



New England Fishery Management Council

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E.F. “Terry” Stockwell III, *Chairman* | Thomas A. Nies, *Executive Director*

MEETING SUMMARY

Groundfish Oversight Committee

Hilton Doubletree Hotel, South Portland, ME

March 26, 2015

The Groundfish Committee (Committee) 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: Frank Blount (Chairman), Dr. David Pierce (Vice Chair), Mr. Terry Alexander, Mr. David Preble, Ms. Ellen Goethel, Mr. Peter Kendall, Ms. Libby Etrie, Mr. John Pappalardo, Mr. Howard King (MAFMC), Ms. Susan Murphy (GARFO), Mr. Terry Stockwell (Council Chair); Mr. Bill Gerencer (GAP Chair); Dr. Jamie Cournane, Ms. Rachel Feeney, Mr. Jonathon Peros (NEFMC staff); Dr. William Whitmore, Mr. Mark Grant, Ms. Danielle Palmer (NMFS GARFO staff), Mr. Mitch MacDonald (NOAA General Counsel), Mr. Greg Ardini and Mr. Chad Demarest (NEFSC). In addition, approximately 18 members of the public attended, including several members of the Groundfish Advisory Panel.

SUPPORTING DOCUMENTATION: Discussions were aided by the following documents and presentations: (1) meeting memorandum, March 18, 2015; (2) Meeting agenda; (3) 2015 Groundfish Priorities Presentation; (4) Amendment 18 (A18) Action Plan version 16, March 17, 2015; (5) Plan development team (PDT) memo to the Groundfish Committee re: Amendment 18, March 18, 2015; (6) Amendment 18 Draft Environmental Impact Statement, March 18, 2015; (6a) A18 DEIS Biological Impacts, March 23, 2015; (7) A18 Groundfish Committee Decision Document, March 19, 2015; (8) A18 Presentation; (9a and b) Inshore/Offshore sub-ACLs for GOM cod presentations (biological and economic); (10) GAP meeting summary, September 16, 2014; (11) RAP meeting summary, September 16, 2014; (12) Groundfish Committee meeting summary, September 17-18, 2014; (13) Groundfish Committee meeting summary, November 12-13, 2014; (14) Recreational Advisory Panel meeting summary, January 22, 2015; (15) GAP meeting motions, March 25, 2015 (draft); (16) Correspondence.

KEY OUTCOMES:

- The Committee selected preferred alternatives in Amendment 18 to recommend to the Council:
 - The Committee supports No Action for creating an accumulation limit for PSC (Section 4.1.3), and supports limiting the holdings of permits to no more than 5% (Section 4.1.4).
 - The Committee 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 Committee also supports allowing HA vessels enrolled in sectors to be exempted from VMS requirements.

- The Committee 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 Committee recommends No Action in Section 4.4.3, GOM Gear Restricted Area.

The meeting began at 9:12 am.

The Groundfish Committee Chairman asked if there were any suggested changes to the agenda. Ms. Murphy announced that Mr. Willie Whitmore would be leading Amendment 18, and that Kelly Denit, Branch Chief in the Domestic Fisheries Division at NMFS HQ would be backfilling her position after she retired the following week. The Committee recognized the addition of two members, Mr. John Pappalardo, and Mr. David Preble. Staff noted that GAP motions from the prior day's meeting were handed out in draft form (Document #15).

Update on Proposed Actions for FY 2015: Staff noted that the Council had submitted Framework 53, and that the proposed rule from NMFS had included all of the Council's recommendations. The proposed sector rule for FY2015 - FY2016 was recently published, though there have not been proactive recreational accountability measures proposed for FY 2015 to date.

Overview of Council's Groundfish Priorities for 2015: Council staff provided an overview of Council priorities for 2015 (see below, and Document #1). 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 acknowledged that work was beginning on a windowpane flounder discussion paper, and noted that staff would be reporting out on coordination with the ASMFC's lobster technical team at the next Committee meeting. Two major priorities in the multi-year track were coordinating on the Habitat Omnibus Amendment 2 and completing Amendment 18. The electronic monitoring working group (EMWG) will be meeting in early April at GARFO, and the goal is to finalize the draft white paper in time for the June Council meeting.

Questions on the Priorities Presentation: A Committee member asked who had been contracted to work on the development of alternative strategies for setting catch advice for stability in annual catch limits (ACLs). Staff explained that the Council had contracted with two researchers from Rutgers University, Dr. John Wiedenmann and Dr. Olaf Jensen of the Department of Marine and Coastal Sciences. With respect to the priority to hold a cod stock structure workshop, some Committee members felt that the [first cod stock structure workshop](#) held in 2012 was definitive in determining that cod stock structure is not properly defined. Staff noted that planning is still in early stages, and highlighted that there has been additional work on cod since the first workshop. Another Committee member suggested that another cod stock structure workshop focus on implementation of changes to stock boundaries.

