



## New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116  
E.F. Terry Stockwell, *Chairman* | Thomas A. Nies, *Executive Director*

### MEMORANDUM

**DATE:** November 7, 2013  
**TO:** Groundfish Oversight Committee (Committee)  
**FROM:** Groundfish Plan Development Team (PDT)  
**SUBJECT:** Progress on Amendment 18

To inform your meeting on November 18, this memo summarizes the work that the PDT has done related to Amendment 18 since the September 17 Committee meeting. Recall that there was very little time dedicated on September 17 to Amendment 18, and discussion of most issues was postponed (see meeting summary).

This memo does not attempt to capture the detail of materials for prior Committee meetings. The Committee is encouraged to be familiar with at least the following documents, in addition to the November 18 meeting materials:

- April 9, 2013 PDT memo  
*(re., fishery performance, legal considerations, hypothetical measures)*
- June 3, 2013 NEFSC draft report "Indicators of Fleet Diversity in the New England Groundfish Fishery" and related June 12 presentation to the Committee.
- June 5, 2013 PDT memo  
*(re., permit banks)*
- August 8, 2013 PDT memo  
*(re., measures in Northern Economics report, permit caps, permit banks, access to capital, NEHFA proposal<sup>1</sup>, defining ownership and excessive shares, fleet diversity)*
- September 10, 2013 PDT memo  
*(re., permit splitting, permit banks, accumulation limits, Compass Lexecon analysis, NEHFA proposal)*
- September 13, 2013 PDT memo  
*(re., permit splitting, vessel upgrade restrictions)*

For your convenience, these background documents are compiled on the November 18 Committee meeting webpage.

---

<sup>1</sup> Northeast Hook Fishermen's Association

## **Permit splitting**

In September, the Committee and the Council voted to remove the concept of permit splitting from Amendment 18, expressing a preference to develop this idea as an omnibus amendment. Thus, the PDT moved the related alternatives to the “Considered but Rejected” section of Appendix I.

## **Vessel upgrade restrictions**

In August, the Committee passed a motion to “consider revisions to vessel upgrade restrictions to allow more flexibility for the fleet and improved safety.” At the September Committee meeting, staff informed the Committee that the Northeast Regional Office (NERO) would like to take the lead on an omnibus amendment regarding vessel upgrade restrictions (see also Sept. 10 PDT memo) and would be presenting ideas at the September Council meeting. The Committee then decided to postpone further discussion until after said presentation. Recall that the Groundfish Advisory Panel (GAP) passed a motion on September 16 to support the NERO proposal, but “with the addition of removing the horsepower provisions.” A placeholder remains in the list of Amendment 18 draft potential measures (Appendix I).

Any modification to vessel upgrade provisions requires an omnibus amendment. This would be true even if the groundfish FMP adopted groundfish-specific measures, because the upgrade restrictions apply to all Northeast FMPs. Other FMPs would have to be modified to allow for whatever groundfish provision(s) were developed.

*Questions: Is the Committee still interested in developing measures related to vessel upgrade restrictions in Amendment 18 (i.e., separate from the NERO-coordinated omnibus amendment)? If so, which? If not, the Committee needs to pass a motion stating so.*

## **Northeast Hook Fishermen’s Association proposal**

Generally, the NEHFA proposes measures to separate the catch history associated with HA permits into a handgear-specific fishery, with additional constraints to ensure that HA permits and their history remain associated with handgear fishing. Additional proposed measures are designed to improve access to available catch limits and operational efficiency of a handgear-only fishery. The latest iteration of the NEHFA proposal was submitted to the Council on September 12 (see Correspondence).

In June 2013, the Council moved “to have the Groundfish Committee consider including the concept of the Northeast Hook Fishermen’s Association proposal as outlined in their April 7, 2013, letter to the Council in Amendment 18 for analysis.” Since then, the proposal has been discussed at the August 14 and September 17 Committee meetings and the September 16 GAP meeting. These discussions were informed by PDT memos dated August 8 and September 10.

