Avoiding political science

By David E. Frulla and Shaun M. Gehan

The 2006 Magnuson-Stevens Reauthorization Act enhanced the role of the regional councils' scientific and statistical committees. The law, borrowing heavily from the North Pacific model, puts SSCs in charge of setting the upper limit on annual catch levels.

Based on the experiences of the New England and Mid-Atlantic councils with 2010 specification setting, the transition to an enhanced SSC won't be seamless. In fact, it was fortunate for at least three healthy fisheries — Atlantic herring, red crab, and spiny dogfish — that the SSC process had a "dry run" before fishing year 2011, when SSC recommendations become binding.

The Reauthorization Act requires councils to establish a mechanism for determining acceptable biological catch, or ABC, from which annual catch limits are derived. Once established, a council must set annual catch limits "that may not exceed the [SSC's] fishing level recommendations." In future years, the National Standard 1 guidelines establish this limit as the SSC-determined ABC.

The Northeast Region is perhaps unique, as the New England and Mid-Atlantic councils traditionally employed their SSCs as peer review bodies, relying on plan development teams and technical committees of federal, council, state, and other experts for routine management.

Thus, many members of these councils' SSCs do not have a detailed working knowledge of the stocks, fisheries, or management challenges under the council's jurisdiction. This is no small matter — one SSC decision can impact millions of dollars and thousands of jobs.

What problems were revealed? For one, despite the law's requirement that an SSC "hold its meetings in conjunction with the meeting of a council," the New England and Mid-Atlantic SSCs met on their own schedules, often by teleconference. This step limited, sometimes greatly, input by technical experts, council members, and stakeholders who collectively have a greater understanding of a fishery's science and management aspects.

Without such input, SSC debate too often proceeded based on flawed assumptions and, occasionally, factual errors.

Not surprisingly, substantive flaws emerged, such as the New England SSC's misunderstanding of a recent workshop's recommendation. Despite the red crab fishery's having been certified by the Marine Stewardship Council, the SSC arbitrarily recommended a 2010 catch level based on one year's landings, which were the lowest on record, and caused by poor market conditions.

The SSC did not follow standard scientific procedure by using multiple years' landings because the body appeared to have had a fundamental misunderstanding of the data before it.

Poor, if not misleading, guidance from NMFS has also caused SSC missteps. With Atlantic spiny dogfish, NMFS scientists, acting either unilaterally or in accordance with bad legal advice, informed the Mid-Atlantic Council's SSC that it could not set the dogfish ABC above the level associated with the rebuilding fishing mortality rate because the stock had not been "officially" declared rebuilt.

Not only is the premise wrong — dogfish were declared rebuilt in the 2007 Status of U.S. Fisheries, the "official" roster of stock status — but it is the role of the councils to implement legal mandates, not the role of the SSCs.

Status quo dogfish quotas were ultimately adopted, but only because market-driven reductions in the 2009 Canadian catch allowed the New England and Mid-Atlantic councils to avert a 25 percent cut by reducing "management uncertainty."

Nonetheless, the SSC's flawed advice prevented the councils from considering a quota increase based on a higher target rate. A NMFS report suggested that a dogfish ABC set on a fishing mortality rate from the rebuilding rate of 0.11 all the way up to 0.284 could achieve the fishery management plan's goals.

Finally, without empirically derived ABC control rules, an SSC can usurp a council's management role, as almost occurred for Atlantic herring. The SSC decided to peg the 2010 herring specifications to "current catch," but then struggled on whether that level should be a single year or a three-, five- or seven-year average.

The decision made a difference and resulted in specification options from 90,000 to 109,000 metric tons, all below the 145,000-metric ton overfishing level. Lacking objective criteria, this debate was guided by SSC members' personal risk preferences.

Granted, setting catch levels for such a wide range of species in a relatively short time span is difficult. It is, however, a serious endeavor nationwide. To improve the process, we recommend the following steps:

- An SSC should, as the law provides, meet at the same time and location as its council, and do so in open meeting with the relevant technical experts for the species under discussion.
- Each plan should have an objective ABC control rule. Crafted to incorporate scientific uncertainty, the control rule should be a formula that is used to set an upper limit on catch limits. SSCs should discuss and explain other sources of uncertainty, but final decisions should remain with the councils.

These two simple steps alone would go a long way towards rectifying this year's problems. NF

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