

REPLACE



New England Fishery Management Council

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DRAFT MEETING SUMMARY

Scallop Committee

Hilton Garden Inn, Boston, MA

March 23, 2016

The Scallop Committee (Committee) met on March 23, 2016 in Warwick, Rhode Island to: 1) Discuss recommendations for 5-year research priorities (*note these are NOT the same as Scallop Research Set-aside priorities; those will be discussed at a future meeting*); 2) Review and provide preliminary input on potential modifications to the annual catch limit (ACL) structure used in the Scallop FMP; 3) Review outcomes from recent inshore scallop workshop and discuss recommendations for potential next steps; 4) Review a draft work plan for the required 5-year review of the limited access general category IFQ program and 5) discuss other business, as necessary.

MEETING ATTENDANCE: Mary Beth Tooley (Chairman), Mr. John Pappalardo, Ms. Melanie Griffin, Mr. Mark Alexander, Dr. John Quinn, Mr. Peter Christopher (GARFO), Mr. Terry Stockwell (Council Chair); Ms. Deirdre Boelke, Mr. Jonathon Peros (NEFMC staff); Mr. Gene Martin (NOAA General Counsel); Ms. Emily Gilbert, Mr. Travis Ford (NOAA Fisheries). In addition, approximately 15 members of the public attended, including several members of the Scallop Advisory Panel. Committee members not in attendance were: Mr. Jeff Kaelin, Mr. Rick Robbins, Dr. Michael Sissenwine.

SUPPORTING DOCUMENTATION: Discussions were aided by the following documents and presentations: (1) 2016 workload and scallop action timelines; (2) Memo from the scallop PDT with recommendations for 5 year research priorities; (3) Draft discussion document for ACL flowchart issue; (4) Memo from NEFOP related to poor quality and highgrading protocols; (5) Draft summary from NEFMC Inshore Scallop Workshop; (6) Preliminary plan for LAGC IFQ Five Year Review; (7a) Scallop PDT meeting summary from February 4, 2016; (7b) Scallop PDT meeting summary from March 9, 2016 conference call; Correspondence.

KEY OUTCOMES:

- By consensus, the Committee provided input on the background document prepared for the ACL structure issue.
- The Committee supported the PDT recommendations on updates to the Council's five year research priorities.
- The Committee requested the more information on recent scallop fishing within the NGOM management area and current regulations in that area be provided at the April Council meeting.

The meeting began at 9:30 am.

The agenda was modified to accommodate a presentation on Northern Gulf of Maine (NGOM) scallop management and recent fishing effort, and comments from the Council Chair, Mr. Terry Stockwell.

Northern Gulf of Maine (NGOM) Scallop Fishing (Ms. Deirdre Boelke):

The Council received two letters of correspondence about increased fishing pressure in NGOM from both LA vessels and LAGC IFQ vessels in the southernmost part of the management area. Staff reviewed the regulations and landings history since adoption of the NGOM program under Amendment 11. In general this program was adopted as a placeholder for future management of the sporadic scallop biomass in the Gulf of Maine if and when the resource returned. Vessels with LAGC IFQ and LAGC NGOM permits have fished in the area since adoption of the program in FY2008. At first, total landings were relatively low, until FY2013 when effort increased on Platt's Bank for a few years. Landings in 2015 exceeded the 70,000 pound TAC.

However, the main driver of the correspondence was focused on more recent fishing activity in March 2016. The two primary issues seem to be: 1) increased LA fishing activity is threatening the sustainability of scallop resource in NGOM; and 2) the area wide TAC will be harvested from one relatively small portion of the NGOM management area before other federal fisheries typically begin later in the season.

The Council Chair, Mr. Terry Stockwell, addressed the Committee on behalf of the Maine Department of Marine Resources. Mr. Stockwell reiterated that the area was created as a placeholder through Amendment 11, and suggested that the Council should consider prioritizing work on NGOM issues in 2016. He commented that the program was put in place as a skeleton to preserve future access; now that landings are increasing it shows that it is time to put this on the front burner and address it completely.

General workload for the Scallop FMP in 2016 (Ms. Deirdre Boelke):

Council staff updated the Committee on the workload outlook for 2016. Staff reviewed the 2016 scallop priorities, which includes setting specifications, a framework action to potentially modify scallop access areas to be consistent with revised habitat management, gear modifications to further protect small scallops, and modify the structure of ACLs to reflect area management. Consistent with prior years, Council staff will continue to support the technical and management reviews for the scallop Research Set Aside (RSA) program. Staff will also be working on the five year review of the limited access general category (LAGC) individual fishing quota (IFQ) program this year, which is a requirement of the Magnuson Act. A staff transition is currently underway, with Ms. Deirdre Boelke transitioning to herring plan coordinator, and Mr. Jonathon Peros moving on to the scallop plan from groundfish.

