

DRAFT DISCUSSION DOCUMENT¹

Amendment 18 to the Northeast Multispecies Fishery Management Plan

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

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¹ Sections 5 and 6 will not be included in the Draft Environmental Impact Statement, but are included here for discussion purposes.

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1.0 EXECUTIVE SUMMARY

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2.0 CONTENTS

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3.0 INTRODUCTION

3.1 CONTEXT OF EXISTING MANAGEMENT SYSTEM

XXX

3.2 PURPOSE AND NEED FOR ACTION

This amendment is designed to address concerns regarding fishery consolidation and is prepared by the New England Fishery Management Council. After the Proposed Action is reviewed, the Amendment will be approved and implemented by the National Marine Fisheries Service.

Amendment 16 to the Northeast Multispecies FMP expanded the use of sector management for stocks managed by the FMP, and also implemented ACLs and AMs for the fishery. In the specification process for FY2010 (NEFMC 2010), catch limits for many multispecies stocks were set at very low levels, and several of these restrictions have remained in place. There has been concern that the low catch limits, in conjunction with expanded sector management, may lead to excessive consolidation and lack of diversity in the groundfish fleet. Likewise, there is concern that, as stocks rebuild and ABCs increase, there may be increased consolidation and decreased diversity in the groundfish fleet in the future. Because of concerns related to maintaining the diverse makeup of the fleet, as well as an interest in keeping active and thriving fishing ports throughout New England, the Council has considered measures in this action that would impose limits on the amount of allocation that individuals or groups of individuals may control.

3.3 GOALS AND OBJECTIVES

3.3.1 Goals and Objectives of the Northeast Multispecies FMP

The goals and objectives of the Northeast Multispecies FMP remain as described in Amendment 13 and will continue to frame the long-term management of the resource and fishery.

3.3.1.1 Goals

1. Consistent with the National Standards and other required provisions of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law, manage the northeast multispecies complex at sustainable levels.
2. Create a management system so that fleet capacity will be commensurate with resource status so as to achieve goals of economic efficiency and biological conservation and that encourages diversity within the fishery.
3. Maintain a directed commercial and recreational fishery for northeast multispecies.
4. Minimize, to the extent practicable, adverse impacts on fishing communities and shoreside infrastructure.
5. Provide reasonable and regulated access to the groundfish species covered in this plan to all members of the public of the United States for seafood consumption and recreational purposes during the stock rebuilding period without compromising the Amendment 13 objectives or timetable. If necessary, management measures could be modified in the future to insure that the overall plan objectives are met.
6. To promote stewardship within the fishery.

3.3.1.2 Objectives

1. Achieve, on a continuing basis, optimum yield for the U.S. fishing industry.
2. Clarify the status determination criteria (biological reference points and control rules) for groundfish stocks so they are consistent with the National Standard guidelines and applicable law.
3. Adopt fishery management measures that constrain fishing mortality to levels that are compliant with the Sustainable Fisheries Act.
4. Implement rebuilding schedules for overfished stocks, and prevent overfishing.
5. Adopt measures as appropriate to support international transboundary management of resources.
6. Promote research and improve the collection of information to better understand groundfish population dynamics, biology and ecology, and to improve assessment procedures in cooperation with the industry.
7. To the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation.
8. Develop biological, economic and social measures of success for the groundfish fishery and resource that insure accountability in achieving fishery management objectives.

9. Adopt measures consistent with the habitat provisions of the MSA, including identification of EFH and minimizing impacts on habitat to the extent practicable.
10. Identify and minimize bycatch, which include regulatory discards, to the extent practicable, and to the extent bycatch cannot be avoided, minimize the mortality of such bycatch.

3.3.2 Goals of Amendment 18 to the Northeast Multispecies FMP

The NEFMC has identified four goals for this action:

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.

3.4 PUBLIC SCOPING

3.4.1 Notice of Intent and Scoping Process

The NEFMC published a Notice of Intent (NOI) on December 21, 2011 to announce its intent to develop an amendment (later named Amendment 18) and prepare an Environmental Impact Statement (EIS) to analyze the impacts of the proposed management alternatives. The purpose of the NOI was to alert the interested public to the commencement of the scoping process and to provide for public participation in the development of this amendment, consistent with the requirements of NEPA. The announcement stated that Amendment 18 would reduce the likelihood that groundfish permit holders will acquire or control excessive shares of fishing privileges in the fishery and that over-consolidation will occur within the fleet (NMFS 2012b). The scoping period extended from that date until March 1, 2012.

