

New England Fishery Management Council Groundfish Oversight Committee

Meeting Summary
September 19, 2012

The Groundfish Oversight Committee (Committee) met in New Bedford, MA. The Committee discussed the proposed modifications to year round closed area access, an overview of the TMGC meeting and FY 2013 ABCs and the development of Framework 48 including sector monitoring and Georges Bank yellowtail flounder issues. Committee members present were Mr. Terry Stockwell (Chair), Mr. Tom Dempsey (Vice-Chair), Mr. Erling Berg, Mr. Frank Blount, Mr. David Goethel, Mr. Peter Kendall, Mr. Harold King, Ms. Sue Murphy, Dr. David Pierce, Mr. David Preble and Ms. Laura Ramsden. They were supported by staff members Mr. Tom Nies, Ms. Pat Fiorelli, Fiona Hogan and Mr. David Thomas (NEFSC), Mr. Mark Grant, Ms. Sarah Heil, Ms. Melissa Hooper, Ms. Maggie Mooney-Seus and Mr. Mike Ruccio, (NMFS NERO).

Discussions were guided by the Groundfish Oversight Committee Meeting Summary dated August 2, 2012, the Groundfish PDT Meeting Summary dated Sept 11, 2012, draft Framework 48 management measures dated Sept 14, 2012, TMGC Guidance Document for 2013 and a series of correspondence received by the New England Fishery Management Council.

Modifications to year round closed area access

Mr. Nies gave the Committee an overview of the issues associated with modifying access to the closed areas as a mitigation measure for FY 2013, which was the intent of a motion made at the August 2, 2012 Committee meeting. The Committee was told that an Amendment and an Environmental Impact Statement (EIS) would be required to open the closed areas that include habitat areas and with the required timeline to complete those actions would prevent implementation by May 1, 2013. An alternative had been identified in conjunction with NMFS NERO staff that would allow sectors to request narrowly defined access to closed areas in their sector operations plans and the impacts examined in the associated Environmental Assessment (EA); a change to the Fishery Management Plan (FMP) that could be implemented in Framework 48. This strategy would limit access to those parts of the closed areas that are not designated as habitat areas. The Committee reviewed a map in the PDT report dated September 11, 2012 that identified the current habitat areas and a possible future habitat management area on Fippinnes Ledge; the proposed access areas were drawn based on the Committee motion. A Committee member questioned if amending the original motion to exclude the habitat areas would be acceptable because it would eliminate the need for sectors to request exemptions as their sector operations plans were already submitted at the beginning of September. NERO staff said every effort would be made to accommodate exemption requests if this management measure is approved as operation plans were already submitted. Staff explained that this method reduced the magnitude of the required analysis making it easier to complete in time for the Council to vote on it at the November meeting. Some of the sectors have already included exemption requests in their operations plans in anticipation of this motion. Concern was raised over the issue of gear conflicts with fixed gear fisheries, the lobster fishery in particular. The Closed Area Technical Team (CATT) will be conducting the analysis for Framework 48 and will address gear issues but

the Council should identify any critical items to be included in the analysis. The NERO will continue to write the sector EAs. An analysis of protected resources will also be required to identify any negative impacts. The Committee agreed with the PDT's assessment of the Committee motion.

Motion: Recommend that the PDT not proceed further with the Committee motion of August 2, 2012 as analyzed on pages 1 and 2 of the PDT report dated Sept 14, 2012. (Mr. Preble/Mr. Goethel)

Rationale: The PDT outlined substantial arguments, contained in the PDT report dated September 11, 2012, for not proceeding with the Committee Motion without modifications to allow implementation by the beginning of FY 2013.

Some of the public comments included:

- Ron Smolowitz, Fishery Survival Fund: Are we discussing the Groundfish lines? Are they in the EFH Amendment? There was a motion by the Council that defined groundfish boundary lines in the EFH Amendment. Where do the groundfish boundaries exist now? They're taken out of this framework right?

The motion **carried** on a show of hands (10-0).

Discussion moved onto proposed text provided by the PDT. One Committee member suggested removing the text regarding gear types as each sector could address this issue in their operations plan.

Motion: To develop an alternative in FW 48 allowing sectors to request exemption from the prohibition on fishing in year round closed areas consistent with the following limitations:

- Access will only be granted for the parts of areas that are not defined as habitat closed areas, or that have not been identified as potential habitat management areas as part of the development of the Omnibus Habitat Amendment. Access to CAII would only be considered for the area south of 41-50N. See the attached Figure 1 for the areas where access will be allowed.
- Access to Closed Area I and Closed Area II will only be granted for the period May 1 through February 15;
- Access to the WGOM Closed Area will only be granted during periods not subject to rolling closures that are applicable to sectors. (Mr. Dempsey/Dr. Pierce)

Rationale: Removing the text regarding restricting access without the use of selective gear, makes this consistent with the sector management approach. Any sector that can prove that it can fish and stay within its ACE should be allowed to fish there. We need to get away from gear management. Any mobile gear sector that can fish there and won't exceed their ACE should have access. My intent is to ensure that any expanded access sectors receive in their ops plans doesn't undermine any ongoing efforts. If this goes forward in the framework and is approved then it's the Council's wish that these opportunities be afforded to all sectors and they'd be allowed to revise requests based on this alternative.

