



New England Fishery Management Council

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MEETING SUMMARY

Scallop Committee Meeting

Omni, Providence, RI

May 21, 2014

The Scallop Committee met on May 21, 2014 in Providence, RI to make recommendations for initiation of Scallop Framework 26, review a draft policy for the Scallop Research Set-Aside (RSA) Program; make recommendations for Scallop RSA priorities, and review the Draft LAGC IFQ Performance Report. All of these issues will be reviewed by the full Council at the June 2014 meeting.

MEETING ATTENDANCE: MaryBeth Tooley (Chairman); Richard Robins (Vice Chair); Mark Alexander; Peter Kendall; David Pierce; Dave Preble; John Quinn; Laura Ramsden; Michael Sissenwine; and Peter Christopher Deirdre Boelke and Demet Haksever (NEFMC staff); Emily Gilbert and Travis Ford (NMFS GARFO staff); Gene Martin (NOAA General Counsel); Earl Meredith and Cheryl Corbett (NEFSC Cooperative Research). In addition, approximately 20 members of the public attended.

KEY OUTCOMES:

- The Committee passed five motions related to the timeline and potential measures to consider in Framework 26. The Committee recommends that potential modifications to the GB scallop access areas be removed from consideration in FW26, and four different issues are included for consideration instead. The recommendations include: alternatives to address state water fishing for vessels with a federal NGOM and Incidental scallop permit; alternative to make the turtle chain mat regulations and turtle deflector dredge regulations consistent; AMs for northern windowpane flounder and possible modifications to the AMs in place for GB and SNE/MA YT; and consideration of an inshore transit corridor for vessels to declare out of the scallop fishery.
- The Committee passed one motion related to Research Set-Aside priorities for 2015 and 2016. In addition, they also included one consensus statement about the timing of the independent scallop survey review planned by the NEFSC.
- The Committee passed one motion and one consensus statement related to the LAGC IFQ Report. The motion is related to discussing two key issues facing the LAGC fishery at a future meeting (management of bycatch and localized depletion of inshore areas) and a suggestion for the LAGC IFQ Report to include information on how catch per unit of effort has changed over time for the LAGC fishery.

PRESENTATION: DEIRDRE BOELKE, NEFMC STAFF, SCALLOP PDT CHAIR

Staff summarized the Draft Action Plan for Framework 26 including a summary of the timelines for both Scallop FW26 and the Habitat Omnibus Amendment. Final action for the Habitat Omnibus Amendment has shifted to November 2014, best case scenario. Since that is the same meeting as final action for FW26 it would be very problematic to develop and analyze potential modifications to GB access areas before the Council has taken final action on those issues. The Chair of the Habitat Committee is also on the Scallop Committee and he explained the schedule for upcoming milestones for the habitat action. Committee members from the Mid-Atlantic expressed interest in having some public hearings in the Mid-Atlantic to provide opportunity for constituents in that area to comment, specifically the clam industry. The Committee first discussed the timeline for FW26 and how it interacts with the Habitat Omnibus Amendment.

AGENDA ITEM #1: PROVIDE INPUT ON MEASURES TO CONSIDER IN SCALLOP FRAMEWORK 26

1. MOTION: PREBLE/QUINN

Eliminate Option 1 and take consideration of new GB scallop access areas out of Scallop FW26. Leave Option 2 and 3 for further consideration.

2. MOTION TO SUBSTITUTE: PIERCE/SISSENWINE

FW26 should not address new GB scallop access areas. After the Council takes final action on the EFH Omnibus Amendment the Council should initiate a new scallop action to consider modifications to GB scallop access areas. This framework would be standalone and not be tied to scallop specifications.

Vote to substitute: 9:0:0, motion carried unanimously

Vote on main motion: 9:0:0, motion carried unanimously

Discussion on the Motion:

The Committee discussed the timeline issues for some time and ultimately support that the best way to address potential modifications to GB scallop access areas may be a standalone action. There may be more work and risks with separating this issue from annual specifications, but at this time it seems cleaner to approach this topic separately from specifications. The Committee clarified that if the Council passes this motion it does not tie their hands to go a certain way on this, but for now it makes sense to wait to initiate an action on this topic until final action is taken on the Habitat Omnibus Amendment.

