

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

## **Meeting Summary**

June 16, 2010

The Groundfish Oversight Committee (Committee) met in Mansfield, MA to continue development of Framework 45 to the Northeast Multispecies Fishery Management Plan (FMP). The Committee discussed measures for the Framework including the Georges Bank yellowtail flounder rebuilding strategy, implementation of additional sectors, updated pollock status, and an exemption for General Category scallop vessels in the Great South Channel. Also discussed were accountability measures, management measures for GOM winter flounder, a control date for the recreational fishery, and permit banks. Finally the Committee addressed accumulation limits and diversity issues. Committee members present were Mr. Frank Blount (Chair), Mr. Rip Cunningham (Vice-Chair), Mr. Bob Beal, Mr. Erling Berg, Mr. James Fair, Mr. David Goethel, Mr. Howard King, Ms. Sally McGee, Ms. Sue Murphy, Mr. Jim Odlin, Mr. Dave Preble, Mr. Rick Robins, and Mr. Terry Stockwell. They were supported by staff members Mr. Tom Nies and Ms. Anne Hawkins (NEFMC), Mr. Doug Christel, Mr. Mark Grant, and Mr. Tom Warren (NMFS NERO), and Mr. Gene Martin (NOAA General Counsel).

Discussions were guided by a PDT report dated May 24<sup>th</sup>, 2010, the draft Framework 45 management measures, a memo from Council staff detailing status of recreational fishing permits, a note describing Amendment 16 accountability measure issues, and new sector proposals.

### **GB Yellowtail Flounder Rebuilding Strategy**

Council staff noted to the Committee that the Council intended to consider changing the rebuilding strategy for this stock. Although the Council voted at their April meeting to consider a projection for a 60% likelihood of rebuilding, the PDT decided to wait until the upcoming TRAC assessment was completed in July before running projections. The Committee did not take action on this issue.

### **Implementation of Additional Sectors**

Council staff provided an overview of sectors that had submitted applications to begin operation in FY 2011. The applications will be included in FW 45 and the Committee did not take further action on this issue.

### **Pollock Status Update**

Staff updated the Committee on the pollock assessment at SARC 50 in early June. The final report of the SARC will not be complete until mid-July, so any numbers that were discussed at the SARC are preliminary and could change. The conclusion was likely to be that pollock are not overfished and overfishing is not occurring. Ms. Murphy stated that the Regional Administrator made clear that the agency will take action if overall allocations can be increased. Work is being done to initiate such an action, although there is no firm estimate of when it may go into effect. Preliminary results indicate that the stock is well above  $B_{msy}$  at this point, so it is likely to be considered rebuilt. The status determination criteria changed, so there is a revised target for  $B_{msy}$  and fishing mortality. The assessment shows that selectivity on pollock has changed considerably over time, so catches may be able to increase substantially. NERO staff indicated that a revised

groundfish fishery sub-ACL for pollock could reach 16,500 metric tons after deductions for uncertainty. Council staff noted that it is likely that the 2011 ACLs will be lower than those that may be implemented under an emergency action for 2010 since the stock will be fished down until it reaches  $B_{msy}$ .

### **Great South Channel Scallop Dredge Exemption**

**Motion:** For the General Category scallop dredge exemption for yellowtail flounder, the Committee recommend Option 2 in the draft measures (Mr. Odlin/Mr. Preble)

Public comment included:

- Drew Minkiewicz, Fisheries Survival Fund: We would like to see an analysis of the effects of an exemption on the yellowtail flounder catch of the entire fleet. If the catch in that area is mostly from the Cape Cod stock, then there is no sub-ACL of its own, so it is not as concerning. Still, we would still like to see analysis of what the anticipated increase or decrease in catch would be. If catch would be significantly different, then the general category should have its own sub-ACL separate from the limited access fleet.
- Maggie Raymond, Associated Fisheries of Maine (AFM): This area was open to the general category fleet in 2007 or 2008. The agency had responded to a request by CCCHFA and AFM to allow scallop fishing there. They looked at observer data to determine the closure. This is the best time to be fishing in that area because of the weather. After that, AFM and GMRI did some additional observations of the general category fishery and that report was provided to the Research Steering Committee. There were some concerns about the design of the experiment. It basically used the existing fleet, not a standardized dredge, to see if there was any impact on yellowtail flounder. The fleet caught so few, it was impossible to tell if they were in spawning condition. There is some information available for staff to review before the Committee makes a final decision. I urge you to send this forward to the Council.

