

New England Fishery Management Council
Amendment 16 to the Northeast Multispecies FMP
Public Hearing Summary
Portsmouth, NH
May 27, 2009

A public hearing was held to receive comments on the draft Amendment 16 to the Northeast Multispecies Fishery Management Plan and the accompanying Draft Environmental Impact Statement (DEIS). The meeting was chaired by Groundfish Oversight Committee Chair Mr. Rip Cunningham, assisted by Council staff Mr. Tom Nies and Ms. Anne Hawkins. Council member Mr. Michael Leary was also present. There were approximately thirty people in attendance, 17 of whom signed the attendance sheet.

After introductions, Council staff provided an overview of the amendment documents (including the public hearing document and the measures matrix), summarized the measures considered in the amendment, and described the comment process and future actions. The public then provided comments on the proposed rule. The comments (with staff responses where given) were:

Erik Anderson, Commercial Fisherman: Is the sector responsible for an overage? Under the current conditions it's difficult to understand the regulations.

Tom Nies: That is one of the issues under consideration. The regulations currently hold members jointly and severally liable for any violation. The draft amendment contains three options that the Council is considering, which would modify the current language.

Mr. Anderson: Is it going to be similar to Framework 42 where days at sea adjustments are based on the weakest stock?

Mr. Nies: Yes. The amendment says adjustments will be based on the weakest stock, but the mixed stock exception will be considered. I'm not sure what that means or how it will be applied.

Mr. Anderson: We don't have enough information to make an informed decision on where we would want to go. In the non-sector effort control options, it describes trip limits and certain conditions, but not any days at sea counting.

Mr. Nies: Under effort control Options 2A and 4, DAS counting is unchanged. Under Option 3, it is counted using a 24-hour clock.

Mr. Anderson: Under current conditions, the interim rule and Framework 42, we're not exceeding our TACs, just the mortality rates. Is that correct?

Mr. Nies: That is true as of 2007, when we have the most recent data. We don't have mortality estimates for 2008. It is true for all but one or two of the stocks, I think. There is a table in Amendment 16 that describes which have been exceeded and which have not.

Carl Bouchard, Commercial Fisherman: You showed the cost per vessel at \$13,000-\$18,000 per year for monitoring. Is that based on a vessel with 40 days at sea? If guys have multiple permits, would it cost \$18,000 for each permit they own?

Mr. Nies: The number is very uncertain. We tried to estimate how many days would be used if boats were in sectors, how many are active, and what the trip length is. The number is really based on the boats fishing rather than the permits numbered.

Mr. Bouchard: If each boat fished its own permits, it would be \$18,000 times the number of permits. If other boats fished the permits, it would be less?

Mr. Nies: I think it would depend how many trips you made. I'll have to think about it a little. I'm not sure it would be more than that. Presumably you'd put all the ACE on one boat if you think you could catch it with one boat. And the number of trips is the key part. You will fish more efficiently in a sector, and are unlikely to make 5 times the number of trips.

Mr. Bouchard: Effort control Option 3A shows a 50% DAS reduction and a cod trip limit of 2000 lbs. per day. Is that from the Framework 42 baseline? That is more than we have this year when you count two to one.

Mr. Nies: That's right. And it is based on a 24-hour clock. There is no differential DAS counting in Option 3A.

Mr. Bouchard: That sounds like a bargain.

Michael Leary: If there is a hard TAC backstop as an accountability measure, and the TAC is full, you could be shut out for the trimester.

Mr. Bouchard: They have been 90% accurate with the TACs.

Mr. Nies: Not exactly. What I said was that we have caught less than the TACs for 90% of the TACs in recent years.

Mr. Bouchard: We have to notify NMFS in September if we want to join a sector. Will we know what the TACs will be before we have to notify NMFS?

Mr. Nies: No. The TACs won't be determined until the end of September.

Mr. Bouchard: When can we change sectors? I have my name in with the Seafood Coalition in Gloucester. Can I change sectors after that time? As far as NMFS is concerned, it shouldn't matter.

