

**NEW ENGLAND FISHERY MANAGEMENT COUNCIL**  
**Sheraton Ferncroft, Danvers, MA**  
**November 18-20, 2008**  
**Motions**

**Tuesday, November 18, 2008**

**SSC**

1. Mr. Goethel moved and Mr. Preble seconded:  
to synthesize the recommendations of the SSC and the Research Steering committee into one document to be forwarded to the NEFSC.

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

**SPINY DOGFISH**

2. Mr. Blount moved and Mr. Avila seconded:  
that the Spiny Dogfish Framework Adjustment 2 document be submitted to the Regional Administrator with the recommendation that the Council's preferred alternative (Alternative 2: redefine the status determination criteria) be published in the *Federal Register* as a proposed rule.

The motion **carried** on a show of hands (14/0/1).

3. Mr. Blount moved on behalf of the committee:  
that the spiny dogfish commercial quota for fishing year 2009 be set at 12 million lbs.

The motion **carried** on a show of hands (14/0/1).

4. Mr. Blount moved on behalf of the committee:  
that the spiny dogfish commercial trip limits for fishing year 2009 be set at 3,000 lbs.

The motion **carried** on a show of hands (14/0/1).

5. Dr. Pierce moved and Mr. Grout seconded:  
to request that the MAFMC remove the seasonal allocation of the annual spiny dogfish quota.

The motion was **tabled**.

**Wednesday, November 19, 2008**

**GROUND FISH**

1. Mr. Cunningham moved on behalf of the committee:  
that the Council include in Amendment 16 the PDT strategy 2 (PDT memo dated October 23, 2008) for witch flounder and Georges Bank winter flounder rebuilding strategies, provided the flexibility to extend rebuilding to 2020 is allowed.

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

2. Mr. Cunningham moved and Ms. McGee seconded:  
that the Council include in Amendment 16 the strategy to rebuild northern windowpane flounder by 2017.

- 2a. Dr. Pierce moved to amend and Mr. Stockwell seconded:  
that the Council include in Amendment 16 a strategy to rebuild northern windowpane flounder by 2017.  
(*Intent: not to have an "F" rebuild number*)

The motion to amend **carried** on a show of hands (10/7/0).

The amended motion **carried** on a show of hands (12/3/2).

3. Mr. Goethel moved and Mr. Stockwell seconded:  
to instruct the PDT and the observer program to look for sources of error in the discard calculations for windowpane flounder.

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

4. Mr. Cunningham moved on behalf of the committee:  
that the Council include in Amendment 16 that the three (3) PDT options with differential days-at-sea (DAS) and no trip limits should be considered and rejected.

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

5. Mr. Cunningham moved on behalf of the committee:  
that the Council include PDT Option 2A as described in enclosure 2 to the PDT report (effort controls: differential DAS and trip limits) as an option to go forward in Amendment 16. Under the differential counting Option 2A, differential DAS would be charged based on the area the vessel is in.

- 5a. Mr. Odlin moved to amend and Mr. Leary seconded:  
that the Council include PDT Option 2A as described in enclosure 2 to the PDT report (effort controls: differential DAS and trip limits) as an option to go forward in Amendment 16. Under the differential counting Option 2A, differential DAS would be charged based on the area the vessel is in and the maximum trip limit in the Gulf of Maine for Gulf of Maine cod would be 6 days.

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

- 5b. Mr. Leary moved to amend and Mr. Goethel seconded:  
that you must declare before the trip the area you are fishing in so that you are charged accordingly.

- 5c. The motion to amend was perfected to read:  
that differential DAS will be counted as is currently done for the Gulf of Maine differential DAS counting area. Vessels must declare before the trip what area(s) will be fished on the trip and will be charged the maximum differential DAS rate for the areas declared.

The motion to amend **failed** on a show of hands (6/6/2).

- 5d. The amended motion was voted:  
that the Council include PDT Option 2A as described in enclosure 2 to the PDT report (effort controls: differential DAS and trip limits) as an option to go forward in Amendment 16. Under the differential counting Option 2A, differential DAS would be charged based on the area the vessel is in and the maximum trip limit in the Gulf of Maine for Gulf of Maine cod would be 6 days.

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

6. Mr. Cunningham moved and Mr. Stockwell seconded:  
that the Council include in Amendment 16 Option 3A and Option 4.
- 6a. Mr. Odlin moved to amend and Mr. Avila seconded:  
that the Council include in Amendment 16 Option 3A and Option 4 and that for Gulf of Maine cod and yellowtail flounder, the upper trip limits be the same as in Option 2A.

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

The amended motion **carried** on a show of hands (13/2/1).

7. Mr. Cunningham moved on behalf of the committee:  
that the Council include in Amendment 16 a zero retention limit option for Southern New England/Mid-Atlantic (SNE/MA) winter flounder, SNE/MA windowpane flounder and northern windowpane flounder.

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

8. Mr. Cunningham moved on behalf of the committee:  
that the Council include an alternative in Amendment 16 to require the use of 12” drop chains in all small mesh fisheries in the SNE area bordered to the south and west by the current 2:1 differential DAS counting area.

