

AMENDMENT 13 FISHING INDUSTRY ALTERNATIVE

Industry stakeholders submit this alternative after careful consideration of the present DEIS, Amendment 13 document and the legal, biological, scientific and economic realities of the present situation.

We have considered the economically and biologically wasteful implications of individual stock Hard TACs on this multispecies fishery.

To appreciate the spirit of this proposed alternative, one must consider the following:

In order to implement an output control system (hard TACs) an extensive suite of input controls would have to be implemented. The realities of this multispecies complex and the current gears and fishing platforms that comprise the existing fleet, are that the fishery would never even approach Optimum Yield on most stocks before a complete shutdown of the areas occurs.

Some would say that the only way to resolve this issue is to allocate Individual Fishing Quotas (IFQs). What input controls would have to be adopted to prevent fishermen from catching species for which they have little or no quota? Theoretically, even if the Total Allowable Catch (TAC) for a given species **had not been reached**, the vessel who inadvertently catches that species without having adequate quota would be mandated to discard it. This is what is happening all over the world in multispecies fisheries that have gone to IFQ / hard TAC systems. Many European countries are considering reverting back to Days at Sea and other input control systems.

Dr. Andrew Payne, chairman of the recent Peer Review Panel testified that the leading fisheries scientists in the world are heading towards ecosystem management for multispecies complexes.

The present input control system has produced dramatic increases in fish stocks since Amendment 5. It is tolerant to a multi species fishery in that it allows fisherman to retain legal sized fish of various species limited by daily trip limits and days allowed to fish. The present effort control system continues to support a relatively diverse fleet of vessels, gear types, fishing ports and communities.

But this system has its limitations. Present interpretation of the law has forced managers to reduce effort by reducing Days at Sea allocation to accommodate mortality targets for the weakest link in the complex. This has had many negative social and economic effects. It has also severely damaged the fleets ability to harvest Optimum Yield on many stocks due to the broad stroke nature of days at sea reductions. To worsen the situation, not only have more

fishing operations become unprofitable but those who remain are forced to fish on the very stocks that the measures were meant to protect. Cod returns a high dollar value, is generally concentrated in predictable areas and can be caught relatively close to port. Since Days at Sea are very limited, a fisherman is left with little choice but to target Cod in order to increase the profitability of each DAS. They have been forced by economic necessity to fish on stocks they would otherwise avoid if additional fishing opportunity days were available.

To this issue we have concluded that it is time to modify the existing effort control system in order to provide incentive to avoid stocks needing reductions in mortality and opportunity days to travel to areas where healthy stocks could be harvested at much higher levels.

The undersigned fishermen are committed to evolve with our present effort control system to accommodate the present legal framework and to promote the concept of modified fishing behavior / choices mindful of individual stock rebuilding goals.

The fact is that we are presently under yielding three major stocks, Georges Bank and Gulf of Maine haddock, and Georges Bank Yellowtail flounder. These three stocks could sustain an additional harvest of an average of nearly 50% at status quo fishing levels. Winter Flounder and Pollock are also underutilized by nearly 50% combined. If additional DAS reductions are taken, these underutilization rates would skyrocket.

This situation should dispel the notion that this fleet has too much capacity. This is a policy decision that the industry stakeholders should be the best judge of. We refuse to be forced to conform to a policy that is committed to consolidation solely for the purpose of consolidating. We have borne tremendous burden and sacrifice to rebuild the very stocks we cannot access do to the inflexibility of the system. There now exists sufficient resource on many stocks to mitigate the loss of income and yield from stocks we are committed to rebuilding. What is needed is a shift in effort from stocks requiring reductions in yield to stocks that can clearly support much greater harvest.

In order to begin to understand the reasoning behind the program described in detail below, managers must begin the evolution process along with the harvesters. If we are truly committed to being progressive in improving the effectiveness of management measures towards achieving the biological goals, we must release our grasp of knee jerk, negative responses to the notion that fisherman can not modify their fishing practices to minimize bycatch of untargeted species while concentrating effort on healthy stocks.

We must all ask ourselves this question: "If I could implement my preferred management system for this fishery, what input controls would I use to insure near 100% efficiency and utilization (OY) while minimizing bycatch?"

We believe that the honest answers would include a system that offered many choices and opportunities and allow fisherman to modify gear, choose areas and avoid strict limitations on variety of catch. Economics will drive sound fishing practices when there are alternatives and choices available to fisherman.