Mr. Nies: You have to ask NMFS, but I think they will say no. It may be possible to remove yourself from a sector, but I don't think you'll be able to switch. Switching sectors may affect the sector's ability to operate by May 1st.

Mr. Bouchard: When the two existing sectors were approved, there was a lengthy Council process and then further approval by NMFS. Will all these additional sectors go through the same extensive approval?

Mr. Nies: The Council will make a final decision on these sectors in June. They have submitted information on how they plan to operate. I don't expect these 17 to get the same level of review that the first two did, because I don't think there's time.

Mr. Bouchard: I would be in favor of the 5-year straight history PSC allocation alternative. The reasons are that the existing sectors used the previous 5 years, and you should continue along that line. Also, the data that NMFS has for the past 5 years is much more accurate than it is for the past 10 years. As an example of that, on my primary permit the most recent 5 years are very accurate. Previous to that, I have a total of 120 days or 120 trips missing out of NMFS history. This is totally unacceptable, since there is no way I can recoup that 20% loss until the next year after filing extensive appeals. That's totally unacceptable. Thank you.

Randy Gauron, Captain, 31-foot Gillnetter (Hampton Beach, NH): I think the move to sectors at the present is rushed. We have other questions we're dealing with, primarily with management issues. What scares me for the most part is the financial aspect of sectors. We don't have any real business plans as far as running the sectors go. We are basically running them as a cooperative the way I can see it. What do we do if we fail? Who will be liable? We could be in a big financial mess. We have so many questions as far as the costs go. Where will they go? We have some money coming from the government to begin with and maybe from the environmental groups. As far as observer coverage goes, it looks like it will be a couple of years down the road. We get some startup costs, and will be managing by the seat of our pants. We have to turn around and look at the financial implications. Another thing I'm concerned about is enforcement liability. I find it unbelievable that someone could be held liable for what I do or vice versa. It's the same thing to me if one of your neighbors robs a liquor store and the police can arrest the whole neighborhood for the crime. Our forefathers looked into that and didn't believe those types of things should happen. That's what's going on here. We have to revisit that. For the PSC options – I know NMFS did most of the calculations for us and gave us percentages. One thing I noticed right off the bat is that they were missing the calculation of the total of all eligible vessels' baseline capacity, so I couldn't do that calculation. In the public hearing document, there are PSC examples for three vessels. I basically took those three vessels and plugged in my landings and my DAS. I immediately noticed (my boat is 31 ft. and 225 horsepower) that if you used the 40 ft. example, the numbers went up by 45 percent, and for the 70 footer they went up 66%. With the same numbers on my boat, by the size of the boat you're allocated more fish and we're all going out of the same pool here. It is not a surprise to anybody just going by

that. I don't think there is enough information to make an informed judgment, but going by that, and I only have one permit, I'd have to say I can't take a hit if you put length and horsepower into the PSC equation. I don't see what those factors have to do with it – we all fished under the same regulations – if everything is equal then I don't know where that comes into it. My first choice would be Option 1, and second choice would be status quo.

Dennis Robillard, F/V Julie Ann II: I don't agree with using horsepower or length for the PSC calculation. Those factors are totally arbitrary and shouldn't be added into the equation. I also don't want anybody else's stock in Southern New England. I caught what I caught in the Gulf of Maine; that's what I want, it's what I fish on, and what I feel I'm entitled to. I groundfish 100% of the time except the times I'm not allowed to go. I have two permits I'll be okay on, and two that I won't be okay on. Personally I would choose the 100% history alternative. I don't care to have any Georges Bank haddock. I don't plan on going out there, and never have. Maybe that's shortsighted on my part. I'm inshore Gulf of Maine and plan on staying there unless we get completely kicked out. I've heard rumors of adding 2007 and 2008 data to the PSC formula. If we do that, fine, but horsepower and length should not be considered at all. Thank you.

