

New England Fishery Management Council Groundfish Oversight Committee

Draft Meeting Summary

January 23, 2014

The Groundfish Oversight Committee (Committee) met in Danvers, MA. The Committee discussed Multispecies Fishery Management Plan priorities for 2014, Amendment 18 to the Multispecies Fishery Management Plan and an omnibus amendment regarding vessel baseline restrictions. Committee members present were Mr. Frank Blount (Chair), Dr. David Pierce (Vice Chair), Mr. Terry Alexander, Mr. Vincent Balzano, Mr. Tom Dempsey, Ms. Ellen Goethel, Mr. Peter Kendall, Mr. Howard King, Dr. Matthew McKenzie, Ms. Sue Murphy, and Ms. Laura Ramsden. They were supported by staff members Dr. Jamie Cournane, Ms. Rachel Feeney, and Dr. Fiona Hogan (NEFMC), Mr. Mark Grant, Ms. Sarah Heil, Ms. Melissa Hooper, Mr. Michael Ruccio, and Dr. William Whitmore (NMFS NERO), and Mr. Gene Martin and Mr. Mitch MacDonald (NMFS General Counsel).

Discussions were guided by a presentation of the development of Amendment 18 to the Multispecies FMP, Recommendations for Excessive-Share Limits in the Northeast Multispecies Fishery final report by Compass Lexecon dated December 31, 2013, PDT memo to OSC regarding A18 dated January 16, 2014, Amendment 18 discussion document dated January 15, 2014, the 2012 Final Report on the Performance of the Northeast Multispecies (Groundfish) fishery (May 2012-April 2013) by NEFSC/Social Science Branch dated January 2014, Groundfish PSC meeting summary dated November 18-19, 2013, Groundfish OSC meeting summary dated December 9, 2014, PDT memo to OSC regarding fish tote regulations dated January 22, 2014 and a series of correspondence received by the New England Fishery Management Council.

2014 Priorities

Staff reminded the Committee of the 2014 Priorities that were approved by the Council at the December 2013 Council meeting and stressed that they represented a substantial workload for staff.

Updates to Amendment 18

Staff provided an overview of further development of Amendment 18 (A18). At the December 2013 Council meeting, US/CA quota trading alternatives were added to A18. The issue of the standard fish tote regulation, as raised by the Northeast Hook Fishermen's Association, was discussed by the VMS/Enforcement Committee who supported removing the requirement. The Committee was encouraged to discuss issues raised in the scoping meetings that included creating: inshore/offshore areas, a quota set-aside, incentives to encourage active participation and baseline criteria for leasing. The current timeline would develop a range of alternatives for analysis in the DEIS by the April 2014 Council meeting; preferred alternatives would be selected at the June 2014 Council meeting. Under this timeline, implementation of A18 was expected to occur for FY2015. Compass Lexecon was tasked with examining excessive shares and they chose market power as the tool to examine excess shares. The Compass Lexecon final report concluded that market power was not "being exercised through the withholding of ACE in any part of the groundfish fishery, nor is there evidence of market power in the sale of fish or transfers of permits." The report suggests an accumulation cap of approximately 15.5% for stock-specific PSC shares would be sufficient to prevent future excessive shares. The report noted that caps may not be an effective means to achieve goals 1-3 of A18, but could be used in conjunction with other measures to

achieve them. The report will be peer reviewed by the Center for Independent Experts (CIE); this review is expected to happen in June 2014.

Committee members expressed some concern that the Compass Lexecon focused too narrowly on market power. After examining the Terms of Reference (TORs), a Committee member considered that Compass Lexecon was indirectly told to focus on market power by suggesting they use the Herfindahl-Hirschman Index (HHI). A Committee member suggested revising the TORs for the CIE to be more explicit about determining whether market power is an adequate metric to examine excessive shares.

A Committee member questioned the NEFSC ownership data that indicated the top owners have 10-12.5% of a stock allocation because industry members feel that may be an underestimate. Based on that data, 6 fishermen with 15% allocation of a stock could control 90% of that stock with the HHI remaining under threshold of 1500; a Committee member considered that to be excessive concentration. It was suggested that the CIE reviewers specifically examine that recommendation. This scenario wasn't considered likely by all Committee members; despite all the difficulties fishermen are currently facing, large scale consolidation had not been observed. One of the goals of Amendment 16 was consolidation so if some consolidation was occurring, it was not concerning. A potential industry funded buyout was mentioned but no details were available at the time of the meeting.

Public comment included:

- Maggie Raymond, Associated Fisheries of Maine – One of the questions that was asked of Compass Lexecon was to identify regulatory and practical constraints of implementing a cap and they basically responded by saying that ownership data was difficult to get, which we know is true. But there are a number of other regulatory and practical constraints that exist that clearly they probably didn't know about. If peer review is conducted by CIE, including people from this region who understand the fishery, e.g. NEFSC SSB and NERO, need to be there to talk about the regulatory constraints, like how you split off PSC. That would be important information to have going forward. Whether or not you think there should be a cap or what the cap should be, there are serious constraints to imposing that right now under the current structure. We need to identify those and decide how we're going to deal with them or if we're going to deal with them. Under that TOR #2, in the last sentence I would add before the word "constraints", regulatory and practical constraints, as it was in the original TORs so we can try to get to that.
- Vito Giacalone, Northeast Seafood Coalition – I just wanted to point out one of the things that we said was linking ACL changes to consolidation caps. Unless you can stabilize how much of a reduction you have you're placing a false constraint on the fishery to be able to achieve any kind of economic viability. You should be looking at the fact that there's been almost no consolidation happening in the last 2 or 3 years; that's because there isn't enough economics in the fishery to make it happen yet. We've had up to 90% reductions in ACL with almost no measurable consolidation happening. We're discussing the theoretical; if you take 6 times 15 it turns into 100 and we're not getting any consolidation with 90% reductions in ACLs. We're missing the point completely. Nobody wants to see super consolidation but there's none happening; we're losing ACL there's your problem. We're losing fishing communities because the ACLs are gone. We don't have access to fish. Another serious problem is we know for certain that the PSC ownership of 12% is not accurate. We know owners that have more than that now so maybe it's the CPH. I know when we renew our permits we have to disclose all of the people that are involved and I realize you don't have percent shares in that but if CPH are automatically renewed; maybe that ownership information is not coming out in those CPHs and we might need to do something with that. CPH is becoming a larger percentage of the PSC as people become less economically viable. Boats are coming off the fleet but the MRIs are staying on. If they're renewing them under CPH

