

New England Fishery Management Council Groundfish Oversight Committee

Meeting Summary

December 9, 2013

The Groundfish Oversight Committee (Committee) met in Providence, RI. The Committee discussed Framework 51 to the Multispecies Fishery Management Plan. Committee members present were Mr. Frank Blount (Chair), Dr. David Pierce (Vice Chair), Mr. Terry Alexander, Mr. Vincent Balzano, Mr. Tom Dempsey, Ms. Ellen Goethel, Mr. Peter Kendall, Dr. Matthew McKenzie, Ms. Sue Murphy, and Ms. Laurie Nolan. They were supported by Groundfish Advisory Panel (GAP) Chair Mr. Bill Gerencer, staff members Dr. Jamie Cournane, Ms. Rachel Feeney, and Dr. Fiona Hogan (NEFMC), Ms. Sarah Heil (NMFS NERO) Mr. Chad Demarest (NEFSC SSB) and Mr. Paul Nitschke (NEFSC) and Mr. Mitch MacDonald (NMFS General Counsel).

Discussions were guided by a presentation of the draft Framework 51 alternatives, Draft Framework Adjustment 51 dated December 4, 2013, a memo re Scallop FW 25 and Groundfish FW 51 from Scallop PDT to Groundfish PDT dated December 5, 2013, Draft Groundfish Committee meeting summary dated November 18-19, 2013 and a series of correspondence received by the New England Fishery Management Council.

Framework 51

Staff provided the Committee with an overview of the FW 51 alternatives and timeline. Staff informed the Committee that Options 3 and 4 under Section 4.2.3 (Management Measures for US/CA TACs) could not be implemented in a Framework action; they would require an amendment. In consultation with NERO and NOAA General Counsel, staff felt that these two options could meet goal #3 for Amendment 18 (A18). A Notice of Intent would be published with a 30 day comment period but this could be done in conjunction with the development of alternatives for A18 and was not expected to delay an April 2014 Council vote on the range of alternatives to be analyzed in the DEIS.

Motion: The Council recommends that for Section 4.1.1 (Gulf of Maine Cod Rebuilding Strategy), the Council selects Option 2, Sub-Option B and Option 3, Sub-Option B; and for Section 4.1.2 (American Plaice Rebuilding Strategy), Option 2, Sub-Option C and Option 3, Sub-Option B as its Preferred Alternative (Mr. Dempsey /Mr. Alexander)

Rationale: We might be overly optimistic in our ability to rebuild these stocks and would rather set a reasonable timeframe to get it done especially with Option 3 when we check in and make sure we're making the progress that we want to.

Staff explained that the current biennial review process is undertaken by NERO with further review provided by the Groundfish PDT. There was some concern that the additional review process would raise expectations that reference points could be changed outside of a stock assessment. Another Committee member thought it would provide a metric for the Council to examine in between stock assessments, the timing of which can miss recruitment events that impact catch. A Committee member was not wholly in favor of the 10 year rebuilding plan for these two stocks as the stock was not rebuilt during the first 10 years of the rebuilding plan; it was unclear what different measures were included in FW 51 to make rebuilding successful. A shorter rebuilding time would also allow some time to react if rebuilding was deemed insufficient. Another Committee member was supportive of the 10 year timeline because it

seemed unlikely that natural mortality would be reduced from 0.4 to 0.2 as is assumed. The National Research Council report titled “Evaluating the Effectiveness of Fish Stock Rebuilding Plans in the United States” was referenced in support of the longer rebuilding plan timelines and not trying to hit Biological Reference Points (BRPs). Stock projections were considered unreliable after 3-5 years so it was unclear what would happen after 5 years.

Some of the assumptions used in the economic impact analysis were considered invalid such as 100% of GOM cod ACL would be caught in part due to improved targeting technology. The region was considered to be in a warm water regime, which would not allow for natural mortality to decrease to the lower level of 0.2 as assumed in the analysis. A Committee member didn’t think it was possible to reach the current BRPs in ten years even without fishing unless the reference points were revised to take into account the current environmental conditions. An alternate rebuilding time was suggested to be 10 years plus one mean generation time. Committee members clarified that comments made regarding the rebuilding plans applied to both stocks.

