



New England Fishery Management Council

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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

MEMORANDUM

DATE: January 17, 2007
TO: Groundfish Oversight Committee
FROM: Groundfish Plan Development Team
SUBJECT: **PDT Conference Call January 11, 2007 - Amendment 16 Scoping Comments**

1. The Groundfish Plan Development Team (PDT) held a conference call on January 11, 2007. The PDT reviewed comments received during the scoping period for Amendment 16, focusing on proposals for management systems. Participants in the call included Tom Nies and Chad Demarest (NEFMC), Tom Warren and Doug Christel (NMFS NERO), Kohl Kanwit (Maine DMR), Steve Correia (Massachusetts DMF), Eric Thunberg and Paul Nitschke (NMFS NEFSC), Paul Parker (Groundfish Advisory Panel Chair), and Jim O'Grady (interested party representative).

2. The PDT reviewed each major proposal and compared its elements to the broad criteria listed below. These reflect a combination of the principles published in the scoping document as well as practical issues identified by the PDT. The criteria are:

- What is the primary fishing mortality control?
- Is the proposal an input or output based system?
- Is the method of allocation clearly stated for all permit holders, area, gear, etc.?
- Does the proposal include a mechanism for accountability?
- Is the proposal narrow in focus?
- Can the proposal be analyzed?
- What issues will need to be addressed during development? This is a preliminary, not comprehensive, evaluation.
- Are there major hurdles that need to be resolved early in the process? This criterion attempts to identify problems that *may* prove insurmountable for the

proposal as submitted. In most cases we tried to identify *possible* legal or policy issues that are beyond the expertise of the PDT. NOAA GC was not available to participate in the call to address these questions.

3. Evaluation of the proposals is summarized in the pages attached. During the review, the PDT also identified overarching issues that are summarized in this memo. The PDT briefly discussed several suggestions that were not proposed revisions to the management system. A few comments on those ideas are included in this memo.

General Comments or Concerns

4. A common theme in most, if not all, of the proposals is that improvements in data collection are necessary. Most proposals include recognition that catch data (both landings and discards) must be reported and distributed in a timely manner for the proposals to work as designed. Some of the proposals identify specific tools for improving fishery dependent data collection, such as daily VMS reporting. Given the significant time lags between design and implementation of these systems, the Committee may want to recommend the Council and NMFS begin working immediately to create an improved data collection system that is ready by the time Amendment 16 is implemented. Amendment 13 already authorized daily dealer electronic reports and electronic vessel reports at a finer scale than statistical area. Development of these reporting programs need not (and should not) wait for Amendment 16, though that action may need to require more frequent vessel reports.

5. Closely related to the previous paragraph is that many of the proposals may place increased demands on the observer program. It can be argued that some proposals increase the incentive to discard. Several of the proposals may increase the need to know with certainty the total catch (landings and discards) of individual vessels. As a result, there may be a need for higher levels of observer coverage to meet discard estimation standards either at a higher level of precision or at a finer scale than currently under consideration for the Standardized Bycatch Reporting Methodology (SBRM). At the same time, it is possible that the proposals may make vessels more efficient and result in reduced fishing time, which could reduce the number of required observer days. These impacts on the observer program should be carefully considered and funding options should be explored well in advance of implementation.

6. Differences between the alternatives will complicate analyses. This is particularly true for economic and social impacts. Over the years, NEFSC development of the Closed Area Model provided an integrated analytic tool that estimated biological impacts and provided extensive information on likely economic impacts for the effort control measures used by the Council. That model is not compatible with several of the proposals. The PDT will need to develop different analytic tools that may have to be specific to each proposal. This has several impacts. From a practical standpoint, it may take a lot of time to develop and verify these tools. Given the compressed time available for this amendment, this must be considered as the Committee and the Council choose the alternatives to be developed; they should be identified as early as possible. Second, the Closed Area Model outputs allow for extensive exploration of the distributive impacts of management measures. The PDT cannot guarantee that a similar level of detail will be provided by models that are not yet developed. The Committee and the Council may receive

information that is less quantitative than that provided in the past. Finally, it is possible that the tools will complicate comparing results across alternatives. They may have different assumptions and limitations that make it difficult to directly compare results between alternatives.

7. Because updated stock assessments will not be completed prior to public hearings, the Council suggested the Amendment 16 Draft Supplemental Environmental Impact Statement (DSEIS) illustrate the impacts of alternatives under “high, medium, and low” mortality reduction scenarios. This is problematic. Not only does this triple the analytic work for the PDT, it may prove difficult to identify these scenarios in a way that provides meaningful information to the public and the Council. Some PDT members are skeptical that this approach is feasible. If it is, the Committee and the Council should recognize that it will increase the work needed to complete the DSEIS and consider that as alternatives are developed.

8. Several proposals proposed as alternatives to the current effort control system suggest removing year-round and/or seasonal closures, trip limits, etc. The PDT notes the Council should carefully consider such actions as there may be reasons to retain some of those measures even if no longer strictly required to control fishing mortality.

Miscellaneous Comments or Concerns

9. Comments were received that did not constitute full-scale management proposals. The PDT only briefly discussed a few of these issues because of a lack of time. The PDT’s comments on these issues are:

- Sectors: Notice was received from two organizations that they may submit applications to form sectors – presumably these would be adopted in Amendment 16 as it is the next groundfish action. Several suggestions were also received for improving the management of the sector program. It is not clear if these suggestions should be part of Amendment 16 or should be considered as part of the Omnibus Sector Amendment. The Committee and PDT will need guidance from the Council on how these suggestions will be considered.
- Allow a vessel to possess a limited access scallop and limited access multispecies permit at the same time: With the exception of a combination permit, this practice is currently prohibited. The PDT commented during the development of FW 42 that this change would allow for better use of capital/vessels, but the Council may want to consider the social and economic impacts in an amendment rather than a framework.
- Allow the closed area access program scallop yellowtail flounder TAC to be allocated to scallop sectors if they are adopted by the scallop plan in the future: Discussions with NMFS staff indicate that this provision would not require a groundfish action but could be adopted under a scallop action. (Note that NMFS may have concerns over administration of such a provision).
- Develop a groundfish research set-aside program: The PDT suggests that any such program should cover all groundfish stocks.