There were no questions or comments on the 2016 workload.

Review of outcomes from Inshore Scallop Workshop (Ms. Deirdre Boelke):

Staff presented a summary of the recent inshore scallop workshop, which was held on February 22 and 23, 2016 in Warwick, Rhode Island. About 90 people participated in the workshop, including limited access (LA) permit holders, LAGC IFQ permit holders, Council members, advisors, and members of the scallop plan development team (PDT). While there was no consensus on recommendations for next steps after the workshop, several themes emerged from discussions over the two days. A complete summary of workshop was in the meeting materials, and can be found [here](#). The Advisory Panel did not have any specific motions on this topic at their March 22, 2016 meeting.

There was a very brief discussion on the inshore workshop. A committee member expressed interest in learning more about the overall cost of the workshop, and felt that the discussions on this topic could continue in other forums. For example, if the costs are prohibitive it may be possible to partner with other hosts to have annual or semi-annual meetings similar to the workshop to discuss important issues facing the fishery. It may even be possible for this to expand outside of the Council process if there is interest and utility in keeping these conversations going. Specific interest was expressed in reviewing open area

management and LPUE. Staff explained that the PDT is interested in looking at the performance of projections relative to LPUE early in the calendar year and it may be possible to investigate these issue further under the specifications process this fall.

Review of preliminary input for the Scallop PDT on considerations for modifying the ACL flowchart process (Mr. Jonathon Peros):

Staff gave a presentation on the current ACL structure used in the Scallop FMP under Amendment 15, as well as some initial PDT input on this issue. The PDT has begun development of a scallop ACL flowchart discussion paper. The current ACL structure and fishery allocations in the Scallop FMP are not spatially explicit, such that annual catch limits (ACLs) in the scallop fishery are based on the overall scallop biomass in all areas, including closed areas. However, allocations to the LA component are constrained by the available biomass in areas that are open to the fishery only (open areas and open access areas). Staff explained that this approach may lead to a disconnect between catch limits and allocations. For example, in FY2015 and FY2016 a large proportion of total biomass was within essential fish habitat (EFH) and groundfish closed areas, as well as scallop access areas closed to the fishery. The LAGC allocations are equal to their ACL which includes biomass in these closed areas, the LA ACL includes all areas as well, but the LA allocations are limited to areas that are open only.

Staff explained that Amendment 11 to the scallop FMP created limited entry for three LAGC permit categories, and divided allocations between LA and LAGC IFQ using a 94.5% (LA) and 5.5% (LAGC IFQ) split of projected catch. Amendment 15 (A15) brought the plan in compliance with the 2007 reauthorization of the Magnuson-Stevens Act, and defined overfishing limits (OFLs), acceptable biological catch (ABC), annual catch limits (ACLs), and annual catch targets (ACTs). The scallop plan specifies that the ABC will be equal to the ACL. Management uncertainty in this FMP is accounted for in the difference between the ACL and the ACT. Staff noted that the Council adopted a LA sub-ACT which is lower than the sub-ACL through Amendment 15, and opted to set the LAGC sub-ACT equal to the sub-ACL. Changing where the allocation split occurs (ACL vs. projected catch) has implications when estimates of overall biomass are much higher than projected landings.

Next staff reviewed the recent scallop specifications, and explained that, in general, the approaches adopted in A15 have worked well to-date in terms of fishery harvest compared to allocations and fishery limits. Staff also recapped the recent catch performance of the LA and LAGC IFQ components. An overview of draft objectives for a potential action was followed by an explanation of the draft measures that the PDT had developed for discussion purposes only. In addition to status quo/no action, the PDT brought forward options which focused on: 1) modifying the management uncertainty buffers for the LAGC IFQ component: and 2) incorporation of spatial management into allocations. Staff explained that a potential rationale for modifying the LAGC IFQ management uncertainty buffer is that measures in A15 allow for the LAGC IFQ component to carryover up to 15% of quota from one fishing year to the next. In addition, the potential approach of basing allocations on projected landings would base LA and LAGC IFQ allocations on biomass that is available to the fishery. Staff reviewed the performance of the observer set-aside allocation, and presented alternative approaches that could be used to calculate observer set-asides. Finally, staff noted the AP had made a motion to change the problem statement – the motion failed 4/6/3.

