



## New England Fishery Management Council

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### MEMORANDUM

**DATE:** June 2, 2014  
**TO:** Groundfish Oversight Committee (Committee)  
**FROM:** Groundfish Plan Development Team (PDT)  
**SUBJECT:** May 13, 2014 PDT meeting summary

This memo summarizes work completed by the PDT since the April 2014 Council meeting. The PDT met on May 13, 2014 to discuss roles, responsibilities, and expectations; Framework Adjustment 52; Amendment 18; and Framework Adjustment 53. PDT members present were: Jamie Cournane, Rachel Feeney, Fiona Hogan (NEFMC staff); Chad Demarest, Anna Henry, Paul Nitschke (NEFSC); Dan Caless, Tim Cardiasmenos, Sarah Heil, Michael Ruccio, William Whitmore (GARFO); Steve Correia (MADMF); and Sally Sherman (MEDMR, via webinar). One member of the public was present. This memo was finalized via subsequent emails and phone calls.

#### **PDT Meeting Goals**

- To discuss and agree on roles, responsibilities, and expectations as members of the PDT and establish a list of working practices.
- For Framework Adjustment 52: To discuss and finalize the draft alternatives and agree on a process for completing the Environmental Assessment.
- For Amendment 18: To discuss inshore Gulf of Maine measures, whether to recommend a narrower range of options for PSC Alternatives 2, 3 and 4, and other business.
- For Framework Adjustment 53: To develop a list of items for potential inclusion.

#### **Roles, Responsibilities, and Expectations**

The PDT focused on how it can better develop and provide strong technical advice and recommendations for the Committee. This would include allowing PDT members enough time to develop and review analyses and documents to ensure the highest caliber work possible. The PDT must provide timely recommendations; the ability to achieve that can be impeded by additional requests for analyses.

Specifically, PDT members discussed the question, *“Thinking back to the past year, what would you change about the PDT process?”* Responses were arranged by general topic (Analyses, Tasks, Expectations, PDT Meeting Organization, PDT Documents, and Member Skills/Training). Potential solutions were identified for each of these topics (see Appendix for an overview of the discussion). The PDT plans to continue this discussion periodically and implement solutions to improve the process.

### **Framework Adjustment 52**

This summary provides additional context regarding the changes made to the alternatives and corresponding rationale (please refer to the June 2, 2014 FW52 draft).

### **General Comments on the Development of Draft Alternatives and NEPA Analysis**

The PDT discussed the development of the draft alternatives and the NEPA analysis. In particular, the PDT commented regarding:

- Finalizing the alternatives:
  - To avoid confusion, the alternatives need to be very clear about what elements of the AMs would not change. The PDT will provide more detail and be explicit in each alternative.
  - The PDT also discussed how these alternatives could be retroactively applied and the likely result.
- Environmental Impact Analysis of the alternatives:
  - Need to compare the No Action to the Alternatives and vice versa, as well as the Alternatives to each other.
  - The PDT will also consider the current conditions for the groundfish fishery and the effect of in-season implementation in FY 2014 in the analysis.
- Other sub-components with the same AMs as the groundfish fishery:
  - FW52 would not change the AM for the other sub-components for these windowpane stocks, e.g. other large mesh.
  - The Committee could consider any revisions to the other sub-components in the next framework action, e.g. establishment of further sub-ACLs.

### **Further Development of Draft Alternatives**

#### **Option 2, Sub-Option A: Modified AM trigger that incorporates stock status/biomass**

- The PDT also discussed that the status of the stock mattered when scaling back an AM. The PDT developed two criteria for when the AM could be considered to be scaled back, based on stock status and catches relative to recent survey information. If the two criteria are met, the large AM area could be scaled back, but not lifted, for that FY. The PDT briefly considered whether the AM could be scaled back if the OFL is exceeded, and concluded that if the other two criteria are met, particularly the biomass indicator, overfishing is likely not occurring for the stock.
- NMFS was preferred as the appropriate body for determining if the stock status and biomass criteria were met.
- The PDT did not address if there should be a cap on the number of consecutive years an AM can be scaled back in sub-Option A, i.e., some sort of performance standard. The National Standard guidelines indicate how often an AM can be triggered before the

system should be reviewed, i.e., if ACLs are exceeded more than once in a four year period. See 50 CFR 600.310.

