

New England Fishery Management Council
Multispecies Oversight Committee
Meeting Summary
January 18, 2007

The Committee met in Mansfield, MA to review comments received during the scoping period for Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP). The Committee also met in closed session at the end of the day to discuss Groundfish Advisory Panel membership. Committee members present were Mr. Rip Cunningham (Chair), Mr. Mike Leary (Vice-Chair), Mr. Terry Stockwell, Mr. Dave Preble, Ms. Susan Murphy, Mr. Jim Odlin, Mr. Jim Ruhle, Mr. Rodney Avila, and Mr. Tom Hill. Discussions were supported by staff members Mr. Tom Nies and Mr. Chad Demarest (NEFMC), Mr. Tom Warren and Mr. Doug Christel (NERO), Mr. Gene Martin (NOAA GC), Mr. Eric Thunberg and Mr. Paul Nitschke (NEFSC), and Mr. Steve Correia (Massachusetts DMF). In addition to copies of the scoping hearing summaries and written comments, the Committee referred to a Plan Development Team (PDT) summary of a conference call held January 10, 2007.

At the beginning of the meeting, Council staff briefly summarized the PDT report and highlighted general issues. These were:

- Most management system proposals will require more timely catch reporting. The Council and NMFS should pursue those changes immediately so they are in place when Amendment 16 is implemented.
- Some proposals may result in a need for changes in observer coverage. These impacts should be closely monitored during development so that if increased coverage is needed it is available when the plan is implemented.
- Some proposals cannot be analyzed with the tools used to analyze effort controls. This will increase the workload on the PDT as new analytic techniques are developed. In addition, impacts may not be described in as much detail as in the past. The use of specific tools for each alternative may make it difficult to compare impacts across all alternatives.
- Some PDT members are concerned that it may not be possible to prepare a draft document that illustrates likely impacts under different mortality reduction scenarios. Even if it is possible, doing so will double or triple the workload. This must be considered when developing alternatives.

The Committee asked several questions about the reauthorization of the Magnuson-Stevens Act. Mr. Martin told the Committee that it will take time for NOAA General Counsel to interpret the Act. It is not yet clear which types of Limited Access Privilege Programs (LAPPs) require a referendum, who participates in the vote on an IFQ, what it means to require “annual catch limits”, how a sector differs from other kinds of LAPPs, etc. For example, Mr. Martin said the point system proposed by the Northeast Seafood Coalition might be considered an IFQ and thus require a referendum. Until national policy is determined, Mr. Martin cannot provide any specific advice on many of these questions.

The Committee briefly discussed the difficulty in developing a new management system in the time available and considered other approaches, such as a dual-track: modifications to maintain rebuilding that would be adopted in May 2009 at the same time as a new system is developed.

The meeting focused on proposed revisions to the management system grouped into categories: changes to DAS, Hard TAC/quota/ITQ, area management, and the point system. Each discussion was preceded by a very brief summary of the proposals and the PDT report by Council staff.

Revisions to Days-at-Sea (DAS) System

Motion: That we include revisions to DAS (page 5 of PDT's scoping review) and move it forward for further development in Amendment 16. (Mr. Odlin/Mr. Stockwell)

Mr. Odlin noted the PDT report did not identify any major difficulties with revising this system. Other Committee members noted this was the one alternative that seemed certain not to require a referendum. Public comment included:

- Vito Giacalone: Northeast Seafood Coalition. We support the motion. This could be the fallback when we get to the end. We have additional ideas on improving the current DAS system.

The Chair clarified the motion did not restrict DAS revisions to those received during the scoping period. **The motion carried on a show of hands, 8-0.**

The Committee next considered revisions to the DAS system that would charge DAS based on what was landed. Some committee members noted the similarities between this proposal and the point system. Others suggested folding this idea into the previous motion.

Motion: That the Committee include the DAS performance plan for further analysis as part of DAS revisions. (Mr. Stockwell/Mr. Leary)

Ms. Murphy expressed concern over administration of this proposal but also interest in seeing it examined further. Mr. Hill questioned the need to be specific on what changes would be considered at this early stage. He supported making it clear that this alternative was not being dismissed. Public comment included:

- Erik Anderson: This alternative was solicited in response to the scoping document. It seems to be interpreted in different ways. As proposals go forward, I hope the chance is given to clarify the details. This is a refinement of the DAS system.
- Vito Giacalone: Northeast Seafood Coalition. We support the concept of being more selective with individual accountability. This treats people similar to the point system – it treats people treat people based on what they catch.

