



New England Fishery Management Council

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MEETING SUMMARY

Groundfish Advisory Panel

DoubleTree by Hilton, Portland, ME

March 26, 2015

The Groundfish Advisory Panel (GAP) met on March 26, 2015 in South Portland, Maine to: 1) review the Amendment 18 (A18) Draft Environmental Impact Statement (DEIS), an action to consider accumulation limits and fleet diversity in the Northeast Multispecies (groundfish) fishery management plan (FMP), 2) discuss groundfish priorities for 2015, and 3) other business as necessary.

MEETING ATTENDANCE: Mr. Bill Gerencer (Chairman), Ms. Jackie Odell (Vice Chair), Mr. Carl Bouchard, Mr. Richard Canastra, Ms. Maggie Raymond, Mr. Ben Martens, Mr. Geoff Smith, Mr. Hank Soule, Mr. Jim Odlin, Mr. Michael Russo; Mr. Frank Blount (Groundfish Committee Chair), Dr. Jamie Cournane, Ms. Rachel Feeney, and Mr. Jonathon Peros (NEFMC staff); and Mr. William Whitmore, Mr. Brett Alger (NMFS GARFO staff). In addition, approximately 7 members of the public attended, including some Council members.

SUPPORTING DOCUMENTATION: Discussions were aided by the following documents and presentations: (1) meeting memorandum dated March 18, 2015; (2) Meeting agenda; (3) 2015 Groundfish Priorities Presentation; (4) Amendment 18 (A18) Action Plan version 16, dated March , 2014; (5) Plan development team (PDT) memo to the Groundfish Committee re: Amendment 18 dated March 18, 2015; (6) Amendment 18 DEIS, March 18, 2015; (6a) A18 DEIS Biological Impacts, March 23, 2015; (7) A18 Groundfish Committee Decision Document, March 19, 2015; (8) A18 Presentation; (9) Inshore/Offshore sub-ACLs for GOM cod presentation; and (10) GAP meeting summary, September 16, 2014.

KEY OUTCOMES:

- The GAP made recommendations to the Groundfish Committee for preferred alternatives Amendment 18:
 - The GAP supports No Action for creating an accumulation limit (Section 4.1). In the event that the Council considers alternatives in this section, the GAP also articulated secondary preferences for alternatives (Motions #8 & #9).
 - The GAP does not support the creation of a HA sub-ACL (Section 4.2.1), but does support the removal of the March 1-20 spawning block closure and the standard fish tote requirement for HA vessels. The GAP also supports allowing HA vessels enrolled in sectors to be exempted from VMS requirements.
 - The GAP supports No Action for creating an inshore/offshore Gulf of Maine boundary (Section 4.4) and splitting the GOM sub-ACL based on the boundary line (inshore and offshore).
- The GAP recommended to the Groundfish Committee that the GOM Gear Restricted Area alternatives in Section 4.4.3 be referred to the Habitat Committee.

- The GAP recommended to the Groundfish Committee several new measures to meet the goals of Amendment 18.

The meeting began at 9:22 am. After calling the meeting to order, the GAP chair, Mr. Bill Gerencer, explained that he would be stepping down as Chair at the end of the year.

Update on Proposed Actions for FY 2015 (Dr. Cournane)

Staff explained that the comment period for Framework 53 (FW53) and the groundfish sector proposed rules closed on March 24, 2015, and noted that a proposed or final rule has not been published for recreational accountability measures (AMs) for FY 2015.

2015 Groundfish Priorities (Dr. Cournane)

Council staff presented the Council groundfish priorities for 2015 (see below, and Documents #1 and [#3](#)). There are two different tracks for Groundfish priorities – annual and multi-year. A main focus in 2015 will be setting specifications for all groundfish stocks for FY 2016-2018. Another priority is to improve the recreational measures management process (i.e., the coordination and communication of accountability measures to the recreational fishery for the upcoming fishing year). Staff expects to present a windowpane white paper and EM white paper to the Council at its June meeting. There have been preliminary discussions about a cod stock structure workshop, details of which will continue to be ironed out over the course of the year. The Electronic Monitoring Working Group (EMWG), which reports to the Council, will meet at GARFO on April 8, 2015.

<u>2015 Groundfish Priorities</u>	
<u>Annual</u>	<ul style="list-style-type: none"> • Set specifications for all groundfish stocks 2016-2018 • Set specifications for United States/Canada stocks for 2016 • Recreational measures management process • Staff: Five year sector review • Staff: TMGC/TRAC • Staff: Operational/update assessments • Staff: Discussion paper on management alternative for windowpane flounder • Staff: Coordinate with Atlantic States Marine Fisheries Commission Lobster Technical Committee on lobster trap bycatch of groundfish species
<u>Multi-Year</u>	<ul style="list-style-type: none"> • Continue to coordinate action on the Habitat Omnibus Amendment 2 to include possible modifications of the Groundfish closed areas • Complete Amendment 18 to consider fleet diversity and accumulations caps • Develop alternative strategies for setting catch advice for stability in annual catch limits (ACLs) • Process for review of groundfish catch in other fisheries • Staff: Cod Stock Structure Workshop
<u>Other</u>	<ul style="list-style-type: none"> • Electronic Monitoring Working Group (reports to the Council)

Questions and Discussion on the Presentation: An advisor asked if the next opportunity to discuss priorities would be in November 2015. Staff explained that the goal for 2015 would be to work through the current priorities, but noted that the Council has a history of revisiting priorities during the year.