Council staff clarified that most of the yellowtail flounder in the Great South Channel is from the Cape Cod stock, but some is the Southern New England stock. Ms. Murphy stated that the agency was recently asked by AFM to reconsider the spawning closure areas. The limited access fleet had less than 5% bycatch of yellowtail, but since the stocks are overfished, the agency did not want to make a decision on the matter and sought the Council's opinion.

A Committee member asked if potential impacts relative to accountability measures would be analyzed as part of moving this draft framework to the Council. Staff clarified that the Council had already voted to consider allowing this exemption, and the Committee should be deliberating on whether the two options in the draft were the ones it wanted to ultimately consider. Analyses on alternatives in the draft measures will be performed over the summer, including evaluations of impacts on spawning and on the scallop fleet. The Committee will see the alternatives again, with analysis, in the fall. Another member asked whether the alternatives for the upcoming habitat amendment would affect this motion, and the Habitat Committee chair said they were not likely to have an impact.

The maker of the motion clarified that the intent was to leave the option in the framework as an alternative, not to select a final preferred action, so that analyses could be considered before the final vote.

The motion was **withdrawn**.

## **Accountability Measures and GOM Winter Flounder Issues**

Council staff brought AM issues to the Committee because the Amendment 16 approval letter highlighted concerns about the AMs that were adopted. A Committee member stated that he did not understand the problem, since the only alternative more restrictive than zero possession would be to close large areas of the ocean, which was not feasible. Staff explained that there was a procedural requirement to address the effective lack of AMs in 2012. There could be ways to improve AMs other than large areas closures. One would be to allocate the zero-possession stocks to sectors and force sectors to avoid them. It is possible that different approaches would be appropriate for different stocks. The PDT has not yet fully explored possibilities of how to meet the AM requirement.

A Committee member brought up the question of whether discards may be double-counted if there was a zero-retention policy and the same fish was caught more than once. It was difficult to know what was being caught when possession was disallowed. He felt that it made more sense to eliminate the zero-possession rules.

NOAA General Counsel advised that allocation of these stocks to sectors likely could be done with a framework. The National Standard 1 guideline allowing for special circumstances in determining ACLs and AMs for problematic species may offer some leeway on this topic. Ms. Murphy interpreted that the guideline was intended for limited circumstances that may or may not fit here, but could be explored.

One Committee member stated that, with the cumulative effects of Amendment 16 and zero-possession limits, he would not be supportive of any more measures that would stop fishing. He asked whether the PDT could identify consequence areas with high bycatch, using the harbor porpoise area as a template, and the PDT Chair replied that it was a possibility. Another member noted that the NEFSC instructed the Council not to use the assessment for GOM winter flounder. Since a lot of fishermen in the GOM have only one or two fish allocated to them, it is likely this species will shut them down, even though it is not commonly found deeper than 50 fathoms. That was a huge consequence for a poor assessment and a huge area that should not be affected, so this stock should be treated like pollock and given an emergency action on zero possession to avoid shutting down the fishery. After the emergency action, areas and gears should be considered for reducing bycatch.

The Committee Chair asked whether an emergency action was possible, and NOAA General Counsel staff advised that it was a matter of whether there were unforeseen factual circumstances. He was not sure it would qualify, since it was primarily to relieve economic hardship. He offered to pronounce whether it would qualify when there was a request and the full facts before the agency. Some Committee members countered that the situation was unforeseen because there was no prior knowledge that the assessment would be rejected and provide such a low number, and that it would jeopardize the ability to move forward with sectors.

One Committee member mentioned a cooperative research project that may be implemented to get better data on the status of SNE winter flounder. It was unclear whether that project had been approved by NMFS. Another member noted that there were still state surveys with some data coming in, and significant observer coverage. Another Committee member felt that there was a lack of connection between the amount of winter flounder certain fishermen had caught and the amount of PSC they were allocated. He felt that it was possible to avoid the stock in sectors, and noted that the common pool trip limits would allow those fishermen to catch far more than sector

participants were allowed. He recommended asking the NEFSC to justify how they determined the stock status and to have the SSC consider whether they wanted to recalculate the ACLs. Council staff noted that there was no assessment of GOM winter flounder. The SSC determined ABC by using the three-year average of recent catches and setting the ABC and 75% of that average because the stock was likely to be overfished. An assessment for this stock will be performed in 2011. Another Committee member echoed that it should be easy to avoid catching as much as the three-year average since some of those years included directed fisheries, and supported the zero-possession limit.

