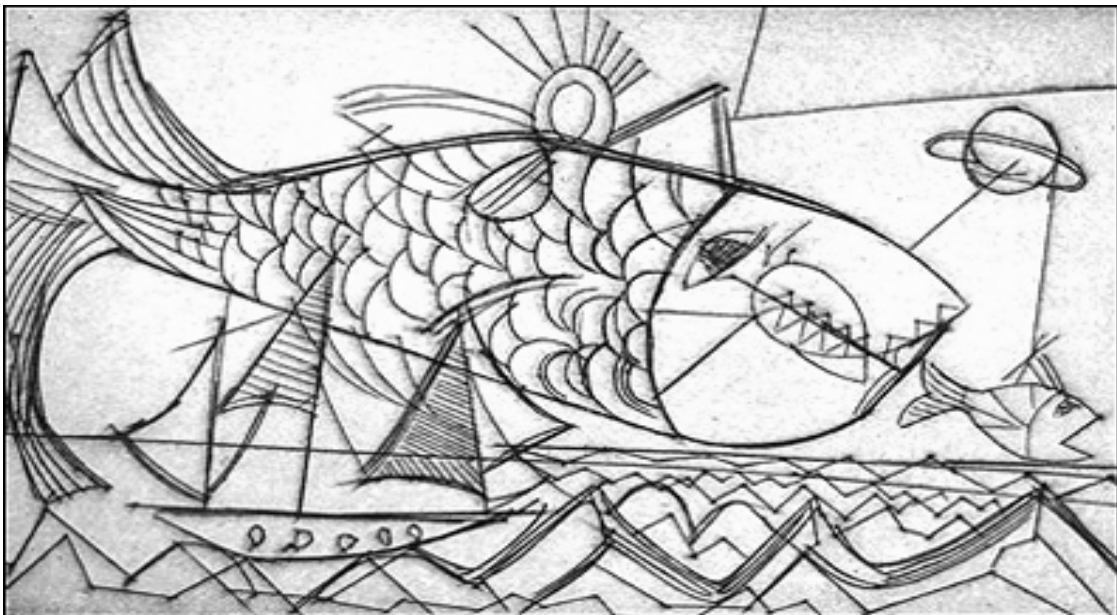


Alternative Groundfish Management Structures: The Performance Plan and Days-At-Sea Modifications



Source: New York Metropolitan Museum of Art

A report on the workshop hosted by the
Gulf of Maine Research Institute

The Sheraton Harborside
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Acknowledgements

The success of this workshop would not have been possible without the participation of the workshop participants themselves. Each participant devoted time out of their regular schedules to attend the meeting and contributed to the dialogue. They offered their perspective while providing an open examination of the proposals to revise the current days-at-sea management structure being considered for groundfish in New England.

The meeting was facilitated by Laura Taylor Singer and notes were compiled by Meredith Mendelson, both from the Gulf of Maine Research Institute.

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Executive Summary

Over the next two years, the New England Fishery Management Council (Council) will develop Amendment 16 to the Northeast Multi-species Fishery Management Plan. Amendment 16 will define the regulatory terms for New England's groundfish fishing fleet for the next decade. As requested during the scoping process for this amendment, several innovative ideas were developed by stakeholders. As these ideas continued to be developed by their proponents, a need arose for a dedicated dialogue between those proposing the innovative management strategies and those tasked with stewarding them through the Council's consideration process.

This workshop was the second workshop convened to provide a venue for such a dialogue. The first workshop, co-hosted by the Massachusetts Marine Fisheries Institute, was held April 4-5 and focused on Area Management and the Points System alternative management ideas. On May 16, a second workshop was held to allow participants who developed the Days at Sea (DAS) Performance Plan and those who suggested modifications to the existing DAS system the opportunity to further refine their ideas in a collaborative effort with the PDT. This effort was not requested by the Council, and it served no official role in the Council's consideration process. Rather, it was a way to provide an opportunity for ideas to be discussed openly and collaboratively.

Twenty-four invited stakeholders, ranging geographically from Rhode Island to Downeast Maine, participated in the workshop. The following report provides an overview of the discussions that developed and the key recommendations that emerged to advance the ideas presented. While it is difficult to capture the full complexity of the deliberations, this report provides information that should be useful to anyone involved in groundfish fishery management in New England as Amendment 16 continues to evolve.

Setting the Stage

Goal of the workshop:

The goal of this workshop was to further days-at-sea management proposals that were put forward to the New England Fisheries Management Council in response to scoping for Amendment 16 to the Northeast Multispecies Fishery Management Plan--the Performance Plan and other revisions to the days-at-sea (DAS) system. (*Previous discussions were held to address Area Management and the Points System.*)

Objectives of the workshop:

- To facilitate a dialogue between proposal proponents and the Plan Development Team (PDT) so that the issues raised by each of these scoping comments can be addressed and potential solutions discussed in an open, collaborative forum.
- To assist in the further development of these ideas prior to their consideration by the Council.

Ground rules:

The one-day workshop convened the PDT and proponents of the Performance Plan, as well as other individuals who submitted comments during Amendment 16 scoping regarding changes to DAS, along with Council members and Groundfish Advisory Panel members who are integrally involved with groundfish management (see attached list). We extended an invitation to a broad group of individuals involved in the Council process as these are new ideas with a high degree of complexity that need to be fully understood.

Because of this large group, we established a few ground rules in advance of the meeting, keeping in mind that the primary objective was that the proponents of the DAS ideas had an opportunity to interact with the PDT.

The ground rules were as follows:

- 1) There are **no decisions being made** at this meeting. This is not a public meeting and is not intended to side-step the Council process.
- 2) Approach from the perspective of success. This workshop is about trying to see how to make a new system work, not listing all the ways it could fail. Please come with the notion that any of the proposals may be a viable option for managing the groundfish fishery, and that there needs to be creative thought on how to make them work.
- 3) We are not all created equal. The proponents of the proposals and the members of the PDT need to have an open dialogue and deference will be given to them to make sure the workshop meets its objective of assisting in the further development of these proposals.
- 4) This is not a Council meeting, nor is it a Council-sponsored event.

Introduction and Background Discussions

This workshop was organized to foster a dialogue regarding proposals to revise the current days-at-sea (DAS) management system being considered by the New England Fishery Management Council under Amendment 16 to the Northeast Multispecies Fisheries Management Plan (Amendment 16). The workshop convened members of the Groundfish Plan Development Team (PDT) and proponents of the Performance Plan and other revisions to the DAS system, along with New England Fishery Management Council (Council) members and Groundfish advisors (see appendix for list of participants).

Given the complexity of groundfish management in New England and the unusual opportunity to consider alternative management structures under Amendment 16, additional discussions throughout the region are warranted. These workshops were designed to inform further development of these ideas prior to their consideration by the Council. Throughout both meetings, participants were encouraged to offer suggestions for improving the proposed concepts, rather than just listing the potential problems. The first workshop was held on April 4-5 to discuss two alternative management proposals being considered under Amendment 16: Area Management and the Points System. The DAS workshop was convened to provide an opportunity for discussion between proponents of the Performance Plan and other revisions to the DAS system and members of the PDT. This was not a Council-sponsored workshop, and participants were not making decisions. The New England Fishery Management Council members who were present participated because of their expertise on the issues.

Background on the Amendment 16 Process

[Note: This information was provided at the April 4-5 meeting but not at the May 15 meeting as most of the participants attended both meetings. It is reported here to provide context.]

Under Amendment 13 to the Northeast Multispecies Fisheries Management Plan (Amendment 13), the next biennial adjustment will take place at the start of 2009 Fishing Year (May 1, 2009) based on the results of the next assessment of groundfish stocks (GARM 2008). Amendment 13 includes a default adjustment to the current days-at-sea (DAS) allocations that will reduce the number of Category A DAS if the fishing mortality targets for each stock in the multispecies complex are not being achieved. Additionally, the ratio of Category A DAS to Category B DAS will be changed resulting in an additional 17% reduction in A DAS if no other management changes are made. Rather than accept these default measures from Amendment 13, the Council determined that it would consider a new set of management measures for the beginning of the 2009 fishing year. Because of the increasing complexity of the groundfish management plan, the Council elected to explore alternatives to DAS-based management for this management action, now called Amendment 16.

Scoping for Amendment 16 was held in November/December 2006. At the Council's February meeting, several proposed alternatives—including a hard TAC and an ITQ system—were voted “considered but rejected” by the Council. Three proposed alternative management structures remain—the Points System, the Area Management Plan and the DAS Performance Plan. Important upcoming dates are:

- May 31, 2007: Groundfish Committee meeting to make recommendations for the June Council meeting.
- June 19-21: Council will review recommendations from GF Committee on which plans should move forward. If Council takes recommendation, June '08 will be target for document release to public hearing.

Because the scoping document requested alternatives to the current DAS management, it is not yet clear when the Council will solicit ideas on DAS-based management, though several recommended changes to the DAS program were submitted during scoping. It now appears that recommendations for changes to the DAS program will need to be made, at the latest, prior to the Council's September meeting.

Adding additional layers of complexity to the regulatory environment, the Magnuson-Stevens Act (MSA) was reauthorized in the middle of the Amendment 16 process. Until more of the MSA provisions have been interpreted by NMFS, the Council will have to make some assumptions about how the Act will be interpreted for Amendment 16.

Recent Developments in the Amendment 16 Process

Tom Nies, New England Fishery Management Council staff, provided background on how the Amendment 16 process has unfolded in April and May. At the April meeting, the Groundfish Committee considered a motion that Amendment 16 would focus solely on modifying the DAS system, and Area Management and the Points System would move forward in a subsequent action. Given that the Council and PDT lack the resources to work on two amendments at the same time, it would be necessary to pursue a subsequent action and these would most likely be sequential rather than parallel processes. Tom was not sure how the DAS Performance Plan would fit into that scenario. The Groundfish Committee tabled the motion until their May 31st meeting.

By May 1, 2007, the Council had received 18 proposals to establish sectors in the groundfish fishery. All proposals were received prior to May 1, 2008. In their proposals, seven of the sectors requested they be included in the next management action (the implications of this are vague, but it may mean May 1, 2008), and several others clearly stated that they would like to be effective as of May 1, 2008. There is no regulatory requirement for an immediate Council action to be implemented in response to receiving sector applications.

At the May 31st meeting, the Groundfish Committee will consider Area Management, the Points System, the DAS Performance Plan and other modifications to the DAS system, as well as the sector proposals and limited entry for the party charter fleet. Tom does not expect the Committee to get into the details of the various sector proposals, but only to consider whether they will immediately begin a framework action to implement some or all of the proposed sectors. In response to a question about the process for approving sectors and how that would impact current sectors, Tom clarified that the Committee will not be able to remove existing sectors. Once a sector is approved by the Council, it will remain in existence so long as it does not substantially change its operating plan. If an existing sector proposes significant changes to their operations plan, then the Groundfish Committee and Council have the opportunity to consider the new plan.

The PDT will not convene again prior to Groundfish Committee meeting on May 31st, and will not provide further comment to the Groundfish Committee and Council unless requested to do so, because they have already reported to the Committee twice regarding the proposals submitted during the scoping process. (PDT meeting notes are available on the Council website at <http://www.nefmc.org/nemulti/index.html>.)

One participant at the DAS workshop asked if there would be additional opportunities for the public to generate additional ideas if the Council chooses to move an Amendment 16 process forward only on DAS. Tom responded that there might be limited opportunities between June and October/Nov and that he expected that the Council will try to put everything together by the January 2008 Council meeting. He advised workshop participants that if they have ideas, they should try to get them on the table at the May 31st Committee meeting.

Overview of FMP Requirements: What are we measuring against?

[*Note: This information was provided at the April 4-5 meeting but not at the May 15 meeting as most of the participants attended both meetings. It is reported here to provide context.*]

Every Council management action has to meet the National Standards as described in the MSA. The courts have established that National Standard 1 (NS1) should be given the highest priority. National Standard 1 states “*Conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the optimum yield from each fishery for the United States fishing industry.*” Therefore, every alternative considered in an FMP or FMP amendment has to end overfishing and achieve optimum yield, before addressing the other nine standards. Optimum Yield (OY) is defined in the MSA as a level meeting three requirements: 1) the amount of fish that provides greatest overall benefit to nation; 2) not exceeding MSY; and 3) the amount of fish that provides for rebuilding, and this could be lower than MSY. With respect to groundfish, OY is defined at 75% of the overfishing mortality rate. TACs are established in New England at the overfishing fishing mortality level. OY is defined for each stock within the complex, and achieving OY for all 19 stocks simultaneously is an acknowledged difficulty.

Other MSA requirements that must be met include:

1. Minimization of adverse impacts on Essential Fish Habitat (EFH)
2. Standardize Bycatch Reporting Methodology (SBRM)
 - *There is an omnibus SBRM amendment under development that may include some helpful information*
3. Annual Catch Limits and Accountability Measures (ACLs and AMs) (new)
 - The MSA as reauthorized requires each plan to establish ACLs to prevent overfishing, as well as AMs if ACLs are exceeded.
 - The Service’s official guidelines interpreting these requirements is expected in late 2007.
 - The public comment period regarding how the NMFS is interpreting ACL and AM closed on April 18, 2007.
 - ACLs and AMs are expected to be incorporated into Amendment 16.
4. Limited Access Privilege Programs (LAPPs)

- You can have a LAPP without having an ITQ. In New England, you need 2/3 in referendum to implement an ITQ.
- Additional provisions required include:
 - Recovery of administrative costs (cost recovery).
 - Sustaining community participation.
 - Preventing excessive consolidation.
- A proposed rule to implement LAPPs will be published this summer with a final rule anticipated in the fall.

The new MSA provisions for ACLs, AMs and LAPPs had not been enacted at the time of scoping, and the alternative management plans before the Council are not expected to meet these standards at this time. The Plan Development Team has analyzed each of the proposals using the following metrics:

- What is the constraining management measure?
- What is the method of allocation and distribution of allowable catch?
- What are the mechanisms for accountability?
- Does the proposal apply across the entire management area?
- What is the level of detail in the proposal?
- Can we analyze the potential impacts of this proposal?
- What are the concerns and/or major hurdles that arise from this proposal?

The PDT met in January and again in March to evaluate the alternative management measures proposals received during the scoping process. Feedback from these preliminary analyses was provided to the proponents of the alternative management structures and those comments formed the basis for these two workshops (see appendices for detailed PDT comments).

Note that, for the remainder of this report, the term Total Allowable Catch (TAC) will be used when discussing total removals of groundfish. The terms Allowable Biological Catch (ABC) or Acceptable Catch Levels (ACL) could also be used, as all three are commonly used by the Service in fishery management documents, but because TAC is the most commonly used at this time it is used for convenience.

Background on the Days-at-Sea Management Structure

Tom Nies gave an overview of the development of the days-at-sea management system from the beginning of limited entry in 1994 to provide a foundation for the discussion of revisions to the current management system. He pointed out that the initial allocation was too high, over 200,000 DAS. In 1997, one of the multi-species monitoring committee reports recommended giving each vessel in the fleet 50-60 DAS; at the time, that seemed unacceptably low. In 2007, most permits were allocated about 48 DAS, for a total of roughly 40,000 DAS.