The motion carried on a show of hands, 5-0-1.

Hard TACs/Quotas/ITQs

Mr. Odlin spoke against a hard TAC option as a stand-alone measure. He said it was exactly what was used in the early 1980's and it did not work. Quotas were allocated by week, by vessel size, by area, by mobile and fixed gear; the entire fleet sailed on the first day of a quota period; the waste was unbelievable, the market was in turmoil. Public comment included:

- Gib Brogan: Oceana. To clarify the summary items in the PDT report. Oceana offered the breakdown of quota as a suggestion to make a TAC operate more efficiently; the Council could choose different, or fewer, sub-categories. With respect to "mortality

caps”, the intent is that all dead fish are counted and factored into rebuilding, as well as mortality from all fisheries. Monitoring of bycatch: the SBRM has strong language on what is needed. As for changes to area closures, that was not part of the Oceana proposal. Oceana thinks a hard TAC should go forward to make it sure only a certain amount of fish is killed each year.

- Roger Fleming: Conservation Law Foundation. Our proposal is different than what Oceana proposed. We are not proposing a new system for management as much as a hard TAC backstop adopted as part of, for example, modifications to the current DAS system. It could apply to area management or point systems or a stand alone system similar to what Oceana proposed. We made the proposal to be consistent with the concept of the new M-S Act requirement to ensure accountability. Mortality caps – we think we are going to look at annual catch limits in combination with other proposals that are around the table. We also think that looking at prior attempts – that these led to widespread cheating – is no way to base management decisions. A lot has changed in 20 or 30 years. There are ways to put accountability measures in place; the pitfalls can be avoided.
- Vito Giacalone: Northeast Seafood Coalition. We express concerns with individual species specific allocation issues. In a mixed species fishery with different gear, ports, vessel capacities – to expect future catch will mirror past catch is not reasonable. These options may promote discarding or consolidation. Vessels may leverage their bycatch quota to prevent other vessels from participating in the fishery. We oppose individual quota systems.
- Maggie Raymond: It was difficult for the Associated Fisheries of Maine to submit a proposal for an IFQ. I hope our cover letter made that clear. IFQs are the only way for a hard TAC system to avoid the problems we have had with hard TACs in the past. We highlighted enforcement issues, discard problems in the past – they occurred and will occur again with a hard TAC unless IFQs are used. Our proposal suggests allocation using a combination of history and DAS allocation to cover the problem over the past few years where some have avoided catching codfish. As stocks change they would have some ability to harvest that. The key is for responsible fishermen to transfer quota around to avoid wasteful discards and achieve OY. In Amendment 13 the Council took a hard look at quota system – we hope that kind of option will not go forward again. It does not advance the status of the resource.
- Rich Canastra: Whaling City Auction in New Bedford. I don’t know how we would monitor a hard TAC system – I can’t get information on catches later than August 2006. We can’t monitor the system we have now – how could we monitor catches and open and shut fisheries? IFQs - I challenge what we have for history of vessels. I wonder if it is accurate information. It is that time of year when reports come out – report won’t be done for another month. How can we put together a system for IFQ based on history when I don’t know what is in there for history?

Ms. Murphy advised that NMFS is able to monitor fisheries where quotas are in place: the SAPs, Category B DAS program, etc. While there are concerns over the referendum for ITQs, and administration of quotas, NMFS expects they would have the ability to administer these programs and suggests hard TACs should be pursued.

Motion: To include hard TACs and ITQs as alternatives for consideration in Amendment 16 (Ms. Murphy/Mr. Odlin)

Mr. Hill spoke in favor of the motion and similar alternatives that would encourage individual responsibility. He also expressed some concern over the process and questioned whether the

Committee was choosing specific measures or general approaches. Mr. Ruhle stated his belief a hard TAC would not work without an ITQ and offered the following amendment:

Motion to amend: To remove the language of hard TACs (as a stand alone alternative) from the previous motion. (Mr. Ruhle/Mr. Preble)

The motion to amend carried on a show of hands (6-0-1).

Given the new M-S Act language of “limited access privilege programs (LAPPs)”, the Committee perfected the original motion, as amended, to read:

Amended motion perfected to read: To include LAPPs as alternatives for consideration in Amendment 16. (Ms Murphy/Mr. Odlin)

Mr. Martin received the Committee’s clarification that this new term of art (LAPP) was meant in an expansive sense, to include IFQs or other forms of an LAPP, but was not meant to include area management or the point system which were separate items on the agenda. **The motion carried on a show of hands (8-0-0).**

Sector Issues

Council staff reported that two groups indicated their intent to submit a sector application during the scoping period, but one group recently notified the Council they no longer intend to do so. In addition, several suggestions on improving the sector process were received. Staff noted it was not clear if these issues should be addressed by the Multispecies Committee or the Omnibus Sector Committee.

