

#3

New England Fishery Management Council Groundfish Oversight Committee

Meeting Summary

August 11th, 2011

The Groundfish Oversight Committee (Committee) met in Danvers, MA to continue development of Framework 47 to the Northeast Multispecies Fishery Management Plan (FMP), develop a scoping document for an amendment on accumulation limits and fleet diversity, and plan for the upcoming sector review workshop, among other issues. The Committee discussed Amendment 18 scoping, results from the 2011 TRAC assessments, Georges Bank yellowtail flounder rebuilding strategy alternatives, specifications for FY 2012–2014, accountability measures, and the sector review workshop. Committee members present were Mr. Rip Cunningham (Chair), Mr. James Odlin (Vice-Chair), Mr. Erling Berg, Mr. Frank Blount, Mr. David Goethel, Mr. Howard King, Mr. Glen Libby, Ms. Sally McGee, Ms. Susan Murphy, Dr. David Pierce, Mr. David Preble, and Mr. Terry Stockwell. They were supported by staff members Ms. Deirdre Boelke, Ms. Anne Hawkins, and Mr. Tom Nies (NEFMC), Mr. Mark Grant, Ms. Sarah Heil, and Mr. Tom Warren (NMFS NERO), and Mr. Gene Martin (NOAA General Counsel).

Discussions were guided by the accumulation limits and fleet diversity workshop summary dated June 9th, 2011, a draft Amendment 18 scoping document, Transboundary Resource Assessment Committee status reports, an Augmented PDT (APDT) report dated August 2nd, 2011, a PDT report dated August 5, 2011, draft Framework 47 measures, and a draft sector review workshop overview.

One Committee member stated for the record that he was dissatisfied that mortality closures were not on the agenda, which he felt were more important than other issues. The Committee Chair stated that the Council directed the staff and PDT to work on the closures only after FW 47 issues were resolved.

Accumulation limits and Fleet Diversity Scoping

Council staff provided a summary of the June 9th workshop on accumulation limits and fleet diversity and reviewed the draft scoping document that was included in the meeting materials. The Committee Chair noted that the discussion would focus on the outcomes of the workshop and how they apply to scoping, but not rehash the specific issues that were addressed at the workshop.

One Committee member felt that scoping would be premature, since a problem had not been identified and a control date was in place in case a problem with consolidation did arise. He felt that the industry needed stability by allowing the new system to operate for several years without additional restrictions.

Motion: To postpone consideration of accumulation limits and consider during priorities in November. (Mr. Preble)

The Committee Chair reviewed the Council motion that mandated the Committee to develop the scoping document. He stated that this issue could be addressed again when the Council considers its 2012 priorities in November.

The motion was ruled **out of order**.

The Committee proceeded to discuss the scoping document and suggested modifications that will be included in the draft that goes before the Council in September. One Committee member stated that he was troubled by the fleet diversity component of the action, especially before receiving the results of the sector review workshop, and noted that he would like an analysis of optimum yield and permit banks. Also, the Executive Committee is recommending a quick transition to ecosystem based management, and that could affect this action. Another Committee member noted that in the scoping document, low catch limits were mentioned as a reason that consolidation may occur. She stated that she would like to see this also as an opportunity to address issues in the context of the fishery as it rebuilds. Council staff provided a potential timeline for this amendment that showed if the scoping document was approved by the Council in September, any action would not be likely to be implemented before the start of FY 2014. A Committee member felt that the timeline would provide a few years of unchanged rules and regulations to work under, while also continuing several years of a status quo that is unacceptable to many people. He felt that going to scoping would provide a lot of valuable information from the public, as would reports provided at the sector workshop. He supported including the data tables in the document and getting the greatest possible quality of responses. Another member stressed the importance of having a geographically diverse fleet and reasonable access to the fishery. Several Committee members stressed that when the fleet has to support monitoring costs, the small operations will not be sustainable, and that the monitoring system needs to be overhauled as soon as possible in order to protect diversity.

