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New England Fishery Management Council Groundfish Advisory Panel Meeting Summary

May 22, 2012

The Groundfish Advisory Panel met in Portland, ME. The GAP developed recommendations for changes to the sector management program, ABCs/ACLs and AMs for FY2013 – 2015, Georges Bank and Yellowtail Flounder and other issues. Members present were Mr. William Gerencer (Chair), Mr. Vincent Balzano, Mr. Carl Bouchard, Mr. Richard Canastra, Mr. Aaron Dority, Mr. Gary Libby, Ms. Emilie Litsinger, Ms. Jackie Odell, Ms. Maggie Raymond, Mr. Michael Russo, Mr. Geoff Smith and Mr. Hank Soule. They were supported by Council staff Tom Nies.

The Committee discussions referred to Groundfish Committee Meeting Summaries, PDT reports, FW 47 reactive AM alternatives for wolffish and halibut, RAP motions and a series of correspondence received by the New England Fishery Management Council.

Sector Management Program

The GAP discussed a recent letter sent to the Northeast Regional Office regarding at-sea monitoring costs for FY 2013 and determined that additional information should be provided outlining, in detail, the issues that the fishery will be facing in terms of low abundances of a number of stocks.

Motion: The Groundfish Advisory Panel Recommends the Committee ask the Council to send a detailed letter to NOAA HQ regarding sector monitoring costs in 2013, highlighting the reductions in ACLs that the industry will be facing. (Ms. Raymond/Mr. Libby).

It was noted that last year there were a little over 9000 sea days monitored in the program. That level of coverage was thought to equate to about \$8 million, which is about 10% of what the industry earns. At current cost level, it was thought full funding by the industry would be too high.

The motion **carried** on a show of hands (11-0-0).

Staff explained the funding options available to the Council to assist the industry in covering costs. The GAP focused the discussion on providing additional allocated groundfish to sectors. Staff noted that the PDT is currently conducting analysis that would aid in this discussion that shows the relationship between a sectors level of discards and its monitoring costs in FY 2010. GAP members discussed where these extra allocated groundfish would come from and how the industry could maximize their profitability to fund monitoring. One GAP member thought it would be best not to auction additional allocations but to allow sectors to have the flexibility to lease or harvest the fish themselves, which was thought to be most profitable.

Motion: The Groundfish Advisory Panel recommends that the Groundfish Committee develop an option for a groundfish set-aside for the purpose of at-sea monitoring of sectors. The mechanism would work the way the scallop set aside works now for scallop monitoring. (Mr. Balzano/Ms. Raymond)

The source of these additional allocated groundfish was a concern. The GAP wanted to know if they would be taken out of the overall ACL or if they would be taken out of the management uncertainty buffer. Members were hesitant to reduce individual allocations for the goal of funding monitoring and expressed an interest in having more information on the management uncertainty buffer option. Staff explained that they were talking about the management uncertainty buffer, which is the ABC minus the ACL. For most groundfish stocks, it's set at 5% with some at 3% or 7%. Compared to other Fishery Management Plans, groundfish has one of the lowest management uncertainty buffers. GAP members thought both, ACL or management uncertainty buffer, should be investigated further. A cap on the contribution by industry towards monitoring funding was agreed upon following discussion of the total cost of monitoring as a percentage of overall groundfish industry earnings.

Motion as friendly amended: The Groundfish Advisory Panel recommends that the Groundfish Committee develop an option for a groundfish set-aside for the purpose of at-sea monitoring of sectors. The mechanism would work the way the scallop set aside works now for scallop monitoring. Monitoring costs charged to the industry will not exceed three percent of the ex-vessel value of the landed ACE allocated stocks. Industry cost recovery will be phased in equally over a five year period (Mr. Balzano/Mr. Smith).

The intent of the motion was to defray monitoring costs, not cover them entirely and the GAP wanted financial boundaries put in place, including restricting the type of cost charged to the industry to monitoring. This is consistent with the motion passed by the Council at the April 2012 Council meeting stating that the industry shall only ever be responsible for contributing to the funding for direct at-sea monitor costs: specifically the daily salary of the at-sea monitor. The established 5 year timeline would have the industry's contribution increase, reaching 3% of monitoring costs after 5 years.

Motion to split: To split the motion into two parts (Mr. Dority/Mr. Smith).

Part 1: The Groundfish Advisory Panel recommends that the Groundfish Committee develop an option for a groundfish set-aside for the purpose of at-sea monitoring of sectors. The mechanism would work the way the scallop set aside works now for scallop monitoring.