- Modify the General Category Scallop Exempted Fishery east of Cape Cod to allow fishing year round: This fishery is prohibited during times of peak yellowtail flounder spawning. Council staff is confirming the rationale for this limitation that was adopted by NMFS. This suggestion may be outside the range of scoping issues as published in the FR notice. If included in the amendment, any change would not take place until May 2009, which may be later than desired by the scallop industry. Since the Regional Administrator has considerable authority over exempted fisheries, it may also prove possible to have this change adopted by NMFS without a Council action.
- Additional habitat measures: The current Omnibus EFH Amendment (Phase II) will consider additional measures to minimize the impacts of fishing on EFH. It does not make sense to duplicate that effort. The PDT does not believe the suggestion that there should be “general” habitat measures and “rebuilding” habitat measures is consistent with current guidance: we adopt measures to “... minimize, to the extent practicable, the adverse impacts on EFH that are more than minimal and less than temporary in nature.” There is no distinction made that those measures should be different once rebuilding is completed or should be more stringent if rebuilding is ongoing. If wolffish and cusk are incorporated into the fishery management unit, EFH will need to be defined for those species. While it would be preferable to include those definitions in the Omnibus EFH Amendment (Phase I), this may not be possible due to timing and the EFH definitions may need to be added to Amendment 16.
- Allocate TACs or points to the scallop fishery: The PDT notes that if a different management system is adopted provisions will need to be made for all other fisheries that catch groundfish in any quantity – such as the scallop fishery. There may also be opportunities to improve the management of this bycatch, such as be allowing these fisheries to acquire additional allowances.
- Remove chronic violators from the fishery: Beyond Council control
- Return to mother ship operations: Difficult to implement through Council actions.
- Government supervision of offloads: This may fall into the improvement sin catch monitoring noted in several proposals and could take several forms (such as government-certified weighmasters).
- Promote commercial mariculture: Beyond Council authority.
- Consider impacts of global warming on management of fisheries: This might be a more appropriate for the scientific advice provided to the Council.

“Revised Days-at-Sea”

| Scoping Guidance | | | | | |
|--|-------------------------------|---|--------------------------------------|---|------------------------------------|
| Constraining management measure | Input or output based? | Method of allocation stated; distro of TAC for all permit holders? | Mechanism for accountability? | Narrow in focus or absent detail? | Can it be analyzed? |
| Days-at-Sea | Input | Yes, No | Yes—DAS/VMS | Broad, with some details still to be worked out | Yes, primarily with existing tools |

Major hurdles: None

Comments or concerns:

- *Count DAS at 24 hours* – none
- *Reduce size of differential area* – none
- *Eliminate conservation tax for DAS transfer program* – May increase effective fishing effort, modeling outcomes may be difficult
- *Eliminate/reduce rolling closures* – Recent catch rate data not available for time/area closure areas
- *Allow scallopers to acquire groundfish permits* – May involve equity issues
- *One commenter suggested using DAS coupled with an ITQ for a few individual stocks where mortality objectives are exceeded* - Program provides no detail for mechanizing allocation, monitoring or enforcement of ITQ. Furthermore, proposal is silent on how to restrict catch for stocks that need mortality reductions but do not exceed previous year’s TAC.

“Differential Days-at-Sea”
Including the Anderson and Wong proposals

| Scoping Guidance | | | | | |
|---------------------------------|------------------------|---|--------------------------------------|--|---------------------------------|
| Constraining management measure | Input or output based? | <i>Method of allocation stated; distro of TAC for all permit holders?</i> | <i>Mechanism for accountability?</i> | <i>Narrow in focus or absent detail?</i> | <i>Can it be analyzed?</i> |
| Days-at-Sea | Input | Yes, No | Yes—DAS/VMS | Broad, with sufficient detail included in proposal | Yes, but will require new tools |

Major hurdles: Potentially high administrative burden

Comments or concerns:

- Timing issues relative to returning DAS
- Calculation of differential rate conditioned on several factors (species composition, trip length, trip limit)
- May increase incentive to discard
- Discards need to be accounted for
- Observer monitoring required
- May increase incentive to misreport landings of stocks of concern

“Hard TACs”

| Scoping Guidance | | | | | |
|--|-------------------------------|---|---|--|----------------------------|
| Constraining management measure | Input or output based? | <i>Method of allocation stated; distro of TAC for all permit holders?</i> | <i>Mechanism for accountability?</i> | <i>Narrow in focus or absent detail?</i> | Can it be analyzed? |
| Hard TAC | Output | Yes, yes | Yes—TACs distributed by gear, sector, area and time | Adequate detail to make progress | Yes, with difficulty |

Major hurdles:

- Ability to determine mortality objectives for each gear, area, sector, and time period is in question.
- Administrative costs associated with monitoring TACs divided into time, gear, vessel size categories are likely to be enormous.

Comments or concerns:

- Dividing TAC into smaller time periods doesn't eliminate derbies, just makes them smaller and harder to monitor
- Mandated level of observer coverage not yet defined to achieve precision on such small scales for undefined areas and time periods – would likely require reanalyzing SBRM work
- Unclear what is meant by “mortality caps.” Fishing mortality (F) caps aren't realistic for a real-time monitoring because F is calculated for calendar year basis; we can only monitor proxies of F through target TACs, a system that is not necessarily accurate.
- Mortality is not currently defined for each sector or for vessels in other fisheries; rather, it is calculated on each stock as a whole over a calendar year.
- Bycatch caps, as well as directed caps on an area and time basis, would be difficult to monitor and project for closures. The tasks involved in administration, monitoring and enforcement for these would likely be too severe given current staffing and budgetary conditions.
- Mortality caps on threatened and endangered species would be difficult to monitor without significantly greater observer coverage.
- So many opportunities to close fishery may hinder ability to achieve OY.
- Program fails to justify why current closures are no longer necessary.
- Determining bycatch TAC set-asides based on historical catch by other fisheries is difficult and potentially inaccurate given current data.
- Determining appropriate mortality and catch levels for ESA and marine mammal species is a problem, and would require significant additional observer funding.

