

Update:

Development of Amendment 18 to the Multispecies FMP

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Groundfish Oversight Committee meeting
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Outline

- Amendment 18 goals, as revised.
- Amendment 18 timeline.
- PDT progress/feedback on June 2013 tasks from Committee & Council.*
- Securing additional expertise in economics.
- Priorities for today's discussion.

**See August 8, 2013 PDT memo to the OSC for details.*



A18 revised goals

As approved by the NEFMC, June 2013.

1. Promote a diverse groundfish fishery, including different gear types, vessel sizes, ownership patterns, geographic locations, and levels of participation through sectors and permit banks;
2. Enhance sector management to effectively engage industry to achieve management goals and improve data quality;
3. Promote resilience and stability of fishing businesses by encouraging diversification, quota utilization and capital investment; and
4. To prevent any individual(s), corporation(s), or other entity(ies) from acquiring or controlling excessive shares of the fishery access privileges.



A18 timeline*

2013	June	NFFMC settles on goals/objectives.
	July-Dec.	Develop measures.
2014	Jan.	NEFMC approves range of alternatives to be analyzed in DEIS.
	Apr.	NEFMC approves DEIS with range of alternatives.
	Jun.-Jul.	NMFS and EPA accept DEIS. NOA issued.
	Jul.-Aug.	45-day public comment period.
	Sept.	NEFMC votes on final EIS.
	Nov.-Dec.	NMFS review, deeming of proposed regulations, 60-day public comment period.
2015	Jan.-Mar.	EIS review, cont.
	TBD	Implementation.

**Depends on the extent of the action and timing with Habitat Omnibus Amendment, FW51, and other Council actions.*



Task #1: Measures in the Northern Economics report

Review the Northern Economics report “Designing Measures to Limit Accumulation of Fishing Privileges in the Northeast Multispecies Fishery” to determine if its recommended approaches for limiting accumulation of permits and Potential Sector Contributions (PSC) and for use of Annual Catch Entitlements (ACE) on vessels would help the NEFMC achieve the A18 goals.

PDT Feedback (Appendix I, Lines 3-7)

Short answer

- “Yes.” These ideas could help achieve the goals.

PDT Question

- Of the 100+ measures contained in this report, which would the Committee prefer/not prefer to develop further?



Task #1: Measures in the Northern Economics report

Trade-offs

- Economic efficiency vs. over-consolidation.

Logistics

- CPH permits need to get into the ownership database.

Implications

- Avoid creating “shell games.”
 - Sectors can shift membership.
 - With leasing, permanent acquisition of PSC/permits is unnecessary.
 - ACE can move between vessels of the same owner.
- Restricting ACE use by vessels may require a LAPP.

Suggestions

- To avoid the shell game, may want to develop accumulation limits for both acquisition and use.
- Would need to identify whether the limit would be at the vessel affiliation, business entity, or individual person level.
- May be better to limit MRIs vs. permits.
- Additional economic analysis on identifying what is an “excessive share” for the fishery would be helpful.



Task #2: Capping permit owners to owning 5% of permits

Develop an option for an ownership cap that would limit multispecies permit ownership by any individual or entity, with the exception of permit banks, to 5% of the total of the limited access permits issued. This option should grandfather ownership levels to the individual or entity ownership level that exists prior to the control date.

PDT Feedback (Appendix I, Lines 1-2)

Implications

- A 5% cap could result in having just 20 entities in the fishery.
- Likely that 5% is too high to pose much constraint on consolidation (~55-70 permits/MRIs per owner).

Suggestions

- Capping MRIs with associated PSC vs. permits.
- Defining ownership as in the scallop fishery, an individual having an ownership interest in not more than X% of the TAC/ACE.

PDT Questions

- Is the Committee still interested in this type of cap?
- Is the Committee interested in developing a cap on permits, all MRIs, and/or MRIs with associated PSC?
- How should ownership be defined (individual, entity)?



Task #3: Defining and capping accumulation of private permit banks

Develop a regulatory definition for private permit banks and alternatives to establish appropriate caps for said banks commensurate with their value in protecting diverse fishery access and supporting the goals of this amendment.

PDT Feedback (Appendix I, Lines 8-10)

Suggestion

- It would help if the Committee provides additional direction to better steer PDT efforts.

