

New England Fishery Management Council Groundfish Oversight Committee

Meeting Summary

March 29, 2012

The Groundfish Oversight Committee (Committee) met in Providence, RI to continue work on several actions related to the Northeast Multispecies Fishery Management Plan (FMP). The Committee discussed the groundfish assessment updates, the framework on sector action issues, the Endangered Species Act listing for Atlantic sturgeon, specifications for FY 2013-2014, modifications to closed areas, and the inshore rockhopper gear restricted area. Committee members present were Mr. Terry Stockwell (Chair), Mr. Tom Dempsey (Vice-Chair), Mr. Frank Blount, Mr. Rip Cunningham, Mr. David Goethel, Mr. Howard King, Ms. Sally McGee, Ms. Sue Murphy, Mr. James Odlin, Dr. David Pierce, Mr. Dave Preble, and Ms. Laura Ramsden. They were supported by staff members Ms. Rachel Feeney, Ms. Anne Hawkins, and Mr. Tom Nies (NEFMC), Mr. Mark Grant, Ms. Sarah Heil, Mr. Mike Ruccio, and Ms. Melissa Vasquez (NMFS NERO), and Mr. Gene Martin (NOAA General Counsel).

Discussions were guided by the executive summary to the 2012 groundfish assessment updates, a Groundfish Plan Development Team (PDT) memo dated March 20, 2012, a Draft PDT paper: Developing Effective Monitoring for the Northeast Multispecies Fishery, a PDT report dated March 23 2012, and background materials on the inshore roller gear area.

Groundfish Assessment Updates

Council staff provided a presentation on the recent assessments for groundfish stocks and on the recommendations from the Council's Scientific and Statistical Committee (SSC). The committee members asked questions about the assessments. Council staff noted that the weighting of survey data varies between assessments, and that the SSC's plan for moving forward is not entirely clear at this point. The Council may have to consider what level of risk it is willing to accept when scientific information is unclear. Wolffish is at 29% of B_{msy} and some other stocks are at lower percentages. There was no conclusion on an explanation for the retrospective pattern for CC/GOM yellowtail flounder, and an adjustment was applied to the result based on the performance of the assessment. A committee member wondered if the assessment was useful at all for management given past adjustments and thought the retrospective pattern may be due to a lack of accurate catch information.

Public comment included:

- Vito Giacalone, Northeast Seafood Coalition: If GB haddock is at 35,000 mt, for GOM haddock there is basically less than 0.75% of the TAC when there is a 200 mile-long boundary between them. One second of longitude down further south the TAC is 100 times greater. Less than .5% of mixing between the stocks would double the TAC for GOM haddock. That is egregious, and overlap or mixing needs to be accounted for in order to prevent the fishery from shutting down. It does not make any sense scientifically when there is no real geographic barrier between the two stocks.
- Peter Shelley, Conservation Law Foundation: I wanted to underline the comment that it is troubling to think to what degree these assessments are actually capturing what is going on out on the water. I share the point of view that we are missing catch, although there could be other factors. The degree to which we can use these assessments for management actions, given the inability to understand or reduce the retrospective

patterns, is a major problem, and the Council should put as many scientific resources into this as possible because it underpins everything you are doing on the water.

- Maggie Raymond, Associated Fisheries of Maine: The SSC is talking about a management strategy evaluation process. At some point we should get some kind of presentation on exactly what that is, the pros and cons of using it, and potentially whether or not we can use it under the current constraints of the law. My limited understanding is that it is combined decision making between managers and scientists.

Sector Framework

Council staff presented work from the PDT on the committee's proposed goals for the sector monitoring. A committee member recommended that the white paper should look at regions that have the most in common with the New England groundfish fishery. Another pointed out that in Quebec, monitoring levels for domestic fisheries were set at 10-15%, and that the fundamental issue was that the Council needed to determine a level that was compatible with our fishery and then figure out where to go from there. He felt that the objectives are not currently matching the goals that were set. Another committee member asked whether the PDT discussed other monitoring goals that would look at the financial performance of the groundfish industry, and staff responded that they discussed financial performance in terms of profitability and would be doing more analysis in the upcoming months.

