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New England Fishery Management Council
Groundfish Oversight Committee
Meeting Summary
October 27, 2010

The Groundfish Oversight Committee (Committee) met in Portsmouth, NH to continue development of Framework 45 to the Northeast Multispecies Fishery Management Plan (FMP). The Committee discussed measures for the Framework including the Handgear A trip cod limit, the Whaleback area cod spawning closure, and industry payment of at-sea monitoring. The Committee also reviewed the draft framework to choose preferred alternatives to recommend to the Council. Committee members present were Mr. Frank Blount (Chair), Mr. Rip Cunningham (Vice-Chair), Mr. James Fair, Mr. David Goethel, Ms. Sally McGee, Ms. Sue Murphy, Mr. Jim Odlin, Mr. Dave Preble, Mr. Terry Stockwell, and Ms. Mary Beth Tooley. They were supported by staff members Mr. Tom Nies and Ms. Anne Hawkins (NEFMC), Mr. Doug Christel, Mr. Mark Grant, Mr. Tom Warren, and Mr. William Whitmore (NMFS NERO), and Mr. Gene Martin (NOAA General Counsel).

Discussions were guided by the draft Framework 45 management measures.

Handgear A Trip Limits

The Committee was tasked at the September Council meeting to reconsider the measures in the draft framework after NOAA GC staff advised that the proposed measures could only be approved in an amendment to the FMP. Also, the Committee had chosen to stay silent at previous meetings on the issue of whether the GB cod trip limit should remain tied to the GOM cod trip limit and wanted to address that matter at this time.

NOAA GC staff clarified to the Committee that any measure specific to the handgear fleet that used the group's cumulative PSC as a "trigger" for management changes was considered allocative in nature and was not possible in a framework. Other measures related to a trip limit or closed areas could be considered if they were justified, so long as the PSC was not used and actions were not based on historical landings of individual vessels. If a trigger were to be tied to the overall ACL or the previous year's landings, that may be approvable. Ms. Murphy stated that NMFS would support removal of the proportional trip limit, but that if the common pool trip limit was below 300 lbs. the handgear trip limit should also be lower to avoid the risk of exceeding the total ACL.

A Council member noted that one of the options requested by handgear fishermen was to eliminate rolling closures for Handgear A vessels. The rationale for this was that since they fish inshore, the majority of them are impacted by the closures at the beginning of the season. When the rolling closures are over, the common pool has often caught a large portion of the allocation of cod for the year. Eliminating the rolling closure impact to the Handgear A participants would not completely solve the problem but would be an improvement. Ms. Murphy stated that such a measure would be difficult for NMFS to support, since the closures are in place to protect cod.

Public comment included:

- Marc Stettner: NEHFA. You keep saying this is an allocation, but it is not because nothing is set aside for the handgear fishermen. The common pool could still catch all the

fish; it is only a trigger. Why don't we have two more options, to eliminate the closures and to put the trip limit at 300 lbs. until we hit 99% of the total ACL and then go to a zero trip limit? We should have 3 options and let the Council debate it in November.

Motion: To add an option to eliminate rolling closures for Handgear A vessels with the exception of spawning closures (Mr. Cunningham/Mr. Stockwell)

Motion as perfected: To add an option to eliminate rolling closures for Handgear A vessels with the exception of the sector rolling closure areas (Mr. Cunningham/Mr. Stockwell)

The Committee noted that Amendment 16 exempts sectors from some GOM rolling closures through a universal sector exemption, but sectors are still subject to specific rolling closures. The intent of this motion is that Handgear A vessels will be subject to the same GOM rolling closures as sector vessels. The Committee chair asked whether this could be accomplished in a framework, and NOAA GC advised that it could be, but the measure would need to be justified in terms of National Standard 4. Committee members noted that no closures had been developed with the express purpose of protecting spawning, and that the sector rolling closures were the closest identified proxy to spawning areas. Council staff clarified that some Handgear A permits are vessels fishing with tub trawls of up to 250 hooks, and that this measure would allow those vessels to fish in the rolling closure areas as well as those fishing with handgear.