The GAP discussed recommending a new priority for 2015, with an advisor explaining that the industry had recently learned from NMFS that there will not be sufficient funding for NMFS to fully fund at-sea monitoring (ASM) in the coming fishing year. The advisors felt that it is important for the Committee and Council to look at the monitoring requirements in the groundfish plan. Given what is known about sector catch and discards after four years of sector management, one advisor suggested that this data could be used to make a determination if the level of monitoring coverage is sufficient, or more than is necessary. Concern was expressed that, while ASM had been funded in the past, the industry would be required to pay for coverage in the immediate future (FY 2015). The advisor felt that a lot of money was being spent to monitor a very small amount of discards.¹

Motion #1 – (Raymond/Canastra):

That the Groundfish Advisory Panel recommends to the Groundfish Committee to review the mandatory at-sea monitoring requirement for Groundfish Sectors to determine if the level of coverage is appropriate.

Rationale: Observed and assumed discards have been low for the past four years of the sector program. The relative cost of monitoring is high given the low level of discards. The advisors are concerned about the industry's ability to pay for the required level of coverage.

Discussion on the Motion: The GAP noted the recent proposed rule for the standardized bycatch reporting methodology (SBRM), and discussed how the coverage level for at-sea monitors is set. The coverage level was prescribed in A16, and refined in subsequent frameworks (FW48). An advisor asked how ASM would apply to the common pool. Staff explained that the common pool is only covered by NEFOP coverage (4% expected in 2015).

Motion #1 as perfected:

That the GAP recommend to the Committee that review the mandatory at-sea monitoring coverage for GF sectors to determine if the mandatory level of is appropriate and economically feasible.

Discussion on the Motion as Perfected: An advisor explained that fishing effort has declined in recent years, and felt that some vessels were carrying observers on 40% of their trips. They went on to say that the boats that continue to fish are carrying observers on a large number of trips to make observer businesses solvent. Another member of the GAP felt that the for-hire charter fleet should be monitored and held accountable to similar standard as the commercial fleet.

Public Comment:

- Mr. Brett Alger, GARFO – *On the common pool coverage levels, in 2010 and 2011, sectors had 38% and common pool had ~ 30%. Right now, the common pool does not have ASM. No matter who is paying, common pool only has NEFOP coverage, which if federally funded for all fisheries.*

Motion #1a **carried** on a show of hands (9/0/0).

¹ See <http://www.greateratlantic.fisheries.noaa.gov/aps/monitoring/nemultispecies.html> for in-season monitoring reports and final year end catch reports from FY2010 – FY2014.

An advisor asked if the GAP or the Groundfish Committee would be able to weigh in on the work underway to develop alternative strategies for setting catch advice for stability in annual catch limits. The advisor was interested in having the GAP participate in the project, and wondered how that might occur. Staff explained that the contractor will report on findings to the PDT and SSC, and eventually to the Council. Staff agreed to discuss the idea with Council leadership, noting however, that the public will have the opportunity to participate within the current process as outlined. Ultimately, the GAP felt that it was important to make the request to participate in the work to develop alternative strategies for setting catch advice for stability in annual catch limits.

Motion #2 – (Odell/Canastra):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that the Groundfish Advisors have an explicit opportunity to participate/provide advice in the process (including the analysis) established for alternative methods for setting catch advice.

There was no further discussion on the motion.

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

Amendment 18

Prior to the staff presentation on A18, an advisor shared several concerns, that when A18 was initiated, it made sense for the Council to consider measures to protect fleet diversity, but explained that the reductions in quotas had virtually shut down inshore fishing businesses. They were also concerned that the closure of inshore areas to the groundfish fleet created opportunities for lobstermen to set traps inshore, and that it would be difficult for groundfish vessels to go fishing in those areas once lobster traps had been set there. The advisor felt that resources used for the development of A18 would better serve the industry if they were used to support an industry-based flatfish survey on Georges Bank that could support the stock assessment, because in the opinion of the advisor, the *R/V Bigelow* does not do a good job catching flatfish. Additionally, the recent changes to the FY 2014 Interim Action (i.e, lifting trip limits and allowing fishing in multiple broad stock areas on the same trip in exchange for sectors committing to not harvest 30 mt of their GOM cod allocation) did little to help the inshore fleet.

Presentation on Amendment 18 (Rachel Feeney):

Staff presented the timeline, relevant documents, and the purpose and need of A18, which is to address concerns related to the potential for decreased fleet diversity and increased consolidation in the fishery resulting from catch shares and currently low catch limits, and increases in catch limits as stocks rebuild in the future. The goals of A18 are to:

1. Promote a diverse groundfish fishery, including different gear types, vessel sizes, ownership patterns, geographic locations, and levels of participation through sectors and permit banks;
2. Enhance sector management to effectively engage industry to achieve management goals and improve data quality;
3. Promote resilience and stability of fishing businesses by encouraging diversification, quota utilization and capital investment; and
4. Prevent any individual(s), corporation(s), or other entity(ies) from acquiring or controlling excessive shares of the fishery access privileges.

Staff explained that National Standard 4 in the Magnuson-Stevens Act stipulates that the allocation of fishing privileges shall be carried out in a manner such that no particular individual, corporation, or other entity acquires an excessive share of such privileges, and went on to note that all Limited Access

Privilege Programs (LAPP, which groundfish is not) must have accumulation limits. In summary, the development of accumulation limits is a voluntary action being taken by the Council (i.e., not currently required), though the FMP must comply with National Standard 4 irrespective of its status as a non-LAPP.

Staff explained that the Council is scheduled to approve DEIS and select preferred alternatives at its April meeting. After this meeting, staff will make any final adjustments, and open a final public comment period this summer that will include public hearings and opportunity for written comments. Staff also noted that Section 6.0 of the DEIS (Affected Environment), has been updated, with significant updates to the Human Communities section (e.g., the list of primary and secondary groundfish ports, PSC (potential sector contribution) holdings as of May 1, 2014, fleet diversity analysis, data from the FY2013 fishery performance report, and data on dealers and processors).