Public comment included:

- Gib Brogan, Oceana: This discussion should have happened during the development of Amendment 16, but having it now is an improvement. The commentary from NOAA in their bycatch report was missing from the white paper. While observers are meant to support in-season catch accounting, etc. it is missing a discussion of standards of accuracy and precision. We need to have a very good handle on what is being caught, but that should be included as part of the goals and objectives. Putting those standards in will give us a yardstick to measure against.
- Maggie Raymond: In this discussion of setting goals and objectives we need to delineate what we need from an at-sea program as opposed to other parts monitoring in the fishery. In the discussion going on, most people have been talking about at-sea monitoring. In Goal 1, the source of truth for the catch is the dealer report, and we have VTRs for catch by area. We have mechanisms in place to get this information, and at-sea monitors do record it, but it's not what the sector program is using to document catch or catch by area. Are we talking about what we want to get out of the sectors' at-sea program, or how to make sure each of the components are working correctly at the right level? It cannot all be done by at-sea monitoring. One of the problems is that Amendment 16 says the monitoring program is supposed to determine catch, but the electronic pilot program is trying to do that, so the issues should be separated to determine the best way to accomplish them.

Council staff responded that standards would be considered in a later section of the white paper and that the goals were meant to apply to a comprehensive monitoring program, in order to guide discussion on what individual components were necessary to achieve the goals, rather than to any one aspect of the monitoring.

The committee discussed the PDT's work on the possibility of a management uncertainty auction. One member felt that it would be important for the Council to actually connect the uncertainty buffers with actual changes in the fishery. Council staff noted that this option probably could not

be considered in a framework action. Another member thought that the figures generated by the concept would not cover something like the current monitoring program, but would rather lean toward 100% coverage. He felt that it was necessary to first determine how much money could be spent, and then determine what could be accomplished with that amount of money. He felt the program needed to be streamlined and was too expensive for what it provided, which was essentially to weigh fish. Another member stated that with 100% retention, it might not even be necessary to weigh fish on the boat. He suggested taking a set-aside, cutting it in half, and giving that amount to the sector in an allocation so they would be responsible for paying for it and could have their own auction.

A committee member noted that there is an auction for a research set-aside in other fisheries that provides a letter of authorization to land fish purchased through the auction. This has complications that are difficult to manage, but he felt that this concept would not lead to similar problems because it would not require special treatment of individual amounts of fish. Members generally agreed that it was necessary to use the least expensive form of monitoring that would collect the information was necessary. Several felt that using dockside monitoring could be desirable if the overall program was changed, even though it was redundant as currently included in the management plan. One member recommended calculating the value of fish that would be converted from discards to landings under a full retention program, and using part of that revenue to pay for monitoring to see if it would cover the full cost.

The PDT Chair noted that they are examining full retention, but that it could lead to a change in selectivity, which may change reference points and reduce catches. Also, the PDT was looking into whether there may be a large cost of having inadequate monitoring if unknown catch is contributing to scientific uncertainty. He cautioned that people were only talking about full retention of allocated stocks, which was different than a true full retention program and could complicate electronic monitoring. One committee member responded that industry costs are already being elevated by incomplete information, and felt that it was important to get away from the idea that the current program would be ratcheted up or down to achieve reduced uncertainty. Another felt that the cost of inadequate monitoring was likely to be huge, and that a concept like the uncertainty auction should be used to increase the amount of at-sea monitoring, not simply to reduce costs of the current program. One committee member stated that three things were essential to an effective monitoring program: addressing costs, the quantity and quality of data, and the timeliness of incorporation of information into both science and management. She felt that the white paper should include an analysis of how timely information is being put to use.

Ms. Murphy informed the committee that NMFS was looking at VMS and VTR data for trips to make sure they match, for instance if a fisherman indicated on VTR that they were fishing in two areas. She offered to have a presentation on the details of this study. A committee member felt that the law already covered this issue and it should be dealt with by enforcement. He noted that the dockside monitoring requirement would return in 2013. Ms. Murphy responded that enforcement finds that it is difficult to enforce monitoring provisions when vessels are fishing in multiple stock areas and that they were of the position that limiting vessels to one broad stock area per trip, or requiring an observer when fishing multiple broad stock areas, were the only ways to really enforce this measure currently. There may be other ideas that could be explored to make this more enforceable.

One committee member stated that he did not feel that increased monitoring coverage would fix the problems with stock assessments, since the level of monitoring was the highest it had ever been and the assessments were among the most problematic. He also expressed concerns with full retention for small vessels that would have trouble with weight loads if bringing in species such

as dogfish or an accidental whale catch. He also cautioned that it would be necessary to consider what would happen to small fish that may be brought in for which there was no market.

Public comment included:

- Maggie Raymond: The Senate Appropriations Committee informed us that in the 2013 budget they have 50% of the cost of at-sea monitoring for northeast groundfish. When asked what that equated to in dollars, there was no response. I think they are waiting for a political response. In 2010, you sent a letter to NMFS asking them to continue to prioritize the cost. Given the situation in 2013 with cod and other stocks, it is important that the Council send that message again to the agency.

