

New England Fishery Management Council
Biltmore Hotel, Providence, RI
September 3-4, 2008
Motions

Wednesday, September 3, 2008

ELECTION OF OFFICERS

Chairman – John Pappalardo

Vice Chairman – Rip Cunningham

Executive Committee - Terry Stockwell, David Preble, Frank Blount

SKATES

1. Mr. Pappalardo moved on behalf of the committee:
to approve the modification of the Amendment 3 purpose and need, to address rebuilding of smooth skate and to stop overfishing of thorny skate.

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

National Standard 1 Discussion

2. Dr. Pierce moved and Ms. Tooley seconded:
that international agreements and transboundary resource sharing understandings be treated the same way in National Standard 1 guidance (i.e. exempt from Annual Catch Limits (ACLs) and Accountability Measures (AMs) requirements).

The motion **carried** on a show of hands (12/3/1).

3. Ms. McGee moved and Mr. Gibson seconded:
that the Council letter on the proposed rule for National Standard 1 include the following sentence: “*National Standard 1 guidelines should require managers to develop ACLs and AMs for all components of a fishery, when practicable, and ensure that annual catch limits account for dead discards and other fishing-related mortality.*”

The motion **failed** on a show of hands (3/11/1).

4. Dr. Pierce moved and Mr. Avila seconded:
that the Council request NMFS to retain the exceptions to requirements to prevent overfishing as described in the proposed National Standard 1 guidelines but with the conditions listed in the current guidelines (*Federal Register*, volume 63, number 84, dated May 1, 1998, pages 24221 and 24231).

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

5. Mr. Preble moved and Mr. Odlin seconded:
to add to paragraph 5 in the National Standard letter that “inseason adjustments seem incompatible with rights based management” and to paragraph 6, add “it may in fact reduce both.”

The motion **failed** on a show of hands (3/12/1).

GROUND FISH

6. Mr. Cunningham moved on behalf of the committee:
that the Council request a new benchmark assessment for all of Georges Bank cod to be conducted with the Canadians as soon as possible and to be completed in time for next years' TRAC.
- 6a. Dr. Pierce moved to amend and Mr. Gibson seconded:
that the Council request a new benchmark assessment for eastern Georges Bank cod to be conducted with the Canadians as soon as possible and to be completed in time for next years' TRAC. Also, to evaluate whether the new benchmark assessment is consistent with the Georges Bank assessment done by the GARM.

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

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

7. Dr. Pierce moved and Ms. Tooley seconded:
that the Council request NMFS allow through proposed National Standard 1 guidelines:
- 1) a stock status determination using criteria for overfishing specified in the US/CA transboundary sharing agreement; and
 - 2) a timeline for rebuilding a fishery consistent with the understanding

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

Thursday, September 4, 2008

GROUND FISH (continued)

1. Dr. Pierce moved and Mr. Gibson seconded:
to direct the PDT to consider as an alternative rebuilding strategy in 5 years with a 75% probability of success for newly overfished stocks.
- 1a. Mr. Cunningham moved to substitute and Mr. Stockwell seconded:
that the PDT use the GARM III projections to estimate the minimum rebuilding period for the newly overfished species with a 75% probability of success in achieving rebuilding.
- 1b. The substitute motion was substituted to read:
to estimate an F=0 rebuilding time and a timeframe between that result and 10 years based on the biology of the species with a 75% probability of success in achieving rebuilding.

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

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

2. Mr. Cunningham moved on behalf of the committee:
to recommend that the following effort control measures be included in the development of draft Amendment 16:
- 2a. to recommend to the Council to have an option in the document to permanently have an 18-inch minimum size for haddock;
 - 2b. to recommend to the Council to allow vessels to fish in the yellowtail SAP area on eastern Georges Bank with haddock separator trawls, eliminator trawls, five point trawls and hooks to catch haddock;
 - 2c. to forward as effort control Option 5 an option using a 24-hour clock, with trip limit for each stock determined by dividing the ACL by an estimate of the days-at-sea (DAS) that would be used in each stock area;
 - 2d. to direct the PDT to continue development of effort control measures to address GARM III results and recommendations and avoid options that will promote a shift of fishing effort inshore and/or increase discarding;
 - 2e. that the PDT develop measures that encourage the harvest of healthy stocks;
 - 2f. to have the PDT develop an alternative that relies on differential counting of DAS and does not include any trip limits.

- 2a. Mr. Goethel moved and Mr. Grout seconded:
to split 2c (*to forward as effort control Option 5 an option using a 24-hour clock, with trip limit for each stock determined by dividing the ACL by an estimate of the DAS that would be used in each stock area*) from the previous motion.

The motion to split **carried** on a show of hands (9/6/0).

