

**MAINTAINING FLEET DIVERSITY
IN THE NEW ENGLAND GROUND FISH FISHERY**

**By
The Northwest Atlantic Marine Alliance**

**To
The New England Fisheries Management Council**

**RE:
The Workshop to Address Fleet Diversity and
Excessive Consolidation in the Groundfish Fishery**

June 5, 2011



SUMMARY

The Northwest Atlantic Marine Alliance applauds NEFMC for undertaking a workshop to address Fleet Diversity and for taking a broad look at relevant issues and options.

Research shows that in Catch Share examples around the world, consolidation has occurred as a virtually inevitable by-product. Once consolidation happens, it can be difficult or impossible to reverse. Similarly, evidence of consolidation in New England groundfish sectors continues to mount. The remaining question becomes: how much consolidation is acceptable, in what portions of the industry, and at what rate?

Research also demonstrates that no single regulatory mechanism or incentive is likely to stop consolidation. A number of carefully-crafted mechanisms and incentives, implemented as a **comprehensive approach, and tied directly to specific fleet diversity goals**, may be more effective in reaching management objectives. This also includes the assessment of program success and opportunities for subsequent adaptive adjustment in response to future changes in the fishery.

The following pages describe some of the available options to achieve the Council's goals to maintain a diverse fleet and prohibit excessive access to the resource, as summarized in the NEFMC Motion of June 23, 2010:

1. Maintain inshore and offshore fleets;
2. To the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation;
3. Maintain a balance in the geographic distribution of landings to protect fishing communities and the infrastructure they provide; and
4. Prohibit any person from acquiring excessive access to the resource, in order to prevent extraction of disproportionate economic rents from other permits holders.

With this in mind, we recommend consideration of the following options:

1. **Allow for quota set-asides that invest in fishing communities and allow affordable access for new entrants.**
2. **Foster an affordable fishery through leasing policies and costs that do not disproportionately impact portions of the fleet.**
3. **Create owner-operator incentives.**
4. **Limit the concentration of quota.**
5. **Work toward longer-term changes in a management approach that will facilitate a more incentive-based strategy for maintaining fleet diversity, including spatial management and market considerations.**

We urge that workshop participants consider any proposed options against the entire slate of goals. **No single option can meet all of them.** Rather, like a toolbox, each option may help to reach one or more goals, each will do some jobs better than others, and they will prove more effective if implemented jointly.

QUOTA SET-ASIDES

Quota set-aside programs can and have contributed to the success of Catch Share programs around North America. Quota set-asides can offer certain ecological and socio-economic advantages and contribute to the following NEFMC goals:

- Support fleet diversity by allowing disenfranchised fishing communities to continue participation in the fishery.
- Incentivize conservation measures and fishing practices, for example gear modifications, to align with management's ecological goals.
- Allow for new entrants to have affordable access to the fishery.

Examples of Quota Set-Asides:

- The Alaska Groundfish, Halibut, Crab, and Salmon fisheries utilize a Community Development Quota (CDQ) program. In 2009 between 7.5% and 10% of the TAC was set aside. 65 communities participated. The program generated \$110 million in wages, education, and training benefits as well as \$500 million in revenue to fund docks, harbors, and construction of processing facilities.
- The Canadian Pacific Groundfish Fishery sets aside 10% of the TAC to a crew protection program and 10% to a community development program.
- The US Pacific Groundfish fishery sets aside 10% of the TAC for an Adaptive Management Program (AMP), which is used to mitigate unintended impacts of the new system on communities and processors.
- The Alaska Halibut and Sablefish Fishery sets aside a Community Quota Entity (CQE) program that allows marginalized communities to purchase quota from the federal government at current market rate and then lease back to local residents.

Example of how a Quota Set-Aside Program might look in New England:

10% of the TAC is set-aside for the purposes of mitigating the 'unintentional' consequences of Sector Management and leading managers closer to their goals and objectives. Quota set-asides can be tied to an increase in TAC. The set-aside can be distributed in many ways and is a very flexible tool for fisheries managers to direct effort toward defined goals. Set-aside recipients may include:

- Community Fishing Associations (CFAs) that meet NEFMC approved criteria
- Permit Banks that align with NEFMC goals and objectives
- Fishermen who meet NEFMC approved criteria
- Qualified new entrants such as crew

