



## New England Fishery Management Council

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# MEETING SUMMARY

## Groundfish Oversight Committee

Hilton Doubletree Hotel, South Portland, ME  
September 17<sup>th</sup> and 18<sup>th</sup>, 2014

The Groundfish Committee (Committee) met on September 17<sup>th</sup> and 18<sup>th</sup>, 2014 in South Portland, Maine to: 1) discuss alternatives in Framework Adjustment 53 (FW53) that would revise stock status determinations, update specifications for groundfish stocks, allocate windowpane flounder to sub-components of the fishery and develop corresponding accountability measures if necessary (for both stocks), expand GOM cod spawning closure areas, revise the sector ACE carryover provisions, address enforcement concerns of undersized fish through changes in gear regulations, modify the process for adjusting recreational management measures prior to each fishing year and 2) continue development of Amendment 18 (A18).

**MEETING ATTENDANCE:** Frank Blount (Chairman), Dr. David Pierce (Vice Chair), Mr. Terry Alexander, Mr. Vincent Balzano, Mr. Tom Dempsey, Ms. Ellen Goethel, Mr. Peter Kendall, Mr. Howard King (MAFMC), Ms. Susan Murphy (GARFO), Dr. Matthew McKenzie, and Ms. Laurie Nolan (MAFMC); Mr. Terry Stockwell (Council Chair); Mr. Bill Gerencer (GAP Chair); Mr. Thomas Nies (Executive Director NEFMC), Dr. Jamie Cournane, Ms. Rachel Feeney, Mr. Jonathon Peros (NEFMC staff); Ms. Sarah Heil, Dr. William Whitmore (NMFS GARFO staff), Mr. Mitch MacDonald and Mr. Gene Martin (NOAA General Counsel). In addition, approximately 20 members of the public attended.

**DOCUMENTATION:** Discussions were aided by the following documents and presentations: (1) meeting memorandum dated September 8<sup>th</sup>, 2014; (2) GAP meeting agenda; (3) Amendment 18 (A18) Action Plan dated July 28<sup>th</sup>, 2014; (4) Plan development team (PDT) memo to the Groundfish Committee re: Amendment 18 dated September 5<sup>th</sup>, 2014; (5) Amendment 18 discussion document dated September 5<sup>th</sup>, 2014; (6) an Amendment 18 Discussion Guide for the September 18<sup>th</sup> Groundfish Committee meeting dated September 5<sup>th</sup>, 2014; (7) A18 Presentation; (8) Framework Adjustment 53 (FW53) Action Plan, dated September 12<sup>th</sup>, 2014; (9a) PDT memo to the Groundfish Committee re: FW53 dated September 12<sup>th</sup>, 2014; (9b) PDT white paper entitled, “Development of Rollover Provisions in the Groundfish Fishery” dated September 4<sup>th</sup>, 2014; (13) FW53 presentation ; (14) Draft RAP motions, September 16, 2014; (15) Draft GAP Motions, September 16, 2014; (16) Groundfish Committee Meeting Summary, August 4, 2014; (17) Final FY2013 Groundfish Catch Report, GARFO; (18) Correspondence.

### KEY OUTCOMES:

- The Committee recommended that the Council recommend that the Regional Administrator take Emergency Action for GOM cod.
- The Committee recommended that the Council include the following alternatives in FW53:
  - Rollover of a percentage of the prior fishing year’s specifications
  - Northern and southern windowpane flounder sub-ACLs for sectors and the common pool

- Northern windowpane flounder bycatch limits for each sector using winter flounder allocations as a proxy
- Sector ACE Carryover provisions
- GOM cod spawning closure areas
- Prohibit commercial groundfish fishing in multiple broad stock areas on trips that fish west of 70°W.
- The Committee recommended that the PDT analyze a broader range of allocation options for a scallop sub-ACL of northern windowpane flounder.
- The Committee recommended that the following actions be taken in Amendment 18:
  - Move the trading of U.S./Canada TACs alternative to the considered but rejected section of the document.
  - Revise language to clarify that the grandfathered status of an individual or entity is not transferrable and is not attached to the holdings itself.
  - Include a provision in Amendment 18 that would allow accumulation limits to be modified in a future framework due to a federal permit buyout or buyback.
  - To add an alternative to create a Redfish Exemption Area.

The meeting began at 9:05am.

The Groundfish Committee Chairman asked if there were any suggested changes to the agenda. Ms. Murphy noted that FY2013 catch information was being reviewed, but not yet ready for public dissemination. Ms. Murphy also explained that the GOM/GB and SNE/MA windowpane ACLs were exceeded, as well as the recreational sub-ACLs for GOM cod and GOM haddock, and the haddock catch cap in the mid-water trawl herring fishery. She indicated that the final catch numbers would be available at the next committee meeting.

A Committee member asked if they would be discussing GOM cod emergency action (EA). The Groundfish Committee Chairman indicated that after the 11:30am agenda item would be the time to for the Committee to discuss an emergency action for GOM cod.

**Report from the Recreational Advisory Panel (RAP):**

The Chairman of the RAP was unavailable, and the Groundfish Committee Chairman summarized the motions and discussion from the GAP meeting held on September 16th, 2014 in South Portland, ME. The RAP had discussions on FW53, Amendment 18, and GOM cod. The RAP made five motions, which were read into the record by Mr. Blount (document #14). The RAP did not support the creation on an inshore/offshore demarcation line for the recreational fishery.

**Questions on RAP report:** A Committee member asked if there was any discussion at the RAP meeting on treating the for-hire fleet different than the private anglers with regard to the creation of an inshore/offshore demarcation line in A18? The Groundfish Committee chair noted that most of the for-hire fleet fish on both sides of the proposed inshore/offshore lines on most trips. A member of the Groundfish Committee meeting questioned the enforceability of this line for private anglers, but felt that it could be applied to the for-hire fleet.

A committee member noted that the RAP did not support a motion to create spawning closures (RAP motion #3), and inquired about discussion leading up to the vote on this motion. The Groundfish Committee chair explained that the 1-6-1 vote reflected the RAP's desire to have more information on spawning before supporting a suite of areas. Council staff also noted that the RAP was concerned about prohibiting others fisheries, such as the tuna fishery, with the creation of a GOM cod spawning closure.

A Committee member asked if there was any discussion by the RAP on changes to gear restrictions. The RAP discussed circle hooks at length, and expressed concern about the impact off-set circle hooks may have on discard mortality. In general, the RAP favored the use of in-line circle hooks when targeting groundfish, and felt that treble hooks should not be used. Another committee member asked about the RAP's rationale for zero possession of GOM cod (Motion 5), and wondered if there was there any discussion at the RAP meeting on the discard rate of cod, and the ability of the recreational fishery to avoid cod in the Gulf of Maine. For-hire fleet felt that they could avoid cod, and private anglers indicated that doing so would be difficult. The Committee member asked if the RAP discussed carrying observers onboard vessels to help get a handle on discards. The Groundfish Chair explained that recreational anglers and smaller six-pack vessels in the fleet felt that carrying observers was impractical.

The agenda was slightly modified, and the Groundfish Advisory Panel (GAP) report was pushed back until after the report from the 2014 US/Canada Transboundary Management Guidance Committee (TMGC).

**Report from the 2014 US/Canada TMGC (Mr. Terry Stockwell):**

Mr. Stockwell stated that the TMGC had met the week prior in Boston, and noted all members of the U.S. delegation (Mr. Terry Stockwell, Mr. John Quinn, Mr. Terry Alexander, Ms. Mary-Beth Tooley, Ms. Sarah Heil, and Mr. Fred Serchuck). Prior to the TMGC meeting, a meeting was held in Gloucester, MA for allow the general public to listen in on the delegation's discussion as it developed a position ahead of the U.S./Canada negotiations. The TMGC's quota recommendations were as follows:

- Eastern George's Bank cod – 650mt
- Eastern George's Bank haddock – 37,000mt
- Georges Bank Yellowtail flounder – 354mt

Mr. Stockwell walked through the rational for selecting the quota values for each stock, and noted that the negotiations on Eastern Georges Bank (EGB) cod were the most contentious of the meeting. The 650 mt corresponds to an F of .06, and was supported by the TMGC because of the poor stock status, reduced risk of biomass decline, and consistency with the harvest strategy. In other business, the TMGC also discussed Georges Bank cod fishing mortality reference points, and after reviewing the TRAC analysis of the appropriate F, decided that a F of .11 was an appropriate reference point for the VPA 0.8 model for providing catch advice. With respect to U.S./Canada quota trading, Mr. Stockwell noted that the current TAC levels do not provide sufficient currency for trades, that incorporating a trading mechanism into the Groundfish FMP would require a significant commitment of staff time. The US and Canadian delegations also discussed the TRAC process, and recommended pursuing multi-year assessments for haddock. Some concern was expressed around the annual timing of the TRAC by both countries.

**Discussion on the Presentation:** A committee member asked if there was any discussion about revisiting the US/Canada sharing agreement, noting that it had been developed many years ago? Mr. Stockwell explained that the first step in this process was the TMGC's agreement to review the administrative function of the TMGC, and hoped that DFO and NMFS staff would be willing to present a review of administrative function in 2015. Ms. Heil stated that documenting the performance of the TMGC over a 10 year period is a huge undertaking, and explained that while she expected that part of the review would be completed by the 2015 intercessional meeting, that his workload fell to her and her counterpart at DFO. Another Committee member praised the TMGC for not pursuing trading at this time. He went on to ask about the TMGC's decision to set the GB cod TAC at 650mt, and wondered if there was a probability of stock growth associated with that value. Mr. Stockwell explained that the negotiated value for GB cod was less than what the Canadian delegation had requested 775mt. The TMGC did acknowledge the lack

of recruitment. Mr. Stockwell went on to say that the projections indicate that even with an F of 0, we would not expect growth. A Committee member suggested that Ms. Heil circle back with former members of the TMGC who have institutional knowledge about how the process has evolved over time.

