

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

Groundfish Committee

I. STATUS

- A. Meetings: The Groundfish Plan Development Team met December 6, 2007 and January 9, 2008. Meeting summaries are attached. The Groundfish Oversight Committee met December 12-13, 2007 and January 17, 2008. A meeting summary is attached for the first meeting.
- B. Amendment 16: The Amendment 16 scoping period ended December 31, 2006. Scoping hearings were held in Maine, New Hampshire, Massachusetts, Rhode Island, and New York. The Committee and Council reviewed scoping comments at the February 2007 and June 2007 Council meetings. The Gulf of Maine Research Institute and the Massachusetts Marine Fisheries Institute hosted meetings to help proponents of alternative management systems develop detailed proposals. In June 2007 the Council decided that Amendment 16 will modify the effort control system to in order to continue stock rebuilding, and will modify existing sectors and adopt new sectors. The Committee focused on resolving the policy issues necessary to facilitated adoption of seventeen additional sectors and modifications to two existing sectors until the September Council meeting. At that meeting, the Council directed the Committee to work on other measures and postpone further sector development until that work was completed. In November, the Council directed the Committee to resume working on sector policies for inclusion in Amendment 16.

The purpose of this meeting is for the Council to have a thorough discussion on sector policy issues. The initial focus will be on the allocation implications of creating additional sectors. If time permits, the Chair will brief the Council on other sector policy recommendations. The Committee will recommend that Amendment 16 consider three alternatives for determining the potential sector contribution (permit history) for each limited access groundfish permit. The three alternatives are:

- No Action: The potential sector contribution is determined solely on landings history from the most recent five years, interpreted as FY 2002 - FY 2006 for sectors that will begin operations in FY 2009.
- Alternative 1: The potential sector contribution is determined solely on landings history from the period FY 1996 - FY 2006.
- Alternative 2: The potential sector contribution is determined using two factors, landings history from FY 1996 – FY 2006 and a factor calculated from permit baseline length, horsepower, and allocated DAS. The two factors are weighted equally.

II. COUNCIL ACTION

- A. Review and approval of Committee recommendations for determining the potential sector contribution for limited access groundfish permits.
- B. Review and approval of other sector policy recommendations as time permits.

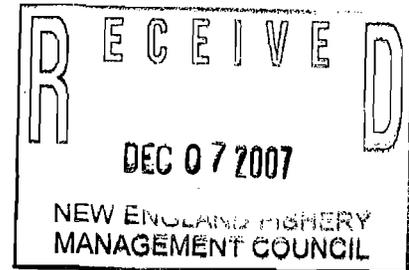
III. INFORMATION

1. Draft sector management measures text, dated January 16, 2008
2. Preliminary analysis of potential sector contribution alternatives
3. Groundfish Oversight Committee meeting summary, December 12-13, 2007
4. Groundfish Committee meeting summary, January 17, 2008 (to be distributed)
5. PDT meeting summary, December 6, 2007
6. PDT meeting summary, January 9, 2008
7. Past Multispecies (Groundfish) Oversight Committee meeting summaries: August 1, 2007, and September 5, 2007
8. Past PDT meeting/conference call summaries: June 28, 2007, July 25, 2007, and August 21, 2007
9. Summary of sector requests
10. Correspondence



UNITED STATES DEPARTMENT OF COMMERCE
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 NATIONAL MARINE FISHERIES SERVICE
 NORTHEAST REGION
 One Blackburn Drive
 Gloucester, MA 01930-2298

DEC - 7 2007



John Pappalardo, Chairman
 New England Fishery Management Council
 50 Water Street, Mill 2
 Newburyport, MA 01950

Dear John:

Because of the scale, scope, complexity, and controversiality of the measures being considered in Amendment 16 to the Northeast (NE) Multispecies Fishery Management Plan (FMP), in addition to the timing constraints associated with the availability of data from the Groundfish Assessment Review Meeting (GARM), I am concerned that the New England Fishery Management Council (Council) may not be able to fully develop Amendment 16 in time for the National Marine Fisheries Service (NMFS) to implement this action by May 1, 2009, as required by the current regulations. Therefore, NMFS may need to develop a Secretarial interim action to implement interim measures necessary to meet the mortality objectives of the FMP by May 1, 2009.

Both the Northeast Regional Office (NERO) and Northeast Fisheries Science Center (Center) have limited resources available to dedicate to the development of Amendment 16, given our existing responsibilities and the numerous upcoming New England and Mid-Atlantic Council management actions in other fisheries. If it is necessary to develop a Secretarial action, these resources would be further limited as early as spring 2008, depending on what environmental review document is needed, in order to ensure that interim measures would be in place by May 1, 2009. I encourage the Council to consider this possibility and ensure that Amendment 16 is completed such that a Secretarial action is not necessary. To facilitate the timely implementation of Amendment 16, I recommend that the Council develop simple management measures that are applied across the entire fishery as much as practicable. If Secretarial action does become necessary, NERO and Center resources would not be available to assist the Council with development of Amendment 16 until the Secretarial action is completed.

Related to this is our concern that we currently do not have the resources necessary to support implementation of several new sectors in fishing year 2009. In particular, resources are lacking in our Statistical, NEPA, and Information and Resource Management (IRM) Programs. Given this, the Council should consider the possibility of delaying the implementation of the additional sectors to 2010, as it has done with implementing measures for annual catch limits (ACLs) and accountability measures (AMs). With the inclusion of up to an additional 17 sectors in Amendment 16, NMFS would essentially be responsible for implementing and administering a dual-management system for groundfish (i.e., one for sectors and one for the common-pool vessels). This is in addition to taking action to meet the Amendment 16 fishing mortality



CC: TNC (12/7/07)

objectives and implementing a process and accompanying management measures to address the new Magnuson-Stevens Reauthorization Act requirements, such as ACLs and AMs.

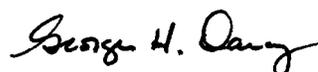
NERO staff held numerous meetings throughout this past year to discuss ideas for the successful implementation of sectors from an administrative perspective. Given the number of proposed sectors and the potential number of total allowable catches (TACs) to be monitored (i.e., a minimum of 361 TACs if 19 sectors are allocated 19 groundfish stocks each), this has been a difficult task, and ideas have continued to evolve. Although sectors are intended to be self-monitoring, in order for them to work successfully it is imperative that the agency can effectively verify catch by stock area, and equally critical that measures are enforceable. To this end, I have included a series of recommendations, many of them new, in an attachment (Attachment 1) to this letter that we believe would be effective, yet would also help to simplify and streamline the administrative and enforcement aspects of this proposed major change to the current effort-control program. Although these suggestions are offered to streamline sector management, while ensuring that critical elements are sufficient to ensure that sectors are approvable, a tremendous amount of work is still left undone and I remain concerned that the Council may be unable to meet the deadline. Again, I suggest that you consider incorporation of these suggestions, but also consider delaying implementation of sectors to fishing year 2010.

If the Council continues to maintain that sectors should be implemented in fishing year 2009, because of the amount of work required to calculate vessel allocations for each of the 19 sectors, each Sector Manager would need to meet specific deadlines when requesting allocation information from NERO in order for the sector to be authorized to fish by May 1, 2009. These deadlines are included in an attachment to this letter (see Attachment 2). However, I should again caution that, regardless of whether the Council or industry meet specific deadlines, we can not ensure that we have adequate resources in our other programs to implement sectors in fishing year 2009.

As with past actions, NERO and Center staff will continue to work with Council staff to help prepare the EIS for Amendment 16, including the cumulative impacts, habitat impacts, Paperwork Reduction Act requirements, and writing of the Amendment 16 implementing regulations. However, if it is determined that the Council is unable to meet the critical timelines for Amendment 16, NERO and Center resources will be shifted from assisting Council staff to development of a Secretarial action.

I appreciate your consideration of my concerns regarding the development of Amendment 16 and look forward to continuing to work with the Council to develop measures to rebuild overfished groundfish stocks.

Sincerely,



PAK Patricia A. Kurkul
Regional Administrator

ATTACHMENT 1

Recommendations for Simplified, Effective, and Enforceable Sector Measures in Amendment 16:

- Specify a minimum number of participants for a sector to be approved.
- Eliminate the 20-percent stock allocation cap.
- Establish universal sector exemptions, where possible, and analyze them in the Amendment 16 environmental impact statement, rather than on a sector-by-sector basis.
- Require that Sector Managers submit their roster of participants to NMFS by March 1 of the year prior to the start of the fishing year in order to receive catch histories for individual sector vessels, or by May 1 for aggregate catch histories (see Attachment 2 for further details).
- Require individual sectors to submit their final Operations Plans, including any required analytical documents, to NMFS by September 1 of the year prior to the start of the fishing year (rather than December 1 as previously recommended and adopted by the Committee).
- When determining a sector's initial allocation, require that a vessel's landings and DAS information be based on NMFS dealer records (for landings data) and NMFS call-in/VMS records (for DAS data), with the proviso that vessels could request a correction to this information if they could prove, through adequate documentation (using NMFS's standards) that a dealer failed to report, or that call-in/VMS records were inaccurate, respectively. Allocations based on corrections made to data would not be made available until the following fishing year.
- Require that Sector Managers be subject to all applicable recordkeeping and reporting requirements specified under § 648.7, including paragraph (d), which states that, upon request by an authorized official, reports and records must be made immediately available for inspection.
- Reduce the need for monitoring sector discards by applying an assumed discard rate and deducting this amount off the top of each sector's allocation.
- Reduce the need to monitor separate sector TAC amounts for Eastern U.S./Canada Area stocks by requiring sector vessels to adhere to Eastern U.S./Canada rules and regulations
- Ensure that a sector's allocated TACs are assigned to the correct stock area. Out of the 5 options below that have been discussed at NERO, we recommend that the Council consider only options 1 through 3, in that order of preference. The options are as follows:
 1. Confine each sector to one area (similar to the current two sectors)
 2. Require sectors to declare area to be fished via VMS prior to leaving the dock
 3. Allow vessels to fish multiple areas only if there is an observer onboard the vessel
 4. Allow vessels to fish multiple areas and assign catch to the stock area fished with the lowest allocation
 5. Allow vessels to fish multiple areas and verify stock area associated with catch using the vessel monitoring system to pro-rate time spent in each stock area
- Prohibit sectors from exceeding any of their TACs.
- Prohibit sectors from carrying-over unused TAC into the next fishing year.
- Ensure that landings history is credited to the vessel that lands the fish.

- Consider delaying implementation of Sector Trading until fishing year 2010.
- Require the following measures to assist in effectively implementing a Sector Trading Program:
 - Restrict sector trading to in-season trades through March 1 for a given fishing year
 - Prohibit sector trading once a sector exceeds any of its TACs
 - Allow sector trading through the Sector Manager only
- Require that Sector Managers notify NERO if sector rules change inseason.
- Consider development of a TAC buffer system at a certain TAC threshold, after which measures are implemented to slow the rate of catch, e.g., at 90% of a sector's TAC, trip limits are imposed.
- Ensure that both the Sector Manager and sector members are aware that a TAC is approaching its harvest level.
- At a certain TAC threshold (e.g., 90%), require Sector Managers to directly notify NMFS of that information.
- Consider confining vessel offloads to specific ports for specific sectors.
- Consider developing an independent, third party weigh-master program to record landings.
- Ensure that the Sector Manager and sector vessels are equally held accountable for accuracy in reporting and penalized for either malfeasance or misfeasance.
- Consider prioritizing what the Council considers the most egregious sector violations to assist NMFS OLE in developing a sector penalty-schedule.

ATTACHMENT 2

Deadlines for Providing Sector Allocation Information for Fishing Year 2009

Because of the complexity of calculating sector allocations for May 1, 2009, for the number of sectors that have been proposed, NMFS must specify deadlines by which Sector Managers will be required to provide information to serve as the basis of sector allocations. These dates assume that the information provided is complete and that the information is accurate.

For sectors that are willing to accept allocations based on aggregate catch history data, which would not require confidentiality releases from vessel owners, a final roster of participating vessels must be received and membership locked by May 1, 2008.

For sectors that wish to receive allocations based on individual catch histories, the following submission schedule must be met:

March 1, 2008	Final roster of participating vessels must be submitted.
May 1, 2008	NERO sends moratorium rights tracking sheet to Sector Manager in order to obtain authorization to release confidential landings data from all current and past vessel owners.
June 1, 2008	Sector Manager provides confidentiality releases to NERO. This would be the last chance for an owner to withdraw from the roster for such a sector*. Individual catch histories will be calculated for vessels when all releases are provided. Catch histories for vessels lacking releases would be aggregated and included in the sector allocation provided the aggregated total was derived from 3 or more vessels.
August 1, 2008	NERO would provide allocations to Sector Managers.

*The only possibility my staff have of calculating sector allocations for May 1, 2009, will be if the membership of all the sectors is frozen as of June 1, 2008. This means that there would be no vessels added to a sector after this deadline and, perhaps, more importantly, any vessel withdrawals would mean that the sector allocation could not be provided when necessary for the sector's Operations Plan.

Amendment 16
Draft Sector Management Measures
January 16, 2008

(based on Committee meetings through December 2007 – *does not* include changes recommended by the Groundfish Committee at its January 17, 2008 meeting)

Shaded headings and text highlight new sections and/or sections that have been changed significantly from the Amendment 13 document.

H2 – SECTOR ALLOCATION PROCESS

The management measures proposed in this section relate to the process for establishing sector allocations in the multispecies fishery. This section is intended to **update Section 3.4.16.1** of the final Amendment 13 SEIS (Sector Allocation).

A sector allocation system would apportion part or all of groundfish fishery resources (denominated in terms of catch) to various industry sectors. While vessels might be assigned to sectors based on factors such as gear used, permit category, vessel size, homeport, area fished, etc., this measure allows vessels to form sectors of their own choosing. Such self-selected sectors might be based on common fishing practices, vessel characteristics, community organization, or marketing arrangements, but this would not be required. Since self-selection of sector membership would not necessarily be based on any common vessel or gear characteristics this alternative offers a great deal of flexibility in the formation of sectors. A group of permit holders would simply agree to form a sector and submit a binding plan for management of that sector's allocation of catch or effort. Allocations to each sector may be based on catch (hard TACs) or effort (DAS) with target TACs specified for each sector. Vessels within the sector would be allowed to pool harvesting resources and consolidate operations in fewer vessels if they desired. One of the major benefits of self selecting sectors is that they provide incentives to self-govern, therefore, reducing the need for Council-mandated measures. They also provide a mechanism for capacity reduction through consolidation.

H3 – Sector Definition/Formation of a Sector

A sector means a group of persons holding limited access vessel permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a TAC(s) in order to achieve objectives consistent with applicable FMP goals and objectives. In the formation of a sector, sector participants can select who may participate. All vessels with a limited access multispecies permit are eligible to join a sector.

Participation in a self-selecting sector would be voluntary. Vessels that did not decide to join would remain in a *common pool* which would fish under the constraints imposed by the Council. Individuals that wished to form a sector and receive an allocation of catch or effort would be required to submit a proposal for formation of a sector and a legally-binding plan of operations which would require approval from the Regional Administrator (see below). These would be agreed upon and signed by all members of the sector.

The motivation to form or join a sector could be for several reasons: a desire of its members to consolidate operations in fewer vessels (reducing the cost of operations and possibly facilitating the profitable exit of some individual vessel owners from the fishery); assurance that the members of the sector would not face reductions of catch or effort as a result of the actions of vessels outside the sector (e.g., if the other vessels exceed their target TACs), and, potentially, freedom from restrictive regulations not needed to meet conservation objectives if the sector is constrained by a hard TAC (e.g., trip limits and potentially some time-area restrictions).

H4 – Preparation of a Sector Formation Proposal and Operations Plan

The formation proposal and operations plan submitted by a self-selecting sector must have, *at a minimum*, the following components:

- A list of all participants and a contract signed by all participants indicating their agreement to abide by the operations plan accompanying the proposal.
- With the implementation of Amendment 13, a sector's operations plan must detail the following:
 - A list of all vessels that would be part of the sector including an indication for each vessel of whether it would continue to fish;
 - The original distribution of catch history, TACs, or DAS within the sector;
 - A detailed plan for consolidation of TACs or DAS, if any is desired, including a detailing of the quantity and duration of any redistribution of TAC or DAS within the sector;
 - A plan and analysis to show how the sector will avoid exceeding their allocated TACs (or target TACs if the allocation is in terms of DAS). This plan should include provisions for monitoring and enforcement of the sector regulations, including documentation of both landings and discards;
 - Rules for entry and exit to the sector (see more on this in next section) including procedures for removing or disciplining members of the sector who do not abide by its rules. Rules for entry and exit must also define how catch or DAS history that is developed by vessels participating in a sector is assigned to each vessel;
 - Procedure for notifying NMFS if a member is expelled from the sector for violation of sector regulations.
- ~~With the implementation of this amendment, a sector's operation plan must also include:~~
 - Detailed information about overage penalties or other actions to be taken if the sector exceeds its ACE;
 - Detailed information about the sector's *independent third-party weighmaster system* that is satisfactory to NMFS for monitoring landings and utilization of ACE;
 - Detailed information about a monitoring program for discards, should the sector desire to include discards in its ACE and account for them at the sector's expense (see additional discussion of monitoring discards in Section XXX).

An appropriate NEPA document assessing the impacts of forming the sector must be prepared. This will be written by the sector applicants, and submitted to NMFS through the Council. The contracts drawn up for the whiting and pollock cooperatives on the West Coast and Alaska might serve as a guide for determining the form and content of these plans.

The sector operations plan must be reviewed and approval given before the sector can operate. Once formed, a sector must submit its *preliminary operations plan* to the Council no less than one year prior to the date that it wants to begin operations. *Final operations plans* may cover a two-year period and must be submitted to NMFS no later than December 1 prior to the fishing year in which the sector will operate. NMFS may consult with the Council and will solicit public

comment on the operations plan consistent with the Administrative Procedure Act (APA). Upon review of the public comments, the Regional Administrator may approve or disapprove sector operations, through a final determination consistent with the APA.

H4 – Movement Between Sectors

Each sector will set its own rules on movement into and out of the sector.

Rationale: By not mandating the commitment time to a sector and allowing the sectors to set their own rules, the sector might be more successful in the long-term. This success will be realized, while working within their allocation (hard TAC ~~or DAS~~), the group will be largely self-regulating. A code of conduct for all sectors should be developed by the Council or by industry with Council approval.

H3 – Allocation of Resources

H4 – General

Sectors will be allocated a hard TAC of all regulated groundfish stocks with the exception of halibut, ocean pout, and windowpane flounder. The provisions in this amendment eliminate the 20% cap on TAC shares that was established in Amendment 13. There will be no limit on the share of a stock's TAC that can be allocated to a sector.

The share of the annual TAC for a stock that is allocated to a sector will be calculated based on the history attached to each permit that joins the sector in a given year. This share may be adjusted due to penalties for exceeding the TAC in earlier years, or due to other violations of the management plan. When a sector's share of a stock is multiplied by the available catch, the result is the amount (weight) that can be harvested (landings and discards) that year. This amount (adjusted if necessary due to prior overages or penalties) will be referred to as the sector's ***Annual Catch Entitlement, or ACE.***

As discussed above, a sector's operations plan must show how the sector plans to avoid exceeding its ACE and must identify overage penalties and actions to be taken should the ACE be exceeded. In cases where a sector exceeds its ACE, overages will be paid back in pounds, on a pound per pound basis.

Rationale: This changes the sector provisions of Amendment 13 and clarifies how resources are allocated to a sector. Sectors can no longer request an allocation of groundfish DAS based on the DAS allocated to permits that join the sector. In addition, sectors fishing for groundfish must have an allocation of *all regulated groundfish stocks except halibut, ocean pout, and windowpane flounder*. This eliminates the situation where sectors could request allocations of selected regulated groundfish stocks and modify effort controls to facilitate targeting of other stocks.

TACs will not be allocated to sectors for Atlantic halibut, ocean pout, northern windowpane flounder, and southern windowpane flounder because these stocks have small TACs, and vessels have limited landings history. Allocating these stocks to sectors would complicate monitoring of sector operations and would require a different scheme for determining each permit's potential

sector contribution. Rather than complicate sector administration, sectors will be limited to restrictions designed to discourage targeting of these stocks. For example, the catch of halibut is limited to one fish per trip (similar measures may be needed for the three other stocks).

H4 – US/Canada Area

For stocks that are managed under the terms of the US/CA Resource Management Understanding, sectors will be provided a specific allocation for those stocks that have a TAC that is specific to the Eastern US/CA area. At present, this applies to GB cod and GB haddock, but this measure is intended to apply to other stocks if an area-specific TAC is defined. If a TAC is defined for the Eastern US/CA area by the understanding, and that stock is caught both inside this area and outside this area, a separate allocation will be made for each portion of the stock. These allocations are not interchangeable; they can only be taken from the appropriate area.

Rationale: This measure ensures that common-pool and sector fishing vessels fishing in the Eastern US/CA area do not adversely impact each other. It prevents one group from catching the entire TAC in the area, closing it to the other group. This measure will initially apply only to Eastern GB cod and Eastern GB haddock, but is written so that it can be applied to other stocks in the future if necessary. As currently there is only one TAC for GB yellowtail flounder, this provision does not apply to that stock, which does not have a specific TAC for the Eastern US/CA area. Should the Eastern US/CA area be closed to limit catches of GB yellowtail flounder by common pool vessels, sectors could request an exemption from that closure as long as they have ACE remaining for the stocks in that area.

H4 – Sector Baseline Calculations

In order to allocate a share of the available catch to a sector, the history for each permit must be calculated. The present method for calculating history was developed in Amendment 13 and is described in the No Action Alternative. There are two alternatives under consideration to change the way history is calculated for each permit. *The Council cautions that regardless which method is used to determine permit history in this management action, the Council may choose a different method for calculating permit history in the future.*

Note that catch history would be allocated to the sector as a whole and not necessarily to individual vessels within the sector. The self-selecting sector would then have to develop its own set of rules to distribute the sector's allocation among its membership. Allocation of TACs must be consistent with the measures adopted for the remainder of the fishery. If measures designed for the rest of the fishery will reduce mortality of a species well below its target, it may be inappropriate to base the TAC for a sector on the target fishing mortality.

Appeals Process

The Council may want to consider establishing an appeals process for sector baseline calculations.

H5 – No Action Alternative (Status Quo/Amendment 13)

Allocation of resources will be based on the accumulated catch histories *over the previous five years* for which data are available for each member of the self-selected sector, as described in Amendment 13. For example, for sectors beginning operations in FY 2009, the baseline period would be FY 2002 – FY 2006.

H5 – Alternative 1: Landings History Only FY 1996 – FY 2006

Under this alternative, permit history will be based on the landings history of each permit during the time period FY 1996 – FY 2006. Landings history will be based on the information in the NMFS commercial dealer database. For each permit, the landings for each stock will be summed over the time period. This value will be divided by the total landings during the same period. The result will be the share of each stock for each permit. Discards will not be counted when calculating permit history, even though both discards and landings are counted against a sector's ACE.

H5 – Alternative 2: 50% Landings History and 50% Vessel Baseline Capacity FY 1996 – FY 2006

Under this alternative, landings history for each permit/stock will be calculated in the same manner described above for Alternative 1. Vessel baseline capacity will be calculated using the following formula:

$$(10L + HP) \times (\text{allocated "A" DAS}) = \text{baseline capacity}$$

The portion allocated based on capacity applies to stocks landed by the permit. The landings history share and the baseline capacity share for each permit will be averaged to obtain a value for each stock.

Rationale: *Add.*

H4 – Transfer of Annual Catch Entitlements (ACE)

A sector can carry up to 10 percent of unused ACE forward into the next fishing year.

There are no restrictions on the nature of the transfer of ACE between sectors. The exchange of ACE between two sectors is viewed as a private business arrangement. Sectors can seek compensation (monetary or otherwise) when transferring ACE to another sector. Sectors are not obligated to transfer unused ACE to a sector that needs additional ACE.

In addition, all or a portion of a sector's ACE of any stock can be transferred to another sector. This exchange can occur at any time during the fishing year and up to two weeks into the following fishing year. The transfer does not become effective until it is approved by NMFS.

During the fishing year, a sector should project when its ACE will be exceeded and should cease fishing operations prior to exceeding it. If the sector's ACE is exceeded, the sector must cease operations in that stock area until it can acquire additional ACE through a transfer to balance the catch, and the sector also must comply with other overage penalties that may be applicable. A sector can resume fishing in the stock area if it acquires more ACE.

These provisions do not provide for the permanent transfer of sector shares. The only method for transferring sector shares is by moving permits between sectors, and this can only be accomplished prior to the beginning of the fishing year.

Rationale: Allowing transfer of ACE provides flexibility for sectors to adjust their allocations to account for unusual circumstances or to take advantage of other opportunities. For example, there may be instances where a sector does not have an allocation for a stock that has an unusual distribution due to oceanographic conditions – without allowing ACE transfer, the sector may be forced to discard this stock and may have to cease fishing because of the discards. Allowing the exchanges to continue for a brief period after the end of the fishing year provides a limited opportunity for a sector to quota balance in the instances that the TAC was inadvertently exceeded.

H3 – Mortality/Conservation Controls

Sectors are required to ensure that ACEs are not exceeded during the fishing year. Sectors should project when its ACE will be exceeded and should cease fishing operations prior to exceeding it. If the sector's ACE is exceeded, the sector must cease operations in that stock area until it can acquire additional ACE through a transfer to balance the catch, and the sector also must comply with other overage penalties that may be applicable.

It will be necessary to establish appropriate restrictions on catch or effort for each sector to ensure that they do not exceed their ACE (through landings or discards). Hard annual TACs by species will be allocated to the sector as a whole. The sector will be required to submit an Operations Plan for approval by the Regional Administrator. The Operations Plan should detail the allocation of ACE within the group, how the catch of the sector would be monitored, and a plan for operation or cease of operations once the ACEs of one or more species are taken. The plan must provide assurance that the sector would not exceed the ACEs allocated to it (either through landings or discards). See Section XXX for specific requirements of the sector Operations Plan.

H3 – Interaction of Sector with Common Pool Vessels

As noted above, sectors will be assigned an ACE (share of total TAC) based on landings history or a combination of landings history and vessel capacity. While it is appropriate for changes in stock condition to affect the amount of fish that the share represents, sectors should not suffer if other sectors, or common pool vessels, exceed TACs and create a need for mortality reductions.

If a sector does not exceed its ACE in a given fishing year, but other sectors or common pool vessels exceed the remaining TAC, the sector's quota [in absolute (not share) terms] in the following years will not be reduced. This does not permanently change the sector's percentage of the total TAC, however. In the extreme case, the total resources available may be less than a sector's absolute quota. In this instance, the sector's share will be temporarily increased by the percentage that other sectors exceeded their quota. As stock conditions improve, the sector will keep this temporary increase in share until its annual quota is the same as it was prior to the stock decline. The sector's permanent share will then revert to its original share.

If a sector exceeds its ACE, the sector's quota will be reduced in the following year and the sector may be subject to enforcement action. If the sector exceeds its ACE repeatedly, the sector's share can be permanently reduced as a penalty or the sector's authorization to operate withdrawn.

If declining stock conditions result in a need to reduce fishing mortality, and all sectors and common pool vessels have operated within TAC limits, a sector's share will not be changed, but the amount this share represents may be due to reduced overall TACs. If stock conditions improve, and a sector stays within its quota while other sectors do not, the sector will receive a temporary increase in share equal to the amount that other sectors exceeded their quota.

Some multispecies management measures that apply to common pool vessels will also apply to any vessel in a sector, and these measures are listed below. Other groundfish measures that are not included in the list below may be altered through a sector's operations plan. In its operations plan, a sector should specify any additional multispecies management measures that should not apply to the sector. Exemptions and/or modifications to other management measures must be approved by NMFS.

The following list may be modified through a framework adjustment. Sectors *cannot* request exemption from the management measures included in this list. Current measures that will apply to both sector and common pool vessels include:

- Year round closed areas
- Permitting restrictions (vessel upgrades, etc.)
- Gear restrictions designed to minimize habitat impacts (roller gear restrictions, etc.)
- Reporting requirements (not including DAS reporting requirements)

H3 – Sector Annual Reports

The annual report is intended to provide information necessary to evaluate the biological, economic, and social impacts of sectors and their fishing operations. As such, information must be provided that described the catch and characteristics of the sector.

Approved sectors must submit an annual year-end report to NMFS and the Council, within 60 days of the end of the fishing year, that summarizes the fishing activities of its members, including harvest levels of all species by sector vessels (landings *and* discards by gear type), enforcement actions, and other relevant information required to evaluate the performance of the sector. The annual report must report the number of sector vessels that fished for regulated groundfish and the permit numbers of those vessels (except when this would violate protection of confidentiality), the number of vessels that fished for other species, the method used to estimate discards, the landing ports used by sector vessels while landing regulated groundfish, and any other information requested by the Regional Administrator.

H3 – Monitoring, Enforcement, and Transparency

It will be the responsibility of each sector to enforce any provisions adopted through procedures established in the operations plan and agreed to through the sector contract. Ultimately, a sector may desire to expel a member due to repeated violations of sector provisions. Once a vessel enters into a sector, it cannot fish during that fishing year under the regulations that apply to the

common pool. In other words, if a vessel is expelled from a sector, it cannot participate in the groundfish fishery during the remainder of that fishing year.

For the purposes of enforcement, a sector is a legal entity that can be subject to NMFS enforcement action for violations of the regulations pertaining to sectors. Vessels operating within a sector are responsible for judgments against the sector.

Sector operations plans will specify how a sector will monitor its landings to assure that sector landings do not exceed the sector allocation. At the end of the fishing year, NMFS will evaluate landings using IVR, VMS, and any other available information to determine whether a sector has exceeded any of its allocations based on the list of participating vessels submitted in the operations plan.

H4 – Monitoring and Enforcement of Landings

Sector operations plans must provide detailed information about how landings in the fishery will be monitored, reported, and enforced within the sector.

- Sectors are required to land *all* legal-sized fish from stocks managed by the FMP that are specifically allocated to the sector.
- Sectors must demonstrate the ability to accurately attribute landings to a specific statistical area.
- Sectors are required to report all landings and discards to NMFS on a weekly basis.
- Sectors are required to develop and implement an *independent third-party weighmaster system* that is satisfactory to NMFS for monitoring landings and utilization of ACE. The details of the weighmaster system must be provided in the sector's operations plan.

H4 – Monitoring and Enforcement of Discards

Sector operations plans must provide detailed information about how discards in the fishery will be monitored, reported, and enforced within the sector.

- Discards will not be counted when determining the sector's ACE but will be counted against the ACE during the fishing year.
- Discards will be counted at the previous assumed discard rate, calculated as often as is practicable, by gear, and that amount will be deducted off the top of the ACE **unless** a sector can develop an adequate monitoring system and demonstrate to NMFS that discards can be accurately monitored and counted as part of the ACE, at the sector's expense. Details about such a monitoring system should be provided in the sector's operations plan.
- Sectors are required to report all landings and discards to NMFS on a weekly basis.

H4 – Transparency

Sector landings, discards, and percent of allocation caught will be considered public information and are not considered confidential when reported for an entire sector. These data will be published by NMFS on a web page, summarized by week.

#2a

ADDENDUM TO DOCUMENT #2

Draft Sector Management Measures

January 16, 2008

(Addendum includes changes/additions recommended by Groundfish Committee at its January 17, 2008 meeting)

H4 – Preparation of a Sector Formation Proposal and Operations Plan (p. 2)

Additional Requirements

- With the implementation of this amendment, a sector's operations plan must also include (add the following bullets to this section):
 - A list of specific ports where members will land fish; specific exceptions should be noted (eg., safety, weather) and allowed, provided there is reasonable notification of a deviation from the listed ports; this requirement is in addition to the requirement for detailed information about the sector's independent third-party weighmaster system.
 - TAC thresholds and details regarding the sector's plans for notifying NMFS once the specified TAC threshold has been reached (*this requirement will be noted in the section entitled Mortality/Conservation Controls as well*).

H3 – Interaction of Sector with Common Pool Vessels

(Add the following language to the end of this section – p. 7 prior to Sector Annual Reports)

Similarly, all sectors will be universally exempt from some multispecies management measures. A sector must request changes or exemptions to other multispecies management measures in its operations plan, as appropriate.

The following list of sector exemptions may be modified in the future through a framework adjustment. **With the implementation of this amendment, all sectors will be exempt from:**

- Trip limits on stock for which a sector receives an allocation (all stocks except halibut, ocean pout, and windowpane flounder);
- Rolling closures;
- Seasonal closed areas; and
- DAS restrictions.

H4 – Monitoring and Enforcement of Landings (p. 8)

(Add the following language to the final bullet in this section (independent third-party weighmaster system):

- The operations plan also must include a list of specific ports where members will land fish; specific exceptions should be noted (eg., safety, weather) and allowed, provided there is reasonable notification of a deviation from the listed ports.



**Preliminary Analysis of Proposed Groundfish Permit History Baselines
Draft
January 16, 2008**

This is a preliminary analysis of three proposed alternatives for determining the potential sector contribution (permit history) for all limited access groundfish permits. The three alternatives examined were;

- No action: Permit history is determined by landings during the period FY 2002 – FY 2006
- History Only: Determined by landings during the period FY 1996 – FY2006.
- Capacity/50-50: Permit history is determined by two factors weighted equally: landings history from FY 1996 – FY 2006, and a value calculated from the vessel's permit baseline length and horsepower and Category A DAS allocation.

These values were calculated for each permit to determine each permit's share of fifteen groundfish stocks. The results were then aggregated by homeport state and by three vessel size classes (large > 70 feet, medium 50-70 feet, and small under 50 feet). Results are shown in the following tables. The differences between the alternatives are also compared and briefly discussed.

As suggested by the Groundfish PDT, in order to give a more concrete illustration of the differences between the alternatives, the shares were then applied to the FY 2009 TTACs to determine the weight of fish in each category of vessel size and homeport state. The TTACs were first reduced to account for a research set aside of one percent, recreational harvest, and Canadian harvest. The results are shown as a series of graphs beginning on page 13. Only results for major groundfish states are shown.

As one final illustration, the resulting amounts were multiplied by an average price per pound of live weight based on the available CY 2007 dealer data (not all date is entered in the database). These average prices are species, and not stock, specific, and may not reflect differences in value between stocks. Live weight was used to calculate an average price since TTACs are based on lived weight. The total value of shares is shown in four graphs. Since GB haddock dominates this theoretical value, results are shown with and without GB haddock included. The results are shown on page 19. Again, only results for major groundfish states are shown.

These analyses are preliminary and may change in the future. Please consider the following notes when reviewing this information:

1. Capacity factor is zero for any vessel with 0 A DAS. This includes handgear HA permits, some small vessel DAS exempt (Category C), and any vessel with only C DAS. This means that the history component is halved. A value of one could be assigned to the "A DAS" part of the capacity formula. This would preserve the intent of assigning a capacity weight to sector allocations.
2. Hand gear A permits were not made limited access until FY2004. For this reason there is no MRI that can be used to track history in any year prior to 2004.
3. To overcome the absence of an MRI history for Hand gear A permits was tracked using permit number. Only trips where hand gear was used were included. This differs from what was done for all other permit categories in which all landings were included without regard to gear or fishery. Hand gear permits were treated in this manner based on the limitations imposed by the permit itself in harvesting groundfish as well as the fact that limited access qualification for limited access was based on hand gear landings. Note that hand gear A shares were not included in what was presented at the 1/09/2008 PDT meetings (or these tables) since the accumulation of history had not been completed at the time. Only minor differences are expected to result.
4. The PDT identified several issues that need to be clarified for calculating permit history, and those clarifications may affect the share distribution.
5. TTACs were not adjusted for other fisheries (except for recreational and Canadian fisheries). Canadian shares may change from what was assumed here. TTACs will be recalculated after GARM III.
6. 2007 average prices may not accurately represent future value.

