

Amendment 16 to the Northeast
Multispecies FMP
Scoping Comments Received
(Output Controls – Hard TACs, ITQs)

ASSOCIATED FISHERIES OF MAINE

PO Box 287, South Berwick, ME 03908

207-384-4854

December 29, 2006

Captain Paul Howard,
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Paul:

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

AFM businesses and families are dependent on a sustainable groundfish resource. We have a long history of proactive involvement with the management process, including the development of and support for sustainable conservation policy for groundfish.

During the past several months, the Council has received complaints regarding the days-at-sea management system for groundfish, notwithstanding the fact that since the implementation of days-at-sea, the groundfish resource, as a whole, has shown significant measurable growth in abundance.

It is important to recall that the Council moved away from hard quota management of groundfish in 1994 with the implementation of days-at-sea, for good reason.

Throughout the 1980's hard quota management of groundfish was disastrous, causing

- unacceptable waste (high grading & discards),
- monitoring and assessment problems (inability to track landings on a real time basis and intentional mislabeling of fish),
- lost fishing opportunity (fishery closures and failure to achieve optimum yield),
- derbies (and the associated safety risks along with low economic returns),
- enforcement nightmares (including black markets) and,
- most notably very little improvement in the status of the resource.

Today, we still do not have the technological, administrative or enforcement resources to avoid most of these pitfalls, and others simply cannot be avoided given the number of separate stocks that are managed within the groundfish complex.

The days-at-sea management system has been corrupted in recent years, particularly by trip limits, which have caused discards (and consequent complaints from the industry). It is understandable that measures like differential days-at-sea designed to reduce overfishing on specific stocks are not popular. In addition, optimum yield has not been achieved in recent years for the majority of stocks due to drastic DAS reductions.

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

AFM firmly believes that a shift backwards to hard quota management for NE groundfish will be a terrible mistake.

Hard quota management has not been successful in New England groundfish, not in the past and not recently, as can be seen with the latest assessment of Georges Bank yellowtail. We only need look to Canada, where Georges Bank cod is in no better shape than it is here to conclude that hard quota management is not a cure-all. In fact, hard quota management has not achieved the biological goals for multispecies fishery around the world, and none of those fisheries have the number of separate groundfish stocks that we have in New England.

Many claim that the problems of discards and under harvesting of groundfish can be fixed by implementing hard TACs, but we have experienced hard TACs on GB cod, haddock and yellowtail for two years, and during that time we have left millions of pounds of haddock in the water.

Even where single species fisheries are managed with hard TACs there is evidence of under harvesting and discards. For example, the TACs have not been achieved (for several years) for bluefish, black sea bass, ilex and scup, and the high grading of summer flounder has been a consistent problem.

AFM believes that days-at-sea is the best management system for rebuilding the groundfish resource, and that the system can be improved. For the majority of groundfish stocks fishing mortality is the lowest it has been in decades, and rebuilding schedules are on target (see FW42 analysis).

AFM strongly urges the Council to research the Faroese days-at-sea management system to learn what may be applicable to improving days-at-sea management of New England groundfish. The Faroe Island days-at-sea system is generally accepted as fundamentally sound and the industry enjoys a modern fleet and healthy infrastructure.

It is true that as the number of allocated days-at-sea have dwindled, and now are counted differentially, the economics of days-at-sea management has not worked well. Still, no one can deny the significant biological improvement in the groundfish resource that has been achieved under days-at-sea. In a deliberate effort to mitigate the negative economic impacts, the Council has recommended, and NMFS has implemented, mechanisms that allow for consolidation of days-at-sea, and these mechanisms have indeed mitigated some negative economic impacts without compromising rebuilding goals. (The Council can adjust these mechanisms to improve their utility.)

If, however, it is the will of the Council to impose hard quotas on NE groundfish, AFM urges the Council to implement a quota system that is based on individual history. In order to provide responsible fishermen with the opportunity to mitigate the discards that are inevitable with any hard quota system, we urge the Council to allow for full transferability of quota between individuals.

To that end, AFM offers the attached ITQ straw man for Council consideration in Amendment 16.

Associated Fisheries of Maine
Page 3
December 29, 2006

Congress has recently placed formidable obstacles in the path of any efforts to implement ITQs in New England. We suggest that the Council immediately deliberate how best to overcome these obstacles, particularly in the context of the position that hard TACs are best managed through individual allocations and full transferability, as opposed to fleet wide and/or quarterly allocations. The sooner the Council can provide permit holders with some estimate of the allocation that each would receive under an ITQ system, the sooner permit holders will be able to provide an informed vote on the required referendum.

Should the aforementioned legal obstacles prove to be insurmountable (especially in the abbreviated timeframe laid out for completion of Amendment 16) the Council should weigh that reality in its decision making alongside the certain negative consequences to the resource and to fishing communities that will result from a derby style hard TAC system.

AFM would also like to use this opportunity to notify the Council that should Amendment 16 impose hard quotas on NE groundfish, some members of AFM will be requesting the formation of a sector, especially if an ITQ program is not implemented at the same time.

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

Sincerely,

Maggie Raymond
Associated Fisheries of Maine

Enclosure

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

A HARD TOTAL ALLOWABLE CATCH AND TRANSFERABLE QUOTA SYSTEM FOR THE NORTHEAST GROUND FISHERY

Table of Contents

<u>Objectives</u>	2
<u>Stocks to be managed via hard TAC's</u>	3
<u>ITQ Allocation Formulas</u>	4
<u>Transferability</u>	8
<u>Limits On ITQ Ownership/Acquisition</u>	9
<u>Quota Overage / Underage</u>	10
<u>Discards</u>	11
<u>Frequently Asked Questions</u>	12

Associated Fisheries of Maine
December 29, 2006

Objectives

Biological

- Manage regulated multispecies via hard TAC's
 - Ensure catches remain within TAC's
- Minimize discarding / waste
- Improve quality of catch reporting for stock assessment purposes.

Economic

- Allow greater utilization of all stocks (optimum yield)
 - Increase employment throughout the industry (at sea & on shore)
 - Emphasize economic activity generated / value added by shoreside industry
- Allow consolidation so that vessels are economically viable
 - But do not place economic efficiency above all other goals
- Support investment many have made in acquiring DAS
- Allow vessels flexibility to change among approved gear types as they wish.

Social

- To the extent possible, maintain the existing structure of the fleet (pyramid structure of large-medium-small vessels).
- Allow fleet consolidation so that:
 - Full-time vessels can provide full-time jobs to crewmembers
 - All vessels can secure enough income to operate safely (e.g. maintenance, safety equipment & training).
- Prevent excessive consolidation of quota ownership

Stocks to be managed via hard TAC's

<u>Option 1 – Multispecies¹</u>	<u>Option 2 – Additional species</u>
<ul style="list-style-type: none">• Haddock<ul style="list-style-type: none">○ GOM○ GB• Cod<ul style="list-style-type: none">○ GOM○ GB• White hake• Pollock• Redfish• Winter flounder<ul style="list-style-type: none">○ GOM○ GB○ SNE/MA• Yellowtail flounder<ul style="list-style-type: none">○ CC/GOM○ GB○ SNE/MA• Witch flounder• Plaice• Windowpane flounder<ul style="list-style-type: none">○ Northern○ Southern	<p>Add monkfish, skates, or both</p>

¹ Atlantic halibut continue to be managed on a trip limit basis

ITQ Allocation Formulas

Qualification

- Multispecies permits with an 'A' DAS allocation on May 1 2008.