and you can't track the ownership information you have to look at that otherwise you're going to do this in the blind. An anti-consolidation measure in place with A16 is the fact that you can't split PSCs. The Council has already said PSC splitting will not happen in A18; we agree with that otherwise you have a pure ITQ and will see super consolidation. It's the best thing that you can do to keep broad ownership is to keep the PSC stuck together. If Compass Lexecon got a direct question from the Council to consider caps by looking at the cod stocks - everything else is stuck to it. They've shown GOM cod is the most broadly owned stock; it's distributed across the whole fishery. No one owns a lot of GOM cod so if you just looked at that you'd be having an indirect control on the rest of the fishery. The buyout is real a discussion right now. The last time the Council spoke on the buyout, the Council gave a blessing to industry to go ahead and design an industry funded buyout. We all know about the funds that were recently appropriated. There's no consensus on anything yet, we're hearing a lot of people talk about the buyout as being potentially using some of those funds. Do you realize that you cannot have this buyout if you have a cap that's anywhere near where people could settle out after the buyout because in order for you to borrow the money you have to show that you can pay it back? This is going to be borrowed money. When you borrow money that means everyone has to pay a fee. If you talk about caps and don't consider the possibility of a buyout, buying 10 – 50% or whatever the industry and Council agrees is a safe amount of what needs to be consolidated or bought. That's going to be redistributed to people who want to stay so people who want the buyout are increasing their shares by 3 or 4 permits and he's going to automatically end up over the cap. If we're talking about a 30% or substantial buyout with 80% cuts, which no one seems to be able to do anything about, so if we have an 80% cut we need a substantial buyout to make anybody viable. People can double their PSC. It's incumbent on industry to notify managers that this work is being done and our hands are tied. But talk about capping the fisheries so people can't participate in the buyout and can't pay the fee then there's no sense in us wasting our time doing that. You have a grandfather clause out there right now. You have no PSC splitting, those are some good things. Perhaps you look at post buyout results without people buying additional permits but just post buyout results.

- Ben Martens, Maine Coast Fishermen's Association – I thought Mr. Alexander made some really good points about consolidation that took place in the past and what that looks like overall. We've seen more regional consolidation take place and that's something that isn't really addressed in this report. If we look at what's taken place in the state of Maine where we went from 300 boats landing in the early 90s, to in the 40s now. That's a type of consolidation that we haven't really talked about and I think it's something that is concerning and should be thought about. I think this is an interesting report and I know we've spent a lot of time on fleet consolidation in this amendment but just to hit on a couple of things people said, this was a fleet diversity amendment and not a fleet consolidation amendment and we haven't really been talking about the diversity side of this amendment and what other things we could be talking about to help the different segments of our fleet, whether big small or medium boats and how we're managing.

A Committee member suggested writing a letter to NMFS informing them the standard fish tote regulation should not be enforced. However, NOAA General Counsel informed the Committee that enforcement does not operate in that manner and Council action was required to remove this regulation. Staff strongly encouraged the Committee to use A18 to remove this regulation as opposed to the next Groundfish Framework Adjustment, considering the 2014 priorities. However, it was more likely that the Framework adjustment would be completed before A18 and could remove this requirement sooner.

Motion: to recommend to the Council that we add as an alternative be added to the next available Groundfish action to remove the requirement that , the removal of the tote restriction on vessels

operating with a handgear permit carry a standard fish tote on-board (Ms. Goethel/Mr. Alexander)

The motion **carried** unanimously (9/0/0).

A number of Committee members were hesitant to make decisions regarding accumulation caps based on incorrect data; they felt strongly that the 10-12% ownership of a single stock was incorrect. It was considered as a biological and social issue that was trying to be solved economically. Staff proposed crafting alternatives for the PDT to analyze the impacts; however, there was concern the PDT would use the incorrect data for the analysis, which might not be useful. A range, a high and a low range, could be developed for analysis. NERO staff noted that depending on how you define ownership changes the conclusions; a broader definition results in a higher percentage than in the Compass Lexecon report. A final report outlining the SSB analyses has not yet been made available and the timeline for publication was unknown. A few Committee members wanted to continue developing A18 instead of waiting for a more thorough review of the Compass Lexecon report by CIE. However, there was concern that with a potential buyout being developed it may put individuals over any accumulation cap that is designed prior to the buyout. Developing accumulation caps before the buyout program was developed was considered very difficult considering the high level of uncertainty.

Motion: in Section 5.1.1.3 alternative 3 that A be 3% and B be 5% and in Alt 4 (Section 5.1.1.4) that A be 4% and Y be 12.5% (Dr. Pierce/Ms. Goethel).

A Committee member thought the high range was set too low and proposed a friendly amendment to the motion to raise it to 20%.