2015 Groundfish Priorities

Annual

- 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

Multi-Year

- 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

Other

- Electronic Monitoring Working Group (reports to the Council)

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

The GAP Chairman summarized the motions and discussion from the GAP meeting held on March 25, 2015 in South Portland, ME. The GAP focused on Amendment 18, though recommended that the Committee review the mandatory at-sea monitoring (ASM) requirement to determine if the level of ASM coverage is still appropriate for groundfish sectors. The Chair explained that the GAP was concerned that the measures in A18 do not promote fleet diversity, and that the GAP recommended several measures to meet the goals of Amendment 18 to the Groundfish Committee (Motion #19). The GAP recommended that the Committee recommend No Action for limits on holdings of PSC, though the advisors elected to articulate a secondary preference for several of the alternatives. The GAP did not support the creation of a sub-ACL for the Handgear A (HA) fishery, noting the difficulty associated with monitoring a small sub-ACL. The GAP did support the concept of exempting HA vessels enrolled in sectors from VMS requirements, removing the March 1-20 spawning closures for HA, and lifting the standard fish tote requirement. The GAP recommended No Action for measures that would make price data from ACE leasing public, citing guidance from NMFS that this measure does not comply with confidentiality standards of the Magnuson-Stevens Act. The GAP recommended No Action for creating an inshore/offshore Gulf of Maine boundary, and splitting the GOM sub-ACL based on the boundary line (inshore and offshore). The GAP also recommended that the GOM Gear Restricted Area alternative in Section 4.4.3 be referred to the Habitat Committee. The GAP had a lengthy discussion regarding the establishment of a redfish exemption area in the Groundfish FMP. In the end, the GAP elected not to make a motion, despite supporting the redfish exemption area, feeling that the annual sector exemption process provides the most flexibility for industry and managers to adapt to changing circumstances in the fishery. The Chair reiterated that the GAP supports the goals of the A18, and suggested other measures that could be looked at to meet the goals.

Questions on GAP report: A Committee member asked about the discussion and rationale of the GAP's first motion, to reexamine observer coverage levels. The GAP Chair explained that the GAP was

interested in examining the costs and benefits of observing a fishery where discards are already low, and concerned about the cost of at-sea monitors. A Committee member asked what information was used to by the advisors to conclude that observed and assumed discards have been low over the past four years. This Committee member referenced the GOM cod interim rule for FY2015, in which NMFS stated that very few fishermen report their discards on their VTRs and that at-sea observer coverage had been around 25%.

Some Public Comment Included:

- Maggie Raymond, Associated Fisheries of Maine, in response to the above question from the Committee *I took the landings and discard data tables that GARFO produces every year. The discard information includes actual observed and assumed discards. I calculated the percentage for each stock, as well as the overall percentage. The point of the GAP motion was that when we started the sector system we thought that we probably needed a high level of at-sea monitoring. And now we have four years of data that show that discards are low, yet the cost of monitoring the very low discard level is very high. She will share the spreadsheet.*

The Committee discussion turned to discards in the fishery, with one member explaining that fishermen estimate their discards on the VTR, but that NMFS applies an assumed discard rate to their unobserved trips based on total landings.

Another Committee member referenced PDT work on an observer effect, and wondered if there were discards at-sea that were not being captured in the observer data. Ms. Raymond explained that this might be the case for some individuals, though she felt that overall discards, even if doubled, would be very low.

Some Public Comment Included:

- Ben Martens, Maine Coast Fishermen's Association. *While we have very low discard rates in our sector, a number of fishermen in my sector raised concern about the impact of opening closed areas through the Habitat Amendment will have on discards. We work with small boats and are very concerned about the cost of monitoring. We can't pay for monitoring at this point. Our organization has been looking into electronic monitoring to try to find something that is more cost effective.*

The Committee continued to discuss discards on observer and unobserved trips, and felt that it would be a good idea to revisit coverage levels at this point in time. One member stated that data collected through eVTR by study fleet vessels reflects the data collected by observers on those trips, and wondered if managers are actually getting better data with higher levels of observer coverage.

Some Public Comment Included:

- Dave Goethel, F/V Ellen Dianne. *The NEFOP coverage is necessary, and all of the biological data that you need to do the stock assessments. Anything over that doesn't change a thing. Self-reported study fleet data has been compared to observer coverage, and it is statistically the same. To this issue of an observer effect. There are observer effects but they cut both ways. Observer effects are talked about by people who don't fish, and assume that every day that there is not an observer on the boat somebody loads a Bobcat on the back of it and we sit there and shovel over tons and tons of fish. It is flat out foolishness. We go fishing to catch fish. There are observer effects when you do things like trip limits. As far as ASM goes, I think it is a waste of money. I don't think people will cheat. This is unnecessary. ASM kills a lot of fish.*

Motion #1 (GAP Motion) – (Alexander/Goethel):

Move that the Groundfish Committee recommends to the Council to review the mandatory at-sea monitoring requirement for Groundfish Sectors to determine if the level of coverage is appropriate and economically feasible.

Rationale: This is an immediate need for the fishery. Council discussion with NEFSC could start with a letter from the Council to the Science Center. Target CV should not be the entire purpose of the review, as economic feasibility and viability of the fleet is equally important in this discussion. How NEFOP data factors into the level of coverage should be part of the analysis. Further, the type of trip used in discard calculation should be appropriate type of trip (i.e., using monkfish, dogfish targeted trips in the calculation that are not actually groundfish trips).