PDT Questions

- In what ways does the Committee want these entities to be distinct from other permit holders, including the state-operated permit banks already defined though Amendment 17?
- Does the Committee want a distinction between an individual or entity that holds multiple permits to increase their PSC (and ACE) for use by their own fishing operation vs. an entity that holds permits for the sole purpose of providing ACE for other fishermen?
- Does the Committee envision creating different rules governing how private permit banks operate (e.g., different reporting requirements; higher or lower caps than developed for other ownership entities)?

Task #4: Providing access to capital

Examine US solutions that provide access to capital for individuals, new entrants, sectors, and community entities (e.g. halibut new entrant finance program called Community Quota Entities, NMFS fishery obligation fund financing for quota).

PDT Feedback (*Appendix I, Line 11; Appendix II*)

Logistics

- Federal government regularly enables the food production industries to access capital.
- May be beyond the Council's realm to establish fund and administer.
- Fishermen can't usually participate in programs targeted at farmers.

PDT Questions

- What would the Committee like to do with the information provided in Appendix II?
- Is additional information needed at this time?



Task #4: Providing access to capital

Fisheries Programs

Fisheries Finance Program

- 180 loans since CY2000 in the Northeast.
- Administered by the NMFS regional offices.
- Loans for purchasing/reconstructing vessels, shoreside facilities, aquaculture, and fishery buy-back.
- IFQ financing in the North Pacific (requested by NPFMC).

Capital Construction Fund Program

- Administered by NMFS headquarters.
- Using tax-deferred income to help pay for vessel construction or reconstruction projects.

Community Quota License Programs and Community Quota Entities

- Alaskan communities can form non-profit entities that can request permits and purchase quota.
 - Charter Halibut Limited Access Program
 - License Limitation Program Community License Program
 - IFQ Community Quota Program
 - Crab Rationalization Community Protection Measures
- Some programs limit quota holdings/use by communities.



Task #4: Providing access to capital

Farming Programs

Farm Operating and Ownership Loans

- Similar to the Fisheries Finance Program
- Loan Operating Costs Program
- Farm Ownership Loan Program

Beginning Farmer and Rancher Opportunity Act of 2013

- Part of the Farm Bill currently being considered by Congress.
- Provisions to provide access to capital for individuals, particularly new entrants, through several different programs.

Conservation Reserve Program Transition Incentive Program

- Pays retiring farmers for their land.
- New farmers can lease the land if they use sustainable practices.

Beginning Farmer and Rancher Individual Development Accounts Pilot Program

- Matches savings invested by the new farmer up to a limit.
- Business training for new farmers.



Task #5: Measures outlined in NHFA proposal

Consider the concept of the Northeast Hook Fishermen's Association (NHFA) proposal as outlined in their April 7, 2013 letter to the NEFMC.

NHFA proposal core

- Create a sub-ACL for the HA multispecies permit category.
- Allow active HA permit holders to harvest their allocation under a program distinct from either the common pool or sectors.
- Their sub-ACL would be based on their landings history during 1996-2006.
- Would not harvest under the trimester quota allocation of the common pool.
- Would not have their fishing history used by fishermen other than HA permits holders.
- Would be exempt from all commercial groundfish closures except cod spawning closures.
- Would probably retain trip limits (*not specified in proposal*).

The HA permit fishery

- A small fraction of the total fishery.
 - ~100 permits with ~30 active per year.
 - 0.06-1.1% of total groundfish landings in recent years.
- One active HA permit holder fishes in a sector, the rest are in the common pool.



Task #5: Measures outlined in NHFA proposal

PDT Feedback (*Appendix I, lines 12-23*)

Considerations for managers

- A specific allocation for the HA permits would help preserve fleet diversity.
- This would create a program distinct from sectors or the common pool.
- In many ways, the handgear commercial fishery would be managed more like the recreational fishery than other segments of the commercial fishery.
- The HA permit holders could form/join a sector.
 - Timing could be quicker than A18 implementation (FY14 vs. FY15 or later).
 - Could request exemptions from much of the monitoring requirements.
 - “Right of first refusal” operating agreements could be established.
- The NHFA wishes to fish avoid the complexities of sectors.

Questions:

- Would the Committee prefer to develop fishery regulations for the HA permit holders that are distinct from those governing the common pool and sectors?
- Would the Committee prefer to modify the common pool regulations, under which most of the HA permits are fished?
- Are there specific ideas in the NHFA proposal that the Committee would like to develop further at this time?



