

New England Fishery Management Council Groundfish Oversight Committee

Meeting Summary

December 17, 2008

The Groundfish Oversight Committee (Committee) met in Danvers, MA to continue development of Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP). The Committee discussed recreational and commercial accountability measures, Atlantic wolffish, accountability measures for scallop catch of yellowtail flounder, the Category B DAS program, sector monitoring, Southern New England small mesh requirements, and a running clock. Committee members present were Mr. Rip Cunningham (Chair), Mr. Terry Stockwell (Vice-Chair), Mr. Frank Blount, Mr. David Goethel, Ms. Sally McGee, Ms. Sue Murphy, Mr. Jim Odlin, Dr. David Pierce, Mr. Dave Preble, and Mr. Erling Berg. They were supported by staff members Mr. Tom Nies, Ms. Anne Hawkins, and Mrs. Deirdre Boelke (NEFMC), Mr. Doug Christel and Mr. Tom Warren (NMFS NERO), and Mr. Gene Martin (NOAA General Counsel).

Discussions were guided by a PDT memo dated December 14, 2008, proposed sector monitoring standards from the NMFS, and the draft Amendment 16 management measures.

Recreational Accountability Measures

Council staff presented work from the PDT on accountability measures (AMs) for the recreational fishery. The PDT suggested a similar approach to that used in the Gulf of Mexico and South Atlantic, under which catches would be monitored on an annual basis and NMFS would determine measures necessary to adjust ACL in the year following an overage. There could be problems with timing if adjustments were required to be made via the NEPA process. The PDT suggested AMs select from changes to fishing season, minimum sizes, and bag limits in that order. The PDT also questioned how to phase in the implementation of AMs using three year averages of ACL and harvest.

The Committee chair reported that the Recreational Advisory Panel chair had asked to look at having a larger minimum fish size for the party/charter users, and a temporal adjustment in April for the private recreational sector. There was concern that shutting down the fishery in the month of April would substantially impact operators. The PDT chair responded that it may be possible to design different AMs for the private and party/charter fleets, but that using bag limits or minimum sizes in such a context would increase management uncertainty. A Committee member stated that it was difficult to consider such measures because private recreational boats in Massachusetts were increasing, while party/charter vessels decreased in recent years. Another member favored setting very conservative bag limits that could then be increased late in the year if ACL was not projected to be met, noting that it was essential for party/charter businesses to be able to operate in April.

One Committee member wanted a change in the way AMs are calculated to give the Council a larger role in the process. He felt that the Council was in the unique position to promote public and state involvement in decision making.

Motion: To recommend to the Council to adopt the PDT-proposed multispecies recreational accountability measures described on package page 16 of the PDT report with two changes:

- The first bullet will read: "If catches exceed ACLs, the Council will determine AMs"

- The sixth bullet will read: “The AM will be either/or adjustments to season, adjustments to minimum size, or adjustments to bag limits”
(Dr. Pierce/Mr. Preble)

One of the motion’s supporters stated that it was important that this would be one of several options in the draft document. Ms. Murphy asked whether the Council would determine AMs through a predetermined formulaic process in Amendment 16, and stated that NMFS would like them to do so. The maker of the motion replied that the intent was that the Council would respond, after being informed of an overage, to determine what adjustments would be required, although NMFS would still have discretionary review over implementation. Ms. Murphy expressed concern, echoed by Council staff, that if AMs were not formulaic, they may not be able to be implemented by the start of the subsequent fishing year. Furthermore, as stated by the PDT, changes to size or bag limits would only be effective AMs if they were in place for the entirety of a fishing year. NOAA General Council staff stated that the Council may be able to determine AMs as long as there was a default measure in place in case AMs were not timely implemented. The maker of the motion further clarified that the intent would be to implement the same regulations in state and federal waters in order to not shift effort inshore.