Motion: The Multispecies Committee recommends comments for modifications to sector rules be referred to the Omnibus Sector Committee. (Mr. Stockwell/Mr. Ruhle)

The motion carried on a show of hands (6-0-1).

Area Management

Council staff provided a very brief overview of the Area Management proposal and summarized the PDT review.

Motion: Keep area management as a consideration for Amendment 16. (Mr. Stockwell/Mr. Ruhle)

Mr. Stockwell noted that the proponents of area management worked extensively to prepare a thoughtful proposal. While some issues still need to be resolved, he urged the Committee to attempt to resolve those questions. There was some discussion about whether this form of area management was a sector and should be referred to the sector committee, but Committee members did not pursue that approach. Public comment included:

- Geoff Smith: Nature Conservancy. We strongly support for this motion. I understand questions that have been raised by this committee and we will have to clarify them. This proposal is talking about going in a new direction. The fundamental sense is that this group wants to move management to a finer scale and give fishermen a chance to develop rules to manage the area-specific TACs. We use area management with the US/CA area, differential DAS area, etc. The tools have been used in the past – we are just trying to build on that- to bring management to a more local level. As far as allocating fish to an

area- I know what a challenge it is – the PDT did make an attempt to do this in Amendment 13. I support the motion and hope the questions can be resolved.

- John Williamson: Ocean Conservancy. We participated in this discussion. I would say that the comments raised by the PDT were anticipated and discussed within this group. These have been wrestled with. The essential element is we are all recognizing that hard TAC systems should be applied through groundfish. How do we do that and escape the race for fish? This a way of linking that consequence of a hard TAC system to particular communities, to manage that distribution of effort in a way that makes sense to people who are most affected by the issue. To move decision making to local community in a close to real time basis. We have four different alternatives for organizing local governance. If you look at the Canadian model that is done under private contract- how do you build that responsibility into the business plans of people in the community- and not make it not an administrative function that has to be handled by the federal government.
- Ted Hoskins: Downeast Initiative. Thanks for the critique for what we need to be working on. We are aware there is work that needs to be done to bring forward a plan that offers a new opportunity. We want to find a way to work with co-management – not to not to take away authority – but to find a way to fit into a finer scale, give fishermen stewardship, make the hard choices that will bring us to conservation and a better groundfish. The Downeast plan takes a piece of the larger concept of area management and shows how that can work. It will not be easy to develop a structure that will work and be participatory and will work with rules at federal level. I speak strongly in favor of this for the council.
- Rob Snyder: Island Institute. I want to reiterate what was just said. I urge you to support this motion.

The Committee asked Mr. Martin the Council can grant local management authority as proposed. He replied that in general the government cannot delegate federal functions to a non-governmental entity. The current sector system has the same issue, but sector plans are reviewed on an annual basis under applicable law. The sector is based on a contractual arrangement that may not exist for all participants under the area management system. There may be limits that apply. As this program is developed in more detail, Mr. Martin will provide advice on where the limits are for autonomous control by these groups.

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

Point System

Motion: To include the point system management concept in Amendment 16. (Mr. Ruhle/Mr. Preble)

Mr. Hill expressed concern over the Committee process. He said that it was not clear which of the alternative systems would meet Council objectives, or which ones could be developed and implemented in the limited time available, and sought an evaluation of these issues from the PDT or other technical body. Some Committee members questioned whether this approach could be given a trial or experiment, perhaps by forming a sector that would then use points to manage its catch. Proponents of the point system expressed concern over this suggestion. Public comment included:

