

New England Fishery Management Council

SUMMARY

Sector Omnibus Committee Meeting

Sheraton Ferncroft, Danvers, MA

April 26, 2007

This was the third meeting of the Sector Omnibus Committee. The purpose of the meeting was to address the remaining items on Committee Terms of Reference (TOR) adopted by the Council, that had not been addressed at the previous meetings, as well as the question of baseline periods to be used for sector allocations that was not on the TOR but which was raised at the April Council meeting.

Drew Kitts of the Northeast Fisheries Science Center, Social Sciences Branch, gave a presentation on a draft paper he is working on titled "Sector Formation in the Northeast US: Policy Issues". The presentation highlighted some of the outstanding issues that he has observed in the development of sector programs, and offered some possible approaches for resolving them. He focused on two of the issues for more detailed discussion: excessive shares and freed-up capital. A copy of his presentation handouts is attached.

Dave Preble updated the status of the Sector Workshops he announced at the last meeting. He noted that the Sand County Foundation has provided a substantial grant that will fund a workshop to address sector management, which is in addition to the Sea Grant Funding announced earlier. Therefore, there will be two workshops, tentatively scheduled for mid-September, and October.

Tom Warren, NMFS Regional Office, requested clarification on a Committee motion from the March meeting. That motion stated:

Discards will not count toward a sector's allocation. Discards will count against a sector's shares, unless a sector can provide other accountability for the discards and obtain an exemption.

He asked if this motion meant that the calculation of a sector allocation, as a percentage of the total landings, would be based on historic landings only (not discards), but when the TAC is calculated each year, and a sector's catch is monitored against the TAC, both landings and discards will be counted. No committee member objected to this interpretation.

Before entertaining specific motions, the Committee discussed of the question of the size limitations on sectors, both the minimum and maximum size, and issues related to the baseline determination for sector allocation. One member noted that if size limitations are appropriate, those limitations should take into account the varying number of permits that exist in each managed fishery. The Regional Office representative suggested that there may be a need for a minimum size out of the consideration of NMFS' ability to monitor and administer a large number of small sectors, each with a different set of rules. This problem also effects the enforcement of individual sector regulations. Another member stated that the issues related to the

minimum size of sectors are different than those related to the maximum size, and are perhaps the ones of greater concern. He also noted that sectors comprising a larger number of members would be better at self-monitoring or self-policing because of the greater difficulty for a large number of participants to collude to circumvent the sector rules.

On the question of maximum size of sectors, either as a percent of TAC or percent of the number of permits in a fishery, the Committee members generally felt that the main concern is in regards to a sector achieving monopoly control over the fishery. One member stated that one of the reasons the development of sector programs in Amendment 1 to the herring fishery was halted was because of the debate over the maximum size of sectors that could be allowed, and that a policy needs to be adopted so that doesn't happen in the future. A member of the public asked the Committee to consider establishing a maximum percentage of the overall TAC for a species that could be allocated to sectors, or, in other words, how much of the TAC would be available for common-pool or non-sector vessels that target or incidentally catch a species.

On the subject of baseline determination, one member suggested that the period used should begin when the limited entry program was implemented, and include a period of several years. Another member stated that it is unwise to use a sliding baseline (where the allocation is based on a different set of years each time the calculation is made), because vessels will modify their behavior in anticipation of the recalculation. Some members noted that the same concern applies to fisheries that have implemented a limited entry program more recently, such as herring, where a sector allocation history period is not complete. In response to this comment, some members and public commented that, in the case of herring, where the TAC is fully utilized, there is not an opportunity to significantly modify behavior simply to establish a vessel history; vessels are already fishing as hard as they can. A member of the public suggested that the baseline issue would be more appropriately discussed at the species committee level given the wide range of differing circumstances across fisheries.

Motion #1

Each FMP, with the exception of red crab, should define a minimum sector size by specifying a minimum number of participants expressed as a number of individuals or % of permits, in order to ensure accountability among sector members, and not complicate administration or enforcement. (Preble/Salisbury, **unanimous**)

In response to a comment from a Committee member that the term "accountability" in the motion above should be more explicitly defined, the Chairman stated that the intent of this part of the motion is to have sufficient numbers or diversity of members to make collusion to violate the sector agreement impractical.