Sector Shares by Home Port State for 2002-2006 History No Action Alternative

	GOM Cod	GB Cod	GOM Winter	GB Winter	SNEMA Winter	CCGOM Yellowtail	GB Yellowtail	SNEMA Yellowtail	GOM Haddock	GB Haddock	Witch	Plaice	Pollock	Redfish	White Hake
CT	0.08%	0.19%	0.06%	0.09%	0.27%	0.04%	0.63%	1.26%	0.02%	0.13%	0.12%	0.10%	0.08%	0.23%	0.04%
DE	0.35%	0.44%	0.03%	0.01%	0.00%	0.00%	0.16%	0.00%	1.29%	0.18%	0.95%	1.05%	1.62%	1.88%	1.92%
FL	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
MA	62.33%	81.48%	93.01%	86.51%	62.98%	90.34%	62.25%	20.19%	70.97%	72.79%	64.29%	54.19%	54.62%	66.27%	41.41%
MD	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
ME	18.40%	4.60%	2.03%	0.68%	0.65%	1.26%	0.54%	1.24%	19.83%	9.10%	21.29%	32.06%	30.87%	26.86%	48.48%
NC	0.00%	0.60%	0.00%	1.87%	0.17%	0.27%	7.45%	1.62%	0.00%	1.36%	0.82%	1.26%	0.03%	0.00%	0.00%
NH	18.52%	0.34%	3.07%	0.00%	0.10%	4.58%	0.00%	0.00%	7.39%	0.01%	2.88%	1.56%	11.31%	2.50%	5.86%
NJ	0.07%	0.25%	0.06%	0.57%	7.16%	0.08%	2.03%	6.19%	0.05%	0.42%	0.79%	1.00%	0.03%	0.06%	0.14%
NY	0.00%	2.33%	0.02%	1.75%	9.14%	0.26%	5.18%	18.34%	0.00%	3.68%	1.14%	1.19%	0.26%	0.56%	0.38%
PA	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
RI	0.25%	9.74%	1.72%	8.46%	19.39%	3.17%	21.50%	50.46%	0.46%	12.33%	7.69%	7.58%	1.19%	1.63%	1.78%
VA	0.00%	0.02%	0.00%	0.05%	0.13%	0.00%	0.26%	0.70%	0.00%	0.00%	0.03%	0.02%	0.00%	0.00%	0.00%

Sector Shares by Home Port State for 1996-2006 History Alternative

	GOM Cod	GB Cod	GOM Winter	GB Winter	SNEMA Winter	CCGOM Yellowtail	GB Yellowtail	SNEMA Yellowtail	GOM Haddock	GB Haddock	Witch	Plaice	Pollock	Redfish	White Hake
CT	0.50%	0.23%	0.03%	0.06%	0.12%	0.05%	0.40%	0.66%	0.11%	0.14%	0.12%	0.16%	0.12%	0.16%	0.05%
DE	0.58%	0.36%	0.03%	0.02%	0.01%	0.04%	0.11%	0.00%	2.25%	0.59%	0.98%	0.86%	2.22%	3.34%	2.14%
FL	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
MA	60.15%	85.15%	91.58%	89.28%	68.79%	89.21%	63.02%	33.38%	59.08%	73.67%	62.37%	54.79%	54.25%	61.88%	44.33%
MD	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
ME	20.51%	4.01%	2.53%	0.55%	0.83%	1.84%	0.53%	1.45%	32.68%	8.70%	23.34%	31.52%	30.57%	28.15%	44.39%
NC	0.00%	0.52%	0.00%	1.74%	0.22%	0.38%	6.23%	1.75%	0.00%	1.39%	0.65%	0.79%	0.02%	0.00%	0.00%
NH	16.81%	0.38%	3.79%	0.00%	0.21%	4.78%	0.00%	0.00%	4.93%	0.05%	1.99%	1.83%	10.86%	2.97%	5.85%
NJ	0.55%	0.22%	0.07%	0.63%	5.76%	0.05%	1.79%	8.06%	0.36%	0.34%	1.08%	1.51%	0.17%	0.19%	0.37%
NY	0.09%	1.49%	0.04%	1.42%	9.71%	0.31%	5.24%	20.27%	0.07%	3.51%	1.03%	1.14%	0.27%	0.73%	0.41%
PA	0.00%	0.01%	0.00%	0.00%	0.00%	0.00%	0.06%	0.00%	0.00%	0.03%	0.00%	0.01%	0.00%	0.00%	0.00%
RI	0.81%	7.42%	1.93%	6.19%	14.14%	3.35%	21.52%	33.05%	0.52%	11.50%	8.38%	7.29%	1.52%	2.57%	2.46%
VA	0.00%	0.19%	0.00%	0.11%	0.22%	0.00%	1.09%	1.38%	0.00%	0.10%	0.07%	0.10%	0.01%	0.00%	0.00%

Sector Shares by Home Port State for 50-50 History-Capacity Alternative

	GOM Cod	GB Cod	GOM Winter	GB Winter	SNEMA Winter	CCGOM Yellowtail	GB Yellowtail	SNEMA Yellowtail	GOM Haddock	GB Haddock	Witch	Plaice	Pollock	Redfish	White Hake
CT	0.60%	0.77%	0.33%	0.58%	0.75%	0.29%	0.75%	1.32%	0.43%	0.48%	0.60%	0.54%	0.49%	0.55%	0.43%
DE	0.72%	0.53%	0.54%	0.58%	0.42%	0.40%	0.62%	0.00%	1.59%	0.69%	0.80%	0.76%	1.42%	2.05%	1.39%
FL	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
MA	63.05%	74.40%	79.46%	78.90%	67.11%	78.82%	65.05%	45.08%	61.67%	70.15%	60.94%	58.49%	58.30%	60.76%	52.99%
MD	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
ME	20.58%	8.14%	10.63%	4.16%	3.94%	8.06%	4.58%	1.81%	27.35%	10.72%	19.28%	23.73%	22.95%	23.05%	30.04%
NC	0.04%	0.93%	0.00%	1.89%	0.76%	0.68%	4.12%	1.98%	0.00%	1.41%	0.94%	0.98%	0.44%	0.25%	0.30%
NH	11.71%	1.27%	5.81%	0.00%	0.82%	5.07%	0.17%	0.29%	6.06%	1.08%	3.38%	3.34%	7.86%	4.25%	5.43%
NJ	0.59%	1.04%	0.63%	0.80%	4.39%	0.32%	1.42%	5.99%	0.46%	0.66%	1.88%	1.33%	0.91%	0.71%	0.85%
NY	0.77%	3.09%	0.49%	2.51%	8.00%	1.19%	4.40%	15.10%	0.63%	3.25%	2.77%	2.07%	1.84%	2.07%	2.15%
PA	0.00%	0.04%	0.00%	0.05%	0.00%	0.00%	0.08%	0.06%	0.00%	0.05%	0.03%	0.03%	0.03%	0.00%	0.03%
RI	1.94%	9.52%	2.10%	10.27%	13.51%	5.03%	18.05%	27.37%	1.81%	11.32%	9.19%	8.54%	5.64%	6.19%	6.25%
VA	0.00%	0.27%	0.00%	0.26%	0.30%	0.14%	0.77%	1.01%	0.00%	0.19%	0.19%	0.18%	0.15%	0.13%	0.15%

Difference History Alternative minus No Action

	GOM Cod	GB Cod	GOM Winter	GB Winter	SNEMA Winter	CCGOM Yellowtail	GB Yellowtail	SNEMA Yellowtail	GOM Haddock	GB Haddock	Witch	Plaice	Pollock	Redfish	White Hake
CT	0.42%	0.05%	-0.03%	-0.03%	-0.16%	0.01%	-0.23%	-0.60%	0.09%	0.01%	-0.01%	0.05%	0.04%	-0.07%	0.01%
DE	0.24%	-0.08%	0.00%	0.01%	0.01%	0.04%	-0.05%	0.00%	0.96%	0.41%	0.02%	-0.19%	0.60%	1.46%	0.23%
FL	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
MA	-2.18%	3.67%	-1.44%	2.77%	5.80%	-1.13%	0.77%	13.19%	-11.89%	0.88%	-1.92%	0.61%	-0.37%	-4.39%	2.92%
MD	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
ME	2.11%	-0.59%	0.50%	-0.13%	0.19%	0.58%	-0.01%	0.20%	12.85%	-0.40%	2.05%	-0.53%	-0.30%	1.29%	-4.09%
NC	0.00%	-0.08%	0.00%	-0.13%	0.05%	0.10%	-1.22%	0.13%	0.00%	0.03%	-0.17%	-0.47%	-0.01%	0.00%	0.00%
NH	-1.71%	0.04%	0.73%	0.00%	0.11%	0.19%	0.00%	0.00%	-2.45%	0.04%	-0.88%	0.27%	-0.44%	0.48%	-0.01%
NJ	0.48%	-0.03%	0.01%	0.05%	-1.41%	-0.03%	-0.24%	1.87%	0.31%	-0.07%	0.28%	0.51%	0.14%	0.13%	0.23%
NY	0.08%	-0.84%	0.02%	-0.33%	0.56%	0.06%	0.06%	1.93%	0.07%	-0.17%	-0.11%	-0.05%	0.01%	0.17%	0.03%
PA	0.00%	0.01%	0.00%	0.00%	0.00%	0.00%	0.06%	0.00%	0.00%	0.03%	0.00%	0.01%	0.00%	0.00%	0.00%
RI	0.56%	-2.32%	0.21%	-2.27%	-5.25%	0.19%	0.02%	-17.41%	0.07%	-0.84%	0.69%	-0.30%	0.33%	0.94%	0.67%
VA	0.00%	0.17%	0.00%	0.06%	0.09%	0.00%	0.82%	0.68%	0.00%	0.09%	0.04%	0.08%	0.01%	0.00%	0.00%

Positive indicates that aggregate share for the history alternative exceeds the No Action share, Negative indicates that aggregate share for history alternative was less than No Action
 Bold denotes instances where difference was +/- 1%

Difference: 50/50 History/Capacity Alternative minus No Action

	GOM Cod	GB Cod	GOM Winter	GB Winter	SNEMA Winter	CCGOM YT	GB YT	SNEMA YT	GOM Haddock	GB Haddock	Witch	Plaice	Pollock	Redfish	White Hake
CT	0.51%	0.58%	0.27%	0.49%	0.47%	0.24%	0.12%	0.05%	0.41%	0.35%	0.47%	0.44%	0.40%	0.31%	0.39%
DE	0.37%	0.09%	0.51%	0.57%	0.42%	0.40%	0.46%	0.00%	0.30%	0.52%	-0.15%	-0.29%	-0.20%	0.17%	-0.52%
FL	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
MA	0.72%	-7.08%	-13.56%	-7.61%	4.12%	-11.52%	2.80%	24.89%	-9.30%	-2.65%	-3.35%	4.31%	3.68%	-5.51%	11.58%
MD	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
ME	2.19%	3.53%	8.60%	3.48%	3.29%	6.80%	4.04%	0.56%	7.52%	1.63%	-2.01%	-8.32%	-7.92%	-3.81%	-18.44%
NC	0.04%	0.32%	0.00%	0.02%	0.58%	0.41%	-3.33%	0.36%	0.00%	0.05%	0.12%	-0.28%	0.41%	0.24%	0.30%
NH	-6.81%	0.93%	2.74%	0.00%	0.73%	0.49%	0.17%	0.29%	-1.32%	1.07%	0.50%	1.78%	-3.45%	1.75%	-0.43%
NJ	0.53%	0.79%	0.57%	0.23%	-2.77%	0.25%	-0.61%	-0.20%	0.41%	0.24%	1.09%	0.33%	0.88%	0.64%	0.71%
NY	0.77%	0.76%	0.48%	0.76%	-1.15%	0.93%	-0.78%	-3.24%	0.63%	-0.43%	1.63%	0.88%	1.58%	1.51%	1.77%
PA	0.00%	0.04%	0.00%	0.05%	0.00%	0.00%	0.08%	0.06%	0.00%	0.05%	0.03%	0.03%	0.03%	0.00%	0.03%
RI	1.69%	-0.22%	0.38%	1.80%	-5.87%	1.87%	-3.46%	-23.09%	1.36%	-1.01%	1.50%	0.96%	4.45%	4.56%	4.47%
VA	0.00%	0.25%	0.00%	0.20%	0.17%	0.13%	0.51%	0.31%	0.00%	0.19%	0.17%	0.16%	0.14%	0.13%	0.15%

Positive indicates that aggregate share for the 50/50 alternative exceeds the No Action share, Negative indicates that aggregate share for 50/50 alternative was less than No Action
 Bold denotes instances where difference was +/- 1%

The capacity weighted shares tend to reduce Massachusetts aggregate share for most GOM and GB stocks while the capacity weighted shares in Maine tend to increase. For SNEMA stocks the capacity weighted share increases aggregate share for Massachusetts home port vessels while reducing share in these stocks (SNEMA YT in particular) in Rhode Island.

Difference History Alternative minus 50/50

Difference	GOM Cod	GB Cod	GOM Winter	GB Winter	SNEMA Winter	CCGOM Yellowtail	GB Yellowtail	SNEMA Yellowtail	GOM Haddock	GB Haddock	Witch	Plaice	Pollock	Redfish	White Hake
CT	-0.09%	-0.53%	-0.30%	-0.53%	-0.63%	-0.24%	-0.35%	-0.65%	-0.32%	-0.35%	-0.48%	-0.39%	-0.37%	-0.39%	-0.38%
DE	-0.13%	-0.17%	-0.51%	-0.56%	-0.41%	-0.36%	-0.51%	0.00%	0.66%	-0.11%	0.17%	0.10%	0.80%	1.29%	0.75%
FL	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
MA	-2.89%	10.75%	12.12%	10.38%	1.68%	10.39%	-2.03%	-11.70%	-2.59%	3.52%	1.43%	-3.70%	-4.05%	1.12%	-8.66%
MD	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%
ME	-0.07%	-4.12%	-8.10%	-3.61%	-3.11%	-6.22%	-4.05%	-0.36%	5.33%	-2.03%	4.06%	7.79%	7.62%	5.11%	14.35%
NC	-0.04%	-0.41%	0.00%	-0.14%	-0.53%	-0.31%	2.11%	-0.23%	0.00%	-0.02%	-0.30%	-0.19%	-0.42%	-0.24%	-0.29%
NH	5.10%	-0.90%	-2.02%	0.00%	-0.61%	-0.30%	-0.17%	-0.29%	-1.13%	-1.03%	-1.38%	-1.51%	3.01%	-1.28%	0.42%
NJ	-0.05%	-0.82%	-0.56%	-0.18%	1.37%	-0.28%	0.38%	2.07%	-0.10%	-0.31%	-0.81%	0.18%	-0.73%	-0.52%	-0.48%
NY	-0.68%	-1.60%	-0.46%	-1.09%	1.71%	-0.88%	0.84%	5.16%	-0.56%	0.26%	-1.74%	-0.93%	-1.56%	-1.34%	-1.74%
PA	0.00%	-0.02%	0.00%	-0.05%	0.00%	0.00%	-0.02%	-0.06%	0.00%	-0.02%	-0.02%	-0.02%	-0.03%	0.00%	-0.03%
RI	-1.13%	-2.10%	-0.17%	-4.08%	0.62%	-1.68%	3.47%	5.68%	-1.29%	0.18%	-0.81%	-1.26%	-4.12%	-3.63%	-3.79%
VA	0.00%	-0.08%	0.00%	-0.14%	-0.08%	-0.13%	0.32%	0.37%	0.00%	-0.09%	-0.13%	-0.08%	-0.14%	-0.13%	-0.15%

Positive indicates that aggregate share for the history alternative exceeds the 50/50 share, Negative indicates that aggregate share for history alternative was less than 50/50 alternative
 Bold denotes instances where difference was +/- 1%

No Action Shares by Vessel Size

	Large	Medium	Small
GOM Cod	9.03%	27.75%	63.22%
GB Cod	70.70%	11.64%	17.66%
GOM Winter	8.92%	41.05%	50.03%
GB Winter	95.18%	4.80%	0.02%
SNEMA Winter	68.92%	25.95%	5.13%
CCGOM YT	31.84%	34.33%	33.82%
GB YT	90.35%	9.64%	0.00%
SNEMA YT	45.46%	49.37%	5.17%
GOM Haddock	33.73%	26.35%	39.92%
GB Haddock	81.58%	9.61%	8.81%
Witch	53.13%	30.67%	16.20%
Plaice	56.73%	32.44%	10.83%
Pollock	42.08%	24.18%	33.75%
Redfish	68.57%	20.98%	10.45%
White Hake	51.82%	28.65%	19.53%

History-Only Alternative by Vessel Size

	Large	Medium	Small
GOM Cod	15.71%	29.05%	55.24%
GB Cod	61.85%	10.08%	28.07%
GOM Winter	10.04%	41.88%	48.08%
GB Winter	95.75%	4.21%	0.04%
SNEMA Winter	34.16%	33.14%	32.71%
CCGOM YT	90.11%	9.88%	0.00%
GB YT	47.30%	45.62%	7.09%
SNEMA YT	46.69%	25.55%	27.75%
GOM Haddock	82.52%	10.31%	7.17%
GB Haddock	53.46%	32.10%	14.44%
Witch	51.44%	35.52%	13.04%
Plaice	43.98%	25.01%	31.01%
Pollock	68.68%	22.44%	8.88%
Redfish	53.39%	27.70%	18.91%
White Hake	71.25%	22.21%	6.54%

50/50 History/Capacity Shares by Vessel Size

	Large	Medium	Small
GOM Cod	28.19%	27.01%	44.80%
GB Cod	58.86%	16.90%	24.25%
GOM Winter	23.64%	35.14%	41.22%
GB Winter	89.03%	7.98%	2.99%
SNEMA Winter	66.21%	22.12%	11.68%
CCGOM YT	43.62%	27.21%	29.18%
GB YT	86.53%	11.43%	2.04%
SNEMA YT	58.46%	33.61%	7.93%
GOM Haddock	43.70%	25.84%	30.45%
GB Haddock	72.36%	15.44%	12.20%
Witch	51.83%	28.18%	19.99%
Plaice	51.52%	28.90%	19.57%
Pollock	46.56%	23.67%	29.77%
Redfish	58.63%	22.59%	18.78%
White Hake	51.67%	25.11%	23.21%

History Minus No Action

	Large	Medium	Small
GOM Cod	6.68%	1.30%	-7.98%
GB Cod	-8.85%	-1.56%	10.41%
GOM Winter	1.12%	0.83%	-1.95%
GB Winter	0.57%	-0.59%	0.02%
SNEMA Winter	-34.76%	7.19%	27.57%
CCGOM YT	58.27%	-24.45%	-33.82%
GB YT	-43.06%	35.97%	7.08%
SNEMA YT	1.23%	-23.82%	22.58%
GOM Haddock	48.80%	-16.04%	-32.76%
GB Haddock	-28.12%	22.49%	5.63%
Witch	-1.69%	4.85%	-3.17%
Plaice	-12.75%	-7.43%	20.18%
Pollock	26.60%	-1.74%	-24.86%
Redfish	-15.17%	6.72%	8.46%
White Hake	19.43%	-6.44%	-12.99%

Positive means that history-only alternative aggregate share was higher than that of No Action. Difference is primarily due to the different qualification time periods. Note that the tendency for higher GOM shares for large vessels compared to No Action as well as tendency for shares of GB stocks to be lower for large vessels relative to No action. Means that qualification time period matters and may be due to shifts in fishing patterns by size in more recent years compared to earlier years.

50-50 Minus No Action

	Large	Medium	Small
GOM Cod	19.17%	-0.74%	-18.42%
GB Cod	-11.84%	5.26%	6.59%
GOM Winter	14.72%	-5.91%	-8.81%
GB Winter	-6.16%	3.18%	2.97%
SNEMA Winter	-2.71%	-3.83%	6.55%
CCGOM YT	11.77%	-7.13%	-4.65%
GB YT	-3.83%	1.79%	2.04%
SNEMA YT	13.00%	-15.76%	2.76%
GOM Haddock	9.98%	-0.51%	-9.47%
GB Haddock	-9.22%	5.83%	3.39%
Witch	-1.29%	-2.49%	3.78%
Plaice	-5.21%	-3.54%	8.74%
Pollock	4.48%	-0.50%	-3.98%
Redfish	-9.94%	1.61%	8.33%
White Hake	-0.14%	-3.54%	3.69%

Positive means that aggregate share under 50/50 alternative was higher than that of No Action. Note 50/50 alternative tends to shift share from small/medium vessels for GOM stocks but shift in GB stocks tends to be from large to medium and small vessels.

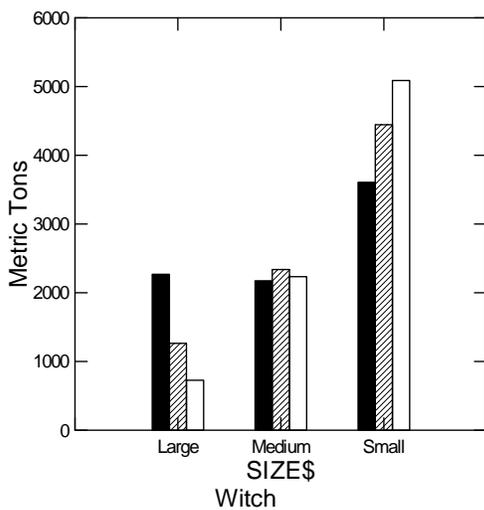
50-50 Minus History

	Large	Medium	Small
GOM Cod	12.48%	-2.04%	-10.44%
GB Cod	-3.00%	6.82%	-3.82%
GOM Winter	13.60%	-6.74%	-6.86%
GB Winter	-6.72%	3.77%	2.95%
SNEMA Winter	32.05%	-11.02%	-21.03%
CCGOM YT	-46.50%	17.32%	29.17%
GB YT	39.23%	-34.19%	-5.04%
SNEMA YT	11.76%	8.06%	-19.82%
GOM Haddock	-38.82%	15.53%	23.29%
GB Haddock	18.90%	-16.66%	-2.24%
Witch	0.39%	-7.34%	6.95%
Plaice	7.54%	3.90%	-11.44%
Pollock	-22.12%	1.23%	20.88%
Redfish	5.23%	-5.11%	-0.13%
White Hake	-19.58%	2.90%	16.68%

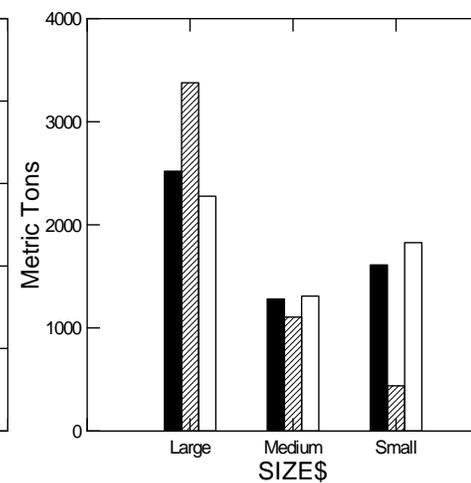
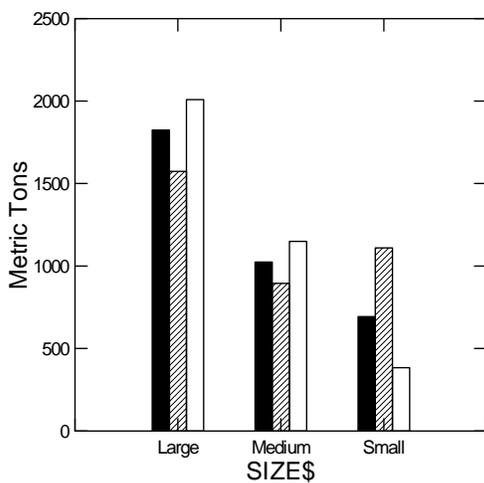
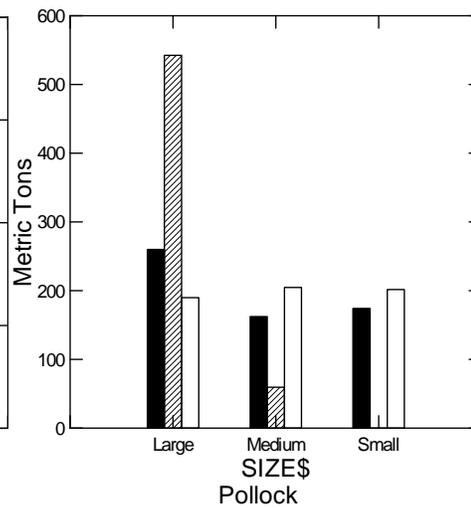
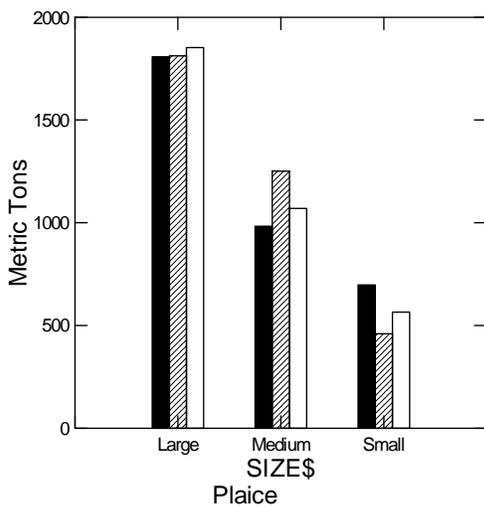
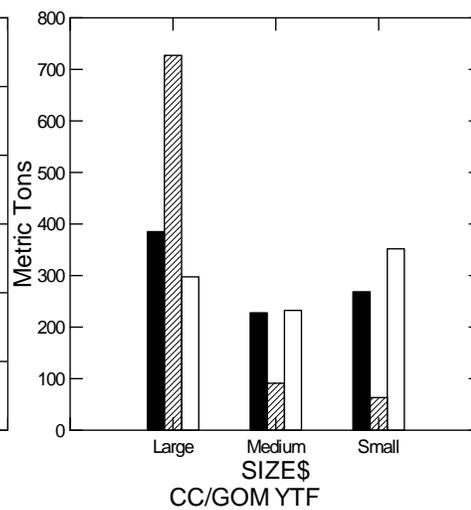
Positive value means that capacity weighted shares were higher than history alone.

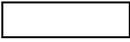
Landings/Capacity:  Landings Only:  No Action: 

GOM Cod

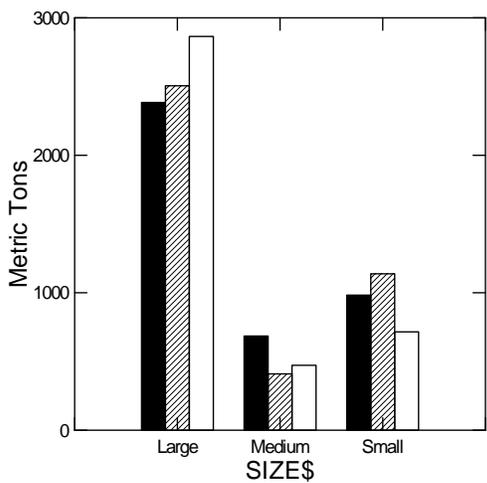


GOM Haddock

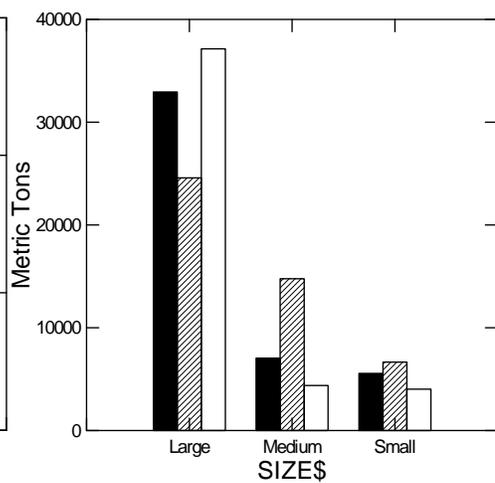


Landings/Capacity:  Landings Only:  No Action: 

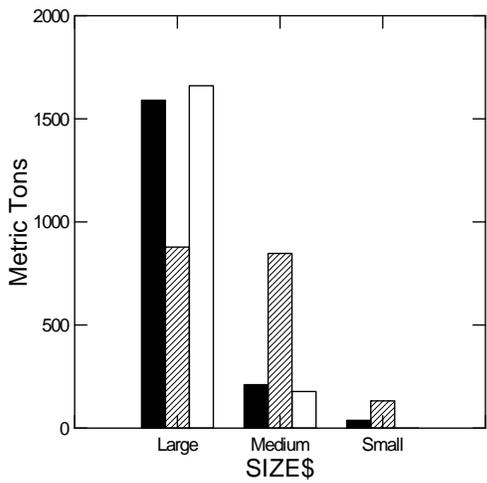
GB Cod



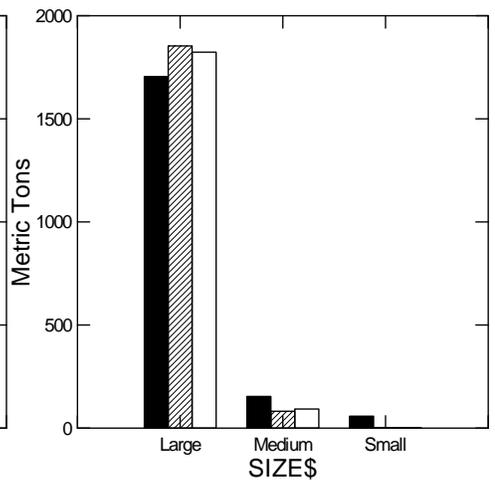
GB Haddock



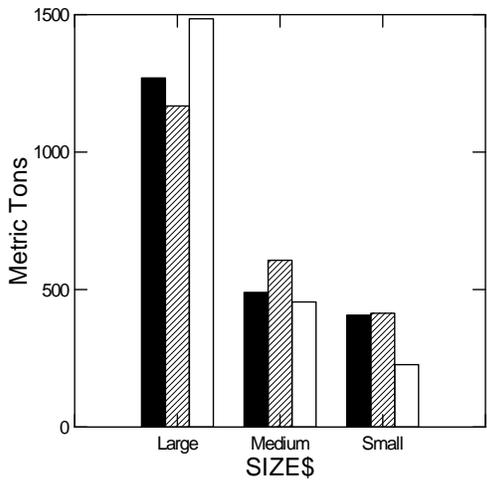
GB YTF



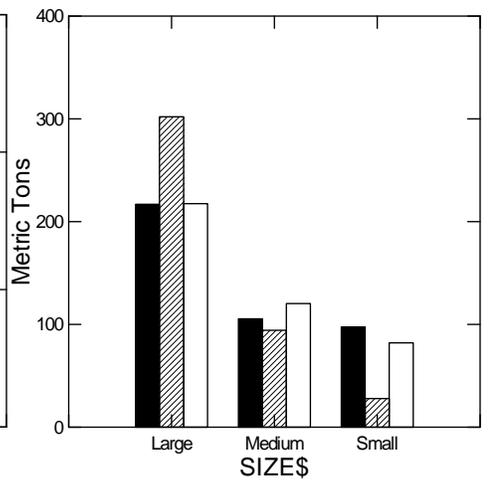
GB WFL



Redfish

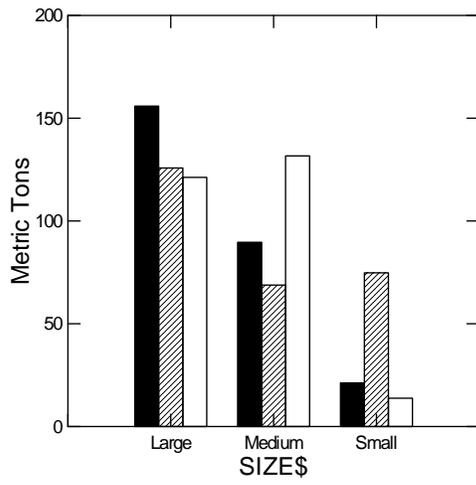


White Hake

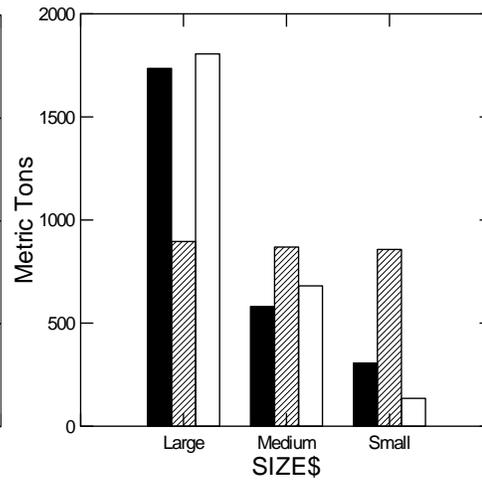


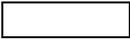
Landings/Capacity:  Landings Only:  No Action: 

SNE/MA YTF

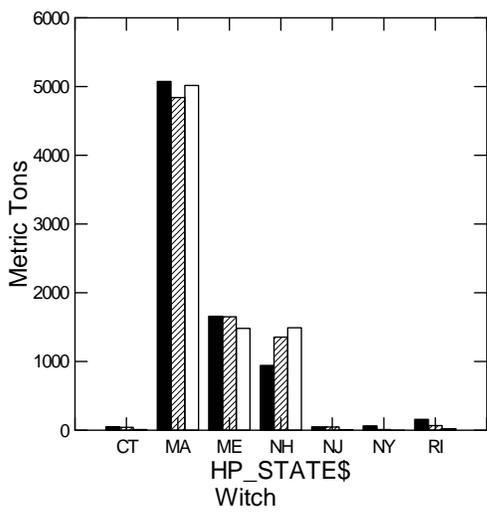


SNE/MA WFL

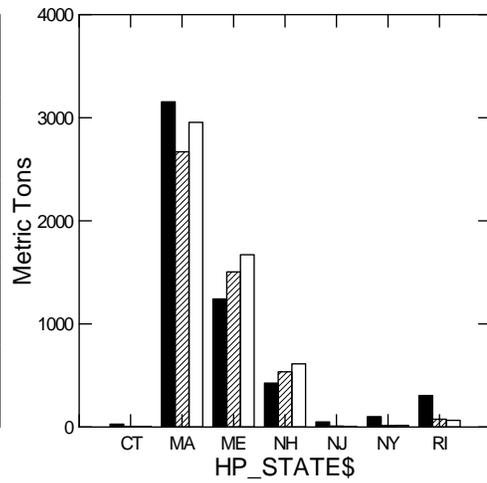
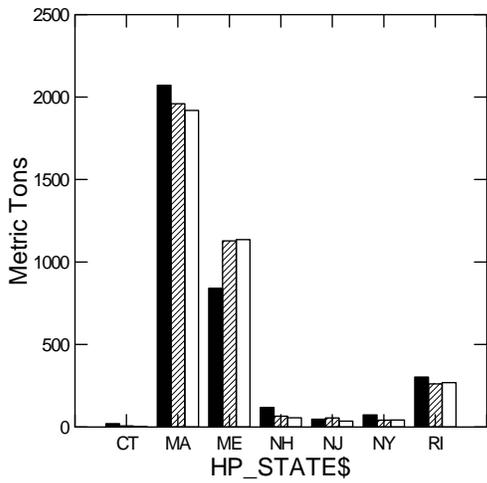
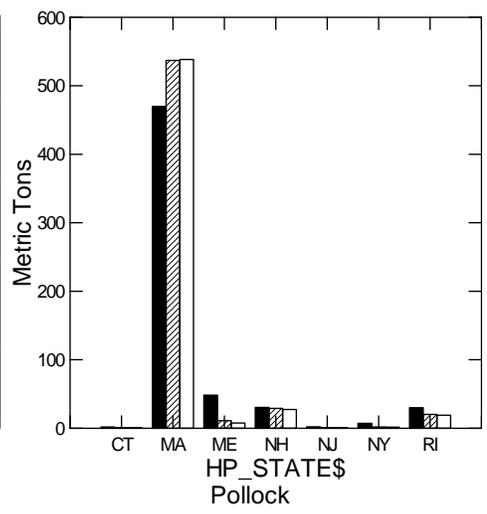
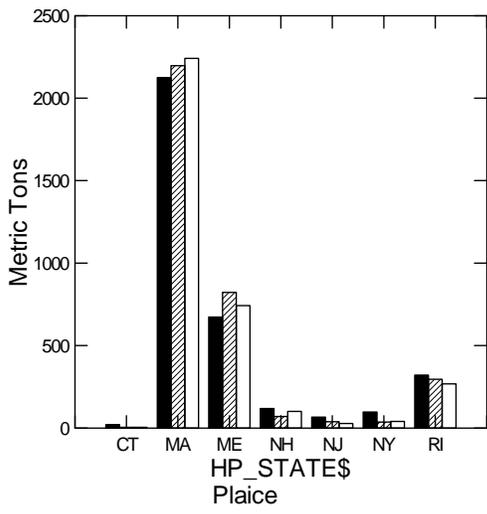
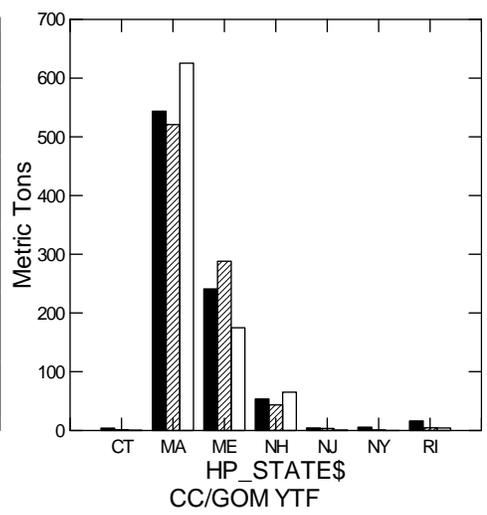


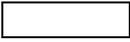
Landings/Capacity:  Landings Only:  No Action: 

GOM Cod

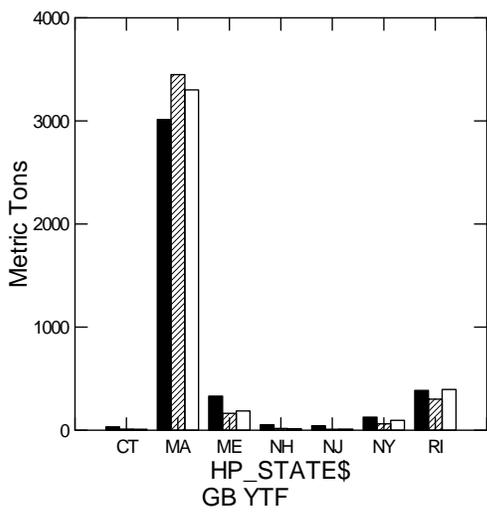


GOM Haddock

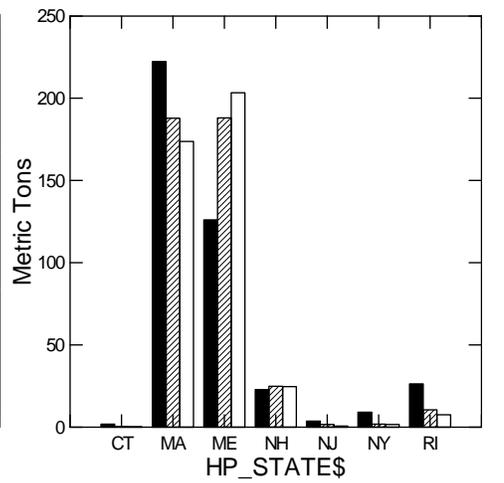
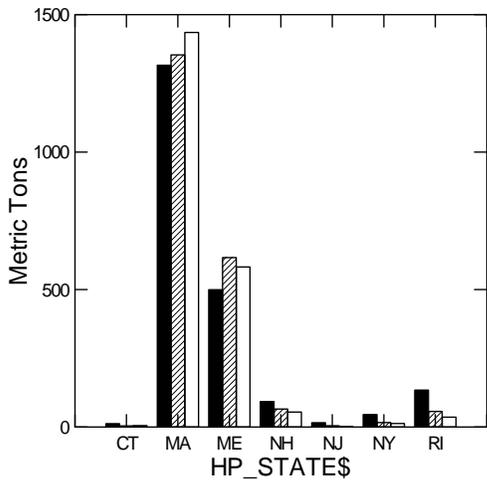
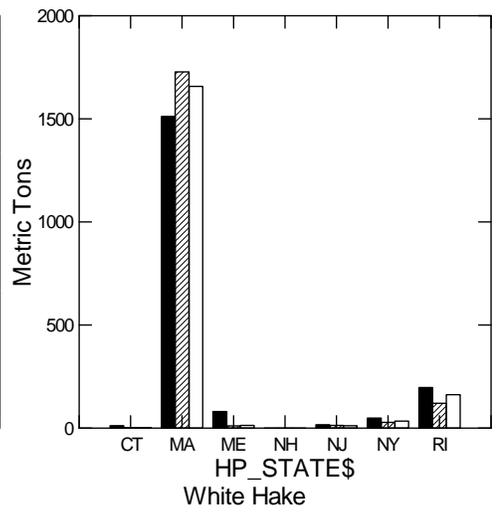
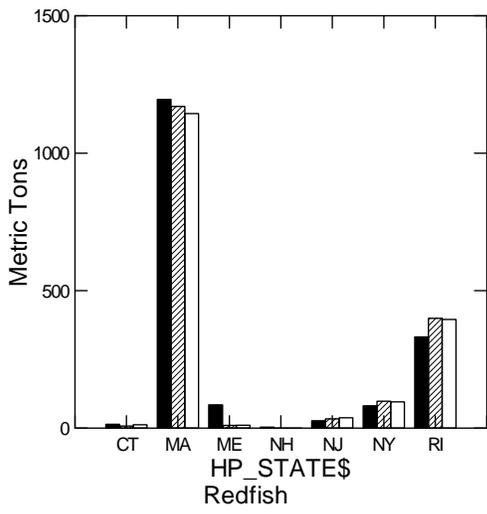
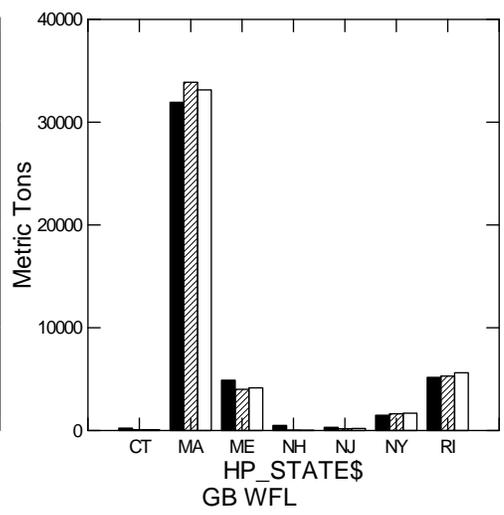


Landings/Capacity:  Landings Only:  No Action: 

GB Cod

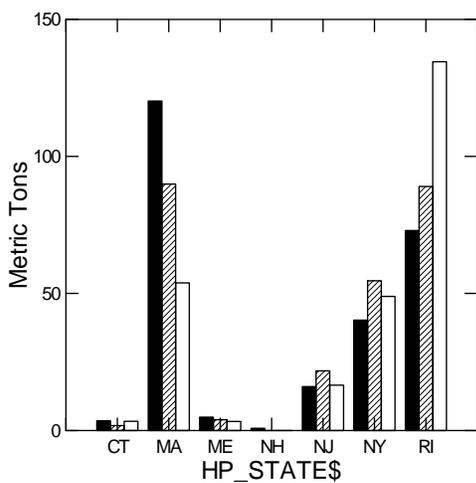


GB Haddock

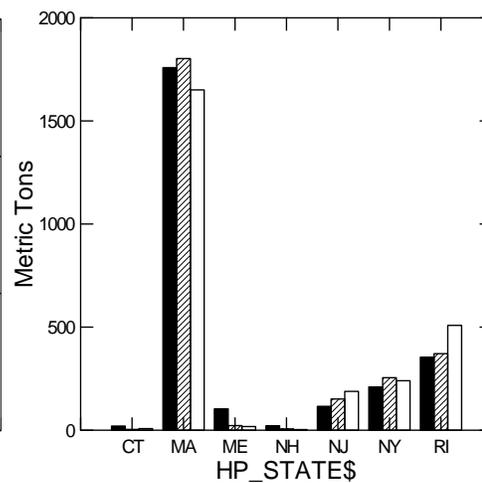


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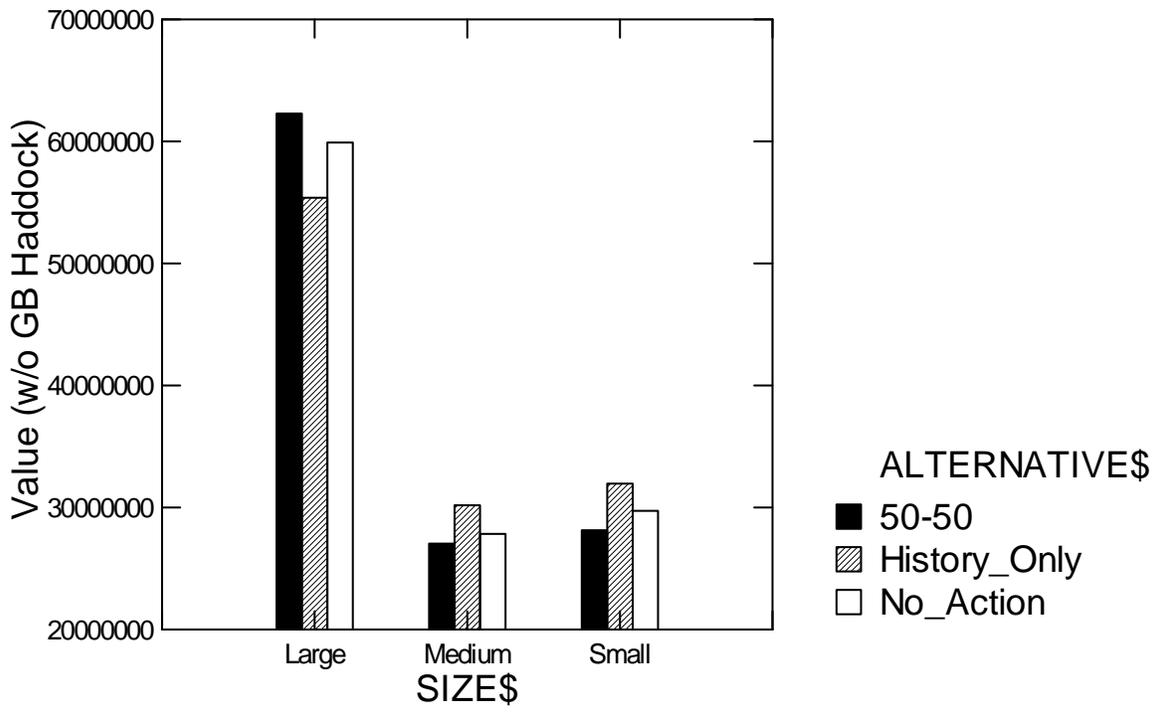
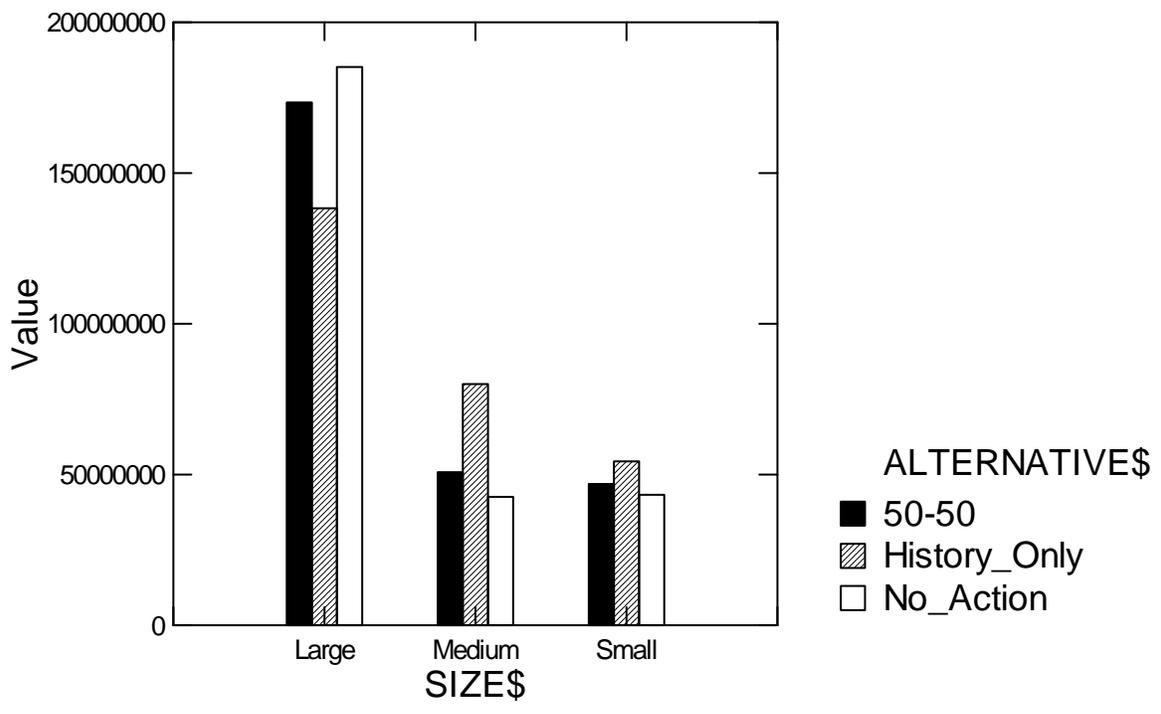
SNE/MA YTF