The AP made two consensus statements on this topic:

- *By consensus, the AP does not support inclusion of alternatives to develop measures to adjust how the observer set-aside is accounted for in the ACL flowchart, support for status quo.*
- *By consensus, the AP supports the measures the PDT has developed on this action to date and requests they continue to brainstorm more alternatives.*

Questions and Discussion on the Presentation:

The Committee noted that this issue is both an allocative and biological issue, and that the size distribution of scallops can drive overall estimates of biomass. In response to a question about potential impact of changes to habitat closures, staff explained that any change to the current configuration of habitat closures would not impact the OFL, ABC, and ACL calculations. Staff explained that habitat openings would likely be addressed through the annual specifications setting process. The Committee also noted that the management uncertainty buffer for the LA varies by year. Staff explained that the LA buffer is driven by estimates of fishing mortality (F). The F associated with the ABC/ACL is $F=0.38$, which the F associated with the LA ACT is an overall of 0.34. Staff explained that the ACT acts as an F ceiling, and that in practice, because all areas are not open in a given year, in many years the LA fleet does not achieve the F associated with the ACT.

A committee member asked how management uncertainty buffers were calculated for the LA component, and if they could be more dynamic. Staff explained that the management uncertainty buffer had been developed using qualitative and quantitative approaches in Amendment 15. A modeling approach was used to develop the F of 0.34, which is the value at which there is a 25% chance of exceeding the ABC. Qualitative considerations included carryover of DAS, vessel upgrades, uncertainty in catch from open area DAS to name a few. The Committee was interested in learning more about the timing of the Habitat Amendment, and the process for making changes to the scallop FMP after a proposed rule is published. Staff explained that serious work on potential alternatives should not begin until at least a proposed rule has been published, noting that the PDT has a heavy workload. Staff also explained that the expected implementation timeline is also a major consideration. Annual allocations are based on what is open to the fishery, and this does not always reflect the 94.5%/5.5% split based on how allocations are specified in Amendment 15.

One commenter suggested that spatial management is in place to protect small scallops, and that by having allocations lower than then ABC, it would suggest that spatial management is working, but currently only one fishery is “paying” for that protection since both allocations are not linked to which areas are available to the fishery. In response to a question about spatial management, Staff clarified that so far the discussion paper is not suggesting that OFL and ABC values be based on projected landings. The LA component’s allocation takes into account what is open and closed while that LAGC IFQ allocation does not. One commenter from the public suggested that the .5% of the LAGC IFQ allocation which goes to qualifying LA vessels should be considered separately in a potential management action. It was also clarified that both the LA and LAGC IFQ components have not exceeded that ACL (since A15). While the LA has exceeded their ACT in some years, they have never exceeded their ACL. One Committee member suggested that the PDT should evaluate why the LA fishery is not harvesting their ACT, can we evaluate projected versus realized catch in open areas separately from closed areas to learn more about where the differences are.

Speaking to the NGOM portion of the flowchart, a commenter felt that is should be removed altogether from the flowchart because the area is not part of the assessment, and LA effort is not curtailed in this area (unless the overall TAC is expected to be harvested by LAGC vessels). There was some question as to whether or not the observer set-aside has been adequate to fund the cost of the program. Staff explained that the data in hand suggests that the set-aside is able to cover the cost associated with observers for the program.

The Committee focused its discussion on recommendations on four sections: the draft problem statement, the draft objectives, draft measures, and modifications to the observer set-aside. The Committee made three consensus statements on the ACL structure work developed to date:

1. *By consensus, the Committee recommends the draft problem statement be expanded to include reference to management uncertainty for the LAGC component. Specifically the problem statement should include text similar to Section 5.1.2.1 (consider a management uncertainty buffer for the LAGC IFQ sub-ACL).*
2. *By consensus, revise the objectives to include “consider” for all objectives.*
3. *By consensus, request the PDT include an additional sub-option under Option A that would consider a 5% buffer for management uncertainty for the LAGC IFQ fishery.*

Five Year Research Priorities (Ms. Deirdre Boelke):

Next, staff reviewed the current five-year research priorities as well as Scallop PDT input on the scallop related research priorities. These are the Council’s five-year research priorities, and separate from the RSA priority setting and process which is specific to the scallop FMP and immediate management needs. Staff also recapped the AP’s discussion on this topic from their 3/22/16 meeting. The Committee reviewed the document section by section. One Committee member felt that the AP’s aquaculture recommendation may be outside of the purview of the Council. In addition to the AP’s recommendation, staff explained that the AP had noted that a reference to a Canadian benthic survey method had been removed from the priority list. Staff plans to follow-up on this item to learn why it was removed. Multiple members of the audience spoke to specifics of the survey, RoxAnn. A member of the audience spoke in favor of having scallop aquaculture and intensive surveys on the Council’s 5-year priorities, arguing that other NOAA solicitations (S-K) may use Council priorities as guidance. He also argued that policy needs to be developed for aquaculture, not just research on the feasibility and logistics.