One member stated that low levels of stocks would force consolidation in the fleet, but that preventing that would be impossible. He also questioned what the fleet's "historic" makeup would look like, suggested defining diversity in broader terms, and questioned whether allocations could be capped since they were not actually granted to individuals as in an ITQ. Another member echoed that he was uncomfortable engineering a vision of fleet diversity and creating a fleet without adaptive abilities. One member asked to include information in the document on changes in numbers of vessels fishing by permit type, because that has an effect on infrastructure. Another requested that information on the number of permit transfers be included.

Public comment included:

- Maggie Raymond, Associated Fisheries of Maine: We have had problems with this from the start. I signed onto a letter with the majority of the AP to put a quick cap on ownership of permits. Other than that, we cannot support the proposed "issues" to be addressed in this amendment. Bullets 3 and 4 are particularly troublesome. Bullet 4 needs to be removed – you are sending the wrong message to the fleet. The Council needs to explain why this fishery is the only one in the Northeast to which we are going to attach some sort of social welfare program. People have invested in this fishery. Basically this is a message to them that they can work hard, borrow a lot of money, and when some growth happens in the fishery, it will be turned over to someone who has not done the same thing. Including owner-onboard requirements sends the wrong message. I am an owner, and am not going fishing. To put out these kind of ideas that someone else will reap the benefit of the sacrifice made by the people in this fishery is just plain wrong. The comments on the need for stability are extremely important. The argument that this will give us 3 years of stability is wrong because we do not know what will happen at the end of the 3 years. As to bullet 3 – we have no idea what an appropriate usage cap would be. We need to replace all our boats, and accumulate wealth on them so we can do that. Even small boats are expensive to replace. With so many issues to be working on in this fishery, this whole concept is really a problem. I urge you to follow the advice from the majority of the AP if you do anything at all.

- Aaron Dority, Northeast Coastal Communities Sector and Penobscot East Resource Center: We have to be careful bringing up any boogeyman concerns about this action. Go out to scoping with this document and try to get as much public input as possible. The discussion will really benefit by not rehashing the same points we have had at the Council, but to go out and hear from people who have not really weighed in on this conversation yet. As to the point about the free market dictating the ways things are going – the system we are in right now was something that was set in motion by this Council. It is not purely the free market and the determination of the fishermen that put them where they are today, but also the allocation decisions. See what that accumulation is. If we do not want to just set an accumulation limit, we have opportunities to do other fleet protections as well. There is a good quality scoping document here, and it is time for the public to see it.
- Drew Minkiewicz, on behalf of several groundfish permit owners: One of the items in the scoping that needs to be dropped is individual caps on species allocations. As a result of recent litigation, NMFS argued and the court agreed that nobody is issued an individual allocation. This is not an LAPP. So you cannot go forward with this because you cannot cap something that technically does not exist. It will confuse the public if you put the scoping document out there with that option, and I urge you strongly to strike it.
- Brett Tolley, Northwest Atlantic Marine Alliance: We submitted written comments on this issue. As you know we have been really concerned about the direction of the fleet as it consolidates, and that it is moving farther away from a diverse fleet, which is one of the goals of A16. There should be goals to maintain a diverse fleet and to prevent excessive consolidation. I think that moving forward with this scoping document could be an opportunity to go out to the public and have fishing communities weigh in on this. I also want to highlight that during the conversation today, we are doing a live text messaging out to fishermen who are following this issue but could not make it here today. Two comments we have received back were that fleet diversity should have been addressed before A16 (from the South Shore), and that consolidation is occurring so we should move this conversation forward to address fleet diversity (from New York).
- Geoff Smith, The Nature Conservancy: I wanted to speak in favor of the Committee and Council moving forward with this amendment and with the scoping document. Over the course of the last year, we have heard a lot of people say there is not a problem with excessive consolidation, so why would we do an amendment on it? It is clear from these tables that consolidation is occurring. The Council has an opportunity to be proactive and, rather than waiting until we get to a point that everyone notices we have consolidation, they can go to communities to see what they think about consolidation and the current levels that exist.
- Ron Smolowitz, Coonamessett Farm: The first time I was involved in this discussion in front of the Council was February 1978, when doing groundfish gear work. I strongly suggest the Council should ask the public in the scoping document if they would envision a 2-fleet scenario, with inshore and offshore systems that are managed separately. You are trying to squeeze a diverse fleet into a single model. The offshore fleet is in business mode, interested in economic efficiency, and the day boat fleet has a totally different design and depends on a wider variety of species. We are moving down a path that is more and more expensive with less government funds. You are asking very detailed questions in the scoping document. I do not think the table is very useful in the document because it does not differentiate between day boats and trip boats.
- Ed Snell, South Portland Jig Fisherman: I have a 25-ft. boat and commercially jig for cod. I have an electronic reporting system because I am in a sector. It is ridiculous to be treated like a 100-ft. offshore dragger when we are just doing day trips. I have to submit