The presentation then transitioned to alternatives addressing accumulation limits and PSC caps. In addition to potentially selecting a preferred alternative for PSC caps, the Council will be weighing in on how to treat current holdings that may be above a level that would be grandfathered, and what should be done with PSC acquired in the future that is above the cap. Staff explained the nuances of each of the accumulation limits alternatives, and for permit caps. Staff explained the expected impacts of the PSC caps – impacts on essential fish habitat, protected resources, and target and non-target species were considered to be administrative or uncertain. In terms of maintaining participation in the fishery, a PSC or permit cap would be positive for the fishery as excessive shares may be prevented. The PSC cap in Alternative 2 was highlighted as being the most constraining. Staff also noted that the PDT suggested that the Committee and Council consider deleting Option 3A, because it overlaps/contradicts with divestiture options that apply to all PSC cap alternatives. The PDT also suggested that the Council add rationale as to why there would be different treatments of current and future excess holdings.

Questions and Comments on the Presentation: An advisor felt that capping individual PSC holdings, particularly on stocks for which ACLs are not being fully harvested (e.g. redfish, pollock, GB haddock), would reduce landings, and in general, is not a sound approach. The advisor elaborated that redistributing PSC away from the individuals who are currently catching those stocks to other individuals in the fishery will lead to lower landings. This would have a negative impact on the industry, and ultimately infrastructure and existing markets. Another advisor stated that there has not been a determination that excessive shares exist in the fishery today, and felt that it is difficult to conclude that a cap would have a positive impact when there are not excessive shares in the fishery at present. The advisors also noted that, in the A18 scoping process, GB winter flounder was identified as a stock for which there might be an excessive share. An advisor reminded that group that individual's allocations are based on their catch history as determined in A16. They noted that GB winter flounder PSC holdings of individuals reflect the fishing practices of those businesses during the qualification period, and expressed concern that measures in A18 would force these businesses to divest some of their PSC holdings. An advisor pointed out that the analysis indicated that there are four individuals that would be impacted by Alternative 2, including a permit bank ([Document #8](#), slide 13). Other advisors felt that some individual's PSC holding are currently close to some of the caps.

An advisor felt that A18 is past its time, that it was a good idea when managers did not have a sense of how the fishery would change under sector management. This advisor felt that additional controls on the remaining individuals would kill the industry and the market, stating that the boats that had left the fishery would not be reentering the fishery. The advisor also felt that the fear that a single individual or entity would buy up the fishery has not materialized. The advisor felt wide swings in GOM cod stock assessments since the start of sectors, as well as the abundance of windowpane flounder, signaled that fisheries managers do not have a good idea of what is going on in the ocean.

Another advisor objected to the idea of the government requiring individuals to sell assets that were purchased at a time when there were no restrictions on them. They explained that individuals may respond to swings in quotas by buying additional permits, and noted that some of the alternatives would require individuals to divest allocation that is above the PSC cap.

Motion #3 – (Bouchard/Russo):

That the Groundfish Advisory Panel recommends to the Groundfish Committee to remove the goal of fleet diversity from Amendment 18 (Goal 1).

Rationale: The alternatives in A18 do not promote fleet diversity, given the current circumstances in the groundfish fishery.

Discussion on the Motion: The advisors discussed how fleet diversity is being impacted by fluctuations in ACLs, and the cost of operating a groundfish business. Another advisor felt that it was premature to remove the goal, and that fleet diversity is what the Amendment is supposed to be about. Another advisor supported the concept of adding measures into A18 that would achieve fleet diversity. The GAP noted that they had helped to write the first three goals of the A18, though some advisors felt that the measures developed by the Committee do more to harm fleet diversity than protect it. Concern was expressed about the age of vessels in the groundfish fleet, and felt that the overall cost of replacing the fleet should factor into impacts analysis.

Motion #3a – (Odlin/Raymond):

Move to Table Motion 3 until later in the day.

Motion #3a **carried** on a show of hands (9/0/0).

Discussion Continued: An advisor asked staff if any alternatives in A18 would force individuals to divest holdings, and if so, which alternatives. Alternative 3 is the only alternative where an individual who had holdings in excess of the limit as of the control date (i.e., would not be grandfathered). Divestiture may not be required, depending on the options selected within the section. An advisor felt that stability in catch advice and catch setting is needed in the fishery prior to placing caps in the fishery.

Accumulation Limits

An advisor asked if decisions need to be made in the order that the alternatives appear in the decision document. Staff explained that the advisors and the Committee/Council can work through the alternatives in the order that they see fit, and noted that alternatives are arranged to comply with NEPA as organized within the document. The GAP elected to work through the limit of holding on PSC before taking up other measures that would apply to PSC.

Motion #4 – (Martens/Smith):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that in Section 4.1.3 (Limit the Holdings of PSC), Alternative 2 (Limit stock-specific PSC at the maximum held as of the control date) be selected as the Preferred Alternative.

Rationale: We are concerned about the loss of inshore vessels and the potential for increased consolidation. We want to make sure that there is a future for the inshore fleet. Under Alternative 2, few would be impacted, and grandfathering these individuals could be addressed through a motion on another section. By implementing Alternative 2, we would protect small fishing businesses and opportunities for future years.