Fleet diversity

Preliminary PDT Input

Consider

- The degree to which social engineering should trump market efficiency.
- The unintended consequences of imposing fleet diversity (e.g. Restricting ACE use to vessel sizes).
- ACE might need to become associated with specific vessels or entities other than sectors (LAPP implications?).

PDT Questions

- Are there regulations that do not inhibit diversity that could be developed?
- Could sectors develop their own fleet diversity approaches?
Would standards be necessary? Would reporting be confidential?



Defining excessive shares (A18 goal #4)

Additional expertise in economics is necessary to help the Council determine an appropriate excessive shares limit for this fishery.

In 2011, NMFS and MAFMC commissioned Compass Lexecon to outline:*

- A method for setting an excessive shares limit for ITQ fisheries.
- An appropriate limit specific to the SCOQ ITQ fishery.

A CIE peer review** concluded that:

- The method was consistent with other industries.
- Setting an appropriate limit would require more ownership data than available.

*Mitchell, Peterson, Willig. 2011. *Recommendations for Excessive-Share Limits in the Surfclam and Ocean Quahog Fisheries.*

**Walden. 2011. *Summary of Findings by the Center for Independent Experts Regarding Setting Excessive Share Limits for ITQ Fisheries.*



Defining excessive shares

5 Terms of Reference – based on the SCOQ analysis:

1. Describe a theoretically sound method to specify the maximum possible allowable percentage share of the market for the fishery access privileges (permits, PSC) and/or the quota leasing (ACE trading) that would prevent an entity from obtaining an excessive share of the access privileges allocated under the Northeast Multispecies Fishery. Use the Herfindahl-Hirschman Index prescribed within the “US Department of Justice Horizontal Merger Guidelines” or other accepted rule as appropriate.
2. Apply the process or rule developed under Number 1 to determine if excessive shares already exist in this fishery. If excessive shares do not exist today, describe potential constraints that could prevent excessive shares from existing in the future. Alternatively, if excessive shares do exist, describe a process or rule that will allow for a theoretically sound procedure to prevent future increase.



Defining excessive shares

5 Terms of Reference – based on the SCOQ analysis:

3. If the rule cannot be applied because of incomplete data, provide suggestions of how to apply the rule in the best way possible that is consistent with the theoretical underpinnings of the rule. Also, identify data that would be necessary to apply the rule.
4. Identify conditions where entities, could exert “inordinate control” of quota as outlined in the National Standard 4 Guidelines. Such entities could include business entities holding permits, sectors, or organizations of sectors.
5. Alternate approaches to achieving the Amendment 18 goals (other than accumulation caps) may be proposed.



Defining excessive shares

Work Phases – based on the SCOQ analysis:

1. Initial consultation and quantitative data gathering (Aug. 15-Sept. 14)

Contractor, NEFMC staff, and NEFSC SSB staff meet to select appropriate economic and fishery data and pertinent background reports that would help meet the Terms of Reference.

2. Phase II: Initial public input (Sept. 15-Oct. 14)

Contractor queries stakeholder informants via questionnaire or individual/small-group interviews. Contractor holds at least one public webinar facilitated by NEFMC staff, to receive additional input and preliminary feedback from fishery managers, industry representatives, and other interested parties.



Defining excessive shares

Work Phases:

3. Draft report preparation and presentation (Oct. 15-Nov. 14)

Contractor prepares draft report for the Council, addressing the Terms of Reference. Contractor participates in a one-day public meeting in New England to present the draft report and solicit feedback.

4. Final report preparation (Nov. 15-Dec. 14)

Based on feedback received during Phase 3, the contractor prepares a final report for the Council.



Priority questions for today

1. How would the Committee like to proceed with developing accumulation limit measures?
 - a. Timing relative to the excessive shares analysis.
 - b. Limiting holdings of permits, MRIs, or MRIs with PSC.
 - c. Limits at the individual, entity, or vessel affiliation level.
2. In what ways does the Committee want the private permit banks to be distinct from other permit holders, including the state-operated permit banks already defined though Amendment 17?
3. Are there specific ideas in the NHFA proposal that the Committee would like to develop? Which?
4. How would the Committee like to move forward on A18 Goals #1-3?
5. What feedback is there on the excessive shares analysis?