Committee members expressed support for this motion but were concerned with the possibility of having to complete an EIS instead of an EA, particularly with the removal of selective gears from the motion. Certain gear may be problematic from a protected species point of view; this needs to be analyzed further and has the potential to slow down the process. The issue of giving sectors an advantage over common pool vessels was raised. Common pool vessels are exempted for other things unless they decide to join a sector and may do so until December 1. The original motion contained text that provided specific geographic locations that should be opened that retained two small mortality closures within Closed Area II (CAII). A Committee member suggested amending the motion remove that text and to include the text regarding selective gear.

Motion to amend: To include the third bullet offered by the PDT as suggested closed area access text (gear restrictions).

- Access to Closed Area I and Closed Area II will only be granted to commercial groundfish fishing vessels using gears approved under the provisions of 50 CFR 648.85 (a)(3)(iii), 50 CFR 648.85 (b)(6)(iv)(J)(2)(i) or (ii), longlines, or handlines

And to provide opportunity to allow access in all areas of CAII outside of the cod HAPC. (Dr. Pierce/Mr. Goethel).

The maker of the motion agreed to include the other areas within CAII but reiterated the rationale provided on the inconsistency with sector management and you don't get what you don't ask for. Sectors may not request exemptions to all areas, potentially reducing the magnitude of the analysis. There was still some concern, however, about the consequences on harbor porpoises by gillnets at times and locations of high harbor porpoise densities. Ms. Murphy noted that the analysis of all gear types would increase agency workload and if an EIS was triggered, then the deadline would not be met. If the Council's objective was to meet the May 1 deadline, then the RA could deny any request that would trigger an EIS.

Some of the public comments included:

- Jimmy Odlin, Commercial fisherman: In this particular motion I hear what Mr. Dempsey is saying and I agree with him but by changing that; some of these areas are open under Special Access Programs (SAPs) and you're required to use selective gear. By changing that would it trigger an EIS? The intent is to not have an EIS, if we were to lift restrictive gear areas that are required in some of those areas and if so then I think you should vote for the amended motion and you should only have 1 year until the omnibus amendment comes in. I did an analysis and figured out our haddock catch since 2007 and it was only 18% of our TAC and the Canadians caught 94% of their TAC. If we had fished at the same rate as the Canadians it would have been an additional 483 million pounds of haddock, which have all died. It would be a different fishery and not a disaster. This is another tool. This fish is being landed by the Canadians; the only explanation is that they're better fishermen than us and all we can do is mirror what they're doing. I support the concept but I just want to question if this will trigger an EIS if we take off the gear restrictions.

- Peter Shelley, Conservation Law Foundation: I don't know, maybe those 483 million pounds produced that huge year class so it wasn't idle. We're opposed to the approach of this motion. It would create a loophole in looking at minimizing fishing effects on EFH. We've been waiting for well more than a decade for this process to end and now the committee is looking for ways to get around that process and we're opposed. Based on today's discussion, this clearly requires more analysis. It has more segmentation problems with NEPA that the original motion had. NEPA requirements are intended to carefully evaluate environmental impacts; for us it's not rigmarole. It will help produce solutions for a more sustainable fishery. We also see it as an enormous redirection of limited agency resources to a set that no one knows how big they will be. You're creating a great expectation that this is where salvation is. I don't see a sector manager not trying to maximize it. There are existing programs that are much more tailored and specific and should be explored first. I don't see how any of these would help you get more redfish, that's probably more gear related. This amendment responds to an environmental disaster that the council hasn't even defined yet. Is this going to help people who are in a disaster? I don't think so. No analysis and no definition of the disaster. What does this look like? Here is a group including managers that have looked at the models and say that they don't trust them. We have unknown environmental productivity shifts and we don't know what they are but we know they're there. The response is to increase the area where we fish? Let's push it off to NMFS and let them deal with it; that will use up their time from now until the fishing year. We think it has profound legal problems and doesn't help those in an actual disaster.
- Drew Minkiewicz, Fishery Survival Fund: In response to comments on how this is an end around the habitat process, those comments are untrue. What is being proposed here is to allow access to fishing mortality closures and not the habitat closures. The two SASI models are going to the council next week; none of these areas are being proposed for future habitat closures. This is not an end around on the habitat amendment. It has nothing to do with habitat. They will likely decrease swept areas by putting fishermen on higher concentrations of fish. If you really want to protect habitat it's all about area swept. It has nothing to do with future or existing habitat closures.
- Jackie Odell, Northeast Seafood Coalition: We do not support motion to amend in entirety. We concur with Mr. Dempsey to allow sectors to craft creative exemptions that can be analyzed by the agency. There are lots of creative options that could be put forward that could get around some of the issues raised today and we shouldn't preempt those by denying them today. We do support the second sentence if that would be included in the original motion.

