

# Summary of Public Comments Received by NEFMC and NERO/NMFS on Amendment 18 to the NE Multispecies FMP

June 11, 2012

## **Background**

The New England Fishery Management Council (Council) proposes to draft regulations to manage and conserve the multispecies fishery under the authority of Section 302 of the Magnuson-Stevens Act through Amendment 18 to the Northeast Multispecies Fishery Management Plan (76 Federal Register 245 (December 21, 2011), pp. 79153 – 79155). These rules are intended to reduce the likelihood that groundfish permit holders will control excessive shares of the resource and that over-consolidation will occur within the fleet. When finalized, the rules will become part of an amendment to the Council's Northeast Multispecies Fishery Management Plan. In addition, the Council may prepare an Environmental Impact Statement (EIS) as described in the National Environmental Policy Act to accompany the proposed amendment.

The Council identified two objectives for this amendment:

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

The NE multispecies fishery targets cod, haddock, white hake, pollock, Acadian redfish, yellowtail flounder, winter flounder, witch flounder, American plaice, windowpane flounder, Atlantic halibut, ocean pout, and Atlantic wolffish. These species are managed as 20 individual stocks. The Council has managed these species as a unit under the NE Multispecies FMP since 1985. Many of these stocks are overfished and/or overfishing is occurring. As a result, strict regulations have been adopted to control catch and promote stock rebuilding. Management measures include limited and open-access permit categories, limits on fishing time through days-at-sea (DAS) allocations, gear requirements, closed areas, retention limits, and sector allocation. These measures have been adopted through a series of amendments and adjustments to the original FMP. The most recent amendment (Amendment 16, implemented on May 1, 2010) expands the use of sectors to manage the fishery. Sectors are voluntary, self-selected groups of fishermen that are allocated a portion of the available catch. Amendment 16 also implements Annual Catch Limits (ACLs); exceeding these limits triggers additional management actions called Accountability Measures (AMs).

At the request of the Council, NMFS published a control date of April 7, 2011. The control date alerts the fishing industry and the public that any present or future accumulation of fishing

privileges may be limited or may not be allowed after or prior to the published control date. It also is intended to discourage speculative behavior in the market for fishing privileges while the New England Fishery Management Council considers whether and how such limitations on accumulation of fishing privileges should be developed. However in establishing this date, the Council is not obligated to take any further action. No limits or restrictions have been imposed on the groundfish fishery by establishing this control date. However, fishermen are encouraged to preserve any documents relating to their ownership or control of fishing privileges in the event that the Council does decide to take a future action.

Amendment 16 to the NE Multispecies FMP expanded the use of sector management for stocks managed by the FMP, and also implemented ACLs and AMs for the fishery. In the most recent specification process (Framework Adjustment 44 to the Northeast Multispecies FMP), catch limits for many multispecies stocks were set at very low levels, and these restrictions are anticipated to remain for the near future. There is concern that the low catch limits, in conjunction with expanded sector management, will lead to excessive consolidation and lack of diversity in the groundfish fleet. Likewise, there is concern regarding consolidation and diversity in the groundfish fleet as stocks rebuild and ABCs increase. Some background information on changes in number of active vessels and ownership is included at the end of this document.

Because of concerns related to maintaining the diverse makeup of the fleet, as well as an interest in keeping active and thriving fishing ports throughout New England, the Council is considering measures that will impose limits on the amount of allocations that individuals or groups of individuals may control. The Council may also create other incentives for maintaining diversity and fishery infrastructure. What issues may be addressed in this amendment?

The Council may consider several types of management, including, but not limited to:

- No action; no additional measures would be adopted;
- Establishing individual accumulation caps, or sector accumulation caps, on a stock-specific or fishery-wide level;
- Establishing usage caps for vessels fishing on a multispecies permit;
- Other measures to promote diversity within the fleet;
- Establishing performance indicators relating to the two objectives identified for the amendment (in addition to or instead of caps); and
- Establishing fleet diversity and accumulation limit measures fleet-wide or separately for inshore and offshore fleets.

This action will consider measures that require changes to the multispecies plan.

Measures will probably be adopted in a future action.