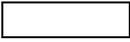


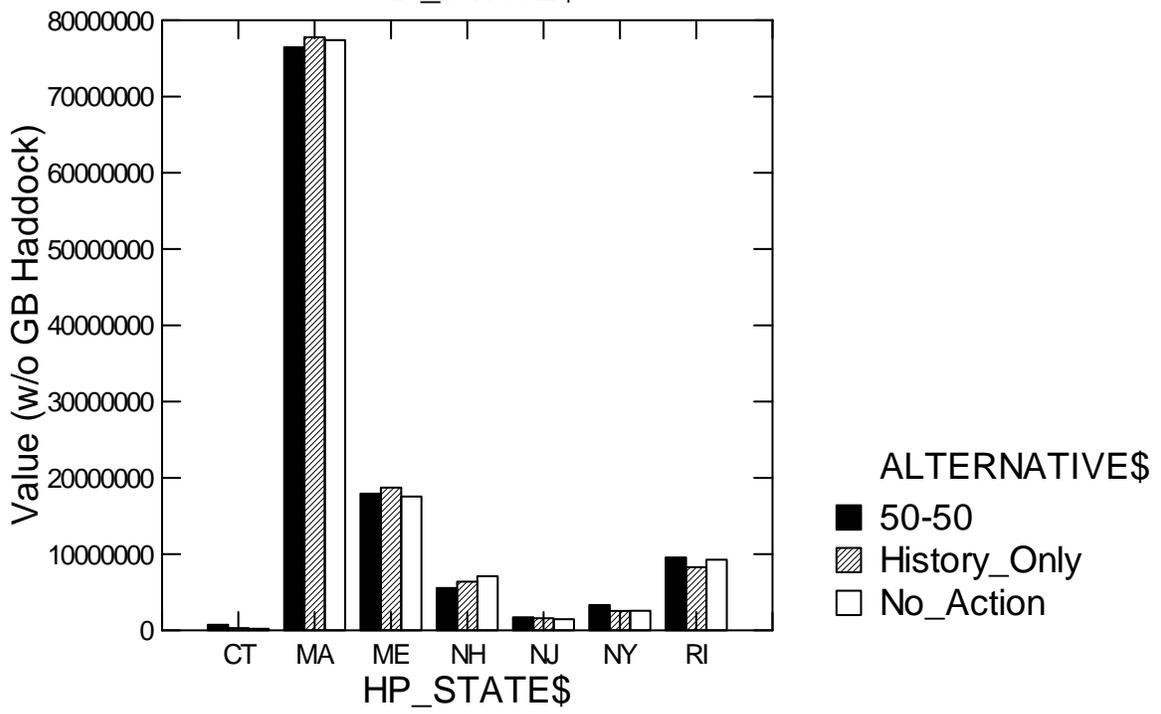
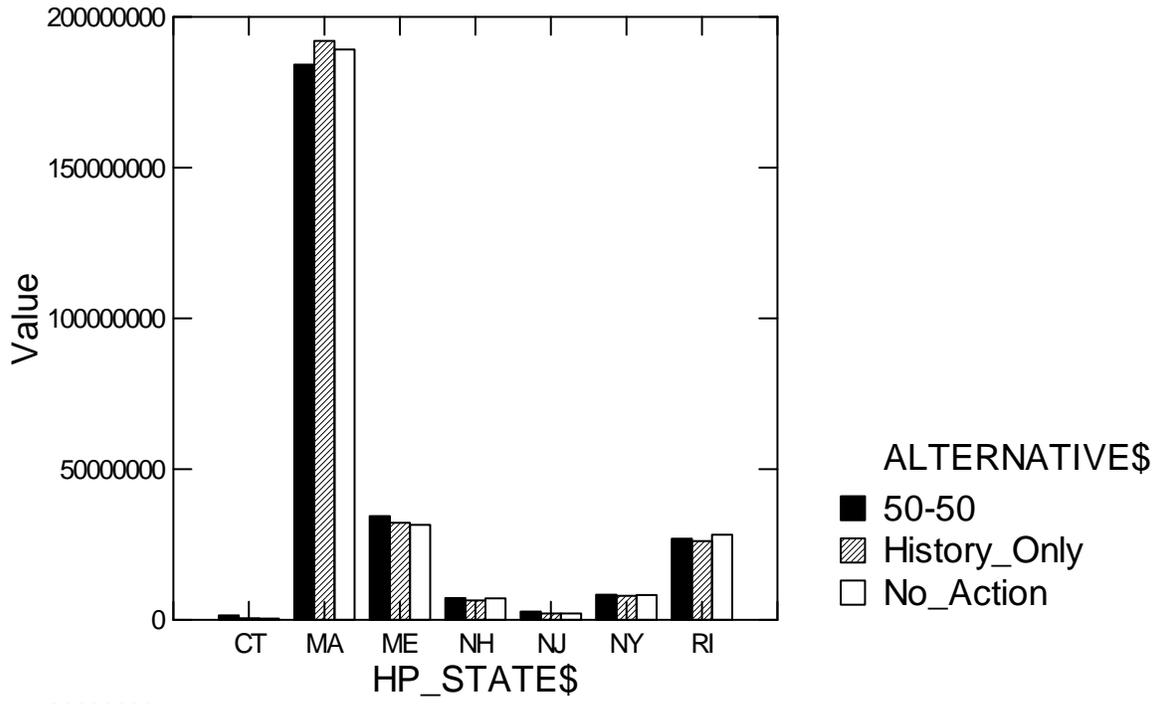
SNE/MA WFL



Landings/Capacity:  Landings Only:  No Action: 



Landings/Capacity:  Landings Only:  No Action: 



New England Fishery Management Council Groundfish Oversight Committee

Meeting Summary
December 12 - 13, 2007

The Groundfish Oversight Committee (Committee) met in Peabody, MA to continue development of Amendment 13. The first day of the meeting addressed several recreational fisheries issues, a hard TAC accountability measure (AM) for the days-at-sea (DAS) system, and research set-aside programs. The second day of the meeting addressed sector policy issues. Committee members present were Mr. Rip Cunningham (Chair), Mr. Frank Blount, Mr. Mike Leary, Ms. Sally McGee, Ms. Sue Murphy, Mr. Jim Odlin, Mr. David Preble, and Mr. Terry Stockwell. They were supported by staff Mr. Chris Kellogg, Mr. Tom Nies, Ms. Lori Steele, and Ms. Pat Fiorelli (NEFMC), Mr. Doug Christel, Mr. Tom Warren, and Mr. Dan Caless (NMFS NERO), and Mr. Gene Martin (NOAA GC).

The Committee discussions referred to several Plan Development Team (PDT) meeting summaries, a document describing a strawman hard TAC AM for common pool vessels (dated December 3, 2007), and a summary of research set aside regulations.

December 12

Recreational/Commercial Allocation

Council staff briefed the Committee on PDT recommendations (see PDT report dated December 9, 2007) for allocating groundfish stocks to the commercial and recreational components of the fishery. The PDT recommended allocations be specified for six stocks (GOM cod, GB cod, GOM haddock, GOM winter flounder, pollock, and SNE/MA winter flounder), if shares are based on past catches the calculation should use numbers of fish rather than weight (when possible), shares may need to be re-evaluated in the future, and GB haddock may need an allocation in the future. The PDT report also highlighted several technical issues in calculating the TAC for GOM cod.

Committee members discussed the recommendations. Several expressed concern over using MRFSS data for GB cod, noting the numbers in recent years seemed unbelievably low. There was support offered for the concept of revisiting the allocation on a periodic schedule, perhaps tied in to the assessment cycle.

Motion: For the recreational GOM cod proportion, use the average of 1999 through 2007 (based on numbers, proportion each year, averaged over the time period). (Mr. Odlin/Ms. McGee)

A Committee member expressed concern over the last two years of the proposed time period, pointing out it was unknown whether the Framework 42 measures affected the recreational and commercial components of the fishery in the same manner, as was planned. Ms. Murphy supported the concept of a recreational allocation, commenting that it would be difficult to monitor a combined commercial/recreational catch limit in real time given current recreational catch monitoring. Another Committee member suggested that it may be possible to meet Annual Catch Limit (ACL) requirements by reducing available catch by a fixed amount to get the commercial AC; the reduction would be intended to cover catches by other fisheries, including the recreational fishery, without specifying a specific amount for each. He also expressed concern that the large uncertainty around recreational estimates would necessitate excessive caution when

setting ACLs that would affect all fishermen. The Committee discussed extending the time series, in part to address concerns over recent years but also to use a time period consistent with proposals for determining commercial history. The motion was perfected through a friendly amendment to read:

Motion (as amended): For the recreational GOM cod proportion, use the average of 1996 through 2006 (based on numbers, proportion each year, averaged over the time period).

The Committee noted the PDT comment that discards were not included in the commercial catch used in assessments prior to 1999, whereas some discards are included in recreational catches, but decided this issue was unimportant for the three years when this occurred (1996-1998).

Public comment on the motion included:

- Kevin Twombly: Why was the time period extended to 1996? (To extend the series to reduce the impact of any outlier years).
- Tom Dipersia: This motion is premature. We just saw these numbers. We should delay this decision until we have a chance to look at these numbers.
- Sach McMann: This motion is premature.

Committee members said they felt they had to move forward on this issue given the amendment timeline. The motion carried on a show of hands (6-0).

Motion: Committee recommends to the Council: evaluate quota allocations between recreational and commercial components of the fishery on a regular basis linked to the assessment cycle. (Mr. Preble/Mr. Stockwell)

The maker of the motion explained that this motion adopted the PDT's recommendation to review commercial/recreational allocations in the future, since changes may be necessary as stocks rebuild. The intent of the motion is to allow any revisions to be adopted in a framework action. The motion **carried** on a show of hands (6-0).

Motion: For GB cod, the initial proportion for the recreational fisheries will use the years 1996 through 2006, using number of fish if possible; if that is not possible, use weight. Use the average of the years as was done for GOM cod (Mr. Odlin/Mr. Stockwell)

Committee members spoke in opposition to the motion. The errors in the MRFSS data for GB cod are very large compared to those for GOM cod. There are some years when the MRFSS recreational catch numbers are too low to be believable. There was discussion over whether there could be a de minimis amount that would obviate the need for a specific allocation. The motion was **withdrawn** by the maker without objection by Committee members. A Committee member commented later that the GB cod issue appeared unresolved.

Motion: For GOM winter flounder, base the recreational portion on the period 1982 through 2006. Based on numbers if possible, weight if not. (Mr. Odlin/Mr. Preble)

Public comment on this motion included:

Mr. Bud Brown: Recreational catch of this stock tanked in 1990 as the stock collapsed. Prior to that, the recreational fishery caught nearly 50 percent. The recreational fishery is totally disadvantaged by using this time period. This should be treated the same way as GB cod –it is inappropriate to use these numbers.

The Committee discussed the impacts of state management on winter flounder stocks. Most recreational fishing takes place in state waters. There are stringent regulations for SNE/MA winter flounder that constrain recreational catch. Since it isn't a joint plan, how will adopting an allocation be implemented for these stocks? Is the expectation that states will adopt or modify regulations to comply with the allocation? Why not avoid making a specific allocation now until these issues are resolved? Council staff noted that not making an allocation may raise issues in the future related to meeting mortality targets – similar to those raised for GOM cod during development of FW 42.

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

Motion: For SNEMA winter flounder, base the recreational portion on the period 1982 through 2006. Based on numbers if possible, weight if not. (Mr. Odlin/Mr. Preble)

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

Motion: For GOM haddock and pollock, if the recreational catch is included in the catch in the GARM III assessment, use that information to allocate part of the TAC to the recreational component of the fishery. The share will be calculated based on numbers if possible; if not, on weight. (Mr. Odlin/Mr. Preble)

The motion carried on a show of hands (6-0-1). The Committee asked the PDT to consider using party/charter logbooks to supplement or replace MRFSS data.

Motion: Recreational fisheries will be managed by seasonal closures, size limits, and bag limits. (Mr. Preble/Mr. Odlin)

The maker of the motion explained that he did not think access to closed areas should be changed. Council staff explained that the PDT was hoping the Committee would provide guidance on which measures were preferred – recognizing that this would be difficult for the industry and the Committee to provide without knowing what mortality changes will be needed. Public comment included:

- Mr. Barry Gibson: Recreational Fishing Alliance. This issue should be remanded back to the Recreational Advisory Panel (RAP) for advice on how they want to take their medicine. This can't be done until we know what reduction is necessary. For example, some earlier opinions may have changed – the party/charter component may be willing to trade longer seasons for a smaller bag limit.

Council staff asked when the RAP should be scheduled - there may not be time to fit it in after the final GAMR III results are released. The Chair suggested the meeting should be held in the spring. It was suggested that gear changes might also be a useful tool, and the motion was perfected to include this measure.

Motion (as perfected): Recreational fisheries will be managed by seasonal closures, size limits, gear restrictions, and bag limits.

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

Council staff gave a brief overview of PDT attempts to estimate current stock status. Various data sources were considered, but the results were inconsistent. The PDT will attempt this again after the NEFSC provides guidance on adjusting for retrospective patterns. Developing an estimate is considered essential for creating effort controls that bear some resemblance to what actually may occur in the fishery.

Hard TAC Accountability Measure for Common Pool Vessels

Council staff reviewed a staff strawman proposal that would use hard TACs as the AM for common pool vessels subject to effort controls. A Committee member spoke against the proposal for the two reasons: a similar system used in the early 1980's was an abject failure, and guidelines have not been published by NMFS for these measures. Until the guidelines are received, he felt the Committee was wasting its time.

Motion: To table discussion on hard TACs as an Accountability Measure for common pool vessels until we have guidance from NMFS. (Mr. Odlin/Mr. Leary)

One Committee member agreed that hard TACs may not be required, but an AM was different. Another Committee member argued that the failure of a similar system in the early 1980's should not be used to condemn this proposal; times have changed, monitoring systems are more advanced, limited entry is in place. In addition, the Council directed the Committee to consider this as an option. Ms. Murphy agreed that while the law does not require hard TACs, they are a reasonable option that should be considered. Mr. Odlin argued that when the Council guidance was developed, the Council was led to believe hard TACs were required. Public comment included:

- Mr. Carl Bouchard: It is a problem if catching one species can shut down the entire fishery. Fish have a strange way of showing up in places or times you don't imagine they will. Shutdowns will destroy infrastructure; it won't do anything good for the industry or the consumer.
- Mr. Steve Norberg: I agree with the gentlemen that just spoke.
- Mr. John Williamson: Ocean Conservancy. The issue is accountability measures. The current plan has a well-intended structure but nothing that compels the system to achieve its goals. The history of groundfish management is that well intended adjustments have been adopted but overfishing continues. Hard TACs may be one way to guarantee that standards on overfishing are met. To cut off that discussion now is folly.
- Mr. Eric Brazer: Cape Cod Commercial Hook Fishermen's Association (CCCHFA). At this point it is clear NMFS is overloaded with work that needs to be done. This is an option – we should not avoid this discussion.

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

Motion as perfected: Windowpane flounder, ocean pout, and halibut will be taken off the list that can shut down the common pool groundfish fisheries. For those fisheries, if 60 percent of the TAC is caught then the Regional Administrator (RA) has the authority to implement a zero possession limit. If the RA determines the TAC will not be reached, the zero possession limit does not need to be implemented. (Mr. Odlin/Mr. Stockwell)

This motion simplifies TAC administration by removing four stocks with small TACs. This modification was similar to a PDT recommendation for treating ocean pout and halibut within sectors. The Committee offered differing opinions on this approach. One member suggested imposing measures to make sure these species were harvested as incidental catch, and not targeted. Ms. Murphy suggested having a hard TAC for these species but reduce possession limits or impose other measures to deter fishermen from catching these species. Public comment included:

- Roger Fleming: EarthJustice. It is not clear to me what the committee is doing: are you developing alternatives or making hard and fast decisions? Perhaps this motion could be an alternative in addition to hard TACs for these species. I am not sure you can remove these species from the requirement to have an ACL.
- David Borden, Massachusetts DMF: Is there low TAC level below which NMFS is unable to monitor a quota? If NMFS can tell us what that minimum amount is, it would help the Committee discussion.
- Mr. Frank Grable: How will species be dealt with that do not have an approved TAC?

In response to Mr. Borden, Ms. Murphy commented that NMFS was concerned over breaking hard TACs into smaller quantities in trimesters – that could be difficult to monitor – but there will still be small TACs even if done on an annual basis. Mr. Cales commented that NERO had not developed a policy on when a TAC was too small to monitor. There are numerous factors involved in this determination: it is a slow or fast moving fishery? Do individual vessels catch large or small amounts? How quickly are data received? With respect to triggers, it is better if the RA has the discretion to implement measures when triggers are reached, rather than a requirement to do so. The Committee perfected the motion to incorporate this suggestion.

Mr. Odlin advised that his intent for this motion is that it replaces the language in the strawman and is not proposed as a second alternative. The motion **carried** on a show of hands (5-1-1).
Vote on the motion; 5-1-1

A Committee member asked why the TAC was split into trimesters, and what measures would prevent development of an Olympic fishery? Council staff replied that the trimesters were an attempt to pace the fishery, and that effort controls might help control an Olympic fishery. The Committee member said that the threat of closure would drastically change the fishery as vessel operators would not want to risk being shut out of the fishery. Other Committee members suggested further work was needed on measures to mitigate the chances of a closure, and since the full PDT had not yet reviewed the proposal, more work was needed

Motion: To request the PDT further develop the staff strawman for hard TACs in the common pool paying special attention to develop measure to extend the fishing year when TACs for stocks of concern are closed to being reached or are actually achieved.
(Ms. McGee/Mr. Preble)

Ms. McGee suggested additional PDT work could consider measures such as gear modifications, more refined closures of statistical areas, or other measures. The intent would be to develop measures that the common pool does not fish as hard as it can for three days a year. Council staff noted the PDT workload and expressed concern that Committee expectations for further refinement of this proposal before February should be realistic. Ms. Murphy suggested the

US/CA area regulations might be an example to consider, but another Committee member noted that the eastern area was closed nine months of the year and TACs were not achieved, so that hardly seemed like a model worth following. A Committee member suggested using lay days – required time not fishing after a fishing trip – to control catch rates. Public comment included:

- Mr. Vito Giacalone: NES. I don't understand what has changed. The PDT and NMFS were very negative about a proposal to control CC/GOM yellowtail flounder catches through a hard TAC and trip limits. Now the proposal is TACs for nineteen stocks, divided into trimesters. Will success be measured against the hard TAC or the mortality rate? I don't see how these TACs will guarantee overfishing is ended.

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

A Committee member asked if it was possible to implement industry funded third-party weighmasters, as included in the strawman. Is it legal? Mr. Martin said that this may be a problem, depending how much control NMFS exerts on the program. This may conflict with laws that prevent government agencies from shifting the burden of agency responsibilities to the public. Mr. Martin said these issues would need to be discussed with personnel more familiar with those legal requirements.

The Committee next reviewed the proposed breakdown of TACs by trimester. The staff proposal was based on recent landings patterns. Committee members suggested that the proposed distribution could be improved to avoid catching fish during or just after spawning when they are in poor condition. This would provide greater yield, improved prices, and would reduce fishing on spawning fish.

Motion: Assuming a fishing year that begins May 1, that for the trimester split in the hard TAC AM, the splits should be (percentages):

GB YTF 19/30/52

GB WFL: 8/24/69

GB Haddock: 27/33/40

GOM cod: 27/36/37

GB Cod: 25/37/38

SNEMA YTF: 21/37/42

Witch: 27/31/42

Plaice: 24/36/40

(Mr. Odlin/Mr. Preble)

Some Committee members (including Ms. Murphy) supported the concept behind the motion, but expressed concern that the specific numbers should be reviewed by the PDT to make sure they can support the motion's rationale. A member of the public spoke in support of the motion. The motion **carried** on a show of hands (5-0-2).

A Committee member expressed concern that the low white hake TAC could result in could result in closure of a large area. Measures need to be adopted to prevent this from happening.

Motion: That in light of the hard TAC AM, the white hake possession limit should change to 500 lbs /day or 2000 lbs. per trip until the TAC is increased. (Mr. Leary/Mr. Odlin)

The motion carried on a show of hands (5-1-1).

Motion: To include the staff strawman hard TAC AM for the common pool, as modified, as an alternative for Amendment 16. (Ms. McGee/Mr. Stockwell)

A Committee member asked when mitigation measures would be developed that would prevent an Olympic fishery. One such measure could be an Individual Fishing Quota (IFQ) system.

Motion to amend: To include an IFQ system as a mitigating plan to hard TACs to avoid shutdowns. (Mr. Odlin/Mr. Preble)

A Committee member expressed support for the concept, but doubted that this could be accomplished by February and would not support the motion as a result. Ms. Murphy was asked when regulations for conducting a referendum would be published; she replied that they were supposed to come out soon. Even with those regulations, Ms. Murphy said she did not think it possible to implement an IFQ program by 2009. A member of the public supported the motion as an option for the amendment.

The motion to amend **carried** on a show of hands (5-1-1). Council staff expressed concern that this program could not be developed by February's Council meeting.

The motion, as amended, was discussed:

Motion: To include the staff strawman hard TAC AM for the common pool, as modified, as an alternative for Amendment 16 and to include an IFQ system as a mitigating plan to hard TACs to avoid shutdowns. (Ms. McGee/Mr. Stockwell)

The Committee discussed whether this motion was consistent with Council guidance that IFQ alternatives would be developed in Amendment 17. Committee members pointed out that this guidance preceded the guidance in November to consider mitigation measures for the hard TAC AM; since there weren't any limits placed on those measures, an IFQ program should be considered. Some Committee members expressed concern that the meeting notice did not include the possibility an IFQ program would be adopted, but Mr. Martin did not feel this was a valid concern since the Committee was only suggesting it be analyzed as an alternative. The Chair ruled that developing an IFQ program was not consistent with earlier Council guidance.

Motion: To split the question. (Mr. Preble/Mr. Stockwell)

The motion to split the question carried on a show of hands (5-2). The split motions were considered in order.

Motion: To include the staff strawman hard TAC AM for the common pool, as modified, as an alternative for Amendment 16. (Ms. McGee/Mr. Stockwell)

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

Motion: To include an IFQ system as a mitigating plan to hard TACs to avoid shutdowns. (Mr. Odlin/Mr. Preble)

The Chair ruled this motion out of order because it conflicted with Council guidance to delay development of an IFQ program in Amendment 17. Several Committee members, while respecting the Chair's decision, asked that the meeting summary reflect considerable Committee

support for developing an IFQ program for the groundfish fishery, but recognition that it could not be completed in this amendment.

Ms. Murphy relayed concerns that NMFS might not be able to assign catches by vessels in sectors to the correct stock area without changes in the monitoring system or other controls. Mr. Caless explained that the current system uses VTR reports to prorate dealer landings to stock area. He said that to monitor TACs in near-real time, an entirely new system might be necessary, along the lines of using VMS or electronic VTRs. Ms. Murphy said that NMFS would bring back recommendations to the Committee.

Research Set Aside (RSA) Program

Council staff gave a quick overview of the issue. Industry vessels were reluctant to participate in groundfish research because of the requirement to use DAS to account for mortality. This raised the cost of research, and generated interest in creating a pool of DAS or quota that could be set-aside for research projects. Unlike some other programs, the intent was not to completely fund research with these set-asides, but to account for the mortality so that vessels would not have to use DAS or sector allocations. Ms. Fiorelli reviewed several other RSA programs, highlighting the complexity and differences between the programs as well as the lack of interest from the industry (in some instances). She also noted that an earlier review suggested that for most stocks the mortality from research was negligible, but there were a few weak stocks where this was not the case. Dr. Earl Meredith, NEFSC, provided the Committee an overview from the NMFS perspective, emphasizing the need for clear identification of the objectives of any adopted program. He also suggested that an adopted program be a multi-year program to simplify administration. Mr. Christel pointed out that since 2004, most (if not all) groundfish experiments are required to use DAS while conducting research.

Motion as perfected: When developing ACL's, one percent of the ACL for each stock will be dedicated to research set aside. (Mr. Odlin/Mr. Preble)

This motion creates a pool of fish that can be used for groundfish research. Projects allocated fish from this set-aside would not be required to use DAS or sector allocations to conduct the research. The motion **carried** on a show of hands (5-0-2).

December 13

Ms. Murphy was asked to review a letter from NERO to the Council, dated December 7, 2007, in which NMFS commented on sector development. Ms. Murphy expressed NMFS concern that Amendment 16 – including additional sectors – would not be completed in time. The letter suggests delaying sector implementation until FY 2010, offers suggestions for simplifying sector development and administration, and includes a recommendation for requiring sector proposals to provide a list of sector participants in spring 2008 so that catch histories can be calculated.

A Committee member commented that if the Council decides to delay sector implementation, the Council should instead focus on an adjustment and initiate Amendment 17 immediately. He suggested going directly to an IFQ system in Amendment 17. Another Committee member agreed in principal, but did not believe that option is open to the Committee. Ms. Murphy was asked a number of questions about the letter (responses are in italics):

- What criteria will NMFS use to determine that the Council is not making sufficient progress and as a result NMFS will withdraw support from plan development? *NMFS cannot*

answer that question. NMFS is concerned that, depending on what environmental document may be necessary for a Secretarial action, staff support may need to be withdrawn as early as spring 2008. The letter emphasizes the Council should work quickly and get things done so this is avoided.

- Development of effort controls requires an estimate of stock status. The PDT has already reported difficulty in developing an estimate, and has repeatedly expressed concerns that it is not possible to develop measures under a range of possible stock conditions as the Council has suggested. If effort controls are not developed by February, will NMFS view that as insufficient Council progress? *Our understanding is that effort controls would be developed for a range of possible mortality reductions. We understand the PDT is struggling with this.*
- The letter says sector measures should be enforceable. What measures, specifically, is NMFS referring to – just catch monitoring, or measures that may be adopted in individual operating plans? *Certainly catch reporting. Ultimately if it is in the operations plan, we have to be able to enforce it. Mr. Martin explained that the true intent is that the TACs be enforceable – there is no real plan to enforce internal sector controls.*
- What does delaying implementation accomplish – it does not appear to give the Council additional time to work on sector issues, since the amendment must be submitted as planned? *We agree delayed implementation does not benefit the Council. It does provide more time for sectors to prepare required documents, including EA's (which need to be improved from the EA's received for existing sectors) and operations plans. It also gives NMFS more time to address history and develop the systems to administer sectors.*
- The letter appears to give mixed messages on whether sectors can be implemented in 2009. On one page it says it is not possible; on the next page it appears to say it might be possible if certain conditions are met. How should we interpret the letter? *Even if all our suggestions are adopted, we are concerned that sectors cannot be implemented in 2009. We still have to maintain the DAS system, in addition to implementing sectors.*
- Are their effort control measures that could be changed, or not changed, so that it makes it easier to implement sectors? Could that free resources to support sector development? *That is a loaded question. We would have to consider those ideas. In some cases, requirements to monitor an existing program are very burdensome, and that type of requirement cannot be revised before the amendment is adopted. Of the top of my head, I cannot answer that question.*
- Developing a database that could be used to respond to requests for different types of history would appear to be fairly trivial, unless data confidentiality concerns are the stumbling block. *That is the key issue. Tracking ownership changes, and getting permission to release catch history to new owners, causes problems. We will explore whether other databases might be used, but at present assigning catch to stock area requires using VTR data to prorate catches.*
- What is the logic for NMFS suggesting that the 20 percent cap on allocations be removed – is NMFS saying there should be no cap whatsoever? *Not necessarily. We are concerned the current cap is arbitrary. It also creates problems as sectors form – they don't know until they receive histories whether they exceed the cap not. It also complicates trading of sectors ACE.*
- NMFS suggests the discard rate “be taken off the top.” This is troubling – it removes one of the elements of stewardship that sectors are supposed to foster. *We brought this to the Committee as a means to minimize the burden of monitoring sectors and the Committee adopted this suggestion at an earlier meeting.*

Public comment included:

- Ms. Maggie Raymond: Associated Fisheries of Maine. Providing catch histories is not an insurmountable problem. It is only a problem if a new permit owner wants to receive confidential catch data from a prior owner. If NMFS provides instead the percentage of the total TAC, a confidentiality release is not needed. The Committee already made decision on many of these issues; let's keep working and get the job done.
- Mr. John Williamson: Ocean Conservancy. I am not a fan of the DAS system; sectors hold promise. I want to make our message very clear. We consider Amendment 13 barely adequate, and only because of the planned adjustment. We are already budgeting for 2008 and 2009 with the expectation the Council will not meet its deadlines. The first job you have to accomplish is to meet your rebuilding goals. You have to get these things done.

A Committee member offered that delaying sectors would continue a culture of failure. The Committee needs to narrow the alternatives so that this work can be completed. In that respect, the Committee should choose one history alternative as an alternative to the status quo.

Motion: To recommend to the Council as the preferred alternative (the only alternative to the status quo) a quota share allocation based 50% on history, using 1996-2006 as the baseline period, and 50% upon vessel baseline capacity, using the formula: $(10L+HP)(\text{allocated "A" DAS}) = \text{baseline capacity}$. (Mr. Preble/Mr. Stockwell)

The maker said that this would be the only alternative to the status quo. It was his intent that the capacity part of the formula would apply to all stocks, not just those caught by the permit; for this reason it differed slightly from a motion at an earlier Committee meeting. This alternative would encourage sector development, since all permits would have some value.

Several Committee members spoke in favor of the intent of the motion – to narrow down the alternatives. One member opposed the specifics of the motion, noting that permits would get an allocation for every stock even if they never caught it. In addition, several were uncomfortable with identifying a preferred alternative without any analysis. A Committee member opposed the motion and argued three basic decisions needed to be addressed.

Motion: To split the motion into three parts:

- How much allocation based on history
- Years used
- What capacity formula to use

(Mr. Leary/no second)

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

Motion to amend: Added to this proposed formula: the portion allocated based on capacity applies to the stock areas fished and stocks landed by the permit, and that one other alternative goes forward: FY 1996-FY 2006, based on landings history only. Neither alternative will be identified as a preferred alternative at this time. (Mr. Odlin/Dr. Pierce)

The maker of the motion said that his amendment narrows the range of alternatives, prevents permits from getting allocations for fish they did not catch, and recognizes that it is too early to choose a preferred alternative. One Committee member expressed concern that the capacity formula in the original motion meant a permit could get an allocation for a stock that it did not catch; another reiterated that the permit did not get anything – allocations are to sectors. Public comment included:

- Mr. Vito Giacalone: NESc. The NESc supports having two options. We suggest some sort of de minimis allocation for stocks that a permit has not caught. The current system allows a vessel to use its a DAS on any stock, in any region. We suggest you revise this motion to the way the original capacity alternative was proposed.
- Mr. Maggie Ryamond: We support the motion completely. It is too early to pick a preferred alternative.
- Mr. Carl Bouchard: My problem is that many of us invested heavily in the DAS program. Some permits with DAS do not have much catch history. There has to be a direct correlation between DAS and allocation. Does this mean that \$100,000 permit I bought is now worthless?

The Committee clarified that the permit characteristics used in the formula would be the current permit characteristics in the case of permits that had been combined, and that the term “fish landed” meant that if one pound of a stock was landed, the capacity formula applied to that stock.

The motion to amend **carried** (6-2-0). The motion as amended:

Motion: To recommend to the Council as alternatives to the status quo:

- A quota share allocation based 50% on history, using FY 1996-2006 as the baseline period, and 50% upon vessel baseline capacity, using the formula: $(10L+HP)(\text{allocated “A” DAS}) = \text{baseline capacity}$, the portion allocated based on capacity applies to the stock areas fished and stocks landed by the permit;
- The second alternative that goes forward is the alternative that used FY = 1996-2006, based on landings history only.

The maker of the original motion withdrew support because of the amendment. The motion **carried** on a show of hands (5-2-1).

The Committee next took up the issue of who can join a groundfish sector. The Committee crafted a motion that makes it clear all limited access permits can join a sector, even those without allocated DAS.

Motion: All vessels with a limited access multispecies permit can join a groundfish sector. (Mr. Preble/Ms. McGee)

Ms. Murphy said that NMFS believes this is already the case. Public comment included:

- Ms. Maggie Raymond: Who does this help? The Council chair already told us this was the case.
- Mr. Tom Osmer: This does not address our problem on Martha’s Vineyard, where many vessels do not have a permit.

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

Motion: To recommend to the Council that sectors be allowed to trade ACE during the fishing year, and for a period of two weeks after the close of the fishing year to make up any overages incurred during that year only. (Mr. Preble/Mr. Odlin)

This motion was withdrawn when the Committee realized it had already passed a similar motion at an earlier meeting.

Motion: To recommend to the Council that sectors are required to land all legal-sized fish managed by the FMP under which the sector operates. (Mr. Preble/Ms. McGee)

The Committee discussed how this would apply to damaged fish, how this might affect assumed discard rates, whether this would push sectors away from using trip limits, and whether this approach fits with applying an assumed discard rate. The motion **carried** on a show of hands (4-3-1).

The Committee reviewed the PDT discussion on catch monitoring and applying an assumed discard rate. Mr. Martin said he thought it might be possible to require sectors to use weighmasters if it can be developed in a way such that the agency does not have control; Ms. Murphy noted that NMFS did not yet have that worked out. A Committee member expressed concern that there were many incentives to misreport catch; he felt that a high level of observer coverage and a weighmaster system are essential. A Committee member supported using an assumed discard rate as a practical way to implement sectors, but argued that incentives should be developed to encourage an improved reporting system.

The Committee was briefed on current monitoring efforts of the GB Cod Hook Sector by Mr. Eric Brazer. He described sector use of trained observers, under contract to the sector, who monitored 20-25 percent of trips. They estimate discards at about 3 percent, usually juvenile fish or damaged fish. The sector has also investigated video monitoring and has developed a catch monitoring system. Current sector reports use VTR-reported discards. Committee members also expressed concern over what would be an “adequate” reporting system; Ms. Murphy replied that NMFS did not have details yet, and expected that this issue would be worked out with individual sectors.

Motion: Sector vessels are required to hail before crossing the demarcation line with their weight estimate, ETA, and offload location. (Mr. Preble/Mr. Odlin)

Mr. Preble said this was a first start to develop a monitoring system. This proposal would facilitate monitoring of landings and would, in effect, provide a “chain of evidence” for landing amounts. Committee members asked who vessel operators would report to – NMFS or the sector manager – and how hails would be made. Some Committee members said the hail should be made to sector managers. Mr. Brazer explained that the Hook Sector does not have a hail requirement, but many vessels do so anyway. The motion was **withdrawn** by its maker who felt it was getting into the details of sector operations.

Motion: A requirement to form a sector is that they develop and implement an independent third party weighmaster system that is satisfactory to the NMFS as part of their operations plan. (Mr. Odlin/Mr. Leary)

Public comment included:

- Ms. Maggie Raymond: AFM. I do not object to this motion but you are holding sector vessels to a different standard than common pool vessels.
- Mr. Vito Giacalone: We support the concept of the weighmaster, but is it required at point of landing or point of sale?

- John Williamson: Ocean Conservancy. I see no reason why this isn't this a good idea. Establish the standard that needed to be achieved. That would give the service better guidance down the road.

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

Council staff reviewed the PDT advice on whether to have a hard TAC for every stock. Small TACs and limited landing histories of these species complicate the allocation process, as described in the PDT report.

Motion: Sectors will not be allocated halibut, ocean pout, and windowpane flounder. (Mr. Odlin/Mr. Preble)

A Committee member opposed this motion because it showed the Council was giving up on halibut. Mr. Odlin said his intent was to keep the limit on halibut landings (one fish per trip), and suggested similar restrictions might be needed for the other two species. Ms. Murphy pointed out this conflicted with the motion that was just passed preventing discards. In her opinion, two options were to exclude these species from the o discard rule or do some sort of de minimis allocation. The motion carried on a show of hands (6-1).

Motion: Too reconsider the motion on discards (Mr. Blount/Mr. Stockwell)

The motion **carried** on a show of hands (6-2-0).

Reconsidered motion: To recommend to the Council that sectors are required to land all legal-sized fish managed by the FMP under which the sector operates.

Motion to substitute: Sectors are required to land all legal-sized fish from stocks managed by this FMP that are specifically allocated to any sector. (Mr. Odlin/Mr. Stockwell)

The intent of this motion is to address the problem created by the previous motion – for some stocks, sectors might be required to discard fish. Public comment included:

- Vito Giacalone: The identified problems are minimized if an allocation method is adopted that allocates every stock to all permits.
- John Williamson: what is the rationale for including ocean pout and windowpane in this discard motion?

The motion to substitute **carried** on a show of hands (5-2-1). The substitute motion also **carried** (4-3-1)

Motion: To eliminate the cap on allocation of sector shares. (Mr. Leary/Mr. Stockwell)

This motion was offered to simplify sector administration, to clarify that an earlier Committee motion meant there would not be a cap, and to facilitate sector formation. Council staff reviewed PDT advice on this issue: while it is unlikely a sector can acquire enough TAC to wield market power, there may be management objectives that support a cap – if not on one stock, perhaps on the fishery as a whole. These need to be clearly defined so any cap can be evaluated. Committee members spoke both for and against lifting the cap. Public comment included:

- Ms. Maggie Raymond: The cap vastly complicates sector formation – we can't let some vessels in because we don't want to exceed the cap. We support the motion.
- Mr. Vito Giacalone: We agree with much of what was said, but the provision exists to get an exception.
- Mr. Eric Brazer: We oppose this motion but support something that looks at this on a case by case basis.

Ms. Murphy supported the motion, commenting that if there was a concern about sector size then there could be limits on the number of participants. The motion **carried** on a show of hands (7-1).

Ms. Murphy was asked several questions about the attachments to the NMFS letter:

- Attachment 2 describes deadlines for committing to sectors. Will NMFS implement these guidelines as policy, or is NMFS expecting a Council action? *Ms. Murphy said NMFS will implement these as policy. Sector proponents should meet these deadlines; we will consider sending a permit holder letter to announce this.*
- In attachment 1, the only reason given for appealing history is if a permit holder can prove a dealer did not submit records. There are other possible error source – data entry errors, etc. – does NMFS really mean that these should not justify a correction? *Ms. Murphy said that this recommendation could be expanded to include that a correction to dealer data could occur if the permit holder can prove by NMFS standards that dealer data are incorrect; there may be other problems besides failure of a dealer to report.*
- Most reporting requirements that currently exist apply to permit holders. NMFS wants some of these requirements to apply to sector managers. How can that be implemented unless we issue sector manager permits? *Ms. Murphy said that NMFS does not think a sector manager permit is necessary; the intent of the recommendation is to hold the sector manager responsible, similar to a dealer, for submission and retention of sector landing reports, etc. NERO and Council staff could work on the details of this.*



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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

MEMORANDUM

DATE: December 12, 2007
TO: Groundfish Oversight Committee
FROM: Groundfish Plan Development Team (PDT)
SUBJECT: **PDT Meeting, December 6, 2007**

1. The PDT met in Mansfield, MA to continue work on Amendment 16. The PDT discussed recreational/commercial allocations, recreational measures, sector policies, and current stock status. The PDT did not finish discussion of all agenda items. Members participating in the meeting were Tom Nies (NEFMC), Eric Thunberg and John Walden (NEFSC), Kohl Kanwit (Maine DMR), Tom Warren and Jen Anderson (NMFS NERO), Dan Holland (GMRI), and Steve Correia (Massachusetts DMF).

Recreational/Commercial Allocation

2. The PDT briefly revisited the recommendation from the October 22, 2007 PDT report recommending that a recreational allocation be made for six stocks: GOM cod, GB cod, GOM haddock, GOM winter flounder, pollock, and SNE.MA winter flounder. This is still the PDT recommendation. Recreational catches of GB haddock should be monitored with the possibility that an allocation may be needed in the future.

3. The Committee asked for the PDT to identify a process for basing the allocation on data available from the GARM. When data (catch in numbers) are available, the PDT recommends that the share for the commercial and recreational components of the fishery be based on catch in numbers. To be consistent, similar components (landings and/or discards) of the catch should be used when calculating shares. These proportions would be multiplied by the catch available to the groundfish fishery to get the allocation for each component in a given year. While it is possible the two components may catch different sized fish, the complexity in trying to correct the allocation for different selectivity patterns argues against making such adjustments. It is possible that for some stocks the catch in numbers will not be available. In this case the allocation should be based on catch in weight. The PDT notes that the only recreational data available for calculating these shares are derived from MRFSS estimates. An alternative to the MRFSS data was not identified by the GARM III data meeting.