Definitions

- 'Historical period' means the period May 1 2003 – April 30 2008.
 - The historical period is divided into five fishing years in some ITQ calculations.
- "Qualifying DAS" means 'A' DAS which were allocated during the historical period, and which have record of landing a stock (defined below).
 - Rationale for using 'allocated' rather than 'used' DAS: People have made large investments in purchasing DAS; to the extent possible, the investments should be supported.
- 'Permit size classes' are:
 - 0-50 ft.
 - 51-70 ft.
 - 71+ft.

Base Allocation

- ITQ allocations are assigned to fishing permits.
- Allocations are based on a balance of 'A'-DAS landings history, and 'A'-DAS allocations.

<u>Option 1</u>	<u>Option 2</u>
<ul style="list-style-type: none">▪ 75% weighted by 'A'-DAS landings history, compared to the fleetwide total▪ 25% weighted by qualifying 'A'-DAS allocation, compared to all qualifying 'A'-DAS within each permit's size class.	<ul style="list-style-type: none">▪ 50% weighted by 'A'-DAS landings history, compared to the fleetwide total▪ 50% weighted by qualifying 'A'-DAS allocation, compared to all qualifying 'A'-DAS within each permit's size class.

A Hard Total Allowable Catch & Transferable Quota Program for the Northeast Groundfishery

- Allocations are calculated by examining:
 - ‘A’-DAS landings history (75% or 50% weighting). A permit’s ‘A’-DAS landings history is compared to the ‘A’-DAS landings of the entire fleet.
 - Landed weights are always converted to live weights for purposes of comparison.
 - ‘Landings,’ not ‘catch,’ figures are used in the base allocation.
 - Number of qualifying ‘A’-DAS (25% or 50% weighting). The number of qualifying ‘A’-DAS for each permit is compared to the number of qualifying ‘A’-DAS for all vessels within the permit’s size class.
 - Rationale: This DAS allocation component:
 - Avoids quota allocation based solely on catch history; introduces a leveling component to the allocation.
 - Respects the significant investment many fishermen have made in acquiring ‘A’-DAS in order to survive the current management regime.
- For each stock, each permit’s initial allocation is determined as follows:
 - First, ITQ is primarily allocated to permits with a record of landing a stock:
 - For each fishing year within the historical period, the permit’s landings are examined. If the permit landed any amount of a stock while using ‘A’-DAS during the year, all of the permit’s allocated ‘A’-DAS for that fishing year are considered ‘qualifying DAS.’
 - Rationale: This prevents an immediate shift in quota to permits which historically never fished on a stock, and will help maintain current geographical makeup of fleet.
 - Example: Assume a permit landed windowpane flounder on ‘A’-DAS trips in three of the five fishing years during the historical period. Only the ‘A’ DAS allocated during those three years would count as ‘qualifying DAS.’
 - Then, assuming a permit has some record of landings during the historical period:
 - 25 or 50% of the TAC for each stock is allocated according to the number of qualifying A-DAS each permit has: For each fishing year within the historical period:
 1. Sum the total number of qualifying ‘A’-DAS within this permit’s size class – those with a history of landing a stock during each applicable year in the qualifying period.
 2. Sum the permit’s number of qualifying ‘A’-DAS for each year.

3. Divide #2 by #1. This provides the permit's percentage of qualifying DAS.

- Example for GOM cod: Assume a 50%/50% weighting. Assume a 40' permit. Assume over the five year historical period, a total of 300,000 'A'-DAS were allocated to this vessel size class. However, only 250,000 of those DAS counted as "qualifying DAS" as defined above.

Assume this permit caught GOM cod on 'A'-DAS trips in all five of the years, and was allocated a total of 250 'A' DAS during that time. The formula for this permit would be:

$250 \div 250,000 = 0.001$, or 0.1%, which is then weighed by 50%.

- 75 or 50% of the ITQ for each stock is allocated by 5-year 'A'-DAS landings history to the permit. Essentially, the more fish a permit landed, the more quota it would receive.

- Example for GOM cod: Assume a 50%/50% weighting. Assume the total live landings of GOM cod landed on 'A'-DAS trips for the entire fleet during the historical period were 21,000 metric tons (live weight). Assume a permit landed 10 metric tons pounds of dressed GOM cod on 'A'-DAS trips each year during the historical period, for a total of 50 metric tons.

The permit's landings are converted to live weight by multiplying the permit's landed volume by 1.17. Then, this figure is compared to the fleetwide landings of GOM cod. The formula for this permit would be:

$(50 \times 1.17) \div 21,000 = 0.00279$, or 0.29%, which is then weighed by 50%.

- A permit's permanent percentage allocation for a stock would not be allowed to exceed 200% of its historical catch percentage.
 - Rationale: At very low landings, the DAS component of the allocation formula can result in unusually high amounts of fish being allocated to a permit. For example, if the single permit's landings history in the example above is changed from 50 metric tons (an average of 10 per year) to 0.5 metric tons (about 200 pounds per year), the permit's permanent allocation rises from 0.003% to 0.051%, an increase of 1,850%. This cap prevents dramatic swings in allocation

percentages.

- A permit's permanent allocation for a stock would not be allowed to be less than 75% of its historical catch percentage.
 - Rationale: Though this seems less likely than the prior case, at very high landings, the DAS component of the allocation formula can result in an unusually low amount of fish being allocated to a permit.

Subsequent Allocations

Once the initial allocations were set, each permit would have its defined percentages of the total TACs for each stock. These percentages would be multiplied by the TACs on an annual basis to determine each permit's stock-specific TAC's.

Transferability²

- Subject to approval from NMFS, permit holders can make permanent and temporary transfers of ITQ's. Transfers are made on a stock-specific basis.
- Only un-harvested quota is eligible for transfer.
- Permanent transfers are expressed as a percentage of the TAC, and are made in increments of 100ths of one percent.
- Temporary transfers are expressed in weights, and are made in increments of 20ths of a landed metric ton. They are valid for the current fishing year and automatically revert back to the original permit at the end of the fishing year.
- No more than 10% of a permit's quota for all species combined may be transferred outside of the permit's size class.
 - Rationale:
 - This will help maintain the existing size structure of the fleet, while providing some ability to maximize harvests of TAC's by transferring to vessels most likely to harvest a stock.
 - The pool of vessels in the largest size class is relatively small. This provides them a small increase in the supply of quota available to them.
 - Example: Assume a permit for a 40' vessel has a total multispecies quota of 40 metric tons. The vessel could transfer (either permanently or temporarily) a maximum of 4 metric tons of quota to a different permit size class. This transfer could be made up of 100% of the transferor's quota for one stock, but could not exceed 10% of the quota for all stocks.

² This section largely duplicates rules used in BC multispecies groundfishery

Limits On ITQ Ownership/Acquisition

It is the intent of this section that limits which vary by stock may be warranted, but there is insufficient time in the Amendment 16 process to develop such a schedule. Therefore, the following would be initial ITQ ownership/acquisition limits, possibly to be more fully developed by the Council in subsequent years.

There are two types of limits: Limits on ownership, and limits on acquisition. 'Acquisition' means any combination of right to use the permit for harvesting (i.e. through ownership, leasing, loans, gifts, & so on).

Ownership

Maximum 10% of the total TAC of any one stock, PLUS maximum 7½% of the total TAC for all stocks. This limit applies to all permits possessed by one owner.

Acquisition

Maximum 20% of the total TAC of any one stock, PLUS maximum 15% of the total TAC for all stocks. No owner may, though a combination of ITQ ownership and acquisition from transfers of ITQ, have more than 20% of the TAC for any one stock, or 15% of the total TAC for all stocks, available for its use. This limit applies to all permits possessed by one owner.