Next the Committee discussed if additional issues should be added into FW26.

3. MOTION: KAELIN/PREBLE

Move AP motion #7:

AP recommends FW26 also consider alternatives to address that if the federal NGOM hard TAC is caught and the fishery closes, vessels that have a federal NGOM or Incidental permit as well as a state scallop permit should be able to participate in state only fisheries.

For clarity, vessels with LAGC IFQ and LA permits would not be included. If the NGOM hard TAC is reached, they would not be able to fish within the NGOM after the TAC is reached (status quo).

Vote: 8:0:2, motion carried

Discussion on the Motion:

One member of the public addressed the Committee about the NGOM and state water fishery issue (AP motion 7). He summarized the rationale behind the development of the NGOM permit in Amendment 11 and explained the current issue for the state water fishery in Maine in 2014/2015 if the federal NGOM hard TAC is reached before the state water fishery begins in December. He explained that there are about 52 vessels from ME with a NGOM permit, and about 10% of the active scallop vessels in the state scallop fishery also hold a federal NGOM permit. Landings are increasing in Maine and there is concern that the TAC will be reached this year before the state water fishery begins, and vessels with any federal scallop permit would not be able to fish in state waters within the NGOM.

One Committee member wanted to learn more about the conservation measures within state waters, and the status of the resource, is it known, is there an assessment? Another Committee member expressed concern that potential measures to address this issue for the state of Maine may not work as well in Massachusetts. For example, state water only scallop vessels in Massachusetts may not want this prohibition to be lifted if it increases fishing pressure in state waters. A Committee member from NH explained that this issue is not straight forward for their vessels because some vessels in NH have a federal NGOM permit, but a state of MA scallop permit and fish in MA state waters. Hearing that some states may want to treat this issue differently, another Committee member suggested that a more straight forward solution may be to make this change within the state water exemption program, rather than adjusting the NGOM management program.

The Committee member from GARFO explained that this issue may be more complicated than it seems because there is a state water exemption program within the Scallop FMP. This program was adopted to allow state water vessels to be exempt from certain regulations, so long as the state had consistent conservation measures overall. In addition, Amendment 11 developed measures for certain reasons, and it would be important to dig back to the rationale in that action to be certain a change is consistent with the original intent of the program. Staff will try to work with the Regional Office to look into this issue in more detail in terms of whether adjustments are frameworkable etc. The Committee discussed that there is a legitimate issue here that should be fixed, but it is unclear what the best mechanism is to address it.

PRESENTATION: CARRIE UPITE, NMFS GARFO PROTECTED RESOURCES DIVISION

Ms. Upite summarized the issue for the Committee including a review of the current regulations in the scallop fishery related to turtles, a potential option to make the regulations consistent, and a summary of updated data on sea turtles in the Mid-Atlantic. Ms. Upite explained that final measures cannot be less conservative than the current measures in place. She explained that the option to align these measures would maintain the conservation benefit and this change could be done in a Council action even though the chain mat regulation was implemented under the Endangered Species Act. If the Council adds this alternative, Ms. Upite explained that NMFS

PRD staff would be available to assist with the needed analyses and NMFS does not expect any additional review or analyses needs beyond what MSA already requires.

4. MOTION: PREBLE/QUINN

Move AP Motion 4:

AP recommends FW26 also consider an alternative to make the turtle chain mat regulations consistent with the TDD boundary (71W) and modify the season to be May through November.

Vote: 10:0:0, motion carried unanimously

Discussion on the Motion:

There was relatively limited discussion on the topic in addition to the presentation. A few comments were made about the RSA research that has supported this topic and the fact that there is still an RPM for the agency to monitor the potential impacts of the scallop fishery on turtles under the current biological opinion.

Next the Committee discussed another issue for consideration in Framework 26; AMs.