Staff explained that the five year research priorities are reviewed by the SSC before going to the full Council. The Committee did not make any motions or consensus statements on this subject. The Committee supports the PDT recommendations and did not take any action to include the AP suggestions.

Five Year LAGC IFQ Review (Ms. Deirdre Boelke):

Staff reviewed a draft work plan and outline for the required five year review of the LAGC IFQ program. A technical working group has been identified with staff from NEFMC, NEFSC, and GARFO. Six overall elements will be analyzed with dozens of data elements including: 1) has the program controlled capacity; 2) has the program controlled mortality and promoted conservation; 3) has the program preserved the ability for vessels to participate at different levels; 4) has the program promoted safety and enforcement; 5) has the program resulted in the greatest overall benefit to the Nation; and 6) has the program prevented excessive shares. The review will consider the requirements of the MSA, the goals and objectives of Amendment 11, the action that implemented the ITQ program, and NOAA draft guidance on the elements that should be included in these reviews. Staff noted that members of the AP had expressed interest in examining the cost of the program on individuals who did not qualify. Staff clarified that the current workplan is focused on LAGC IFQ qualifiers, and note that there is some information in the three year review. Some members of the Committee briefly discussed the idea of looking at the impact of the LAGC IFQ program on non-qualifiers, and felt that if the issue is taken up it should only be done after other work is complete, since in his view the focus of the review should be on qualifiers. A Committee member felt that the working group should review the summary from the recent in-shore workshop to see if there are any issues raised in the workshop that should be included in the review. Staff also noted that an intern would be joining the NEFMC staff to assist with the preparation of the report.

The Committee did not make any motions or consensus statements on this subject.

Review recent changes to scallop observer program protocols (Ms. Deirdre Boelke):

Staff explained that this agenda item is based on a response to a Council motion from 2015. Staff from the NEFSC attended the AP meeting, and presented changes that have been made to the scallop observer program's protocols to improve data on discarding (poor quality scallops and high-grading), as requested by the NEFMC. Adjustments of the protocols become effective in January, and are primarily focused on biological sampling. The hope is that new protocols will improve the data that the PDT uses to examine scallop discard mortality from scallop meat quality issues and highgrading.

There were no questions or comments on this item.

Other Business:

- NOAA Enforcement Priorities:

Staff summarized the current priorities for NOAA enforcement in the Northeast. OLE is looking for feedback on what the most important priorities are, and initial input of what the next five-year priorities should be. The Committee was asked to review these priorities and be prepared to comment at the next Committee meeting in early June.

- Northern Gulf of Maine Scallop Management

The Committee picked up the NGOM discussion from the morning. Council staff recapped the AP's discussion and motions on NGOM issues. The Chair invited public comment on this issue. NOAA General Council explained that the agency was currently looking into regulations that apply to vessels that sailed from or fished south of 42°20'N.

The Committee asked why the AP motion to request an emergency action was tabled. The AP Chair explained that the AP discussed that emergency actions can take a long time, and that there was not a lot of support around the table for pursuing this. The Chair noted that the AP motion that was voted on passed unanimously. A Committee member felt that the group needed to see more data before acting.

Several members of the public commented on recent scallop fishing activity in the NGOM. Clarification was provided on the NGOM TAC, and how fishery catch counts against the TAC. A member of the audience felt that NGOM measures need to be revisited by the Council. Other audience members were concerned about the NGOM TAC being caught and the area being closed mid-season before a winter fishery can commence, as well as LA vessels deckloading and shucking inside the demarcation line while not being charged DAS. Other audience members were concerned with the lack of a stock assessment in the area, as well as IFQ quota counting against the NGOM TAC.

The Committee did not make any motions or consensus statements on this subject. There was some support expressed for working on an action to address this issue more holistically. However, the Committee ultimately requested that staff gather more information on recent scallop fishing within the NGOM management area and current regulations in that area. Updated information will be reviewed at the April Council meeting.