online alerts of when I will be fishing so I know when to take an observer, although I have not taken one yet. Economic efficiencies also translate into more shoreside effectiveness. This is a system of winners and losers – if quota is consolidated to you, that is good, and if not, it is bad.

- Jackie Odell, Northeast Seafood Coalition: We support what was said earlier about holding off on the scoping document until we have had the sector workshop and know what they need to operate better. What we do know is that many people are hurting because of the allocation formula that the Council chose in A16. Sectors are here to stay, and we need to figure out what happened in year one and what needs to take place for them to be better. We should focus Council resources and time on that, and take the analysis and comments after the sector workshop and re-evaluate this.

A Committee member stated, in response to these comments, that there were real concerns of colossal consolidation, and that he also struggled with the definition of the “historical fishery”. He supported the idea of different management for inshore and offshore fleets. He also felt that individual accumulation caps may be the only road forward, since the RA made comments that sector caps were ineffective when the 20% sector cap was removed in Amendment 16. Finally, he stated that since sector economic information was confidential, it would be very difficult to proceed effectively.

Motion: That in the draft scoping document, page 3, first issue, bullet 4, remove examples of diversity measures (phrase starting with “such as...”). (Mr. Stockwell/Mr. Preble)

Two Committee members stated that it would be instructive to the public to give them examples of “other measures” in order to trigger discussion, regardless of whether or not the specific examples had broad support. The motion’s seconder stated that he was not opposed to including ideas, just not the specific examples that were in the draft. Another member thought that the public would come up with good ideas anyway.

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

Several Committee members stated support for separate consideration of inshore and offshore fleets.

Motion: Add a bullet: Establishing fleet diversity and accumulation limit measures fleet wide or separately for inshore and offshore fleets. (Ms. McGee/Mr. Preble)

The maker clarified that this would apply to everything that may be in the amendment. One member noted that he had done a lot of reading on the historical makeup of the fleet, and that it was correct that the two fleets that were socially and economically isolated from one another. Another stated that it would be difficult to define what was one fleet or the other.

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

Motion: That the scoping document be forwarded to the Council for their review and approval (Mr. King/Ms. McGee).

The motion **carried** on a show of hands (7-3-0).

The Committee revisited the discussion on payment of observer costs, with members stating that this would drive consolidation more than any other factor. The Committee Chair stated that this

issue may be one of the recommendations that come out of the sector review workshop for possible inclusion in Framework 48. Committee members were concerned about the timing issue – that an action on this would not be complete before the beginning of the 2012 fishing year. One stated that initiatives on this were being taken by congressmen and state agencies, and that analyses were being done to determine the impact of these costs on sector viability. Ms. Murphy stated that NMFS continues to seek federal funding for FY 2012, but that it is unknown whether it will be granted. Also, the electronic monitoring pilot program is ongoing, but it is unclear whether it will be ready for implementation next year.

Public comment included:

- Maggie Raymond: I wanted to make the Committee aware that a number of people in the industry wrote to Eric Schwaab asking for an analysis of when the industry would realistically be able to cost-share the monitoring for sectors. The answer was very unsatisfactory. I do not think NMFS is going to be particularly helpful unless the Council really pushes the issue. Congressional representatives also said they cannot really help us with this. Our sector monitoring costs were \$1.3 million in first year. I assure you the 30 active boats in our sector cannot pick up that tab.