5. MOTION: KAELIN/RAMSDEN

Move AP Motion 5:

AP recommends that FW26 also consider alternatives to modify the existing area closure AMs in place for GB and SNE/MA YT, as well as develop new AMs for potential sub-ACL under consideration in GF FW53 for northern WP flounder. Alternatives would likely include reactive gear modification AMs (consistent with the AM approved for southern WP AM in FW25) and proactive AMs to limit the number of rings in the apron.

Vote: 10:0:0, motion carried unanimously

Discussion on the Motion:

There was relatively limited discussion on the topic. One Committee member commented that area closures are complicated and we do not have adequate real time data to support area closures. This is a very spatial fishery that can change from year to year so area closures with a delayed effectiveness may not be very useful at reducing bycatch. One Committee member noted that the analysis of the area closure AM for YT (status quo) will likely need to be compared to a gear modification AM, and the focus of that analysis could be on many things, i.e. conservation of YT, direct impacts on fishery, etc.

Finally the Committee discussed one last issue to potentially include in FW26; a corridor for vessels to declare out of the fishery to facilitate longer steaming times to fishing ports on the periphery of the fishing grounds.

6. MOTION: ROBINS/KAELIN

Move to request that an analysis of an inshore transit corridor option be included in Framework 26, with requirements that vessels in the corridor must stow their gear and vessels entering the corridor are required to return to port and offload their catch. While declared out of the fishery in the transit corridor, transit time would not count against the DAS/VMS clock. At a minimum, the inshore transit corridor should extend from Cape Henry to Montauk, at an adequate distance from shore to facilitate safe navigation.

Vote: 9:0:1, motion carried

Discussion on the Motion:

A committee member from the Mid-Atlantic explained that the amount of scallop product returning to southern ports has declined steadily in recent years. He explained that during 2009-2012 total scallop landings were relatively stable, but the landings coming to the state of Virginia decreased over 40%. This is expected to decrease further as fuel prices continue to increase and DAS are reduced; thus vessels are more inclined to land closer to fishing grounds to avoid being changed DAS to steam home. The transit cost is too high under these conditions for vessels to steam far distances to land scallops. He explained that this has major negative impacts on ports and the businesses that rely on scallop landings. If a corridor was defined so vessels could steam home off the clock it could help restore landings in ports farther from fishing grounds. There would need to be strict measures put in place to prevent abuse of the DAS management system.

One Committee member voiced support for this measure based on negative experiences fishing under DAS in the GF fishery. Another Committee member raised the issue that this measure could require a DAS adjustment for the rest of the fleet if it was determined that vessels are still returning to port that that steaming time would convert into fishing time if the corridor is implemented. It was discussed that the PDT would likely need to look at VMS data on an individual vessel level going back in time to assess vessel activity and potential impacts on CPUE for the fishery overall. A member of the audience expressed some reservations as well if this would mean lowering DAS even further for the fishery overall and concern that this measure may require substantial PDT resources and risk slowing the action down. There was some discussion on both sides about whether the Council's primary role is to be concerned about where product is being landed.

AGENDA ITEM #2: REVIEW A DRAFT POLICY FOR THE SCALLOP RSA PROGRAM

Several questions have come up recently about how the Scallop RSA review process works. Staff drafted a policy that could be included in the NEFMC Operations Handbook that outlines the general review and selection process. The Committee reviewed the draft text and without objection recommends the Council approve the policy and include the description of the process in the NEFMC Operations Handbook.

PRESENTATION: DEIRDRE BOELKE, NEFMC STAFF, SCALLOP PDT CHAIR

Staff gave a brief presentation on the Scallop RSA program, 2014 awards, and a summary of the priorities from last year as well as PDT and AP recommendations to refine the list for this year.

AGENDA ITEM #3: PROVIDE INPUT ON SCALLOP RSA PRIORITIES

7. MOTION: PIERCE/KAELIN

Approve the AP recommendations for 2015 and 2016 Scallop RSA priorities (see attached).