No related motions were made at the August 14 OSC meeting. On September 16, the GAP passed two related motions, to recommend “not moving the NEHFA proposal forward for further consideration,” but to “request that the GF OSC encourage the Agency to strongly consider the NEHFA proposal exemptions as sector exemptions for any sector.” Then on September 17, the

Committee considered a motion to include some portions of the NEHFA proposal as measures in Framework 51, to replace the trimester catch limits with annual allocations for the common pool, remove the March 1 to 20 handgear fishing closure, and remove the requirement that handgear vessels have one standard fish tote onboard. However, this motion failed.

Given that the Council moved to have the OSC consider including the proposal concepts in Amendment 18, the PDT recommends that the OSC consider a motion whether or not to do so. This would help clarify the Committee's position and provide guidance to the PDT on which proposal components, if any, merit further development. A few questions that came up at the September meetings are discussed below.

### *FY2013 HA permit use*

Recall from the September 10 PDT memo that for FY2013, there were 103 HA permits renewed. As of early September, 22 have been used to actively fish. This includes one fisherman enrolled in a sector and 21 fishermen enrolled in the common pool. There are 20 HA permits enrolled in seven unique sectors, including the one that has been actively fished. Thus, the ACE associated with 19 HA permits is being leased to sector members that fish with other gear types.

In September, there were a few questions raised about the contribution of HA permit Potential Sector Contribution (PSC) to the FY2013 Annual Catch Entitlement (ACE), how that is distributed between HA permits enrolled in the common pool versus sectors, and the distribution among stocks. Table 1 shows, by stock, the estimate of the FY2013 Annual Catch Entitlement (ACE) distribution between sectors and the common pool. The majority (62.9%) of ACE is associated with sectors, though for Gulf of Maine cod, the split is about even. Technically, these data are "potential" ACE, because permits enrolled in the common pool do not have ACE calculated. PSC is not turned into ACE in the common pool (i.e., they are not constrained to anything but the total common pool sub-ACL/trip limit/trimester TAC for any given stock). Confidentiality rules prohibit reporting the split of sector ACE associated with HA permits between ACE actively harvested vs. leased, because only one HA permit is being actively harvested in a sector.

### *The HA permit category*

Any discussion of new exemptions or changes to common pool or sector management should include the costs and benefits to the current common pool members and the active and lease-only sector members (e.g. equity of the proposed change, potential for grandfathering). In addition, the original intent of the HA permit category should be considered.

The *Handgear A Permit Information Sheet* issued by the Northeast Regional Office defines a Handgear A permit as "a limited access Northeast multispecies permit that allows vessels to target groundfish using handgear" (NMFS). Handgear A permits operating in the common pool are restricted to using only handgear or a limited amount of tub trawl gear (250 hooks).

Amendment 16 allowed HA permits to be enrolled in sectors, and thus, the ACE associated with these permits could then be leased and harvested using other gear types.

The NEHFA proposes that the catch history associated with HA permits only be used by HA permit holders. Generally, changing permit use requirements raises equity concerns. The Council would need to determine whether current HA permit holders should be disallowed from enrolling in sectors to lease ACE that could be harvested using other gear types. On the other hand, the Council may wish to constrain the use of the HA permit category to handgear.

Requiring that HA-related catch history be harvested only with handgear could be specifically addressed by the Committee as a regulatory provision (e.g., measure in A18). Alternatively, similar constraints could be adopted on a sector-by-sector basis through sector operations plans.

**Table 1 - Estimate of FY13 Potential Annual Catch Entitlement (ACE) Contribution (pounds) of Allocated Stocks Held by Handgear A Permits as of September 20, 2013.**

Stock	HA permits ACE contribution		
	Total HA (lbs)	% Sector	% Common Pool
GB Cod East	350	9.8%	90.2%
GB Cod West	6,516	9.8%	90.2%
GOM Cod	13,428	48.0%	52.0%
GB Haddock East	1,366	9.9%	90.1%
GB Haddock West	8,167	9.9%	90.1%
GOM Haddock	464	7.3%	92.7%
GB Yellowtail Flounder	36	52.3%	47.7%
SNE/MA Yellowtail Flounder	108	12.5%	87.5%
CC/GOM Yellowtail Flounder	249	21.0%	79.0%
Plaice	555	8.6%	91.4%
Witch Flounder	123	11.4%	88.6%
GB Winter Flounder	632	0.7%	99.3%
GOM Winter Flounder	177	22.5%	77.5%
Redfish	16,809	93.2%	6.8%
White Hake	14,309	86.1%	13.9%
Pollock	59,968	69.1%	30.9%
SNE/MA Winter Flounder	250	1.3%	98.7%
<b>Total</b>	<b>123,505</b>	<b>62.9%</b>	<b>37.1%</b>

*Note:* Data from NMFS Northeast Regional Office, updated September 30, 2013.

