



## New England Fishery Management Council

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# MEETING SUMMARY

## Groundfish Oversight Committee

DoubleTree by Hilton, Danvers, MA

August 4, 2014

The Monkfish Advisory Panel (MAP) and Oversight Committee (Committee) met on August 25, 2014 in Philadelphia, PA to: 1) continue development of Amendment 18 (A18) – Fleet Diversity and Accumulation Limits, 2) to discuss Framework Adjustment 53 (FW53), and 3) receive an update on Gulf of Maine cod.

**MEETING ATTENDANCE:** Mr. Frank Blount (Chairman), Dr. David Pierce (Vice Chair), Mr. Terry Alexander, Mr. Vincent Balzano, Mr. Tom Dempsey, Ms. Ellen Goethel, Mr. Howard King, Ms. Susan Murphy, Dr. Matthew McKenzie, and Ms. Laurie Nolan; Dr. Jamie Cournane, Ms. Rachel Feeney, Ms. Pat Fiorelli, Dr. Fiona Hogan, Mr. Chris Kellogg and Mr. Tom Nies (NEFMC); Mr. Mark Grant, Ms. Sarah Heil, Mr. Michael Ruccio (NMFS GARFO); Dr. Russ Brown, Mr. Chad Demarest and Ms. Anna Henry (NEFSC SSB); Mr. Gene Martin and Mr. Mitch MacDonald (NOAA General Counsel). In addition, approximately 25 members of the public attended.

**DOCUMENTATION:** Discussions were aided by: A18 Action Plan dated July 28, 2014, PDT memo to OSC re A18 dated July 30, 2014, Amendment 18 Discussion Document dated July 30, 2014, A18 Presentation, Peer Review Reports of the Excessive Share Analysis by Compass Lexecon dated July 23, 2014, Review Presentation, FW53 Action Plan, FW 53 Presentation, Groundfish OSC meeting summary dated June 9, 2014, other background documents related to the A18 inshore/offshore measures that included SAW 55 report on GOM cod, Groundfish PDT memo re area specific TACs dated April 19, 2002, Groundfish PDT memo re GOM cod inshore dated April 16, 2014, Cod workshop final report dated July 24, 2012, GARFO Cod maps, Draft EFH Omnibus Amendment 2 dated May 20, 2014, Habitat EFH OA2 Appendix D, Habitat EFH OA2 Appendix E, and a series of correspondence received by the Council.

### **KEY OUTCOMES:**

- The Committee discussed the updated GOM cod assessment and agreed that it should be peer reviewed. However, the Committee felt that in future changes to the assessment process need to be more transparent and integrated in the NRCC process. A full report outlining budgets and staff time associated with this update was requested from the NEFSC.
- For A18 Section 4.5 (inshore/offshore measures), the Committee clarified that the intent was to address Goals 1 & 3 of A18. Part of the rationale for the boundary line would be to create a distinction between day and trip boats. The Committee agreed that declaration time periods would be at the trip level or higher.
- For A18 Section 4.1 (accumulation limits), the Committee agreed that holdings as of the control date would be grandfathered for any accumulation limit alternative selected. The Committee developed options for how PSC acquired after the control date/implementation date in excess of the cap would be treated.

**AGENDA ITEM #1: UPDATE ON GULF OF MAINE COD (DR. RUSS BROWN, NEFSC)**

On August 1, 2014, the Northeast Fisheries Science Center (NEFSC) informed the Council via letter that they had updated the Gulf of Maine (GOM) cod assessment and requested the Council's assistance in completing a peer review of the update. The update was not scheduled to be completed until 2015; the Council was unaware it was being updated ahead of schedule in 2014. Dr. Russ Brown (NEFSC) addressed the Committee regarding the updated assessment and explained that because the assessment has not been peer reviewed, it was not ready for use by management. The NEFSC was interested in modifying how stock assessment reports were produced; the intent of the effort was to develop a mechanism to achieve that goal. GOM cod was chosen for a number of reasons, which were outlined in the correspondence. The last benchmark assessment for GOM cod was held in January 2013 at SARC 55, which resulted in 2 models for GOM cod. The NEFSC updated both models with recent survey and catch data (up to 2013); no assumptions or models were changed in the update. Based on the survey data, there were no signs of significant recruitment.

The NEFSC was concerned by the decline in estimated spawning biomass levels and changes in age structure of the population. Management action was taken that reduced the ACLs for FY2013 but despite this effort, the survey biomass declined again. The survey sampled both open and closed areas; management measures that restrict fishing activities in certain areas do not affect estimates of survey biomass. A Committee member was concerned about how catch was used in determining the status of the stock; fishermen are restricted by the GOM cod quota, if catch is below the quota that does not necessarily mean that the stock is in poor condition. Dr. Brown clarified that catch is not used as a separate index of abundance. Recreational data was incorporated into the updated assessment. A Committee member raised the issue of observer coverage on lobster vessels and whether their catch of juvenile groundfish was incorporated into the assessment. Dr. Brown said there wasn't an observer program for that but they have surveyed fairly consistently along the Maine coast over the past 10 years in the spring survey. A Committee member thought that a mandate should be made to have fixed gear moved out of a survey area at a designated time to allow sufficient sampling of all areas. Another Committee member was more concerned with fall coverage of the Maine coast in the survey; there is greater interaction between lobster gear and juvenile groundfish in the fall. No data were available on this at the time of the meeting; however, it could be obtained if there was a specific request made.

