

New England Fishery Management Council

SUMMARY

Sector Omnibus Committee Meeting

Holiday Inn, Mansfield, MA

March 29, 2007

The purpose of the meeting was to follow up on discussions at the February 22 meeting and continue to review and address the Committee Terms of Reference (TOR) adopted by the Council. Council staff reviewed the materials provided to the Committee and public, including information requested by the Committee at the first meeting. Dave Preble announced that RI Sea Grant had received some funds for a workshop focused on sectors and he would have additional information as the planning progressed.

The Committee then proceeded to discuss the issues and questions outlined in the TOR memo. The first set of items focused on the allocation issues, and the first question was whether a sector must ask for a TAC for all species that it will catch, or whether it can select which species will be bound by a TAC. Several members pointed out that the reauthorized Magnuson-Stevens Act requires the specification of Annual Catch Limit (ACLs) and Accountability Measures (AMs) for all managed species which, in their view means that sectors should be bound by TACs.

Motion #1

That the Committee recommend all sectors adopt catch limits and associated accountability measures for all managed species caught by sector members (McGee/Pappalardo)

Over the course of the discussion on this motion, members observed that it is the individual plans that are responsible for establishing ACLs and AMs for the species they cover. These measures would then govern the interaction of the sector with those species. In other words, the measures governing a sector program must be consistent with the ACLs and AMs established in each plan for species with which the sector interacts, not that each sector program must adopt ACLs and AMs for each species. The makers of the motion agreed to the following perfection.

Motion #1 perfection (friendly)

That the Committee recommend all sectors must adopt Annual Catch Limits (ACLs) and associated Accountability Measures (AMs) for all managed species caught by sector members consistent with the FMPs governing those species.

General Counsel raised the question whether this perfection still would require ACLs for every species caught by the sector, regardless of the size of the incidental catch. Others commenting noted that the incidental catch could be controlled by other measures within the governing fishery management plan, rather than by an allocation of a total catch limit for each sector. This discussion resulted in further perfection of the motion, as follows:

Motion #1 perfection (friendly)

That sectors adopt ACLs and AMs for species managed under the Sector's FMP(s), and measures consistent with ACLs and AMS for each FMP for incidentally caught species. **(motion passed unanimously)**

The next two issues on the TOR memo under the Allocation heading are:

- It is not clear if a sector must ask for a TAC for all species that it will catch, or whether it can select which species will be bound by a TAC. This is causing problems as additional sectors come forward.
- If there are to be TACs for all species, how will the incidental species TACs be set? On the same historical data as the target species?

The Committee agreed that both of these questions had been addressed by Motion #1. The next question asked: "Can/should sector shares be allocated in fixed poundage allocations or in DAS?" Several members agreed that the measures need to be consistent within the governing fishery management plan, whether it be a poundage limit or DAS. One member noted that the choice may not be limited to poundage or DAS, and that a sector may want to accommodate a point system, such as what is being considered in the Multispecies plan. The Chair noted that whatever measure is adopted to address incidental catch, it must be measurable in the context of the mortality targets for those species, to which another member commented that DAS do not work in achieving mortality goals, as evidenced by the situation with Multispecies fishery.

Motion #2

The Committee recommends that sector shares be allocated as a percentage of the ACL (Preble/McGee, **motion passed unanimously**)

The next question before the Committee was how to treat discards generated by vessels fishing under a sector plan. One member noted that in some cases discards are considered in setting ACLs, while in others, the data on discards is not sufficiently reliable, and, therefore, is not included as a component of the total allowable catch. If the ACL is set with consideration of discards with a good degree of confidence, he stated, then all discards by a sector must be accounted for. Members agreed that if discards are accounted for in setting the ACL, the same assumption should be used to set sector allocations, and if not, then another mechanism should be adopted to monitor discards. Ultimately, the Chairman noted, sectors will be held accountable for their discards. In the course of this discussion, the question became divided into the consideration of discards in setting a sector's allocation, and consideration of discards by sector vessels against their allocation while prosecuting their fishery.

Motion #3

Discards will not count toward a sector's initial allocation. Discards will count against a sector's ACL or TAC. (McGee/Pappalardo)

One member observed that this motion could reduce the value of a sector allocation, if discards are significant. Another noted that this approach could provide an incentive for sector vessels to develop ways to reduce discards. The Committee discussed how there are two general types of discards, those due to regulation, and those due to a lack of market. While the task of dealing with unmarketable catch is probably outside the control of the governing FMPs, regulatory discards could be addressed through modification of, or exemptions to the regulations. A

member of the public suggested that the relevant consideration should be not the quantity of the discards, but the impact of the discards on fishing mortality. He observed that, for example, discards in the lobster fishery have actually promoted the growth of that fishery. A member of the Committee suggested that the individual species committees should specify how discards should be accounted for in the governing fishery management plans. He noted that the following perfection places the burden on a sector to seek an exemption by demonstrating how it will deal with discards.

