

# **Update:**

# Development of Amendment 18 to the Multispecies FMP

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NEFMC meeting  
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# Outline

1. Amendment 18 discussion document
2. Vessel upgrade restrictions
3. NEHFA proposal
4. Accumulation limits
  - a. Review of NEFSC ownership data
  - b. Compass Lexecon analysis
  - c. Permit banks
5. Issues from scoping
6. Timeline



## **3.0 – Introduction**

*Purpose and need, goals, summary of scoping comments*

## **4.0 - Alternatives under consideration (i.e. the DEIS Range of Alternatives)**

*US/CA TACs, defining a non-profit permit bank, accumulation limits*

## **5.0 - Alternatives pending further consideration by the Committee**

*Accumulation limits*

## **6.0 - Alternatives not recommended by the Committee**

*Vessel upgrade restrictions, NEHFA proposal (except tote reg.),  
collective cap on permit banks, usage cap*

## **7.0 - Alternatives considered but rejected by the Council**

*Permit and PSC splitting*



# Vessel upgrade restrictions

## **NERO-proposed omnibus amendment:**

- Remove the gross and net tonnage restrictions from baseline and upgrade restrictions.
- Remove the one-time upgrade restriction.

## **NERO is not proposing to change:**

- The vessel length or horsepower provisions.
- The upgrade restrictions for baseline length (10%) and horsepower (20%).

Doc. #3,  
Sect. 6.1

## **November GF OSC motion:**

Not consider for A18, but develop via an omnibus amendment with NERO.  
Wants to remove/change vessel length and horsepower provisions.



## Proposal core:

- Create a sub-ACL for each groundfish stock with Handgear A permit history from 1996-2006.
- Specify that this sub-ACL may be used by:
  - Handgear fishermen harvesting in a program distinct from sectors or the common pool.
  - Sector fishermen if using handgear (supports grandfathering).
- This distinct program would, in part:
  - Have an annual vs. the current trimester catch limit.
  - Not be subject to the March 1-20 Handgear fishing closure.
  - Would be exempt from all commercial groundfish closures except cod spawning closures.



## **November GF OSC motion:**

“That the Committee has considered the NEHFA proposal and decided not to include it in Amendment 18.” (10/0/1)

## **Rationale:**

- It isn't feasible to have another independent program in the fishery, in addition to sectors and the common pool.
- The NEHFA seems to want the benefits of fishing under sectors, without the accountability.
- Concern about the amount of staff and administrative effort that would be dedicated to managing a small portion of the fishery.
- Concern about the ability of NMFS to monitor very small amounts of quota, given current data collection and processing timeframes.
- Uncertainty about how representative the views of the NEHFA membership are of all the HA permit holders.
- The Groundfish Advisory Panel did not support the proposal.



- In December, the NEFMC tasked the VMS/Enforcement Committee to discuss removing the requirement that multispecies handgear vessels carry a standard fish tote on-board.
- Though Amendments 5 and 7, standard totes were required of all vessels to help the USCG estimate catch.
- Subsequent actions removed the requirement in several fisheries, by not explicitly including it in the possession limit regulations.
- The USCG does not necessarily use totes for at-sea enforcement, particularly on handgear vessels. Only dock-side weights of fish are considered official.
- VMS/Enforcement Committee unanimously supports removing the requirement for multispecies handgear vessels.
- This requirement also exists in the scallop, black sea bass, summer flounder, and red crab fisheries.

## **January GF OSC motion:**

That an alternative would be added to the next available groundfish action that would remove the tote requirement for the handgear fishery. (9/0/0)



# Accumulation limits – Review of NEFSC data

## **NEFSC SSB presented at the November 2013 OSC meeting:**

From updated draft ownership data, the top individuals hold:

- $\leq 3\%$  of the multispecies permits/MRIs.
- $\leq 6\%$  of the fishery-wide PSC shares.
- 10-12.5% of GB winter flounder PSC and 4-7.5% of all other stocks.

## **Feedback at the January 2014 OSC meeting:**

- Industry members noted that these numbers may be underestimates.
- The OSC tasked the PDT with finalizing the SSB report on ownership, as well as the draft report on fleet diversity (presented in June 2013).