A number of Committee members were concerned about process and an apparent lack of transparency in this update. The assessment schedule is set by the NRCC and the public is aware of the timing. Despite this update, the GOM cod assessment scheduled for September 2015 through the normal process would still be completed. Dr. Brown explained that the NEFSC used GOM cod as a test subject for the establishment of an alternative assessment process; no other stocks were examined. In order to request the peer review, the NEFSC needed to make the preliminary results public. The NEFSC considered it their role to update the Council on significant changes in stock status, e.g. the large 2003 Georges Bank haddock year class. The NEFSC was also asking for comments on the template and hoped that would not be lost in the discussion of the content of the report. The content of the report may have to be prioritized initially but comment on the format itself was also necessary. The NEFSC wanted to work with the Council so this doesn't appear to be the "usual suspects" conducting the review. The data would be available to the public at the time of the peer review. A Committee member asked whether the Council would have the opportunity to weigh in on the Terms of Reference (TORs) for the peer review. Dr. Brown noted that there usually weren't TORs for assessments updates.

A Committee member asked if data were available that supported claims that party/charter vessels were catching large numbers of sub-legal cod in closed areas, however, no data were available at the time of

the meeting. The Committee member thought there was a good year class of cod coming up and the Council needed to get a handle on it quickly.

A Committee member requested the NEFSC provide a list of stocks and their associated survey indices and catch data to be able to determine whether GOM cod was in better or worse condition. Dr. Brown explained that survey indices were calculated for all stocks; in this case the stock assessment biologist was very conscientious and updated the GOM cod assessment. There was no data available at the meeting on a change in condition of fish but there has been a general declining trend in size at age in recent years.

The availability of age data also allowed this update to be completed; updated age data are not available for every stock. A complete list of stocks with available age data was not available at the time of the meeting but it was considered likely that stocks that were currently assessed annually, e.g. EGB Groundfish stocks and some Mid Atlantic stocks such as summer flounder, would have age data available annually. A Committee member questioned whether these stocks would be eligible for this approach.

A Committee member was interested in what the NEFSC learned in terms of staff time and costs from this new update process. Previous requests for updated assessments have been denied on the grounds of limited staff time and funding. The need for this to be transparent and integrated into the NRCC process was reiterated. Dr. Brown explained that this was a reprioritization of staff time to help change the assessment process.

A Committee member considered GOM cod status to be relevant to A18 discussions as inshore fisheries are heavily dependent on this stock. Previous work by the NEFSC indicated that both the resource and the fishery had contracted into a few statistical areas. That spatial analysis was not updated with the assessment.

A Committee member had major issues with the tone of the letter; it seemed to give the perception that the peer review was a mere formality. An update on the cod stock structure workshop was also requested; industry buy-in for an updated assessment would be limited if the stock boundaries were incorrect. Dr. Brown noted that the GB cod stocks were not in the best condition and any redrawing of stock boundaries would take additional work and likely require additional management action.

A Committee member encouraged the NEFSC to provide further insight into environmental influences on stocks in an ecosystem context. There was a recent report that there were substantial changes in the amount of Labrador water that enters into the GOM. Environmental influences could be affecting fish stocks and recruitment of cod. There was some interest in including climate effects on stock size in interpretation of stock assessments. The NEFSC knows that stocks can be rebuilt if the environmental conditions are there, e.g. GB haddock.

### **Public comment**

- Maggie Raymond, Associated Fisheries of Maine (AFM) – As you know Associated Fisheries of Maine and other industry groups have been very much involved in the stock assessment process. A lot of that has been so that we can try to better understand ourselves how stock assessments are conducted. You describe how, in this update, you were trying to develop a new process that would be more efficient. It appears to me that transparency has been sacrificed for efficiency. It's clear that no one understood that you were conducting this update of GOM cod. That's a concern for industry. We don't understand how we're going to be involved in this kind of process going forward. Over the years, the NEFSC has experimented with different ways of involving industry in the stock assessment process. I remember about 10 years ago or more, I was actually asked to sit in on a working group for grey sole. Then you started having these industry meetings prior to

the working group meetings to get industry input and I asked Dr. Karp at the last Council meeting why that wasn't done for the most recent GOM haddock assessment and he said that it was basically up to the scientist involved as to whether or not they conducted those industry meetings. My suggestion is as you're working out this new process that we strive to continue to have transparency and the opportunity for the public to participate in this process. I want to also follow up on the comments made about your letter and your earlier comments about how you tried to bring good news as well as bad news to the Council. I don't understand why we don't have a letter for example from the NEFSC that says that the GOM haddock 2012 year class is the biggest that we've ever seen. There is good news out there and yet that's not what is being brought forward because we're going through peer review. Your scientists would all agree that that 2012 year class is the biggest they've ever seen. There just seems to be different standards, I guess, for what information is brought forward, how the process has been or will be for the public involvement and I want to raise that as a concern because AFM just asked in June for an update on dabs and grey sole and were told no there's no time to do that. Those stocks are in a condition that the industry is seeing a lot of them and the low ACLs are having a negative impact on the fishery. I have a lot of concerns about the process and I hope that you will take those concerns seriously when you're working on this new template.