“Individual Hard TACs”

| Scoping Guidance | | | | | |
|--|-------------------------------|--|--------------------------------------|--|---|
| Constraining management measure | Input or output based? | Method of allocation stated; distro of TAC for all permit holders? | Mechanism for accountability? | Narrow in focus or absent detail? | Can it be analyzed? |
| Hard TAC | Output | Yes, TACs distributed by proportion of vessel's effort relative to total fleet | Not really | Lacking details | Unknown but shares common components with other proposals |

Major hurdles: See Hard TAC and ITQ proposals.

Comments or concerns:

(Note that this proposal is primarily conceptual so details are not well specified)

- How is total fleet effort defined? DAS, or landings?
- Qualification of "C" DAS permits for points could increase effort in the fishery by reactivating latent effort.
- How will regional TACs be established?
- How will areas be defined?

“Individual Transferable Quotas”

| Scoping Guidance | | | | | |
|---------------------------------|------------------------|---|--------------------------------------|--|----------------------------|
| Constraining management measure | Input or output based? | <i>Method of allocation stated; distro of TAC for all permit holders?</i> | <i>Mechanism for accountability?</i> | <i>Narrow in focus or absent detail?</i> | <i>Can it be analyzed?</i> |
| Stock-specific hard TACs | Output | Yes, yes | Yes | Comprehensive, with sufficient detail to understand intentions | Yes |

Major hurdles:

- The proposal places burden for qualification on ability to link DAS call-in to activity. Currently this link cannot be made reliably for much of the historical period.
- Limits on quota ownership and quota acquisition will require change in permit application process to clearly identify ownership of all permits. This has proven difficult to implement effectively in other fisheries.
- Obvious potential logistical problem with implementation due to required referendum. If this alternative is selected and the referendum fails, then some back-up plan will need to be identified.
- Proposal relies on level of observer coverage that is higher than what existing program will likely be able to support. Available funding is a problem as is the ability to train and place enough manpower needed. The proposal does provide suggestions for alternatives including video monitoring
- Qualification for initial allocations could not begin until May 1, 2008. This means that workload would include, qualification review, work on all other selected alternatives for the DSEIS, and the GARM III.
- Reauthorization contains language that would require consideration of an auction for initial allocation.
- M-S Act requires cost recovery for any IFQ within specified limits.

Comments or concerns:

- The initial shares for each stock must sum to 1. As described, the allocation formula has two components. The landings history share sums to one. The DAS shares within vessel permit sizes also sum to one, *but the sum of all DAS shares for each vessel sums to 3*. The proposed weighting procedure does not reconcile this problem, though there are options for fixing it.
 - Divide the DAS share by 3. This would have no affect on the relative position of vessels within, or outside of, a size class. Initial weighted landings and DAS shares would also then sum to one.
 - A more complicated solution would be to allocate 50% (75%) of the TAC based on the landings share then take the remaining 50% (25%) and sub-allocate to each vessel permit size group according to the DAS share for all vessels in the permit size group.
- Proposal is silent on what happens if TAC for an entire stock is reached.
- Provisions for overage may not be possible since total TAC cannot be exceeded in any year. That is, TAC for all stocks in every year has to be reconciled.
- Definition of qualifying A DAS may be interpreted as being inconsistent with how qualifying DAS are determined in the description of base allocations.
- Historic period would clearly result in fishing for history since would still be building history through April, 2008. A qualification period that predates January 2007 would eliminate this

tendency. Would also raise questions associated with the ability for some fleet components subject to differential DAS counting to compete with others for history.

- Given the requirement that initial shares must sum to one, can see how cap on allocations associated with DAS would work (i.e. overage gets allocated to everyone else) but can't see how the floor can work (i.e. can't take share away from everyone to make up for the difference).
- Note wording of temporary transfers refers to 1/20th of landed ton seems to imply that discards will not be counted against quota allocations unless option 1 for discards is selected.
- Removal of upgrade provision makes sense but may pose problems with the social objective to maintain existing fleet composition and the provision that limits transfers between size classes. That is, quota could be moved from one size class to another through an upgrade alone. If the recommended ceiling on allocation has been reached does this mean that the upgrade would not be allowed?
- Provision in the proposal that would require forfeiture of proceeds in the event of an unreconciled overage exceeding 10% cannot be enforced under existing law.
- The proposal does not include consideration of bycatch caps of groundfish in other fisheries.
- Potential social and economic impacts would need to rely on assessment of qualifiers/non-qualifiers as well as assigned quota shares. Will need to assess likely amount of consolidation.

“Stewardship Shares”

| Scoping Guidance | | | | | |
|---------------------------------|------------------------|---|--------------------------------------|--|---|
| Constraining management measure | Input or output based? | <i>Method of allocation stated; distro of TAC for all permit holders?</i> | <i>Mechanism for accountability?</i> | <i>Narrow in focus or absent detail?</i> | <i>Can it be analyzed?</i> |
| TAC, stock-specific, per-share | Output | Suggest using buyout capacity formula; yes | Strong, well specified | Broad in focus but absent some detail | Yes, though simulation may be difficult |

Major hurdles:

- Appropriate allocation of the baseline share by species and permit will need to be nailed down.
- Setting of appropriate share drawdown and reinvestment rates is unspecified and may be troublesome.
- There is a significant administrative burden for monitoring share drawdown, reinvestment, and catch by species and permit.
- There may be significant administrative issue with requiring a stock utilization plan before the fishing year

Comments or concerns:

- Potential for large discarding of a species when the shares are consumed for the limiting species

“Area Management”

| Scoping Guidance | | | | | |
|--|---|---|--|--|--|
| Constraining management measure | Input or output based? | Method of allocation stated; distro of TAC for all permit holders? | Mechanism for accountability? | Narrow in focus or absent detail? | Can it be analyzed? |
| Hard TACs, species and area-specific | Output – but may use input to slow landings | Yes, unspecified | In concept, yes...real-time monitoring | Broad in focus but absent significant detail | Yes - Biological impacts easier than economic and social |

Major hurdles:

- Legal authority to grant smaller groups management control
- Legal authority to charge industry for monitoring
- Proposed association/coop membership may not be consistent with revised M-SA RFA definitions.