Option 2, Sub-Option B: Consideration of catch performance over the most recent two-year period when determining AM implementation

- PDT comments focused on data availability and timing. In FW48, the Council adopted delayed implementation of AMs for stocks not allocated to sectors (to Year 3) because final catch data is not available until 5-6 months after the FY ends. The timeline for reviewing information to modify an AM (biomass criteria, catch data) must be the same as that for AM implementation and/or overage determination.
- The treatment of data availability should be the same for triggering an AM, and for reviewing information to potentially scale the AM back, credit the fishery for Year 2 performance, etc.
- This information was used when requiring that the AM be in place in Year 3 for at least 4 months.

Option 3: Seasonal accountability measure for the northern windowpane flounder stock

- There is concern that the current AMs might not provide the greatest biological benefits, based on recent high catches outside of the AM area in statistical area 522. However, due to the size of statistical area 522, the PDT noted that this option could have significant economic impacts on groundfish vessels.
- The Scallop PDT completed an analysis in the southern area that suggested seasonal trends in catch in the scallop fishery.

## **Amendment 18**

Under Amendment 18, the PDT primarily discussed measures for the inshore Gulf of Maine and accumulation limits.

### **Amendment 18 Action Timeline**

The current Amendment 18 action timeline has the Council approving the range of alternatives for the DEIS at their meeting June 17-19, 2014 (Table 1).

**Table 1 - Amendment 18 timeline**

<b>2014</b>	
Jun. 9	Groundfish Committee meeting.
Jun. 12-13	CIE review of Compass Lexecon report.
Jun. 17-19	NEFMC approves Range of Alternatives.
Jul. 21	CIE review reports finalized.
Jun.-Oct.	Notice of Intent revised, PDT develops DEIS (analyze probable effects).
Nov. 18-20	NEFMC approves DEIS with range of alternatives and selects preferred alternatives.
<b>2015</b>	
Jan. 1	DEIS accepted by NMFS.
Feb. 1	EPA approves DEIS and issues NOA that DEIS is available.
Feb.-Mar.	DEIS 45-day public comment period.
Apr.	NEFMC votes on final action.
Jun. 1	DEIS submitted to NERO.
Jun.-Nov.	EIS review, revisions, final submission, and deeming of proposed regulations. GARFO publishes NOA. 60-day public comment period
Dec.	Possible implementation of measures.
<b>2016</b>	
May 1	Possible implementation of measures.

### **Amendment 18 Draft Discussion Document**

In prior versions of the Discussion Document, PSC data and accumulation limit alternatives report PSC as a percentage (%). The document has been revised to conform to the convention of reporting PSC without the "%" symbol.

## Inshore Gulf of Maine

In April, the Council tasked the Committee with the following motion:

*“Further analysis and development of measures to be included in Amendment 18 that would address potential concentrations of effort in the inshore Gulf of Maine and impacts on GOM cod and other depleted stocks without reestablishing trip limits.”*

The PDT interpreted the motion to indicate that the Council is most concerned with addressing the depletion of cod and other stocks in the inshore Gulf of Maine. The goals of Amendment 18 are primarily social and economic in nature, and the PDT discussed how measures designed to address a biological concern might be a better fit for an action with primarily biological goals. Concerns have been expressed by the public that, because of the depletion of cod inshore, traditionally inshore fishermen now have more limited options for finding areas to fish. However, this concern, which is primarily social in nature, is not articulated in the Council motion. The development of measures can be very different depending on whether the goal is to protect GOM cod or whether to ensure access for the inshore fleet. There may be measures that would address cod depletion while resulting in more access for traditionally inshore fishermen that may be appropriate for Amendment 18. The PDT agreed that any measures developed through Amendment 18 or a subsequent action should not overlap or conflict with the ongoing development of the Omnibus Habitat Amendment 2 (Table 2).

**Table 2 – Example measures in the Omnibus EFH Amendment 2 Draft EIS**

<b>Volume 3 Section (p. #)</b>	<b>Example Measures</b>
2.1.3.7 (p. 64)	Alternative 7 of the Habitat Management Alternatives (preferred) would revise roller gear size restrictions as a habitat measure in the WGOM (apply to all bottom trawl fisheries and/or alter area boundary).
2.2.1.3 (p. 101)	Alternative 3 of the Spawning Management Alternatives (preferred) would apply the Mass. Bay Spawning Protection Area closure for all vessels, November 1 to January 31.

On May 13, the PDT considered measures suggested by Council members, the public, and through preliminary PDT e-mail discussion (Table 3). The PDT then identified which of these may address the biological concern identified in the Council motion, which may address the social and economic goals of Amendment 18, and which may address both. The PDT then had a brief but focused discussion of three potential measures, identifying specific socioeconomic and biological implications, trade-offs, data availability, implementation feasibility, and other considerations of these three potential measures (Table 4). The PDT discussed the two measures that it determined may address the biological objective of the motion and fit within the Amendment 18 goals and one other that may fit within the Amendment 18 goals. The PDT did not reach a conclusion on which measure(s) (those discussed in detail or others) it would recommend to develop in Amendment 18.