- Captain Michael Pierdinock, Green Harbor, MA and Stellwagen Bank Charter Boat Association – The Recreational Advisory Panel (RAP) was made aware of the statistical issues with how they come up with the numbers based on the recreational quotas. We have good data with the VTR reports for the charter and head boat fleet but the continued problem with getting the recreational landings and what they catch per year just doesn't make any sense. We all agree there's something wrong there. I only ask that it also be looked at because scientifically; it just doesn't look correct. The South shore fleet goes out to Stellwagen; the cod fishing is poor. We're used to, back in the good old days when we could fish year round; there would be cod up on Stellwagen all year. Back in 2010 and 2011 when we were back at sustainable levels the cod would be in the west bank of Stellwagen and we would be on top of the bank in that area and as it got warmer it would move east. Well starting in 2012 – 2013 now they're not there. We have to go to the east bank and up to Tillies Bank, we have to go farther distances. I have to say that the haddock are good and we're lucky they're around but we have to go to those grounds where they can be found. For us that's mid bank east or we have to go up to Tillies Bank. We're going to significant distances in order to find them. I wouldn't say there's huge numbers of cod but once again this gets into where they're really located and what the statistics are saying. We're not seeing them. We'll have a typical 6 pack charter that will go out there and we're lucky to catch 9 cod for all 6 people. We're really counting on the haddock. I just want that to be taken into consideration because I am surprised as I sit here because we are here today as a result of the status of the fishery and I will say for Stellwagen Bank in the area because of the flawed catch share system. The constant pounding has resulted in no fish being there. I don't blame the commercial guys; I blame the system. Until there are changes we don't see any changes. We're seeing climate issues that could have an impact and that plays a part but overall I remember meeting in January 2010 at the Stellwagen Charter Boat Association when we were at sustainable levels and we were concerned that we saw the large boats out there nonstop. They did it for years to the point we're at today and I'm just disappointed that I hear nothing of that from anyone around the table. This near shore vs offshore is what needs to be done to try to correct that. Something has to be done or this is not going to change.
- Vito Giacalone, Northeast Seafood Coalition (NSC) – The one major question is it sounds like this is just a run of the data; put the new data in and the commercial catch doesn't really weigh into abundance because really the message here is we're in trouble as far as abundance. None of that can be extracted from the commercial data so it's really the trawl survey is the new data. Do

we really need a peer review for that? Are we peer reviewing whether the NEFSC knows how to input their own survey data? I don't know what else you can put into a TOR that's going to extract; it didn't sound like they changed the model or anything like that. To me it's similar to and it's a complicated fishery; 40% of the catch is recreational catch and we don't have any catch data out of that in time for this assessment. Windowpane flounder we knew was going to be a \$17 million hit. The Council and industry all begged for an update on that assessment. That's an index assessment, which to me, takes the trawl survey index and run it through a machine and see if you have more abundance or not – there was no time for that. NSC and Gloucester Fishing Community Preservation Fund collaborate and hire Dr. Butterworth to have him at the meetings and we didn't know this meeting was happening. We've taken huge steps backward in transparency and trust. The objective to use this as an example when we've already collapse the Groundfish industry in inshore MA Bay. We've already done that with haddock and cod ACLs and we don't see any relief on that. Aside from being told that the codfish is not at 20% it's at 10% of biomass I guess it's so what. What is the management response going to be really? We're at 800 mt now so how does that inform management? Go to 400 mt catch? Does anyone think that's going to do anything at this point? I'm extremely frustrated and the question back to you is, are we just going to peer review the NEFSC method for inputting their own survey data back into the assessment. It sounds pretty simple.

- Peter Shelley, Conservation Law Foundation – I share the frustration. I think the peer review to some degree is a distraction from the message here. I do appreciate you coming forward with bad news or good news, if something of this magnitude comes forward on either side of the ledger. I appreciate you bringing that forward as quickly as you can. I think you did the right thing. This result was fully in line with the 2011 assessment where the assessment scientists cautioned that they had not included at that time the most recent trawl surveys. Now you have more data to support that survey data. You cautioned that your estimates of the stock may well be optimistic and that the Council acted on. I don't see these results sadly being at all inconsistent with your last assessment and cautioned that estimates of stocks were optimistic. I think this is a stock that requires emergency action and I would urge the Committee to focus more on what it's going to do about this rather than focus on whether the peer review is going to reveal any big errors in the data inputs.

The NEFMC Executive Director informed the Committee that staff were currently working with the Council and SSC Chairs to schedule a peer review. Staff were operating under the assumption that the information from this assessment means ACLs for FY2014 would have to be modified. To have that in place by May 1, 2015, final action needed to occur in November. However, the assessment needed to be peer reviewed prior to an SSC meeting for their ABC recommendation. Updated assessments (last completed in 2012) have a standard set of TORs that don't include some of the things discussed today. This is not a new process; what is new is how it was originated. The Committee may want to wrestle with providing guidance on the peer review process. The Executive Director posed the question of how to adjust the ACLs but also, whether that was a sufficient reaction to a bad assessment result.

