



New England Fishery Management Council

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

MEMORANDUM

DATE: March 18, 2015
TO: Groundfish Oversight Committee (Committee)
FROM: Groundfish Plan Development Team (PDT)
SUBJECT: Preparation for March 26 Committee meeting discussion of Amendment 18

To inform your meeting on March 26, this memo provides some input for the key discussion points that the Committee should work through regarding Amendment 18. The PDT had a webinar on February 19 and an in-person meeting on March 10. PDT members present (most for both meetings) were: Jamie Cournane, Rachel Feeney, Jonathon Peros (NEFMC staff); Greg Ardini, Anna Henry, Paul Nitchke (NEFSC); Dan Caless, Tim Cardiasmenos, Sarah Heil, Danielle Palmer, William Whitmore (GARFO); Steve Correia (MADMF); and Sally Sherman (MEDMR). At least three members of the public listened to the webinar and three members were present on March 10. The PDT focused on discussing the Amendment 18 alternatives and impacts analysis, as well as the other groundfish priorities for 2015. This memo was finalized via emails and phone calls.

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The PDT has prepared a Draft Environmental Impact Statement (DEIS) for consideration. As noted below, there has been some reorganization of alternatives to comply with the National Environmental Policy Act. In addition, the PDT suggests that the Committee consider a few issues with the alternatives that have arisen through impacts analysis.

Amendment 18 Timeline

The current Amendment 18 timeline has the Council approving the DEIS at its meeting in April (Table 1). The Council may also select preferred alternatives at that time. The DEIS and any Committee motions made on March 26 will be sent to the Council for approval on April 10. See the Action Plan for additional details.

Table 1 - Amendment 18 timeline

2015	
Mar. 25 - 26	GAP and Committee meetings to review alternatives and impacts analysis and potentially recommend preferred alternatives.
Apr. 10	Document deadline for Council mtg.
Apr. 21 - 23	NEFMC scheduled to approve DEIS with range of alternatives and potentially selects preferred alternatives.
Jun. 1	DEIS accepted by NMFS.
Jul. 1	EPA approves DEIS. NOA is issued that DEIS is available for public comment.
Jul. - Aug.	DEIS 45-day public comment period.
Aug-Sept.	Committee meeting to review comments and recommend preferred alternatives.
Sept. 22 - 24	NEFMC reviews comments and votes on final action.
Nov. 1	FEIS submitted to GARFO.
Nov. 6 Dec.	EIS review, revisions, final submission, and deeming of proposed regulations. NMFS publishes NOA. 60-day public comment period.
2016	
Jan. - Feb.	Continue review/comment period.
May 1	Possible implementation of measures.

Accumulation Limits (DEIS Section 4.1)

Alternatives Reorganization

- The discussion of "PSC Holdings in Excess of the Accumulation Limit" is now embedded within Section 4.1.3.2, making it clearer that it applies to the accumulation limit Alternatives 2-6 and not the No Action alternative.
- The discussion of "Future Adjustment of Accumulation Limit" is moved forward to Section 4.1.2 to clarify that it applies to the entire accumulation limit section (Section 4.1)
- PSC cap Alternative 4 (Section 4.1.3.5) had caps that applied to all stocks, with an option that would cap just three stocks. This alternative now contains two options, to make it clearer that there is an either/or choice to be made.

PDT Suggestions

- The PDT reiterates its recommendation to the Committee that Option 3A be deleted from PSC cap Alternative 3 (Section 4.1.3.4), which pertains to how excess holdings would be treated if Alternative 3 is selected. This option was included in April 2014 by the Council. Subsequently, the Committee and Council developed the grandfathering provision and options for how to treat excess holdings (Section 4.1.3.2) that would apply to PSC cap Alternatives 2-6. If Option 3A remains in the range of alternatives, and selected as preferred, it is unclear how it would mesh with the aforementioned options.
- The PDT has been advised, based on preliminary review by NEPA staff, that additional rationale needs to be added to the DEIS for why there would be potentially different treatments of excess PSC between what is held post control date through implementation of the action (April 7, 2011 ó potentially May 1, 2016) versus what is acquired post-implementation (Section 4.1.3.2, pages 48-50).

Questions

1. Would the Committee prefer to move Option A in PSC cap Alternative 3 to Considered but Rejected?
2. What is the rationale for why there would be potentially different treatments of excess PSC between what is held post control date through implementation of the action versus what is acquired post-implementation?

Other Notes

- In prior versions of the alternatives, PSC cap Alternative 2 (Section 4.1.3.3), which limits PSC to the maximum held as of the control date (April 7, 2011), there was no cap level identified for SNE/MA winterflounder. This stock was allocated through Amendment 16, but possession was prohibited until FY 2012. Holdings of this stock could not be obtained through prior queries of fishery permit holdings data by the PDT. The PDT now can obtain this data. Note that a cap for this stock (of 13) is now included in this alternative.