Prognosis for success or failure

- Quota set-asides work best as an incentive program to direct the fishery to a desired outcome
- Quota set-asides alone cannot ensure a diverse fleet
- Quota set-asides prove to be a highly adaptive tool that can be used in conjunction with other management measures to address a variety of goals

FOSTER AN AFFORDABLE FISHERY

Problems that face New England fishermen because of the high cost of leasing include:

- High costs are preventing anyone with a low initial allocation who hopes to continue to fish from being able to do so.
 - Punishing part-time groundfishermen (because their allocation is lower, their variable costs of quota leasing are higher than for fishermen who received a larger allocation.)
 - Resulting in minimal profit for fishermen who depend on leasing
- Punishing those who target the most valuable stocks, especially GOM cod (particularly fixed gear fishermen)
- Rewarding absentee quota owners who can lease for profit without fishing
- Rewarding those who have a large initial allocation, and providing an incentive to lease rather than to fish.
- Disproportionately rewarding those who land a large volume of fish,
 - Rewarding those who catch large volumes of other stocks (dabs, redfish, hake, etc.)

Example 1: Gillnetter from New Hampshire

If he leased out all of his quota, he would make \$90,000 – without fishing. To earn the same amount from fishing, after paying for crew, gas, insurance, maintenance, and other costs, the price for his fish would have to average \$2.15, whereas his average price in 2009 was \$1.50. He loves fishing and wants to continue, but the incentive to be an “armchair” fisherman is overwhelming.

Example 2: Jig fisherman and longliner from the South Shore, MA.

He fished with his father for years, and bought a permit with DAS but poor catch history a few years ago. Because of his low initial allocation, he has to lease a large amount of his fish. He targets cod, but can only afford to pay 75 cents per pound. Members in his own sector are reluctant to lease to him because they can make nearly double that price by leasing to fishermen in other sectors.

Prognosis for success of failure

- One possible outcome: Researchers studying the halibut fishery in British Columbia, found that 79% of the quota was leased out instead of being fished by the quota owners, and more than half of the operating vessels leased more than 50% of their catch (2009). The crew fared even worse. They lost 73% of their share between 1990, when catch shares started, and 2007. ¹
- An alternative to achieve a successful Catch Share program: Last year, Ecotrust published “Fair Catch: Ten ways to improve the catch share proposal for the West Coast trawl fishery,” outlining economic, social, and ecological recommendations for that fishery, including:
 - “Foster an affordable fishery by limiting quota to active fishermen”, and
 - “Regulating quota leasing to prevent unfair profiting from absentee quota ownership, and to prevent perpetual leasing.

¹ Pinkerton E, Edwards D. The elephant in the room: The hidden cost of leasing transferable fishing quotas. Marine Policy 33 (2009) 707-713.

OWNER-OPERATOR INCENTIVES

Carefully constructed and implemented owner-operator provisions can act to directly limit consolidation and promote fleet diversity.

The NEFMC goals directly acknowledge and affirm the value and importance of preserving owner-operators as part of a diverse fleet. Owner-operated firms were the norm in our groundfish fishery until recent years. Owner-operators tend to be family and community-based, with long term interests that foster stewardship of the resource, the marine environment, and coastal communities. These firms offer certain ecological and socio-economic advantages:

- Promoting owner-operator provisions supports federal standards requiring the sustained participation of small owner-operated fishing vessels and fishing communities
- Owner-operators are more likely to hire local crew, contract with local shoreside services, and spend fishing profits locally, thereby supporting local communities and regional economic development. They also tend to be more spread out, supporting the geographic distribution of landings to protect fishing communities and infrastructure
- Owner-operators, especially those with smaller boats, pay closer attention to what is going on in the fish populations and marine ecology. This knowledge is deeply useful to society's understanding of how the marine ecosystem works and is key for adaptive and eco-system based management,
- Because owner-operators often have relatively small firms, in aggregate they can adapt to changes in ecological and economic conditions more efficiently than a smaller number of larger firms.

Examples of owner-operator incentives for New England:

A number of options could incentivize the retention of an owner-operator portion of the fleet, each with a different balance of benefits and limitations. Among them are:

- Reward owner-operators, such as by annually allocating a pool of quota set-aside for that purpose. (See also "Quota Set-Asides")
- Reward permit or quota transfers by lease or sale from a non-owner-operator to an owner-operator.
- Penalize permit or quota transfers by lease or sale from an owner-operator to a non-owner-operator.
- Revert permits or quota that is not owner-operated for some number of years (whether unused or used by non-owner-operators) into a general pool for reallocation.