Public comment included:

- Maggie Raymond, Associated Fisheries of Maine: This is a very serious problem. We have a few dozen boats with a zero allocation of GOM winter flounder. A few other things that might be explored include taking a look at observer data, finding out what area they are caught in and apply the assumed discard rate to that area only. Another thing is that the Council needs to write a letter to NEFSC and ask for an expedited assessment of this stock. If it is assessed in 2011, better information would not be seen until late in 2011.
- Rich Canastra, Whaling City Auction: We will continue to deal with this issue with choke species. The mixed stock exception is in the rules, and should be used if the status of the stock is unknown, and it will bring economic hardship on vessels. I agree with treating this stock like SNE winter flounder until the agency and NEFSC can get it right. Why put the harm on the fishermen? Maybe there is also cryptic biomass as with pollock.

Council staff pointed out that there were two issues being discussed: a broader AM issue and a specific GOM winter flounder issue. One of the provisions included in Amendment 16 allowed sectors to show that they could continue fishing in an area after they caught the ACE of a given stock if they used gears that do not catch that stock. That request would have to be included in operations plans, so it may be an option in coming years.

A Committee member asked for clarification about the potential for flexibility in NS1 guidelines, and NOAA General Counsel Staff responded that the clause generally applied to stocks that, because of their biological attributes, could not have their status be anticipated for future years. He was not sure if GOM winter flounder would qualify for this type of management.

**Motion:** To recommend that the Council request an emergency action from NMFS to make GOM winter flounder a zero-possession fishery. (Mr. Odlin/Mr. Stockwell)

The maker of the motion stated that the unknown status of the stock was the rationale for the request. Council staff stated that the PDT discussed this approach and identified benefits and weaknesses in managing the stock as a zero-possession fishery. He also stated that his intent was to follow this motion with others for inclusion in FW 45, and clarified that this motion would apply to any landings by both the recreational and commercial fisheries.

A Committee member argued that that this action simply highlighted the foolishness of single-species management, since more and more stocks perceived as weak would just be discarded. He did not feel it was a reasonable solution in the long-term. Other members stated that they saw problems with it, but that a short-term resolution was necessary while other, more permanent, solutions were considered. A representative from ASMFC pointed out that it was possible for the Council to ask the states to take a similar action in order to support stock rebuilding. Some members felt that it was likely that states would support such a request. A Committee member

asked how long it would take before some data could be collected on whether behavior was changed if such an action was taken. Ms. Murphy replied that the agency would have to look at the rationale and decide if this action could be taken, but if so its adoption would take two to three months. Since weekly trip reports are required, it would likely only take a month or so to get better information.

The motion **carried** on a show of hands (10-1-1).

**Motion:** To recommend to the Council to request the SSC reexamine the methodology used in setting winter flounder ACLs and report back to the Council (Mr. Goethel/Mr. Stockwell)

The maker of the motion explained that the SSC had very little time to deal with individual stocks during Amendment 16 development and may want to reexamine the methodology used for setting this number, since the ACL was set lower than even the most pessimistic stock assessment. The landings should not be used as a proxy for catch since this stock is mostly in the inshore areas, which were subject to differential DAS counting in the last 3 years. The Committee Chair noted that the Council recently adopted a policy on remanding ABC recommendations to the SSC, and asked under which of the criteria in the policy this remand would fall. Some Committee members felt that the SSC was unlikely to change any numbers considering that a new assessment would be forthcoming in 2011. There was also discussion on requesting an expedited assessment from the NEFSC, but many Committee members felt that the assessment could not be completed earlier than planned. At least one Committee member felt that the expedited assessment should be requested even if it was unattainable, since there was a fundamental problem with the speed of new information being incorporated into management.

The motion **failed** on a show of hands (2-6-3).

**Motion:** To request the PDT to develop some alternatives concerning ocean pout, northern windowpane, southern windowpane, and Atlantic halibut AMs, including the NS1 flexibility issue (Mr. Cunningham/Mr. Fair)

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

A Committee member stated that it was necessary to get a better estimate of discard mortality, and to use that in calculating discard rates and ACLs. The Committee decided to clarify a request to the SSC.