Comments or concerns:

- Determination of areas
- Allocation of TACs to areas
- Transition to and implementation of local management
- Possibility of widely varying measures in different areas – possible enforcement concerns.
- Local authority compliance with legal requirements.
- Rec sector interaction.
- New M-S LAP provisions: do they apply? If so, how?
- Interactions with monkfish/skate fisheries.
- What if there are alternative organizations in one area?
- Fairness and equity standard may not apply to all issues- e.g. TACs, boundaries

“The Downeast Initiative”

| Scoping Guidance | | | | | |
|--|-------------------------------|---|--|---|--|
| Constraining management measure | Input or output based? | Method of allocation stated; distro of TAC for all permit holders? | Mechanism for accountability? | Narrow in focus or absent detail? | Can it be analyzed? |
| Hard TACs, species and area-specific | Output | Yes, unspecified | In concept, yes...real-time monitoring | Narrow in focus (but not if considered one element of broader area management system), absent some detail | Yes - Biological impacts easier than economic and social |

Major hurdles:

- Legal authority to grant smaller groups management control
- Proposed association/coop membership may not be consistent with revised M-SA RFA definitions.

Comments or concerns:

- Determination of areas
- Allocation of TACs to areas
- Determining future value of TAC for area
- Transition to and implementation of local management
- Proposed subdivision of access/effort initially calculated on a permit basis: administrative complexity.
- Local authority compliance with legal requirements.
- No entry/exit rules identified – what if a vessel/permit leaves the coop?
- New M-S LAP provisions: do they apply? If so, how?
- Permit “banking” implies revisions to current permit rules.
- Permit banking impact on non-groundfish permits.
- Coop effort/allocation metric may need to be consistent with other areas.
- What if there is a competing/alternate coop?
- “Relevant state government” – may conflict with M-SA – there ISN’T a relevant state government in federal waters.
- Linkages between other fisheries are not clearly described at this point – effects of splitting permits, etc.
- “Shares’ issue needs to be better defined.

“The Points System”

| Scoping Guidance | | | | | |
|---|------------------------|---|--------------------------------------|--|----------------------------|
| Constraining management measure | Input or output based? | <i>Method of allocation stated; distro of TAC for all permit holders?</i> | <i>Mechanism for accountability?</i> | <i>Narrow in focus or absent detail?</i> | <i>Can it be analyzed?</i> |
| Biological Point Values, Total points allocated | Output | Yes, yes | Yes, with questions | Some kinks to work out, but well-specified | Yes, with difficulty |

Major hurdles:

- All output-based systems assume a level of stock biomass understanding and certainty that may or may not be achievable...significant safeguards must be considered to account for uncertainties.
- Adequate monitoring and enforcement may require new ways of thinking about observers, enforcement (at sea and shoreside) and landing procedures.
- Command-and-control style management of Biological Point Values may distort fishery operation in ways that are difficult to analyze and predict.
- The ultimate constraint on mortality, total points (BPVs) allocated, may be insufficient to protect weak-link stocks. High BPV differentials, assumed to be necessary to protect such stocks, may lead to discarding due to large discrepancies in the open-market value of a point, the BPV for a particular fish, and its dockside price paid.
- Quantitative impacts analysis may be difficult and/or may require with high levels of uncertainty

Comments or concerns:

- Voluntary Points Contribution Program: When are points cashed out? What is the basis for the 'interest' accumulated on contributed points? Is there a social or biological benefit to this program?
- Vessel Upgrade Restrictions: are they necessary?
- Hailing/landing/offloading procedures will need to be looked at for enforceability and ability to administer.
- Why full retention of all legal (vice all) fish?
- Are points used for discarded (sub-legal) fish? If not, discards will have to be accounted for in assessing TACs.
- Initial assignment of BPVs may be difficult and, if done incorrectly, may have severe unintended consequences. Nonetheless, this remains perhaps one of the most vital components of the program.
- Periodicity of BPV change may be difficult to get right--how to determine optimal time scales? How to administer them within the regulatory framework?
- Observer coverage funding may need set-aside or other tool.
- Administrative feasibility of landings monitoring is uncertain.
- Interactions with monkfish and skate plans may need additional development.



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MEMORANDUM

DATE: March 15, 2007
TO: Multispecies (Groundfish) Oversight Committee
FROM: Groundfish Plan Development Team (PDT)
SUBJECT: **PDT Meeting, March 7, 2007**

1. The Groundfish PDT met March 7, 2007, in Falmouth, MA. The PDT reviewed management proposals for Amendment 16 that were received during scoping and were still being considered by the Council. The PDT met to develop a list of questions, issues, or concerns to be provided to the proponents of each alternative submitted through scoping that is still being considered by the Council. PDT participants were Eric Thunberg (Acting chair), Paul Nitschke, Kohl Kanwit, Chris Kellogg, Dan Holland, Paul Parker, Steve Correia, Tom Warren, Doug Christel, Jen Andersen, and Dave Potter. Multispecies Committee chair Rip Cunningham also attended. Audience members present were Phil Ruhle, Jackie O'Dell, Vito Giacalone, Chad Demarest, Sara Wetmore, and Amy VanAtten.

2. The PDT did not discuss the Downeast Initiative because they were advised that this has been withdrawn from consideration in Amendment 16. PDT members were provided three research papers for review that were submitted after the Rhode Island scoping meeting, but these were not discussed.

