

**NEW ENGLAND FISHERY MANAGEMENT COUNCIL**  
**Hilton Mystic, CT**  
**April 9-11, 2009**  
**Motions**

**Tuesday, April 7, 2009**

**GROUND FISH**

1. Dr. Pierce moved and Mr. Goethel seconded:  
that the Council should: (1) disagree with the conclusions of the NMFS report dealing with further consideration of the application of the mixed stock exception and submitted to the Council for review as ordered by Judge Edward J. Harrington; and (2) inform Judge Harrington that NMFS has failed to perform the analyses for Council review; consequently, even though the Council believes the mixed stock exception should apply, as intended by Congress, without the court-ordered NMFS analyses, the Council is unable to provide the court with a Council review.
  
- 1a. The motion was amended to read:  
that the Council should: (1) disagree with the conclusions of the NMFS report dealing with further consideration of the application of the mixed stock exception and submitted to the Council for review as ordered by Judge Edward J. Harrington; and (2) inform Judge Harrington that NMFS has failed to perform the analyses for Council review; consequently, the Council is unable to provide the court with a review.

Yes – Avila, Pierce, Fair, Goethel, Leary, Stockwell, Odlin, Grout, Rice, Preble, Alexander and Tooley

No – Blount, McGee, Kurkul and Gibson

Abstention(s) – Cunningham

Dissention(s) - McGee (*Ms. McGee will send an official dissent within 30 days of the meeting per Council policy*)

The motion **carried** on a roll call vote.

**Wednesday, April 8, 2009**

**SKATES**

1. Mr. Stockwell moved and Mr. Rice seconded:  
to approve the draft final alternative as outlined in the decision document (document 1) and as described in document 2 for the proposed action in the final Amendment 3 to the FMP for the Northeast Skate Complex FEIS.
  
- 1a. Mr. Odlin moved to amend and Ms. Tooley seconded:  
to delay the accountability measures and annual catch limits to 2010.
  
- 1b. Ms. McGee moved and Mr. Grout seconded:  
to table the motion.

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

- 1c. Ms. Kurkul moved to amend and Mr. Rice seconded:  
to revise the skate wing possession limit to 1,900 lbs. per trip, per day.
- 1d. The motion to amend was perfected to read:  
to revise the skate wing possession limit to one landing per day with a 1,900 lb. maximum per landing.  
  
The motion to amend, as perfected, **carried** on a show of hands (12/2/2).
- 1e. Mr. Odlin moved and Mr. Leary seconded:  
to return to the tabled (1a) motion back for discussion.  
  
The motion **carried** on a show of hands (15/0/0).
- 1f. The tabled motion was discussed:  
to delay the accountability measures and annual catch limits to 2010.
- 1g. The amended motion was perfected to read:  
to implement the trip limits once the plan is approved and implement the rest of the plan on May 1, 2010.  
  
The motion to amend **carried** unanimously on a show of hands (17/0/0).
- 1h. Mr. Goethel moved to amend and Mr. Avila seconded:  
that all vessels fishing on category B days-at-sea, regardless of gear type the possession limit be 500 lbs. of whole skates or 220 lbs. of skate wings.  
  
The motion to amend **carried** on a show of hands (15/0/2).
- 1i. Dr. Pierce moved to amend and Mr. Goethel seconded:  
that the FEIS include analysis of impact of amendment alternatives on processors and dealers.  
  
The motion to amend **carried** on a unanimously on show of hands (17/0/0).
- 1j. Dr. Pierce moved to amend and Mr. Avila seconded:  
that the skate PDT assess the impact of the groundfish interim rule on estimates of the size of the ACL reduction needed to account for management uncertainty and then advise the Council as to whether the 25% figure should be revised.  
  
The motion to amend **failed** on a show of hands (3/14/0).
- 1k. Mr. Goethel moved to amend and Mr. Rice seconded:  
to include in Section 5.1.3.2, (page 54) regarding TAL overages to include a sentence for underages, that there be a formulaic response to underages – underages of 5% or more adjust the TAL on a one-for-one basis not to exceed the 100% of the TAL.  
  
The motion to amend was **withdrawn** by its maker.

11. The main motion, as amended, was voted:  
to approve the draft final alternative as outlined in the decision document (document 1) and as described in document 2, for the proposed action in the final Amendment 3 to the FMP for the Northeast Skate complex FEIS, amended as follows: 1) to revise the skate wing possession limit to one landing per day with a 1,900 lb. maximum per landing; 2) to implement the trip limits once the plan is approved and implement the rest of the plan on May 1, 2010; 3) that all vessels fishing on category B days-at-sea, regardless of gear type the possession limit be 500 lbs. of whole skates or 220 lbs. of skate wings and 4) that the FEIS include analysis of impact of amendment alternatives on processors and dealers.

