

# **New England Fishery Management Council Groundfish Oversight Committee**

**Meeting Summary**  
September 9<sup>th</sup>, 2010

The Groundfish Oversight Committee (Committee) met in Mansfield, MA to continue development of Framework 45 to the Northeast Multispecies Fishery Management Plan (FMP). The Committee discussed measures for the Framework including the GB yellowtail flounder rebuilding timeframe, pollock ABCs, a Whaleback Area spawning closure, and handgear vessels' exemption from dockside monitoring. Also discussed were payment of at-sea monitoring costs, handgear vessel trip limits, sector exemptions for FY2011, calendar-day landing restrictions, discard rate calculation issues, and state-sponsored permit banks. Finally, the Committee also addressed accumulation limits and diversity issues. 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. Dave Preble, Mr. Terry Stockwell, and Ms. Mary Beth Tooley. They were supported by staff members Ms. Anne Hawkins, Mr. Chris Kellogg, and Mr. Tom Nies (NEFMC), Mr. Mark Grant and Mr. Tom Warren (NMFS NERO), and Mr. Gene Martin (NOAA General Counsel).

Discussions were guided by a PDT report dated September 1<sup>st</sup>, 2010, the draft Framework 45 management measures, a draft accumulation limits and fleet diversity white paper, and the TMGC Guidance Document.

## **GB Yellowtail Flounder Rebuilding Strategy**

Council staff presented the Committee with results from the 2010 TRAC and the SSC's recommendations for ABC that showed different rebuilding scenarios as requested. No action was taken and the rebuilding strategies will remain as options in the draft Framework 45 as written.

## **Pollock ABCs**

Council staff delivered a presentation showing the revised ABCs for pollock as determined by the SSC. No action was taken and the ABCs will remain as options in the draft Framework 45 as written.

## **Whaleback Area Spawning Closure**

Several options for a potential spawning closure in the Whaleback Area were presented to the Committee. Options were developed by fishermen, researchers, and the PDT. Recreational activity for trips that landed cod in the proposed closures for recent years was displayed, but commercial activity has been light because the rolling closures prohibited it in the last several years.

A Committee member who was involved in the studies disputed the PDT's proposal and supported Option One in the draft document. He stated that GPS coordinates do not need to be north-south and east-west, since people in the region convert to LORAN. He noted that there is little hard bottom in the southwestern part of the PDT's proposed box, and that it was necessary

to leave some of that bottom available for anchoring. Activity occurs where the hard bottom is, both for mackerel fishing and bottom fishing. He felt that in order to convince people to approve the closure, it was necessary to leave some areas where it was possible to fish, and even to collect some trophy fish, while protecting the spawning. There is a significant half-day recreational fishery out of Newburyport, Seabrook, and Rye, and those operators only have limited places they can get to in four hours. He supported an entire prohibition on fishing in the box over kill-and-release.

Public comment included:

- Carl Bouchard: F/V Stormy Weather. This area is also in my backyard, and I took part in cod research projects. The reason to go this far to the south is that there are other hotspots to the southeast with huge concentrations of cod at the same time this spawning activity is occurring.

In response to a question from a Committee member, Council staff advised that it would be beneficial to narrow the list of closures being considered in the document. Some are very similar to each other.

**Motion:** To include 2 options for the whaleback spawning closure in FW 45: Option 1 No action and Option 2 version 1 (Mr. Stockwell/Mr. Preble)

The maker of the motion stated that it was important to mind the expertise of the fishermen that work in the area. Ms. Murphy asked the maker for clarification on what activities the closure would cover and noted that it may be difficult to enforce if transiting the area was allowed due to the smallness of the area. He replied that the intent was to exclude recreational fishing, but allow gear that is not capable of catching groundfish. Several Committee members supported sub-option A from the draft measures, but agreed to leave all sub-options in the document until further analysis.

Public comment included:

- Maggie Raymond: Associated Fisheries of Maine. In the highlighted section, it should say April through June 30<sup>th</sup>, not May. Under the second bullet, it says all commercial gear including the midwater trawl, but not shrimp trawl – it should be explicit if it is prohibited. Also it does not mention handlines or jigs. Are they included?