Quota Overage / Underage³

- Permits can ‘carry forward’ into the following year up to 20% of the permit’s ITQ for each stock. Essentially, this is banking un-used quota to be used in the next fishing year.
- Permits can ‘carry backward’ up to 10% of the permit’s ITQ for each stock. Essentially, this allows a permit to “borrow” against next year’s expected quota allocation
 - This is largely to help fishermen when they exceed their quota but are unable to secure additional quota – a mechanism which allows them to keep the fish but not be in violation of the law.
 - The carry-backward percentage is more restrictive than the carry-forward percentage, to encourage the latter.
- A permit harvesting up to 10% of its ITQ for any stock may keep the proceeds from the overage, and will have the equivalent weight subtracted from its ITQ allocation in the following fishing year.
- A permit harvesting greater than 10% of its ITQ must forfeit any proceeds (for the fish over the 10%) from the overage, and have the equivalent poundage deducted from its ITQ allocation in the following year
 - In the event of an overage greater than 10%, a permit has 30 days to acquire additional quota (from another permit) before it must relinquish the proceeds. If the additional quota is not secured, the permit is also subject to permit sanctions and other civil penalties.
- Quota Exception: Permits may land up to 1/20th of a metric ton of any stock with no quota at all. This measure is intended to allow for incidental catches of stocks which might amount to just a few dozen pounds over the year, without requiring the permit holder to seek quota for such a minor volume of fish.

³ This section largely duplicates rules used in BC multispecies groundfishery

Discards

<u>Option 1</u>	<u>Option 2</u>	<u>Option 3</u>
<p>All discards of stocks managed under the ITQ program are prohibited. The catch of all stocks must be reported, and offloaded with a licensed dealer.</p> <p>Because of this, minimum fish sizes for the managed stocks are eliminated. Rationale:</p> <ul style="list-style-type: none">▪ Minimize discards▪ Provide scientists with more realistic catch data	<p>All discards of legal-sized fish managed under the ITQ program are prohibited.</p>	<p>Status quo.</p>

Frequently Asked Questions

1. Q: Are ITQ harvests or transfers limited by gear type?

A: No. For example, a vessel with significant un-harvested pollock quota might feel it best to switch from trawling to gillnetting for a few months to harvest that fish. Or, a vessel might want to transfer its unused quota of GB haddock to a hook vessel. There is no compelling reason to prohibit this flexibility.

2. Q: Why are ITQ transfers limited by vessel size? Under a quota system, the size of the harvesting vessel doesn't really matter.

A: The vast majority of the groundfish industry (both at sea and on shore) agree that it is important to have a viable small-vessel fleet to provide a regular supply of fish to the marketplace. This restriction is intended to provide a reasonable assurance that the makeup of the fleet won't dramatically change soon after implementation of the ITQ program. It could be re-visited after the first few years under the program.

3. Q: What happens to upgrade restrictions?

A: Upgrade restrictions are eliminated. Though ITQ transfers are largely limited by vessel size, there is no particular reason to retain upgrade restrictions.

4. Q: What if someone exceeds the maximum allowable quota percentage for a stock in the initial allocation?

A: The permit is granted the maximum allowable allocation. The rest of the allocation is distributed evenly among all other eligible ITQ recipients.

5. Q: What happens to DAS?

A: DAS are eliminated

6. Q: What happens to trip limits?

A: Trip limits for the managed stocks are eliminated.

7. Q: What happens to permanently closed areas?

A: Habitat closures remain in effect. Other permanent closures are eliminated.

8. Q: What happens to rolling closed areas?

A:

<p><u>Option 1</u> Rolling closures are eliminated</p>	<p><u>Option 2</u> Rolling closures are modified. Rationale: Some believe rolling closures are a good idea, but that the current closure times and areas are inefficient.</p>	<p><u>Option 3</u> Status quo</p>
---	--	--

9. Q: What happens to minimum fish sizes?

A:

<p><u>Option 1</u> Minimum fish sizes are eliminated. Rationale: <ul style="list-style-type: none"> ▪ Minimize discards ▪ Provide scientists with more realistic catch data </p>	<p><u>Option 2</u> Status quo</p>
--	--

10. Q: How is a no-discard provision enforced?

A: Only by at-sea observers (either human or electronic) or other means, such as at-sea video (taken by onboard systems, enforcement, or other vessels). Absent full observer coverage it is acknowledged this is an imperfect system. Future provisions to increase observer coverage might include:

- Increased/restoration of federal observer funding.
- Industry financial support of observer funding (currently not possible because of fleet financial stresses).
- NGO participation in observer funding.
- Research/implementation of electronic mechanisms.

NOTE: Some statistical analysis suggests that 100% observer coverage isn't necessary – something around 35% accomplishes the goal.

11. Q: Would a no-discard program cause significant problems for dealers who would have to handle all the fish?

A: No. The marketplace will create incentives and disincentives for harvests of properly sized fish. For instance, the Portland Fish Exchange charges a per-pound handling fee even if the fish has no value in the marketplace. A no-discard policy might require the

addition of some smaller grades, but any cost issues that might cause will be handled by capitalism: Dealers will just charge more, if necessary, for the additional sorting.

12. Q: Can a permit (vessel) go fishing with no remaining ITQ of one or more stocks?

A: Yes, because the permit may exceed its annual allocation by up to 10%.

13. Q: Can a permit (vessel) go fishing when it has exceeded its annual allocation by more than 10%?

A: Yes, because the permit can still purchase ITQ from another permit.

14. Q: Is there any way to convert quota of one species into quota of another, perhaps through some equivalency formula?

A: No. This mechanism is biologically questionable and adds too much complexity to the initial ITQ program. It might be developed at a later time.

15. Q: What constitutes an “owner?”

A: An owner is a person or entity, including any person or entity who is a shareholder or partner of the vessel owner, having an ownership interest in a limited access multispecies permit.

16. Q: Under the ‘definitions’ section, the plan says “qualifying DAS” means ‘A’-DAS. But the first year of the historical period (May 2003 – April 2004) was before implementation of Amendment 13, and there was no such thing as ‘A,’ ‘B,’ or ‘C’ DAS back then. How is that situation handled by this plan?

A: All DAS allocated before implementation of Amendment 13 are considered ‘A’ DAS, and all landings during that period are considered to be ‘A’-DAS landings.

17. Q: One of the options presented is to manage monkfish under this system. But a number of monkfish vessels don’t have groundfish DAS. So how would they qualify for monkfish quota?

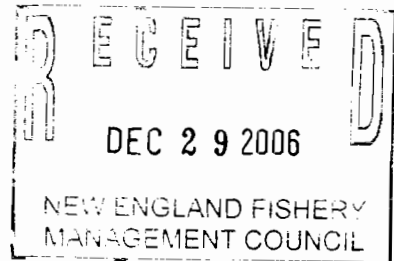
A: Monkfish vessels without groundfish DAS would still be managed under the current DAS/trip limit system, unless they petitioned for an ITQ system of their own (this would be an amendment to the monkfish plan).

Michael S. Flaherty
5 Harkins Way
Wareham, MA 02571
(617) 729-3232
mikef@basspond.com

Paul Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA 01950

December 29, 2006

RE: Multispecies Amendment 16



Dear Paul,

I thank you and your staff for giving the public the opportunity to provide input to Amendment 16 to the New England Multispecies fishery management plan. I gave oral comments at the scoping hearing held on December 7th in Fairhaven, Massachusetts.

Please find my written comments attached. If I can be of any further assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael S. Flaherty".

Michael S. Flaherty

Page 1 of 5

cc: TN(1/3)

PAGE 01/05

HOLIDAY INN TAUNTON

5088806483

12/29/2006 15:58

Overcapacity Must Be Addressed

"Remember that all industry proposals don't really work that good. They may look fine and dandy when they're put on the table but look at [Amendment] Thirteen. That is not a success package."