Discussion on the Motion: A Committee member wondered if the information needed to complete this request was available, who would be working on the request. The maker of the motion explained that they would like the PDT to look at the four years of data that is available. The Committee noted that Mr. Tom Nies gave a presentation a couple of years about that showed that the PDT thought there was a small observer effect in the fishery. Several members of the Committee felt that this review represented an immediate need, and some felt that linking this review to A18 would slow down the process. It was suggested that this review could be undertaken by the Northeast Fisheries Science Center (NEFSC), and this request could come in the form of a letter from the Council to the NEFSC. Another Committee member felt that the review of the at-sea monitoring coverage should look at inefficiencies and waste in the program, and suggested that the program has not delivered the information that the Council was seeking when it asked for ASM. Other Committee members spoke to the need to right-size observer coverage for particular segments of the fishery, noting high coverage on dogfish trips and extra-large mesh gillnet trips that catch very small amounts of groundfish. The Committee discussed the 30% CV standard that is applied to the SBRM for all fisheries, and the application of this 30% standard to ensure that sector catch is within the sub-ACLs.

Some Public Comment Included:

Geoff Smith, The Nature Conservancy. I'd like to speak in favor of the motion. Dr. Pierce's question about what appropriate means is an important one. The issue of discard rates varies by stock. I did take a look at discards of GOM cod for FY 2011 and FY 2012, and I think the discards of GOM cod for those years combined has somewhere around 300mt. The GOM cod ABC next year will be around 380mt. As some of these quotas become more constraining, I think that the roll discards play for staying within ACLs will be increasingly important. As quotas get tighter and lease prices go up, that the incentive to discard when you don't have an observer aboard the boat will go up. I'm not saying that people are out there trying to do it, just that the incentives are going to be there as quotas become more constraining. As far as economic feasibility, I think that the Committee should consider asking the NEFSC about the appropriate tools for coverage. We believe that electronically monitoring can be another tool to collect information on discards in the fishery. I think it would benefit the Committee to ask NMFS where they are in terms of approving EM for calculating discards in the fishery.

Motion #1 as friendly amended:

That the Groundfish Committee recommends to the Council to request that the NEFSC and GARFO review the mandatory at-sea monitoring requirement for Groundfish Sectors to determine if the level and nature of coverage is appropriate and economically feasible.

The motion **carried** on a show of hands (8/0/2).

Accumulation Limits (Section 4.1.3)

Presentation on A18 (Ms. Rachel Feeney):

Staff walked through the timeline of the Amendment, and reviewed 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 the DEIS and select preferred alternatives at its April meeting. After that 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 (Section 4.1). These alternatives apply to individuals, entities, and permit banks. In addition to 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 on the Presentation: A committee member asked for clarification on language in Section 4.1.3.2 regarding NMFS determination of excessive shares, and wondered what NMFS would do down

the road relative to the PSC holdings in excess of a Council selected cap (Document #6, p. 47). Staff explained that if the Council selects a cap limit, and NMFS determines that holdings above that cap constitute an excessive share under National Standard 4, then provisions like grandfathering may not be approved, because holdings above the specified cap would constitute an excessive share. There was also some question as to which body determines what an excessive share is, the Council or NMFS. NOAA GC explained that all fisheries are subject to National Standard 4. To the degree that a FMP has a structure that allows for the acquisition of fishing privileges that would then result in an excessive share, it would not comply with National Standard 4. NOAA GC explained that National Standard 4 applies to the Groundfish FMP, and noted that the Compass Lexicon report looks into and analyzes market control within the sector program. A Committee member noted that NMFS had argued in Court that the groundfish sector program was not a LAPP, and felt that the Council's decision to pursue PSC and permit caps at this time is purely discretionary. NOAA GC clarified that National Standard 4 guidelines prohibit the accumulation of excessive shares in a fishery, irrespective if that fishery is considered a LAPP. The Committee referenced the Compass Lexicon report in their discussion of PSC and permits caps in the fishery, wondering if case law existed on this issue, and discussed the concepts of market control and inordinate control. NOAA GC stated that the Council determines policy and definitions all the time, and the issue for the Council is to determine if these decisions are rationally supported. The Committee chair noted that after the Council passed Amendment 16, there was concern about excessive shares in the fishery, and A18 was initiated.

Motion #2 – (Preble/Etrie):

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

Rationale: To examine National Standard 4, the Council requested an independent analysis by Compass Lexecon (and peer review of that report) on whether or not excessive shares of fishery access privileges in the fishery are evident. The Compass Lexecon report indicated no evidence of excessive shares in the fishery today in the markets for fish or ACE and noted that it is unlikely in the future for the market for fish given the nature of the fishery. The peer review recommended continuing monitoring of the fishery for evidence of excessive shares in place of accumulation limits now. Therefore, accumulation limits are unnecessary at this time to prevent excessive shares of fishery access privileges (Goal #4 of A18).

Discussion on the Motion: A Committee member speaking against the motion felt that Compass Lexecon did a good job reporting on market power in the fishery, and noted that the report acknowledged that the analysis did not address equity or fairness, or impacts on small, inshore boats. This Committee member felt that these were some of the reasons that A18 was moved forward, and expressed concern about the concentration of power and influence in the fishery. Another Committee member speaking in favor of the motion stated that they did not want to see a PSC cap in the fishery, that there are not excessive shares currently in the fishery and that with the wild swings in ACLs from year to year; individuals need flexibility to modify their businesses.