### Trimester vs. Annual sub-ACL

Amendment 16 established that in FY2012, the common pool would be managed with a trimester sub-ACL versus an annual one for all stocks except SNE/MA winter flounder, windowpane flounder, ocean pout, Atlantic wolffish, and Atlantic halibut. Then, Framework 48 exempted handgear from the trimester system for white hake. The NEHFA proposes creating an annual sub-ACL for all stocks for the HA permit category.

Table 2 shows the common pool sub-ACL and cumulative catch since FY2010, broken down by trimesters. Given that the trimester approach was instituted in FY2012, the percent of total catch in the trimesters for FY2010 and FY2011 are estimates.

In FY2010 and FY2011, most of the common pool effort occurred within the first three months of the fishing year. This could be due to a preference for fishing in seasonable weather, but there could also be a brace to fish factor in play. The annual sub-ACLs were not exceeded.

Since the implementation of trimesters, the common pool has exceeded its trimester sub-ACL in a few cases (noted in red, Table 2). Both the annual and the trimester Gulf of Maine haddock sub-ACL was exceeded during the first trimester of FY2013. NMFS published a notice on July 16, 2013 that the GOM Haddock Trimester Total Allowable Catch (TAC) Area would be closed for the remainder of the first trimester (through August 31), because the common pool had caught 147% of its Trimester 1 TAC for this stock. NMFS cited that "because there are relatively few common pool vessels, and the Trimester 1 TAC for GOM haddock is so small, it was difficult to project when 90% of the Trimester TAC would be reached" (NMFS 2013a). Then, based on data reported through August 21, 2013, the common pool fishery caught 96% of its annual Gulf of Maine haddock allocation of 2 mt, despite the closure. NMFS projected that the annual allocation would likely be exceeded, so the GOM haddock trip limit was reduced to zero for all common pool vessels, effective August 28, 2013 through the remainder of the fishing year (NMFS 2013b).

There are a number of convergent factors that cause managing the common pool quotas by trimesters challenging. For quotas that are as small as those for the common pool trimesters, the current data delivery systems make it difficult to estimate in-season when 90% of the TAC (and total TAC) is projected to be reached. For GOM haddock in FY2013, the trimester sub-ACLs are particularly small. When the common pool fleet was alerted that this TAC was approaching full utilization, rather than slowing or stopping fishing, some continued to fish. Following the closure, additional landings data from prior weeks was submitted to NERO and processed. These exceeded the quota.

*Questions: Would the Committee like any measures related to the NEHFA proposal to be developed in Amendment 18? If so, which?*

**Table 2 – Common Pool sub-ACL and Catch**

	Annual sub-ACL (mt)	Trimester 1 (5/1–8/31)		Trimester 2 (9/1-12/30)		Trimester 3 (1/1-4/30)		Annual Catch	
		sub-ACL	Catch (% total or mt)	sub-ACL	Catch (% total or mt)	sub-ACL	Catch (% total or mt)	Total	% of annual sub-ACL
<b>FY2010</b>									
GOM cod	240	n/a	97%	n/a	2%	n/a	1%	226.0	94%
GOM haddock	26	n/a	83%	n/a	3%	n/a	14%	7.1	27%
Pollock	375	n/a	n.d.	n/a	n.d.	n/a	n.d.	151.2	40%
<b>FY2011</b>									
GOM cod	104	n/a	64%	n/a	20%	n/a	16%	93.4	90%
GOM haddock	8	n/a	48%	n/a	5%	n/a	48%	1.9	24%
Pollock	104	n/a	n.d.	n/a	n.d.	n/a	n.d.	69.2	67%
<b>FY2012</b>									
GOM cod	80.0	21.6	22.0	29.9	6.1	28.5	1.8	29.9	37%
GOM haddock	5.0	1.2	0.8	1.7	0.1	2.1	0	0.9	18%
Pollock	82.0	22.9	18.9	33.4	40.0	25.7	8.9	67.8	82%
<b>FY2013</b>									
GOM cod	18	4.9	3.2	8.3	0.3	4.8	tbd	3.3	18%
GOM haddock	2	0.5	2.0	0.5	0.1	1.0	tbd	2.1	105%
Pollock	91	23.4	12.7	44.7	5.5	23	tbd	18.1	20%

Notes: Data from NOAA Fisheries Northeast Multispecies (Groundfish) Monitoring Reports.