NEPA provides a mechanism for identifying and evaluating the full spectrum of environmental issues associated with Federal actions and for considering a reasonable range of alternatives to avoid or minimize adverse impacts to the extent practicable. The scoping process is the first and best opportunity for members of the public to raise issues and concerns for the Council to consider during the development of an amendment. The Council relies on public input during the scoping process both to identify management issues and develop alternatives that meet the Northeast Multispecies FMP objectives. Public comments early in the amendment development process help the Council to address issues of concern in a thorough and appropriate manner.

A scoping document was prepared and distributed to over 1,800 interested parties to inform the public of the Council's intent to gather information necessary for the preparation of this action and ask for suggestions and information on the range of issues to be addressed. During the scoping period, ten scoping hearings were conducted to receive public comments (Ellsworth and Portland, Maine; Portsmouth, New Hampshire; Fairhaven, Gloucester, Hyannis and Plymouth,

Massachusetts; South Kingstown, Rhode Island, New York; and Manahawkin, New Jersey) and numerous written comments were also received. These comments were considered carefully by the Council when developing the management alternatives under consideration in this amendment.

3.4.2 Scoping Comments

Comments were received from a variety of stakeholders, including university scientists, non-profit organizations, individual fishermen, fishing corporations, state agencies, and other interested citizens (Table 1). At the public hearings, oral comments were received from 56 people (duplicates removed), either representing themselves or a group. Written comments were received from 55 individuals or groups (duplicates removed). All written comments and summaries of hearings are provided in Appendix ##. The major themes identified through the scoping process are summarized here, though viewpoints on these themes varied widely. It should also be noted that several comments represent the views of more than one individual (e.g., from an industry association).

Table 1 - Public scoping comments

	Total	Supports A18 objectives	Opposes A18 objectives	General/unrelated
	oral/written	oral/written	oral/written	oral/written
Fisherman	37/14	22/9	5/5	10/0
Fishing corporation	4/2	2/1	2/1	0/0
Fishing organization	5/6	3/1	2/3	0/2
University scientist	2/3	2/3	0/0	0/0
Non-fishing organization	5/17	5/15	0/1	0/1
State agency	1/1	0/1	0/0	1/0
Other citizen	2/12	1/12	0/0	1/0
Total	56/55	35/42	9/10	12/3

Note:

Duplicate oral and written comments removed, though some commenters submitted both oral and written comments.

A majority of the oral and written comments indicated that the intent of Amendment 18 is very important for the fleet. There was general concern expressed about the effect the catch share system has had on small vessels. Some fishermen said it was impossible remain viable under catch shares, and therefore Amendment 18 had to move forward. There have been severe impacts on crew; at the time of scoping, 165 crew jobs had been lost. Comments opposed to this action were concerned about the potential that an accumulation cap or restrictions to maintain fleet diversity may result in reduced flexibility and profitability of the fishery. The opposition was not in favor of accumulation caps and requested grandfathering individuals with holdings that may be above the cap. The opposition felt that it would be better to allow fleet diversity to be maintained at the sector level instead of mandated.

The following are key themes that emerged from scoping.

3.4.2.1 Fleet Diversity

The majority of comments supported the concept of fleet diversity. The need for a firm definition of fleet diversity was expressed, but the comments did not elucidate specifics. Concerned citizens wanted to ensure that their access to seafood caught by locally-based fishermen continues, feeling that fish should not be just an investment for large entities. Without the implementation of Amendment 18, people foreshadow coastal towns devoid of fishermen and associated infrastructure, job losses, negative impacts on future generations, and fewer options to enjoy fish. Some commenters noted that the rate of concentration of revenue changed in 2010 following the implementation of catch shares. One commenter thought that a fleet that consisted of only large vessels would limit the Council's ability to react to changing stock assessments. A program to supply healthy food to hospitals is being implemented and could be impacted by fleet consolidation towards just larger vessels. Commenters wanted to provide opportunity for a variety of vessel, gear, ownership entity types and ports to be active in the fishery, enable fishing communities to define diversity goals and have a degree of local control, maintain participation of rural and historic ports in the fishery, provide opportunity for new entrants in the fishery, and maintain viability of shoreside infrastructure and the inshore and offshore fleets.