The motion to amend **failed** on a show of hands 2-7-1.

Motion (as perfected via a friendly amendment): To develop an alternative in FW 48 allowing sectors to request exemption from the prohibition on fishing in year round closed areas consistent with the following limitations:

- Access will only be granted for the parts of areas that are not defined as habitat closed areas, or that have not been identified as potential habitat management areas as part of the development of the Omnibus Habitat Amendment.
- Access to Closed Area I and Closed Area II will only be granted for the period May 1 through February 15;
- Access to the WGOM Closed Area will only be granted during periods not subject to rolling closures that are applicable to sectors.

Some of the public comments included:

- Gib Brogan, Oceana: It seems the premise of this approach of going in FW48 was to minimize the workload and give PDT more time so they wouldn't have to meet the November deadline. My impression is this will change the FMP and that will require an analysis and can that be done by November? This was a significant issue in Amendment 16 and will require some analysis in FW48 and is this manageable. Contemplate future actions too? Is the agency ready to do cumulative effects analysis? It seems to be significant for the number of permutations with 19 sectors? Are the resources available? I'm concerned because the EA documents for sectors have been carbon copies of one another and I'm concerned that will be done here and the agency will gloss over analysis. Will they do a thorough analysis?
- John Bullard, RA, NMFS NERO: Sue Murphy was representing the agency far better than I can so with some general comments in my 6th week. The Groundfish fishery, as you know better than I, is facing a disaster and I commend you for coming here and dealing with this issue and potentially reopening areas that were closed for a method of managing Groundfish that we have left behind for a new management method. You are properly considering whether or not we should reopen those. I commend you for that and you're also acting with awareness that there is urgency because people are in trouble. My boss Secretary Blank declared a disaster 6 days ago; we all know that this industry has been in trouble long before that formal declaration. When I assumed my responsibilities on August 6th 2012 I said to the Gloucester staff that we were in a crisis. It meant that all of us in NERO should respond as if we're in a crisis. It's not a normal day at work, which is what the Groundfish chair is doing. You look at everything and put it all on the table and ask what we can do to help the industry. I'm not a scientist. I've only been here for 6 weeks and you all know more about this issue than I do. I don't think I was quick enough in withdrawing my application for this job. My idea of a fishery is fish and fishermen. I think there are 400 active Groundfish vessels that catch 99% of the groundfish in the northeast part of the country, which means you could put the active groundfish fleet in this harbor and have room for another 100 vessels. Coincidentally, about the number of right whales we have is 400. We don't want to lose one right whale because we'd have only 399. It's precious. We're on a razor's edge here. There's urgency to our actions. Now that the secretary has declared a disaster that must mean money will come down from heaven but no that's not what it means. There is not money for that. We're at work to see

what we can do to make income available and find ways to reduce expenses, e.g. observers. Find ways to protect essential fish habitat. I hope the work that entails is married to the work you're doing so we can find ways to protect it. And also consider the work you're doing to open areas that are no longer germane to our management strategy. I commend you for considering it in a time frame that is befitting of the situation. People have brought up the gear conflict issue, my understanding is that members of the industry are aware this is an issue and I'm sure there are already discussing what is going on about this and they may be ahead of use on this. If money is found the guidance I hope is to how to meet immediate needs in ways that have long term benefits. I think the same guidance is what you can think about.