Motion: To recommend that the Council adopt the following distinction between those aspects of the Groundfish Sector monitoring program which the fishing industry could be required to support (partially or entirely) and those programmatic costs that will continue to be funded (permanently and entirely) by the National Marine Fisheries Service.

Specifically, the industry shall only ever be responsible for contributing to the funding for direct at-sea monitor (ASM) costs:

- ASM recruitment, salary, benefits, insurance and taxes
- Logistical costs associated with ASM deployment
- ASM travel and lodging

Indirect costs of the ASM and monitoring program shall continue to be supported entirely by NMFS. These program elements and activities would include, but are not exclusive to:

- Briefing, debriefing, training and certification costs (salary and non-salary)
- Sampling design development
- Data storage, management and security
- Data quality assurance and control
- Administrative costs
- Maintenance of monitoring equipment (Mr. Dempsey/Dr. Pierce)

The maker of the motion provided the rationale that it was necessary to improve monitoring performance and minimize cost, but that it was also important to better define who is responsible for what so it is clear what costs are being discussed for industry. He stated that the West Coast groundfish fishery largely follows this distinction and operates with costs of \$325/day.

A committee member stated that monitoring was being provided by private companies, so it was not reasonable for industry to be responsible for anything more than their daily salary. He felt that benefits and costs of deployment should be the companies' responsibility. Another thought the motion should be clarified since it was too broad and did not address who would pay for dockside monitoring, which he thought should not be an industry responsibility. One committee member felt that she did not pay her employees to commute to work and therefore should not pay for monitors to do so either. The maker of the motion thought that sectors had unique monitoring requirements based on the management strategy employed on their vessels, but stated that he would be open to including common pool vessels in the motion. Ms. Murphy stated that she did not know if NMFS was planning to pay any of the listed costs for at-sea monitoring or not, but suggesting checking with NEFOP and reiterated that NMFS' costs are dependent on the amount of funding that they receive.

Motion to amend: To recommend that the Council adopt the following distinction between those aspects of the Groundfish Sector monitoring program which the fishing industry could be required to support (partially or entirely) and those programmatic costs that will continue to be funded (permanently and entirely) by the National Marine Fisheries Service.

Specifically, the industry shall only ever be responsible for contributing to the funding for direct at-sea monitor (ASM) costs: specifically the daily salary of the at-sea monitor.

- ASM recruitment, salary, benefits, insurance and taxes
- Logistical costs associated with ASM deployment
- ASM travel and lodging

Indirect costs of the ASM and monitoring program shall continue to be supported entirely by NMFS. These program elements and activities would include, but are not exclusive to:

- Briefing, debriefing, training and certification costs (salary and non-salary)
- Sampling design development
- Data storage, management and security
- Data quality assurance and control
- Administrative costs
- Maintenance of monitoring equipment (Mr. Goethel/Mr. Preble)

The maker of the motion to amend clarified that the government would pay all other costs. He felt that the costs of monitoring were heavily padded because it was a government contract, and therefore something needed to be done to attempt to control the costs. He wanted to make the motion as simple as possible, and considered it implicit that anything that was not the salary would have to be covered by someone other than the industry. He was afraid that if the responsibilities were fully enumerated, items could be added to the industry side. A committee member spoke in favor of this direction, and noted that the price of fuel was very high and that the monitors were making more money than the vessel crew. NOAA GC stated that the Council could not tell NMFS how to spend money and, even if they did, NMFS was not obliged to comply. The agency would disapprove any language stating that they would be required to pay for a program. A committee member stated that this was really about clarifying the intent of the Council with regard to the definition of industry funding.

Public comment included:

- Maggie Raymond: I think the intent on this motion is good, and we should draw a line on what the industry is expected to pay and what the Council thinks the agency should pay. It sends a clear message to those who provide the budget on what the industry should be responsible for.
- Drew Minkiewicz, Fisheries Survival Fund: On behalf of the scallopers who think this is a very important development from the Council, this should be broadened for all at-sea monitoring throughout New England. We should be very specific about what is and is not accounted for. The price of a monitored day is extraordinarily higher in this region than anywhere else in the country.

Committee members clarified that this would not exclude the possible option for the auction concept, and that if the changes were meant to apply to all fisheries they would have to go through other committees.

Motion to amend, as perfected: To recommend that the Council adopt the following distinction between those aspects of the Groundfish monitoring program which the fishing industry could be required to support (partially or entirely) and those programmatic costs that will continue to be funded (permanently and entirely) by the National Marine Fisheries Service.