Sub-ACL for HA permit holders. A few commenters would like a sub-ACL for Handgear HA permit holders, so that they do not have to enroll in the common pool and have their quota harvested by other gear types. To them, this could help protect a 400 year old fishery. A handgear fisherman stated that he could never accumulate enough quota to get out of the common pool and was looking to this amendment to help, because he cannot access existing permit banks, since he is not in a sector.

Inshore/Offshore Areas. The issue of larger, traditionally offshore vessels fishing more inshore since the removal of cod trip limits was very important to several commenters. The concept of fleet diversity was appealing to preserve the inshore fleet that supports a broad range of coastal communities. Biologically, smaller vessels were thought to not have as much of an impact on the aggregations of cod spawning inshore. Extreme frustration was expressed with the commitment and sacrifices that the inshore fleet made to rebuild the inshore cod stock only to have it seemingly wiped out by the influx of offshore boats. Some suggested that there be a boundary line to separate fishing areas for larger and smaller vessels, dividing the GOM cod into east and west areas. Localized depletion of GOM cod is exacerbating fleet consolidation, because the smaller vessels are unable to catch their quota. There was a suggestion of establishing a sanctuary area for small boat fishermen; the offshore vessels would be able to fish in offshore areas if restricted from fishing inshore or to implement vessel size or horsepower upper limits in specific (inshore) areas.

Quota Set-Aside. The concept of a quota set-aside was considered important to a lot of commenters. It was suggested that allocation should be taken off the top for use by set-asides or permit banks. There were a number of suggestions for the recipients of this quota; new entrants were the most recommended. It was thought to be very difficult for new entrants into the fishery due to the high costs of permits; and that the status quo is preventing new entrants. It was expressed that smaller-scale fishermen have difficulty competing with larger corporations speculating on permits, and that there needs to be a mechanism to help smaller-scale fishermen remain competitive. Quota set-asides could be used to establish community permit banks to help small vessels and specific communities. This may ensure the viability of the inshore fleets.

Fishermen at the public hearings told of building their own businesses up over the span of a few decades only to lose it with the implementation of catch shares; they are now unable to pass their businesses on to their children, ending family traditions. Another idea was that quota set-asides could be used to reward sectors that meet certain benchmarks. One suggestion was to give fishermen quota from a permit bank after a set profit was made. One caveat of a permit bank is it creates competition by supplying cheap quota to qualifying individuals, but it may have negative impacts on those not benefiting. It was suggested that set-asides could be implemented as the resource recovers, but not at this time.

Owner-Operator Incentives. A portion of the comments expressed the need to prevent all of the quota from just being leased, because of the fear that it would lead to the consolidation of the entire quota into large corporations that would largely export the fish, maximizing profits versus sustainable harvests. It was suggested that “use it or lose it” measures be adopted to ensure that holders of quota remain active in the fishery.

Baseline Criteria for Leasing and Allocations. Many felt that the formula to calculate allocations, adopted through Amendment 16, is flawed and unfair, because it is based on history instead of vessel characteristics and/or the number of DAS that was associated with permits. South Shore Massachusetts fishermen felt their allocations were hit disproportionately hard by the formulas, because of the rolling closures and trip limits during the period of time used in formulas. The ability of vessels to trade GB cod for GOM cod is seen as a problem and further contributing to the increase of effort inshore. Some baseline leasing restrictions on GOM and GB cod, that would restrict the ability of large vessels to get quota from smaller vessels, were suggested, in addition to restricting the ability to lease into stock areas and certain species. There was one suggestion to retain a certain percentage of a permit’s allocation in the home state if it is sold. Other suggestions included fixing the price of leased allocations, revisiting the split between commercial and recreational fisheries in cod quota allocations, preventing fishing in multiple stock areas of a species in a single trip, having a more equitable distribution of allocation geographically, limiting corporate vessels to specific areas, and to only allowing leases from larger to smaller vessel, not vice versa.

