

NEW ENGLAND FISHERY MANAGEMENT COUNCIL
Hilton Hotel, Mystic, CT
April 22-24, 2014
MOTIONS

Tuesday, April 22, 2014

REPORTS

1. Dr. Pierce moved and Mr. T. Alexander seconded:
to include as a “just cause” for removal of an advisory panel member: refuses to adhere to proper decorum by failing to show respect for other panel members, or the panel itself, evidenced by frequent rude and disruptive behavior and/or an unwillingness to refrain from abusive treatment of other members and/or Council staff assigned to assist the advisory panel carry out its business of providing recommendations to committees and the Council.

The motion **carried** unanimously on a show of hands (16/0/0).

2. Mr. Quinn moved and Mr. Bullard seconded:
that the Council formally goes on record expressing its deep appreciation and profound respect to George Darcy for the support he has provided over many years to fishery management in general and to the Council in particular. He has shared his wisdom with bottomless patience and calm. His technical knowledge of regulations is immeasurable. He has become a guide and a friend to us all. We wish him sincere best wishes on his well-earned retirement and hope that he leaves a few stripers for the rest of us to catch.

The motion **carried** unanimously on a show of hands (16/0/0).

HERRING

3. Mr. Grout moved on behalf of the committee:
that the Council adopt Alternative 2.1.2, Alternative 2, Options A, B and C for dealer weighing/reporting requirements (*Option A, operators to report online; Option B, dealer reports and VTRs to be submitted within 24 hours and Option C, fishholds to be empty before leaving the dock*).
- 3a. Mr. T. Alexander moved to amend and Mr. Balzano seconded:
that the Council adopt Alternative 2.1.2, Alternative 2, Options A and B for dealer weighing/reporting requirements and for Option C, a waiver may be issued for instances when there are fish in the holds after inspection by an appropriate law enforcement officer. This alternative would only apply to Category A and B boats. [The intent is for waivers to be issued for refrigeration failure and non-marketable reported fish].

The motion to amend **carried** on a show of hands with one recusal, Ms. Tooley (8/7/0/1).

- 3b. Mr. Grout moved to amend and Mr. Bullard seconded:
to remove Options A and B.

The motion to amend **carried** on a show of hands with one recusal, Ms. Tooley (12/3/0/1).

- 3c. The main motion, as amended, was voted:
that the Council adopt Alternative 2.1.2, Alternative 2, Option C for dealer weighing/reporting requirements and for Option C, a waiver may be issued for instances when there are fish in the holds after inspection by an appropriate law enforcement officer. This alternative would only apply to Category A and B boats. [The intent is for waivers to be issued for refrigeration failure and non-marketable reported fish].

The main motion, as amended, **carried** on a show of hands with one recusal (13/2/0/1).

4. Mr. Grout moved on behalf of the committee:
that the Council adopt Alternative 2.1.3, Alternative 3 for dealer weighing/reporting requirements, to apply to limited access herring vessels that store herring in fish holds. [*Vessels required to certify capacity of fishholds and provide information to NMFS; vessels retain customized measuring stick (weighted) on board; NMFS-approved observer dip stick at first point of landing to estimate weight of total catch on board volumetric conversion for lbs. of Atlantic herring*].

The motion **carried** on a show of hands with one recusal, Ms. Tooley (14/0/1/1).

5. Mr. Grout moved on behalf of the committee:
that the Council support operational discard Option B [*operational discards prohibited on midwater trawl vessels in all areas on trips with an observer on board*].

- 5a. Dr. Pierce moved but died for lack of a second:
to table the previous motion to the following day.

- 5b. Dr. Pierce moved to substitute and Mr. Grout seconded:
that operational discards would be prohibited on midwater trawl vessels in all areas when carrying an observer. Operational discards occurring outside year-round groundfish closed areas will not be considered slippage.

The motion to substitute **failed** on a show of hands with one recusal, Ms. Tooley (4/10/1/1).

- 5b. Dr. Pierce moved to amend but died for lack of a second:
that the Council support operational discard Option B and that operational discards not to be defined as slippage [*operational discards prohibited on midwater trawl vessels in all areas on trips with an observer on board*].

- 5c. Ms. Goethel moved to amend and Mr. T. Alexander seconded:
that the Council support operational discard Option B [*operational discards prohibited on midwater trawl vessels in all areas on trips with an observer on board*] unless operational discards onboard would affect the safety of the crew.

