

New England Fishery Management Council Groundfish Oversight Committee

DRAFT Meeting Summary
January 18, 2012

The Groundfish Oversight Committee (Committee) met in Portland, Maine. The Committee discussed Gulf of Maine (GOM) cod and a framework adjustment to modify sector regulations. The Committee intended to begin a discussion of possible modifications to closed areas but did not have time. Committee members present were Mr. Stockwell (Chair), Mr. Tom Dempsey (Vice Chair), Mr. Frank Blount, Mr. Dave Preble, Dr. David Pierce, Mr. Glenn Libby, Mr. Jim Odlin, Mr. Cunningham, Mr. Howard King, Ms. Sally McGee, Ms. Laura Ramsden, and Ms. Sue Murphy. They were supported by Tom Nies and Anne Hawkins (NEFMC staff), Ms. Sarah Heil, Ms. Melissa Vasquez, Mr. Michael Ruccio, and Mr. Mark Grant (NMFS NERO), and Mr. Gene Martin (NOAA GC).

During the meeting the Committee referred to the following documents: a Groundfish Plan Development Team (PDT) report dated January 12, 2012, a pre-publication copy of the SARC 53 Assessment Summary Report, and miscellaneous correspondence.

The Chair began the meeting by noting that the Committee's priorities for 2012 were pre-empted by the status of GOM cod, and as a result the first part of the meeting would focus on issues related to the recent cod assessment.

Gulf of Maine Cod

Mr. Nies gave an overview of the expected results of the SARC 53 assessment of GOM cod, noting the final report was not yet published but the results were not expected to differ from the presentation. The key elements of the presentation were that the assessment concluded the stock was overfished and overfishing was occurring in 2010. This was a large change from the previous assessment which concluded that the stock was not overfished in 2007 and rebuilding was expected to proceed rapidly. Staff reported the assessment conclusion that the previous assessment over-estimated stock size, primarily for two reasons: weights-at-age were over-estimated and two surveys gave a misleading indication that the 2005 year class was large. The SARC 53 assessment dramatically reduced the estimate of this year class and revised the weights-at-age.

Numerous questions were asked by both Committee members and the audience; staff was not able to answer all the questions; staff responses, where offered, are in italics.

- Mr. Rich Ruais: We are concerned that this assessment will result in reduced cod quotas and divert effort into the tuna fishery. One question – recreational catches continue to climb in spite of low stock sizes. This is an inconsistency. Also not the increase in commercial catches – unless effort controls were loosened this suggest an increase in abundance. (*Staff noted commercial catches fluctuated between 4,000 and 6,000 mt since 2000*).

- Mr. Patrick Paquette: The staff presentation referred to improved data collection in the recreational fishery – what was that? I am not aware of any data changes.
- Mr. Vito Giacalone: Northeast Seafood Coalition. Mr. Ruais touched on a few points I want to make. Recent catches were severely constrained by effort controls. CPUE has been off the charts –hard to believe abundance. Things have been looking good for GOM cod for some time. Something is wrong with the assessment if catch can be varied by 30 or 40 percent (by changing the assumed discard mortality) and it has no effect on the results.
- Mr. Gary Libby: All the recreational catch considered alive, yet commercial is considered dead. What if part of the commercial catch was considered alive? (*Staff noted that recreational discards were considered dead in this assessment.*)
- Ms. Ellen Goethel: Small vessels are trying to avoid cod and yet are finding cod where they have never seen them before. I disagree with the premise that the stock is contracting- it defies logic. I cannot believe the biomass reported by GARM III has disappeared, not with what fishermen are seeing.
- Mr. Bill Gerencer: Catches have tracked SSB pretty well, until this past year. If you look at landings vs. biomass we have taken nearly all the SSB. How can the stock survive when we are doing that? I believe the stock size estimate is low. How could we take this large a part of the stock every year and yet the stock survives? Something is wrong with the data.
- Mr. David Waldrip: I don't understand the recreational catch – how can the catch continue to increase given fuel costs. I can't believe the discard mortality assumption; we have tagged many cod that have been recovered, so we know they don't all die. Some have been recovered multiple times. It boggles my mind that the assessment assumes 100 percent discard mortality.
- Mr. Ralph MacDonald: I am a charter boat captain from New Hampshire. The biggest problems are dogfish and midwater trawlers and you refuse to address either adequately. Every fish eats herring at some point and gets eaten by dogfish hat some point.
- Mr. Richie Canastra: Speaking with New Bedford and Gloucester fishermen, there is no trust on the science. The survey calibration does not make sense; most of the fish are in places the survey vessel does not even go. Until we see surveys on vessels that actually catch fish there won't be any trust. I do not believe all discards are dead, we get repeat tag returns.
- Mr. Marc Stettner: NE Hook Fishermen Association. I read the notes from the cod working group – every fisherman can refute everything that came up. I would ask to see what the effect is if discard mortality would be assessed at different levels.
- Mr. Angelo Ciocca: NOVA Seafoods, Portland. I don't hear any good answers; it is business as usual. CPUEs are through the roof yet the model says there are not codfish? So we believe the model and ignore the fishermen. Poorly written laws with rebuilding and little leeway make the problem worse. So what are we going to do about it? Rules are written poorly, models are questionable, and the Council is being told to manage fishery to bring all the species to historic highs. We are all part of mission impossible. It is time to wake up.