- Chad Demarest, Northeast Fishery Science Center. *Excessive shares are mostly an economic concept. We refer to the horizontal merger guidelines to determine when excessive shares might exist. The Compass Lexecon report looked at two different markets, the final output market and the market for quota within sectors. They found that there is not a problem with excessive shares in the final market, but the potential for a problem in the quota market exists. If somebody acquired a high proportion of PSC for a particular stock, they might be able to exert market power. That becomes problematic, because the mechanism for exerting market power is to acquire the quota and not lease it and not fish it. In recognizing the goals of Amendment 18 and the nature of the groundfish fishery, they recommended a share cap to prevent future*

consolidation – a 15.5% share at the stock level. The peer reviewers basically agreed with the Compass Lexecon conclusions, though there was some debate at the peer review as to whether or not market power was likely to be a problem in the future in the ACE leasing market. Some people on the panel felt that it was possible, others did not. Some reviewers did not support the 15.5% recommendation, and said that their preferred approach would be to monitor consolidation in the fishery at the stock level and aggregate level, and perhaps make adjustments in the future if those were needed. That is the state of the best available science on excessive shares.

A Committee member stated that the MAFMC Council has had a good deal of experience with excessive shares and accumulation limits in the surf clam and ocean quahog fishery. The Committee member explained that the MAFMC began to address these issues, because the Inspector General was urging GARFO to address it. The Mid-Atlantic Council has invested three years into this issue and has not identified excessive shares in the fishery, and it is a fishery where most of the quota is controlled by one entity. The Committee member explained that the industry falls back on Federal Trade Commission guidelines to demonstrate that they do not have market power. Another Committee member pointed out that when A16 removed the 20% cap for leasing, there were a lot of comments expressing concern about consolidation, and felt that you do not necessarily need to cap excessive shares in the fishery to address this concern, and felt that it is important to go out to the public and gather additional comment on Amendment 18. A Committee member speaking in favor of the motion felt that the Council had taken a hard look at whether or not excessive shares exist in the fishery, and argued that consolidation in the fishery had occurred before the implementation of sectors.

Some Public Comment Included:

- David Goethel, F/V Ellen Dianne. *I'm opposed to this motion. If this passes, if I go out and offer \$10 a pound for GOM cod, for \$4.5M I could control all of the cod in the GOM. That is not that much money in today's world. I'd also control all of the fish in the GOM, because nobody can fish in the GOM without GOM cod quota. If you let anyone hold 100% of the ACE, this kind of scenario will occur. I urge you to consider carefully whether or not you want to have no limit at all on how much PSC someone can hold, because somebody can and will come in and buy up all the cod and control the GOM.*

Jim Odlin, Atlantic Trawlers. *We are a company with 30 employees; we are small by any description. I started fishing full time when I was 15 years old, bought my first boat when I was 18, and built up a small company that has employees that have been with the company for over 25 years. For 85% of the fish we catch, the quotas for the stocks are not being caught (pollock, redfish, GB haddock). We are not the kind of company that you want to have go away. Part of the rationale for A16 was to allow for consolidation, because nobody could make a living. Then you turn around and say we really didn't mean that. With A16, people said "Wall Street is coming, hedge funds are going to be here, a guy in California just had a meeting and is going to buy all the quota." Nothing has happened. You could have 100% of the quota and not have market power. We are in an international market. No one can hold all of the GOM cod PSC, because it is the most widely distributed among permits. This will hurt more people that you think. People will not have a way out. There are other National Standards – one addresses net gain to the nation and achieving optimum yield. If you cap a company like mine, that doesn't mean more fish will be landed. I can guarantee that less will be landed. We want to keep catching the fish no one else is catching.*

- Ben Martens, Maine Coast Fishermen's Association. *We oppose this motion, and the fishermen we work with oppose this motion. We don't understand a lot of concern expressed with options in*

A18. There was a table in Rachel's presentation that showed under the most restrictive option in the document, four individuals would be impacted. I understand that people would like to grow their businesses. The fact that we are saying that there is not a problem so let's not deal with it – we do that a lot in this industry and maybe we should get out in front of the bus. We need something in the document to address concerns. We need to ensure that there are opportunities for small boats and small businesses to exist, grow, and prosper. I would encourage you to vote this down.

Motion #2 **carried** on a show hands (5/3/2).

Lunch Break.

Motion #3 – (Pierce/Goethel):

The Committee recommends to the Council to request the NEFSC to highlight for the benefit of Amendment 18 discussions/decisions at the April Council meeting those results and conclusions in its “2013 Final Report on the Performance of the NE Multispecies Fishery” relevant to the four Amendment 18 goals. Additionally, request the NEFSC identify what information/data it will need to improve future assessments of groundfish fishery consolidation and concentration of revenue among vessels and vessel affiliations.

Rationale: This information should be available prior to the April Council meeting, with the request that the NEFSC make a presentation to the Council on the subject. It would provide the NEFSC/SSB an opportunity to discuss the utility of information within the FY 2013 performance report with respect to the goals in A18 and the measures developed.