A participant asked how many DAS might be allocated when all the stocks are rebuilt. Tom noted that this was a difficult question to answer without knowing what the composition of the fleet would be in the future. With the fleet as it looks now, fishing 40,000-45,000 DAS might result in fishing above MSY on certain stocks, so it is unlikely that more than 60,000 DAS would be allocated in the future, because the fishing mortality rate must be below MSY for all stocks. It is improbable that the high numbers of DAS allocated in the past (such as 100,000) will be seen

again, and management proposals must consider the technology and the fleet as it currently exists.

The objective since the fishery went to limited entry (1994) has been to reduce fishing mortality on each of the 19 stocks in the multispecies complex. In the three years since Amendment 13 was implemented, 44 target TACs have been allocated on the major species. Four target TACs were exceeded in the first year, and since then, under the current DAS system, only one has been exceeded. (Some of those TACs appear now to have been set too high). Since 1994, roughly 70 TACs have been specified and about 30% exceeded, most of those prior to the adoption of Amendment 13.

As the system becomes more rigid on an individual stock basis, it becomes more and more difficult to manage on a purely DAS system. In order to reduce fishing mortality without further reducing DAS, which are considered blunt instruments, managers utilized other mechanisms, including rolling closures, additional year round and habitat closures, trip limits, and minimum fish size and increased mesh sizes. Tom underscored how these various measures intertwine and may justify some changes (or lack thereof) to other tools and mechanisms. For example, the problem of regulatory discards may be solved by eliminating trip limits. He noted that if DAS is to be effectively revised then stakeholders must keep in mind the requirement to further lower fishing mortality on certain stocks and therefore the need to further reduce the allocation of DAS, or be realistic about the need for additional measures to achieve the same goal. Tom concluded by asking the question: ***Do we want to remove complexity or do we want to deal with the layers of tools that deal with limits of DAS as an effort control?***

The Performance Plan

Overview of the Performance Plan

“The Performance Plan is an attempt to respond to the perceived injustice of the reasoning behind the differential area and differential counting.”

-Erik Anderson,
Fisherman

Erik Anderson provided an overview of the DAS Performance Plan. Based on the new concepts of differential DAS counting established in FW 42, he described his ideas for accounting for the actual catch by applying a differential DAS counting rate based on four different formulas. The formula used for each trip is dictated by the actual catch on that trip. His overall concept was to create a system that would provide an incentive to avoid species of concern from the moment the vessel leaves the dock, and to charge DAS counting at a rate based on the species caught.

In FW 42, 2:1 DAS counting was developed to decrease fishing opportunity on Cape Cod/Gulf of Maine Yellowtail Flounder and GOM cod in order to decrease mortality on those stocks. However, Erik was concerned that the differential counting area did not seem appropriate for Yellowtail since many vessels don't catch that particular stock in most of the designated area. He thought the 2:1 counting rate over such a large area was overzealous.

The Performance Plan allows vessels that don't encounter species of concern to avoid having their DAS counted at the 2:1 rate. Some participants thought that this plan resembled the Points System. However, it is different from that concept in that the differential DAS formulas are established at the beginning of the fishing year and remain static throughout the fishing year.

In the course of the day's discussion, Erik pointed out that this concept could be applied in a number of ways, such as by applying a higher differential DAS counting rate in exchange for fishing in the rolling closures.

Recommendations to Improve the Proposal:

1. **Consider removing the maximum 2:1 differential counting provision.** In its current form, the proposal suggests that 2:1 differential counting would be the maximum rate charged to a vessel. This would be a problem for the trip vessels that could potentially land 10,000 pounds of a stock of concern and yet only be charged the maximum ratio of 2:1. One way to address this would be to charge DAS based on actual landings. For example, if three days' worth of trip limits are landed in one day's trip, that total catch could be landed and charged as three days.
2. **Consider changing the equation to one simple calculation.** To obtain the DAS charged, multiply trip length (in hours) by the differential DAS rate by a certain ratio. This would work for a trip of any number of hours, and accomplishes the goal of giving differential weight to a trip that exceeded the trip limit.
3. **Clarify in the proposal that it requires mandatory retention and landing all legal-sized regulated groundfish.**

4. **Explore with the PDT the potential to expand this concept beyond the current differential counting area.**
5. **Identify how this plan might be altered to respond to a hard backstop requirement.**

Performance Plan—Differential Counting

Issue: Rationale behind the formulas used in the Plan.

- In response to questions on this issue, Erik explained that his examples were meant primarily for illustration as the technical capacity to develop a more comprehensive model was not available. In past regulations there were different measures for day boats then those for trip boats. The examples in the proposal only try to recognize the difference in how much time is spent on a trip. There are implications at the 24-hr mark, and an attempted was made to account for that.
- The question was directed at the NMFS members of the PDT - how could any Plan be developed with multiple formulas? The Service responded that regulations would need to codify each formula for calculating DAS use.
- Another concern was that the differential rate may change according to the current status of the stock, depending on the suite of measures designed to achieve the targets. The differential DAS rate established in FW 42 was based on the need to reduce mortality on GOM cod and CC/GOM yellowtail. Erik recognizes that the Performance Plan will need to be modified because stocks of concern will change in 2009, based on the results of the GARM. Should this concept move forward, it will have to be determined if it should be based on the geographic range of the species or limited to a particular area where most landings currently occur.

Issue: Could the Plan be expanded into the entire Gulf of Maine?

- Erik responded to this question by saying that though the Performance Plan was directed toward the current differential DAS counting area and rate, the concept is applicable throughout the Gulf and able to respond to species movements and different stocks of concern. If the differential counting does expand to the entire Gulf, Erik feels it would better achieve the goals of the rebuilding plan, because the biological range of stocks is greater than the current differential DAS area. Several questions were raised, including:
 - Would it be applied to all trip limits and stocks?
 - Is it going to be formulaic, where someone enters their catch and they can estimate their DAS use?
 - How complicated would it be, and what level of catch would trigger differential counting?
- One PDT member commented that conceptually, the proposal could be expanded to many species, and could be calculated to achieve the right catch rate for various species, but practically speaking, a simpler system would be better. For certain stocks it may be

easier to rely on measures other than differential counting to achieve the target TAC. Additionally the NMFS would have to address enforcement and monitoring, in other words, what may appear simple to administer is usually not simple at all.

- The point was brought up that if the concept of the Performance plan is expanded, then the location of the catch becomes very important. We could easily end up with different differential DAS counting rates depending on the stock of concern. The following questions were raised:
 1. Do we really need to limit people to fishing in the differential DAS area?
 2. Do we need to develop a different differential rate for each stock?
 3. Because VTRs don't always reflect all the different areas where fishing occurred on a trip, would it be necessary to restrict people to one area?
- In partial answer to the above questions, the comment was made that the appropriate differential rate could be established by combining landings information with VMS data to identify the area fished.
- Alternatively, if a vessel fishes in multiple areas then they could be subject to the highest differential DAS rate.
- A PDT member suggested that this plan might be “an arrow in the quiver of DAS”, only suitable for areas with differential DAS counting.
- Someone expressed concern about expanding the differential DAS counting area to the entire GOM because it might push fishing effort to different places. In the development of FW 42 the possibility of applying differential DAS counting across the entire GOM was considered, but there was concern about pushing effort to George's Bank.

Issue: Is the Plan intended to extend to all species or is it limited to those stocks with trip limits? How would the Plan apply to species not currently under trip limits or differential counting? Also, how would the plan address species that don't have trip limits, but still need a mortality reduction?

- A DAS reduction would be used to decrease mortality for those stocks not currently under trip limits. The Performance Plan tries to create provisions that address what fishermen actually catch. If he targets a stock subject to high differential counting rate, then he knows it will cost him more DAS, and he can make that choice. Right now, one differential counting rate applies to everything but it doesn't leave room for the fishermen's decision-making or skill at avoiding certain stocks.
- Erik reminded the group that the intent of his plan includes maintaining existing trip limits, but it results in using fewer DAS if you catch less than the trip limit. (see Example 3 in the Performance Plan in the appendix). If you catch more than the trip limit then the differential DAS rate charged reflects that overage. In short, the formulas could be perfected.

- Another option would be to establish a threshold for each species (with or without trip limits) that would trigger the differential counting of DAS. This doesn't necessarily have to be a trip limit, but it was conceptualized that way due to current regulations. The industry has become accustomed to working under trip limits.
- Another participant suggested that perhaps a threshold or trip limit multiplied by the differential rate might allow there to be only one formula. The following formula may be a possible solution:

(Differential rate) x (pounds of stocks of concern caught) x (trip limit) x (hours on the clock)

- An incentive to target underutilized species could be established by allowing DAS to be counted at a rate of less than 1:1

Issue: Does the Plan include a hard TAC?

- When the Performance Plan was developed, there was no consequence for exceeding a target TAC on a particular stock. However, given the new Magnuson provisions requiring annual catch limits and accountability measures, some form of reduction in the following year may be required when an overage occurs. Alternatively, adjusting the plan by increasing the differential counting rate may accomplish the same goal. The proponent suggests that either suggestion would be a more fair approach than an across the board reduction in DAS.

Issue: Does the Performance Plan reallocate access to the fishery?

- It was suggested by one participant that this plan changes the allocation system because it makes a closer link between catch and DAS by increasing the number of stocks subject to differential DAS counting thus providing an incentive to avoid those stocks that require a higher differential DAS counting rate.
- Erik stated that the fact that all vessels, regardless of their size, would have their DAS counted by the same formula but based on what they actually catch.
- There was disagreement over the question of whether it really is a reallocation because everyone has a current DAS allocation and the only thing that would change under this plan would be the consequences for how an individual elects to prosecute the fishery. If one small vessel and one large vessel each have 50 days and both are able to catch a certain amount in a single DAS, ultimately, it may result in fewer fishing days for the larger vessel because they may catch the amount triggering a DAS use faster than the small vessel.

Performance Plan--Discards

Issue: The plan intends to require full retention of legal-sized fish, but the following questions were raised: How would managers know what to charge (in terms of differential DAS counting) without actually knowing what is caught? How can we ensure that this plan would not be undermined by illegal discards?

- Erik pointed out that this is not a problem unique to this plan and there is no guarantee that discarding won't increase under this proposal.
- Under the Points System, theoretically a vessel would acquire more points to account for the increased catch that otherwise may lead to discarding. Under the Performance Plan the fisherman will be charged the differential DAS counting rate based on his landed catch. However, if some of the catch was discarded at sea and therefore not reported or landed, there is no way for enforcement or managers to know, unless an observer was on board that trip. Prohibiting discards is an attempt to prevent discarding, but it is not a guarantee. It is widely acknowledged that discards are an issue in the current management regime and under most management programs.
- Erik suggested that DAS leasing could provide some response to overages by allowing people to acquire additional DAS.
- Another suggestion to simplify this plan was to count all DAS as blocks of 24 hours and at the maximum differential rate. If the fisherman came in with little or no stocks of concern, then their DAS would be re-calculated accordingly. If they came in with some of this stock but none of another stock then his DAS would be calculated according to the differential rate for the stock he did land.
- But different fisheries have different discard rates, and different fisheries have varying data to support that they are encountering species of concern, so it might be challenging to determine what that differential rate would be for some species, assuming a general discard rate may not be appropriate, or overly broad.
- It was suggested that analysis for discard rates was needed to respond to all proposals submitted during Amendment 16 scoping. This would allow us to better understand what areas should be targeted for increased observer coverage. The Standardized Bycatch Reporting Methodology (SBRM) will perhaps shed some light on these needs.
- Another participant commented that this plan must be considered as applicable to the entire Gulf in order to be timely for Amendment 16, which is meant to address the issues of discards and enforcement.

Performance Plan—Monitoring and Enforcement

Issue: A concern was raised that VMS will not be an adequate way to report catch, and that a new dockside system should be implemented, such as through dealer reporting.

- Erik pointed out that the reporting requirement under this Plan was only for dockside dealer reporting.

Proposed Modifications to the Current Days-at-Sea Structure

Overview

Several comments were received during the scoping period for Amendment 16 recommending revisions to the current days-at-sea management system. The topics covered in the workshop included changes to DAS counting (24-hour minimum clock, differential counting), changes to closed areas, minimum fish and mesh sizes, and observer notification rules.

The 24 Hour Clock

One participant spoke in support of a 24-hour minimum first day at sea, noting that this was the original intent of DAS and it could replace differential counting. Both options were considered in Framework 42, including 24 hours for the first day and hourly after, or 24 hours one minute equals 48 hours. Each alternative also included other items that differed, so it can't be said that these two options were weighed entirely on this particular issue. Framework 42 was an attempt to reduce the take of GOM cod, and it was shown that the majority of those stocks were taken by dayboat vessels. Another participant commented that dayboats already have a 24-hour clock, so he doesn't see a benefit to this change. A third person felt this would prevent the derby. He tries to keep his day to a 12-hour trip so that he can only use one DAS in the differential counting area. Under a 24-hour clock he would not be forced to stay out 24 hours, but if he was having success fishing something other than cod, he could stay out without losing twice as many DAS.

Some feel that a 24-hour clock treats people differently, and that the people who fish 12 hours are hurt, but those who fish 24 hours are not.

The effort reduction program established in Amendment 5 allowed vessels to choose between two effort control programs: an individual allocation of DAS (based on documented activity from 1988-1990) or the fleet-wide requirement of time out of the fishery. Individual DAS allocations were reduced according to a schedule of 10% per year for 5 years. The reduction schedule for the fleet category started with 190 "opportunity days". Opportunity days differed from DAS because the vessels were not allocated fishing days directly. Instead they were required to declare blocks of time out of the fishery and also to layover one day for each two days used. A vessel would have to fish full-time for groundfish to use all of its opportunity days.

Both individual and fleet groups were required to take a 20-day block out of the fishery (for spawning protection) between March 1 and May 31 each year. The effort reduction schedule was developed to reduce effort by 50% over 5 years. Amendment 5 exempted vessels on one day fishing trips (less than 24 hours) from the layover day requirement, so eliminating the layover requirement had no impact on the opportunity days for these vessels. Only the required days out of groundfishing constrained vessels that made day trips.

Amendment 7 accelerated and expanded the effort reduction program adopted in Amendment 5. Vessels exempt under Amendment 5 were added to the program, with the option of choosing the individual or fleet DAS category. Amendment 7 explicitly recognized that DAS counted as 24 hours (not opportunity days) and vessels fishing

less than 24 hours would have more opportunity days (but not more hours fishing) than a vessel that took longer trips.

A clarification was requested on what a 24-hour clock means to the group. This question was not fully resolved, as it clearly meant different things to different participants. The preference seemed to be for 24 hour and one minute but they would take either 24-hour clock over differential counting.

A participant asked if how people fish was considered, suggesting that the trip limit be lowered to 400 lbs for a 12 hour trip, with no more than 800 lbs per 24 hour day? Two ideas have surfaced regarding this. One was the running clock in Amendment 13, but this posed an enforcement problem unless boats agreed to unload all their catch at an industry-funded weigh-master facility, and there was no support from the industry on that point. Another option, in Framework 42, was to have trip limits in half-day blocks, but no one seemed interested in pursuing it. It was an attempt to have the trip limit better match how people fish but it didn't get much traction.