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

2. Mr. Stockwell moved and Mr. Avila seconded:  
to approve the draft regulations as described in document 3 for the proposed rule to be published by NMFS in association with Final Amendment 3 to the FMP for the Northeast Skate complex.

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

3. Mr. Stockwell moved and Mr. Rice seconded:  
to approve the draft Final Amendment 3 document for submission to the Secretary of Commerce, subject to revisions required by the above motions and finalization by staff.

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

4. Mr. Stockwell moved and Mr. Avila seconded:  
to request NMFS to publish a control date for the skate bait fishery.

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

## **HERRING**

5. Mr. Blount moved on behalf of the committee:  
to request NMFS to provide the Council with advice regarding how downward adjustments of the ACLs to account for herring harvested by Canadian fisheries (primarily the New Brunswick weir fishery) will impact the service's ability to secure a US/CA understanding on resource sharing.

- 5a. Mr. Cunningham moved and Mr. Rice seconded:  
to table the previous motion to a time indefinite.

The motion to table **carried** on a show of hands (14/3/0).

6. Dr. Pierce moved and Mr. Stockwell seconded:  
that until Amendment 4 measures addressing herring vessel access to groundfish closed areas are implemented, sea herring mid-water trawlers be allowed continued access to Closed Area 1 through a revision to their current Letters of Authorization to require: (1) all catch from Area 1 must be brought on board for sampling (no partially or fully slipped tows allowed); and (2) an observer on all trips into the area with cost of observers being equally divided between the vessel and NMFS. Any vessel with regulated groundfish exceeding 1% of the catch of herring in two trips would be denied access until ruled by the Amendment 4 approach for access to groundfish closed areas.
- 6a. Mr. Odlin moved to substitute and Mr. Avila seconded:  
that as a condition of the Letters of Authorization to access groundfish Closed Area 1, there be 100% observer requirement.
- 6b. The motion to substitute was perfected by its maker:  
that as a condition of the Letters of Authorization to access groundfish Closed Area I, there be 100% observer requirement and there be a prohibition on slipped cod ends, and that all fish would at least be pumped aboard the boat so it can be sampled by an observer.

The motion to substitute **failed** on a show of hands (6/9/1), with one recusal, Ms. Tooley.

- 6c. The main motion was perfected and discussed:  
that until Amendment 4 measures addressing herring vessel access to groundfish closed areas are implemented, sea herring mid-water trawlers be allowed continued access to Closed Area I through a revision to their current Letters of Authorization to require: (1) all catch from area i must be brought on board for sampling (no partially or fully slipped tows allowed); and (2) an observer on all trips into the area with cost of observers being equally divided between the vessel and NMFS. Cost of observers to vessels would be reduced to the extent that NMFS has resources to provide additional coverage. Any vessel with regulated groundfish exceeding 1% of the catch of herring in two trips would be denied access until ruled by the Amendment 4 approach for access to groundfish closed areas.
- 6d. Ms. McGee moved to split the motion and Mr. Blount seconded:  
  
The motion to split was **withdrawn**.
- 6e. Mr. Stockwell moved and Mr. Leary seconded:  
to reconsider the motion to substitute.

The motion to reconsider **carried** on a show of hands (10/4/0), with one recusal, Ms. Tooley.

- 6f. The motion to substitute, as perfected, was voted:  
that as a condition of the Letters of Authorization to access groundfish Closed Area I, there be 100% observer requirement and there be a prohibition on slipped cod ends, and that all fish would at least be pumped aboard the boat so it can be sampled by an observer.

Yes - Alexander, Odlin, Preble, Stockwell, McGee, Leary, Goethel, Cunningham, Blount

No - Rice, Grout, Fair, Pierce

Abstention(s) - Kurkul

Recusal(s) - Tooley

The motion to substitute **carried** on a roll call vote (9/4/1).

- 6g. The main motion, as substituted, was voted:  
that as a condition of the Letters of Authorization to access groundfish Closed Area 1, there be 100% observer requirement and that there be a prohibition on slipped cod ends and that all fish would at least be pumped aboard the boat so it can be sampled by an observer.

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

### Thursday, April 9, 2009

## SCALLOPS

### REVISIONS TO ACL SECTION OF DEIS INCLUDING ACCOUNTABILITY MEASURES (AMs)

1. Ms. McGee moved on behalf of the committee:  
to amend Option A and Option B (document 2, page 34 and 35) to establish separate ACTs for the LA and LAGC IFQ fisheries, and apply corrective AMs only if the respective ACLs are exceeded. Figure 4 in the DEIS will be replaced with figures attached (document 4).  
  
