



New England Fishery Management Council

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C.M. "Rip" Cunningham, Jr., *Chairman* | Thomas A. Nies, *Executive Director*

MEMORANDUM

DATE: September 13, 2013
TO: Groundfish Oversight Committee (OSC)
FROM: Groundfish Plan Development Team (PDT)
SUBJECT: **Summary of Recent PDT Meetings in Mansfield, MA (August 26, 2013) and via Conference Call (September 6, 2013)**

Activity

The PDT held two recent meeting to discuss the continued development of (1) **Framework 51**, (2) **Amendment 18**, and (3) **other business**.

Participants

NEFMC Staff	Dr. Jamie Cournane (PDT Chair), Dr. Fiona Hogan, and Rachel Feeney (A18 lead)
NMFS/NERO	Michael Ruccio ^C , Sarah Heil, Dan Caless, and Dr. Will Whitmore ^M
NMFS/NEFSC	Paul Nitschke, Chad Demarest, and Anna Henry
State	Sally Sherman ^M (ME DMR) and Steven Correia (MA DMF)

C= call only

M= in-person meeting only

Purpose of Meetings

To facilitate upcoming discussions by the Groundfish Oversight Committee on which measures to include in FW51 and potential ones to discuss for A18, the PDT developed two DRAFT Section 4 documents (DRAFT Alternatives for Consideration).

PDT discussions from recent meetings are included within two memos to the Groundfish OSC (PDT memo to GF OSC re FW51, September 12, 2013 and PDT memo to GF OSC re A18,

September 10, 2013). Rather, the purpose of this brief memo is to provide some additional information on PDT discussions that the OSC may find useful.

1. Framework 51

Wolffish/Halibut AMs-The PDT discussed possible approaches that managers may want to consider to change halibut and wolffish AMs. One different approach from spatial management (i.e., closures) could be allocation. However, the PDT was concerned about developing such an approach without looking at the impacts (i.e., biological, social, economic) relative to the current approach. Given time constraints, the PDT has not investigated these issues to date. The PDT referred to the example of the current catches of Northern windowpane flounder as reason for caution.

Full Retention- The PDT discussed full retention in the context of commercial fisheries and that increased and/or comprehensive at-sea monitoring may have to accompany such a program. The PDT suggested that it was unlikely that electronic monitoring would be available for the entire groundfish fleet during 2014. In light of that discussion, the PDT thought one approach for the OSC to consider might be a gear by gear consideration of full retention.

2. Amendment 18

Excessive Share Analysis- The PDT discussed the possibility of peer review of the forthcoming excessive share analysis. The PDT suggested that if such a review occurred that perhaps a hybrid of experts within the SSC and outside of the SSC might be the most appropriate.

Splitting Permits- The PDT has investigated a bit more into the history of permit splitting. The information provided here is intended to supplement that provided in the September 10 memo to the OSC regarding Amendment 18.

Amendment 5 to the Northeast Multispecies FMP established the moratorium for limited-access multispecies permits, regulations governing permit transfer and sales, and permit upgrade provisions. This included a prohibition on splitting a federal permit into more than one permit:

“Splitting of permits: A permit that qualifies under the moratorium and that also qualifies for other fisheries cannot be split into multiple permits for multiple single-fishery vessels.” (NEFMC 1993, p.24)

There existed a single federal permit that included multiple fisheries (e.g., multispecies and lobster) Amendment 5 required that this permit had to stay intact when sold, such that a multispecies permit could neither be split off from other permits nor subdivided. The overall objective of Amendment 5 was to reduce fishing mortality on key groundfish stocks (cod, haddock, yellowtail flounder). There is little specific discussion of the permit splitting prohibition in the supplemental EIS or in the rulemaking documents. It can be inferred that this initial prohibition on splitting permits was intended as an effort reduction measure, consistent with many of the other stated goals and objectives of the amendment.