The Committee Chair responded that they would continue to keep this issue in the forefront and would take it up at the full Council meeting.

Update on 2011 TRAC Results

Staff provided the Committee with a summary of the results from the 2011 TRAC meeting in St. Andrews, Canada. The full working report was available in the Committee's meeting package, and the reference document is expected to be available in mid-August. The TMGC generally sets quotas at or below the TRAC recommendation, and actual catches are usually below the quota, but fishing mortality has been higher than expected for eastern GB cod and GB yellowtail flounder. Both stocks have retrospective patterns that need to be considered to achieve the desired mortality.

A Committee member noted that the stock size of GB haddock is decreasing even though the ACL is not being harvested, and suggested planning ahead to get greater yield when the next big year-class occurs.

Georges Bank Yellowtail Flounder Rebuilding Strategy

Since the International Fisheries Agreement Clarification Act was passed in 2010, Georges Bank yellowtail flounder is no longer subject to a ten-year rebuilding requirement. The Committee was presented with alternatives from the PDT for extending the rebuilding strategy past its current end date of 2016, and asked to select alternatives for inclusion in FW 47. Council staff noted that there would need to be a clear rationale included if an alternative is chosen that extends the timeline beyond 2016. The last benchmark assessment for this stock was in 2008, and none is scheduled through at least 2012.

One Committee member expressed concern that they were being asked to construct a rationale for a system in which the assessment was questionable and had limited predictive capability. He felt that it was best to choose a strategy that would not constrain the fishery until a new assessment

was completed, and that it would likely take two generations of fish to rebuild. Another felt that the PDT recommendations were the best possible solutions given the problems with the assessment, and asked to refer to alternative 2 in the PDT document as both maximum fishing mortality and 10% growth, since both options were essentially the same.

Motion: To recommend that the Council adopt the recommendations of the PDT regarding the revised rebuilding strategy options for GB yellowtail flounder in FW 47. (Dr. Pierce/Mr. Stockwell)

The recommendations are to have 3 alternatives: No Action, 75% of MSY, and Maximum F/10% Average Growth.

Ms. Murphy stated that adopting the last alternative to extend the timeline to 2032 would be difficult to justify, since the Magnuson-Stevens Act still requires that the stock be rebuilt “as soon as possible”, and the timeline could be extended to 2023 in the previous alternative with only a slight reduction in F.

Public comment included:

- Ron Smolowitz: Will changing the natural mortality number eliminate the retrospective pattern in the assessment? Also, issues with disease should be looked at. West of Martha’s Vineyard the fish are healthy and in large number that we have not previously seen. The distribution of fish is changing. And the survey is not a good tool to assess them.
- Jim Kendall, New Bedford Seafood Consulting: We exceeded our quota last year by 1% on SNE/MA YTF. Do you have any idea what the performance of the Canadian fleet was on GB YTF? Does the assessment take into account how much effort was being expended and whether the fish are just being held in reserve?

Council staff responded that the last assessment was just an update and used the benchmark model configuration, and that Canadian catches are small because they reserve their quota as bycatch for their scallop fishery.

The Committee Chair asked members attending the NRCC meeting to push for as early an assessment on this stock as possible.

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

Development of ABCs and ACLs

The Committee heard an update from Council staff about recent work from the Augmented Plan Development Team (APDT) and SSC to develop catch limits for the fishery in FW 47. The strategies used by the APDT to devise specifications for most groundfish stocks did not perform well given the amount of time that has elapsed since their assessments. The NEFSC had stated that it may be possible to perform updated operational assessments for many stocks, using catch and survey data through 2010 or 2011.

