



New England Fishery Management Council

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MEETING SUMMARY

Scallop Committee Meeting Waypoint Center – New Bedford, MA May 28, 2015

The Scallop Committee met on May 28, 2015 in New Bedford, MA to make recommendations for the Council to consider on four issues: 1) Draft Amendment 19 development; 2) draft action plan for Framework 27; 3) research priority recommendations for upcoming Scallop Research Set-Aside announcement; and 4) review a draft white paper on the inshore scallop fishing issues and discuss ideas for a future workshop. All of these issues will be reviewed by the full Council at the June 2015 meeting.

MEETING ATTENDANCE: MaryBeth Tooley (Chairman); Mark Alexander; Peter Christopher; Jeff Kaelin, Peter Kendall, John Pappalardo; David Pierce; Dave Preble; and Michael Sissenwine
Committee member absent: Richard Robins (Vice Chair) and John Quinn
Staff: Deirdre Boelke (NEFMC staff) and Travis Ford (NMFS GARFO staff).
In addition, approximately 15 members of the public attended.

KEY OUTCOMES:

- The Committee reviewed the Draft Amendment 19 document and passed one motion to remove one of the alternatives under consideration.
- The Committee reviewed the Draft Action Plan for Framework 27 and did not have any suggestions or additions.
- The Committee reviewed and agreed with Advisory Panel input on updated research priorities and included several additional clarifications by consensus. Under the research priority agenda item the Committee also developed three consensus statements: one related to a finding from the scallop survey methods review, one related to having the Council draft a letter to the NEFSC about observer program protocols, and one related to a handful of other research priorities, non- scallop.
- The Committee reviewed the draft white paper on the inshore fishing issue and passed a consensus statement with a handful of initial input for the Council to consider.

AGENDA ITEM #1: REVIEW AND DISCUSS AMENDMENT 19 ALTERNATIVES UNDER DEVELOPMENT

Staff summarized the alternatives developed to date for Amendment 19 based on input from the last Committee meeting. In summary there is the No Action alternative (specs set by framework at least biennially); a specification process that could be developed with an Environmental Assessment (EA) or a Supplemental Impact Review (SIR), and an alternative to change the fishing year start date to April 1. In addition there is a section that describes two options relative to when the proposed rule is published (before or after final Council action). If it is published before final Council action the overall timeline is shorter. Neither of these options would require a change in the regulations, and concerns have been expressed by the Agency about publishing the proposed rule before final Council action.

One Committee member asked for more detail about the potential use of a Supplemental Impact Review (SIR). It was explained that a solid baseline analysis needs to be completed first, and then in limited cases a SIR could be used rather than an EA. It was explained that it may not be plausible to use a SIR in all instances, but the Committee is interested in pursuing this idea more and was supportive of exploring this potential option further. However, it was noted there may be limitations to their use in the Scallop FMP since scallop fishery specifications in general can be relatively complex with area specific allocations that are not always predictable upfront. Another question came up if the RSA set-aside should be added to the list of items that could be modified through the specifications process. It is possible that could be added to the list as well and staff will discuss the idea further with the PDT.

One Committee member asked why the alternative to change the start of the fishing year to April 1 is in this document when the industry has repeatedly opposed this alternative in the past. Staff explained that this start date is different than dates considered in the past (May 1 or August 1) and it is useful to have more than one alternative. Another Committee member added that the industry is different now and some of the reasoning behind why they opposed the change in the past may not still exist today; he encouraged a more detailed discussion about the pros and cons of changing the start to April 1. Several speakers in the audience provided some initial feedback explaining that the fishery has progressed, and DAS are at relatively low levels so vessels are spreading effort out and seem to be considering product quality and price more and more. Therefore, March 1 is not as critical as it used to be.

Currently in the document there are two options related to when the proposed rule should publish to help speed up the overall process between final action and implementation. GARFO has discussed the potential of publishing the proposed rule prior to Council final decision, and currently has several concerns. The Committee requested that GARFO be prepared to present whether this is a viable approach for this FMP or not at the June Council meeting. Mr. Christopher responded that GARFO will provide advice about what is workable but there are concerns about publishing the proposed rule before final Council action related to having final measures that are a “logical outgrowth” of previously analyzed measures that are solidly defensible.

The Agency is currently brainstorming about different ways to save time within the specifications setting process *without* publishing the proposed rule before final Council action. Mr. Travis Ford presented one idea that has surfaced to the top. Basically the Agency would

wait to publish the proposed rule until after the final Council meeting, but based on analyses used by the Council to make final decisions, and would not wait until the final EA or SIR is submitted. Instead, Council staff would submit a “Council Decision Draft Document” with the final Council action, rationale and analyses used by the Council. NMFS would then draft and publish the proposed rule based on that document. This would enable the proposed rule process to begin earlier and overlap with the time period that Council staff is typically finalizing the EA or SIR. The final EA or SIR would need to be available before the final rule could be published, but this minor adjustment is expected to speed the overall process by about eight weeks and may enable specifications to be published much closer to the start of the fishing year (Figure 1 and Figure 2).