Discussion on the Motion: The maker of the motion explained that they were interested in information on the concentration of revenue among vessels and vessel affiliations. A Committee member asked if the report covered permit sales.

- Chad Demarest, NEFSC. *The performance report focuses on the use of ACE and not fishery holdings. The whole push and pull with excessive shares is a compromise trying to achieve a happy medium between the inefficiencies that exist when you develop a market failure because of the excessive market power in one of the markets – either the final product market or the ACE lease market. If someone can exert market power, then that creates inefficiency. On the other side, if people are overly restricted in their ability to accumulate the share that they need to achieve economies of scale, then that also creates inefficiency. Somewhere in the middle is the optimal amount of regulation of the size of ownership entities. It is important to note the differences between what report focuses on and the A18 alternatives. If you are going to impose restrictions on the use of ACE, that incurs a cost. There are potential social benefits, but it is redistribution and at the margin lowers efficiency. It is the holdings that the excessive shares options in the document are targeting, which has nothing to do with the use.*

Motion #3 **carried** on a show of hands (7/1/2).

Motion #4 – (T. Alexander/Preble):

The Committee recommends to the Council that in Section 4.1.4 (Limit the holdings of permits), Alternative 1 (No Action) be selected as the Preferred Alternative.

Rationale: To examine National Standard 4, the Council requested an independent analysis by Compass Lexecon (and peer review of that report) on whether or not excessive shares of fishery access privileges in the fishery are evident. The Compass Lexecon report indicated no evidence of excessive shares and noted that it is unlikely given the nature of the fishery. The peer review recommended continuing monitoring of the fishery for evidence of excessive shares in place of accumulation limits now. Therefore, accumulation limits are unnecessary at this time to prevent excessive shares of fishery access privileges (Goal #4 of A18).

Discussion on the Motion: Arguments against the motion included opposition to the rationale provided for Alternative 1 in the A18 DEIS. Committee members speaking against the motion also noted their support of Alternative 2, offering that capping permits is an effective way to address accumulation limits without forcing divestiture. Supporters of Alternative 2 felt that a cap would be needed in the future as the health of stocks improves, and wished to proactively address what they perceived as a future problem. Committee members in favor of Alternative 1 felt that accumulation limits had been analyzed in the Compass Lexecon report, and cited earlier statements in favor of No Action on setting PSC caps in the fishery.

Motion #4 **failed** on a show of hands (3/5/2).

Motion #5 – (Pierce/Goethel):

Move that the Groundfish Committee recommends to the Council that in Section 4.1.4 (Limit the holdings of permits) that Alternative 2 (Limit the holdings of permits- to no more than 5%) be selected as the Preferred Alternative.

Rationale: Out of the possible alternatives for accumulation limits, this approach would be the simplest approach and the least disruptive to the fishery. As an example given current data, a 5% cap on the holdings of permits would equate to maximum of approximately 70 MRIs. If the number of permits declines in the future, however, the 5% cap could become too restrictive and may warrant revisiting in a future action.

Motion #5 **carried** on a show of hands (7/0/3).

Handgear A Fishery Measures (Section 4.2):

Staff presented the Handgear A (HA) measures in Section 4.2, which included the establishment of a sub-ACL for the HA fishery, the removal of the March 1-20 HA spawning closure, the removal of standard fish tote requirement, and a sector exemption from VMS requirements for HA vessels.

Discussion on the Presentation: Multiple Committee members expressed concern about the ability to monitor a small sub-ACL, noting that the entire HA ACL for some stocks could be caught in a week. There was also concern that creating a sub-ACL would set a precedent for other groups to come forward and request their own sub-ACL.

Motion #6 – (Preble/Etrie):

The Committee recommends to the Council that in Section 4.2.1 (Establish a fishery for Handgear A permits), Alternative 1 (No Action) be selected as the Preferred Alternative.

Rationale: The anticipated sub-ACLs for the Handgear A fishery would be prohibitively low, rendering administration of the fishery and monitoring difficult, especially in-season.

Motion #6 **carried** on a show of hands (8/1/1).

Motion #7 – (Etrie/T. Alexander):

The Groundfish Committee recommends to the Council that in Section 4.2.2 (Removal of the March 1-20 HA Closure) and 4.2.3 (Removal of standard fish tote requirement), Alternative 2 in both sections be selected as the Preferred Alternative.

Rationale: This would give Handgear A vessels some of the flexibility they are requesting. The fish tote requirement is not actively enforced.

Motion #7 **carried** on a show of hands (9/0/1).

Motion #8 – (Kendall/Etrie):

The Committee recommends to the Council that in Section 4.2.4 (Sector Exemption from VMS requirements), Alternative 2 (Section exemption for VMS requirements) be selected as the Preferred Alternative.

Rationale: Handgear A vessels are small and should be exempt from VMS requirements should they wish to join a sector. Handgear A does have an Interactive Voice Response (IVR) requirement for trip notification. As described, this would be an annual exemption.