Motion: To request that the NEFSC perform updated assessments for GARM III stocks. (Dr. Pierce/Mr. Stockwell)

The maker of the motion stated that it was important to have this work done, rather than be faced with carryover of ABCs from one year to the next that are based on old assessments. A Committee member was concerned that this motion might tie the hands of the Council to only use updated assessments to set specifications in future actions. Council staff responded to this by saying that it would be a test case for having operational assessments down the road, but was very narrowly constructed to apply only to this action at this time. Several Committee members stated that they did not want to limit the NEFSC to performing only operational assessments if better information could be achieved using other methods, and wanted to allow the scientists as much creativity and flexibility as possible. Council staff warned that it was unlikely that there would be resources to perform anything other than narrowly focused assessment updates for these stocks at this time.

Motion as perfected: The Committee requests NEFSC perform updated assessments for GARM III stocks but not limited to updates if other assessment methods are available and can be applied for the setting of ABCs. (Dr. Pierce/Mr. Stockwell)

The Committee also considered whether it was within the Council policy on communications for the Committee to make a request directly to the NEFSC. The Chair stated that since most of the members of the Executive Committee were on this Committee, and since waiting to make the request until the September Council meeting would be too late, it was best to send the letter as soon as possible. The letter will state that the Committee anticipates that the Council will make this request in September.

The motion **carried** on a show of hands (9-1-1).

Accountability Measures

Council staff presented PDT work on options for accountability measures for windowpane flounder, ocean pout, Atlantic halibut, and Atlantic wolffish, and asked what work the PDT should continue with.

A Committee member suggested looking at seasonality of catches for windowpane, perhaps to require gear in a particular season, in order to find a way not to have a derby fishery. He also stated that it might be better not to assume all discards of halibut and wolffish are dead, since there is research and observations that show some survival. Ms. Murphy stated that NMFS uses the assumptions from the assessments. Another member stated that Maine has a halibut tagging program with hundreds of returns, suggesting that 100% discard mortality is probably not proper, and suggested looking at closures by gear types.

One Committee member stated that a substantial amount of wolffish catch is recreational hook and line, and suggested that AMs should apply to both fisheries. He also noted that looking at more specific gear configurations would provide much higher selectivity. Council staff noted that the PDT has only looked at gears for which they had studies showing that they work. Observer data is not coded based on what the sweep of the gear is.

A Committee member recommended that the figures from the SBRM in the attachment be presented so that it would be possible to distinguish how much is caught with circles of different sizes. He thought that the work suggested that the only option may be area closures for halibut and wolffish, with closures for sink gillnetting and longlining.

The PDT has not yet done analysis on halibut or wolffish. A Committee member suggested paying particular attention to Stellwagen Bank sanctuary for wolffish and its take there. Another asked to look at the target species reported for observed tows, and seeing if there was any correlation between catch of these stocks.

Public comment included:

- Ron Smolowitz: I am curious in SNE, if it is the same set of observed trips that was used for the yellowtail flounder? What percentage of that was taken by the general category boats? It looks like there's a real hotspot inshore near Block Island and Montauk. There are two issues with windowpane. We can identify where they are by season – you will find in SNE they are primarily inshore. There are a lot of windowpane on the scallop grounds. The stock assessment is very poor because the gear used in the survey is very poor at catching windowpane. The survey index bounces around, and the major issue is that we do not have a good population estimate of some of these bycatch species. The gear cannot give a good sample. And we have to work on gear solutions. We do not want to impose something in the next few years that hinders achieving OY from other fisheries that overlap this stock before we have a strong assessment of what is going on out there.

One Committee member stated that unless bycatch can be calculated on an individual level, it is very difficult to minimize it. That is one of the reasons sectors were created. Another clarified that if a sub-ACL was created for another fishery, exceeding that sub-ACL would trigger an AM.

Motion: To request that the PDT recommend a sub-ACL for southern windowpane flounder for the scallop fishery based on the historic split between groundfish and scallop catches.
(Mr. Goethel/Mr. Odlin)

The motion's seconder asked what time period was included, and the maker clarified that the PDT should determine which period had the accurate data, but probably not before 1996. A Committee member stated that they should also look at what is being taken by fisheries managed by MAFMC and ASMFC. Council staff clarified that the difference between the current approach and the baseline method is that baseline levels carry the assumption that they will be the highest levels ever caught. In fact, they would come in much lower than that. In a year where the scallop fishery is fishing a lot in a certain area, that amount may not be enough, and may be constraining for them. The flexible approach at least allows the scallop fishery to move through access areas.