**Report from the Groundfish Advisory Panel (Mr. Bill Gerencer):**

The GAP Chair noted that the majority of the GAP's discussion was focused on Framework 53. He began with an overview of the GAP motions on rollover provisions for specifications, noting that it was the recommendation of the GAP to complete the specifications process on time for May 1<sup>st</sup> each year. In the event of a delay in rulemaking at the start of the fishing year, the GAP supported rolling forward the previous year's specifications and keeping them in place until new measures were implemented so as to not improperly restrict summer fishing activity at the start of the fishing year. The GAP also recommended that the Committee consider the development of a northern windowpane flounder bycatch limit based on the cumulative PSC holdings of all three winter flounder stocks by each sector, with de minimus bycatch limit made available to all sectors. The GAP chair explained that the intent of the motion was to foster sector level self-management and accountability through a bycatch cap. The GAP made several recommendations for analysis of how to eliminate a directed GOM cod fishery and reduce bycatch (Motion #5). Suggestions that came forward in the final motion included the requirement of trawlers to fish with 6.5" square mesh when fishing west of 70°15', placing limits on the number of stand-up gillnets west of 70°15', and the further development of CATT spawning closure area alternatives, and restrictions on the use of lobster gear in specific areas. The GAP also passed a motion stating support for small, focused, discrete, and dynamic areas to protect spawning, offering that the goal of spawning protection should be to enhance the reproductive success of fish. The GAP made one motion on A18, recommending that the option for splitting the GOM cod ACL into inshore and offshore sub-ACLs be considered but rejected (4/3/0).

**Public Comment:**

- Maggie Raymond, Associated Fisheries of Maine. *There was one issue that staff asked the Advisors to address that we were not able to because of time, and it is an important issue. The question was, "What is the minimal amount of GOM cod that would be needed as bycatch to prosecute the rest of the groundfish fishery in the GOM?" The SSC is also interested in the industry's response. I wanted to offer we could pull those numbers together very quickly by having a discussion with the sector managers. Just by way of an example, the manager of the Sustainable Harvest Sector looked at our landings for the GOM last year. We caught about 11 million pounds of fish, and roughly 4% of that was cod. We know, for example, that one vessel directed on cod all year. If you take that boat out, the percentage of GOM cod to total GOM catch goes to 2.5%. This is just one way that the PDT could get to this question.*

*Continued discussion on GAP presentation:* A Committee member noted that the GAP had not made any motions specific to southern windowpane flounder. The GAP Chair explained that the advisors did discuss the need to address issues with southern windowpane.

**Presentation on Development of Framework 53 to the Multispecies FMP (Dr. Jamie Cournane):**

Council staff directed meeting attendees to Documents #8, #9a, and #9b for reference during the presentation on FW53. Staff introduced the FW53 draft action plan (Document 8) – explaining that it is a tool used to communicate various components of amendment and framework adjustment processes, such as PDT resources, and a timeline for completion of an action. Staff went on to present the timeline for FW53 and the likely range of alternatives. The framework was initiated at the June Council meeting (June 17<sup>th</sup> – 19<sup>th</sup>, 2014), and Council staff is expecting the full Council to vote on measures that will be evaluated in FW53 at its September meeting in Hyannis, MA (September 30<sup>th</sup> & October 1<sup>st</sup> – 2<sup>nd</sup>, 2014), with final action scheduled for the November meeting in Newport, RI (November 17<sup>th</sup> – 20<sup>th</sup>, 2014). The

goal – and expected timeline – of this framework is to have management measures in place for May 1<sup>st</sup>, 2015 (i.e., start of FY 2015).

The likely range of alternatives under consideration in FW53 (also see Document #9a) includes updates to status determination criteria, and annual catch limits, as well as a suite of commercial and recreational fishery measures. Given time constraints for completing this framework action, staff explained that the PDT is recommending that two measures (4.2.5, changes to trawl gear regulations, and 4.2.6, recreational management measures process), not move forward with this particular action, and be part of a priorities discussion later in the year.

Staff presented a summary of the New England Fishery Management Council's (Council) Science and Statistical Committee (SSC) recommendations from earlier meetings in 2014, and noted that the SSC will meet next month to make recommendations for Gulf of Maine (GOM) winter flounder, George's Bank (GB) winter flounder, and pollock. In August, the SSC recommended overfishing limits (OFLs) and acceptable biological catches (ABCs) for GOM haddock based on results from the Northeast Fishery Science Center's Stock Assessment Workshop and Stock Assessment Review Committee (SAW/SARC) 59. This was a benchmark assessment, which determined that GOM haddock is not overfished and overfishing is not occurring. Notably, recreational discards were included in this assessment, and were accounted for at a rate of 50% mortality, which represents a departure from past discard mortality assumptions in the assessment for the recreational fishery (previously 0% discard mortality). The increase in GOM haddock stock size was primarily driven by strong recent year classes. The SSC recommendations for ABCs and OFLs follow the default ABC control rule of 75% FMSY. The SSC also made recommendations for GB yellowtail flounder, a stock that is currently experiencing low productivity. Staff noted that catches of GB yellowtail flounder are at historic lows, as are survey indices. The assessment model for GB yellowtail flounder was rejected for setting specifications by the Transboundary Resource Assessment Committee (TRAC) in 2014, and an empirical approach was developed and used for setting catch. The ABC for FY2015 and FY2016 was set at 354 mt, and the OFL remains unknown. The SSC intends to revisit the 2016 ABC again next year after the operational assessments are complete.

In September, the SSC met to discuss OFLs and ABCs for GOM cod. The most recent update assessment found that the stock is overfished and overfishing is occurring, spawning stock biomass (SSB) is low, fishing mortality is high, and recruitment is poor. Overall, the stock is in poor condition, and survey indices are at time series lows. At its September 15<sup>th</sup>, 2014 meeting, the SSC recommended a constant catch approach for the next three years, with an OFL of 514 mt, and a provisional ABC of 200 mt. The SSC expressed interest in input from both the Recreational and Groundfish Advisory Panels on the estimated level on incidental, non-target GOM cod catch that the industry can achieve, with the intent of reviewing this information at the SSC's October meeting. Looking ahead to the following year, staff reported that operational assessments for all 20 groundfish stocks are scheduled for September 2015.

Staff presented PDT work that had been completed to calculate a sub-ACL for the scallop fishery for northern windowpane flounder. The same method that was used to calculate the SNE/MA (southern) windowpane flounder sub-ACL for the scallop fishery in FW48 was used to calculate a range of potential scallop sub-ACLs for northern windowpane. Applying this method, the scallop sub-ACL for northern windowpane flounder would be 14%. Staff noted that the Scallop Committee and Scallop PDT were working to develop an accountability measure (AM) for northern windowpane in Scallop FW26, while FW53 to the Multispecies FMP would create a sub-ACL for the scallop fishery. Staff explained that other components (e.g. squid and whiting) catches are very low and that the PDT did not recommend creating sub-ACLs at this time.

Council staff presented a suite of PDT developed GOM cod inshore spawning closures that would expand inshore time/area closures to protect spawning fish. The six (6) spawning closure alternatives were presented to the Committee (see p. 11 in Document #9a, including Appendix 1 of that document). In developing these areas, PDT reviewed analysis conducted by the Council's Closed Area Technical Team (CATT), along with additional spawning information.

Next, staff presented on alternatives for the rollover of groundfish specifications. To address the issue of beginning a fishing year without specifications, the PDT has examined so-called "rollover provisions" or "default measures" that have been adopted in other NEFMC and MAFMC FMPs. The PDT prepared a white paper to examine how specification roll-over is used in other NEFMC FMPs (see Document 9b, *Development of Rollover Provisions in the Groundfish Fishery*). A straight rollover brings forward the prior year's ACL until new specifications are set, while the scallop FMP uses a default approach where a portion of DAS are released at the start of the fishing year to allow fishing to begin on time, and a full allocation of DAS follows when final data is available later in the year. The PDT feels that some sort of rollover approach makes sense for the groundfish fishery to allow for the fishing year to begin on time. In particular, the PDT is suggesting a default approach be adopted due to the varying status of stocks managed within the Multispecies complex. Staff walked through two options for rollover that the PDT had discussed. In developing these options, the PDT looked at data from fishing years 2012, 2013, and 2014. One approach could be to set specifications for a period of time (May 1<sup>st</sup> – August 31<sup>st</sup>), while another approach could be to base rollover on a percentage of the prior year's ACL. PDT also looked at recreational catch data from Waves 3 & 4 as part of its analysis.<sup>1</sup>

Staff provided an overview of sector ACE carryover provisions, explaining that an option to modify sector ACE carryover would cap the maximum available unused sector ACE carried over from the previous fishing year (e.g., FY 2014) at the ABC level minus the ACL for the fishing year in which the carryover will be landed (e.g., FY 2015). The Committee took a short break before reconvening to discuss FW53.

*Discussion on the Framework 53 Presentation:* Council staff explained that the PDT was looking for motions from the Committee to put options into the FW53, which would be presented to the full Council at its September/October 2014 meeting. The Committee initially focused on rollover provisions, noting that in the event of a delay in rulemaking, the Council would likely have already selected a preferred alternative for annual catch limits, and the industry would be aware of catch limits that would be implemented. They felt that rolling over 22% of the prior year's stock specific specifications was overly precautionary when the industry would have already have a good idea of what the full year specifications would be for the upcoming fishing year. On the issue of ACE carryover, Ms. Murphy explained that NMFS would prefer that the Council weigh in this framework process so that the Agency would not need to act unilaterally on this issue.