4. Time series catch numbers are attached for GOM cod, GOM winter flounder, and SNE/MA winter flounder to illustrate likely proportions (Attachment 1). These data were used in GARM II for the assessments of these stocks. It is possible there may be changes when the stocks are assessed in GARM III, so the values should be viewed as illustrations and not as definitive. The GOM cod assessment uses recreational harvest (A+B1), which includes dead discards, for the entire time series. Prior to 1999, only commercial landings were used. These inconsistencies mean the proportion of recreational catch prior to 1999 may be biased upwards. The PDT identified several options for addressing this issue:

- Ignore the inconsistencies if using years prior to 1999 to calculate the allocation. This is not recommended.
- Estimate commercial discards prior to 1999 and rerun the assessment. This is impractical as the data likely don't exist to estimate commercial discards during this entire period.
- Only use years after 1999 to determine the allocation.
- Use landings for both recreational and commercial components if using the years prior to 1999. The recreational harvest can be adjusted to remove dead discards from catch type B1.

5. Both winter flounder assessments use total recreational catch, applying a mortality rate to discards released alive. For these assessments, the recreational and commercial catch elements are consistent.

6. The allocation of GOM cod is robust to many possible time periods (using A+B1 for recreational harvest). This not the case for the winter flounder stocks, where the allocation will be very sensitive to the time period selected. The Committee may want to consider basing an initial winter flounder allocation on a recent period but build in a process to evaluate this decision in the future as the stocks continue to rebuild. The Committee should also clearly define how the allocation is to be calculated (average over a time period, cumulative catch over the time period, etc.).

7. The PDT briefly discussed recreational measures. The most effective measures are those that have an immediate impact on catch: closed seasons and possibly closed areas. Bag limits and minimum fish sizes are less effective because while they may affect landings, they have less effect on catch. Bag limits also do not affect many trips that are currently landing less than the proposed bag limit; they tend to affect only the larger trips. Analyses for FW 42 also show that these measures can affect private boats differently than party/charter boats.

Sector Policies

Which stocks need a hard TAC or specific allocation?

8. The PDT returned to this issue, which has been raised in previous reports. For stocks with limited landings history, or very small available catches, determining permit history based in whole or in part on landings history may not work well. If only a few vessels have history, inclusion of those vessels in a sector will be critical to allow fishing to continue. In the case of pout, discards far exceed landings, and it does not seem appropriate to assign all the history of this stock to the few vessels with landings history. While many vessels have landed halibut, the numbers tend to be small and at this point the stock does not have a TAC.

9. The PDT identified two broad approaches for the Committee's consideration:

- Allocate TACs to each sector for these stocks in one of two ways:
 - Allocate sector TACs based on the history/formula associated with each sector member in the manner adopted for all other stocks, or
 - Allocate sector TACs, not based upon the formula used for other stocks, but based on an equal share to each permit holder or perhaps each permit that has a history of landing other species.
- Do not allocate TACs to each sector for this stock (does not preclude having an overall TAC for the fishery as a whole. Monitor catches with a restrictive trip limit in place to discourage targeting).

10. Allowing the exchange of Annual Catch Entitlements (ACE) reduces this concern for other stocks. If the allocation method uses something other than catch history to allocate some portion of ACE to sectors, this will also mitigate this concern.

Cap on Sector Shares

11. The Committee asked the PDT to comment on whether the cap on sector shares should be revised. The PDT discussion was based on a draft NOAA Technical Memorandum, “The Design and Use of Limited Access Privilege Programs,” Lee G. Anderson and Mark Holliday, editors (available at http://www.nmfs.noaa.gov/sfa/PartnershipsCommunications/lapp/design_and_useLAPs2007.pdf). While the M-S Act provisions addressing excessive LAPP shares may not be strictly applicable since sectors are not considered LAPPs, the technical guidance still provides a framework to consider these issues.

12. Anderson and Holliday note there may be two broad reasons to consider limiting shares: to prevent excessive market power (MP), or to achieve management objectives (MO). An analytic framework is provided to calculate the share that will result in excessive MP. The PDT has not applied this calculation to any groundfish stocks due to a lack of time. The PDT, however, notes that because there are often many market substitutes and demand for groundfish is elastic, it is unlikely that any individual stock share will be sufficient to exercise MP. It is possible that for this fishery MP may be more of a concern if one sector possesses a share of all groundfish stocks. In other words, while if a sector possesses X percent of GB cod it may not be a concern, if the sector possesses X percent of all stocks it may be able to exercise market power. The Committee should consider whether they want the cap to apply to individual stocks or one stock.

13. It is likely that any share limit designed to achieve MO will be lower than the share limit that develops MP. There may be legitimate management objectives for limiting sector shares. These should be clearly defined so that the appropriate quantity for such a limit can be developed. As an example, Amendment 13 adopted an objective that says: “To the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation.” Barring limits, it is possible a sector could acquire a share sufficient to conflict with this objective by concentrating the fishery in one gear, port, or vessel size. It is also possible a sector could be created that satisfies this objective, even with a large share, by including vessels from different ports, vessel sizes, or using different gears. This illustrates that the Committee and Council need to carefully define the objectives met by any proposed share cap.

14. While not described in the NOAA tech memo, there may be an additional reason to consider a cap on individual stocks. If there is a stock with a very low TAC, a sector that acquires a large share of that TAC could control whether other sectors can access their TACs for other species. As an example, a sector that possesses the entire pout allocation could prevent other sectors from fishing at all, and could extract economic rent from other sectors by selling pout ACE to allow them to fish. The PDT is not aware of this type of behavior in any similar programs, but it may be a concern until stocks rebuild sufficiently that there are few small TACs. For certain stocks such as ocean pout, not allocating a TAC to each sector resolves the MP issue.

Discard Monitoring

15. The Committee asked the PDT to comment on the proposal to deduct discards “off the top” for sectors based on an assumed discard rate, unless the sectors can demonstrate an adequate monitoring program to estimate discards. The PDT discussed concerns that the complexity and difficulty of monitoring discards, and limited ability to increase observer coverage over current levels, meant that an alternative to real-time monitoring of discards was necessary, at least for the short-term. The PDT noted that the Committee discussion was not clear on how this proposal would be implemented. While the motion suggests the sector allocation would be reduced by an assumed discard rate at the beginning of the year, some of the discussion suggested a discard rate would be applied to each trip as it was landed.

16. The PDT noted a number of issues with the proposed approach. Some of these identify technical issues with determining the correct discard rate to apply; others reflect concerns over unwanted incentives that this approach may foster.

- At least during the first year of sectors, any discard rates based on prior years will be the result of a very different management program. Many current discards are the results of restrictive trip limits; most sectors are likely to operate without low trip limits and thus avoid these regulatory discards. On the other hand, sectors run the risk that exceeding the TAC of one species may end fishing for the entire year – this might increase discards. In any case, it is unlikely that discard rates observed before sectors operated on a large scale will be representative of discard rates for sectors.
- It is possible that discard estimates may not be available for all stocks and all gear combinations.
- Discard rates are specific to gear, and may be specific to season or other fishing practices. In order to apply the appropriate discard deduction to a sector’s allocation at the beginning of the fishing year, the breakdown of catch by gear would need to be known in advance, as well as any other factors known to affect discard rates. In addition, the dealer data is known to have errors in the attribution of landings to gear type, particularly in recent years. It might be easier to apply one overall discard rate to all sectors, regardless of gear or other factors.
- Discard rates might differ between sectors, even if they are using similar gears. The current levels of observer coverage may not be high enough to detect these differences, or even to calculate a discard rate for sector and non-sector vessels.
- Applying an assumed discard rate reduces the incentive for a sector to minimize bycatch to a level better than this rate.
- The costs of developing an “adequate” monitoring system may exceed the revenues gained by demonstrating that discards are lower than the assumed rate. If this is the case, sectors might not develop improved monitoring systems.

17. While the PDT noted these concerns, it is also unlikely that a better monitoring system can be developed in time to implement sectors. Given this reality, some form of assumed discard application may be the best that can be achieved. If this is the case, the PDT recommends developing one assumed gear-specific discard rate to be applied to all sectors based on available data. This rate should be high enough to encompass the highest expected discard rates for sectors and should encourage sectors to develop improved monitoring systems.

18. The PDT believes the Council should also define what constitutes an adequate monitoring system. After a lengthy debate, the PDT believes additional work on this issue is needed. Discussion questions/topics included:

- Is the current system of estimating discard in the fishery adaptable to monitoring discards of a future sector fishery?
- Can the current observer program for the groundfish fishery be substantially modified or augmented for sector monitoring? Does it need to be?
- Should we focus on monitoring catches as a whole, or discards?
- Should the Council define a methodology for monitoring discards, or simply set a standard for discard data (e.g. a level of precision, or coefficient of variation (CV))?

The PDT notes that GMRI may contract with personnel who have developed similar systems in ITQ fisheries on the west coast to suggest reporting improvements. If received early enough in the process, a report from these personnel may help define what is needed for an adequate program. While it is unrealistic to expect this report in time for the February Council meeting, it will be needed by March/April if it is to be considered for the DSEIS.

19. The PDT also noted that the Committee has not acted on earlier suggestions that would improve reporting, such as requiring that all landings be verified by an independent third party that meets standards established by NMFS.

TAC Carry-Forwards

20. The Committee passed a motion that would allow a carry-forward into the next fishing year of up to 10 percent of a sector's uncaught ACE. The PDT discussed the economic and biological implications of this provision. Carry-forward (or rollover) allowances permit operators to carry-forward unused annual catch entitlement (ACE) for use in the following year. Allowing sectors to carry forward ACE to the following year offers potential economic benefits and may improve safety. However, carry-forwards do create the possibility that catch in one year may exceed that year's TAC due to use of ACE carried over from the prior year. They may also increase the administrative burden for NMFS.

21. Most ITQ programs for multispecies fisheries allow some degree of rollover, but none allow ACE to be carried over multiple years such that it would permit accumulation of unused ACE. Carry-forward allowances vary across programs. Iceland and the Southeast Fishery (SEFT) in Australia both allow persons to carry-forward 20 percent of their annual quota (this may have been adjusted recently for Australia). For SETF, the amount permitted increased from 10% in 1994. New Zealand allows 10 percent carry-forward though the carry-forward is sacrificed if the TAC is reduced the following year. Generally, British Columbia allows up to 30 percent of a person's quota to be carried-forward, but BC managers can reduce the percentage of (or even eliminate) the carry-forward for biological reasons on an annual basis.

A primary benefit of carry-forwards is to create flexibility when two or more species in a multispecies complex have TACs that are out of balance with average catch ratios. Sectors that find that are not able to fully utilize their ACE of one species because of a lack of availability of ACE for other jointly caught species would have the opportunity to carry forward some of the unused ACE and then adjust fishing operations the next year to avoid the constraining species. Ideally the sectors would foresee the need to adjust operations early enough in the year to avoid the need for carry-forward or would acquire ACE of the constraining species from other sectors that had surplus (assuming trading is allowed). However, if other sectors do not have surplus ACE they are willing to trade and the seasons in nearing an end, it may not be possible for the sector to alter operations sufficiently to reduce catch of the constraining species.

Another economic benefit is the ability to shift catch to a time when there are higher prices. If there is surplus ACE of some species at the end of the season and a large amount of those species is landed all at once, it may create a glut that drives down prices. Carry-forwards provisions will allow these landings to be spread over time avoiding the glut.

Allowing some carry-forward will allow sectors to stop fishing when they get close to their ACE limits rather than fishing right up to the limit. This may help to avoid sectors unintentionally exceeding their allocations due to an unexpected high catch at the end of the season. This could be particularly important for species for which the sector has only a small allocation. In such cases one large tow might lead to an unexpected overage. This may also help to reduce incentives to illegally discard species that may be constraining the catch of other species for which there is surplus ACE.

Carry-forwards also offer some potential safety benefits. Sectors with some ACE left at the end of the year would not need to go out in bad weather to ensure that they did not sacrifice that ACE.

22. An allocation carry-over can increase the risk that overfishing will occur. The reason is that there is not a one-to-one relationship between uncaught fish in year one and fish available for catching in year two. The relationship will be dynamic and stock specific, depending on such factors as natural mortality, selection pattern for that species, recruitment, and species growth. Allowing carry-over creates the possibility that by design of the management plan catches in year two will exceed the year two TAC by enough to cause overfishing. This risk increases if the stock is stable or declining in stock size, or if the target fishing mortality is low relative to natural mortality (as is the case for several rebuilding plans).

23. The PDT examined two illustrations of this problem that assumed the entire carry-over and base allocation are caught in the subsequent year. While this assumption may be unrealistic (it more likely that part of the available catch will not be caught each year) the illustrations show that allowing a carry-over increases the risk of overfishing in a given year. The likely schedule of TAC adjustments means that these risks increase the older the assessment used to calculate the TAC¹. Other sources of uncertainty - retrospective patterns, etc. - could also exacerbate this problem. While there are economic and social benefits to allowing a carry-forward, it is not clear that a measure that explicitly allows the possibility of overfishing can be implemented given current legal requirements. It may be possible to develop an approvable carry-over system (that

¹ The PDT assumes that assessments will not be performed every year.

is, one with minimal risk of overfishing) by reducing allocations sufficiently so that even if the maximum carry-over is harvested in the following year, overfishing does not occur.

24. There was concern that a TAC carry-forward complicates sector management, but not all PDT members agreed with this characterization. If carry-forwards are adopted, the measure will need to specify how carry-forwards are treated if a vessel or vessels leave a sector.

Other Sector Issues

26. The PDT did not discuss the pending issues listed below due to a lack of time.

- Sector vessel access to year-round closed areas
- Sector overages and sector exit provisions
- Sector policies related to SAPs

Current Stock Status/Effort Controls

26. The PDT continues to develop the analytic approach necessary to analyze effort controls. This includes refinements of the Closed Area Model. At this meeting, the PDT reviewed preliminary attempts to estimate current stock status – that is, fishing mortality and stock size for 2005-2007. The intent was to use this information to begin to design effort controls for common pool vessels. The information examined was not consistent and the PDT does not believe it appropriate to use. Further attempts will be made after the NEFSC develops an approach for accounting for retrospective patterns. Unfortunately, it is unlikely that the PDT will have example effort controls developed by late January/early February 2008.

Attachment 1

Commercial/Recreational Allocations

Gulf of Maine Cod

Table 1 reports data replicated primarily from the GARM II GOM cod assessment. Data for commercial landings were not explicitly included in the GARM II tables so commercial landings were obtained from Mayo and Col (2005) (“The 2005 assessment of the Gulf of Maine Atlantic cod stock” NEFSC Lab. Ref. Doc. # 06-02). Note that commercial discards were included in GARM II for calendar year 1999 to 2004. An estimate of these discards in numbers was obtained by subtracting recreation (Col 2) and commercial mortality (Col 3) from total catch. Note also, that total catch for calendar year 2004 was taken from Mayo and Col (2005) due to an error in the GARM report which raised the discard estimate from what should have been 500 mt to 1000 mt.

The recreational share of GOM cod (Col 6) was calculated as recreational catch retained (Col 2) divided by total catch (Col 5). Note that MRFSS estimates of B1 catch includes a combination of mortality due to fillets or to released dead. The portion of recreational discard mortality is included in all years from 1981 to 2004. However, commercial mortality in years prior to 1999 reported in Mayo and Col (2005) do not include commercial discards. Although these discards were believed to be small relative to total commercial landings, the extent to which they are not included means that the recreational share in all years from 1982 to 1998 is over estimated. To correct for this upward bias would require an estimate of commercial discards for all years from 1982 to 1998.

Table 1. Recreational and Commercial Catch of Gulf of Maine Cod (1979 to 2004)						
Year	Total Recreational Caught A+B1+B2 (000's) ¹	Total Recreational Catch Retained A+B1 (000's) ¹	Total Commercial Landings (000's) ²	Commercial Discards (000's) ^{2,3}	Total Commercial plus Recreational Catch (000's) ¹	Recreational Proportion of Total Catch
1979	2698					
1980	2254					
1981	2933	2738				
1982	1833	1736	5118		6853	25.3%
1983	1455	1237	5496		6733	18.4%
1984	1098	905	3957		4861	18.6%
1985	1671	1471	3737		5206	28.3%
1986	1114	993	3583		4575	21.7%
1987	2625	2054	2344		4397	46.7%
1988	1487	1300	3055		4334	30.0%
1989	1769	1193	3960		5154	23.1%
1990	1725	1247	6380		7629	16.3%
1991	1770	1419	6512		7931	17.9%
1992	585	332	3631		3962	8.4%
1993	1564	772	2825		3597	21.5%
1994	1599	651	2626		3277	19.9%
1995	1486	632	2491		3123	20.2%
1996	906	395	2789		3184	12.4%
1997	585	166	1834		2000	8.3%
1998	782	257	1395		1652	15.6%
1999	842	284	523	799	1606	17.7%
2000	1615	555	1067	286	1908	29.1%
2001	1880	778	1203	408	2389	32.6%
2002	1421	409	1036	379	1824	22.4%
2003	1389	468	947	353	1768	26.5%
2004	1041	372	795	105	1272 ⁴	29.2%

1 Source – Table F4 p. 2-162 GARM II
2 Source – Table 9a p. 29 NEFSC Lab. Ref. Doc. 06-02 Mayo and Col (2005)
3 Column 5 minus sum of column 2 and column 3, approximately equal to discard raising factors reported in Table 4 p. 23 of Mayo and Col (2005)
4. Source Table 12a, p. 34 of Mayo and Col (2005)

GOM Cod Recreational Proportions

Using rec proportions:

Average, 82-2004:	22.2%	Median, 82-2004:	21.5%
Average, 82-93:	23.0%	Median, 82-93:	21.6%
Average, 96-2004:	21.5%	Median, 96-04:	22.4%
Average, 99-2004:	26.3%	Median, 99-04:	27.8%

Using total rec numbers/total numbers

92:2004	19.5%
82-93:	22.5%
96-2004:	12.7%
99-2004:	12.9%

Gulf of Maine Winter Flounder:

Table 2 reports replicated data from GARM II assessment for Gulf of Maine winter flounder. Note that total recreational mortality includes an estimated 15% release mortality for MRFSS Type B2 fish which were reported as being released alive. In GARM II commercial discards are included in total commercial mortality. These estimates are not reported in Table 2 but are included in the totals reported in Col 6.

Table 3 reports estimate recreational shares by year calculated by dividing recreational mortality (Col 5) by total mortality (Col 6). In the GARM release mortality for B2 catch was estimated based on an assumed release mortality of 15%. Table 3 provides a range estimate based on zero release mortality (as was done for GOM cod) to 100% release mortality. Given no change in commercial mortality, zero release mortality results in the lowest recreational share while 100% release mortality results in the largest recreational share.

Year	Total Recreational Caught A+B1+B2 (000's) ¹	Total Recreational Harvest A+B1 (000's) ¹	Total Recreational Reported Released Alive B2 (000's) ¹	Total B2 Release Mortality 15% of B2 (000's) ¹	Total Recreational Mortality (000's)	Total Recreational plus Commercial Mortality (000's) ²
1981	6200	5433	767	115	5548	
1982	8207	7274	933	140	7414	14188
1983	2169	1988	181	27	2015	6406
1984	2477	2285	191	29	2314	6729
1985	3694	3220	474	71	3291	6793
1986	946	691	255	38	729	3318
1987	3070	2391	679	102	2493	5266
1988	953	841	111	17	858	3775
1989	1971	1678	294	44	1722	4620
1990	786	652	134	20	672	3193
1991	213	154	59	9	163	2559
1992	186	137	48	7	144	2220
1993	396	249	147	22	271	1863
1994	232	145	87	13	158	1475
1995	150	82	68	10	92	1963
1996	184	98	86	13	111	1524
1997	192	64	129	19	83	1630
1998	109	65	44	7	72	1423
1999	115	67	48	7	74	571
2000	177	75	102	15	90	701
2001	172	72	100	15	87	1215
2002	100	61	39	6	67	1205
2003	85	51	34	5	56	1288
2004	49	29	20	3	32	802

1 Source - Table 12 p 2-248 from GARM II
2 Source – Table 18 p 2-256 of GARM II Report

Table 3. Recreational Share of GOM Winter Flounder for Different Assumptions of Release Mortality

Year	Release Mortality = 0	Release Mortality = 15% ¹	Release Mortality = 100%
1982	51.8%	52.3%	54.8%
1983	31.2%	31.5%	33.1%
1984	34.1%	34.4%	35.9%
1985	47.9%	48.4%	51.3%
1986	21.1%	22.0%	26.8%
1987	46.3%	47.3%	52.5%
1988	22.4%	22.7%	24.6%
1989	36.7%	37.3%	40.5%
1990	20.5%	21.0%	23.8%
1991	6.0%	6.4%	8.2%
1992	6.2%	6.5%	8.2%
1993	13.5%	14.5%	19.9%
1994	9.9%	10.7%	15.0%
1995	4.2%	4.7%	7.4%
1996	6.5%	7.3%	11.5%
1997	4.0%	5.1%	11.0%
1998	4.6%	5.0%	7.5%
1999	11.9%	13.0%	18.8%
2000	10.9%	12.9%	22.5%
2001	6.0%	7.2%	13.2%
2002	5.1%	5.5%	8.1%
2003	4.0%	4.4%	6.5%
2004	3.6%	4.0%	6.0%

¹ GARM estimate 15% release mortality

Average, 82-04:	18.44%	Median, 82-04:	12.90%
Average, 82-93:	28.69%	Median, 82-93:	27.10%
Average, 96-04:	7.16%	Median, 96-04:	5.50%
Average, 99-04:	7.83%	Median, 99-04:	6.35%

Southern New England/Mid-Atlantic Winter Flounder

Table 4 reports replicated data from GARM II assessment for Gulf of Maine winter flounder. Note that total recreational mortality includes an estimated 15% release mortality for MRFSS Type B2 fish which were reported as being released alive. In GARM II commercial discards are included in total commercial mortality. These estimates are not reported in Table 4 but are included in the totals reported in Col 6.

Table 5 reports estimate recreational shares by year calculated by dividing recreational mortality (Col 5) by total mortality (Col 6). In the GARM release mortality for B2 catch was estimated based on an assumed release mortality of 15%. Table 5 provides a range estimate based on zero release mortality (as was done for GOM cod) to 100% release mortality. Given no change in commercial mortality, zero release mortality results in the lowest recreational share while 100% release mortality results in the largest recreational share.

Year	Total Recreational Caught A+B1+B2 (000's) ¹	Total Recreational Harvest A+B1 (000's) ¹	Total Recreational Reported Released Alive B2 (000's) ¹	Total B2 Release Mortality 15% of B2 (000's) ¹	Total Recreational Mortality (000's)	Total Recreational plus Commercial Mortality (000's) ²
1981	11006	8089	2916	437	8526	34345
1982	10665	8392	2273	341	8733	32020
1983	11010	8365	2645	397	8762	30327
1984	17723	12756	4967	745	13501	34553
1985	18056	13297	4759	714	14011	32753
1986	9368	6995	2374	356	7351	21712
1987	9213	6900	2313	347	7247	21315
1988	10134	7358	2775	416	7774	19880
1989	5919	3682	2236	335	4017	17668
1990	3827	2486	1340	201	2687	12455
1991	4325	2795	1530	230	3025	14788
1992	1360	806	555	83	889	9455
1993	2211	1180	1031	155	1335	8251
1994	1829	1209	620	93	1302	3595
1995	1850	1390	461	69	1459	3887
1996	2679	1554	1125	169	1723	4244
1997	1901	1207	694	104	1311	8323
1998	1008	584	425	64	648	8374
1999	1071	658	412	62	720	9151
2000	2043	1346	697	105	1451	8575
2001	1421	892	529	79	971	9326
2002	706	408	298	45	453	5607
2003	740	557	182	27	584	4929
2004	448	350	98	15	365	2645

1 Source - Table J2 p 2-299 from GARM II
 2 Source – Table J5 p 2-303 of GARM II Report

Table 5. Recreational Share of SNE/MA Winter Flounder for Different Assumptions of Release Mortality

Year	Release Mortality = 0	Release Mortality = 15% ¹	Release Mortality = 100%
1981	23.9%	24.8%	29.9%
1982	26.5%	27.3%	31.4%
1983	27.9%	28.9%	33.8%
1984	37.7%	39.1%	45.7%
1985	41.5%	42.8%	49.1%
1986	32.8%	33.9%	39.5%
1987	32.9%	34.0%	39.6%
1988	37.8%	39.1%	45.6%
1989	21.2%	22.7%	30.2%
1990	20.3%	21.6%	28.2%
1991	19.2%	20.5%	26.9%
1992	8.6%	9.4%	13.7%
1993	14.6%	16.2%	24.2%
1994	34.5%	36.2%	44.4%
1995	36.4%	37.5%	43.2%
1996	38.1%	40.6%	51.5%
1997	14.7%	15.8%	21.3%
1998	7.0%	7.7%	11.5%
1999	7.2%	7.9%	11.3%
2000	15.9%	16.9%	22.3%
2001	9.6%	10.4%	14.5%
2002	7.3%	8.1%	12.0%
2003	11.4%	11.9%	14.6%
2004	13.3%	13.8%	16.4%

1 GARM estimate 15% release mortality.

Average, 81-04:	23.63%	Median, 81-04:	22.15%
Average, 81-93:	27.72%	Median, 81-93:	27.30%
Average, 96-04:	14.79%	Median, 96-04:	11.90%
Average, 99-04:	11.50%	Median, 99-04:	11.15%



New England Fishery Management Council

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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

MEMORANDUM

DATE: January 11, 2008
TO: Groundfish Oversight Committee
FROM: Groundfish Plan Development Team (PDT)
SUBJECT: **PDT Meeting, January 9, 2007**

1. The PDT met in Newburyport, MA to continue work on Amendment 16. The PDT developed a recommendation for Annual Catch Limits (ACLs), reviewed a preliminary analysis of the potential sector contribution (permit history) calculations, and discussed the development of effort controls. PDT members present included Tom Nies and Anne Hawkins (NEFMC), Tom Warren and Doug Christel (NERO), Paul Nitschke and Eric Thunberg (NEFSC), Steve Correia (Mass DMF), Kohl Kanwit (Maine DMR), and Dan Holland (GMRI). Council staff Chris Kellogg and Andy Applegate participated in the ACL discussion, and NERO staff Jen Anderson also attended.

Annual Catch Limits

2. The PDT discussion of and recommendation for annual catch limits is attached.

Preliminary Analysis of Proposed Permit History Baselines

3 The PDT reviewed a preliminary data analysis comparing the three different ways of calculating permit history for determining sector shares. The PDT coined a new term – potential sector contribution – to refer to the results of the calculation for each permit. . The three methods are:

- The No Action alternative
- Calculating permit history based on the landings history alone
- Calculating permit history based 50% on landings, with the remaining 50% based on a capacity formula (vessel horsepower etc.)

4. The analysis summarized the share of each stock's potential sector contribution by homeport state and by vessel size. The sector shares by home port state and vessel size for many stocks

varied depending on which formula was used in data calculation. The PDT will detail these changes for the Council discussion on January 24, 2007. The results should not be considered definitive since the PDT had to make several assumptions while calculating each permit's share. Several suggestions for expanding the analysis will be considered if time permits, such as converting the shares to pounds based on a target TAC or revenues based on an average value for each species.

5. In the course of doing the analysis, several issues were identified that need Committee/Council attention:

- The PDT recommends each permit's potential sector contribution be calculated once. If this is not done, when any permit is cancelled or combined with another permit through the DAS transfer program, the potential sector contribution for every permit must be recalculated. In addition, if the capacity formula is adopted, when two permits on vessels of different size are combined the potential sector contribution would not be additive, making it difficult for permit holders to know exactly how a transfer will affect history. If the calculation is done once, then the potential sector contribution for each permit will be fixed. Only if two permits are combined under the DAS transfer program would the potential sector contribution change, and then it would be just the sum of the two original permits. This approach would require that a date should be defined that determines what permit conditions (ownership, baseline characteristics, and DAS allocations) are to be used for the calculation.
- Any formula that includes catch history uses a value for the total catch of a species that is used in the denominator. At present, NMFS uses total catch – not the total catch by limited access permits eligible to join sectors. This means the cumulative shares will never add to 100%, since some catches were by permits that no longer exist or that are not eligible to join sectors. If the total catch used is only the catch by those vessels eligible for joining sectors, then before sector shares are calculated the available catch should be reduced to account for past catch by other permits.
- The PDT is uncertain how to treat vessels with no DAS in the capacity formula. In essence, without DAS the capacity part of the formula is zero and the permit's potential sector contribution is half of its landing history share. This occurs both for DAS permits that did not receive Category A DAS under Amendment 13, and for Handgear A permits that could not possibly receive Category A DAS. One option would be to set DAS for each of these permits at 1, so that capacity is given some weight in the calculation.
- It is not always possible to track history for open access permits, which means that for Handgear A permits the landings history may not be accurately calculated prior to FY 2004. This is because no system was in place to track when a permit holder bought a new boat – a new open access permit was issued and not directly linked to the old permit.
- The proposed capacity formula uses allocated DAS. This approach is much easier to analyze than if used DAS were the factor. The PDT is skeptical that used DAS can be accurately tracked to permits in recent years because of the DAS leasing program.
- FW 41 included the following statement of Council policy: "Individual catch history developed due to access to the [CAI Hook Gear Haddock SAP] will not be considered as a part of any future allocation of the overall haddock TAC." The PDT does not know if the

Council intends to adhere to this policy. Practically, it may be difficult to separate out these catches.

- The Committee may want to make a definitive statement about the future implications of any history baseline method that is adopted to reduce future confusion. Will the Committee and Council feel bound by these decisions when alternative management systems are considered as planned in Amendment 17?
- The PDT is uncertain how to compare or contrast the two alternatives to No Action. It would be helpful of the Committee were to make a clear statement of the objectives for each alternative.
- Many permit holders have made business decisions bases on the existing DAS system. Basing the calculation of potential sector contributions on other factors may have substantial impacts on individual permit holders.

6. The Committee may also want to consider whether the goals and objectives for sector management are the same as in Amendment 13, or are different, and to reiterate or change those goals as necessary. Amendment 13 listed the following benefits for sectors:

- Provide incentives to self-govern, therefore, reducing the need for Council mandated measures.
- Provide a mechanism for capacity reduction through consolidation.
- Assurance that the members of the sector would not face reductions of catch or effort as a result of the actions of vessels outside the sector.
- Freedom from restrictive regulations not needed to meet conservation objectives if the sector is constrained by a hard TAC.

Design of Effort Controls

7. As previously reported, the PDT has not begun designing specific effort controls because required mortality changes are uncertain. The PDT is waiting for the results of a meeting on how to consider retrospective patterns before attempting again to estimate current stock status. The PDT also recently learned that the GARM III model meeting in February will probably not assess all stocks through CY 2006, as originally thought, so the PDT will not have access to estimates of 2006 stock status as a guide (the NEFSC was hesitant to use that information to develop measures).

8. Because of a recent letter from NERO to the Council, the PDT is concerned that this PDT delay in designing effort controls may lead NMFS to conclude that the Council is unable to meet the critical deadlines for Amendment 16. The result would be that NMFS would pull technical support from amendment development, without which the PDT would be hamstrung. The PDT is seeking clarification on this issue and is also pursuing alternatives so that this does not occur. Some ideas that have surfaced include:

- Providing qualitative descriptions of how measures will be matched to necessary mortality reductions;
- Developing measures by assuming that current mortality is as described in GARM II, or as estimated in FW 42;

- Re-estimating stock size after receiving guidance on how to take into account retrospective patterns (meeting scheduled week of January 14, 2008), and designing measures based on those estimates;
- Assuming a “high/medium/low” mortality reduction – but note the PDT has consistently said this is unworkable.

New England Fishery Management Council
Multispecies (Groundfish) Oversight Committee
Meeting Summary
August 1, 2007

The Multispecies (Groundfish) Oversight Committee met in Peabody, MA to continue development of Amendment 16 to the Northeast Multispecies Fishery Management Plan. The Committee also received a report on the 2007 Transboundary Assessment Committee (TRAC) assessments of eastern Georges Bank cod and haddock, and Georges Bank yellowtail flounder. Committee members present were Mr. Rip Cunningham (Chair), Mr. Mike Leary (Vice-Chair), Mr. Dave Preble, Ms. Sally McGee, Mr. Tom Hill, Ms. Susan Murphy, Mr. Jim Odlin, Mr. Rodney Avila, Mr. Jim Ruhle, and Mr. Terry Stockwell. Staff members supporting the meeting were Mr. Tom Nies (NEFMC), Mr. Tom Warren and Mr. Doug Christel (NERO), and Mr. Gene Martin (NOAA GC).

The meeting focused on sector management issues. The key document used to guide the discussion was a memorandum from the Groundfish Plan Development Team (PDT) dated July 27, 2007.

Sector Management Issues

Council staff provided an overview of the process used by the PDT to identify and prioritize sector management issues that should be addressed in order to implement sectors that applied for consideration. The PDT report discusses the issues in order of priority as viewed by the PDT; the Committee discussion followed the same order.

Sector Baseline Period

Council staff reviewed the PDT's discussion of the sector baseline period. Staff noted the PDT found it difficult to separate the baseline period (the years used to determine vessel history) with the method used to calculate history (e.g. landings history alone or in combination with other factors). As a result the PDT report discusses both issues. Staff noted that in some respects it was not accurate to characterize this discussion as an allocation discussion, since technically it was calculation of history for permits that does not become an allocation until the permit joins a sector, but the PDT often used this term to simplify the discussion. After a few brief questions on the report, the following motion was offered.

Motion: The Committee recommends that we consider two baseline periods for analysis and consideration - FY 1996 through FY 2001 and FY 1996 through FY 2006 – using landings history data. (Mr. Odlin/Mr. Hill)

Two Committee members spoke against using landings history data alone to determine the history for each permit. They argued that because of regulatory restrictions and poor stock status, some fishermen did not have access to the resource and could not acquire history during the proposed time periods. They also argued that this approach rewarded fishermen who (legally) targeted weak stocks under the adopted regulatory regime. Other Committee members spoke in support of the motion. One noted that with the evidence that the resource is fully used by current participants it seems inappropriate to assign history to vessels that were not targeting the fish. Another argued that including other factors could lead to allocating stocks to fishermen who had no history and no interest in targeting those stocks; this would lead to a need for adjustments between sectors and could cause considerable chaos in the fishery. Public comment included:

- Mr. Vito Giacalone: Northeast Seafood Coalition (NESC). The Committee should consider that if there is an interest in promoting sector enrollment that can only be achieved if every permit is valuable to a sector. This is a way to encourage vessel with permits to stay in groundfish and not move into other fisheries, creating a problem with displaced effort. Using landings history alone will disenfranchise many permits that will not be valuable to a sector. Vessel owners that have multiple permits will take the permit with catch history into the sector and may either use the other permits in the common pool or sell these permits. These permits will either target groundfish in the common pool or increase effort in other fisheries. The Committee also needs to address the discrepancy between the allocation of DAS and the allocation of quota that was pointed out by the PDT. Considering other factors helps to mitigate this problem. More vessels will have a value to sectors and may join sectors. We represent twelve sector requests and every one of them is concerned about only using catch history for this decision.
- Mr. Chris Brown: Rhode Island Commercial Fishermen’s Association. If you use the periods proposed, you are using the period when the ocean was the sickest it has been in our memory in order to allocate future access. As stocks rebuild, you will be encouraging massive amounts of discards as sectors without landings history during this period encounter rebuilt stocks. This year is a perfect example – I caught cod in southern New England in amounts I have not seen in decades. We have to preserve communities that we have left. Using only landings history will not accomplish that. We should also include some type of capacity criterion. We need to remember that we should be planning for when the oceans are healthy.
- Ms. Maggie Raymond: Associated Fishermen of Maine and the Sustainable Harvesting Sector. The sector policy seems to say shares will be allocated based on percentages of the annual catch entitlement. If the Committee decides to use something other than landings history, I hope they will lay out what they are trying to achieve by doing so. Otherwise we won’t know if our approach addresses the problem or not. The most important thing- sectors need to know what the possibilities are. We have to begin work on our operating plans and EA’s for the 2009 fishing year and we cannot do that without knowing how history will be calculated. I hope you consider as few options as possible.
- Mr. Peter Taylor: Cape Cod Commercial Hook Fisherman’s Association. We support this motion and hope it goes forward as it stands.
- Mr. Frank Mirarchi: Commercial fisherman from Scituate, MA. I disagree with the motion on the floor. Fishermen in the southwestern Gulf of Maine have done many things to keep their businesses going in the face of seven month of rolling closures, 30 pound cod caps, etc. A simple landings based allocation is disadvantageous to those who diversified into other types of fishing. In addition we have seen changes in distribution for a whole host of reasons: fishing pressure, climate change, etc. I recommend inclusion of some type of capacity units in the formula, and as long a time period as possible.
- Mr. Glen Libby: Midcoast Fishermen’s Association. I urge you to go with the longer time period. Some of our members bought permits with DAS but little landings history. They may not be as interested in sectors if the calculation does not include a period when those permits acquired history.
- Mr. Ed Barrett: President, Massachusetts Bay Groundfishermen. I represent forty boats. We do not support this motion for the same reasons as Frank Mirarchi. We think you should use a longer time period.

Motion to amend: to insert after “landings history data”: “and DAS utilization”. And to only consider one time period (FY 96-2006). (Mr. Ruhle/Mr. Avila)

Mr. Ruhle said this motion was an attempt to address the concern that only landings history was being considered while reducing complexity by considering only one timeline. This motion gives used DAS a value, and recognizes that some fishermen may have done the right thing for the resource but the wrong thing for their own pockets. How to weight each factor would need to be determined.

Several Committee members opposed considering only one option and questioned whether that would be consistent with NEPA requirements. Ms. Murphy opposed the motion because it would result in only one alternative. A Committee member cautioned that these types of decisions typically take months to resolve and it was not clear this discussion was a careful consideration of the complex issues that needed to be addressed. Another member spoke in favor of considering capacity in some form, but was uncertain whether this motion addressed this.

A motion **passed** to move the question (6-3). The motion to amend **failed** on a show of hands (2-7). The main motion **carried** on a show of hands (6-3).

The Committee next discussed whether an option should be considered that incorporated capacity into the history calculation. Committee members were provided a strawman proposal that used vessel characteristics and DAS allocations as an element of the history calculation. A Committee member supported this concept as well as consideration of different weighting factors for the elements that were considered.

Motion: That we request the PDT to evaluate the strawman history calculation submitted in a memo dated July 30, 2007 by Vito Giacalone in step 1 and 2. Weight catch history and capacity units at different levels to show how different weights impact allocations. (Mr. Hill/Mr. Ruhle)

This motion was offered to address the concern that as many boats as possible be eligible for opportunity based programs. If adopted, this approach would facilitate an industry driven rationalization of the capacity in the fishery. Some Committee members opposed the motion on the grounds it was a reallocation of the fishery. Public comment included:

- Mr. Vito Giacalone: To be clear, this is not a Northeast Seafood Coalition proposal. It is an attempt to incorporate capacity into the history calculation. There may be other approaches that the PDT can suggest. This is not a reallocation – the fishery has not yet been allocated, except for one stock allocated to the two existing sectors. Besides – the only way there won't be an allocation is if DAS are used.
- Ms. Maggie Raymond: The Committee should clearly identify the reason for using other factors in the calculation. If you want to compare this approach to the landings only approach, don't you need two time frames? For the sliding scale of weights – is it possible that landings history would be less than 50 percent? (Mr. Hill replied he did not envision landings history being less than 50 percent).
- Ms. Jackie Odell: NES. This proposal should go forward to address the problem of redirection of effort into other fisheries, to improve the analysis for common pool and sector vessels, and to encourage sector enrollment so that consolidation can continue.
- Mr. Ted Platz:: Gillnetter, Rhode Island. I am opposed to the proposed weighting system because it is biased towards large boats. A better way to do this would be to use DAS used or allocated.
- Mr. Glen Delaney: Just as general comment on the process. I don't see why the Committee should be afraid of looking at this. I think from a NEPA standpoint we should be

looking at alternatives. Without this option, all the Committee is looking at are two different time periods. That does not seem to be a sufficient range of alternatives.

- Mr. Frank Mirarchi: I support the motion. Considering capacity could help mitigate impacts across broad sectors of the fleet. It is worthy to do the analysis.
- Mr. Phil Ruhle: There are problems with the catch history in the database. I reported a problem at the June Council meeting that another fisherman had that has not been resolved. I have since discovered my own catch history for herring is off by hundreds of thousands of pounds. I've seen the numbers the dealer reported and the numbers in the database as reported back to me are way out of whack. How do these numbers get changed? Everyone in this industry should contact NMFS and get their catch history.
- Mr. Dan Holland: GMRI. There is an issue in terms of a secondary allocation method on how the history will be turned into stock specific allocations. There is a possibility that some sectors may get an allocation of stocks they do not need. There are also problems that there is no way to balance quota between the sector and common pool vessels. There are ways to mitigate these problems – perhaps by allocating the capacity units by stock area based on landings history.

Mr. Warren noted that NMFS is concerned about the direction this discussion was headed. Allocating to the fishery as a whole is a fundamental change to the fishery. A simple allocation scheme would be better.

Motion to substitute: The Committee offers to the Council and the PDT for analysis and consideration for the baseline for sectors, utilizing the criteria of FY 1996-2001, and FY 96-FY 2006, weighting and utilizing 50 percent landings data and 50 percent Category A DAS used and also analyzing 75 percent landings data and 25 percent Category A DAS used. (Mr. Odlin/Mr. Stockwell)

This motion would give the Committee and the Council four options to examine. By using used DAS, there may be a smoothing effect on the many changes that affected landings history. Vessels that avoided weaker stocks, while using DAS, would not be penalized for these decisions. A suggestion to change “used DAS” to “allocated DAS” was not accepted as a friendly amendment.

The motion to substitute **carried** on a show of hands (7-1-1). The vote on the motion **carried** on a show of hands (8-1). The Committee clarified that the landings history calculation would be performed in the same manner as has been done for existing sectors. The DAS calculation should be performed in the same manner as the landings history: cumulative DAS used by a permit over the time period divided by cumulative DAS used.