Public comment included:

- Ron Smolowitz: Give us the historic level of catch. The idea of ratcheting down a sub-ACL is doomed to failure. You will always hit the "target" and trigger an AM. The bigger problem is that the survey does not work.
- Gib Brogan, Oceana: We support this as the right step for this fishery. Giving the scallop fishery a number and letting the PDT develop a range of alternatives is the way to go. Is there information to support the opinion that you could make a scallop fishery sub-ACL for all flatfish?
- Drew Minkiewicz: Fishing for flatfish with roller gear does not work very well. There is a reason you use the chain sweep that has contact with the bottom. I have concern that the surveys have a real spike in abundance levels because you have inconsistent sampling of these fish. The concern is even bigger now with the switch in the survey vessel. You are trying to undo a derby caused by the 10% cap as it is in this action, so why would you do

another action that creates another derby? Do something about these issues rather than just seeing and reacting in this fashion.

Ms. Murphy stated that NMFS is looking at all groundfish caught by vessels in other fisheries, and will have more information when that is complete. A Committee member asked whether it would be better to take extra time to answer these issues well. NOAA GC staff stated that they were still waiting for the decision of the court in the AM issue, and Ms. Murphy stated that the common pool would be taking the hit for sector and common pool vessel catch combined, and be subject to a hard TAC, which creates a fairness issue at this point.

The motion **carried** on a show of hands (9-1-1).

Sector Review Workshop Planning

Council staff provided the Committee with a proposed agenda and overview for the sector review workshop that will take place in October 2011. The Executive Committee proposed several minor modifications to the document, and these were summarized for the Groundfish Committee. The Committee approved the document with the Executive Committee's changes. Council staff noted that sectors will be contacted shortly in order to get the necessary information to them well in advance of the October workshop.

The Committee also made other recommendations in relation to the sector review workshop. These included:

- In the white paper on whether the goals and objectives of Amendment 16 were being met, add a discussion of whether sector management was consistent with the Council's sector policy from June 2007 and, if not, what were the sources of inconsistency?
- Focus on recommendations for improvements to the sector program in the final workshop document
- The workshop should afford opportunities to fix problems with sector management, whether through the Council process or sector operations plans. Some Council members felt that the primary focus, however, should be on issues in which the Council would need to be involved
- Provide sectors with explicit guidance on how to prepare themselves for the short presentations, and have Council members narrowly focus their questions in order to maximize the limited time available. It was suggested that sectors be asked to prepare answers to their questions in writing in advance of the workshop.

Ms. Murphy noted that NMFS is having ongoing discussions with sector managers, and will hold a separate workshop with sector managers on August 23rd. That workshop will focus on addressing problems with sectors that can be fixed through the regulatory process, including streamlining requirements and resolving redundancy issues.

Public comment included:

- Jackie Odell: There will be a lot of similar concerns raised by different sectors in terms of regulatory issues and actions that will need to be taken by the Council. We are concerned about the timing of any potential actions that result from this workshop. May 1st will come quickly, and there is no Council action that focuses on helping sector be as successful as possible before then. If you wait until a Council priorities discussion in

2012 it will be too late. We think you will see that there were not many permit sales that took place last year compared to previous years, but a lot of members within sectors chose to lease quota rather than fish it. Many people in the fishery chose to be inactive, but are interested in being active again and considering whether to sell permits or remain in the fishery if sectors get better.

Other Business

Maggie Raymond of Associated Fisheries of Maine brought to the Committee's attention a letter that was written by several industry members to Mr. Eric Schwaab of NMFS. The industry asked for an analysis showing when the industry would be capable of supporting the costs for at-sea monitoring. Ms. Raymond stated that Mr. Schwaab responded that the analysis would not be completed. She asked that the Council address the issue as quickly as possible.

The meeting adjourned at 4:20 p.m.