<http://www.nero.noaa.gov/ro/fso/MultiMonReports.htm>

FY2010 and FY2011 trimester catch are estimates of the % of total annual catch. n.d. = Estimate was not available in time for this memo. Red shading notes when a sub-ACL was exceeded. FY2013 data as of 10/9/13. These data are the best available to NOAA's National Marine Fisheries Service (NMFS) when this report was compiled. Data for this report may be supplied to NMFS from the following sources: (1) vessels via Vessel Monitoring System; (2) Vessel Trip Reports; (3) fish dealer purchase reports; and the (4) NOAA Fisheries Service Observer Program, through audited observer reports submitted by the Northeast Fisheries Science Center. Data in this report are for landings made through September 04 2013 and may be preliminary. Differences with data from previous reports are due to corrections made to the database and updates to observer data.

## **Measures to meet Amendment 18 Goal #4**

### Compass Lexecon analysis

Compass Lexecon is currently conducting an economic analysis of the groundfish fishery to help the Council determine an appropriate excessive shares limit for the fishery (Appendix II).

Overall, this project remains on schedule, though due to the federal shutdown, there was a delay in having NMFS supply appropriate economic and fishery data (Phase 1). Currently, Compass Lexecon is finishing Phase 2, gathering input from fishery participants and interested parties using a multi-pronged approach:

- An on-line survey targeted at a broad range of stakeholders;
- A Word document of questions specific to sector participants;
- In-person and telephone interviews; and
- A public webinar on October 30, 2013

This information and additional detail was distributed on October 11 via the Council's email distribution system and is also posted on the Council website. Compass Lexecon will present preliminary results at the November 18 Committee meeting (Phase 3). A final report is expected in December (Phase 4).

### NEFSC SSB analysis

At the June 12 Committee meeting, the Northeast Fisheries Science Center Social Sciences Branch presented the draft report, "Trends in Groundfish Fishery Concentration, 2007-2013," with the caveat that not all of the fishery permits were included in the analysis. At that time, data on the Confirmation of Permit History (CPH) permits had not yet been included in the database that holds the permit ownership data. Over the summer, NMFS accomplished this task, and an update to the analysis will be presented at the November 18 Committee meeting (see materials).

### Measures for Amendment 18

At the September Committee meeting, the Committee agreed by unanimous consent to postpone discussion of accumulation limit-related measures until its next meeting, and that the Committee would take up discussion of draft potential measures as prepared by the PDT for their September meeting. Please refer to Appendix I, which contains these draft potential measures. As noted in text boxes, in some cases, the Committee has passed motions relative to these measures, but has not yet approved specific language. In other cases, the Committee has discussed concepts in general, but has not yet decided to include measures. This is considered to be a discussion document for the Committee to consider on November 18.

*Questions: See Appendix I text boxes.*

### **Measures to meet Amendment 18 Goals #1-3**

In June 2013, the Amendment 18 goals (Appendix III) were revised by a unanimous vote of the Council. The new Goals #1-3 are similar to goal revisions that were passed by majority votes of the Groundfish Advisory Panel and Committee. There are few measures that have been discussed or developed by the Committee in the intervening months that would meet Goals #1-3, beyond permit splitting and modifying vessel upgrade restrictions.

*Questions: Are there measures that the Committee would like to include in Amendment 18 to meet Goals #1-3? If so, which?*

### **References**

- NMFS. Handgear A Permit Information Sheet. Gloucester (MA): National Marine Fisheries Service; [cited 2013 October 17]. Available from:  
<http://www.nero.noaa.gov/regs/infodocs/handgearainfosheet.pdf>
- NMFS. 2013a. Fisheries of the Northeastern United States; Northeast Multispecies Fishery, Trip Limit Adjustments for the Common Pool Fishery. Federal Register. 78(136): 42478-42479.
- NMFS. 2013b. Fisheries of the Northeastern United States; Northeast Multispecies Fishery, Trip Limit Adjustments for the Common Pool Fishery. Federal Register. 78(170): 54194-54195.