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

The Committee determined that it was necessary to clarify the definition of “fishing” in the language. NOAA General Counsel staff advised that transiting would need to be explicitly exempted if that was the intent. Council staff agreed to copy the language used for other closures that prohibits fishing for, landing, or possessing fish while allowing transit for the FW option.

There was some discussion of what gears should be included in the prohibition. While some Committee members preferred a definition that disallowed recreational gear only if it was also capable of catching groundfish, others favored a complete prohibition on recreational fishing in the area since even mackerel jigs could be used to catch the occasional cod. Ms. Murphy noted that, for the commercial gear, there is a standard definition for exempted gear that could be used to identify what was allowed.

## **Handgear A and B Exemption from Dockside Monitoring Requirements**

Ms. Murphy asked the Committee whether it should include the small vessel permit category (Category C) for the dockside monitoring exemption along with handgear permits in FW 45. The category is even more restrictive than handgear in that it is only allowed 300 lbs. of cod, haddock, and yellowtail flounder combined. Handgear A and B and these Category C permits catch less than one percent of all groundfish. Handgear A permits land more than small vessel permits.

**Motion:** to include the small vessel permit category C to the dockside monitoring exemption in option 2 (Mr. Stockwell/Mr. Cunningham)

Council staff asked the Committee to consider what the criteria and/or rationale would be for exemptions, since there are some small limited access 30-ft. vessels that fish on cod with handgear. Would it be the gear or the amount of fish caught? It was noted that the common pool trip limit is only 200 lbs. One Committee member supported providing relief to small boats in light of the diversity issues that would be discussed in the afternoon.

Public comment included:

- Marc Stettner: Northeast Hook Fishermen's Association. You should clearly define what permit you are talking about.
- Aaron Dority: Penobscot East Resource Center and Coastal Communities Sector. Limited access handgear vessels can also join a sector, and then there is no trip limit. You can catch more fish with a trip limit in the common pool. The issues were raised both that the gear was handgear and that they are catching a small amount of fish. The Committee might consider any vessel using handgear, and not defining the exemption by permit type. There are vessels with a DAS permit that can land less fish than a handgear boat fishing with a sector.
- Mike Rousseau: Chatham fisherman. I would like to see a motion to eliminate dockside monitoring altogether.
- Hilary Dombrowski: F/V Destiny, Gloucester. We have not been allowed enough quota to even think about joining a sector. It would be financially impossible for us, with the cost of sector membership in addition to monitoring and whatever else is involved. Certainly we are capable of catching more but we have not been allowed in our history. That should not be a consideration. We need these exemptions to survive as a fishery; otherwise you will lose the oldest established fishery in this nation.
- Marc Stettner. I support allowing an exemption for Category C permits. Then you have a limit, and that can easily be done in a handgear boat. I agree that the cost of sector membership would exceed our income.
- Maggie Raymond. I think you could fix the concern you raised by making this specific to common pool vessels. If they join a sector, they would be subject to dockside monitoring. And I want to second Mr. Rousseau that you should get rid of this for everyone, especially when coverage is going down to 20%. It is unnecessary and expensive.

**Motion as perfected:** to include the small vessel permit category C to the dockside monitoring exemption in option 2, if fishing in the common pool (Mr. Stockwell/Mr. Cunningham)

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

## **TMGC Recommendations**

Council staff advised the Committee that the TMGC had reached consensus on recommendations for eastern GB cod, eastern GB haddock, and GB yellowtail. The recommended TACs were shown to the Committee and will be included in the draft FW 45 management measures.

## **Fleet Diversity and Accumulation Limits White Paper**

The Committee reviewed the draft white paper on accumulation limits and fleet diversity. Members asked clarifying questions of Council staff, particularly focusing on the baselines section of the paper. Several pointed out that, from the information available, it did not seem as though one segment of the fishery had shrunk disproportionately to others. Committee members expressed concern about ports that had disappeared altogether as well as a possible “tipping point” after which a rapid loss of diversity might occur. Many also expressed interest in seeing updated information after the effects of sector implementation become clear in coming years.