Part 2: Monitoring costs charged to the industry will not exceed three percent of the ex-vessel value of the landed ACE allocated stocks. Industry cost recovery will be phased in equally over a five year period (Mr. Balzano/Mr. Smith).

Some GAP members thought it beneficial to separate the mechanism and funding aspects into separate motions to maximize discussion. Others expressed concern that to do so would go against the intent of the motion.

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

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

Full retention of allocated groundfish was discussed as an option for defraying monitoring costs. The GAP did not vote on full retention itself but on monitoring requirements and other implications.

Motion: The Groundfish Advisory Panel recommends that if the Council recommends full retention of allocated groundfish stocks that one hundred percent dockside monitoring is necessary (with specific attention to recording of undersized fish) to have full catch accountability (Ms. Raymond/Mr. Bouchard).

One hundred percent dockside monitoring was considered essential to detect any indication of a developing market for undersized fish. It was generally agreed that a market could be created for any sized fish, but the development of an undersized, immature fish market was to be avoided. Any smaller sized fish caught would count towards a vessel's allocation. The benefits to the industry include economic gain from additional size classes allowed in landings and reduction of at-sea monitoring costs by eliminating allocated groundfish discard monitoring. Changes in mesh size were discussed but no alterations to the current mesh regulations were made. One GAP member considered 100% dockside monitoring to be an opportunity to collect biological samples from fish that normally go overboard and are lost to the scientific community. Logistics of this were discussed highlighting the difficulty in implementing of such a program and its importance.

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

One GAP member thought that full retention would not work for each sector. For example, jig fishermen should not be required to land fish that can safely be returned to the water.

Motion: Full retention should be considered as an option on a sector by sector basis assuming that enforcement concerns could be addressed. (Mr. Dority/Mr. Smith).

It was unclear how this motion could be enforced and have equal accountability across sectors. Fish from various vessels are mixed at the dealers and it would be difficult for enforcement to identify vessels that aren't supposed to be landing undersized fish.

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

GAP members expressed concern about the electronic monitoring (EM) pilot project currently being conducted by NFMS. It was thought that language in Amendment 16 was being followed too strictly and EM was being used to verify catch, instead of monitoring discards like other EM programs throughout the country. The GAP wanted to highlight the potential of EM as a tool for fishermen but it is not advanced enough to fully replace at-sea monitor and they did not want the program to be hindered by too high of expectations.

Motion: The Groundfish Advisory Panel recommends that the Groundfish Committee clarify the purpose of electronic monitoring either through a change to Amendment 16 language or by sending a letter to NMFS that clarifies that electronic monitoring is to be used to verify whether or not discards occurred and what species were discarded. (Ms. Raymond/Mr. Russo).

The motion **carried** on a show of hands (12-0-0).

One GAP member did not want status quo to continue with regards to minimum sizes of allocated groundfish, if the Council did not vote for full retention. The goal was to move away from regulatory discards and have fishermen earn money from fish that they are no longer discarding. The example provided was for yellowtail flounder; a couple of GAP members provided anecdotal evidence of large numbers of 12" yellowtail flounders that are thrown overboard because they are an inch too small to land legally.

Motion: The Groundfish Advisory Panel recommends that the Sector Framework revisit minimum fish size requirements, with a specific focus on reducing yellowtail flounder from 13 to 12 inches (Ms. Odell/Mr. Bouchard).

Concern was expressed that landings would increase on yellowtail flounder at a time when the stock size seems to be very low. It was purported that there is scientific support for reducing the minimum size of yellowtail flounder in a study conducted by Dr. Steven X. Cadrin of University of Massachusetts School of Marine Science and Technology. Based on more of Dr. Cadrin's work it was thought that even if sexually mature, smaller fish were not able to contribute as much to the population as larger fish because of lower egg production and reduced reproductive success.

Motion as perfected: The Groundfish Advisory Panel recommends that the Sector Framework revisit minimum fish size requirements, with a specific focus on reducing discards (Ms. Odell/Mr. Bouchard).

GAP members supported the reduction of regulatory discards but because of the population size concerns for yellowtail flounder and cod, a reduction in minimum fish sizes should be examined for appropriateness for each species as a potential alternative option to status quo and full retention. Staff explained that the PDT is currently working on some of the issues discussed in relation to full retention.

The motion as perfected **carried** on a show of hands (11-0-1).

ACE carryover

One GAP member expressed disappointment in the delayed response by NMFS regarding changes in the carryover rules. This issue is considered hugely important by the industry given the substantial recent reductions in allocations of a number of species. The industry would like to have more flexibility in the carryover rules for the next two fishing years to help optimize their fishing operations. There has been increased fishing on stocks at the end of the fishing year

because vessels have a use it or lose it mentality and prefer to flood the market instead of lose their allocation. The ability to roll quota over and spread it out over the following 12 months would benefit vessels and the market. Staff explained that with increased rollover, the number available in the second year could exceed the ABC set by the SSC and there is the possibility that allocating more fish could result in overfishing in the second year.