- 2b. Ms. McGee moved to amend but no one seconded:
to eliminate 2a (*to recommend to the Council to have an option in the document to permanently have an 18-inch minimum size for haddock*) for consideration.

- 2c. The main motion, as amended, was voted:
to recommend that the following effort control measures be included in the development of draft Amendment 16:
- 2a. to recommend to the Council to have an option in the document to permanently have an 18-inch minimum size for haddock;
 - 2b. to recommend to the Council to allow vessels to fish in the yellowtail SAP area on eastern Georges Bank with haddock separator trawls, eliminator trawls, five point trawls and hooks to catch haddock;
 - 2d. to direct the PDT to continue development of effort control measures to address GARM III results and recommendations and avoid options that will promote a shift of fishing effort inshore and/or increase discarding;
 - 2e. that the PDT develop measures that encourage the harvest of healthy stocks;
 - 2f. to have the PDT develop an alternative that relies on differential counting of DAS and does not include any trip limits.

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

3. Mr. Cunningham moved on behalf of the committee:
to recommend that the following accountability measures (AM) be included in the development of draft Amendment 16:
- 3a. to recommend to the Council that there be no in-season accountability measures;
- 3b. to recommend that the Council adopt the annual AM adjustment language described in the May 12 PDT memo paragraphs E, F, and G, but to estimate catches through February (10 months of catch data). The first such adjustment would be made for FY 2011. Adjustments will be made in accordance with PDT guidance approved by the Council.

- 3a. Ms. Kurkul moved to amend and Mr. Grout seconded:
to eliminate 3a (*to recommend to the Council that there be no inseason accountability measures*) for consideration.

The motion to amend **carried** on a show of hands (10/5/1).

- 3b. The main motion, as amended, was voted:
to recommend that the following AM be included in the development of draft Amendment 16:
- 3b. to recommend that the Council adopt the annual am adjustment language described in the May 12 PDT memo paragraphs E, F, and G, but to estimate catches through February (10 months of catch data). The first such adjustment would be made for FY 2011. Adjustments will be made in accordance with PDT guidance approved by the Council.

The main motion, as amended, **carried** on a show of hands (12/2/1).

4. Mr. Cunningham moved on behalf of the committee:
to recommend that the following recreational fishery measures be included in the development of draft Amendment 16:
- 4a. that for the recreational measures, if mortality has to be decreased, that size limits will be adjusted, followed by changes in bag limits, followed by changes in the season. If mortality can be increased, the reverse order will be used;
- 4b. recreational fishery AMs will be Council adjustments to minimum sizes, bag limits, and/or seasons set for the following year to account for previous years overages of recreational fishery ACLs, using a three year running average of MRFSS data (or its replacement system);
- 4c. to recommend that the Council remove the recreational/commercial allocation options as currently shown in Amendment 16;
- 4d. recommend that for any stock not fully utilizing the ACL after deduction for state landings, and/or any stock where recreational catch is less than 5%, the Council should not do a commercial/recreational allocation at this time;
- 4e. in those cases that meet the 5% requirement for an allocation, consider the following options for years to determine the allocation:
- Gulf of Maine (GOM) cod, GOM haddock, pollock: FY 1996-2006 or FY 2001-2006
 - Georges Bank cod: FY 1996-2006 or no allocation
 - SNE/Mid-Atlantic winter flounder: FY 1982-2006
 - GOM winter flounder: FY 1982-2006 or 50% of the available catch
- 4f. for evaluating recreational ACLs, calculate the 3-year average of ACL and compare it to the 3-year running average of catch.

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

5. Mr. Cunningham moved on behalf of the committee:
that when setting ACLs, no deduction for state waters catch by federally permitted commercial and federally permitted party/charter vessels.

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

6. Mr. Cunningham moved on behalf of the committee:
to recommend that the following sector policy measures be included in draft Amendment 16:
- 6a. that all Amendment 16 sector policy revisions will be implemented in FY 2010;
 - 6b. that sectors be prohibited from landing pout or windowpane flounder;
 - 6c. that sectors not be required to adhere to additional mortality controls adopted by Amendment 16, such as year round and seasonal closed areas, gear requirements and differential DAS counting;
 - 6d. that the assumed discard rate will be from the latest assessment, by gear type, and the discard will be added to the landings for each trip to track the sector's catch of ACE. To include an additional option: using available observer data, observed trips would be used to calculate a sector-specific discard rate;
 - 6f. that current sector members be allowed to lease any multispecies DAS within the length/horsepower baseline requirements.
- 6a. Mr. Odlin moved to amend and Mr. Leary seconded:
to remove 6f (*that current sector members be allowed to lease any multispecies DAS within the length/horsepower baseline requirements*) for consideration.