Public comment included:

- Ms. Maggie Raymond: Associated Fisheries of Maine. I am curious if it was the PDT’s intent that this will work similarly to the US/Canada area where the RA can do certain things, such as change trip limits, and the Council can make recommendations before that happens. That seems like it would be the best of both worlds, including a default and using Council input.
- Mr. Don Swanson: Coastal Conservation Association of New Hampshire. Can you explain the sixth bullet? If there is an AM needed, and if there is a priority, an adjustment to the season was the last thing the RAP suggested using. The RAP would pick size first, then bag limits, then seasonal closures. Will there be another RAP meeting before this?

Council staff asked why it was difficult to craft automatic AMs for the recreational fishery when they were done for the commercial fishery, and worried that Council action on AMs would take away time from other important issues in the future. Committee members responded that the need for state interaction and survey data collection necessitated a different AM approach for the recreational fishery.

The motion **carried** on a show of hands (5-2-0).

Motion as perfected: That separate AMs be determined for the private boat and party/charter components of the recreational fishery (Mr. Preble/Mr. Blount)

The maker would have liked to include separate ACLs for the two components, but thought that action on that topic would be out of order. He stated that the party/charter group was essentially commercial in nature and thus differed greatly from private parties. Another Committee member stated that different AMs would make sense for each component, since private fishermen would want as long a season as possible, while party/charter operators would prefer the ability to be open in certain months even with a shortened season or other measures. Council staff stated that there are not currently separate allocations, so there may need to be equal reductions from each of the two components. The Committee chair noted that the RAP recommended the two components to have the same AMs.

Public comment included:

- Mr. Don Swanson. I do not know if I like the idea of having two ACLs without knowing what each one is. We will finally get a number of how many recreational fishermen are out there soon, and without that number, it is hard to set something like this. Until that point, everything should be the same.

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

Motion: To include in draft Amendment 16 for Council discussion the PDT recommendation for accountability measures as described on page 16 of the PDT memo. (Dr. Pierce/Mr. Stockwell)

The maker of the motion felt that this should be included to provide meaningful alternatives for consideration in the document.

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

Commercial Accountability Measures

The PDT chair gave a summary of PDT work on commercial AMs.

Motion: That the mixed-stock exception will be applied when considering any change in differential DAS counting. (Mr. Goethel/Dr. Pierce)

The maker of the motion explained that a minor stock could greatly impact the differential counting rate, and that the mixed-stock exception was created exactly for this type of management problem. Ms. Murphy clarified that the exception is intended for short-term overfishing and that, given the necessity for rebuilding at this point, she was unsure whether the exception could be triggered. NOAA General Council staff stated that, although more guidance was likely forthcoming under the National Standard guidelines, the current exception would not apply in a case where a stock was overfished, and would not exempt the Council from rebuilding. There were some further questions as to the applicability of the law and the best wording for the motion. Also, it was stated that the discussion focused solely on AMs, not setting ACLs, and there was therefore confusion about how the mixed-stock exception could be applied.

The motion **carried** on a show of hands (6-2-1).

Council staff raised the question of if an ACL would need to be adjusted in a subsequent year, in addition to any AMs which may be implemented, in the case of an overage. Ms. Murphy stated that it would be difficult to make an adjustment during the second year and suggested that this should be considered in the biennial adjustment being prepared for the subsequent year. She also noted that the ACL is set for a second year with higher uncertainty than for the first year following an adjustment, so some of the problem with overages would be accounted for. Another member expressed concern with the chronic timing issues, and stated hope that the SSC could help alleviate problems with timely ACL setting. Another Committee member pointed out that if the ACL were properly set taking uncertainty into account, an overage should still not exceed the ABC, meaning that stock size would not be reduced.

Motion as perfected: That the items in the PDT report section 11a, b, and c be discussed in the ACL section of A16 (Mr. Goethel/Mr. Preble).