Public comment included:

- Rich Canastra: Whaling City Auction. Where landings are measured by homeport, it throws off the data by making Maine appear to have much more activity. (Council staff noted that information on both homeport and landing port was included.)
- Geoff Smith: The Nature Conservancy. Thanks to staff for preparing this; there is some useful information in the draft. I want to reiterate Ms. McGee’s point regarding whether there is sufficient analysis. It is not enough to answer yes, there is enough information, and no, there is no problem, and then stop the Council’s work on this. My sense was that the Council is trying to be proactive. This provides a good baseline, but even if the conclusion is that there is no problem now, at least the Council can continue to help maintain diversity as we transition.
- Aaron Dority. I looked at this and came to the same conclusion as some of the Council. It seemed like there was consolidation across the board. I wonder if the details would appear differently if instead of looking at regions as a whole, we looked at ports. Have we seen consolidation in areas in that certain ports have declined or disappeared and landings consolidated into certain ports at the same time? No region has entirely disappeared. I would like to see contraction within regions to inform this going forward a little more. Where do we go from here and how do we put ourselves in a position to avoid going in a direction we don’t want? Can we look at how other regions have changed when going from a limited access system to a catch share system? There are a lot of examples. One problem is ownership; another is excessive control of the fishery. We started to see problems this year in controlling of ACE transfers. That is something this Committee and the Council should grapple with in terms of making sure there is ACE available in different size classes and regions through leasing.
- Marc Stettner: I support what Mr. Goethel said about losing ports. I have seen the fleet dramatically decrease in New Hampshire. The hook and line graph on page 21 caught my eye. We had a little glimmer of hope and now we are sinking back toward zero. There will be no hook and line fishery if we keep with these trends.
- Brett Tolley: NAMA. Thanks to staff for putting together this white paper - it is very useful. We put together a formal testimony on behalf of NAMA. (Mr. Tolley read the testimony as submitted to the Committee). I also wanted to let you know about a paper we prepared that is included in the Committee’s materials. We do not want the fleet to consolidate irreversibly. One of the solutions we offer is to include in FW 45 a leasing

- restriction similar to the ones under DAS. It could be a tool in addition to accumulation limits to achieve the same goals. We believe this issue is really important.
- Peter Shelley: Conservation Law Foundation. I also want to thank staff for work on this white paper. It is very valuable and long overdue. A lot of good points were brought up by prior speakers. There is an aspect of diversity this paper does not seem to capture. This exercise is in the context of looking at the social and economic health of the fishery in the region. One of the data sets in A16 showed that a lot of multispecies permits had diversified the types of catches they were landing beyond just the groundfish complex. In a lot of ports, that's what made the difference between negative economic profiles and increases in revenues and landings. It makes the question of diversity more complicated to think in a larger context, but when you are trying to get a sense of whether the fleet is healthy, you should see whether it is prosecuting a diverse range of fish species. It would be helpful for the Council to put this analysis in a larger context. That is a more accurate reflection of what the total health of the fishery would be, and the Council has been collecting some data that reflects some of that.
  - Mike Rousseau. One thing I can tell you in the first year of catch shares is that I made the choice to fish. It was a hard question whether to stay in or get out. I have leased fish from the smallest boats and the largest boats in the fleet. If you put any limitation on leasing quota, you will do exactly what you are trying to prevent. We have been consolidating since Amendment 5; this is not new to anybody. We are at the end of the funnel here. If I have to lease from the same size vessels, I am not going to be successful. I got an allocation of eastern cod, when all my landings came out of the channel. I have to lease it out. There are a lot of things to consider here, but if I wasn't able to lease from large and small vessels, I wouldn't be making a go of it this year.

A Committee member stated that he was following this issue with great interest, and agreed that the baselines should be updated to keep a picture of the fleet. He asked the Committee what they were actually trying to do, and noted that looking at a snapshot of history would not provide direction, and that the fleet needed to be able to pursue efficiency. He thought it was important to protect infrastructure for the industry, but argued that micromanaging the fishery led to its destruction and there should be no preconceived notion of how the fleet should look.

Another member asked whether it would be possible to track what has happened to inactive boats in order to determine whether those permits could be reactivated at some point in the future. Council staff responded that they would try to present as much information as possible in a later draft. Another member noted that any effort that was redirected toward certain parts of the fishery would be taken away from others, and that no segment of the fishery was prospering. A third member stated that it was necessary to fully develop measures to enable the goals of job opportunities and community access to a resource, whether that meant tweaking sectors or going to an IFQ program.