A Committee member commented that he did not feel the Committee was spending enough time on this issue. Decisions on the baseline will have long-term implications that should be carefully considered and discussed by the full Council since these decisions will impact Amendment 17. Sectors will make decisions based on the baselines, and once there are a large numbers of sectors operating, future changes will be resisted. Another Council member disagreed and noted that the Council had clearly stated that Amendment 17 would address allocation issues; he said that in his view the baseline decisions did not commit the Council to using this same method of allocation in the future. Another member suggested the Council make it clear to the public that the form of sectors adopted by Amendment 16 may be revised in the future.

Allowances for Other Fisheries

Staff reviewed the PDT discussion on establishing allowances or set-asides for other fisheries, noting that this issue would likely be important both for sectors and for setting annual catch limits. Preliminary stocks were identified for a set-aside for the recreational fishery. Issues concerning set-asides for the commercial fishery also explained. Staff noted that additional PDT work would be required for this issue.

The Committee discussed the limits on groundfish catch under the exempted fishery regulations, and whether this would help limit the number of set-asides that needed to be developed.

Motion: Have the PDT do an analysis of all exempted fisheries in existence to see if they continue to meet the 5% bycatch standard. (Mr. Odlin/Mr. Stockwell)

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

Trading Between Sectors

Staff summarized the PDT discussion of trading of fish between sectors. For clarity, the Committee adopted the PDT recommendation that “trading shares” meant trading the percentage allocation of a sector on a long-term basis, while “trading Annual Catch Entitlements (ACE)” meant a trade within a fishing year of a certain amount of pounds.

Motion: The Committee recommend transfers of ACE between sectors during the fishing year and up to two weeks after the end of the fishing year be allowed and that sectors with catches of stocks that exceed their ACE allocation be required to cease operations in that stock area until they can acquire ACE of that stock to balance the catch. (Mr. Preble/Ms. McGee)

The Committee discussed whether sectors should be required to cease fishing immediately if their ACE is exceeded, noting that the PDT recommended that small overages be allowed. Staff explained the PDT’s recommendation was based on similar provisions contained in other programs, which allow for some flexibility to balance ACE after exceeding an allocation in order to account for uncertainty in fishing practices. Staff noted the PDT thought the provision could be designed in such a way to prevent exceeding the overall sector allocation. While some Committee members supported this approach, others felt it would merely encourage all sectors to exceed their ACE by a small amount each year, leading to overfishing. The maker of the motion made it clear that he intended the motion to mean that sectors are not allowed to exceed their allocation. He said he expects sector managers to carefully monitor their catches and if necessary acquire ACE to make sure they do not catch more than authorized. This motion does not change existing provisions that penalize a section in the following year if they exceed their total ACE (including any ACE acquired through trading). The Committee discussion also made it clear that by not passing a motion on trading sector shares, they were rejecting this as an alternative. Ms. Murphy noted that DAS lease requests must be submitted by March 1, and asked that the Committee consider a similar deadline for trading of ACE. Mr. Warren seconded her recommendation, noting that it would be difficult to issue ACE for the subsequent year if quota balancing was still ongoing. Public comment included:

- Ms. Raymond: I support the motion. The ability to trade ACE is what will make these sectors effective.
- Mr. Dan Holland: GMRI. Most systems that are quota based allow retrospective trading. If you don’t include this provision you are increasing the incentives for illegal discards.
- Mr. Vito Giacalone: NESC. We support the concept of allowing trading of ACE between sectors. We will have some implementation questions that will need to be addressed.

The motion **carried** on a show of hands (4-2-2).

Sector Monitoring

Staff reviewed the PDT recommendations on monitoring of sectors. The Committee discussed current practices by the existing sectors but did not take any other action.

Impacts of Sectors on Designing Effort Controls

Staff summarized the PDT discussion on the impacts of a substantial number of sectors on designing effort controls. In brief, since the actual sector participants are not known, the PDT will have great difficulty designing and evaluating effort controls for common pool vessels. The PDT offered two possible solutions, but one probably cannot be implemented and the other only addresses the problem in part. The Committee acknowledged the problem but did not take any further action.

Should Sectors Need a Hard TAC for All Stocks Caught?

Staff noted that initially the PDT believed this issue would be easily resolved, since a Council motion suggested this decision had already been made. The PDT, however, identified several situations that suggest this may not work for all stocks. For example, some stocks do not have a TAC calculated (e.g. GOM winter flounder, halibut), some sectors may not have any landing history for stocks that are occasionally caught, some TACs may be so small that each sector's share is difficult to monitor. While some of the problems identified by the PDT might be addressed by allowing transfers of ACE, others may not be. The Committee discussed whether there were alternatives to address these types of situations, such as a prohibition on retention or small trip limits.

Motion: For the PDT to consider whether a sector should be required to have a hard TAC on all groundfish stocks and report to the Committee at the September Committee meeting. (Mr. Stockwell/Mr. Preble)

The Committee recognized the PDT already considered this issue; this motion was merely direction for the PDT to further identify the concerns and provide additional advice on how to address the issues.

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

Entry and Exit to Sectors

Staff noted the PDT did not discuss whether measures need to be developed to make sure that sector overages cannot be evaded by disbanding or departing the sector. The PDT first wanted to discuss with NERO whether NMFS felt sufficient controls were already in place to address this problem. Mr. Martin noted that the regulations provide clear penalties for violating sector provisions, and that both the sector and the sector participants are subject to those penalties. Committee members also noted that perhaps this should be addressed within the sector – that is, as part of the contract between sector members. While staff cautioned that it was not clear that all the implications had been thought through, Mr. Martin felt this issue was addressed by current regulations.

Sectors and the US/CA Area TACs

Staff summarized the PDT discussion: because TACs are not currently specific to area for GB cod, haddock, and yellowtail flounder, it is possible for sectors and common pool vessels to fish in ways that limit each other's opportunities in the Eastern US/CA Area. A suggestion offered by

the PDT is to make area-specific allocations for these species. A member of the public spoke in favor of this approach.

Motion: To continue to develop the PDT's recommendation for allocating area-specific TACs in the US/CA area to sector and common pool vessels. (Mr. Stockwell/Mr. Ruhle)

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

TRAC Report

NEFSC biologists provided summaries of the recent TRAC assessments for eastern GB cod and haddock, and GB yellowtail flounder. These assessments are summarized in stock status reports that were provided to the Committee. At the end of the report the following motion was offered:

Motion: The Committee asks the Council to recommend to the Regional Administrator that the Eastern Georges Bank area not open in FY 2008 until August 1. (Mr. Odlin/Mr. Avila)

The reason for this motion is that in each of the last three years cod catches in the area in early summer have been high, leading to closure of the area and reduced opportunities to catch haddock. Delaying the opening should reduce cod catches and discards, as cod disperse over the summer. Public comment included:

- Mr. Peter Taylor: CCCHFA. We oppose this motion. We fish in this area in May and June, targeting haddock. After that we cannot successfully target haddock in the area. All of our opportunities will be gone if you approve this.

Motion to amend: The Committee asks the Council to recommend that the Eastern Georges Bank area not open in FY 2008 until August 1 for trawl gear. (Mr. Leary/Ms. McGee)

This amendment will allow longline gear to fish during this period, but will prohibit trawl gear from entering until August 1. It will preserve access for longline gear while reducing cod catches by trawl gear. The Committee asked the PDT to provide information on cod catches by all gears in this area during these months.

The motion to amend **carried** on a show of hands (4-3-2, Chair voted in favor). When voted as the main motion, it **carried** on a show of hands (4-3-2, Chair voted in favor).

The meeting adjourned at 5 pm. The next meeting of the Committee will be on September 5, 2007 at the same location.

**New England Fishery Management Council
Multispecies (Groundfish) Oversight Committee**

Meeting Summary
September 5, 2007

The Multispecies (Groundfish) Oversight Committee met in Peabody, Massachusetts to continue development of Amendment 16. The discussions focused on sector management issues. The Committee did not discuss effort controls, as was planned, due to a lack of time. Committee members present were Mr. Rip Cunningham (Chair), Mr. Mike Leary (Vice-chair), Mr. Jim Odlin, Mr. Terry Stockwell, Mr. Rodney Avila, Mr. David Preble, Mr. Tom Hill, Ms. Sally McGee, and Ms. Sue Murphy. The Committee was supported by staff Mr. Tom Nies (NEFMC), Mr. Tom Warren (NMFS/NERO), Dr. John Witzig (NMFS/NERO), Ms. Amy VanAtten (NEFSC), and Mr. Gene Martin (NOAA GC). Much of the Committee discussion was based on a Groundfish PDT conference call report dated August 28, 2007; the Committee also referred to a PDT meeting report dated July 27, 2007.

At the beginning of the meeting, Mr. Odlin reported that the Executive Committee discussed the Regional Administrator's concern that the Committee was spending too much time on sector issues and not enough on measures to continue rebuilding.

Sector Policy Issues

Sector Baselines

Council staff reviewed the PDT's advice on how used DAS could be incorporated into permit history calculations. The PDT asked for guidance on which suggested method should be used. A Committee member offered that using used DAS was a non-starter. He said it was just a proxy for catch and would lead the Council to using history based on a period when stocks were in their worst shape. A method should be used which takes into account vessel capacity.

Motion: To recommend that percent quota shares allocated to each permit for the purposes of forming sectors be determined one-half by catch history over a 1996-2006 baseline and one-half by vessel capacity using vessel replacement baselines on record for each permit multiplied by the number of allocated A DAS using the formula:
 $((10L+HP)(\text{allocated "A" DAS})=\text{capacity baseline})$ (Mr. Preble/Ms. McGee)

Mr. Odlin opposed the motion because it would give fish to people who never caught them. Ms. Murphy opposed the motion for three reasons: it was a reallocation of the fishery, a similar suggestion was discussed but not approved at the August 1, 2007 Committee meeting, and the Regional Administrator was concerned over the amount of time the Committee was spending on sector development. Mr. Hill pointed out the Committee had not decided what it was trying to accomplish, which made it difficult for the PDT to evaluate which proposals had merit. He also questioned whether the discussion was changing from one about sectors to one about allocating the entire fishery.

Motion: To substitute Alternative 3 as described by the PDT in its conference call report (page 7) as the method for combining landings history and used DAS. (Mr. Odlin/Ms. Murphy)

This alternative uses DAS to affect the history of a permit for only those stocks that the permit has landed. The rationale for the motion is that this approach would help smooth the disruptions

caused by changes in regulations, etc. The Committee debated the motion. Some were concerned that while this approach might make sense for stocks that were fully utilized, it did not make sense to award under-utilized stocks to a small group of fishermen who had demonstrated the inability to harvest the entire stock. Some Committee members were concerned about the lack of access that limited some fishermen in recent years. Public comment included:

- Ms. Maggie Raymond: Associated Fishermen of Maine, Sustainable Harvest Sector. The number of options cannot be endless. We don't have the capacity in the fishery now to catch some stocks. It is a problem to give fish to people who never will have the intent or ability to catch it.
- Mr. Chris Brown: Pt Judith, RI fisherman. I can't believe I just heard that there is a lack of capacity in the groundfish fishery. Lots of boats are waiting for the opportunity to catch haddock. We can't hand it to people who have not been able to get the job done. There are so many issues that were not even discussed – to suggest we have had a full discussion is insane. It will take years to do a complete analysis, to do the proper audits that are necessary, to make sure people have not falsified a large number of landings. The common pool people will be completely fleeced of landings – and full of DAS. People left in that pool are going to die. We need a capacity related allocation in the mobile gear fishery – horsepower equals production. If we have an overcapacity problem – and regulatory discard - we have to allocate to some extent based on capacity. It is only logical. If we allocate only fish that you caught – sounds effective enough unless there is a massive stock shift. Recent tagging study shows 50 percent of SNE/MA yellowtail flounder is transient. I oppose the motion to substitute.
- Mr. Vito Giacalone: Northeast Seafood Coalition (NESC). We opposed the motion to substitute. I am confused why we are only looking at catch history. Everything is being discussed in the context of IFQs. This subject is easier to discuss if you remember we are talking about sectors. The original motion helps to insulate the common pool from stripping away the entire quota. If we are trying to promote sector enrollment, something that gives every permit holder value in the fishery is important. Look at how the industry values permits, past buyout values – the value of permits is judged by capacity.
- Mr. Carl Bouchard: F/V Stormy Weather. Does anyone believe that what we decide here will not carry over into the entire fleet when we eventually do ITQs? What you decide is what is going to go for the rest of time. I oppose the motion to substitute. We were on the right track with the original motion, but I don't fully agree with that either. We have been operating on a DAS basis now. We have invested heavily into that currency. We have been forced to borrow money to keep our business going – to say that those permits are now no good by basing the allocation on history alone is ludicrous. Every permit with DAS – should get points based on where it fishes – one point for each DAS. Anything less than 75 percent credit for DAS should not be acceptable. Give 25 percent to history, the rest to DAS.

The motion to substitute **carried** on a show of hands (4-3-1). The main motion, as substituted, **carried** on a show of hands (7-1).

Motion: To recommend that percent quota shares allocated to each permit for the purposes of forming sectors be determined one-half by catch history over a FY 1996- FY 2006 baseline and one-half by vessel capacity using vessel replacement baselines on record for each permit multiplied by the number of allocated “A” DAS using the formula: $((10L+HP)(\text{allocated “A” DAS})=\text{capacity baseline})$. (Mr. Preble/Mr. Hill)

This motion was offered to provide an additional history calculation alternative. Public comment included:

- Mr. Glenn Libby: Port Clyde. Whatever we do here – we should be looking towards the future and what we want the fishery to look like. There are huge areas where no one is fishing. You must do the best job possible so something left for our children.
- Mr. Chris Brown: This should be stated somewhere: this is not an attempt to permanently allocate; this is in response to the required midterm correction. There was discussion at the last committee meeting that allocation secured through a short process would in all likelihood flow through. I think it important that in one of these motions that this is not our intent – permanent allocation is not our intent. This motion will encourage that GB vessels will be catching cod off Rhode Island five years from now and I will be tied to the dock. I will be missed when it comes to cod because I did not catch them in the right years.
- Mr. Vito Giacalone: One point – referenced rather frequently at the last meeting. People act as if we have already allocated based on history and any alternatives are a reallocation. All we have allocated so far is DAS. We support this motion to look at this alternative.
- Mr. Frank Gable: On behalf of the Pier 6 sector, we support this for analysis purposes.

In response to several questions, the maker of the motion clarified that vessel replacement baselines would be used for the calculation, and the capacity factor would only influence allocation of stocks in the area fished by a permit. Mr. Hill commented that the Committee was confusing the discussion of alternatives for sector measures with a longer-term discussion about allocating the fishery, and expressed concern that this short-term response might inadvertently become permanent.

The motion carried on a show of hands (5-2-1).

Staff summarized the seven history alternatives for the Committee: based on landings history alone for two different time periods (FY 1996-2001 and FY 1996-2006), combining landings history and used DAS at two different weights (50 percent landings/50 percent used DAS, and 75 percent landings/25 percent used DAS) and two different time periods (FY 1996-2001 and FY 1996-2006), and combining landings history and capacity at equal weights and one time period (FY 1996-FY 2006).

Exit/Entry

The Committee next discussed whether to address the concern that current regulations do not provide a mechanism to deduct an Annual Catch Entitlement (ACE) overage should a sector disband or enough members leave so that there isn't sufficient ACE to cover an overage. Suggestions offered by the PDT were discussed but in general were found wanting – either because they only delayed the problem, raised questions about whether they could be enforced, or were felt inadequate. A motion to require vessels to remain in a sector until an overage was paid back was withdrawn after Mr. Martin raised concerns over its constitutionality. A second motion to have the penalty follow a permit was also withdrawn.

Motion: Remand issue of overage penalties following permits back to the PDT to work with NOAA GC to develop something along the lines of item d (PDT conference call report – overage penalty follows a permit). The issue should be dealt with by each individual operations plan. (Mr. Odlin/Mr. Stockwell)

Mr. Martin said this type of approach would be more enforceable if it was included as an element of the sector operations plan and all members agreed to it by signing the sector contract – in essence, it would be similar to a contract’s “liquidated damages” clause. It would also help if the requirement to address this in an operations plan were included in the management plan and the regulations. A friendly amendment was offered by Ms. McGee: “if sector disbands it must resolve any overages through transfer of ACE before its members can fish in subsequent fishing years” – but was not accepted by the maker of the motion.

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

The Committee next addressed the PDT concern that it was not specifically stated in the management plan how an ACE overage would be paid back – is the payback charged in the form of pounds or as a percent of the ACE allocated to a sector? The Committee reviewed the PDT discussion and concluded that for ease of administration any overages would be paid back in terms of pounds on a pound-per-pound basis.

Motion: For clarification, sector overages of ACE will be paid back in pounds, on a pound per pound basis. (Mr. Odlin/Mr. Preble)

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

Simplifying Sector Applications/Administration

The Committee reviewed PDT and NMFS recommendations to allow multi-year operations plans, and to require sector operations plans be delivered by December 1. Allowing multi-year operations plans may reduce the administrative burden on NMFS and sectors, while requiring an earlier submission will make it more likely the submissions can be reviewed in time for fishing to begin at the start of the fishing year. Ms. Murphy noted that sectors still had the option to submit an annual operations plan if they desired, and that the Environmental Assessment accompanying a two-year plan would have to address the impacts for both years. Mr. Glenn Libby spoke in support of the motion.

Motion: To allow for operations plans to cover a two-year period and to require operations plans to be submitted by December 1. (Mr. Odlin/Mr. Avila)

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

Reporting/Monitoring

Council staff reiterated PDT recommendations for monitoring of sector catches that had not been acted on by the Committee (summarized in the PDT report dated July 27, 2007). Ms. Murphy said that NMFS preferred weekly reporting by sector managers, as opposed to the PDT recommendation for real-time reporting. She also said that for discards, NMFS preferred to take the discard rate “off the top” of a sector’s ACE. If a sector did not want to accept that rate, they would have to demonstrate a different rate was appropriate, perhaps through the use of industry-funded observers. Council staff raised several concerns over the suggestion to take discard rates “off the top”: would this be done for different time periods, what would be done for stocks without discard rates, what would be the source for the rates, how would it be applied to sector’s that use more than one gear (since rates differ by gear), how does the fact sectors operate very differently from the common pool, etc. Staff suggested that a standard for the precision of discard estimates could be set, and sectors could be held responsible for meeting it.

Motion: (1) Discards will be counted at the previous assumed discard rate, calculated as often as is practicable, by gear and that rate will be deducted off the top of the ACE unless and if a sector can come up with an adequate monitoring system that can satisfy NMFS that discards will be adequately monitored and accounted for at the sector's expense. (2) Each sector will report catches (landings and discards) to NMFS weekly. (Mr. Odlin/Mr. Stockwell)

This motion adopted the NMFS recommendation for taking discards "off the top" and weekly reporting. Public comment included:

- Ms. Maggie Raymond: Discards are often caused by trip limits, yet longer trips have fewer discards. Is there some way to factor that in as well?
- Mr. Frank Mirarchi: Commercial fisherman, Scituate, MA. The "assumed discard rate" is not where we want to be. It becomes a powerful disincentive to do any better. I do not oppose third party observers, but we should be able to shop for value and not be limited to one source.
- Mr. David Borden: Massachusetts DMF. Is it the number of dead discards or total discards? (dead discards was the reply).

The Committee discussed the motion at length. They questioned whether discard rates could be calculated for gear/size classes – staff cautioned that may not be possible. In response to staff concerns about how gear-specific discard rates would be applied to an ACE, Ms. Murphy suggested that discards could be added to the landings of each trip based on gear. Staff noted that this did not seem to be the approach described by the motion. The Committee also wrestled with how this impacts trading of ACE. As the Committee began to get bogged down in considering technical issues, Council staff suggested that the PDT be asked to address these issues.

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

Motion: The Committee recommends that sector applicants must demonstrate the ability to accurately attribute landings to a specific statistical area or prohibit trips in more than one stock area. (Ms. Mcgee/Mr. Preble)

This motion was in response to a PDT suggestion. Accurate assignment of catch to stock areas is critical for monitoring sector performance. Public comment included:

- Ms. Maggie Raymond: What is it exactly the Committee wants sectors to do? We already report landings by statistical area on VTRs. A lot of these issues that are raised also apply to the common pool. Everyone has to accurately report and monitor everything. Common pool needs same scrutiny as sectors. Majority of our boats are fishing in more than one stock area per trip.
- Mr. Frank Gable; Pier 6 sector. I am not sure if this motion means we must demonstrate this prior to forming a sector. Accurately attributing landings comes from NERO.
- Mr. Vito Giacalone: Generally we understand this concept and makes sense. Right now the common pool agrees to the most restrictive regulations when fishing in multiple areas. If trip limits are removed by sectors - there will be a heightened need for where the fish come from. There has to be a better way to attribute catch from a vessel.

Ms. Murphy said NMFS was still considering these issues and preferred a consistent solution across all sectors. Mr. Odlin spoke against requiring vessels to stay in one stock area. Council staff noted that many vessels that fish in more than one statistical area do not correctly complete VTRs and only report one area, and the incentives for a sector member to misreport catch

location could be large if the sector has a small ACE from one stock area that could shut operations down if exceeded, and a larger ACE for the same species from another area.

Motion to amend: To delete “or prohibit trips in more than one stock area.” (Mr. Odlin/Mr. Preble)

The motion to amend carried on a show of hands (5-2-1).

Motion as amended: The Committee recommends that sector applicants must demonstrate the ability to accurately attribute landings to a specific statistical area. (Ms. Mcgee/Mr. Preble)

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

The Committee briefly discussed the issue of observer coverage, but did not take any action.

Council Sector Policy Issues

The Committee next reviewed a number of issues related to the recently adopted Council sector policy. First, the Committee discussed what sector elements needed to be defined in the management plan and regulations. As an example, regulations define the gear, stocks allocated, and general operating area for the two existing sectors, while other provisions are typically negotiated with NMFS in the annual operation plan. Are there elements that the Committee believes must be defined?

Ms. Murphy said that gear should be one such element that is defined. Mr. Warren relayed enforcement concerns that sectors should have specific geographic operating areas - otherwise there could be many sectors fishing under different rules in many areas. He suggested that the absence of such information could impact the approvability of a sector. Some Committee members expressed concern by this comment. Staff noted that it appeared there was a need for a dialogue between the Council and law enforcement on enforcement expectations – it could be that the Council did not expect NMFS to enforce every sector requirement, but to focus on accurate catch reporting. Ms. Murphy commented that they were relaying the concerns of enforcement that if everyone fished everywhere there would be a complex set of rules.

Staff raised the issue of the Council policy that says “each sector is responsible for ensuring that their eligibility criteria are implemented in a fair and uniform manner.” Some were interpreting this to mean a sector must admit anyone who desires to be a member and that meets the eligibility criteria. This would seem to be in conflict with the concept that sectors are voluntary and self-selecting. It also implies that sectors – essentially a business contract between permit holders – can be forced to do business with entities that they may be reluctant to do so. Several Committee members felt that sector membership must be left to sector members. Since sector members are responsible for the performance of other sector members, they felt it was a non-starter to require a sector to accept a member against the will of current members. Staff also noted that during Amendment 13 the Council did not act on the suggestion to explicitly require sectors to accept all qualifying applicants.

Motion: To recommend that the Council strike the following sentence for the sector policy document: “Each sector is responsible for ensuring that their eligibility criteria are implemented in a fair and uniform manner.” (Mr. Preble/Mr. Avila)

Mr. Preble said this motion would clarify the intent of the Council was not to say who would be in a sector. Mr. Martin said that under current regulations, all vessels eligible to participate are allowed in if they have documented landings. Council staff asked if this raised the constitutional question mentioned in an earlier discussion: can someone be forced to do business with another? Public comment included:

- Mr. Glenn Libby: Compare sectors to a fish cooperative: applicants are voted in or out by current members. It is a business decision. It is not attractive to say sectors have to take whoever comes along.
- Mr. Vito Giacalone: We are deeply concerned about common pool. If someone is blackballed from joining a sector, you are in essence forcing those to do business with each other.
- Mr. Frank Mirarchi: I would like to add an additional point to this discussion. Sectors are not only a group of people affiliated to catch fish – but they share a common vision on marketing. Sectors need people with common vision to merge together.

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

Motion: In formation of a sector, sector participants can select who may participate in the sector. (Mr. Odlin/Mr. Avila)

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

The Committee next discussed whether sectors should be capped at 20 percent of the TAC for each stock.

Motion: The Committee recommends that the Council consider not having a 20 percent cap by stock on groundfish sectors. (Mr. Odlin/Mr. Leary)

The maker of the motion said that the cap could be a problem for some sectors that are forming, Staff reported that NMFS has published technical guidance on the issue of maximum shares; Ms. Murphy asked that the PDT discuss this issue, particularly with respect to possible social and community impacts. Public comment included:

- Ms. Maggie Raymond: Current regulations allow a sector allocation to exceed 20 percent of a stock with Council action. Our sector will be above that limit for some stocks. If the cap is not changed, we will have to split into two sectors. We urge you to eliminate the cap.
- Mr. Chris Brown: The TAC for some stocks will be small. If you keep the cap, some sectors will not have enough fish to absorb the costs of administration and monitoring.

The Motion carried on a show of hands (6-0-2).

Motion carries 6-0-2.

Participation in more than one sector in different fisheries

The Committee discussed the Council sector policy that says “Furthermore, a vessel cannot be in more than one sector in different FMPs in the same year.” Council staff interprets this to mean if a vessel wants to be in sectors in two different fisheries, the membership of the sector must be the same in both fisheries. A Committee member felt this would inhibit the formation of sectors. Staff noted this could be an issue in the case of fisheries with significant catch overlap (monkfish

and multispecies as an example) – how are allocations determined and how are catches assigned against those allocations? For other fisheries without overlap (multispecies and red crab as an example) it may not be an issue. Committee members noted that while there may be instances where the restriction is necessary, it may not need to apply to every combination of fisheries.

Motion: Recommend that the Council strike this sentence from the sector policy:
“Furthermore, a vessel cannot be in more than one sector in different FMPs in the same year.” (Mr. Preble/Mr. Leary)

Ms. Murphy and Mr. Martin commented that this might undermine the concept that vessels stop fishing when a TAC/ACE is reached. Two members of the public spoke in favor of the flexibility the motion would provide. The motion carried on a show of hands (7-0-1).

Carry-forward of TACs

Staff advised that the Committee had been asked to consider allowing a sector to carry-forward unused TAC into a following year. Several ITQ programs have similar provisions. Staff expressed concern that it may prove difficult to incorporate such a concept in the context of mortality targets and annual catch limits.

Motion: That a sector can carry up to 10 percent of its ACE forward into the next fishing year if it doesn't use it. (Mr. Odlin/Mr. Avila)

Several Committee members supported having the PDT examine the issue, while one Committee member opposed it. Three members of the public supported the motion. The Chair clarified that the intent of the motion is to have the PDT examine this issue. The motion **carried** on a show of hands (6-1-1).

Specific Sector Provisions

The Committee reviewed specific provisions of sectors that have been submitted. In most instances this discussion was intended to facilitate Committee understanding of the submissions and no action was taken.

- Paper reporting: Several sectors asked to be exempt from paper reporting. Mr. John Witzig (NMFS NERO) said that absent additional resources the NMFS statistics office cannot accept electronic reports. When they are able to do so, they would expect to have an overlap when both paper and electronic reporting is required until they are certain electronic reports are reliable. Staff suggested that the current prohibition against sector exemptions from reporting requirements be revised to allow electronic submission when NMFS is able to accept the information. The Committee did not object to this suggestion.
- Several sectors asked to be exempt from annual closures. While some Committee members argued that mortality closures are not necessary for a sector limited by a hard TAC, others suggested re-examining the closure before eliminating them. Staff noted that the thinking about the benefits of closures has changed over time, and that allowing fishing in a closed area might complicate the use of closed areas as an effort control for the common pool vessels. The Committee suggested staff consult with the PDT on this issue.
- Several sectors asked for changes in the way catch is credited to a sector. The Committee asked for, but did not receive, a clarification on the intent of this measure. They assumed it was to establish catch history in case a future allocation scheme is implemented. Ms. Murphy said that if something like this was adopted, NMFS would apply it to all sectors.

- Several sectors asked to be exempt from monkfish DAS requirements. Since these cannot be granted by the groundfish plan, staff offered a possible way to fish for monkfish with minimal impact on groundfish DAS: use groundfish DAS in combination with monkfish DAS only on trips that are landing more than the incidental catch limit of monkfish. Other solutions will have to be pursued in changes to the monkfish plan. The Committee may consider asking the monkfish committee to look into this issue.
- Several sectors asked for an exemption from all habitat closures that are not Level III closures. Council staff pointed out that this appeared to be an error. Access to Level I closures is prohibited to all gear, access to Level II closures is prohibited to all bottom-tending gear. It does not make sense for a sector to request these exemptions.
- Several sectors asked for a de minimis allocation in those instances where sector history does not result in an allocation below a small level. Committee members expressed concern, and noted that this may be addressed as the Committee resolves whether hard TACs are needed for every stock or not.
- Delayed operations plan approval. NMFS noted that sectors have been allowed to operate under the previous year's rules prior to operations plan approval.
- One sector asked for an allocation exceeding 20 percent of the white hake TAC. An earlier Committee motion might address this issue, and some Committee members preferred to wait until those issues are addressed by the PDT.

Motion: To recommend to the Council that the Sustainable Harvest Sector be allocated greater than 20 percent of the white hake TAC. (Mr. Stockwell/Mr. Odlin)

The motion failed on a show of hands (3-4-1).

- One sector has asked to be exempt from the qualification criteria, to receive an allocation of one million pounds of cod, haddock, and pollock, and to be allowed to have members who have open access permits join the sector. The Committee did not discuss these exemptions.

A member of the public asked if sectors can include vessels with multispecies "C" DAS permits – those without any Category "A" DAS. Ms. Murphy said she thought that was allowed, but Mr. Warren was uncertain. Ms. Murphy noted that the regulations for the GB Cod Hook Sector limited participation to those vessels with documented landings of GB cod during a specific period.

A Committee member suggested that sectors should be approved on a first-come, first-served basis. Sectors submitted in February should receive priority over those submitted in April. The Chair said that might be an issue the Council should have a policy on.

Mr. Vito Giacalone said that several sectors were operating under the assumption that sectors would be able to receive exemptions from seasonal and rolling closures. Clarification was needed on this issue. He also asked that the Council or NMFS prepare guidance on what is needed for a complete sector proposal. The Chair acknowledged the request.

Future Work

The Committee reviewed an overview of pending Amendment 16 issues prepared by staff. The Chair asked staff to prepare a timeline for addressing those issues.



#9

New England Fishery Management Council

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 John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

MEMORANDUM

DATE: July 2, 2007
TO: Multispecies (Groundfish) Oversight Committee
FROM: Groundfish Plan Development Team
SUBJECT: PDT Conference Call, June 28, 2007

1. The PDT conducted a conference call to discuss support for the Committee's August meeting. The Committee meeting will focus on sector issues at this meeting. During this call, the PDT identified and prioritized issues that need to be resolved in Amendment 16. The PDT will provide further advice on these issues after a PDT meeting tentatively planned for July. Call participants were Tom Nies (Chair, NEFMC), Tom Warren, Mark Grant, Sarah Thompson, and Stan Wang (NERO), Steve Correia (Mass. DMF), Kohl Kanwit (Maine DMR), Eric Thunberg and Paul Nitschke (NEFSC), Dan Holland (GMIR), and Paul Parker (Groundfish AP). Listening in to the call were Cindy Smith (GMRI), Maggie Raymond, and Chris Kellogg (NEFMC).

2. This summary documents the issues identified by the PDT, provides very brief summaries of some of the issues raised, and identifies the PDT Member who will prepare additional discussion points for the PDT meeting. The report of that meeting will contain PDT recommendations as appropriate.

3. It may be helpful to clearly define terms when discussing sectors. The practice used in this memo is to use the term "share" to refer to the sector's percentage of the available catch, determined by the baseline period adopted and sector membership. "Annual catch entitlement" (ACE) refers to the amount (weight) of fish that the sector is authorized to catch in any specific fishing year. ACE is equal to the share times the available catch, less any penalties due to overages.

4. The PDT will also review the Council's sector policy and determine which elements should be adopted in Amendment 16 (some of these issues are discussed below).

High Priority

5. *What fixed baseline period should be used for allocating to sectors? Should factors other than landing history be considered when allocating?* The PDT noted there may be identifiable bounds on the years, such as FY 1996 through FY 2006, since that may be the limits of data available for implementation May 1, 2009. (Tom Nies/Paul Parker)

6. *How will discards be monitored, reported, and considered when evaluating sector performance?* Council policy is that discards will count against the sector's TAC, but monitoring needs to be addressed. Options might include applying a fishery-wide discard rate to all sectors,

determining a sector specific discard rate, establishing a standard on discard estimation that must be met by sectors. (Paul Parker)

7. Should sectors be allowed to trade shares? Should sectors be allowed to trade ACE?

Generally, the PDT notes this issue may have implications on the status of sectors that can only be addressed by NOAA GC. An argument against trading shares is that these shares are determined by the landing history of vessels in the sector – trading share in essence takes away the landing history of a vessel (or vessels) and gives it to another sector. Allowing trading of ACEs allows for quota balancing within a year and may promote better use of available yield. Whether sector caps apply to trading needs to be addressed. (Dan Holland)

8. How will allowances be made for other fisheries (recreational, scallop dredge, etc.)? Fisheries of concern must be addressed, as well as how to account for their catch. This is also an issue for ACLs/AMs. (Eric Thunberg/Kohl Kanwit)

9. How do sectors affect the ability to develop and analyze effort-based measures for common pool vessels? Current analytic tools require an understanding of who will be subject to effort controls, but some sector proposals are not specific on sector membership. (Eric Thunberg/Tom Nies)

Medium Priority

10. Should sectors need a hard TAC for all groundfish stocks? There may be ways to address stocks that are rarely caught, or caught in small amounts, to reduce burden of monitoring small TACs and reduce likelihood a small catch of a rarely caught stock will close down a sector. (Eric Thunberg)

11. Should a permit holder be prohibited from leaving a sector and should an entire sector be prohibited from dissolving if the sector exceeds its allocation? More broadly, the issue is whether mechanisms exist, or need to be created, to prevent a sector or its members from evading penalties by dissolving or leaving the sector. There may be regulatory or private sector ways to address this concern. (Tom Warren)

12. Can the sector application and review process be simplified? NERO is already discussing this issue and may bring ideas forward at a later date. (Tom Warren)

13. How is landings history treated within a sector? Some vessels in a sector may not fish, yet the share they bring to the sector contributes to the sector share. (Dan Holland)

14. How should the US/CA area be treated – should the sector allocation specifically include a portion of US/CA TACs? Present allocations do not limit a sector's share of GB cod, haddock, or yellowtail flounder based on area. It is possible for the sector and common pool vessels to affect each other's access to the US/CA area. (Tom Nies/Paul Parker)

15. What is the meaning of the Council's policy that says "a vessel cannot be in more than one sector in different FMPs in the same year?" As an example, how does this affect sectors that may want to fish for groundfish and monkfish (assuming sectors are authorized under the monkfish FMP).

Low Priority

15. The PDT recommends the Committee adopt the sector definition as stated in the Council's sector policy (definition 2).

16. *Should the cap on sector shares be modified?* While there may be reasons to modify the cap, the PDT does not view this as a high priority compared to other pending issues. It may be worthwhile, however, to better define the rationale for the existing cap or any cap adopted in the future.

17. *Should there be a minimum size for sectors?* Given the administrative burden of forming sectors, the PDT does not believe it likely that very small sectors will form. Practically, any sector smaller than three firms cannot have its share or performance published because of confidentiality restrictions.

18. *Should sectors be "affinity based" – that is, have something in common – gear, homeport, etc.?* The PDT does not believe this is desirable or necessary, and conflicts with the underlying concept of self-selecting sectors. In a related issue, the PDT discussed issues related to sector operating areas: are there reasons to encourage or prefer sectors that operate in only one area? This latter issue will be explored by the PDT (Eric Thunberg/Tom Nies/Tom Warren).

19. Can multi-year authorizations be implemented? There may be NEPA and APA issues associated with the concept of changing the requirement for an annual submission of an operations plan. (Tom Warren)

Pending

19. *How will ACLs/AMs be applied to sectors?* Further development of this concept depends on NMFS guidance.

20. *Are sectors subject to LAPP cost recovery?* This question must first be addressed by NOAA GC. If so, how will costs be calculated and assessed?



#10

New England Fishery Management Council

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MEMORANDUM

DATE: July 27, 2007
TO: Multispecies (Groundfish) Oversight Committee
FROM: Groundfish Plan Development Team
SUBJECT: **Groundfish PDT Meeting, July 25, 2007**

1. The PDT met in Mansfield, MA to consider issues related to sector management that were identified in an earlier conference call (see PDT memo dated July 2, 2007). PDT members present were Tom Nies (NEFMC), Steve Correia (Mass. DMF), Kohl Kanwit (Maine DMR), Eric Thunberg (NEFSC), Jennifer Anderson (NERO), Paul Parker (Groundfish AP Chair) and Dan Holland (GMRI). While not a PDT member, Susan Murphy (NERO) attended and answered several questions on NMFS policy and procedures. Multispecies Committee Chair Rip Cunningham and member Sally McGee also attended.

2. The PDT advice is provided in the form of discussion papers attached to this memo. They are attached in order of discussion, which reflects the PDT's prioritization of the issues. Not all issues identified during the earlier conference call were addressed because several key PDT members were unable to attend the meeting. The pending issues are:

- Departure of permit holders from sectors
- Simplifying the sector review process
- Multi-year authorizations

3. Two issues proved more complex than originally thought and additional work will be necessary. These are:

- Are hard TACs needed for all stocks caught by a sector?
- How will groundfish catches in other fisheries be accounted for?

Sector Allocation Baseline

Issue: The Council Sector Policy requires that each FMP identify a single, fixed and permanent baseline for the purpose of sector allocation, but acknowledges that there may be reasons for exceptions to this requirement (e.g. in some fisheries it may make sense to have a different baseline period for different areas).

Discussion:

(1) Amendment 13 sector provisions do not comport with this policy. Amendment 13 adopted a fixed baseline of fishing years 1996 through 2001 for allocating GB cod, and a sliding baseline (“the most recent five year period”) for other stocks. The baseline for GB cod changed to the sliding baseline for any sector that begins fishing in FY 2007 or later. At a minimum, Amendment 16 must consider adopting a fixed baseline period for determining sector allocations in order to be consistent with the Council’s sector policy and a recent Council groundfish motion. While the amendment could consider whether multiple fixed baselines are appropriate for this fishery, this would vastly complicate the baseline decision. It is not clear what rationale could be offered to justify multiple baselines in this fishery, it is possible permit holders would argue for a different baseline for each stock, the calculation of stock-specific allocations for each permit would be complicated by different ownership of the permits in the different periods. There are easier ways to address concerns that a specific time period may not be appropriate for one stock due to unusual resource or regulatory conditions (for example, use a longer baseline period to smooth fluctuations, use factors in addition to landings history as a basis for allocation).

(2) On the surface this is a simple, if contentious, problem: determine alternatives for a fixed baseline that will be used when calculating sector allocations based on landings history. Recent changes to the M-S Act may complicate this discussion. While it is uncertain whether sectors are subject to the requirements for Limited Access Privilege Programs (LAPP), the recently revised M-S Act adopted requirements for allocations in a LAPP-system, summarized below (section 303A(C)(5)). The law also requires that an auction be considered for initial allocations. As noted in the subsequent paragraph, whether or not the Council is required to consider these factors, the Council may want to consider these factors.

The Council or Secretary shall:

(a) establish procedures for a fair and equitable initial allocation, including consideration of current and historical harvests, employment in the harvesting and processing sectors, investments and dependence on the fishery, current and historical participation of communities;

(b) consider the basic cultural and social framework of the fishery, especially through the development of policies to promote the sustained participation of small owner-operated fishing vessels and fishing communities that depend on the fisheries, and procedures to address concerns over excessive geographic or other consolidation in the harvesting or processing sectors;;

(c) include measures to assist, when necessary and appropriate, entry-level and small vessel owner operators, captains, crew, and fishing communities through set-asides of harvesting allocations;

(d) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access

privilege holder is permitted to hold, acquire, or use, and establishing other limitations as necessary to prevent an inequitable concentration of limited access privileges, and authorize limited access privileges to harvest fish to be held, acquired, used by, or issued to persons who substantially participate in the fishery.

(3) The allocations for the two existing sectors are based on landings history. Whether or not LAPP requirements apply, the Committee may want to consider whether other factors should be incorporated into the allocation formula. It is possible to develop a formula that weights landings history and other factors (e.g. DAS allocations, revenues, vessel size, permit existence). If the Committee wants to consider factors other than landings history, the Committee should first identify what the objectives are for using other factors – what concerns are the other factors meant to address?

Incorporating factors other than landings history into an allocation formula will complicate the calculation of sector quota shares. The portion of the stock that will be distributed in this way needs to be identified. At the end of the day, the formula has to return stock-specific shares. There are at least two ways to distribute the portion of the TAC that is assigned based on these other factors:

(a) Convert the factor directly into a stock-specific share. This will result in all vessels receiving a history for all stocks. Some vessels will have history for stocks that they cannot use. If trading is allowed, the resulting sector allocations can be redistributed to sectors that actually want to use the shares. This may be easier to discuss and debate than the other approaches suggested.

(b) Use the factor to scale that portion of the history that is based on landings history. In this method, the factor only influences that portion of the TAC received based on history, and as a result vessels/sectors would not receive history for a stock that they did not have a history of using. This approach may be less transparent and more difficult to develop.

Other possible mechanisms (such as converting the factor into a currency that is then used to auction off the portion of the allocation that is not based on landings history) may be too complex to consider in this action.