--Jim Rhule, NEFMC Herring Oversight & Advisory Panel meeting
10/14/2004

The matter of rampant overcapacity in the New England Fishing Fleet is not new news. At last count, there are now more than 1,400 vessels with limited-access groundfish permits. Yet, according to National Marine Fisheries Service estimates, it would take only 500 boats fishing only about 70 days per year to catch the entire groundfish total allowable catch for 2007 – about 127 million pounds.¹

Amendment 16 has been prompted, in part, due to the woeful failure of the extensive use of input controls which were designed to keep folks fishing instead of using the more effective output controls in order to restore fish (i.e. inventory). Moving forward, the next system must use meaningful output controls in order to finally put a stop to overfishing groundfish stocks. Everyone knows this, and has known this for years, but the time has come to finally do something about it in a meaningful way.

Unfortunately to truly deal with the matter of overcapacity in the commercial fishing fleet, some participants must leave. The decision on how to do so in a fair manner is the burden of all managers in all industries when faced with too many workers and not enough work. To that end, just as in any business, the Council should seek to remove those participants who have demonstrated disregard for the resource and for the fishing communities that rely on it. In other words, the Council should remove (fire) those fishermen who have significant repeat federal (and state) fisheries violations.

¹ Industry group floats groundfish buyout proposal; *Commercial Fisheries News*, June 2006

I'll leave it up to the folks most knowledgeable about what constitutes a significant offense, to work that out. This is a common-sense solution and it remains a mystery to me that this is not already being done today. When a restaurant is issued enough health-code violations or liquor license violations, it is shut down. These are very finite licenses and the town can decide if it wants to re-issue the permit to another owner – or not. We should expect the same outcome of those who abuse their commercial fishing permits.

For-Hire Operators Should Have Their Own Advisory Panel

“The for-hire sector of marine recreational fisheries (i.e., charter, guide, and head boat operations) is more like a commercial sector than it is like the private-angler sector.”

-- Review of Recreational Survey Methods, P.5; *National Research Council*, 2006

Presently, the vast majority of members on the NEFMC Recreational Advisory Panel (RAP) are party/charter operators. As a conservation-minded recreational fisherman, I do not feel as though they represent my interests well. Please do not misunderstand. I have the highest respect for party/charter operators and I do rely on them almost exclusively when I target groundfish. However, it is called “recreational” fishing for a reason. Recreational fishermen do not rely on marine resources as a source of income. As a result, our values and priorities are often times different and incompatible with those in the for-hire “industry”.

If I don't catch any fish while on a chartered trip, then I can at least take comfort in getting out on the water and maybe seeing see whales or dolphins. As the saying goes, “A bad day fishing is better than a good day at work.”

Where this comes into play in fisheries management is that personally, if the science indicates that we need to cut back on recreational harvest, then I am fine with appropriate reductions of my daily limit of groundfish. I think bag limit reductions are more prudent than increasing size limits because all that does is create wasteful discards.

On the other hand, the party/charter industry in the Gulf of Maine often argue that they must have at least a 10 fish bag limit in order to be “competitive” with other regions. According to them, 10 fish is the magic number and that customers from the Mid-Atlantic states will not make the drive if the bag limit for cod is lower (even if haddock limit is unlimited). Instead, they argue, customers from New York & New Jersey will

stop in Rhode Island where those outfits that fish on Georges Bank cod enjoy no bag limit at all.

Now this wouldn't be a big deal if a 10 fish limit had a meaningful effect on rebuilding cod. However, the latest figures show that anglers on party/charter boats only average landing 2 or 3 fish a trip. With such meaningless regulations, is it any wonder that rebuilding is taking so long?

Again, I think that the RAP needs to be more representative of the true recreational fishing community. However, the best solution would be to actually break up the RAP and assimilate it into the NEFMC Groundfish Advisory Panel (GAP).

Think about it. There is not a "Commercial Advisory Panel". Why? Because currently the GAP is a de-facto Commercial Advisory Panel. Whereas the RAP deals with relatively trivial internal issues such as bag/size limits for recreational fishermen, most of the truly meaningful deliberations on groundfish really come from the GAP – and, as far as I can tell, there is no truly recreational representation there.

I think it makes much more sense (and probably saves money too) to have the Groundfish Advisory Panel restructured so that there are appropriate proportions of all stakeholders on it so that it can forward more balanced recommendations the Oversight Committee, and inevitably the Council proper.

However, I do not think it would be prudent to double the size of the panel to accommodate all of the current participants, but maybe have it grow a little bit and let some folks step down from both panels in order to facilitate the consolidation.

RESPONSE TO PROPOSED AMENDMENT SIXTEEN**GENE SOCCOLICH****NEW ENGLAND FISHERIES MANAGEMENT COUNCIL MEETING
Fairhaven, MA December 7, 2006**

My personal response, germane to this meeting, is not as a direct stakeholder in commercial fisheries, or as a strategic advisor to the Port of New Bedford Business Alliance. I have spent the past thirty years, however, in high level employ within both government and the Hi-tech industry, much of which has been in the marine sector. My perspectives rather are based on a broad knowledge of how government and industry effectively operate, why commercial fisheries haven't seemed to, and what to my mind should be done. Of note, my comments may seem brutally direct, nevertheless, they are honest and directed toward resolutions.

You are here seeking proposals that provide closer links between allowable allocations and annual catch, moreover accountability for all catch. Mr. William Hogarth, head of NOAA, correctly has stated that, commercial marine fisheries must be run more as a business. He stated in his April 6th response before a House Subcommittee on an offshore aquaculture bill that, and I quote, "Business needs regulatory certainty in order to make sound investment decisions and obtain financing". His statement is true, and true for any industry especially in light of today's global economy. The overriding dilemma, however, and which brings us here today, to my mind is that our commercial marine fisheries are not being run more like a business because they are not being regulated as a business by the government.

The barrage of constant regulatory change by the government is the cornerstone of both problems within the resource and the fishermen whose lives depend on it. Most scientists tell us that we need ecosystem based management used to substantiate and justify regulatory action. We don't have it. We are left with what is called precautionary management, or in other words, educated guesses. The commercial fishermen are forced to react to emergency overreactions from previous governmental guesswork that has proven erroneous. Simply put, the best available science today does not provide the informational tools to regulate commercial fisheries as a business. Then again, the resource is federally owned, and the federal

government can control it as it pleases, possibly only having to choose whether or not to heed to pressure from unorganized small fishermen or powerful well financed conservationist lobbying groups. Some choice.

As far as your goals here today, from a business standpoint, in the absence of necessary baseline data, any method will be a crap shoot, hence I suggest that you strive to at least keep it as simple a crap shoot as possible. Once TACS are inevitably established, and similar to the recent conclusions of the European Union, you should consider setting a fixed annual percentile of perhaps only 10-15% that allows positive or negative deviation from that rate on an annual basis. The relatively small deviation would decrease the extreme amplitude of emergency or other economically devastating actions and would allow individual fishermen to better financially plan for their future, even whether or not to stay in or get out of the industry. The differential could be overridden should an individual species be deemed on the verge of collapse.

Secondly, as of this moment the groundfishing sector is awaiting the results of the first strawman test of the New England fishing vessel buyout program. I believe that vessel owners who decide to stay in the industry would be crazy to accept such financial liability without the inclusion of IFQs. The U.S. Treasury can be expected to demand payment. Candidly, I do not understand why such a buyout is being placed mostly on the backs of our fishermen, when other nations such as Australia, Norway and Canada have seen fit to provide government grants as opposed to loans that must be repayed.