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

9. Mr. Cunningham moved and Mr. Odlin seconded:  
to include Options 1, 2 and 3 for Gulf of Maine cod and Options 1 and 2 for Gulf of Maine haddock recreational landings.

- 9a. Mr. Grout moved to amend and Mr. Goethel seconded:  
to include an option for 18” minimum size limit for haddock for recreational fishermen (which includes party/charter anglers).

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

- 9b. The amended motion was voted:  
to include Options 1, 2 and 3 for Gulf of Maine cod and Options 1 and 2 for Gulf of Maine haddock recreational landings. Also, to include an option for 18” minimum size limit for haddock for recreational fishermen (which includes party/charter anglers).

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

10. Mr. Cunningham moved on behalf of the committee:  
that the Council include an alternative in Amendment 16 to remove the requirement that recreational fishermen are limited to 2 hooks.

The motion **carried** on a show of hands (12/2/2).

11. Mr. Grout moved and Dr. Pierce seconded:  
that recreational fishermen be allowed to land fillets and that groundfish species with a recreational allocation of an allowable catch limit must have fillets landed with at least 2 square inches of skin on to allow positive identification.

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

12. Mr. Cunningham moved on behalf of the committee:  
that the Council recommend to NMFS for Amendment 16 that in the last sentence of the current regulations that address joint and several liability for sectors, to eliminate the wording “as well as any other applicable federal regulations.”

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

13. Mr. Cunningham moved on behalf of the committee:  
that the Council include language in Amendment 16 that sectors may be held jointly liable for violations of sector operations plan requirements, such as/for example:

- ace overages
- discarding of legal fish
- misreporting of catch (landings or discards)

The specific elements will be refined with input from NOAA/GC, NERO and the industry.

- 13a. Ms. McGee moved and it was seconded:  
to table the previous motion.

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

14. Mr. Cunningham moved on behalf of the committee:  
that the Council include an option in Amendment 16 to remove the SAP for SNE/MA winter flounder.

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

15. Mr. Cunningham moved on behalf of the committee:  
that the Council include an option in Amendment 16 to increase the minimum size of Atlantic halibut to 38” (96.5 cm).

- 15a. Ms. McGee moved to amend and Mr. Preble seconded:  
that the Council include an option in Amendment 16 to increase the minimum size of Atlantic halibut to 41”.

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

The amended motion **carried** unanimously on a show of hands.

16. Mr. Rice moved and Mr. Cunningham seconded:  
to bring back tabled motion #13.

The motion **carried** on a show of hands.

16a. The previously tabled motion was discussed:  
that the Council include language in Amendment 16 that sectors may be held jointly liable for violations of sector operations plan requirements, such as/for example:

- ace overages
- discarding of legal fish
- misreporting of catch (landings or discards)

The specific elements will be refined with input from NOAA/GC, NERO and the industry.

16b. Mr. Odlin moved to amend and Dr. Pierce seconded:  
to delete the following words from the previous motion: “such as/for example” and “the specific elements will be refined with input from NOAA/GC, NERO and the industry.”

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

16c. The amended motion was voted:  
that the Council include language in Amendment 16 that sectors may be held jointly liable for violations of sector operations plan requirements:

- ace overages
- discarding of legal fish
- misreporting of catch (landings or discards)

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

17. Ms. Kurkul moved and Dr. Pierce seconded:  
to include as an alternative the proposed language in the November 17 letter from the NMFS Regional Administrator to the Council which states that “should a hard TAC allocated to a sector be exceeded in a given fishing year, the sector’s allocation will be reduced by the overage in the following fishing year, and the sector, each vessel, and vessel operator and/or vessel owner participating in the sector may be charged, as a result of said overages, jointly and severally for civil penalties and permit sanctions pursuant to 15 CFR Part 904. If the sector exceeds its TAC in more than one (1) fishing year, the sector’s share may be permanently reduced or the sector’s authorization to operate may be withdrawn.”

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

18. Mr. Cunningham moved and Mr. Rice seconded:  
that the Council grant the Groundfish Committee and the PDT the authority to draft the final draft language for Amendment 16 DEIS to be presented for approval at the February 2009 Council meeting.

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

19. Dr. Pierce moved and Mr. Fair seconded:  
that the Council request NMFS review recent herring midwater trawling observer data from groundfish Closed Area 1 to determine if Council requirements for continued access have been met. If criteria have not been met, access should be prohibited. If the Regional Administrator concludes criteria are not clear enough for her to make this determination, a framework action should be initiated to clarify the Council’s intent regarding herring midwater trawling access to all groundfish closed areas. The framework would include clear criteria for continued access by individual vessels and for the midwater trawl fleet as a whole.

- 19a. Mr. Odlin moved to substitute and Ms. Tooley seconded:  
that the Council request that NMFS do an analysis of the situation, haddock bycatch in Closed Area 1, based on the current regulations and report back to the Council for further action.

The motion to substitute **failed** on a show of hands (7/9/0).

- 19b. Mr. Goethel moved to amend and Mr. Rice seconded:  
to split motion #19.