- Mr. Carl Bouchard: Just one issue has not been mentioned – misreporting of codfish. The way the rules are written I can fish in two stock areas, haul back on the Georges Bank side of the line and the fish are credited to Georges Bank. It's cheaper to lease GB cod – there is a huge incentive to misreport.

The Committee members asked several questions as they began discussion of possible reactions to the assessment. Committee members questioned whether the expected changes to recreational catch estimates from the MRIP program could be incorporated into the assessment. Mr. Martin replied that when those estimates become available, if the Science and Statistical Committee (SSC) determined it was the best available science then it could be used. Mr. Dempsey questioned the discard mortality assumption and emphasized that even marginal changes in assessment results should be pursued given the state of the assessment. Ms. Ramsden asked questions about otolith sampling and natural mortality.

Mr. Cunningham explained the Executive Committee's recommended course of action. The SSC was scheduled to meet January 25, 2012 to gain an understanding of the assessment, identify issues that may need further investigation and suggest a plan on how to address them, review catch projections, and review economic analyses. The Executive Committee will recommend to the Council that it request emergency action on GOM cod and suggest one of the catch levels as an interim catch for FY 2012. Subsequent to the Council meeting, there is likely to be additional meetings of the SSC and perhaps a one or two day Council meeting to focus on GOM cod. Mr. Cunningham also expressed a belief that whatever followed, there needed to be attention to acquire additional data streams and to develop cooperative research to address the assessment concerns that were raised.

Dr. Pierce questioned whether the Council would be limited to the catch levels that the SSC was reviewing for possible emergency action. Mr. Martin noted that the Council could recommend a number to the agency but the agency is not bound by the Council's recommendation. Mr. Odlin made it clear the Council might set an interim catch level for 2012 and then would have one year to develop a plan for 2013 and 2014.

Mr. Martin explained the tentative legal basis for the Executive Committee's proposal, noting that a final legal opinion had not been developed and the information he was providing could change. Language in the Magnuson-Stevens Act requires the agency to notify a Council if sufficient progress is not being made for rebuilding. The Act indicates the Council has two years to develop a revised or new program, but the agency might be limited to one year on any interim measures. Details were still being worked out internally. If the Council does not request emergency action the agency would have to decide whether to do soon its own.

Mr. Preble summarized the issue in this way: the Council needs to pick an option that it wants to recommend, and make a good case for it – otherwise it is all up to NMFS. Today the Committee needs to come up with a recommendation and move it forward. Other Committee members suggested that until the SSC met it was premature to decide on a recommended catch level.

- Ms. Ellen Goethel: The Council does not have to ask for an interim action. All of the actions being considered will put the entire small boat fleet out of business. If there was a mistake in GARM III – it was neither the fishermen nor the council's fault. The burden should not be put on the council, NMFS needs to come forth with viable option because of their mistakes.