**Motion:** The Committee recommends, based on this report, the establishment of individual accumulation caps for this fishery in the next appropriate action (Ms. McGee/Mr. Preble)

The maker of the motion stressed the immediacy of the issue, and noted that all catch share fisheries in the report, with the exception of the surf clam/ocean quahog fishery, had individual accumulation caps. One member supported caps, as long as they were not tailored to achieve a preconceived vision. Ms. Murphy reiterated that accumulation caps would need to be developed in an FMP amendment, not a framework. She also suggested including information on total revenue by port group, in addition to landings, in order to show how money moves between states. She recommended using the language of National Standard 4 as a starting point for

development and defining what would constitute an “excessive share”. Another Committee member thought it was important to see information about current permit ownership before attempting to define what shares would be excessive. Committee members agreed that the full Council should be briefed on the white paper.

Public comment included:

- Maggie Raymond. AFM has been on the record for at least 5 years with the position that establishment of ownership caps in the groundfish fishery is appropriate when, and if, we ever get to an ITQ. I would like to see the Committee, if it believes this is appropriate, to link the motion to an ITQ for this fishery. The other fisheries referenced in the document for ownership caps are all ITQ fisheries, except for the North Pacific pollock plan. We are strongly hoping that when the Council decides priorities in November, it will agree to start an amendment to commence an ITQ. If you think there should be limits, tell us what they are now. People are buying and selling, and they need to know where to stop. You can’t embark on a vague discussion without being more specific. What do you do when you are over the cap? Are you forced to divest? Tell that to the bank. If you want to send a message, send a realistic message with a number attached to it. I urge you to vote against this unless you specifically recommend starting an ITQ as soon as possible.
- Aaron Dority. I would urge you to support this motion, because the one very clear message we have gotten from other examples of catch share systems is the earlier you start this discussion the better. I think the reasons for allocation caps in an ITQ fishery are similar to those in a sector fishery.
- Mike Rousseau. The difference is that in a sector fishery you cannot split permits. Caps do not work in sector management the way it is designed now. In an ITQ, they would. Right now the entire ACE is piled together and frankly the sector has the fish, not the individual. If I hit a cap, I have to get rid of the whole permit. You’re trying to fit a square peg into a round hole with this.

Some members of the Committee also supported the move to an ITQ. One clarified that it would be discussed in the future whether caps should be on an individual permit level or a sector level.

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

## **Other Business**

### *Handgear Trip Limits*

The Committee addressed a letter from industry members requesting a change in trip limits for handgear permits. There was concern over whether these changes would need to be in an amendment, and whether there was time to perform analysis necessary for inclusion in FW 45. Council staff replied that trip limits have been changed in frameworks before, but noted that if you converted the PSCs associated with Handgear A permit to ACE, there would be very few permits that would have more than 300 lbs. as an ACE this year. Some Committee members were concerned about that.

Public comment included:

- Marc Stettner. When the cod trip limit was tied to days at sea, as the fishery grew it was expected that the handgear trip limit would grow with it. If it went the other way, that

was also a possibility. However, there is a real problem now. There was no way for anybody to anticipate that 98% of the fishery in A16 would join sectors and pull the cod with them. We have rolling closures in April, May, and June. Dogfish show up on July 1<sup>st</sup>. We essentially got shut down this year the 3<sup>rd</sup> week in July. We were entitled to benefit from the rebuilding of cod. We demand the Council take action to give us a fair share of the fishery. Catching 300 lbs. is a goal – it doesn't happen on every trip. You need days where you catch that much to break even. We are not a multispecies fishery. We catch cod, some haddock and some pollock. The same thing is going to happen next year, we will be shut out of the fishery in April, May, and June, then in July the quota will be caught and we will be shut down again. It is totally unfair. You have to make a choice – do you want a handgear fishery, yes or no?

One Committee member pointed out the need to retain diversity and address small-boat issues, and supported changing the trip limit but not allowing them into closed blocks. Ms. Murphy pointed out that the rest of the common pool's trip limit could possibly decrease to account for an increase in handgear catch. Also, because they are not days at sea vessels subject to differential DAS, other common pool vessels could have much more restrictive measures if the ACL for cod is approached. There are roughly 126 permits in the Handgear A category, which include tub trawls up to 250 hooks. In 2008, those vessels took 392 trips, 54% of which were over 200 lbs. There were about 100 trips that were less than 200 lbs.