Some Public Comment Included:

- David Goethel, F/V Ellen Dianne. *If a HA vessel was allowed to join a sector, and not required to carry a VMS, and was caught fishing a closed area, would the sector be liable for that vessel's violation?* NOAA GC explained that if a HA vessel enrolled in a sector was caught fishing in a closed area; it would carry with it the same violations as any sector vessel fishing in a closed area. *Based on that answer, consider this very carefully. These boats look like recreational craft. You can go to the WGOM closed area and fish like you are a recreational boat until you return to the pier and all of a sudden you are a commercial boat.*
- Maggie Raymond, Associated Fisheries of Maine. *You could make this an annual exemption request. That way if there were problems NMFS could disapprove the request. Use the sectors to do the job that needs to be done. We need to encourage these fishermen to get into the sector system, and their major complaint about going into sectors is that they can't afford VMS.*

Motion #8 **carried** on a show of hands (9/0/1).

Data Confidentiality (Section 4.3):

Staff explained that price data on leasing/moving ACE in or between sectors is currently 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.

Motion #9 – (T. Alexander/Etrie):

The Committee recommends to the Council that in Section 4.3 (Data Confidentiality), Alternative 1 (No Action) be selected as the Preferred Alternative.

Rationale: A concern is that correct/accurate price information regarding why the lease/trade occurred would not be available if this information was disclosed. Further, past communication from GARFO to the Council indicates that this type of information would remain confidential based on their interpretation of MSA. Sectors could work together on their own to improve inter-sector transparency on leasing/trades.

Discussion on the Motion: Committee members speaking in favor of the motion built upon the rationale offered by the maker of the motion, with one Committee member suggesting that improving the transparency of ACE lease prices could be done by working with sector managers. Committee members speaking against the motion (and in favor of Alternative 2) supported additional transparency in the ACE lease market, and felt that releasing this information would benefit analyses conducted by the NEFSC, such as the annual fishery performance report. Others felt that additional transparency in the ACE market would help achieve the goal of fleet diversity. Another argument against the motion was that the fishery is a public resource. A Committee member pointed out that groundfish sectors are required to include trade information in their annual reports, and that NMFS has this information. Another Committee member felt that the issue was that NMFS considers sectors as a person, and that this issue could be addressed with a common sense approach by the agency. NOAA GC added that there is a proposed rule on confidentiality regulations that went out for public comment some time ago, and that the final rule could change the interpretation of what information is used for a determination under Magnuson.

Some Public Comment Included:

- Ben Martens, Maine Coast Fishermen's Association. *As a small boat sector that does not move a lot of allocation over the course of the year, I don't view this as a data issue for the NEFSC, I view this as creating a level playing field for the smaller boats working in smaller sectors to make sure everyone understands where the market actually is. I understand that people send around lists of what ACE is available, but those are hypothetical prices of either what people want to pay, or what they want to get for their fish. We don't know what people are actually paying, and we have a marketplace that has huge gaps in information. Between sectors, I'd encourage the Council to ask NMFS for guidance on how we might be able to put a system in place to make price data available.*
- David Goethel, F/V Ellen Diane. *The principle problem with sectors is the lease market. It does not work. Every intra- and inter- sector trade should be posted on a website so that people like me have some idea of what the real value of fish is. If it is widgets for cod in 2017 like Terry just said, I want to know. This process needs to be opened up. This should be like the old DAS leasing website.*
- Jackie Odell, Vice-Chair of the GAP. *The GAP supported the No Action alternative for two reasons. The first was that it was unclear to us how this would lead to better management of the fishery. The other issue was the guidance from NMFS that releasing this information would violate the confidentiality provisions of the Magnuson Stevens Act.*
- Chad Demarest, Northeast Fishery Science Center. *There are two issues that I see. There is a market for intra-sector quota trades that is not a true market; it is not a market that exists within the regulations for the groundfish fishery. That is a voluntary market, and it is not something that we have a right to the price data on. PSC is only convertible into pounds of fish when it becomes ACE, and at that point it is a collective. That is our problem with assessing individual vessel level profitability. We can't track the lessors and lessees of individual vessels, and that is a function of the sector system. The issue with transparency in the inter-sector quota trade market*

is separate. Any economist will tell you that transparency is a good thing, and if there is some way that we can get at that data through the voluntary releasing of that data or a change in the interpretation of the Magnuson Act, that would be a good thing. This will only address the price transparency of inter-sector trades.

Motion #9 **carried** on a show of hands (5/3/2).

Inshore/Offshore Gulf of Maine (Section 4.4)

Staff described 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 \(Dr. Jamie Cournane\)](#): 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. Staff presented a new slide for the Committee at the request of the GAP, which illustrated how the proposed FY2015 ACL would be split inshore and offshore.

Discussion and Questions on the Presentation: A Committee member expressed concern that the approach of apportioning catch to an area if the inshore/offshore split does not match the distribution of cod in the GOM. Another Committee member felt that splitting the GOM cod sub-ACL into an inshore and offshore area would not address the goals of the Amendment, and would constrain fleet diversity.

[Economic Impacts of the Inshore/Offshore GOM measures \(Mr. Greg Ardini, NEFSC\)](#):

Mr. Ardini's presentation focused on the economic impacts of creating GOM cod sub-ACLs and establishing declaration time periods for the commercial fishery based on an inshore/offshore split of the GOM. The analysis was conducted using VTR coordinates to apportion catch data to the proposed inshore

and offshore areas from FY2010 – FY2013. Mr. Ardini presented that proportion of GOM cod that was caught inshore and offshore based on the three boundary options, well as the percentage of GOM cod that was caught ‘inshore’ and ‘offshore’ by vessel class size in FY2013, noting that in general, larger vessels tend to catch more of their GOM cod offshore. The presentation also described the percentage of groundfish catch within a particular vessel class in the proposed inshore and offshore areas.

