

# Status Update: Development of Amendment 18 to the Multispecies FMP



White Paper

New England Fishery Management Council

February 28, 2013

## **1. Purpose of this Document**

This document briefly outlines the steps taken by the New England Fishery Management Council (NEFMC) related to the development of Amendment 18 (A18) to the Northeast Multispecies (groundfish) Fishery Management Plan (FMP). The intent is to aid the NEFMC, particularly its Groundfish Oversight Committee (Committee), in determining its path forward in developing this amendment. Much has transpired in the fishery since the Committee last had this amendment on its meeting agenda, over a year ago. Given recent management actions and environmental conditions, the Committee might benefit from discussion of the broad questions in Section 9 of this document before proceeding to develop specific measures.

## **2. Disclaimer**

*This document does not signify an endorsement by NEFMC staff of any particular objective, outcome or measure, nor is it an exhaustive review of the stakeholder input and activity to date.*

## **3. Preliminary Work**

The NEFMC has proposed drafting an amendment to the Multispecies FMP that would consider the establishment of accumulation caps and issues associated with fleet diversity (NEFMC 2011b). These issues have been discussed by the NEFMC and stakeholders for some time, particularly since Amendment 16 was approved by the NEFMC in June 2009. In a January 2010 letter from the National Marine Fisheries Service (NMFS) to the NEFMC, NMFS indicated that Amendment 16 was partially approved, and noted that the removal by the NEFMC of the measure to cap at 20% the annual catch entitlement (ACE) that can be held by a sector could reduce fleet diversity and sustained participation of the small-boat fleet. The letter indicated that public comments on the Amendment 16 Notice of Availability (NOA) included:

*“...legitimate concerns about the consolidation of permits, we would like to work with the Council to develop measures that would mitigate potential negative impacts, both within sectors and among individual permit holders, as they relate to some of the social and economic objectives established in the FMP.” (NMFS 2010)*

In June 2010, the NEFMC took a definitive step towards developing an amendment that addresses these issues when it voted to direct the groundfish Plan Development Team (PDT) to use the following goals to shape its recommendations to the NEFMC on measures relating to accumulation limits:

1. “maintain inshore and offshore fleets;
2. “to the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation;
3. “maintain a balance in the geographic distribution of permits to protect fishing communities and the infrastructure they provide; and
4. “prohibit any person or government entity from acquiring or controlling excessive access to the resource, through in order to prevent extraction of disproportionate economic rents from other permit holders.” (NEFMC 2010)

Preparing an amendment to consider fleet diversity and accumulation caps has been included on the list of NEFMC priorities for 2011, 2012, and 2013, and over the past few years, staff have gathered input and information in the issues. A white paper on fleet diversity, allocation, and

excessive shares was produced in September 2010 (NEFMC 2013). A workshop on accumulation limits and fleet diversity was held in June 2011 (NEFMC 2011a). In September 2011, the NEFMC approved the scoping document for Amendment 18 (NEFMC 2011b). In June 2012, the NEFMC was presented with the results of the public scoping period, December 2011-March 2012 (NEFMC 2012). Progress on this amendment since June 2012 has been delayed while the Council completed other management actions (e.g. FW48, FW50).

#### **4. Amendment 18 Objectives**

The objectives of Amendment 18 as outlined in the scoping document (NEFMC 2011b) are:

- To consider the establishment of accumulation caps for the groundfish fishery; and
- To consider issues associated with fleet diversity in the multispecies fishery.

#### **5. Public Input**

A significant amount of public input has been received on these objectives from the scoping process, meetings, and other correspondence. Many comments indicate that the intent of this amendment is important, but there is no consensus on the specific problem(s) the amendment would address, whether a regulatory approach is necessary, what the desired outcomes are, and which measures are most appropriate to pursue.

Some issues the public expressed raise the following **questions**:

- Accumulation Caps
  - How should harvest capacity match the availability of quota?
  - At what point does reduction in overcapitalization result in the control of excessive shares of the fishery?
  - If an ownership cap is established, would there be grandfathering of entities whose present ownership level exceeds said cap?
- Fleet Diversity
  - Should a specific “Fleet Diversity” goal be defined?
  - Can the industry and fishing communities maintain fleet diversity on their own or are regulatory approaches necessary?
  - Are permit banks helping to maintain fleet diversity?
  - Could fleet diversity be maintained by:
    - increasing industry flexibility?
    - increasing opportunity to harvest optimum yield?
    - restricting ACE leases between vessels of different size categories?
    - creating sub-ACLs for specific permit categories?
    - limiting fishing area by vessel size?
- General
  - Do we have sufficient data on and clear definition of ownership entities in the fishery?
  - Would this amendment decrease flexibility and profitability for the industry?
  - Would this amendment make management even more complicated?