**DRAFT Discussion Document:****Amendment 18  
to the  
Northeast Multispecies Fishery Management Plan****DRAFT****4.0 ALTERNATIVES UNDER CONSIDERATION****5.0 ALTERNATIVES CONSIDERED BUT REJECTED**

**Prepared by the  
New England Fishery Management Council  
in cooperation with the  
National Marine Fisheries Service**

**PDT notes:**

- As noted, in some cases, the Groundfish Oversight Committee has passed motions relative to these measures, but has not yet approved specific language. In other cases, the OSC has discussed concepts in general, but has neither decided to include measures nor approved specific language.
- This is considered to be a discussion document for the Committee to consider on November 18.
- The Groundfish Advisory Panel passed several motions relative to this document. Refer to their September 16 meeting summary, in addition to summaries of their prior meetings (e.g., June 10).

***Intentionally Blank***

## 4.0 ALTERNATIVES UNDER CONSIDERATION

### 4.1 ALTERNATIVES FOR MODIFYING VESSEL UPGRADE RESTRICTIONS

#### 4.1.1 Alternative 1: No action

No action. There are no changes to vessel upgrade restrictions.

#### 4.1.2 Alternative 2: Modifying vessel upgrade restrictions

*(To be developed).*

PDT notes:

- *Section 4.1 originated from an 8/14/13 OSC motion, though in that motion and related discussion, no specific ideas for measures were raised.*

PDT questions:

1. *Is the OSC still interested in including Section 4.1, given the omnibus amendment on vessel upgrade restrictions currently being coordinated by NERO?*
2. *If so, which measures would the OSC like to include?*

### 4.2 ALTERNATIVES FOR ESTABLISHING ACCUMULATION LIMITS

#### 4.2.1 Alternatives for a Regulatory Definition of a Non-profit Permit Bank

##### 4.2.1.1 Alternative 1: No action

No action. Do not define a non-profit permit bank.

##### 4.2.1.2 Alternative 2: Defining a non-profit permit bank

*Definition:*

An entity shall be considered a non-profit permit bank under the following criteria:

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

*Other Conditions:*

- A. Non-profit permit banks shall not be allocated ACE, but must join a groundfish sector.
- B. Non-profit permit banks shall comply with existing and relevant leasing and transfer regulations that currently apply to sectors and individual permit-holders including lease reporting protocols, size-class or baseline restrictions, etc.
- C. Non-profit permit banks will be approved annually by the National Marine Fisheries Service provided a complete application has been submitted by agreed upon deadlines. NMFS will ensure that all requirements listed above are fully and satisfactorily met prior to approval.
- D. Non-profit permit banks shall submit a performance report annually to the National Marine Fisheries service, which shall be a public document. These reports shall explain how the above qualification criteria were met.

*PDT notes:*

- *Section 4.2.1 originated from a 6/13/13 OSC motion and was drafted by the PDT.*
- *Based on the assumption that permit banks would be subject to different accumulation limits than other commercial entities (e.g., individual business owners), a definition and/or criteria is necessary to identify which entities qualify as a permit bank. State-operated permit banks are already defined in Amendment 17.*
- *The language in Section 4.2.1.2 is an effort to encapsulate the OSC discussion to date, particularly that the non-state permit banks should be non-profit organizations.*
- *In #2 of the definition, the PDT suggests deleting “is eligible to”.*
- *In the definition, lines #4 and 5 may be inconsistent with requiring that non-state permit banks enroll in sectors.*