There was support for the idea presented; it is expected to implement measures sooner without potentially sacrificing the public process at all. One cost of this approach is that NMFS would not have the final EA or SIR to draft the proposed rule, but would have all the analyses the Council used to make decisions. There was some discussion that other FMPs may want to try this approach as well, but NMFS clarified that this approach would not become standard practice for all actions, instead it would only potentially be used in routine specifications where impacts have already been adequately analyzed in a previous action. One speaker from the audience added that this modification is in line with a Congressional directive to streamline NEPA. Another added that very few individuals comment on scallop specifications so in reality the public comment process would not suffer at all. One Committee member added that in this region we do not currently have a specific management procedure in place for how specifications are set. It is possible that if a more specific procedure was in place for setting allocations and even completing stock assessments it may even be possible to further streamline this process.

Ultimately the Committee recommended that the approach be further developed and included in Section 1.3.1.2 – a section that summarizes changes that could improve timing of scallop specifications that do not require a change in scallop regulations. Several questions were discussed that will have to be clarified over the summer. For example, what level of analysis will be needed, would the IRFA need to be included in the early submission or the final submission.

One Committee member asked about the status of one of the other measures listed in Section 1.3.1.2 that could improve the overall timing of this process - to potentially modify how and when the federal scallop survey is conducted. This is one measure that does not require changes in the scallop regulations and it was noted that it came up in an AP motion related to one of the findings from the recent scallop survey peer review. Staff explained that there will be a separate presentation at the June Council meeting on all of the findings of the recent scallop survey peer review and a potential discussion of what is next.

The Committee did pass one motion related to a measure they discussed at their previous meeting on April 1.

1. Motion: Pierce/Sissenwine

Recommend Alternative 2.3 be removed from Amendment 19 - evaluate range of possible allocations upfront and Council select from within that range (Menu approach). Vote: 8:0:0, carries

Discussion on the Motion

Based on updated input from staff it does not seem practical to further develop Alternative 2.3, an option that would identify a specific range of allocations and the Council would be limited to select future specifications from within that range. A member of the audience added that at the AP meeting it was discussed that this alternative would be time consuming to analyze.

Figure 1 – Review and approval of specifications under No Action

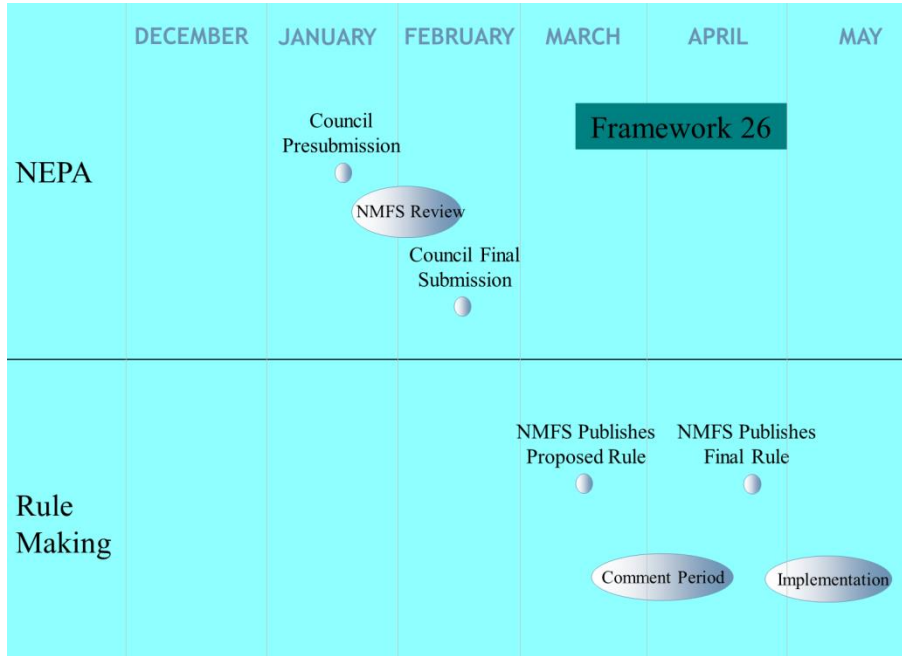
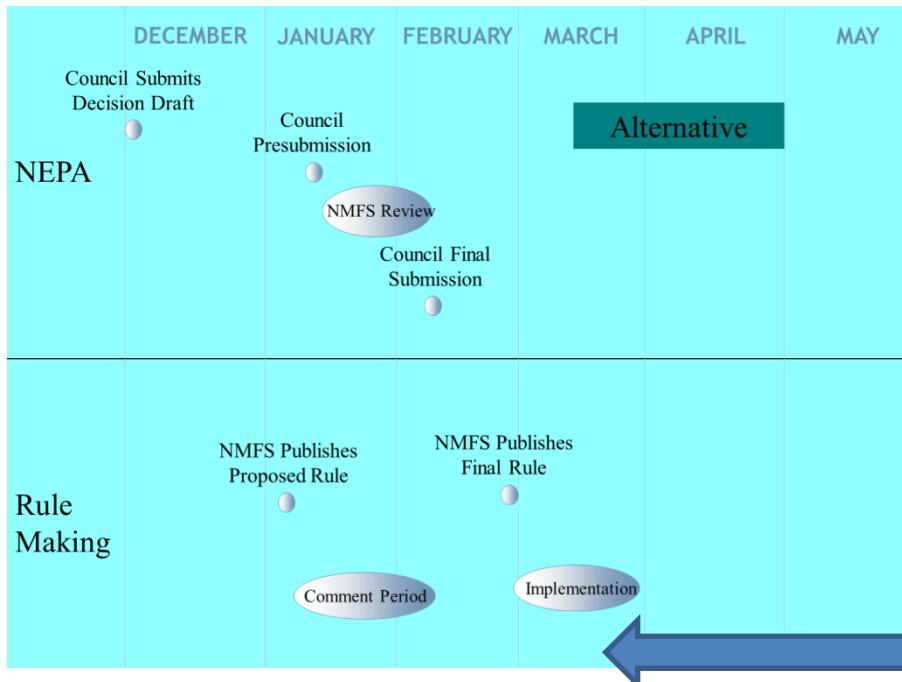