#### **1. Motion** (Mr. Dempsey/Mr. Alexander):

To support the process outlined by the Council's Executive Director regarding the peer review of the updated assessment for Gulf of Maine cod (i.e., a sub-set of the SSC conducts the peer review of the updated assessment; the Groundfish PDT runs projections, and the SSC recommends ABCs for FY 2015 – all in time to be considered within Framework Adjustment 53). The OSC recommends that all efforts be made to expedite the process, in order that management actions can be considered and developed (implemented) by May 1, 2015. Additionally, the Groundfish OSC requests any peer review include ample opportunity for input from outside experts and industry.

*Rationale* – It is premature to suggest a specific management action or a direction for that action. The peer review should be expedited so that if such action were required or necessary we'd be in a position to make that by May 1, 2015. Transparency of, and broad public participation in that review is important, especially considering the unique process that this update has taken to date. I think that's the way forward. It's only appropriate that people are allowed to weigh in and provide their input in the review and be in the room. The maker of the motion also intended that measures should be developed for implementation no later than May 1, 2015.

A Committee member was strongly in favor of outside experts participating in the peer review process. Another Committee member did not find it necessary to mandate that any peer review include ample opportunity for public comment as this is an integral part of any peer review process.

### **Public comment on the motion**

- Vito Giacalone –Don't updated assessments give the Committee and Council an opportunity to view the TORs or recommend TORs? I know the PDT ultimately writes them up but, before you start any assessment, I thought the Committee and the Council always knew it was coming and you gave TORs. Those are very important because it guides the assessment scientists in a certain direction to look at certain things. You didn't have that opportunity here at all. That why I think the peer review is a foregone conclusion no matter how much transparency we seem to have now. The first thing I would have asked is if you're going to look at making management responses this soon after 2 subsequent benchmark assessments that we did on this stock, if we look to make management responses based on 2 years of survey data, a TOR would be to run a simulation model to see what the management responses would have been on GOM cod or all of these stocks if we had done a management response based on 2 years of survey data through the years. My guess is we would have done the noise thing. That simulation hasn't been run, that's not part of a peer review because the peer review can only look at what the assessment scientists did. I'm really concerned with this process because you're setting a precedent now to allow assessment scientists to see if they feel curious about an assessment that just got done and I'm looking at the survey data and there seems to be a problem so let me convince my peers that we turn around and feed the Council a completed updated assessment and ask them to peer review it. That's not the process that we would have thought is going to come up. I'm especially frustrated that we got grey sole, dabs, windowpane, stocks that we have been pointing out that we're seeing are not aligning with the assessment. We don't even know what those survey results would produce in an updated assessment had the Committee had a chance to give TORs. You've been told you have no time to do it yet behind the scenes you have basically a finished assessment and now we're talking about a peer review. I totally appreciate the intent of the maker here I think that's the best you can come up with after the fact but you didn't weigh in on the TORs in the assessment to begin with which means nobody looked at what you wanted them to look at. They looked at what they decided to look at. That's what's wrong with this process right now. I'll ask a question, does anyone see any coincidence with Cashes ledge and WGOM closure coming up and A18 coming up; why we chose this assessment? I'm going to say it on the record. You know that I've been a very voluntary and agreeable participant in this. This is not the way to work.

**Motion # 1 CARRIED 9-0-0.**

**Motion #2** (Mr. Dempsey/Mr. Alexander)

The Groundfish OSC requests that the Council Chair request a full report from the NEFSC at the September Council meeting outlining the lessons learned from the new stock assessment update process used for GOM cod. Specifically, the Center would provide estimates of staff time and budget resources used to support this assessment. Additionally, the OSC requests an overview of other New England stocks which are potential candidates for this approach, including summary information of survey and catch data for those stocks.

*Rationale* – These are unusual times and the Committee has been put in a hard spot here. The NEFSC could view this request from the Committee and not act on it and we take this issue up at the Council meeting, which would be unfortunate.

A Committee member opposed the motion because it was too confrontational. This was not how other Committee members interpreted it; it was seen more as supporting what was done and hoping this could be done for other stocks and to get the maximum benefit for other stocks.

A Committee member was unhappy with an estimated \$17 million loss to industry due to windowpane this year but the NEFSC could find funding to update GOM cod assessment and not the windowpane assessment.

**Motion # 2 CARRIED 5-3-1.**

***AGENDA ITEM #2: PEER REVIEW OF THE COMPASS LEXECON REPORT ON EXCESSIVE SHARES IN THE GROUND FISH FISHERY***

***PRESENTATION: CIE REVIEW OF THE COMPASS LEXECON REPORT ON EXCESSIVE SHARES IN THE NE GROUND FISH FISHERY (CHAD DEMAREST, NEFSC SSB AND REVIEW COORDINATOR)***

NEFSC SSB staff provided the Committee with an overview of the Center for Independent Experts (CIE) review of the Compass Lexecon (CL) report on excessive shares in the New England Groundfish fishery. The peer review panel was provided with TORs to help in their evaluation. CL found little evidence of market power in the current fishery, including the ACE lease market. CL recommended that the excessive share cap be set so that no person owns or controls permits conferring more than 15.5% of the PSC for a stock. CL indicated no need for an excessive-share cap on sector-affiliated ACE separate from individual holder PSC cap. Review panel concerns included that the underlying theory was based on a single species model which is too simplistic, recommendations based on existing conditions not sufficiently forward-looking, potential for collusion among sectors dismissed but sectors exist to achieve coordination among members the unit of regulation should be any level that allows for institutions to coordinate, and no scientific basis for ruling out the possibility that sector level coordination would not occur. The review panel concluded that the information was insufficient to verify that market power was not being exerted in both the final product market and ACE trading market under current conditions. The panel did not necessarily disagree with the findings but agreed that the scientific basis to validate their findings was lacking. The panel had a number of recommendations that were included in their report, such as the A18 alternatives not being bound by the 15.5% recommendation, potential monitoring of HHI and implementation of caps should the HHI increase to more concentrated levels. Overall, the A18 options could be considered as consistent with both Compass Lexecon and Review Panel recommendations.