Specifically, the industry shall only ever be responsible for contributing to the funding for direct at-sea monitor (ASM) costs: specifically the daily salary of the at-sea monitor.

Costs of the ASM and monitoring program shall continue to be supported entirely by NMFS. These program elements and activities would include, but are not exclusive to:

- Briefing, debriefing, training and certification costs (salary and non-salary)
- Sampling design development
- Data storage, management and security
- Data quality assurance and control
- Administrative costs
- Maintenance of monitoring equipment
- ASM recruitment, benefits, insurance and taxes
- Logistical costs associated with ASM deployment
- ASM travel and lodging (Mr. Goethel/Mr. Preble)

The motion to amend, as perfected, **carried** on a show of hands (9/0/2).

The main motion, as amended, **carried** on a show of hands (9/0/2).

Motion: to include the following goal, and objectives that pertain to that goal, in our efforts to improve sector monitoring:

Goal: To increase Council understanding of sectors' structure, operation, and evolution relative to:

- (1) The financial stability of sectors and their members;
- (2) Distributive effects of sector ACE leasing and fishing behavior in the context of Magnuson-Stevens National Standards;
- (3) Impacts on Council groundfish conservation and allocation decisions;
- (4) Shifts of effort to non-groundfish fisheries inconsistent with the Council's Sector Policy; and
- (5) Promoting improved quality and accuracy of stock assessments.

Objectives:

- (1) To annually monitor financial performance of sectors with techniques providing the best assessment of sector members' economic viability, e.g., break-even analysis;
- (2) To monitor the movement of leased inter- and intra-sector groundfish ACE and the economic value of that leasing to fishermen who lease and who acquire ACE;
- (3) To promote sector monitoring of location and movement of spawning GOM cod to:
 - a. minimize the impacts of sector members on spawning aggregations; and
 - b. maximize the benefits of protecting spawning cod and enhancing their reproductive success;
- (4) To monitor the shift of effort into non-groundfish fisheries seasonally and throughout the year by sector fishermen's non-groundfish catches (pounds and value);
- (5) To improve effectiveness of monitoring sector groundfish catch by broad stock area (Gulf of Maine, inshore and offshore Georges Bank, and Southern New England/Mid-Atlantic);

- (6) To improve monitoring of sector effort and catch within the Stellwagen Bank National Marine Sanctuary to assist the Sanctuary better characterize the importance of Sanctuary fishing grounds to sector fishermen;
- (7) To monitor the redistribution of GOM cod allocations through ACE leasing to the southwestern portion of the GOM (e.g., Stellwagen Bank) where cod are now concentrated; and
- (8) To monitor effort and trip catch of large vessels in the inshore waters of the GOM to determine whether large-vessel effort is increasing in those inshore waters contrary to Council longstanding concerns about interaction and conflicts with smaller vessels dependent on inshore waters. (Dr. Pierce/Mr. Goethel)

The maker of the motion provided the rationale that monitoring of the fishery goes beyond simply looking at catch, and that these principles would supplement the goals already adopted for catch and catch location. Another committee member stated that this was a different type of monitoring than the catch monitoring that was typically considered. The maker stated that, after speaking with a number of fishermen, the Council still did not understand what was going on relative to sectors and what was happening to individual fishermen and inshore/offshore fishing issues. He thought it was necessary to gain a better understanding about that in order to manage effectively, and felt that the PDT was not in a position to advise about what was actually occurring in the fishery.

One committee member stated that these goals would be appropriate to include in some of the work that was being done on FMP performance indicators. Another agreed but thought the goal to increase Council understanding was critical. One member was concerned that this motion would lead to having people audit sectors and ask for information that should be private. The maker of the motion thought that there may be different mechanisms to achieve the goals, but felt that it was an urgent issue that should be dealt with as quickly as possible. Other members argued that putting this motion under the monitoring action would imply that a third party would come in to achieve this, and that would add an unnecessary layer of bureaucracy and expense.

The maker of the motion stated that he did not want to add any person to perform these goals, but felt that NMFS, Council staff, the PDT, and even the SSC could do some of the work to meet the listed objectives, and that it should be done on an annual basis. He stated that sectors could not be required to provide this type of information, but felt that a more independent look at the available information would be necessary. Ms. Murphy stated that she thought NMFS was already collecting most of the information that would be used to evaluate these objectives through the sector's Year-end-Reports. Ways to retrieve intra-leasing information with less burden to the sectors is currently being discussed with the sector managers, and she interpreted this motion as a request to look at the information in different ways than was currently being done.