Discussion on the motion:

Overall the Committee supports without objection all the clarifying text modifications the PDT suggested. Next the Committee discussed where to place the broadscale survey on the overall priority list: under medium as suggested by the PDT, or as the highest priority with other scallop surveys, as suggested by the AP. One Committee member asked that as drafted would the priority for a broadscale survey necessarily mean it would need to be conducted by one survey method or research organization? Staff responded that since the priority language is vague, it does not specify that it would need to be by one survey design or organization. To start this conversation one Committee member requested that the AP explain in more detail why they recommend putting broadscale survey research equivalent with intensive surveys of access areas, recognizing that having both listed as high would likely leave far less RSA for other research topics.

The Chair of the AP responded that over the years the industry has had the benefit of a second broadscale survey conducted by SMAST that was funded under a federal earmark, but that funding is no longer available. The AP maintains that a broadscale survey may not be necessary every year, but this type of research is still important. The industry is interested to compare the results of an intensive survey overlaid with a broadscale survey to compare the estimates. Also, the industry is generally supportive of having a “second look”; an additional estimate to compare to the federal survey results is comforting.

Earl Meredith from NEFSC explained that it is sometimes challenging to identify the projects that have the highest management relevance when there are many priorities identified. Therefore, the Committee discussed that the list is very long and some effort should be taken to identify the priorities that have adequately been addressed and are maybe a lower priority now compared to a year ago. The day before the AP did recommend shuffling a few of the priorities around to address that concern and their final recommendations attempt to identify ones that are more pressing for management under “medium”, compared to other items listed under “other”. The Committee considered just removing the topics under “other” to better define the priorities. But it was discussed that in some cases a project can address more than one priority, so leaving those on the list under “other” may be beneficial in those cases. It was discussed that it may be useful for the AP to take more time next year and try to identify only a handful of priorities and specify the projected outcome of the research.

One Committee member agreed with the PDT that more long-term research projects like impacts of global warming on scallops may not be the most appropriate topic for Scallop RSA funding, since those projects may need more stable funding over longer periods of time. The Committee also discussed that it would be useful to have an overall strategic plan for the scallop survey program, and maybe the Scallop Committee can work on that after the upcoming data methods meeting. It may be important to have a performance review of the Scallop RSA program and a strategic review of the best ways to fund these kinds of projects, i.e. grants, contracts, etc. It has been a successful program but it was suggested that we should take a step back and identify the future strategy for the Scallop RSA program and other sources to help stabilize funding for a scallop survey.

8. MOTION TO AMEND: ALEXANDER/PREBLE

Remove the priorities listed under “other” from the 2015 and 2016 priority list (see attached)

Vote on amended motion: 1:7:1, motion failed

Vote on main motion: 8:0:1, motion failed

Finally the Committee considered the consensus statement drafted by the AP related to the scheduled review of scallop survey methods. The Committee agrees that it would be beneficial to have the results of that review before 2015 RSA awards are made. The review is currently scheduled for March 2015, and that is about the same time 2015 RSA awards are targeted to be made.

By consensus, the Committee requests that the Council draft a letter to NEFSC requesting that the independent scallop survey meeting be held earlier than the scheduled date of March 2015. Ideally the review could be completed before 2015 RSA award decisions are made.

PRESENTATIONS: DEIRDRE BOELKE AND DEMET HAKSEVER, NEFMC STAFF

Staff gave a brief presentation on the Draft LAGC IFQ Report. Ms. Boelke summarized the outline of the report as well as the performance indicators related to biological performance, monitoring and enforcement, as well as governance. Dr. Haksever reviewed the numerous economic indicators.

The Committee had several questions and general comments. Overall, the Committee is supportive of the PDT findings within the report. The Committee recognized the challenges the PDT faced with compiling these data, and recommended that staff work with GARFO to address some of the issues identified.

9. MOTION: PIERCE/ROBINS

Recommend that GARFO address as a priority the issues identified in the IFQ Report related to data challenges.

