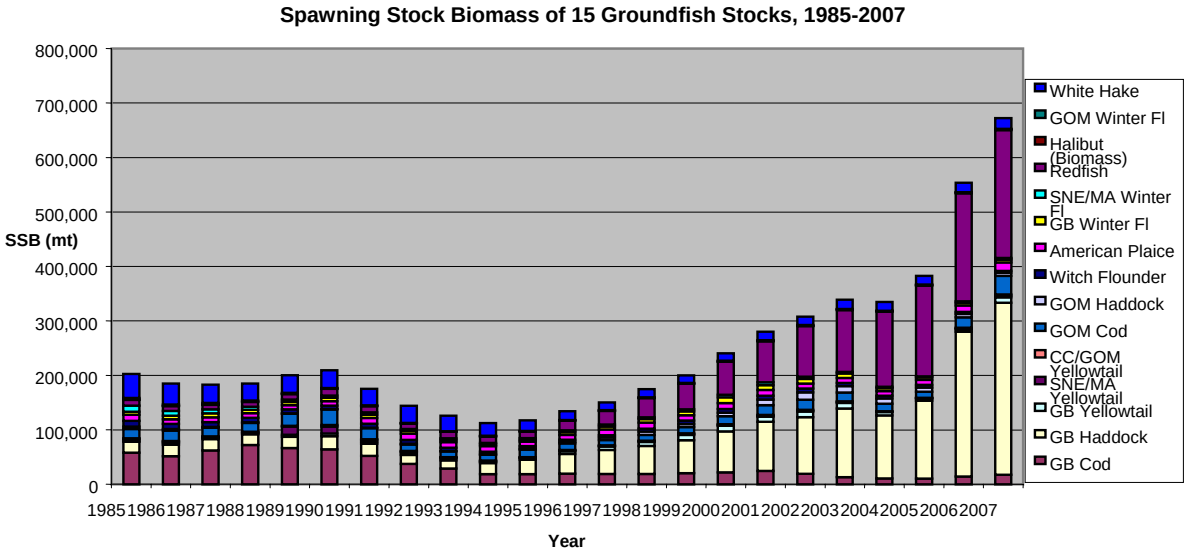
Comments of Stephen M. Ouellette on
CURRENT ISSUES FACING THE NORTHEAST MULTISPECIES FISHERY
March 22, 2010 (revised)

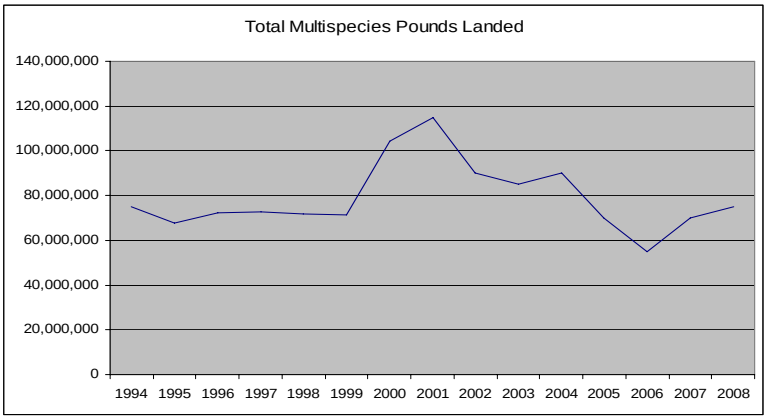
The Northeast Multispecies fishery (including cod, haddock, flounder, etc...) has been undergoing an intensive and successful rebuilding program since 1994, as shown in the following charts. Management measures have changed frequently to react to changes in stock size, scientific models and statutory requirements, with significant impact on the fishing industry, seldom positive. Despite significant gains in fish stocks, the quantity of fish landed has declined over the years, and contrary to the predictions accompanying each new set of rules, overall landings have not increased with the recovery. Especially difficult is that as stocks have recovered and met or exceeded expectations, the need to rebuild interrelated stocks in the multispecies complex has prevented harvest of the healthy stocks. The problem stems from accelerated timetables to comply with the ten year rebuilding requirements of the Sustainable Fisheries Act of 1996, which, according to NMFS allow no flexibility in the rebuilding of any stock to achieve optimum yield in healthy stocks. The disparity is so great that in the 2008 and 2009 fishing years, the fleet landed less than half of the allowed catch. The result has been a steady decline in vessels, loss of jobs, loss of infrastructure and overall negative impact on fishermen and fishing communities. We are currently losing as much as $500 million per year in landings in the Northeast-$350 million in Northeast Multispecies, $125 million in monkfish and $35 million in swordfish due to NOAA/NMFS policies, representing $1.5 to $2 billion in economic activity and 15-20,000 jobs in the Northeast Region. If Congress truly intends to rebuild fisheries and return the benefit to the Nation, this needs to be fixed now.