- Ben Martens, Maine coast fishery and Port Clyde sector: I still have a lot of concerns with the direction that we're going. Coming from Gulf of Maine and look at the guys who are catching all of the fish in western Gulf of Maine areas and fish along the edges of these habitat closures. They think these areas are working and are important especially in the Gulf of Maine. I know we want to get in and catch the abundant species. There are also the cod and haddock, these are species are being pushed to the brink of commercial extinction. We are not finding cod; we have caught less than 25%. If we open these closed areas what are we going to do to our cod stocks? We need to think of the other sides. I think this is something that should be voted in but consider what's happening to our cod stocks, our most important economic species out there and where we're going in 5 years.
- Vito Giacalone, Northeast Seafood Coalition: We support this in light of the disaster situation we would promote any mitigating measure. Access to the closed areas is something we favor. The habitat committee meeting was very telling. From an industry perspective about moving to hard TAC and hearing the discussion on the productivity increase as the bonus from closed areas. Here we are with huge closed areas and they have not shown the fish productivity we expected. After 8 years we haven't identified any areas that are slated now for access. We support the sector approach. We wouldn't want to preclude the opportunity for sectors to come forward.
- Ritchie Canastra, New Bedford: First I'd like to thank Mayor Bullard. It's time we have to start looking back and giving back to the fishermen. I've mentioned many times, why are we closing areas the size of MA to save a city of New Bedford, which is the habitat area? When sectors came though we went to a hard TAC and once that happened we should have opened those areas. If you want an EIS or want to look at the economic benefits it would be for the fishermen; that's not a shame. We shouldn't have had to declare a disaster but that's what it is. It's up to you to get them fishing again. The 400 vessels could fit in the port of New Bedford and you look back when we had 10000 vessels. Let's get some common sense back to the fishery. Let's take a breath of fresh air and move forward with the guidance of god himself.
- Peter Shelley, Conservation Law Foundation: I want to reiterate earlier comments. I fully agree with the new RA, not just the NERO, but NEFSC has to open a new chapter. Their performance to date has been a disappointment to the environmentalists. But I'd also

encourage the council to stay the course with the good work that has been taken with habitats. Drew's comment would have been accurate if the EFH amendment had been issued and approved and there was a record of the decision. The distinctions that he's making in that document have not been decided on; then he would be correct. They don't appear to have habitat importance but that's a decision is included in an EIS and it included these proposed closed areas to be opened. That analysis hasn't been done yet and it's creating expectations.

- John Williams, F/V Hannah Boden: I do support groundfishermen entering Closed Area II if the fish are there and science supports it. I don't want to be a casualty of that access and have to exit. I think the lobstermen can coexist but what I'm hearing is a lot of black and white, open and closed. I don't think this approach is the way to go now. When you look at the chart it isn't closed to everyone and that industry is thriving. My vessel gets about 80% of the income from that area. The statement that the agency will address this issue but I think it should be handled at this level because it will be affected by this decision. I think that's the approach of 2012. There are some very good reasonable people in both industries and we can sit down and figure out strategies to allow both industries to work in the same area. The committee needs to state that there is a lobster industry. We don't want to create a crisis by trying to fix a crisis.
- Jim Odlin, Commercial Fisherman: I support the motion I think the PDT did a great job at capturing the underlying intent of the previous motion. The gear conflict issue, John is right there is an industry out there. In the past the two industries have come up with agreements that worked. It's my recollection is that the Council did not deal with gear conflicts because it was always a moving target because it's seasonal and changes every year (the existing coast guard rules would take care of it). Now we have two established fisheries and it will be worked out. The Committee doesn't need to spend a lot of time on that. I think it's one of the ones that if you let it, it will get solved.
- Bonnie Spinazzola, Atlantic Offshore Lobstermen's Association: I'm please to hear Vito and John say that. I do what to say that fish and fishermen are great but there are also lobster and lobstermen too. There are about 20 lobstermen who make 80% of their income from that area. There are a lot of egged out females in that area from June through October that are our seed stock. We might have to do a time commitment. If the committee can hold off on decisions in CAII and allow the two groups to come to a decision and then deal with it.
- Jim Kendall: Most of you don't even remember when this really began back in 1994 but some of us were here and at those times there were partial, temporary, vessel closures. Then it became too difficult for the coast guard to regulate it. It was closed basically for difficulties of enforcement. It's been closed for about 20 years and Dr. Rothschild has called for some analysis to see their benefit or costs. Because someone declared a disaster we're going to run and open up these areas. We still don't know the benefits or costs of these areas. If there is a negative impact it will fall on the fishermen's shoulders because they'll be blamed for killing the fish. When will we decide we want actual facts? They keep saying there aren't enough fish and we still don't know. The only benefit I see is it

will be cheaper to fish. We need better science. You can't prosecute a fishery if there are no fish or fishermen.

Staff explained that the only change to the FMP is allowing sectors to request an exemption from the closed areas, which they are currently unable to do. It is not authorizing vessels to enter the closed areas; that analysis will be contained in the EAs at NERO.

One Committee member stated that they have not seen evidence of older fish coming from the closed areas; if fish were staying in the closed areas we should be seeing 12 – 15 year old fish in these areas but the age structure is basically the same in both areas. Bottom temperature was thought to be driving fish distribution. The motion would still close the areas during spawning season reducing disruption to spawning rituals by fishing activities.

The motion **carried** on a show of hand 10-0.

A Committee member thought it beneficial to provide the agency specific guidance as part of any option that includes sector operations plans.