**DISCUSSION ON THE PRESENTATION**

The review panel did not discuss why some stocks were more concentrated than others; their discussions were broader in scope. A Committee member queried why the review panel concluded that higher accumulation caps could be appropriate for some stocks and how high would be appropriate. How high the caps could be set depended on how the rest of the fishery looked; it was related to competitive fringe. If holdings were widely dispersed like GOM cod, there could be one much larger holder. If you had a stock that was held by a fewer number of entities, there should be lower caps. When setting the maximum share the market needed to be understood.

A Committee member queried why the reviewers stated in their report that the underlying theory was based on a single species model, which was too simplistic and whether the reviewers knew the Council's options and did they like the aggregate cap alternative. The reviewers didn't comment on the aggregate cap alternative, just expressed support for single stock caps. There's a cost associated with avoiding some stocks, particularly when there's a mismatch between what the assessment says and what the ACLs are and the availability of that stock to the fishing gear. Then, it can be very costly to avoid that stock. The production function is a result of all of those things, including the costs of avoiding stocks. The CL report had a discussion on the multispecies nature of this fishery but it wasn't drawn out in a rigorous manner. Compass Lexecon based it off the single species model but don't rigorously focus on a multi species market.

The reviewers noted that the Compass Lexecon argument for no market power was weak and not supported by theory or reference. SSB staff informed the Committee that the only way to reduce uncertainty is to improve the collection of holdings data (e.g., % interest in a given permit). A Committee member concluded that, at a broad level, the reviewers had significant concerns about the fundamentals of the Compass Lexecon study and questioned whether CL should be used for future analyses. Staff considered some of the reviewers' comments to go beyond what could be considered fair but others were warranted. Compass Lexecon was given a huge task on a complicated fishery and was asked to complete that in a short time period.

### **AGENDA ITEM #3: AMENDMENT 18 – FLEET DIVERSITY AND ACCUMULATION LIMITS**

#### ***PRESENTATION: AMENDMENT 18 UPDATE (RACHEL FEENEY)***

Staff provided the Committee with an overview of progress on A18 and the revised timeline. More detailed information was available in the draft A18 Action plan. The PDT provided input on motions made at the June Council meeting and requested further clarification from the Committee to help develop alternatives. For the inshore and offshore GOM alternatives, it seemed that the Council felt that protecting GOM cod was of primary importance, and the PDT struggled to develop alternatives to meet that goal in an action that doesn't include that as a goal. For the data confidentiality alternatives, the PDT felt there was currently insufficient legal standing to make non-confidential by releasing quota trading data at the individual permit holder level. This may also incentivize misreporting of price data.

#### **DISCUSSION ON THE PRESENTATION**

A Committee member clarified that without cod there would be an upending of the fleet diversity and the Council motion was not diminishing the goal of promoting fleet diversity by protecting cod. The two issues were considered to be connected. Staff explained that the PDT had a difficult time figuring out how to develop measures that fit the goals and that the Council directive to include recreational fishery measures falls outside the goals of A18.



### **3. Motion (Dr. McKenzie/Ms. Goethel):**

To request the Groundfish PDT to define inshore and offshore areas within A18 for possible future management action (subsequent to A18). These areas would address A18, goals 3: ensure consistent access to inshore stocks of fish, stabilize businesses, allow better access to capital investment, and allows for best utilization and management of the resource, as well as Goal 1.

*Rationale* – This motion firms up the foundational need for these measures to help communicate the purpose. The overall concept (including boundary line) would be developed in A18 but the details would be developed in future actions to allow more time to develop appropriate measures.

Other Committee members noted that the Council voted in June to include inshore/offshore areas in A18 and provided 2 boundaries for the PDT and viewed this motion as repetitive and unnecessary. This issue was considered to be dealing with concentrated fishing inshore.

**Motion #3 was ruled out of order.**

#### **Consensus Statement 1:**

The intent of the inshore/offshore measures (Section 4.5) is to address Goals 1 and 3 of Amendment 18.

A Committee member was hesitant to agree to this consensus statement without knowing what would be happening on either side of the line. Other Committee members did not want to discuss the goals of A18 as that has been done already; it was suggested that the specific PDT questions be address instead. A Committee member considered it very important to state how the line would meet the goals within the rationale. Data were needed to show that larger vessels were having an impact on inshore areas. The Chair noted that if a line is drawn and inshore vessels can't target the stocks they need then the management action could hurt the inshore fleet. A Committee member wanted to open up opportunities for small and large boats and that would be the most effective way to promote fleet diversity and not penalize people. Gear restrictions could potentially benefit everyone, especially fleet diversity.