A Committee member asked staff to elaborate further on the intent and plan for GOM cod OFL and ABC setting, and asked what the SSC hoped to gain from additional information on incidental bycatch? Council staff noted that the SSC had met earlier in the week and a final report from the SSC was not available. Not speaking for the SSC, staff explained that the SSC had reviewed both assessment models that had been approved ( $M=.2$  and  $M_{Ramp}$ ). Staff explained that the OFL had been derived by averaging the results of three projection runs. During the SSC's ABC discussion, the SSC looked at multiple ABC control rules adopted through Amendment 16, which include setting the ABC at  $75\%F_{MSY}$ ,  $F_{Rebuild}$ , or an incidental level of bycatch. Staff explained that based on the information available to the SSC at the

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<sup>1</sup> There is a typographical error in document 9a, PDT memo to the Groundfish Committee dated September 12<sup>th</sup>, 2014. Table 5 on page 9 incorrectly labels MRIP data for May/June as Wave 4 and July/August as Wave 5. This table should read Wave 3 where Wave 4 is indicated, and Wave 4 where Wave 5 is indicated. It has been corrected in the Council's Administrative Record

meeting, they elected to recommend an OFL and provisional ABC pending additional information on incidental bycatch. The committee member wondered how much further the SSC needed to go in October in terms of reexamining the provisional ABC, stating that management decisions are the purview of the Groundfish Committee and ultimately the Council.

The Committee discussion transitioned to the calculation of the northern windowpane flounder sub-ACL for the scallop fishery, with one member recalling the development of the GB yellowtail sub-ACL for the scallop fishery in FW48 was very contentious. This Committee member felt that the Council ultimately selected the most generous sub-ACL allocation (90% percentile), and stated that they did not recall any discussion or agreement that the method used in to calculate sub-ACLs in FW48 would stand as precedent for the method to apply to all subsequent sub-ACL allocations of groundfish to other fisheries. They felt that such an approach was problematic, and suggested that the Committee explore a full range of options in FW53. Council staff explained that recent windowpane catch data had been provided to the Committee, and suggested that the Committee provide additional guidance to the PDT on how to approach the calculation of a sub-ACL. With regard to rollover provisions for specifications, a Committee member pointed out that if a stock specific catch is achieved or exceeded before the full implementation of specifications, accountability measures would need to be clarified or developed for the rollover ACLs.

Another Committee member asked who would be framing the SSC's request for more information on incidental, non-target bycatch for industry to ensure that the SSC gets what they have asked for? Council staff noted that is it difficult to define what incidental, non-target bycatch is within the multispecies fishery. Council staff also stated that members of the SSC were looking for information on the needs of the fishing industry, in addition to the biological information that was provided. This Committee member observed that the PDT had not defined 'winter' in the spawning closure alternatives that had been brought forward for analysis, and offered that 'winter' should be defined as November, December, and January, not October and November. Other committee members expressed support of the PDT developing more focused spawning areas using additional data sources (beyond the CATT).

#### **Discussion on Emergency Action for GOM cod:**

The discussion began with a motion from Mr. Tom Dempsey:

#### **Motion #1 – (Dempsey/McKenzie):**

Move to recommend the Council request the Secretary of Commerce take emergency action in FY 2014 in response to updated GOM cod stock assessment, including:

1) Close the following blocks to all commercial and recreational fishing vessels (PDT Options 4 & 6, Document #9a)<sup>2</sup>:

- October & November: 124-125
- March-April: 124, 125, 132, 133
- And prohibit recreational fishing in the Western Gulf of Maine Closure Area.

2) Reconsider all existing Sector Exemptions in the GOM to determine whether they remain appropriate in light of new GOM cod stock information;

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<sup>2</sup> This motion does not contain the full suite of closures proposed in Option 4 of the GOM Cod Inshore Spawning Closures (Document #9a, page 5) because the motion only pertained to the remainder of FY2014.

- 3) Prohibit commercial groundfish vessels without observers from fishing in other broad stock areas on trips that fish in the GOM; and
- 4) Request the NEFSC review and summarize all existing information on the patterns, extent and mortality associated with cod bycatch in the lobster fishery in the GOM (state and federal waters), and estimate current cod removals to inform potential management measures upcoming actions.

*Rationale:* Given the assessment of GOM cod, there needs to be a short term response, and these are the components that need to be part of that response. There is a need to expand closures to protect spawning aggregations in the GOM. Part of doing this means including recreational groundfish gears. There is a need to ensure that we know where fish is being caught when a vessels fishes in multiple stock areas on the same trip. The motion also aims to address accountability. Trips fishing in the GOM should not be able to fish elsewhere, trips fishing elsewhere shouldn't be able to fish in the GOM. At a 200mt ABC, the cod catch in the GOM would be significant, and we need an estimate of removals and allow that to inform future management actions. The lobster fishery is right behind the otter trawl fishery in terms of discards.

A friendly amendment to the motion was offered to change the winter months of 124 and 125 from October & November to November – January.

**Main Motion as Friendly Amended:**

Move to recommend the Council request the Secretary of Commerce take emergency action in FY 2014 in response to updated GOM cod stock assessment, including:

1) Close the following blocks to all commercial and recreational fishing vessels (PDT Options 4 & 6, Document #9a):

- November - January: 124-125
- March-April: 124, 125, 132, 133
- And prohibit recreational fishing in the Western Gulf of Maine Closure Area.

2) Reconsider all existing Sector Exemptions in the GOM to determine whether they remain appropriate in light of new GOM cod stock information;

3) Prohibit commercial groundfish vessels without observers from fishing in other broad stock areas on trips that fish in the GOM; and

4) Request the NEFSC review and summarize all existing information on the patterns, extent and mortality associated with cod bycatch in the lobster fishery in the GOM (state and federal waters), and estimate current cod removals to inform potential management measures upcoming actions.

*Discussion on the Motion:* A Committee member felt that additional management measures are needed to rebuild GOM cod than reducing the ABC to 200mt, and stated that they believed that the GOM cod stock has collapsed. NMFS indicated that they believe that an EA is needed in FY2014, and were supportive of the Committee and Council weighing in on the process. One Committee member indicated that restricting the ability of vessels to fish in multiple broad stock areas was a non-starter from their perspective, and that harvesters need flexibility to fish in two different broad stock areas on a single trip. They understood that there are concerns about misreporting GOM cod as GB cod, but explained that the winter fishery for many boats is in Wilkinson's Basin, and vessels move north and south between the broad stock areas.

The Committee discussed the need for flexibility and access, though there was disagreement on how to achieve this given the poor status of GOM cod. The Chair reminded the Committee that NMFS is free to act as it sees fit and that the Council can only provide advice to NMFS on the emergency action.

Public Comment:

- Jim Odlin, Commercial Fisherman, Portland, ME. *I can't for the life of me figure out why, on number three (in the above motion), what you are putting in there is a restriction that will prevent boats from targeting healthy stocks of redfish, pollock, hake, and monkfish in the outer Gulf of Maine. And, if you take the assessment and the survey data that you have that you are using to justify this action it clearly says that there is no cod fish in the outer GOM. Having said that, why would you restrict someone, the way it works now, offshore boats may go to George's Bank to look for haddock for a few days, come back into the GOM and fish on redfish for a few days. We've spent five years developing a market for redfish, which would go away because of this measure. If anything, I would think you would want to say, if somebody wants to fish west of 70, or west of 70 15, yeah, restrict them from fishing in more than one broad stock area. I just can't understand this, you are going to lower the catch of monkfish, you are going to lower the catch of redfish and pollock, and probably hake, with no benefit to codfish. In fact, it will probably end up having more effort stay in the GOM. I think that you should reconsider this, and maybe say that anybody who fishes west of 70 where all of the surveys and all of the information tells you that that is where the last remnants of the cod are, so if you want to protect them there, then protect them there, but it makes no sense to prevent people from targeting healthy stocks in the outer GOM on the same trip that they are targeting other healthy stocks on GB. We don't bring in any codfish. None. 200lbs in a trip, with 100,000 pounds of other healthy stocks. Have a motion to reconsider this, to have it be west of 70° or west of 70° 15'.*
- Maggie Raymond, Associated Fisheries of Maine. *I want to echo the comments Jim just made. We worked very hard through the development of Amendment 16 to retain the flexibility to fish in more than one broad stock area on the same trip. That is precisely the kind of fishing that you want to encourage. Spread the effort out over the biggest possible area for those boats that are capable of doing that. As Jim said, if you prohibit that from happening you will all likelihood you will concentrate effort in areas where you don't want it. At a minimum I strong encourage you to stick this from the motion. I think it would be helpful for the people in the audience and people listening in on the phone if you could be more explicit in Option 1 what the months are. At a minimum we need to get rid of number 3. One of the things raised at the GAP, it is important to consider does GOM cod under the current prevailing conditions qualify for an exemption from the 10 year rebuilding timeline? That has not been analyzed, even though at least one model in the stock assessment says that you can't get there even if there is zero fishing. That says we need to look at that and say, does it qualify, yes or no? If the answer is yes, then some of these drastic measures that we are proposing could be lessened. I understand that this is a very serious situation and that we need to take some serious action, but at the same time we need to be realistic about whether or not we can get to the goal we just set. We just established a 10 year rebuilding timeframe and in less than a year we determined that you couldn't get there. Clearly, there needs to be some consideration of that.*
- Vito Giacalone, NSC. *I know we've been on the record at previous meetings about our concern about the way this assessment came into the picture and how it worked backwards. You were not able to weigh into it in the first place. This type of reaction, not having the data, I'm pretty up on this stuff and I am trying to figure out what time implications of this motion would be. It really is going to affect the FY of an awful lot of people who are fishing for a lot of stocks other than GOM cod. It appears to be more like an effort control – or an effort closure – for less mortality on cod*