**Motion:** To recommend to the Council to ask the SSC if, when GOM winter flounder ABCs were calculated based on landings, whether the SSC considered that landings were constrained in those years by regulations that were then in place (Mr. Stockwell/Mr. Preble)

The rationale for this motion was that the request should not be a formal remand.

The motion **carried** on a show of hands (10-0-1).

### **Party/Charter Control Date**

Council and NERO staff explained to the Committee that the control date set for March 30, 2006 could be reaffirmed, updated, canceled, or left as is. If left as is, it would become stale and have less legal power. A cancellation would need to be published in order for it to go away altogether.

If updated, standard practice was for the new date to be the date of publication in the Federal Register.

**Motion:** to recommend to the Council to rescind the current control date (Mr. Goethel)

Motion **failed** for lack of a second.

Public comment included:

- Tom Scanlon, Charter Boat Operator: I run a charter boat north of Boston. I found out about this control date last Monday. I'm not a member of an organization. It seems that one or two individuals have tried to put us out of business. I think the council should be rescinding this date and it should be left as an open fishery. We are already limited by the number of cod we can take, and we have cod size limits, so nothing is wasted. A few people are trying to eliminate all the other vessels, and that is not fair to me or some of the other people here. We would like to see the Council disregard the whole idea of limited entry in the charter business. I will try to prepare more statements for the June Council meeting. I have been charter fishing for 30 years, but not offshore. I only got a permit for doing this in the last year. Naturally I'm upset being out almost \$200,000, and facing not being able to take people out cod fishing. It's not just me that has been caught by surprise here. I see other letters from people in similar situations.
- Bill Monte, Charter Boat Operator: One thing I have noticed is an increase in charter boats. This has happened because a lot of these guys actually got their charter license so they could go out and kill small tunas and also have the opportunity to kill the big ones. They get the best of both worlds, and don't have to pay for life rafts, and other equipment mandatory for a commercial boat. We have to have all the equipment. They have all the opportunities of the commercial guys and none of the expenses involved. I don't know how you separate them. When I went for a captain's license, I talked to a million young guys there and that's what they told me - that they do it to kill small tuna. Charter fishing is a part of my life now. I can't believe you would shut everybody off. It helps the town's economy - we pay taxes, and people come from all over the country to charter New England boats and fish in our waters. Fishing is better than it has been for a long time. Limits on boats are substantial but you can work with the cod and haddock limits to make people happy. To shut it off would be insane. If this goes into effect, the families that own multiple boats should be shut down to one boat only. If it's that bad, they don't need three boats.

The Committee Chair noted that if the control date moved forward, it would have no effect on the tuna fishery. He explained that a control date itself would not determine whether a person was in or out of the fishery, but rather only indicated that those who were in the fishery prior to the control date may be treated differently than those who were not.

A Committee member stated his belief that the charter fishery was a commercial, not a recreational component, and should be treated as such. He felt that the control date was stale since no action had been taken in the four years since it had been passed. NOAA General Counsel staff clarified that the purpose of a control date was to give the public reasonable notice to make future decisions about purchasing boats or gear to enter the fishery, and that upcoming regulations may affect the ability to participate in the fishery. He stated that the longer a control date sat unused, the weaker it would be as a defense against takings types of claims, and that reaffirming the same date would probably not have a great effect, but may increase transparency.

One Committee member stated that a control date was necessary, but that it seemed unfair to keep the older date. He wanted to address initiating a catch share system for the party/charter component of the fishery, and stated that he now felt that the original motion by Mr. Goethel would have been the correct one. The Committee Chair felt that the control date and recreational issues had been active even though no direct action had been taken, since it was mentioned in discussions and frequently deferred. Another member noted that the original control date was discussed at length by the Recreational Advisory Panel and implemented at their request.

**Motion:** To recommend to the Council to replace the existing control date with the date a new control date is published in the Federal Register (Mr. Cunningham/Mr. Preble)

A Committee member asked whether party/charter issues would be addressed in the upcoming framework. He felt that the Committee needed to decide whether the development of recreational measures was a priority so it could be given due diligence, and if not, new control dates should not be implemented at random. With all the work needed for sectors, he was not sure the Committee has time to address this. Other members replied that they would like to see recreational issues take priority in the next amendment, and that they should be included on the list of Council priorities in the fall.