Public comment included:

- Marc Stettner. If you want us to have a one-month fishery, this is fine. I am not happy with it. I don't see why a handgear fisherman cannot be allowed to fish in blocks 132 and 133 for the year. We don't care if we cannot fish in the whaleback area. Right now the fishery for us is no fishery. All we want is a shot at some fish.

Council staff pointed out that the Council should realize the effects of establishing PSC for limited access permits and including handgear permits. The common pool ACL is based on the ACE from all these permits, and the handgear fleet only brings a small amount into that ACE. Groups are required to be held accountable for their catch based on the system used, which may entail holding them to small amounts of ACE.

Motion to substitute: To add an option to eliminate current rolling closures for Handgear A vessels (Mr. Odlin/Mr. Cunningham)

A Committee member spoke in favor of the motion, stating that without this option there would be no relief for handgear fishermen. He said that sectors are getting access to some of the areas anyway and that those sectors have the potential to catch substantially more than does the Handgear A fleet. In all likelihood their catch is still going to drop sometime in June or early July, and it will not be economically feasible for them to continue to fish. Ms. Murphy said that the NMFS may have problems with this motion and would look to the justification and rationale to determine whether it could be approved. Another Committee member stated that he would support the original measure because it kept all common pool vessels on a level platform, but that it did not seem fair to exempt only one part of the common pool from these rolling closures. Other members noted that these vessels are already subject to different rules than the rest of the common pool.

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

The main motion, as substituted **carried** on a show of hands (6-2-1)

Citing concerns over whether the previous measure would be approved by NMFS and whether it provided accountability in the spawning areas, another motion was offered.

Motion: To add another option to eliminate rolling closures for Handgear A vessels with the exception of the sector rolling closure areas (Mr. Stockwell/Ms. McGee)

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

Motion: Under §4.3.3, eliminate option 2 (Mr. Cunningham/Mr. Preble)

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

Council staff told the Committee that the GOM and GB cod trip limits for handgear were tied together because the Council focused only on the GOM stock when the permits were created, but that there were some vessels fishing on GB cod with these permits.

Motion: To establish a separate trip limit for Handgear A permits for the GB stock area, and that it be 300 lbs./trip proportional to any reductions in the common pool trip limits for GB cod and the Handgear A permits be exempt from GB seasonal closures (Mr. Odlin/Mr. Cunningham)

The Committee clarified that the idea was to keep the trip limits in each area proportional to the common pool adjustments for that particular stock. Ms. Murphy stated that this could be an enforcement issue and that NMFS would try to find a way to make this enforceable, including possibly requiring a letter of authorization in case one trip limit is higher than the other.

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

The maker of the previous motion stated that Handgear B permits should be handled separately since they are unlimited, but that the two stocks should not be tied together.

Motion: That handgear B permits trip limit adjustments are by area (GB or GOM) (Mr. Odlin/Mr. Stockwell)

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

One Committee member supported eliminating the proportional reduction between the two groups, but Ms. Murphy pointed out that that option was eliminated in a previous motion. NMFS would have supported that, but not with the cap tied to PSC. The Committee eliminated the entire idea including the proportional reduction.

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

Whaleback Area Spawning Closure

Council staff provided the Committee with an overview of comments received at public informational sessions on this topic that had been held the previous week. Those comments requested that the Committee reconsider the location and timing of the closure, and that the

Committee consider allowing fishing for non-groundfish species in the area during the closure months.

A Committee member responded to the public comment by saying that fish are spawning in the southeast end of the proposed area in April and start to leave the area on July 1st. The area does not cover all of the spawning fish because it was hoped that some areas around the edge could be left open for recreational fishing so that there is an opportunity to catch some trophy fish. He argued that a closure along latitude and longitude lines should not be considered because that would impact a huge area to the east and west that was not necessary to close. The goal was to minimize impacts to all fishermen while allowing the fish to spawn. He urged the Committee to keep the closure area and dates as proposed in the document.