Motion friendly amended: To request the PDT analyze the following in Amendment 18:

- In Section 5.1.1.3 (Alternative 3: Limit the holdings of MRIs with associated PSC by entities other than permit banks), that A be 3% and B be 5%; and
- In Section 5.1.1.4 (Alternative 4: Limit the holdings of stock-specific PSC by entities other than permit banks), that A be 4%, B be 12.5%, and add C at 20%.

Some Committee members were hesitant moving forward with any percentages at this point considering the concerns over the ownership data.

Public comment included:

- Jim Odlin, Portland, ME – I think you need to step back and decide if you think a business is viable in present form. I think we had a report that showed a high percentage of the industry is losing money. That brings you to a conclusion that it's not viable in its present form. Then you say OK what's going to happen to fix that viability and part of what we did in A16 was to allow for consolidation. Looking at the numbers that you got out of the SSB and I can tell you they're not accurate. If you come to the conclusion that the industry is not viable, then you have to pick a number that's much higher than what you have now because you have to allow for that consolidation to go forward. Some level of consolidation has to happen or 90% of the industry is going to drop by the wayside. In the meantime if you start down this road nobody is buying permits; there's evidence of that. There's a reason no one is buying permits; it hurts the guy who needs to get out and it hurts somebody that may want to try to stay in from becoming viable because they don't dare to move because they don't know where they're going to fall down on this type of thing. I think you need to look at those questions: where we are, what's the profitability and then also you need to look at what's future profitability. We know that the fleet is 30 or 40 years old and it has to be rebuilt within 5 years, completely. That's a lot of money so

you can't pick a number that's below the viability of a replacement of the fleet. Frankly if you built a new boat you can save 20% in fuel. That's what you should be striving for. You have to recognize that there needs to be a huge investment and pick a number that would allow a capital investment because otherwise industry disappears again. I would look at one of the goals and objectives - to maintain an inshore fleet. You could simplify this whole process to maintain an inshore fleet maybe we only need to cap one or two stocks. If you capped at a high level, higher than anything on this table, GOM cod and for instance CC/GOM yellowtail flounder you could go home. Because that would maintain an inshore fleet. I want to say this that I know the SSB numbers are wrong because I know ours are above what he has. We may have a percentage of 1 item that's above that but you cut the quota so bad that we need to go out and purchase some grey sole and if we can't do that then we can't become viable. Another issue you need to think about is these PSCs are moving targets. The percent changes every year based on how many boats are in sectors or even how many boats are in the fishery. Every year one or two or 3 permits seem to just disappear and drop out even though those have small percentages of PSCs on them. If somebody is up to the cap through no fault of their own, if they don't make any maneuver they can be over the cap next year, then what happens? Because someone dropped out of the fishery and that small percentage kicked somebody over the cap. Again we need to give people the ability to rebalance their portfolios based on ongoing situations and you can't do it with these permits all tied together. I would recommend you have to recognize that consolidation has to go on, find a number you think is reasonable, look at profitability and then narrow the scope to 1 or 2 stocks that will protect the inshore fleet. We need the offshore boats to get more fish otherwise we won't harvest the healthy stocks in this industry.

- David Goethel, F/V Ellen Diane – I support the motion. I don't know if these are the right numbers but you'll never know if you don't analyze them. I hope you read the letter by Dr. Jim Wilson because I think it's the best letter written on A18 since we started the process. It has occurred to me that the debate has all been about economics. It's the wrong metric. There are biological and sociological consequences to what you do here with consolidation. I think his letter has enunciated those issues very, very clearly. If you make this debate all about economics you will never solve the underlying issues. I agree the fishery's in crisis but right now the goal of A18 should be to do no further harm to the fishery, from a biological point of view or from a sociological point of view. I'm not that worried about economics. Economics always sorts itself out. Looking at the Compass Lexecon report, if you were to follow the recommendations of that you could have 6 entities with 6 factory trawlers controlling the fishery in New England. If that's where you want to go that's fine but I don't think the majority of people that are involved in the fishery want to go there. That has very big biological ramifications. I haven't heard that discussed around this table at all. Who catches the fish does matter whether they take a little bit out of the school or they take the whole school. As I said, I can't say these are right or wrong but it's a start and you'll never know whether they're right or wrong until you get that analysis and get started with it. Again I urge you to analyze it more than just in terms of economics. Analyze the biological ramifications of somebody being able to catch 20% of the fish. Analyze the sociological implications of somebody being able to catch 20% of the fish. We went through the same thing in scallops and we've been through it in herring. People in these coastal communities rely on being able to work.
- Vito Giacalone – I don't think it's a matter of whether people think it's a good idea to have a super consolidated fishery versus a diverse fishery. The ACLs are what the illness is. Most of the guys we represent are all owner operators and every one of them wished their allocations were higher because they would choose to stay. Right now the free market is not constrained except for this discussion but there's no law that says you can't buy another permit but nobody is buying another permit because there isn't enough money in the fishery to do it, which is why they're