Motion #3 perfected (friendly)

Discards will not count toward a sector's allocation. Discards will count against a sector's shares, unless a sector can provide other accountability for the discards and obtain an exemption. **(motion passed unanimously)**

The Committee then considered the final item under "Allocation" in the terms of reference memo. This question was:

- Should sectors be allowed before the Council has clearly allocated catch among the major components of a fishery such as recreational and commercial or set catch limits on an open access group of participants?

One member commented that the Council has already stated the sector amendment will not delay the development of sectors within individual fishery management plans. He quoted the terms of reference, item #4 that states: "The development of this amendment will not delay consideration of allowing sectors in the general category scallop fishery in Amendment 11, or other FMPs, as those FMP amendments proceed." Therefore, members agreed to not specifically address this question at this time. The next area for discussion under the TOR memo is Mortality Control, and the first question is "Should there be a consistent policy for dealing with all overages among different sectors or sector and non-sector groups and how should they be handled?"

One member presented the language from Amendment 13 as a model for dealing with this question. Amendment 13 specifically states that a sector should not be impacted if other sectors or the common-pool vessels exceed their target or fixed quotas. Conversely, if a sector exceeds its TAC, the sector's quota will be reduced in the following year and the sector may be subject to enforcement action. If the sector exceeds its TAC repeatedly, the sector's share can be permanently reduced as a penalty or the sector's authorization to operate withdrawn. If, however, declining stock conditions result in a need to reduce fishing mortality, and all sectors and common pool vessels have operated within target or hard TAC limits, a sector's share will not be changed, but the amount this share represents may be due to reduced overall TACs.

Motion #4

Based on provisions in Amendment 13 regarding overages by sector and non-sector vessels: if the sector does not exceed its assigned share or percentage in a given fishing year, but other sectors or the common pool do, the sector's allocation will not be reduced, if the sector exceeds its annual allocation but others do not, then the sector share will be reduced in the following year, and if all sector and open pool vessels stay within their shares, but the resource condition requires a reduction in catch, then all groups will take reductions. (Pappalardo/Preble, **motion passed unanimously**)

The next mortality control question before the Committee was: how is a reduction in mortality apportioned between sector and non-sector participants if neither group operates within its limits? The Committee agreed that this question is partially addressed by the previous motion, and that other specifics should be dealt with by individual species committees within their respective plans. The Committee then considered the following questions from the TOR memo:

- Will exceeding a TAC for an incidental species cause the entire sector to close? If so, how will the program prevent someone from discarding and not recording the catch of incidental species, especially low value species, in order to prevent a closure of the target fishery?

One member of the Committee noted that not all incidentally caught species will be managed by TACs, but that some would. The members agreed, but did not make a motion to the effect that any TAC applied to a sector, when reached, would result in the sector fishery closing.

The Committee also agreed that the next item under the mortality control section was addressed by the decision contained in Motion #4. The language of that term of reference question was:

- If non-sector vessels exceed the TAC, will adjustments also reduce available TAC to the sector, even if that sector did not exceed its portion? If the non-sector overage is so large that fishing mortality needs to be significantly reduced, it's possible that the compliant sector would be forced to take reductions even though it did not cause the problem.

The next category of issues considered by the Committee was on the size of sectors, whether there should be a minimum or maximum size limit to the participants. The Committee agreed to discuss these questions at a later meeting, but one member suggested that in terms of the minimum number of participants, it has to be greater than one, or else the sector would be an individual fishery quota. Due to the anticipated time required to address the other issues on the terms of reference memo, relative to the amount of time remaining in this meeting, the Committee agreed to postpone further discussion of those items. The Committee directed the staff to provide examples of how "sideboards" are used in the North Pacific to address indirect effects of sector management, in terms of the impact on other fisheries and any excess capacity generated by the efficiencies created by the sector program. The Committee also requested the staff to work with Regional Office staff to provide a timeline for the existing sector process, from conception to implementation and renewal, including the regulatory review. Drew Kitts, an economist from the Northeast Science Center, is preparing a presentation on how to address issues that have arisen under the groundfish sector program which he may give at the next meeting, if available.