Public comment included:

- Jon Sterritt: NH Recreational Fisherman. Initially the area does look too large. If we are trying to protect cod while they are spawning, we should be covering the whole spawning ground. It also stretches so far north, and there does not seem to be any purpose to that. I do understand why it stretches south to protect the fish while they move out of the area. Second, there is no reason to bar all recreational fishing from that area. You will only catch cod if you actually target cod. This is not a catch and release fishery. Regarding the dates, May and June are the only times this needs to be closed. It sounds like there is not any spawning activity outside of then. If they are not spawning, I don't see the purpose of protecting that particular area.
- Carl Bouchard: F/V Stormy Weather. I fully support the proposed rectangle. I have been involved in cod tagging in that area during those months, prior to and after the rolling closures. These are the correct lines. If you use lat-long, you will close too big of an area. Two important pieces of bottom are also included in the closure to the southeast.
- Don Swanson: CCA of NH. We support the closure. We also support Option 2, allowing other fisheries in the area during this time. We understand that there is a corner that could be open to striped fishing, and also that there is tuna and shark fishing in the area. We would like to see them be able to do that.
- Carl Bouchard. I have caught as many tuna as anyone in this room. Tuna fishing does not start there until mid-July at the earliest so that is not a valid argument
- Jon Sterritt. I am also on the RAP for groundfish. Regarding types of gear that should be allowed, I don't see the point of reinventing the wheel. This has already been done in Mass Bay to allow other fishing. There are sharks, mackerel, and maybe tuna there. 99% of the problem can be solved by preventing possession of cod in that area. There is no reason to restrict other types of fishing.
- Mark Godfrey: NH Recreational Fisherman. I have two concerns with the closed area. I agree it should be longer in duration and include the month of July too. When they open July 1st, I see them unloading at co-ops and there are still plenty of fish in that block. Also, any cooperative research going on there should be for science only and not be allowed to be sold for profit.

The Committee discussed the issue of what gear may be exempted if the option were chosen to close the area to gear capable of catching groundfish. One Committee member supported allowing tuna fishing and ensuring that striped bass fishing could occur in the area. He said that if the list of "exempted gears" only applied to gears used in the commercial fishery, it would likely not include striped bass gear because they can only be fished recreationally in New Hampshire. Some Committee members felt that the option prohibiting possession would create a kill and

release fishery. In the current closed areas, the recreational regulations say that with the exception of tuna, fish harvested may not be sold, and no gear may be on board other than rod and reel and handline. Some other Committee members stated support for a closure because they felt that allowing any recreational gear would create a slippery slope where cod could still be caught. Council staff noted that the closed areas on GB use a different approach, where the regulations explicitly state what gear is allowed to be used rather than what is prohibited and then listing exempted gear. A Committee member asked whether the language in the draft framework referring to “gear capable of catching groundfish” was redundant. Ms. Murphy stated that it may be, given the definition. Council staff noted that the phrase was the original language in the document, and the language about exempted gear was added when NMFS staff said the original was not clear enough.

Motion: In §4.3.2, to amend suboption A that pelagic hook and line gear, as defined in the commercial fishing exempted gear regulations, is allowed in the area for recreational fishermen (Mr. Goethel/ Mr. Odlin)

Ms. Murphy stated that this motion may not be necessary. The Committee chair pointed out that it was for clarity, since the commercial and recreational requirements are listed separately in the draft framework, and that the definition of exempted gear may imply that it only applies to commercial gear.

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

Motion: To remove suboption B in §4.3.2 to the considered but rejected category (Mr. Stockwell/Mr. Preble)

A Committee member asked whether a motion prohibiting possession of groundfish during the closure was necessary. Council staff noted that it may be desirable to change the option in the document to mirror the commercial regulations prohibiting possession of groundfish, since allowing transiting in the area with groundfish on board would create a huge enforcement problem.