Motion #2

Baseline would start at the date of limited entry and would use a five-year period from that date. Committees may consider a different time period in the future if significant changes occurred in the fishery. (Salisbury/McGee)

After several comments that this motion was too specific, in terms of the length of time, given the different circumstances in different FMPs, in terms of the existence of, or implementation date of limited entry programs, the Committee considered the following substitute motion:

Motion to substitute

Each FMP must identify a single, fixed and permanent baseline for the purpose of sector allocation. (Pappalardo/Preble, **motion to substitute** passed 3-1, **substitute motion passed 3-1**)

A member of the public asked if the previous motion means that the same baseline would apply for all three management/quota areas in the herring fishery. In other words, would purse seine vessels fishing in Area 1A have the same baseline as mid-water trawl vessels in Areas 2 and 3? Several members of the Committee responded that if areas have unique quota, this motion would allow for separate baselines for each area. One member suggested that this motion is a statement of policy for guidance purposes, but that specific details could be addressed by the Herring Committee. After lengthy discussion, the Committee agreed to the following:

Consensus

The Sector Committee recognizes that there may be reasons for exceptions to the previous motion.

The Committee then took up the question of whether, and how to control physical capital (vessels) that are freed up due to the efficiencies gained by a sector program. This issue was presented in the Council's TOR memorandum as follows:

What happens to the members and capacity that become idle (crew and vessels)? Should the sector amendment specifically address the restrictions, obligations, and limitations that would be placed on all members of the sector? For example, if there are 10 boats in a cod sector and they agree that five vessels will fish the TAC, is the Council concerned that the idle boats may increase capacity in another fishery?

A Committee member stated that, as a starting point for the discussion, sector plans should specifically address how effort of sector vessels in fisheries that are not managed by the FMP would be maintained within those vessels historical (baseline period) level. The Chairman suggested that individual species committees need to evaluate whether vessels will be idled as a result of the sector plan, or whether effort will be displaced to other fisheries, and what controls are in place to prevent the creation of another overcapacity problem in another fishery. A member commented that sector applicants must provide an analysis of the impact of their proposal on other fisheries in their Environmental Impact Statement, and state how they will control that effort and mitigate those impacts. A member of the public suggested that if a sector proposal were to go through a public hearing process, the Council will hear from potentially affected fishermen whether there is an effort displacement problem.

Motion #3

Each sector applicant must identify potential redirection of effort as a result of sector operations and propose limitations ("sideboards") if necessary to eliminate any adverse effects of effort redirection. (Preble/Pappalardo, **motion passed unanimously**)

In the context of discussing the monitoring of sector plans, the question was raised about the transfer of quota within or between sectors. Committee members generally agreed that transfers

within a sector was implicit in the concept of sectors, as member vessels share in the sector allocation, and are managed under whatever rules the sector operations plan establishes, while transfers between sectors would be a matter for the individual species committees to address. A second question was raised about the movement of vessels between sectors, and the effect that would have on sector allocations. One member noted that annual sector proposals will account for vessels that enter or leave a sector, and that such movement would not be possible once a member vessel has contracted to participate in the sector. Similarly, a vessel could not enter a sector mid-year unless that vessel was accounted for in the approved sector operations plan.

Motion #4

Each FMP may allow transfers of quota among sectors contingent on evaluation of proposals (Preble/Salisbury, **motion passed unanimously**)

The maker of the motion stated that the intent is to address unforeseen biological events and prevent discards. For example, he noted, a body of codfish appeared unexpectedly off Rhode Island this year. Under the hypothetical situation that a sector was operating in that area, but did not have sufficient cod quota to operate without significant discards, it could, under the motion above, purchase from, or trade quota with another sector.

The Committee took up the question of monitoring, reporting and review requirements that was asked in the TOR memorandum. One member commented that some observer coverage should be dedicated to sectors to a level that gives a statistically reliable accounting of bycatch that could be applied to the entire sector. Another member urged that if observer coverage is mandated, sectors should have a choice of vendors and not be stuck with a sole source vendor at \$1,100 per day. The Committee took no action to recommend any specific policy on this matter.