*and not improving the productivity by spawning. We have yet to prove that these kinds of closures have that positive effect of cod. We're calling them spawning closures, it is a PDT developed alternative that just became public knowledge the other day, literally, and now were talking about that option being implemented. I'm sure if you don't live anywhere near those blocks, and you don't fish during that time, it is not a big deal to put this on the table. We represent the people that live near those blocks and fish during those times and I haven't been able to tell them that this could be implemented this year in Emergency Action. I think it is unbelievable to be honest with you. I keep hearing 200mt, and the 514mt OFL that the SSC put forward. 200mt is based on  $F_{rebuild}$ . I'm going to point to another serious process concern that we have. You will remember that when the Council was looking to do rebuilding plans for GOM cod and plaice, we wanted the Council not to be put in this situation where they initiated a rebuilding plan only to find out that after the very first look at rebuilding that you can't get there from here. But we don't have time for a benchmark assessment, so we just go to  $F_{rebuild}$ . We didn't want that, and you folks put out some pretty good language in how you wanted to kick-off your GOM cod and American plaice rebuilding plan. There were three criteria that you had to meet before you have to go back to revisiting the reference points. This stock met all three. Yet the TORs were about how do we quickly cobble together a peer-review. Because the Science Center was asking for a peer-review. We drew up TORs that did not say reevaluate the reference points. It is trawl survey data that was put into the assessment, and I see everyone gobbling this up saying the stock has collapsed. Show us that. Don't tell us that. Show us that. This is not the way that the process is supposed to work. I hope the service analyzes the impacts of effort controls on people who are harvesting the stocks that they have now. Number three of this motion is problematic. What an awful way to manage the fishery. I'm against the motion.*

- Ben Martens, Maine Coast Fishermen's Association. *I know that there has been a lot of discussion around number three. We sat down with a number of our fishermen last week to go over what is happening for GOM cod. They said that they are seeing cod all over the GOM, and that this is not just an inshore issue. They can't get away from it anywhere – whether they are out next to Cashes or inshore. I do think that we need to think about the fact that there are cod throughout the GOM, this is not just an inshore issue any longer. We need to make sure that the accounting of cod is correct, and make sure that we are attributing cod to the correct stock area. If you do not have an observed trip, you are staying and fishing in one stock area is one of the things that they highlighted that we need to do moving forward. If there is actually a problem with cod, we need to address that and rebuild cod, and this is part of that. This does not do everything that we'd like to see done, but it is a step in the right direction, and we would like to see it move forward to the Council for further discussion.*
- Thomas Orrell, Yankee Fishing Fleet, Gloucester, MA. *I want to make a point about option 6. I would like to see you include any consideration for the separation of recreational and boats for hire. The impact on either of those fisheries can be managed very well if they were separated. I just wanted to have that on record.*

*Further Discussion on the Motion:*

**Motion to amend #1a – (T. Alexander/King):**

Move to recommend the Council request the Secretary of Commerce take emergency action in FY 2014 in response to updated GOM cod stock assessment, including:

- 1) Close the following blocks to all commercial and recreational fishing vessels (PDT Options 4 & 6, Document #9a):

- November - January: 124-125
- March-April: 124, 125, 132, 133
- And prohibit recreational fishing in the Western Gulf of Maine Closure Area.

2) Reconsider all existing Sector Exemptions in the GOM to determine whether they remain appropriate in light of new GOM cod stock information;

3) Prohibit commercial groundfish vessels without observers from fishing in other broad stock areas on trips that fish in the GOM west of 70°; and

4) Request the NEFSC review and summarize all existing information on the patterns, extent and mortality associated with cod bycatch in the lobster fishery in the GOM (state and federal waters), and estimate current cod removals to inform potential management measures upcoming actions.

*Discussion on the Motion to Amend:* A committee member remained concerned that all catches of cod may not be attributed to the correct stock area, while another committee member felt that the motion to amend added flexibility for day boats and the offshore fleet in the winter. Other members of the committee felt that the GOM cod ACL would force all vessels to avoid cod.

*The motion to amend (#1a) **carried** on a show of hands (6/3/2).* Back to the main motion as amended.

*Discussion on the Main Motion as Amended:* A committee member felt that information contained in the 2014 GOM cod assessment showed catches of GOM cod moving offshore to Wilkinson Basin and beyond (Document #12e). Another committee member interpreted this information differently, arguing that this information underscored the need for further measures to protect cod in the inshore GOM.

The main motion as amended **carried** on a show of hands (8/2/1).

#### **Discussion on Framework 53:**

The Committee began work on Framework 53, focusing on rollover provisions for specifications.

#### **Motion #2 – (T. Alexander/Dempsey):**

That the Committee recommends to the Council to include an alternative in FW 53 that the current year's specifications be rolled-over, provided that it does not exceed the projected ABC on a stock by stock basis.

*Rationale:* This approach addresses the situation of beginning the fishing year without specifications in place, while accounting for swings in stock status.

*Discussion on the Motion:* Committees members felt that stock specific rollover values be sufficient to allow for normal fishing operations at the outset of the fishing year.

*The motion **carried** on a show of hands (7/0/4).*

Council staff explained that Motion #2 added an alternative to the framework action. After the vote, the Committee discussed potential modifications to the original motion that would streamline the administration of the rollover process.

**Motion #3 – (Dempsey/T. Alexander):**

Motion to reconsider the prior motion.

*The motion **carried** on a show of hands (10/0/1).*

**Motion #4 – (Dempsey/T. Alexander):**

That the Committee recommends to the Council to include an alternative in FW 53 in which 80% of the ABCs and ACLs of the current year's specifications be rolled over, and would remain in place until new specifications are implemented.

*Rationale:* This approach would address the situation of beginning the fishing year without specifications in place, account for swings in stock status, and alleviate the administrative burden of an additional rulemaking process by NMFS to allow the FY to begin on time.

*The motion **carried** on a show of hands (9/0/2).*

**Consensus Statement:**

The Committee allows the PDT to examine other percentage options for rollover, up to 80%.

**Motion #5 – (T. Alexander/Dempsey):**

The Committee recommends to the Council to include an alternative in FW 53 for a Northern windowpane flounder (NWP) "bycatch limit" for each sector based on the following formulas: 1) the percent of the GB winter flounder ACLs; and 2) the percent of the three winter flounder ACLs (GB, GOM and SNE stocks) to a sector. A percent NWP bycatch limit would be assigned to any sector without winter flounder ACL. The NWP bycatch limit would be tradeable between sectors. If/when a sector exceeds its NWP bycatch limit, the gear restricted AM would apply to that sector.

*Rationale:* The allocation formula applied in Amendment 16 would not be an appropriate way to distribute windowpane flounder because there is very little landings information available for either stock. The aim is to allow for a sector level self-management approach and sector level accountability through a bycatch cap based on the proxy winter flounder PSCs.

*Some Public Comment Included:*

- Maggie Raymond, Associated Fisheries of Maine. *The idea here is to distribute the bycatch among the sectors, based on a proxy of winter flounder catch on Georges Bank so we can get rid of this AM if possible, and have a place for those vessels to go and get some revenue. I urge you to do whatever you can to make this work. I realize that it is a lot of work, it is something that we have been working on for a while, and with all the other crisis that keep coming up we haven't have a change to bring it to the Committee. Thank you.*
- Vito Giacalone, Northeast Seafood Coalition. *In FW52, this idea was pretty fleshed out. We had some ways that the sectors could solve this themselves, the problem was that we didn't have a sub-ACL for northern windowpane. Creating a sub-ACL is the biggest lift that needs to happen, and the rest can follow. Not allocating windowpane is definitely*

*how we want to do this. With the sunset provision there is a risk because if we do something good and it sunsets and we lose it. I am hoping that the sunset provision will address some of the concerns that that this would be a permanent allocation and we can keep this in the Framework as a pilot program. The first thing is that the sectors need a sub-ACL. The accountability measure is on Georges Bank, that is why this is linked to Georges Bank winter flounder, because the people who need to be accountable for the overage are the people fishing in that area. I agree with the Council member who suggested linking it only to Georges Bank winter flounder because that is how you end up getting a distribution for the people who are trying to access those fish. If you add in the other two winter flounder stocks it will totally skew the distribution and cause a bigger problem than what we have now. We're certainly not looking to have it allocated – we'd like to see it distributed. The industry has a solution, and I think we need to move forward. We have to find time to deal with this, if you need industry to work with you to tell you how we think that the system would work internally, we'll share that. If it could be done in a FW, it would save an awful lot of work on the sector's end if we could do a 1-year bycatch distribution of northern windowpane. The Committee Chair asked if sectors could trade windowpane and move it around, isn't it an allocation? I would recommend that this be a sector level distribution that would not be reflected on individual permit holder PSC letters. Whatever proxy stock is used, then that sector has the distribution to manage. It is would not be distributed on an individual permit PSC.*

The maker of the motion explained that the basis for including two formulas in the motion was the GAP's discussion on when and where northern windowpane flounder catches were occurring, and recognized that some catches of windowpane occur outside of the GB winter flounder stock area. The Committee discussed lingering questions about the appropriate vehicle to move this approach forward (Framework or Amendment), as well as the enforceability having some sectors subject to the northern windowpane AMs on Georges Bank. The Committee voted on the motion with the understanding that the PDT would not begin work on this approach until NOAA GC provided a clear answer as to whether or not this concept is frameworkable.

The motion **carried** on a show of hands (8/0/3).

The Committee continued its discussion of windowpane flounder.