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

A Committee member asked the Committee to reconsider the motion about pelagic hook and line gear, stating his concern that it would be difficult to enforce and anyone could catch cod with recreational gear.

Motion to reconsider allowing pelagic hook and line gear (Mr. Fair/Mr. Preble)

The motion to reconsider **carried** on a show of hands (7-1-0)

Motion: In §4.3.2, to amend suboption A that pelagic hook and line gear, as defined in the commercial fishing exempted gear regulations, is allowed in the area for recreational fishermen

A Committee member stated that the overwhelming necessity was to protect the spawning cod, and felt that other fishermen would just have to sacrifice fishing in the area for three months.

Public comment included:

- Don Swanson. This motion would make the only option to have no recreational fishing in the area during this time? I am also concerned that this came up so fast. You started discussing it in June, now it's October and you're still discussing issues here. We haven't had a chance to look at this. It wasn't offered to the RAP to provide comments on this. It's turning out to be a complete recreational closure. I support the spawning cod, but this will be voted on in November in Brewster. It came about really fast.
- Jon Sterritt. This is not minor, it's unprecedented. In Mass Bay they allow other fishing, so there would be a precedent for that. I'm not sure why that precedent isn't being followed. As far as I know, the options that were considered weren't made public until Monday. I think there should be an option that protects the spawning cod while still allowing access for recreational fishermen. There's a lot of support, but I think people will find it appalling that recreational fishing can't occur, and now there are only two options.

The Committee chair responded to these comments by saying that the No Action was still an option in the document, and that the Council still had the final decision in the third week of November.

The motion, as reconsidered, **failed** on show of hands (1-7-1)

Industry Payment of At-Sea Monitoring Costs

Council staff told the Committee that the Council had asked them to reconsider the option in the draft framework that exempted the industry from paying at-sea monitoring costs in FY 2012. The Council voted to leave the option in the framework, but since NMFS warned that the option could not be approved, the topic was remanded to the Committee to develop additional options. A Committee member asked how industry payment of costs would be implemented if the option was not approved, and whether the Council would have a chance to provide input on the implementation. Another member pointed out that the Council had sent a letter to the Secretary of Commerce requesting additional funding for monitoring, but that there has been no response to that letter.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. Is there a letter from the RA saying this is not approvable? The Council voted 11-5 to advance this option. The Council did write to John Oliver several months ago. I don't think he responded to you, but what he responded to me was that the Council wants the industry to pay for this. The agency won't put the money in the budget unless the Council says that we've changed our minds and do not think the industry can pay for this in 2012. I would hope the Committee would continue to support the elimination of this requirement on the fishery. Maybe you could task the AP or the Council could task the Committee to look for an option in the next framework that would have some kind of cost-sharing element to it. We need to keep this option to get the message to the agency that the Council has reconsidered and NMFS will have to come up with the money at least through 2012. I would like to see this go beyond 2012. The charge is a huge percentage of the value of the fishery, and the industry simply can't afford it.

A Committee member stated that he felt payment of monitoring costs would destroy the groundfishing industry, and that it was impossible to know during the drafting of Amendment 16 that there would be a recession and the industry would not have regained its strength by now. Another member would support a cost-sharing option but felt it may not be possible to develop one because of the nature of government funding. She was informed that the North Pacific has implemented a cost-sharing observer program that could be looked at as a precedent for New England for this FMP and others. NOAA GC staff told the Committee that the North Pacific observer tax was created by statute and that, except in the case of an IFQ program, NMFS is limited to charging for administrative costs of issuing permits. Ms. Murphy noted that a set-aside program like that in the scallop fishery could be a viable way of paying for observer costs, but that creating such a program for groundfish may require an amendment to the FMP. Other members supported examining monitoring programs in northeast fisheries in general.