Public comment included:

- Mr. Vito Giacalone: Northeast Seafood Coalition. I definitely support the change in this motion to go to the ACL category. I see a huge potential negative outcome of the oversight for sectors. It seems as though the gap between the ABC and ACL is pretty much all management uncertainty. If you lump all user groups into one uncertainty level, the AMs are different. A sector that has a monitoring system in place, that will cease fishing when it hits one of the ACLs, requires a very different measure than anything else in the fishery. It is not appropriate to have some blend of management uncertainty in one AM for every fishery.

Ms. Murphy reiterated that she thought there was no way to affect the issue given time constraints. The SAFE report would not come out until late in the second year, and by the time the agency took action it would be unlikely to make the fishing year.

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

Motion: When setting ACLs, the Council will establish management uncertainty by such user groups as sectors, party/charter/recreational, and common pool. (Mr. Odlin/Mr. Goethel)

The rationale was given that the calculation would be performed anyway, and that there were likely to be large differences in management uncertainties for each group. Council staff stated that it was unknown what management uncertainty existed for various components of the groundfish fishery, but that it may be possible to consider. A Committee member stated that it was important to indicate to the Council that this was a desirable direction in which to proceed. The Committee briefly discussed the roles of the SSC, PDT, and the Council in setting ACLs.

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

Incorporating Atlantic Wolffish into the Management Unit

Council staff presented preliminary information from the Northeast Regional Data Poor Stocks Working Group regarding the status of wolffish. In the Group's December meeting, it became evident that there was likely to be a stock assessment forthcoming.

Motion: To consider wolffish management in Amendment 17. (Mr. Preble/Mr. Stockwell)

Some Committee members felt that wolffish should be addressed as quickly as possible, since a potential listing under the Endangered Species Act would make management more onerous. Several people testified that wolffish have a low mortality rate when discarded, so a zero possession limit would be effective in preserving the species. The maker of the motion responded that Amendment 17 development was an ongoing process that had already been initiated, so wolffish could be currently under management consideration if included in that Amendment. Such an action would then enable the Council to focus on the time constraints already at hand for completion of Amendment 16.

Motion to substitute: To include wolffish in Amendment 16. (Dr. Pierce/Mr. Odlin)

A Committee member stated that the stock would shortly be declared overfished, and then a plan would need to be implemented within a year, which would be before the completion of

Amendment 17. Council staff reported that the PDT had not yet looked at wolffish in detail, but that it may be possible to create a management plan in time for inclusion in Amendment 16 if work were begun immediately.

Public comment included:

- Mr. John Williamson: The Ocean Conservancy. I support this motion for the reasons Mr. Odlin put on the table. One way or the other, you will have to find time in the schedule to address the overfished condition that it is apparent this stock is moving into. What I don't see is whether your intent is to include wolffish in the groundfish management complex. If that is the case, you should state it as such.
- Mr. Vito Calomo: MA Fishery Recovery Commission. We support this motion to include wolffish for all the reasons that have been said. I want to add for your knowledge that on a trawl, releasing them alive is very easy. They are very resilient, but it's difficult on a hook and line or gillnet. In roughly 25 years, I have not heard of anybody having a directed fishery on wolffish. It's mainly a bycatch fishery, and I have not seen any great landings for more than 20 years.

The motion to substitute **carried** on a show of hands (6-3-0).

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

Ms. Murphy stated that it should be clear that wolffish management would apply to both the commercial and recreational fisheries. Members asked whether the Committee should generate management alternatives, including requiring live return. The Committee Chair, by consensus, directed the PDT to create some alternatives before the next Committee meeting.