*Question: Would the OSC like to recommend specific objective(s) of the measures as well as the specific measures for Council consideration?*

**Table 3 - Potential measures that may address the Council motion**

Potential measures	Potential Goals	
<i>Gear</i>	<i>Biological</i>	<i>A18</i>
<ul style="list-style-type: none"> <li>Limit the number of gillnets and/or hooks set inshore.</li> </ul>	ç	
<ul style="list-style-type: none"> <li>Make the haddock separator trawl mandatory in the Gulf of Maine for all vessels.</li> </ul>	ç	
<ul style="list-style-type: none"> <li>Make the haddock separator trawl mandatory in the Gulf of Maine for vessels larger than 75 feet. (See Table 4.)</li> </ul>	ç	ç
<i>Time/Area Closures</i>		
<ul style="list-style-type: none"> <li>Apply rolling closures to sector and common pool vessels equally, and/or to recreational vessels. (May overlap with OHA2)</li> </ul>	ç	
<ul style="list-style-type: none"> <li>Close Areas 124 and 125 for all vessels, November 1 to January 31.</li> </ul>	ç	
<ul style="list-style-type: none"> <li>Fishing by all gears and fleets catching groundfish prohibited in spawning closures. **</li> </ul>	ç	
<ul style="list-style-type: none"> <li>Can only fish X days per week inshore.</li> </ul>	ç	
<ul style="list-style-type: none"> <li>Must take a break of at least X days between trips that fish inshore.</li> </ul>	ç	
<ul style="list-style-type: none"> <li>No large vessels (&gt; X feet) west of the 70° line in the GOM. (See Table 4).</li> </ul>		ç
<i>Quota</i>		
<ul style="list-style-type: none"> <li>Division of the Gulf of Maine cod TAC into inshore and offshore components. (See Table 4.)</li> </ul>	ç	ç
<ul style="list-style-type: none"> <li>Reduce quotas of GOM cod.</li> </ul>	ç	
<i>Other</i>		
<ul style="list-style-type: none"> <li>Allowing fishing in just one broad stock area per trip.</li> </ul>		ç
<ul style="list-style-type: none"> <li>Restrict catch by large vessels in 513 &amp; 514 to no more than X% of large vessel's GOM catch.</li> </ul>		ç
<ul style="list-style-type: none"> <li>Draw an inshore/offshore line, and have each vessel declare one of the two areas as a "home" area. Assign 80% of a vessel's allocation to the home area. Establish a sub-committee of the Council to manage the area.</li> </ul>		ç
<i>Notes:</i>		
** May overlap with the development of the Omnibus Habitat Amendment 2.		

**Table 4 - Considerations for three potential measures**

Considerations	Potential measure		
	<b>Make the haddock separator trawl mandatory in the Gulf of Maine for vessels &gt;75'.</b>	<b>No large vessels (&gt; X feet) can fish west of the 70° line in the GOM.</b>	<b>Division of the Gulf of Maine cod TAC into inshore and offshore components.</b>
Socioeconomic impacts, implications, trade-offs	May encourage fishing offshore by larger vessels and leasing more GOM ACE to smaller vessels. Potential loss of target yield and increased costs for larger vessels. May not yield more catch for smaller vessels, unless stocks rebuild and overall ACE increases.	May reduce area conflicts inshore. Impacts would depend on the defined length requirement. Are there safety concerns for larger vessels?	How would the allocation be divvied up? Could leasing occur across areas? If so, then vessels with allocation in one area could fish in another.
	Would impact the permit and ACE leasing markets, where there are discrepancies between what a fisherman holds and what is needed.		
Biologic impacts, implications, trade-offs	It would exclude cod, but continue to catch other depleted stocks. May disproportionately shift effort, with impacts that would be difficult to quantify.	Would displace effort by larger vessels elsewhere. GOM cod would still likely be caught, just by smaller vessels. Biological benefits are likely minimal.	Virtually all of the GOM stock currently occurs west of the 70° line. There could be negative impacts on cod if the line is drawn incorrectly. Would need to consider if discarding might worsen.
	No spawning protections/discrete stock management.		
Data availability, reporting	Lack of fine-scale spatial data. Modified gear would have to be reported somehow in the VTR.	Would need to rely on observer data	GOM cod is assessed as one stock, not at a finer scale, so it's hard to know how much ACE to assign to smaller areas. Data collection structure does not support an inshore offshore line.
Implementation feasibility	Fairly easy to implement and enforce.	Fairly easy to implement	How would the line be drawn? Would allocation be determined by vessel size, where a vessel fished during a certain time period?
Other considerations	May help promote a diversity of vessel sizes, but not necessarily gear types.		Determining how to allocate once the line is drawn would be difficult.