Vote: 7:0:1, motion carried

Discussion on the Motion:

One Committee member noted the data challenges and wanted to pass a motion to send a clear statement that these issues should be addressed to better enable the Council and NMFS to evaluate the only ITQ program in this region. It is important for the Council to be able to evaluate the performance of this ITQ program in a timely way that does not require large resources each time. The Committee discussed that NMFS is working on some of these issues fishery wide to identify ways to improve fishery dependent data through a visioning project. The Committee hopes that Council staff can participate in that process and staff explained that they do plan to work with GARFO after this report is complete to identify ways to improve how the data can be synthesized etc. One Committee member noted the recent report, “Review of NOAA Catch Share Program” and asked if it included information on the LAGC IFQ fishery. Staff can investigate further and commented that it seems there are several different reviews going on.

The Council and GARFO will need to work together to identify when and what should be included in the official 5-year as required for all LAPPs under MSA.

General Discussion on the Report:

One Committee member asked if there are any permit banks or co-ops in this fishery. Staff explained that there are a few, but data confidentiality constraints limit the ability to present results separately for permit banks because there are currently three or less permit banks. The Committee recognized the comment from the AP about debt load and the importance of integrating costs associated with leasing and quota transfer. Staff explained at this time there is very limited information about debt load, but the NEFSC may want to consider expanding the cost survey to include more information about debt from quota leasing and transfer.

One Committee member questioned the number of vessels with IFQ overages at the end of the year. While the report indicates that all vessels addressed any overages the following year it is not clear to the Committee why some vessels were substantially over their annual allocations. Some of that could be explained by lease and transfer data not being recorded correctly, but it is a vessel's responsibility not to fish unless it has quota available to do so. The Committee also discussed the relatively low level of dockside monitoring as a potential issue. The data available indicate that less than 1% of LAGC IFQ trips have had dockside monitoring, and most of that effort has been concentrated in one or two ports. In addition, a subset of vessels is not complying with the VMS pre-landings requirement.

Because this is an ITQ fishery the Committee discussed that it warrants strong monitoring and enforcement. Dayboat scallops have a high price premium, and the product is relatively easy to move around in small quantities. Therefore, the Committee expressed concern that the overall objectives of the IFQ program could be in jeopardy unless there is confidence that the IFQ program is being adequately monitored. The Committee drafted the consensus statement below as a recommendation to have to further evaluate if this program is currently being adequately monitored. The Committee discussed that part of this is related to enforcement in terms of dockside monitoring and citing vessels for not being in compliance with the VMS pre-landing requirement. But part of this issue is also related to whether a specific monitoring system should be developed in this fishery. Currently, there is no separate monitoring program required for this ITQ fishery. There is the pre-landing requirement to notify NMFS of the location, estimated time and estimated poundage.

The Committee was unsure what to do with this topic. One option could be to forward this issue to the Enforcement Committee, as well as other scallop related enforcement issues that may have even larger implications (i.e. shell stock limits and potential abuse of the DAS clock, transferring catch at sea, hidden compartments). Second, a letter could be drafted to GARFO highlighting several enforcement/monitoring issues. Or the Council could consider developing a specific monitoring or catch validation program in a future action. In the end the Committee did not identify one strategy forward for this topic, and did not adjust the PDT findings or conclusions in the report related to monitoring. However a consensus statement was drafted below related to the topic and it was highlighted that there is at least one conclusion in the report about whether or not there are measures in place to prevent the LAGC fishery from exceeding their allocation (Objective #3) that may be more uncertain. In light of the monitoring and enforcement concerns

discussed the Committee is unsure about the conclusion that catch is “very controlled” in this fishery. At the moment the Committee disagrees with this conclusion; just because the IFQ has not been exceeded does not mean we have met this objective. The fishery may have met this objective, but at this time the Committee is not sure if this objective has been met based on the monitoring and enforcement concerns discussed. The Committee suggests more detail be added to this conclusion to highlight the potential uncertainties about the precision of total landings.

By consensus, The Committee noted the low proportion of trips that have had dockside monitoring, and the failure of some LAGC IFQ vessels from complying with the VMS pre-landing requirement. It is the sense of the Committee that the adequacy of the monitoring and enforcement of this ITQ program may not be adequate and should be evaluated before the Council can conclude that all the LAGC IFQ program objectives have been met.

The Scallop Committee meeting adjourned at approximately 6:00 p.m.