Ms. Murphy stated that the public was notified of control dates in the application forms for renewal and new permits. Yet another member agreed that the original motion that lacked a second would have been the correct course of action. He felt that control dates were meant to prevent speculative entry, but that figures showed that participation was actually decreasing. One member told the Committee that they were balancing two competing interests: protecting current businesses, and people's right to access the fish. Most members of the public access fish through these types of boats. If the number of boats is limited, so is people's right to access fish. The last date was picked because they were experiencing a large increase in permits, but when the bag limit becomes low enough, the fishery will be self-constraining. There is a lot of competition in this industry, and the Council should probably stay out of it. Another member pointed out that the regulations were unable to keep up with the fishery, since a large amount of port-hopping was taking place in response to seasonal closures and catch limits. Another agreed with the public commenters that there was an issue with the tuna boats. He thought that limited entry would not automatically close anybody out of the fishery, and said that since this fishery accounted for a significant portion of the catch, it was necessary to manage it carefully.

Public comment included:

- Tom Scanlon: Originally permits were required in order to support data collection for us to report our catch. I don't have a permit to catch fish because I don't have a permit to sell fish. The only time I'm going fishing is when people pay me to take them. I'm not getting 300 lbs. because I can't sell them.

The Committee Chair countered that prior to Amendment 7, there were no restrictions against selling fish while carrying passengers. Those restrictions were imposed in conjunction with access to closed areas, so it was not a fair comparison.

One Committee member felt that it was premature to be prioritizing issues for upcoming amendments before the afternoon discussion on accumulation limits. Another felt that recreational issues were important, but did not want to pigeonhole the Committee into being forced to address them in a certain way.

**Motion as perfected:** to recommend to the Council that party/charter boat fishery measures be included in the next groundfish amendment.

The motion **carried** on a show of hands (10-0-2).

### **Permit Banks**

Council staff informed the Committee that NMFS requested the Council to consider permit bank issues in its Amendment 16 approval letter. Several questions regarding permit banks would likely need to be answered by the Council in order to make them operational as described by NMFS. Committee members discussed whether these should be addressed in Framework 45.

One member asked what the role of the state was in these permit banks, and whether they would be created administratively or by legislation. Three states had submitted applications to implement permit banks as sectors in FY 2011. Another member noted that the structure would need to accommodate some flexibility, such as possibly allowing banks to purchase permits during the fishing year. So far, each state was expected to have a Memorandum of Agreement with the agency that would detail their plans for operation. One Committee member thought that, since states have differing legal requirements, they would all be structured differently.

The Committee expressed concern over the timeline for sorting out the issues. One Committee member recommended that the people running permits banks should draft a list of problems and identified solutions that would need to be addressed. Ms. Murphy stated that the September 1<sup>st</sup> deadline for applications was necessary because of analysis the agency needs to do. She was unsure how much flexibility was in that deadline.

Public comment included:

- Jackie Odell, Northeast Seafood Coalition: The Gloucester Fishing Community Preservation Fund has put permits for lease that are equivalent to a permit bank in NE Sector IV. We needed to follow the same process other sectors did. They do not have their own sector, but are just held in order to be leased out. This discussion is more complex than it seems, because you are using public funds to purchase federal permits. I have a million questions about how that would happen. It is very different from other private community fishing banks. All programs need to follow the same standards and have a transparent and thoughtful process.
- Rich Canastra, Whaling City Auction: I have a hard time, knowing the investment people paid for permits, to have any state as competition for them. I think that we are trying to privatize the oceans, and then have the state buy it back. I understand where you are coming from, but it doesn't make business sense. It definitely has to be thought out – we're just going into a new program, and right away we have the government wanting to buy it back.
- Maggie Raymond: I've had concerns about permit banks in general for quite some time. In Maine, they include specific eligibility requirements that people I work for have not been able to meet, so we have to compete against those while they have inexpensive access to DAS. They are going to give away quota, but only to certain vessel sizes or communities – now we are competing against our own federal tax dollars. What I would like the Council to weigh in on is making that money available to people who got little or no allocation. Everyone understood there would be winners and losers in sector allocation. To now spend federal dollars to bring capacity back when we know we have



an overcapitalization problem... I would hope the Council would weigh in that that is a bad idea. Allow the states to deal with it, but don't use federal tax dollars.