Prognosis for Success or Failure

- Owner-operator provisions can work in conjunction with other diversity measures to support NEFMC goals.
- If other market and management conditions allow incentives for consolidation and vertical integration of the industry to rise, the spirit of owner-operator provisions can be circumvented by ostensible owner-operators who rely on financing from processors or other investors, and thereby lose autonomy in business decisions. Correspondingly, some benefits of the owner-operator firm structure outlined above would also be lost.
- Maintaining an owner-operator portion of the fleet can help support the Council's longer term scientific and management goals

QUOTA ACCUMULATION RESTRICTIONS AND ALLOCATION MEASURES

Decisions about the allocation and accumulation of quota and rules governing its transfer will determine what the fisheries and fishing community economies will look like for any system of fisheries management that is based on catch limits, such as sectors in New England. Allocation measures and accumulation restrictions determine which boats and which ports survive, and thus who fishes. They can also be used to determine the diversity and distribution of the fleet, and will also affect the diversity and distribution of fish species and populations. Allocation measures may support the following NEFMC goals:

- Prevent excessive consolidation of the New England fishing fleet that results in fewer small scale fishing boats and fewer fishing ports.
- Contribute to the vitality and diversity of fishing communities and the New England fishing fleet.
- Help conserve and recover the natural distribution of fish populations and biological diversity.

Possible allocation and accumulation control measures for New England

- Accumulation caps: establish limits on ownership of quota to prevent the amassing of quota into the hands of a few entities (caps of 2%-10% of TAC are typical in other regions and the appropriate effective level would have to be determined for New England and possibly for different sections of the region);
- Transferability: limit accumulation through rules on quota transfers. (See also “Foster an affordable fishery”)
- Prohibit quota ownership by non-fishing entities, other than approved permit banks, and quota never to be traded for investment purposes.
- Re-evaluate allocation formulas once clear goals and objectives have been defined for the New England fishing fleet as a whole (e.g. through a visioning process) and ecosystem based fisheries management is implemented.
- Consider allocations for defined nearshore waters: boats over a specified length not eligible to receive nearshore allocation. (i.e. divide the inshore and offshore fleets to conserve fleet diversity, see also “Long term measures to support a diverse fleet”).

Prognosis for success or failure

- Limiting accumulation of quota, through caps and/or transfer rules, can preserve the small boat fleet while allowing the program to gain momentum without consolidation.
- How long accumulation limits are needed or whether they should be more restrictive in the beginning is something that must be assessed with respect to clear goals and objectives for the fleet (i.e. adaptable to outcomes).
- Quota accumulation caps alone won't stop consolidation if other measures are not in place, because there are ways to fool the system.
- In particular for New England issues around allocation percentages are difficult due to the variety of species associated with each permit.
- Allocation formulas can enable flexibility for ecosystem based fisheries management.
- Incentives to divide offshore and nearshore fleets will significantly reduce consolidation and enhance fleet diversity.

LONG TERM CONSIDERATIONS FOR ENSURING A DIVERSE FLEET

The effectiveness of most options under present consideration to prevent or slow consolidation and loss of fleet diversity (including those supported here by NAMA) will depend on how powerful the financial incentives become to circumvent the spirit of any implemented regulations, limits, or incentives. If anticipated profits from consolidation and vertical integration of harvest and processing sectors are high, highly capitalized firms will find ways around the best-intentioned rules or restrictions. As groundfish stocks and market value grow, more capitalized firms will become more motivated to control not only processing activities, but also harvesting activities. They might seek to be legally recognized as owners of boats, or as owners, lessors, or lessees of catch shares; or they may seek to control boats and shares through financial arrangements with owners, lessors, and lessees, without taking legal ownership. Consolidation-related socio-economic and ecological impacts could be similar under either scenario.

The following policy options would dis-incentivize undue groundfish industry consolidation, including through non-ownership financial investment, without intervening directly in share allocations. They can be considered as longer term, more enforceable, and less administratively burdensome options, especially if short-term options are implemented in the interim. If some level of consolidation is inevitable under catch shares, it makes sense to also ensure opportunities for smaller firms are secured for the future of the fishery.

Create smaller-scale fishing and management areas

Creating separate fishing and management areas can help discourage industry consolidation. Creating two areas, one inshore and one offshore, would discourage consolidation of the fleet and shoreside portions of the industry. Creating a few smaller areas would more strongly discourage consolidation.