Public comment included:

- Vito Giacalone: A lot of these things are included in the annual report. This will be directly related to decisions made for TACs in 2013, so we will not see how sectors have changed in a negative way or the impacts on individual fishing businesses. We will lose members and be less and less viable as an industry as we lose TAC. We will talk later about whether changes in TACs trigger an EIS, so hopefully we can get the best economists in the northeast and find out the true impacts. There are valid questions up there; maybe you could restate a request to NMFS to compile and make this information more reader-friendly.
- Maggie Raymond: I would echo the comments that most of this information is already available in the sectors' annual reports. We provided ours to NMFS and the public. I

don't think anybody actually has read it. Some of the issues on the second page will make more work for our sector managers to report on things they really have no information about, such as who is fishing on Stellwagen or interacting with GOM cod. You would be asking the sector managers to do this and they are already pretty busy. I don't know how they would collect that information.

- Aaron Dority, Northeast Coastal Communities Sector: Some of this information is available but not all the detail. You will be able to see the high-level things but not get down into the questions of financial viability etc. It is a good idea to have some metrics on the board against which we can measure sector performance.

Two committee members expressed discomfort at looking at sector members' economic viability and wondered whether confidentiality issues would come into play. The maker of the motion stated that he was concerned about the financial viability of individuals and not just sectors, because there were a lot of struggling individuals. Some other members stated that there were not enough fish regardless of who was viable or not, and that allocations would need to be increased or access to closed areas in order to alleviate infighting over a smaller and smaller share.

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

The committee discussed the goals and objectives from the PDT discussion paper. A committee member stated that some of the objectives under Goal 1 were redundant, and that it was necessary to analyze the impacts of observer bias, not to achieve a coverage level based on it. He did not support monitoring to a specific discard rate. A few members stated that they were not sure there should be an objective with recognition of opportunity costs. Another committee member thought that the second bullet under Goal 1 conflicted with Goal 2. He felt that in order to achieve cost-effective monitoring, the trips that caught the most fish had to be monitored. Ms. Murphy stated that she supported the objectives, particularly under Goal 1. She felt it was critical to get accurate catch accounting under ACLs. Council staff clarified that the first bullet in Goal 3 was meant to indicate a balancing of the two concepts, not necessarily to go to the smallest possible strata but rather the most cost-effective possible one.

Motion: To move forward with Goal 1, except for bullet #2, and for bullet 3 add "while maintaining as much flexibility as possible to enhance fleet viability". Goal 2-6 as written (Mr. Odlin/Mr. Preble).

The maker of the motion provided the rationale that it did not make sense to have 100% observer coverage to look for one sturgeon, and felt that protected species monitoring was a government responsibility. Another member supported eliminating the second bullet because if the fishery moved to full retention, it would not include non-target and non-regulated species. Another stated that he was hesitant about Goal 4 because it would set the continued expansion of the information and was not sure there were proper bounds provided.

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

Motion: To recommend the Council send a letter to NMFS to formally request the prioritization of 100% federal funding for GF monitoring costs in FY 2013 (Mr. Dempsey/Ms. Ramsden).

The maker of the motion provided the rationale that this was probably a realistic view of where the fishery will be in the next few years, and that it was appropriate and timely to request this support for an industry that is not prepared to shoulder additional costs. A committee member expressed concern that if this were approved, it would essentially recommend that NMFS give all

other activities like stock assessments, for example, lower priority than the groundfish monitoring costs. Another felt that this would simply reiterate the request that the Council sent for FY 2012.

Motion as perfected: To recommend the Council send a letter to NMFS to formally request 100% federal funding for GF monitoring costs in FY 2013 (Mr. Dempsey/Ms. Ramsden).

Public comment included:

- Vito Giacalone: I fully support this motion for obvious reasons and to reassure members who are worried about the NMFS budget. It also helps us, when asking congressional delegations, to show that there is Council support and an acknowledgment that industry is not ready to pay for monitoring.
- Aaron Dority: I think in addition to asking for monitoring funding for next year we have to be explicit that we have a higher expectation for how the monitoring program is going to be structured. We spend a lot of time talking about streamlining the monitoring program. If we have extended funding that is great but it puts off the problem that needs to be addressed, which is reducing the overall cost.

The motion **carried** on a show of hands (9/0/2).

Motion as perfected: to develop an option in the next appropriate action for 100% dockside monitoring coverage that is paid for by the dealer (Mr. Odlin/Mr. Dempsey).