Figure 2 – Review and approval of specifications under expedited submission of Council Decision Document and publication of proposed rule



Potential savings of about 8 weeks:
 - Proposed rule sooner
 - Final submission needs to be slightly sooner before final rule is published
 - Implementation sooner

AGENDA ITEM #2: DISCUSS INITIATION OF FRAMEWORK 27

The Committee reviewed the draft action plan staff developed for Framework 27. Staff reviewed the general measures likely to be included in the action as well as the timeline for this action related to other Council actions. The Committee did not discuss the framework in detail in the morning, but later in the day the topic of whether or not it is practical to include measures to potentially modify GB scallop access areas as a result of the EFH action came up. The proposed rule for the EFH action is not expected to come out until after the Council is scheduled to take final action on FW27 (first week of December). Therefore, there is more uncertainty in what the status of current EFH area closures will be during development of FW27 compared to when the Council originally discussed including potential modifications to access areas last November. The Committee discussed that for now it makes sense to see how the June Council meeting goes and the decision whether to include modifications to GB scallop access areas in this action or not may be clearer later in the process. At a minimum the Council should carefully consider what the default measures are going to be in FW27 in light of the uncertain implementation date of the EFH action.

AGENDA ITEM #3: RESEARCH PRIORITY RECOMMENDATIONS

Staff gave a presentation about the Scallop RSA program as well as AP recommendations for research priorities. The Committee reviewed the AP recommendations and by consensus recommend they be forwarded to the Council with a few additional clarifications.

By consensus the Cmte recommends small adjustments to the RSA priorities below:

- 1. In Priority 1a move CA1 from 2017 to 2016 priority area*
- 2. In #7 leave out "long term"*
- 3. Do not clarify the species or habitats in #6*
- 4. Remove the last sentence in #8 about highgrading*

The Committee also discussed adding support for adding oceanographic instruments to field research to be added to general ocean observations. Concerns were raised that there are many other organizations already collecting this kind of data with stringent data quality requirements; it is not as simple as forwarding the data to the Center. There could be unintended consequences of new requirements on researchers. In general the Committee supported that oceanographic data is encouraged, but not required for projects that are funded. One Committee member also pointed out that the RSA should be to benefit the industry and adding too much additional information could become a burden. Some of the environmental/ecosystem priorities are essential for all industries, not just scallops. These longer term projects about acidification and alike may not benefit the scallop industry directly; these should be collected but not paid for by the scallop industry. Another Committee member commented that the revisions are an improvement but it is still not clear how much weight for example a proposal under high ranks against a medium priority proposal or a low priority. Some level of weight could help the reviewers appreciate the relative differences between the priorities when evaluating whether to fund a proposal or not.