Thirdly, ITQs, if incorporated, only should be allowed to those under the protective umbrella of local fisheries coops, wherein participation should be limited to a very small number of vessels for individual owners so as to preserve the longstanding character of the industry. To my mind, individual boat owners not operating within a coop will become a thing of the past because of the subsidized power of the global fishing economy, which provides some 70% of the seafood in the U.S. today. Fishermen generally do not become wealthy in a coop, but they do become more cost effective, more competitive, and more guaranteed to earn a living. Today, the industry has become far too much of a gamble. I long ago took note of a professor friend at M.I.T., who once told me that he was all in favor of greed, but that he hated stupid greed.

Lastly, I have present testimony to Congress which included specific mechanisms for managing by-catch and which I will leave with you. In summary, whatever by-catch is caught should be allowed to be marketed, but only as a tax credit to fishermen, not profit. The resource would be destined for the needy, where processors/distributors would be eligible for a similar tax credit. Such mechanism not only would generate replete information needed on by-catch being caught, but better destined for humanitarian purposes rather than a complete waste of the resource. The approach already has been tried and proven, and even strict conservationists should agree with the prospect.

In closing, as in most other businesses, many of the answer which you seek today comes down to – money. Our federal government does not want to directly subsidize our fishing industry like other nations. It has not come forth with any real vessel buyout program either. In direct contrast, however, it has seen fit to create the most stringent commercial marine fishing curtailment of any country in the world. Whether or not you believe in a God, in making important decisions I often find it helpful to simply wonder – what would God do? Thank you.

U.S. House of Representatives Subcommittee New Bedford Hearing April
25, 2006
Reauthorization of the Magnuson – Stevens Act

Testimony of Gene Soccolich,
Strategic Advisor to the Port of New Bedford Business Alliance

Having presented testimony to Congressional Committees on issues including commercial fisheries on behalf of the Commonwealth's political leadership some thirty years ago, it is a privilege to present testimony in direct behalf of the commercial fisheries interests of Massachusetts.

Reauthorization of the MSA has been delayed some six years seemingly due to very divergent viewpoints of involved parties. Although I have found those viewpoints most often quite skewed on the issue of appropriate management of the country's marine fisheries, they are at least in the right direction, which requires more cohesive perspective. Of primary note, only one of the major interested parties to the bill has a direct personal stake in its outcome - the commercial fishermen. Everyone else gets to go home to an unaffected family.

The major thrust from NOAA is that the fishing industry needs to become more of a business, a correct perspective especially in a global economy. The management actions of NOAA, with the authority hence responsibility for implementation of the Magnuson-Stevens Act since its enactment in 1977, have proven deficient, culminating first in promoting overcapitalization, and then constant regulatory changes and present day emergency measures in the other direction. No business could reasonably operate under such a barrage of constant regulatory change. NOAA, however, is comprised of government personnel with little direct business experience. Their intentions are good, but perhaps require more in-depth knowledge for more proper perspective

The conservation community of mostly attorneys has fought to preserve our fishery resource, yet has failed to equally fight for the conservation of the fishing community whose complete offshore dependency makes it an integral part of the marine environment. The conservationist major thrust has been to expedite resource conservation by faster curtailment of the fishing industry, yet without portraying any comprehension that the fishermen and their families do not have the financial capability to sustain such imposed hardship. Perhaps the conservationists believe that admitting to such perspective might weaken their case. Such elitist perspective, however, manifests almost no appreciation for the dire business consequences of such abrupt changes. Their ten-year goal to reach maximum sustainable yield is a completely arbitrary number. A truly justifiable timeframe would be one generation of fisherman, thirty-five years, or twenty-five since passage of the Sustainable Fisheries Act in 1996. The conservationist intentions are good, but perhaps also require more comprehensive perspective.

The **scientific community** has provided the best available baseline data which it possesses, and upon which NOAA bases the bulk of its regulations. Although much historical data indeed has been amassed, the scientists themselves also understand that the world's oceans are an extremely complex, dynamic environment. Historical data, in statistical format, mostly lends itself only to theoretical scientific conclusions. Credible predictions are impossible to make without replete, constantly updated, empirical data. Based on best available, albeit old and incomplete data, NOAA is charged with making interpolations and extrapolations down to the specific minute that a fishing vessel can fish. They don't have the tools to make those decisions. One is left with the old saying, "you have lies, damn lies, and statistics." They have done the industry one favor in recognition of their informational shortfall – they have not acted with dispatch for a long time in implementing the regulations. However, environmental lobbying pressure successfully has pushed them to the wall, and they are forced to play hardball, which the House and Senate hopefully will mitigate. Their intentions are good, yet again require more in-depth information for credible perspective.

Both House bills under consideration, and the Senate bill, which recently passed, strive to at least head in the right direction to address some of the shortcomings of these parties to the debate. My specific comments are as follows:

1. The semantic issue of using the words "depleted, diminished, or overfished" should take note that the United Nations FAO uses the word "depleted" based on the knowledge that there are additional possible reasons for the shortfall in commercial fisheries. These reasons include non-point source pollution, coastal commercial development, and even global warming. To negate these other factors presumptively would be an environmental injustice and a gross deficiency in the formulation of an adaptive ecosystem-based management.
2. Mandating "best available science" should include "and technology". Authorizing collaboration with the U.S. Dept of Naval Research, where most undersea technology development is budgeted, could greatly accelerate the process of developing an ecosystem based management program.
3. Ecosystem based managers develop very complex models upon which to base the effects of perturbations. The process necessitates an authoritative working consistency with the Marine Sanctuaries Act to complete the models and provide "best available science information". Consistency with NEPA, however, would not be necessary on a scientific basis, and also would only serve to bog down the decision-making process not conducive to such a dynamic environment and its demands for faster resource management adaptation. The same reasoning should apply to the Endangered Species Act.
4. The need for an increase in observers to provide updates to ecosystem based management should be obvious. Today, federal budgetary cuts have caused a shortfall in the number of observers, presently at some 5% of fishing vessels. The

Ecosystem based Management Working Group convened by NOAA in 2004 stipulated that number should be at least 20% to make ecosystem based management credible from which to make projections for regulatory purposes. The present low percentage of observers also strongly indicates the tenuous nature of the baseline data from which projections are made today, especially NOAA's emergency actions.

5. Bycatch – in addition to fishing and gear restrictions, a questionable amount of bycatch is still an issue. A pilot program should be considered to resolve a few concurrent issues, and whereby 20% of the vessels would have observers onboard. The vessel owners would pay NOAA to employ the observers, yet instead of discarding saleable bycatch, would be allowed to sell it in port. Another method for consideration would be for any owner to obtain only a sales receipt instead of payment, which could be used as a tax deduction, and the bycatch donated to a processing plant at another tax deduction, and for final distribution to the needy. Such process would greatly augment baseline data on bycatch, while concurrently serving a more humane purpose instead of wasting the resource.
6. Given the grossly insufficient, hence equally questionable nature of updated scientific data as noted, hard TACs are difficult to justify with any large degree of credibility. However, also given the world wide nature of the problem of fish depletion, and the generally accepted scientific belief that overfishing is at least a major cause, should hard TACS be mandated, it should be on a pilot project or trial basis first. The Ad Hoc premise would allow for a test market process, which by its nature allows for further change. Such process also would allow for testing the establishment of IFQs. Permanent ITQs could also be instituted during the test period, but only under the auspices of a Regional Fishing Association or Cooperative whereby only owners of perhaps up to four or five vessels or licenses would be allowed membership to preserve the integrity of the industry's character.
7. NOAA should conduct training programs within each region on forming Cooperatives for fishermen. Today's global economy, especially with government subsidized foreign fishing programs today reaching some \$12.6-15 billion, has proven most difficult for a small boat owner to survive without being under the economically protective umbrella of a Fishing Cooperative. Such voluntary Coops would administer IFQs from within their own bylaws, including provisions for Coop repayment of federal loans for vessel buybacks to sustain individual vessel owners who decide to leave the industry. Vessel reduction would be promoted, and the percentage of available resource would gradually increase for those who remain. As the New England Region has a very large latent vessel capacity, only active vessels should be allowed join a Cooperative. Norway's vessel buyback program reduced its fleet by 25%, which reversed depletion of its fish stock.
8. A New England aquaculture training program should be considered in the House bill, similar to the Specific Western Community Development Pilot Program proposed in section 109 of the Senate bill, and with a charge toward deep ocean farms as opposed to a state coastal orientation. Today, the United States imports some 70% of its

seafood, half of which is from aquaculture farms, which additionally provides some 40% of the world's supply. Of note is that the Senate Commerce Committee presently is working on a bill toward a fivefold increase in domestic aquaculture farms.