Discards

A suggestion was made to deal with the discard issue by changing the way we charge by the clock. If you have a 24-hour day, you use a trip limit adjustment mechanism to return, as long as it isn't abused. If someone lands more than their trip limit, they land it under this mechanism, with a conservation tax assessed on the landing. Using days-at-sea as common currency with trip limits based on days, this adjustment mechanism would deal with some of the discard problem by deducting from the vessel's allocation of days if they caught those fish are caught in one day. The charge would equal the catch based on total trip limits per day, eliminating the incentive to discard. However, this poses the same problem as the performance plan, treating vessels of varying sizes the same.

Another problem with a similar mechanism, the "running clock," was back-loading, and because you didn't have to call until the end of the trip, enforcement was a problem. If you have to call in before you come in, that would resolve this issue.

If the cod TAC is divided by 40,000 DAS, we are left with 400-500 lbs per day. Some fishermen do not catch that amount. However, others may catch more than that and that leads to discarding.

The system could be made more flexible by allowing a certain number of cod trips with specific measures, and if you don't target cod, then you wouldn't have those restrictions. This might be an interesting idea, but there continue to be many questions including, what constitutes a cod day? Is it a cod day even if you only catch a couple cod per day? Additionally, cod may not be the primary stock of concern in the future so we would have to have the flexibility to adjust the formula in the future.

Tom Nies provided some context on the volume of cod discards: In 2004, about 500 tons of cod were discarded, about 16% of the catch. In the late 1990s, when the trip limit was lower, about 50% of the catch was discarded. In 2006, some months of the year had a higher discard rate than others, but overall the average is not expected to exceed 20-25%. Tom also reminded the group

of the additional mortality reductions that are required in 2009 because of the rebuilding plans as established in Amendment 13 and FW 42. Georges Bank yellowtail fishing mortality needs to be cut in half between 2008-09, and 70% cut for white hake. The cut on Gulf of Maine cod pales in comparison. We need to think more broadly.

Expanded Differential Areas

An idea was raised regarding the expansion of the differential DAS system. To fish in a rolling closure area, a vessel might be charged at 3:1, or an offshore area might be charged at .8:1 to encourage effort in that area. Differential DAS could be adjusted over the course of the year. This might mean removing requirements to sign in/out of an area, but perhaps VMS could be used to know where vessels are located. The objective is to reduce complexity by eliminating some of the layers and to put some of the responsibility back on the fisherman regarding whether or not he wants to fish at a given time of the year.

- A concern was raised that administration could prove challenging, though it would not be impossible.
- Another participant said that if this delineation could be based on biological ranges, that would be an interesting management tool. However, political posturing may impede the decision-making process.
- A few people raised the issue of the habitat closures and whether these could also be opened with differential DAS counting, the same as it was suggested rolling closures could be.
- Another option would consider making minor modifications to the rolling closures to see what the impacts would be in a more conservative manner than simply cutting them altogether. This would require using only time fished, not the declaration in or out of an area.
- Several people felt this idea had merit, though raised multiple concerns, including the agency's capacity to implement the suggested plan in a way similar to how it has been described. Rolling spawning closures should not be eliminated. There are things that NMFS has altered in implementation but that's also due to the proponents and the Council not knowing the limitations of the existing system. Fewer lines in the ocean for VMS to contend with results in less complicated administration of the management system. Results capable of being produced may not achieve what the Council had hoped.
- Some PDT members cautioned that this approach might prove difficult to analyze, and there may not be enough data to develop it as thoroughly as envisioned.

Observer Notice

Several regulations are still in existence despite lack of relevancy at this point in time. If we move to a new system or a hard TAC, do we still need some of these controls?

One example given was the 72-hour notice for observers. This is no longer necessary and the observer program has agreed to reduce the notice. However, there is some confusion over where the mechanism for change rests - with the Service or with the Council. Tom Nies indicated that this change would be a NMFS administrative change that would not require a Council action. This will need to be confirmed with the NMFS legal advisor (Gene Martin).

Gear Modifications

A suggestion was made that we have problems catching small flatfish and we should consider a mechanism (such as changing the minimum mesh size) to give an incentive to pursue those species. If the answer is not more DAS, then perhaps the answer is a different mesh size. It was suggested that 6.5" mesh size across the fleet results in unequal mortality. 6.5" gillnet mesh catches differently than 6.5" trawl mesh. However, to have different mesh sizes for different gear types creates another layer of managerial complexity.

Final Thoughts

Participants were asked if they had any final thoughts before the meeting closed and this raised some additional issues:

- We need to be careful about how we use the catch in relation to target TACs. For stocks not in a rebuilding program, the TAC is set using Fmsy and thus represents the level at which overfishing begins. Some stocks assessments have retrospective patterns and the TAC may have been estimated too high in the past. So starting with current catches, and saying we're sacrificing yield, may not be accurate because we're not really sure until the assessment is done. Some of the stocks with the biggest retrospective pattern are plaice, grey sole, CC YTF, so I would hesitate to say a large gap between catch and target TAC indicated that we're underutilizing those species until we see the assessment.
- The expanded differential idea has merit and could be combined with other ideas. If you can start working those areas to be more in line with strata, rather than square boxes, that would be more in line with the fish.
- During the differential discussion there was a lot of talk about safety. Any of the options we're thinking about, we need to put some serious thought into the safety implications and quantify those concerns to make these decisions.
- Whatever plan goes forward in 2009, the Magnuson requirements should be addressed or the Council will just end up with one plan on top of another.

Shifting Proposal Responsibility from the Proponents to Council

Ultimately, this is a public process. It is likely that further changes to these proposals will occur, but there needs to be an agreed-upon hand-over of responsibility for crafting the details of these programs. The more detailed and fully-specified they are, the more the final product will resemble the intentions of those proffering the proposals. But the proponents are encouraged to begin working with the Council now to spell out and initiate the necessary handing over of responsibility for the content of these alternative management plans.

Alternative Groundfish Management Structures: Days-At-Sea Modifications

A workshop hosted by the Gulf of Maine Research Institute

May 16, 2007

AGENDA

Wednesday, May 16

- 8:30 AM Technical Workshop of “Performance Plan”
- Differential DAS counting and calculations
 - Discarding (incentive and accountability)
 - Monitoring/Enforcement (double tracking, observer coverage)
- 10:30 AM Break
- 11:00 AM Overview of FMP requirements: What are we measuring against? (*Nies*)
- Open DAS Discussion/Questions about the Amendment 16 Process
- 12:00 PM Lunch
- 1:00 PM Discussion of DAS Changes Proposed During Scoping
- Review suggestions to change days-at-sea counting (e.g. changes to differential counting, 24-hour clock, etc.)
 - Discuss potential gear modifications
 - Examine ideas to revise closures (e.g. rolling closures, permanent closures and 20-day spawning closures)
- 4:00 PM Wrap-up and Next Steps
- 4:30 PM Adjourn

Alternative Groundfish Management Structures: Days at Sea Modifications

A workshop hosted by the Gulf of Maine Research Institute

LIST OF PARTICIPANTS

Erik Anderson , <i>Fisherman</i>	
Doug Christel , <i>NMFS NERO, Sustainable Fisheries</i>	PDT Member
Angelo Ciocca , <i>Nova Seafood, Ltd.</i>	
Chad Demarest , <i>Massachusetts Marine Fisheries Institute</i>	
Aaron Dority , <i>Penobscot East Resource Center</i>	
Roger Fleming , <i>Conservation Law Foundation</i>	
David Goethel , <i>Fisherman</i>	NEFMC Member
Dan Holland , <i>Gulf of Maine Research Institute</i>	PDT Member
Kohl Kanwit , <i>Maine Dept. of Marine Resources</i>	PDT Member
Dave Marciano , <i>Fisherman</i>	Groundfish Advisor
Clare McBane , <i>NH Fish and Game Department</i>	NEFMC Member
Meredith Mendelson , <i>Gulf of Maine Research Institute</i>	<i>Workshop Coordinator</i>
Tom Nies , <i>NEFMC Council Staff</i>	PDT Chair
Knoep Nieuwkerk , <i>Fisherman</i>	
Paul Nitschke , <i>Northeast Fisheries Science Center</i>	PDT Member
Craig Pendleton , <i>Northwest Atlantic Marine Alliance</i>	
Maggie Raymond , <i>Associated Fisheries of Maine</i>	
Phil Ruhle , <i>Fisherman</i>	NEFMC Member
Laura Singer , <i>Gulf of Maine Research Institute</i>	<i>Workshop Facilitator</i>
Cindy Smith , <i>Gulf of Maine Research Institute</i>	
Barbara Stevenson , <i>Representative</i>	
Terry Stockwell , <i>Maine Dept. of Marine Resources</i>	NEFMC Member
Eric Thunberg , <i>Northeast Fisheries Science Center</i>	PDT Member
Tom Warren , <i>NMFS NERO, Sustainable Fisheries</i>	PDT Member
John Williamson , <i>The Ocean Conservancy</i>	Groundfish Advisor



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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

MEMORANDUM

DATE: January 17, 2007
TO: Groundfish Oversight Committee
FROM: Groundfish Plan Development Team
SUBJECT: **PDT Conference Call January 11, 2007 - Amendment 16 Scoping Comments**

1. The Groundfish Plan Development Team (PDT) held a conference call on January 11, 2007. The PDT reviewed comments received during the scoping period for Amendment 16, focusing on proposals for management systems. Participants in the call included Tom Nies and Chad Demarest (NEFMC), Tom Warren and Doug Christel (NMFS NERO), Kohl Kanwit (Maine DMR), Steve Correia (Massachusetts DMF), Eric Thunberg and Paul Nitschke (NMFS NEFSC), Paul Parker (Groundfish Advisory Panel Chair), and Jim O'Grady (interested party representative).

2. The PDT reviewed each major proposal and compared its elements to the broad criteria listed below. These reflect a combination of the principles published in the scoping document as well as practical issues identified by the PDT. The criteria are:

- What is the primary fishing mortality control?
- Is the proposal an input or output based system?
- Is the method of allocation clearly stated for all permit holders, area, gear, etc.?
- Does the proposal include a mechanism for accountability?
- Is the proposal narrow in focus?
- Can the proposal be analyzed?
- What issues will need to be addressed during development? This is a preliminary, not comprehensive, evaluation.
- Are there major hurdles that need to be resolved early in the process? This criterion attempts to identify problems that *may* prove insurmountable for the

proposal as submitted. In most cases we tried to identify *possible* legal or policy issues that are beyond the expertise of the PDT. NOAA GC was not available to participate in the call to address these questions.

3. Evaluation of the proposals is summarized in the pages attached. During the review, the PDT also identified overarching issues that are summarized in this memo. The PDT briefly discussed several suggestions that were not proposed revisions to the management system. A few comments on those ideas are included in this memo.

General Comments or Concerns

4. A common theme in most, if not all, of the proposals is that improvements in data collection are necessary. Most proposals include recognition that catch data (both landings and discards) must be reported and distributed in a timely manner for the proposals to work as designed. Some of the proposals identify specific tools for improving fishery dependent data collection, such as daily VMS reporting. Given the significant time lags between design and implementation of these systems, the Committee may want to recommend the Council and NMFS begin working immediately to create an improved data collection system that is ready by the time Amendment 16 is implemented. Amendment 13 already authorized daily dealer electronic reports and electronic vessel reports at a finer scale than statistical area. Development of these reporting programs need not (and should not) wait for Amendment 16, though that action may need to require more frequent vessel reports.

5. Closely related to the previous paragraph is that many of the proposals may place increased demands on the observer program. It can be argued that some proposals increase the incentive to discard. Several of the proposals may increase the need to know with certainty the total catch (landings and discards) of individual vessels. As a result, there may be a need for higher levels of observer coverage to meet discard estimation standards either at a higher level of precision or at a finer scale than currently under consideration for the Standardized Bycatch Reporting Methodology (SBRM). At the same time, it is possible that the proposals may make vessels more efficient and result in reduced fishing time, which could reduce the number of required observer days. These impacts on the observer program should be carefully considered and funding options should be explored well in advance of implementation.

6. Differences between the alternatives will complicate analyses. This is particularly true for economic and social impacts. Over the years, NEFSC development of the Closed Area Model provided an integrated analytic tool that estimated biological impacts and provided extensive information on likely economic impacts for the effort control measures used by the Council. That model is not compatible with several of the proposals. The PDT will need to develop different analytic tools that may have to be specific to each proposal. This has several impacts. From a practical standpoint, it may take a lot of time to develop and verify these tools. Given the compressed time available for this amendment, this must be considered as the Committee and the Council choose the alternatives to be developed; they should be identified as early as possible. Second, the Closed Area Model outputs allow for extensive exploration of the distributive impacts of management measures. The PDT cannot guarantee that a similar level of detail will be provided by models that are not yet developed. The Committee and the Council may receive

information that is less quantitative than that provided in the past. Finally, it is possible that the tools will complicate comparing results across alternatives. They may have different assumptions and limitations that make it difficult to directly compare results between alternatives.

7. Because updated stock assessments will not be completed prior to public hearings, the Council suggested the Amendment 16 Draft Supplemental Environmental Impact Statement (DSEIS) illustrate the impacts of alternatives under “high, medium, and low” mortality reduction scenarios. This is problematic. Not only does this triple the analytic work for the PDT, it may prove difficult to identify these scenarios in a way that provides meaningful information to the public and the Council. Some PDT members are skeptical that this approach is feasible. If it is, the Committee and the Council should recognize that it will increase the work needed to complete the DSEIS and consider that as alternatives are developed.

8. Several proposals proposed as alternatives to the current effort control system suggest removing year-round and/or seasonal closures, trip limits, etc. The PDT notes the Council should carefully consider such actions as there may be reasons to retain some of those measures even if no longer strictly required to control fishing mortality.

Miscellaneous Comments or Concerns

9. Comments were received that did not constitute full-scale management proposals. The PDT only briefly discussed a few of these issues because of a lack of time. The PDT’s comments on these issues are:

- Sectors: Notice was received from two organizations that they may submit applications to form sectors – presumably these would be adopted in Amendment 16 as it is the next groundfish action. Several suggestions were also received for improving the management of the sector program. It is not clear if these suggestions should be part of Amendment 16 or should be considered as part of the Omnibus Sector Amendment. The Committee and PDT will need guidance from the Council on how these suggestions will be considered.
- Allow a vessel to possess a limited access scallop and limited access multispecies permit at the same time: With the exception of a combination permit, this practice is currently prohibited. The PDT commented during the development of FW 42 that this change would allow for better use of capital/vessels, but the Council may want to consider the social and economic impacts in an amendment rather than a framework.
- Allow the closed area access program scallop yellowtail flounder TAC to be allocated to scallop sectors if they are adopted by the scallop plan in the future: Discussions with NMFS staff indicate that this provision would not require a groundfish action but could be adopted under a scallop action. (Note that NMFS may have concerns over administration of such a provision).
- Develop a groundfish research set-aside program: The PDT suggests that any such program should cover all groundfish stocks.