Handgear A Permit Fishery (DEIS Section 4.2)

Alternatives Reorganization

- In prior versions of Alternative 2 (Section 4.2.1.2), there were a few options that did not have sub options (i.e., 10% carryover, annual sub-ACL). Thus, they were in fact not options but provisions of the alternative. These concepts are now embedded within the alternative itself.
- Additionally, three options within Alternative 2 could have been selected regardless of selecting the option that would have created a sub-ACL for Handgear A permits (i.e., removing the standard tote requirement, removing the March 1-20 closure for HA vessels, and allowing sectors to request a VMS exemption for HA vessels enrolled in sectors). To make the choices clearer, each of these concepts must, in fact, have their own no action alternative. Section 4.2 was revised accordingly.

PDT Suggestions

- Revise the carryover provision in Alternative 2 of Section 4.2.1 to be consistent to that which the Council recommended revising for the groundfish sectors in Framework 53 and is in the proposed final rule for that action. Simply allowing 10% carryover, as Alternative 2 would do, was invalidated through a recent court decision, as there needs to be assurance that ABCs would not be exceeded. Alternate language is proposed in Appendix I. The HA fishery sub-ACLs would be very small relative to the total ACLs, and a 10% carryover is likely to have minimal impact on fishery and protected species, as well as habitat. Any carryover must meet current legal requirements.
- For Section 4.2.4.2 Alternative 2: Sector Exemption from VMS Requirements, this alternative would allow a sector to request an exemption for member HA vessels from VMS requirements. The Committee could consider revising this alternative to allow this to be a universal exemption rather than an annual request. Alternate language is proposed in Appendix I.

Question

1. Would the Committee prefer to adopt the language in Appendix I for the two alternatives discussed above?

Inshore/Offshore GOM cod (Section 4.4)

Alternatives Reorganization

- The provisions for commercial allocation and catch reporting have been embedded within the main body of the alternative, since there are no options associated with these concepts.

Suggestion

- In analyzing the three options for an inshore/offshore GOM cod boundary line (Section 4.4.1.2), the PDT noticed an issue with Option C. A portion of what would be considered inshore GOM for Option C actually lies in the Georges Bank Broad Stock Area (BSA). This is the area highlighted in pink below (Figure 1). This overlap becomes problematic if the GOM cod ACL is to be split according to the Option C boundary, as the highlighted area does not fall within the GOM BSA. It is assumed that the intent is to not redefine the BSA boundaries through Amendment 18. As a solution, Option C could be aligned to match the GOM/GB BSA boundary for the area in question for purposes of the sub-ACL alternatives in Section 4.4.2. Alternately, a revision of Option C could be applied to all alternatives in Section 4.4. The Council's preference should be reflected in the document.
- The PDT feels that the rationale is weak for why inshore and offshore sub-ACL would be created (Section 4.4.2.2). The rationale states that doing so "would limit catch to more specific areas within the Gulf of Maine." This is an outcome more than a rationale. The PDT suggests articulating why the Council is considering creating a sub-ACL, to better inform the public of the Council's intent. The rationale should be linked to the goals of Amendment 18.