Motion: The Groundfish Advisory Panel wants to express a sense of urgency to the Council for the resolution of the issue of additional carry over from 2012 to 2013 (Ms. Raymond/Ms. Odell).

The motion **carried** on a show of hands (12-0-0).

Accountability Measures

Staff explained that they were now required to have reactive accountability measures (AMs) and not just proactive AMs. One approach would be to go with closed areas that have already been analyzed for a number of species.

Some of the public comments included:

- Drew Minkiewicz, Fishery Survival Fund: Instead of doing the closures you could go to two fish for wolffish and if you hit the limit then go to one fish. Is that still an option? It's open to interpretation because the court didn't vote on that.

Motion: The Groundfish Advisory Panel recommends retaining the current zero possession Accountability Measure for Atlantic halibut (Ms. Raymond/Mr. Russo).

The GAP expressed concern about the impact that state landings have on the commercial fishery. Staff explained that state landings are taken off the top of the ACL calculations meaning that both state and federal waters landings cannot exceed the ABC. A couple of GAP members did not want to allocate landings to state waters until regulations were implemented that would help extend stock rebuilding efforts to state waters. One GAP member also thought that these types of AMs were a backdoor return to time, gear or area restrictions that were reduced by the catch share system.

The motion **carried** on a show of hands (11-0-1).

Staff explained that the ACL was not reached for Atlantic halibut, wolffish and SNE winter flounder. The existing AM for wolffish was deemed adequate. Increases in state landings were also discussed for SNE winter flounder and frustration was expressed with the state waters fleet.

Motion: The Groundfish Advisory Panel recommends a one fish possession limit for Atlantic wolffish and as an Accountability Measure, ban possession (Ms. Raymond/Mr. Russo).

The motion **carried** on a show of hands (11-0-1).

The GAP discussed how AMs are triggered for the recreational sub-ACLs. The RAP voted on a motion that if the sub-ACL is exceeded by less than 50% that no AM is triggered unless the overall ACL was also exceeded.

Motion: The Groundfish Advisory Panel recommends that the Committee direct the PDT to develop an across the board Accountability Measure that in all cases, unless the sub-ACL is exceeded by fifty percent or more, if the total ACL is not exceeded then AMs will not be triggered (Ms. Raymond/Ms. Litsinger).

Some public comment on the motion:

- Drew Minkiewicz, Fishery Survival Fund: This is exactly what's being used with SNE yellowtail flounder. Under the plan they closed a large area year-round but since it wasn't exceeded that area remained open. So in reality it is used right now.

The motion **carried** on a show of hands (8-0-3).

Following the AM discussion, the GAP felt it necessary to address the issues concerning fishing in state waters by writing to the state directors and working together to find a solution.

Motion: The Groundfish Advisory Panel recommends that the Groundfish Committee and Council issue a letter to the state directors specifically outlining the problems associated with the absence of accountability standards within state fisheries (see Magnusson-Stevens Act section 306(3)(B)) (Mr. Brown/Mr. Canastra).

The motion **carried** on a show of hands (12-0-0).

Georges Bank Yellowtail Flounder

The GAP discussed the current Georges Bank yellowtail flounder allocation issue that has resulted in an increase in the scallop sub-ACL at a time when the stock assessment indicates a decrease in stock size and consequently a reduced groundfish sub-ACL. The scallop sub-ACL is based on a projection from FW 44. There have been updated projections but these have not been adopted by the Committee. Based on the predicted extreme hardship the groundfish fleet is facing, the GAP would like a more recent projection of the scallop sub-ACL to be used that would allow the scallop fishery to be fully executed without tying up groundfish vessels.

Motion: The Groundfish Advisory Panel recommends that the Groundfish Committee recommend that the Council request NMFS implement an emergency action, or use the regional administrator's authority provided in FW47, whichever can be done most quickly, to adjust the Georges Bank Yellowtail Flounder sub-ACL to the scallop fleet, consistent with the updated projection of catch of Georges Bank Yellowtail Flounder (PDT memo dated Oct 3, 2011), and consistent with the intent of FW 44. This would result in a total allocation of Georges Bank Yellowtail Flounder for 2012 to the scallop fleet of 61 mt of Georges Bank Yellowtail Flounder and return of 246 mt to the groundfish fleet. (Ms. Raymond/Mr. Libby).