Motion: That when considering sector requests for access to closed areas, the Regional Office should include, inter alia, consideration of the potential for gear conflicts, shifts in fishing effort out of the closed areas and impacts on protected species and lobsters. (Dr. Pierce/Mr. Blount)

Rationale: This alerts the industry and the Council that these things need to be considered for a much needed evaluation of requests.

Some Committee members thought this was unnecessary as Ms. Murphy had already outlined that this work would be done and were opposed to any motion that might be telling NERO how to do its job. Others thought it was necessary to make sectors aware of these factors since their requests may not be accepted. Staff advised that having some direction on the Council intent when reviewing the EAs during the public comment period would allow staff to provide more directed comments.

Some of the public comments included:

- Bonnie Spinazzola, Atlantic Offshore Lobstermen's Association: I don't know if you're gotten a chance to see the letter we sent out on Sept 18, 2012. If there is a NEPA process we would like to be included in that because we are part of the economic impact.
- John Williams, F/V Hannah Boden: I think this motion is benign. I don't know why anyone would oppose it and anyone who did would send a message that they're opposed to analyzing conflicts. All it's doing is highlighting what they will be doing. I've put in for exemptions and it's a long process and this way it can't get buried.
- Ron Smolowitz, Fishery Survival Fund: I don't think this is a good idea. It's stuff they do already. Anything that slows down the omnibus amendment can have significant impacts

across the board. A lot of the other comments mentioned earlier are things that should be dealt with in the omnibus. In the multispecies plans are there gill marking requirements for gillnets? The council should go back and ask its staff about it. You don't want to revisit something and bring up some of the issues; leave it up to the industry to deal with. The requirement for fixed gear fishermen to bring their gear home that comes up a lot in these discussions.

- Vito Giacalone, Northeast Seafood Coalition: In the interest of compromise I agree with Ron and John. I think it's benign and will be done anyway. We would support the idea of the motion. We're definitely actively working with the fixed gear fishermen to come up with a gentleman's agreement.

The motion **carried** on a show of hands 7-2-1.

The Committee discussed further rationale of the motion as it allowed access areas like the Nantucket Lightship Closed Area, etc. where they may not provide access to pollock, haddock, etc. The intent is to allow fishermen to have access to areas that are thought to have a high concentration of species that will further help them to diversify their income – not just for targeting specific groundfish stocks. Groundfish vessels may be able to take advantage of high concentrations of monkfish and skates. Areas might be identified where less fishing is desirable to protect hard bottom; effort can be moved to other areas. Interactions of scallop and sector vessels in the scallop access areas will have to be examined.

Some of the public comments included:

- Vito Giacalone, Northeast Seafood Coalition: If the sectors are going to be the avenue we wouldn't want to preclude that you could only provide access based on healthy stocks known to have high concentrations in those areas. The higher CPUE on any species would make it more profitable. We're not looking to only have access to pollock, haddock and redfish.

Staff referred to the Committee record that states the purpose is to allow access to areas to allow vessels to catch their ACL of species that to date has been unachievable. The purpose and need section of the framework needs to be clear to properly evaluate the intent; to date it has been to mitigate the lower TACs but a shift in rationale to attain a higher CPUE would need to be spelled out.

Some of the public comments included:

- Jim Odlin, Commercial Fisherman: Last April, we fished right up to the edge of that closed area (NLCA). I don't know if there is haddock in that area but if the haddock are as healthy as they say they are then they're likely to be in that area.

TMGC Overview

Staff presented an overview of TMGC recommended catches. They will be presented to the Council at the September meeting and they will vote to decide to accept them. The recommended Eastern Georges Bank (EGB) cod quota was 600mt; the basis for this is the average of the neutral risk of exceeding F_{ref} based on rho-adjusted catches. This is the first time the TMGC is taking the retrospective pattern into account. The US share declines to 16% and will be 96mt. The Eastern Georges Bank haddock quota is 10,400 mt. This stock doesn't have a retrospective pattern and the quota is based on a neutral risk of exceeding F_{ref} . The US share is 38% or 3,952mt. Of note is the initial estimate of the 2010 year class might be the largest on record exceeding the other observed large year classes. Based on that estimate, we would expect to see the EGB haddock quota to go up a little in 2014 but should go up a lot in 2015. The Georges Bank yellowtail flounder quota is 500 mt. The US share is 43% or 215mt. This stock has a fairly large retrospective pattern; the quota was set to have a lower than the neutral risk of exceeding F_{ref} .

A Committee member noted the statement in the TMGC guidance document that said there was the possibility of a high level of discarding of age 1 haddock in the US in 2013. He asked what evidence there was that this would occur. Staff reviewed the experience with the large 2003 year class, where in some years almost half the catch was discarded. The US has minimum size regulations to comply with, which Canadians do not. In the past, the minimum size for haddock was lowered to reduce the magnitude of discards of juvenile fish from a large year class event.