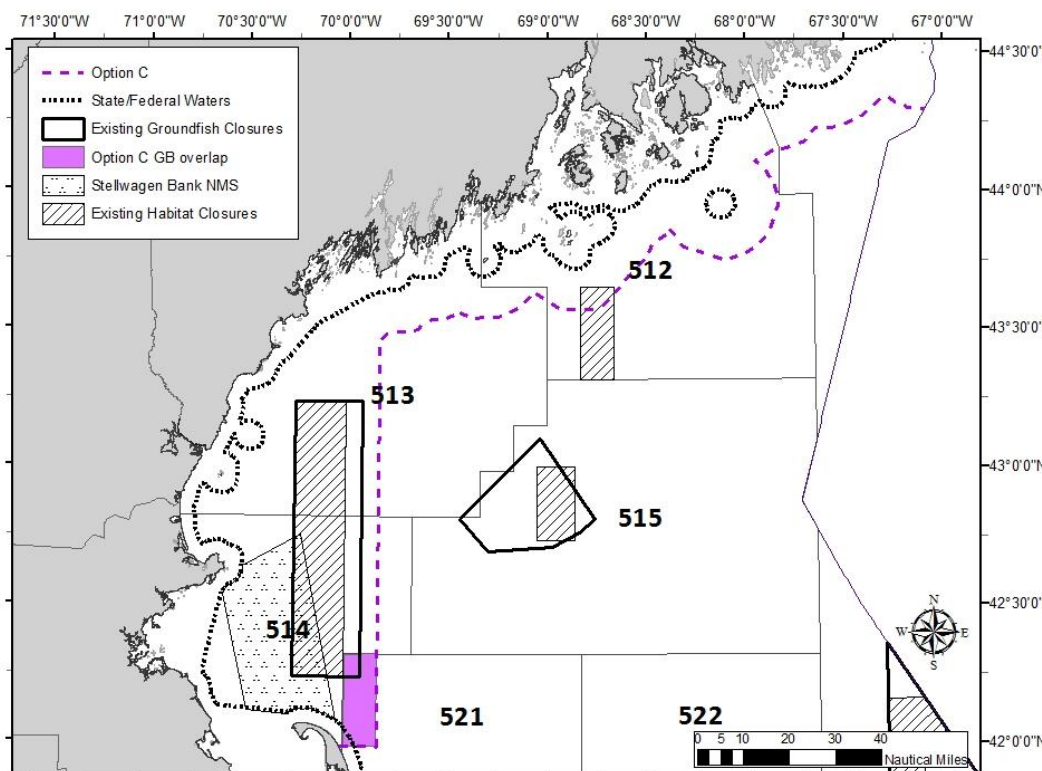
Questions

1. How would the Committee like to address the overlap of Option C with the Georges Bank Broad Stock Area?
2. What is the rationale for creating a sub-ACL in Section 4.4.2.2?

Other Notes

- The PDT noted that the No Action Alternative 1A for the GOM Gear Restricted Area (Section 4.4.3.1) stated that the monkfish fishery was exempt from the GOM GRA. This was incorrect. As fishing under a monkfish DAS requires using a groundfish DAS concurrently for Category C & D permit holders, the alternative has been revised to say that it applies to all trawls fishing under a groundfish DAS or sector trip.
- In Section 4.4.2.2 Alternative 2 that would establish an inshore and offshore GOM cod sub-ACL, additional rationale was added to clarify why the Council is focusing on GOM cod rather than other stocks. This rationale has already been articulated by the Groundfish Committee and Council; it is due to longstanding public concern about this stock, it is a stock that is caught throughout the Gulf of Maine, and this is one of the groundfish stocks that has PSC held by the greatest number of individuals.
- The PDT discussed examples of how to calculate the inshore and offshore sub-ACLs for GOM cod using survey and catch data as specified in Section 4.4.2.2. Further information will be provided at the Committee meeting on these approaches in a presentation.

Figure 1 - Option C of the inshore/offshore GOM boundary alternatives, noting a portion of the "inshore" area that lies in the Georges Bank BSA



Redfish Exemption Area (Section 4.5)

Notes

- No Action Alternative 1 (Section 4.5.1) has been revised to include the potential for there to be no redfish exemption area, as well as the potential for such through the approval of the FY 2015-2016 sector exemptions recently published in the *Federal Register*.
- The PDT recalls that Alternative 2 was drafted to mirror the original FY 2015 sector exemption request. The Council could revise Alternative 2 to mirror what is proposed in the Federal Register or create additional alternatives.

Differences between Alternative 2 and the proposed FY 2015 and 2016 Sector Rule:

- Alternative 2 would incorporate this exemption into the FMP, so that sectors would no longer need to make annual exemption requests (though they could still do so).
- Alternative 2 would include the common pool.
- Alternative 2 would not have bycatch and discarding standards.
- Alternative 2 could only allow fishing under this exemption if an observer is on-board (see Options).
- The boundaries of the Redfish Exemption Area are different. The proposed sector rule boundary excludes Statistical Reporting Areas 138 for the entire year and 131 in February and March.

Question

- Would the Committee like to keep Alternative 2 as is, revise it, or create an additional alternative(s)?

Appendix I

PDT Suggestions for Alternate Language of Alternatives

Section 4.2.1.2 Alternative 2: Establish a Fishery for Handgear A Permits

Carryover provision

Up to 10% of unused HA sub-ACL would be able to be carried forward, provided that the total unused HA sub-ACL combined with sector sub-ACL carried forward for all sectors from the previous FY plus the total ACL does not exceed the ABC for the fishing year in which the carryover would be harvested (e.g., from FY 2015 to FY 2016). If the total exceeds the ABC, NMFS would adjust the maximum amount of unused carryover (down from 10%) to an amount equal to or less than the ABC of the following fishing year. The distribution in downward adjustment between sectors and the HA fishery would be proportional to the ACLs of these two subcomponents.

Rationale: This would create a carryover provision for the HA fishery and make it consistent with the carryover provision for sectors adopted through Framework 53, which was revised to be compliant with a 2014 ruling of the U.S. District Court for the District of Columbia. The ruling specified that a total potential catch (the total ACL plus 10% unused ACE carryover) cannot exceed the ABC for any stock.

Section 4.2.4.2 Alternative 2: Sector Exemption from VMS Requirements

Under this alternative, vessels with a limited access Handgear A permit enrolled in a groundfish sector would be exempt from the requirement to use the Vessel Monitoring System while fishing on a sector trip (VMS). Vessels fishing with handgear in a sector must declare trips through the Interactive Voice Response (IVR) system.

Rationale: This alternative would allow the approach currently used for handgear vessels in the common pool to apply to those fishing in a sector. Vessels fishing with handgear in the common pool use the IVR system to declare a trip and then submit a Vessel Trip Report upon completion of a trip. There are costs associated with purchasing the VMS hardware, satellite connections, and data transmission, so this could be a lower-cost approach and may thus encourage participation in sectors by handgear vessels.