The motion was **withdrawn** without objection.

- 5d. The main motion was voted:
that the Council support operational discard Option B [*operational discards prohibited on midwater trawl vessels in all areas on trips with an observer on board*].

The main motion **failed for lack of a majority** on a show of hands with one recusal, Ms. Tooley (6/6/3/1).

Wednesday, April 23, 2014

HERRING (continued from previous day)

1. Mr. Grout moved on behalf of the committee:
that the Council support gear damage Option A – gear damage would be part of mechanical failure.

The motion **carried** on a show of hands (15/0/1).

2. Mr. Grout moved on behalf of the committee:
that catch not brought on board due to falling out/off of gear would not be subject to additional slippage measures (consistent with staff recommendation in Framework 4 discussion document).

The motion **carried** unanimously on a show of hands (16/0/0).

3. Mr. Grout moved on behalf of the committee:
that notification of slippage events via VMS would be required to facilitate enforcement.

- 3a. Ms. Goethel moved to amend and Mr. T. Alexander seconded:
that notification of slippage events via VMS would be required to facilitate enforcement for A and B vessels.

The motion to amend **carried** unanimously on a show of hands (16/0/0).

The main motion, as amended, **carried** unanimously on a show of hands (16/0/0).

4. Mr. Grout moved on behalf of the committee:
that the Council adopt slippage Alternative 4, move along 15 nautical miles for slippage due to safety, mechanical failure, and spiny dogfish, as well as trip termination Option B for all other slippage events, to apply to Category A and B permits.

- 4a. Mr. Dempsey moved to amend and Dr. McKenzie seconded:
that the Council adopt slippage Alternative 4, move along 15 nautical miles for slippage due to safety, mechanical failure, and spiny dogfish, or for operational discards, as well as trip termination Option B for all other slippage events, to apply to Category A and B permits.

The motion to amend **failed** on a show of hands with one recusal, Ms. Tooley (4/12/0/1).

- 4b. The main motion was voted:
that the Council adopt slippage Alternative 4, move along 15 nautical miles for slippage due to safety, mechanical failure, and spiny dogfish, as well as trip termination Option B for all other slippage events, to apply to Category A and B permits.

The main motion **carried** on a show of hands with one recusal, Ms. Tooley (15/1/0/1).

5. Mr. Grout moved and Mr. T. Alexander seconded:
that the Council send a letter to the Office of General Counsel requesting consideration of increasing penalties for non-reporting and non-compliance, with requirements for an affidavit.

The motion **carried** on a show of hands (15/1/1).

6. Mr. Grout moved and Mr. T. Alexander seconded:
that the Council send a letter to NMFS requesting that a process be adopted to address the need for timely and regular access to observer data by enforcement personnel.

The motion **carried** on a show of hands (13/0/3).

7. Mr. Grout moved and Mr. Dempsey seconded:
to submit Framework Adjustment 4 to the Regional Office for approval.

The motion **carried** on a show of hands with one recusal, Ms. Tooley (14/0/1/1).

Mary Beth Tooley's recusal statement: I will be recusing myself on this final action on Framework 4 because I am employed by companies that operate herring vessels that exceed 10% of total herring landings which constitutes a conflict of interest under the guidelines.

ENFORCEMENT

8. Mr. T. Alexander moved on behalf of the committee:
that the Council consider giving the VMS/Enforcement committee the authority to comment on the proposed rule regarding gear stowage, and specifically to comment to include the yellow mesh in addition to orange mesh in the additional measures.

The motion **carried** on a voice vote.

SBRM

9. Mr. Quinn moved on behalf of the committee:
recommend the Council adopt the Northeast region SBRM omnibus amendment as presented, with preferred alternatives as from the original SBRM amendment (June 2006), with the following exceptions:
- Element 2, analytical techniques and allocation of observers:
 - Alternative 2.3 Option C – importance filters without grey cell filter
 - Element 5, framework adjustment provisions:
 - Alternative 5.4 – frameworks and annual adjustments, excluding fishing modes;
 - Element 6, prioritization process:
 - Funding trigger Alternative 6.1.2 – identify specific SBRM funding sources
 - Reallocation Alternative 6.2.3 – penultimate cell approach
 - Less than minimum pilot coverage (MPC) Alternative 6.3.3 – remove fleets with high MPC to days absent ratio

The motion **carried** on a show of hands (16/0/1).