looking at an industry funded buyout. I want to make it clear that this disaster aid is far from being determined - where any of it is going to go or how much comes to New England or what would go to long term or short term programs. We have no opinion on that, we're doing nothing more than collecting information and trying to come up with a unified industry voice for the elected officials. That we're going to be able to get any amount of that money for a buyout is way too presumptuous but we do know there is a lot of support in the industry for it. The impact of this policy still hanging over everyone cripples the ability to start to design an industry funded buyout. This is not leveraging a position; we can't move forward with a buyout knowing that you can't talk to people and say help us design this buyout. That's an important policy. I'm thankful for the honesty but what it's basically telling us is don't waste your time designing an industry funded buyout. The catch 22 that needs to be broken is you need a policy that facilitates your original policy which is encouraging us to design one, which means design it without the constraints of the potential of a cap. There are 2 different ways that people can increase their PSC – in a buyout they're not buying another permit it just becomes the result of a buyout. The other way to do it is to buy additional permits so if there's a way to make a clear policy that distinguishes between those 2 different methods of increasing PSC that would be really helpful to the buyout. From an industry funded buyout perspective we are now on hold until the policy comes out and that in A18 you're going to contemplate a buyout not being held to the cap. I hope someone is going to make a motion that's going to give us some guidance on that. If this goes forward we're not saying for or against; if this is as far as it goes then the buyout is blown up. We do have members that have well in excess of 12.5% of one stock as much as double so I think that's important to know. There was a comment earlier about focusing the analysis on one or two stocks; that might not be a bad idea. I'm thinking the cod stocks in general because without cod you can't do anything else so it would be simpler. We have stocks like GB haddock, GB winter flounder that are at high concentration of ownership because they always have historically; from a fleet diversity standpoint have been concentrated on a few fishermen and few ports that concentrate on those stocks so one size fits all cap is not going to work anyway. Every stock is different so one way to do it is to look at the cod stocks and that will give staff something to focus on. If you can link one stock because all our PSCs are glued together, you have a good policy on the table right now that says PSC splitting is considered but rejected put that aside. If that's the case then you can look at one stock for now but please help us with some policy for an industry funded buyout because what you have before us has us crippled.

- Ed Snell F/V Rita B – You guys talk a lot about efficiency and how it's the greatest thing in the world but it is really bad for fish and fishing communities. There's a lot of scientific data out there that shows that a lot of fish that spawn together travel together and when you have larger more efficient boats they're putting more stress on those stocks and basically overfishing the stock, subgroup by subgroup. Inefficiency also spreads out the economic benefit from the fish amongst the most people which is good for communities and fishermen, particularly small independent fishermen. We have a fishery that's been largely shaped by the biggest operations in their own image. Caps should be set sooner rather than later because fleet consolidation is happening no matter how far you stick your head in the sand, it's definitely happening. There are significantly fewer permits around today than there were just a year or two ago. If the numbers are too high I realize it's breaking with the tradition of this council to do anything that has any real effect but if the numbers are too high then they do nothing, it's useless. They need to be low enough so that it actually has some effect on something and to me if there's a buyout then it seems that makes it even more important because a buyout is basically designed consolidation and I'll agree may be necessary but I think it's important that the numbers are what they are and they go forward.

- Aaron Dority Penobscot East Resource Center – As I see it, this motion is about asking for analysis to inform decision making. It's not about the merits of accumulation caps per se. I would urge you to support this because I think the conversation started on accumulation caps about 4 years ago with the interspecies committee back in 2010. It's about 2 years since the scoping meetings when a number of fishermen in 13 different locations identified concerns that they have about consolidation happening and wanting to preserve fleet diversity. We need some analysis to inform decision making going forward. I wouldn't handicap yourselves by saying we're afraid of the outcome therefore we don't want to ask the question. More specifically this doesn't talk about an industry funded buyout. That's not the motion that's before you right now. I understand that something that's potentially hanging over the industry but there isn't a proposal right now; we don't know exactly what the industry supports. We haven't heard from enough fishermen. There are a lot of questions, that's not saying that we shouldn't think about a buyout and potentially plan for it but I don't think we should handicap ourselves in going forward because there's the possibility of a buyout. I think it's good to ask the question and then decide at that point based on the results that you get what the best course of action is. I think it's good to have as much of a range as possible, you have a low end of 4% as far as MRIs and a high of 20%. That's a big range. 20% of the industry leads to a theoretical minimum number of fleet owners of 5. If that's not a high enough cap I don't know what is. That's my perspective I know this perspective is shared by a number of fishermen that I've talked to and who have weighed in at scoping meetings. I urge you to go forward with this because it gives you info you can work with. You don't want to come back in a few months and say we're not sure we can do anything because we don't have the analysis to inform decision making.
- Maggie Raymond – AFM fully supports trying to maintain fleet diversity in this fishery and that the comments I'm about to make are not in opposition to that goal. In 2011 we wrote a letter to the Council in opposition to the control date and we argued that you were going to stifle the consolidation that was necessary to the fishery and was encouraged to happen in A16. That is exactly what has happened. I would disagree with the notion that this motion is about analysis. What this motion does is, once again puts a huge level of instability in the fishery and in people's decisions going forward. We are the most unstable fishery, probably in the country, and now we're going to say to people - don't move or don't do anything to try to get yourself viable because we may stop that at some point in the future. I would urge you at this time not to go forward with this motion but I do have a question with regards to an ownership cap on PSC since we don't actually own PSC. I think that needs to be, if this motion does pass, looked at by the PDT. If somebody is over whatever cap that you establish and decides to not enroll in a sector does he have a PSC? You only have PSC when you're enrolled in a sector so this is very problematic to do this. You're essentially saying to people get out of sectors and go have a derby fishery because that apparently will protect fleet diversity. Again, let's look at some other ways that we might be able to meet the goals and objectives of this plan. This is not a good one.

The motion **failed** on a show of hands (4/5/1).

A Committee member urged caution to be used when referring to what percentage would constitute an excessive share; there are examples in New England where one individual owns a large percentage of the fishery, up to 100% in one case. The question was raised as to whether that represented an overly concentrated fishery if an owner focused its business on it. It was hoped that the SSB could investigate the ownership data further and provide an answer to the Committee regarding the validity of the data presented. Staff informed the Committee that the PDT would not be working on this issue without some direction.