- Modify the General Category Scallop Exempted Fishery east of Cape Cod to allow fishing year round: This fishery is prohibited during times of peak yellowtail flounder spawning. Council staff is confirming the rationale for this limitation that was adopted by NMFS. This suggestion may be outside the range of scoping issues as published in the FR notice. If included in the amendment, any change would not take place until May 2009, which may be later than desired by the scallop industry. Since the Regional Administrator has considerable authority over exempted fisheries, it may also prove possible to have this change adopted by NMFS without a Council action.
- Additional habitat measures: The current Omnibus EFH Amendment (Phase II) will consider additional measures to minimize the impacts of fishing on EFH. It does not make sense to duplicate that effort. The PDT does not believe the suggestion that there should be “general” habitat measures and “rebuilding” habitat measures is consistent with current guidance: we adopt measures to “... minimize, to the extent practicable, the adverse impacts on EFH that are more than minimal and less than temporary in nature.” There is no distinction made that those measures should be different once rebuilding is completed or should be more stringent if rebuilding is ongoing. If wolffish and cusk are incorporated into the fishery management unit, EFH will need to be defined for those species. While it would be preferable to include those definitions in the Omnibus EFH Amendment (Phase I), this may not be possible due to timing and the EFH definitions may need to be added to Amendment 16.
- Allocate TACs or points to the scallop fishery: The PDT notes that if a different management system is adopted provisions will need to be made for all other fisheries that catch groundfish in any quantity – such as the scallop fishery. There may also be opportunities to improve the management of this bycatch, such as be allowing these fisheries to acquire additional allowances.
- Remove chronic violators from the fishery: Beyond Council control
- Return to mother ship operations: Difficult to implement through Council actions.
- Government supervision of offloads: This may fall into the improvement sin catch monitoring noted in several proposals and could take several forms (such as government-certified weighmasters).
- Promote commercial mariculture: Beyond Council authority.
- Consider impacts of global warming on management of fisheries: This might be a more appropriate for the scientific advice provided to the Council.

“Revised Days-at-Sea”

Scoping Guidance					
Constraining management measure	Input or output based?	Method of allocation stated; distro of TAC for all permit holders?	Mechanism for accountability?	Narrow in focus or absent detail?	Can it be analyzed?
Days-at-Sea	Input	Yes, No	Yes—DAS/VMS	Broad, with some details still to be worked out	Yes, primarily with existing tools

Major hurdles: None

Comments or concerns:

- *Count DAS at 24 hours* – none
- *Reduce size of differential area* – none
- *Eliminate conservation tax for DAS transfer program* – May increase effective fishing effort, modeling outcomes may be difficult
- *Eliminate/reduce rolling closures* – Recent catch rate data not available for time/area closure areas
- *Allow scallopers to acquire groundfish permits* – May involve equity issues
- *One commenter suggested using DAS coupled with an ITQ for a few individual stocks where mortality objectives are exceeded* - Program provides no detail for mechanizing allocation, monitoring or enforcement of ITQ. Furthermore, proposal is silent on how to restrict catch for stocks that need mortality reductions but do not exceed previous year’s TAC.

“Differential Days-at-Sea”
Including the Anderson and Wong proposals

Scoping Guidance					
Constraining management measure	Input or output based?	Method of allocation stated; distro of TAC for all permit holders?	Mechanism for accountability?	Narrow in focus or absent detail?	Can it be analyzed?
Days-at-Sea	Input	Yes, No	Yes—DAS/VMS	Broad, with sufficient detail included in proposal	Yes, but will require new tools

Major hurdles: Potentially high administrative burden

Comments or concerns:

- Timing issues relative to returning DAS
- Calculation of differential rate conditioned on several factors (species composition, trip length, trip limit)
- May increase incentive to discard
- Discards need to be accounted for
- Observer monitoring required
- May increase incentive to misreport landings of stocks of concern

“Hard TACs”

Scoping Guidance					
Constraining management measure	Input or output based?	Method of allocation stated; distro of TAC for all permit holders?	Mechanism for accountability?	Narrow in focus or absent detail?	Can it be analyzed?
Hard TAC	Output	Yes, yes	Yes—TACs distributed by gear, sector, area and time	Adequate detail to make progress	Yes, with difficulty

Major hurdles:

- Ability to determine mortality objectives for each gear, area, sector, and time period is in question.
- Administrative costs associated with monitoring TACs divided into time, gear, vessel size categories are likely to be enormous.

Comments or concerns:

- Dividing TAC into smaller time periods doesn't eliminate derbies, just makes them smaller and harder to monitor
- Mandated level of observer coverage not yet defined to achieve precision on such small scales for undefined areas and time periods – would likely require reanalyzing SBRM work
- Unclear what is meant by “mortality caps.” Fishing mortality (F) caps aren't realistic for a real-time monitoring because F is calculated for calendar year basis; we can only monitor proxies of F through target TACs, a system that is not necessarily accurate.
- Mortality is not currently defined for each sector or for vessels in other fisheries; rather, it is calculated on each stock as a whole over a calendar year.
- Bycatch caps, as well as directed caps on an area and time basis, would be difficult to monitor and project for closures. The tasks involved in administration, monitoring and enforcement for these would likely be too severe given current staffing and budgetary conditions.
- Mortality caps on threatened and endangered species would be difficult to monitor without significantly greater observer coverage.
- So many opportunities to close fishery may hinder ability to achieve OY.
- Program fails to justify why current closures are no longer necessary.
- Determining bycatch TAC set-asides based on historical catch by other fisheries is difficult and potentially inaccurate given current data.
- Determining appropriate mortality and catch levels for ESA and marine mammal species is a problem, and would require significant additional observer funding.

“Individual Hard TACs”

Scoping Guidance					
Constraining management measure	Input or output based?	Method of allocation stated; distro of TAC for all permit holders?	Mechanism for accountability?	Narrow in focus or absent detail?	Can it be analyzed?
Hard TAC	Output	Yes, TACs distributed by proportion of vessel's effort relative to total fleet	Not really	Lacking details	Unknown but shares common components with other proposals

Major hurdles: See Hard TAC and ITQ proposals.

Comments or concerns:

(Note that this proposal is primarily conceptual so details are not well specified)

- How is total fleet effort defined? DAS, or landings?
- Qualification of "C" DAS permits for points could increase effort in the fishery by reactivating latent effort.
- How will regional TACs be established?
- How will areas be defined?

“Individual Transferable Quotas”

Scoping Guidance					
Constraining management measure	Input or output based?	Method of allocation stated; distro of TAC for all permit holders?	Mechanism for accountability?	Narrow in focus or absent detail?	Can it be analyzed?
Stock-specific hard TACs	Output	Yes, yes	Yes	Comprehensive, with sufficient detail to understand intentions	Yes

Major hurdles:

- The proposal places burden for qualification on ability to link DAS call-in to activity. Currently this link cannot be made reliably for much of the historical period.
- Limits on quota ownership and quota acquisition will require change in permit application process to clearly identify ownership of all permits. This has proven difficult to implement effectively in other fisheries.
- Obvious potential logistical problem with implementation due to required referendum. If this alternative is selected and the referendum fails, then some back-up plan will need to be identified.
- Proposal relies on level of observer coverage that is higher than what existing program will likely be able to support. Available funding is a problem as is the ability to train and place enough manpower needed. The proposal does provide suggestions for alternatives including video monitoring
- Qualification for initial allocations could not begin until May 1, 2008. This means that workload would include, qualification review, work on all other selected alternatives for the DSEIS, and the GARM III.
- Reauthorization contains language that would require consideration of an auction for initial allocation.
- M-S Act requires cost recovery for any IFQ within specified limits.

Comments or concerns:

- The initial shares for each stock must sum to 1. As described, the allocation formula has two components. The landings history share sums to one. The DAS shares within vessel permit sizes also sum to one, *but the sum of all DAS shares for each vessel sums to 3*. The proposed weighting procedure does not reconcile this problem, though there are options for fixing it.
 - Divide the DAS share by 3. This would have no affect on the relative position of vessels within, or outside of, a size class. Initial weighted landings and DAS shares would also then sum to one.
 - A more complicated solution would be to allocate 50% (75%) of the TAC based on the landings share then take the remaining 50% (25%) and sub-allocate to each vessel permit size group according to the DAS share for all vessels in the permit size group.
- Proposal is silent on what happens if TAC for an entire stock is reached.
- Provisions for overage may not be possible since total TAC cannot be exceeded in any year. That is, TAC for all stocks in every year has to be reconciled.
- Definition of qualifying A DAS may be interpreted as being inconsistent with how qualifying DAS are determined in the description of base allocations.
- Historic period would clearly result in fishing for history since would still be building history through April, 2008. A qualification period that predates January 2007 would eliminate this

tendency. Would also raise questions associated with the ability for some fleet components subject to differential DAS counting to compete with others for history.

- Given the requirement that initial shares must sum to one, can see how cap on allocations associated with DAS would work (i.e. overage gets allocated to everyone else) but can't see how the floor can work (i.e. can't take share away from everyone to make up for the difference).
- Note wording of temporary transfers refers to 1/20th of landed ton seems to imply that discards will not be counted against quota allocations unless option 1 for discards is selected.
- Removal of upgrade provision makes sense but may pose problems with the social objective to maintain existing fleet composition and the provision that limits transfers between size classes. That is, quota could be moved from one size class to another through an upgrade alone. If the recommended ceiling on allocation has been reached does this mean that the upgrade would not be allowed?
- Provision in the proposal that would require forfeiture of proceeds in the event of an unreconciled overage exceeding 10% cannot be enforced under existing law.
- The proposal does not include consideration of bycatch caps of groundfish in other fisheries.
- Potential social and economic impacts would need to rely on assessment of qualifiers/non-qualifiers as well as assigned quota shares. Will need to assess likely amount of consolidation.

“Stewardship Shares”

Scoping Guidance					
Constraining management measure	Input or output based?	<i>Method of allocation stated; distro of TAC for all permit holders?</i>	<i>Mechanism for accountability?</i>	<i>Narrow in focus or absent detail?</i>	<i>Can it be analyzed?</i>
TAC, stock-specific, per-share	Output	Suggest using buyout capacity formula; yes	Strong, well specified	Broad in focus but absent some detail	Yes, though simulation may be difficult

Major hurdles:

- Appropriate allocation of the baseline share by species and permit will need to be nailed down.
- Setting of appropriate share drawdown and reinvestment rates is unspecified and may be troublesome.
- There is a significant administrative burden for monitoring share drawdown, reinvestment, and catch by species and permit.
- There may be significant administrative issue with requiring a stock utilization plan before the fishing year

Comments or concerns:

- Potential for large discarding of a species when the shares are consumed for the limiting species

“Area Management”

Scoping Guidance					
Constraining management measure	Input or output based?	Method of allocation stated; distro of TAC for all permit holders?	Mechanism for accountability?	Narrow in focus or absent detail?	Can it be analyzed?
Hard TACs, species and area-specific	Output – but may use input to slow landings	Yes, unspecified	In concept, yes...real-time monitoring	Broad in focus but absent significant detail	Yes - Biological impacts easier than economic and social

Major hurdles:

- Legal authority to grant smaller groups management control
- Legal authority to charge industry for monitoring
- Proposed association/coop membership may not be consistent with revised M-SA RFA definitions.

Comments or concerns:

- Determination of areas
- Allocation of TACs to areas
- Transition to and implementation of local management
- Possibility of widely varying measures in different areas – possible enforcement concerns.
- Local authority compliance with legal requirements.
- Rec sector interaction.
- New M-S LAP provisions: do they apply? If so, how?
- Interactions with monkfish/skate fisheries.
- What if there are alternative organizations in one area?
- Fairness and equity standard may not apply to all issues- e.g. TACs, boundaries

“The Downeast Initiative”

Scoping Guidance

Constraining management measure	Input or output based?	Method of allocation stated; distro of TAC for all permit holders?	Mechanism for accountability?	Narrow in focus or absent detail?	Can it be analyzed?
Hard TACs, species and area-specific	Output	Yes, unspecified	In concept, yes...real-time monitoring	Narrow in focus (but not if considered one element of broader area management system), absent some detail	Yes - Biological impacts easier than economic and social

Major hurdles:

- Legal authority to grant smaller groups management control
- Proposed association/coop membership may not be consistent with revised M-SA RFA definitions.

Comments or concerns:

- Determination of areas
- Allocation of TACs to areas
- Determining future value of TAC for area
- Transition to and implementation of local management
- Proposed subdivision of access/effort initially calculated on a permit basis: administrative complexity.
- Local authority compliance with legal requirements.
- No entry/exit rules identified – what if a vessel/permit leaves the coop?
- New M-S LAP provisions: do they apply? If so, how?
- Permit “banking” implies revisions to current permit rules.
- Permit banking impact on non-groundfish permits.
- Coop effort/allocation metric may need to be consistent with other areas.
- What if there is a competing/alternate coop?
- “Relevant state government” – may conflict with M-SA – there ISN’T a relevant state government in federal waters.
- Linkages between other fisheries are not clearly described at this point – effects of splitting permits, etc.
- “Shares’ issue needs to be better defined.

“The Points System”

Scoping Guidance					
Constraining management measure	Input or output based?	<i>Method of allocation stated; distro of TAC for all permit holders?</i>	<i>Mechanism for accountability?</i>	<i>Narrow in focus or absent detail?</i>	<i>Can it be analyzed?</i>
Biological Point Values, Total points allocated	Output	Yes, yes	Yes, with questions	Some kinks to work out, but well-specified	Yes, with difficulty

Major hurdles:

- All output-based systems assume a level of stock biomass understanding and certainty that may or may not be achievable...significant safeguards must be considered to account for uncertainties.
- Adequate monitoring and enforcement may require new ways of thinking about observers, enforcement (at sea and shoreside) and landing procedures.
- Command-and-control style management of Biological Point Values may distort fishery operation in ways that are difficult to analyze and predict.
- The ultimate constraint on mortality, total points (BPVs) allocated, may be insufficient to protect weak-link stocks. High BPV differentials, assumed to be necessary to protect such stocks, may lead to discarding due to large discrepancies in the open-market value of a point, the BPV for a particular fish, and its dockside price paid.
- Quantitative impacts analysis may be difficult and/or may require with high levels of uncertainty

Comments or concerns:

- Voluntary Points Contribution Program: When are points cashed out? What is the basis for the 'interest' accumulated on contributed points? Is there a social or biological benefit to this program?
- Vessel Upgrade Restrictions: are they necessary?
- Hailing/landing/offloading procedures will need to be looked at for enforceability and ability to administer.
- Why full retention of all legal (vice all) fish?
- Are points used for discarded (sub-legal) fish? If not, discards will have to be accounted for in assessing TACs.
- Initial assignment of BPVs may be difficult and, if done incorrectly, may have severe unintended consequences. Nonetheless, this remains perhaps one of the most vital components of the program.
- Periodicity of BPV change may be difficult to get right--how to determine optimal time scales? How to administer them within the regulatory framework?
- Observer coverage funding may need set-aside or other tool.
- Administrative feasibility of landings monitoring is uncertain.
- Interactions with monkfish and skate plans may need additional development.