10. Mr. Dempsey moved and Mr. Preble seconded:
request the Agency 1) provide measures of uncertainty around discard estimates in the SBRM annual report, 2) make necessary changes to provide discard estimates by FMP and by stock where possible and include progress updates on those efforts/changes in each annual report, and 3) communicate to the Council annually on the agency budget request for SBRM monitoring.

The motion **carried** on a show of hands (14/1/2).

RESEARCH STEERING

11. Mr. M. Alexander moved on behalf of the committee:
that, for the purposes of the 2014 NEFMC groundfish research program, the Council adopt the four research recommendations provided below:
- 1) how to access closed areas and increase catch of haddock without impacting cod, yellowtail flounder, and windowpane flounder through the application of developed gear technologies, mesh selectivity studies, and temporal harvest strategies, while minimizing habitat impacts;
 - 2) develop gear engineering solutions to minimize bycatch for flatfish, prioritizing stocks and fisheries according to current stock status and potential imposition of accountability measures (AMs) (ex. windowpane flounder caught in small mesh fisheries or yellowtail or windowpane flounder caught on Georges Bank);
 - 3) determine the recreational haddock discard mortality rate; and
 - 4) develop solutions for bycatch avoidance for flatfish, prioritizing stocks and fisheries according to current stock status and potential imposition of AMs (ex. windowpane flounder caught in small mesh fisheries or yellowtail or windowpane flounder caught on Georges Bank).
- 11a. Dr. McKenzie moved to amend but it was not seconded:
that research recommendation one (1) read: “how to increase catch of haddock without impacting cod, yellowtail flounder, and windowpane flounder through the application of developed gear technologies, mesh selectivity studies, and temporal harvest strategies, while minimizing habitat impacts.”

11b. The main motion was voted:

that, for the purposes of the 2014 NEFMC groundfish research program, the Council adopt the four research recommendations provided below:

- 1) how to access closed areas and increase catch of haddock without impacting cod, yellowtail flounder, and windowpane flounder through the application of developed gear technologies, mesh selectivity studies, and temporal harvest strategies, while minimizing habitat impacts;
- 2) develop gear engineering solutions to minimize bycatch for flatfish, prioritizing stocks and fisheries according to current stock status and potential imposition of AMs (ex. windowpane flounder caught in small mesh fisheries or yellowtail or windowpane flounder caught on Georges Bank);
- 3) determine the recreational haddock discard mortality rate; and
- 4) develop solutions for bycatch avoidance for flatfish, prioritizing stocks and fisheries according to current stock status and potential imposition of AMs (ex. windowpane flounder caught in small mesh fisheries or yellowtail or windowpane flounder caught on Georges Bank).

The motion **carried** on a show of hands (16/1/0).

Thursday, April 24, 2014

GROUNDFISH – FRAMEWORK 52

1. Mr. Blount moved on behalf of the committee:
to develop alternatives to revise windowpane AM triggers by taking into account stock status using survey information and utilizing catch performance according to the approaches provided as groundfish plan development team (PDT) ideas #1 and #2, and AM areas be revised to seasonal gear-based modification areas according to PDT idea #3 (see PDT memo 4/3/14).

The motion **carried** on a show of hands (16/1/0).

2. Mr. Blount moved on behalf of the committee:
to initiate another framework to further allocate the windowpane flounder ACL to be expanded to other components of the fishery, and develop AMs for these components.

The motion **carried** on a show of hands (16/0/1).

3. Mr. Preble moved and Mr. Kendall seconded:
to include for analysis by the PDT in Framework Adjustment 52, Section 4.2.1.1, Option 1; Section 4.2.1.2, Option 2 and Section 4.2.1.3, Option 3

The motion **carried** unanimously on a show of hands (17/0/0).

GROUND FISH – AMENDMENT 18

Accumulation Limits

4. Mr. T. Alexander moved and Ms. Ramsden seconded:
to substitute Section 4.1.2.2, Alternative 2 with an alternative that a person or entity may not hold more than 15.5% of aggregate PSC allocated to sectors.
- 4a. Mr. Grout moved to amend and Mr. T. Alexander seconded:
to include an additional alternative in the Amendment 18 document that a person or entity may not hold more than 15.5% of aggregate PSC allocated to permits.

The motion to amend **carried** unanimously on a show of hands (17/0/0).

The amended motion **carried** on a show of hands (15/2/0).