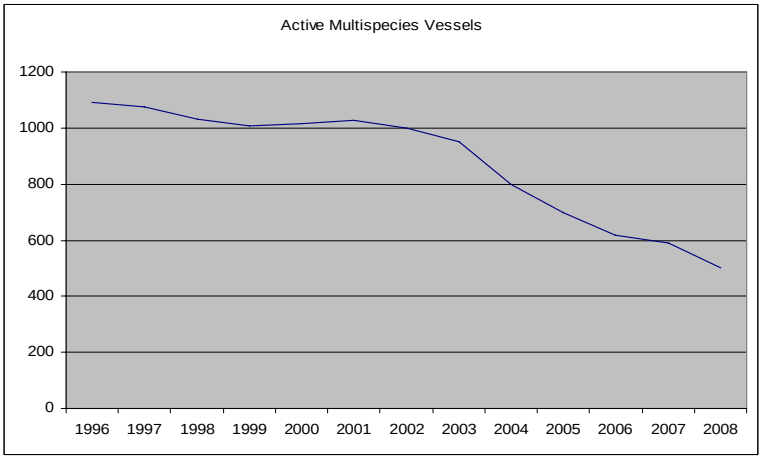
New rules to take effect this year will further reduce allowed landings, even as tens, if not hundreds of millions, of pounds of catchable fish are being lost annually, to hasten recovery of few stocks. New rules will also now require Accountability Measures if allowed catches are exceeded, which most likely will result in closures that prevent harvest of healthier stocks. The concern over the effect that the low catches on the "choke stocks" may have has driven the fleet into the Sector Program, anticipating that while the Total Allowable Catches would support the fleet, actual landings will be so constrained by the choke stocks that the fleet, already reduced from as many as 1,100 active vessels to 500, will be further reduced to as few as 250 vessels. (Current allowable catches, if attainable, could support a much larger fleet.) This difficulty could be avoided by allowing flexibility in meeting rebuilding deadlines to meet industry and community needs. In the context of Multispecies fisheries, such flexibility is crucial to avoid repeated interruptions of harvest of healthy stocks to deal with rebuilding requirements of a single interrelated stock. A fair reading of the Magnuson Act and statements of Congressional intent support the view that such flexibility does exist in Magnuson for multispecies fisheries, yet NOAA disagrees. At this point, it appears that to meet the stated objective of Magnuson to produce Optimum Yield from the fishery on an ongoing basis, Congress needs to adjust the Magnuson Act to add flexibility in rebuilding deadlines, for both single stock and multispecies fisheries. The fleet does not seek to "overfish," but merely to adjust rebuilding timeframes in a manner more consistent with achieving the stated purpose and intent of the Magnuson Act.

The charts below demonstrate the effect the rebuilding programs have had on subsequent growth of Northeast Multispecies Stocks, fleet size and landings. For point of reference, Amendment 5 (days at sea) was implemented in 1994, Amendment 7 (accelerated Amendment 5 days at sea reduction) was implemented in 1996, Amendment 13 was implemented in 2004 (10 year rebuilding requirement under SFA), and Framework 42 was implemented in 2006.



(Above chart provided by the New England Fishery Management Council-inset removed)





(The Total Multispecies Landings and Active Multispecies Vessels charts were prepared by Ouellette & Smith based on numbers provided by New England Fishery Management Council staff.)

The difficulty in understanding the current management philosophy is that due to the requirement to rebuild one stock, yield on other stocks is lost, more often than not with a significant net loss to the industry as the gains in the rebuilt stocks become insignificant in relation to what is lost. In recent years the fleet has harvested only a fraction, as little as 40%, of the allowed catch during rebuilding because of the potential for preventing other stocks from meeting their rebuilding timetables. Underfishing effects for 2007 (which are roughly the same for 2008 and 2009) are set forth in the following charts.