Discussion on the Motion: A GAP member felt that Alternative 2 does not provide opportunity for small businesses. Another advisor stated that the purposes of a cap is to help ensure that when people do go out of businesses that it all does not wind up in the hands of a few people if and when stocks come back, and argued that some diversity in ownership and geographical distribution is important. Another advisor speaking in opposition to the motion noted that accumulation limits for the groundfish fishery is a discretionary action being pursued by the Council at this time, stating that there is no legal requirement to cap individual holdings of PSC in the fishery. An advisor, speaking to PSC and permit caps, offered that caps of permits or PSC could be worked around, that A18 would do little to prohibit individuals from conducting business together. The advisor noted that the largest scallop company in the world is in New Bedford, in a fishery that currently has caps. The GAP discussed how wide swings in fishery ACLs impact fishing businesses.

Motion #4 **failed** on a show of hands (2/6/1).

Motion #5 – (Canastra/Russo):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that in Section 4.1.3 (Limit the Holdings of PSC), Alternative 1 (No Action) be selected as the Preferred Alternative.

Rationale: We should go no further with developing accumulation limits until inter-annual stability in ACLs is achieved and increases in catches are witnessed for a few years. Excessive shares are not a problem in the fishery today.

Discussion on the Motion: The GAP discussed the need for stability in ACLs, though at least one member felt that the need for a cap was not linked to stability in ACLs. One advisor, speaking in favor of the motion, stated that it is impossible to develop a business plan when ACLs change drastically after stock assessments. Another advisor felt that the ACE leasing market affords individuals the opportunity to acquire fish on an annual basis, and provides flexibility for the fishery when there are wild swings in stock assessments. While one advisor felt that not capping PSC holdings will hurt future fishermen, another advisor stated that the measure does nothing to help the existing fleet. The advisors referenced the [Compass Lexecon report to the Council](#) in their discussion on the limits of holdings of PSC. Another advisor argued that the best thing to do to address accumulation limits is to keep the fishing businesses that continue to operate going, so that they do not want to sell their permits. One advisor, speaking to the argument that no cap would hurt future fishermen, explained that they got into the fishery by going to the bank and borrowing \$1 million, and had worked over time to pay off that loan.

Some Public Comment Included:

- Kyle Moulton, Penobscot East Resource Center. *We oppose the motion, and encourage the advisors to do so as well. Our organization is very concerned that without caps, the fishery could be held by only a few individuals, which could be very detrimental to the preservation of a geographically diverse fishery. PERC would disagree with the NMFS statement that National Standard 4 guidelines for excessive shares should not apply to this fishery, and say that the application of NS4 is inconsistent with Congress' intent. There have been a lot of public comment about a long term vision for this fishery, and this motion is inconsistent with the publicly stated long term vision for the fishery, as well as the stated intentions of Amendment 18.*

Discussion Continued: An advisor stated that the Council is required to comply with National Standard 4, as is the case for all National Standards, going on to say that the law requires that caps be developed in LAPP fisheries, but that this does not mean that the Council does not have to deal with excessive shares.

An advisor stated that the real culprit is catch shares – the privatization of the commons that opened the door for consolidation.

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

Some Public Comment Included:

Willie Whitmore, NOAA Fisheries. *The accumulation limit alternatives focus on capping individuals, because that is what the scallop fishery did. GARFO has discussed this internally. Something that you could consider is limiting an entity to limit workarounds². There are several options that do not require divestiture, and there is the potential that the Committee and Council could look at those options and say that the alternative will not impact any businesses right now. It may be useful to provide a discussion or rationale around those options.*

Josh Wiersma, Environmental Defense Fund. *EDF would support some type of cap for PSC. It is uncertain what that level should be. EDF would like to see more analysis on setting stock-specific caps, and understanding whether or not there is a need to set a cap level for different stocks. EDF would support Option 4a, with more analysis defining the costs and benefits of stock-specific PSC caps.*

Motion #6 – (Raymond/Odell):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that, if the Council moves forward with an accumulation limit (against the advice of the Advisors), it should “grandfather” anyone with holdings above the accumulation limit on the day of implementation.

Rationale: A permit’s PSC should remain whole and not be divested or transferred for any reason.

Discussion on the Motion: The GAP discussed the implications of PSC caps on inheritance of limited access groundfish permits and the associated PSC. Staff explained that the caps would apply to current holders. In the event of the death of a permit holder, the person inheriting the permits would be subject to the cap. Grandfathering would only apply to the current permit holder. Moving permits into a trust may constitute a transfer, such that the trust would not be grandfathered. The GAP discussed a range of transfer scenarios, before the motion was perfected.

Motion #6a as perfected – (Raymond/Odell):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that, if the Council moves forward with an accumulation limit (against the advice of the Advisors), it should “grandfather” anyone with holdings above the accumulation limit on the day of implementation, and that “grandfathering” provision would be transferable (i.e., no forced divestiture) in perpetuity.

Discussion on the Motion: An advisor was concerned that the motion did not go far enough, and felt that additional legal issues relating to grandfathering would need to be addressed. Several members of the GAP noted that this was a motion of principle, and that generally; the GAP is not in favor of redistributing permits or PSC if someone is over a specified cap.

Motion #6a as perfected **carried** on a show of hands (7/2/0).

² The alternatives apply to individuals, entities, and permit banks.

Discussion Continued: An advisor stated that the sector system had been designed with protections (e.g., rights of first refusal, rights of first offer); this structure is preventing consolidation, and the advisor felt that the biggest threat to the fishery is fluctuating and instable ACLs.

Motion #7 – (Raymond/Soule):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that, if the Council moves forward with an accumulation limit (against the advice of the Advisors), for current and future holdings that are above the limit (Section 4.1.3.2), the Advisors support Option A (permits can be held; the excess PSC cannot be used, but would be redistributed annually based on FW 48 provisions).

Rationale: The Advisors have been concerned about forcing divestiture. This would allow the rest of the fleet to access that excess amount on an annual basis.