The maker of the motion provided the rationale that, with 100% dockside monitoring, nobody would have to enter the fishhold, and dealers could absorb some of the cost or carry the expenses up the chain instead of down to the fishermen. He felt it was similar to the way the FDA operates in a food plant, because the private vendor is required to pay for the inspection. He also thought that dockside monitoring would only be effective if there was 100% coverage. Another committee member stated that the information collected from dockside monitoring in 2010 did not go anywhere and was not streamlined, and that those issues would need to be resolved if this option was developed.

One committee member stated that he was opposed to dockside monitoring. He said that the enforcement committee confirmed that there had never been an enforcement case based on dockside monitoring and that the states adequately covered the docks through the joint enforcement agreement. He felt that the enforcement should not be redundant, and both programs should not be funded simultaneously. Other committee members felt that this would only work to reduce costs if implemented hand-in-hand with electronic monitoring, and felt it should not be considered as a stand-alone alternative. One felt that this type of monitoring was a function of the U.S. government and should not be borne by the dealer.

NOAA GC staff advised that this action was not appropriate for a framework since it would shift a financial obligation from one party to another that was not previously contemplated.

Public comment included:

- Maggie Raymond: We were talking earlier today about potentially having a full retention program. I hope that we will get that option fully developed. A full retention program would incentivize people to move away from small fish, since it will be counted against their allocations and they would change fishing practices. Nevertheless, we need to know what the amount of that fish is. We want to make sure that it is fully accounted for and

figure out what the potential impacts to the resource are of having a large take of undersized fish. Putting aside the question of who pays for it, we need a dockside monitoring program to learn what percentage of the catch is undersized fish.

- Jackie Odell, Northeast Seafood Coalition: NSC does have some members who are dealers, and I would caution the Council that it is an interesting concept but the dealers are not here to speak on their behalves so it could be problematic. This could be more of an economic hardship on some dealers than others.

The motion **carried** on a show of hands (6/2/3).

NOAA GC staff stated that the requirement for dockside monitoring would return in 2013 in the absence of a modification through a framework to suspend it or delete it.

Motion: To delete the dockside monitoring program in 2013 (Mr. Goethel).

The motion **failed** for lack of a second.

Atlantic Sturgeon Update

Ms. Kimberly Damon-Randall from the NMFS office of Protected Resources gave a presentation to inform the committee about the recent Endangered Species Act decision for Atlantic sturgeon populations. The date for the listing is April 6th, and after that take is illegal. The biological opinion will not be completed by then, and is not likely to be completed before the April Council meeting, but NMFS would like to make sure they are working to identify those measures that can be put into the opinion in order to have it in the record that they are trying to take action as soon as possible. A task force coordinated by the Protected Resources Division (PRD) is exploring how to get more participation in the development of alternatives. The last assessment was performed by ASMFC in 1998, although other studies have been funded and performed. A committee member who sits on the ASMFC noted that the Sturgeon Board was being reconvened with high priority and would seek a new assessment. Ms. Damon-Randall noted that the petition for listing drove this process and initiated the one-year timeline for the finding. In response to committee members' questions, Ms. Damon-Randall also noted that there is one broad category under the reasonable and prudent measures for age class, unless there are areas where sub-adults or adults might be more common. The PRD is also working with other agencies and industries that interact with sturgeon in separate consultations. Ms. Damon-Randall would also be speaking with the Council's Monkfish Committee.

Ms. Murphy stated that this was an opportunity for the committee to provide input on feasible measures to go into the biological opinion, and noted that the committee may want to consider the Council process to take action for sturgeon. It could be done for individual FMPs or through an omnibus amendment. Committee members did not feel prepared to forward recommendations on specific measures, although one commented that net tending was not feasible because it poses a tremendous safety hazard. The Council Chairman stated that it would be more sensible to focus on overall gear/area restrictions rather than individual FMPs. Ms. Murphy noted that the Council would have to coordinate with the MAFMC on species with joint plans such as monkfish and dogfish. Council staff stated that it is difficult to attribute sturgeon takes among FMPs and that a combined action could give flexibility in the attribution.

Ms. Damon-Randall stated that if a fisherman were to catch a sturgeon in the near future, the best course of action would be to return it to the water as quickly as possible. Enforcement is on the task force and working with the agency on the biological opinion. The agency will also develop

downlisting criteria as part of the recovery plan, and was open to analyzing any data that may change the picture of sturgeon status. Once the opinion is complete, fishermen do not get an authorization letter as with marine mammals, but rather, law enforcement agencies know what the overall acceptable amount of take is.