(4) There are logical bounds on possible baseline time periods. The current two-tier reporting system was implemented March 1, 1994 (just before the start of FY 1994). Part of the justification for this system was that data in the earlier system was incomplete, so it would seem illogical to choose a starting point prior to this date. NERO has advised that the latest year of data that can be used to determine shares for sectors that will begin fishing in FY 2009 is data from FY 2006. The logical outside bounds of the baseline period would thus be FY 1994 through FY 2006.

There are other issues to consider.

- Ideally, the baseline period should be a period when all vessels had equal access to stocks. A more realistic goal would be to use a period when management measures were consistent and landings history reflected adaptation to those measures. Unfortunately, it is impossible to identify a multi-year period with unchanging measures. Major changes in effort controls occurred in 1994 (DAS system for individual DAS vessels, year-round closures on

GB), 1996 (DAS extended to nearly all vessels), 1998-2001 (inshore closures in the GOM, gear changes, possession limit changes), 2002 (DAS reductions and changes in closures as a result of the FW 33 court order), 2004 (Amendment 13), and 2006 (emergency action and FW 42).

- NMFS published a control date on September 10, 1999, for the groundfish fishery. “This notification establishes September 10, 1999, as the control date for potential use in determining historical or traditional participation in the Northeast multispecies and Atlantic sea scallop fisheries.” This control date has not been used for the groundfish fishery and it would be difficult to justify its use now.
- Amendment 13 DAS allocations were based on landings history and DAS use for FY 1996 through 2001.
- DAS leasing was implemented in FY 2004. The treatment of landings history and DAS history in the leasing program is a mechanism to inadvertently increase effort in the fishery. Under the regulations in effect, the landings history accumulated by a vessel using leased DAS accrues to the vessel/permit catching the fish, while the DAS use history accrues to the permit that owns the DAS. A vessel that leased DAS during this period can take the catch history into the sector while the DAS remain outside the sector. In effect, one fishing trip generates two types of history (DAS and landings) that are on two different vessels/permits. If the permit with the catch history joins a sector while the permits that own the DAS remain outside the sector, the amount of catch allocated to the sector is not proportional to the DAS joining the sector (removed from the common pool). In the extreme, a vessel owner with multiple permits could take the vessel with landings history into the sector and sell the other permits into the common pool. This increases the amount of effort available to the fishery and the effect is not much different than increasing the number of permits in the fishery. As a result, measures for the common pool may have to be more stringent to account for increased effort (such as with more stringent effort controls or a hard TAC backstop). While more stringent management measures address the mortality implications of increased effort in the common pool, the economic and social consequences remain. These issues may support choosing a baseline period that is as long as possible but does not include leasing.
- Special access programs and the Category B (regular) DAS program were adopted subsequent to Amendment 13. The opportunity to participate in these programs was not evenly distributed. For example, only Georges Bank Cod Hook Sector vessels were allowed to participate in the CAI Hook Gear Haddock SAP in its first year; only trawl vessels are allowed to participate in the US/CA Haddock SAP; Category B (regular) DAS opportunities were limited in the Gulf of Maine.
- FW 41 includes the following statement for the CAI Hook Gear Haddock SAP: “It is the intent of the Council that none of the catch in this SAP will be considered part of a vessel’s catch history with respect to any future allocation of the overall haddock TAC.” If the Council complies with this statement of intent, including a qualification period that extends into FY 2004 will complicate calculation of haddock landings history.
- The experience of the two existing sectors is that there are more errors with the data in earlier years. It is possible that extending the baseline period before FY 1996 will complicate implementation because of lower quality data.

Recommendation:

(1) Given the information presented, two alternatives are offered for consideration for a baseline period (the No Action alternative must also be considered and is shown for reference). The number of alternatives that are considered should be limited, particularly if factors other than landings history are used as the basis for the allocation: the PDT suggests that if other factors are

considered, only one alternative to No Action should go forward. The calculation should be performed for all permits, including those that do not enter a sector.

(a) FY 1996 through FY 2001

- Advantages:
 - Same period used for Amendment 13 DAS allocations and first two sectors
 - Avoids possible data quality problems
 - DAS available to most vessels was less restrictive than after court order and Amendment 13
 - Reduces complications caused by DAS leasing, SAPs
- Disadvantages
 - By time of implementation, period will be almost eight years old and will not reflect current fishing activity
 - Does not take into account industry adaptations under Amendment 13
 - Does not include a period when some stocks (GB haddock, redfish, GOM cod) were more abundant than in mid-1990's

(b) FY 1996 through FY 2006

- Advantages
 - Includes more recent fishing activity
 - Includes period of improved conditions for some stocks
 - Takes into account recent adaptations under Amendment 13
 - Reduces possible data quality problems
- Disadvantages
 - Includes period with leasing and SAPs/Cat B program, which introduces complications
 - Different than period used for initial sectors and Amendment 13 DAS allocations – another reallocation of fishing privileges
 - More restrictive DAS regime since 2002

(c) No Action: For all sectors that begin operation after FY 2007, the most recent five years of landings history. (NMFS interprets the end of the five year period to be the fishing year that ends two years prior to implementation – FY 2006 for sectors that begin May 1, 2009).

(d) The PDT also briefly discussed issues associated with other periods that may be suggested:

- 2004-2006: Short period, does not reflect “historical” fishing activity, exacerbates problems caused by leasing and SAPs.
- 2002-2003: This may not be representative of fishing activity because of disruption caused by uncertainty over FW 33 court order.

(2) The Committee should consider mechanisms that prevent increase of effort in the fishery as a result of DAS leasing. Possibilities to explore include:

- (a) If the baseline period includes the years when DAS leasing was authorized, for vessels that leased DAS to vessels joining a sector, reduce the vessel's DAS baseline

based on the number of DAS leased to vessels joining sectors. In this manner the allocation of landings entering the sector will be more consistent with the DAS remaining in the common pool.

(b) If the baseline period includes the years when DAS leasing was authorized, for vessel's entering a sector, adjust landings history based on the number of DAS leased that generated that history. For example, if a vessel accumulated history and half the DAS for that history were leased, reduce landings history by half. A modification would be to apply this reduction based on the number of DAS the permit holder brings into the sector: if enough permits are brought in to remove from the common pool the number of DAS leased that generated the history, the landings history wouldn't be reduced.

(c) Truncate the baseline period to exclude the years DAS leasing was authorized (exclude FY 2004 and beyond). For example, if a long period is desired, use FY 1996 through FY 2003.

How will groundfish catch in other fisheries be accounted for?

Issue

How will allowances be made (calculated) for other fisheries that catch groundfish – recreational, scallop dredge, fluke fishery, state waters, etc.?

Discussion

(1) The groundfish plan currently has set-asides or allowances for closed area access programs in the scallop fishery as well as a bycatch allowance in the herring fishery. However, other fisheries in which groundfish are not the target also encounter groundfish that may require a set-aside.

(2) Current regulations already contain provisions that require fisheries to demonstrate that they can operate with less than 5% bycatch of regulated groundfish. Given these regulations it may not be necessary to develop additional set-asides for each non-groundfish fishery. However, the amount of bycatch of groundfish by species/stock in these fisheries would need to be estimated and deducted from the overall TAC for purposes of assigning ACE to sectors. Bycatch amounts would also need to be monitored in order to make periodic adjustments to set-asides.

(3) At this time, the yellowtail founder TAC used in the scallop closed area access programs and the haddock bycatch limit for the herring fishery would shut these fisheries down when the TAC is reached. If additional bycatch set-asides are developed will these also be used to shut down non-groundfish fisheries? If not, then set-aside must be estimated and deducted from the sector and common pool TAC which effectively makes the targeted groundfish fishery the residual claimant to groundfish.

(4) Monitoring of bycatch in other fisheries would be required to make annual adjustments to the set-aside. General classes of fisheries that may require a set-aside were identified which included recreational, commercial EEZ, and state waters fisheries.

(5) Recreational - Potential recreational stocks that may require a set-aside were evaluated using VTR data for calendar years 1996-2006. Annual kept catch by stock are reported in Table 1. Harvest of different groundfish stocks varies widely with some stocks representing a potentially meaningful contribution to fishing mortality while others are infrequently taken in the party/charter fishery. Additional analysis is necessary to evaluate MRFSS estimates of recreational harvest particularly that of the private boat and shore mode.

(6) Preliminary Recommendation – The Committee may consider developing a set-aside for GOM cod, GB cod, GOM haddock, pollock, and possibly SNE/MA winter flounder. All other species should be considered de minimus and not assigned a specific allowance. However, party/charter catches of these stocks should be monitored to identify changes in de minimus status.

(7) EEZ Commercial – Setting a bycatch allowance of groundfish in other fisheries may be accomplished by either setting a single allowance for each groundfish stock to account for bycatch in all non-groundfish fisheries or by attempting to set a bycatch allowance for each separate fishery. A third possibility may be some combination of the two where specific allowances are assigned to high profile or clearly delineated activities. Assigning a bycatch allowance for all fisheries is likely to be complicated and difficult to monitor whereas assigning a single bycatch allowance for all non-groundfish fisheries may be simpler to estimate and

monitor. This approach would also recognize that some non-groundfish fisheries have low groundfish bycatch rates making the cost of setting and monitoring bycatch allowances for every fishery unnecessarily high relative to the benefit of doing so. This approach would also likely result in less inter-annual variability in setting of bycatch allowances since it would not require an adjustment as bycatch rates in individual fisheries may be more variable than bycatch rates for all fisheries combined.

(8) Strictly for purpose of illustration, the PDT examined observer data for calendar year 2002 to 2006 to create preliminary estimates of catch per landed pound for each of the 10 regulated mesh groundfish species. A data set that included all trips where the targeted species was something other than groundfish and a series of data sets were created based on stated targeting of specific non-groundfish species. The latter included fluke, scallops, scup, black sea bass, herring, mackerel, squids, shrimp, lobster, skates, monkfish, and whiting. These data sets included trips in which these species was a target species on at least one haul.

(9) For the pooled unspecified non-groundfish target data set the number of observed trips ranged from 679 observed trips in 2002 to 2490 trips in 2005. Note that the increased trips were probably a reflection of the total level of observer coverage particularly in 2004 and 2005 and not to a major shift in targeting behavior. As noted above, the calculated bycatch rates were relatively stable even as catches of a given groundfish stock and landings of all non-groundfish species changed from year to year. Contrast this result with that of catch rates that were calculated based on fisheries identified by targeting. Calculated bycatch rates for individual targeted non-groundfish species varied considerably across target species and across years even within target species. These results serve to illustrate the potential difficulty associated with trying to assign bycatch allowances on a fishery-by-fishery basis. Note, however, that the procedures used for demonstration purposes would not be used for purposes of calculating a bycatch set-aside.

Potential issues include:

- What time period should be used to make initial estimate of allowances and what time period would be used to make adjustments?
- What is a fishery? Single species like herring and scallops are less problematic but fluke is part of a mixed-trawl fishery. To what component of the fluke fishery would a TAC set-aside apply if a fluke bycatch allowance were to be selected?
- How to assign an allowance if the assessment from which the TAC derives does not include recreational harvest?
- Does the PDT want to make a recommendation to define de minimis status for making bycatch allowances where de minimis would mean that no allowance (i.e. absence of an allowance not zero) would be assigned?
- How to expand observed bycatch rates to total catch for purposes of estimating the allowance?
- What to do about state waters fisheries?

Table 1. Summary of Annual Groundfish Kept by Party/Charter Trips (1996 to 2006)

Species/Stock	Calendar Year Party/Charter Kept Catch (numbers)										
	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006
GOM COD	204,994	181,251	342,022	241,018	304,618	535,863	263,638	196,503	188,401	151,213	93,667
GB COD	1,025,819	801,868	1,032,515	762,352	740,075	1,442,981	860,715	337,283	227,002	98,214	87,567
GOM WINTER	477	174	1,074	134	192	272	199	345	759	145	2,335
GB WINTER	3	0	0	137	8,898	80	380	167	201	34	46
SNE/MA WINTER	15,274	37,025	11,832	8,545	6,403	7,568	5,642	7,128	12,337	3,305	2,034
GOM HADDOCK	9,273	19,076	24,903	21,850	35,620	43,006	59,215	55,370	107,857	116,251	118,553
GB HADDOCK	2,012	1,675	1,334	1,459	695	933	9,079	2,440	5,114	2,995	834
CC/GOM											
YELLOWTAIL	2	32	164	1	757	3	281	0	372	0	3
GB YELLOWTAIL	0	0	0	0	0	0	0	0	2,465	0	0
SNE/MA											
YELLOWTAIL	11,355	477	32	76	192	560	189	21	85	67	0
WINDOWPANE N	0	1	3	4	2	0	1	0	0	0	1
WINDOWPANE S	986	149	489	339	86	105	22	22	32	538	6
POLLOCK	52,348	101,162	83,852	77,192	66,010	137,870	81,183	97,346	101,429	67,031	86,604
WHITE HAKE	1,684	4,667	2,345	1,430	1,459	1,734	3,481	1,730	1,612	1,521	551
AMERICAN PLAICE	411	1,020	638	559	84	52	3,369	48	636	92	41
ACADIAN REDFISH	3,543	3,040	3,647	3,850	2,340	2,565	3,100	3,947	4,602	4,007	6,402

Should sectors be allowed to trade shares? Should sectors be allowed to trade ACE?

Issue:

Generally, the PDT notes this issue may have implications on the status of sectors that can only be addressed by NOAA GC. An argument against trading shares is that these shares are determined by the landing history of vessels in the sector – trading share in essence takes away the landing history of a vessel (or vessels) and gives it to another sector. Allowing trading of ACE allows for quota balancing within a year and may promote better use of available yield. Whether sector caps apply to trading needs to be addressed.

Note: “Share” means the percentage of the TAC attributed to a permit or allocated to a sector. Annual Catch Entitlement (ACE) is used to refer the amount of catch that can be taken by a sector or permit in any given year, calculated by multiplying the share by the available catch (less any penalties and/or set asides).

Discussion:

(1) The primary reason to allow trading between sectors of either sector quota shares or ACE is to mitigate imbalances between the share/ACE portfolios of the sectors and their desired or actual catches. This may be particularly important for stocks for which a sector may have only a small allocation (e.g. GOM or SNE windowpane flounder or SNE yellowtail) and may be constrained from utilizing the ACE for their primary target species due to incidental catch of these other species. If other sectors have surplus ACE, the ability to purchase additional ACE for these species if they become constraints would alleviate this problem and would likely increase the ability of sectors to utilize a greater percentage of their allocations of their primary target species.

(2) More substantial trades of ACE might be desirable in response to shifts in the distribution of primary target species. For example if cod stocks begin to expand into or shift to areas where they have been less prevalent, it may be beneficial for sectors in the area where cod has moved to purchase ACE from sectors in other areas. The gains may be sufficient to increase the profits to both sectors. If the species shifts are long-term, a shift in permits between sectors may make sense, but trades of ACE will be useful in the interim.

(3) The need for larger trades of shares or ACE between sectors will presumably be greater to the extent that allocations depart from recent catch histories. This will be more likely if the allocation baseline includes earlier years. It may be even more of an issue if a percentage of the allocation is based on factors other than catch history (e.g. vessel capacity based on DAS and vessel characteristics). It is a separate issue how those allocations might be done. However, if for example, the sector got shares of all fish stocks in proportion to their shares of overall capacity, then they would likely receive a substantial amount of ACE they were unable to use (e.g. a Port Clyde sector would be allocated ACE for Southern New England stocks), and substantial trading between sectors would be required to allow full utilization of ACE.

(4) Allowing trading of sector shares (outside of the movement of permits with their full share portfolio intact) would create substantial complications to sector management. Under current rules sectors can effectively trade shares on an annual basis through the movement of vessels between sectors although this is problematic (see next paragraph). Assuming a fixed baseline for allocation, the entire set of shares of catch history associated with a particular vessel would move with that vessel causing a reduction in the allocation to the old sector and an equal addition to the

new one. To allow the sector to trade specific amounts of shares of particular stocks as opposed to the entire basket of allocation associated with a permit would have to allow fragmentation of the catch history from a particular permit... It is probably not the intent of the Council to do this and would increase the likelihood of triggering an ITQ referendum as well. It would also require a fairly complex registry to track the shares associated with particular vessels and sectors.

(5) It may however be useful to design rules that make it simpler for vessels to move between sectors. Currently the permit owner must declare into a sector several months in advance of the fishing year. With fixed baselines, it may be possible to allow these declarations to be closer to the beginning of the fishing year and to allow a permit declared into one sector to declare its intention to switch into another at the beginning of the next fishing year. However, it may still be necessary for vessels to declare into a sector well before the beginning of the fishing year if the sector is required to submit a NEPA analysis on the final operations plan which NMFS is required to review prior to the start of fishing.

(6) Allowing sectors to trade ACE during the fishing year is much less problematic than trading of shares and provides most of the benefits of share trading. Sectors would receive allocations of ACE at the beginning of year in proportion to the catch histories of their members relative to total catches. As is true currently, sectors would be responsible for keeping the total catch of their members within those ACE limits. A registry would need to be created that tracked the ACE allocations of each Sector. If sectors wanted to trade a portion of those ACE allocations they would jointly inform the keeper of the registry (presumably someone at the NMFS regional office) and submit a form recording the trade with signatures of both sector managers. Sector managers would then need to ensure their sector's overall catches remained within the revised ACE allocations reflecting the trade. To account for unexpected catches of stocks for which the sectors have only small allocations, it might be useful to allow sectors to make ACE trades retrospectively up to the end of the fishing year or even for a period of a few weeks after the end of the fishing year. This could allow a clearinghouse at the end of the year to allow sectors with small overages to trade with others with excess ACE. To avoid this leading to substantial overages, limits should probably be set on how much a sector's catch can exceed its ACE allocation before it has to stop operation. These might be in terms of absolute (poundage) and/or as a percentage of the sectors ACE allocation. Alternatively, sectors might have to shut down immediately once they have any overage at all until they can acquire more ACE. The problem of small unexpected catches of species for which the sector has no catch history could also be mitigated by providing all sectors with "de-minimis" allocations. This would probably be unnecessary though if the allocation method is not based solely on catch history.

(7) If ACE trading between sectors is allowed, each sector will have to designate an individual (presumably the sector manager) who is authorized to trade ACE for the sector. The sector operations plans would need to spell out internal procedures for decision on whether and what ACE to trade.

(8) Language in the Magnuson reauthorization (Section 303A(c)(5)(D)) appears to require the Council to set limits on the share of ACE that any LAPP holder could control or use during a fishing year as well as the long-term shares of stocks controlled by an individual.

“(D) ensure that limited access privilege holders do not acquire an excessive share of the total limited access privileges in the program by—

- “(i) establishing a maximum share, expressed as a percentage of the total limited access privileges, that a limited access privilege holder is permitted to hold, acquire, or use; and
- “(ii) establishing any other limitations or measures necessary to prevent an inequitable concentration of limited access privileges;

If sectors were considered individuals legally, this might apply to sectors. However, it is not clear that this is the case. If limits are set either for individuals or sectors, the limits could be the same for both shares and ACE. This would mean a sector that already had the maximum share of a stock would not be able to purchase more ACE than they were allocated at the beginning of the year.

Recommendations of share and ACE trading between sectors:

- (1) The Council should seek assurance from NFMS that allowing trading of ACE between sectors will not result in Sectors being considered ITQs requiring a referendum.
- (2) Transfers of ACE between sectors during the fishing year and up to 2 weeks after the end of the fishing year should be allowed
- (3) Sectors should be required to cease operation in all areas where a given species stock exists once the Sector’s catch of that species stock exceeds its ACE allocation by more than X% or once the overage is more than X% of the overall TAC. Overages of up to X% of the sector’s initial ACE allocation or X% of the TAC that are not addressed through a transfer of ACE from another sector within 2 weeks of the end of the fishing year will be deducted from the ACE allocation of the sector the next year. The intent of this provision is to prevent sectors (as a group) from catching more than the total sector allocation, while allowing some ability to exchange ACE to account for unintended overages. The design of this provision will need to be coordinated with the following recommendation to prevent the possibility that the overall sector TAC will be exceeded.
- (4) Once the aggregate catch of a species for all sectors is close to the aggregate allocation of ACE to sectors for that species (e.g. 95% of all ACE used), retrospective quota balancing will not be allowed (that is, acquiring additional ACE after a sector catches more than its allocated ACE). Sectors with catches of that species that exceed their ACE allocation should be required to cease operation in that stock area until they can acquire ACE for that species to balance their catch.
- (5) The Committee should consider whether it is necessary or useful to set limits (as a percent of the TAC) of how much ACE one individual can utilize within a fishing year, but, exemptions should be provided for individuals with shares that exceeded these limits at the time the regulations are enacted. These limits should apply to individuals’ within Sectors but not to overall shares or ACE held or used by sectors.
- (6) The Committee should discuss whether limits should be set on how much ACE a sector can utilize or hold during a fishing year. The PDT is not recommending for or against limits – only that the Council should discuss this issue.
- (7) Sectors should not be allowed to transfer quota shares (e.g. long-term shares of TACs) since the sector does not have a long term right to those shares (as they are based on its members permits and members can leave sectors). Transfers of shares between sectors will be possible only through movement of permits between sector and the complete portfolio of shares associated with that vessel. However, a process should be set up to facilitate movement of permits between sectors on an annual basis.

Sector Monitoring

Issue:

With 17 new applications on the table, the NEFMC must develop accurate and standardized monitoring and accountability measures for Sector management. How will a network of Sectors accurately monitor landings and discards in a timely and transparent manner?

Discussion:

(1) New England appears to be moving from an input system to an output system. Output management systems require much more certainty regarding landings and discards in order to function. Furthermore, incentives to discard in quota managed systems are heightened, especially as individuals or groups approach their annual catch entitlement (ACE). It is clear that verification or catch reporting and additional monitoring measures are needed to ensure full compliance. Under sector management, landings, information is required in both a timely and transparent manner. The current system is not designed to monitor sector specific discard rates. Given the recent submission of numerous Sector proposals for approval by the New England Fishery Management Council (Council), it is advisable that Sector monitoring be standardized or at least of consistent quality across sectors.

(2) Accurate and precise monitoring of each sectors' catch (not just landings) is essential but currently unavailable. Presently, federal fisheries observers are only present on less than 10% of trips that are taken to catch groundfish. The observer program addresses a number of priorities besides discard monitoring and these priorities change over time as does the coverage rates of specific fleet sectors. These low and variable observer coverage rates are unlikely to provide accurate estimates for 18 total sectors. There is a need for an observer program or component of it that is dedicated to sector monitoring. It may be useful to have a completely separate program as the objectives of the current observer program and a sector observer program may be quite different. It is likely that an effective monitoring program can be designed with a combination of human observers, electronic monitoring, and industry cooperation. Design of the monitoring program and control of its cost will be facilitated if sectors require their members to retain all groundfish (i.e. no discarding).

(3) Current Sectors rely on the Sector Manager to monitor the amount of fish caught. This is done through a sector specific and tailored program of electronic vessel trip reporting, electronic dealer reporting, video monitoring, electronic federal observer reporting, and an internal Sector observer program. However, as Sectors continue to develop and increase in New England, a standardized monitoring program should be developed. Considerations include:

- Cost of a robust program
- Burden of cost
- Role of technology
- Role of human observers
- Balance between technology and human observers
- Designated ports of landing with third-party verification
- Designated dealers allowed to accept sector catch
- Requirements to hail before landing
- Private Sector monitoring companies as alternative to the current NMFS program
- Mandatory establishment and use of baseline discard data
- Recognition of differences between fishing gear and scale of operation

(4) Monitoring programs could be provided by a third party contracted by the Sectors themselves, and funded through fees or taxes levied against the members. Federal and/or private assistance should be sought but not relied upon. NMFS should set performance standards for monitoring and reporting programs, but allow some flexibility in how they are achieved and allow for provision of these services by a third party contracted by the sectors.

(5) The need for intensive monitoring (particularly of discards of legal size fish) relates to the relative strength of incentives individuals have to discard or misreport catch. Policies that provide a means to land catch for which an individual or a sector does not have adequate ACE to balance without large financial penalties could substantially reduce these incentives. For example, ability of sectors to purchase ACE from other sectors would do this. Ability to land but surrender catch without it counting against ACE would also do this, but could lead to catches exceeding TACs. Another option would be to hold back a pool of ACE which individuals/sectors can access at a fixed charge low enough to remove incentives to discard or misreport but high enough to remove incentives to target species for which the individual and sector have insufficient ACE. This latter option could be done by sectors internally by sectors as a group assuming ACE trading is allowed.

Suggested components of a monitoring and reporting system:

1. Landings

- Third-party (weighmaster) observation of offloaded fish for verifying landings data
- Sector Managers must have a protocol developed for monitoring ports in which Sector vessels land, and vessels must declare an off-loading location before landing
- Real-time (24 hour) electronic dealer reporting
- Accurate attribution of landings to specific stock areas.
Without complete observer coverage it may be necessary to prohibit trips in more than one area.

2. Discards

- Accounted for with additional human observers via the Federal At-Sea Observer Program
- Accounted for with additional human observers via a Sector Observer Program (potentially provided by a third party to all sectors)
- Monitored through the use of video imagery
- Electronic Vessel Trip Reporting (EVTR) provides real-time data

3. Timeliness and Transparency

- Data must be available in real-time, in order to allow for the most-informed management and monitoring decisions
- A publically -accessible website with weekly updates (landings, discards, observer coverage rates, etc) would be optimal

Recommendations

- NMFS should set performance standards for monitoring and reporting programs, but allow some flexibility in how they are achieved and allow for provision of these services by a third party contracted by the sectors.

- It may be useful to set up a separate observer program dedicated to sector monitoring. This could be a private company with observers contracted for directly by sectors. NMFS would provide oversight.

What is the impact of sectors on designing measures for common pool vessels

Issue: Sector applicants are not required to identify sector participants until their operations plan is submitted in advance of the fishing year. Sector members can also chose to exit the sector in subsequent years. This may make it difficult to design and evaluate effort controls for common pool vessels.

Discussion:

(1) The Groundfish PDT uses the Closed Area Model (CAM) to evaluate the biological and economic impacts of DAS, closed areas, and trip limits. The key data inputs to the model include average CPUE by gear and vessel size for each month-block combination and the allocated DAS available to each individual vessel. For the model results to be reliable, DAS allocations and the composition of vessels should similar to the composition of the fleet that will be subject to the effort controls adopted. This was not a concern when nearly all vessels were subject to effort controls. Even the GB Cod Hook Sector and Fixed Gear Sector were limited by DAS for catches of stocks other than GB cod. This will be more of a concern with the increased number of vessels that may join sectors.

(2) When applying the CAM, the composition of the fleet to be subject to DAS controls matters in two respects. First, DAS allocations affect regulatory design, because DAS, as a management tool, is influenced by the existence of latent effort. Even though Amendment 13 made significant strides in reducing latent effort, it did not eliminate it. The existence of latent effort meant that the DAS components of FW42 were more restrictive than would have been necessary if there were no latent effort. If the majority of vessels with latent DAS join a sector, then the DAS controls for the common pool will be more effective which could dampen the need for any across-the-board DAS reductions, if necessary, and would reduce the need to include ancillary measures such as trip limits and/or area closures. By contrast, if much of the latent effort does not choose to join a sector then the DAS controls will be less effective, meaning across-the-board DAS reductions would need to be larger and/or other ancillary measures will have to be more restrictive. Second, the fleet composition matters since total catch is affected by DAS and CPUE. The effect of the former has already been noted. The effect of the latter depends on whether the DAS pool is more or less productive than vessels that choose to join a sector. If, for example, the common DAS pool is comprised of mostly small vessels DAS measures would be more effective since the average CPUE for small vessels is less than that of larger vessels. That is, a DAS reduction, if necessary, would likely be lower than if the fleet is comprised of predominately larger vessels.

(3) For the reasons noted below the PDT does not know the vessels (permits) that will actually join a sector. While Amendment 13 says that sector proposals must include a list of all participants and a signed contract indicating their agreement to participate in the sector, this requirement has not been applied to the initial application to the Council. This will make it difficult to determine what effort controls will be needed on implementation because the number, type, and area fished of the common pool vessels will be unknown. Second, the vessels that are in the sector one year may not be the same vessels that are in the sector the following year because permits are allowed to freely move between sectors and the common pool. This weakens the assumption that measures that work the first year will in fact meet mortality objectives the second year. If there is extensive movement between sectors and the common pool on an annual basis, it may be necessary to revisit common pool effort controls each year.

An example illustrates this problem. Assume that all offshore trawl vessels join a sector in year one and effort controls are designed on this basis. As a result, there may be less need for trip limit on offshore stocks. If a number of these vessels leave sectors in year two, common pool fishing on offshore stocks would probably increase and there is less certainty that the measures will continue to meet mortality objectives. Indeed a reevaluation of the DAS measures would probably be necessary.

(4) An additional complicating factor is that it is possible all sectors considered may not be approved, or may not choose to operate.

(5) The potential problems described will likely depend on what ACL and AM's will apply to the DAS pool. If, as has been the case in the past, the DAS pool will be subject only to a target TAC with adjustments to be made in the following fishing year then keeping track of entry and exit from the DAS pool may be important as will annual adjustments to DAS. If the ACL for the DAS pool is a hard TAC backstop then the effect of entry and exit into the DAS pool may be less of a concern with respect to achieving biological (mortality) objectives.

Recommendations:

(1) Development of DAS measures for the common pool will be facilitated if a binding declaration into a sector is made early. Given the need to develop alternatives for a June DSEIS such a declaration would probably need to be made by March, 2008. The PDT recognizes this recommendation is problematic:

(a) There isn't a mechanism to incorporate this recommendation into the regulations and it is unlikely NMFS would be willing to implement this requirement as internal NMFS policy.

(b) Vessel owners may be unwilling to make a binding commitment to a sector more than a year in advance of implementation, particularly since stock status, reference points, and common pool management measures will be unknown. In addition, there may still be unresolved questions on the interpretation of recent changes to the M-S Act (applicability of LAPP provisions to sectors, cost recovery, etc.).

(2) Adopt a hard TAC backstop for common pool vessels, while designing effort controls to reduce the likelihood the hard TAC backstop will be binding. While this addresses concerns that the effort controls will be incorrectly designed and will not achieve mortality objectives, it does not resolve the difficulty in designing measures for an unknown group of vessels and in accurately predicting the economic, habitat, and social impacts of the amendment. It may also lead to a derby between vessels in the common pool, particularly if the management measures are not correctly designed.

How is landings history treated within a sector?

Issue: Some vessels in a sector may not fish, yet the share they bring to the sector contributes to the sector share.

Discussion:

(1) One of the key advantages of sectors may be to allow sectors to consolidate fishing on a subset of their members' vessels to reduce fixed costs and improve efficiency. Sectors may also allow some vessels to specialize (e.g., focus on harvesting underutilized stocks) while other vessels pursue other stocks. However, individuals may be reluctant to do this if the catch history is accumulated by the vessels that actually land the catch.

(2) Fixing the baseline for sector allocations partially mitigates this problem as long as sectors are the only means by which individuals can utilize catch history to generate catch opportunities. Relative to the current rolling baseline for sector allocation, the fixed baseline creates more security for individuals who effectively make their ACE available to other member of the sector thereby facilitating consolidation within the sector and reduction of fixed costs. It also allows for the possibility of sectors creating permit banks that generate ACE for sector members without those permits being devalued over time through. There is, however, still a lack of security since there is no guarantee that more recent catch or effort history will not be used in some future allocative actions (e.g. if ITQs or the point system is implemented in Amendment 17 with allocations based on years later than those used for sector allocation.). This concern might be alleviated by setting a control date for catch and effort history years that can be used in future allocative actions (e.g. they would not be based on years later than the control date which would presumably be either the current date or a past date). A control date would increase the level of security, but control dates can be rescinded by a future Council.

(3) Another option would be to specify by regulation that, for vessels enrolled in sectors, their catch (or other historical allocation factors such as effort or capacity) as a percentage of the total commercial catch (or other history based allocation factors) would be assumed to remain fixed while they were enrolled in the sector (e.g., if the share of the GOM cod TAC their permit contributed to a sector's allocation were 1% of the total their history for the purpose of future allocations would be recorded as 1% of total commercial catch for the years they were in the sector). This would protect individual in sectors whose catch was less (as a percent of total commercial catch) than it was in the baseline period. It would also means that Sector's and individuals' in sectors that do not catch their full ACE will not see their future allocation share reduced. However, it would also protect non-sector vessels from the possibility that sector vessels could accumulate greater catch histories (in percentage terms) because of regulatory advantages such as removal of effort controls that allow them to catch a higher percentage of their ACE allocations.

(4) An alternative would be to allow sectors to specify in sector contracts how the catch history of the sector as a whole would be distributed amongst its member permits. This, however, would create a good bit of additional complexity for the Regional Office and would not protect either the sector or the common pool vessels from redistributions resulting from either sector or non-sector vessels having an advantage in building catch history.

Recommendation on Treatment of Catch History:

Declare in regulations, that, for the purpose of future allocative regulatory actions, the catch history individual vessels participating in sectors, will be assumed to have been equal (as a percentage of each TAC for which sector allocations were made) to the share of those TACs those vessels contributed to the sector allocation during the period they were enrolled in the sector. The same would be true for other allocation factors such as measures of effort or capacity.

Should a sector be required to have a hard TAC for all groundfish stocks?

Issue

Should sectors need a hard TAC for all groundfish stocks? Are there exceptions that can be dealt with in another way?

Discussion

(1) The Council motion is consistent with a hard TAC for all groundfish stocks. In general the prospect of changing membership further makes this a desirable requirement as does the likelihood that stocks of concern will change over time. One might expect sectors wanting to diversify by being able to fish in multiple stock areas. That is, the Council needs to anticipate the likelihood that unlike present sectors, new proposals or for that matter future sectors will be more diversified. At issue is how to deal with situations where a given sector receives only a small allocation or no allocation at all of a particular species or stock. The PDT identified at least three situations that may need to be addressed.

- Will a sector be allowed to operate in an area with zero qualifying share of a species/stock? This situation might arise either because members did not catch, or caught but did not land, any of a given species/stock in the baseline period.
- What happens in situations of zero baseline share for single stock species whose range does not extend to all stock areas (Acadian redfish, for example).
- Are there de minimus stocks (Atlantic Halibut, for example) for which few vessels have any landings at all that may need to be dealt with differently?

(2) At this time the PDT does not know the potential magnitude of the problem of low or zero shares for any given species. The problem will be reduced the longer the qualification period, and the larger the number of vessels included in a sector. That is, one would expect a more diversified portfolio of sector shares with more vessels and one would expect history to be more diversified the longer the qualification period.

Recommended Alternatives

- Sector shares for stocks like Atlantic halibut and ocean pout as well as others that may become part of the groundfish plan (wolfish and cusk) should not be required. This means that the Council's original motion to require allocations for all groundfish stocks may need to be revisited. This would also require development of specific management measures for these species.
- De minimis allocation – any sector could be awarded a de minimus allocation
 - What level to allocate? A fixed quantity or scaled to sector size?
 - Creating allocation would require a deduction from allocation to other sectors and the common pool.
- Quota balancing through transfer from another sector
 - Theoretically possible but who “owns” sector quota? Will the sector manager have the authority to sell off part of a sector's portfolio? Sector operational plans may need to specify whether transferring of quota will be allowed and what person is authorized to enter into an agreement with another sector to effect the transfer.

Sectors and US/CA Area TACs

Issue: Sector allocations for GB cod, haddock, and yellowtail flounder do not include an allocation of part of the US/CA TAC for Eastern GB cod and haddock, and GB yellowtail flounder. This makes it possible for sectors and common pool vessels to affect each other's access to the US/CA area.

Discussion:

(1) The two existing sectors received a TAC for GB cod, but this did not guarantee them a share of the TAC for Eastern GB cod in the US/CA area. The sectors lost access to the Eastern Area when the area was closed when the cod TAC was approached.

(2) Amendment 16 may adopt additional sectors, and will almost certainly require that sectors be limited by a hard TAC for GB cod, haddock, and yellowtail flounder. The possibility exists that the sectors might be unable to harvest their share of these resources because of regulatory changes implemented to prevent the fishery from exceeding US/CA TACs. It is also possible that the opposite could occur: sectors might catch their shares rapidly enough that regulations for common pool vessels are changed in order to keep total catches below the TAC. For example, the total sector shares may be large enough that the sectors could catch enough in the Eastern Area to close that area to common pool vessels.

(3) The lack of US/CA area specific TACs could encourage a race to fish between sector and common pool vessels. This weakens one of the advantages of sectors – that they have more responsibility for their own access to the fishery without impacting the common pool vessels.

Recommendations: The PDT identified one ways to address this problem.

(1) Provide a specific allocation to each sector for US/CA stocks (Eastern GB cod and haddock, and GB yellowtail flounder) and for the portion of GB cod and haddock that can be caught outside the Eastern US/CA area. Measures for common pool vessels would be implemented based on the common pool's progress in catching the total US/CA TAC less the portion allocated to sectors. Initial allocation of US/CA area shares would have to be addressed. This could be based on history (consistent with other stock allocations).

Advantages:

(1) Isolates the impacts of each group's behavior in the US/CA area from the other group.

Disadvantages:

(1) Adds additional stocks to quota monitoring for sectors.

(2) Each sector's catch of GB cod, haddock, and yellowtail flounder would be area specific, providing an additional constraint on sector operations.



#11

New England Fishery Management Council

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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

MEMORANDUM

DATE: August 28, 2007
TO: Multispecies (Groundfish) Oversight Committee
FROM: Groundfish Plan Development Team (PDT)
SUBJECT: **PDT Conference Call, August 21, 2007**

1. The PDT held a conference call on August 21, 2007. The PDT discussed several issues related to sectors and effort control measures being considered by the Committee. Members participating in the call were Tom Nies (NEFMC), Tom Warren and Doug Christel (NERO), Paul Nitschke (NEFSC), Kohl Kanwit (Maine DMR), Dan Holland (GMRI), and Paul Parker (Advisory Panel Chair). Three members of the public listened to the call – Maggie Raymond, Vito Giacalone, and Jackie Odell

Sector Policy Issues

Exit from Sectors

2. The question was raised by the Council whether current regulations are sufficient to hold sectors accountable for exceeding the sector's TAC if members depart the sector or if the sector disbands. A related issue is whether individual permits should be held accountable for a sector's overage if they choose to depart the sector the following year.
3. Existing regulations do provide for deducting a TAC overage by a sector from the subsequent year's TAC. NOAA General Counsel advised that the regulations may not be sufficient to address the situation where either a sector completely disbands, or enough vessels depart the sector that there is insufficient TAC to address an overage. While this could be viewed as an issue between a sector and its members – and thus amenable to a solution adopted by each sector through an operations plan or sector contract – there may be value in a regulatory solution since this is a potential issue for all sectors. The PDT identified four possible solutions:
- a. Require a long-term commitment to the sector (e.g. five years). In addition to helping to address the concern about overages, this may yield additional benefits to sector management. It will increase the commitment of individual permits to the sector.

- b. Require an intermediate term commitment, such as a rolling two-year commitment. This would make sure permits stay with the sector until an overage is paid back, while avoiding the lack of flexibility of a long-term commitment.
- c. Require a permit to remain with its original sector until an overage is paid back. Under this approach, it may be desirable to set a tolerance so that a small overage does not restrict permit movement.
- d. Devise an overage penalty that follows a permit whether the permit remains within the sector, changes to a new sector, or leaves the sector for the common pool. The concept is that a vessel incurs a responsibility for a sector's performance and does not evade that responsibility by leaving the sector. As an example, if a sector loses 10 percent of its allocation due to an overage, any vessel leaving the sector also loses 10 percent of its fishing opportunities. Such an adjustment could be applied to DAS if the vessel returns to the common pool, or to the allocation of a sector if the vessel join a different sector. This could be complicated to administer.

4. The PDT noted that current regulations do not explicitly state whether the penalty assessed for an overage is calculated in terms of pounds or in terms of the share of the sector's allocation. It may be advisable for the Committee and the Council to clarify that issue. The advantages and disadvantages of each approach are summarized below. In a situation of declining TAC, the use of percentage may advantage a sector with a relatively large overharvest. Using percentage to deduct the overharvest, the overall TAC needs to be lower before sector will face a situation where they have insufficient TAC to cover their overharvest. Using percentages, there will always be sufficient TAC to make deductions for overharvest. A combined approach would deduct whichever method gives the largest deduction.

Comparison of Methods of Deducting Overharvests

Metric Tons	Percentage
Simple, direct	More complex, indirect
Amount of deduction relates directly to the amount of overharvest, without regard to overall TAC size and does not take into account change in stock size	Amount of deduction relative to overall TAC size, and takes into account change in stock size
If TAC declines the following year, the deduction is more (mt) , leaving relatively more fish available for harvest rebuilding biomass	If TAC declines the following year, the deduction is less (mt), leaving relatively less fish available for rebuilding biomass.
If TAC increases the following year, the deduction is less (mt), leaving relatively less fish available for rebuilding biomass	If TAC increases the following year, the deduction is more (mt), leaving relatively more fish available rebuilding biomass

Illustration of Deductions by Weight and by Percent under 3 Scenarios

TAC Scenario	Year 1	Year 2					
		Overall TAC Same		Overall TAC Decline		Overall TAC Increase	
Deduction Method		By Weight	By Percent	By Weight	By Percent	By Weight	By Percent
(A) Overall TAC	100 mt	100 mt		80 mt		120 mt	
Initial Allocation	25 % 25 mt	25 % 25 mt	25 % 25 mt	25 % 20 mt	25 % 20 mt	25 % 30 mt	25 % 30 mt
Deduction	-	10 mt	10 % of 100 mt = 10 mt	10 mt	10 % of 80 mt = 8 mt	10 mt	10 % of 120 mt = 12 mt
(B) Net Allocation	25 mt	15 mt	15 mt	10 mt	12 mt	20 mt	18 mt
Catch	35 mt	-	-	-			
Overharvest	10 mt (10% of 100 mt)	-	-	-			
(A) – (B) Total TAC minus sector allocation	75 mt	85 mt	85 mt	70 mt	68 mt	100 mt	102 mt

Illustration of Overharvest by 3 Sectors, with a Declining TAC

TAC Scenario	Year 1			Year 2			
(A) Overall TAC	100 mt			56 mt			
	Sector 1	Sector 2	Sector 3	Sector 1	Sector 2	Sector 3	
Initial Allocation	25 % 25 mt	25 % 25 mt	25 % 25 mt	25 % 14 mt	25 % 14 mt	25 % 14 mt	
Deduction				Wt 20 mt	% 20 % of 56 mt = 11.2 mt	Same	same
				Insufficient TAC	Small TAC		
Total Deduction				By Weight: 60 mt Deductions from Sectors larger than overall TAC	By Percentage: 60 % of TAC		
(B) Net Allocation	25 mt	25 mt	25 mt	zero	2.8 mt		
Catch	45 mt	45 mt	45 mt				
Overharvest	20 mt (20 % of 100 mt)	20 mt (20 % of 100 mt)	20 mt (20 % of 100 mt)				
Total Overharvest	60 mt 60 %						

Simplifying sector submissions/multi-year authorizations

5. The PDT reviewed NERO internal policy that guides sector submissions. NERO is considering a regulatory change that would remove the requirement for a proposed rule prior to approval of the sector operations plan. The approach would be similar to the EFP review process and would still provide an opportunity for Council and public comment. This change does not require Council action.