Permit Banks

5. Mr. Blount moved on behalf of the committee:
to treat permit banks the same as any other permit holders or entities in terms of accumulation limits, and also move Section 5.3.1 (regulatory definition of a nonprofit permit bank) to the “considered but rejected” section.

The motion **carried** unanimously on a show of hands (17/0/0).

U.S./Canada Trading

6. Mr. Blount moved on behalf of the committee:
to recommend to the Council to include in Amendment 18 within the U.S./CA trading measures (Section 4.2), Section 4.2.2 (in-season trades for U.S./CA stocks) with Alternative 2, Option B as preferred (allow in-season trades of sector ACE).
- 6a. Dr. Pierce moved to amend and Mr. Quinn seconded:
to strike the preferred alternative language.

The motion to amend was **withdrawn** without objection.

The main motion **failed** on a show of hands (0/15/1).

Handgear A Fishery Measures

7. Mr. Blount moved and Mr. Kendall seconded:
within the Handgear A (HA) fishery Alternative 2 (Section 4.3.2), to recommend that the Council adopt Option F (removal of March 1-20 closure) and Option H (removal of standard tote requirement), and consider adding VMS exemption for HA permits to the list of possible sector exemptions and to move all other measures to “considered but rejected”.

- 7a. Mr. Grout moved to substitute and Dr. Pierce seconded:
to revise Amendment 18 under Section 4.3.2 Alternative 2:
Option A – hand gear permit sub-ACL - *add the following to this option:* holders of HA permits may elect to enroll in the HA fishery, the common pool, or a sector. The PSC from HA permits would contribute to whichever sub-ACL their permit is enrolled in.

Those electing to enroll in the HA fishery would be limited to fishing in a single broad stock area for the fishing year and must declare which stock area they are going to fish in at the beginning of each year.

Option B - other fishery component - *add the following sub-options:*

- 1) Sub-Option B - account for the catch of other stocks within the “other fishery components” sub-annual catch limit;
- 2) Sub-Option C - calculate an annual assumed discard rate for the HA fishery and subtract that from the HA sub-ACL (for Gulf of Maine (GOM) cod, Georges Bank (GB) cod, GOM haddock, GB haddock, and pollock) and the other fishery component sub-ACL (for all other stocks);
- 3) Sub-Option D - assume all discards from trips fishing within the HA fishery to be *de minimis*, and not account for them under any sub-ACL. This sub-option would require the *de minimis* discards to be explicitly considered within the management uncertainty of the fishery.

Option C: proactive AMs - *revise and add two sub-options:* under this option, a proactive AM would be established for the ha fishery. To prevent overages proactively, trip limits for each stock allocated in the sub-ACL would be set in specifications by the Regional Administrator to prevent overage.

Sub-Option A. When 100% of the HA sub-ACL is reached for a stock, the HA fishery for that stock would close and all vessels fishing under the HA fishery would be subject to a zero possession limit for that stock for the remainder of the fishing year.

Sub-Option B. When 90% of the HA sub-ACL is reached for a stock, the HA fishery for that stock would close and all vessels fishing under the HA fishery would be subject to a zero possession limit for that stock for the remainder of the fishing year.

Option D: reactive accountability measures - *Add two sub options:*

Sub-Option A. Reactive AMs would be triggered if the HA fishery sub-ACL is exceeded.

Sub-Option B. Reactive AMs would be triggered if the HA fishery sub-ACL and the total ACL are exceeded.

No changes to options E - J.

The motion to substitute **carried** on a show of hands (15/2/0).

The substitute motion **carried** on a show of hands (15/2/0).

8. Mr. T. Alexander moved and Mr. Kendall seconded:
to amend Alternative 3, Section 4.1.2.3, that for any single fishing year, individual human persons and permit banks shall be assigned no more than 15.5% of the PSC for a stock. PSC holders, human persons who are at an individual stock cap, may acquire PSC up to the cap on other stocks provided that any PSC acquired over the individual cap is redistributed to the fleet in the manner described in Framework Adjustment 45.

- 8a. The motion was perfected to read:
to amend Alternative 3, Section 4.1.2.3, adding a sub-option that 'PSC holders, human persons who are at an individual stock cap, may acquire PSC up to the cap on other stocks provided that any PSC acquired over the individual cap is redistributed to the fleet in the manner described in Framework Adjustment 45.

The motion, as perfected, **carried** on a show of hands (16/1/0).