*Public Comment:*

- Bonnie Brady, Long Island Commercial Fishermen's Association. *I am here again asking for help regarding southern New England. From what I understand, FW47 created common pool and groundfish AMs. FW48 then added other AMs, and FW52 changed that AMs slightly if you have an overage one year and an underage the next year, you may be able to go to the smaller AM. We're on FW53, and we need some relief for the common pool in what will be the 'other' category – scup, squid, and fluke. In FW52, there was data that talked about annual three year data for all groundfish trips that were reported inside the SNE windowpane flounder large AM area – average revenue was \$5 million per year from 2010 – 2012. By port, Montauk, NY would be impacted \$1.4 million, which is 26% of all groundfish revenue in the port. For Point Judith it is \$3.4 million dollars, 1/3<sup>rd</sup> of all of their groundfish revenues. We need some relief. We've discussed the idea of a trigger for GRAs going forward so we can have access to the fishery if we go over. The fact is, the numbers are not always known right at May 1<sup>st</sup>, so we looked at the possibility of separate periods for segments of the fishery. In general, we are looking for a trigger that will keep the catch at 100% of the sub-ACL and not over, because anything that gives us the*

*large AM area is punitive for the entire year. It is a 100% loss of our groundfish fishery for an overage of catch of a stock that is not economically important that is completely rebuilt.*

A Groundfish Chair asked Committee members who also sit on the Mid-Atlantic Council if the Mid-Atlantic had looked at revising AMs in any of their plans? A committee member from the Mid-Atlantic wondered how they could create AMs for fisheries that do not have sub-allocations of southern windowpane flounder. Council staff explained that for northern windowpane flounder, the scallop fishery sub-ACL would continue to be managed within the Groundfish FMP, but that an AM would be developed in the Scallop FMP. Ms. Heil explained that FW48 adopted an 'other' subcomponent sub-ACL for southern windowpane, so that if there was an overage by the 'other' subcomponent and the overall ACL was exceeded, the GRAs would apply to the fluke fishery – it applies to any fishery with 5" or greater mesh. The fluke and scup fisheries do not require VMS declarations, and it is very difficult to go off of a VTR and be able to identify down to the fishery level. She explained that NMFS can use gear based allocations, similar to how we allocated GB yellowtail flounder to the small mesh fisheries.

**Motion #6 – (Nolan/King):**

That the Committee recommends to the Council to include an alternative in FW 53 in which the southern windowpane flounder ACL would be divided based on historical landings (FY2001-2010) into two time periods: May 1 – Oct. 31 and Nov. 1 – Apr. 30.

*Discussion on the Motion:* The maker of the motion explained that the intent was to split the entire southern windowpane flounder ACL into two periods, not an individual component of the ACL. Other members of the Committee were uncomfortable with splitting the entire ACL in this way, suggesting the split may be better suited for an individual fishery component. The Committee member went on to question why the motion referenced historical landings when stock was not landed.

**Motion #6 as Friendly Amended:**

That the Committee recommends to the Council to include an alternative in FW 53 in which the southern windowpane flounder ACL would be divided based on historical catch (FY2001-2010) into two time periods: May 1 – Oct. 31 and Nov. 1 – Apr. 30.

*Discussion on the Motion:* Council staff explained that the proposed split would impact the groundfish fleet and the scallop fleet. Ms. Murphy explained the NMFS does not have in season accounting for this stock, and that final catch estimates are usually not available until the fall of the following year, and that the way the NMFS systems are currently setup, it is difficult to monitor mid-way through the year. Council staff noted that FW52 had not been formally submitted or approved by NMFS, and that it was too early to know what the final rule might be. Another Committee member felt the best approach would be to continue this discussion during priority setting for 2015.

**Motion to table #7 – (Dempsey/T. Alexander):**

To **table** Motion 6 until the next Council meeting.

*Discussion on the Motion:* The concept of moving this discussion to priorities was unpalatable to some committee members, who felt that the issue had already been punted from FW52 to FW53.

*Public Comment:*

- Bonnie Brady, Long Island Commercial Fishermen's Association. *The bottom line is that the current AMs for southern windowpane are huge, and close areas that account for a quarter to a third of groundfish revenues [in some ports]. FW52 addresses AMs for the common pool and sectors, but does not deal with AMs for the 'other' component in making the GRAs smaller. There is nothing preventing the fluke fishery from being subject to the AM for the May – October time period. You cannot catch fluke with a flatfish excluder net. We really need help. Thank you.*

*The motion **carried** on a show of hands (11/0/0).*

**Motion #8 – (Dempsey/T. Alexander):**

That the Committee recommend to the Council to include an alternative in FW 53 that would split the existing groundfish sub-ACLs for the northern and southern windowpane stocks, creating separate groundfish sub-ACLs for the sector and common pool for each of these stocks.

*Rationale:* Sectors and the common pool need individual sub-ACLs in order to protect sector vessels for fleetwide AMs, which are taking steps to avoid bycatch, from being subject to windowpane catches by other components of the fleet. This should be based on a proxy catch of winter flounder stocks.

*Discussion on the Motion:* The Committee discussed how the split between sectors and the common pool should be calculated for windowpane flounder. The maker of the motion suggested that the split be calculated based on a proxy of winter flounder PSC holdings by a sector, in part because very little landings data exists for windowpane (non-retention, and not a target stock in the fishery). One approach – as outlined in an earlier motion – could be based on the aggregate winter flounder PSC holdings of a sector (GOM, GB, SNE), while another approach could be based on GB winter flounder PSC holdings of a sector. Council staff explained the AMs that are currently in place are tied to total windowpane catch. The Committee discussed the idea of requesting a windowpane AM exemption through the sector operations plan, as well as the idea of splitting the windowpane sub-ACLs on an annual basis as is done for allocated stocks with PSC.

*The motion **carried** on a show of hands 8/0/3.*

**Motion #9 – (Dempsey/T. Alexander):**

To direct the PDT to look a broader range of sub-allocation options for the scallop sub-ACL for the Northern windowpane flounder stock, including options similar to those analyzed in FW48 for Georges Bank yellowtail flounder (mean, median, and 90th percentile of scallop catches) and include alternatives in FW 53.

*Rationale:* An analysis of a range sub-allocations would afford the Committee and Council an opportunity to discuss what is an appropriate portion of the windowpane sub-ACL to allocate to other fisheries.

*Discussion on the Motion:* The maker of the motion expressed concern about setting the precedent of allocating the 90<sup>th</sup> percentile of groundfish catch in other fisheries to those fisheries.

*Motion **carried** on a show of hands 10/0/1.*

**Motion #10 – (Murphy/T. Alexander):**

That the OSC recommend to the Council to include an alternative in FW 53 that caps the maximum available unused sector ACE carried over from the previous fishing year (e.g., FY 2014) not to exceed the ABC level minus the ACL for the fishing year in which the carryover will be landed (e.g., FY 2015). In addition, this alternative includes the previously used accountability measure criteria developed for the June 2014 emergency action. Under this, sectors will be required to pay back carried over catch used only when both the sector sub-ACL and total stock ACL are exceeded.

*Rationale:* This action addresses the Court Order, ensures that the total potential catch does not exceed the ABC. Sectors would retain the ability to carryover unused ACE, however the amount available for use would be capped at the ABC of the following year.

*Discussion on the Motion:* The Committee briefly discussed the mechanics of this proposed carryover action.

The motion **carried** on a show of hands (10/0/1).

The Committee discussion transitioned to GOM cod spawning closures.

**Motion #11 – (Pierce/Mackenzie):**

That the Committee recommend to the Council to include as an alternative in FW53 that the following blocks would be closed to all commercial and recreational fishing vessels:

- May: 124, 125, 132, 133, 139, 140
- June: 132, 133, 139, 140, 147
- November-January: 124-125
- March-April: 124, 125, 132, 133

*Rationale:* This is the hybrid approach (Option #4) that the PDT brought forward in a memo to the Committee. This approach would reduce fishing effort on spawning aggregations and protect spawning fish. This is an additional measure beyond the reduction in the GOM cod ABC that will provide benefits to GOM cod.

**Motion #11 as friendly amended:**

That the Committee recommend to the Council to include as an alternative in FW53 that the following blocks would be closed to all commercial and recreational fishing vessels:

- May: 124, 125, 132, 133, 139, 140
- June: 132, 133, 139, 140, 147
- November-January: 124-125
- March-April: 124, 125, 132, 133
- And prohibit recreational fishing in the Western Gulf of Maine Closure Area.

*Discussion on the motion as friendly amended:* The Committee discussed the length of the proposed spawning closures. Some members of the Committee were concerned that the proposed closures would restrict fishing at times when cod are not spawning, while others felt that the proposed closures were needed to protect winter and spring spawners. Other members of the Committee felt that this proposed alternative merited full consideration, and suggested that if there were other ideas about spawning closure configurations in the GOM that they be brought forward for the Committee to consider. Concern was expressed that the WGOM closed area would be reclassified as a spawning closure area through this motion, though the CATT did recommend that the WGOM closed area be redesignated as a spawning

closure. The Committee discussed some of the assumptions used CATT analysis before the voting on the motion.

The motion **carried** on a show of hands (7/1/3).

**Motion #12 – (T. Alexander/Goethel):**

The Committee recommends to the Council that a rebuilding plan review be initiated based upon new scientific information made available by the Northeast Fisheries Science Center on GOM cod, with the intent of reviewing the biological and fishery considerations and possibly extending the rebuilding time period.

*Rationale:* Motion #4 at GAP meeting on 9/16/14. A review of the current rebuilding plan is needed to understand whether or not the plan is appropriate in light of the most recent stock assessment.