Public comment included:

- Ellen Goethel: F/V Ellen Diane. I would urge you not to change this motion and leave it on the table for the Council to decide. The Council needs to send a message to NMFS and the Secretary that this is not a cost we can handle. This will put the entire NH fleet out of business if they have to pay this. Mr. Martin said if we had an IFQ, NMFS would only be able to charge 3% for the observers. But since it's not an IFQ, they can charge whatever they want.
- Jackie Odell: Northeast Seafood Coalition. NSC strongly supports what was voted at the Council as well. We sent a message in early September stating our concerns if the industry was forced to take on any of these costs at this time. We can't talk about cost-sharing until we get the fishery to a profitable place. There are too many costs out there and no discussions of anything going in the industry's direction so we can't support the fishery being on the hook for anything at this point.

Council staff asked whether there were not catch share programs that required industry to pay 100% of observer costs. NOAA GC staff responded that the cost recovery limit applies specifically to whether NMFS can collect fees to defray program costs. NMFS has found they can pass on the costs of observers to the industry legally if they are paying for it directly as one of the conditions of fishing, similar to the requirement to install a VMS.

A Committee member stated that the industry could not afford monitoring until it was profitable by a large margin because boats in the fishery will need to be replaced over time. Another member asked NMFS to develop a strawman that might propose solutions for some of the cost-sharing issues and questions like what would happen if a monitor were to break their contract. Due to strong support for the FW 45 option that exempted industry from paying monitoring costs in FY 2012, The Committee chair clarified that the Committee's intent was to leave the option in the document.

Motion: to have an additional option in the document for 100% dockside monitoring (Mr. Odlin)

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

Motion: To have an option for greater than 50% dockside monitoring in the groundfish fishery (Mr. Cunningham/Mr. Preble)

A Committee member expressed support for the motion and stated that he hoped it would lead to 100% dockside monitoring. He stated that when there were quota fisheries in the 1980's, a large number of people sold fish on the black market, and that lowered the price for people who were abiding by the law. Also, he noted that less "unrecorded catch" could narrow scientific uncertainty and allow more of the quota to be fished. Another Committee member opposed the motion because he felt that the situation in the 1980's would not recur since enforcement is far more effective today. He felt that these monitors did not do anything except to watch the fish being weighed, and felt that it was a waste of money. Yet another member stated that he had heard that dockside cheating was beginning to snowball again in southern New England. Ms. Murphy conveyed a message from OLE that they believe dockside monitoring increases compliance, and that NMFS supports the monitors going into the hold to make sure all fish are offloaded. If dockside monitoring continues in FY 2011, they intend to implement that. She also asked that there be a southern boundary to this monitoring if it is to go forward, since they catch very little groundfish in the south. Another member cited that significant cost to a struggling industry and did not support the motion if more details were not included.

Public comment included:

- Ellen Goethel. Who is looking at the records coming in from dockside monitoring and matching them up with the dealer reports? As far as I can determine absolutely nobody is looking at this data. Some of the small boats in our sector have had 90% dockside monitoring. A way to take care of this problem would be if the dealer were required to report in real time. Those numbers would be checked over with the numbers on the dockside. If they don't match, you would have a problem. There are other ways to deal with this other than having a day boat pay for dockside monitoring every single time. We're looking at paying \$100/hour. In NH, state law requires you pay 2 hours minimum. Plus travel time. That is more than we can afford.
- Maggie Raymond. Mr. Odlin makes a compelling argument about the enforcement but he's arguing against this because he supports the 100%, because that's the only way you can know what's going on. The people I work for have no concern about being monitored at sea or on the docks, but what we're worried about is the expense. That's the real issue, not that we're concerned about being monitored. This motion is a little too vague. Analyzing everything seems counterproductive. If you can find a way for someone else to pay for it, it's not a problem.
- Meredith Mendelson: Northeast Fisheries Sector V. There is no concern that people don't want to be monitored or are being dishonest about what they're landing. You are making ludicrous enforcement decisions. You ask people who make \$12/hour to be an enforcement agent. These are members of their communities. Dockside monitoring and enforcement is not the same thing.
- Aaron Dority: Coastal Communities Sector. We had a hard time securing dockside monitors because of the high cost and because they were supposed to travel to Falmouth for training. Originally they said that time would not be paid. That is little consolation for someone with a full-time job. That was for 50% monitoring. I don't know if increasing to 100% would make it more enticing. We are also landing very few fish, we couldn't find someone even to come over from Port Clyde which is a 3-hour trip because they weren't making enough money doing dockside monitoring in Port Clyde to bother taking time off from their real job to come to Stonington to monitor fish. We had trips where the cost of monitoring far outweighed the cost of the trip. It only worked out because we had some research funding. We're not opposed to dockside monitoring, but it's critical to think