Jim Ford F/V Lisa Ann II: The horsepower and length is bogus information, as everyone has been saying. I'm pushing for the 5 year straight history PSC alternative. Like many of us here, we've pushed to keep groundfishing, and will continue to do so 100% unless we're shut down. As for the older data, we may as well use MRFSS data for recreational fishing if we're going to go with that, or just call people up and ask what they caught. The more recent data is a lot more accurate. I have one of the largest vessels in NH, but I have low hp. It's the captain and the gear used that catches the fish, not the length and hp.

Mr. Anderson: I would like to start with some comments to assess my feelings on the direction we are headed with sectors. I couldn't capture my range of emotions, from anger to disappointment, to hypocrisy, and down to disgust, that goes with this action. This is seen as the panacea for past mismanagement. Nothing could be further from the truth. When the new head of NOAA states that there must be additional fleet reduction in New England as a policy statement, and that we must go forward with sectors, there's a feeling of suspicion that this fleet reduction maybe be accomplished through the sectors. It is wrong for that type of policy statement – that boats should go out of business – to come from a head of government. It will relieve a lot of NMFS responsibilities. I'm not a business scholar, but I know basic business principles don't endorse a partnership policy. Sector management forces a variety of businesses to partner into a group where individuals don't even know each other, at a cost that's prohibitive in any application. No other business climate would tolerate it. The concept of sectors in its essence is not in good standing with business practice. Partnerships fail, and that's what this concept is forcing people to do. I'm disappointed in that. On top of this, NMFS will continue to manage with a single-species policy and not discard other regulations of the DAS regime, and that gets frustrating. The single biggest problem is single-species management. The Council has even expressed its position on this, but it's still in the core of the document that NMFS wants to manage on a single species basis. It is also apparent that the DAS system is being discarded, but there are good reasons to hold onto it. The industry is used

to it. Also, DAS management was globally unique in comparison to other management strategies, and now there are positive signs of stock recoveries right when we are going to discard it. It wasn't a failure, it was just bludgeoned to death in its current form and not given a chance to reach maturity. Allocation is clearly one of the most problematic and unjust parts of this process. The periods of time offered as alternatives for calculating history represent very chaotic management periods. This expresses my position on sectors – there is no other alternative in this process. NMFS is abrogating responsibility. If you want to go to ITQs, go there. Don't put this transitional process into effect for the amount of time it will take us to get to an ITQ system, with the amount of cost it will mean for the industry. I appreciate Mr. Nies' calculations. Even for the low cost estimates to a vessel for observers and dockside monitoring, and even with indication that they'll be borne up front, when the program continues I think it will be impossible for individuals to operate. We have already lost enough. With regard to regretfully commenting on the options in the amendment, PSC Option 4 would be the fairest. I don't understand why a similar option wasn't developed for stocks landed. That would have made it more tasteful for some people. People invested in DAS and the potential of that investment is being voided for them to operate under the current conditions, because they may have bought a permit with no history that would be useless if you go with one of the other options. With regard to sector monitoring and enforcement, I would rather see that joint liability for any violations is as limited as possible, and that sectors may be jointly liable for only the 3 topics in Option 2. As for mortality controls, for non-sector vessels Option 2A might be the fairest. The allocation time frame between the commercial and recreational fisheries should be the same as the PSC allocation for sectors: 1996-2006. There should not be different time periods for calculating the allocation between the two different stocks. Thank you very much.

James Heywood, F/V Heidi and Elizabeth: You have pretty much spelled it out for us. The damage is done. Together with this plan and the options we have, it is pretty much no alternative. You will lose a lot of boats regardless of which option we go with. People have to pay to be in a sector, and pay for monitoring, and everything else on top of what we've already been paying. Of the boats that are just hanging on now, maybe 40-60% will be gone. That would be a lot of jobs, and infrastructure, all gone. Whether it comes back down the line in the future, it will be irrelevant. This is too much, too fast. Just like a limit of 30 lbs. of cod didn't work, this won't work either. Since we're here, we're already at this point. I would say the only fair way to do the PSC calculation would be using 10 years of fishing history. I wasn't really clear on what the common pool options were. Will these all be voted on in June? Each boat will be required to pick a sector or stay in the common pool. In order to change the currency like we are doing, we're putting a lot of people in a pinch. If you bought a permit one day for \$300,000 and you didn't know this day was coming, you could be sitting on nothing. Nobody got a good deal because the value of permits isn't going up that much. Is this entirely necessary? In the plan you're putting forward for the overfished pollock, the reductions are even greater. Will pollock become a bycatch? Those pollock vessels will have to fish for something else, whether it's monkfish, or cod, or flounder. The pollock will all get caught and will close down sectors, which will create a variety of different problems including market instability. Say sectors start closing in July and August, what will be left for the