Motion: that the PDT identify a range of potential cap values developed from Social Science Branch, Compass Lexecon, and other pertinent studies (Dr. McKenzie/Ms. Goethel).

A friendly amendment to the motion was suggested to clarify if this was intended as a cap on MRI and PSC ownership.

Motion as friendly amended: that the PDT identify a range of potential cap values on MRIs and PSCs developed from Social Science Branch, Compass Lexecon, and other pertinent studies.

Public comment on the motion included:

- Maggie Raymond – This is even worse than the prior motion. This is wide open and could be anything. What are people supposed to report back to the industry? There could be a cap, it could be any cap, and we don't know what it's going to be. We're just going to leave it up to the PDT to come up with a range?
- Ed Snell – I think Mr. Giacalone brought up a good point that it doesn't necessarily have to be a broad brush. It could be stock specific. Maybe you could ask the PDT to identify a potential range of cap values for different stocks, e.g. GOM cod or GB haddock.
- Aaron Dority – To me instability stems from the Council repeatedly prioritizing A18 for the last 3 years and then not tasking the PDT with doing anything about it. If you're going to prioritize A18 you need the resources to make decisions. This isn't voting on putting alternative in the document or what that alternative should be. It's trying to inform yourselves. It seems very inconsistent and it seems to continue instability and uncertainty if you're saying we're going to move forward with this amendment and we're hearing the industry comments but then we're not going to ask the PDT to do anything about it. You just heard several times now that there's not going to be any action if you're not asking the PDT to give you some information to make decisions. I support the motion.
- Vito Giacalone – At this time, we would oppose the motion but suggest splitting. There's a big distinction between MRIs and PSCs. Accumulating MRIs is an actual transaction; you own a permit. Your PSCs could go up and down even without changing ownership. It can happen through a buyout or through people falling out of the fishery, or through appeals from other fishermen. All kinds of things beyond your control can change PSC. The PSC concern is the one that's causing this instability in the fishery. Everyone knows how to look at 20 permits, 40 permits, 50 permits, where the cap is and I think you can base a business around that. If it were split into 2 different motions and have a separate discussion on PSCs you'd definitely support a range of cap values on the MRIs because we see that as something that's tangible. The PSCs are not at this point. The PSCs are the ones that are crippling the buyout discussion.

Again, Committee members were hesitant to develop potential caps without final reports from the SSB that clarified the concerns raised by the Committee regarding the ownership data. Other measures should be developed that would support fleet diversity. The maker of the motion did not intend the motion to dictate alternatives but to identify a range of values.

The motion **failed** on a show of hands (4/5/1).

Consensus statement: to task the PDT to finalize these reports (SSB reports on fleet diversity and ownership) and continue to work on these numbers and improve them with the eye towards presenting them back to the Committee at the next appropriate time.

The Committee moved on to discuss non-profit permit banks. There was some confusion as to why alternatives could be developed that may restrict permit banks when they could also be used to achieve some of the goals of A18. A number of Committee members wanted increased transparency from permit banks. The current definition of a permit bank is that it is state run; lease only sectors are defined as a sector. The definitions could be refined in A18 and result in potentially 3 distinct business entities that would include a non-profit categorization. The need for a permit bank definition was to ensure that they were distributing ACE to multiple constituents but some Committee members thought this might not be possible or appropriate. A Committee member suggested staff look into how an organization achieves non-profit status and what the associated limitations of that status are.

Public comment included:

- David Goethel – I want to come down on the side of more transparency rather than less. One of the principal problems I have as a member of a sector is that I never have any idea what’s going on. I don’t know how the fish are dispersed. I don’t know what people pay for them; I don’t know anything. I have to take the word of the sector manager and that’s not transparent. I have no idea whether it’s a permit bank or a sector whether the fish is being distributed fairly or not; whether the price I’m paying for it is reasonable or unreasonable. I hear nothing except what I’m fed. I would urge you to make this whole thing far more transparent all the way around and not just the permit banks but the sectors themselves. All the lease trades should be posted on a centralized website; including who traded what to whom and how much they paid for it. The public needs to know what’s going on here; especially the fishermen and right now they know nothing. I think you do need to define this stuff. I have no idea what goes on in some of those for profit permit banks. They could all be going to one person; they’re going to 3 or 100. I really hope you’ll take this a little more seriously. There can never be too much transparency in life there can only be too little.
- Ed Snell – I agree with Mr. Goethel that more transparency is better. It seems that if accumulation caps become a reality then everybody who wants to buy a bunch of permits can start their own permit bank, which seems like an obvious loophole to me

A Committee member felt strongly that a tight definition of a permit bank should be developed to be proactive and to allow participants in the fishery to be involved in shaping its future. The Committee discussed Section 4.2.2 defining a non-profit permit bank that had five components to the definition. The component that required non-profit permit banks to lease ACE at or below market values was considered too difficult to enforce; it was also unclear if it was market price of landed fish or leased fish. It was suggested that this criteria could be met by showing their average price over a time frame was below market price; daily prices were considered too variable to comply with that rule.

Motion: For Amendment 18, Section 4.2.2 (Alternative 2: Defining a non-profit permit bank), remove Criteria 2 and 5 from this list for defining a non-profit permit bank. (Mr. Dempsey/Mr. Alexander).

Criteria #2 was removed because it was unnecessary; #5 was removed because it was problematic in its wording.

The purpose of defining a permit bank was still unclear – could this be used to provide exceptions to any accumulation limits developed in A18? It was unclear whether there would be only one type of permit bank allowed based on this definition.