3. The PDT began with a discussion of issues that cut across all alternatives. Issues identified included:

1. Monitoring
2. Allocation
3. Increased Costs
4. Overlap of groundfish with monkfish and skates
5. Implementation timeline

Monitoring

- Monitoring and enforcement issues need to be considered early – some discussions at NERO have been initiated already

- Concern is that capability to do real time reporting of landings by May 1, 2009 will not be possible. Paul Parker reported discussions with John Witzig indicating that full electronic data reporting may not be up and running by implementation date.
- Note that enhanced discard reporting may also need to be developed.
- Doug Christel noted that development of enhanced monitoring has three potential components; VMS, land-based (dealer), and sea-based. NMFS is currently trying to identify what combination of these systems needs to be developed to meet monitoring requirements. This activity may require additional funding. It is also necessary to determine what frequency of data is necessary to implement the proposals: must it be daily? Is trip level data frequent enough?
- Implication is that funding, human resources, and delivery systems need to be developed. This will take time that could have implications for implementation.
- Observer Program – Dave Potter
 - Due to the budget planning process funding levels for 2008 and 2009 (fiscal years) have already been submitted and not subject to change and even 2010 may be difficult. This means that without a specific appropriation outside the budget process the planned for level of funds would be not sufficient to ramp up observer coverage in time for implementation.
 - Ability to train observers not necessarily a major problem. Takes approximately 90 days from recruitment to placement in the field including training. Training can accommodate about 15-20 people. Depending on what level of observer coverage may be required, the time needed to train multiple cohorts means that training would have to take place before May, 2009 but the earlier cohorts may have little or no work until A16 is implemented.
 - Data collected by observers consists of OBSCON and paper logs. The former is a subset of information entered using a PDA and made available within 2 days after completion of a trip. Additional fields may be added to this system but additional programming would be required. The detailed observer logs are submitted with a turn-around time of about 90 days including data entry and all audits.
 - Note that “real-time” data reporting always will involve some time lag between the data stream and when it is ready for use. This suggests that some thought needs to be put into what real-time monitoring means and what time-step may be acceptable.
 - Observer contract has a five-year life cycle so costs are locked in with modest annual cost increases.
 - Video-Monitoring – does introduce some flexibility in that advance notification to get an observer on board would not be required. Effectiveness as a monitoring tool depends on the type of gear used and whether species and length identification is required. Video monitoring effective for bottom longline because all fish come on board on at a time and at a fixed location. Other gears not so much. If there is a full retention requirement video monitoring would be capable of identifying discarding. Otherwise, capability to identify species and lengths is not adequately developed as of yet.

Allocation

- Refers to timing issues associated with implementation of new alternatives that are departures from current DAS allocations. Here, early decision by Council will facilitate timely implementation of any new allocations (the point system for example) and allow for appeals etc.

Costs – Budget, manpower, timelines

- Administrative costs – more demanding data collection systems as well as need to overhaul computer software needed to adjust existing systems to accommodate anything new. This process takes time and the ability to get all systems ready in time for implementation is questionable. Increased observer program costs.
- Industry costs – there may be increased use of VMS that will result in higher costs to industry.

Overlay of Monkfish and Skates

- There was some discussion of the need to fold monkfish and skates into groundfish plan. The PDT reiterates that if DAS controls are removed, there are implications for monkfish and skate management since these FMPs rely on groundfish effort controls.

4. Comments on specific proposals are on the following pages.

Evaluation of Recreational Limited Entry Proposal

As proposed, the limited entry program would rely on existing data and contains few qualification criteria. Because of its simplicity the proposal should be fairly easy to analyze as a stand-alone measure. The following issues or concerns were identified.

Rationale

- The rationale contains several assertions that may need to be supported. Further development of the rationale is needed to match the rationale with the limited entry plan itself. For example, limited entry would not, in and of itself, obviate the need for additional management of the recreational sector in general or the P/C sector in particular. The assertions that need to be examined are:
 1. Are new entrants “streaming” into the fishery? Note that data indicate an average annual exit of 30 to 40 participants but an annual entry ranging from 30 to 58 vessels. Net entry spiked at 26 participating vessels in 2001 and net increases of 6 and 9 vessels in 2004 and 2005 respectively (see Figure 1).
 2. Has recreational sector been cut back disproportionate to its impact?
 3. Is 10 cod per day an absolute minimum?
 4. No change in size, no change in bag limits, no further season closures, implies that limited entry would exempt the sector from further regulation – this needs to be rebutted as this may not be the case.
 5. Contrary to the implications of the rationale, limited entry does not afford commercial vessels protection from competition from new entrants, nor does it offer protection from additional management restrictions. Limited access was implemented to control growth in fishing effort. If this measure is designed primarily to limit competition in the party/charter fleet it may conflict with M-S Act guidelines and other legal requirements.

Qualification Criteria

1. The management area is identified as the GOM regulated mesh area. The proposal lists areas not subject to the limited access proposal as “GB/CC/SNE/MA stock areas.” We assume that CC refers to Cape Cod which creates some ambiguity as to where the proposal applies. For purposes of clarity, it may be simpler to identify the accepted GOM statistical areas of 511, 512, 513, 514, and 515.
2. The species list may need to be reconsidered. Monkfish and skates are not regulated under the Multispecies FMP. It may be inappropriate to establish recreational fishing possession restrictions for these species through the Multispecies FMP. The term “GOM groundfish species...” should be dropped since several of the listed species are single-stock species. Further, any reference to stock area in the species list is unnecessary since stock area is embedded in the management area and qualification criteria.
3. The qualification period should include specific dates (i.e. March 30, 2001 to March 30, 2006).
4. The qualification criteria may need to provide a definition of a P/C trip. Is it sufficient to produce a VTR that merely checked-off the party/charter box on the logbook, regardless of whether any passengers were reported or what gear was used? There are VTR records that used gear other than hooks where the P/C box was checked on the logbook. There are other records that checked the P/C box, yet did not report taking passengers.

5. The qualification criteria need to clearly define what is meant by a “P/C boat”. Is it the intent to exclude vessels that engage in a combination of commercial fishing and taking passengers for hire? Will a vessel be able to qualify for a P/C permit and retain its groundfish commercial limited access permit, and participate in both fisheries (as is currently allowed)?
6. Is it the intent that an individual that had no prior participation in the P/C business would qualify for a limited access permit if a vessel was under construction prior to the control date?
7. Does history exist for open access permit categories? Not a problem if a vessel has not been sold or replaced but could be a problem if ownership has been transferred.
8. The upgrade provision for horsepower and boat size may need to be consistent with existing regulations for multispecies permit holders. Also, the reason for the upgrade provision needs to be clarified. That is, the provisions are written as if the only thing affecting capacity is the number of passengers. What is the rationale to prohibit vessels that now are limited to six passengers from upgrading?
9. The permit transferability provision needs to be consistent with existing regulations that do not allow permit splitting.