New England Fishery Management Council

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John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

MEMORANDUM

DATE: March 15, 2007
TO: Multispecies (Groundfish) Oversight Committee
FROM: Groundfish Plan Development Team (PDT)
SUBJECT: PDT Meeting, March 7, 2007

1. The Groundfish PDT met March 7, 2007, in Falmouth, MA. The PDT reviewed management proposals for Amendment 16 that were received during scoping and were still being considered by the Council. The PDT met to develop a list of questions, issues, or concerns to be provided to the proponents of each alternative submitted through scoping that is still being considered by the Council. PDT participants were Eric Thunberg (Acting chair), Paul Nitschke, Kohl Kanwit, Chris Kellogg, Dan Holland, Paul Parker, Steve Correia, Tom Warren, Doug Christel, Jen Andersen, and Dave Potter. Multispecies Committee chair Rip Cunningham also attended. Audience members present were Phil Ruhle, Jackie O'Dell, Vito Giacalone, Chad Demarest, Sara Wetmore, and Amy VanAtten.

2. The PDT did not discuss the Downeast Initiative because they were advised that this has been withdrawn from consideration in Amendment 16. PDT members were provided three research papers for review that were submitted after the Rhode Island scoping meeting, but these were not discussed.

3. The PDT began with a discussion of issues that cut across all alternatives. Issues identified included:

1. Monitoring
2. Allocation
3. Increased Costs
4. Overlap of groundfish with monkfish and skates
5. Implementation timeline

Monitoring

- Monitoring and enforcement issues need to be considered early – some discussions at NERO have been initiated already

- Concern is that capability to do real time reporting of landings by May 1, 2009 will not be possible. Paul Parker reported discussions with John Witzig indicating that full electronic data reporting may not be up and running by implementation date.
- Note that enhanced discard reporting may also need to be developed.
- Doug Christel noted that development of enhanced monitoring has three potential components; VMS, land-based (dealer), and sea-based. NMFS is currently trying to identify what combination of these systems needs to be developed to meet monitoring requirements. This activity may require additional funding. It is also necessary to determine what frequency of data is necessary to implement the proposals: must it be daily? Is trip level data frequent enough?
- Implication is that funding, human resources, and delivery systems need to be developed. This will take time that could have implications for implementation.
- Observer Program – Dave Potter
 - Due to the budget planning process funding levels for 2008 and 2009 (fiscal years) have already been submitted and not subject to change and even 2010 may be difficult. This means that without a specific appropriation outside the budget process the planned for level of funds would be not sufficient to ramp up observer coverage in time for implementation.
 - Ability to train observers not necessarily a major problem. Takes approximately 90 days from recruitment to placement in the field including training. Training can accommodate about 15-20 people. Depending on what level of observer coverage may be required, the time needed to train multiple cohorts means that training would have to take place before May, 2009 but the earlier cohorts may have little or no work until A16 is implemented.
 - Data collected by observers consists of OBSCON and paper logs. The former is a subset of information entered using a PDA and made available within 2 days after completion of a trip. Additional fields may be added to this system but additional programming would be required. The detailed observer logs are submitted with a turn-around time of about 90 days including data entry and all audits.
 - Note that “real-time” data reporting always will involve some time lag between the data stream and when it is ready for use. This suggests that some thought needs to be put into what real-time monitoring means and what time-step may be acceptable.
 - Observer contract has a five-year life cycle so costs are locked in with modest annual cost increases.
 - Video-Monitoring – does introduce some flexibility in that advance notification to get an observer on board would not be required. Effectiveness as a monitoring tool depends on the type of gear used and whether species and length identification is required. Video monitoring effective for bottom longline because all fish come on board on at a time and at a fixed location. Other gears not so much. If there is a full retention requirement video monitoring would be capable of identifying discarding. Otherwise, capability to identify species and lengths is not adequately developed as of yet.

Allocation

- Refers to timing issues associated with implementation of new alternatives that are departures from current DAS allocations. Here, early decision by Council will facilitate timely implementation of any new allocations (the point system for example) and allow for appeals etc.

Costs – Budget, manpower, timelines

- Administrative costs – more demanding data collection systems as well as need to overhaul computer software needed to adjust existing systems to accommodate anything new. This process takes time and the ability to get all systems ready in time for implementation is questionable. Increased observer program costs.
- Industry costs – there may be increased use of VMS that will result in higher costs to industry.

Overlay of Monkfish and Skates

- There was some discussion of the need to fold monkfish and skates into groundfish plan. The PDT reiterates that if DAS controls are removed, there are implications for monkfish and skate management since these FMPs rely on groundfish effort controls.

4. Comments on specific proposals are on the following pages.

Evaluation of Recreational Limited Entry Proposal

As proposed, the limited entry program would rely on existing data and contains few qualification criteria. Because of its simplicity the proposal should be fairly easy to analyze as a stand-alone measure. The following issues or concerns were identified.

Rationale

- The rationale contains several assertions that may need to be supported. Further development of the rationale is needed to match the rationale with the limited entry plan itself. For example, limited entry would not, in and of itself, obviate the need for additional management of the recreational sector in general or the P/C sector in particular. The assertions that need to be examined are:
 1. Are new entrants “streaming” into the fishery? Note that data indicate an average annual exit of 30 to 40 participants but an annual entry ranging from 30 to 58 vessels. Net entry spiked at 26 participating vessels in 2001 and net increases of 6 and 9 vessels in 2004 and 2005 respectively (see Figure 1).
 2. Has recreational sector been cut back disproportionate to its impact?
 3. Is 10 cod per day an absolute minimum?
 4. No change in size, no change in bag limits, no further season closures, implies that limited entry would exempt the sector from further regulation – this needs to be rebutted as this may not be the case.
 5. Contrary to the implications of the rationale, limited entry does not afford commercial vessels protection from competition from new entrants, nor does it offer protection from additional management restrictions. Limited access was implemented to control growth in fishing effort. If this measure is designed primarily to limit competition in the party/charter fleet it may conflict with M-S Act guidelines and other legal requirements.

Qualification Criteria

1. The management area is identified as the GOM regulated mesh area. The proposal lists areas not subject to the limited access proposal as “GB/CC/SNE/MA stock areas.” We assume that CC refers to Cape Cod which creates some ambiguity as to where the proposal applies. For purposes of clarity, it may be simpler to identify the accepted GOM statistical areas of 511, 512, 513, 514, and 515.
2. The species list may need to be reconsidered. Monkfish and skates are not regulated under the Multispecies FMP. It may be inappropriate to establish recreational fishing possession restrictions for these species through the Multispecies FMP. The term “GOM groundfish species...” should be dropped since several of the listed species are single-stock species. Further, any reference to stock area in the species list is unnecessary since stock area is embedded in the management area and qualification criteria.
3. The qualification period should include specific dates (i.e. March 30, 2001 to March 30, 2006).
4. The qualification criteria may need to provide a definition of a P/C trip. Is it sufficient to produce a VTR that merely checked-off the party/charter box on the logbook, regardless of whether any passengers were reported or what gear was used? There are VTR records that used gear other than hooks where the P/C box was checked on the logbook. There are other records that checked the P/C box, yet did not report taking passengers.

5. The qualification criteria need to clearly define what is meant by a “P/C boat”. Is it the intent to exclude vessels that engage in a combination of commercial fishing and taking passengers for hire? Will a vessel be able to qualify for a P/C permit and retain its groundfish commercial limited access permit, and participate in both fisheries (as is currently allowed)?
6. Is it the intent that an individual that had no prior participation in the P/C business would qualify for a limited access permit if a vessel was under construction prior to the control date?
7. Does history exist for open access permit categories? Not a problem if a vessel has not been sold or replaced but could be a problem if ownership has been transferred.
8. The upgrade provision for horsepower and boat size may need to be consistent with existing regulations for multispecies permit holders. Also, the reason for the upgrade provision needs to be clarified. That is, the provisions are written as if the only thing affecting capacity is the number of passengers. What is the rationale to prohibit vessels that now are limited to six passengers from upgrading?
9. The permit transferability provision needs to be consistent with existing regulations that do not allow permit splitting.

Additional PDT Discussion:

- Do the proponents want to address consolidation? There are limits on numbers of vessels that may be owned in the scallop plan but none in the groundfish plan.
- If limits on consolidation are desirable should these limits be based on passenger capacity or number of permits?
- PDT discussion ventured into the potential joint effects of limited entry and an anticipated follow-up request for an allocation of GOM cod and/or haddock. Some felt that the limited entry proposal and a sector share allocation should be considered as a joint proposal. This observation was based on the assumption that the P/C sector would be asking for its own allocation. Rip Cunningham, Groundfish Committee chair, clarified that the RAP was recommending an allocation for the recreational fishing (private and P/C) sector as a whole and not for a separate allocation for the P/C sector alone. If this approach is followed, it means that if the recreational (including P/C) sector exceeds an allocation in the future, it will not be possible to identify whether private boats or P/C boats need additional restrictions.

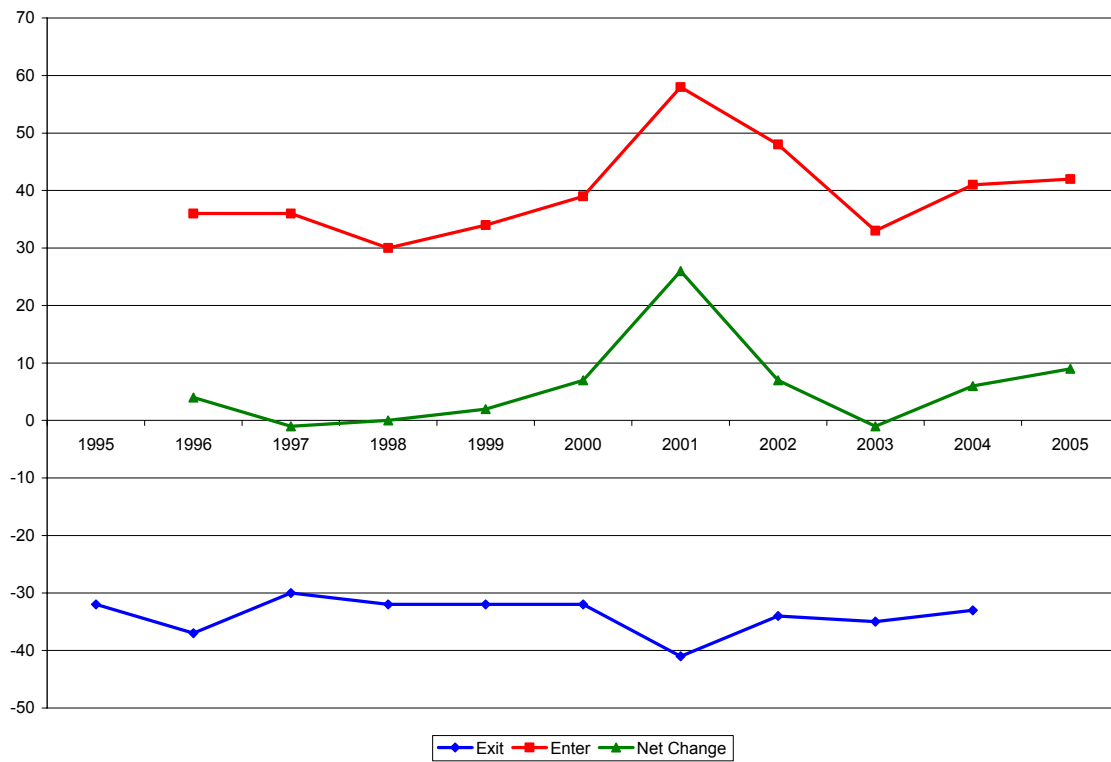


Figure 1. Annual number of entry and exiting vessels carrying passengers for hire in the Gulf of Maine

Evaluation of The Points System

The PDT reiterates the comments provided to the Groundfish Committee in January. Additional or expanded comments are provided below. The discussion was lead by Dan Holland.

Determining initial points allocation

There was an issue with trying to use upgraded baselines for allocation but this has apparently been resolved. Apparently there is no such thing as an upgraded baseline and the plan would be to use the legal vessel baselines.

Including monkfish and skates in the allocation formula may have distributive effects on the initial allocation that are different than the distributive effects of the existing Amendment 13 DAS allocation.

Monitoring point use on multi-area trips

The proposal does not preclude vessels from fishing in more than one stock area on a given trip. It would probably not be possible to allocate catches from a given trip across more than one stock area for the purposes of charging points unless you had full observer coverage.

The proposal suggests that in those cases, the vessel would simply be charged the highest point value for the species (e.g. if they had caught yellowtail flounder and had been on Georges Bank and in the Cape Cod area, they would be charged the higher point value for all of the yellowtail). VMS could be used to ensure compliance. However, there is also a need to account for transiting vessels which could be tricky. One way to deal with this might be to require vessels to declare which areas they will fish in before they go into them. If they declare more than one area on trip they get charged the higher point value. If they don't declare an area and are caught fishing in it without declaring they would be subject to penalties.

There is also a separate question of allocating catches to stocks for the purpose of tracking overall catches relative to TACs. This information may be needed in-season in near real time to either adjust point values or shut down areas if there is a hard TAC backstop. Thus even if, for the purposes of charging points, you assign all catch to the highest point value area, you would still need to determine the percentage going to different areas for the purposes of monitoring catch relative to the TAC. You could use the VTR data for this, but it would need to be available more quickly than it is now. Alternatively you could require landings be assigned to areas in dealer reports. There could be incentives to misreport (on VTR as well) but these should not be too strong if they don't affect the point value being charged.

Hailing, landing, offloading procedures

NERO says a hailing requirement is not absolutely necessary and they could use regular dealer reporting for catch accounting (use of points), however it would be useful for enforcement. Proponents pointed out that the purpose is to create a window of opportunity for enforcement and that the hail should be species specific weights so that they can target enforcement on high point species. It is not clear what legal ramifications and penalties there would be for a false hail.

Note that hail would also provide verification or check against what is reported to a dealer. Note also that the hail has the added advantage of being a single source declaration. This may be helpful when tracking sales to multiple dealers.

It is not clear that the magnetic strip cards that were proposed as a way to account for catches and points in real time are really necessary. They would duplicate the dealer reporting system.

Time constraints on implementing

This was discussed in the cross-cutting discussion on all plans at the beginning of the meeting. There are definitely concerns about ability to implement by May 2009 given current budgets.

It is possible this system may require a referendum under the LAPP provisions of the M-S Act which may delay implementation.

Monkfish and Skates

There is definitely a concern that if monkfish and skates are not included in the point system the utility of the system would be seriously undermined because you would still need effort limits to manage these stocks.

Setting and adjusting BPVs

This is probably the biggest area of concern. Excessive variability in BPVs would make business planning difficult. If there is a bias toward setting them too low and then raising them that could fuel a derby. If there is a bias toward setting them high and lowering them that would be unfair for people that only fish early in the year (probably smaller boats that fish in better weather).

Simple simulations suggest that you may need to adjust BPVs at least monthly to match the dynamics of the fishery. NERO says a federal rule is needed every time a BPV is changed, so at best it could be done with a week's notice. NMFS, however, cautions that they cannot guarantee adjustments will be made according to a pre-specified schedule. It sounds like monthly changes might be feasible but you would still need lead time on the change for the rule making.

Phil Ruhle made the point that changes in point values that affect landings of different species will affect prices which will affect incentives. If a high point value causes landings to fall, prices may go up thereby weakening the incentive of the high point price to stay off that species. Alternatively, if a low point price attracts effort it may drive the price of fish down. That would tend to offset the impact of the low point price in drawing effort. It might be necessary to factor this in when modeling how point prices will work. The degree to which these price impacts are important depends on price elasticities. It might be useful to have NEFSC economists determine whether these price elasticities are high.