Public comment on the motion included:

- Maggie Raymond – I take Mr. Dempsey’s point about the goal of the Amendment to use permit banks to achieve fleet diversity but this particular definition says nothing about reporting back to the Council on that activity even though many people have said that’s what’s going to happen. We would need to include that. What is the purpose of defining a permit bank? It would appear that it was so that permit banks could be given preferential treatment or be treated differently than an individual. Let’s just say we have this definition, we have set up this reporting mechanism for them to come back and tell the Council how they are achieving fleet diversity through their permit bank. And the Council says I don’t think you achieved fleet diversity at all and they say OK don’t call me a permit bank anymore, I’ll just enroll in a sector and I’ll do whatever I want with the allocation that I have. I agree with the goal of A18 to try to use these permit banks to achieve fleet diversity but in practicality I just don’t see how you could do that. At a minimum there has to be some kind of reporting back if you indeed want this transparency about what happens with these permits that are not owned by fishermen, they’re owned by some non-profit. I think it should be very clear if you are going to define a permit bank this section of the amendment needs to say specifically why are you going to give them preferential treatment because that’s what the public needs to know in order to comment on this before you make a final decision on it. What are you going to do with these permit banks and why do you need to define them. Are you going to make them provide an annual report?

The motion **carried** on a show of hands (8/1/1).

Consensus Statement:

To task the PDT with examining the regulations and process to become a non-profit entity established under the laws of the U.S.

(After the following motion carried, this consensus statement was **withdrawn**).

Motion – that we include in the alternative 2 for the non-state permit banks, the language as shown in A, B and C on page 4 of the PDT memo (Dr. Pierce/Dr. McKenzie).

The motion was friendly amended to remove the outdated language of non-state permit banks and to be more specific.

Motion as friendly amended:

For Amendment 18, Section 4.2.2 (Alternative 2: Defining a non-profit permit bank), that the other conditions A, B and C on page 4 of the January 16, 2014 PDT memo to the OSC be included in the alternative.

The motion **carried** on a show of hands (9/0/0).

The Committee was not prepared to discuss accumulation caps for non-profit permit banks at this time and requested more information.

Consensus statement: To task the PDT to expand the information in Table 1 of the January 16, 2014 PDT memo (multispecies permits held by permit banks) from number of permits held to include the amount of PSC held in by these permit banks.

A Committee member wanted to know how much PSC was associated with the permits held by the permit banks; it was possible to own permits that had little to no PSC associated with them. Staff did not think it was possible to provide that information because of confidentiality concerns. NERO staff informed the CTE that PSC information for permits is public and that information could be provided to the Committee.

The Committee moved onto issues raised during the scoping process. A Committee member considered a number of these to have been addressed by sectors themselves. Fishermen can declare through the VMS system if they are fishing inshore or offshore. The scoping comments proposed establishing inshore and offshore areas. There was some hesitation to establish set areas because the fish move and fishermen should be allowed the flexibility to fish in all open areas; the definition of fleet diversity was considered ambiguous. This issue was thought to be dealt with more appropriately at the sector level; a sector workshop was held in 2013 where measures to address this issue were outlined. A Committee member requested that the inshore/offshore issue be analyzed with regards to local depletion to help the Committee decide how to respond.

Motion: that sectors provide by the February Council meeting: 1. Approaches being considered to deal with fleet diversity in the interest of the inshore fleet; and 2. The schedule for sector adoption of those approaches (Dr. Pierce)

The motion **failed** for lack of a second.

A Committee member was opposed to developing inshore and offshore areas because this is a business in which individuals have invested millions of dollars; this should only be considered if new allocations were made based on the new areas.

The Agency holds the closed areas to a higher standard considering the larger fish contained in them contributing more to reproductive capacity of a stock. A Committee member considered this to be a disadvantage to US fishermen as Canadian fishermen recently caught 1 million haddock on GB in one weekend. Canadian fishermen have 100% observer coverage that is industry funded, which was listed as a requirement to enter the closed areas but US fishermen said that was cost prohibitive.

Motion: To request the PDT to develop an alternative the address the development of inshore and offshore fishing areas (Dr. McKenzie/Ms. Goethel).

The Committee generally thought this was a difficult task for the PDT to achieve.

Public comment on the motion included:

- Jim Odlin – I think a simpler way would be to Identify the problem and simply look at effort e.g. in area 514 over the last few years by vessel class. It's been done before so just update the analysis before you do this motion. Then you'll have an idea of whether this is a direction we need to go in. I have a pretty good feel for what the analysis will tell you. I don't think it's a direction we need to go in. If I was up there I'd simply ask the PDT to give us an analysis of effort in 514 by vessel class over a period of 5 years or something to that effect. That's going to give you a picture of whether it is real or isn't.
- Maggie Raymond – During the development of A13, I chaired the GAP and we were tasked at one point of doing exactly what you're asking the PDT to do. I took that task very seriously and most advisors did as well. After thousands of hours of discussion we could not agree on where to draw a line, never mind what was going to happen on either side of those lines. Everybody drew a

line and pretty much in a different place. Ultimately the Council included an option that was developed by an industry group that doesn't exist anymore. It was included in A13 and was rejected. Why do you think the PDT is going to have the expertise to do this when the industry itself could not accomplish that? I would urge that you do what Mr. Odlin suggested instead.