Additionally, emerging scientific consensus supports finer scale management of groundfish populations. Creating protections for the nearshore fleet such as, share set-asides, smaller-scale leasing opportunities, owner-operator incentives, or share accumulation limits would help discourage consolidation among the nearshore fleet, and support management objectives such as protecting spawning aggregations.

Although the offshore and inshore fleets might continue to consolidate if managed separately, incentives to consolidate inshore would be limited to some extent. Reasons for this are several. Among them:

1. Larger boats do not necessarily outcompete smaller boats over time when fishing inshore, partly due to the seasonal availability of inshore groundfish populations, and partly due to the lower fixed costs of running and maintaining smaller boats.
2. Inshore groundfish populations and a smaller boat fleet area is less attractive to vertically integrated fish processing and distribution systems likely to consolidate fleet ownership, partly due to the seasonal availability of fish product, and partly due to the greater difficulty of consolidating ex-vessel markets among a larger number of smaller boats in a larger number of smaller harbors.

3. If small firms no longer anticipate that their businesses and shares will be consolidated by larger firms, they can invest in the longer term stewardship of the resource, and are more likely to support resource conservation measures.

Transparency in the leasing and sale of quota

Requiring the full disclosure of transactions of leased or sold quota supports the principles of a free, fair and open market. Fishermen who know the prices being paid for quota can make informed decisions about investing or divesting their allocations. Fishermen are not only used to watching and timing the market for price fluctuations, one could argue it is an essential skill of a successful fisherman.

A free, fair and open market also supports the goals of maintaining a diverse fleet by preventing entities from depressing or inflating prices in order to manipulate the dockside and/or quota market. Those in favor of a free market approach to fisheries should also support an open and fair market that does not favor one group over another.

Allocation by location, conservation and scale

Current allocation is based on history. Other factors can and should be included in allocation formulas to meet the goals and objectives of fisheries managers. A more diverse combination of allocation parameters will naturally serve to support the goals of maintaining a diverse fleet. Using additional parameters could also balance and rectify the perceived inequities of allocation by history alone.

- Scale-based allocation: Spatial distribution of quota that corresponds to scales of ecological parameters and distribution and movements of subpopulations of fish;
- Conservation-based allocation: Distribute spatially-based quota among those sectors with fishermen who have demonstrated fishing habits and methods guided by principles of conservation;
- Location-based allocation: Allocations based on distribution of fish populations and not transferable to other populations.

APPENDIX A: STATED GOALS AND OBJECTIVES.

COUNCIL MOTION

On June 23, 2010, the New England Fishery Management Council passed a motion stating the following goals related to the issues of diversity and consolidation:

- A.** 1) Maintain inshore and offshore fleets;
- B.** 2) To the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation;
- C.** 3) Maintain a balance in the geographic distribution of landings to protect fishing communities and the infrastructure they provide; and
- D.** 4) Prohibit any person from acquiring excessive access to the resource, in order to prevent extraction of disproportionate economic rents from other permits holders.

MULTI-SPECIES FMP AMMENDMENT 16

- E.** Goal 2) Create a management system so that fleet capacity will be commensurate with resource status so as to achieve goals of economic efficiency and biological conservation and that encourages diversity within the fishery.
- F.** Goal 3) Maintain a directed commercial and recreational fishery for northeast multispecies.
- G.** Goal 4) Minimize, to the extent practicable, adverse impacts on fishing communities and shoreside infrastructure.
- H.** Goal 5) Provide reasonable and regulated access to the groundfish species covered in this plan to all members of the public of the United States for seafood consumption and recreational purposes.
- I.** Obj 7) To the extent possible, maintain a diverse groundfish fishery, including different gear types, vessel sizes, geographic locations, and levels of participation.

MSA AND NATIONAL STANDARDS

- J.** NS 4) Allocation fair and equitable
- K.** NS 5) Promote efficiency
- L.** NS 7) Minimize costs
- M.** NS 8) Minimize impacts to fishing communities
- N.** NS 9) Minimize by catch
- O.** NS 10) Promote Safety

Section 303A, Part (d)(5)

- P.** Promote the sustained participation of small owner-operated fishing vessels and fishing communities
- Q.** Address excessive consolidation
- R.** Quota set-asides for entry-level and small vessel owner-operators, captains, crew, and fishing communities
- S.** No excessive shares