*Discussion on the Motion:* Council staff explained the rebuilding plan for GOM cod that was put forward in FW51, and the Committee discussed the ability of the Council to change rebuilding plans in a framework action. Some members of the Committee expressed concern that GOM cod could not rebuild by 2024, while another Committee member felt that it was too soon to know if GOM cod could be rebuilt under the current rebuilding plan. Other members of the Committee highlighted poor recruitment and historically high F (fishing mortality rates) in the fishery as potential hurdles to staying on the needed trajectory to rebuild by 2024. The discussion shifted to whether or not GOM cod was making adequate progress toward rebuilding, whether or not a review of the rebuilding plan was warranted based on the decision to pursue a 10-year rebuilding plan, and model projections from the latest assessment.

*Some Public Comment Included:*

- Vito Giacalone, Gloucester Fishing Community Preservation Fund. *We support this as it is the first opportunity to remind the Council of action that was taken in FW51. The prevailing evidence is that natural mortality continues to be at  $M=0.4$ , and there is no evidence that we are aware of that says that we are moving to  $M=0.2$ , except the faith and belief that led to the M-ramp model. The M-ramp model shows the stock rebuilding within 10 years, and industry was so doubtful of this that we asked the Council to use the full 10 years of a rebuilding plan. There was a lot of doubt by SSC and SARC members that this could be achieved, and unless you attended those meetings you didn't get to hear those conversations. It was far from scientific consensus that this is the right model. We didn't have an opportunity to attend a working group meeting because that was held behind closed doors. In 2014, we are talking about a  $F_{rebuild}$  for 2024 and we don't think there is something wrong? Do you want to try to achieve the unattainable because we didn't do a benchmark assessment? Is that good policy?*

Some members of the Committee expressed concern that passing this motion would not change reference points for GOM cod.

The motion **failed** on a show of hands (3/6/1).

**Motion #13 - (Dempsey/Kendall):**

The Committee recommends to the Council to include an alternative in FW53 that would prohibit commercial groundfish vessels without observers from fishing in other broad stock areas on trips that fish in the GOM west of 70° line.

*Rationale:* The proposed reduction in the GOM cod ABC creates a huge accountability problem for tracking catches, and the Council needs to have an alternative in FW53 to make this a permanent change.

There was no Committee discussion on the motion.

The motion **carried** on a show of hands (10/0/0).

**Motion #14 – (Goethel /Kendall):**

The OSC recommends that the OSC reject the process of the recent operational assessment for GOM cod, based on the rationale it did not adhere to National Standard 2 Guidelines.

*Rationale:* The process of the latest assessment did not adhere to National Standard 2 Guidelines.

*Discussion on the Motion:* A member of the committee felt that the timing and results of the latest assessment helped managers understand the current situation of GOM cod, speculating what the status of the resource would be if NMFS had not stepped in. Another committee member felt that this motion was about industry participation in the process. Mr. Tom Nies explained the operational assessment process, noting that operational assessments had been discussed for several years at the NRCC, and that the process was followed once the Council became aware of the assessment.

The motion **failed** on a show of hands (2/7/2).

Day 1 of the meeting adjourned at 3:47 pm.

## ***Day 2: Groundfish Committee Meeting***

***MEETING ATTENDANCE:*** Frank Blount (Chairman), Dr. David Pierce (Vice Chair), Mr. Terry Alexander, Mr. Vincent Balzano, Mr. Tom Dempsey, Ms. Ellen Goethel, Mr. Peter Kendall, Mr. Howard King (MAFMC), Ms. Susan Murphy (GARFO), Dr. Matthew McKenzie, and Ms. Laurie Nolan (MAFMC); Mr. Terry Stockwell (Council Chair); Ms. Jackie Odell (GAP Vice Chair); Mr. Thomas Nies (Executive Director NEFMC), Dr. Jamie Cournane, Ms. Rachel Feeney, Mr. Jonathon Peros (NEFMC staff); Ms. Sarah Heil, Dr. William Whitmore (NMFS GARFO staff), Mr. Mitch MacDonald and Mr. Gene Martin (NOAA General Counsel). In addition, approximately 14 members of the public attended.

The Groundfish Committee Chair opened the meeting at 9:02am, and the day began with a staff presentation on Amendment 18 (A18).

### ***Presentation on Amendment 18 (Ms. Rachel Feeney):***

Council staff directed the Committee to Documents 3, 4, 5, 6 for the A18 discussion (see document list on page 1), before briefly reviewed the timeline of Amendment 18. Staff noted that the discussion would focus on the continued development of measures dealing with PSC holdings in excess of accumulation limits, data confidentiality, and an inshore/offshore management boundary in the GOM.

At the request of the Committee, Council staff looked into how other catch share programs around the country handle setting caps relative to the highest existing holding in the fishery, as well as grandfathering and divesture. As detailed in Document 4 (pages 4-7), a variety of approaches have been taken to holdings caps, grandfathering, and divesture. Staff explained motions from the last Committee regarding PSC holdings in excess of an accumulation limit were organized in A18 before presenting the PDT input on data confidentiality. Next, staff presented on a range of options for the inshore/offshore GOM contained in Section 4.5 of A18, which include the implementation of an inshore/offshore management boundary, and the establishment of an inshore/offshore GOM cod sub-ACLs. With regard to the GOM Gear Restricted Area, staff walked through potential reconfigurations of the area, noting that the No Action for this section in A18 may change based on an outcome in the Omnibus Habitat Amendment 2. At the Committee's request, PDT developed alternatives for trip declarations in the inshore/offshore GOM, which include an annual declaration, a seasonal declaration, and a trip declaration.

On U.S./Canada in-season trading, staff explained that the Canadians have a mechanism in place that allows for in-season trading while the U.S. does not. While the U.S. and Canada may not be interested in trading in the foreseeable future, this section of A18 may be a mechanism through which the U.S. could initiate quota trades with Canada.

Council staff reiterated RAP and GAP input that was presented on Day 1, noting that the RAP does not support the creation of an inshore/offshore management boundary for the recreational fishery. On a close vote, the GAP passed a motion recommending that the A18 option for splitting the GOM cod ACL into inshore and offshore sub-ACLs be considered but rejected.

***Questions and Discussion on the A18 Presentation:*** A committee member asked if mechanisms for facilitating U.S./Canada trading could be developed through a framework action. Council staff explained that the mechanisms to trade quota with the Canadians could be created through an Amendment, and further details could be developed through a future framework action. The U.S. Chair of the TMGC, Mr. Terry Stockwell, reported that given the recent low recruitment of GB cod, it would be unlikely that there would be interest in trading in the next few years. A Committee member asked if the examples of grandfathering provided in Document 4 were exclusively from IFQ or ITQ fisheries, going on to say that

the sector program is not a LAPP. Staff explained that most of the examples are from ITQ and IFQ fisheries.

The Committee discussion pivoted to U.S./Canada trading, with one Committee member offering that they could not imagine trading under any scenario given the status of GB cod and GB yellowtail flounder. The Committee went on to discuss whether or not it made sense to keep a U.S./Canada trading alternative in the document given the short and long term outlooks for trading.

**Motion #15 - (Dempsey/Kendall):**

To recommend to the Council that Section 4.2 Trading U.S./Canada TACs be moved to Considered but Rejected.

*Rationale:* When U.S./Canada trading looks possible in the future, the Council can look to work already completed by the PDT on this issue, but pursuing this alternative future is not appropriate at this time.

*Public Comment Included:*

- Jackie Odell, Northeast Seafood Coalition. *We were concerned with this when it was first brought up during the U.S./Canada discussion. We were concerned with how the industry would be involved in the trading process, specifically how the sectors would be involved in the process. We did not want the RA to be given the authority to make decisions that could impact people's allocations who were not interested in trading. I am concerned if something does come up, that we have no process and no regulatory system in place to allow something to happen. At this point, leaving this alternative in the document is more proactive. There would be a tool, and a process would be outlined. Without this, we have no options.*

*Discussion on the Motion:* Some Committee members expressed concern over the time it would take to complete a future amendment addressing U.S./Canada trading, while others argued that the Committee and Council would need to dedicate a substantial amount of time to address clarifying questions posed to the Committee by the PDT. Mr. Stockwell explained that the Council and Committee will have the benefit the annual TRAC/TMGC updates.

The motion **carried** on a show of hands (9/0/2).

The Committee discussion turned to accumulation limits. A Committee member sought clarification on whether or not a grandfathered holding in excess of the cap could be sold as a unit to another individual or entity. Other committee members explained that they felt that accommodating this scenario was not the intent of alternative, and suggested that in practice individual permits/PSC would be sold. The Committee discussed the concept of allowing grandfathering, with expiration upon inheritance. Council staff explained that as the document is currently written, if inherited holdings put an individual person above the PSC cap, then that person would be subject to whichever alternative the Council selects for the acquisition of future holdings. The Committee contemplated how long to apply a grandfathered status to holdings above a cap. Based on the discussion, the following motion was proposed:

**Motion #16 as perfected - (Goethel/McKenzie):**

To recommend to the Council that for Section 4.1.3.1. Option B (Grandfather current holdings as of the control date), add clarifying language that the grandfathered status of an individual or entity is not transferrable and is not attached to the holdings itself.

*Public Comment:*

- Vito Giacalone, Northeast Seafood Coalition. *The Committee is talking about grandfathering permits, but I don't think that is the case. I think you grandfather the person or the entity, or whatever you are going to use to evaluate if someone is over the cap. I think that grandfathering status should apply to a percentage so that you could swap permits in and out while staying within grandfathered levels. This kind of motion makes it difficult for people to understand what you are grandfathering. The issue is can an entity hold an amount that is above the cap. I think what you are saying is that you can't transfer that grandfathered cap level to another entity.*

*Discussion on the Motion:* The Committee worked to perfect the language of the motion so that it focused on grandfathering entities. NOAA GC noted that holdings are grandfathered to the extent that they are tied to an individual, going on to say that this exercise is about ensuring that an entity or individual has acquired an excessive share, and that grandfathering makes sense in the context of preserving diversity. A committee member felt that a simpler way to address the grandfathering issue would be to set the cap at a level above any current holdings in the fishery.