3.4.2.2 Accumulation Limits

Commenters in favor of accumulation caps indicated that they are necessary to dis-incentivize fishing businesses from expanding. It was thought that larger vessels have a larger negative environmental impact. The current lack of accumulation limits is allowing stocks with low allocations to be controlled by a small number of individuals who are able to buy up the quota. It was stated that 40% of GB winter flounder is controlled by three entities, and that this may happen with GOM cod if catch limits are reduced. A broad range of caps were suggested including individual, sector, permit number, quota control and PSC. One commenter considered the current situation to be in violation of National Standard 4 that is designed to ensure equitable allocation to all fishermen in a way that “no particular individual, corporation, or other entity acquires an excessive share of such privileges.” Commenters wanted to match capital with quota availability, while ensuring access to an economically viable number of participants, prevent windfall gains to a small number of individuals at the expense of others, and prevent market control and price-fixing by a small number of owners.

3.4.2.3 Comments Opposed to Amendment 18

Those opposing this amendment generally wanted no caps on the number of permits or allocation, no ACE set-aside, no incentives, no owner requirements, no trading for fish only, no price controls, no area sign in, and no division of the fishery. Opposition centered on the further complication of management, and that diversity goals could be achieved at the sector level. One sector has already accounted for fleet diversity in its sector plan and preferred to keep the freedom allowing sectors do this. It was thought that accumulation limits would violate the consolidation goals of Amendment 16. Amendment 16 did not create a LAPP system, and Amendment 18 was viewed as a way to backfill into a LAPP system. Amendment 18 would reduce flexibility and would trap the fleet in untenable economic positions. The proposed measures would prevent fishermen from achieving profitability, but if closed areas were opened and they were allowed to catch more fish, the problems would solve themselves. No one has enough allocation to be viable. It was noted that this amendment is causing uneasiness with lenders of capital.

One commenter opposing accumulation caps does not want to punish people who have worked hard to accumulate their quota. A number requested that if an accumulation cap is set, that any party holding quota above the cap be grandfathered in. Any changes to the new, fragile catch share system may negatively impact the system and the fleet should be allowed to adapt.

3.4.2.4 Questions

Some issues the public expressed raise the following questions. Positions pro and con were expressed by the public.

Fleet Diversity

- Should a "fleet diversity" be specifically defined in regulations?
- Can the industry and fishing communities maintain fleet diversity on their own or are regulatory approaches necessary?
- Are permit banks helping to maintain fleet diversity?
- Could fleet diversity be promoted by:
 - Increasing industry flexibility?
 - Increasing opportunity to harvest optimum yield?
 - Restricting ACE leases between vessels of different size categories?
 - Creating sub-ACLs for specific permit categories?
 - Limiting fishing area by vessel size?

Accumulation Caps

- How should harvest capacity match the availability of quota?
- At what point does reduction in overcapitalization result in the control of excessive shares of the fishery?
- If an ownership cap is established, would there be grandfathering of entities whose present ownership level exceeds said cap?

General

- Do we have sufficient data on and clear definition of ownership entities in the fishery?
- Would this amendment decrease flexibility and profitability for the industry?
- Would this amendment make management even more complicated?

3.4.2.5 Non-Regulatory Approaches

The scoping comments included ideas for non-regulatory approaches that would meet the Amendment 18 goals and objectives. For example, with criteria or guidelines, sectors could be given the latitude to create their own processes for maintaining an active fleet that reflects the diversity (e.g. vessels, owners, ports) of their membership. A marketing campaign could be created to highlight locally caught fish. Community supported fisheries could be fostered to better support local fishermen.

3.4.2.1 Other Comments

A few comments were received that were not directly related to the goals of this action. A couple of commenters thought that existing strategies were inappropriate to preserve the ecosystem (e.g. reliance on CPUE to manage our diverse ecosystem). It was suggested that penalties for multiple violations of exceeded larger trip limits should be enacted. Closed areas should not be opened, and sport fishing should be prohibited in the closed areas. Fishermen expressed some concern about the compounding effect of monitoring costs and the expected further reductions in cod allocations following the benchmark assessment. For monitoring, tiered standards and alternatives to industry funding were suggested. Sector fees were thought to be too high. Fishermen in southern areas were concerned that what happened to cod might happen in other fisheries, such as monkfish. A small number were unhappy with the appearance of unethical voting by certain Council members.