Update on AMs for Scallop Catch of Yellowtail Flounder

The Committee heard an update from the chair of the Scallop PDT on recent work involving the development of AMs for the yellowtail flounder ACL for the scallop fishery. The work was very preliminary and had not yet been considered by the Scallop Committee. Several types of AMs for bycatch reduction could be considered, including gear adjustments, reduced possession limits, seasonal effort shifts, and others. Following-year AMs could include a reduced possession limit for all access-area trips, reduced total general category trips into scallop access areas, restrictions on fishing within the yellowtail stock area, limiting the percentage of individual IFQs that could be used within a stock area, and more. The Scallop PDT will require more time to examine scallop observer data and work on AMs, and all of the suggestions have monitoring issues that have not been discussed yet. The staff explained that AMs should be in the scallop FMP so that they would be considered and adjusted by people working on the scallop plan, and that the two PDTs will interact and bring more information in upcoming Council meetings. The Committee was not required to take action but feedback was solicited.

A Committee member asked whether AMs needed to be in the groundfish management plans for stocks listed there. Ms. Murphy stated that there was no language in the MSRA or proposed guidelines that required an AM to be in the same management plan as an ACL for a given species. However, there was a concern with the implementation timelines: the scallop plan would not likely be implemented before the groundfish ACLs went into effect, leaving no AM until late in the 2010 fishing year, which is inconsistent with NMFS's interpretation that AMs should go into effect at the same time as the ACLs. In addition, it is possible that implementation of scallop

Amendment 15 could be delayed beyond the 2010 fishing year for one reason or another, including disapproval, leaving no groundfish AMs in place for the entire fishing year. The Committee then had a brief discussion on possible measures for allocation of yellowtail and potential AMs, including leasing groundfish DAS to scallop vessels, carryover of unused yellowtail ACL for the scallop fishery into subsequent years, and whether or not certain actions would be frameworkable.

Public comment included:

- Ms. Maggie Raymond. Because of the timing issue Ms. Murphy mentioned, it would seem that Amendment 16 would need a default AM for the 2011 fishing year. In the meantime, it would be a good idea if we sent a message to the scallop Committee which is to put a lot of emphasis on preventative measures. We do not want to see the scallop fishery shut down because of taking an excess of yellowtail flounder. Preventative measures should be explored further; increasing the YT allocation to the scallop fishery should be the last resort.
- Mr. John Williamson. I agree with Ms. Raymond that preventative measures should be emphasized. You can create incentives for creative behavior to avoid that cap.

The Committee Chair recommended that the scallop PDT continue to work on these measures, and Council staff stated that the PDTs were currently moving forward to include scallop AMs in scallop Amendment 15, and that no changes were anticipated for groundfish Amendment 16. Ms. Murphy expressed reservations that there were no default AMs in Amendment 16, given the likelihood that the AM would not go into effect with the ACL in 2010.

Revisions to the Category B (Regular) DAS Program

Council staff gave a summary of possible changes to the Category B (regular) DAS program in order to bring the program in line with current management goals.

Motion: To entertain modifications to the Category B (regular) DAS program on Georges Bank in Amendment 16:

- Change trawl gear mesh size in Category B (regular) DAS program to 6 inch diamond or square mesh
- Change gillnet minimum size to 6 inch mesh
- Allow leasing Category B DAS

(Mr. Odlin/Mr. Stockwell)

The action was intended to allow harvesting of the haddock resource. The other parameters of the B program would remain in place, and would not mandate retention of all legal-sized fish. There was some discussion as to the appropriate mesh size and shape to be used.

Public comment included:

- Ms. Maggie Raymond. I am glad to see this motion. It would apply to the haddock separator trawl and Ruhle trawl. I would support the Council approving that change, but I do not think this is the right thing to do on Georges Bank for gillnets, because of the status of cod there. I don't see how they could possibly keep the cod catch to 100 lbs./day using 6 inch gillnets.
- Mr. Vito Giacalone. The purpose is to redefine what can be targeted on a B day and what you could use it for. Now that we are going to an ACL-type fishery, we have the opportunity for

stocks being underharvested to be classified as stocks of concern: target stocks. This may be the only tool you will have to dial effort off other species. Bycatch utilities on this program have been very low. I do not understand the need to lease B regular days, since they are automatically decreased by the amount that A days are increased. We are only using 500 days/quarter now. Rather than promote additional leasing, maybe we could have 1000 or so B days used, and have more of a bycatch TAC rather than flipping – that would lead to a more effective B day program. We have seen the program go from 8 target stocks, to 4, to 1, while everyone is saying we are underutilizing the TACs.