through specific situations of outlying ports, low-value landings, etc. A one-size-fits-all approach doesn't work right now.

- Cindy Smith: Port Clyde Sector Manager. These are also small communities. I want to reiterate that we can't afford it. The small port issue is a big deal and you're asking a lot of the industry to suddenly change their fishing methods if people from remote ports will have to fish out of a major port just so they can have monitoring.

Ms. Murphy responded to the first question by saying that the OLE has people spending time in different ports looking at dockside monitoring, but she did not know if the data was being looked at. The FSO would be the office that would look at it. Another Committee member stated that dealers should be monitored, not fishermen. Today, dealers are registered and would not risk losing their dealer license to push off extra fish. He also questioned whether dockside monitoring had uncovered any violations, and noted that they often write down the wrong numbers which leads to more problems than it solves.

A Committee member asked what would happen with this motion before the November Council meeting, and how to pay for this monitoring. Ms. Murphy responded that NMFS knows they have \$600,000 to pay for this in FY 2011, but that is based on 20% coverage. The agency does not have funding until it gets allocated. She asked who would determine what the coverage level would be. Another member acknowledged a benefit to DM but thought this motion would have a chilling effect until the industry becomes more profitable. Another member said that this should be discussed in the future with more information. If this would stop enough black market trading to stop a small adjustment in price, the difference may be able to pay for the monitoring. Council staff pointed out that Amendment 16 was very clear that beginning in FY 2010 the industry was supposed to pay the costs of dockside and at-sea monitoring. That responsibility was discussed extensively during the development of the amendment. Several members stated that the only sensible options for dockside were zero or one hundred percent.

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

Ms. Murphy stated that the trip-end hail report should be continued so that the OLE would know when fish would be landed. The hail report was only implemented as part of dockside monitoring regulations, so in order to keep it if dockside monitoring is eliminated, it would need to be written into the framework.

Motion: The Committee recommend to the Council that if dockside monitoring is no longer a viable mechanism starting in FY 2011 that the trip-end hail report remain (Ms. Murphy/Mr. Goethel)

Committee members argued that the motion made sense in order to streamline the program, but noted that it was impossible to know exactly what would be landed based on this report. The trip-end report does not have a defined threshold of how close the estimate of poundage needs to be to actual landings. It does have to be sent six hours prior to landing, or as soon as possible if the trip is less than six hours from shore. One member noted that boats could call in when six hours from shore, but not unload for several days, which could be an enforcement problem.

Public comment included:

- Marc Stettner. I want to be clear that this doesn't affect the motion for Handgear A permits, does it? It affects only sectors?

Council staff responded that it will apply to all permits in FY 2012.

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

Framework 45 Document Review

The Chair asked the Committee to review the draft framework document and select preferred alternatives to forward to the Council.

GB Yellowtail Flounder Rebuilding Strategy

A Committee member asked what recruitment was being used when calculating the rebuilding for each scenario. Council staff responded that they used a pool of recruitment from 1963-2009. The numbers are different if different time periods are used. The GARM III looked at the issue and recommended using the longer period. The numbers can only be revisited in benchmark assessments, and this stock is not scheduled for one soon.