Mr. Martin was asked to expand on the developing legal and policy guidance. He first repeated this caution that his remarks would be based on preliminary conclusions. The M-S Act now requires that plans for rebuilding have to end overfishing immediately. Plans also have to have annual catch limits and AMs. Amendment 16 adopted that approach, FW 47 was the action for setting these catch limits for the next three years. The Council cannot set a catch limit above the ABC. Given that background, we have the revised assessment thrown into the works. The assessment suggests ABC be set at a fraction of what was intended. The agency is trying to see if there is a way to not end overfishing immediately. Central section now looked at is section 304e of the act. This section on adequate progress in a rebuilding program not being made, sends us over to paragraph that provides flexibility. The agency has limited discretion to allow overfishing in the short term (for one year). We can use our own discretion to find a level of fishing that may not be at the low level of ending overfishing immediately; provided we are assured that the Council will provide measures by 2013 that will end overfishing immediately. At best it is a short term delay. If we are or are not requested to take emergency action, the agency would likely find an emergency exists and put in interim measures. In summary: Agency does have discretion to establish level of fishing that does not end overfishing immediately that may mitigate the impacts on the industry. This action must not allow stock to get worse. Council discretion is less than the agency's. We feel that in 2013 the Council should end overfishing immediately –cannot extend it past the end of FY 2012. We expect to know the official legal interpretation before the council meeting. In response to a question, Mr. Martin and Ms. Murphy said that the required end date for rebuilding was not yet known.

Public comment included:

- Ms. Maggie Raymond: Associated Fishermen of Maine. Will the interim action attempt to mitigate harm to the industry?
- Mr. Geoff Smith: While the one year of flexibility is helpful, if nothing changes we are right back to where we are now. Are there resources to redo the assessment? SO we have more confidence in the assessment going forward?
- Mr. Vito Giacalone: What if the Council does not ask for an ABC? Have the Council recommend an ACL that is less than the current ABC. There already is an ABC for 2012 –why not use that?
- Mr. Rich Canastra: Can all stocks be addressed in an emergency action (theoretically yes). We will be doing the same thing after March 9 with the rest of the stocks that are being assessed. Results won't be good. Be prepared for more emergency action on best available science.
- Ms. Ellen Goethel: A new assessment needs to be done before the 2013 fishing year quotas get started.

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Motion: Move that the Committee recommends that the Council ask the NEFSC to update the GOM cod stock assessment based in part on the upcoming SSC review in time for use in setting an ABC for FY 2013. (Ms. McGee/Mr. Libby)

Ms. McGee explained that while it may seem premature to ask for a new assessment before the SSC meets, there was little time for deliberation and so the motion would get the process started. Some Committee members objected to the motion as premature. Mr. Cunningham noted the motion would be reviewed by the Council and so to him the timing did not seem bad. A friendly amendment was offered to add the words “or replace” to the motion.

Motion: Move that the Committee recommends that the Council ask the NEFSC to update or replace the GOM cod stock assessment based in part on the upcoming SSC review in time for use in setting an ABC for FY 2013. (Ms. McGee/Mr. Libby)

The motion carried on a show of hands (7-2-2).

The Committee next considered how to modify recreational measures if the catch levels are dramatically reduced. Staff reviewed ideas identified in the PDT report. Committee members discussed the ideas in general, noting that it was difficult to select measures without knowing how large a reduction would be needed. Mr. Blount supported reducing the minimum size and opposed closing the WGOM closed area as that would eliminate access to pollock and haddock. Mr. Dempsey suggested keeping all options in play since with very low quotas extreme measures might be needed. Mr. Odlin and Ms. Murphy also supported keeping time and area closures as possible measures. Mr. Odlin suggested prohibiting possession of cod in both the commercial and recreational fisheries. The Committee, however, did not reach a consensus on these suggestions and no motions were offered.