## Comments

The Council held ten scoping meetings and received written comments on the proposed Amendment to the Groundfish Fishery Management Plan from January 17, 2012 to January 31, 2012. A review of the oral and written comments indicates the majority consider the intent of this amendment to be very important for the fleet (Figure 1). The majority of favorable written comments came from Maine and Massachusetts (Figure 2). Of a total of seventy comments, the majority were concerned about the effect the catch share system has had on small vessels and in particular the issue of large boats moving inshore, into the GOM, to target cod (Figure 3). Other concerns included quota set-asides and baseline criteria for leasing. A large portion was in favor of permit banks but the range of suggested recipients varied. Comments opposed to this amendment were concerned with reduced flexibility and profitability of the fishery. The opposition was not in favor of accumulation caps and requested grandfathering individuals that may be above the cap. It was felt that it would be better to allow for fleet diversity to be maintained at the sector level instead of mandated.

### Fleet diversity

The majority of comments supported the concept of fleet diversity; however, a need for a firm definition for fleet diversity was expressed. Discussions at the public hearings did not elucidate such a definition. Concerned citizens wanted to ensure that their access to local caught seafood because fish are not just an investment tool. Without the implementation of Amendment 18, people expect coastal ghost towns, job losses, negative impacts on future generations and fewer options to enjoy fish. The rate of concentration of revenue changed in 2010 following the implementation of catch shares. One commenter thought a fleet that consisted of only large vessels would limit the council's ability to react to changing assessments. Suggestions to help retain local fishing communities included a marketing campaign to highlight locally caught fish. Community supported fisheries (CSF) have been implemented in the region in order to support local fishermen; a program to supply healthy food to hospitals is being implemented and could be impacted by consolidation of small boats into big boats.

The Northeast Hook Fishermen's Association suggested having a specific sub-ACL for Handgear HA permit holders, removing them from the common pool. By doing this you would protect a 400 year old fishery and help retain diversity in the fleet. A handgear fisherman stated that he could never accumulate enough quota to get out of the common pool and was looking to this amendment to help because he can't access existing permit banks since he's not in a sector.

One commenter considered the current situation to be in violation of National Standard 4 that is supposed to ensure equitable allocation to all fishermen in a way that “no particular individual, corporation, or other entity acquires an excessive share of such privileges”.

### *Inshore/Offshore Areas*

The issue of catch shares enabling large sized boats, deemed offshore boats, to fish further inshore was very important to a lot of participants. The concept of fleet diversity was appealing in order to preserve the inshore fleet that supports coastal communities. This discussion tended to focus on cod stocks. Biologically, smaller boats were thought to not have as much of an impact on the smaller, spawning inshore cod population. Extreme frustration was expressed with the commitment the inshore fleet made to rebuild the inshore cod stock only to have it seemingly wiped out by the influx of offshore boats. Some went so far as to suggest a boundary line to separate inshore and offshore boats that would divide GOM cod into east and west areas. In terms of consolidation, the localized depletion of GOM cod is making the situation worse because the small boats can't catch their quota and lease it to the bigger boats. The offshore boats are able to return offshore once restrictions are forced to be implemented in inshore areas.

A couple of commenters thought that existing strategies were inappropriate to preserve the ecosystem, e.g. reliance on CPUE to manage our diverse ecosystem. There was a suggestion of establishing a sanctuary for small boat fishermen.

### *Quota Set-Aside*

The concept of a quota set-aside was considered to be an important resource to a lot of commenters. It was suggested that a chunk of allocation should be taken off the top for use by set-asides or permit banks. There were a number of suggestions for the recipients of this quota; new entrants were the most recommended. It was thought to be very difficult for new entrants into the fishery based on the high costs of permits; status quo would prevent new entrants. Permit

The small local fisherman has difficulty competing with larger corporations speculating on permits; they need a mechanism to help retain competitiveness. Quota set-asides could be used to establish community permit banks to help out small boats and support the community. This may ensure the viability of the inshore fleets. There were stories in the public hearings of fishermen who have built their own businesses up over the span of a decade or two only to lose it with the implementation of catch shares; they are unable to pass their businesses on to their children ending family traditions.

Quota set-asides could be used to reward sectors that meet benchmarks. One suggestion was to give fishermen quota from a permit bank after a set profit was made. One caveat of a permit bank is it creates competition by supplying cheap quota to qualifying individuals that may have negative impacts on those not benefiting.

### *Owner-Operator Incentives*

A portion of the comments expressed the need to prevent 100% leasing because of the fear that it would lead to the consolidation of the entire quota into large corporations that would largely export the fish thus maximizing profit and not sustainable harvesting.