Motion: The Committee select §4.1.2 Option 2, suboption A as the preferred alternative (Mr. Preble/Mr. Fair)

In response to a question regarding sub-option D, which provides a rebuilding end-date of 2019, Ms. Murphy stated that it would be inconsistent with the law to extend beyond the 10-year time frame since the stock can be rebuilt within it. A Committee member asked what would happen if the stock was not rebuilt in 2016, and Council staff responded that the process is complex, but there is an assessment every year through the TRAC and the rebuilding F is adjusted every year. Another member supported discussing options with scientists who worked on the assessment at the Council meeting and was concerned about being locked into a rebuilding schedule that did not explicitly state what would happen in the future. Others agreed, saying that the recruitment has not been what it would need to be to rebuild by 2016 in seventeen years. Some felt that the rebuilding timelines could be extended because they are policy, not law.

The motion **carried** on a show of hands (5-4-0)

Council staff asked for clarification on what issues would need to be addressed at the Council meeting so that the appropriate experts can attend. Committee members answered that they would like to know more about the assessment for this stock and how changes in the models might affect the chance of reaching the rebuilding targets. Council staff responded that it may not be possible to resolve the issue of recruitment at the Council meeting.

Pollock SDC

Motion: In §4.1.1, Option 2 is the preferred alternative for the Council (Mr. Cunningham/Mr. Stockwell)

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

ACLs

Council staff described the ACL chart in the draft FW 45. The Scallop PDT and Committee are working on FW 22 where they will calculate how much yellowtail flounder the scallop fishery is

expected to catch. The scallop sub-ACLs may need to be reconsidered. White hake ACLs were erroneously published in the FR last year, and this table makes the change. Table 7 is not filled in because the rebuilding strategy is unknown. The only other stock that may change is GOM winter flounder, for which the SSC could recommend a different ABC next week. If so, that will be added to this table at the council meeting.

Motion: To choose Option 2 in §4.1.3 as the preferred alternative (Mr. Goethel/Mr. Cunningham)

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

U.S./Canada TACs

Motion: To accept Option 2 in §4.1.4 as the preferred alternative (Mr. Goethel/Mr. Cunningham)

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

Implementation of Additional Sectors

Council staff pointed out that some sectors that submitted applications with the Council had not submitted operations plans for FY 2011. One Committee member felt that they should have submitted at least a draft plan if they wanted to be approved, but stated that permit banks may ought to be treated differently.

Motion: That the Committee recommend that the Council only implement new sectors for which we have operations plans by the deadline (Mr. Cunningham/Mr. Goethel)

The maker clarified his intent that this would apply to meeting all deadlines, including informing the Council a year in advance and submitting the operations plan by September first. One Committee member expressed concern about other states that may not have had their operations plans for permit banks squared away.

The motion **carried** on a show of hands (4-3-1)

Public comment included:

- Maggie Raymond. I understand the intent of this motion and am sensitive to not putting a workload on the staff that is unnecessary, but at this point to change the rules in the middle of the game is a little bit unfair. One of the sectors we submitted a request for would not be implemented, and we would have to wait for another action to get it implemented. We wanted to get ahead of that.
- Tom Dempsey: CCCHFA. I want to echo Maggie's point. I understand concerns on the workload. We have 2 sectors that have been authorized, one that will be operating and the other we would like to keep for flexibility's sake. We think changing the rules would be unfair.

Council staff noted that this motion would not change the rules since the Council never guaranteed to approve every sector that is requested. This motion would not change anything for the existing sectors that have chosen not to operate. Ms. Murphy clarified that this may affect all

the permit banks that did not apply by September 1st. She thought NMFS did provide until November 1st for them to submit their operations plans because of issues with the “rule of three”.

Distribution of PSC from Canceled Permits

A Committee member asked if it might be of interest to consider putting aside the ACE from canceled permits as a monitoring set-aside, even if the numbers were small. Ms. Murphy said that NMFS staff would look into how much poundage this would equate to and bring it back to the Council. She noted that if there was a buyout, the amount would be greater.