The final question on the TOR memorandum was:

If the management program for a fishery has not changed through a change in specifications, framework or other action, should sectors be required to annually submit an environmental assessment (EA)?

The Regional Office representative noted that a plan needs to comply with the National Environmental Policy Act (NEPA), but if nothing changes in a sector operations plan, including the participants, then it is possible that the plan may qualify for a Categorical Exclusion from the requirement to prepare an EA. Also, if the EA is prepared for a multi-year operations plan, and the range of possible changes during that period is fully analyzed in the EA, then no additional analysis should be required.

Motion #5

Each FMP may allow proposals that request authorization for multi-year operations (Pappalardo/Salisbury, **motion passed unanimously**)

A member of the Committee noted that there may be problems at NMFS as the number of sectors increases, in terms of getting a timely review of proposals and operations plans so that vessels can fish in the sector at the start of the fishing year. In light of that, he requested that NMFS state what an appropriate deadline is for renewal applications to insure that the fishery

can start on May 1.

Presentation by Drew Kitts to the Sector Committee 4/26/07

Sector Policy Issues

Drew Kitts
Economist
Northeast Fisheries Science Center

Purpose

- Provide *draft* of document: Sector Formation in the Northeast: Policy Issues
 - Audience: Sector Omnibus Committee, NEFMC, Council staff, NERO, fishing industry, and other interested parties
 - Comments/ideas/missed issues are welcome. Please send to andrew.kitts@noaa.gov

Overview of Issues Paper

- Provides brief background on sector development in Northeast
- Summarizes sector language in Multispecies FMP and what was proposed in Herring A#1
 - Why herring? Because the herring model addressed some of the broader sector issues inherent in the multispecies model
- Uses these models to identify broad policy issues (provides context)

Overview Continued

- Does not suggest that multispecies or herring model should be applied to other fisheries or that the Sector Committee should focus on this level of detail
- Identifies issues that may need to be addressed whether or not sectors are defined as LAPPs or not.

ISSUES (order does not imply importance)

- Multiple species allocations
- Catch of non-allocated species (bycatch)
- Discards
- Cap on size
- Quota trading
- Membership changes
- Allocation time frame

Issues (continued)

- Fishery management rules - exemptions
- Life-span
- Freed-up physical capital
- Contracting for harvest services
- Overages
- Lengthy approval process
- NEPA requirements

Issues (continued)

- Extension services
- Landings history records
- Monitoring and enforcement

Excessive Shares

- Summary of section in Design and Use of Limited Access Privileges
- Two possible reasons to set limits:
 - Market power – share is large enough that if fish is withheld from the market, price increases
 - Management objective – limiting the size of a sector to maintain a desired characteristic of the fishery
- If preliminary analysis shows one is more restrictive than the other, don't need to evaluate the least restrictive limit.

Market Power

- For most fish products, risk is considered low because consumers substitute other products when prices increase
- Appropriate limit is found by examining market conditions (elasticities of demand and supply)
- Should use post-sector allocation market conditions

Management Objective

- Independent of market power considerations
- Objective should be specific and clearly defined
- Costs and benefits of various levels should be evaluated
- Alternative methods for reaching the same objective should also be evaluated

Freed-up Capital (sideboards)

- How is effort shift from sectors different from effort shift from other types of management control?
- Would sector members be restricted from using limited access permits they may hold in other fisheries?
- Issue is fishery/sector specific. Preliminary analysis of permit ownership could reveal relative risk.

AFA Sideboards

- Prior to AFA there was a large build-up of catcher/processor capital in the pollock fishery
- AFA provided for buy-out of nine vessels
- AFA cooperatives were allocated > 50% of pollock quota (potential for spillover)
- Sideboards were based on average catch in mid to late 1990's

Conclusion

- Will continue to refine
- Depending on outcome of sector definition, intend to discuss Magnuson Act implications as advice emerges (Part 2 of this document)