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

- 19c. The 1<sup>st</sup> part of the split motion was voted:  
that the Council request NMFS review recent herring midwater trawling observer data from groundfish Closed Area 1 to determine if Council requirements for continued access have been met. If criteria have not been met, access should be prohibited.

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

- 19d. Mr. Goethel moved and Mr. Rice seconded:  
to postpone the discussion on the 2<sup>nd</sup> part of the split motion until a time certain (after the priorities discussion on November 20) which reads: "If the Regional Administrator concludes criteria are not clear enough for her to make this determination, a framework action should be initiated to clarify the Council's intent regarding herring midwater trawling access to all groundfish closed areas. The framework would include clear criteria for continued access by individual vessels and for the midwater trawl fleet as a whole."

The motion **carried** on a show of hands (9/6/1).

20. Ms. McGee moved and Mr. Goethel seconded:  
that the Council requests that NMFS prepare a budget and an implementation plan to administer, enforce and monitor sectors and other output-based management programs in the Northeast multispecies FMP to ensure compliance with Magnuson-Stevens act requirements to implement ACLs/AMs.

The motion **carried** on a show of hands (13/1/2).

### **Thursday, November 20, 2008**

#### **PRIORITIES**

*Before any motions were brought forward, the Council discussed the postponed motion from November 19:*  
If the regional administrator concludes criteria are not clear enough for her to make this determination, a framework action should be initiated to clarify the council's intent regarding herring midwater trawling access to all groundfish closed areas. The framework would include clear criteria for continued access by individual vessels and for the midwater trawl fleet as a whole.

1. Mr. Preble moved and Mr. Cunningham seconded:  
that the Council accept the priority list as presented at the November 20 Council meeting.

- 1a. Dr. Pierce moved to amend and Mr. Stockwell seconded:  
to include criteria for midwater trawler access to groundfish closed areas in the list of 2009 herring management actions.

The motion to amend **carried** on a show of hands (12/5/0).

- 1b. Ms. McGee moved to amend and Mr. Odlin seconded:  
to include in the monkfish priority the development of an ITQ alternative in Amendment 4.

- 1c. Mr. Stockwell moved to amend the amendment and Mr. Leary seconded:  
to include in the monkfish priority the development of an ITQ alternative and a sector alternative in Amendment 4.

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

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

- 1d. The main motion, as amended, was voted:  
that the Council accept the priority list as presented at the November 20 Council meeting with the following updates: 1) to include criteria for midwater trawler access to groundfish closed areas in the list of 2009 herring management actions and 2) to include in the monkfish priority the development of an ITQ alternative and a sector alternative in Amendment 4.

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

## **HABITAT**

2. Mr. Preble moved on behalf of the committee:  
that the Council craft a template letter to project proponents and regulating agencies detailing the potential aspects of offshore energy generating facilities/projects that may have an adverse impact on essential fish habitat, fishing grounds and fishermen.

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

3. Mr. Preble moved on behalf of the committee:  
that the Council adopt the amended terms of reference for SSC review of the Omnibus Phase II analysis.

The motion was **withdrawn** by its maker and will be remanded to the Executive Committee for transmittal to the SSC.

## **SCALLOPS**

4. Ms. McGee moved on behalf of the committee:  
that the first term and condition of the biological opinion is not reasonable and prudent because it would cause more than a minor change in the fishery in terms of shifts in effort with adverse impact to yield, fishing mortality (F), landings and potentially safety-at-sea in the scallop fishery.

The motion **carried** on a show of hands (14/0/2).

5. Ms. McGee moved on behalf of the committee: that NMFS must limit the amount of allocated scallop fishing effort and/or its impacts on sea turtles that can be used in the area and during the time of year when sea turtle distribution overlaps with scallop fishing activity.

The motion **carried** on a show of hands (10/4/2).

6. Ms. McGee moved on behalf of the committee: that no later than 2010, NMFS must limit the amount of allocated limited access scallop fishing effort that can be used in waters south of the northern boundaries of statistical areas 612, 613, 533, 534, 541-543 during the periods in which turtle takes have occurred. Restrictions on fishing effort described above shall be limited to a level that will not result in more than a minor impact on fishing mortality or the fishery.

The motion **carried** on a show of hands (11/4/1).

7. Ms. McGee moved on behalf of the committee: that NMFS must review data with respect to scallop distribution and abundance to identify areas of high abundance and, in consultation with NEFMC, identify areas for new rotational access areas to increase the catch-per-unit of effort in the scallop fishery during seasons when the scallop fishery and sea turtles overlap.

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

8. Ms. McGee moved on behalf of the committee: that NMFS must also investigate and quantify reductions in fishing effort in the Mid-Atlantic during the June-October period, using 2003 as the baseline that has already resulted from implementation of Amendment 10 and Amendment 11.

The motion **carried** on a show of hands (13/2/0).

9. Ms. McGee moved on behalf of the committee: to remove the IFQ program alternative for limited access fishery to the considered and rejected section in Amendment 15 (Alternative 3.3.4 in DEIS).

The motion **carried** on a show of hands (14/0/1).