Staff explained that under the sharing agreement, the distribution is based on two factors: landings history over a fixed time period and resource distribution as measured by three surveys. Landings history accounts for about 10%; the formula is primarily based on resource distribution. The decline in the US share is largely due to reduced observations on the US side in the surveys.

Some of the public comments included:

- Jim Odlin, Commercial Fisherman: Dr. Pierce asked about discards and if you look at 2006 and 2007, our discards were equal to our landings. Three year old fish are 15-16 inches. The Canadian's pointed out that we're already discarding the 2010 year class. They're already hiring people to deal with it. We use the wrong mesh. We use 6 inch diamond and they use 5.25 square. We let adult haddock go and retain the small ones. We are discarding fish at high rates but I can give you anecdotal evidence now before you get the data next year. This is a major problem but we were late dealing with it. These fish are out there and we seem to think they're growing faster than the 2003 year class. I've had my crew and observers do measurements; they seem to be growing faster.
- Vito Giacalone, Northeast Seafood Coalition: Is it appropriate to consider about asking the Canadians for a one time trade for 60mt of YTF for haddock? Would they accept that if they don't need it? We didn't think it was good to burden the TMGC members with it but if it came from the council people could comment on it and it would be transparent. It would be a one off. It might not be a waste of time if it was a one off.

The Committee Chair noted quota trades were on the intercessional agenda for the TMGC.

ABCs for FY 2013

Staff presented an overview of the SSC recommendations for ABCs for FY 2013 – 2015. The SSC report will be presented at the council meeting next week. Staff presented a table showing the preliminary ACLs for 2013 compared to previous years' catch that are still pending Council approval.

The Committee discussed one of the SSC recommendations for GB yellowtail flounder that it be a bycatch fishery and what form that would take should be discussed. One member disagreed with the SSC providing management advice. One Committee member queried the increase in the Southern New England (SNE) winter flounder ACL since possession is currently prohibited and whether it should be allocated now. Staff explained that allocation of SNE winter flounder was suggested by the PDT last year but was unsupported when the ACL turned out to be low; the Council wanted to avoid any constraining species. Further discussion was postponed until after the final report was presented at the September Council meeting.

Some of the public comments included:

- Ron Smolowitz, Fishery Survival Fund: What would it take to consider both northern and southern windowpane as a single stock? We still can manage by area.

Staff explained any changes to stock structure would require a benchmark assessment; for northern and southern windowpane both benchmarks would have to be done at the same time. The cod stock structure workshop report is available but was phase 1 in a 3 phase SSC process and is unlikely to be incorporated by 2014.

Closed Area Technical Team (CATT)

Staff provided the Committee with an update on the formation of the CATT and said that an initial report on the team's progress will be provided at the next Committee meeting.

Development of Framework 48

The Committee discussed the possibility of redrawing the GB yellowtail flounder boundary in the framework. The purpose of creating this area was to allow vessels with low remaining GB yellowtail flounder ACE to continue fishing on other species in an area identified for having low yellowtail flounder catch. Staff presented the PDT analysis of pursuing this measure. The primary concern was the idea of precedence; if this is done for one species would it be requested for others, further complicating enforcement. It was thought that sectors already have the ability to address this issue of discards; a sector decides how it will assign its discards to individual vessels, where it fishes and gear used. Another concern was the impacts on the discard estimates. Discards are pooled across a strata; if areas with low discards are removed from a strata, then the remaining areas (with higher discards) will have higher discard estimates. An increase in the number of strata may increase the number of minimum observed trips required, potentially increasing costs. This was discussed at length by the Committee because of concerns of the

perceived low resolution of discard data. Modifications to the strata used was discussed but the idea was restricted by the potential to increase monitoring costs to meet the higher data needs; it was also unclear whether it could be done in this framework. Some concern was raised on using the previous year's data to construct any areas as fish are mobile. Sectors are able to achieve the same goals themselves and could be provided with areas of high yellowtail flounder densities to avoid, helping reduce their discards.

Motion: After reviewing the PDT identified complications for revising the GB yellowtail flounder operating area, the Committee recommends the GB yellowtail flounder area not be redrawn in the sector framework. (Dr. Pierce/Ms. Murphy).

Rationale: I see the merit in redrawing the area. The PDT has highlighted the significant complications. It will take a lot of work to overcome those and we don't have the advantage of time for the PDT to overcome them all to get this in place by May 1.

Some of the public comments included:

- Terry Alexander, Fisherman from Maine: That's a huge area northwest of there all the way across the deep water. I think that maybe we should take a little break and draw a strata and the committee members could look at it and see what they think, because that's a huge area that we're being charged discards for.

The motion **carried** on a show of hands 9-0-1.

The Mayor of New Bedford attended the Committee meeting and made the following statement.