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

Motion: The Committee recommends that for Section 4.1.3 (Annual Catch Limits), The Council selects Option 2 as its Preferred Alternative (Mr. Dempsey /Mr. Alexander)

Rationale – PDT recommendations should be adhered to because white hake is not overfished and overfishing is not occurring. Revising ACLs will always put the Council in a better position to achieve optimum yield and make continued progress towards rebuilding overfished stocks including yellowtail flounder.

A Committee member was concerned about the economic consequences; the fishery has been declared to be in a disaster and revenue for small vessels was expected to further decline. SSB staff informed the Committee that the quota change model is performing well based on the predictions made for the current fishing year holding. Costs incurred to achieve revenues are increasing and impacting net revenues. Shorter trips appeared to have higher profits – less fuel used and lower costs. The fishery appears to be shifting to more of an offshore fishery; the inshore fisheries are more quota constrained. The costs of using quota are higher than they were 2 years ago. The current year’s predictions were showing a marked squeeze in net revenues and profits. A Committee member reiterated concern about the economic impacts and assumptions used in the analysis; it was considered highly unlikely that vessels could increase efficiency and profits. The Committee member was concerned about small vessels in the 30 – 50 ft size class as it was thought the revision of specifications would negatively impact them. Another Committee member informed the Committee that in other parts of the country, e.g. Alaska, vessels smaller than 60 ft were exempted from requirements that incur costs to the fishermen, e.g. VMS.

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

Motion: The Committee recommends that for Section 4.2.1 (Small-Mesh Fishery Accountability Measures), the Council selects Option 2 Sub-Option B2, and Section 4.2.2 (Small-Mesh Fishery Measures) Option 2 as its Preferred Alternatives (Mr. Dempsey/ Mr. Balzano)

Rationale –If we go with a gear alternative then it’s important that the Council set the number right. In terms of the call-in I think this will help us get better information and I see no reason why not to implement this.

A Committee member didn’t think there were any approved selective gears currently available considering how the raised footrope trawl performs in deep water; the small-mesh fishery did not have a

lot of time to comment on this issue. Another Committee member was opposed to the motion because of the call-in requirement; 48 hours was considered too long because the fishery required more flexibility. It was not immediately clear at the meeting whether a vessel planning on fishing both inshore and offshore would have to return to port to get an observer before going offshore. Another Committee member thought the small-mesh fishery should be held to its sub-ACL. There was concern that the call-in requirement would increase costs without much benefit. A Committee member wanted to pick a different option and asked to split the motion.

Motion: To split the motion (Dr. Pierce/Ms. Goethel)

The motion to split **carried** on a show of hands (8/0/0).

Motion: The Committee recommends that for Section 4.2.1 (Small-Mesh Fishery Accountability Measures), the Council selects Option 2, Sub-Option B2 as its Preferred Alternative.

There was some discussion regarding sub-options B1 and B2; a Committee member thought the small-mesh fishery was in favor of gear modifications and would prefer to use them regardless of the size of the sub-ACL and therefore supported sub-option B1. It was assumed that the modified gear would reduce catch of all flatfish, if they behaved the same in the net. A Committee member contacted some small-mesh fishermen and learned that the raised footrope trawl doesn't work well out in the canyons but they had developed techniques to avoid groundfish that might not be approved yet. Support for sub-option B2 rested on the need for an AM to be tied to a sub-ACL. However, a Committee member thought the AM should only be triggered if both the total ACL and sub-ACL were exceeded. Another Committee member was opposed to the precedent set by the structure of the scallop fishery AM; the Groundfish fishery is stopped in real time if there is an overage. The whiting fishery is open access, which may provide a reason to treat it differently when setting AMs compared to a limited access fishery. Staff reminded the Committee that the implementation of an AM might not occur until the third year after the overage occurs, which might provide time for alternative gears to be developed.