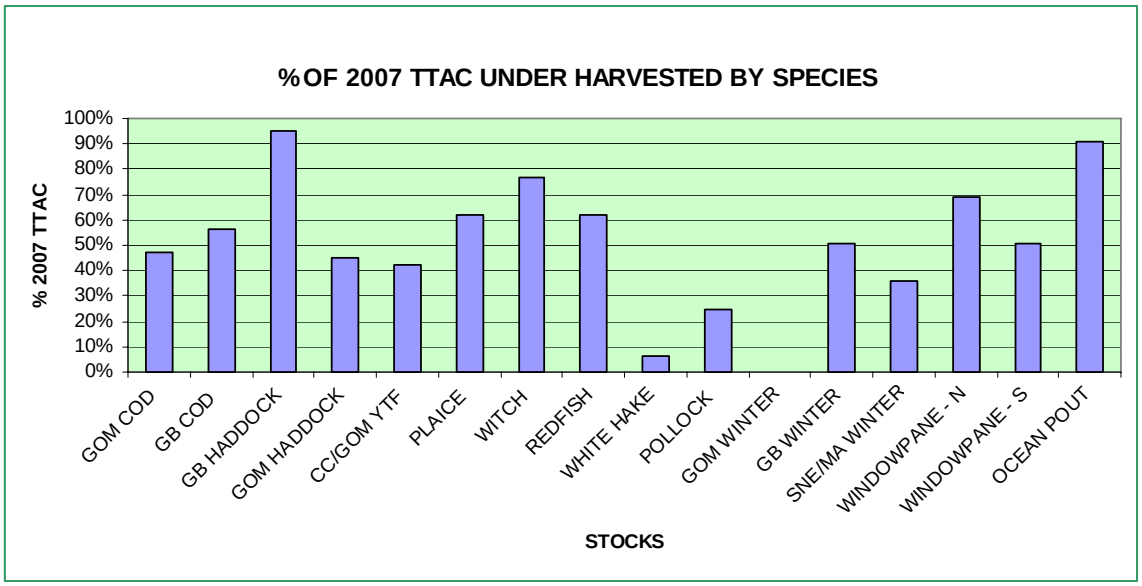


Chart Prepared by Ouellette & Smith from Amendment 16 October 16, 2009 Document, Table 51, Page 311 and Framework 42 TACS.

When applied to the Target Total Allowable Catches set forth in Framework 42, Table 4, Page 48 of the April 21, 2006 document, the actual missed landings total as much as 130,000MT, representing as much as $300 M in lost revenues to the fleet for 2007.

These difficulties often render management assumptions that the cost-benefit analyses justify a short term loss for long term improvements incorrect. The table on the following page represents NOAA/NMFS predictions for the net effect of Amendment 13 to the Northeast Multispecies Fishery Management Plan, which implemented the 10 year rebuilding plan as required by the Sustainable Fisheries Act Amendments to the Magnuson Stevens Fishery Conservation Management Act. The fleet, the public and Congress were advised that by restricting fishing effort, catches which were already expected to rise as high as 250 million pounds would only drop to around 200 million pounds, and that the fleet would break even and have gained ground by sometime around 2040. Although annual catch limits have followed the “Proposed Action” line, and were as high as 300 million pounds, because slower recovery of some stocks, management measures have restrained the fleet to less than 80 million pounds in 2008 and 2009. In short, Amendment 13 dramatically restrained landings, the rebuilding trajectories have only marginally changed, and the fleet is harvesting less that half of what it is allocated.