PROPOSED ALTERNATIVE REGARDING AMENDMENT 13

In General

- 1) NSC fundamentally rejects the options and alternatives set forth in the Amendment 13 document (DSEIS) as currently constructed. The following management scenario is recommended as an alternative provided that each of the following elements is implemented as described. Support for this proposal is entirely contingent upon the implementation of the complete package of elements; the elements are not severable.
- 2) A fundamental premise of this proposal is that the Amendment 13 options and alternatives as currently constructed fail to provide sufficient measures to offset their severe social and economic impacts. This proposal recognizes the need to apply a greater level of input controls on the fisheries in order to achieve the necessary reduction in the fishing mortality rate on those stocks for which rebuilding is critical. In order to offset the unacceptable social and economic impacts of such greater input controls, this proposal demands increased fishing opportunities to harvest the full optimum yield of those stronger stocks which can sustain greater mortality and yields.

Therefore, support for this proposal is entirely contingent upon the adoption of a provision in Amendment 13 which ensures that **no additional net reductions in Days At Sea (DAS) beyond those that were implemented as a part of the Interim Final Rule** will be implemented with respect to any of the fisheries until such time as there are implemented Special Access programs and sufficient in scope and magnitude to offset the impacts of such additional DAS reductions. This document includes a modification of the existing DAS system to be implemented to mitigate lost opportunity days with the use of "voluntary use of restricted trip limit days" to be reviewed on an annual basis.

This alternative reclassifies Days At Sea for the purpose of targeting healthy stocks to mitigate the reduction in effort on stocks requiring reductions to meet the objectives of the adaptive rebuilding strategy.

Rebuilding Strategies

1) Implement the 'Adaptive Fishing Mortality Strategy' as the rebuilding program for each of the following stocks for which rebuilding is required. This is intended to mean that the following stocks will be managed to achieve Fmsy through fishing

year 2008 at which time the fishing mortality rate will be adjusted as necessary to rebuild the stocks by 2014.

- Gulf of Maine Cod
- Gulf of Maine Haddock
- Georges Bank Haddock
- Georges Bank Yellow Tail
- American Plaice (Dabs)
- Witch Flounder
- SN Winter Flounder

This strategy is designed to address the uncertainties associated with the NEFSC 2002 working group Bmsy values. By definition, fishing a stock at or below the Fmsy value will eventually result in attainment of Bmsy.

The Fmsy value and the data used to arrive at the present Fmsy estimates should be confirmed to be appropriate.

A reevaluation of the biological reference points is scheduled to occur in 2008. The reevaluation has been a source of contention during the NEFMC public meetings. When NMFS and NEFSC staff were asked what parameters would be subject to reevaluation, the answers were that "Everything" would be back on the table.

Therefore, this alternative explicitly requires that the reevaluation not be limited to the original parameters of the working group model but should include other models deemed appropriate through developments in science during the interim period 2004 thru 2008 including but not limited to the ASPM. Other stock dynamics and assumptions, especially those related to stock interrelationships, recruitment and the ability of the ecosystem to sustain high biomass levels of many stocks simultaneously must be incorporated into the evaluation.

Predator, prey relationships that have not been fully explored should also be a subject of the reevaluation.

2) Implement the 'Phased Fishing Mortality Reduction Strategy' as the rebuilding program for each of the following stocks for which rebuilding is required.

- Cape Cod Yellowtail, achieve rebuilding target by 2023
- Georges Banks Cod, achieve rebuilding target by 2026
- Southern New England/MA Yellowtail target by 2014
- White Hake, achieve rebuilding target by 2014

The reevaluation to be conducted in 2008 and any evaluations conducted in the interim shall apply to the stocks within the Phased Fishing Mortality Reduction Strategy as well as the stocks within the Adaptive Strategy.

Alternatives to Address Rebuilding Requirements; Section 3.6

Regarding the "Alternatives to Address Rebuilding Requirements" set forth in Section 3.6 of the Amendment 13 Document (DSEIS), the undersigned reject Alternatives 1, 2, 3 and 4 as well as the "No Action" Alternative, as stated. The following is recommended as a new alternative which represents a modification of the input control approach set forth in the current Alternative 1:

