

# **New England Fishery Management Council Groundfish Oversight Committee**

Meeting Summary  
August 2, 2012

The Groundfish Oversight Committee met in Portsmouth, NH to continue development of Frameworks Adjustment 48 to the Northeast Multispecies Fishery Management Plan. The Committee also discussed a report from the National Marine Fisheries Service that highlighted possible large reductions in catch for several stocks in fishing year 2013. The Committee spent time developing measures that might mitigate the impacts of the catch reductions. Committee members present were Mr. Terry Stockwell (Chair), Mr. Tom Dempsey, (Vice Chair), Mr. Jim Odlin, Mr. David Preble, Mr. Frank Blount, Ms. Laura Ramsden, Ms. Susan Murphy, Ms. Melanie Griffin, Mr. Erling Berg, Mr. Dave Goethel and Mr. Rip Cunningham. Council staff Tom Nies and Fiona Hogan, NMFS/NERO staff Michael Ruccio, and NOAA General Counsel Gene Martin supported the Committee.

Documents used by the Committee included a Groundfish PDT report dated (with enclosures on full retention, discard length frequencies, and at-sea monitoring issues) and draft FW 48 management measures dated July 27, 2012.

## **FY 2013 Preliminary Catch Information**

Mr. Cunningham gave the Committee a brief overview of an Executive Committee meeting held July 30, 2012. At the meeting NMFS representatives provided the Committee preliminary estimates of the catch reductions that are likely for FY 2013, and urged the Council to pursue measures that might mitigate the impacts of the large reductions. Mr. Sam Rauch, Deputy Assistant Administrator for NMFS, joined the meeting by conference call. He emphasized the gravity of the situation and urged the Committee and the Council to try and mitigate the impacts. Several assessments will be updated later this year (GB cod, GOM cod, white hake), so these preliminary catch estimates could change up or down. While NMFS has met with congressional staffs the meeting was focused on collaboration on science. M. Rauch emphasized that as a regulatory body there were only certain things NMFS could do and the Council had broader authority.

Public comment included

- Mr. Angelo Ciocca: Nova Seafoods, Inc. We are always in crisis and we always hear what cannot be done. Someone needs to tell the NE branch of NMFS they have failed in their mission. Assessment models are not working but we keep using them. Someone needs to make changes in New England or there won't be a fishery left. We need to look outside the box and find solutions. We have dogfish, seals, eating codfish all day .Too many factions on the Council have too many different agendas. We need good leadership instead of the all talk-no action approach we have been getting.
- Mr. Richie Canastra, BASE New England. This is a disaster, vessels are hanging on by their shirttails, landings are down 30 percent. We need to restructure the law and

management. I hope you can lead the industry and science into common sense fisheries. If we do not do something we will see the greatest disaster that ever happened in fisheries.

Mr. Goethel suggested that a way out of this problem was to define a multispecies complex with overfishing and overfished definitions for the entire complex and set a basket TAC. Mr. Rauch pointed out that NMFS was revisiting the National Standard Guidelines and this proposal could be looked at. He pointed out that if this could be done it would still take an amendment to the FMP to implement, and urged the Committee to focus on what could be done by 2013. Mr. Rauch encouraged the Committee to consider ideas that will save the industry. The Agency does not want to see the industry collapse, but it is hard to see how it can be preserved completely. The Council needs to discuss specific management measures that may help. The Chair thanked Mr. Rauch for his time and input.

Mr. Cunningham told the Committee that the Council was drafting a letter to NOAA on the possibility of a fishery disaster. Committee members asked what the timeline was for the possible changes to the NSGs; they were told the comment period on the Advanced Notice for Proposed Rulemaking did not end until September 15, so any draft changes were months away from publication. After a question from staff, Mr. Martin briefed the Committee that the current agency position, upheld by federal court, is that we have to manage on a stock by stock basis. The issue was still being litigated and a court could revise that position, or the agency might change its policy guidance, but at present the Council is required to manage on a stock by stock basis. He noted this is unlikely to change by September, and affirmed that this is a national position held by the agency and not a regional interpretation.

Committee members agreed to return to a discussion of specific measures for 2013 later in the agenda, but also commented that a longer term fix (such as EBFM or other approaches) should not be completely abandoned.