*PDT questions:*

1. *Does the Committee want permit banks to be subject to a different accumulation limit(s) than other entities?*
  - a. *No. A definition is unnecessary.*
  - b. *Yes. A definition is necessary (for non-state permit banks).*
    - i. *Should non-state permit banks be required to join sectors or should they operate independently?*
    - ii. *What public good should an entity provide to qualify for a less restrictive accumulation limit? Should that be worked into the qualification criteria? Should they involve the fishing community in some way?*
    - iii. *Which term should be used to describe these entities: “non-state,” “private,” or “non-profit” permit banks?*
    - iv. *Should officers be limited in how much ACE they can lease from their own permit bank?*
    - v. *Should permit banks be prohibited from leasing ACE in?*

## 4.2.2 Alternatives for Limiting Holdings of Fishing Access Privileges

### 4.2.2.1 Alternatives for Limiting the Holdings of Individual Permit Banks

#### 4.2.2.1.1 Alternative 1: No action

No action. Do not limit the holdings of permit banks, public or non-profit.

#### 4.2.2.1.2 Alternative 2: Limiting the holdings of individual permit banks

*NEFMC could choose one percentage within each of the following options, but any combination of options.*

**Option A:** For any single fishing year, no single permit bank, public or non-profit, shall hold more than the following percent of Northeast Multispecies permits. This includes permits issued to vessels and eligibilities in Confirmation of Permit History. Permit banks in existence prior to the control date (April 7, 2011) will be restricted to holding the number of permits held as of the control date, unless the following percentage translates to a greater number of permits.

- 1.) X percent
- 2.) Y percent
- 3.) Z percent

*PDT notes:*

- *Section 4.2.2.1.2 Option A originated from a 6/13/13 OSC motion and was drafted by the PDT.*
- *The OSC has not yet identified specific caps. There are three choices listed as a placeholder.*

**Option B:** For any single fishing year, no single permit bank, public or non-profit, shall hold more than the following percent of the MRIs with associated PSC. Permit banks in existence prior to the control date (April 7, 2011) will be restricted to holding the number of MRIs with associated PSC held as of the control date, unless the following percentage translates to a greater number of permits.

- 1.) X percent
- 2.) Y percent
- 3.) Z percent

**Option C:** For any single fishing year, no single permit bank, public or non-profit, shall be assigned no more than the following percent of PSC associated with all Multispecies stocks. Permit banks in existence prior to the control date (April 7, 2011) will be restricted to being assigned PSC by their permit/MRI holdings as of the control date, unless the following percentage translates to a greater amount of stock-wide PSC.

- 1.) X percent
- 2.) Y percent
- 3.) Z percent

**Option D:** For any single fishing year, no single permit bank, public or non-profit, shall be assigned no more than the following percent of a stock-specific PSC. Permit banks in existence prior to the control date (April 7, 2011) will be restricted to being assigned PSC by their permit/MRI holdings as of the control date, unless the following percentage translates to a greater amount of stock-specific PSC.

- 1.) X percent
- 2.) Y percent
- 3.) Z percent

PDT notes:

- *Section 4.2.2.1.2 Options B - D were drafted by the PDT in an effort to encapsulate the OSC discussion to date. There has been interest expressed in developing more accumulation limit options than just a permit cap.*
- *It would be easier for NMFS to track accumulation limits for MRIs rather than permits. The MRI is a unique identifying number that is attached to a multispecies permit. A plain language description of MRIs and PSC calculation has been published by NMFS:  
[http://www.nero.noaa.gov/sfd/sectordocs/PSC\\_Calculation.pdf](http://www.nero.noaa.gov/sfd/sectordocs/PSC_Calculation.pdf).*

PDT questions:

1. *Would the OSC like to include any of these options?*

#### **4.2.2.2 Alternatives for Limiting the Holdings of Permit Banks Collectively**

##### **4.2.2.2.1 Alternative 1: No action**

No action. Do not limit the holdings of permit banks collectively.

##### **4.2.2.2.2 Alternative 2: Limiting the holdings of permit banks collectively**

For any single fishing year, all permit banks, public and non-profit, shall hold no more than the following percent of Northeast Multispecies permits.

- 1.) X percent
- 2.) Y percent
- 3.) Z percent

PDT note:

- *Section 4.2.2.2 was drafted by the PDT in an effort to encapsulate the OSC discussion to date. There has been interest expressed limiting the holdings of permit banks collectively, as well as individually.*

PDT questions:

1. *Would the OSC like to have options included in Section 4.2.2.2.2 that are similar to Options B, C, or D?*

### 4.2.2.3 Alternatives for Limiting the Holdings of Entities other than Permit Banks

#### 4.2.2.3.1 Alternative 1: No action

No action. Do not limit the holdings of entities other than permit banks.