- Modify or Implement Specific Provisions of Alternative 1 (Section 3.6: Up To 65% Reduction in Used DAS) as follows:
 - 1) With respect to the Estimation of DAS Allocations to Achieve Target Use, implement Capacity Option 9 for the Effective DAS Calculation. This option applies the highest number of DAS used by a vessel in the baseline period of fishing years 1996 2001, and applies a minimum 5,000 lb regulated groundfish landing eligibility requirement. This option provides the lowest baseline number of DAS from which further reductions are to be taken, filters out 'latent effort' and addresses inequity problems. This option would produce an initial allocation of approximately 68,718 days of effective effort days.
 - 2) With regards to "Alternatives to Control Capacity" implement Alternative 5 "Days At Sea Reserve" 3.5.7 thru 3.5.7.4. This alternative will classify DAS as A, B and C. C days are the difference between a permit holders Amendment 7 allocation and the effective effort days qualified by Capacity option 9. From the effective effort baseline (highest and best fishing year 96-2001) 65% would be classified as "A" and the balance (35%) of the effective effort baseline would be classified as "B" days. This would produce a total "A" day classification of 44,666 DAS to the entire fleet.
 - 3) **Days At Sea Use Rates**: Historically, permit holders do not use all of the days allocated to them. The rate at which DAS are used relative to total allocated days is referred to as DAS Use Rates. For the purposes of estimating use rates to determine "A" day allocations, this alternative will use 2002 use rates of approximately 65% of total allocated days. This produces a target fleet total for used "A" class days of 29,033 used "A" days. See **table 28** of DEIS.
 - 4) Use of "B" class DAS. A key feature of this alternative is to promote stewardship in the fishery by providing additional fishing opportunity by utilizing a portion of the "B" day allocation to target healthy stocks by modifying behavior through gear modifications, fishing area selection, depth, time of day and other methods through voluntary call in of a "B" day trip. Selecting a "B" trip would accept a low, incidental trip limit on stocks of concern in a given stock area. The intent is that by offering additional fishing opportunities, fisherman could mitigate much of the lost revenue from the reduction in "A" days by creating an incentive to target healthy stocks.

- 5) **Limitations on "B" day use:** Upon implementation of Amendment 13, no permit holder could use any more "B" days than the difference between their 2002 / 03 allocation and the Amendment 13 "A" day allocation. (example: A fleet day permit that got a full allocation of 70.4 DAS would be able to use 57.2 "A" class days and 13.2 "B" class days in the first year of the plan. There would also be 17.6 days in "B" day reserve.) Reserve Days may be used in Special Access Programs approved by the RA.
- 6) Call in system requirement: When declaring a "B" class day, the vessel operator must call into the DAS call in system and declare into a "B" trip. The sailing confirmation number received should have a "B" designation incorporated into the number given by the NMFS system to confirm proper designation of the trip. This designation will determine the proper trip limit for the trip landing limits. The sailing # must be available for enforcement personal when landing.
- 7) **Measures to address regulatory discard:** No permit holder shall be allowed to use a "B" day trip unless they have an equal amount of "A" class days remaining for the current fishing year. This measure is required for the purpose of requiring a permit holder to retract the "B" day designation when calling out in order to land stocks of concern that exceed the incidental "B" day limit. This backstop provision is for the purpose of reducing any regulatory discards.
- 8) **Annual Adjustments**: The plan will be evaluated based upon DAS usage and the effectiveness of the "B" day program. If the biological objectives are generally being achieved, the council may determine an adjustment in the A and B ratio. In regards to the "B" days, if observer coverage corroborates with VTR logbook data and the impacts on stocks of concern are within the limits set forth with minimal regulatory discards, the council may thaw an additional percentage of the remaining "B" days.
- 9) "C" class days: "C" class days are latent days and would not be available for use unless all B class days were thawed in accordance with 3.5.7.2
- 10) **Implement second option (Option 1C/1D)** for Georges Bank cod set forth under "Possession Limits" which is stated in the DSEIS as follows:

"1,000 lbs/day / 10,000 lbs/trip for trawl and gillnet vessels; including For Hook Vessels: July 1 through September 15: Jig and commercial longline directed cod season. 2,000 lbs/day limit. No groundfish landings on Friday and Saturday. September 16 through December 31: Restricted cod season. 600 lbs/day January through March: Jig and demersal longline fishing. 2,000 lbs/day April, May, June: no jig or demersal longline groundfishing on Georges Bank. Annual declaration required to use this seasonal hook gear trip limit."

The GB cod trip limit for the general category could be adjusted to accommodate incidental catch during the use of "B" days.

- 11) **CC/GOM YT:** Determine from the PDT analysis already conducted on:
 - a) Appropriate trip limit to meet mortality objectives of the phased mortality reduction program.
 - b) Seasonal trip limits should align lower limits (if needed) with rolling closures to reduce potential discards. 250 lbs April, May, Oct., Nov and 750 lbs June, July, Aug., Sept., Dec., Jan, Feb, March.
- **12) Southern New England/Mid-Atlantic YT**: With respect to management measures:
 - a) Eliminate accelerated DAS counting (1.5 DAS) for SNE and MA regulated mesh areas (See Figure 11) included under "DAS Restrictions".
 - b) Extend the SNE Yellowtail trip limit of 250lbs through the end of June (one additional month)
- 13) **Eliminate all "raised footrope trawl"** requirements in areas of the Gulf of Maine set forth in Table 31: "Alternative 1 Gear Requirements". Implement research programs to:
 - 1) Test and evaluate the effects of raised foot-rope trawls within each of the NE multispecies trawl fisheries under actual fishing conditions; and
 - 2) Resolve stock existence, status, delineation and mixing issues regarding the Cape Cod Yellowtail stock.
- 14) **Gillnet Measures**: With respect to the Alternative 1 gear requirements in table 31 of the DSEIS.
 - a) Modify the GOM day gillnet requirement for flatfish nets to 100 tie down nets, $6\frac{1}{2}$ " mesh size to be consistent with all other gillnet and trawl mesh sizes.