Discussion on the Motion: It was clarified that this motion supports Option A contained in Section 4.1.2.3 on pages 3 & 4 of the discussion document.

Motion #7 **carried** on a show of hands (8/0/1).

Motion #8 – (Soule/Odell):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that, if the Council moves forward with an accumulation limit (against the advice of the Advisors), in Section 4.1.3 (Limit the holdings of PSC), Alternative 6 (collective PSC cap) be selected as the Preferred Alternative.

Rationale: Alternative 6, of all of the accumulation limit alternatives, provides the most flexibility given the ever-swinging ACL levels.

Discussion on the Motion: An advisor speaking in favor of the motion felt that Alternative 6 is the least destructive of the PSC cap alternatives, and stated that this alternative allows flexibility in a system where individuals don't know what ACE will be constraining from one year to the next.

Motion #8 **carried** on a show of hands (7/2/0).

Motion #9 – (Raymond/Soule):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that, if the Council moves forward with an accumulation limit (against the advice of the Advisors), in Section 4.1.4. (Limit the holdings of permits), Alternative 2 (Limit the holdings of permits to no more than 5%) be selected as the Preferred Alternative.

Rationale: This approach would be consistent with what the Council has done with other fisheries in this region (i.e., LA scallops) and likely less disruptive to fishing businesses than the PSC cap alternatives.

Discussion on the Motion: Some advisors felt that it would be impossible to acquire the combination of permits to control the fishery. Some advisors described the hierarchy of their preferences for permit and PSC caps as 1) No Action/No caps, 2) permit caps, 3) PSC caps.

Motion #9 **carried** on a show of hands (7/2/0).

Handgear A Fishery Measures

Motion #10 – (Raymond/Bouchard):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that in Section 4.2.1. (Establish a fishery for HA permits), Alternative 1 (No Action) be selected as the Preferred Alternative.

Rationale: The GAP is concerned that the sub-ACL would be too small to monitor and accurate discard calculations would be difficult. The same goals could be accomplished by joining a sector.

Discussion on the Motion: One advisor stated that if the HA fishery would be willing to have observer coverage and carry a VMS, they would support the fishery. Several members of the GAP noted that they would be willing to support a VMS exemption for HA vessels fishing in sectors. One advisor went on to say that reporting and vessel tracking (currently done through VMS) could be achieved for the HA vessels in other ways.

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

Motion #11 – (Raymond/Russo):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that in Section 4.2.2. (Removal of the March 1-20 HA Closure) and Section 4.2.3 (Removal of Standard Tote Requirement), Alternative 2 be selected as the Preferred Alternative.

Rationale: HA vessels in the common pool can get shut-down on a trimester basis if the TAC is reached, so there is no need for the additional input controls. The fish tote requirement is not actively enforced.

Discussion on the Motion: An advisor asked if the March closure was a common pool requirement or specific to the HA fleet. Council staff explained that the closure was specific to the HA fleet in the common pool.

- Brett Alter, NOAA Fisheries. *A couple of years ago, the HA permits had the same rolling closures as sectors. The March 1 – March 20 closure applies to all handgear boats, because they don't have VMS, and NMFS cannot monitor their position, they are required to take that time out of the fishery. The intent was to reduce cod mortality. Because these vessels do not have VMS, we had to put specific dates on the closure.*

The motion **carried** on a show of hands (8/1/0).

Motion #12 – (Soule/Raymond):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that in Section 4.2.4. (Sector Exemption from VMS), Alternative 2 be selected as the Preferred Alternative.

Rationale: The VMS exemption would ease the way for HA vessels to enroll in sectors. There are alternative ways to get at the information VMS provides for this fleet.

Discussion on the Motion: An advisor wondered if the Council should recommend this as a universal exemption for all sectors, or if individual sectors should request this on an annual basis. Council staff explained that the alternative allows individual sectors to seek VMS exemptions for HA vessels enrolled in the sector.

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

Data Confidentiality (Section 4.3)

Staff explained that price data on leasing/moving ACE in or between sectors is confidential. Alternative 2 would make this information non-confidential. Staff briefly summarized the impacts of the alternative of all VECs, explaining that there could be both positive and negative impacts to Human Communities of making price data non-confidential.

Question and Discussion on the Presentation: An advisor noted that ACE lease price data is published at the end of the year, and asked as a point of clarification if the question at hand was about making lease price data available to the public during the fishing year. Staff explained that Alternative 2 would make individual ACE lease price data available, likely at the same time other data is released, but that detail is yet to be worked out. An advisor explained that when inter-sector trades are executed, sector managers report a price to NMFS at the time of the trade. This advisor asked if there was any specific benefit to the management of the fishery that has been identified by making this information available to the public. Staff explained that some Council members have stated that this would bring added transparency to the sector system, and this data would help them make policy decisions. It was clarified that Alternative 2 would only make price data available, and that individuals would remain confidential. An advisor pointed out that NMFS has not finalized a data confidentiality rule, and wondered if the Council has the authority to call this information confidential or not.

Public Comment:

Willie Whitmore, NOAA Fisheries. GARFO sent a letter to the Council on March 27, 2014. The Council asked this question, and the Committee has talked about this quite a bit. Information from ACE transfers in year-end reports used to make a determination of compliance with sector allocations is releasable under a portion of the Magnuson Act. In contrast, financial information regarding ACE transfers is not used to make a determination, and based on this reasoning, is not releasable. NMFS has stated several times that releasing this data is do-able according to the Magnuson Act, that Alternative 2 is not legal.

Motion #13 – (Odell/Soule):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that in Section 4.3. (Data Confidentiality), Alternative 1 (No Action) be selected as the Preferred Alternative.