It is not clear whether the onus is on the proponents of this plan or the PDT to design and test the specific mechanism for setting and adjusting points. Ultimately the PDT will be responsible for verifying the mechanism will achieve management goals, but absent substantial input from the proponents in developing this mechanism the plan may not move forward. The NESC is planning a technical workshop to address this issue.

Backstops to prevent overfishing

The proposed plan does not include a hard TAC backstop. Some PDT members expressed concern about whether this is a problem and could lead to overfishing of some stocks. NERO says it is not yet clear what the guidance following the M-S Act reauthorization will say about accountability and the ability to allow overages, perhaps if they are subtracted the next year.

The current plan is to adjust BPVs as necessary to avoid overfishing. However, that poses problems discussed above.

There is also a question of how discards will be accounted for. One of the options would require full retention. However, for the other there would likely have to be a set aside of the TAC for discards.

What is the overlay between Eastern Canada area TACs with overall stock TACs and the interaction with the point system? It is not clear that any changes in measures necessarily result in changes to management of the Eastern US/CA area. Should there be a separate point value for these areas? A similar concern exists for SAPs.

If there is a hard TAC for the Eastern Canada area, but not separate point values for that area, that could result in a derby, though not all PDT members agree. One option would be to have separate point values in areas with their own TACS so that catch could be controlled. This approach, however, complicates administration of the point system.

Note that potential set asides for other fisheries (herring, scallops for example) would also need to be considered. These set-asides would mean that more catch would need to be taken off the top of the total TAC which would mean that the more that is set aside the higher the starting BPVs will need to be. Also note that the overlay of the point system and sectors needs to be addressed more clearly.

Compliance issues

There are three major compliance issues to consider. The first is that the plan may create strong incentives for discarding high point value fish. Discarding might not be allowed, but enforcement could be costly. It is not clear what level of observer coverage might be required and what other compliance measures might help, but there is concern that the current level of observer coverage would not be sufficient.

The second concern would be people assigning fish to the wrong area. This might be dealt with by requiring vessels to declare into areas before or while on the trip before fishing in them. They would then be charged the higher point values for the areas they fished. They could be fined for fishing in an area they had not declared into. It might be possible to use VMS positions (without area declarations) to track fishing activity and charge the appropriate BPVs, but NMFS is not currently set up to use this data in this way. There is also the question of how to allow transiting an area without incurring the point value in that area.

The third major compliance issue is recording the wrong species to reduce point use (e.g. call a cod a haddock if it has a lower point value). Dockside monitoring, particularly if combined with hailing requirements should be able to control this problem. However, a much higher level of dockside monitoring is probably necessary.

Is there an understanding that a BPV for a particular stock may approach infinity as the TAC is approached?

Can a vessel fish in an area if it does not have enough points available to catch a small amount of one of the stocks in the area?

Additional PDT Discussion:

- NESC provided some clarification that the point system has the flexibility to deal with any specified conservation objective. That is, the point system is flexible enough to accommodate a hard TAC objective or a policy that may allow for some acceptable range of overages. Guidance from the Council is being sought.
- Development of an analytical model is unaffected by the conservation objective. That is, a more stringent conservation objective would just mean that the BPVs would be set at different rates without changing the algorithm needed to calculate them.
- Incentive for at-sea discards is believed to remain high. A no-discard provision may make monitoring more cost-effective since it would introduce a greater range of monitoring possibilities including video monitoring.
- Modeling done to date (i.e. materials submitted at scoping) is not sufficient to demonstrate that the system will work nor is it likely to be adequate modeling approach for setting BPVs.
- In terms of model development the time-step needs to be consistent with the known time frame including administration and implementation needed to actually notify all affected vessels of the change. That is, if the time frame needed to implement a change is a quarter then the algorithm would need to be based on a quarterly time step. Note that this has implications for setting initial BPV where the initial BPV will likely be higher the longer the time step.
- The responsibility for developing, testing, and operating the computer model that determines BPVs must be clarified.
- How would vessels not under DAS be treated under the point system? Note that qualification criteria state that only limited access vessels with a category A DAS allocation would receive an allocation of points. This leaves limited access hand-gear, limited access 30-foot DAS exempt vessels, and any open access permit categories outside the point system.

Evaluation of DAS Alternatives

The PDT reiterates the comments provided in January.

- Under revised DAS, public comment received on FW42 expressed reservations regarding vessel safety if DAS are counted as 24 hours. The proponents need to demonstrate why the 24 hour DAS counting would not be a safety issue.
- Under the DAS performance plan, there would be a need to double track DAS while on a fishing trip. That is, upon call-in DAS would need to be tracked until call-out which would require an adjustment based on species composition.
- The proposal for the performance plan includes 4 different DAS counting procedures depending on trip duration, area fished, and species caught.
- The performance plan has many of the same issues that the point system does. These include, tracking landings in multiple stock areas, issues with compliance, making in-season adjustments to DAS charges etc.
- Should the performance plan be pursued, the Council should be aware that the specific differential DAS counting rates may differ from those currently in effect. These will need to be calculated after stock status is estimated in GARM III.

Evaluation of Area Management

The PDT reiterates some of the comments provided in January. Additional comments are below.

What has been submitted through scoping reflects a vision for the future. The comments submitted through scoping have the appearance of being impracticable for a May 2009 implementation date since what is envisioned includes institutional or governance arrangements that have yet to be developed and demands a level of fine-scale science that present data collection systems is unlikely to be able to support. For purposes of A16, what is need is a dialogue between the PDT and the proponents to clarify a programmatic approach that would allow for scientific and governance institutions to evolve over time. Put simply, what would be implemented on May 1, 2009 and what processes would be codified to allow area management to evolve?

1. Determination of areas: The proposal gives only general guidance on determining areas and suggests only one area division (between the inshore and offshore GOM). It is not clear how ecological information is to be used in determining area boundaries. While it may be that there are clear ecological divisions, that is uncertain at this point (the PDT has not yet reviewed recent NEFSC ecological work that may bear on this issue). The number of areas is not specified. During A13, there was considerable debate over where area boundaries should be located and five or six alternatives were put forward. Reaching agreement on area boundaries could be time consuming. Declaring a primary area: is this vessel or permit specific? Could a vessel owner with two permits declare into two different areas and then move the permits on and off the vessel depending where he wants to fish?
2. Assigning TACs to areas: The proposal does not describe a method to allocate TACs to areas and gives only general guidance on what information should be considered. The TACs for the US/CA area are based solely on historic landings and recent survey info, allowing creation of a formula to divide the overall TAC between countries. While this approach could also be used for area management, there are a number of issues: (a) the time period for historic catches is not specified (b) depending on area boundaries there may be few survey tows on which to base allocations (c) some stocks will overlap area boundaries, complicating monitoring of stock and area specific TACs (area TACs might be species specific, but stock specific TACs still shouldn't be exceeded – it is possible that this could occur if two stocks of the same species overlap an area). The AMC, however, suggests considering other factors (fish tagging, biological info, DAS, VTRs, etc.) and it is not specified how those factors would be incorporated into a TAC distribution formula.
3. Assigning TACs to areas: The proposal is not clear on how the part of an area TAC assigned to those vessels that do not declare into the area is treated. When this is caught, are vessels that did not sign-in prohibited from fishing in the area?
4. Local governance: It appears the AMC may be backing off some of the local governance issues, at least when area management is first adopted, so the PDT's earlier comments may not be germane.

5. Enforcement and monitoring: As noted above, it is not clear how the set-aside for vessels not declared into the area is treated. This set-aside complicates monitoring of TACs as it potentially doubles the number of TACs that must be monitored. It is not clear what time period is used to allocate TACs – does this differ by area? The TAC monitoring Option 2 (110% overage provision) isn't clear, but appears to allow a TAC overage which would conflict with the law (the PDT is not certain this is the case- the provision first talks about a set aside, and I can't tell if this set aside is meant to make sure that even if 110% of what remains is caught the overall TAC is not exceeded). Overages in another area may very well impact fishing in an area that stayed within its limit – this needs to be thought through and spelled out – up to a point, transfers from the offending area may buffer the impact on an area that remains within its TAC, but a larger overage could impact any area. Observer funding - rules on this aren't clear, clarification is needed from NOAA GC about whether an overall "tax" can be used to fund observer coverage. Enforcement mechanism: the proposal seems to imply more direct influence on enforcement actions by participants in an area, but this may not be possible with the current enforcement system.
6. Default measures: Transition to area specific measures must be specified, and measures are not addressed for areas other than the GOM. All areas should rely on the same basic tools for consistency (whether that is points, DAS, or something else). Vastly different rules between areas could make enforcement difficult- for example, if one area retains DAS and another does not (this also could complicate future management, permit transfers, etc.).
7. Biological justification for area management only addresses GOM and not other areas.
8. Overlap with other fisheries (in particular skates, monkfish, scallops) must be addressed. This will expand scope of A16 if area management is applied to skates and monkfish.

Additional PDT Discussion:

- Based on a careful reading of the proposal what appears to be contemplated for implementation on May 1, 2009 would be 1) designation of areas (Inshore GOM, Offshore GOM, GB, and SNE), 2) Assignment of TACs to each area, 3) default management measures for each area and 4) appointment of Area Advisory Panels (AAP) that would deliberate and replace the default management measures with those recommended by the AAPs.
- Default management measures listed by proponents are limited to indirect controls. Other more direct effort controls may need to be developed.
- Concerns expressed over ability to assign TAC for both single stocks and for stocks like CC/GOM yellowtail that would require an allocation for 3 different areas.
- The area management proposal could be considered a hard TAC proposal, yet very little detail is provided on how this TAC system will be constructed. The proposal is silent on what would happen if a hard TAC is reached. The proposal is silent on whether there will be a single species TAC for an area, or separate TACs for different stocks of the same species if the area boundaries overlap stock boundaries.
- Note that the proposal is not a global hard TAC but is hard TAC-based nevertheless.
- The proposal suggests a 20% set aside for vessels that do not designate an area. What justification is there for the 20% set aside?

- The initial proposal indicated that area designation would be for three years while a more recent draft suggests an annual declaration. How would management measures be adjusted if declarations by area vary from year to year?
- How would any pre-existing sectors or new sectors which are not necessarily area based be affected?
- Is it likely that derbies would emerge for area-specific set-asides?
- Is area management all-or-nothing? The proposal suggests that this is the case. If not, how would area management be integrated with the points system or DAS?
- Note that the suggested initial area designations contain a large degree of heterogeneity in the fleets operating in those areas. This heterogeneity may make coming to agreement on area-specific management measures very difficult. As areas become smaller and smaller the population of individuals fishing there is likely to be more homogeneous which will facilitate reaching agreement.

Amendment 16 to the Northeast
Multispecies FMP
Scoping Comments Received
(Days-At-Sea)

ASSOCIATED FISHERIES OF MAINE

PO Box 287, South Berwick, ME 03908 207-384-4854 phone 207-384-2940 fax

December 22, 2006

Mr. John Pappalardo, Chair
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear John:

I write on behalf of Associated Fisheries of Maine regarding Amendment 16 to the groundfish FMP.

It is our understanding that one of the management alternatives for consideration in Amendment 16 will be one that makes adjustments to the current days-at-sea system. To that end, I write to request Council consideration of the following in the "adjustments to the status quo" alternative:

- **Count groundfish days-at-sea at a minimum 24 hours**
This proposal received positive analysis from the groundfish PDT with regards to meeting certain biological objectives, was supported by several members of the NEFMC, and continues to have merit
- **Remove the requirement to take a 20-day spawning block (March, April, May)**
This proposal was included in FW42 but was set-aside due to priorities
- **Require the use of diamond mesh codends in the CAII yellowtail SAP**
This proposal was included in FW42 but was set-aside due to priorities
- **Allow the use of 6" square codends with a separator trawl in the US/CA areas**
- **Reduce the minimum fish size for GB haddock**
The preceding two items were recommended by the ad hoc Bycatch committee as measures to mitigate haddock discards
- **Develop a WGOM haddock SAP using hook gear**
This proposal was included in FW42 but set-aside due to priorities
- **Reduce the 72-hour observer notification requirement**
The 72-hour requirement for observer notification is particularly difficult for vessel operators to comply with during bad weather months
- **Reduce/eliminate the "conservation tax" on DAS transfers**
Despite positive changes to the DAS transfer program made in FW42, very few vessels are taking advantage of this program
- **Provide more flexibility in the length/horsepower restrictions in the DAS leasing and transfer programs**
The original PDT proposal for DAS leasing included a length/horsepower conversion program that would allow larger vessels to lease a fraction of DAS from smaller vessels
- **Remove the restriction on DAS leasing for vessels in the permit history category**
This requirement does nothing but impose additional administrative burden on NMFS and vessel owners
- **Remove the tonnage restriction for replacement vessels**
Tonnage restrictions are no longer applicable to DAS leasing or transfer programs, and provide no conservation, or otherwise useful, benefit to the replacement vessel program
- **Reduce the size of the differential DAS counting area in the GOM**
The PDT analysis for FW 42 showed clearly that 68% of GOM cod and 73% of CC/GOM yellowtail were caught in statistical blocks 124, 125, 132 and 133. Additional 30-minute squares included in the area pose safety risks for vessels trying to get beyond the area

Associated Fisheries of Maine is a trade association of fishing and fishing dependent businesses. Membership includes harvesters, processors, fuel/gear/ice dealers, marine insurers and lenders, and other public and private individuals and businesses with an interest in commercial fishing.

- **Eliminate or reduce the size of the rolling closures**
The rolling closures have been in place since 1999, and it is time to review the utility
Re-examine the utility of the year-round closed areas, and reduce the size as appropriate
The year-round closures have been in place since 1994 and it is time to review the utility
- **Allow general category scallop vessels, fishing within the regulated mesh exemption areas, to retain the same monkfish bycatch allowed by general category vessels fishing in all other areas**
This would be a positive way to minimize monkfish discards without encouraging a directed fishery
- **Examine all exempted fisheries to determine if they continue to meet the groundfish bycatch restriction under which they were granted**
As groundfish biomass continues to grow, it would be wise to examine recent bycatch rates

Most of these suggestions have received some analysis by the PDT and have been reviewed favorably by the Council in the past, but have been set-aside in workload priorities.

Even if it is the decision of the Council to ultimately implement a management system different from days-at-sea, many of these items will require additional consideration to determine whether or not they are compatible with that new system.

As always, we appreciate the Council's consideration of our views.

Sincerely,

Maggie Raymond
Associated Fisheries of Maine

comments

From: Michael Love ;
Sent: Thursday, December 21, 2006 1:01 PM
To: comments
Subject: Spam:Groundfish Amendment 16 scoping comments

TO: Mr. John Pappalardo, Chair
NEFMC
50 Water Street, Mill 2
Newburyport, MA 01950

FR: Michael Love
Love Fisheries inc.
178 Haskell Rd. N. Yarmouth ME 04097 (207) 749-2122

Dear John, I am writing to express the concerns regarding Amendment 16 held by myself, and my skippers, and crew members.

There seems to be a sense that Amendment 16 will include alternatives that would adjust the days at sea system in unknown and potentially devastating ways. It should be kept in mind that the present system is the product of much compromise, pain, and negotiation starting over a decade ago. A Days at sea system that we support.