Motion to amend: To entertain modifications to the Category B (regular) DAS program on Georges Bank in Amendment 16:

- Change trawl gear mesh size in Category B (regular) DAS program to 6 inch diamond or square

(Dr. Pierce/Mr. Goethel)

The maker of the motion was concerned with data interpretation regarding selection curves for various species.

The motion to amend **carried** on a show of hands (8-0-1).

The motion as amended **carried** on a show of hands (8-0-1).

A Committee member asked whether further adjustments to these programs could be accomplished through a framework action, and Council staff said they could.

Motion: To incorporate the GAP pilot program for the use of 6 inch gillnets to target haddock in the Gulf of Maine. (Mr. Stockwell/Mr. Odlin)

Ms. Raymond from the Associated Fisheries of Maine explained the program, including the necessity to declare intent to participate at the beginning of a fishing year, observer notification requirements, and cod trip limits. Some Committee members stated that smaller gillnets are in fact less effective on cod.

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

Sector Monitoring Standards

The Committee was presented with two documents suggesting certification standards for sector monitoring service providers: one drafted by NMFS and the other by the informal Monitoring Working Group. Council staff pointed out that key issues included the collection and use of monitoring data, education requirements for observers, and the level of detail of the standards.

Motion: That a bachelor's degree not be required in the observer programs for sector monitoring. (Mr. Odlin/Mr. Goethel)

Motion to substitute: That we approve the monitoring standards from the Monitoring Working Group for inclusion in Amendment 16. (Mr. Stockwell/Ms. McGee)

Motion to amend the motion to substitute: To delete the requirement for a bachelor's degree on page 28 and the section on the Fair Labor Standards act on page 26 of the December version of monitoring standards. (Mr. Odlin/Mr. Preble)

Some Committee members expressed concern with the expenses involved in sector monitoring, and wanted to minimize costs. One Committee member thought that dockside monitoring was not necessary, but Council staff and other members pointed out that industry members argued for dockside monitoring at Monitoring Working Group meetings. Ms. Murphy noted that the draft language as written already provides the vendor with a choice of selecting applicants with or without a bachelor's degree.

Public comment included:

- Ms. Sara Wetmore: Northeast Fisheries Observer Program. In my experience working for the program, we do believe a bachelor's degree is truly necessary to collect quality data. The program is complex as far as catch composition, subsampling, and catch extrapolation. We think the degree helps in training observers how to do this accurately. Also as we switch to electronic systems, it would be difficult for someone who did not have some experience with computers.
- Ms. Jackie Odell: Northeast Seafood Coalition. There is a need to really define what an observer is for a sector versus what an observer does for NMFS. That lack of clarification confuses the discussions people have. In our definition of an observer or dockside monitor, we refer to it as the catch-verification or "witness" program, which is very different than what they do on behalf of NMFS.

Committee members expressed other concerns with the implementation of a monitoring program, including how to handle potential reporting discrepancies, whether dockside monitors will ensure that all catch is offloaded, and other questions about the forthcoming at-sea monitoring.

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

The motion to substitute, as amended, **carried** on a show of hands (6-0-1).

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

Acknowledging ongoing questions about data collection, Ms. Murphy stated that the Regional Administrator would be shortly responding to a letter from the Council detailing NMFS use of data. NOAA General Council staff also explained that the monitoring program would not be considered an administrative cost for the purpose of NMFS limits on cost recovery.

One Council member noted the large number of unaddressed issues on the topic of sector monitoring, and suggested that the Monitoring Working Group be asked to provide recommendations to the Committee in order to timely proceed.

