

# Accurately counting the catch is easier said than done

by CHARLES WITEK



It's impossible to manage marine fisheries without knowing just how many fish are removed from the populations each year. Some of those removals take the form of commercial catch, some take the form of recreational landings, and some—and some of the hardest to quantify—take the form of fish returned to the water, either as regulatory discards, economic discards, or fish that anglers catch and voluntarily release, but don't survive the experience.

Together, those fish make up the overall level of fishing mortality, often designated by the symbol "F" in stock assessments, management discussions, and scientists' calculations. In every case, the accuracy of the managers' conclusions is heavily dependent upon the accuracy of their calculations of F.

**Some fishing mortality is relatively easy to quantify.**

## COMMERCIAL FISHING

Commercial fishermen are generally required to report their landings, and when the fish landed are sold to a dockside buyer, as is typically the case, managers can compare the buyers' records with those of the fishermen, and quickly detect any discrepancies that might suggest that someone is not reporting accurately.

We saw something like that happen last November, after the Coast Guard analyzed three separate databases, and determined that, between 2011 and 2015, over two thousand trips, accounting for about 2.5 million pounds of New England groundfish, were misreported.

Further investigation showed that most of the misreporting was probably accidental, with boats fishing close to management area borders—the National Marine Fisheries Service divides the ocean into "statistical reporting areas" that fishermen are supposed to cite when filling out their catch reports—inadvertently attributing catch to an adjacent reporting area, rather than the one in which it was actually caught. But in the case of more than 350 trips, the misreporting seemed to be intentional.

Such misreporting generally involved just four different species, winter flounder, yellowtail flounder, cod, and haddock. *The Gloucester [MA] Times*, which reported on the misreporting issue, noted that

"The goal of the misreporting, according to the [Coast Guard's] report [of its findings], is to keep fishing without exceeding catch limits and annual catch entitlements"

for designated stocks in the fishery.

In the northeast, misreporting not only of reporting areas, but also of the species caught, reached its known apex in the case of Carlos Rafael, the so-called "Codfather," who was sent to federal prison for falsely reporting between \$1.4 million and \$3.7 million (depending on how the valuation was done) in New

England groundfish.

Rafael was only able to get away with such gross misreporting because he owned both the boats and the fish house that purchased the catch. Thus, both the fisherman and the buyer were easily able to conspire in order to keep both the vessels' trip reports and the fish house's weigh-out slips from conflicting.

It would be nice to believe that Rafael's wrongdoing was a singular event, but that is, unfortunately, not the case. Here in New York, fishermen's abuse of the Mid-Atlantic Fishery Management Council's Research Set-Aside Program was so severe that the Council ultimately decided to suspend the program.

NMFS described one of the cases this way:

"...an investigation initiated in July 2010 by NOAA's Office of Law Enforcement (OLE) culminated in the sentencing of a Levittown, NY, fisherman, who was convicted of mail fraud, wire fraud, and falsifying federal records charges.

"Anthony Joseph was sentenced to seven months incarceration and three years of supervised release by federal court in the Eastern District of New York. Joseph was also ordered to pay \$603,400 in combined fines and forfeitures.

"The [Research Set Aside] program was established as a mechanism to fund research and compensate vessel owners through the sale of fish harvested under a research quota or research days at sea. When using set-aside days or quota, vessels were often exempt from trip limits, some seasonal closures, or other restrictions that would otherwise apply.

"However, numerous people, including Joseph, found ways to misuse the program which led to its reorganization and restructuring.

"In all, OLE agents determined that Joseph filed 158 false fishing logs and was complicit in the submission of 167 false dealer reports. These violations led to a plea of four felony charges...

"Joseph concealed the over-harvests by underreporting his total catch to NOAA. He then used two cooperating dealers to file false federal dealer reports to avoid detection. The two related dealers, Alan Dresner and Jones Inlet Seafood, have been charged and the cases have been adjudicated."

While it's nice to believe that fishermen such as Carlos Rafael and Anthony Joseph are just two bad apples in an otherwise sound barrel, another issue that arose in New York casts doubt on that rose-colored view of life. It is described in the complaint that New York State filed in its lawsuit against multiple plaintiffs, including the Secretary of Commerce and NMFS, over the state's commercial fluke quota.

In that complaint, New York argues that the data used to allocate summer flounder among the states, in an action taken by the Mid-Atlantic Council in 1993, is outdated and no longer represents the best available science.

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