Additional PDT Discussion:

- Do the proponents want to address consolidation? There are limits on numbers of vessels that may be owned in the scallop plan but none in the groundfish plan.
- If limits on consolidation are desirable should these limits be based on passenger capacity or number of permits?
- PDT discussion ventured into the potential joint effects of limited entry and an anticipated follow-up request for an allocation of GOM cod and/or haddock. Some felt that the limited entry proposal and a sector share allocation should be considered as a joint proposal. This observation was based on the assumption that the P/C sector would be asking for its own allocation. Rip Cunningham, Groundfish Committee chair, clarified that the RAP was recommending an allocation for the recreational fishing (private and P/C) sector as a whole and not for a separate allocation for the P/C sector alone. If this approach is followed, it means that if the recreational (including P/C) sector exceeds an allocation in the future, it will not be possible to identify whether private boats or P/C boats need additional restrictions.

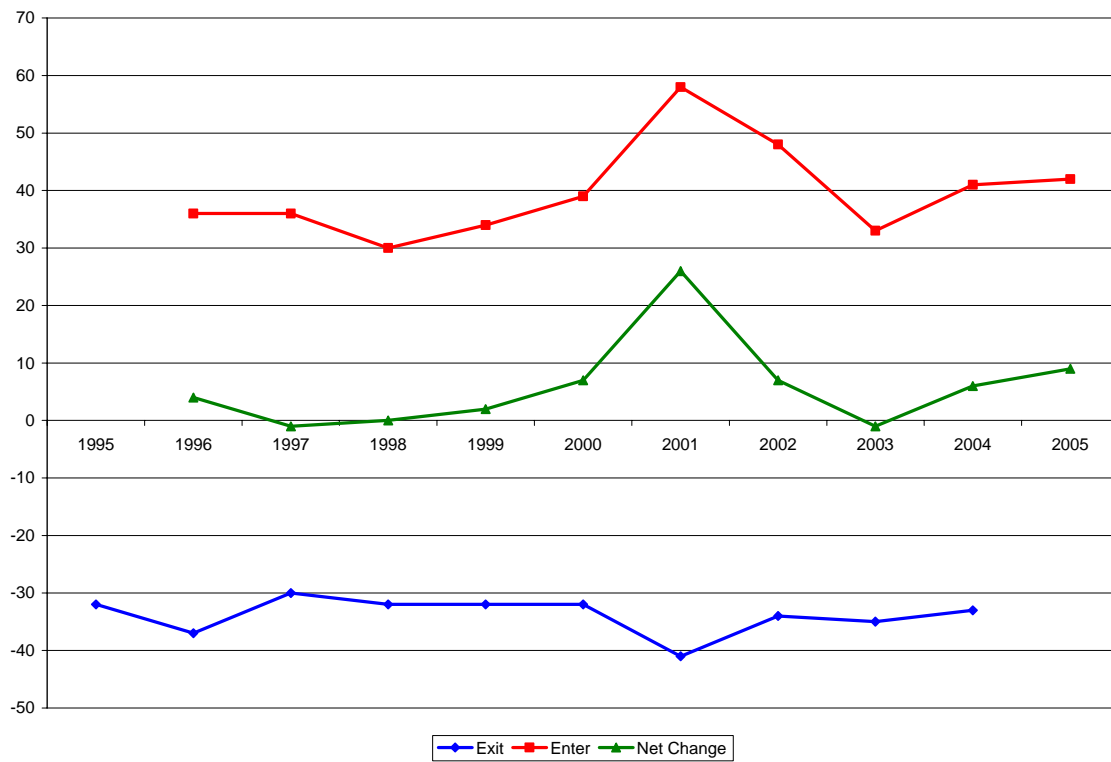


Figure 1. Annual number of entry and exiting vessels carrying passengers for hire in the Gulf of Maine

Evaluation of The Points System

The PDT reiterates the comments provided to the Groundfish Committee in January. Additional or expanded comments are provided below. The discussion was lead by Dan Holland.

Determining initial points allocation

There was an issue with trying to use upgraded baselines for allocation but this has apparently been resolved. Apparently there is no such thing as an upgraded baseline and the plan would be to use the legal vessel baselines.

Including monkfish and skates in the allocation formula may have distributive effects on the initial allocation that are different than the distributive effects of the existing Amendment 13 DAS allocation.

Monitoring point use on multi-area trips

The proposal does not preclude vessels from fishing in more than one stock area on a given trip. It would probably not be possible to allocate catches from a given trip across more than one stock area for the purposes of charging points unless you had full observer coverage.

The proposal suggests that in those cases, the vessel would simply be charged the highest point value for the species (e.g. if they had caught yellowtail flounder and had been on Georges Bank and in the Cape Cod area, they would be charged the higher point value for all of the yellowtail). VMS could be used to ensure compliance. However, there is also a need to account for transiting vessels which could be tricky. One way to deal with this might be to require vessels to declare which areas they will fish in before they go into them. If they declare more than one area on trip they get charged the higher point value. If they don't declare an area and are caught fishing in it without declaring they would be subject to penalties.

There is also a separate question of allocating catches to stocks for the purpose of tracking overall catches relative to TACs. This information may be needed in-season in near real time to either adjust point values or shut down areas if there is a hard TAC backstop. Thus even if, for the purposes of charging points, you assign all catch to the highest point value area, you would still need to determine the percentage going to different areas for the purposes of monitoring catch relative to the TAC. You could use the VTR data for this, but it would need to be available more quickly than it is now. Alternatively you could require landings be assigned to areas in dealer reports. There could be incentives to misreport (on VTR as well) but these should not be too strong if they don't affect the point value being charged.

Hailing, landing, offloading procedures

NERO says a hailing requirement is not absolutely necessary and they could use regular dealer reporting for catch accounting (use of points), however it would be useful for enforcement. Proponents pointed out that the purpose is to create a window of opportunity for enforcement and that the hail should be species specific weights so that they can target enforcement on high point species. It is not clear what legal ramifications and penalties there would be for a false hail.

Note that hail would also provide verification or check against what is reported to a dealer. Note also that the hail has the added advantage of being a single source declaration. This may be helpful when tracking sales to multiple dealers.

It is not clear that the magnetic strip cards that were proposed as a way to account for catches and points in real time are really necessary. They would duplicate the dealer reporting system.