The motion **carried** unanimously on a show of hands (16/0/0).
2. Ms. McGee moved on behalf of the committee:  
to amend the document to reflect input from SSC within ACL section.  
  
The motion **carried** unanimously on a show of hands (13/0/0).
3. Ms. McGee moved on behalf of the committee:  
to accept the PDT recommendation for general category AM – as described on page 40 in document 2. [*Request PDT to further consider issues that may come up with this AM – i.e. what if a vessel exceeds quota it leased?*]
- 3a. Dr. Pierce moved to amend but received no second:  
if an individual vessel exceeds their IFQ or leased IFQ their permit be suspended for one year.

- 3b. The main motion was voted:  
to accept the PDT recommendation for general category AM – as described on page 40 in document 2. [*Request PDT to further consider issues that may come up with this AM – i.e. what if a vessel exceeds quota it leased?*]

The motion **carried** unanimously on a show of hands (14/0/0).

4. Ms. McGee moved on behalf of the committee:  
to accept the PDT recommendation concerning limited access AMs (page 40, document 2), and request PDT to develop further analysis and justification for the disclaimer.

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

5. Ms. McGee moved on behalf of the committee:  
to accept northern Gulf of Maine AM as recommended by the PDT.

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

6. Ms. McGee moved on behalf of the committee:  
to request that the PDT develop a fifth option under yellowtail AMs that builds on bullet 4 and include adjustments in possession limits for access area trips (and allocation of individual days-at-sea allocations by yellowtail stock area) and adjustments in days-at-sea based on projected yellowtail ACL with an effort to minimize derby fisheries. The PDT should **not** further develop bullet 1.

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

7. Ms. McGee moved on behalf of the committee:  
to move alternatives in Section 3.3.3.3 to considered and rejected section (alternatives to limit effort in other fisheries from vessels that have leased scallop days-at-sea and/or access area trips).

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

8. Ms. McGee moved on behalf of the committee:  
to include an alternative in Amendment 15 to allow LAGC IFQ permit owners to permanently transfer some or all quota allocation independent from their IFQ permit to another LAGC IFQ permit holder, while retaining the permit itself.

- 8a. Mr. Fair moved to amend and Mr. Preble seconded:  
to include an alternative in Amendment 15 to allow LAGC IFQ permit owners to permanently transfer some or all quota allocation independent from their IFQ permit to another LAGC IFQ permit holder or to a community based trust or permit bank, while retaining the permit itself.

The motion **carried** on a show of hands (10/5/0).

- 8b. Mr. Grout moved to split the motion and Mr. Goethel seconded:

The motion to split **carried** on a show of hands (10/5/0).

- 8c. The first part of the split motion was voted:  
to include an alternative in Amendment 15 to allow LAGC IFQ permit owners to permanently transfer some or all quota allocation independent from their IFQ permit to another LAGC IFQ permit holder while retaining the permit itself.

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

- 8d. The second part of the split motion, as perfected, was voted:  
to include an alternative in Amendment 15 to allow LAGC IFQ permit owners to permanently transfer some or all quota allocation independent from their IFQ permit to a community based trust or permit bank, while retaining the permit itself and conversely a permit bank can lease/transfer to any limited access general category IFQ permit holder.

The motion, as perfected, **carried** on a show of hands (11/4/0).

9. Ms. McGee moved on behalf of the committee:  
that the Council include an alternative in Amendment 15 to allow LAGC permit owners to permanently transfer IFQ permit and associated allocation independent of all other permits. The only vessels that could participate would be vessels already with LAGC IFQ permits, both limited access and general category vessels that have already qualified for a LAGC IFQ permit.

The motion **failed** on a show of hands (0/12/1/).

10. Ms. McGee moved on behalf of the committee:  
to accept the PDT recommendation for potential issues to be considered in Framework 21 (issues 1-4 in document 5).

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

11. Ms. McGee moved on behalf of the committee:  
that the Council accepts scallop RSA priorities with the following changes: 1) item 3 be moved to highest priority level and remove the word “groundfish” to include “all managed” species; 2) elevate item 6 to medium or higher priority. The remaining priorities would be equal under other priorities.

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

12. Ms. McGee moved on behalf of the committee:  
that the Council consider two specific EFP applications reviewed today and consider recommending that NMFS consider that the exemptions may be justified.

The motion **failed** on a show of hands (2/9/3).

**OTHER BUSINESS**

13. Mr. Odlin moved and Mr. Stockwell seconded:  
that the Council send a letter to NMFS requesting they look at the trip limits described in the final interim rule as they relate to the increase in the “F” rates that can be allowed for white hake and Georges Bank winter flounder and NMFS consider adjusting the trip limits accordingly.

The motion **carried** on a show of hands (12/1/1).