**Motion:** To have a trip limit of 300 lbs. for Handgear A permits. (Mr. Stockwell/Mr. Fair)

**Motion to substitute:** to recommend allowing handgear vessels to fish in statistical grids 132 and 133 in April, May, and June, except in the Whaleback Closure Area, if this area is approved in FW 45. (Mr. Cunningham)

The motion to substitute **failed** for lack of second.

Some members of the Committee were concerned about an increased allocation coming away from other vessels' potential catch. Others saw the fishery as small boats catching a small amount of fish and thought they should have special provisions.

**Motion to amend:** To recommend to the Council to have a trip limit of 300 lbs. for Handgear A permits for GOM cod up to the percent sector contribution of Handgear A permits (Mr. Goethel/Ms. McGee)

NOAA General Counsel staff advised that if this action changed fundamental underpinnings of how fish were allocated and went beyond what is currently in the system, it may not be appropriate under a framework. Committee members argued that it was not a reallocation since it was already allocated in Amendment 16. The maker of the motion clarified the intent that the trip limit would go to zero if the PSC was reached. The Committee deliberated over whether the motion would be allocative in nature, and agreed to leave details to a future meeting after guidance from NOAA GC. For now the intent was to remain silent on GB cod.

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

The main motion, as amended, **carried** on a show of hands (5-2-1).

*Sector Payment of At-Sea Monitoring Costs*

The Committee received several letters arguing that it would be too difficult for the industry to cover the cost of at-sea monitoring.

**Motion:** Recommend the Council request that NMFS work with the groundfish industry to fund all or a portion of at-sea monitoring costs as implemented in Amendment 16 in 2012 and beyond. And to recommend to the Council to change the wording in Amendment 16, paragraph 4.2.3.5.3 “monitoring of landings and discards”. In 5th paragraph of that section, add “unless NMFS funding is available for some or all costs” after the word “implemented” in the second line. (Mr. Cunningham/Mr. Preble)

The maker explained that the Council’s authority is limited to requesting that the Service do this. His intent was that there would be a potential for cost-sharing in case the agency did not have enough funding available. Council staff pointed out that Amendment 16 already stipulates that the industry-funded monitoring will not be duplicative to whatever monitoring is provided by NMFS. Ms. Murphy noted that NMFS has typically covered 8% of coverage prior to this fishing year, and that she assumed that standard coverage would stay in place. She felt that the current wording of A16 means that the industry is responsible for paying any costs over and above the typical coverage of 8%. Council staff noted that the Council sent a letter to NOAA after its April meeting requesting additional funding for at-sea monitoring in 2012. Some Committee members felt that industry would be forced to pay all costs if the option to do so was left open.

Public comment included:

- Drew Minkiewicz: Fisheries Survival Fund. What you have to decide is whether or not you are going to have an industry-funded observer program. NMFS will pull funding as soon as the industry starts paying for this. That is how it happened in the scallop industry. It all came directly out of the fishery after NMFS mismanaged the scallop set-aside. That should be instructive to you.
- Maggie Raymond. I do appreciate the conversations I have had with people about this. Most of you realize the industry cannot pick up these kinds of costs in 2012. I did talk to Mr. Cunningham about this before he made his motion. It is difficult to imagine how we would go about actually cost-sharing. Ms. Murphy made a couple good points. The 8% coverage level they have traditionally paid for. They probably have that in their 2012 budget to date, but nothing to pay for the additional 30%. That is not NEFOP coverage, but new monitors required by A16. I have been working very hard to try to get them to put that money in the budget. I don’t think this motion says what you want it to say, it should be more explicit in removing the requirement to pay for coverage. Writing them another letter isn’t going to do anything. Don’t forget they can increase the appropriate level too – I doubt it is going to be any less. We don’t even know what the real costs are that we are being asked to pick up, but from our perspective it is prohibitive.
- Jackie Odell. I think we are all appreciative to be having this discussion. This needs to be stronger. Going to the agency and negotiating over costs does not seem to be a viable option.
- Rich Canastra. The discussion beforehand was on ownership caps. The people with multiple permits are the only people who will be able to afford at-sea monitors. You will have consolidation act even quicker if you have to pay for the offshore observers.