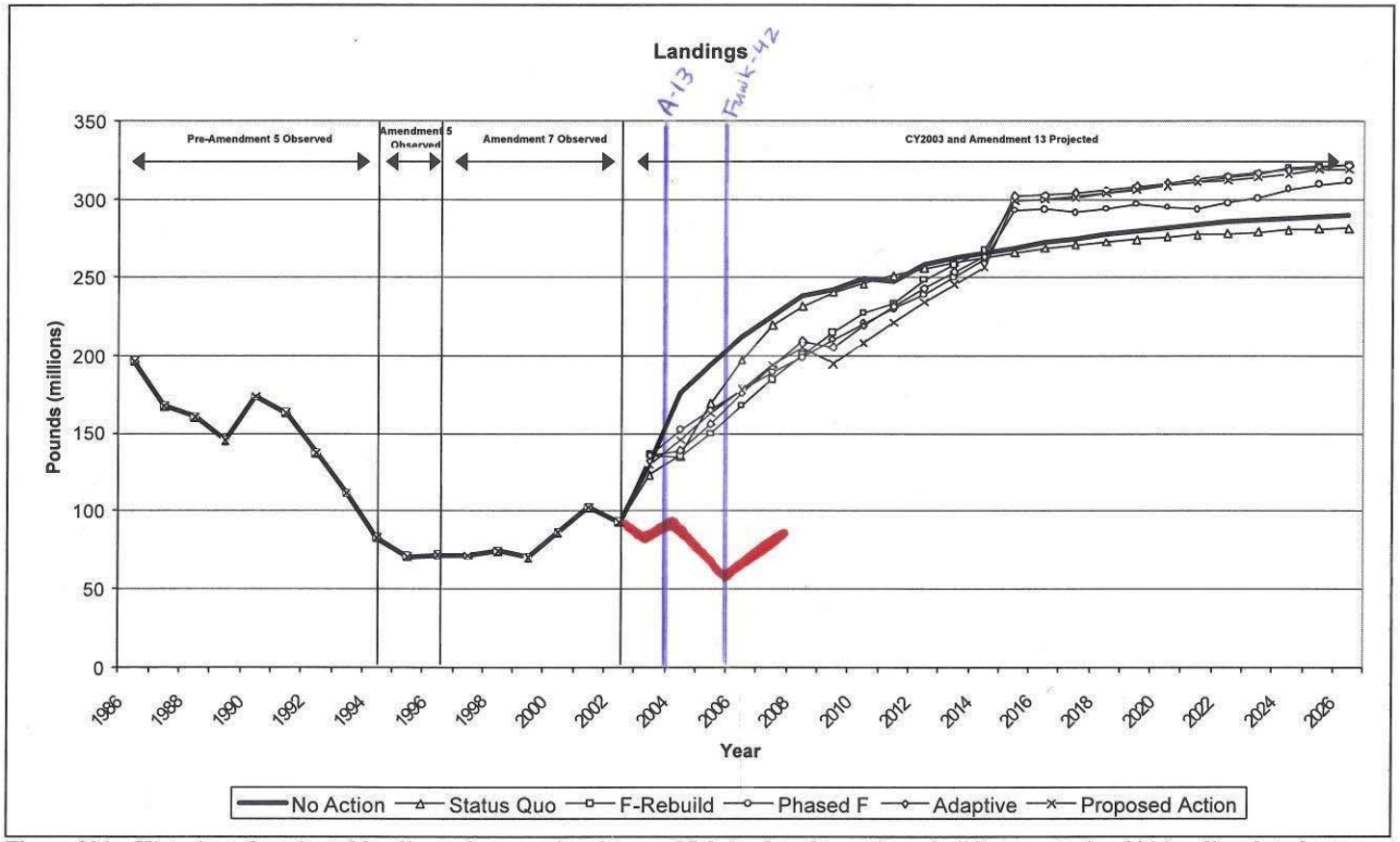


Figure 204 – Historic and projected landings of ten regulated groundfish (under alternative rebuilding strategies, 2014 ending date for most stocks)

Note: Original Chart was included in the Amendment 13 document prepared by the New England Fishery Management Council and approved by NOAA/NMFS.
Additions to Chart by Ouellette & Smith as follows
Red Line Actual Multispecies Landings furnished by New England Fishery Management Council
Blue lines indicate implementation of Amendment 13 and Framework 42 to the Northeast Multispecies Fishery Management Plan

Increasing limits on most Multispecies stocks would not result in overfishing, but might require longer rebuilding periods. The fleet is fishing far below an "overfishing limit" (OFL), and for most stocks is currently held to much stricter limits to meet ten year, or shorter, rebuilding requirements, as set forth in the chart below. This chart excludes Georges Bank Haddock, which would require a much larger scale since TTL ACL for that stock exceeding 40,000MT. Of the stocks included in this table, the fleet is restricted to a combined rebuilding ACL of 36,915 MT, but this could be raised to 57,049 MT (59%) without "overfishing" (exceeding OFL) by extending rebuilding deadlines. It is questionable whether the fleet can land up to the ACLs because when an ACL is reached in one stock, it will trigger actions that may preclude fishing on other stocks. Easing rebuilding requirements on some "choke stocks" would increase the possibility of landing closer to the ACL in stocks where the fleet has fallen short in the last few years. Low ACLs in Georges Bank and Southern New England Yellow Tail Flounder also impact scallop landings due to limitations on bycatch in that fishery.

