the ad hoc working group recommended that the Council separate skates from the GOA "other species" category and set species-level OFLs, ABCs, and TACs, where possible. The group deferred the issue of whether to set the overfishing levels for the Gulf or by area to the GOA Groundfish Plan Team.