9. The U.S. Capital Construction Fund, which was meant to be used decades ago to offset Jones Act requirements, today is being used to expand fishing capacity by providing huge misallocated tax breaks mostly to large vessel owners and which promotes consolidation in an unfair manner. Such funds should be directed toward vessel buyouts, quota purchases or anything that does not increase fishing capacity. Analyses requiring further review and possible action should be conducted within similar provisions under the Small Business Association, Farm Credit System, Economic Development Administration and the Fisheries Finance Program.
10. Fishermen's Impact assistance within the Magnuson-Stevens Act pertained only to natural or uncontrollable human causes. The new bills finally include regulatory changes as a possible cause. However, it should be noted that Canada's Atlantic Groundfish Strategy (TAGS) provided \$1.9 billion for east coast Canadian fishermen and processing personnel who lost their jobs as a result of the downturn in groundfisheries from 1994-98, and it did not work. An additional \$750 million was provided afterward, yet the overall groundfish harvesting capacity was not reduced. Although over fourteen thousand people left the industry, there still remained a huge latent capacity. Impact Assistance needs much further analysis so as to be effective to provide for the financial assistance needed while better targeting a balance in legal industrial personnel. It also should provide for different yet related economic avenues to pursue, including future aquaculture and other progressive marine ventures.
11. Providing training for new Council members reminds me of the saying, "A little bit of knowledge is a dangerous thing". I never have heard of a newly appointed person to any governing board requiring training first. There should otherwise be a screening process that mandates that only candidates with broad in-depth knowledge could be elected equal to any decision-making capacity.
12. Public participation needs to be made more efficient when making decisions within the fishing industry. The industry and resource management require more decisive professionalism to work the problems, not unsupported guesses or emotional opinions, which only serve to convolute both efficiency and effectiveness.

I wish to thank the Committee for its consideration of these comments.

Respectfully submitted,

Gene Soccolich,
New Bedford, Massachusetts

COMMENTS ADDRESSING AMENDMENT 16
By Al Conti

Initial Statements

The DAS Program has not only failed to significantly rebuild targeted species, but created unjust access to the fishery, especially in SNE where cod stocks collapsed earlier than to the north and east. By using 1999-2001 for landings, most small SNE vessels were already out of the fishery which 10 years earlier was still viable but already declining. Nonetheless, sufficient landings by SNE vessels would still be achieved to qualify for A and B days if the landing time frame was moved back 10 years from 1999.

Possible Management Plan For the Future

A system of management could utilize a combination of allocating TAC by areas and gear type and using a simply point system to equalize specie effort and allowing no discards of legal size fish.

In the last buy back program, each existing permitted vessel was rated by size, horse-power, and fish hold capacity and assigned an indicator that represented its portion of the total fleet effort. Since then, the number of vessels in the fishery has decreased, changing the percentage of each existing vessel. It is important to note that those remaining that are still fishing today have maintained their investments in their boats, continued reporting landings, and found ways to survive under difficult conditions. Certainly, they deserve a stake in the fishery.

Initial baseline calculations should be determined by each vessel's representative portion of the qualifying total fleet effort. Adjustments for catch history, gear types, areas fished and other consideration could be factored into the final point allocation.

"C" day boats that have yearly reported landings of cod in any amount have demonstrated their continued participation in the fishery and should qualify for landing points; unlike some permit holders, these vessels are not latent effort permits. By qualifying these active "C" vessels, it would help maintain diverse gear types in New England Ports, especially SNE. Also it would allow for maintaining an infrastructure of vessels in the event stocks recover, complying with mandates stated in the National Standards of the Magnuson Stevens Act.

Taking Point Judith as an Example

A TAC would be established by adding the total percentages of permitted vessel capacity (as previously established) in Point Judith and then divided by gear type (dragger, gill net, and hook and line, charter-party boat) again by vessel percentage. Points would also be allotted on the same basis, which would then be consumed by landings based on Point values on each specie. Points could be transferred if not used by a vessel. This same process could be applied to each area in the NE. Surely there are potential problems, however an initial new approach has to start somewhere.

Pro's of the Plan

This management plan will fairly allocate available quota to vessels maintaining a more representative and diverse fleet and preserve their impact on NE fishing communities and supporting businesses.

Using this method of baseline calculation allows a fairer distribution of points, especially to those vessels who abided by fisheries managers request to concentrate on other species during the ground fish rebuilding period and to those vessels who received C days because of insufficient landings in those areas where the fishery had already collapsed.

It will allow vessels to target species at their own discretion.

It will decrease bycatch.

It can simplify enforcement when used with SAFIS since each vessel's landing would accumulate to its allotment and then not accept additional landings.

It would allow a fleet to exist if and when stocks recover. This would allow vessels with previous stakes in the fishery future access to quota and not be eliminated now and let some new entrant into a recovered fishery.

Brief Background

I have participated in the SNE cod fishery for over 45 years. Currently I operate Snug Harbor Marina in RI, providing services to the hook and line fisherman. Also I Chair the Fisheries Committee of The RI Marines Trades Association, comprised of over 200 businesses providing goods and services to boaters most of which are utilized for some degree of fishing. In addition, I own a 31-foot JC multi species permitted vessel with only C Days, and several other federal permits. 410 Gooseberry Rd , Wakefield, RI 02879 401-783-7766 fishsnugharbor@hotmail.com

December 22, 2006

John Pappalardo
Chairman
New England Fishery Management Council
210 Orleans Road
North Chatham, MA 02650

Paul Howard
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Via email to: comments@nefmc.org

Re: Scoping Comments of Oceana on Amendment 16 to the Northeast Multispecies Fishery Management Plan

Dear Chairman Pappalardo and Mr. Howard:

In the last decade, the New England Fishery Management Council has approved a series of management changes to the Northeast Multispecies Fishery Management Plan (“Groundfish FMP”) that lack real accountability for fishing mortality. As a result of ‘soft’ or ‘target’ catch limits, which are routinely exceeded, the management actions have failed to achieve the fundamental goals of fisheries management- rebuilding depleted stocks, reducing bycatch, and providing continued opportunity for the New England groundfish industry.

As you know, Oceana participated throughout the development, review and approval of Amendment 13 and continues to have serious concerns about the way that the fishery is managed under the Amendment 13 rules. Oceana is particularly concerned about the lack of accountability in the current days-at-sea (“DAS”) system.