## **Accumulation Limits (Section 4.1)**

The PDT briefly discussed accumulation limits on May 13. There are a few issues that the Committee may want to address prior to recommending the range of alternatives to the Council.

### Number of options for PSC Alternatives 2, 3 and 4

Alternatives 2, 3 and 4 state, "The Council may select one or more of the multispecies stocks to which this alternative would apply". The PDT is concerned that this creates the potential to have a very large number of options in the document, far more than would be feasible to analyze. Additionally, each alternative has a distinct rationale, and having the ability to select the stocks to which an alternative applies might have impacts that are not consistent with the alternative's rationale. Therefore, the PDT recommends that this language be struck from the document.

*Question: Would the OSC like to strike the following language from Alternatives 2, 3, and 4: "The Council may select one or more of the multispecies stocks to which this alternative would apply"?*

### Entities to which alternatives apply

The accumulation limit alternatives apply to various combinations of entities, human persons, and permit banks. Unless the Council recommends otherwise, NMFS would likely apply an accumulation limit to human persons and state-operated permit banks for the following reasons:

- Definitions for permit bank and entity have not been identified.
- The guidance on Regulatory Flexibility Act (RFA) analyses is currently being revised with respect to which entities the RFA applies.
- For each of the nonprofit permit banks, there is a human person associated with each permit in the NMFS database.
- The permit cap in the scallop fishery applies to human persons. In Scallop Amendment 11, the preferred alternative had the permit cap apply to individuals and entities, but the Final Rule stated that the cap applies to just individuals.

### PSC Redistribution

In April, the Council voted to add Option A to Alternative 3. The PDT has interpreted the Council motion and discussion to mean that PSC acquired in excess of the cap would be split off of the permit and redistributed to the fleet, and has inserted Option A accordingly. This redistribution concept could be applied to all of the alternatives.

*Question: Would the OSC like this option to apply to all of the alternatives?*



## HA Fishery (Section 4.3)

### Qualification years

In Section 4.3.2 Alternative 2, Option A, the qualification years are not consistent with current PSC calculation methods. For a fixed number of permits (66 MRIs), the Georges Bank cod PSC was based on 1996-2001, including one HA permit. Unless the Council recommends otherwise, NMFS would likely keep the qualification years consistent with current PSC calculation methods if Option A is implemented.

### Discard Accounting

The PDT recommends clarifying the language of Section 4.3.2 Alternative 2, Option B, since the current sub-options do not identify how the discard rate would be calculated and when the rate would be applied. Calculating discards based on longline gear data rather than common pool data would better fit with the intent of the Council motion. The PDT recommends replacing Option B with the discard calculation option and sub-options in Table 5.

*Question: Would the OSC like to recommend replacing Option B?*

**Table 5 - Potential language to replace Section 4.3.2 Alternative 2, Option B**

#### **Option B: Discards**

This option identifies how discards would be accounted. Stocks that would not have a specific HA permit sub-ACL, but are caught using a HA permit, would be accounted for under the Other Sub-Components sub-ACL.

*Rationale:* The stocks not assigned to the HA fishery sub-ACL are not commonly targeted by HA fishermen. According to recent effort, the discards of stocks that would not be included in the HA permit sub-ACL are likely to be <1% of the catch accounted for under the Other Sub-Components sub-ACL (Section 6.5.8). Under Alternative 1 (No Action), the discard rate for vessels fishing with HA permits in the common pool is calculated based on observed trips using trawls or gillnets, not handgear.

**Sub-Option A:** Calculate an assumed discard rate based on available data for longline and hook gear. At the beginning of the fishing year, the assumed discards would be subtracted from the HA sub-ACL and the Other Sub-Components sub-ACL accordingly.

*Rationale:* This sub-option bases the discard rate on gear similar to what would be used in the HA fishery. Since there would be no in-season observer trips, the discard rate would be the same for the whole year. The discard rate would be set at the beginning of the fishing year. Only landings would be monitored throughout the year.

**Sub-Option B:** Assume all discards from trips fishing within the HA fishery to be *de minimus*, and not account for them under any sub-ACL. This sub-option would require the *de minimis* discards to be explicitly considered within the management uncertainty of the fishery.