Public comment included:

- Mr. Dave Waldrip: The party/charter industry differs by area. Where I fish, we get \$1,200 - \$1,300 per trip. Customers won't pay that for less than a ten fish bag limit. 80 percent of our customers are from out of state. If you close the WGOM, where will we go? Will all fishing be banned from the area? Not allowed to transit if fish are on board?
- Mr. Patrick Paquette: The job of hashing this out belongs to the recreational Advisory Panel (RAP). Get us in a room with the analyses we need so we can know what the numbers will be. This discussion seems premature. We are not going to have full say on what we think, and how we think we should be managed.
- Mr. Barry Gibson: Until we know what type of cutback is needed we should not consider closing the WGOM closed area. I hope we can convene the RAP.
- Mr. Don Swanson: CCC of NH. Agree with what the last two speakers said.
- Mr. Tim Tower: Party boat out of Ogunquit, Maine. You should re-analyze discards related to bag limit – with area closures or shorter season we will lose a lot of business. My experience with tagging fish shows that many survive; this should be considered in the assessment.
- (Unknown). Yankee fishing fleet. I'll reiterate what Tim Tower said – closure of areas would be detrimental.

Ms. Murphy noted the NMFS hoped to hold another GOM cod meeting after the Council meeting, and members of the public might be able to offer suggested measures at such a meeting.

Sector Framework

Ms. Hawkins reviewed the PDT's report on initial development of the sector framework. The PDT developed a list of items that it thinks the Committee wants to consider. She reviewed the major times identified in the report: data and administrative requirements, ACE carry-over, monitoring (including dockside monitoring), and previously approved exemptions.

Motion: Direct the PDT to evaluate biological impacts and regulatory barriers to implementing a full retention program for all allocated groundfish stocks for sector vessels. (Mr. Dempsey/Mr. Libby)

Mr. Dempsey explained that this would be a complicated issue that had biological impacts that needed to be considered. One way to reduce monitoring costs, though, would be to get away from evaluating discards in the fishery. He noted that a full-retention program would make it easier to adopt electronic monitoring (EM). Staff asked how unmarketable fish would be addressed; Mr. Dempsey agreed that issue needed to be addressed. Public comment included:

- Ms. Jackie Odell: The Northeast Seafood Coalition supports this motion. It can only improve assessments and data.
- Mr. Gary Libby: I support this motion; full retention should replace discard estimation.
- Mr. Ellen Goethel: There is a conundrum here; I would probably support this if it was a voluntary measure. My concern is that it is not a good fit for every sector. My biggest question is what do we do with dead unmarketable. This cannot be glossed over.
- Mr. Carl Bouchard: I support this motion. This would be a big help for the yellowtail fishery. We are discarding a lot of 12 inch fish.
- Mr. Richie Canastra: I Support this motion because it makes sense. There is a market for anything that is landed – we can turn anything into money.

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

Motion: To direct the PDT to consider changes to existing sector ASM deployment to increase cost efficiency and ASM coverage for those trips that are most likely to interact with substantial amounts of groundfish. (Mr. Dempsey/Ms. Ramsden)

Mr. Dempsey noted that there is higher observer coverage than needed on parts of the fleet that do not interact with groundfish – large mesh gillnets targeting dogfish, for example. With limited resources ASM should target those trips that interact meaningfully with groundfish.

Dr. Pierce asked how observer trips are allocated to sectors, and whether a document existed that the PDT could to understand this process. Ms. Vasquez advised that there was. Ms. McGee asked if there was a need to clarify what the goals were for sector monitoring and suggested that

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occur first – Ms. Hawkins replied that the PDT did need to know what the goals were to better evaluate suggested programs and cost efficiency.

Ms. Murphy noted that unless a vessel was participating in an exempted fishery a vessel using a DAS could change the target species at any point in a trip.

Mr. Bouchard spoke against the motion

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

Motion: To direct PDT to develop an alternative in the framework to fund some fraction of the industry's catch monitoring costs via funds generated by auctioning a percentage of the management uncertainty buffer for all allocated groundfish stocks. The PDT will evaluate regulatory changes necessary to allow this approach and project a range of estimated lease revenues. (Mr. Dempsey/Dr. Pierce)

Mr. Dempsey explained that the concept behind the motion is to use fish in the uncertainty buffer to support a comprehensive monitoring program to help drive down management uncertainty. While this would not fully fund the program, it would help drive down costs with no loss of ACE for the fishing fleet. Staff noted that this would take fish from an uncertainty buffer and making it likely those fish would be caught, reducing the size of the buffer. Mr. Stockwell noted that this was essentially creating a set-aside. Several Committee members expressed both interest and caution about the proposal. Ms. Murphy expressed concern that the proposal might increase the risk of exceeding ABCs, but also said the idea might be worth investigating.