Other Framework Issues

Public comment included:

- Meredith Mendelson. There has been some discussion among coalition sectors about the ACE transfer date for end-of-year conciliation. We are allowed 2 weeks to balance our books. NMFS is holding back 20% of the FY 2011 allocation so they have time to accumulate their own data as well. To date, no managers have received any verification of the reports we've submitted all year. We are concerned that 2 weeks may not be enough time to do final numbers if NMFS doesn't give us reports for at least 2 months.

Committee members agreed that this was a serious problem. Ms. Murphy stated that NMFS was working on the issue and it should be resolved in the near future. The understanding was that NMFS would use their own numbers for enforcement, but she was not sure what type of action sectors would face if their best efforts to balance their books did not produce the same data NMFS had. One Committee member expressed concern that so much fish was held up while this happened, and wanted to put a time certain on when this would occur. NERO staff stated that there was a 60-day holding period on 20% of the ACE. The agency has discussed that they are required to use NMFS data for enforcement, but if sectors did their best and data errors were found later, they would not be subject to an enforcement action but would be forced to pay off the difference. Ms. Murphy stated that the process was slow likely due to a resource issue, but that the matter had been reported to the RA. Ms. Mendelson noted that the 2-week timeframe for trading ACE was also a serious logistical challenge.

Motion: Recommend to the Council to send a letter to NMFS that they waive the requirement that ACE transfers be completed within 2 weeks after the end of the year as they see necessary and desirable (Mr. Preble/Mr. Cunningham)

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

One Committee member stated that the underlying issue was late dealer reporting.

Motion: To recommend to the Council that a letter be sent to all licensed groundfish dealers reminding them of their reporting requirements under the law (Mr. Goethel/Mr. Preble)

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

Ms. Murphy stated that they did let OLE know that this should be a high priority.

Public comment included:

- Carl Bouchard: F/V Stormy Weather. Every permit holder got a letter with their ACE on August 10th this year. I'm in the process of leasing my 2011 quota and to verify I was leasing the correct numbers of fish I asked my sector manager to get it through the SIMS database. We compared it to the letter I received on August 10. Both were in live weight, but the numbers were way off. It's not an isolated incident. I have been talking with NMFS staff and it hasn't been resolved yet. We had to make the decision whether to join a sector from last year's numbers.

A Committee member stated that this needs to be resolved, but is probably not a Framework 45 issue because it was more immediate and an administrative issue. He expressed concern that these types of things were still going wrong this far along in the sector process. Ms. Murphy stated that the agency would look at all PSC numbers, and that it could lead to a new PSC letter.

A Committee member brought up the issue of the haddock cap in the herring fishery, and stated that numbers have changed dramatically since the Council put the cap in place. She expected that the Council would talk about the issue again in November.

Ms. Murphy stated that there was an issue with the extension of sector roster dates. The agency has moved the date several times, and sector representatives feel that it causes instability and people do not take the date seriously.

Motion: Recommend to the Council that in FW 45 there be an option for sector roster submissions the date be set to December 1 (Ms. Murphy/Mr. Goethel)

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

State-Operated Permit Banks

The Committee briefly discussed the motion at the September Council meeting to initiate an amendment to the FMP to implement state-sponsored permit banks. One Committee member pointed out that the Executive Committee will meet next week to discuss priorities, and that this matter should be part of that conversation. He also indicated that it was the intent of the states and NMFS to make a simple administrative fix to the "rule of three" to allow state permit banks to operate as sectors. Another member noted that several issues related to permit banks have arisen in the past year, including in the last scallop amendment and some efforts that have developed on Cape Cod and in Downeast Maine. Other members opposed opening the forthcoming amendment to issues unrelated to the state permit banks, citing time concerns for implementation.

The meeting adjourned at 4:00 p.m.