## **At-Sea Monitoring Issues**

### *Length Frequency of Discards*

Fiona Hogan gave a short overview of a Plan Development Team (PDT) summary of the length–frequency (l-f) of discards observed in the trawl fishery. The report was prepared in response to a Committee request. After summarizing the l-f for several stocks, she reported the major PDT conclusions: reducing the minimum size by one inch will reduce discards for most, but not all groundfish species, and changes to trawl gear mesh size or configuration could also reduce discards.

A Committee member asked how catching smaller fish would affect yield per recruit; staff advised that generally, if fishing behavior changes and selectivity shifts to smaller fish, yield per recruit would decline, reducing MSY and  $F_{MSY}$ . There could also be impacts on recruitment if the ages of fish in the population are reduced, as often larger fish are more successful spawners. A Committee member commented that U.S. and Canadian vessels catch the same size fish in the US/CA area, even though the Canadians do not have a minimum size limit.

## *Monitoring Bias*

Council staff updated the Committee on PDT work on determining the appropriate level of monitoring for sectors. A presentation illustrated the interaction between coefficient of variation (CV), discard rates, and the amount of ACE caught, as well as the effect of biased discard estimates on these factors. The PDT believes that using CV alone as the standard for determining coverage levels may not be the best way to proceed. This work is ongoing and the PDT is not ready yet to make a firm recommendation on how these factors should be used. Mr. Martin urged pursuit of this work in order to make it easier for sectors to know how much coverage is needed. This work is closely linked to the response to the lawsuit on the monitoring provisions of Amendment 16.

After the presentation the Committee discussed other ASM issues. A Committee member noted that the industry would be unable to fund ASM in 2013 given the low ABCs/ACLs that were expected, yet this would still be required under Amendment 16. The Committee confirmed with Mr. Martin that the funding mechanisms under development could not be adopted in a framework.

**Motion:** To move section 4.2.2.4 (Option 4, industry ASM cost responsibility) and section 4.2.2.5 (option 5, industry funding mechanisms) of the draft framework document to the considered and rejected portion of FW 48. (Mr. Dempsey/Mr. Preble)

The intent of this motion is to simplify the framework by stopping work on the funding mechanisms (which can only be adopted in an amendment), and to reduce industry funding requirements. Public comment included:

- Ms. Maggie Raymond, AFM: If section 4.2.2.2 is removed, wouldn't industry have to fund all costs? Would this prevent the industry from volunteering to pay for observers in order to gain access (for example, the redfish fishery)?

Ms. Murphy noted that the current regulations require industry funding. A suggestion was made that if there was no agency funding for ASM, coverage levels should revert to the NEFOP level. Mr. Martin reminded the Committee that NMFS is on record as saying that the SBRM levels alone are not sufficient for management of sectors, and that monitoring levels would be higher.

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

Staff was asked if there were other measures that could be easily removed from FW 48, but did not offer any other suggestions.

## **Measures to Mitigate Decreased Specifications in FY 2013**

The Committee returned to the concerns raised about the reduced specifications for FY 2013, and began a discussion of the options that might mitigate to some extent the impacts on the fishery. In concept, the Committee attempted to identify measures that might allow additional

harvest of healthy stocks such as GB haddock, pollock, or redfish. The Committee considered adding an option that would adopt a smaller minimum fish size, in addition to the No Action and Full Retention options already under consideration.

**Motion:** To add an option to FW 48 section 4.2.2.3 to change minimum sizes as shown in the last column in the table of the PDT report (reproduced below) rounded up to the nearest inch:

<b>Species</b>	<b>Minimum Size to reduce most discards</b>
Cod	18.9 in. (48 cm)
Haddock	15.7 in (40 cm)
Pollock	14.2 in. (36 cm)
Witch Flounder (gray sole)	10.6 in. (27 cm)
Yellowtail Flounder	11.8 in (30 cm)
American Plaice (dab)	5.5 in. (25 cm)
Atlantic Halibut	41 (104.1 cm)
Winter Flounder (blackback)	7.5 in. (19 cm)
Redfish	7.1 in. (18 cm)

(Mr. Preble/Mr. Goethel)

The intent of this motion is to select a minimum size that links to the observed length-frequency of discards using current gear; the size chosen should eliminate most discards and convert them to landings. A Committee member expressed concern given the assumption of that all discards are dead; it was noted that this may change, at least for some stocks. Public comment included:

- Ms. Jackie Odell: NES. We support this as an option for consideration. It will help reduce yellowtail flounder discards.