**Motion to substitute:** to recommend to the Council that FW 45 include an option to remove the A 16 requirements for groundfish vessels to pay for at-sea monitoring costs in 2012 (Mr. Stockwell/Mr. Preble)



Some Committee members felt that this was the only option, since the industry could not become prosperous in two years. Ms. Murphy asked what would happen if the government did not have funding, and questioned whether the agency could approve sectors in that scenario since the monitoring was a requirement in Amendment 16. A Committee member recommended looking at electronic monitoring to see if it could be used to decrease costs. Others supported the motion in order to force conversation on the issue.

Public comment included:

- Carl Bouchard. Unless you consider the common pool to be a sector, you should change the wording to include it even though many people think it will disappear before 2012.
- Rich Canastra. I feel as if this motion should stay until the ACLs are reexamined. Or until the uncertainty gap is a little tighter than what it is now. These programs came from the environmental community, so it would be a great PR position for them to pay for the monitors.

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

**Main Motion as substituted:** to recommend to the Council that FW 45 include an option to remove the A 16 requirements for groundfish vessels to pay for at-sea monitoring costs in 2012.

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

**Motion:** to include in FW 45 an option to pay for at-sea monitoring through cost-sharing between NMFS and industry in addition to the previous option (Ms. McGee/Mr. Cunningham)

Some Committee members did not support the motion because they feared industry would be forced to pay the lion's share of the costs.

Public comment included:

- Jackie Odell. I agree with Mr. Goethel. We still don't have any sort of relief in sight. If you attach this to some sort of review, or when ACLs increase, or industry becomes more profitable it might be okay, but they are not profitable right now. Any cost-sharing cannot happen right now unless it is attached to some greater review of the industry.
- Geoff Smith. I urge the Committee to pass this motion. It is a good compliment to the previous one. I understand the importance of this issue. About a month ago we had a group of west coast fishermen out here to talk about the transition they are going through. They will be required to have 100% at-sea and dockside monitoring on January 1<sup>st</sup> 2011. NMFS is paying in the first year, and after that the industry will pay all of it. I understand the pinch, but we are looking at 38% coverage with a shared cost as opposed to what they are looking at there. I think having an option that allows a real negotiation is important.
- Maggie Raymond. I referenced the west coast in my letter, and NMFS announced there will be cost-sharing through 2015 in that program. Again, it's an ITQ program, which is very different. They do not have the costs we have for sector management.
- Jackie Odell. That fishery has already gone through a tremendous consolidation so there is barely anybody left. They had a buyback and are now moving to an ITQ.

One Committee member expressed that he could not support the motion because it was too vague as to the applicable years and percent of cost sharing.

The motion **failed** on a show of hands (3-5-0).

The Committee turned its attention to dockside monitoring. One member stated that it is expensive and redundant, that there are other monitoring outlets, and that the money could be spent much more effectively on the at-sea monitoring.

**Motion:** To recommend to the Council to eliminate the Amendment 16 requirement for dockside monitoring for groundfish vessels (Mr. Preble/Mr. Goethel)

Other Committee members agreed that the program adds more paperwork without any new information that is not gained from dealer reports. Ms. Murphy thought that OLE still supported the program, and said that NMFS was intending to require dockside monitors to go below deck in FY 2011.

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

#### *NMFS Letter on Sector Exemptions*

NMFS submitted a letter to the Committee asking for guidance on some exemptions requested by sectors. Because the Committee voted to eliminate dockside monitoring, the first two issues may be moot. The third issue in the letter, an exemption request from the “rule of three” had been rescinded, and such exemptions for permit banks would be discussed later. The final issue, redistribution of history when permits leave the fishery, would still need to be considered. Currently, the history on any relinquished permits reverts back to the common pool. This is a small amount of fish at this point, but with a buyback program or larger exit from the fishery the Council may want to discuss how to distribute the history among sectors and the common pool. This issue would not be imminent since buybacks typically take a few years to implement. The Committee agreed that it would need to consider this topic, but not for FW 45.