Time constraints on implementing

This was discussed in the cross-cutting discussion on all plans at the beginning of the meeting. There are definitely concerns about ability to implement by May 2009 given current budgets.

It is possible this system may require a referendum under the LAPP provisions of the M-S Act which may delay implementation.

Monkfish and Skates

There is definitely a concern that if monkfish and skates are not included in the point system the utility of the system would be seriously undermined because you would still need effort limits to manage these stocks.

Setting and adjusting BPVs

This is probably the biggest area of concern. Excessive variability in BPVs would make business planning difficult. If there is a bias toward setting them too low and then raising them that could fuel a derby. If there is a bias toward setting them high and lowering them that would be unfair for people that only fish early in the year (probably smaller boats that fish in better weather).

Simple simulations suggest that you may need to adjust BPVs at least monthly to match the dynamics of the fishery. NERO says a federal rule is needed every time a BPV is changed, so at best it could be done with a week's notice. NMFS, however, cautions that they cannot guarantee adjustments will be made according to a pre-specified schedule. It sounds like monthly changes might be feasible but you would still need lead time on the change for the rule making.

Phil Ruhle made the point that changes in point values that affect landings of different species will affect prices which will affect incentives. If a high point value causes landings to fall, prices may go up thereby weakening the incentive of the high point price to stay off that species. Alternatively, if a low point price attracts effort it may drive the price of fish down. That would tend to offset the impact of the low point price in drawing effort. It might be necessary to factor this in when modeling how point prices will work. The degree to which these price impacts are important depends on price elasticities. It might be useful to have NEFSC economists determine whether these price elasticities are high.

It is not clear whether the onus is on the proponents of this plan or the PDT to design and test the specific mechanism for setting and adjusting points. Ultimately the PDT will be responsible for verifying the mechanism will achieve management goals, but absent substantial input from the proponents in developing this mechanism the plan may not move forward. The NESC is planning a technical workshop to address this issue.

Backstops to prevent overfishing

The proposed plan does not include a hard TAC backstop. Some PDT members expressed concern about whether this is a problem and could lead to overfishing of some stocks. NERO says it is not yet clear what the guidance following the M-S Act reauthorization will say about accountability and the ability to allow overages, perhaps if they are subtracted the next year.

The current plan is to adjust BPVs as necessary to avoid overfishing. However, that poses problems discussed above.

There is also a question of how discards will be accounted for. One of the options would require full retention. However, for the other there would likely have to be a set aside of the TAC for discards.

What is the overlay between Eastern Canada area TACs with overall stock TACs and the interaction with the point system? It is not clear that any changes in measures necessarily result in changes to management of the Eastern US/CA area. Should there be a separate point value for these areas? A similar concern exists for SAPs.

If there is a hard TAC for the Eastern Canada area, but not separate point values for that area, that could result in a derby, though not all PDT members agree. One option would be to have separate point values in areas with their own TACS so that catch could be controlled. This approach, however, complicates administration of the point system.

Note that potential set asides for other fisheries (herring, scallops for example) would also need to be considered. These set-asides would mean that more catch would need to be taken off the top of the total TAC which would mean that the more that is set aside the higher the starting BPVs will need to be. Also note that the overlay of the point system and sectors needs to be addressed more clearly.

Compliance issues

There are three major compliance issues to consider. The first is that the plan may create strong incentives for discarding high point value fish. Discarding might not be allowed, but enforcement could be costly. It is not clear what level of observer coverage might be required and what other compliance measures might help, but there is concern that the current level of observer coverage would not be sufficient.

The second concern would be people assigning fish to the wrong area. This might be dealt with by requiring vessels to declare into areas before or while on the trip before fishing in them. They would then be charged the higher point values for the areas they fished. They could be fined for fishing in an area they had not declared into. It might be possible to use VMS positions (without area declarations) to track fishing activity and charge the appropriate BPVs, but NMFS is not currently set up to use this data in this way. There is also the question of how to allow transiting an area without incurring the point value in that area.

The third major compliance issue is recording the wrong species to reduce point use (e.g. call a cod a haddock if it has a lower point value). Dockside monitoring, particularly if combined with hailing requirements should be able to control this problem. However, a much higher level of dockside monitoring is probably necessary.

Is there an understanding that a BPV for a particular stock may approach infinity as the TAC is approached?

Can a vessel fish in an area if it does not have enough points available to catch a small amount of one of the stocks in the area?

Additional PDT Discussion:

- NESCC provided some clarification that the point system has the flexibility to deal with any specified conservation objective. That is, the point system is flexible enough to accommodate a hard TAC objective or a policy that may allow for some acceptable range of overages. Guidance from the Council is being sought.
- Development of an analytical model is unaffected by the conservation objective. That is, a more stringent conservation objective would just mean that the BPVs would be set at different rates without changing the algorithm needed to calculate them.
- Incentive for at-sea discards is believed to remain high. A no-discard provision may make monitoring more cost-effective since it would introduce a greater range of monitoring possibilities including video monitoring.
- Modeling done to date (i.e. materials submitted at scoping) is not sufficient to demonstrate that the system will work nor is it likely to be adequate modeling approach for setting BPVs.
- In terms of model development the time-step needs to be consistent with the known time frame including administration and implementation needed to actually notify all affected vessels of the change. That is, if the time frame needed to implement a change is a quarter then the algorithm would need to be based on a quarterly time step. Note that this has implications for setting initial BPV where the initial BPV will likely be higher the longer the time step.
- The responsibility for developing, testing, and operating the computer model that determines BPVs must be clarified.
- How would vessels not under DAS be treated under the point system? Note that qualification criteria state that only limited access vessels with a category A DAS allocation would receive an allocation of points. This leaves limited access hand-gear, limited access 30-foot DAS exempt vessels, and any open access permit categories outside the point system.

Evaluation of DAS Alternatives

The PDT reiterates the comments provided in January.