The motion carried on a show of hands (8-0-2).

The Committee next considered allowing access to groundfish closed areas.

**Motion:** the Committee requests the Council include in this framework the following options in FW 48:

1. Open the Nantucket Light Ship closed area year round.
2. Open closed Area I from May 1 – February 15 for the use of selective fishing gear.
3. Open Closed Area II south of 41-50N from May 1 through February 15 for the use of selective fishing gear.
4. Open the Western Gulf of Maine Closed Area, except for the area within the WGOM closed area referred to as “Jeffreys Ledge” on page 5 of the Habitat PDT memo dated August 15, 2011.

5. Open the Cashes Ledge Closed Area year round except for the areas around Ammen Rock identified as Habitat Area, consistent with the Habitat PDT recommendation #4 on page 3 of the Habitat PDT memo dated August 15, 2011.
6. Items 4 and 5 are to consider recent changes that may have been made by the Habitat Committee

(Mr. Odlin/Mr. Preble)

Mr. Odlin explained that this motion was to provide opportunities to catch more pollock, GB haddock, and redfish, as well as other species, so that the reduced ACLs could be mitigated by catching and landing more of these healthy stocks. He did not believe this would slow the habitat amendment because staff was being reassigned. The motion is intended to mitigate a disaster the fishery is facing in 2013, and to allow the fishery to fish on healthier stocks in higher concentrations. It is broad to allow even smaller boats to access pollock. A Committee member questioned whether opening the WGOM closed area would affect wolffish, and would also lead to increased catches of haddock and cod, two stocks that will have limited ACLs in FY 2013.

Staff asked Mr. Martin if these changes could be adopted in a framework action, and if they would require habitat analyses since they proposed allowing mobile gear in areas that are currently closed. Mr. Martin said he thought this could be done in a framework but that is an issue to be concerned about and would need to be carefully considered. If habitat areas are modified, the action would require a thorough evaluation of whether the impacts of fishing on EFH were being mitigated to the extent practicable. Since the habitat areas apply to gears, the EFH impacts may need to be considered for species other than groundfish. A committee member asked if the framework measure should note that the areas could get modified in the Omnibus habitat amendment; Mr. Martin replied that was not required.

Council staff expressed concern about the impact of this motion on workloads and priorities, and the possibility it may slow completion of the omnibus amendment. Committee members did not agree and felt this would speed the amendment and was consistent with the objective of expediting its completion. Ms. Murphy asked if this would be a separate framework - the Chair replied that was an option if necessary to complete the work in time. She also asked what was meant about the areas and season for selective gear in CAI and CAII – are these intended to be just for groundfish? The maker of the motion replied that was the case.

Public comment included:

- Mr. Drew Mienkiewicz: Fisheries Survival Fund (FSF). The Northern Edge needs to be considered so it can be opened for scallop fishery access.
- Mr. Ron Somolowitz: This motion is insufficient. You should just do away with the year round closures – CAI, CII, NLCA, WGOM - and then analyze the impacts. This will shift effort from areas that are more complex to areas that are less complex. This would then allow the scallop fishery to meet its objectives. The motion is too complex – just open those areas up.

- Aaron Dority: Penobscot East Resource Center. Remember to consider the importance of closed areas on the age structure of cod. There is a much broader structure inside the closed areas. Larger fish are more fecund and more successful spawners.

Two Committee members spoke in favor of the motion. They felt the changes would help some people next year, if in place in May or as soon after May as possible. Another Committee member expressed concern with making these changes in a framework, but supported consideration of the option.

The motion carried on a show of hands (8-0-2).

### **TRAC Overview**

Council staff gave a short overview of the results from the 2012 Transboundary Resource Assessment Committee (TRAC) meeting. Assessment results were summarized for Eastern GB cod, Eastern GB haddock, and GB yellowtail flounder. Preliminary results indicate quotas for EGB cod and GB yellowtail will be reduced in 2013 due to small stock sizes and changes in the U.S. resource share. Public comment included:

- Mr. Richard Allen: One of these reports indicates how much a stock will increase in the absence of fishing. This is useful information and should be included in every report. If we are looking for new approaches, people might be willing to make an investment in conservation and get a return.
- Mr. Drew Mintkiewicz: I attended the GB yellowtail flounder assessment. The catch advice is based on a series of fixes to adjust an assessment that no one has confidence in. We should be using other methods for the catch advice. We should not use an assessment that we know is flawed. The model results do not match the survey results.