Some of the **desired outcomes** expressed by the public are:

- Accumulation caps
  - Match capital with quota availability, while ensuring access to an economically viable number of participants.
  - Prevent windfall gains to a small number of individuals at the expense of others.
  - Prevent market control and price-fixing by a small number of owners.
  - Status quo.
- Fleet Diversity
  - Provide opportunity for a variety of vessel, gear, ownership entity types and ports to be active in the fishery.
  - Enable fishing communities to define diversity goals and have a degree of local control.
  - Maintain participation of rural and historic ports in the fishery.
  - Provide opportunity for new entrants in the fishery.
  - Maintain viability of shoreside infrastructure and the inshore and offshore fleets.
  - Status quo.

## **6. Recent Changes in the Fishery**

Since the initiation of Amendment 18, several developments have occurred within the fishery that are important to consider moving forward, including:

- Fishing Year 2012
  - Interim Action on Gulf of Maine (GOM) cod reduced cod quota by 22%.
  - Framework 47 reduced the quota for several stocks, including Georges Bank (GB) yellowtail flounder by 61%.
- Fishing Year 2013
  - Pending NMFS approval of FW48, mitigation measures to reduce the impacts of low groundfish quotas would include smaller minimum fish sizes to convert discards to landings, elimination of dockside monitoring, and seasonal openings for the three areas currently closed year-round to groundfish fishing.
  - Pending NMFS approval of FW50, the quotas for GOM and GB cod would be reduced by 77% and 55%, respectively. Other stocks with decreased quota would include GOM haddock (-71%) and GB yellowtail flounder (-12%). Stocks with increased quota would include redfish (19%) and Southern New England/Mid-Atlantic winter flounder (168%).
  - NMFS announced in January 2013 that the fishing industry will likely be required to cover up to 50% of the at-sea monitoring costs.
  - NMFS announced in February 2013 that, for all allocated groundfish stocks except GOM cod, fishermen will continue to be able to carryover up to 10% of quota from FY12. For GOM cod, the carryover will be 2% to avoid a risk of exceeding the overfishing limit. NMFS is also considering allowing groundfish fishermen to use smaller mesh trawl gear to more effectively target healthy redfish stocks and is proposing an emergency action to suspend temporarily monkfish trip limits in the Northern management area. Establishing an exempted fishery for sectors to fish spiny dogfish in areas where only a small amount of groundfish is caught is being considered.

## **7. What Analyses might be Necessary?**

Depending on how the Committee wants to proceed, the PDT could update/conduct several analyses relating to the objectives, including:

- Refine/Update/Further detail the diversity and market concentration of the multispecies fishery.
- Review the performance of permit banks to determine if they are fostering fleet diversity.
- Identify how current anti-trust laws address excessive share issues and whether they provide sufficient controls in lieu of FMP measures.
- Define the thresholds where an entity might gain market power in the fishery, including the leasing market.

## **8. Timeline**

The next Groundfish Committee meeting will be in early April 2013, and solely focus on the work of the Closed Area Technical Team. Dates for subsequent Committee meetings will depend on the outcome of the March 6 meeting. The next NEFMC meeting is April 23-25, 2013. It is unlikely that an Amendment 18 document could be ready for a NEFMC vote by its November 2013 meeting.

## **9. Questions for Discussion**

To provide direction for this amendment, prior to the development and analysis of specific measures, the Committee might benefit from discussing the following questions:

- Given recent management actions and environmental conditions, are the objectives of Amendment 18 still worth pursuing? Are there other objectives worth pursuing?
- Are there desired outcomes of Amendment 18 that the Committee can agree upon?
- What additional information and analyses do the Committee need at this point?
- Is a regulatory approach necessary?

## **10. References**

NEFMC. 2010. Council Report Summarizing the NEFMC meeting on June 22-24, 2010. Newburyport (MA): New England Fishery Management Council. 3 p.

NEFMC. 2011a. NEFMC Workshop on Accumulation Limits and Fleet Diversity. June 9, 2011. Newburyport (MA): New England Fishery Management Council. 6 p.

NEFMC. 2011b. Public Scoping Document: New England Fishery Management Council Seeks Your Comments on Conservation and Management of the Multispecies Fishery. Newburyport (MA): New England Fishery Management Council. 6 p.

NEFMC. 2012. Summary of Public Comments Received by NEFMC and NERO/NMFS on Amendment 18 to the NE Multispecies FMP. June 11, 2012. Newburyport (MA): New England Fishery Management Council. 8 p.

NEFMC. 2013. Fleet Diversity, Allocation, and Excessive Shares in the Northeast Multispecies Fishery. Revised February 11, 2013. Newburyport (MA): New England Fishery Management Council. 38 p.

NMFS. 2010. Letter to NEFMC partially approving Amendment 16 to the Northeast Multispecies Fishery Management Plan. January 21, 2010. Gloucester (MA): National Marine Fisheries Service. 4 p.