From a Macro ecologic and economic viewpoint This system is a success. Essentially the "Government" (council, legislative, executive or Judge) wanted to have fewer vessels on the water fishing, desired a reduction in fishing mortality, and wanted better real time control of the aforementioned. This has all occurred, against a backdrop of evermore demanding rebuilding targets.

We believe that Days at sea occasionally tweaked with some other reasonable input controls is the best way to manage a multispecies fishery as diverse as ours. The problem is that the one or two weakest stocks preclude maximum utilization of the rest.

To adjust this an "ITQ" of some type LIMITED to just the stocks where the TAC was exceeded in the previous year would work. This would focus the conservation effort just where it is needed, resulting in a more efficient fishing effort across the board. This with the existing rules in place would be the final adjustment to a tried and tested system.

I have worked in other fisheries that were managed under ITQ systems and hard TAC quota "derby" systems. These fisheries were also considered to be healthy, yet both of these methods led to "high grading" extreme consolidation, and vertical integration that will end the diversity in the fleet that is a part of the New England waterfront today.

In the spirit of improving our present plan the following specific changes are recommended:

Counting of Groundfish DAS at a minimum of 24 hours

Mandate the use of diamond mesh cod ends in the CAII yellowtail SAP

Reduce the 72 hour observer requirement

Reduce the size of the 2:1 DAS counting area, much of the area now covered harbors few codfish.

In summary, the most important thing is to avoid massive wholesale changes in this system. If large changes occur it is very certain that the independent fishermen who have invested and worked this system will be replaced by conglomerates. Those still here are only here because they have invested into the current system, we cannot afford to do it again.

Rgs, Mike

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**Erik Anderson
38 Georges Terrace
Portsmouth, NH 03801**

**New England Fishery Management Council
The Tannery – Mill 2
Newburyport, MA 01950**

DEC 29 2006

December 26, 2006

Re: Reply to Scoping Hearings by NEFMC on Draft Amendment 16

The following would be considered a response to the New England Fishery Management Council's notice to solicit comments on Draft Amendment 16 to the Northeast Multispecies Fishery Management Plan. This plan would represent a developed proposal in thought and concept for further consideration and development by the Council. It has tried to incorporate measures consistent with current management policy represented in Amendment 13 and Framework 42 but in a manner that attempts to neutralize the broad brush approach to differential counting of DAS that currently is causing unintended controversy.

Reason and Rational

In the development of Framework 42 (F/W 42) there was the perceived need to craft management measures that would reduce fishing mortality on particular species of concern to meet the requirements of Amendment 13 and the Magnuson / Stevens Fishery Conservation Act. In the development of F/W 42 alternatives, differential counting of DAS was recommended to accomplish the required goals of stock rebuilding. The two stocks that drove the engine for differential DAS counting in the Gulf of Maine (GOM) were CC/GOM yellowtail flounder and GOM cod in a established geographic area known as the Differential Counting Area. As calculated by analysis of differential DAS counting in this area CC/GOM yellowtail counting would require differential DAS counting at a rate of 2/1 and GOM Cod would require a rate of 1.5 /1. In the NMFS interim measures 1.4/1 differential DAS counting was considered to accomplish the concerns for GOM cod throughout its range but considered insufficient for CC/GOM yellowtail flounder. In any case differential DAS counting created a new strategy of controversial measures that could be summarized as follows.

- 1) As per the measures of F/W 42 the burden of rebuilding GOM cod under differential counting of DAS was placed within the geographic area known as the Differential Counting Area at a rate of 2/1 versus the analyzed 1.5/1 and greater than the required 1.4/1 throughout the GOM cod range.**
- 2) The 2/1 differential DAS counting in the Differential Counting Area was based on differential DAS counting required for CC/GOM yellowtail flounder. Many statistical blocks in the Differential Counting Area represented less than 1% of CC/GOM yellowtail landings along with many fisheries in time and area in the**

Differential Counting Area representing less than 1% of CC/GOM yellowtail landings.

- 3) Mortality reductions for GOM cod in F/W 42 was represented in a differential DAS counting rate of 2/1 inside the Differential Counting Area and 1/1 outside the area even though this 1/1 counting rate was within the biological range of GOM cod. This plan feels it appropriate to establish measures that would address the concern of rebuilding GOM through out its range.**
- 4) Being that differential DAS counting was the major management measure within F/W 42 there were issues as described above that were controversial and perceived to be inconsistent with previous manage policy.**
- 5) Most important with this proposal is the fact that if differential DAS counting is to remain within management regime it can be done in a more equitable manner to achieve the intended goals of its implementation. Many feel that a DAS regime is worth salvaging and is adequate, unique, and better than other alternatives or management strategies.**

Proposal

The following would represent the development of management measures within the current DAS system that is done fair and equitably while still achieving the goals of current management action. While it could take any name, for the purposes of this proposal, it will be referenced as the "Performance Plan".

The purpose and desire of this proposal is to maintain a differential counting system similar to the measures of F/W 42 but in a configuration that puts the burden of accountability on the vessel operator, according to what was landed on a trip and what DAS will be assessed to that vessel under differential DAS counting. For purposes of example we will use the trip limits currently employed in F/W 42 for accounting how a trip will be calculated for DAS use, using differential DAS counting.

Trips Under 24 hours

Illustration 1) If under the VMS system a vessel leaves the dock, conducts a trip of any duration and lands NO species of concern (CC/GOM yellowtail flounder or GOM cod) the trip will be assessed on a differential DAS counting based as 1/1.

Illustration 2) Under the VMS system a vessel leaves the dock, conducts a trip of any duration and lands with species of concern. It will be assessed differential DAS counting as a percentage of the allowable trip limit for that species of concern.

Example 1) Under the VMS system a vessel conducts a trip using 12 hours and lands 400 lbs. of GOM cod. Under this example we will use 1.4/1 differential counting as a rate based for GOM cod throughout its range.

Step 1) It would be assessed $12 \text{ hours} \times 1.4 = 16.8$ which is 4.8 hrs more than actual trip.

Step 2) 4.8 hours would be multiplied times percentage of GOM cod trip limit landed $400/800 =$ a ratio of .5.

Accountability

If the description of this Performance Plan can be accepted for conceptual consideration, and potential modification where needed, then there must be provisions to assure that accountability exists. It is proposed to introduce and suggest those terms for accountability using existing structure within the current requirements. Developing that goal a vessel operator would be required to perform additional steps once a trip landing was completed.

- 1) Obtain a weighout slip from the dealer of record that the unloading occurred in which every species unloaded was recorded. This is currently standard practice in the industry.**
- 2) Submit a copy of that weighout slip with his/her Vessel Trip Report (VTR) or submit a copy of the weighout slip with the "Dealer Copy" of the VTR. Currently it is required to submit only the "Dealer Copy" of the VTR to the dealer of record.**
- 3) Possibly shorten the time frame of required VTR submissions to NMFS so that DAS calculations can be accomplished with an additional benefit of advancing real time reporting scenarios.**
- 4) Under current reporting requirements dealers must submit vessel weighout information related to a vessel landing within a 24 hour period.**
- 5) It is very realistic to expect that for terms of accountability minimum burden will be placed on existing programs or vessel operators for proper data to be submitted and accomplish goals or merits of this proposal.**
- 6) There could also be introduced a standardized calculation form that both the vessel operator and NMFS may use to calculate the described conditions in this proposal.**

Issues To Be Noted

It would be appropriate to address a concern that might be brought forward with regards as to how or if discards would play a role or factor in consideration of this proposal. Under any past, present, or future management systems discards will play a role whether it is attributed to regulatory trip limits, economic considerations, or in this Performance Plan. This proposal does not consider that discards will play a major role but seeks advice to deter from that practice not only in this presentation but in all forms of management systems.

- 1) Currently trip limits are probably the biggest factor in regulated discards under F/W 42.**
- 2) In the thoughts or consideration of an individual quota system economic discards and possibly trip limits would definitely be a factor .**
- 3) Under this proposal landing species of concern which are factored into the differential DAS rate used to calculate a trip plays a role in discard conditions but leaves the vessel operator options to control its DAS counting rate in a more practicable and equitable manner. This proposal in combination with current VMS requirements, suggested improvements or modifications, can improve the current conditions of F/W 42 or the Councils solicitation of proposals expressed by the Scoping Hearings.**

Step 3) $4.8 \text{ hrs.} \times .5 = 2.4 \text{ hours.}$

Step 4) This would result in a trip of 14.4 hours (12 actual hrs. + 2.4 hrs. as calculated).

Rational: Data supports that many trips do not catch both species on the same trip but currently, under F/W 42, are assessed with DAS counting according to the most severe differential counting rate. The current differential counting rate of 2/1 is used based on a differential counting rate needed to rebuild CC/GOM yellowtail flounder. If CC/GOM yellowtail flounder are not caught on a trip it appears irrational to charge a vessel with that 2/1 rate but appropriate to assess a vessel a differential counting rate calculated for rebuilding the species of concern that was caught.

Each mathematical scenario equates to a different result in differential DAS counting but proportionally based on what the vessel caught of that species of concern, and can be calculated with agreed terms by the vessel operator as well as NMFS, with the same result.

This model works well if it can be calculated using only one species of concern that formulates the differential DAS counting assessed against the vessel. This is stated in the previous rational. It does become problematic when two species of concern are incorporated within the same trip and attempts to use separate calculations for each species, which in concept is appropriate. The proposal lacked the technical ability to run multiple models creating a variety of calculated scenarios. It did come to an assumption that could resolve these issues and justify further development of the proposal.

PROVISION 1) When a mathematical scenario for a trip exceeds a 2/1 calculation, the trip will remain under 2/1 differential DAS counting.

Example 2) Under the VMS system a vessel conducts a trip using 20 hrs.

It lands 600 lbs. of GOM cod and 200 lbs. of CC/yellowtail flounder.

Under the current F/W 42 provisions of 2/1 differential DAS counting it would be assessed 40 hrs.

Using the terms of this proposal the following calculation would be made.

Step 1) For GOM cod: $20 \text{ hrs} \times 1.4 = 28 \text{ hrs}$ or 8 hrs more than actual trip.

Step 2) $600 \text{ lbs.} / 800 \text{ lbs.} =$ a ratio of .75

Step 3) $8 \text{ hrs} \times .75 = 6 \text{ hrs}$

Step 4) For GOM cod the differential DAS would be the 20 hrs. of actual use + 6 hrs calculated = 26 hrs

Step 5) For CC/GOM yellowtail flounder: $20 \text{ hrs} \times 2/1 = 40 \text{ hrs}$ or 20 hrs more than actual trip

Step 6) $200 \text{ lbs.} / 250 \text{ lbs.} =$ a ratio of .80

Step 7) $20 \text{ hrs} \times .80 = 16 \text{ hrs.}$

Step 8) For CC/GOM yellowtail flounder the differential DAS would be the 20 hrs. actual use + 16 hrs. calculated = 36 hrs.

Step 9) Totaling both DAS use as calculated for GOM cod and CC/GOM yellowtail would be 26 hrs. + 36 hrs. = 62 hrs.

Since the differential counting rate calculated here (62 hrs.) is 22 hrs more than the F/W 42 provisions of 40 hrs. the trip would fall under PROVISION 1 and remain at the F/W 42 differential counting rate of 2/1 or 40 hrs.

DALBA

Rational: Under current F/W 42 provisions a 2/1 differential counting rate has been calculated to meet the rebuilding goals for species of concern but it can be assumed that this rate was based on a differential counting rate needed for CC/GOM yellowtail flounder in the Differential Counting Area. Under the terms of this proposal mathematical scenarios develop that would exceed the 2/1 differential counting rate. This would be unnecessary according to the analysis for rebuilding measures in F/W 42.

This proposal attempts to differentiate on a trip by trip basis a differential DAS counting rate appropriate for the species of concern that was caught on a particular trip. In a variety of examples it would be less than the current F/W 42 provisions and in a variety of other instances it would exceed the F/W 42 provisions. In all cases it would meet the differential counting rate for rebuilding particular species of concern and grants flexibility or appropriate consideration for species of concern caught or not caught on a particular trip.

Issue for Trips Under 24 hours

One of the plaguing problems of any management scenario is how does it address the potential for discards. This proposal recognizes this issue and attempts to address it in the following manner.

Currently under the terms of F/W 42 there are no provisions for landing a species of concern in excess of the daily trip limit. By example if a vessel catches 1000 lbs. of GOM cod in less than a 24 hour trip must discard 200 lbs. or it can remain at sea for 24 hrs. and 1 minute and land the 1000 lbs. and upwards to 1600 lbs. for the next 24 hr. period.

Question 1 – Does the Council or NMFS want this condition or situation to remain or create a provision that allows a trip under 24 hrs to land in excess of the daily trip limit? This is a fundamental question that needs to be answered by the Council or NMFS. This proposal is not wedded to a decision on this topic. It can function in either direction. If it is decided that this should be a consideration then the following would be put forward to accommodate this concern.

Example 3) Under the VMS system a vessel conducts a trip that uses 16 hours of actual time.

It lands only one species of concern which is 1500 lbs. of GOM cod. The calculation would go as follows.

Step 1) It would be assessed $16 \text{ hrs.} \times 1.4 = 22.4 \text{ hrs.}$ which is 6.4 hrs more than the actual trip.

Step 2) 6.4 hrs. would be multiplied times the percentage of GOM cod trip limit landed. In this case it would be 800 lbs. for that 24 hr. period. The ratio would be as follows;
 $800 / 800 = \text{a ratio of } 1$

Step 3) $6.4 \text{ hrs} \times \text{ratio of } 1 = 6.4 \text{ hrs.}$

Step 4) $16 \text{ hrs} + 6.4 \text{ hrs} = 22.4 \text{ hrs}$ for the first 800 lbs. of GOM cod.

Step 5) For the remaining 700 lbs. of GOM cod there would be the need for a ratio rate for the next 24 hr. period. In this case $700 / 800 = \text{a ratio of } .875$

Step 6) Since the excess is being considered for a 24 hr. period the ratio would be multiplied for that 24 hr. period. In this case $24 \text{ hrs.} \times 1.4 \times .875 = 29.4 \text{ hrs.}$

**Step 7) The two hourly calculations would be combined for the final DAS used for that trip.
In this case 22.4 hrs. (step 4 result) + 29.4 hrs (step 6 result) = 51.8 hrs.**

Statement and Rational: If this set of circumstances is determined by the Council and NMFS to be allowed there should be no gained DAS usage advantage from a calculation or mathematical perspective. In cases where two species of concern are caught on the same trip under 24 hrs. this proposal seeks guidance from the Council and NMFS possibly through the PDT to maintain a “no advantage” circumstance for allowing this condition to exist for trips under 24 hrs. In actuality in many circumstances DAS usage rates exceeding 2/1 would be calculated but because this is only considered for trips less than 24 there would be no allowance of PROVISION 1.

Trips over 24 hours

There has been past concern in developing management measures that create advantages in particular circumstances. In this case it is with trips that are over a 24 hour period. This proposal will try and address this concern.

Example 4) Under the VMS system a vessel conducts a trip that uses 25 hours of actual time.

It lands in this example only one species of concern which is GOM cod.

Under current regulatory conditions it would be assessed a differential DAS counting rate of 2/1 or 50 hrs.