A Committee member highlighted the results for GB yellowtail flounder and said the Council needed to consider measures to react to the expected low quotas.

**Motion:** To include an option in FW 48 that considers going to 0 possession on GB yellowtail flounder and not allocate the resource to sectors in FY 2013. (Mr. Odlin/Mr. Goethel)

Mr. Odlin explained that the stock was in such poor shape that directed fishing should not be allowed on this stock. This approach worked for SNE/MA winter flounder. There might be a need for a new type of AM for this stock if this measure is adopted, such as a gear restricted areas. Public comment included:

- Mr. Ron Smolowitz: FSF. This is the only choice you have. It will identify areas where there is a bycatch problem that exist independent of a target fishery.
- Mr. Vito Giacalone: NESF. We haven't yet given this a lot of thought, but are concerned that there is a problem with how we allocate to sectors. Members are concerned that if left at 0 possession, those vessels without an allocation have nothing to

lose and discard without limits. Accountability passes down to those who have an allocation . We are not sure this is an appropriate tool. There is no incentive to prevent catches, this should not be taken lightly.

- Mr. Rich Canastra: BASE. Vessel owners with yellowtail flounder allocations are against 0 possession. Fishermen can avoid yellowtail flounder. We are down 80 pct on that stock so far this year. Let's get the science right.

A Committee member suggested looking at what trips are producing yellowtail flounder and determine if there is a trip limit that reduces bycatch. Another also expressed concern with no possession allowed, and did not like the idea of laying effort controls over the sector system.

The maker of the motion argues that with a 90 percent reduction in ACE, as is expected, boats will not be to go to GB for even one day. They will go to GOM and there will be huge shifts in fishing effort. Some vessels will not have any allocation and will not go to GB at all unless a measure like this is adopted.

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

A Committee member next raised the issue of cod discard mortality. He reported on a working group of industry and scientists that met recently and reached agreement on appropriate gear specific discard mortality assumptions. The assessment and management tracks are different however, so he said it was important to address the issue in a management action to make sure the new values are adopted for quota monitoring.

**Motion:** To recommend the Council request NMFS incorporate the science based recommendations from the Atlantic Cod Discard Mortality Workshop into ACE tracking for both cod stocks and all gear types beginning in FY 2013. (Mr. Dempsey/ Ms. Ramsden)

Staff asked several questions about the motion, noting that as worded it was a in the form of a request to NMFS and not a measure for the framework. Ms. Murphy noted that if the assumptions are adopted by the SARC, NERO would use them for quota monitoring purposes whether or not there is a Council action. The maker of the motion clarified that his intent is for the Council to go on record that this be adopted by NMFS as quickly as possible.

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

The Committee returned to ASM issues.

**Motion:** To include an alternative that in the event of insufficient government at sea monitoring funding, the level of coverage reverts to the NEFOP rate of coverage. (Mr. Goethel/Mr. Odlin)

Mr. Goethel explained that this gives the Council another alternative for consideration and specifies what the Council wishes to happen. The Council cannot lobby Congress but this tells them what should happen if the money for ASM is not provided; he felt tying the industry to the

pier was not a good option either. Ms. Murphy pointed out that monitoring is crucial to the sector program and it may not be legal to drop to the NEFOP level of coverage. It was clarified that this motion was not limited of FY 2013. Committee members expressed concern about this motion.

The motion failed on a show of hands (7-0-1).

The Committee discussed that a previous motion now meant that industry could be held responsible for all at- sea monitoring costs.

**Motion:** To reconsider the earlier motion on removing ASM provisions from FW 48. (Mr. Dempsey/Mr. Odlin)

The motion to reconsider carried on a show of hands (7-0-1).

After failure of the previous motion, several Committee members questioned an earlier action that eliminated the limits on industry cost responsibility.

**Motion reconsidered:** To move 4.2.2.4 (Option 4, industry ASM cost responsibility) and 4.2.2.5 (option 5, industry funding mechanisms) to the considered and rejected portion of FW 48.

**Motion to amend:** To move 4.2.2.5 (option 5, industry funding mechanisms) to the considered and rejected portion of FW 48. (Mr. Odlin/Mr. Preble)

The motion to amend carried on a show of hands (7-0-1).