- Geoff Smith, The Nature Conservancy: Thanks for taking up this topic. I urge committee to use the suggestion of a meeting between the agency and interested parties to identify issues that need to be worked out by the Committee. The ultimate goal is to transfer ACE to members of other sectors. The only way is to form a new sector or roll permits into another sector and transferring it from there.
- Drew Minkiewicz, Private Citizen: I am speaking on my own behalf. NMFS created an allocation scheme, and divvied up shares of the resource to the public. Now we are spending federal tax dollars to re-allocate what we already allocated through a federal process. That is pretty maddening to hear. I strongly suggest having this sit-down and talking through these issues and developing goals. The administration is creating catch shares and a quasi-market for these goods, and then government intervention will skew all these markets and undo the incentives that catch shares supposedly create. I have an objection to using federal tax dollars to re-allocate a federal allocation. It's crazy.

A Committee member stated that he would like to move permit banks forward in a way that would be useful to everyone rather than sit and debate. Others stated that since the funds were already allocated, it did make sense to have a sub-group discuss issues with the allocation and report back to the Council at a future meeting. NOAA General Counsel staff advised that permit bank issues may have to be addressed in an amendment, depending on how they are arranged. Any actions that would involve allocative decisions or measures that were not already part of the FMP would require an amendment. Council staff asked who would participate in a permit bank sub-group, and cautioned the Committee that they needed to be careful about priority setting.

By consensus, the Committee recommended that NMFS convene a group to discuss permit bank issues and report back to the Committee.

### **Allocative Effects**

Council staff presented an outline of the white paper on groundfish fleet diversity and allocative effects that was requested by the Council for Committee guidance. Committee members provided the following comments on the outline:

- Reports should be taken out if they are not peer-reviewed.
- Examples from Atlantic Canada should be included.
- It should be clear whether accumulation limits are in the aggregate or stock-specific.
- The percentages could be by species or in aggregate.
- For analysis of outcomes, you could have one profitable trawler or 300 small boats that could be profitable but neither one would satisfy market requirements.
- Show how other fisheries got to where they are with limits, whether intentional or accidental.
- The Mid-Atlantic is working on an amendment to define excessive shares in the surf clam quahog fishery that might be of interest. It is a much better idea to discuss accumulation limits sooner after the transition to catch shares.
- The difference between economic and social objectives is extreme. While economic objectives such as market control may not be an issue, social objectives could be very detailed in an excessive share definition.
- If we already knew what was meant by ownership and diversity, we would not need this white paper.

- We have been falling short of OY in this fishery for a long time and need to be cognizant of that as we answer these questions.
- Rationales of why accumulation limits were developed in other fisheries and what objectives they were designed to achieve should be included.
- Update social objectives for the FMP with stakeholders alongside development of this paper.
- There should not be only full- or part-time vessels; that issue needs a range of alternatives.
- We are concerned with extraction of economic rents by controlling species with low ACLs.
- Loss of infrastructure is a major concern.
- Ownership interest should not be defined as family relations if there are no financial relations.

Public comment included:

- Jackie Odell: We haven't developed a LAPP in this fishery. We don't have a permanent allocation that has been developed in this fishery. The fisheries this analysis is considering are ITQ limited access programs. Is this analysis taking place because we're going to create a LAPP in the fishery or not? I don't understand what the council is trying to achieve in this process unless to start a LAPP.
- Tom Dempsey, CCCHFA: I see a need for this analysis, and would look at a range of potential measures. Here you are only looking at accumulation caps. There are other ways to do that, including groundfish transfer bins by length or horsepower. You need to be able to trade freely among classes, but maybe not between classes.
- Aaron Dority, New England Coastal Communities Sector: To inform analysis, I would like to see not just a snapshot of fleet diversity, but also what it's looked like since 1996. I am glad the Fleet Visioning Project, was mentioned. It offers benefits for making decisions in addition to just looking at definitions and the FMP's social and economic objectives. It is coming from the industry. If you had some similar index of industry perspective other than just what is in the FMP, that would be helpful as well. I would like to see the Council have a vision as a guiding process to answer that first question.
- Rich Canastra: We are back to the old ready, fire, aim scenario. This should have been thought out before you came to the new management regime. I agree that nothing is permanent right now. Again we have been incomplete and try to fix it in the future. I was on the fleet vision project years ago. My vision of the fleet was that I predicted consolidation, that stocks would rebound, and infrastructure would be lost. I am also predicting that we will have a frozen-at-sea fishery. The infrastructure wouldn't be able to handle fresh fish or the amount of haddock we're able to catch. Years ago we processed 1 million lbs./day. Recently that would be a lot in a week. The majority of that went out fresh, but we lost military business to Alaska because they allow twice-frozen. Our quality is poor compared to other countries. My vision is that day boats, trip boats, and processing ships will go into the freezer.