- Under revised DAS, public comment received on FW42 expressed reservations regarding vessel safety if DAS are counted as 24 hours. The proponents need to demonstrate why the 24 hour DAS counting would not be a safety issue.
- Under the DAS performance plan, there would be a need to double track DAS while on a fishing trip. That is, upon call-in DAS would need to be tracked until call-out which would require an adjustment based on species composition.
- The proposal for the performance plan includes 4 different DAS counting procedures depending on trip duration, area fished, and species caught.
- The performance plan has many of the same issues that the point system does. These include, tracking landings in multiple stock areas, issues with compliance, making in-season adjustments to DAS charges etc.
- Should the performance plan be pursued, the Council should be aware that the specific differential DAS counting rates may differ from those currently in effect. These will need to be calculated after stock status is estimated in GARM III.

Evaluation of Area Management

The PDT reiterates some of the comments provided in January. Additional comments are below.

What has been submitted through scoping reflects a vision for the future. The comments submitted through scoping have the appearance of being impracticable for a May 2009 implementation date since what is envisioned includes institutional or governance arrangements that have yet to be developed and demands a level of fine-scale science that present data collection systems is unlikely to be able to support. For purposes of A16, what is needed is a dialogue between the PDT and the proponents to clarify a programmatic approach that would allow for scientific and governance institutions to evolve over time. Put simply, what would be implemented on May 1, 2009 and what processes would be codified to allow area management to evolve?

1. Determination of areas: The proposal gives only general guidance on determining areas and suggests only one area division (between the inshore and offshore GOM). It is not clear how ecological information is to be used in determining area boundaries. While it may be that there are clear ecological divisions, that is uncertain at this point (the PDT has not yet reviewed recent NEFSC ecological work that may bear on this issue). The number of areas is not specified. During A13, there was considerable debate over where area boundaries should be located and five or six alternatives were put forward. Reaching agreement on area boundaries could be time consuming. Declaring a primary area: is this vessel or permit specific? Could a vessel owner with two permits declare into two different areas and then move the permits on and off the vessel depending where he wants to fish?
2. Assigning TACs to areas: The proposal does not describe a method to allocate TACs to areas and gives only general guidance on what information should be considered. The TACs for the US/CA area are based solely on historic landings and recent survey info, allowing creation of a formula to divide the overall TAC between countries. While this approach could also be used for area management, there are a number of issues: (a) the time period for historic catches is not specified (b) depending on area boundaries there may be few survey tows on which to base allocations (c) some stocks will overlap area boundaries, complicating monitoring of stock and area specific TACs (area TACs might be species specific, but stock specific TACs still shouldn't be exceeded – it is possible that this could occur if two stocks of the same species overlap an area). The AMC, however, suggests considering other factors (fish tagging, biological info, DAS, VTRs, etc.) and it is not specified how those factors would be incorporated into a TAC distribution formula.
3. Assigning TACs to areas: The proposal is not clear on how the part of an area TAC assigned to those vessels that do not declare into the area is treated. When this is caught, are vessels that did not sign-in prohibited from fishing in the area?
4. Local governance: It appears the AMC may be backing off some of the local governance issues, at least when area management is first adopted, so the PDT's earlier comments may not be germane.

5. Enforcement and monitoring: As noted above, it is not clear how the set-aside for vessels not declared into the area is treated. This set-aside complicates monitoring of TACs as it potentially doubles the number of TACs that must be monitored. It is not clear what time period is used to allocate TACs – does this differ by area? The TAC monitoring Option 2 (110% overage provision) isn't clear, but appears to allow a TAC overage which would conflict with the law (the PDT is not certain this is the case- the provision first talks about a set aside, and I can't tell if this set aside is meant to make sure that even if 110% of what remains is caught the overall TAC is not exceeded). Overages in another area may very well impact fishing in an area that stayed within its limit – this needs to be thought through and spelled out – up to a point, transfers from the offending area may buffer the impact on an area that remains within its TAC, but a larger overage could impact any area. Observer funding - rules on this aren't clear, clarification is needed from NOAA GC about whether an overall "tax" can be used to fund observer coverage. Enforcement mechanism: the proposal seems to imply more direct influence on enforcement actions by participants in an area, but this may not be possible with the current enforcement system.
6. Default measures: Transition to area specific measures must be specified, and measures are not addressed for areas other than the GOM. All areas should rely on the same basic tools for consistency (whether that is points, DAS, or something else). Vastly different rules between areas could make enforcement difficult- for example, if one area retains DAS and another does not (this also could complicate future management, permit transfers, etc.).
7. Biological justification for area management only addresses GOM and not other areas.
8. Overlap with other fisheries (in particular skates, monkfish, scallops) must be addressed. This will expand scope of A16 if area management is applied to skates and monkfish.

Additional PDT Discussion:

- Based on a careful reading of the proposal what appears to be contemplated for implementation on May 1, 2009 would be 1) designation of areas (Inshore GOM, Offshore GOM, GB, and SNE), 2) Assignment of TACs to each area, 3) default management measures for each area and 4) appointment of Area Advisory Panels (AAP) that would deliberate and replace the default management measures with those recommended by the AAPs.
- Default management measures listed by proponents are limited to indirect controls. Other more direct effort controls may need to be developed.
- Concerns expressed over ability to assign TAC for both single stocks and for stocks like CC/GOM yellowtail that would require an allocation for 3 different areas.
- The area management proposal could be considered a hard TAC proposal, yet very little detail is provided on how this TAC system will be constructed. The proposal is silent on what would happen if a hard TAC is reached. The proposal is silent on whether there will be a single species TAC for an area, or separate TACs for different stocks of the same species if the area boundaries overlap stock boundaries.
- Note that the proposal is not a global hard TAC but is hard TAC-based nevertheless.
- The proposal suggests a 20% set aside for vessels that do not designate an area. What justification is there for the 20% set aside?

- The initial proposal indicated that area designation would be for three years while a more recent draft suggests an annual declaration. How would management measures be adjusted if declarations by area vary from year to year?
- How would any pre-existing sectors or new sectors which are not necessarily area based be affected?
- Is it likely that derbies would emerge for area-specific set-asides?
- Is area management all-or-nothing? The proposal suggests that this is the case. If not, how would area management be integrated with the points system or DAS?
- Note that the suggested initial area designations contain a large degree of heterogeneity in the fleets operating in those areas. This heterogeneity may make coming to agreement on area-specific management measures very difficult. As areas become smaller and smaller the population of individuals fishing there is likely to be more homogeneous which will facilitate reaching agreement.