Mr. Canastra and Mr. Ben Martens spoke in favor of the motion; Mr. Giacolone suggested looking at the ABC control rule as well to further reduce buffers.

The motion carried on a show of hands (6-2-1).

Motion: the Committee recommends that the Council request NMFS consider approval of tested electronic monitoring systems as a component of a comprehensive program to address catch monitoring objectives and augment NEFOP. (Mr. Dempsey/Ms. McGee)

Mr. Dempsey expressed frustration about the lack of an EM program as part of a comprehensive monitoring program. EM is used in other fisheries, both domestic and foreign. The Council needs to make its support for EM clear. Ms. Murphy noted that this is more complicated than it may appear because of the nature of New England fisheries. NMFS has a five-year project that is ongoing to evaluate EM. NMFS will not move it forward until it is ready.

The motion carried on a show of hands (8-0-1).

Motion: Direct PDT to evaluate the biological and economic impacts of increasing the allowable Sector ACE rollover. Include two alternatives: one increasing the ACE rollover to 20% and another increasing the rollover to 30%. (Mr. Dempsey/Mr. Odlin)

Mr. Dempsey noted this issue was raised in a letter to the Council and to other elected officials. A change would better allow individual permit holders to make better business decisions. Mr. Nies noted that there were some legal issues that would need to be considered and the Committee might want to consider different levels as a result. The motion was perfected to read:

Motion: Direct PDT to evaluate the biological and economic impacts of increasing the allowable Sector ACE rollover.

Mr. Blount pointed out there was the potential for the carry-over to result in exceeding the ABC. He also expressed concern that a measure adopted for people who could not catch the fish was now being proposed to facilitate business planning. Mr. Dempsey said his intent was to make sure the rollover limit in place was the correct one. Mr. Preble spoke against the motion while Dr. Pierce spoke in favor.

The motion **carried** on a show of hands (7-2-0).

Motion: To include in this framework an alternative to make all approved sector exemptions in FY2010 and FY2011 operations plans universal for all sectors going forward. (Mr. Dempsey/Mr. Odlin)

Mr. Dempsey said the intent of the motion is to simplify the sector process by adopting the all exemptions that have been approved the last two years. This way sectors would not have to request them each year. Dr. Pierce noted that given the situation with GOM cod some of the exemptions may not be appropriate. Ms. McGee understood the PDT report, the PDT would still examine each motion and decide which ones should be universal exemptions.

The motion failed on a show of hands (4-4).

Motion: The Committee recommends that the council adopt the following goals for sector monitoring:

- Improve documentation of catch
- Reduce cost of monitoring
- Incentivize reducing discards
- Provide additional data streams for stock assessments

(Ms. McGee/Dr. Pierce)

Ms. McGee explained the motion was intended to establish a clear foundation to the monitoring program so the end results could be linked to the goals. She clarified these goals applied to the monitoring program as a whole and not just ASM. Mr. Dempsey suggested that documentation be more timely and streamlined for the user. He also said that safety needed to be improved, as he felt there was a problem on the small boat fleet. Dr. Pierce commented that monitoring needed to take into account possible observer effects.

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

Final public comments included:

- Ms. Jackie Odell: The Committee needs to remember that dockside monitoring will be required in 2013. And if full retention does not get approved the Council should consider changing the minimum size of yellowtail flounder and plaice.
- Mr. Marc Stettner: The Council should allow handgear A fishermen into blocks 132 and 133 in April and May. This is a small area inshore where they can catch haddock and very little cod. This would mitigate effects of low cod quotas.
- Mr. Rich Canastra: Looking to be proactive we should be taking a closer look at the 2010 year class of haddock that are being seen. Full retention will help out with haddock. We need to come up with a plan to optimize yield of this year class. The market will earn take these small fish.