6. The Council may want to consider allowing submission of a multi-year Operations Plan if membership and operating rules do not change. This would lessen the administrative burden for both sectors and the government. If sector membership changes substantially, or the operating rules change, the sector would have to submit a new operations plan.

7. NERO recommends that the deadline for submitting operations plans and supporting documents be moved to December 1 in order to facilitate review. This requires a change to the management plan.

Hard TAC for all stocks

8. Further work on this issue included a review of the number of vessels that sold six species (Table 1). Five of the species were selected because landings are relatively low, while cod is included in the table to contrast these species with a valuable, widely distributed species. Note that these data may include vessels that caught regulated groundfish in state waters (legally) without a groundfish permit. Three of the species (pout, windowpane, and halibut) have relatively few vessels with a landings record in the dealer data. Indeed, in recent years it appears that the number of vessels selling pout was less than ten percent of the number of vessels selling cod.

Table 2 summarizes recent landings for five of these stocks. Pout landings have been less than 100 mt since 1996, yet GARM II includes information that pout discards may have exceeded landings by an order of magnitude. This species may illustrate the worst case: few boats with history, but apparent widespread discarding. Sectors that are unable to attract permits with pout history may have fishing opportunities limited by pout, a fish with limited market value. In the case of halibut, there seem to be a number of vessels landing the fish but total landings are small. The two windowpane stocks also had low landings in recent years but substantial discards – landings alone may not accurately reflect catch history.

Table 1 – Number of permits selling six species in each calendar year (NMFS dealer data)

CALENDAR YEAR	POUT	WINDOWPANE	HALIBUT	CUSK	WOLFFISH	COD
1996	157	391	192	518	718	1139
1997	124	396	192	485	696	1129
1998	143	372	229	522	720	1177
1999	130	341	252	463	634	1089
2000	91	339	174	470	654	1099
2001	72	264	176	478	619	1185
2002	68	217	208	437	582	1106
2003	62	214	218	447	546	999
2004	45	229	200	413	478	857

Table 2 – Landings of five stocks, 1996-2004, metric tons (GARM II, NEFSC Status of Stocks)

Year	Pout	Windowpane, N	Windowpane, S	Halibut	Cusk	Wolffish
1996	51	700	200	25	1031	363
1997	33	418	107	28	1152	309
1998	17	396	123	17	1180	296
1999	18	46	116	20	691	257
2000	19	142	126	17	689	200
2001	18	45	128	22	941	250
2002	12	12	85	20	826	155
2003	23	17	47	31	745	129
2004	5.4	25	44	25	632	119

9. These data highlight the problem with requiring sectors to have a hard TAC for every stock caught. For pout – a widely distributed species caught by many different gear types – it could be argued that if a hard TAC is to be used, basing the allocation on landings history may not be appropriate since discards account for most of the catch (discards cannot be estimated for individual vessels). If a TAC is not allocated to all stocks it may be difficult to design effective mortality controls as a replacement.

10. Another issue is that there are stocks for which a TAC cannot be calculated (GOM winter flounder, halibut). The stocks for which this is a concern may change after GARM III. It may be necessary to specify an arbitrary catch level to distribute the catch of such stocks to sectors.

11. The PDT will explore ways to address these issues. Some ideas that have been identified include:

- Do not specify a hard TAC for some stocks, but monitor landings and provide regulatory authority to implement a TAC quickly if necessary. The process might be similar to the one used to adopt Eastern US/CA Haddock gear standards (a Council recommendation followed by NMFS implementation, consistent with the APA).
- Require a hard TAC for all stocks unless a specific sector can demonstrate a method to avoid the stock. This might include gear requirements, time or areas of fishing, or other practices.
- This may be less of an issue if permit history calculations include factors other than landings history, and if ACE can be traded between sectors.

Groundfish Catches in Other Fisheries

12. The Committee directed the PDT to examine groundfish catches in exempted fisheries and report at the September 5 Committee meeting. Kohl Kanwit, Tom Nies, Doug Christel, Tom Warren, and Paul Nitschke will coordinate on this analysis but it will not be completed by the Committee meeting.

Sector Baseline Calculations

13. The Committee developed an alternative to include used DAS in the permit history calculation. The PDT identified three alternatives to incorporate this information into the calculation. The descriptions of the calculations are in attachment (1). The three alternatives have different effects. The Committee should choose which one of these alternatives they wish to include in the Amendment.

Alternative 1: For the time period selected, the DAS used by a permit are divided by the DAS used overall. This provides a factor for each permit that is combined with landings history based on the weighting factor. The result is used to allocate a portion of every stock to every permit.

Example: A vessel used DAS in the GOM and landed only GOM cod. It receives history for all stocks in all stock areas.

Alternative 2: For the time period selected, the DAS used by a permit in a stock are divided by the DAS used overall in that stock area. This provides a factor for each permit that is combined with landings history based on the weighting factor. The result is used to allocate a portion of the stocks in the area permit fished by the permit. For species with multiple stocks, a permit only gets allocated a share of the stocks in the area fished (even if the vessel does not

have any landings of that stock). For species with a single stock, the results are identical to Alternative 1.

Example: A vessel used DAS in the GOM and landed only GOM cod. It receives history for all GOM stocks (GOM winter flounder, GOM haddock, GOM cod, CC/GOM yellowtail) as well as single-stock species (redfish, plaice, pollock, etc.). It does not receive history for GB cod, GB winter, etc.

Alternative 3: For the time period selected, the DAS used by a permit are divided by the DAS used overall. This provides a factor for each permit that is combined with landings history based on the weighting factor, but only for those stocks caught by the permit. The result is used to allocate a portion of the stocks that the permit caught. The permit does not get history for stocks it did not catch.

Example: A vessel used DAS in the GOM and landed only GOM cod. It receives history for GOM cod but no other stock.

14. An exploratory analysis was performed to illustrate the impacts of these alternatives (attachment 2). To summarize the results, all three alternatives are possible to calculate and are internally consistent (that is, shares sum to 100 per cent). When compared to determining history based on landings alone, all three alternatives shift history from efficient vessels to less efficient vessels. This happens at every level of total catch: as an example, a vessel that has a relatively high ratio of cod landed to DAS used will lose history to a vessel with a lower ratio of cod caught to DAS used, with little regard to total cod landed. The more heavily DAS are weighted, the more catch is shifted.

This preliminary analysis does not explore the impacts of this approach across different stocks. For example, boats that lose cod history may gain history for other stocks. It is also likely that the shift in history will be more pronounced for those stocks landed by relatively few vessels but caught in areas where many vessels fish (e.g. redfish).

15. It is not clear if this result is consistent with the Committee's intent for this history computation. For the three different alternatives to incorporating DAS, Alternative 3 is less consistent with the Committee's stated intent that incorporating used DAS is meant in part to account for vessels that used DAS but avoided unhealthy stocks. This is because in Alternative 3 the used DAS only affect history for stocks that the permit landed.

16. Incorporating used DAS into the history calculation may affect limited access permits in categories that do not use DAS (handgear A, small vessel limited access).

Effort Controls

17. The PDT reviewed the effort measures identified by the Committee. The PDT qualitatively evaluated whether each measure was a mortality control and could be analyzed. This evaluation does not supersede the PDT's caution that effort control measures will be difficult to design and analyze since the pool of vessels subject to those measures is uncertain. The PDT's summary is in attachment (3).

Other Business

18. The PDT tentatively planned to meet in September. Topics will include setting of TACs or ACLs. The NERO Statistics Office also asked to meet with the PDT to describe in-season catch monitoring.

Combining Used DAS and Landings for Permit History

I. Landings history

- A. Determine stock-specific landings for each permit for each fishing year. (This will allow us to combine different fishing years should the Council change the periods they want to consider).
- B. For a given period, add up the total stock specific landings and each permit's stock-specific landings.
- C. To determine each permit's share based on landings history, divide the permit's stock specific landings for the period by the total stock-specific landings for the period. The result will be a percentage share for each permit.

II. DAS Used History

Alternative 1: Used DAS without regard to stock-specific landings history

- A. Divide each permit's used DAS by the total used DAS for that time period to get a share.

Alternative 2: Estimate the DAS used in each stock area.

- A. For each permit, match the DAS used on a trip to the statistical areas fished on that trip. For each permit, calculate days absent in each statistical area from the VTR. Use this result to apportion the DAS used from the DAS database to the statistical areas fished by the permit.
- B. For each stock area (that is, combination of statistical areas), sum the DAS calculated for each permit. Divide the number of DAS each permit used by the total used for that stock area to get a DAS factor.

Alternative 3: Used DAS applied only to stocks caught by a permit

- A. Determine stock-specific landings for each permit.
- B. Determine DAS used for each permit. Do not calculate DAS by area – just get the total DAS used from the DAS database.
- C. For each stock, calculate the total DAS used for that stock. Only count the DAS used by a permit for which that permit had landings.
- D. Divide the DAS used by each permit by the total DAS used, for each stock.

III. Combining landings and DAS elements

A. If Alternative 1 is used for the DAS factor, the DAS factor is combined with the landings factor for all stocks. Each factor is weighted as suggested by the Committee.

B. If Alternative 2 is used for the DAS factor, the DAS factor is combined with the landings factor for stocks that are in the areas fished by the permit, whether or not the permit had a history of landing that stock. Each factor is weighted as suggested by the Committee.

C. If Alternative 3 is used for the DAS factor, the DAS factor is combined with the landings factor for stocks that the permit has a history of landing. It is 0 for other stocks. Each factor is weighted as suggested by the Committee.

Preliminary Assessment of Including DAS Factors In Species/Stock Shares for Sector Allocation

The Groundfish Committee voted to include a factor to adjust history-based landings shares by used DAS. The Committee voted to consider two alternative that would weight used DAS and historical landings; one in which weights would be 50%/50% and another than would weight landings history by 75% and DAS history by 25%. The Committee did not decide how DAS history for any given species/stock would be calculated. The PDT developed three DAS history alternatives where the landings history share would be calculated as recommended by the Committee. Alternative 1 would result in a stock share for all vessels that used a DAS regardless of whether any given vessel landed the species or even fished within the stock area. In this manner every qualifying vessel would receive a share of every species/stock. Alternative 2 would result in a stock share for any vessel that actually fished in a stock area regardless of whether the vessel would qualify for a landings history share or not. Alternative 3 would result in a stock share only for vessels that had a landings history share greater than zero by adjusting the landings history share by the DAS factor. An assessment of these three alternatives was conducted to determine the following:

1. Does each alternative result in a stock share that when summed across permit holders is equal to one?
2. How many vessels would receive an allocation under each alternative?
3. Are there any notable implications of including a DAS factor?

Data – To address these questions a simplified data set was constructed. These simplifications were:

- Qualifying vessels from permit year 2006 – most recent complete fishing year
- Used CY2001 – reduced number of data sets that had to be merged and represented the peak landings year over any of the qualifying years.
- Used Call-in data for 2001 – later years complicated by different DAS data-bases
- Used only VTR – assignment to stock area required use of VTR anyway so simplified by using reported pounds from VTR rather than attempt to prorate dealer data
- For Alternative 1, prorated call-in data to statistical areas using proportions from VTR – matching call-in to VTR records problematic due to a variety of problems such as missing dates in VTR, mismatches due to running clock or front-loading.

A total of 1,390 limited access permits that are currently regulated under DAS for permit year 2006. Consideration needs to be given to whether limited access vessels with a Category C or HA (limited access hand gear-only) permit. A landings share could be calculated for either permit category but neither has any DAS history through the call-in system. The 1,390 permit holders were reduced to a total of 761 vessels that called in a DAS during 2001, and for which logbook data existed where one or more pounds of regulated groundfish were landed.

Findings:

Question 1 – All three alternatives required a number of different share calculations in addition to the final stock share, all of which had to sum to one. In all cases the adding up requirement

was met. That is, each of the three DAS factor alternatives would result in total stock shares that sum to one. This means that the sum of sector ACE and DAS pool ACE would not exceed the TAC.

Question 2 – Although stock shares were calculated for all permit holders and 17 stocks for the 10 regulated mesh groundfish species, results herein focus only on GOM Cod for purposes of illustration. Under Alternative 1 all 761 vessels included in the analysis would receive a stock share for GOM Cod. A total of 415 vessels fished in the GOM stock area during CY2001. All of these vessels would receive a stock share of GOM Cod under Alternative 2. Of the 761 vessels only 401 actually reported landing GOM cod during CY2001. Each of these vessels would receive a stock share for GOM Cod under Alternative 3.

Question 3 – To identify any notable effects of including a DAS factor in the determination of a stock share the landings share was used as a benchmark. That is, the landings history share was subtracted from the stock share (i.e. the result of weighting the DAS history share and the landings share). In this manner a negative value indicates that the stock share was less than the landings history. Effectively, this represents a shifting of landings history. Conversely, a positive value indicates that the stock share is higher than the landings share and the DAS factor represents a gain in landings share.

There is a systematic relationship between this calculated difference and the catch rate. That is, vessels with a high CPUE end up transferring landings history to less productive vessels. This is evident in Figures 1, 2, and 3 for Alternatives 1, 2, and 3, respectively.

Notes:

- In each case the transfer of landings history is halved using the 75% weight for landings. In general, the transfer of landings history would approach zero as the weight applied to landings history approaches 100%.
- In each case, there is a point where the landings history share and stock share are equal or nearly so. This point occurs at higher CPUE as the number of permit holders without any landings history goes down.
- For GOM Cod there is relatively little difference between Alternative 1 and Alternative 2 because nearly everyone that fished in the GOM stock area caught some cod. The difference between these two alternatives would be more pronounced for stocks that fewer vessels fishing in the GOM actually land.

The rationale for adding a DAS share is to account for differences in access that different vessels may have had to certain stocks due to regulatory controls as well as vessels that may have chosen to avoid stocks of concern. In either case, vessels may be said to have differential abilities to build history for any given stock.

The PDT will have difficulty assessing whether or not this objective has been met since existing data are not adequate to trace these effects to any particular DAS adjustment factor. For example, the relationship between CPUE on trips that landed GOM cod and total cod landings is plotted in Figure 4. While there appears to be a positive correlation between the two there are also a number of cases of high CPUE but low total landings of GOM cod. Vessels in this circumstance may well have had their opportunity to build history in GOM cod compromised yet they end up having to surrender landings share just like other productive vessels with much

higher total landings history. This is illustrated in Table 1. That is, the fact that about 10% of landings history is transferred from vessels with more than 25,000 pounds of GOM cod landings to vessels with much lower levels of landings may be consistent with the Committee's objective. At the same time, however, small quantities of landings history gets transferred away from vessels with low landings and small amounts of landings history wind up getting transferred to vessels with comparatively high landings of GOM cod. The lesson here is that the DAS factor as developed thus far by the PDT may not be entirely consistent with Committee intent. Moreover, available may not be adequate to evaluate the extent to which Committee intent is being met.

Table 1. Summary of Cumulative Landings History Transfers By GOM Cod Landings Category for Alternative 1 for the 50/50 Landings History/DAS History Weights

	Categories of GOM Cod Landings in Pounds (CY2001)					
	<= 5000	5000+ to 10000	10000+ to 15000	15000+ to 20000	20000+ to 25000	25000+
Landings History Gain	5.98%	4.64%	1.89%	0.83%	0.11%	0.21%
Landings History Loss	-0.31%	-0.55%	-0.49%	-0.72%	-1.30%	-10.28%

Scatter Plot of Difference Between Alternative 1 GOM Cod Share Minus Landings Share (Y-axis) and CPU Calculated as Landings per DAS (X-axis)

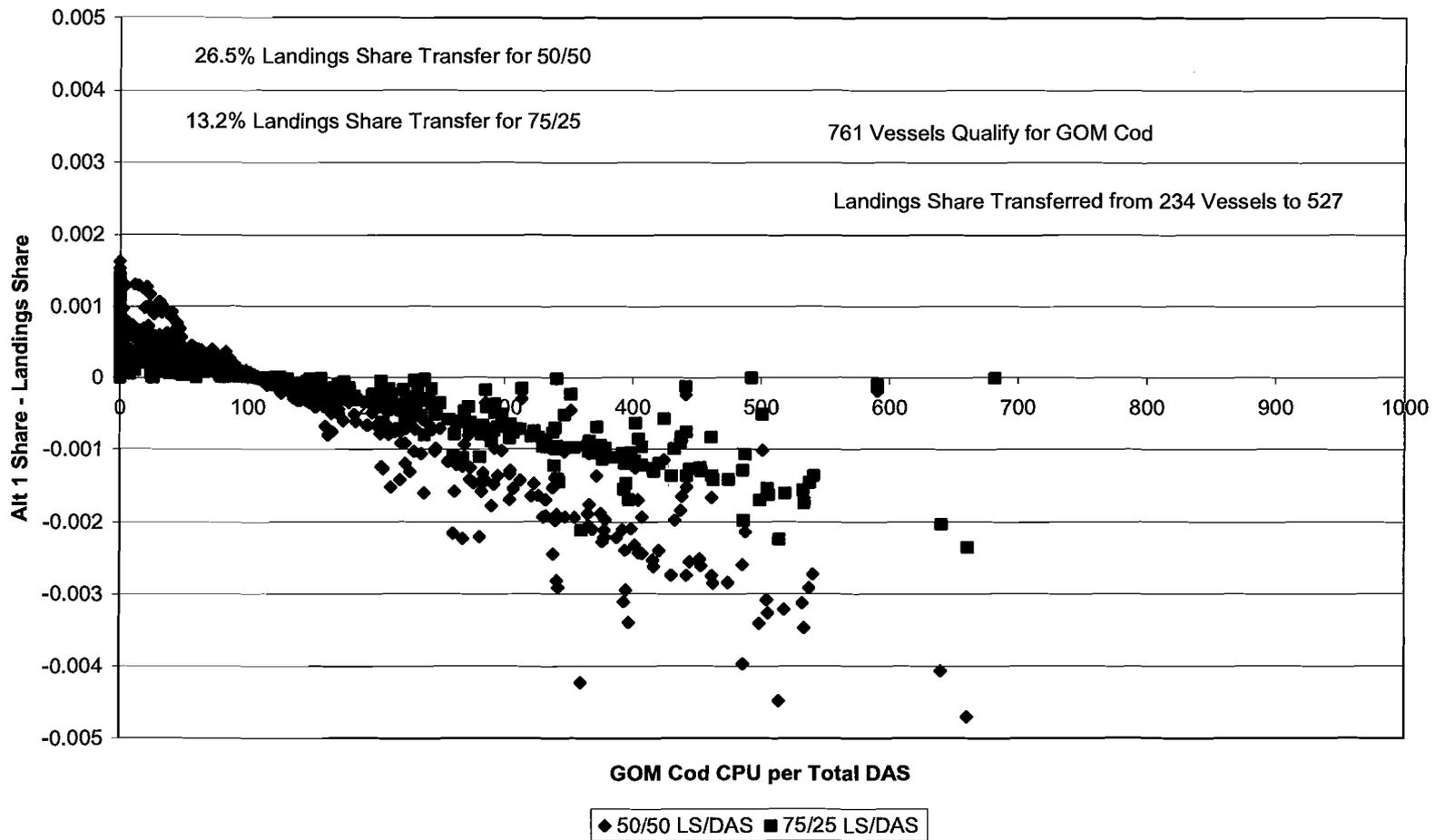


Figure 2. Scatter Plot of Difference Between Alternative 2 GOM Cod Share Minus Landings Share (Y-axis) and CPU Calculated as Landings per DA in GOM (X-axis)

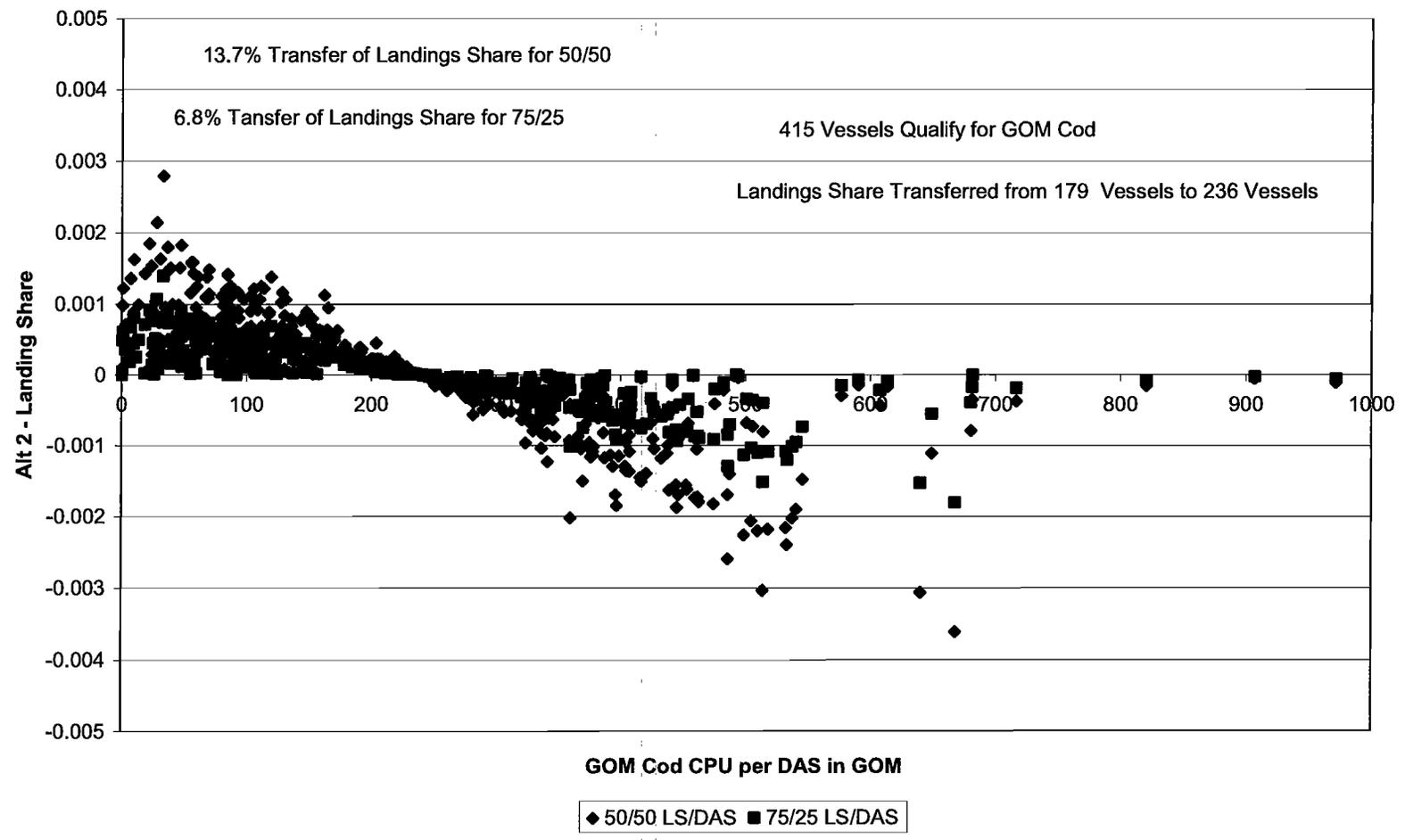


Figure 3. Scatter Plot of Difference Between Alternative 3 GOM Cod Share Minus Landings Share (Y-axis) and CPU Calculated as Landings per DA that Landed GOM Cod (X-axis)

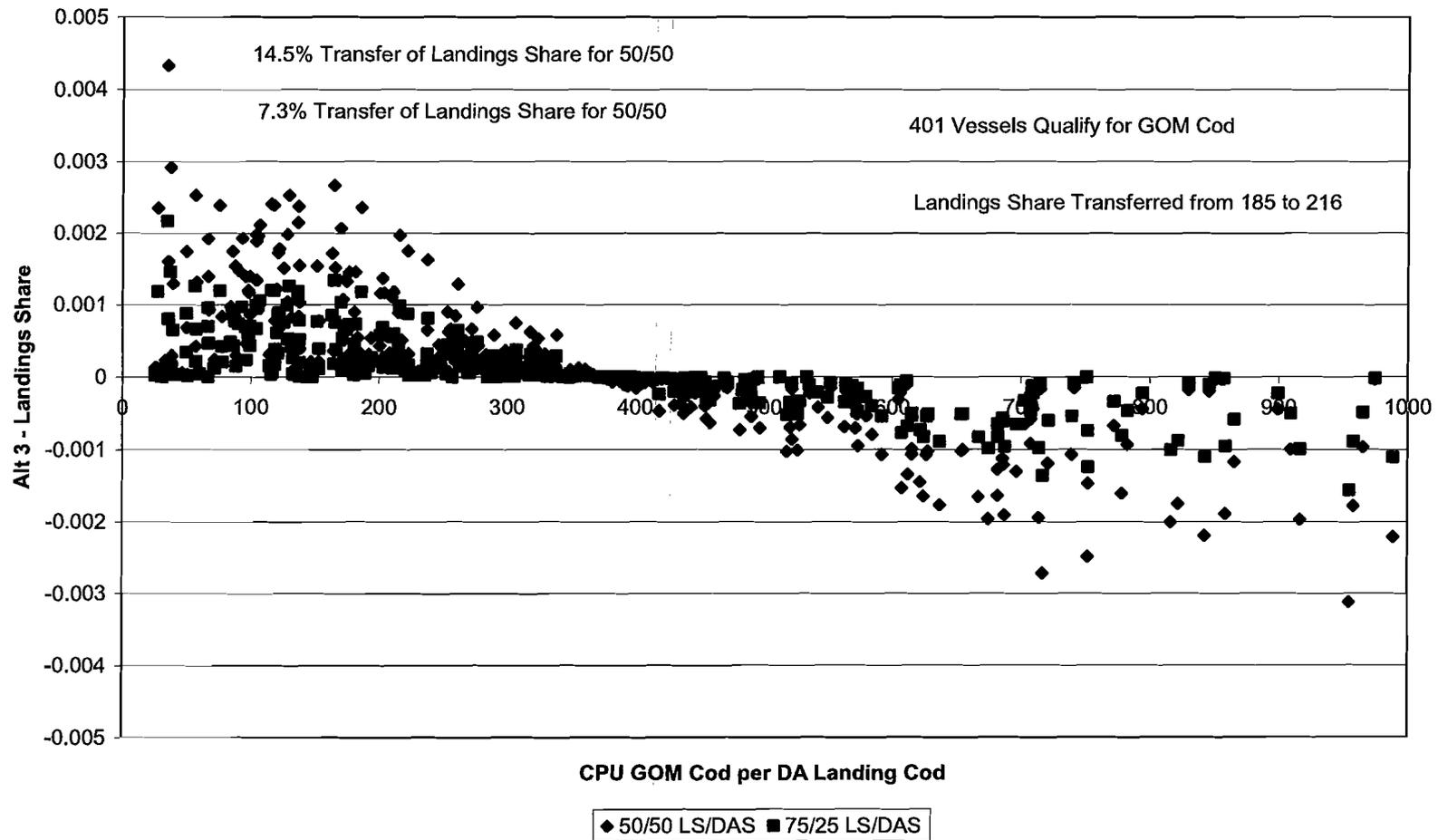
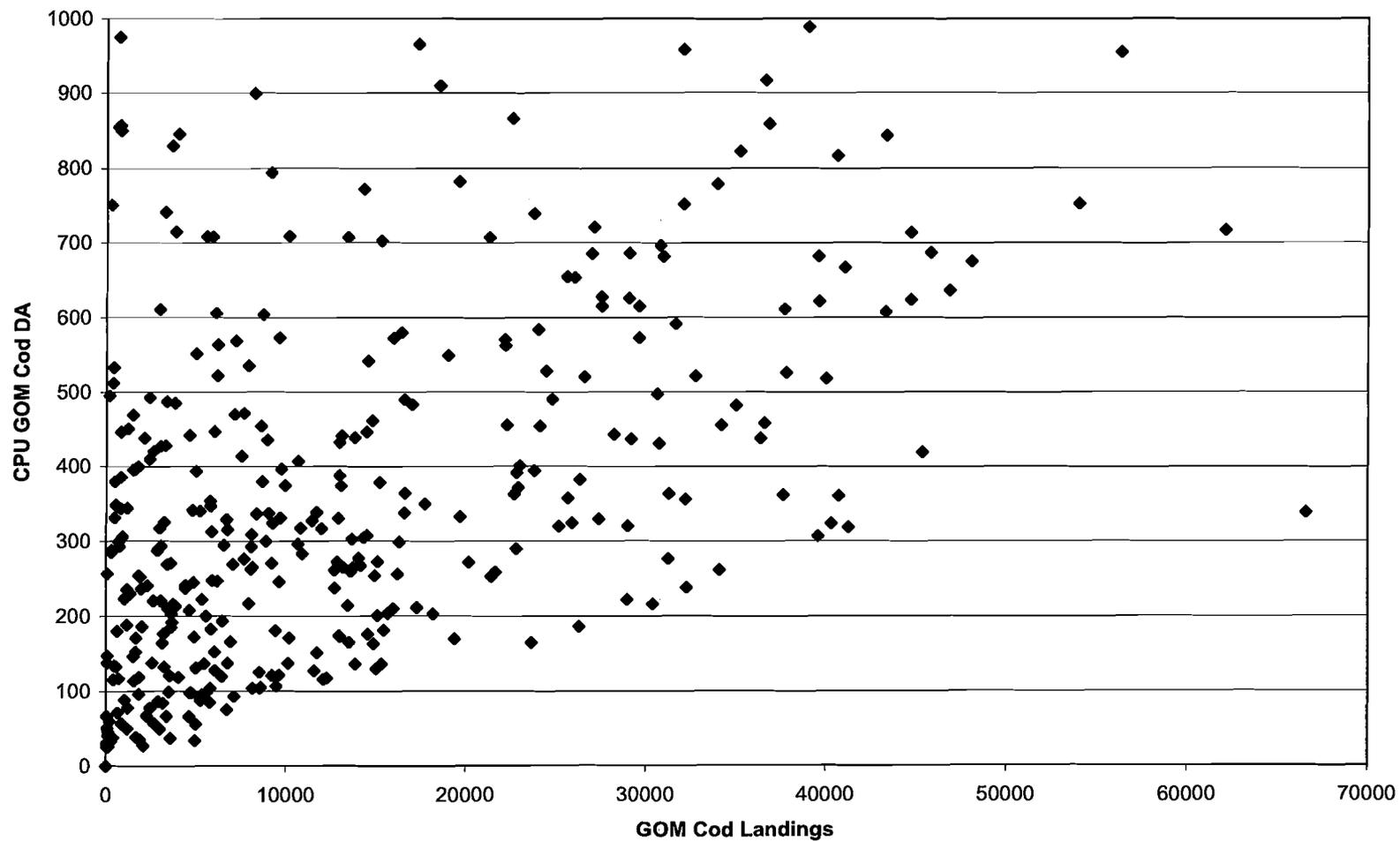


Figure 4. Scatter Plot of Total GOM Cod Landings (X-axis) and CPUE on Trips that Landed GOM Cod (Y-axis)



Attachment (3)

Table 3 – PDT review of effort measures under consideration

Measure	Mortality Control?	Analyze?	Comments
Count DAS as a minimum of 24 hours	Yes	Yes	
Remove 20-day spawning block requirement	No	No	Minor measure, no longer effective, has outlived utility
Require use of diamond mesh codend in CAII YTF SAP	No	Yes	May reduce discards if SAP is opened in future; uncertain if that will affect mortality
Allow use of 6 inch square mesh with separator trawl in the US/CA area	No	Yes	May increase haddock mortality, impacts on other stocks difficult to evaluate. Actual impacts of mesh changes often don't match theoretical impacts. Is this meant for cod end or separator panel?
Reduce/eliminate the conservation tax on DAS transfers	No	Maybe	May result in increased mortality, as analysis showed DAS leasing (without tax) was not conservation neutral. But – transfer program rarely used, so it may not be different than under current leasing program.
Provide more flexibility in the length/horsepower restrictions in the DAS leasing and transfer programs	No	Yes	Not designed as an effort control measure and not used to control mortality. Would be designed to adjust DAS leased based on relative fishing power and if correctly designed should have little impact on mortality.
Remove the tonnage restriction on replacement vessels	No	Yes	Cannot be implemented effectively through Multispecies FMP since restriction would remain in other FMPs.
Consider 6 inch mesh for gillnets	No	Yes	Effects on mortality uncertain. Difficult to analyze - actual impacts of mesh changes often don't match theoretical impacts.
Consider 17 inch GB haddock minimum size	No	Yes	Not a direct mortality control.
Reduce 72 hour observer notification requirement	No	No	Authority exists for NMFS to make change if deemed appropriate.
Consider adjustments in differential das program (areas and rates)	Yes	Yes	
Reconsideration of cod cap proposal	Maybe	Yes	Previous analyses equivocal on mortality impacts. May need revision to include other stocks.
Adjustments in DAS allocations	Yes	Yes	
Running clock	Maybe	Yes	Might affect trip behavior, reducing discards.
Trip limit triggers on stocks with trip limits	Maybe	Maybe	Difficult to incorporate into CAM for multiple stocks
Re-examine rolling/seasonal closures	Yes	Yes	Difficult and time consuming to analyze. Some work done by PDT in 2005, and by other researchers since then.

Measure	Mortality Control?	Analyze?	Comments
Reexamine exempted fisheries	No	Yes	Work in progress
Consider reducing minimum size of GOM haddock	Yes	Yes	Might increase GOM haddock mortality – but not a direct mortality control. Impacts on other species uncertain.
Allow GC scallop vessels fishing in the RMA to retain the same monkfish as allowed by general category permits in other areas vessels	No	Yes	No impact on groundfish.

Correspondence



New England Fishery Management Council

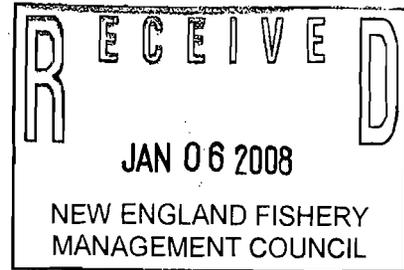
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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

MEMORANDUM

DATE: January 7, 2008
TO: Groundfish Oversight Committee
FROM: Tom Nies
SUBJECT: **Captain Dave Guter**

Captain Guter called to protest the establishment of sectors. Captain Guter owns an old eastern rigged dragger in Provincetown, MA. He objected to allowing vessel owners to seize control of the groundfish fishery through sectors. He thinks any qualification period should extend back before 1996. He does not think it fair to use a period when cod trip limits were 2,000 lbs/DAS on GB, yet only 400 lbs/DAS in the GOM. He also objected to several provisions in the General Category scallop regulations, most specifically setting the line for the GOM at 42-20N rather than at the 42000 loran C line as was done for groundfish.

Captain Guter complained that current regulations make him throw over thousands of pounds of fish – most recently, nearly 8,000 pounds of yellowtail flounder. He has no interest in joining a sector as he does not agree with giving allocations to fishermen. He believes the Council has mismanaged groundfish – where there used to be sixty boats in Provincetown, now there are only six that are still fishing. He does not want to be forced into a sector.



From: "Eadie, Todd"
Date: January 6, 2008 7:53:13 PM EST
To: "ripcc@comcast.net"

Dear Rip,

I will not be able to attend the Jan 24th meeting in Danvers. I read from the meeting announcement that there will be three recommended alternatives for calculating the shares given to each sector. I would appreciate it if you would consider the little guy (small boat skiff jig fishery). I have not really fished for cod since they required VMS. I run or I should say ran a 25' Sea Vee inboard. I WILL not purchase a computer system to fish for cod. That is really the last straw for me. Since I have not fished for cod since the VMS requirements, I have no history. I do not feel that I should be penalized for this. I would ask that you support Alternative one or two. This way I would have history.

I invested a lot of time, sweat, money and a long learning curve on my jig cod fish business. I always thought that a single owner operator jig fisherman could always eek out 3-400lb a day from the many numbers I have. I thought that the gill netters and dragners would go out of business first. Boy was I wrong. They cut my days at sea to 4.5 now and continue to penalize me for not using them. Why Management Counsels and NMFS penalize the group (small boat jig fishery) who it should be promoting is amazing to me. I was a member of CCCHFA for awhile, thinking that they would lobby for the small boat jig fisherman, but I later learned that they are a group who exists to serve 20-30 local high liners. I had hopes that I could modify my permit to go from DAS to 300lb hand, but found that I have the kind of DAS limited access multispecies permit that you cannot change. I fear that my days as a commercial fisherman are over. I am angered that even though my group (rod and reel jig) did not cause the problem and catch a very small percentage of the fish that we are the ones targeted to be eliminated. It is really sad to see such a historical part of Cape Cod history being lost.

Hey Rip, sorry for the whining... Do what you can for the little guy. I have enjoyed reading your articles as I grew up. I am sure you could write some more good ones based on what you have seen in the management process.

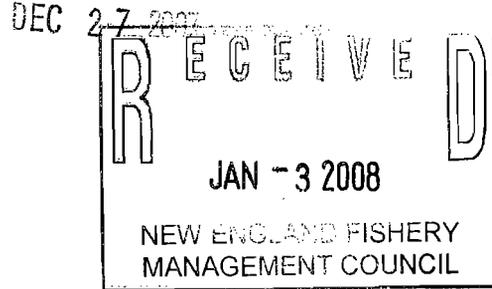
Thanks for your time,

Todd Eadie
F/V Blue Sky
135589



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

John Pappalardo, Chairman
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950



Dear John:

On June 22, 2007, you sent the National Marine Fisheries Service a letter regarding the New England Fishery Management Council's recommended gear standard for approval of additional gear for use in the Northeast Multispecies Eastern U.S./Canada Haddock Special Access Program and in the Regular B Day-At-Sea Program. This letter is to notify you that a final rule incorporating these standards into the regulations was published on December 26, 2007, (72 FR 72965) and will become effective on January 25, 2008. A copy of the final rule can be obtained from the Office of the Federal Register website at:
<http://www.archives.gov/federal-register/index.html>.

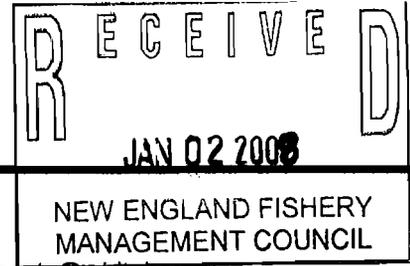
If you have any questions, please contact Douglas Potts, Fishery Management Specialist, at 978-281-9341 or Douglas.Potts@noaa.gov.

Sincerely,


Patricia A. Kurkul
Regional Administrator



cc: TN, CBK (1/3)



Joan O'Leary

From: jean public [jeanpublic@yahoo.com]
Sent: Wednesday, January 02, 2008 10:25 AM
To: Joan O'Leary; americanvoices@mail.house.gov; comments@whitehouse.gov
Subject: public comment on federal register of 1/2/08 vol 73 #1 pg 168 attn tracey thompson

attn paul howard

the scandal plagued us dept of commerce noaa has a meeting planned for january 17 re rin 0648-xe74

i ask that all quotas be reduced by 50% this year and by 10% each year thereafter in order to comply with all laws and in order to save all species of fish for our children instead of stealing from their world by overfishing, which has been the practice at this agency.

b. sachau
15 elm st
florham park nj07932

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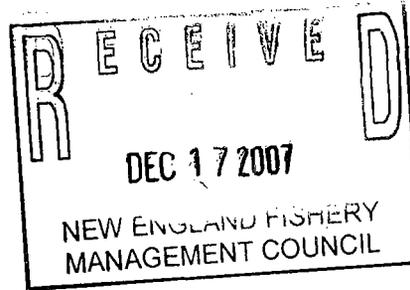
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JOHN ELIAS BALDACCI
 GOVERNOR

GEORGE D. LAPOINTE
 COMMISSIONER

12 December 2007

Dr. William Hogarth
 National Marine Fisheries Service
 1335 East West Highway
 Room 14555
 Silver Spring, MD 20910



Dear Bill:

I am writing seeking your assistance with a critical groundfish issue before the New England Fishery Management Council. Specifically, the Northeast Regional Office and Northeast Fishery Science Center need to be provided with adequate resources to work on the consideration and analysis of sector proposals *concurrently* with the biological targets required in Amendment 16 to the Northeast Multispecies FMP.

The New England Fishery Management Council recently received a letter from Pat Kurkul in which she outlined her concerns about the Council's ability to complete the necessary work on Amendment 16, and the Service's ability to support the continued development of sectors in the groundfish fishery. The letter raises legitimate issues about having sufficient resources to allocate to the sector issue, particularly with 19 sector proposals and the potential for up to 361 total allowable catch (TAC) determinations, and raises the specter of the Service withdrawing from all work on sectors early in 2008.

The concern over 19 separate sector proposals is a legitimate workload issue for the Service and Council which must be addressed by the Council to make sector consideration a viable, achievable option in the groundfish plan. I believe that the Council should charge the Groundfish Committee and proponents of sector proposals to reduce the number of proposals to a manageable level, likely no more than six.