# Accumulation limits – Compass Lexecon analysis

## **A18 Goal #4:**

*“To prevent any individual(s), corporation(s), or other entity(ies) from acquiring or controlling excessive shares of the fishery access privileges.”*

## **National Standard 4:**

*“...allocation shall be...carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.”*

## **National Standard 4 Guidelines:**

*“An allocation scheme must ... avoid creating conditions fostering inordinate control, by buyers or sellers, that would not otherwise exist.”*

Compass Lexecon was asked to determine if excessive shares exist in the groundfish fishery today and to recommend an accumulation limit that would prevent excessive shares from occurring in the future.

Their final report was submitted to the NEFMC December 31, 2013.



## **CL “excessive share” definition (Page 2):**

“...a share of access rights that would allow a permit owner or sector to influence to its advantage the prices of the fishery’s output...” (e.g. ACE lease or permit prices).

“The ability to manipulate prices to one’s advantage based on the share of participation in a market is a typical example of what economists call market power.”

## **CL project approach (Pages 3-23):**

- Received input from ~50 fishery stakeholders via surveys and interviews;
- Analyzed NMFS fishery data; and
- Assessed available models for evaluating the presence of market power and for their appropriateness for setting excessive share limits.



## **CL conclusion regarding the fishery current (Pages iv, 47):**

“The evidence we analyzed does not support a conclusion that market power is currently being exercised through the withholding of ACE in any part of the groundfish fishery, nor is there evidence of market power in the sales of fish or transfers of permits.”

## **CL recommendations (Pages 45-48):**

- It would be unlikely for an entity to exert market power in the fishery if an excessive share cap was set at 15.5% of stock-specific PSC.
- Caps may not be an effective means to achieve Goals 1-3 of A18. However, caps can co-exist with other measures to achieve these goals.



# Accumulation limits: Compass Lexecon analysis

## **Peer review by the Center for Independent Experts:**

- NEFSC is coordinating the review on behalf of the NEFMC.
- Panel selected by CIE. Dr. Eric Thunberg will serve as Chair.
- SSC Social scientists, NEFMC staff and NEFSC staff had input on the Terms of Reference. Discussed by OSC.
- In short, the review will evaluate:
  - The validity of the CL methods process to identify “excessive shares” (including defining it in terms of market power); and
  - The application of these methods to the groundfish fishery.
- The public review panel meeting will likely occur in June 2014, with a review report finalized 30 days later.



# Accumulation limits: Compass Lexecon analysis

## **Preliminary PDT Feedback:**

- A stock-specific PSC cap would not require turning the fishery into a LAPP. Caps on allocations (ACE) or use (catch) would require allocations to individuals.
- NMFS does not currently have data on the percent ownership interest of permits owned by multiple individuals, and it would be a significant undertaking to procure and verify this data.
- For the scallop fishery permit cap, for every owner listed on a permit, it's assumed that each has 100% ownership of it. For consistency and simplicity, the PDT recommends a similar approach be taken for alternatives for the groundfish fishery.



# Accumulation limits: Compass Lexecon analysis

## GF OSC feedback from Jan. 23 mtg.:

Some concern expressed that:

- The focus on market power is too narrow a definition of excessive shares;
- The historical participation and other social considerations should be considered;
- A 15.5% stock-specific PSC cap could result, in theory, in having 7 owners in the fishery. To some, this would be an excessive amount of consolidation from the present fishery.
- There could be detrimental biologic effects on the resource of having that much consolidation.

In 2007, NOAA guidance on determining “excessive” recommended:

- Identify a cap that is likely to prevent market power in the fishery, and consider that as an upper bound; then
- Consider the management objectives of the fishery that are social in nature (e.g. current and historical participation, fairness to different states, entry-level fishermen, crew, etc.), balancing NS4 with NS8.



# Accumulation limits - Permit banks

Doc. #3,  
Sect. 3.3.2

## **“Permit banks” are included in A18 Goal #1:**

*“Promote a diverse groundfish fishery, including different gear types, vessel sizes, ownership patterns, geographic locations, and levels of participation through sectors and permit banks.”*  
(emphasis added)

Doc. #3,  
Sect. 4.2.2

## **Rationale for defining “non-profit” permit banks in A18:**

- State-operated permit banks already defined in A17.
- Considering accumulation limits for state and non-profit permit banks.



# Accumulation limits - Permit banks

Four OSC motions:

## **Motion 1 (from November):**

“Non-profit entities (private permit banks) holding permits for the purpose of leasing ACE to active fishermen be referred to as “non-profit permit banks” thereby distinguishing them from other private entities that lease ACE.”