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

- 6b. The main motion, as amended, was voted:
to recommend that the following sector policy measures be included in draft Amendment 16:
- 6a. that all Amendment 16 sector policy revisions will be implemented in FY 2010;
 - 6b. that sectors be prohibited from landing pout or windowpane flounder;
 - 6c. that sectors not be required to adhere to additional mortality controls adopted by Amendment 16, such as year round and seasonal closed areas, gear requirements and differential DAS counting;
 - 6d. that the assumed discard rate will be from the latest assessment, by gear type, and the discard will be added to the landings for each trip to track the sector's catch of ACE. To include an additional option: using available observer data, observed trips would be used to calculate a sector-specific discard rate.

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

7. Mr. Cunningham moved on behalf of the committee:
recommend that the following sector monitoring measures be included in draft Amendment 16:
- 7a. - 1. for the first and second year of Amendment 16, Options 2a and b (dockside monitoring) (Archipelago Phase 1 report, page 22). Assumed discard rates to be used in both years unless a sector through its own independent monitoring system provides accurate information for use of actual discard rates;
 - 2. for the third year of implementation, Options 3a and b (dockside monitoring and at-sea monitoring) (Archipelago phase 1 report, page 25);
 - 7b. the primary goal of observers for sector monitoring is to verify area fished, catch and discards by species, by gear type. This data will be reported to the sector managers and to the NMFS;

- 7c. in the event a NMFS observer and a third party observer are assigned to the same trip, the NMFS observer will take precedence and the third party observer will stand down;
- 7d. dockside monitoring program is meant to verify landings of a vessel at the time it is weighed by a dealer to certify the landing weights are accurate as reported on the dealer report;
- 7e. the Council accepts the concept of a broadly defined sector monitoring requirements alternative;
- 7f. any sector monitoring program adopted will not replace the current VTR and dealer reporting requirements of the existing law.

- 7a. Mr. Goethel moved and Mr. Leary seconded:
to split 7a (#2 only) from the main motion (*for third year of implementation, Options 3a and b (dockside monitoring and at-sea monitoring) (Archipelago phase 1 report, page 25)*).

The motion to split **failed** on a show of hands (6/9/1).

- 7b. Mr. Leary moved to amend and Mr. Goethel seconded:
for Option 7a (#2), that at-sea observer coverage be consistent with SBRM coverage.

The motion to amend **failed** on a show of hands (6/8/2).

- 7c. The main motion was voted:
to recommend that the following sector monitoring measures be included in draft Amendment 16:
- 7a. - 1. for the first and second year of Amendment 16, Options 2a and b (dockside monitoring) (Archipelago Phase 1 report, page 22). Assumed discard rates to be used in both years unless a sector through its own independent monitoring system provides accurate information for use of actual discard rates;
 - 2. for the third year of implementation, Options 3a and b (dockside monitoring and at-sea monitoring) (Archipelago phase 1 report, page 25);
- 7b. the primary goal of observers for sector monitoring is to verify area fished, catch and discards by species, by gear type. This data will be reported to the sector managers and to the NMFS;
 - 7c. in the event a NMFS observer and a third party observer are assigned to the same trip, the NMFS observer will take precedence and the third party observer will stand down;
 - 7d. dockside monitoring program is meant to verify landings of a vessel at the time it is weighed by a dealer to certify the landing weights are accurate as reported on the dealer report;
 - 7e. the Council accepts the concept of a broadly defined sector monitoring requirements alternative;
 - 7f. any sector monitoring program adopted will not replace the current VTR and dealer reporting requirements of the existing law.

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

8. Motion 2c, previously split, was voted:
to forward as effort control Option 5, an option using a 24-hour clock, with trip limit for each stock determined by dividing the ACL by an estimate of the DAS that would be used in each stock area.

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

9. Mr. Cunningham moved on behalf of the committee:
that the Council request that NFMS implement an interim rule focused on adjustments to the DAS allocation in response to GARM III. The committee recommends that the Council should prioritize measures for sectors and other mitigating measures in Amendment 16 rather than the DAS allocation. The committee also recommends that the Council should support interim rule provisions for the DAS allocation to stand for the duration of FY 2009.

NMFS should first look at zero retention of ocean pout, northern windowpane and southern windowpane flounder, halibut, SNE/Mid-Atlantic yellowtail flounder, SNE/Mid-Atlantic winter flounder, GOM winter flounder, and Cape Cod/GOM yellowtail flounder. NMFS should include as mitigating measures: 18-inch haddock minimum size, extend the US/CA haddock SAP, expand the Closed Area 1 hook SAP and remove the tax on DAS transfers. Scallop and fluke fishery will require zero retention of all groundfish and look at gear restricted areas to minimize bycatch of SNE/Mid-Atlantic yellowtail and SNE/Mid-Atlantic winter flounder. Further, to also look at an appropriate trip limit for Georges Bank cod, white hake and pollock and to look at these items first and then determine DAS reduction necessary.