Rationale: It is not clear how Alternative 2 would lead to better management of the fishery. In addition, the Advisors are concerned about the legality of Alternative 2.

Motion #13a to substitute – (Martens/Smith):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that in Section 4.3. (Data Confidentiality), Alternative 2 be revised and selected as the Preferred Alternative. The revision would be that: “Inter-sector ACE disposition data would be exempt from the confidentiality requirement and reported at the sector level in real-time.”

Rationale: Real-time data would enable sectors to obtain more transparency in the lease market. Price information would be at a sector level.

Discussion on the Motion: An advisor stated that they had not heard an articulation of what the problem is with making lease price information available in a more transparent manner. An advisor stated that the advisor would support this motion based on the impact analysis in A18, and guidance provided by NMFS. Some advisors wondered how releasing lease price data would improve the management of the fishery.

Some Public Comment Included:

- Josh Wiersma, Environmental Defense Fund. *EDF strongly supports this motion. It is important to remember that this is a co-managed fishery, where sector managers are just as important as*

NMFS managers. Having this price information available allows sector managers to better inform their members about buying and selling decisions. For sector members, this allows them to make a decision about buying and selling quota and going fishing. The data that is currently available on ACE pricing is willingness to accept. Data on the price that trades are executed is not available. In terms of usefulness to management – as an economist, ACE prices are a window into the ecosystem. There is no better way to understand what is happening on the water at a given time than by examining the dynamics of ACE prices over time. Even the GOM cod interim action – if NMFS would have examined the ACE prices and what the history of ACE lease prices had been in the two months leading up to the closure, they would have known that fishermen had stopped fishing for GOM cod a long time ago. You can see that in how the ACE prices are moving, and what the level of buying and selling the ACE actually is. Most importantly, it allows sector members to plan their businesses and use their manager as broker. If that information is not available, it becomes very difficult to advise members on an accurate business plan.

- Libby Etrie, Northeast Sector Services Network. *A suggestion, using “ACE disposition data” is a little confusing, you may just want to call it leasing. The agency has told us time and time again that sectors are businesses under the confidentiality provisions of the Magnuson Act, which is why the lease price data between two sectors is not public. That determination was made going into the first year of sectors. I understand why some people think that transparency would be helpful, but you really need to look at the disruptive nature of making this information available to the public in real time. I can think of numerous stories about how individual sector members are reacting to an offer at a certain price for fish, and there is no way to know by just looking at the pounds and price offered what is driving a sector to acquire that amount of fish at a given price. Without understanding that, you could be arbitrarily inflating the market. If you are going to consider this, you should delve into this in much more detail.*
- Willie Whitmore, NOAA Fisheries. *As Libby said, in the Magnuson Stevens Act, the definition of a person includes any corporation, partnership, association, or other entity. Under this definition, a sector is a person. NOAA General Council says that the FMP can’t be exempt from a statutory requirement.*

Motion #13a was withdrawn, back to the main motion (#13).

Motion #13 **carried** on a show of hands (9/0/0).

Inshore/Offshore Gulf of Maine (Section 4.4)

Staff describe three options for an inshore/offshore GOM management boundary (Section 4.4.1), noting that the rationale is to create a distinction between day boat and trip boat fleets. All subsequent alternatives in the section use the management boundary selected in Section 4.4.1. Alternative 2 in Section 4.4.2 would create an inshore and offshore GOM cod sub-ACL. The apportionment of the sub-ACL to inshore and offshore would follow one of three options contained in the document. Other inshore/offshore alternatives include modifying the GOM/GB roller gear restricted area to match the inshore/offshore boundary, and declaration time periods in which vessels would declare into the inshore or offshore areas.

[Staff presentation on Approaches to Determine Inshore and Offshore Gulf of Maine cod sub-ACLs \(Dr. Jamie Courname\)](#); Staff explained the approaches that the PDT used to calculate inshore and offshore GOM cod sub-ACLs using catch distribution and fish distribution. Commercial VTRs were used in the option to splitting the GOM cod sub-ACL based on catch distribution two time periods (last 10 fishing years and the last 20 fishing years). The VTR data set covers the 20 year range, but using VTRs in this

analysis assumes that all cod are caught at a single point location in a statistical area. Staff also presented 10 and 20 year average catch distribution for all three inshore/offshore boundary lines. To analyze fish distribution in the proposed inshore and offshore areas, the PDT used NEFSC bottom trawl survey stratified biomass distributions. Under this approach, survey strata do not follow the GOM broad stock statistical area boundary, there is no survey coverage of inshore strata north of Massachusetts, and all tows in a stratum that are split by an option line contribute to the overall mean for that stratum. The summary of the inshore/offshore split for spring and fall surveys was presented, as well as the average of each season for both 10 and 20 year periods (Document #9, slide 21). The PDT also calculated an inshore/offshore split by examining total stock area biomass distributions of spring and fall surveys. Some of the advantages of this approach are tows are assigned inshore or offshore through the tow point location relative to the inshore and offshore line, and that data points are limited to the GOM cod broad stock area. Drawbacks of this approach are that there is no coverage using the NEFSC survey of the inshore strata north of Massachusetts, and that it is not incorporate the random stratification of the survey design. Both the VTR and survey data suggest an increasing proportion of the stock inshore over the last 10 years. If sub-ACLs for GOM cod can be accurately assigned to reflect the actual distribution of cod biomass, then these measures would potentially have a low to negligible effect on the GOM cod stock. However if the distribution of the GOM cod stock changes or the stock rebounds, the biological impacts to the GOM cod stock could be potentially low negative.