- Ed Snell – If everything is working and fishermen are following the rules and happy about those rules and everything is great, when we have a cod stock that has been described in crisis. Words like disaster are kicked around pretty regularly. One doesn't have to use much imagination to seek out the dysfunction in the fisheries management process. In my fishing operation, I travel 40 miles each way in a 25 ft boat to just have a chance of breaking even. I think what defines the inshore/offshore boats or big boat/small boat should just be based off landings – how much fish people intend to land. It's basically back to trip limits. If boats intend to land more than so much per day then they should be fishing offshore and not fishing inshore in the areas that are so sensitive like Stellwagen bank and middle bank or isles of shoals area, whaleback, etc. Sectors need checks and balances and that's kind of what A18 to me is all about. They're facilitated overfishing by the largest boats on Stellwagen Bank and that's a problem that's responsible for what I see as the contemporary lack of cod right now, right up there with mid-water trawlers. That's because sectors are unchecked so there's so much effort can be focused on such a small area. It isn't about keeping the smaller boats in those areas it's just about keeping the larger boats out and I'm sorry to discriminate against the ones who are actually catching that much more fish. That's not the problem. If those larger boats want to subscribe to the smaller trip limits, which the smaller boats are already subscribing to because they can't fit that much fish on board.
- Aaron Dority – I wanted to comment also on the sector division of inshore versus offshore, the GOM declaration but we are we past that. You should support this. Our sector membership is in support of this. I heard support for this at a number of the scoping hearings. I know a lot of the small boat fishermen are concerned about the kinds of things that have been raised here. I think that the solution is driven by the problem of increased effort inshore. It's a complex problem that has a sociological aspect; it has an ecological aspect to it. Dr. Wilson's letter was raised earlier today. I would refer you to that as well. It talks about the complexity of that problem and offers some potential solutions as well. It would be wrong to characterize this kind of description as putting anyone in a box. I don't think anyone wants to move in that direction right now particularly with low ACLs. It doesn't make sense to talk about putting people in boxes. But Mr. Chairman you characterized the potential solution to this problem a little bit differently in terms of identifying different rules for different areas as distinct from saying who can fish where. Those are different things and we're not to that point yet. We're just talking about where a line might be drawn. Keep in mind that the herring fishery has an inshore and offshore areas, lobster fishery has inshore/offshore areas. There are different reasons for these fisheries but it would not be original to establish this in the Groundfish fishery as well. There's a lot of rationale for doing it. To come back to the ecology, we've gotten a lot of information from the development of A13. Over the past several years we've learned a lot more about natal homing, spawning site fidelity and the fine scale nature of a number of Groundfish stocks. That's got to be factored in. That impacts the socio-economic aspects of this. There's been a pattern of resource contraction over the past 10-20 years and you can see this from many of the trawl surveys and from observer catch data and one potential solution to that is to look at the inshore area differently and that may redistribute some of the fishing effort. This is something that's definitely worthy of support.
- Brett Tolley Northwest Atlantic Marine alliance– We absolutely support the motion and want to highlight that during the A18 scoping process this problem was the most frequently identified problem throughout the scoping process. I would encourage all of the Committee members to go back and listen to the scoping testimony particularly testimony that took place in Portsmouth, NH

in south shore MA and Hyannis MA. You will hear very distinct and specific problem and when you listen to it you won't hear anybody talking about boxing in an area or boxing in any type of vessel size or gear type in an area. What they're talking about is a concentration of fishing effort not even by just one vessel size, by all vessel sizes that is happening in inshore areas. They'll say that the reason is because of the lifting of trip limits a drastically different style of fishing began taking place after 2010 when trip limits were lifted. I've talked with so many fishermen who say this is not about big boat versus small boat. This is an ecological issue that we need to address holistically. We need to look at how to protect this area so the fish can come back. If we keep going the same direction that we're going now with no trip limits then this area will never be productive again. That's what is in the testimony of A18 scoping. This is a critical first step. We have to get the data. In terms of the PDT looking at the catch rates during the past couple of years before and after 2010 to something to keep in mind is that we've also identified another problem that began happening with the misreporting between GB and GOM where we also have written testimony and oral testimony from fishermen saying that misreporting was tremendous. I think it's absolutely the way to go to begin getting the data that exist keeping that in mind.

Staff suggested limiting this analysis to cod. A Committee member also wanted it pointed out that some boats stop on an area and do one tow to catch their limit while other vessels spend an entire trip in some inshore areas such as Statistical Area (SA) 514.

Motion to substitute: Task the PDT to analyze the effort by vessel classes in area 514 and adjacent areas as appropriate between FY2004 and FY2012 (Mr. Alexander/Ms. Ramsden)

A Committee member was opposed to the substitution because it divorced the intent of the inshore/offshore issue.

Public comment on the motion included:

- Jackie Odell Northeast Seafood Coalition – I don't know how many of you attended the CPUE meeting that took place for GOM cod for the second benchmark but a large part of what you're tasking the PDT to do has already been done. There was a thorough report done by the NEFSC that looked at by vessel class over the time period, maybe back to the 1990s over fishing effort and vessel size classes and how much they had actually caught of GOM cod. Just so you know there is an analysis out there so you don't need to reinvent the wheel.

The motion to substitute **carried** on a show of hands (6/3/0).

Motion to Amend: Task the PDT to analyze the effort by vessel classes in statistical area 514 and adjacent areas as appropriate between FY2004 and FY2012; adjacent areas to include areas south of Cape Cod as the PDT deems appropriate (Dr. McKenzie/Ms. Goethel)

A Committee member thought this was a worthwhile amendment to the motion as a greater percent change was predicted in the added areas.

The motion to amend **carried** on a show of hands (8/0/1).

The main motion as amended **carried** on a show of hands (9/0/0).

Omnibus Baseline Amendment

NERO staff presented the planned analyses for the omnibus baseline amendment. NERO is planning to compare the baseline fleet of the characteristics. If additional analyses were requested or this action expanded then the Council would have to take over the amendment. NERO staff informed the Committee that if more complicated analyses were added then it would no longer be policy neutral and the Council would have to take the lead on the amendment.