A Committee member stated in response to a comment that looking at distant history would give a skewed look of the fishery, since the fleet was unsustainable after a rapid buildup. Another stated that New England would never have freezer trawlers because fishermen are too close to the market. One Committee member stated that this item has been on the Council's 'to-do' list since NMFS's comments on Amendment 16. Just because there was a lot going on at the Committee level did not mean they should wait to get things started. Other members felt that the problem had not been identified, that permit banks would preserve fleet diversity, and that it made sense to wait for the white paper to be developed before deciding whether to take action, and that the problem needed to be more focused.

There was confusion about whether the Council had already initiated Amendment 17 to address area management, ITQs, and a points system. Although the Council voted on a motion to initiate that action, it was not on the 2010 priorities list and never went to scoping.

**Motion:** To recommend that the Council initiate an amendment to establish accumulation limits and retain fleet diversity for the multispecies fishery (Ms. McGee/Mr. Goethel)

One Committee member echoed earlier comments that if this was going to be done, it should be done upfront at the beginning of sector management. Another felt that waiting to initiate action would enable greater unplanned consolidation, and hoped that the full Council may be able to provide staff with more guidance. Yet other members felt that it was premature to initiate an amendment without the white paper or a clear idea of goals.

Public comment included:

- Aaron Dority: in April the Interspecies Committee passed this to the Council, and then they passed it back here. Nobody has known what to do with this issue for a while. All the questions you are raising are valid, but please be mindful that you're not the first committee to wrestle with these issues. I would hate to see you pass up an opportunity to make progress on this because you don't have enough information at this time. The white paper will provide good information, but you need to keep the ball rolling. With this motion, you are acknowledging concern with this. I urge you to vote for this.
- Geoff Smith: I am not for or against this. Ms. Odell raised a good point about ITQs and LAPPs. If ITQs are considered, caps are likely to be looked at in that amendment. Do we need a separate amendment for this, or will it come up in Amendment 17 with ITQs?
- Drew Minkiewicz: following on Mr. Smith's point, this is either too late or redundant. Amendment 16 was ruled not to be a LAPP, so no accumulation limits are needed. You also need to ask what problem we are trying to solve. Any LAPP has to have accumulation limits, so if you do a LAPP you have to do this. If those are off the table, then address other problems.

NOAA General Counsel staff clarified that NS4 requires that if it becomes necessary to allocate privileges, then no individual will acquire an excessive share. That can be interpreted more broadly than only applied to LAPPs. One Committee member opposed the motion because of the assumption that Amendment 17 would work toward ITQs, and he did not want to spend too much time developing excessive share rules for sectors if it would detract from ITQ development.

The motion **failed** on a show of hands (4-5).

Council staff presented a model on diversity indices showing concentration of permits by landing port and concentration of ACE by sector. A Committee member thought that groundfish port landing diversity appeared to be cyclic and correlated to phytoplankton productivity. Staff countered that it may depend on the composition of landings. Other Committee members saw variability in concentrations, which could be related to cost of fuel or availability of fish. Staff noted that very different fishery compositions could lead to similar diversity indices.

Staff then asked whether, given the lack of guidance from the Committee to bound the analysis in the white paper, it would make sense to provide the first portions of the paper that addressed fleet diversity and types of accumulation limits before performing analyses of outcomes. Committee members felt that it was necessary to get a clearer picture of the current fishery before deciding on goals for its future. They asked if it would be possible to get information on what

consolidation has already occurred and what sector trades have occurred since the implementation of Amendment 16. NERO staff pointed out that annual sector reports will detail any consolidation or redirection of effort, and will be much more comprehensive than current information.

By consensus, the Committee directed that the first two-thirds of the white paper should be completed and presented back for further guidance before extensive analyses of effects of accumulation limits are considered.