### *Baseline Criteria for Leasing / Allocations*

Many felt the formulas used to calculate allocations were flawed and unfair because they were based on history instead of vessel characteristics and/or DAS. South Shore fishermen felt their allocations were hit disproportionately hard by the formulas because of rolling closures and trip limits during the period of time used in formulas. The ability of boats to swap GB cod for GOM cod is seen as a problem and further contributing to the increase of effort inshore. Some baseline leasing restrictions on GOM and GB cod that would restrict the ability of large vessels to get quota from smaller boats were suggested in addition to restricting the ability to lease into areas, e.g. GOM, and eligible species.

There was one suggestion to retain a certain percentage of a permit's allocation in the home state if it is sold. Other suggestions included fixing the price of leased allocations, revisiting the split between commercial and recreational fisheries in cod quota allocations, prevent fishing in multiple stock areas of a species in a single trip and equitable distribution of allocations geographically. Some other suggestions included limiting corporate boats to specific areas and restricting leasing to only down not up.

### *General Comments in Favor of Amendment 18*

Some fishermen said it was impossible to make it under catch shares and therefore Amendment 18 had to move forward. There were severe impacts on crew; already 165 crew jobs have been lost. It was suggested that penalties for multiple violations of exceeded larger trip limits should be enacted. Closed areas should not be opened; sport fishing should be prohibited in the closed areas.

## Accumulation Caps

Accumulation caps are necessary to dis-incentivize large operations to allow the ocean to replenish itself. The current system is allowing stocks with low allocations to be “controlled” by a small number of individuals who are able to buy up the quota, e.g. 40% of Georges Bank winter flounder is controlled by 3 entities. It is feared that this may happen with GOM cod if quotas are reduced. A broad range of caps were suggested including individual, sector, permit number, quota control and PSC.

## **Opposition to Amendment 18**

Opposition to Amendment 18 centered on further complication of management that could be achieved at the sector level and the violation of the consolidation goals of Amendment 16. Sectors are not a LAPP system and Amendment 18 was viewed as a way to backfill into a LAPP system. One sector has already accounted for fleet diversity in its sector plan and preferred to keep the freedom allowing sectors do this. Amendment 18 would reduce flexibility and would trap the fleet in untenable economic positions. The proposed measures would prevent fishermen from achieving profitability but if closed areas were opened and they were allowed to catch more fish the problems would solve themselves. No one has enough allocation and this amendment is causing uneasiness with lenders.

One member opposing accumulation caps didn't want to punish people who have worked hard to accumulate this quota. A number requested that if an accumulation cap is set that any party holding quota above the cap be grandfathered in. Any changes to the new, fragile catch share system may negatively impact the system and the fleet should be allowed to adapt.

Those opposing this Amendment generally wanted no caps on number of permits, no allocation cap, no ACE set-aside, no incentives, no owner requirements, no trade for fish only, no price controls, no 30 days area sign in and no division of the fishery.

## **General comments**

Fishermen expressed some concern about the compounding effect of monitoring costs and the expected reductions in cod allocations following the benchmark assessment.

Tiered monitoring standards and alternative non-industry funding were suggested. Sector fees were thought to be too high. Fishermen in southern areas were concerned that what happened to cod might happen in other fisheries such as monkfish.

A small number were unhappy with the appearance of unethical voting by certain council members.

## Figures

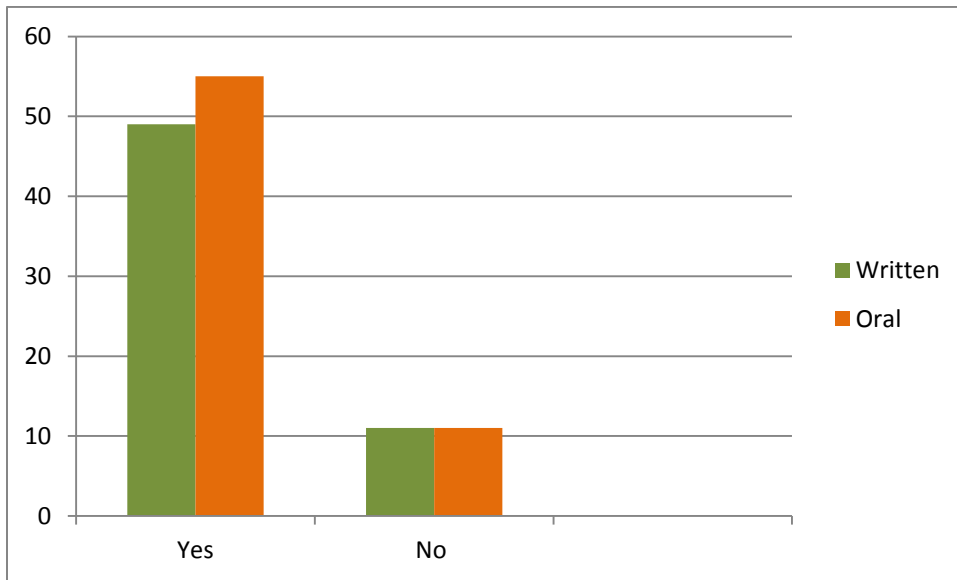


Figure 1: Comparison of comments in favor of or opposed to Amendment 18. Seventeen people submitted both written comments and oral testimony of which, 12 were in favor or and 5 were against Amendment 18.