Discussion on the Presentation: There was interest in a forecast of the number of vessels that would fish inshore under a 200 mt quota, and the impact that allocating a large percentage of the GOM cod sub-ACL was allocated inshore, what the loss of revenue would be on other stocks.

Motion #10 – (T. Alexander/Preble):

The Committee recommends to the Council that in Section 4.4.2 (Inshore/Offshore GOM cod sub-ACL), Alternative 1 (No Action) be selected as the Preferred Alternative.

Rationale: After reviewing the PDT analyses, the Committee was concerned that splitting the sub-ACL would result in picking winners and losers in the fishery – inshore and offshore – depending on the percentages on either side of the line (both yet to be determine). Future fish distribution changes could be problematic since the percentages would be static. Data has not been explicitly collected for the purpose of creating the line. Under the alternatives in this section, inshore boats would lose access to quota in the western area and would potentially have to lease their eastern quota to offshore boats. We note that sectors are working cooperatively now on developing approaches to avoid GOM cod in FY 2015.

Discussion on the Motion: Committee members speaking in favor of the motion reiterated points made by the maker of the motion, with one member suggesting that splitting the GOM cod sub-ACL inshore and offshore does not match the dynamic nature of the marine environment, and that climate change could impact the distribution of cod in the future. Another committee member argued that an inshore/offshore split would take away PSC from inshore vessels, and felt that it is inappropriate to use the NEFSC bottom trawl survey data to divide up fish, explaining that the survey was never designed for this purpose. The Committee also noted that some sectors would be proactively avoiding cod in the coming fishing year.

Motion #10 **carried** on a show of hands 9/0/0.

Motion #11 – (T. Alexander/Etrie):

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

Rationale: Declaring into a time period would further limit flexibility to avoid GOM cod under the proposed low ACLs for FY2015.

Motion #11 **carried** on a show of hands (8/0/1).

The Chair of the Habitat Committee, Mr. David Preble, briefed the Groundfish Committee on decisions made at the Habitat Committee meeting earlier in the week. He explained that the Habitat Committee had selected keeping all existing gear restriction in the western GOM as their preferred alternative for final action. Some Committee members felt that addressing a GOM gear restricted area in Habitat and Groundfish actions was redundant, and staff clarified that purpose of the gear restricted area to match the inshore and offshore boundary was to distinguish between day boat and trip boat fleets.

Motion #12 – (Pierce/):

The Committee recommends to the Council that in Section 4.4.3 (Gulf of Maine Gear Restricted Area), Alternative 2 would be selected as the Preferred Alternative.

Rationale:

The motion **failed** for a lack of second.

Motion #13 – (T. Alexander/Etrie):

The Committee recommends to the Council that in Section 4.4.3 (Gulf of Maine Gear Restricted Area), Alternative 1 (No Action) be selected as the Preferred Alternative.

Rationale: The alternatives for gear restrictions in this section would be best addressed through the Habitat Amendment.

Discussion on the Motion: A Committee member speaking against the motion felt that Alternative 2 did a better job of addressing fishing mortality in inshore areas by restricting the use of rockhopper gear in those areas. Several committee members reiterated the rationale given for the motion.

Motion #13 **carried** on a show of hands (7/1/0).

Motion #14 – (Pierce/Kendall):

The Groundfish Committee recommends to the Council that in Section 4.4.1 (Inshore/Offshore Gulf of Maine Boundary), Alternative 2 (Option C) be selected as the Preferred Alternative.

Rationale: The maker of the motion referenced the following rationale in the A18 DEIS for selecting Option C. This line creates a distinction between the day-boat and the trip-boat fleets and coincides with the Gulf of Maine Gear Restricted Area, an existing inshore/offshore delineation for the 12” rockhopper restrictions (implemented through Framework 27 to the Multispecies FMP). This line would place the Gulf of Maine Gear Restricted Area, the Western Gulf of Maine Area Closure, the Western Gulf of Maine Habitat Closure, and the Stellwagen Bank National Marine Sanctuary entirely within the inshore area. Unlike Options A and B, this line would not intersect the Maine coast, thus fishing that occurs along the entire Maine coast would be considered inshore. By using the 12 nm territorial sea line, it would use a boundary line that is already established, rather than create a new line. The State of Maine has jurisdiction of the lobster fishery out to 12 nm.

Discussion on the Motion: A Committee member speaking against the motion argued that the area to the west of the Option C boundary had been fished by all vessel sizes. Another Committee member felt that inshore/offshore boundaries, in general, should follow bathymetry contours.

Motion to Substitute #14a (Etrie/Preble):

Move to substitute that the Committee recommends to the Council that in Section 4.4.1 (Inshore/Offshore Gulf of Maine Boundary), Alternative 1 (No Action) be selected as the Preferred Alternative.