The motion **carried** on a show of hands (8/0/3).

Council staff primed the following discussion with a request for input on how to handle situations in which external factors, such as permit buyouts or buybacks would put an individual person or entity over the cap. A Committee member noted that a buyout or buyback would constitute a major action in the fishery, and suggested that future Councils may want to address the particulars of the situation through a framework at a later date.

**Motion #17 - (Dempsey/T. Alexander):**

To recommend to the Council that for Section 4.1 (Accumulation limits; p. 30-39), allow accumulation limits to be modified in a future framework due to a federal permit buyout or buyback.

*Rationale:* A buyout, buyback, or other external factors (not permit transfer) would constitute a major action in the fishery, and future Councils would benefit from the ability to address the particulars of the situation through a framework at a later date.

*Discussion on the Motion:* A Committee member offered the scenario of an entity buying 30 permits with the intent of retiring them, asking if that would constitute an external factor. NOAA GC suggested that this would fall under a normal transfer within the permit market, and buyouts and buybacks are government programs. Members of the committee felt that this motion would add additional flexibility to buyback and buyout processes.

The motion **carried** on a show of hands (10/0/1).

The committee had no further motions to revise alternatives. Discussion of data confidentiality alternatives began with an overview of legal guidance from NOAA GC. The Committee was reminded that the standard for releasing confidential information is that the information is essential for the administration of the program. NOAA GC explained that the confidentiality provision of the Magnuson-Stevens Act allows information to be released when the information is required to be submitted to the Secretary of Commerce for any determination under a limited access program. Data can also be released if it is aggregated in a form that does not directly or indirectly disclose the identity of a particular person or business of that person. NOAA GC offered that if there is a general need for the particular value

information that would be released, there may be an aggregation or summary of that information that is still helpful to meet the overall purpose, and would allow the information to be released under the Magnuson-Stevens Act. If you are seeking information that would reveal the identity of an individual – or their business – that disclosure would not be allowed under the Magnuson-Stevens Act. Council staff explained that catch share programs in other regions post fishery data to public websites, some of which included aggregated transfer prices when the information is available (see pages 7-9 of Document 4). NOAA GC suggested that NMFS may release some of this information in aggregate without an action if the agency understands the need to for this information to be made available.

The Committee discussion began with one member speaking in support of releasing information that would help managers understand the impacts of management measures on individuals, and would provide individual fishermen with the information they need to make business decisions. They felt that if an inshore/offshore management boundary is created, that lease price information would be a way for managers to understand the economic situation of individuals in the fishery, emphasizing that the Council should focus on the economic impacts to individuals and not their sectors. The Committee heard an argument that the release of lease price data would improve the resolution of data used by NMFS and Council staff, and would enable fishermen to better understand transactions happening in their fishery. Another Committee member felt that it would be difficult to know complete lease pricing information in the fishery, that lease prices may be difficult to verify, concluding that ACE is often leased as a package of stocks which makes it difficult to know the lease value of an individual stock. Another Committee member felt that the current lease market allows for the lease of a public resource in secret, and offered that understanding where and who quota is flowing to could help managers better understand the distribution of fish and fishermen in the region. One Committee member felt that the lease market would operate more efficiently with greater transparency, went on to say that the data confidentiality protections of the Magnuson-Stevens Act are very robust when compared to the private use of public resources outside of the fisheries such as the use of public land for cattle grazing and timber harvesting. The data confidentiality discussion concluded with Committee remarks in favor or and against the tracking of lease price data.

*Public Comment:*

- Ben Martens, Maine Coast Fishermen's Association. *I would like to extend an invitation to some of you who are talking about different levels of trading, leasing, and movement of fish, to have a conversation with me or some of the other sector managers. I hear what you are saying about the need for more information and more data to help clarify certain situations. I think this data is important at a sector level, at the individual level or inside of a sector it starts to get really messy, and digging into those transactions is going to make the data more useless. We have a lot of transactions internal to our sector between family members, or between individuals fishing on the same boat who hold separate permits. Those types of transactions might muddy the water in terms of the value data that you might be trying to get out of this. Thank you.*

The Committee did not elect to make any changes to the alternatives on data confidentiality as written in the A18. The discussion transitioned to a motion to create a redfish exemption area in A18.

**Motion #18 - (T. Alexander/Balzano):**

To recommend to the Council adding an alternative in Amendment 18 that would allow vessels to use a 5.5 inch codend within the Redfish Exemption Area (defined by the coordinates below).

*Stipulations:*

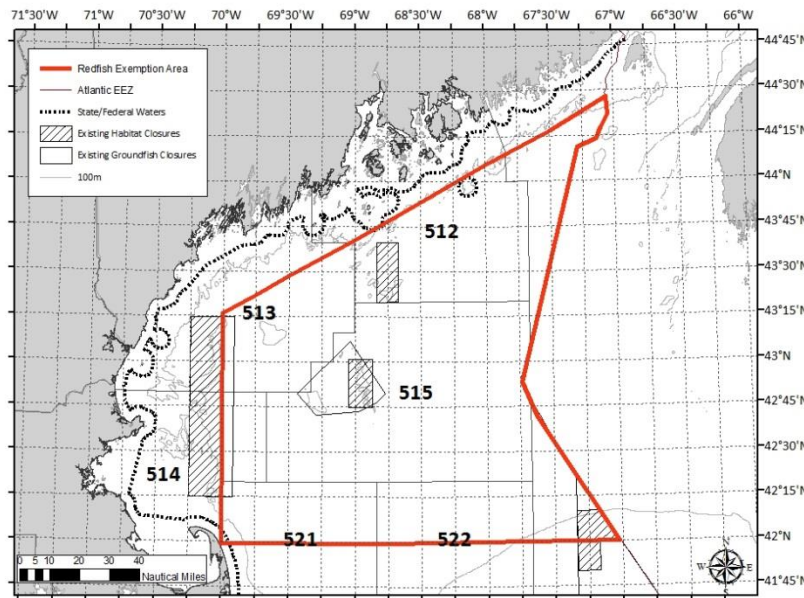
- 1) Prior to leaving the dock, vessel operators would be required to declare their intent to fish in the Redfish Exemption area through the VMS by checking the box next to "Redfish Trip";

- 2) In the first part of the trip, vessel operators would fish with conventional groundfish codends (6.5 inch) in the GOM and GB regulated mesh areas, except when towing a separator trawl on GB where the codend may be 6 inch;
- 3) Vessel operators would be allowed to switch to 5.5 inch codends at the end of the trip after submitting VMS notification;
- 4) Vessel operators would report catch from the entire trip through the VMS prior to returning to port; and
- 5) Vessel operators would submit a separate VTR to report catch on each codend.

Point	N. Lat.	W. Long.
A	44°27.25'	67°02.75'
B	44°16.25'	67°30.00'
C	44°04.50'	68°00.00'
D	43°52.25'	68°30.00'
E	43°40.25'	69°00.00'
F	43°28.25'	69°30.00'
G	43°16.00'	70°00.00'
H	42°00.00'	70°00.00'
I	42°00.00'	67°00.63' <sup>a</sup>

*Note:* This area is currently the Redfish 6 inch exempted area.

<sup>a</sup>The intersection of 42°00' N. latitude and the U.S.-Canada Maritime Boundary. Longitude is approximate.



*Rationale:* This motion gets at the first three goals of A18. A 5.5 inch codend is the appropriate size mesh to fish for redfish as shown in the REDNET research project, and this would smaller boats to prosecute a healthy the redfish fishery.

*Discussion on the Motion:* The Committee discussed whether or not it would be appropriate to require an observer of trips that use a 5.5 inch codend. The maker of the motion suggested that redfish can be targeted with very little catch of other species, and that vessels fishing for redfish would need to cover all catches with ACE (this would not be an exempted fishery). Other Committee members stated that this measure would enhance the sector system. Another Committee member felt that the level of flexibility that proposed in the motion needed matching accountability, such as additional monitoring. The maker of the motion explained that when a vessel planned to change codends, they would send a VMS report to NMFS to report the change in mesh size. The Committee discussed how the reduction in mesh size would allow smaller vessels to prosecute redfish, with the maker of the motion explaining that legal size redfish can escape through the codend while vessels haul back.

**Motion to amend #18a – (Dempsey/Kendall):**

To recommend to the Council adding an alternative in Amendment 18 that would allow vessels to use a 5.5 inch codend within the Redfish Exemption Area (defined by the coordinates below) on trips with an observer or approved electronic monitoring technology on-board.

*Stipulations:*

- 1) Prior to leaving the dock, vessel operators would be required to declare their intent to fish in the Redfish Exemption area through the VMS by checking the box next to "Redfish Trip";
- 2) In the first part of the trip, vessel operators would fish with conventional groundfish codends (6.5 inch) in the GOM and GB regulated mesh areas, except when towing a separator trawl on GB where the codend may be 6 inch;
- 3) Vessel operators would be allowed to switch to 5.5 inch codends at the end of the trip after submitting VMS notification;
- 4) Vessel operators would report catch from the entire trip through the VMS prior to returning to port; and
- 5) Vessel operators would submit a separate VTR to report catch on each codend.

*Rationale:* The added level of flexibility that this measure affords vessels should be matched with additional accountability.