As the Council moves forward with Amendment 16 to the Groundfish FMP and considers alternatives to the DAS management regime, the Council should adopt effective management measures which will rebuild depleted stocks, reduce bycatch, protect habitats, and minimize the effects of the fishery on the marine environment

Oceana puts forward the following management approach as a sensible alternative that provides real accountability to the public, including the ever-expanding group of stakeholders that are concerned with the health of New England’s groundfish fishery. This proposal, which establishes firm limits on catch and bycatch in the multispecies fishery as well as limits on groundfish bycatch incurred by other

fisheries, will improve the results of the council's management efforts. The results of similar management actions across the country show this to be an effective approach to managing fisheries. This proposal describes only the fundamental elements of a management system, which Oceana presents as concepts and measures to be further developed as the amendment process continues.

The Oceana Proposal is comprised of three key components:

- **Count-** all groundfish mortality
- **Cap-** Groundfish mortality at acceptable limits
- **Control-** Groundfish mortality at levels which are consistent with groundfish rebuilding plans.

I. COUNT: Amendment 16 Should Require Adequate Monitoring of Mortality and better accountability

To effectively monitor and control mortality, and consistent with the requirement in the reauthorized Magnuson-Stevens Act to ensure accountability for preventing overfishing, the Council must require adequate monitoring of the fishery. Amendment 16 must require a monitoring system including these elements to be successful.

A. Establish an Effective Method to Administer Mortality Limits

1. Allocation of Allowable Catch

Amendment 16 should divide the overall established allowable catch for a given stock by time periods and by area to maximize fishing opportunities and prevent a derby fishery from exhausting the allowable catch for a given stock for the entire year. The amendment should divide the overall allowable catch monthly, quarterly, or in other suitable time increments. Allocation of catch does not need to be uniform between time/area blocks.

B. At-Sea Observers with Reporting Mechanism

At-sea observers are recognized as the most effective method to monitor catch and bycatch in a fishery. The SBRM Amendment discusses at great length what benefits observers provide and also provides a thorough discussion of the levels of observers required in each 'mode' of the multispecies fishery to achieve reliable information about bycatch. Amendment 16 must use this information to *mandate* levels of observer coverage to assess bycatch at precise enough levels to manage the fishery using mortality caps.

C. Vessel Monitoring Systems

Vessel monitoring systems ("VMS") will provide crucial time and area information about how the multispecies fishery is prosecuted. Additionally, catch and bycatch data can be transmitted via VMS, which will improve the timeliness of fishery management. To date, VMS has been required for some, but not all programs within the fishery. Amendment 16 should require VMS across the fishery.

D. Real-Time Landings Reporting

Amendment 16 must require the use of real-time landings and bycatch reporting across the fishery. A fully developed reporting and monitoring system will allow the Fisheries Service to close areas when mortality limits are reached while continuing to provide opportunity to fish in open areas or target healthy stocks.

II. CAP: Amendment 16 should establish meaningful limits on fishing mortality

A. The Scientific and Statistical Committee Will Define a Binding Range of Options for Groundfish Mortality Levels

The Groundfish FMP includes fishing mortality rate goals to be attained for each fishing year for every groundfish species targeted under the FMP.¹ Under Amendment 16, and consistent with the reauthorized Magnuson-Stevens Fishery Conservation and Management Act, the Scientific and Statistical Committee (“SSC”) will establish alternative maximum allowable levels of total mortality for each stock of groundfish targeted under the Groundfish FMP, associated with an 80 (eighty) percent likelihood that the yearly mortality goals will be attained. These total mortality levels will include mortality from all vessels, including vessels fishing under other FMP’s. In establishing these likelihoods of success, the SSC will consider and account for all sources of uncertainty, including uncertainty in the measurement of total mortality from landings and bycatch data.

The Council will select the maximum allowable mortality level for each stock from among the options presented by the SSC, considering all relevant factors, including ecological, social, and economic factors, for what probability of success the Council should select. As explained below, these maximum allowable mortality levels will be allocated as caps among various fishery sectors and the vessels that catch groundfish in other fisheries.

B. Amendment 16 Will Define Binding Caps on Bycatch

In addition to mortality limits for groundfish species, the SSC will define catch limits for the following bycatch species:

1. Fish Species That Are Not Targeted Under the Groundfish FMP

Groundfish vessels catch many fish species that they are not authorized to target under the Groundfish FMP. National Standard 9 requires the FMP to minimize bycatch of *all* species. Amendment 16 should create standards for establishing bycatch caps for significant fish species that are managed

¹ Oceana recognizes that these mortality rate goals will be revised in Amendment 16 and its associated stock assessments. While Oceana urges the Council to adopt appropriately precautionary goals, this proposal focuses on how those goals are implemented.

under other FMPs. Stocks managed by other NEFMC FMP's, Atlantic States Marine Fisheries Commission, and the Mid-Atlantic Fishery Management Council are key examples of the need for these caps. Without appropriate accounting for bycatch, the success of these FMP's could be jeopardized by unaccounted for bycatch in the groundfish fishery.

In developing Amendment 16, the Council should refer to the work performed in conjunction with the Omnibus Standardized Bycatch Reporting Methodology ("SBRM") Amendment to identify groundfish fishing modes and fish bycatch in those modes. Amendment 16 should establish a system under which a groundfish fishing mode must have allowable catch allocated to it, for each fish bycatch species, in the periodic catch specification process for the FMP that manages that species. These allowable catch levels would serve as caps under Amendment 16.

2. Protected Species

The Magnuson-Stevens Act requires that Amendment 16 be consistent with all applicable law, including the Endangered Species Act and the Marine Mammal Protection Act. Accordingly, Amendment 16 should establish a mechanism to set maximum catch limits for protected species.

a. Endangered and Threatened Species

Amendment 16 should establish a system under which the maximum allowable catch for any endangered or threatened species, including sea turtles, should be no greater than the anticipated take level set forth in the applicable biological opinion. If there is no anticipated take level, the maximum allowable catch should be zero. This provision would mainly apply to sea turtles – as described below, marine mammals should be treated differently. The Council should be free for relevant policy reasons to set a cap lower than the maximum allowable catch.

b. Marine Mammals

Amendment 16 should require that the Fisheries Service calculate maximum allowable catch levels for each marine mammal species that is taken as bycatch in the groundfish fishery. These bycatch limits should consider the applicable Marine Mammal Protection Act goals for each species and the relative proportion of takes expected to be incurred by the groundfish fishery. Amendment 16 should provide that these maximum allowable catch levels would be set as caps on catch.

3. Closure When Allowable Catch is Achieved

The Fisheries Service will monitor total mortality (both landed and bycatch). When a catch limit is met for a given stock area and time period, fishing will cease in that area until the catch for the next time block becomes available.

4. Accounting for Exceeding the Mortality Limit

If a mortality limit is exceeded in an area and time period before that area is closed, the applicable catch will be deducted from the allowable catch for that area in the next time period. If necessary, the deductions will be taken from future time periods until the overage is used up and fishing can resume.

III. CONTROL: Amendment 16 Should Provide Incentives for Allocating Allowable Catch Among User Groups

As an incentive for gears, sectors, and other user groups to fish responsibly and within acceptable limits, and consistent with the reauthorized Magnuson-Stevens Act, the Council should consider allocating the overall mortality limit among gears, sectors, and areas. This allocation will encourage cleaner fishing within a given gear and discourage the use of non-selective gears at the risk of premature closure of a fishery. In addition, Amendment 16 must allocate allowable bycatch to vessels in other fisheries that bycatch groundfish.

A partial example of the kind of mortality division that could be done under this system is set forth in the table below. Each cell would have a set value of poundage that would trigger a closure in that gear and time/area combination.