During the 1990s, other Northeast federal fisheries were also developing regulations regarding permit splitting, and by the late 1990s, the need for consistency became evident. The “Omnibus

Consistency Amendment,” or Amendment 10 to the Northeast Multispecies FMP, that had as an objective:

“To establish consistency among all New England and Mid-Atlantic FMPs with vessel replacement, permit transfer, upgrade, and permit splitting regulations, and to establish consistency among all limited access permits on permit renewal.” (NEFMC 1999, Section I p.10)

A prohibition applicable across fisheries was established that the suite of federal limited-access permits owned by an entity could not be split when sold. The selected alternative reads:

“Implement a restriction on permit splitting, as a necessary administrative adjunct to allowing all limited access permits to be retained in writing by a vessel seller. This prevents a situation where the owner of a vessel with multiple permits could retain some permits for a replacement vessel and transfer the other permits to another vessel, subsequently increasing overall fleet capacity.” (NEFMC 1999, Section III p.6)

Thus, the intent of the prohibition was to prevent an increase in fishing effort and capitalization. It also sought to address potential complications and inconsistencies with the transfer and sale of permits. Prior to the Consistency Amendment, the sale of a multispecies permit caused forfeiture of the other limited access permits that had become associated with the “suite” of eligibilities for the permit in question.

The potential complications of having inconsistent rules governing permit splitting between FMPs remain as true today as they were in the late 1990s when the Consistency Amendment attempted to correct the issues. Because there are implications for other Northeast limited access permits, changes to permit splitting rules would be better explored through an omnibus approach.

As outlined in the September 10 memo, there are some issues that need further exploration and development should a one-off action move forward to allow multispecies permits to be severed from other limited access eligibilities:

Revising Vessel Baseline Upgrade Restrictions- The PDT has investigated a bit more into the history of vessel baseline upgrade restrictions. The information provided here is intended to supplement that provided in the September 10 memo to the OSC regarding Amendment 18.

The limited access programs in the Northeast have adopted restrictions to limit increases in harvest capacity by strictly constraining the ability to transfer permits to larger, higher capacity, higher horsepower vessels. These measures were established throughout the early to mid-1990s, but the design of the restrictions and upgrade criteria were inconsistent across FMPs. In addition, different vessels may have been used by a permit holder during the different limited access qualifying periods in the different fisheries. A common result was that a vessel would have permits in multiple fisheries, each with different maximum vessel size, horsepower, and tonnage increase potentials.

The Consistency Amendment (NEFMC 1999) aimed to lessen complications when commercial vessels that have multiple limited access permits are bought, sold, transferred, or upgraded. It also simplified regulations for vessel replacements, permit transfers, and vessel upgrades and made them less restrictive. The aim was to facilitate business transactions by making regulations consistent and less confusing.

NERO, the Councils, and the Northeast Region Coordinating Council have acknowledged that while the original intent of such restrictions was to limit increases in harvest capacity in limited access fisheries, there are many other effort controls now in place that may be limiting effort more effectively. With the development of trip limits, gear restrictions, closed areas, annual catch limits, accountability measures, and catch share programs, the vessel upgrade and replacement restrictions could be simplified to reduce burden on fishing communities without compromising Northeast fish stocks.

To that end, a collaborative omnibus amendment is being developed by NERO in consultation with both the NEFMC and MAFMC to consider eliminating tonnage upgrade restrictions and remove the one-time upgrade restriction. The NEFMC will receive an update on this action during its September meeting. If a more expansive revision is desired, it may not be appropriate for NMFS to take the lead on development. However, an omnibus approach would still be prudent, given the potential impact across all limited-access FMPs.

3. Other Business

Anna Henry, a social scientist in SSB, has joined the PDT. The PDT welcomes Ms. Henry to the team.

References

- NEFMC. 1993. Amendment 5 to the Multispecies Fishery Management Plan. Newburyport (MA): New England Fishery Management Council. 366 p.
- 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.