Sector Framework (Continued)

Council staff asked for more clarification on behalf of the PDT for the monitoring goals adopted by the committee

Incentivize reducing discards

A committee member stated that gear type had to be well-defined in observer data in order to have discard rates apportioned correctly for gear types and gear innovations such as bycatch reduction devices. Another member thought that incentives were built in under catch shares if discards did not catch against an individual's quota. Council staff clarified that discard rates are determined on a sector-wide basis, so that decreasing individual discards does not automatically lead to a lower discard rate for an individual vessel. The counterargument was made that if individual discard rates were desired, coverage levels would need to be higher to determine them accurately. Another committee member felt that monitoring the fishery by determining discard estimates was preventing it from reaching the management goal of reducing discards.

Council staff noted that, in the absence of an observer effect, the Council's interest was to know that sector catch is accurately tracked, by stock. If a CV standard is determined for that, and is calculated on a stratum, a certain number of observed trips are needed. Right now this is not being done on an individual level, which would vastly increase the number of observed trips needed to hit the CV standard. It is not clear what sectors and industry members want. Sectors could address some of these issues internally. One committee member stated that the discard level should be determined down to the individual fisherman, and that information should be provided to sectors. Another felt that sector members were already working together to minimize discards.

One committee member stated that reducing discards may not belong in the list of monitoring goals separate from the accurate determination of total catch included in Goal 1. He felt that the discard strata that currently exist set a very flawed target for the precision that should be achieved. Another asked if the CV was eliminated if it would reduce the number of necessary strata and Council staff responded that with more strata, more coverage is needed to meet the CV no matter how it is calculated. Committee members felt that it was necessary to explore what is the right CV and the trade-offs associated with different strata levels.

Provide additional data streams for stock assessments

A committee member stated that this needed to be driven by a gap analysis to see what information was not currently available. He thought biological uncertainty was covered under Goal 1, and that the second objective was under the purview of cooperative research programs. By consensus, the committee agreed to remove the word "additional" from the goal and replace it with "improved".

Enhance Safety

Committee members stated that the PDT added this goal, and PDT members responded that it was added in response to a request and discussion by the committee, but that it needed to be

clarified. One committee member stated that safety was already an issue due to the intrusive nature of having monitors on vessels, and felt that harassment was an issue for enforcement and not the monitoring program. Others offered that safety may be an issue with having inexperienced people on vessels or having only one observer on a vessel, although they did not feel like there were easy solutions to those problems. The Committee Chair recommended looking at the work that has been done on observer safety in the herring amendment.

Public comment included:

- Maggie Raymond: I tried looking at the last meeting summary to see what the discussion was. I raised an issue in terms of using more electronic monitoring and less people monitoring to reduce the circumstances where you put people's lives in danger. The summary has a statement that Mr. Dempsey made a suggestion that he further explained today. It was a combination of both of those things.

ACLs/ABCs and Planning for Committee Actions

Council staff drew the committee's attention to the memo from the committee chair that detailed upcoming actions for the Groundfish Committee. The sector action would be a framework or an amendment, and there would be another separate action to implement ABCs/ACLs for FY 2013-2014. The sector action should be voted at the September Council meeting if there will be major changes to the monitoring program so that the changes can be anticipated when sectors draft their FY 2013 operations plans. The ABC action could be voted on in November. The rebuilding plan for plaice may need action, and the SSC also tasked the PDT with figuring out ABCs.

A committee member noted that an action on SNE/MA windowpane flounder would be important to the scallop fishery. Assuming the Council was notified that the stock is rebuilt, the ABC would be close to what catch was in the most recent year for which there is a catch estimate. One option for the stock would be to consider the mixed stock exception, and the Scallop Committee can decide if they want to do that. Ms. Murphy stated that because the survey index is highly variable, the stock status could change next year for this stock and it could be overfished. The Council Chairman stated that it was necessary to define exactly what absolutely needed to go into these actions in order to get all the work done in time, and felt it was important that the sector action be done as a framework.

Motion: To not look at revising the GOM cod rebuilding plan in the specifications action (Mr. Odlin/Mr. Goethel).

The maker of the motion provided the rationale that action was not required until 2014, and that more assessment information would be available this winter or spring. Ms. Murphy stated that the Magnuson Stevens Act allowed up to two years to respond to the assessment, so the Council could have implementation in 2014. She advised that it would be best if the cod actions were considered together but reiterated that it was not required.