**The Committee agreed to the consensus statement.**

#### **ACCUMULATION LIMITS**

A Committee member was strongly opposed to forced divestiture and proposed grandfathering everyone over the caps. GARFO staff explained that the PDT struggled with the accumulation cap issues because it was unclear whether the Committee wanted to use the control date to determine if people would be grandfathered. Some individuals have continued to accumulate holdings after that control date. The PDT requested a clear rationale for why you would treat people differently in terms of grandfathering those before the control date but not after the control date. The Committee also needed to decide whether grandfathering is indefinite, i.e. if a permit is bequeathed or sold does the grandfathering go with it. A Committee member stated that the intention of the initial grandfathering was to reduce disruption and not to keep holdings above the limit in perpetuity. Another Committee member disagreed with this because a holder that was at the cap could bequeath all of his/her permits to a recipient who is at the cap. Then the recipients' holdings would be double the cap. A potential solution would be if a permit is inherited be to split off that amount of quota that is above the cap and still retain the permit itself with all of its other holdings.

In June, the Council moved to add an option that grandfathering as of the control date would apply to any accumulation limit alternative selected. Staff asked the Committee to clarify whether this should be the only option in the document, and thus not be considered an "option" but a provision.

**Consensus Statement 2:**

In Section 4.1.3, Option A, only include sub-option B, that holdings as of the control date would be grandfathered.

The Committee wanted this to be a design element applicable to all alternatives. A Committee member was concerned that the consensus statement conflicted with the June Council motions. The PDT developed draft alternatives (Section 4.1.3) and wanted confirmation from the Committee that they were consistent with the Council motions. The Committee still needed to address what the impact of the cap was on underutilized species. A Committee member felt that the underutilized species change annually so it's difficult to develop measures.

The Committee agreed that any alternative that did not include grandfathering should be removed from the document.

**4. Motion** (Mr. Dempsey/Mr. Alexander):

To move Section 4.1.3, Option A, Sub-option A (do not grandfather current holdings) to the Considered but Rejected section.

**Motion #4 CARRIED 7/1/0.**

Staff asked the Committee to clarify its intent on whether the non-grandfathered holdings should be divested. A Committee member considered that because the Committee identified the control date instead of the implementation date, there was the possibility that someone who has acquired permits between those 2 dates would need to divest. The issue of forced divestiture still needs to be addressed. GARFO staff asked the Committee to discuss the sub-options within Option B. The Committee needs to decide how to deal with these individuals. The PDT developed 2 sub-options reflecting the June 2014 Council motions, one of which allows an individual to hold but not use the PSC.

A Committee member disagreed with the term "relinquishment" used in Section 4.1.3 but if that language was modified would approve of the sub-options. A Committee member was hesitant to put a time limit on selling permits because it may affect an individual's ability to sell a permit at its true value; buyers may wait until the end of the time limit and force the seller to lower the price. The Committee considered sub-options A and B; if there was no time limit the seller could set an unreasonably high price with the intent of not selling the permit. NOAA General Counsel noted that, under current regulations, individuals would have a year to sell permit privileges and if the permit was not renewed in that year then eligibility to be in the limited access fishery would be lost forever. This discussion was necessary because any holdings obtained after the control date would not be grandfathered. Option A was determined to cover everyone's concerns.

A Committee member asked whether the relinquishment of PSC that exceeds the cap would just be for that stock or whether it would require the relinquishment of the permit and all stocks associated with it. The Committee generally agreed that they wanted an option that required divestment of only those stocks above the cap. Because there is no permit splitting allowed, those stocks could not be sold individually. The Committee debated the best option to achieve the objective to not force a whole permit to be sold if one stock was over the cap. The Committee discussed developing an option that would allow individuals to purchase permits in the future and utilize the PSC on all stocks below the cap but permanently forego PSC for any stocks over the caps.

**5. Motion** (Ms. Goethel/Mr. Alexander):

In Section 4.1.3, add a sub-Option C to Option B to allow the purchase of permits that exceed the PSC cap, with the stipulation that any PSC over the cap would be permanently deleted from that permit and redistributed to the remainder of the fleet annually in the manner described in Framework 45. It would not be used by the purchaser and would no longer be attached to that permit when it is sold.

NOAA General Counsel questioned whether it was better to allow the retention of the permit with the excess PSC, so it could be sold in the future; the intent is you can retain the permit if you're not grandfathered in and you have a PSC that exceeds the cap. [This is sub-option B.]

**Motion #5 CARRIED 9/1/0.**

[This option was added as Section 4.1.3.3 Acquisition of Future Holdings]

There could be a situation where permit holders could be put over the cap through no action of their own through redistribution. GARFO staff noted that under sub-Option A, PSC continues to be redistributed until everyone is under the cap.

**6. Motion** (Mr. Dempsey/Mr. Alexander):

In Section 4.1.3, add a sub-option D to Option B that would require relinquishment (permanent divestment) only of the PSC that is above the established cap.

*Rationale* – The intent is, for the disposition of current holdings in excess of what is allowed, only relinquish the PSC above the cap and not relinquish the PSCs on a permit which do not put them above the cap.