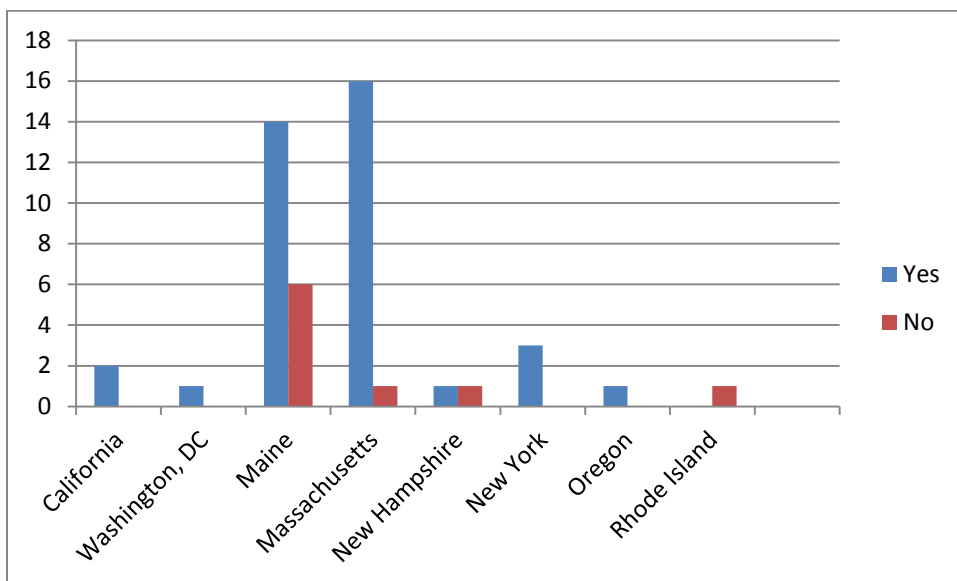


Figure 2: Comparison of written comments by state.

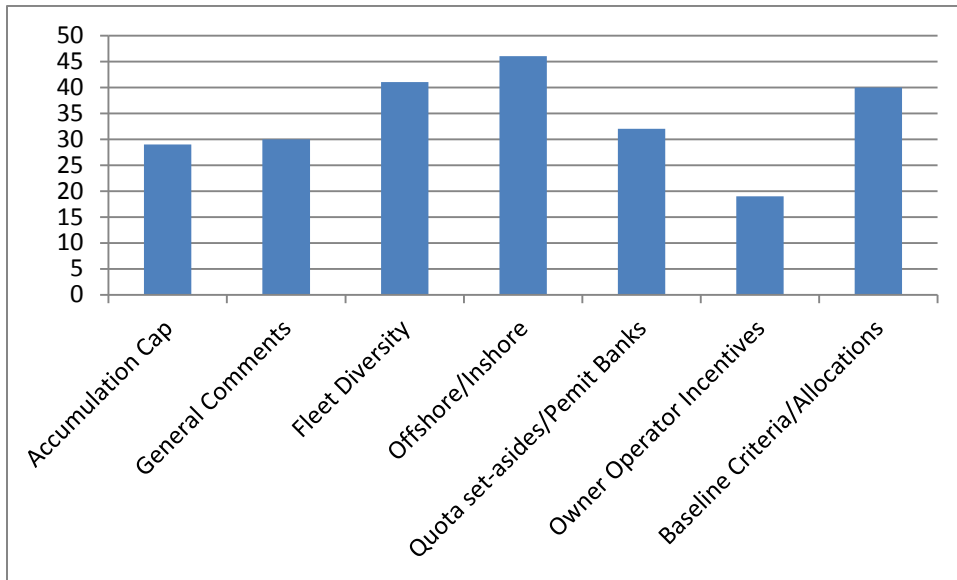


Figure 3: Distribution of comments in favor of Amendment 18.