- Jonathan F. Mitchell, Mayor of New Bedford: Let me say first of all welcome to New Bedford. It's great that you're meeting here today and I hope that it's the same with the council and subcommittees keep coming back. We are still number one. We're proud that for the 12th year that we're the number one fishing port. Although I'm a locally elected official and have no legal authority over the fisheries, I do see a part of my role as being an advocate for the industry. Other mayors have approached the job roughly the same way with regards to fishing advocacy. It's a large part of our economy, about 1/6 of the domestic output of the city and it's a heritage. We're very proud of our fishing history. I've had the opportunity to testify before the SSC and I was pleased that I had a receptive audience and over time I've grown to appreciate the role that all of you attempt to fulfill. That's this. It's really a matter of getting the regulations right and it's a tough job. You're dealing with people's lives and the viability of fishing communities and culture that's come up around them and all the things that we want to do as Americans, build a house, raise a family and send them to college. What you have at stake are weighty matters. Environmental concerns are important and all the ecosystems on the planet are all related so what you're being charged with doing is the uncertainty around the science in measuring fishing of stocks. So I want you to know that up front and you'll continue to hear from me in the press. This is important to me and I will continue my role. I appreciate where you're coming from and will continue to look at the human side of these decisions. The other thing I wanted to stress today where I appreciate as mayor of

this city the efforts of a number of folks especially the delegates, to get direct and indirect money for the GF fishery, who have been put out of business or who are threatened. In New Bedford we want to get our fair share but it's a relief and needed. It's important not to avoid the temptation that it's the end of the story. Somehow financial relief puts a quota on all the hammering that's been going on the last few years over allocations on the groundfish side. It remains that we have science that we rely on; I'm not overstating that it's dubious. We rely on the best available science that isn't at a level of certainty that we would make reliance on. It's easier with scallops to estimate to a higher degree of certainty than groundfish for population size. We have to continue to be aware that over dubious science that we're making these decisions. Please be open minded about what you're deciding here and know that when decisions are made we're really creating an out door and not an in door. It's easy to show them how to leave the industry but it's harder to get back into it. The reality is they tend not to come back. The media says that it's the same as relief for family farms. Farmers continue to farm after the financial relief. Fishermen tend to go out of business and the impact on fishing communities is also true. The effect that people leaving the industry has on the community is permanent. Keep that in mind for cultural and irreversibility. Bring us back to the human element in your decision making process. You have tough decisions to make and will continue to have them in front of you in the future.

Motion: to direct the PDT to develop alternatives to revise the existing sector discard strata for GB yellowtail flounder and instead stratify discards on GB by statistical areas or by groups of statistical areas with the goal of the highest practical resolution. (Mr. Dempsey/Mr. Preble).

Rationale: I think this is something that can be done. My intent was to make this request to the fishery service but we need to iron some things out. I think we've heard from the industry and we all know that we're going to need to track several stocks out on GB and have better information on catch and discards better than we are now. This allows us to move forward towards that goal.

Staff was unsure if the caveats already provided by the PDT would change if the motion passed but would do the necessary analysis.

The motion **carried** on a show of hands 9-0-1.

Staff raised the issue of potentially no accountability measure (AM) for the scallop fishery if they go over their yellowtail flounder sub-ACL in 2013. The rationale for allowing that was under the US/CA resource sharing agreement if there's an overage in one year there's a payback in the next year. The problem is if you have no fishing in 2013 then it won't affect anybody so you have no AM. The issue is if you want to include 0% possession then you need to spell out the reactive AM for that stock in FY 2013. Ms. Murphy noted that NERO believes that if the ACL is exceeded, they can restrict or prohibit access to the Eastern U.S./Canada area, but needed to consult with NOAA GC on this issue..

Following discussion, the Committee **agreed by consensus** to retain the two approaches of allocating yellowtail flounder and zero possession of yellowtail flounder in the framework.

Staff reviewed draft text for the option the Committee is considering to allocate SNE windowpane flounder as a sub-ACL to the scallop industry and for changes to the minimum size requirements. A Committee member requested clarification on the mesh sizes used in the PDT analysis of minimum fish sizes and expressed concern over some of the small fish sizes that could be retained as they were below the size at 50% maturity. Another Committee member did not support all the proposed minimum fish sizes but it was clarified that these could be modified in the final action. It was agreed that full retention with no minimum sizes would be the least restrictive; status quo would be the most restrictive. Staff will edit the language to address Committee concerns about requests to use small mesh sizes as many don't support reducing mesh sizes to increase the catch of small fish.

The request from the Groundfish Recreational Advisory Panel on modifying how the recreational AM is administered was postponed for a future meeting.