**Motion #6 CARRIED 6/0/0.**

[This option was added as Section 4.1.3 .2 sub-Option C.]

Staff asked the Committee clarify its intent on how to treat inheritance of permits that may put the recipient over the cap. Committee members agreed to discuss this topic at the September 2014 meeting as no members were prepared to make decisions on the topic.

**Public comment**

- Vito Giacalone – Would the buyback be exempt from the cap? It would be a huge restraint that the Buyback Committee will have to wrestle with.

A Committee member wasn't wholly in favor of a blanket exemption for overages resulting from the buyback at this time. The Committee agreed to discuss this topic in September.

**INSHORE/OFFSHORE MEASURES**

The Committee discussed the difficulties associated with requiring declarations for fishing in inshore/offshore areas, particularly with requiring an observer or monitor on private recreational vessels to fish in both areas on a single trip. It can be hard to monitor or enforce if vessels weren't restricted to one area on a minimum of a trip level basis. Recreational vessels could declare inside or outside an area for an entire year or a more suitable time period. The option currently prohibits fishing in both areas unless you have an at-sea monitor (ASM) and/or electronic monitoring (EM) that was approved for catch attribution by stock area. Sectors currently require vessels that fish in SA 514 without an observer to unload before fishing outside of SA 514.

#### *Determination of the sub-ACL (Section 4.5.2.2)*

A Committee member thought that the range of options was appropriate and that there could be sub-options for 5, 10 or 20 year time periods for determining historical catch and fish distribution. The longer time periods were preferred by the Committee because stocks have been contracting for a long time. Staff asked that if the analysis of option B showed that almost 100% of fishing effort and fish distribution were on the western side of the line drawn, should there be no sub-ACL in the east?. A Committee member preferred to wait for the analysis with the understanding that it would likely result in most of the catch being allocated to the inshore area.

A Committee member was opposed to setting sub-ACLs in A18 because it would likely negatively impact the small boat fleet. Another Committee member agreed and proposed investigating proportionality based on fish distribution instead of effort distribution.

#### **7. Motion** (Mr. Dempsey/Mr. T. Alexander):

In Section 4.5.2, Alternative 2, add sub-options to Options B and C that would have two time periods a 10- or 20-year time series rolling forward (set in each specifications process).

Because fish tend to move, the Committee could consider a rolling average to account for variations in distribution over time. The Committee wanted to talk further about these options in September.

#### **Motion #7 CARRIED 5/1/0.**

#### *Declaration time periods (Section 4.5.4)*

A Committee member was opposed to having declaration time periods based on hours and considered that the options should range from the minimum unit of a trip to the maximum unit of a year. The PDT questioned how alternatives could be developed for fixed gear, having gill netters remove gear from water, and how that would affect effort. It was recommended that declaring on a trip by trip basis should be included as an option. The other option discussed was declaring into a certain area and allowing that to roll until you declared otherwise, there is probably an upside for a lot of operations to be allowed to do that. The PDT indicated that it needs more specific input and was unsure how these alternatives would promote fleet diversity. Staff considered it helpful to articulate the intent. For some specific period of time, can vessels not fish in the inshore area? A Committee member was not sure how anyone could plan to declare into the area in question for any amount of time, because of the high variability of fish in that area.

#### **Public comment**

- Vito Giacalone – Mr. Dempsey described one of the concerns that the Inshore Gulf of Maine (IGOM) addresses but one big difference is the inshore GOM declaration that the sectors voluntarily subscribe to it the operations plan. One thing I think that's superior than what is being talked about now is that it to create incentives for offshore vessels that even if they declare in that area they have a way to get out of there. They can't go into another broad stock area but they're not forced to declare west of the 70° 15'; they're forced to declare an option to fish west of the 70° 15' and then they're trapped in one large broad stock area but they can jump on the other side. Whereas something like this, we don't support splitting the ACL either. This would actually force vessels to declare even for one full trip west of whatever line you decide for an inshore/offshore line if you end up going down that road. They would have to finish the whole trip west which I would argue is going to put more pressure on the inshore than less. What we wanted to do was for vessels think it's really worth fishing west of the 70° 15' they can take a peak on the way in or out

or they could stay there if they find fish but if they don't find fish they can do what's best for the bottom which is to go east but they have to stay in broad stock area 1. You don't have that option now in what you're talking about. I think that's an important thing to understand. It's not just biological, people are saying they want less vessels that have the range to spend more time fishing elsewhere than inshore. That's what the IGOM does.

There was a general consensus that it would be favorable to include an option in the document similar to the IGOM plan, closely related to what the sectors are already doing.

### **Consensus Statement 3:**

In Section 4.5.4, replace Alternative 2 with an alternative (and options) with declaration time periods at the trip level or higher (e.g., trip, season, annual).

The Committee was unsure how to handle the declaration for unpermitted recreational vessels and agreed to ask the RAP to discuss this issue at its next meeting. The RAP will be asked, based on their expertise, whether people fish east of the 70° 15' line, whether there is a way to report or monitor catch, and if there is currently fishing on both sides of the line on a given trip.