infrastructure for the rest of the year? Will all the fish come from the West Coast and the Gulf Coast? I can't speak for the Southern New England or Cape Cod boats, but for the Gulf of Maine, sectors don't really work. If we have to get to ITQs or IFQs, we have to hurry up, because working as a group – I don't even know these people, and I've got a lot of money invested. I'm going to depend on someone else to manage my season, when for the past 15 years I've been the only one responsible to manage my season? If the idea is to put the little guy out of business, I guess we're doing a good job. Thank you.

Carolyn Eastman, Owner, Gillnetter: In looking at the PSC options, we would go with Option 1 on landings history. It goes along with the fact that it doesn't matter how big the boat is, we rely on the history on the one permit we have. One of my concerns with sectors is that when it comes to sector monitoring and enforcement, I believe those predicted costs should be doubled. When it comes to gear, when we talk about dockside monitors, we don't know who they will be, nor what the cost will be to have them there. If there will be strict requirements, I'm sure they'll want top dollar for their position. As far as electronic monitoring and electronic reporting, we haven't had to invest in it yet, but I predict that's where we'll be headed. For all trips, I would predict the cost will be more like \$26,000-\$36,000 for each boat. When I look at the numbers for groundfish, I see a reduction in revenues on top of costs to operate in a sector system. They have no idea who the sector manager will be at this point, what the legal costs will be, and we're not quite sure how the money is being allocated. It's like having a crystal ball. Those left in the industry aren't fishermen anymore; we're business people trying to operate a viable business. We can't even project a year out on how our business will do, and no other businesses operate in that manner in a field that is so rapidly changing. It is so hard to even go to banks to get this type of funding to start sectors. They just look at the boat as capital for a loan, not the permit. It is next to impossible to get funding. Option 1 is based on landings history to recognize those who have been working hard, and the recent reporting is the most accurate. Thank you.

Mark Stettner, Commercial Fisherman: I looked through the 900-page document, and you missed one species that needs a formal rebuilding plan. It's fishermen. That's my formal comment. Thank you.

Don Swanson, Recreational Fisherman, Coastal Conservation Association of NH: We support the years 2001-2006 for the allocation alternative. This is a whole new concept of going to an allocation that we have never had before. We would like to see it start on a good foot. How they came up with the numbers, I have no idea. A 40/60 split isn't that far off. This is a natural resource and we would like to see and get an allocation that fits the recreational fishermen. We don't know how many recreational fishermen are out there, though we will shortly when they put the saltwater permit out there and all this gets straightened out after 2011.

Carl Bouchard: I agree with Mr. Anderson that there was an option missing that would allocate PSC based on straight A days applied to stocks landed. It was wrong of the Council to miss that. In going back to landings history, an individual has no way to verify the landings of additional permits that they have purchased. On my own there are 120

days missing, and I have reason to believe there is an equal percentage missing from other permits I've purchased, and I have no way to verify that. Thank you.

Erik Anderson: There is one option I didn't mention. As to Option 5 under sector policies – I hope the council does not adopt that. With regard to sector monitoring and enforcement, I hope that Option 1 will be adopted for the transitional period that everyone takes to adjust to this. Less than 100% electronic monitoring and at-sea observing should be required. I don't think it's appropriate to start at 100%, since everyone needs time to ease into this stuff. Thank you.