#### *Calendar-Day Landing Restriction for Common Pool*

A Committee member brought to the Committee’s attention that common pool landings only allowed once per every twenty-four hours. The Enforcement Committee recommended that the window be changed to once every calendar day for safety concerns. The Council did not take action as it was thought this could be changed administratively, but NERO staff advised that this was adopted in a Council action and would therefore need to be changed in one.

**Motion:** To include in FW 45 that the Council consider allowing landings once per calendar day for the common pool (Mr. Goethel)

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

#### *Discard Rate Calculation and Reporting Issues*

The Committee discussed concerns about discard calculations that were felt by some people in the industry and on which it had received correspondence. In some sectors, issues include whether observed trips are having the actual discards applied and how to address a discard rate

that changes after a person is done fishing for the year. Council staff clarified that the term “assumed rate” describes that which is used at the start of a fishing year before a sector has ample observed trips, in contrast to the “in-season rate” which is applied sector-specifically after trips are observed. Ms. Murphy told the Committee that the discard ratio being applied was peer-reviewed and determined to be the most accurate one they could apply. Each sector makes the decision of how to apportion its discard rate to individual vessels.

Ms. Odell of the Northeast Seafood Coalition explained the letter they submitted:

- Jackie Odell. NMFS held a discard methodology workshop yesterday. There are three discard scenarios: 1) the assumed rate that sector received by stratum; 2) the transition discard rate when there have been one to four observed trips in a strata; and 3) the in-season rate. Mr. Goethel is referring to the kept-all denominator. It is creating huge anxiety within the industry because their allocation is being taken away for stocks that they are not necessarily encountering. If people go on directed monkfish trips, they have this kept-all that is affecting their distribution on other stocks. We feel the Council should provide guidance to NMFS to make modifications with the industry where needed. We do not think it needs to be a Council action, but can be improved upon over time. As to reporting frequencies, the Council in A16 said that sectors needed to report weekly. But they did not specify which week. One recommendation was to have a one-week delay, so managers could receive all the information they needed to compile their weekly reports. Now they need to wait for dealer and observer information and the calculation for the kept-all. They receive that on Wednesday and need to prepare their reports for Thursday.

One Committee member felt that the Council would not have to take action to change the discard calculations, since it was devised by NEFSC and not the Council. There was general support for making changes administratively. Ms. Murphy stated that there may be some flexibility in the due date for sector reports while still keeping submissions within the same week, but that it would take a Council action to change the week that was being reported.

Public comment included:

- Libby Etrie: GMRI. We have expressed concerns that the way the data process flows, by the time it is available to use, it leads to a short turn-around time for them to do the work they need to do and then submit the reports.

Ms. Murphy agreed to check that everyone at NERO was comfortable with this, and then work directly with the sectors. Some Committee members felt it might also be useful to remind dealers of their reporting requirements and the need for punctuality.

#### *State-Sponsored Permit banks*

State representatives, NERO, and Council staff met on September 8<sup>th</sup>, 2010 to discuss issues and impediments to state permit banks. Currently two states, Maine and Rhode Island, have signed MoAs with NOAA. Maine has received funding and is hoping to begin purchasing permits and be fully operational in FY 2011. The Committee was briefed that 1) states are working on a definition of “state permit bank” to bring to the Council meeting in September; 2) States are applying for exemptions from the “rule of three” for sector membership; and 3) they would like to include language on permit banks that was struck from the final A16 as a placeholder in Framework 45. It was stated that permit banks will need to be more thoroughly considered in the next groundfish action.

NOAA General Counsel staff advised that, since the “rule of three” is likely a fundamental definitional requirement of what constitutes a sector, providing exemptions for it was problematic without Council action. Exemptions are generally for operational restrictions that are in the regulations. It may also be problematic to change the membership requirements in a framework document. GC staff will inform the Council at the September meeting on possible solutions and avenues to incorporate permit banks.

A Committee member offered that the states could combine their permit banks to satisfy the “rule of three”, but it would be difficult because each has its own rulemaking processes.

Public comment included:

- Tom Dempsey: CCCHFA. I would imagine there are small inactive permits that could join a lease-only sector that would then allow you to transfer ACE.
- Jackie Odell. Has the state of Maine purchased any permits? (She was informed that the first RFP was suspended because the MoA was changed to accommodate leasing of days for monkfish and skates. Receiving of bids and interviewing should start in October).