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

The committee agreed by consensus to wait until the Scallop Committee weighed in on prioritizing the issues related to SNE/MA winter and windowpane flounders and access area dates. Ms. Murphy stated that the upcoming action may need to address the December 20, 2011 lawsuit on the lack of accountability measures for non-allocated sector stocks in Amendment 16. Framework 47 revised these proactive and reactive AMs, and NMFS could be sending a letter to

the Council about the need to reconsider them in the next action. It will depend in part on what comments are received on Framework 47. NMFS asked for comments on all the AMs, but the court specifically raised an issue with the proactive zero-possession limit AMs. Council staff stated that it may also be necessary to address recreational measures for haddock. A committee member stated that there was a large year class of haddock coming, and that the last time that occurred the minimum size was lowered too late, causing substantial discards. He felt it was important to get ahead of that curve and consider an action on the minimum size.

Public comment included:

- Maggie Raymond: Will the issue of a potential small mesh exemption for redfish and the issue the RAP Chair and I raised about exceeding the ACL and triggering the AMs be revisited at a subsequent meeting? Could they be in the specs package for FY 2013?

The Committee Chair responded that they would need committee discussion to be included in one of the upcoming actions, but that the specs package would be implemented for FY 2013.

Ms. Murphy expressed concern that the 2013 specifications action could trigger an EIS because of the recent sturgeon listing and because of the controversy surrounding the recent GOM cod assessment. She asked the Council to develop a Notice of Intent for the EIS, which could be very limited in scope. The timeline could get pushed back a little bit and the agency was looking at ways to meet the May 1, 2013 deadline if in fact an EIS were necessary by jumpstarting the process with an NOI. Council staff noted that there was a difference of opinion on what definition of an action being “highly controversial” would trigger an EIS. There is no specific guidance on its interpretation, and it does not necessarily mean that people disagree about the science. It is not clear whether the preparation of an EIS would be a legal requirement or simply a Council option. Staff will bring timelines for the action as an EA or EIS to an upcoming committee meeting. NOAA GC staff clarified that they were only advising the preparation of an NOI at this point, which would not obligate the Council to do an EIS but would keep the option open. NOAA staff would be willing to draft the language if Council staff would review it. By consensus, the committee agreed to proceed with drafting a narrowly-focused NOI for both GOM cod and sturgeon actions for the committee’s consideration in April. The NOI will self-determine that the actions could be split depending on the comments and the scope of alternatives for each issue.

Modifications to Closed Areas

The PDT Chair briefed the committee on work done by the PDT to evaluate closed areas. They are putting together a document with a list of possible impacts and how to design closed areas. This will be a somewhat qualitative approach and lacks an analytical model such as the one used by the habitat PDT. The chair of the Habitat Committee stated that their intent was to put the habitat alternatives for gear effects modification before the Council, and that it may not be necessary to have imminent confluence between the two committees. The Council Chairman reiterated that there was initially planned to be a joint habitat/groundfish PDT to meld the plans together, and that it was originally hoped to happen before the June Council meeting. Committee members spoke in support of the PDT’s list, and stated that the Council would need to make policy decisions on the pros and cons between different user groups. One member stated that he hoped this work would proceed quickly, because broadening it or waiting too long could cause other elements to be included that would delay it.

Other Business

Rockhopper Gear Restricted Area

Motion: To send a letter to NMFS stating that the intent of the 12-inch rockhopper gear restriction was to apply only to groundfish vessels (Mr. Odlin/Mr. Goethel).

A committee member stated that restricting non-groundfish vessels would be counterproductive in that the rockhopper was the original means of bycatch reduction: it enables nets to go over groundfish without them going through the grate. He cited a video of seals eating flounders off of the opening of a grate at a depth of 1200 ft. in Newfoundland. Another member stated that at the time the restriction was adopted the Council had a very specific intent that did not relate to habitat considerations. It was a disincentive for larger vessels to fish inshore. He felt that the history was consistent with the Council's longstanding position of trying to get large vessels to stay offshore, including through the use of differential DAS.

Public comment included:

- Maggie Raymond: I hope that people also understand that the shrimp fishery is very limited in its duration. They only shrimp during daylight hours and it has very little impact in terms of habitat. It would be a shame to try and limit their efficiency in any way since they have such a short season to begin with.

The motion **carried** on a show of hands (7/0/3).

A committee member stated that it had been brought to his attention that there are some vessels using modified ground gear that is not technically in violation of the 12-inch roller size restriction, but that has a modified footrope with large bands connecting the gear together that enables them to fish the hard bottom. He felt that this gear could do damage to the habitat, and will bring forward more information at the next committee meeting.

Specifications

Gib Brogan of Oceana asked the committee whether the PDT should consider the fact that the specifications proposed for GB cod in Framework 47 are several times higher than the numbers for allowable catch suggested by the recent assessment. He suggested an analysis showing what a large overage in 2012 would mean for the 2013 and 2014 fishing years.

The meeting adjourned at 4:46 p.m.