Motion: To request the Monitoring Working Group provide recommendations to the Committee prior to the next Committee meeting regarding measures appropriate for at-sea monitoring. (Ms. McGee/Mr. Preble)

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

Motion: When calculating discard rates for trips conducted by members of groundfish sectors, the actual discard rate will be calculated for any and all trips for which observer coverage is provided by either the sectors or the NEFSC observer program provided such coverage is for the duration of the entire trip (Mr. Odlin/Mr. Preble)

Public comment included:

- Ms. Maggie Raymond. We fully support this motion.

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

Review of Management Measures

SNE Small Mesh Requirements

The Committee previously directed the PDT to develop a requirement on drop chains for the small mesh fishery in Southern New England, but Council staff pointed out that the PDT may not be able to accomplish this work given limited experience with those fisheries. A Committee member replied that a private company was developing specs on the fishery that would be delivered in the near future.

The Committee next addressed several questions concerning the draft management measures text for Amendment 16.

Determining Potential Sector Contributions for Handgear A Permits

Based on earlier advice from the PDT and NERO personnel, the draft document cautions that it may not be possible to track landings history to FY 1996 for Handgear A permits, since prior to FY 2004 these were open access permits and permit holders may not have specified that landings history was retained when a vessel was sold or replaced. NERO representatives advised that this is not the case, and that they do not believe this will be an issue. **By consensus, Committee directed staff to remove the caution from the document.**

Application of Groundfish Catch Against Sector ACE

The draft document says that all groundfish catch by a sector vessel counts against the sector ACE, even if taken in a non-groundfish fishery. One exception is for the scallop fishery, where groundfish catches apply against the scallop ACL. Asked to consider this issue, the PDT noted that as written there is the potential for double-counting of groundfish catch if the sector vessel is participating in a fishery for which an ACL, or a sub-component of the ACL, is specified. The PDT recommended that the approach used for the scallop fishery be used in these instances. **By consensus, the Committee directed staff to modify the language so groundfish by sector vessels catch is not double-counted.**

Gear/Species Combinations for Calculating Discards

In order to track ACLs and sector ACE, Amendment 16 proposes a mechanism to apply discard estimates to landings. The draft document includes a table listing the gear/species combinations that will be used. **The Committee reviewed this list and by consensus, agreed to the following additions to the table:**

All gear: Atlantic wolffish

Gillnet: Redfish, witch flounder, American plaice

Longlines: redfish

Impact of Differential DAS Counting on Monkfish Trips

One effort control option greatly expands the differential DAS counting areas. For vessels fishing for monkfish while using a monkfish Category C or D permit, this option would use the vessel's groundfish DAS at a much higher rate than the monkfish DAS. After the groundfish DAS were used, under current regulations the vessel would be unable to fish the remainder of its monkfish DAS. The Committee discussed possible ways to address this issue. One option might be to extend a provision of the current regulations that, under limited circumstances, allows a vessel with a monkfish C and D permit to fish monkfish-only DAS in specific, limited areas (i.e., monkfish exempted fisheries). The Committee asked Ms. Murphy to explore possible ways to adopt this concept other than to make Amendment 16 a joint groundfish/monkfish management action.

DAS Gillnet DAS Counting in Differential DAS Counting Areas

The Committee next discussed the impacts of the differential DAS counting option on day gillnet vessels. With the expansion of the differential DAS areas, the provisions currently in place for the GOM and SNE/MA differential DAS areas may not be adequate to address the situation if a day-gillnet vessel fishes in two different areas on the same trip.