Special Access Programs

- 1) Regarding the Fishery Program Administration Measures set forth in section 3.4 in the Amendment 13 Document (DSEIS), implement a comprehensive set of "special access" programs designed to ensure that US fishermen are able to achieve the full utilization of the optimum yield of certain stocks. The following special access programs shall be implemented:
 - Georges Bank Yellowtail in Closed Area II
 - Georges Bank Haddock CA II

- Georges Bank Haddock CA I
- Gulf of Maine Haddock Western Gulf of Maine Closed Area
- Cashes Ledge Closed Areas
- Note: in general, promote GB and GOM Haddock SAPs in all areas
- 2) Special Access Programs should be designed to achieve the following objectives:
 - 1. Provide additional fishing opportunities to permit holders who are most impacted by the DAS reductions of Amendment 13.
 - 2. Reduce DAS usage requirements.
 - 3. Allow a broad range of participation.
 - 4. Ensure that any permit holders participation is proportionate to the loss of "effective effort DAS" from Amendment 13.
- 3) In order to achieve these objectives, allow the use of "Category B" Days at Sea (as set forth in Section 3.5.7 of the "Alternatives to Control Fishing Capacity") for the purpose of managing DAS usage in Special Access Programs. See Excerpt form DSEIS attached at the end of this document".

Industry Acceptance and support for this plan is contingent upon a modification of the present DAS program to afford adequate opportunity to access healthy stocks by allocating a combination of "A" class and "B" class days equal to 80% of the effective effort DAS qualified by each permit holder. In year one, the "A" class days shall be 65% of the effective effort baseline. In year one, the "B" day allocation (days with incidental level trip limits on stocks of concern) shall be 15% of the effective effort baselines.

This plan should receive favorable analysis for the following reasons:

Industry input into this plan has indicated a sincere will and intent to make the concept of voluntary modification of fishing behavior work. There will be a sense of stewardship when stakeholders are given the opportunity to make discretionary alterations to fishing practices and methods.

By allowing flexibility on a trip by trip basis, decisions can be made that are mindful of the constantly changing realities of special distribution of the stocks within the complex.

Any alternative selected must deal with the very issues this proposal sets forth.

The mixed stock exceptions should be considered given that several major stocks require increases in yield equal to or in excess of the required reductions on others.

No credit has been taken for the ½" increase in mesh size required in the Interim Final Rule and perpetuated in Alternative 1 of Amendment 13. Data shows that it is likely that the

catchability several adult fish species is delayed by approximately one full year. This change anticipates additional spawning years especially in partially recruited year classes.

The economic analysis clearly indicates that present levels of fishing opportunities are at or near the breaking point for many fishing operations, ports and other infrastructure.

Tremendous increases in stock biomass have resulted from past and present measures. The system needs some modifications to be more suited toward management of individual stock rebuilding without eliminating the ability of the fleet to access healthy stocks.

The Infrastructure that supports the diverse makeup of the existing fleet is dependent upon predictable supply and sufficient volume. We must find a way to retain this infrastructure within the current constraints of the law. Anticipated landings even in the near term lend good reason to move in a direction that will preserve the fleet and infrastructure through the brief interim period.

The industry further believes the following additional measures will enhance the effectiveness of this alternative. We recommend their inclusion.

- 1. The management measures selected to accomplish the biological goals of Amendment 13 should reflect the conservation achieved under the interim measures adopted per Judge Kessler's court Order.
- 2. A program to significantly increase data collection is necessary. This involves focus on observers and market sampling as well as relevant life-history information such as growth and migration. Increased reliability of data should be a goal with transparency of the approach.
- 3. NMFS will develop, in collaboration with the industry, an automated process to receive virtual real time dealer reported data and shall use such data to develop more timely and accurate analysis of mortality, age structure, and composition of catch.
- 4. Initiate a vessel-to-vessel electronic by catch notification program that utilizes real time technology. This will enable vessel captains to minimize by catch by notifying other fishing vessels of areas to be avoided due to large populations of by catch.