- Jackie Odell: Northeast Seafood Coalition. I think that a lot of questions that are raised can be discussed in the future.
- Maggie Raymond: Associated Fishermen of Maine supports this going forward for analysis. In thinking of this discussion and looking at this as a sector- if this were to become the management system – somehow it will have to be consistent with allocations for other sectors. There is still only going to have 100 percent of TAC. Every allocation has to be based on the same years and formulas to get the allocation. Not sure how the formula in the point system will mesh with how quota is allocated to a sector.
- John Williamson: Ocean Conservancy. We find the point system to be innovative, but if it is implemented it has to be implemented all the way. The benefits have been alluded to – more flexible means to control effort than DAS – aligns the incentives for fishermen with conservation goals. I have questions on how reliably it can be implemented for the first couple years. It may take two or three years before entire management team gets it right. We suggest entertain hard TAC as a backstop so that if it doesn't work there is at least some solid, certain, predictive means to control fishing mortality especially on the weakest stocks. If point system is balanced correctly, the fleet will take available TAC throughout the year. If it isn't the TAC for certain stocks will be exceeded. If that happens for point system to be effective there needs to be a hard TAC backstop.
- Rich Canastra: As far as the auction in New Bedford and vessels that sell on auction, 100% signed up for this point system. It only makes sense that market is forced by what can be caught. Fishermen know how to market themselves. This allows fishermen to get a mixed bag- auction prices will increase with a variety of species over time. Another point to make – the Whaling City Auction is the first electronic auction in the U.S. Software is out there – vessel unloads it can be downloaded into system that allocated points that can be used and how many remain.
- Vito Giacalone: Point out in the proposal- we contemplated working with current sectors but it would have to be a hard TAC to the sector for all stocks. Full retention of legal sized fish – could be a policy choice. Discards and rec catch – as well as for sectors – those would come off the top. Remaining TACs would be used to calculate the starting point values. One of biggest issues is the allocation issue – can we come up with method to use current allocation system – to not create new winners and losers- to not come up with a new LAPP – attempt to transfer what is in A13 and try to move it forward. The referendum issue should be resolved – not sure how long that will take.

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

Miscellaneous Issues

Motion: To consider in A16 allowing vessels to possess a limited access groundfish and scallop permit at the same time. (Mr. Ruhle/Mr. Odlin)

Mr. Odlin explained that this would address two issues: it would allow a scallop trawl vessel to change to a dredge without losing its limited access multispecies permit and would allow combining permits on one vessel, making vessels more efficient. Ms. Murphy noted that NMFS had fairness and equity concerns when this was raised in FW 42, and these may still be a concern.

The motion carried on a show of hands (6-0-1).

Motion: Remand issue on allocating closed area yellowtail flounder TAC to the scallop committee. (Mr. Odlin/Mr. Ruhle)

Staff explained that as long as the TAC was not increased, any allocation of this TAC to different segments of the scallop fleet could be done through a scallop and not a groundfish action. **The motion carried on a show of hands (7-0).**

Motion: Develop a research set aside program for all groundfish stocks in Amendment 16. (Mr. Odlin/Mr. Avila)

The motion carried on a show of hands (6-0).

The Committee next discussed the suggestion that Amendment 16 modify a General Category Scallop Exemption Program to allow fishing year round. Ms. Murphy explained that the prohibition on fishing during peak spawning was because the yellowtail flounder TAC was so small. Mr. Martin told the Committee that if NMFS had data supporting a change, it might be possible to modify the current exemption program. Ms. Murphy said that such a decision would be helped if the Council expressed support for the change.

Motion: The Committee asks the council to forward a letter to NMFS to allow the General Category Scallop Exempted Fishery east of Cape Cod to allow fishing year round if the ongoing experiment proves that the bycatch of yellowtail flounder in this area is below the 5 percent exempted fishery threshold. (Mr. Odlin/Mr. Ruhle)

The motion carried on show of hands (6-0-1).

The Committee discussed several suggestions for changes to measures to minimize the fishing impacts on Essential Fish Habitat. Staff noted that there was little guidance that supported the suggestion that special measures be adopted to promote rebuilding, and that the Omnibus EFH amendment was considering additional measures. With respect to wolfish and cusk, it was not clear if these species would be added to the fishery management unit; if they are added, EFH will need to be described and this will need to be coordinated with the EFH amendment. Because of timing issues, EFH for these species may have to be defined in Amendment 16. In response to a question from the public, Mr. Martin advised that he was not aware of any specific requirement to include a species in a fishery management unit except when it was determined to be overfished or subject to overfishing. Adding other species to an FMU was at the discretion of the Council.

Mr. Greg Didimenico, Garden State Seafood Association, asked the Committee to consider the impact of DAS leasing should the Committee pursue an IFQ or other new LAPP with a recent history period. Mr. Giacalone suggested that proponents of new systems should be provided the opportunity to explain their systems to the PDT.

Motion: To move hard TACs as a stand alone measure/alternative to considered but rejected. (Mr. Hill/Mr. Stockwell)

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

The Committee noted several comment suggested actions that were not within the Council's purview: promoting mothership operations, aquaculture, and increased penalties.

After the meeting adjourned the Committee met in closed session to consider Advisory Panel membership.