Motion: For day gillnet vessels that straddle two differential counting areas on the same trip, the most restrictive counting measure applies to the entire trip. (Mr. Goethel/Mr. Blount)

The rationale for the motion is that as is the case with other measures such as trip limits, a vessel is bound by the most restrictive measures for the areas fished. It was clarified that motion also applies to vessels fishing in an area where DAS are counted 1:1 and a differential DAS area on the same trip

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

Other Business

A Committee member raised concerns over current trip-limit regulations and their impact on operating a vessel in a safe and prudent manner. If a vessel catches more than the daily trip limit, the vessel operator has to remain at-sea until enough time has elapsed to make use of the modified running clock to legally land the fish caught. For example, a vessel catching two days worth of cod must stay outside the vessel demarcation line until at least twenty four hours and one minute has elapsed. During winter months, vessels may remain at-sea in unsafe conditions. A modification to the trip limit regulations was offered:

Motion: Vessels in the common pool should be allowed to send a VMS signal to enter port and be charged the appropriate DAS charge with one extra day of cod. (Mr. Goethel/Mr. Preble)

The rationale for this motion is that it would allow vessels to wait safely in port rather than remain at sea in potentially unsafe conditions. The maker of the motion clarified that it only applied to cod trip limits, applied to any length of trip, and vessels would not be allowed to offload the catch until the appropriate time had passed for the DAS charged. As an example of how this would work, it was noted that a vessel remaining at sea for over twenty-four hours would be able to land three days of the cod trip limit and would be charged the appropriate DAS; a vessel underway for less than twenty four hours could land two days. The maker of the motion

noted that GOM cod is no longer overfished and so this seems a reasonable approach to address the safety concern.

Several Committee members spoke against allowing this measure in the Georges Bank stock area. They noted the poor status of that stock – which is still overfished, and overfishing is occurring – and expressed concern that in the few areas that are seeing weak signs of a cod recovery this measure would allow excessive targeting of cod. The motion was amended to exclude the GB cod stock area:

Motion: Vessels in the common pool in the GOM cod stock area should be allowed to send a VMS signal to enter port and be charged the appropriate DAS charge with one extra day of cod. (Mr. Goethel/Mr. Preble)

Other concerns were raised about the rationale for the motion. It was not clear how this measure would discourage an operator from remaining at sea for the additional time necessary to get an additional daily limit of cod. It was also noted that GOM cod, while rebuilding, is not yet rebuilt and this measure could encourage targeting that would delay the rebuilding program. A Committee member noted that the problem is the continued use of trip limits.

Public comment included:

- Mr. Vito Giacalone. Right now it's a limited running clock. In the differential area, you can start another trip. In GB, you can't. your clock keeps running after you come into port until it runs out. Now in the GOM, you get charged the differential counting for coming in then. Mr. Goethel proposing that you could land an extra day, but the clock would have to run for a full 5 days, and in a differential area you'd be charged 10 days.

The motion **failed** on a show of hands (2-3-1).

Additional public comment at the meeting included:

- Mr. Eric Brazer relayed concerns of several fishermen from Cape Cod that the management program under development would result in the migration of Annual Catch Entitlement (ACE) to particular industry segments. While these fishermen were concerned about ACE migrating to larger ports and larger vessels, it is also possible ACE could migrate in other undesired ways. He suggested the Committee consider ways to address this concern, perhaps by limiting transfer through the vessel replacement restriction requirements.

The Committee asked for clarification of the issue: since ACE is not owned by individual permits, and any transfers are between sectors, aren't such transfers merely rational business decisions by sectors? How would the replacement criteria be applied? While Committee members understood the concern should the fishery shift to an individual quota system in the future, but expressed uncertainty whether it was an issue for Amendment 16. No action was taken.

- Mr. Frank Mirarchi, on behalf of several South Shore (Massachusetts) fishermen, expressed concern over NMFS determination of his landings history. He noted that the dealer reports he was provided list his catches as 28 percent lower than his VTRs. NMFS has notified permit holders that appeals may not be resolved until FY 2011. Mr. Mirarchi expressed concern that sectors in his area will not be viable if the errors in landings history are this large, and may not be able to survive the intervening year. He encouraged the Committee to consider this

when selecting an allocation alternative; the alternatives that consider capacity might buffer errors in landings information.

Mr. Mirarchi was encouraged to address the discrepancy with NMFS NERO.

The meeting adjourned at 6:30 P.M.