Under this proposal the calculation process would go as follows:

Since the trip is more than 24 hrs it has the potential of landing 1600#s of GOM cod.

1600 lbs. represents a period of 48 hours.

Because of this a 48 hr. period will be incorporated in the calculation.

Scenario 1) – 1600 lbs. of GOM cod landed

Step 1) 48 hrs – 25 hrs. = 23 hrs.

Step 2) 23 hrs. x 1.4 = 32.2

Step 3) 1600 lbs. / 1600 lbs. = a ratio of 1

Step 4) 32.2 hrs. x 1 = 32.2

Step 5) 25 hrs. + 32.2 hrs. = 57.2 hours assessed on this trip.

NOTE: Because this calculation exceeded the 2/1 rate it will fall under PROVISION 1 and remain at 50 hrs. (25 hrs. x 2)

Scenario 2) – 1500 lbs. of GOM cod landed

Step 1) 48 hrs – 25 hrs = 23 hrs.

Step 2) 23 hrs. x 1.4 = 32.2

Step 3) 1500 lbs / 1600 lbs. = a ratio of .9375

Step 4) 32.2 hrs. x .9375 = 30.18 hrs.

Step 5) 25 hrs. + 30.18 = 55.18 hours assessed to trip

NOTE: Because this calculation exceeded the 2/1 rate it will fall under PROVISION 1 and remain at 50 hrs. (25 x 2)

Scenario 3) – 1000 lbs. of GOM cod landed

Step 1) 48 hrs - 25 hrs. = 23 hrs.

Step 2) 23 hrs. x 1.4 = 32.2 hrs.

Step 3) 1000 lbs. / 1600 lbs. = a ratio of .625

Step 4) 32.2 hrs. x .625 = 20.12

Step 5) 25 hrs. + 20.12 hrs. = 45.12 hrs assessed to trip

Scenario 4) 600 lbs. of GOM cod landed

Step 1) 28 hrs. – 25 hrs = 23 hrs.

Step 2) 23 hrs. x 1.4 = 32.2 hrs.

Step 2) 600 lbs. / 1600 lbs. = a ratio of .375

Step 3) 32.2 hrs. x .375 = 12.07 hrs.

Step 4) 25 hrs + 12.07 = 37.62 hours assessed to trip.

Rational: Again as previously stated there are many trips supported by data that land only one species of concern. In the case of GOM cod throughout its range it is assumed that 1.4 / 1 is a differential DAS counting rate that would rebuild the fishery. When only one species of concern is landing on a trip it should be assessed the differential counting rate for that species. There should be no advantage gained in conducting a trip of specific time to allow landing a greater amount of that species in relation to trips under 24 hours. In the scenario described above and under current regulation the trip would be assessed 50 hrs under a 2/1 differential counting rate in the Differential Counting Area or 25 hrs. outside the area. The 2/1 differential counting rate was calculated for rebuilding / mortality reduction concerns for CC/GOM yellowtail flounder and should not be assessed to species that do not require that rate of differential DAS counting. The differential counting rate for GOM cod throughout its range is 1.4 / 1. As calculated it accounts for different landing scenarios within a potential 48 hour landing window for that particular species. Even though it requires particular steps of calculation it is consistent and fair for GOM cod through out its range. There appears to be inconsistency in the current regulations that sets different DAS counting rates from geographic perspectives while there should be emphasis on rebuilding the species through out its range by using the appropriate differential counting rate.

Example 5) It is stated again that this proposal appears to perform well in cases when only one species of concern is used. It does become problematic when an additional species of concern is introduced to the calculation. In many instances the calculation exceeds the current regulations of 2/1 differential DAS counting rate. F/W 42 analysis supports that exceeding that 2/1 rate is unnecessary. Without illustrating particular examples that would reveal this condition it would be proposed that the conditions of PROVISION 1 would be applicable in a trip that caught two species of concern and exceeded the 2/1 differential counting rate. This proposal would request that calculations supporting this assumption be run.

Summary

- 1) **This proposal attempts to introduce a conceptual design not radically different from the current philosophy represented in F/W 42 but more equitably distributed in circumstances that vessels actually experience. Hopefully this proposal has been described and presented in a manner that can be understood and viewed for further consideration and development.**
- 2) **It recognizes the fact that it creates an almost infinite possibility of individual mathematical calculations but does it in an understandable and consistent process relevant and more equitable to realistic conditions.**
- 3) **While the examples and scenarios described have been over exemplified the mathematical process can be simplified into a 1 page calculation sheet a vessel may use pertaining to its circumstance.**
- 4) **If further explanation is needed this proposal requests any questions for additional clarity or resolution that would result in further development.**
- 5) **As stated previously the proposal lacked the technical ability to run numerous calculation scenarios but seeks a review process that would do so to validate the assumptions and any necessary recommendations and/or adjustments that would support the concept.**
- 6) **This proposal tries attempts to keep the Days at Sea program solvent even with the differential DAS counting as a condition.**
- 7) **It does not try to introduce radical changes within the current regulatory scenario, but attempts to fine tune issues within the current system that might be considered as a unintended oversight or consequence of F/W 42.**
- 8) **This proposal can accept future changes to differential DAS counting by incorporating different counting rates into the calculation.**
- 9) **This proposal incorporates individual accountability and fishing practice within its concept. If this concept has difficulty for institution into the current regime it should be considered that any thoughts or considerations of individual quota systems present issues of more difficulty.**

Thank you for your time and consideration in reading and reviewing this Performance Plan. I anxiously await any comments or questions.

**Respectfully,
Erik Anderson**



My name is Daniel Wong and I am a shore side worker for Atlantic Trawlers, Inc., which is a small business that owns five ground fishing boats that fish out of Portland and New Bedford. The company provides a full time living for about 25 to 30 people. We probably do business with about 50 or so other business entities.

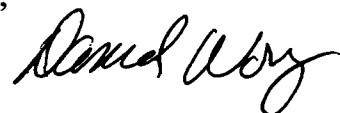
My family has been and will be highly impacted by the course your panel will be setting over the next couple of years and I am very grateful that you will at least give some thoughts to some of the observations I have made over past ten to twelve years concerning fisheries management.

1. There needs to be some consistency in the management process. The days at sea process is working. Although the differential days at sea is very painful and makes managing a vessel difficult it does alter fishing behavior. You will get less effort in areas with higher days at sea counts. Conversely you could get greater effort on healthier stocks by only charging partial days. A fishing day somewhere between an a day and a b day. I have always believed we should have always counted a day at sea as a day at sea and not let anyone land a days worth of fish without charging for a full day at sea.
2. We already have area management to further divide fishing area up and add layer upon layer of regulation will not help. Also to create any additional incentive to add more boats to this industry at this point seems foolish. No matter how you look at it we need less boats.
3. Any regulation needs to be devised that does not give economic incentive to devise ways to circumvent the regulation. A day at sea quickly comes to mind. Eight hundred pounds of cod a day should means eight hundred pounds of cod in a twenty four hour period, how that ever meant anything other than that is beyond me.
4. Hard tacs will not work. No matter how you devise the rules hard tacs will only encourage everyone to fish as hard as they can until the quota is filled. This will only result in the lowest possible price for the resource. Additionally in areas where other fish commingle with the hard tac fish the hard tac fish will be kicked overboard and wasted. This business is in survival mode you can readily predict what a fisherman would be economically forced to do.
5. Itq would be essential if hard tacs are set in place. This would at least relieve the pressure of derby fishing but in it's place result at hy-grading fish at sea which again would waste resource.

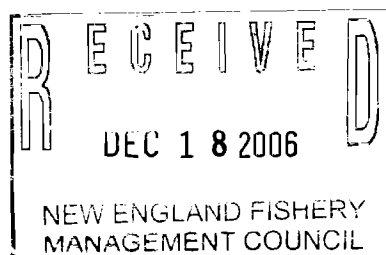
I do not envy you in the task you have at hand. Some peoples lives and businesses will unavoidable be adversely impacted no matter what direction you decide to go in. I do believe the fishing stocks are rebuilding albeit slower than desired. I also feel that during this rebuilding process it will be better to have a smaller but financially solvent industry than a fractured widely dispersed bankrupt industry.

Hopefully an industry buy back will take boats out of the water and produce a smaller more solvent fleet. Over the next two years with hopefully a smaller fleet and the progress in the fish stocks due to the implementation of framework 42, specifically the two for one days, perhaps we will be able to continue down this same road that seems to be producing positive results.

Sincerely,



Daniel Wong
383 Sligo Road
Yarmouth, ME 04096



cc: TN (12/11)



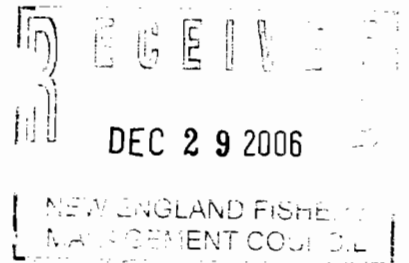
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gregdi@voicenet.com

December 29, 2006

Paul Howard, Executive Director
 New England Fishery Management Council
 50 Water Street, Mill#2
 Newburyport, MA 01950
 Sent by facsimile (978) 465-3116



Comments on Multispecies Amendment 16

Dear Mr. Howard:

Please accept these comments on behalf of the Garden State Seafood Association (GSSA); GSSA is comprised of commercial fishermen, shore-based processors, commercial dock facilities, seafood markets, restaurants, and various industry support businesses from New Jersey.

We believe the days-at-sea system is still the best method for managing groundfish and urges the Council to continue refinement of the days-at-sea management process for NE groundfish before considering a different approach to groundfish management. If the NEFMC is determined to explore a quota system that is based upon landings history we would like to take this opportunity to provide our comments and concerns and would ask you to consider these issues in future management decisions.

Our two major concerns involving the management of the Multispecies fishery based upon vessel landings history are as follows:

- 1) New Jersey vessels that hold Multispecies permits and DAS allocations will lose access to this fishery. A caveat contained in the DAS leasing provisions allows

cc: TN(1/3)

only for the DAS history to remain with the permit that "owns" the DAS or in this case the lessor vessel but the landings resulting from the use of those DAS are attributed to the permit that lands the fish or in this case the lessee vessel.

While it was clear that the leasing provisions would make this a requirement of the leasing program it was not the intent of the NEFMC or the NMFS to give landings history away from one permit holder to another. Obviously the idea of landings based history at that time was not being considered and could not have been anticipated in fact the rationale provided in Amendment 13 specifically states that *"Allowing a vessel that "owns" the DAS retain the history of those DAS will alleviate the concern that leasing out of DAS will affect future decisions, if any, that are based on DAS history."*

- 2) New England vessels that depend upon DAS leasing might not have the opportunity to lease DAS if New Jersey vessels stop leasing out DAS because the potential loss of landings history. New Jersey vessels currently have approximately 1600 A DAS that can be leased out and are currently available to dependant New England vessels.

If the NEFMC considers a new management approach based upon landings history we request that the NEFMC changes the DAS leasing provisions so the DAS history and any landings derived from those DAS would be retained by the permit that "owns" those DAS. In order to allow those vessels dependant upon access to these DAS or the landings associated with those DAS we would ask the NEFMC to allow for full leasing of those landings of potential quota between individuals, permits and vessels.

Sincerely,



Gregory P. DiDomenico
Executive Director
Garden State Seafood Association

RECEIVED
DEC 27 2006

Dear Executive Director Paul Howard,

December 20, 2006

This letter regards the upcoming 2009 amendment to the multispecies New England fishery.

NEW ENGLAND FISHERY
MANAGEMENT COUNCIL

I do not think the current Days-at-Sea system is a failure. I think with recent cuts, low fish prices, and high fuel costs that fishermen are having a difficult time making money. I think no matter what system is in place to increase fish stocks, cuts in effort are inevitable and are going to be painful no matter what system is in place.

I like the Days-at-Sea system and I think it has worked to a degree and with a few adjustments it can be an effective tool.

My proposal is to have two management areas, an inshore area which would be the current 2 for 1 blocks, and an outside area that is everywhere other than the 2-1 blocks. Instead of the 2-1 blocks a fisherman that wants to fish in these blocks would have to call (register) into this area for the entire year. They would have to only fish in these blocks for the year and any boat not 'called in' to fish in this area cannot fish in this area for the fishing year. I think this is most important because regulators would know before the season starts exactly how many boats are going to be in these blocks and they will know how many DAS are going to be used in this area so they can give an appropriate amount of cod fish or yellowtails that can be landed per DAS. The boats 'registering' to this area would also have to say how many DAS they will be using (including lease days) for this year (no surprise lease days).

I believe there needs to be more escapement. Therefore these are just some suggestions that will help protect the fish inside the 2-1 area. There should be gear restrictions, such as limited # of gillnets, standard size trawl net, smaller roller frames and no cookie ground gear. Trawl nets should be 6.5" in the entire net, not just the codend. People who sign into this area will know what these restrictions are going to be ahead of time and they will have to 'register' into this area 6 months before the season begins.

Another tool that can be used to increase escapement in this area is to make the Jeffreys Closure larger but allow boats to fish a 6 mile wide area down the center of it. What I have noticed in my years fishing is that the most productive fishing areas are the edges of the closures. There are more fish along the edges than anywhere. If we increase the amount of edges, we would increase our catch. By making more closed areas or making the closed areas we already have, larger, than we would protect more of the fish. If we have a small amount of access to it than we can also harvest some of these protected fish. Right now the Jeffreys Closure has a huge amount of fish on it, but we are very limited on how much we actually catch, since there is no access to it. If there were a 3 mile wide stretch from north to south for gillnetters and another 3 mile wide stretch from north to south for trawlers than some of those fish could be harvested without hurting the biomass. The trawlers and gillnetters could even take turns from one year to the next which 3 mile wide stretch they would get.

This practice is used and is successful in the salmon fishery in Alaska. They have one large river, but the fishermen are only allowed to fish in one very small area in the river. This allows for the majority of fish to escape up the river but still allows the fishermen to catch a few.

If these suggestions were adopted, the DAS would no longer need to be counted at 2 for 1 in these blocks because many boats would not want to have to fish this area for the entire

year, or go along with the gear restrictions. This 2-1 area has been driving regulations for years and needs to be more closely regulated so the entire fishing fleet doesn't have to share the burden for this area being mismanaged.

How the area outside the 2 for 1 blocks is managed I think should be decided by the people who plan to fish in that area. They might prefer IFQ's over DAS and I think that should be their choice. Boats that trip fish are very different than boats that day fish and this should be reflected in management.

I'd also like to say that I do not support the North East Seafood Coalitions 'point system plan' for the primary reason that it does not have anything in it to protect the small inshore fleet. It encourages consolidation. I feel this point system is an Individual Fishing Quota. I have learned quite a bit about IFQ's in the past year and to my knowledge there is not an IFQ system in the world that is not cooperate owned. Even when there were laws set in place to protect small boats, loopholes were found and in a very short time all the fishing quotas were owned by a handful of people. I think NMFS has done an excellent job keeping the fishing boats small, medium and large. I don't think large boats should be able to buy "points" or "quota" from small boats. NMFS has protected small boats from being bought out in the past and I hope they will continue to protect small boats in the future.

Thank you for the opportunity to share my opinion. I know in other countries that the government never asked for the opinion of the fishermen and I appreciate it that in this country we are asked.

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