*Rationale:* The expected discards from a potential HA fishery are very small and within the margin of error for discards of the commercial fishery.

## Grandfathering

Option I states, “In sectors, the PSC associated with HA permits can only be used by HA fishermen that are using handgear.” The PDT has already indicated that this is inconsistent with current practice (NMFS cannot control ACE use once it is allocated to sectors). The PDT does not recommend having an option in the document that is not viable and would be unlikely to be approved in its current format. The PDT recommends removing this option.

*Question: Would the OSC like to recommend removing Option I?*

## **Framework Adjustment 53**

The Groundfish Committee is meeting on June 9<sup>th</sup> to recommend what items should be included in Framework Adjustment 53 (FW 53), which will be initiated at the June Council meeting.

The primary purpose of FW 53 is to set specifications for several groundfish stocks (GOM and GB winter flounder stocks, pollock, GOM haddock, GB yellowtail flounder, EGB cod, EGB haddock). The Council passed this motion at its April meeting:

*To initiate another framework to further allocate the windowpane flounder ACL to be expanded to other components of the fishery, and develop AMs for these components.*

The Council also expressed interest at the April meeting in revisiting carryover in FW 53. The NRCC recently learned about the assessment schedule for 2015. An operational assessment of all groundfish stocks is planned for late September 2015. This causes timing problems for the management system. Currently, specifications do not roll-over in the Multispecies FMP. One possibility is to add an alternative for 2015 ABCs/ACLs to roll over into FY2016 absent ABCs being developed and implemented in time. The PDT did not have the opportunity to discuss the tradeoffs of a rollover provision having a sunset (e.g., for FY 2015 to FY 2016 only) versus allowing rollover for all specifications in the future.

## **Draft List of Potential FW 53 Items**

- Regulatory
  - Status changes, if any
  - Specifications for groundfish stocks
- Management measures
  - Allocate the windowpane flounder ACL to sub-components and develop AMs
  - Revise the carryover provisions
  - Create a roll-over provision for specifications
  - Recreational management measures process
  - Possible removal of common pool measures that have become obsolete and/or have increased administrative burden (GARFO)

## Appendix

### **PDT Discussion on Roles, Responsibilities, and Expectations**

- 1) Analyses-
  - a. Analyses should be data driven and not dictated by the Committee.
  - b. Analyses should be formalized within a report.
  - c. Improved development of rationale/justification for alternatives and technical guidance provided to the Committee were thought necessary.
  - d. The PDT could benefit from more collaboration within the group.
  - e. Clear, definitive recommendations by the PDT would help improve its technical guidance to the Committee.
  - f. Other potential solutions included focusing on the results and not the possible reaction to the results.
  - g. Prioritization of finishing assigned tasks should include the formal write-up.
- 2) Tasks-
  - a. Several recent tasks from the Committee have been repetitive and a little vague.
  - b. The interface between the PDT and Committee needs to be more active to ensure the Committee responds to all PDT clarification requests.
  - c. The PDT chair must ensure that the Committee tasks to the PDT are clear and that Committee provides clear rationale for any PDT assignments.
- 3) Expectations-
  - a. Current timelines given to review PDT documents are often unrealistic. This might be due to a lack of organization/prioritization of tasks or too many PDT tasks occurring simultaneously.
  - b. There was also a comment regarding the low expectations PDT members have of the amount of work they can complete for a management action.
  - c. More open dialogue between the Committee and PDT Chair would help adjust expectations.
  - d. Prioritization of PDT tasks and deprioritizing or saying ñoñ to any tasks that were considered to have little benefit were also thought to be helpful approaches.
- 4) PDT meeting organization-
  - a. PDT members should arrive on time for all meetings.
  - b. Too many topics were scheduled for PDT meetings; prioritization of topics might help with this.
  - c. Using conference calls to assign individual tasks and in-person meetings to discuss results and make progress on recommendations was a potential strategy.
  - d. Budgeting PDT time was essential.
- 5) PDT documents-
  - a. PDT memos were considered to be too long.
  - b. With two different actions being worked on at the same time, the number of emails being sent to the PDT was overwhelming and confusing.

- c. A shorter format for PDT memos, with clear recommendations, would help.
  - d. If multiple versions of a memo were being distributed then revisions should be highlighted.
  - e. More specific email subject lines could help PDT distinguish between emails.
- 6) Member Skills/Training-
- a. There are a number of NEPA related issues that the PDT runs into during the course of document preparation.
  - b. Training for all members on a topic like NEPA would help fix these issues.
  - c. Improved communication between the Council, Committee and staff during document development would also help with these issues.