#### 4.2.2.3.2 Alternative 2: Limit the holdings of entities other than permit banks

*NEFMC could choose one percentage within each of the following options, but any combination of options.*

##### **Option A:**

For any single fishing year, no individual or business entity shall have ownership interest in more than the following percent of Northeast Multispecies permits. This includes permits issued to vessels and eligibilities in Confirmation of Permit History. Those individuals or business entities with an ownership interest in these permits prior to the control date (April 7, 2011) will be restricted to holding the number of permits held as of the control date, unless the following percentage translates to a greater number of permits.

- 1.) 5 percent
- 2.) Y percent
- 3.) Z percent

##### PDT notes:

- *Section 4.2.2.3.2 Option A.1 originated from a 6/13/13 OSC motion and was drafted by the PDT.*
- *There are two generic choices listed as placeholder, in addition to 5%.*

##### PDT questions:

1. *Would the OSC like to include options besides 5%? Which?*

##### **Option B:**

For any single fishing year, no individual or business entity shall have ownership interest in more than the following percent of the MRIs with associated PSC. Those individuals or business entities with an ownership interest in these MRIs with associated PSC prior to the control date (April 7, 2011) will be restricted to holding the number of MRIs with associated PSC as of the control date, unless the following percentage translates to a greater number of MRIs with associated PSC.

- 1.) X percent
- 2.) Y percent
- 3.) Z percent

***Option C:***

For any single fishing year, no individual or business entity shall be assigned no more than the following percent of the PSC associated with all Multispecies stocks. Those individuals or business entities holding permits/MRIs prior to the control date (April 7, 2011) will be restricted to being assigned PSC by their permit/MRI holdings as of the control date, unless the following percentage translates to a greater amount of stock-wide PSC.

- 1.) X percent
- 2.) Y percent
- 3.) Z percent

***Option D:***

For any single fishing year, no individual or business entity shall be assigned no more than the following percent of a stock-specific PSC. Those individuals or business entities holding permits/MRIs prior to the control date (April 7, 2011) will be restricted to being assigned PSC by their permit/MRI holdings as of the control date, unless the following percentage translates to a greater amount of stock-specific PSC.

- 1.) X percent
- 2.) Y percent
- 3.) Z percent

***PDT notes:***

- *Section 4.2.2.3.2 Options B - D were drafted by the PDT in an effort to encapsulate the OSC discussion to date. There has been interest expressed in developing more accumulation limit options than just a permit cap.*

***PDT questions:***

1. *Would the OSC like to include other options? Which?*



#### 4.2.2.4 Alternatives for limiting the use of fishing access privileges

##### 4.2.2.4.1 Alternative 1: No action

No action. Do not limit the use of fishing access privileges.

##### 4.2.2.4.2 Alternative 2: Limit the use of fishing access privileges

*NEFMC could choose one percentage within each of the following options, but any combination of options.*

###### ***Option A:***

For any single fishing year, no individual or business entity shall harvest no more than the following percent of the stock-wide ACE. Those individuals or business entities holding permits/MRIs prior to the control date (April 7, 2011) will be restricted to harvesting the percent of ACE harvested as of the control date, unless the following percentage translates to a greater amount of stock-wide ACE.

- 1.) X percent
- 2.) Y percent
- 3.) Z percent

###### ***Option B:***

For any single fishing year, no individual or business entity shall harvest no more than the following percent of the stock-specific ACE. Those individuals or business entities holding permits/MRIs prior to the control date (April 7, 2011) will be restricted to harvesting the percent of ACE harvested as of the control date, unless the following percentage translates to a greater amount of stock-specific ACE.