## **Motion 2 (From Nov. and Jan.): Non-profit permit bank definition criteria:**

1. “It is a partnership, voluntary association, or other non-profit entity established under the laws of the U.S.;
2. ~~“It is eligible to hold Northeast Multispecies permits/MRIs;~~
3. “It maintains transparent qualification criteria and application processes for the distribution of ACE to fishermen;
4. “It must distribute ACE to at least three distinct business entities in any fishing year; and
5. ~~“ACE must be leased at below market values.”~~

Doc. #3,  
Sect. 4.2.2





# Accumulation limits - Permit banks

Doc. #2,  
p. 4

*Four OSC motions:*

**Motion 3 (from January):** In the definition, include the following conditions:

- A. “Non-profit permit banks shall comply with existing and relevant leasing and transfer regulations that currently apply to sectors and individual permit-holders including lease reporting protocols, size-class or baseline restrictions (in the vessel transfer provisions), etc.
- B. “Non-profit permit banks will be approved annually by the National Marine Fisheries Service, provided a complete application has been submitted by agreed upon deadlines. NMFS will ensure that all requirements listed above are fully and satisfactorily met prior to approval.
- C. “Non-profit permit banks shall submit a performance report annually to the National Marine Fisheries service, which shall be a public document. These reports shall explain how the above qualification criteria were met.”

Doc. #3,  
Sect. 6.3.1

**Motion 4 (From November):**

“Move alternatives for limiting the holdings of permit banks collectively to the “Considered but Rejected” section of A18.”

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PDT tasked with providing more information about non-profit permit bank holdings.



The DEIS must include how the Council has considered the scoping comments. Below are other topics that emerged from scoping:

- **Creating inshore/offshore areas.** The public expressed concern about large boats moving inshore into the GOM to target cod.
- **Creating a quota set-aside** for use particularly by new entrants.
- **Creating incentives to encourage active participation** in the fishery, preventing a situation where 100% of the ACE is leased.
- **Creating baseline criteria for leasing:** restricting leasing by vessel size, fishing area or species.

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GF OSC tasked the PDT with analyzing effort by vessel classes in stat. area 514 and adjacent areas (incl. south of Cape Cod), in FY04-FY12.



# Timeline

<b>2014</b>	Jan. 23	OSC mtg.	Amendment 18 focus
	Jan. 28-30	NEFMC mtg.	FY12 performance report Amendment 18 focus
	April TBD	GAP mtg	Including Amendment 18
	April TBD	OSC mtg.	Including Amendment 18
	Apr. 22-24	NEFMC mtg.	Approve A18 range of alternatives to be analyzed in DEIS.
	June TBD	CIE peer review of Compass Lexecon report	
	Jun. 17-19	NEFMC mtg.	Approves A18 DEIS with range of alternatives & selects preferred alternative.
	July TBD	CIE peer review report completed.	
	Aug. – Oct.	NMFS accepts DEIS, NMFS review, 45-day comment period.	
	Nov. 18-20	NEFMC mtg.	Final action.
<b>2015</b>	Jan. - Mar.	NMFS review cont.	
	???	Implementation.	



# Addendum

# Compass Lexecon analysis

## Peer review Terms of Reference:

1. **Describe the method or process used** by Compass Lexecon for determining the maximum possible allowable percentage share of the market for fishery access privileges and/or quota leasing that would prevent an entity from obtaining an excessive share of access privileges allocated in the Northeast Multispecies Fishery.
2. **Evaluate the strengths and weaknesses of the proposed method or process** developed by Compass Lexecon (e.g., whether defining excessive shares in terms of market power is appropriate and adequate). Evaluate whether the approach outlined by Compass Lexecon is reasonable for setting excessive share limits in fisheries managed through catch shares in general. As part of this TOR, comment on any constraints that may hinder application of the proposed approach.



# Compass Lexecon analysis

## Peer review Terms of Reference:

- 3. Evaluate application of the proposed methods or process** to the Northeast Multispecies Fishery. Are Compass Lexecon's conclusions regarding market power in both the final product (seafood) and production (quota) market valid and based on appropriate economic principles? If there is disagreement with what Compass Lexecon recommended, clearly state that and your reason why.
- 4. Review and comment on the data requirements** necessary for applying the proposed methods or process.
- 5. Provide any recommendations** for further improvement.