	GB Cod			
Fishing sectors	Spring	Summer	Fall	Winter
Offshore large trawlers (> 75 ft)				
Inshore mid-sized trawls (40-60 feet)				
Inshore bottom longlines/jig (30-40 ft)				
Inshore longline/jig				
Inshore mid-sized gillnets (30-45 ft)				
Offshore groundfish gillnets				

This proposal leaves to the Council how to determine the precise allocations.

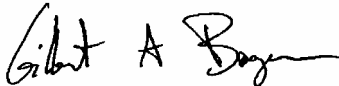
In addition to providing allocations for the various sectors and modes within the groundfish fishery, the Council must also allocate mortality to the other fisheries which bycatch stocks of groundfish.

Pappalardo/Howard
Multispecies Scoping Comments
December 22, 2006
Page 6 of 6

Without considering these outside sources of mortality, the Council risks the overall success of the FMP.

Thank you for your consideration. We look forward to participating in the Council process as this proposal is more fully developed in the coming months. If you have any questions or require more information, please contact me at 781-489-5383 or by email at gbrogan@oceana.org.

Sincerely,

A handwritten signature in black ink that reads "Gilbert A. Brogan". The signature is written in a cursive style with a large initial "G" and a long, sweeping underline.

Gilbert Brogan
Campaign Projects Manager
Oceana
Wellesley, MA

A Multi-species Management Proposal Incorporating Stock Stewardship Shares

1.1. This proposal accomplishes the following objectives:

- 1.1.1. Shifts groundfish management from input control to output control;
- 1.1.2. Creates accountability for the impact of each individual's catch on the fish stock;
- 1.1.3. Creates an incentive for individuals to apply a higher level of conservation than is required for the fishery as a whole;
- 1.1.4. Incorporates two avenues of flexibility for individual permit holders:
 - 1.1.4.1. The proposal provides flexibility to individuals to conserve less than is required for the fishery as a whole, but makes the consequences of that decision explicit to the individual and prevents that decision from affecting the overall conservation program. This provision recognizes that individuals differ in their ability to survive at catch levels that meet the required standard of conservation for the fishery as a whole.
 - 1.1.4.2. The proposal provides flexibility through short-term trading of annual TACs and long-term trading of stock stewardship shares.

1.2. This proposal recognizes the following realities:

- 1.2.1. The essential requirement for conserving a fish stock is to leave fish in the water.
- 1.2.2. A permit holder can currently lease or sell DAS to be used to take any catch mix that is possible under rules that apply equally to all DAS. DAS are not currently identified with any particular species.
- 1.2.3. Every DAS has an asset value that depends on its potential to be used in the most profitable segment of the fishery, taking into consideration its baseline characteristics and upgrading potential.
- 1.2.4. The asset value of a DAS exists independently of whether the DAS is currently being used. Unused DAS represent foregone income by the owner. That foregone income is essentially distributed among the owners of DAS that are used. To the extent that unused DAS cause less fish to be caught, they also represent an investment in conservation that will lead to an increase in value of all DAS.
- 1.2.5. Trading of permits and DAS have destroyed any connection between a particular DAS and the catch history on which a particular DAS was initially based.

1.3. Allocation of TAC:

- 1.3.1. Determine the total effective fishing capacity of the outstanding multi-species permits using either the formula for effective fishing potential developed by NMFS for the last groundfish permit buy-out, or a similar formula that establishes relative fishing capacity.
- 1.3.2. Allocate shares of the TAC of each multi-species stock to each permit holder in proportion to the percentage of the total effective fishing capacity represented by each permit. Each permit holder receives a portfolio of TAC shares that can either be harvested, traded, or conserved, as explained below.
- 1.3.3. TAC shares represent the annual available catch based on the legally acceptable standard for stock rebuilding or maintenance.

1.3.4. Allocation of TAC shares should take place 6-12 months prior to the date on which output controls will become effective.

1.4. Make the connection between TAC shares and the corresponding stock biomass:

1.4.1. Connect each TAC share to the proportionate share of the underlying stock biomass that was used to establish the TAC.

1.4.2. In contrast to TAC shares, which represent annual available catch (dividend) at a standard level of conservation, stock shares represent the underlying principal account that produces the dividend. The allocation of stock shares creates a clear connection between an individual's catch, the impact of that catch on the size of the stock for which the individual is responsible, and the impact of a change in stock size on the ability of the stock to produce future catches.

1.5. Offer Permit Holders Flexible Conservation Options:

1.5.1. Permit holders submit stock utilization plans based on one of the following three options at least nine months prior to the start of the fishing year.

1.5.2. Option 1 – Dividend Reinvestment – the permit holder identifies a portion of his TAC that he wishes to leave in the water to contribute to the growth of his stock, which will accrue to the permit holder's individual stock account. For stocks in need of rebuilding, larger stocks will produce larger TACs in the future. For stocks that are at their MSY level of abundance, larger stocks will not generally produce larger TACs.

1.5.3. Option 2 – Dividend Withdrawal – the permit holder opts to harvest all of his available TAC shares.

1.5.4. Option 3 – Stock Drawdown – the permit holder submits an application to harvest all of his TAC shares plus a portion of his stock. Approval of stock drawdown applications are conditioned on the submission of dividend reinvestment applications that balance the stock drawdown applications, so as to meet the legal conservation requirement for the stock as a whole. In the event that stock drawdown applications exceed dividend reinvestment applications, each stock drawdown application would be adjusted proportionally to achieve the legally required level of conservation.

1.6. Stock Accountability Accounting:

1.6.1. Each permit holder's stock account would increase depending on the scientifically determined growth rate (not absolute growth) for the stock as a whole, applied to the individual's stock account, and decrease as a result of the permit holder's withdrawals (catch).

1.6.2. Each permit holder's standard TAC in subsequent years would reflect the overall acceptable fishing mortality rate applied to each individual's stock account.

1.6.3. A permit holder who makes a catch for which he does not have an allocation would have a period of time in which he could cover the catch by acquiring TAC. In the meantime, that individual would have a negative balance in the associated stock.

1.7. Ancillary measures:

- 1.7.1. Eliminate legal minimum size.
- 1.7.2. Eliminate trip limits.
- 1.7.3. Eliminate closed areas for which the sole purpose is control over fishing mortality on a multi-species stock.
- 1.7.4. Establish a full-retention policy for the allocated multi-species stocks.

Rationale

Both the multi-species fishing industry and the fishery management system have indicated an interest in exploring output control systems that would replace the current system of days-at-sea (DAS). The New England Fishery Management Council has also specified that any new management proposal “should include a mechanism for accountability, for all permit holders, of all catch of all stocks (managed under the Northeast Multispecies FMP) caught during his/her fishing operation regardless of allocation.” The fishing industry and their political representatives have also made repeated appeals for a system that incorporates flexibility. This proposal does all of the above.

The fundamental difference between this proposal and others is the individual accountability that each permit holder has for the portion of the stock biomass that creates his/her catch. No other fishery management system provides an equivalent incentive for an individual to conserve more than is required by the overall fishery management plan. Equally important, no other fishery management system makes a direct connection between an individual’s current catch, the impact of that catch on the size of the fish stock, and the subsequent impact of the size of the fish stock on its ability to produce a future catch. Stock stewardship shares can be thought of as interest-bearing ITQs, but that terminology obscures the interaction between the catch and the underlying stock. Stock stewardship shares provide flexibility to permit holders in the degree of conservation which they apply to their stock share, while maintaining continuing individual responsibility for the individual’s conservation decisions.

This proposal does not pose any administrative, scientific, or legal obstacles that are different from those that must be addressed in any effective fishery management plan.

Submitted to the New England Fishery Management Council by Richard B. Allen,
December 28, 2006.