Staff raised an issue about the handgear fishermen being displeased about their AMs. Handgear fishermen are currently in the common pool, comprising only a small percentage, and it was not immediately known why they were assigned to that group in Amendment 16. The Committee **agreed by consensus** to address this issue at a future date to allow the PDT to complete other analyses.

Sector Monitoring

Staff provided an overview on PDT progress on sector monitoring issues and GMRI participation in the analysis. A PDT member presented an analysis on the potential bias caused by the presence or absence of an observer on a vessel's fishing behavior. Trips were examined in groups of three with the criteria that there were three unobserved trips in a row or had the following sequence, unobserved-observed-unobserved; a pre and post sectors comparison was also attempted. Using the methods in Benoit and Allard (2009), it was shown that vessels behave differently with an observer on board. The difference was there but it was small. It was also unclear how to apply this bias in a practical manner. The results are somewhat difficult to interpret as the kept all category for unobserved trips is higher than observed trips, which was unexpected. Future work will continue to develop an observer effect analysis including triangulating with other analytical techniques; preliminary results indicate the same results.

Committee members were hesitant to devote additional PDT time to this topic (observer effects) as it was viewed as unknowable and too fluid a metric, changing seasonally and with different captains, to be able to devise an ad hoc adjustment to the discard estimates.

Some of the public comments included:

- Gib Brogan, Oceana: Would the observer coverage assigned for a transfer of ACE apply at the initial allocation? If a sector with a small ACE transferred it out or if a sector with a

large ACE did, would the observer coverage follow the fish across transfer? It needs to follow the fish.

Staff requested clarification from the Committee regarding differential monitoring standards, i.e. should small amounts of ACE be subject to the same monitoring standards as larger amounts. The Committee expressed a desire to maximize the accuracy and precision of monitoring; focus should be on vessels with the most discards but for some stocks, with low ACE, it may be important to track those closely. Staff pointed out that for some stocks certain gear types generate more discards per pound of groundfish than others; if changes are made to the strata and the minimum observed trips criteria isn't met within a strata, vessels may be forced to use the preseason discard estimate. One Committee member stated that would be preferable to paying for more observer coverage that would be required to reach each strata minimum observed trips criteria.

Other Business

Some of the public comments included:

- Jerry Cygler, East West Technical Services LLC: We have a huge problem with cancellations in the sectors. The problem is causing observers to depart from our program. The government is proposing to pay and cut seadays and the day's pay and they cannot afford to live on that. If the observers cannot afford to pay their rent then they will look for a new job. If the coverage is lower for a month we might not have any vessels to observe and the vessel can cancel at any time. So how can the observers survive and go on to the next year when they will only have a quarter of a seaday .There's a proposal to have 6 hours of pay. How expensive is coverage? Does the industry want someone who's experienced and educated? They will not work for \$75 a day. If this will be a quarter of the pay for an observer this is not a lot of money for them to work. This is something that the council has to plan for. Mr. Dempsey has called for a high resolution. The agency is asking us to provide the best people. There aren't as many good people coming in. So there is distress around the corner. There are numbers of them quitting the program. Presently the agency requires a college degree. I don't think council or anyone else will rely on any data collected by coop workers or endangered species. That info can't be verified by a biologist without education. This is important and will be up to the council. A criminal background check is required and it's a tough process to go through but this will jeopardize the quality of information. I'm not saying that fishermen have to pay for observers if this has to be a successful program the information provided by the observer has to be good. They are paid for the same seaday as the fishermen.
- Ron Borgeson, Commercial Fisherman: Could you tell me how many sectors actually went over their ACE? It seems like there's a lot of concern over the observer coverage when they're not going over their ACE. The best data comes from the fishermen. If we have to pay for the observers next year then there will be no fishing and no information.
- Ron Smolowitz, Fishery Survival Fund: There's a major problem with the observer program but if you have one trained personnel and I pay the people on y trips \$400 a day

and one thing to look at is how long they are retaining observers. I was looking at length frequencies listed as yellowtail flounder and there were some over 60cm. This wasn't yellowtail flounder and that went through the complete audit process. That's what happens when you don't have trained people. There's a host of other issues. In scallop fleet I think we'll head to electronic self-reporting.

- Ritchie Canastra, New Bedford: I'm looking at this and we're having a hard time getting qualified fishermen because they've moved on. They're not getting the observers. The system is totally broken and we're stuck in the middle because of what you guys want to give us. I'm for full retention. We wouldn't have to talk about discarding if you have 100% retention. If you want full observer coverage if there are only 400 vessels, we could do it. Something bad just happened the QE3 is printing more money and more money. Fuel is going up. We can expect \$6 – 8 a gallon. We had the depression that happened in the 30s and that's nothing compared to what's going to happen. Europe's collapsing. We're going to have big problems in the next few months from the collapse of the global economy. What we're discussing here might not matter.