Some public comment on the motion included:

- Dan Farnum, Montauk, NY – My boat fishes out of New Bedford, primarily for small-mesh multispecies, mostly whiting and squid. I have to agree with Dr. Pierce here. Keep in mind too, that the sub-ACL that was appropriated to the small-mesh fleet was the smallest one that was available. It was the mean not the median; it was the smallest one. And also the scallop fleet of course got the highest one that could be allocated to them, which left less for the directed fleet. I understand the frustration. In my mind, if there's fish left in the ocean to catch for the year why not let it cover any overages in other fleets. It should be the same for the directed fleet. If the whiting or small-mesh fleet doesn't catch the sub-ACL why couldn't it be available for the directed fleet to count for any overages they have. That's why I support Dr. Pierce on that one. The gear modifications we're trying, there's a handful of guys who do this all the time, year round. We're trying to do some research right now with Cornell Cooperative Extension in NY with the different gears we found were effective for flatfish and whiting but it's a process that we have to go through to be approved by NMFS. In my mind, I'd prefer that we have to use these gears now so we can avoid any of these AMs. My fear of course is if we don't get it in place - the closed areas are my big fear. This is an important fishery to a lot of boats, to Groundfish boats that do it when they're not groundfishing, the squid boats go whiting fishing when they're not squid fishing. I know the economic impacts aren't up yet but in this area alone I would say a minimum of \$10-15 million worth of fish are caught in this area by the small-mesh fleet. It's a very important fishery to everybody.

- Peter – I own two whiting boats and I represent a third. If it was just Dan and I, which we catch a lot of whiting and we do a very effective job of eliminating the yellowtail flounder and other Groundfish, I wouldn't be too worried about the ACL because it would be high enough for us. We would never catch it but it's the other guys that jump into it that could of course put it over. You're talking about not having enough observer coverage. We take a lot of observers. Also, in the squid fishery, if you've got a squid observer they can't do any research on the whiting, which you should straighten that out so they can do both because sometimes we have a squid observer and we're catching whiting and they can't do anything at all on the whiting. That would straighten out some of your problem as far as coverage. I don't support a shutdown at all because I think we do a very good job and we'd be penalized by other people not ourselves.
- Bonnie Brady – I just want to find out if FW50 has been completely accepted yet. Because in FW 50, what they specifically talk about is that with any fishery that is going to be given a future AM that the sub-ACL has to be exceeded and the total ACL has to be exceeded. I believe I just found it in the document. Do you have any information regarding that? For any future Council action both the sub-ACL and total ACL would have to be exceeded prior to an AM going into place.

NERO staff clarified that the language in FW 50 regarding when an AM was triggered was specific to windowpane flounder and was not generic language that would apply to all fisheries.

The motion **carried** on a show of hands (5/4/0).

Motion: The Committee recommends that for Section 4.2.2 (Small-Mesh Fishery Measures), the Council select Option 2 as its Preferred Alternative.

Rationale – The call in system would be established to better allow observers to cover the fishery and for coverage to be expanded if there was a change in funding.

A Committee member noted that if a vessel might catch herring on a whiting trip then they must call in and declare into a herring day; it was unclear if you would have to call in twice if this was approved. The Committee member was opposed to the motion. It was reiterated that the intent was not to increase the number of observed trips but to identify the number of vessels actually fishing in the small-mesh fishery. Anecdotal evidence was provided that indicated that the same vessels were targeted for observer coverage; without a call in requirement an observer would only go out on a whiting trip if they were at the dock and saw a vessel going out. It was thought that if all vessels in the fishery had to call in then it might expand the pool of trips that could be selected for observer coverage without increasing coverage itself, which would require more funding. Bycatch was thought to be higher on boats that typically groundfish but occasionally switch to whiting; a Committee member used a shrimp net as opposed to a rope trawl when fishing for whiting and expected higher bycatch as a result. A Committee member considered the 48 hour call in requirement to be too long and suggested 8 hours; the longer time requirement was considered to be a burden on small vessels.