- 9a. Mr. Odlin moved to amend and Mr. Goethel seconded:
to strike the following sentence from the previous motion *“the committee recommends that the Council should prioritize measures for sectors and other mitigating measures in a.16 rather than the DAS allocation.”*

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

- 9b. Mr. Cunningham moved to amend and Mr. Stockwell seconded:
to add the following sentence to the 2nd paragraph of the main motion: *“that current sector members be allowed to lease any multispecies days within the length, horsepower baseline requirements.”*

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

- 9c. Mr. Goethel moved to amend and Mr. Grout seconded:
to strike the 1st sentence in the 2nd paragraph of the main motion which reads, *“NMFS should first look at zero retention of ocean pout, northern windowpane and southern windowpane flounder, halibut, SNE/Mid-Atlantic yellowtail flounder, SNE/Mid-Atlantic winter flounder, GOM winter flounder and Cape Cod/GOM yellowtail flounder.”*

- 9d. Mr. Stockwell moved and Dr. Pierce seconded:
to table the previous motion.

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

- 9e. Mr. Goethel moved to substitute and Mr. Odlin seconded:
to recommend an alternative for interim rule which reads:

Management Measures:

1. recommend that the TACs for FY 2009 for Georges Bank yellowtail, SNE/Mid-Atlantic yellowtail, Cape Cod/GOM yellowtail, american plaice, witch flounder, Georges Bank winter flounder, GOM winter flounder, redfish, white hake and pollock are the TACs associated with F-rebuild;
2. recommend that the TACs for FY 2009 for Georges Bank cod and GOM cod are the TACs associated with F_{msy} ;
3. recommend a 1,000/5,000 lb. day/trip limit on witch flounder;
4. recommend a 5,000 lb. trip limit on SNE/Mid-Atlantic winter flounder and that the TAC should be less than that associated with F_{msy} ;
5. recommend implementation of the default 18% DAS reduction.

Accountability Measures

1. recommend, to the extent that the actual catches in FY 2009 exceed the TACs for any stock, such overage shall be deducted from the FY 2010 TACs; except that for Georges Bank cod such deductions in FY 2010 will not apply to the TACs allocated in FY 2010 to existing sectors for overages they were not responsible for in FY 2009;
2. the Council will incorporate a payback method in Amendment.16 to reconcile in FY 2010 any TAC overages that occur in FY 2009.

Mitigation Measures

recommend including the following mitigating measures: 18-inch haddock minimum size, extend the US/CA haddock SAP, expand the Closed Area 1 hook SAP and remove the tax on DAS transfers.

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

- 9f. Mr. Goethel moved to amend the substitute and Mr. Rice seconded:
that the Council request that NMFS implement an interim rule. Also, recommend that the Council support interim rule provisions for the DAS allocation to stand for the duration of FY 2009 and that current sector members be allowed to lease any multispecies days within the length, horsepower baseline requirements.

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

- 9g. The substitute motion, as amended, was voted:
to recommend an alternative for interim rule which reads:

Management Measures:

1. recommend that the TACs for FY 2009 for Georges Bank yellowtail, SNE/Mid-Atlantic yellowtail, Cape Cod/GOM yellowtail, american plaice, witch flounder, Georges Bank winter flounder, GOM winter flounder, redfish, white hake and pollock are the TACs associated with F-rebuild;
2. recommend that the TACs for FY 2009 for Georges Bank cod and GOM cod are the TACs associated with F_{msy} ;
3. recommend a 1,000/5,000 lb. day/trip limit on witch flounder;
4. recommend a 5,000 lb. trip limit on SNE/Mid-Atlantic winter flounder and that the TAC should be less than that associated with F_{msy} ;
5. recommend implementation of the default 18% DAS reduction.

Accountability Measures

1. recommend, to the extent that the actual catches in FY 2009 exceed the TACs for any stock, such overage shall be deducted from the FY 2010 TACs; except that for Georges Bank cod such deductions in FY 2010 will not apply to the TACs allocated in FY 2010 to existing sectors for overages they were not responsible for in FY 2009;
2. the Council will incorporate a payback method in Amendment.16 to reconcile in FY 2010 any TAC overages that occur in FY 2009.

Mitigation Measures

recommend including the following mitigating measures: 18-inch haddock minimum size, extend the US/CA haddock SAP, expand the Closed Area 1 hook SAP and remove the tax on DAS transfers.

Also, that the Council request that NMFS implement an interim rule and recommend that the Council support interim rule provisions for the DAS allocation to stand for the duration of FY 2009 and that current sector members be allowed to lease any multispecies days within the length, horsepower baseline requirements

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