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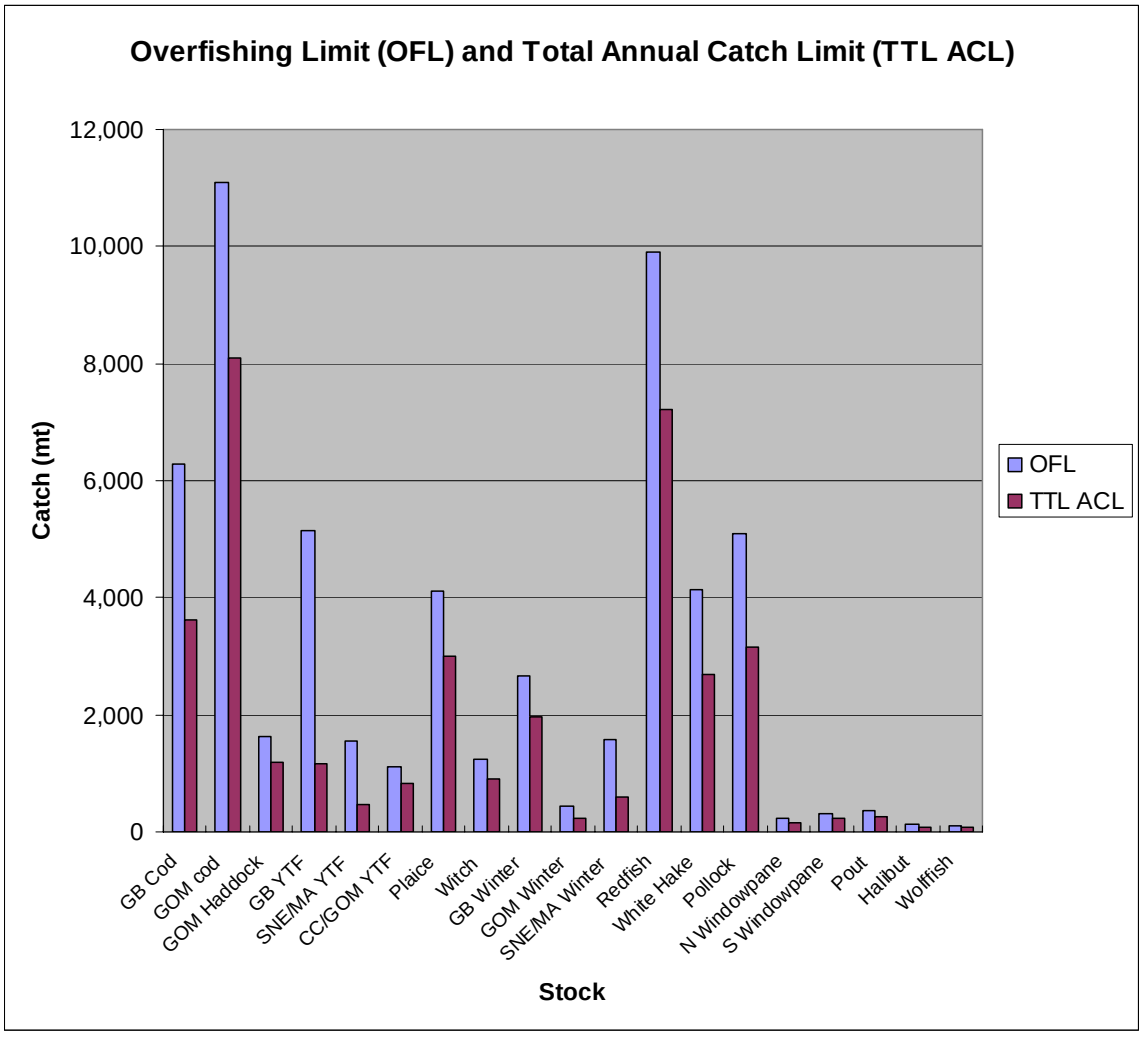

Chart prepared by Ouellette & Smith using Amendment 16 and Framework 42 documents.

Conclusion:

If the intent of Congress is to rebuild fisheries, including the fishing industry and fishing communities, either NOAA must reassess its interpretation of the Magnuson Act, or Congress must modify the Act to allow managers flexibility in rebuilding timetables to permit healthier stocks to be harvested while slower stocks recover. The present interpretation of the Magnuson Act rebuilding requirements holds that every stock in a multispecies complex must be rebuilt within the timeframes specified even where it reduces or eliminates landings of healthier stocks. Not only does this prevent Optimum Yield from being attained on an ongoing basis and waste valuable fish, it also requires frequent modifications to regulations, with resultant negative impact on fishermen and their communities, as periodically one stock or another will drop below its overfished threshold (due to natural occurrences, fishing effort, climate change…), once again requiring rebuilding which will impact the ability to harvest other stocks.

NOAA could adjust its interpretation to avoid this absurdity and recognize flexibility within Magnuson for multispecies stocks, as noted in my letter of April, 2009 to the New England Fishery Management Council. NOAA refuses to do so, adopting the most harmful interpretation to the industry by requiring fishing effort to be determined by the lowest stock in a multispecies complex, and Congress needs to act immediately. The easiest solution to the problem is to relax rebuilding deadlines, letting Councils balance the speed of rebuilding with the economic needs of fishermen and communities. Congress should also clarify that multispecies stocks are to be given greater flexibility in rebuilding to allow for harvest of Optimum Yield from those fisheries on an ongoing basis, even if it results in an extension of rebuilding periods for other stocks.

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