4.0 ALTERNATIVES UNDER CONSIDERATION

4.1 MANAGEMENT MEASURES FOR US/CA TACS²

4.1.1 Alternative 1: No Action³

The U.S./Canada TACs would be specified at the beginning of the fishing year, and there would be no in-season adjustments to the U.S./Canada TACs. Alternative 1 would not consider the quota trading mechanism established by the TMGC and U.S./Canada Steering Committee, and would not allow additional quota to be distributed to the U.S. at the end of the Canadian fishing year (December). Under Alternative 1, there would also be no adjustment to the amount of the U.S. TAC for eastern GB haddock that is allocated to the Eastern U.S./Canada Management Area. Eastern GB haddock is a sub-unit of the total GB haddock stock. The amount of the shared U.S./Canada TAC for eastern GB haddock is deducted from the total ABC for GB haddock. Currently, the U.S. share of eastern GB haddock can only be caught in the eastern U.S./Canada Management Area, and the remaining portion of the total ABC is only available outside of the eastern U.S./Canada Management Area.

4.1.2 Alternative 2: Revised in-season adjustment for US/CA TACs

The Regional Administrator would be allowed to adjust the US/CA quotas during the fishing year, i.e. after allocations were made. Additional quota would be distributed consistent with the sector sub-ACL distribution. Prior to changing measures, the NMFS would consult with the Council and would advise the Council what measures were under consideration.

Rationale: The difference in fishing years between the two countries would require adjustments to occur in adjacent years. Alternative 2 would allow an adjustment to occur as soon as possible to the end of the Canadian fishing year, potentially providing additional quota for limiting US/CA stocks. The distribution scheme would consider traded quota as additional groundfish quota that contributes solely to sector ACE.

4.1.3 Alternative 3: Revised in-season adjustment for US/CA TACs

The Regional Administrator would be allowed to make transboundary quota trades of groundfish quota only with components of the fishery trading away their quota. Any groundfish quota resulting from a trade with Canada would go only to the groundfish fishery. Prior to changing measures, the NMFS would consult with the Council and would advise the Council what measures were under consideration.

Rationale: The difference in fishing years between the two countries would require adjustments to occur in adjacent years. Alternative 3 would allow an adjustment to occur as soon as possible to the end of the Canadian fishing year, potentially providing additional quota for limiting US/CA stocks. Alternative 3 would ensure that individuals trading quota would directly receive quota in return. Both common pool and sector vessels could be affected by this trade.

² In November 2013, the OSC and Council moved to drop Alternatives 2 and 3 from FW51 and insert them in Amendment 18.

³ The No Action alternative may change pending NMFS approval of Framework 51 preferred alternatives.

4.2 ESTABLISHING A REGULATORY DEFINITION OF A NON-PROFIT PERMIT BANK⁴

4.2.1 Alternative 1: No action

No action. Do not define a non-profit permit bank. The only type of permit bank that would continue to be recognized is a state-operated permit bank.

4.2.2 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; and
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.

Rationale:

State-operated permit banks have already been defined through Amendment 17 to the Northeast Multispecies FMP. Amendment 18 includes alternatives that would limit the accumulation of permit banks differently than other permit holders. These measures may apply to both the state-operated permit banks and other entities. Thus, a definition is necessary to identify the other entities to which these alternatives would apply. Like state-operated permit banks, a non-profit permit bank is designed to transfer groundfish allocations to active groundfish vessels in need of assistance. Unlike state-operated permit banks, non-profit permit banks do not have an agreement with NMFS or any state agency, but are independent non-profit entities.

⁴ In June 2013, the OSC moved to develop a definition of the non-state permit banks. Then in November 2013, the OSC moved to include Alternative 2, with the condition that the non-profit permit banks must enroll in a sector.

4.3 ESTABLISHING ACCUMULATION LIMITS

4.3.1 Limiting the Holdings of Individual Permit Banks⁵

Here, ÷permit banksö include the state-operated permit banks as defined in Amendment 17, and non-profit permit banks as defined in Section 4.2 of this document.

4.3.1.1 Alternative 1: No action

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

4.3.1.2 Alternative 2: Limiting the holdings of permits by permit banks

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

Rationale: **XXX**

4.3.2 Limiting the Holdings of Entities other than Permit Banks⁶

Here, ÷permit banksö include the state-operated permit banks as defined in Amendment 17, and non-profit permit banks as defined in Section 4.2 of this document.

4.3.2.1 Alternative 1: No action

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

4.3.2.2 Alternative 2: Limit the holdings of permits

For any single fishing year, no individual or business entity shall have ownership interest in more than 5% 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.

Rationale: **XXX**

⁵ In June 2013, the OSC moved to develop a permit cap for permit banks, but has not had subsequent motions to identify specific percentages.