Questions on the presentations: An advisor asked if there was potential for localized depletion if 90% of the GOM cod sub-ACL was assigned to an inshore area, and stated that they were uncomfortable using the NEFSC trawl surveys to calculate inshore and offshore distributions. This advisor noted that this approach is used in the U.S./Canada resource sharing agreement, and felt that it does not match reality. Staff stated that localized depletion could be a concern if the majority of fish is allocated a particular area where fish aggregate. Another advisor asked if splitting the GOM cod sub-ACL would result in a new stratum for monitoring; staff confirmed that it would. This advisor felt that the creation of additional strata would result in a higher level of at-sea monitoring coverage. Another advisor questioned if there is biological rationale for the alternative for creating an inshore/offshore boundary; staff indicated that there was not. This advisor wondered if other inshore/offshore boundary lines would need to be created for other stocks (e.g., witch flounder, American plaice). Staff noted that the Groundfish Committee has revised the rationale for the inshore/offshore boundary over time, and explained that the current intent of the boundary is to distinguish between inshore and offshore components of the commercial fishery.

Motion #14 - (Bouchard/Russo):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that in Section 4.4.1. (Inshore/Offshore Gulf of Maine Boundary) and Section 4.4.2 (Inshore/Offshore GOM cod sub-ACL), Alternative 1 (No Action) be selected as the Preferred Alternative.

Rationale: There are unintended consequences of drawing the line and splitting the ACL of cod. It could lead to localized depletion of GOM cod. There were also safety concerns with encouraging small vessels to fish offshore.

Discussion on the Motion: An advisor expressed concern with creating additional management boundaries for the fishery, and felt that allocating GOM cod inshore and offshore could present a safety issue of some vessels.

Motion #14a to Split – (Smith/Soule):

Motion 14a to split **failed** on a show of hands (3/5/0).

Discussion on the original Motion #14: An advisor stated that they could not support these alternatives based on the negative economic and social impacts outlined in the impacts analysis of the DEIS for A18, and spoke against the creation of a management boundary without specific measures associated with the line. Another advisor felt that there are only a few alternatives in A18 that would help fleet diversity, and suggested that the genesis of the inshore/offshore boundary was to try to create incentives on either side of the boundary for inshore vessels to fish inshore and offshore vessels to fish offshore. The advisor did not support excluding boats from an area, and was in favor of measures that would incentivize inshore and offshore fishing practices.

Motion #14 **carried** on a show of hands (7/1/0).

Motion #15: Raymond/Canastra

That the Groundfish Advisory Panel recommends to the Groundfish Committee that Alternative 2 in Section 4.4.3. (GOM Gear Restricted Area) be referred to the Habitat Committee for consideration in the next habitat action, as it is not consistent with the goals of Amendment 18.

Rationale: Inshore roller gear restrictions would be more appropriate to review in a Habitat action. Goals of this are inconsistent with A18.

Discussion on the Motion: The GAP noted that the Habitat Committee voted this week to make the existing GOM/GB gear restricted area applicable to all bottom tending mobile gear, which had broad support of the Habitat Committee.

Motion #15 **carried** on a show of hands (8/0/0).

Motion #16 – (Bouchard/Odell)

That the Groundfish Advisory Panel recommends to the Groundfish Committee that in Section 4.4.4. (Declaration Time Periods for the Commercial Fishery), Alternative 1 (No Action) be selected as the Preferred Alternative.

Rationale: There are unintended consequences of drawing the line and splitting the ACL of cod, such as additional restrictions on fishing businesses (monitoring and declarations) at a time when the industry needs more flexibility to be able to mitigate ACL reductions and swings. There were also safety concerns with encouraging small vessels to fish offshore.

Motion #16 **carried** on a show of hand (8/0/0).

Additional discussion on inshore/offshore GOM: An advisor speaking in favor of the motion highlighted the proposed commercial ACL for GOM cod for FY 2015, noting that any split of the ACL could place a prohibitively small amount of allocation on either side a management boundary. This advisor felt that the implications of applying inshore/offshore percentages with the proposed FY 2015 GOM cod commercial sub-ACL merits further discussion. Another advisor in favor of the motion felt that restricting vessel activity to a given area may lead to localized depletion of GOM cod.

Redfish Exemption Area (Section 4.5)

Staff presented the alternatives in Section 4.5, Redfish Exemption Area. Sectors may annually request exemptions from NMFS, and No Action does not modify the existing process and includes the FY 2015 – FY 2016, NMFS proposed sector Redfish Exemption Area (see sector [proposed rule](#)). Staff noted that Alternative 2 was drafted to mirror the original FY 2015 sector exemption request and includes the common pool. The Council could consider modifying the alternative to match the FY2015-FY2016 sector proposed rule, keep the alternative as written, or create additional alternatives.

Questions on the Presentation: An advisor felt that the language in the alternative stating that only 5.5” mesh could be used did not capture intent of the Council motion, and that the 5.5” was designed to be a minimum mesh size. Staff was asked to explain the differences between Alternative 2 and approving a redfish area through the sector exemption process. The adoption of a redfish exemption area through A18 would codify the measures in the FMP, such that the measures would apply to both sectors and the common pool, and sectors would no longer need to make exemption requests for a redfish exemption area. Staff also noted that Alternative 2 does not have the 50% redfish catch threshold that is contained in the proposed rule or the discarding standard, and that the boundaries differ (on the western boundary).

Motion #17 – (Raymond/Canastra):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that in Section 4.5. (Redfish Exemption Area), Alternative 2 (Establishing the area) be selected as the Preferred Alternative. It should be modified to match the sector exemption Proposed Rule for FY2015 and FY2016.

Rationale: We support changes to the redfish exemption area boundary in the proposed sector rule. There are concerns that by allowing the common pool to have this exemption (through the current Alternative 2), common pool trip monitoring would not be the same as sectors. To clarify, the intent is that this would not be a universal sector exemption.