**Motion:** a state-operated permit bank sponsored by NOAA shall be considered a Sector for the exclusive purpose of transferring ACE to qualifying Sectors. Such permit banks will be allocated ACE for a fishing year based on the PSCs of permits owned by the permit bank that are declared as ACE permits for that fishing year. All or a portion of a permit bank’s ACE for any NE multispecies stock may be transferred to a qualifying Sector at any time during the fishing year. Permit banks may only act as the transferor in an ACE transfer. (Mr. Stockwell/Mr. Goethel)

The maker of the motion stated his intent that this motion was for inclusion in FW 45. Council staff noted that many concerns persisted from when this was presented in the Amendment 16 proposed rule. The language would not allow permit bank to lease days at sea to common pool vessels. It also does not indicate what would become of reporting requirements. Several of these issues would need to be worked out. The maker replied that this language was provided by NMFS, and that sending it to the full Council would expand the debate on this topic.

Public comment included:

- Geoff Smith. I am curious about what “shall be considered” actually means. Does it mean they are permitted to form lease-only sector? Or that by establishing themselves they automatically become a sector? (Mr. Stockwell replied that the working group discussed the concept in general, but in the near-term talked about states operating as lease-only sectors).
- Aaron Dority. We voice our support for the motion. I want to make sure the Committee is aware there is a lot of support and interest in knowing how the state bank is progressing throughout Maine. I hope we can do whatever it takes to make this successful and implement it.

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

### *Accountability Measures for Winter Flounder*

Ms. Murphy brought to the Committee's attention that three or four stocks have no effective accountability measures. She also noted that there was no flexibility for winter flounder AMs as previously hoped. The Committee agreed by consensus that these issues should be addressed in Framework 46.

### *Haddock Cap in Herring Fishery*

A Committee member who is also on the Herring Committee reported that they would be discussing access in closed areas and high levels of observer coverage, and therefore may need the ability to reconsider the overall TAC for herring. She noted that the overall catch of haddock in the herring fishery was less than one percent of the total ACL. Another member thought that this was a high-priority issue but could not be addressed quickly enough for inclusion in Framework 45. Council staff advised that another Framework was likely to commence in order for implementation of ABCs in FY 2012. It was agreed that this issue would be discussed at the full Council meeting in September.

### *Yellowtail Flounder Bycatch Cap for Scallop Vessels*

A Committee member stated that the scallop fishery experienced a derby in the Nantucket Lightship area this year due to the yellowtail flounder bycatch cap that shut down the fishery last year in that area. The Scallop Committee recommended that this issue be addressed in the first available groundfish plan, since any changes must be implemented in a groundfish action. Council staff noted that there are several potential problems that must be addressed, including the interaction of scallop AMs and the groundfish fishery, as well as percentages changing with changes in the U.S./Canada agreement, and said that the PDT was willing to look at this issue from a groundfish perspective if the Committee thought it would be useful. Committee members agreed that this topic was important but questioned whether it could be adequately addressed in FW 45. They requested the PDT's written report on scallop AMs before taking action.

Public comment included:

- Maggie Raymond. If the PDT will provide more information on this issue, I have been instructed to ask a question. I made the AP motion to remove the cap so scallopers could access scallops in the area without being shut down. How does this affect the decisions the Council will make in the future on the scallop allocation? It is based on need, but then it will increase since the catch is so much higher in those access areas than in the open areas. We would like more information about that if the PDT is going to write a report.
- Drew Minkiewicz. I would be very concerned if this issue is not moved forward. The derby fishery is going to continue. I do not think this precludes putting this in the document for analysis and consideration. This issue is very important to the fishery. Scallops in these areas are very old and a lot have died off in the area that was closed because of the Oceana action. You will know what the AMs are because you all will have seen and voted on them by the end of the Council meeting in Newport.

**Motion:** To include in FW 45 or the next available groundfish action an option to remove the 10% cap for yellowtail bycatch in groundfish closed areas for the scallop fishery (Ms. Tooley)

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

*Framework 45 Priorities*

The Committee acknowledged that they had added several items for inclusion in Framework 45 on a short schedule. Staff agreed to inform the Council at its September meeting if topics could not be included in a timely manner.

The meeting adjourned at 5:00 p.m.