At the same time, I believe that the Agency must provide the resources needed for consideration of viable sector proposals. We are at a critical time in groundfish management with the new Magnuson Stevens Fishery Conservation and Management Act requirements and in the ability of the fishing industry to develop viable business strategies for economic survival of fishermen, as well as real accountability. Sectors, obviously, are a vital component of the survival strategy of many fishermen. This is particularly true when considering the cuts to days at sea that may be needed to reach the biological targets that will become known after the GARM report next summer.

Please assist the Northeast Regional Office by augmenting the funding and staffing required for the continued development and evaluation of sector proposals. Without this additional assistance, the fishermen in Maine, and throughout New England, who have planned to use sectors for operational flexibility and resultant economic viability will be



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more likely to fail in the next few years. As you know, Maine's groundfish fishery has diminished significantly in the last few years. The State of Maine sees sectors as one of the best ways to stabilize the groundfish resource and Maine groundfish industry. We need your help in this effort by providing additional support to the consideration of sectors now and through the remainder of the Amendment 16 process.

Please call me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "George D. Lapointe". The signature is written in black ink and is positioned above the printed name.

George D. Lapointe

cc: U.S. Senator Olympia Snowe
U.S. Senator Susan Collins
U.S. Representative Tom Allen
U.S. Representative Michael Michaud
~~New England Fishery Management Council~~
Patricia Kurkul, Northeast Regional Administrator

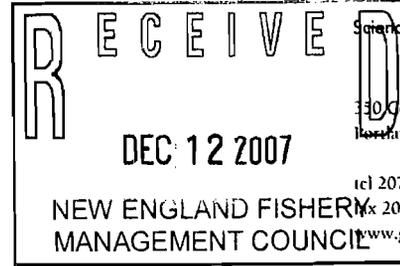


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December 11, 2007

Mr. Rip Cunningham, Chair
Groundfish Oversight Committee
New England Fisheries Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Rip:

We are writing this letter in response to recommendations on sector policies made by the NMFS Regional Administrator (RA) in her December 7 letter to the New England Fisheries Management Council. The RA made a number of constructive suggestions in Attachments 1 and 2 of her letter to the Council. Most of these will simplify and strengthen sector management without undermining the potential benefits. We understand the need to simplify sector policy as much as possible to enable timely implementation; however, a few of the RA's recommendations may reduce the benefits of sector management or create perverse incentives that might be avoided with alternate policies. We offer up the suggestions below to provide some additional information on a few of the recommendations by the RA in order to assist the Council as it considers how to implement sectors.

RA recommendation: "reduce the need for monitoring sector discards by applying an assumed discard rate and deducting this amount off the top of each sector's allocation."

Determining an appropriate way to account for discards is an important issue for effective sector implementation. A 100% assumed discard rate may be the only feasible approach in that it does not create incentives to reduce discards. Ultimately, sectors should be required to monitor, that all their catch is accounted for. While it may be appropriate and/or necessary to assume a 100% discard rate initially, sectors should be required to use an assumed discard rate once they implement a monitoring system.

etc. already rec'd this

RA recommendation: "prohibit sectors from carrying-over unused TAC into the next fishing year."

Although there may be concern that carrying-over unused Total Allowable Catch (TAC) may result in catch one year exceeding the overfishing level in the following year, allowing some carry-forward of unused TAC may improve safety and yield economic benefits by allowing fuller utilization of TAC and avoiding market gluts that might occur if a large quantity of catch is landed at the end of the year. Most importantly allowing carry over of unused TAC will reduce the incentive to fish right up to the TAC and thus reduce the chance of accidental TAC overages.

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- Karl Turner

rec'd etc. mtg.

RA recommendations: “*consider delaying implementation of Sector Trading until fishing year 2010.*” and “*restrict sector trading to in-season trades through March 1 for a given fishing year*” and “*prohibit sector trading once a sector exceeds any of its TACs.*”

It is important that trading be allowed in the first year. The ability to trade TAC plays an important role in reducing incentives for discards as it provides a means for sectors to acquire the TAC they need to cover bycatch. Trading will be particularly critical if the allocation to sectors is partially based on factors other than catch history. In this case sectors will be allocated TAC for species they do not traditionally catch, and it will be difficult and inefficient for them to adjust fishing operations in order to use it.

RA recommendation: “*consider development of a TAC buffer system at a certain TAC threshold, after which measures are implemented to slow the rate of catch, e.g., at 90% of a sector's TAC, trip limits are imposed.*”

Requiring trip limits to slow the rate of catch may create a strong incentive to discard. Sectors should be required to develop systems that will minimize the risk of overages, and describe those methods in their Operations Plan. Sector members are joint and severally liable and will be subject to additional internal penalties if they exceed their TACs. Therefore, there is sufficient incentive for individual members and sectors as a whole to avoid this occurring.

The RA has proposed an expedited schedule for identification of sector membership and submitting sector plans. While we recognize the difficulties in designing management measures for the common pool when the final number of sector participants is unknown, requiring potential sector members to make a final commitment before they know the likely sector allocations and the range of alternatives for sectors and the common pool will make it extremely difficult for potential sector members to make an informed decision about the best path for them to pursue. Delaying the final commitment until after the DSEIS has been issued would allow for full consideration of the options fishermen will have available.

We hope these comments are useful to you and the Council as you continue to work on Amendment 16 and consider how sectors may be implemented in New England.

Sincerely,



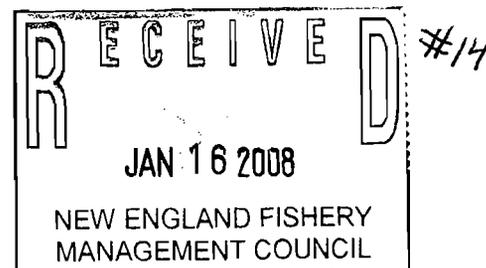
Donald W. Perkins
President

cc: Patricia Kurkul, Regional Administrator, NOAA Fisheries Northeast Regional Office
John Pappalardo, Chair, New England Fishery Management Council
Dan Holland, Resource Economist, Gulf of Maine Research Institute
Cindy Smith, Sector Manager, Gulf of Maine Research Institute

N O R T H E A S T S E A F O O D C O A L I T I O N

January 15, 2008

Rip Cunningham,
 Chairman,
 Groundfish Advisory Committee
 New England Fishery Management Council
 50 Water Street, Mill 2
 Newburyport, MA 01950



Dear Rip:

We are writing to convey our grave concern with the current version of the 50/50 Allocation Alternative to be forwarded to the Council by the Groundfish Committee and how it will present a serious obstacle to the ultimate success or failure of our collective efforts and aspirations to achieve broad application of Sector Management in the foreseeable future. As explained in detail below, we are convinced that none of the Allocation Alternatives currently on the table have the potential to be broadly supported to a level sufficient to survive this process.

The original version of the 50/50 Allocation Alternative in which measures of capacity were applied to all stocks was well thought out and accompanied by clear objectives and rationale. Pages of documents have been submitted and circulated that clearly articulate the goals, objectives and anticipated benefits / results of utilizing Vessel Characteristics and Allocated "A" DAS in the calculations for "potential individual permit contributions to Sector Allocations".

Unfortunately, amendments were adopted at the last Committee meeting that effectively invalidated all of the goals, objectives, rationale and intended results that supported the main motion. While on the surface these amendments may have appeared to be minor and perhaps even sensible, we are very concerned that some Committee members may not have realized just how profound the negative consequences will be for the overwhelming majority of the fleet. No specific guidance was given as to what the amendments were intended to achieve but we anticipate the PDT's analysis will confirm just how much these changes will distort what the results of the original main motion would be.

The disastrous result is that the amended version is now the only alternative to the equally unacceptable alternatives of a purely catch history approach and the status quo. Stated otherwise, we are convinced there is now **NO** alternative on the table that will be supported by a substantial majority of the fleet. The Committee must appreciate the fact that, absent a widely supported allocation alternative, this entire sector effort is likely to fall apart. Whether intended or not, we predict these amendments will ultimately be widely viewed as 'poison pills' to the overall Sector initiative.

The basis of our concern lies in part with the results of the Northeast Seafood Coalition's extensive efforts over the past two years to poll the groundfish industry on a number of fundamental issues that are directly relevant to the Council's current sector management

NORTHEAST SEAFOOD COALITION

initiative. This effort has included fishermen from Connecticut to Down East Maine with substantial focus in the major ports of Pt. Judith, New Bedford and Gloucester. The result is that the NSC was able to deliver to the NEFMC and NMFS a clear and unified message of support from literally hundreds of limited access permit holders representing a substantial percentage of this entire fishery for the core allocation concepts of vessel characteristics and allocated "A" DAS embodied in the original 50/50 allocation alternative in the Committee's main motion.

The following should clarify the basis for our concern and specifically how our efforts relate directly to the current allocation debate in Amendment 16:

1. NSC developed the Points System Allocation and Management concept; educated and informed hundreds of limited access permit holders in the region; and provided validation of industry support with a petition signed by hundreds of permit holders. Vessel characteristics and allocated DAS are fundamental to the Point System's allocation approach.
2. NSC participated in an industry working group representing a broad spectrum of the groundfish industry to design an Industry Funded Buyout, and was instrumental in the development of the formulas and concepts that are the final product. Once again, measures of capacity were fundamental to the buyout approach.

Please note that NSC supported and continues to support the final version / design of this Buyout proposal. A primary reason NSC did not support moving forward to Congress with a request for funding-- and voted to shelve the idea for the time being-- was because we were well aware of the possibility that the Council could subsequently choose to allocate the fishery in an entirely different way than the implied value / currency embraced by the buyout. This potential disconnect made it virtually impossible for the industry to rely upon the economic data and business plan that would become the basis for over 100 million dollars in industry debt. It appears NSC made the wise choice given the results of the last Committee meeting. To be clear, NSC remains consistent in our support for the concepts, relative values, measures of capacity and formulas contained in the Buyout proposal.

3. NSC is now fully engaged in the Sector formation process. With 13 Sectors relying upon our organization for their Sector development, NSC has received or submitted nearly 300 requests for permit history from fishermen interested in potentially participating in these Sectors. We anticipate this number to grow by March. Consequently, NSC is keenly aware of the allocation formula preferences of a very broad spectrum of this fishery. With few exceptions, none of these permit holders are satisfied with a purely catch history approach, and we can safely say that ALL of them support retaining the original version of the 50/50 allocation formula as one of the allocation alternatives in Amendment 16, along with the goals, principles and rationale that support it.
4. We can also safely say that NONE of these permit holders will support the distorted version that was adopted by the Groundfish Committee at its last meeting once they are

NORTHEAST SEAFOOD COALITION

made aware of the enormous differences in the results of this iteration and how it would diverge dramatically from the intended linear and relative results of the original version.

A substantial majority of the groundfish fishery has spoken consistently on these core issues. The Points System, The Industry Funded Buyout AND the original 50/50 Allocation alternative all share precisely the same concepts for attributing values and the relative differences from permit to permit. The current Alternative as amended by the Groundfish Committee shares nothing with the concepts listed above and will only serve to alienate a substantial majority of the fleet from the Council's overall Sector management initiative. This should be alarming to the Council and the Committee.

This issue is so critical and profound that we believe the Committee must ensure that the PDT analyzes the original version (main motion in which measures of capacity were applied to all stocks) in addition to the current amended version. This is for comparative purposes so that the full Council has the opportunity to evaluate the relative merits and results of each method including their relative potential to garner substantial industry support.

Please understand that NSC has a fiduciary responsibility to our members and the industry at large to point out the seriousness of these issues. For this reason, we will continue to be a productive and progressive participant in this process and have provided you with the following attachments in order to further assist your and the Council's efforts:

1) a side-by-side comparison of the relative merits of the original (main motion) and amended versions of the 50/50 Allocation method that includes the issues and concerns we anticipate NMFS and the PDT will confront, and how those issues and concerns would be satisfactorily addressed by the original version.

2) a cleaned-up version of the original 50/50 Allocation Alternative with a clear statement of specific objectives.

As always, NSC appreciates your continued recognition of our issues and your ever gracious record of giving NSC members, staff and consultants the opportunity to provide input at the Committee meetings.

Sincerely,

Jackie Odell

Jackie Odell,
Executive Director

cc: John Pappalardo
Pat Kurkul
Paul Howard
Tom Nies

SIDE-BY-SIDE COMPARISON OF ALTERNATIVES

<u>50/50 Allocation Alternative with Capacity <u>APPLIED TO ALL STOCKS</u> (This is the original main motion version)</u>	<u>50/50 Allocation Alternative with Capacity <u>applied to only those stocks landed by a permit</u> (This is the current GFC version)</u>
<p>The denominator will be the same for every stock which will improve simplicity, and common pool relationships between Capacity and available quota.</p>	<p>The denominator will be different for every stock and will change each time an appeal is accepted or a permit transfer / stacking occurs.</p>
<p>Compatibility: In terms of the Capacity Component of the quota share allocation, each permit will have the same relative value to all Sectors.</p>	<p>The value of the capacity portion of each permit will depend more heavily on which stocks the permit is credited for at least one pound of landing than the actual length, HP or DAS.</p>
<p>Additive: The quota share values in each of the History Component and Capacity Components remain separate within each permit and the values are additive. This adds simplicity for administrating permit transfers and avoids the issue of having to change the denominators when a permit is stacked.</p>	<p>The History Component would also be additive but the Capacity Component would be problematic as a result of a permit transfer (stacking) since there is no guidance as to which stocks or vessel baselines the capacity portion of the “merged” permit should apply.</p>
<p>The relative values between individual vessels as they relate to Vessel Length, Horsepower and Allocated A DAS is familiar to the industry and consistent in relative terms to past measures of capacity as well as dollar values in the permit market.</p>	<p>There is no correlation between vessel length, horsepower and number of allocated DAS and the ultimate Total quota value of the permit in this option. It is likely to be more valuable to have encountered at least one pound of many stocks than to have greater length, horsepower or DAS values.</p>
<p>Promotes Sector Enrollment: By placing a uniform value on every unit of capacity which creates a platform for a thick market to allow any Sector to absorb any permit.</p>	<p>Permits will be limited to the geographical range of the stocks they are credited with at least one pound of landings during the baseline period. If the vessel has a very limited number of stocks that it historically targeted it may have equally limited sector opportunities.</p>
<p>By providing a valid economic justification for operations that own multiple permits to enroll all of their permits into a sector we will create greater enrollment where the Sideboard and Shifted Effort mitigation required of an operations plan will have effect.</p>	<p>Limited options and the potential for quota value to be disproportionate to past and present DAS / Length / HP values may increase the appeal of the common pool or shifting effort to other fisheries.</p>
<p>This method is consistent with the Industry Funded Buyout measure of capacity and permit Values.</p>	<p>This option utilizes a formula that is consistent with the relative measure of capacity in the Industry Funded Buyout. However, applied to only those stocks caught by a permit causes a total disconnect from relative permit values that were utilized in the Industry Funded Buyout design and analysis.</p>
<p>The analyses that are supporting the Industry Funded Buyout are based upon a direct relationship between the removal of Vessel Length / Vessel Horsepower and Allocated A DAS and the benefits of borrowing 100 million dollars. This option has a direct link to those concepts.</p>	<p>The current groundfish committee version produces results that place more weight on the number of stocks a permit is credited for landing at least one pound of than any predictable relative differences in capacity.</p>

<p>The relative values are consistent with the Industry Funded Buyout formula which will greatly improve the validity of the analysis completed and necessary to support the buyout.</p>	<p>The relative values are unlikely to be consistent with the analysis conducted to support the Industry Funded Buyout proposal.</p>
<p>This alternative requires little or no work from the Fisheries Statistics Office (FSO) thus dramatically reducing the potential for appeals that are likely to come from placing so much weight on finding a landing of just one pound of a stock.</p>	<p>This alternative requires the NERO dealer landings database be utilized to determine the list of stocks for each permit. Considering the methods used to determine stock attribution for Cod, Haddock, Yellowtail and Winter Flounder and the fact that only one pound of a stock is required to become eligible to be included in the quota pool, numerous appeals should be expected.</p>
<p>This method is easily calculated by individual permit holders and Sector managers. The method intentionally moves to unlink the permits from the confidentiality requirements of using landings and VTR data to determine allocation.</p>	<p>This method cannot be safely calculated by individual permit holders or Sector managers in advance of receiving the confidential data from NERO. If all of the confidentiality obstacles apply to this method as the catch history component, this alternative will cause many permit holders quota values to be beholden to these stringent requirements.</p>
<p>Produces relative values between varying vessel sizes and DAS allocations that are familiar to the fishery and implied as accepted as is evident in sales data during the post Amendment 13 period.</p>	<p>Does not produce relative values familiar to the fishery.</p>
<p>Provides the solution to allocating bycatch quota to Sectors that may not otherwise receive sufficient allocation of secondary stocks. (<i>de minimus</i> allocations)</p>	<p>Only provides quota for stocks caught leaving the inadvertent bycatch issue outstanding.</p>
<p>Common Pool residual quota is stabilized relative to other options. This should narrow the range of potential impacts to the common pool. The unlimited range of possible combinations of Sector and Common Pool enrollment scenarios is partially mitigated when every capacity unit is attributed a portion of every stock.</p>	<p>The range of potential impacts to the common pool remains large. It is the disconnect between the method used to determine capacity and the attribution of quota that occurs when the analysis is restricted to only those stocks caught by a permit that prevents the range of impacts from lessening.</p>
<p>There is no requirement to determine used DAS or to utilize the landings or VTR databases. Vessel Replacement Baselines and DAS allocations are the rights of the present permit owners and are not subject to the stringent confidentiality requirements of landings / VTR.</p>	<p>Past Stock Attribution methods may not be robust to appeals challenging the absence of one pound of landing a stock of a species that has multiple stock areas. A high number of appeals are likely to occur for Cod, Yellowtail, Winter Flounder and Haddock.</p>
<p>The likelihood that there may be broad industry acceptance of this alternative is dramatically improved since the relative values are consistent with the post A13 permit market, the Industry Funded Buyout and the Points System.</p>	<p>The Groundfish Committee version of the alternative for 50/50 will produce relative values between permits that are unfamiliar and not relative to the post Amendment 13 permit market.</p>

ALLOCATION ALTERNATIVE

FOR THE PURPOSE OF DETERMINING SECTOR ALLOCATION

This alternative will utilize precisely the same analysis as the 100% catch history alternative. No additional analysis or computations would be required of FSO beyond that which is done for the purely catch history alternative in order to determine Quota Share Percentage for each stock for each permit. The only difference is that the % quota shares will be applied to 50% of the TAC rather than 100%.

CATCH HISTORY COMPONENT

Baseline Period: FY 1996 through FY 2006.

Method: Each vessel's dealer records of landings of each stock regulated under the NE multi-species FMP will be totaled for the baseline period and divided by the total landings of each species for the baseline period to determine a % Quota Share.

The quota shares of each permit enrolled in a Sector will be totaled and the resulting **Sector Quota Share** will be applied to 50% of the Commercial TAC of each stock for which the Sector has qualified Quota Share.

CAPACITY VALUE COMPONENT

Method: Utilize the **Vessel Replacement** baselines in the NERO file for vessel length and vessel horsepower values associated with each permit. Utilize the A DAS allocated to each permit through Framework 42.

Use the formula $\{(Length \times 10) \times HP\} \times A \text{ DAS} = \text{CAPACITY VALUE}$

Divide the CAPACITY VALUE by the total CAPACITY VALUE of the fleet to determine the Quota Share percentage for each permit.

The quota shares of each permit enrolled in a Sector will be totaled and the resulting **Sector Quota Share** will be applied to 50% of the TAC for **each stock managed under the plan.**

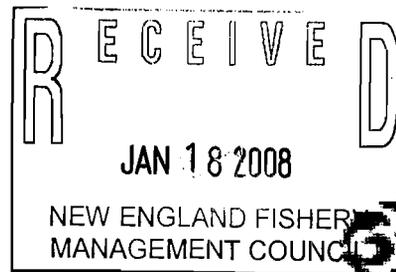
STATEMENT OF OBJECTIVES FOR THIS ALTERNATIVE

- Recognize the relative values of financial investments influenced directly by implementation of Amendment 13 DAS reductions and the DAS leasing program.
-
-

- Not be entirely beholden to the restrictive confidentiality requirements plaguing FSO.
- Provide a realistic Sector alternative for every permit allocated sufficient A DAS to operate at a meaningful level under DAS to minimize shifting effort into other fisheries.
- Be consistent with the analysis and anticipated benefits of the Industry Funded Buyout by embracing a method that provides a similar measure of capacity and relative values.
- Mitigate loss of access to stocks as a result of the disproportionate impacts from effort regulations and stock range constriction during the baseline period.
- Be simple and minimize potential for appeals that may cause continuous recalculations of quota shares.
- Be designed to create the least workload to NERO / FSO to produce reliable initial allocations so that the program can be up and running in 2009.
- Maintain some semblance of compatibility of permits throughout the region so that permits are not trapped in geographic stock ranges—a situation that would result in a profound departure from the current flexibility inherent to the DAS system.
- Embrace a measure of value and capacity that is familiar to the industry and has been the basis for their investment decisions, and be consistent with past management / allocation of this limited access fishery.

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Ocean Conservancy

Advocates for a Wild, Healthy Ocean

January 18, 2008

John Pappalardo, Chairman
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Re: Timeline for Multispecies FMP Amendment 16

Dear John:

Ocean Conservancy has repeatedly expressed concern with the Council's ambitious agenda for Multispecies FMP Amendment 16. This has now reached a critical juncture. Though we are supportive of Sector planning and impressed by the industry's engagement, we see this well-intentioned effort diverting attention and resources from more fundamental obligations. As you are well aware, there are two statutory deadlines that are intended to be satisfied through timely submission of this Amendment. The letter to you from Regional Administrator Kurkul, dated December 7, 2007, only serves to reinforce our concerns that there are real administrative and human resource "bottlenecks" that make the present course of action untenable.

Completion of the Groundfish Rebuilding Program

The rebuilding program initiated through Amendment 13 was the remedy for a lawsuit challenging Multispecies Framework 33, intended to satisfy stock rebuilding standards incorporated in the Magnuson Stevens Act in 1996. The rebuilding trajectories finally adopted in Amendment 13 for several stocks did not conform to rebuilding mortality rates recommended by GARM I; instead, a mid-course adjustment was built into the plan; at the five-year milestone new trajectories would be calculated to accomplish rebuilding targets in the required time period (FY 2014 in most cases).

That five-year adjustment is non-negotiable. Ocean Conservancy is reassured by the stated intent of NMFS Regional Office to proceed with a secretarial action or secretarial interim action, should the NEFMC fail to re-prioritize its workload. However, it is far from desirable for the Council not to fulfill its responsibility; the rebuilding program is a fundamental conservation directive under National Standard 1. Though we all recognize the value of the Sector planning process, the

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current attention to sector policy development can not take priority over this required conservation action. We have seen this Council make great strides in recent years, but a failure to complete this obligation under the law will be unexplainable, and be a major setback in public perception of this process.

Incorporating Allowable Catch Limits and Accountability Measures

Confounding the timeline for development of Amendment 16 is a second deadline for incorporation, in the Multispecies FMP, of a process for setting allowable catch limits and institution of accountability measures. Ocean Conservancy was heartened that the Groundfish Committee began to explore the decision-making hierarchy for ACL at its January 17th meeting, rather than wait for NMFS guidelines. However, a Groundfish PDT discussion paper dated January 11, 2008, identifying complex policy questions that may significantly alter this plan's current structure, only serves to highlight that this Council has a major deliberative challenge ahead – not just for groundfish but for all the fisheries that it manages and with implications for overlapping fisheries managed by the Mid-Atlantic Fishery Management Council as well.

A process for determination of ACL, incorporating appropriate accountability measures, must be submitted and approved in 2010. Amendment 16 is the vehicle to meet that timeline.

The new standards included in the Magnuson-Stevens Act reauthorization had their genesis in recommendations from the U.S. Commission on Ocean Policy and the Pew Ocean Commission. These standards were well-debated and are recognized nationally as an important inclusion in marine resource policy development. For these reasons, Ocean Conservancy considers it a very high priority that this revised approach be rigorously implemented within the statutory time frame.

We strongly urge the NEFMC, at its January 24th meeting, to reconsider its objectives for Amendment 16. We urge the Council to defer sector policy development to a later action (Amendment 17), and narrow its focus to mid-term adjustments to rebuilding and the new MSRA standards.

Experience has shown that allocation raises the stridency of public discussion. Sector policy will have to address allocation issues that have dogged this Council for twenty years, as well as resolve significant industry and administrative costs. Defer sector policy development until after statutory obligations are met, so that it may be given the thoughtful attention it will require.

Best regards,

John Williamson
Fish Conservation Program Manager
Ocean Conservancy, New England

The Ocean Conservancy strives to be the world's foremost advocate for the oceans. Through science-based advocacy, research, and public education, we inform, inspire and empower people to speak and act for the oceans. Headquartered in Washington, DC, with more than 900,000 members and volunteers The Ocean Conservancy has regional offices in Alaska, California, Florida, and New England and field offices in Santa Barbara and Santa Cruz, CA, Florida Keys, the U.S. Virgin Islands and the office of Pollution Prevention and Monitoring in Virginia Beach, VA.

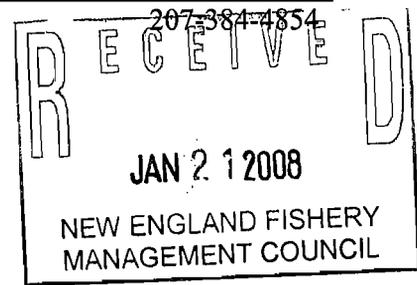
#16

ASSOCIATED FISHERIES OF MAINE

PO Box 287, South Berwick, ME 03908

January 21, 2008

Mr. John Pappalardo, Chair
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950



Dear John:

I write, on behalf of our membership, in regards to the decisions the Council will make on January 25 for groundfish sectors.

First, I want to express our thanks to the Council for holding a special meeting for this purpose. The Groundfish Committee has completed a considerable amount of important work on sectors, and we look forward to a discussion by the full Council.

I want to draw the Council's attention to the allocation alternatives developed by the Committee. The Committee has considered eight different allocation alternatives, rejected several, and has narrowed the alternatives to three.

The majority of allocation alternatives debated by the Committee were variations of alternative 3, and the Council will undoubtedly be asked to re-visit the work the Committee has done.

Before the Council re-visits the Committee's decisions, and engages in a long debate about the nuances of alternative 3 variations, we hope the Council will first describe the rationale for any version of alternative 3, and provide a full explanation for including factors other than landings history in allocations.

You will note that the document titled "Draft Sector Management Measures" holds a vacant spot for the "rationale" for alternative 3. The PDT has, on a couple of occasions, asked the Committee to provide that rationale.

The PDT's preliminary analysis of alternative 3 shows that allocations will shift from those vessels, and States, that landed fish to those that did not. Is this result the objective for alternative 3? If so, that should be clearly stated by the Council.

Allocation alternative 2 (landings history only) is consistent with the allocation decision the Council has already made for sector allocations in Amendment 16 and in Framework 42. It is also consistent with the allocation decision made by the Council recently for the general category scallop fishery, and consistent with how allocations are generally made in fisheries around the world.

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The debate should logically focus on the substantive differences between alternative 2 (landings history only) and alternative 3 (landings history plus other factors), otherwise the discussion will surely get bogged down and progress on sectors will once again be stalled.

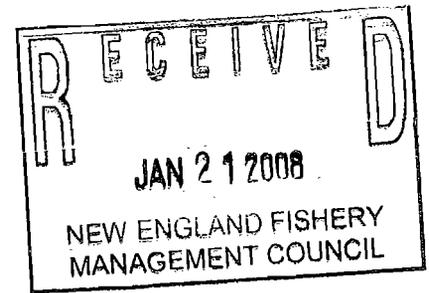
As always, we appreciate your consideration of our views.

Sincerely,

M. Raymond

Maggie Raymond
Associated Fisheries of Maine

John Pappalardo, Chairman
Rip Cunningham, Groundfish Committee Chairman
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



January 21, 2008

Dear Mr. Pappalardo,

The Council will again deliberate the concept of disqualifying sector and non-sector vessel catch history derived from the George's Bank Haddock Hook-SAP at its January 24 meeting. The circumstances the council envisioned when this idea was originally introduced have not occurred and there is now no legitimate reason to disqualify history.

The idea that vessels should not accrue catch history from the SAP was introduced in response to the quota-split between sector and non-sector vessels. The split was to allow the fisheries service to accurately distinguish incidental cod catches by non-sector vessels from those of sector vessels, which had a hard TAC of cod. It was also designed to avoid a derby fishery in the very small area and time period of the SAP. Commenters at the March 31, 2005 Council Meeting were concerned that the split would unfairly allow sector members exclusive access to the area while generating catch history.

Sector members addressed the Council's concerns about exclusivity by reaching a gentleman's agreement with non-sector vessel captains also fishing in the SAP. The agreement effectively precluded sector member participation in the non-sector segment of the SAP. Thus non-sector vessels had access to the area exclusive of sector vessels, which constitute the bulk of the area's active hook fleet. Non-sector vessels were also able to take advantage of the sector's idle infrastructure, such as baiting operations. The catch and participation numbers indicate that the sector fishery was at least as competitive as the non-sector fishery, meaning it was actually more challenging to generate a catch history within the sector. Had all the participants been forced to fish together within the current SAP boundaries, it is clear that there would have been a derby with potentially disastrous results. The split resulted in an equitable opportunity for non-sector vessels to participate, and sector members voluntarily excluded themselves from the non-sector portion of the SAP. Sector membership was open to any fisherman who felt that there was an exclusive fishery opportunity within the sector, but none joined. In fact, several fishermen dropped out of the sector in 2006 specifically to fish in the first half of the SAP for non-sector vessels.

There was a great deal of dissension in Framework 41 about the precedent of setting future allocations based on exclusive opportunities to fish. There are several other programs which presented arguably more exclusive opportunities and could therefore also have their catch history disqualified. Most notably: the Eastern U.S.-Canada

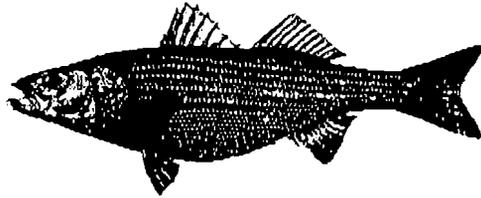
(EUSCA) Yellowtail Flounder SAP and the EUSCA Haddock B-DAS SAP, both of which were available exclusively to large mobile gear vessels. History gained from steaming time credits lies in the same vein. Even history gained from leased DAS is questionable, since so few leasing opportunities have existed and all were constrained by vessel baselines. For the fisheries service to discriminate on the basis of a perceived degree of exclusivity would present an inconsistent and tenuous legal precedent. Comparison of the merits of these other programs based on their conservation and management metrics shows the hook SAP as an unparalleled success, with very low bycatch and superior market returns. This is the very sort of fishery the Council should be attempting to promote, not eliminate by disqualifying active fishermen's catch history.

The hook fishermen have been developing this SAP for over five years. The appropriate Experimental Fishery Programs have been conducted, the results have been presented, and we are bringing a proposal before the Council for an expanded SAP for the entire multispecies fishery. It would be the ultimate irony for sector hook fishermen to be eliminated from future access to this program due to ill-conceived issues of "fairness and equality".

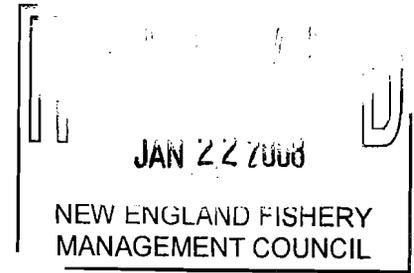
Thank you for this opportunity to comment.

Eric Hesse
F/V Tenacious
Barnstable, MA

COMMERCIAL ANGLERS ASSOCIATION



John Pappalardo, Chairman
 New England Fishery Management Council
 50 Water Street
 Newburyport, Massachusetts 01950



January 21, 2008

Dear Mr. Chairman:

We write to ask the Members of the Council accommodate Open Access hook and line (hand gear) fishermen in Amendment 16 by allowing them to form a "Sector". This sector would be for hook and line (hand gear) fishing only.

We believe that such an opportunity is warranted for the following reasons:

1) There is a long tradition of small-scale hook and line Ground-fishing in New England, but this fishery has truly been a "miner's canary". It was early to collapse, caught as it was between a general Ground-fish decline (exacerbated by area-specific Ground-fish disappearances, i.e., South of Martha's Vineyard) and a proliferating Dog-fish stock. (Dog-fish have been a menace to all regional Ground-fishermen, but arguably more so to hook fishermen.)

A consequence of this "pincer effect" is that most hook and liners have found it unfeasible to conduct a fishery, and many permit-holders can show little or no landings "history" for the base period that has been discussed by the Council.

Additionally, should these hook and liners be granted a "Sector", it may be years before there is a local resurgence of Ground-fish suitable for re-activating their traditional fisheries. This should be allowed for, in contradistinction to the prevailing "use it, or lose it" fisheries management fashion.

2) Some of whom we urge to be given this opportunity are full-time fin-fish and shell-fishermen; many are part-time.

Part-time, small scale commercial fishing, however has had a long tradition in this area. Some have called it the "Cape Cod way of life", whereby in coastal areas one might earn a living working at a multiplicity of jobs to make ends meet--pounding nails, driving a delivery truck, sheet-rocking, for example,

30 BUTLER AVENUE, MAYNARD, MA 01754

978-

758-2731

combined with such activities as jigging Cod-fish, hauling traps or Bass or Tuna fishing.

Being a "full-time" fishermen certainly counts for something when configuring a management plan and allocating resources, but not everything. And, given the rush toward consolidation in commercial fishing, now being pushed and condoned by Washington, it is harder than ever for boat owners and commercial fishing crews to be "full time". "Part-time" for better or worse may increasingly be the future of commercial fisheries for many years to come.

3) If new entrants are not allowed into the Ground-fishery, at least at the most basic artisanal level, commercial fishermen will see their political base further undercut--fewer fishermen, lesser influence, simultaneous with an expanding political base of recreational fishermen and environmental groups.

A "Sector" for open-access hook and line (hand gear) commercial fishermen, developing as it likely will should the resource recover, will offer new blood and a energy for an industry in need of it.

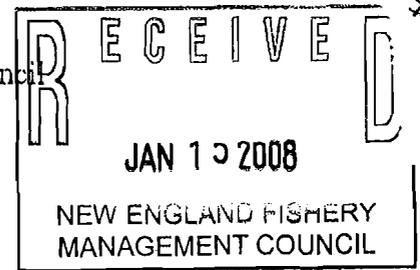
Sincerely,

Russell E. Cleary

Russell E. Cleary, Acting Executive Director

To:

Paul Howard New England Fisheries Management Council
John Pappalardo Chairman
Rip Cunningham Advisory committee
Patricia Kurkul NMFS



From: Martha's Vineyard Island

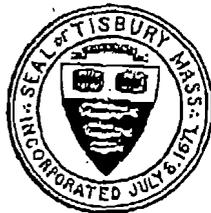
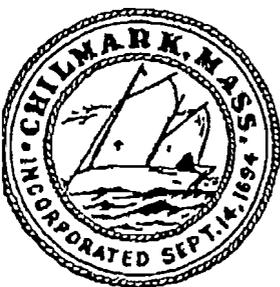
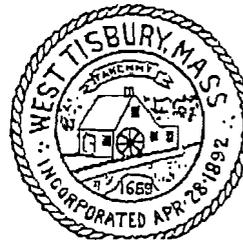
The fishing community on the island requests that within the allocation process, equitable distribution be made to the open access category/component of the fishery.

The Vineyard has a long history of groundfishery participation, which including the Tribe, extends for thousands of years.

Also, we ask that the Council consider allowing open access fishermen to join a sector, which may help our community in the future, should the fish ever return to our waters.

Thanks for thinking about us and these issues, for which we will be present at the upcoming meetings on Jan. 17 and Jan. 24, 2008.

SEALS of THE TOWNS and TRIBE



W:TN (1/16), Council

#20

Sector Allocations

New England Fishery
Management Council
January 24, 2008

Overview

- Review existing provisions
- PDT advice
- Alternatives considered
- Current Groundfish Committee recommendations

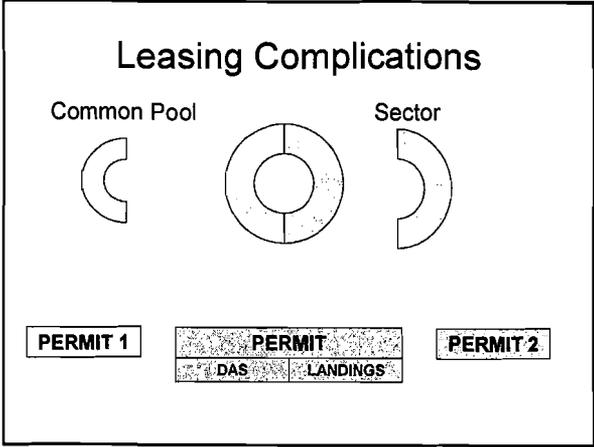
Amendment 13

- Allowed DAS *or* TACs
- For TACs, each permit's contribution:
Landings / Total Catch
- Sliding period:
 - Most recent five years
 - GB Cod: FY 1996 – FY 2001 (reverts to most recent five years for sectors beginning in FY 2007)

PDT Advice

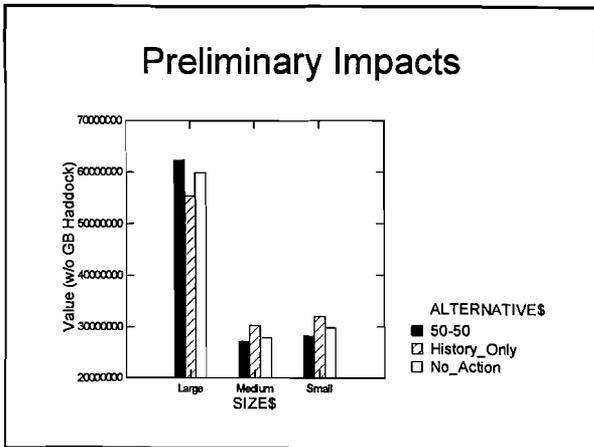
- Council should identify objectives if using elements other than landings history
- Logical boundaries on time period: FY 1994 and FY 2006
- Leasing, SAPs, Category B DAS complicate discussion
- Council may wish to consider M-S Act guidance on LAPPs

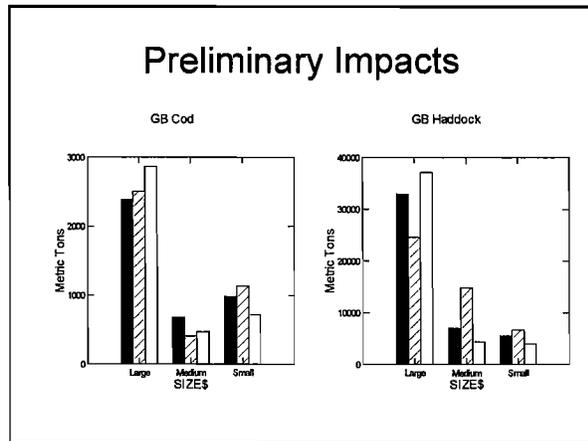
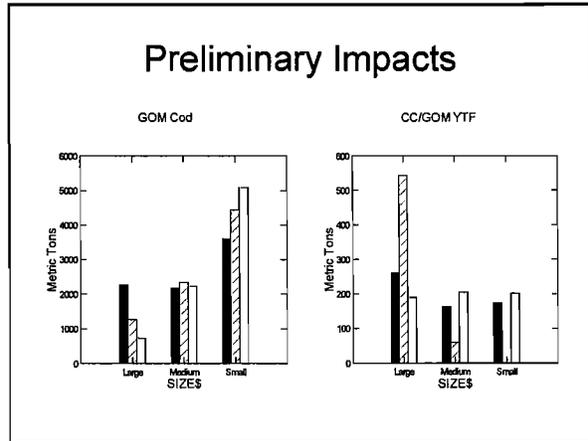
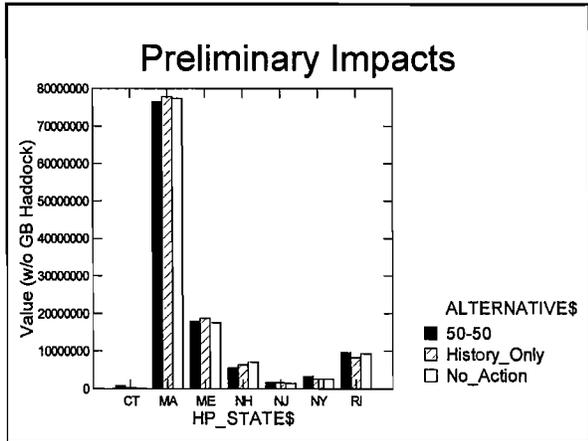
(PDT memo Aug. 25, 2007)



- ### Original Sector Contribution Options
- Landings history alone:
 - Two periods: FY 1996-2001, FY 1996-FY 2006
 - Landings history and used DAS
 - Two weights: 50/50 and 75/25
 - Two periods: FY 1996-2001 and FY 1996-FY 2006
 - Landings history and capacity formula, FY 1996-FY 2006 (area fished)
 - $(10L+HP) \times (\text{Allocated A DAS})$

- ### Committee Recommendations
- No Action
 - Landings alone, FY 1996 – FY 2006
 - Landings plus capacity, FY 1996 – FY 2006
 - Weighted equally
 - $((10 \times \text{Length})+HP) \times (\text{Allocated A DAS})$
 - Only applies to stocks caught





- ### Issues
- What are the objectives of different alternatives?
 - What are implications for those who invested in DAS?
 - Will these decisions bind future Councils?
 - Technical issues with calculating capacity factor

Technical Issues

- Permits with 0 DAS
- Inability to track Handgear A permit history prior to FY 2004
- When will calculations be made?
- What is the denominator?