Quota Set-Asides

9. Mr. Blount moved on behalf of the committee:
to recommend to the Council to take no action on quota set-asides at this time due to the status of the stocks. As these stocks rebuild, quota set-asides potentially could be considered in a future action.

The motion **carried** unanimously on a show of hands (17/0/0).

Baseline Criteria for Leasing

10. Mr. Blount moved on behalf of the committee:
to recommend to the Council to take no action on restrictions for baseline criteria for leasing.

The motion **carried** on a show of hands (14/1/2).

Other Groundfish Motions

11. Dr. Pierce moved and Dr. McKenzie seconded:
that the Council:
- (1) establish a western Gulf of Maine boundary delineating an inshore versus offshore area with two options: either the western or eastern boundary of the western GOM closed area extended north and south;
 - (2) sector vessels fishing in the inshore area will be subject to possession limits for cod, Cape Cod/GOM yellowtail, GOM winter flounder, and white hake. Trip limits initially will be set at those proposed for common pool vessels for FY 2014, i.e., 600 lbs (cod), 1,000 lbs for yellowtail and winter flounders, 1,000 lbs for white hake and 500 lbs for witch. For other stocks caught in the inshore area, limits will be set each year during the specification process, as with revised and/or new limits for sector vessels;
 - (3) Areas 124 and 125 will be closed to commercial and recreational fishing from November 1 through January 31 to afford added protection to spawning cod aggregations that frequent these areas during late fall through mid-winter; and
 - (4) all fishermen fishing in the inshore area will be limited to a reduced and set number of gillnets and hooks determined each year during the specification process.
- 11a. Mr. Dempsey moved to substitute and Mr. T. Alexander seconded:
to task the Groundfish Committee with further analysis and development of measures to be included in Amendment 18 that would address potential concentrations of effort in the inshore GOM and impacts on GOM cod and other depleted stocks without re-establishing trip limits.

- 11b. Dr. Pierce moved to amend and Mr. Grout seconded:
to task the Groundfish Committee with further analysis and development of measures to be included in Amendment 18 that would address potential concentrations of effort in the inshore GOM and impacts on GOM cod and other depleted stocks.

The motion to amend the substitute **failed** on a show of hands (8/9/0).

The motion to substitute **carried** on a show of hands (15/2/0).

The substitute motion **carried** on a show of hands (15/2/0).

12. Dr. Pierce moved and Mr. Grout seconded:
that sectors must provide to the Council for its review and approval annual plans with: (1) fleet diversity goals and objectives consistent with Council Amendment 18 goals and objectives; (2) means by which those goals and objectives will be achieved; (3) memberships' approaches for annually maintaining an active fleet consistent with sector diversity goals and objectives (e.g., vessels, owners and ports); (4) detailed approaches for acquiring member's approval of each sector plan; and (5) evidence that sectors have made substantial progress in helping the Council achieve its goals and objectives.

The motion **failed** on a show of hands (6/11/0).

13. Dr. Pierce moved and Mr. Grout seconded:
that a groundfish sector not be considered a "person." That PSC-determined catch allocations of multispecies groundfish and any subsequent leasing of those allocations (amount and value) by individuals within and between sectors will not be considered confidential information as part of continued catch-share management of groundfish through Amendment 18 dealing with groundfish fleet consolidation and diversity.

- 13a. The motion was perfected to read:
that PSC-determined catch allocations of multispecies groundfish and any subsequent leasing of those allocations (amount and value) by individuals within and between sectors will not be considered confidential information as part of continued catch-share management of groundfish through Amendment 18 dealing with groundfish fleet consolidation and diversity.

The motion **carried** on a show of hands (11/5/1).

14. Dr. Pierce moved and Dr. McKenzie seconded:
request that GARFO post and archive annual PSC values to a public webpage per NMFS GARFO Regional Administrator John Bullard's March 27, 2014 letter to the Council that PSC is not considered confidential information.

The motion **carried** on a show of hands (13/3/1).

15. Dr. McKenzie moved and Mr. Grout seconded:
that for further consideration regarding Amendment 18 prioritize that the PDT continue its analysis of cod catch by vessel class size, initiated by the committee in January, by comparing data on the Georges Bank stock from Statistical Area 537 to data from 538 and 539 (and adjacent areas as appropriate) by the June/September Council meeting.
- 15a. Mr. Quinn moved and Mr. T. Alexander seconded:
to postpone the previous motion until the June Council meeting

The motion to postpone **carried** on a show of hands (16/1/0).