Some public comment included:

- Dan Farnum – I understand points being made here about the randomness of observer coverage. We had our boat docked right next to AIS's building in New Bedford and we had one observer on so much I thought he was a crew member. I was going to give him a paycheck at the end of the trip but we complained that the boats were always getting observers and made a lot of noise to the program about the randomness and I believe that it's been cured. We see it across the fleet now. Every time I get a call if the Service wants coverage on my boat they call me up and we get an observer on there. It happens quite often. I'll give you an example, my boat is 24 hours offshore.

He finishes up his trip this morning he's going to be in tomorrow, he's going to turn around and go back out tomorrow afternoon. If I need a 48 hour call in I should have called in before I knew he caught the fish. It's kind of hard to do that but what you end up doing, what the squid fleet does, they call in every day. It's a burden to the Service and a burden to the fishermen. For an owner/operator, which I'm not, I can do it, but for a guy who is out there running his boat, how is he going to call in? He has to have a satellite phone, that's another burden; those things break all the time. If he can't get his call in and comes in tomorrow to unload, bam when he gets cell service, he has to wait 48 hours before he can go out if he doesn't get a waiver. So it's going to limit the fishery. It's not like the Groundfish fleet where you only have so many days or the scallop industry where you're restricted by days. The only way to make money in this fishery is to turn and burn. If you throw another wrench into it it's going to cut down on landings and effort that's for sure I still don't know what you're going to accomplish from it. When the coverage is needed we provide it right now as a fleet.

The motion **carried** on a show of hands (5/4/0).

The Committee moved on to discuss GB yellowtail flounder management measures.

Motion: The Committee recommends that for Section 4.2.4 (Georges Bank Yellowtail Flounder Management Measures), the Council selects Option 2 as its Preferred Alternative (Mr. Dempsey/Mr. Alexander)

Rationale – The Committee has discussed this issue before; higher observer coverage in some areas and lower in others with lower yellowtail flounder discards. It is important to get more observers on this potentially limiting stock.

This was considered to be important as it allowed vessels with low allocations of Georges Bank (GB) yellowtail flounder to access the GB fishery. A Committee member noted that sectors could do this themselves by allocating discards within a sector to individual members. NEFSC staff was concerned about the consequences of this alternative as it increased the number of trips needed to estimate discards in each section. Also, some vessels were negligent in reporting when they changed stock areas, which would further complicate the estimations. However, it wasn't considered to be fair for some vessels to pay the price for others fishing where there are yellowtail flounder; currently the area of high discards averages out with the area of lower discards. A Committee member thought allocating GB yellowtail flounder discards to individuals would be easier if there was only one sector fishing in that statistical area.

Some public comment included:

- Maggie Raymond, Associated Fisheries of Maine – The Agency has said today and a couple times in the past that the sectors can do this themselves and we're still waiting for the Agency to provide advice to the sectors on how they can assign discards to individuals instead of across the entire sector. The sector managers get them the way he receives them and he has to apply them to the entire sector. That is the real solution here. Somehow get the information to the managers on how they can assign discards to individuals and then we don't have to carve out these special areas to try to achieve that. I know our sector is very interested in doing that. And we're looking forward to that advice from the Agency on how we can accomplish that. So I just wanted to make that point again that once again we set up these sectors to be able to do things, micromanage themselves and yet we don't give them the tools to do it.

Industry was waiting for the algorithm that would help sectors to assign discards to individual vessels from a department within NERO but the expected availability was unknown. The Committee was hesitant

to remove this alternative without firm assurances that the algorithm would be available for the beginning of FY 2014 for sectors. A Committee member thought it was more important to obtain the correct discard information especially for a patchily distributed stock than to remove this alternative. A Committee member was opposed to the motion because the impacts analysis suggested that revising the discard strata could have negative long-term Maximum Sustainable Yield (MSY) consequences.

Motion as friendly amended: The Committee recommends that for Section 4.2.4 (Georges Bank Yellowtail Flounder Management Measures), the Council selects Option 2 as its Preferred Alternative, unless NMFS develops a discard tool to address this issue through the sectors.

This would not be required to be in sector operations plans; the overall discards would remain the same but the sectors could distribute it individually.