Public comment included:

- Maggie Raymond – Since the Agency first took comments on this, and we submitted comments, the question has been raised to me whether or not the agency would consider allowing a fixed gear vessel to have a more liberal upgrade requirement since horsepower isn't really essential to those gear types. Right now permits are not gear specific but if someone chose to have a gear specific, fixed gear permit, which would be permanent could they be allowed to have more than the 10/20 on the length of the vessel to allow those boats to be a little bigger to be able to go further off shore like the hook boats that went to CAII.
- Jim Odlin – I think we need to face the fact that the healthiest stocks that we have are further offshore. Anything that impedes some inshore boats from making the transition to fishing on healthy stocks like a size limitation is going to lead you to less fleet diversity not more. I think we need to start thinking about how do we let a guy in a 35 ft boat that's stuck inshore to transition in the future if he wants to stay in the business to be able to target the healthiest stocks we're likely to have for the next 5-10 years. I think for that reason you look at it a little different and not how having these restrictions are promoting fleet diversity as how are these restrictions not allowing fleet diversity to stay in the fishery between fixed gear and trawling. New construction of the vessel now you have to go to a tier 3 diesel engine and the horsepower ratings are totally off the charts change. You physically can't buy the same engine that you could buy before and put it in the boat, legally and physically. We have an obsolete system that is actually harming the environment because we can't upgrade to a better, more efficient engine. I think these are outdated measures that if we're under a hard TAC system should no longer be in place. If you need to do it on a limited basis at least let some fixed gear guys move themselves up to a class of vessel that will allow them to target the healthier stocks and then somebody has to figure out an analysis on new engines. You just physically cannot buy a new engine without being a tier 3 and if you buy a tier 3 at the same horsepower rating that you have today you don't have anything.

Several Committee members considered the lack of alternatives for horsepower and engine size to be an issue; it's very difficult for vessels to upgrade/replace an engine and meet the horse power requirements. If these additional alternatives were pursued solely by the Groundfish Committee then permits could be lost by vessels. The Scallop Committee also indicated that a larger scope amendment would be favored. NERO staff suggested that the Council initiate a separate omnibus amendment to address additional issues; this would allow this amendment to be in place by 2015.

Public comment included:

- Jim Odlin – You've probably got 2 options, you go down the omnibus road and try to include all the other fisheries and it will take forever and nothing will happen or you could make some changes that you want to happen under Groundfish. Then it would be up to a permit holder to decide, I might lose squid permit in the Mid-Atlantic because they haven't come along yet but it may be worth me making this upgrade to my operation that allows me to target offshore fish. At the same time you could probably pursue an omnibus but I still think you could take this action under Groundfish to at least help some people get out of a box and then it's up to them to make a

decision. Some people may not lose any permits but others may. I think just sending it down the omnibus road is the road to nowhere.

Staff was hesitant to suggest an additional amendment considering the long list of 2014 priorities. NERO staff concluded that no additional analyses would be completed for this amendment. The Committee contemplated tasking the PDT to analyze the white paper put out by the NRCC regarding the vessel baseline amendment but considering the limited time available before the January 2014 Council meeting, the Committee delayed tasking until after the Council discussion.

Other Business

Motion: To inform the industry that they are free to design a buyout and redistribution of PSC that would not be constrained by accumulation limits (Mr. Alexander)

The Committee Chair noted that industry was free to act without Council guidance and the Committee could not tie the hands of a future Council action.

The motion was **ruled out of order**.

A Committee member highlighted correspondence received regarding the recreational take of GOM cod and haddock relative to the 2013 sub-ACL. Considering the narrow timeframe available, it was suggested that this item be added to the agenda for the February 2014 Council meeting to allow council input on recreational AMs in order to implement as close to May 1, 2014 as possible. The NEFSC is already working on an analysis that could be used to design measures needed to reduce recreational catch; a Recreational Advisory Panel meeting (RAP) is currently being scheduled for February 19, 2014. The Committee agreed that there should be Council input because the RAP was allowed to pick its own AMs.

Public comment included:

- Maggie Raymond –AFM usually spends several hundreds of thousands of dollars bringing in scientific advice to work with the NEFSC but if this this doesn't tell you there's something wrong with the science on GOM haddock I don't know what does. This is a passive fishery with hooks and line that can catch the entire ACL for GOM haddock in 6 months; something is wrong with that assessment. I don't even see how the recreational fishery could have any season under these circumstances. That's not including discards for haddock, which we know there are some and we know haddock is not a very hardy fish that survives being ripped off a hook. That's the entire ACL. Does that come off the top now and we don't get any ACL next year? They wanted an allocation; they had no allocation. Before it was all taken off the top; they wanted an allocation but they don't have any accountability.
- Vito Giacalone – Trying to look on the positive side of this is the CPUE. The whole measure for the recreational sector in the latest framework was based upon an assumption that the stock assessment was correct and that CPUE would take care of itself. But that's pretty consistent control there; you have a baseline of effort – a certain number of people go in with hooks. We were coming to the mic saying we're hearing CPUE on the party/charter and the regular recreations going out and loading up on haddock during the time we were talking about spillover and were denied. What is really upsetting is we have worked this so hard to say you have to look at this. You have a stock assessment and survey happening right inside the western GOM. We looked for every reason to deny it and now here we are. I would have rather seen a 4 fold increase or spillover considered that we could have fixed it and now here we are exceeding the TAC so whether there's an AM that goes against the commercial fleet or the recreational fleet

or not, we're all going to pay for it. If we don't change that scientific estimate then that's coming right off the top and will reflect in future years TACs.

The meeting adjourned at 4:43 pm.