### *Inshore/Offshore boundary*

### **Public Comment**

- Jackie Odell, Northeast Seafood Coalition – In regards to the line, I've been listening to this conversation whether it's by the Groundfish Committee for 2 meetings or listening to the PDT discussion of inshore vs. offshore, and I think really it's important to continue to put some definitions around inshore/offshore. When people talk about inshore I think you mean the day boat fishery so where boats have historically been fishing in the day boat fishery. I know when the PDT had met there were some confusions around inshore/offshore whether it was by biologically whether it was for the purpose of fleet diversity and when they consider biological they start to come up with areas that had nothing to do with day boat vs. trip boat fishing and fishing styles and fishing activity. It was a very different discussion so I think if you're thinking about day boat fishery vs. trip boat fishing I think you need to provide a little bit of clarification in that otherwise I think you're going down a very bad road. Just for clarification purposes I think the reason why IGOM had created the 70 15 line was because that was the purpose of day boat fishing activity was west of this 70 15 line. That was the intent of that. I'm not condoning any of this boundary lines I'm just saying that there's confusion of why you're even going to have a line and if it's for day boat vs. trip boat fishing you need to identify that.

### **8. Motion** (Ms. Goethel/Dr. McKenzie):

In Section 4.5.1, direct the Groundfish PDT to consider the inshore/offshore line with the intent that this be a line that distinguishes the day-boat from the trip boat fishery with the intent to promote diversity.

A Committee member considered this to have been dealt with in a previous motion and recommended withdrawing the motion and addressing this by including this in the rationale of the 70-15 line option with a consensus statement. The maker of the motion was not sure the 70-15 was the correct line. GARFO staff noted it's unclear what the Council's definition of fleet diversity, so developing measures to promote it is difficult. It means something different to everyone. A Committee member suggested tying fleet diversity to specific goals and objectives to help solve that problem.

**Motion #8 was withdrawn without objection.**

**Consensus Statement 4:**

In Section 4.5.1, part of the rationale for Alternative 2 Option B (boundary line at 70°15') would be to create a distinction between the day-boat and the trip boat fishery.

*Gear Restricted Area*

Staff noted that the Committee should discuss the GOM gear restricted area directive from the Council and requested clarification as to whether this was supposed to be expanded geographically or to additional gear types. A Committee member considered the discussion to have focused on the 12" roller gear area, and it should mirror an alternative in the Habitat Omnibus Amendment. Another Committee member considered the alternatives in the document to capture Committee intent to possibly extend the existing gear restrictions to a larger area. Staff clarified that Alternative 2 would contract the area geographically relative to no action, unless the Council approves the alternative in the Habitat Amendment that would decrease the area. However, the Council did not identify that as its preferred alternative. A Committee member didn't think there was any support for reducing the size of that area. Another member saw the line as punitive and not supporting fleet diversity; catching more fish in different areas and stocks would support fleet diversity.

**Quorum was lost at this point. No additional motions or consensus statements were made.**

**Public Comment**

- Brett Tolley, Northwest Atlantic Marine Alliance – To repeat what some of the testimony back in April with a few commercial fishermen who fish in this area talking about the need for gear restrictions. We're not just talking about roller size, we're also talking about gillnet restrictions and hook and line restrictions as well. It looks to me that the restrictions currently in the habitat are only looking at trawl gear. Just to reiterate looking back at some of those testimonies and some of the public comment from quite a few fishermen and gear types and communities who fish in the inshore GOM. We're talking about not looking at just one gear type but restrictions across the board for trawl, gillnet and hook gear.

The Committee agreed to consider for September's discussion how the rationale for the gear restricted area, developed to protect habitat, would be revised to support the A18 goals, and how the area would be "expanded," as directed by the June Council motion.

**DATA CONFIDENTIALITY**

The Committee lost quorum and could not provide any definitive guidance on data confidentiality issues. A Committee member did note that the way the data confidentiality alternatives were currently written would not be approvable. The Committee agreed to discuss this in September.

***AGENDA ITEM #4: FRAMEWORK ADJUSTMENT 53 – SPECIFICATIONS AND MANAGEMENT MEASURES***

***PRESENTATION: FRAMEWORK ADJUSTMENT 53 SPECIFICATIONS AND MANAGEMENT MEASURES MULTISPECIES (GROUNDFISH) FISHERY MANAGEMENT PLAN (JAMIE COURNAE)***

Staff provided a timeline indicating the completion of FW53 could occur at the end of 2014, with the Council taking final action at the November 2014 Council meeting. The FW would address any stock status changes, specifications for several Groundfish stocks and other management measures that may not

be included in the document that include: allocation of windowpane flounder ACL to sub-components, expand GOM cod inshore spawning closure, create a roll-over provision for specifications, revise the carryover provisions, address enforcement concerns of undersized fish through changes in gear regulations and recreational management measures process. The PDT is still working on the final submission of FW52 to GARFO, A18 and is beginning work on FW53.

A Committee member was disappointed that a motion that failed at the June 2014 Council meeting regarding windowpane flounder was not discussed by the PDT. The PDT did not have time to discuss a failed motion that was not likely to pass in future.

**AGENDA ITEM #4: OTHER BUSINESS**

A Committee member requested to see GOM haddock projections that would be viewed by the SSC prior to their August 25, 2014 meeting. Staff informed the Committee that the Committee would receive a copy when it was made available to the SSC.

The meeting adjourned at 5:06 pm.