Rationale: A purpose for creating an inshore/offshore boundary should be identified before doing so. If a line is needed, it should be a logical result that stems from an identified problem and be a solution to address the problem. That is not how any of the boundaries in this section were developed. Additionally, some of the options would include as “inshore,” deep water areas that have traditionally been fished by “offshore” vessels.

Discussion on the motion to substitute: Speaking in favor of the motion to substitute, a Committee member stated that the creation of a boundary line should serve a purpose from its inception, and not be a political line to use in decisions at a later date. Several committee members expressed support for the concept of an inshore/offshore, but felt that the creation of a boundary should be accompanied with other regulations for the areas that would be delineated as inshore and offshore.

Some Public Comment Included:

- Dave Goethel, F/V Ellen Diane. *Someone should make a motion to draft a letter to NMFS requesting that they start collecting the information would be needed to evaluate inshore and offshore boundaries. Logbooks, by nature, give you statistical areas that are both inshore and offshore. We need to start collecting data on a vessel by vessel basis. Get information on which boats fish exclusively inshore, which boats fish exclusively offshore, and begin to assign allocations to vessels based on where they fish.*
- Ben Martens, Maine Coast Fishermen’s Association. *I would suggest that you vote this down and put in a line. I understand that there is nothing attached to the line right now, but as we’ve been going through this Amendment 18 process we’ve seen a lot of public comments from people asking for inshore and offshore protections. Right now we’ve got a document in which the Committee has recommended a lot of no action. I think that the GAP offered a good list of recommendations for A18 at their meeting yesterday. I know that we are looking to move A18 forward, but when there is nothing in A18, it really doesn’t make sense to keep pushing it forward. Let’s put a line out there, and come up with a couple of different alternatives for what we might be able to do with that line that could benefit fleet diversity.*
- Reinier Nieuwkerk, F/V Hanna Jo. *I support a line. I am a small boat fisherman. We’re not looking for a lot. We you’re in the fixed gear fishery, and it is winter time, and there are otter trawl boats working in the area, you can make plans with them and let them know where your gear is. Once you have a line, you have the ability to work with the people who are fishing around you. If you don’t have a line, you get boats that come from other ports and areas, and they may not know where your gear is. Thank you.*

Motion #14a to substitute **carried** on a show of hands (6/2/0).

Main Motion #14a as substituted **carried** on a show of hands (6/1/1).

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: Council staff explained that the original Council motion had stipulated that the codend mesh size in the redfish exemption area would be 5.5”, and suggested that the Committee may wish to clarify if the intent of this motion was to allow the use of 5.5” as a minimum mesh size. Committee members went on the record to clarify that the intent of the original motion was to allow for the use of 5.5” mesh or greater in the redfish exemption area.

A Committee member asked why the configuration of the redfish exemption area in the sector proposed rule had changes from FY2014 to FY 2015. GARFO staff on the Committee explained that they area had been modify to exclude an area where there had been very low catches of redfish and some observed catches of cod.

Motion #15 – (T. Alexander/Etrie):

The Committee recommends to the Council that in Section 4.5 (Redfish Exemption Area), Alternative 2 (Establish a redfish exemption area) be selected as the Preferred Alternative.

Discussion on the Motion: Ms. Murphy expressed concern about the approvability of the alternative in Amendment 18, particularly the provision for requiring an at-sea observer, and the lack of a bycatch threshold.

Motion #15a as friendly amended:

The Committee recommends to the Council that, if the Redfish Exemption in the FY 2015-FY 2016 Sector Proposed Rule is disapproved by the Agency, in Section 4.5 (Redfish Exemption Area), Alternative 2 (Establish a redfish exemption area) would be revised to be identical to the FY2015-FY 2016 Sector Proposed Rule and be selected as the Preferred Alternative.

Rationale: This would make the redfish exemption area is the sector proposed rule part of the groundfish FMP, and sectors would not need to request this exemption on an annual basis.

Discussion on the motion as friendly amended:

- Jackie Odell, Vice-Chair of the GAP. *The whole purpose of the GAP motion was to prefect the language to ensure that it mirrored language in the sector proposed rule. We withdrew the motion because we were not sure if we were getting the language right. We withdrew it, expected further discussion on this motion here at the Committee meeting, and at the full Council.*

Members of the Committee felt that it was important to send a strong message to NMFS and the Council that the creation of a redfish exemption area is important to the fishery.

Some Public Comment Included:

- Ben Martens, Maine Coast Fishermen's Association. *We had a long discussion this at the AP yesterday. I would prefer to see this exemption go through the sector process so if changes need to be made they can be done through an annual process.*

Motion #15b - (T.Alexander/Pappalardo):

Table Motion #15a to the April 2015 Council meeting.

Rationale: There was general support from the Committee for the redfish area exemption as written in the sector proposed rule for FY2015 & FY2016 in the federal register. As the sector final rule will likely publish before the April Council meeting, the Committee wished to table the motion until the meeting when more information would be available.

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

Other Business:

The Vice-Chair of the GAP reiterated the Chair's earlier comments that the GAP supports the goals and objectives of A18 but does not feel that the measures in A18 address the goals of the Amendment. The GAP offered a motion (Motion #19) with contains a suite of measures that the GAP feels would help to achieve the goals of Amendment 18.

The meeting was adjourned at 5:00 PM.