In addition, the Committee developed several additional consensus statements under this agenda topic, all based on AP input initially. The first statement supports one of the findings from the scallop survey peer review. There was some discussion about identifying a way to highlight

some of the more critical findings of the peer review into the priorities at all. For example, if there is not sufficient time and resources for the Center to complete work on some of the suggested analyses from the peer review, maybe the RSA is a potential source of funding to help that work happen. The intent of identifying a few of the key findings would be to encourage the Center to engage in the work, but one Committee member felt this was premature before the Council has heard the reaction from the Center of the peer review, a presentation planned for the June Council meeting. The Chair recommended that some of these topics could be highlighted during that conversation and maybe did not have to be acted on today. Staff did highlight that there are findings related to other surveys and there are limitations in terms of how they can participate in RSA supported research. Ultimately the Committee decided to simply support the AP motion and hopes there is a more detailed discussion of how best to act on the findings from the peer review.

By consensus, Committee supports the AP motion that there is support for the finding from the scallop survey peer review that there is no compelling advantage in using both dredge and Habcam gears on the same vessel for the federal survey. A joint integrated federal survey using two vessels could result in a better survey with improved coverage. The Committee recommends the Council request the Center consider conducting the federal dredge survey on commercial vessels. (Agency abstained)

The second statement was supported as well to recognize that more could be learned about discards at sea from the observer program. And it was noted that this may be a more effective way to collect information about highgrading because designing a research project to get at this question could be difficult. Therefore, the Committee recommends that highgrading not be included in the priorities, but if that issue can be captured better on observed trips that would be useful. Finally, the last statement signals support for these topics, but not under the RSA program specifically.

By consensus the Committee supports the AP consensus statement that recommends the Council write a letter to the NEFSC requesting that the NEFOP modify their protocols to improve the collection of data on the reasons why scallops are discarded at sea including the magnitude of discards due to highgrading.

Finally, the Committee also supported the more general research priorities identified by the AP; however it is not clear what list or when those would be considered by the Research Steering Committee or Council.

By consensus the Committee supports the AP consensus statement that the Council forward the research items below to the Research Steering Committee for consideration:

- 1. Assess where juvenile cod hot spots are;*
- 2. Survey of WP flounder to improve assessment;*
- 3. Identify winter flounder spawning areas;*
- 4. Use commercial vessels to collect basic oceanographic data (temp, salinity, pH, etc.)*

AGENDA ITEM #4: PROVIDE INPUT ON DRAFT WHITE PAPER ON INSHORE SCALLOP ISSUE AND DISCUSS NEXT STEPS

Staff gave a presentation reviewing the draft white paper and initial AP input related to the draft problem statement, potential measures, data needs, and workshop logistics. The Chair explained that the Committee should identify how this topic should move forward with specific input for the Council to consider about what steps to take next for the workshop. The AP Chair added that while there was some tension on certain topics the AP was able to make some progress. It has been clear that different participants have different ideas about how the workshop should be designed and what measures make the most sense to address the issues. He added that the wider scallop fishing community may not realize these issues are being discussed. It may be important to get more input from a wider audience to get their input before a big workshop is planned.

One Committee member commented that the white paper is a solid document to start planning a workshop and highlights the major topics that would likely be discussed. He added that this conversation may morph into a larger discussion of whether the Council still supports that it is important to maintain a small boat fleet, have objectives changed since Amendment 11. Staff reminded the Committee that the required 5 year review process is around the corner and that may also be a reasonable time to have that conversation after five years under the program (FY2010-2015). One technical question that came up is whether the LAGC fishery needs a higher density of scallops to fish efficiently – do we know that answer? Or is this really just about conflicts related to fishing space?

A member of the audience argued that LAGC vessels probably need a lower density of scallops compared to LA vessels. He argued that under IFQ management a vessel has the incentive to fish until their quota is harvested, compared to under DAS management vessels fish until their days run out. He argued that a LA vessel will not stay fishing in an area that has low catch rates because of the DAS clock, they have incentive to move on to find higher densities. He argued in that regard that a LAGC vessel has more incentive to fish an area until there is nothing left. On the other hand a Committee member explained that LAGC vessels may need less density, and would potentially last that fleet longer if fished differently.

It was discussed that one way to get more input from the wider fishing community would be to conduct a survey to better gauge where the industry is on this issue. Another Committee member expressed some reservation that there is a lot of ground to cover in one day; he felt there is enough controversy buried under this issue to fill several days and the Council will want to be clear what the goals of the workshop are so the conversation stays focused. A member of the audience added that this category is very important to many small boats. For some it is smaller scale still but has enabled vessels to stay in business when other fisheries have reduced dramatically, and that has value. And for others it has definitely evolved into a very valuable fishery with relatively high amounts of quota on individual vessels.

By consensus the Committee plans to report the following items to the Council on the status of workshop:

- 1. Use draft white paper as background for workshop*
- 2. Recommend using a professional facilitator for this meeting (maybe on in NE, one MA)*
- 3. Convene a Steering Cmte to plan the details of the workshop and potential survey*
- 4. Survey permit holders before workshop for outreach*

The Scallop Committee meeting adjourned at approximately 3:00 p.m.