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

Motion: The Committee recommends that for Section 4.2.5 (Prohibition on Possession of Yellowtail Flounder by the Limited Access Scallop Fishery), the Council selects Option 1 (No Action) as its Preferred Alternative (Mr. Dempsey/Ms. Goethel)

Rationale – This alternative has been discussed at previous Committee meetings but has been retained in the document. There was a general concern about this measure and for the precedent on how the Council creates rules for fisheries by removing a recently implemented management action because it was not being complied with.

If the Committee voted for No Action this alternative would remain in the document. Prohibiting possession of yellowtail flounder by the scallop fishery was considered biologically unsound and would provide no biological information, which was important for the stock assessment. This was considered to be an enforcement issue.

Some public comment included:

- Maggie Raymond – I just want to point out that the Scallop PDT memo, which unfortunately does not have page numbers on it but the Scallop PDT suggest that prohibiting retention would actually put scallopers in a worse situation in terms of estimating the overall yellowtail flounder catch. If that's the case that would be reason to support the No Action alternative alone.

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

Motion: The Committee recommends the Council select as its Preferred Alternatives for Section 4.2.3 (Management Measures for US/CA TACs):

- Option 2, with the addition that this authority only exist for trades made by or before the end of the 2014 fishing year,
- Option 5, Sub-Option B. (Mr. Dempsey/Dr. Pierce)

Rationale – The Committee was advised that Options 3 and 4 were not framework-able, but they're preferred by the Committee and could be pursued through A18 but the Committee was uncomfortable giving unbounded authority to the Regional Administrator (RA) to make trades in the absence of some kind of protection of a time limit that would give the RA the authority to make trades up to a point and allow us to develop longer term solutions to make improvements. Option 5, is a necessary fix since Options 3 and 4 are not options, and one that can be done while supporting our overall management objectives for that stock.

A Committee member preferred to take a portion of GB haddock ABC before it is allocated to be used for trading instead of Options 3 and 4. Staff noted that some of the language in Option 5, sub-option B was modified since the last Committee meeting regarding state permit banks. NERO staff noted that the intent was to make multi-year trades with Canada, where the US would receive 2014 quota and would trade away 2015 quota.

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

Motion: To consider Section 4.2.3 (Management Measures for US/CA TACs), Options 3 and 4 in Groundfish Amendment 18 (Mr. Dempsey/Mr. Alexander)

Staff reiterated that the timeline might not be greatly impacted by incorporating these options for quota trading with Canada if the Notice of Intent, with a 30 day comment period, was done concurrently with development of the amendment. These options could help achieve goal #3 of A18. A Committee member thought this was a stretch and that goal referred more to domestic quota issues; there was some concern that this was moving too far away from public input. Another Committee member was opposed to Option 4 because it allowed fishermen with GB haddock allocation to gain a competitive advantage over others by receiving higher value fish for the relatively low value GB haddock. The Committee Chair pointed out that if a member voted in support of this motion, it would not indicate support of the two options but instead would support including them in A18.

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

Staff suggested the Committee discuss the list of priorities before the December 2013 Council meeting; the Committee still seemed in favor of working on quota trading with Canada but the Executive Committee had downgraded it as a priority. A Committee member noted that they don't prioritize measures, only actions, and didn't need to make a decision on trading if it was to be included within A18. There might be a pilot program developed prior to A18 but a lot of work was still required on the topic.

Some public comment included:

- Maggie Raymond – I have another issue I wanted to bring up before you close. At the last Committee meeting you voted by a strong majority in support of a priority to look at the catch of Groundfish in other fisheries. We didn't get to discuss that at the last Council meeting because the discussion on priorities was delayed but my understanding is that the Executive Director said if we do that then something else has to come off the list so I don't know if the Committee wants to have a discussion about what they would think would come off the list to make way for this action, which obviously was strongly supported. I, personally, could make some suggestions about what should come off the list but I don't know if you think that would be helpful before the Council discussion of priorities or not. I just wanted to raise that as a potential discussion point.

A Committee member raised an issue regarding the timeliness of the document availability prior to meetings. It was thought that the public had insufficient time to provide written comment by the deadlines prior to a meeting; public needs to receive the documents at least 4 days prior to a meeting.