*Discussion on the Motion to Amend:* Ms. Murphy explained the history of redfish exemptions that have been approved by NMFS, and went on to say that adding in this monitoring requirement would place an additional cost on the agency. Other members of the Committee expressed support the added accountability of the motion to amend, and felt that additional information from REDNET was needed before a final decision could be made. Committee members in favor of the concept of a redfish exemption area argued that questions and concerns with the concept could be ironed out at a later meeting after PDT analysis.

*Some Public Comment Included:*

- Jim Odlin, Commercial Fishermen. *The concept that 6.5 inch mesh has done anything to help our fisheries is false. It has hurt us, and it is the wrong mesh for the groundfish fishery to begin with. None of the mesh size selectivity studies tell you that 6.5 inches is the right mesh. The results of our fisheries since we went to 6.5 inch mesh says something. We did a study with 10 trips on Georges Bank and found that our discards went down when we went to 5.1 inch square mesh. It was a dramatic drop in discards. With regard to redfish, I'll make a prediction that the next time we have an assessment we'll have a retrospective pattern. We're killing redfish, and they are not being counted because we are using the wrong mesh. If you do this you will expand the universe of who can go redfishing, the fish are there and the market is there. One thing that*

*you need to think about is that redfishing is unpredictable. We can't tell you on any given trip that we'll catch redfish. This goes in the right direction.*

Motion to amend **carried** on a show of hands (6/2/2).

Main motion as amended (#18a) **carried** on a show of hands (8/1/1).

**Motion #19 – (Goethel/Pierce):**

To recommend to the Council that in Section 4.5.1 Alternative 2 (Establish an inshore/offshore boundary; p. 50-51), add an Option C that would establish an inshore/offshore line that starts where 69°50'W intersects the state water boundary of Massachusetts, runs north along 69°50'W to the 12 NM territorial sea line, then northeast to the Hauge Line along the 12 NM territorial sea line.

*Rationale:* Splitting inshore/offshore on the Maine coast is inappropriate, and this line would add alternative that would run parallel to the Maine coast. This line creates a distinction between inshore and offshore fleets, and would only apply to the GOM gear restricted area alternatives. The Gulf of Maine Gear Restricted Area is already an inshore/offshore delineation.<sup>3</sup>

*Discussion on the Motion:* The Committee discussed the portion of the boundary that would run north from Cape Cod, and a friendly motion was offered to run the boundary line from 69°50'W to the point where it joins with the 12 nautical mile territorial sea. Some committee members expressed concern with how this motion might impact northern shrimp fishery, particularly in Maine. The maker of the motion explained that the intent was to add another inshore/offshore boundary option.

*Some Public Comment Included:*

- Carl Bouchard. *If we do have an offshore line, let's make it a truly offshore line, and not something that runs through the middle of Massachusetts Bay. The 70° 15' W line really is not offshore. There has been a lot of concern about a concentration of effort on Stellwagen Bank in the inshore area, and after talking with a few fishermen it appears that unless you have a line that is truly offshore, there is no point. I think that using the offshore boundary of the GOM roller gear area makes a lot of sense, but that intersects with the coast off of Portland and doesn't make a lot of sense.*

*Committee Discussion the Motion:* After a brief discussion around the interplay between management boundaries and other alternatives in this section of the document, the Committee went on to discuss at which point the portion of the boundary running north and south should intersect the 12 NM territorial sea.

The motion **carried** on a show of hands (9/0/1).

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<sup>3</sup> After the Committee meeting, Council staff, the maker of the motion, and the Committee Chair agreed to include this option in the section with other inshore/offshore boundary alternatives. As such, all other alternatives within the Inshore/Offshore Gulf of Maine section of Amendment 18 would be based on the management boundary the selected in this section (GOM cod sub-ACLs, GOM Gear Restricted Area, Declaration Time Periods).

#### **Motion #20 - (Goethel/Dempsey):**

To recommend to the Council that in Section 4.5.1.2 Alternative 2 (Establish an inshore/offshore boundary), delete the text (on p. 50):

*“This action [alternative] is based on knowledge of the seasonal distribution of juvenile and adult fish within the management area, differences between the inshore and offshore fishing grounds, and the location of known spawning grounds.” And “One of the most important reasons for distinguishing management areas is to avoid over-exploitation of individual spawning components that are included within a stock-complex.”*

*Rationale:* The use of a biological rationale for the inshore/offshore boundary is inappropriate for this action.

*Discussion on the Motion:* Some Committee members felt that removing the biological rationale for this alternative in the document was appropriate given the goals and objectives of A18. Another Committee member stated that fleet diversity is linked to the biological health of the fishery resource.

The motion **carried** on a show of hands (7/2/1).

#### **Motion #21 - (Goethel/T. Alexander):**

The Committee recommends to the Council that Section 4.5.2 (Inshore/offshore GOM cod sub-ACLs) be moved to Considered but Rejected.

*Discussion on the Motion:* Some members of the Committee felt that it would not be appropriate to split the GOM cod ACL into inshore and offshore sub-ACLs given the current status of the stock. Concern was expressed about the feasibility of splitting low GOM cod ACLs, with one Committee member stating that the split should be based on where the vessel caught the GOM cod.

*Some Public Comment Included:*

- Carl Bouchard. *I support the motion. I think we are over complicating things when we try to split this GOM ACL between inshore and offshore. The same fish that we catch in Ipswich Bay is the same fish that we catch up and down the coast. These fish don't stay in one area they move back and forth. Whether you catch it here or there is ridiculous. This would really complicate the leasing market, and I am in favor of the motion.*
- Jim Odlin. Portland, Maine. *I am opposed to this motion because don't want 200 mt or whatever the quoa will be to come out of one area. Over the past 20 years I would say that we have failed to get a handle on the mortality of GOM cod. We've tried trip limits, we've tried rollers, we've tried 6.5 inch mesh, and we never got our arms around the mortality of GOM cod. The percentage of catch consistently increased in the inshore area. This is the only measure that addresses the issue of taking all of the fish from the inshore area. One way to split it is to go back 20 years and split the catch from the areas. You should let this go forward and be analyzed.*
- Geoff Smith, The Nature Conservancy. *Rachel mentioned yesterday that there was an extremely brief conversation about this motion at the AP meeting. I was one of the folks who voted against the motion. It was not because I think splitting the quota even further is the right approach for us to take, but I don't think that it has been considered enough for us to take it off the table. I think it*

*is worthwhile to take a closer look at this. Splitting quotas has worked for Eastern Georges stocks, we've done it in the herring fishery, and I think it is worth considering it a little bit more.*

The motion **failed** on a show of hands (3/5/1).

**Motion #22 – (Dempsey/McKenzie):**

To recommend to the Council that any option in Section 4.5 (Inshore/offshore GOM) on prohibiting fishing without an observer or electronic monitoring technology only apply to commercial vessels, and that reporting measures be established to accurately apportion catch to each sub-ACL (including for recreational vessels).

*Rationale:* The recreational fleet is not monitored, and this motion would align the alternative with existing regulations. This motion would alter reporting requirements for party/charter and recreational vessels to accurately apportion catch to each of the areas.

*Discussion on the Motion:* The Committee was reminded that private recreational anglers do not have a federal permit. As such, NMFS cannot mandate reporting requirements for them. The maker of the motion explained that the intent would be to collect the best data possible from both private anglers and party/charter vessels if the GOM cod sub-ACL were split. A member of the Committee felt that 90% of the recreational catch would qualify as inshore based on the management boundaries in A18, and questions were raised about the quality of catch data that is available for the recreational fleet. Council staff noted that RAP had unanimously passed a motion opposing the creation of an inshore/offshore management boundary for the recreational fleet. The Committee briefly discussed whether or not it would be appropriate to exempt the recreational fishery from the establishment of an inshore/offshore boundary, and the creation of inshore/offshore sub-ACLs before Chair called the question.

The motion **carried** on a show of hands (7/0/2).

**Motion #23 – (Pierce/Murphy):**

To recommend to the Council that in Section 4.5.2 Alternative 2 (Establish inshore/offshore GOM cod sub-ACL), Options B and C for the control rule for setting the GOM cod sub-ACL be moved to Considered but Rejected.

*Rationale:* This is the most flexible of the options, and gives the Council greater discretion in rule making, much like the approach taken for setting TACs in U.S./Canada negotiations (TMGC).

*Discussion on the Motion:* Some members of the Committee felt that it was premature to remove these options from the document, and felt that later discussions would benefit from having all three options in the A18 document. It was also suggested that removing options B and C would simplify the discussion going forward.

The motion **failed** on a show of hands (2/6/1).

The Committee's discussion on Amendment 18 concluded with a motion to simplify monitoring provisions in the inshore/offshore GOM alternatives.

**Motion #24 – (Dempsey/Goethel):**

To recommend to the Council that for clarity, in Section 4.5.4 Alternative 4 (Trip Declaration), eliminate Options A and B and add the concept of Option B into to the catch monitoring provision of Section 4.5.2 Alternative 2 (Establish inshore/offshore GOM cod sub-ACL) as modified today.

*Rationale:* Removing redundancy and the potential for conflicting monitoring provisions within the inshore/offshore alternatives provides additional clarity to the document.

The motion **carried** on a show of hands (9/0/0).

*Other Business:*

- Jackie Odell, Northeast Seafood Coalition. *I keep getting asked about the Council request in June to John Bullard to initiate an emergency action for GOM haddock. In the correspondence this week there was a response from John Bullard, but it seemed to focus on recreational measures more than fishery at-large. I was wondering where things stand, and if there have been any discussions within the agency?*

Ms. Murphy explained that NMFS was still considering increasing the ACL for GOM haddock, but was looking to hear from the Council on cod and haddock. With regard to the recreational measures, it is likely that the recreational fleet has already caught the increased ACL at this point.