## **Other Business**

### *Capacity Restrictions on Permit Transfers*

A Committee member stated that these restrictions thwarted business moves and that horsepower/tonnage requirements should be removed. They have no relevance in catch share management and have a constraining effect on the fishery. The Committee Chair mentioned that it may take an amendment to change the restrictions, since there was a consistency amendment across plans. Council staff noted that it may make sense to resolve accumulation limit issues first, in case the Council decides to have caps by vessel size. Ms. Murphy stated that these restrictions made sense in an effort-based fishery, but that they were not important for sectors. Other FMPs may be problematic, but such problems were likely not insurmountable. One Committee member stated that it was important to take time and see what was actually happening since sectors were implemented. Another member felt that this discussion was a convincing reason to move to ITQs.

### *Handgear Fishery Issues*

Mr. Mark Stettner of the Northeast Hook Fishermen's Association addressed the Committee and stated that dockside monitoring requirements were extremely problematic for the handgear fleet. The cost of monitoring would likely exceed the revenue from fishing for small loads. He asked the Council to make a motion to exempt Handgear A permits from dockside monitoring requirements. Council staff stated that the PDT would be considering solutions for this problem as part of its analyses of accountability measures.

Mr. Stettner then distributed a letter requesting a scaling back of some requirements in the fishery to make it more attractive to would-be participants. He felt that the handgear fishery would be a good way to allow future generations to access to the fishery without requiring huge start-up costs. Council staff pointed out that handgear vessels are permitted to use tub trawls in addition to hand-operated rod and reel. Also, they were eligible for sectors and have dedicated PSCs. They were bringing ACE to the common pool to fish on, and the equivalent ACE was used to determine common pool trip limits. Very few participants have over 600 lbs. total of GOM cod that they are entitled to as PSC. A Committee member felt that there was a large difference between the letter and the request for an exemption from dockside monitoring. He thought the latter was reasonable. The tradeoff for allowing recreational fisheries into closed areas was a no-sale provision, and that would not apply to this fishery. Mr. Stettner expressed hope that cod limits should be loosened soon, and he simply wanted a way to remain in the fishery until it would be profitable again.

### *Landing of Unmarketable Fish*

Ms. Murphy stated that the current regulations require sectors to land all legal-sized fish. She questioned whether it was necessary to bring in unmarketable fish. Sectors were asking to discard those in the sea along with sub-legals. They had concerns with contaminating the good product,

and safety issues with keeping it on deck. It was not clear if the Council intent was just for marketable fish or really all legal-sized fish. Council staff explained that this issue was brought up at the Committee by Dave Marciano in relation to gillnet gear and seal-damaged cod. The Committee never took any action on that suggestion or moved it forward, so the amendment was written with no reference to that.

Public comment included:

- Maggie Raymond: We brought this up when a sector vessel was required to retain several pounds of fish that was extremely rotten. They didn't want to put it in the fishhold. On deck there is no room to store totes of fish, so it is a human safety issue to have on deck. We suggested at a minimum when there's an observer and fish are recorded, they should be able to discard these fish.

A Committee member noted that he did raise this at the Council meeting, and that it was not only an issue for gillnetters. Another was sympathetic, but thought it was important that discarding could only happen on observed trips. Several other members stated that they never intended for the industry to be forced to bring in junk, but only that every fish was counted. NOAA General Counsel staff stated that the agency would need to discuss the process for a corrective action, and that a 305(d)-type action might suffice.

#### *Spawning Closures*

Ms. Murphy stated that sectors had a universal exemption for block 133 in the GOM. The State of MA was concerned that published papers show a lot of spawning fish going on there in June. Sectors have a hard TAC and reason to avoid spawning fish, but the recreational fishery has approached NMFS and said to do something about the area to protect the spawning. One Committee member had been involved in studies in the area, and noted that the spawning area was small and not the entire block. The best solution would be to identify the area and have a seasonal closure. He stated that he would work with other members to bring exact coordinates to the Council meeting. Council staff stated that the PDT report suggested looking at the area, but that the issue was not on the Council agenda. Ms. Murphy stated that they were looking to have this issue addressed in FW 45.

#### *Interactions with Skate Fishery*

Mr. Rich Canastra of the Whaling City Auction informed the Committee that there may be a problem with skates. He stated that vessels that were dropping out of the groundfish fishery have less horsepower than those that normally fish for skates, while ACE was being traded to higher HP vessels that did not normally fish for skates.

The meeting adjourned at 5:41 p.m.