There was some discussion of delaying the motion until after the Georges Bank Yellowtail Flounder Working Group met on May 23, 2012. The need to do something to get out of this bad situation was expressed.

Some public comments on the motion:

- Drew Minkiewicz, Fishery Survival Fund: I don't agree with this motion from the Fishery Survival Fund position. It has to be based on a projection with the most recent data. The scallop PDT has said that it is based on a lot of uncertainty. So the uncertainty has to be accounted for before you allocate between the fisheries. The scallopers should be indemnified from any AMs if they go over if this goes through. I was hoping to have this discussion tomorrow with everyone at the table. This will put us on the wrong foot for tomorrow's meeting. Last year the scallop industry caught 98mt of yellowtail flounder. It's all legal sized fish required to be brought in under the regulations. When you look at the regulations there is no 90% of need. There's going to be more effort on Georges Bank because of access area openings compared to last year. I don't understand how they would get by with 160mt when they caught 98mt last year with less effort on Georges Bank. The scallop industry is paying for the SMAST bycatch program. The 307mt allocation may be high but when you look at what they landed last year and the effort increase on Georges Bank it might not be. Use more recent data to do a reallocation; the data in the motion is outdated.
- Mike Love, Fisherman (Portland, ME): I'm all for getting along with scallopers. We're here in Portland, ME today. Ever since sectors started I've always landed in ME. This negatively impacts me in terms of swapping out GOM quota – I have GB quota. It will definitely impact fish being landed in ME and I'm sure there are people in the same situation. Even though it's nice to get along with scallopers but we have to look at the here and now and the people in ME have to survive too.

The maker of the motion provided data consistent with FW 44 but is willing to have those numbers replaced with more recent projections. One GAP member suggested a zero retention of yellowtail flounder in the channel requiring discarding in that area while allowing both fisheries to keep fishing.

The motion **carried** on a show of hands (11-0-1).

The AMs for the scallop fishery exceeding their sub-ACL were thought to be severe.

Motion: Furthermore, the Groundfish Advisory Panel recommends, as part of the Emergency Action, scallop FW 23 Accountability Measure indemnity for 2013 (Ms. Odell/Mr. Soule).

Some public comment included:

- Drew Minkiewicz, Fishery Survival Fund: The AMs start at months depending on the percentage they exceed the sub-ACL and then goes up to year-round. Now since it's covered by the sharing agreement, any overage is deducted the following year anyway. There's a mechanism put in place to slide fish between groundfish and scallop. If by some date the scallopers have extra fish it goes to groundfish. If the scallops don't go

over 150% of their sub-ACL and the overall ACL isn't exceeded then no AMs are triggered – that's how the fish slide back to scallopers.

The motion was **withdrawn** without objection.

One GAP member wanted to clarify how the projected catch be allocated in future.

Motion: The Groundfish Advisory Panel requests the Committee recommend to the Council, if they continue to allocate groundfish sub-ACLs to the scallop fleet based on projected catch, that they clarify what percentage of the projected catch is to be allocated (Ms. Raymond/Mr. Brown).

Staff explained that in the current regulations the allocation is not spelled out as in the motion.

The motion **carried** on a show of hands (11-0-0).

Other Business

One GAP member wanted to enable more flexibility to allow the fleet to be more economical and efficient because there will be more and more challenges in the future to make ends meet. There might be a need for a fisherman to catch small and large mesh fish in one trip. If it was an observed trip you could ask for an exemption and catch a small mesh species and a large mesh species on the same trip. More work needs to be done on this issue, that would provide more details on the logistics of this flexibility.

Motion: The Groundfish Advisory Panel recommends that the groundfish committee discuss the merits of mixed trawl fisheries (large and small mesh) taking place on the same trips on observed trips to improve the efficiency of the fleet (Mr. Brown/Mr. Canastra).

The motion **carried** on a show of hands (11-0-0).

With the GMRI GOM cod stock structure workshop in June 2012, one GAP member wanted to incorporate those results into the benchmark assessment being conducted in December 2012. Recognizing the substantial undertaking this would be, it was thought that additional agency time would be required to complete it.

Motion: The Groundfish Advisory Panel requests the committee request the Council send a letter to the agency asking that there be sufficient staff time to incorporate lessons learned from the June GMRI workshop on cod stock structure and the SSC cod stock structure work plans into the upcoming cod benchmark assessment (Mr. Dority/Ms. Litsinger).

Staff explained that it is the first phase in addressing changes to cod stock structure. Two additional steps have already been outlined in the SSC plan but a timeline for these steps has not

been identified. The results of the workshop may have unintended complications for ACL allocations if new stock areas are identified that have no associated allocations.

The motion **failed** on a show of hands (2-8-1).