⁶ In June 2013, the OSC moved to develop an accumulation limit for entities other than permit banks to have an ownership interest in no more than 5% of Northeast multispecies permits, grandfathered to the control date (April 7, 2011).

5.0 ALTERNATIVES PENDING FURTHER DISCUSSION BY THE GROUND FISH COMMITTEE

5.1 ESTABLISHING ACCUMULATION LIMITS

5.1.1 Limiting the Holdings of Entities other than Permit Banks⁷

Here, permit banks include the state-operated permit banks as defined in Amendment 17, and non-profit permit banks as defined in Section 4.2 of this document.

5.1.1.1 Alternative 1: No action

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

5.1.1.2 Alternative 2: Limit the holdings of permits by entities other than permit banks

For any single fishing year, no individual or business entity shall have ownership interest in more than 5% 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.

Rationale: **XXX**

5.1.1.3 Alternative 3: Limit the holdings of MRIs with associated PSC by entities other than permit banks

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.

- A. X percent
- B. Y percent

Rationale: **XXX**

⁷ In November 2013, the OSC moved to postpone a motion that would insert Alternatives 2 & 4 into Section 4.0 until the Compass Lexecon report is received. Alternative 2 was already in Section 4.0 per June 2013 OSC motion.

5.1.1.4 Alternative 4: Limit the holdings of stock-specific PSC by entities other than permit banks

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.

- A. X percent
- B. Y percent

Rationale: XXX

6.0 ALTERNATIVES NOT RECOMMENDED BY THE GROUND FISH COMMITTEE

6.1 MODIFYING VESSEL UPGRADE RESTRICTITONS⁸

Alternatives: Alternatives were never developed in detail.

Rationale for not including these alternatives: NERO is proposing an omnibus amendment to all FMPs to modify the fishing vessel baseline specifications and upgrade restrictions. This action, as proposed, would not be a Secretarial amendment; however, NERO staff would prepare the documents and analysis and the final product would be adopted by the NEFMC and MAFMC, with implementation targeted for May 2015. The proposed action would be fairly narrow:

1. Remove the gross and net tonnage restrictions from baseline and upgrade restrictions; and
2. Remove the one-time upgrade restriction.

NERO is not proposing changes to the vessel length or horsepower provisions, so those elements would remain as part of the vessel baseline, and upgrades would continue to be restricted to 10% of the baseline length and 20% of the baseline horsepower.

In November 2013, the OSC felt that vessel upgrade restrictions would best be accomplished via an omnibus amendment, but that changes to vessel length and horsepower provisions should also be considered.

⁸ In August 2013, the OSC moved to consider vessel upgrade restrictions in A18, but in November, the OSC moved to reverse its decision.

6.2 ALTERNATIVES RELATED TO THE NORTHEAST HOOK FISHERMEN'S ASSOCIATION PROPOSAL⁹

The NEHFA Proposal: Generally, the NEHFA proposes measures to separate the cod catch history associated with HA permits into a handgear-specific fishery with its own sub-ACL, 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. This sub-ACL may be used by handgear fishermen harvesting in a program distinct from sectors or the common pool, or sector fishermen if using handgear (supports grandfathering). This distinct program would, in part, have an annual vs. the current trimester catch limit for the common pool, not be subject to the March 1-20 Handgear fishing closure, and would be exempt from all commercial groundfish closures except cod spawning closures.

Alternatives: Alternatives were never developed in detail.

Rationale for not including these alternatives:

- It is not feasible to have another independent program in the fishery, in addition to sectors and the common pool.
- The NEHFA seems to want the benefits of fishing under sectors, without the accountability.
- The Groundfish Advisory Panel did not support the proposal.
- Every fishery component wants fish available for future generations and to enable new entrants into the fishery.
- Concern about the amount of staff and administrative effort that would be dedicated to managing a small portion of the fishery.
- Concern about the ability of NMFS to monitor very small amounts of quota, given current data collection and processing timeframes.
- Uncertainty about how representative the views of the NEHFA membership is of all the HA permit holders.

OSC Consensus Statement: In November 2013, the OSC agreed by unanimous consent to request that the Council task the Enforcement Committee to consider the Northeast Hook Fishermen's Association proposal to remove the requirement that vessels fishing under an HA permit must carry a fish tote onboard. The Council agreed at its November meeting. The Enforcement Committee is discussing this issue in January 2014.