The motion as amended carried on a show of hands (7-0-1).

The Committee returned to a discussion of the closed area motion passed earlier. They considered options if the changes could not be done in time. The Chair suggested one approach would be to split it into a separate action and submit it separately; this might get implemented after the start of the fishing year but would still benefit the industry. Ms. Murphy reminded the Committee of a recent Council letter that urged NMFS to allow increased access to the CAII SAP areas, which would help provide some additional access to at least one closed area.

Staff asked what was meant by selective gear: did this include recreational gear? The maker of the motion said it did not. It was clarified that selective gear referred to commercial hook gear and selective trawls such as the Ruhle trawl, separator trawl, etc.; it did not include recreational gear or sink gillnets.

### **Sector Carryover of ACE**

Staff reviewed recent correspondence from NMFS on carry-over provisions. NMFS guidance clarifying carry-over provisions limited the ability to increase the amounts that can be carried over, and also suggested better justification of whatever level was used was important. Ms. Murphy urged the Committee to reconsider the carry-over provisions to make sure that



overfishing would not occur in the second year. A Committee member noted that many sectors use a 10 percent buffer as a measure to make sure they do not exceed their ACE; members are comfortable with that because they are allowed to carry it over. The PDT had prepared a strawman proposal that attempted to respond to the NMFS guidance and it was presented by staff. Remove that option and vessels will fish closer to their allocations and there will be overages. In light of information that only a fraction of uncaught catch can be used in the following year, the Committee directed the PDT not to pursue its strawman but to create an option for the framework that clarified and supported the 10 percent carryover. The Committee directed staff not to include authorization for NMFS to adjust the carry-over amount as necessary. In response to a question from staff, NMFS representatives indicated that it would be permissible to design a system that authorized the available catch to exceed the ACL as long as it could be shown that actual catch would not likely exceed the ACL.

### **SNE/MA Windowpane Flounder AMs**

The Committee considered a PDT suggestion not to adopt SNE/MA windowpane flounder sub-ACLs for fisheries such as the fluke, scup, etc. fisheries. As an alternative, the PDT suggested making the AMs applicable to gear types rather than specific fisheries. This will require additional work to determine which gears are catching the stock. Committee members asked that at a minimum the PDT should look at binning catches by large and small mesh. The Committee agreed to consider this idea after the PDT brings the information forward.

### **Scallop Fishery Yellowtail Flounder Sub-ACL**

The Committee reviewed draft measure language for the option that would automatically adjust the scallop fishery sub-ACL for GB yellowtail flounder. They decided to remove the language that specified which estimate would be used (the high, low, or median estimate) if the PDTs present a range. The Committee also discussed selecting one fixed percentage option to simplify workloads.

**Motion:** To remove Sub-Option A section 4.1.3.3 from FW 48, and to round the value in sub-option B section 4.1.3.3 to 8 percent . (Mr. Odlin/Mr. Goethel)

Committee members spoke in favor of this motion as the simplest and most equitable approach to deal with the issue. Public comment included:

- Mr. Ron Smolowitz: We need a mechanism to give the scallop fishery a target catch and then the tools needed to transfer unused catch. Eight percent is absurd, it is an average, not a cap. That fishery was shut down three times for the yellowtail flounder cap. These numbers are not reflective of what we need to achieve OY. It will not be accepted for this number. Give the scallop industry 15 or 16 percent – that is still a cut. We have a lot of measures in place. Then that allows the scallop PDT and Advisory Panel and Committee enough to design a program that would safely achieve OY under whatever the cap becomes.

The motion carried on a show of hands (4-0-2).

The Committee next considered removing the option that would allocated the scallop fishery 90 percent of its expected catch of yellowtail flounder. Several Committee members spoke against this approach of basing the allocation on an estimate of the fishery's catch. They said that it was proving unworkable.

**Motion:** To eliminate section 4.1.3.2 from draft FW 48 , GB yellowtail flounder allocation to the scallop fishery. (Mr. Dempsey/Mr. Odlin)

A Committee member suggested keeping this section in as an option, since it adjusts the amount annually.

- Mr. Ron Smolowitz: If you take this section out you do not have a range of options. As much as I don't like the estimated catch approach, the 8 percent option should not be the only choice.

The motion was **withdrawn** without objection.

The meeting was adjourned.