Discussion on the Motion: One advisor felt that this exemption would help fleet diversity, because smaller boats would be able to retain redfish when using a 5.5” codend.

- Willie Whitmore, NOAA Fisheries. *The motion is to modify Alternative 2 to match what is in the current sector rule. That would include thresholds. If you want to do exactly what is in the sector rule, why is it in A18 and the sector rule when A18 is not going to be implemented for a while. If you do not want the common pool to have access, and this is approved in A18, the common pool would have access to the area. If this becomes a universal sector exemption, this would become a special access area for sector vessels. Sectors would not need to request it. By keeping with the annual request process, sectors could request further modifications.*

Discussion on the Motion: An advisor asked how changes to the redfish measures could be made in future, such as if the status of the redfish resource changes. It was explained that universal sector exemptions would be worked through the Council process, and that annual sector exemptions are administered by NMFS and can be revoked at any time. An advisor spoke against the motion, offering that the appropriate place for these redfish measures is at the sector level through the annual exemption request process.

Some Public Comment Included:

- Josh Wiersma, Environmental Defense Fund. *EDF supports this in spirit, because of the historic underutilization of the redfish resource. EDF supports improving local markets. Improving and increasing the consistent supply of redfish is part of that. If this can help diversify effort, and spread fishing effort to different fisheries, and improve local markets, it is a positive.*

Discussion on the Motion: An advisor asked if NMFS could revoke a universal exemption from a sector if that sector is not following the protocols outlined in the exemption (e.g., improper VMS hauls or catch thresholds). Mr. Whitmore explained that the exemption would likely be revoked for the sector, as sector vessels would not be in compliance with the exemption and potentially the sector’s operations plan. The maker of the motion altered the rationale to explicitly say that the intent is to not make this a universal sector exemption. Staff pointed out that selecting Alternative 2, even if the language matches that of the sector proposed rule, would codify the measures in regulation.

Motion #17 was **withdrawn** by the maker and seconder of the motion, due to concerns that establishing it in the FMP would remove the ability to annually review – and make improvements to – the exemption.

Members of the GAP felt that the regular sector exemption process gives the industry and NMFS more flexibility to address changes in the fishery.

Motion #18 – (Raymond/Martens):

That the Groundfish Advisory Panel recommends to the Groundfish Committee that the Council should not recommend implementation of the Inshore Gulf of Maine Declaration Plan through regulation.

Rationale: From the sector perspective, implementing sector solutions through regulations stifles the sector's creative process, and removes flexibility that the sectors have. Sectors can solve problems much faster.

Discussion on the Motion: It was clarified that the sector-initiated Inshore Gulf of Maine Declaration Plan is an agreement between all sectors. An advisor explained the provisions of the agreement. An advisor pointed out that the groundfish industry had worked out agreements with the lobster industry at certain times of the year, and that they did not want to see those types of agreements codified in regulation.

Motion #18 **carried** on a show of hands (8/0/1).

Other A18 business:

Motion #19 – (Odell/Raymond):

That the Groundfish Advisory Panel recommends to the Groundfish Committee the following proactive measures to meet the goals of Amendment 18:

1. ASM Monitoring Motion (Motion 1 passed by the GAP today);
2. Prioritization/Continuation of alternative methods of setting catch advice for the purpose of creating stability in the ACLs (GAP motion September 2013);
3. Expanding the list of universal sector exemptions to include 120 day block out of the fishery, 20 day spawning block, and restriction on the length and horsepower DAS leasing;
4. Reconsider limitations on vessel upgrade restrictions;
5. Remove impediments that are prohibiting the industry from achieving OY; and

Rationale: The goals of A18 are supported by the GAP, but many of the current measures do not meet the goals of the Amendment. The intent would be to revise the alternatives in A18 to include these items. An example of an input control (#5) that may impact the fleet's ability to achieve OY would be windowpane flounder AMs restricting winter flounder catch.

Discussion on the Motion: Some GAP members felt that the alternatives in the document were not meeting the goals of the Amendment 18, and felt that the measures listed in Motion #19 would better achieve the goals of Amendment 18. An advisor added that the GAP had suggested many of these measures to the Committee in the past. One advisor felt that splitting of limited access groundfish permits from other limited access permits could be a way to allow businesses to obtain more groundfish allocation without having to purchase other permits with that groundfish permit. The motion was friendly amended to include #6.

Motion #19 as friendly amended:

That the Groundfish Advisory Panel recommends to the Groundfish Committee the following proactive measures to meet the goals of Amendment 18:

1. ASM Monitoring Motion (Motion 1 passed by the GAP today);
2. Prioritization/Continuation of alternative methods of setting catch advice for the purpose of creating stability in the ACLs (GAP motion September 2013);
3. Expanding the list of universal sector exemptions to include 120 day block out of the fishery, 20 day spawning block, and restriction on the length and horsepower DAS leasing;
4. Reconsider limitations on vessel upgrade restrictions;
5. Remove impediments that are prohibiting the industry from achieving OY; and
6. Reconsider splitting groundfish permits from non-groundfish permits.

Motion #19 **carried** on a show of hands (8/0/0).

Motion #20 – (Raymond/Smith):

Untable Motion 3 from earlier in the day.

Motion #20 **carried** on a show of hands (8/0/0).

Motion #21 (untabled motion #3) – (Bouchard/Russo):

That the GAP recommends to the Committee to remove the goal of fleet diversity from A18 (Goal #1).

Rationale: The issues impacting fleet diversity are not being addressed in this Amendment.

The motion **failed** on a show of hands (2/6/0).

Other Business

The GAP did not have other business.

The meeting adjourned at 4:26 pm.