⁹ In June 2013, the Council moved to task the Groundfish OSC with considering the NEHFA proposal in A18 for analysis. The OSC discussed the proposal at its August, September, and November meetings. In November, the OSC moved to not include proposal concepts in A18.

6.3 ESTABLISHING ACCUMULATION LIMITS

6.3.1 Limiting the Holdings of Permit Banks Collectively¹⁰

6.3.1.1 Alternative 1: No action

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

6.3.1.2 Alternative 2: Limiting the holdings of permits by 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

Rationale for not including these alternatives:

- That an aggregate cap on permit bank holdings is not appropriate.
- An aggregate cap may preclude new permit banks from forming in the future.

The minority view included:

- Without a collective cap, permit banks may acquire and control too much share of fishery access privileges.

¹⁰ In November 2013, the OSC moved to remove this section, though there was some interest expressed at the November Council meeting to still include this section.

6.3.2 Limiting the Use of Fishing Access Privileges¹¹

6.3.2.1 Alternative 1: No action

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

6.3.2.2 Alternative 2: Limit the use of fishing access privileges

For any single fishing year, no individual, or business entity shall harvest through allocated and acquired fishing access privileges more than:

- a. X% of a stock-specific PSC
- b. Y% of a stock-specific PSC

Those individuals or business entities holding permits/MRIs prior to the control date of (April 7, 2011) will be restricted to harvesting¹² the percent of stock-specific PSC harvested as of the control date unless the allocated and acquired fishing access privileges exceeds the maximum percentage (X% or Y%) in which case harvesting will be allowed up to allocation/acquired percentage held as of the control date.

Rationale for not including these alternatives:

- There is too much variability in ACLs and catch each year to make a fixed percentage work.
- This would limit the utility of permits purchased after the control date, because each permit has a unique portfolio of PSC associated with it.
- This may involve tracking the allocations, leasing and catch of individual entities, which may be difficult since allocations are made to sectors.

¹¹ In November 2013, the OSC considered the language in Alternative 2 as a motion, but the motion failed.

¹² Prior to the November meeting, the PDT had suggested that since "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.

7.0 ALTERNATIVES CONSIDERED BUT REJECTED

7.1 SPLITTING GROUND FISH PERMITS OFF OF A SUITE OF LIMITED ACCESS PERMITS¹³

7.1.1 Alternative 1: No action

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

7.1.2 Alternative 2: Permit splitting

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

Rationale for not including these alternatives: Limited access permits were linked by an omnibus consistency amendment in the late 1990s (NEFMC 1999). Splitting off multispecies permits has the potential for implications in other fisheries, particularly if effort in other fisheries is increased. If there is a desire to control potential effort shifts into other fisheries, this might require some development of restrictions in those fisheries and FMPs. The groundfish plan could only make permit changes that are applicable to groundfish permits, and without making the changes to other FMPs, some permit holders might wind up with a groundfish permit that cannot be added or combined to any other permit.

7.2 SPLITTING GROUND FISH PSC OFF OF A SUITE OF LIMITED ACCESS PERMITS¹⁴

7.2.1 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.

7.2.2 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.

Rationale for not including these alternatives: Splitting PSC of a multispecies stock off of a suite of permits is possible, but could greatly increase tracking complexity. It may not be possible to detach PSC from the multispecies permit it is associated with, without splitting said permit. There could be significant implementation challenges if permit or PSC splitting is recommended for implementation. The Analysis and Support Division of the NERO should be consulted on the feasibility of specific approaches.

¹³ In August 2013, the OSC moved to consider permit splitting in A18, but in September, the OSC and Council moved to not consider this. The OSC and Council felt that permit splitting would best be accomplished via an omnibus amendment.

¹⁴ In August 2013, the OSC moved to consider PSC splitting in A18, but in September, the OSC and Council moved to not consider this. The OSC and Council felt that PSC splitting would involve too much administrative complication.

8.0 REFERENCES

NEFMC. 1999. Amendment 10 to the Northeast Multispecies Fishery Management Plan (Omnibus Amendment). Gloucester (MA): National Marine Fisheries Service in consultation with the MAFMC and NEFMC. 36 p.

NEFMC. 2010. Framework Adjustment 44 to the Northeast Multispecies Fishery Management Plan. Newburyport (MA): New England Fishery Management Council. 306 p.