- 1.) X percent
- 2.) Y percent
- 3.) Z percent

###### ***PDT note:***

- *Section 4.2.2.4 were drafted by the PDT in an effort to encapsulate the OSC discussion to date. There has been interest expressed in developing more accumulation limit options than just a permit cap.*

###### ***PDT questions:***

1. *Would the OSC like to include any of these options?*
  - a. *No.*
  - b. *Yes.*
    - i. *“Harvest” typically refers to landings and discards. It would be easier to constrain just landings, rather than landings and discards, since discards are not estimated for individual entities.*
    - ii. *Should these percentages vary with the status of the stocks/ACL variability?*

## 5.0 ALTERNATIVES CONSIDERED BUT REJECTED

### 5.1 ALTERNATIVES FOR SPLITTING GROUND FISH PERMITS OFF OF A SUITE OF LIMITED ACCESS PERMITS

#### 5.1.1 Alternative 1: No action

No action. Northeast Multispecies permits may not be split off of a suite of limited access permits.

#### 5.1.2 Alternative 2: Permit splitting

Northeast Multispecies permits may be split off of a suite of limited access permits.

### 5.2 ALTERNATIVES FOR SPLITTING GROUND FISH POTENTIAL SECTOR CONTRIBUTION OFF OF A SUITE OF LIMITED ACCESS PERMITS

#### 5.2.1 Alternative 1: No action

No action. The Potential Sector Contribution (PSC) for any specific Northeast Multispecies stock may not be split off of a suite of limited access permits.

#### 5.2.2 Alternative 3: PSC splitting

The Potential Sector Contribution (PSC) for any specific Northeast Multispecies stock may be split off of a suite of limited access permits.

PDT notes:

- *Sections 5.1 and 5.2 originated from an 8/14/13 OSC motion and were drafted by the PDT.*
- *These sections were removed in September by OSC and Council motions. The Council felt that permit splitting would best be accomplished via an omnibus amendment and that PSC splitting would involve too much administrative complication.*

**Contracted project:** To Provide Recommendations for Defining Excessive Shares in the Northeast Multispecies Fishery

**Scope of Work:** The purpose of the contracted work is to give independent advice to the NEFMC to help it determine an appropriate excessive shares limit in the Northeast Multispecies fishery, focusing on approaches that may achieve Goal #4 of Amendment 18.

**Terms of Reference:**

1. Describe a theoretically sound method to specify the maximum possible allowable percentage share of the market for the fishery access privileges (permits, PSC) and/or the quota leasing (ACE trading) that would prevent an entity from obtaining an excessive share of the access privileges allocated under the Northeast Multispecies Fishery. Use the Herfindahl-Hirschman Index prescribed within the “US Department of Justice Horizontal Merger Guidelines” or other accepted rule as appropriate.
2. Apply the process or rule developed under Number 1 to determine if excessive shares already exist in this fishery. If excessive shares do not exist today, describe potential constraints that could prevent excessive shares from existing in the future. Alternatively, if excessive shares do exist, describe a process or rule that will allow for a theoretically sound procedure to prevent future increase.
3. If the rule cannot be applied because of incomplete data, provide suggestions of how to apply the rule in the best way possible that is consistent with the theoretical underpinnings of the rule. Also, identify data that would be necessary to apply the rule.
4. Identify conditions where entities, could exert “inordinate control” of quota as outlined in the National Standard 4 Guidelines. Such entities could include business entities holding permits, sectors, or organizations of sectors.
5. Alternate approaches to achieving the Amendment 18 goals (other than accumulation caps) may be proposed.

**Project Phases:**

*Phase I: Initial consultation and quantitative data gathering (August-September 2013)*

The contractor shall secure appropriate NMFS economic and fishery data and pertinent background reports that would help meet the Terms of Reference.

*Phase II: Initial public input (September-October 2013)*

The contractor shall seek input from stakeholder informants via individual or small-group interviews. There will be one public webinar, facilitated by NEFMC staff, to receive additional input and preliminary feedback from the public.

*Phase III: Draft report preparation and presentation (October-November 2013)*

The contractor shall prepare a draft report for the NEFMC that addresses the Terms of Reference. There will be a public meeting held by the NEFMC to present the draft report and solicit feedback.

*Phase IV: Final report preparation (November-December 2013)*

The contractor shall prepare a final report for the NEFMC.

**NEFMC Point of Contact:** Rachel Feeney, 978-465-0492x110, rfeeney@nefmc.org

**Amendment 18 Goals:<sup>1</sup>**

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

---

<sup>1</sup> As approved by the NEFMC in June 2013.