



New England Fishery Management Council

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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 The PDT did not discuss the Downeast Initiative because they were advised that this has been withdrawn from consideration in Amendment 16.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.

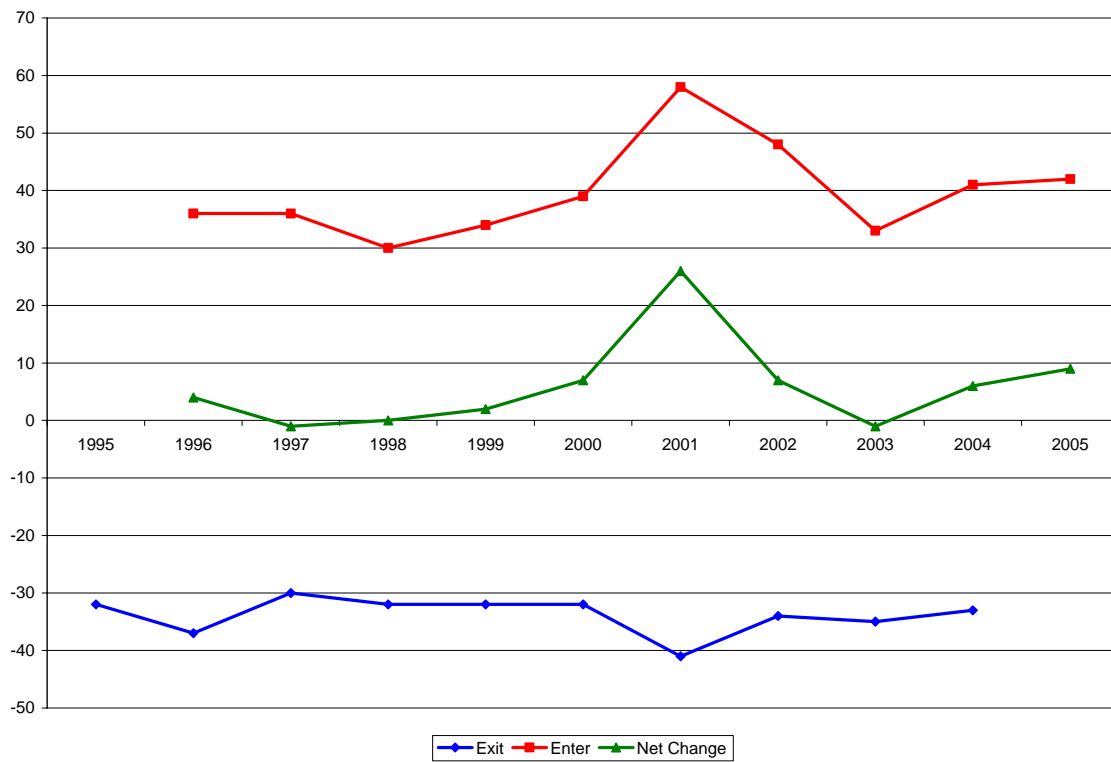


Figure 1. Annual number of entry and exiting vessels carrying passengers for hire in the Gulf of Maine

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:

- NESCC 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 needed 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.