

THIS SECTION REPLACES SECTION 3.6 OF A15 DEIS (DOCUMENT #2)

1.3 CONSIDERED AND REJECTED ALTERNATIVES

During development of this action, the measures in this section were considered but rejected for various reasons; the “rationale for rejection” explains the primary reason why the Council chose not to pursue these alternatives in this amendment.

1.3.1 Convert open area DAS into access area trips with possession limits

Access area trips have a possession limit per trip, so there is high certainty in terms of potential catch per unit of effort. On the other hand open area effort is not subject to a catch limit. There are other measures that limit catch in open areas such as gear restrictions and crew size limits, but catch rates vary per vessel, area, season, etc. Furthermore, vessels can adjust their fishing power by making adjustments to their vessel that are not fully incorporated in the estimate of fishing mortality. As a result, there is less certainty in catch and mortality from open area effort. Vessels are allocated the same DAS in each permit category, but individual catch per day varies.

One way to reduce this level of management uncertainty is to convert the allocation of open area DAS into trips (with a possession limit) in areas outside of access and closed areas. This approach would reduce uncertainty because each vessel would be limited to a maximum catch per trip. Ultimately, biological uncertainty would be reduced as well because future estimates of catch would be more certain. Ultimately, this alternative would allow the buffer between the ACL and ACT to be reduced or even eliminated, and arguably the buffer between OFL and ABC could be reduced as well because catch would be more certain. The PDT did not yet identify a recommendation for how much the buffer should be reduced.

Rationale for rejection: This alternative was originally raised at a Committee meeting when potential measures for complying with ACLs and potential turtle restrictions in the Mid Atlantic were being discussed. Revisiting open area DAS management was discussed in the context of those two issues since one may require effort reductions in certain areas and seasons (turtle issue in the Mid-Atlantic) and increased certainty in catch (ACLs). This output control would increase certainty in catch from open areas compared to DAS. However, the PDT identified several potential issues with this approach related to scallop fishing mortality.

The PDT discussed that while this alternative would ensure a certain catch, it would not necessarily be linked to a certain fishing mortality rate, and ensuring a specific fishing mortality rate is more important in terms of preventing overfishing. It was pointed out that one benefit of open area DAS is that they are, in a sense, self-regulating. If projections are high and there is less biomass available, then catch per DAS will decline accordingly. However, if vessels were given a possession limit, they would have a higher F to catch that poundage if biomass is lower than estimated. Also, size of scallops harvested is an important issue to consider. When vessels are under DAS the potential to target smaller scallops is reduced; however, under a possession limit per trip vessels are more likely to catch their possession limit however they can (i.e. harvest more smaller scallops if that is what is available). Concern was expressed that assuming the benefits of access area trips to the open area was not appropriate because catch rates are very different.

In addition, there have been some legal discussions related to whether this alternative would essentially be an IFQ triggering referendum requirements etc. Currently the limited access fishery is allocated fishing opportunities in a combination of DAS to be used in open areas and a fixed number of trips with possession limits that can be used exclusively in specific access areas. This alternative would convert the open area DAS into trips with possession limits in areas outside of access and closed areas, or “open areas”. As a result, the full allocation for the year would be a specified number of trips with possession limits. Some concerns were raised that may essentially be the equivalent of allocating a quota or fixed percent of total TAC. In addition, preliminary economic analyses indicated that how the trips are allocated (equal or different possession limits based on historical data) would have substantial differential impacts. The fairness and flexibility issues with this alternative compared to DAS management would have to be considered in detail. Therefore, since this action needs to be implemented by March 1, 2011 to comply with ACL requirements, the Committee recommended this approach be moved to the considered and rejected section because of the timing concerns and the potential impacts on the scallop resource and fishing vessels highlighted by the PDT.

1.3.2 Stacking alternatives

The Committee discussed several alternatives related to stacking that were rejected for a variety of reasons. The alternatives below were rejected because the final DEIS includes a pared down list of options that will limit or reduce the risk of increased fishing power as a result of stacking.

1.3.2.1 Restrict stacking to 2 permits and both would have to be from the same permit category (FT, PT, OCC) but not necessarily the same vessel baseline

Vessels would be permitted to stack but would be restricted to permits within the same scallop permit category. A full-time permit could be stacked on a full-time vessel, but a part-time permit could not be stacked on a full-time vessel.

1.3.2.2 Fishing power adjustment alternative based on gear and wheel size

The specifics of this alternative were never developed completely. An advisor suggested this as an option, but the Committee was concerned about including it because NMFS does not track the data necessary for this limitation, so this approach could not currently be implemented.

1.3.2.3 Equal fishing power adjustment alternative that would be a flat tax or percentage reduction regardless of permits being stacked

All vessels would be subject to an adjustment regardless of whether permits are from different vessel baselines. For example, allocations from the second permit would be reduced by some percent (i.e. 5% or 10%) if stacked with another permit. The same percentage would apply for all permits.

1.3.2.4 No fishing power adjustment for permit stacking or leasing

The Scallop Committee recommended that this alternative be rejected because they support keeping capacity neutral. If no adjustment or restriction is applied, there is more risk that fishing power could increase as a result of stacking and leasing if permits from lower fishing power vessels are moved to vessels with higher fishing power.

1.3.2.5 No restrictions on number of permits that can be stacked

This alternative would allow a limited access scallop vessel to have multiple limited access permits stacked on one vessel – no restriction on the number of permits that could be stacked. A vessel would be permitted to have any combination of full-time, part-time and/or occasional limited access scallop permits. The Council recommended that this alternative be rejected at the October Council meeting.

1.3.2.6 Sideboard for bycatch with stacking

With the addition of the restriction above – may not be necessary to have this alternative anymore. Provided that all permits from the vessel that is relinquishing its scallop permit (Vessel B) go with the vessel that is purchasing the scallop permit (Vessel A), then Vessel B will not be permitted to fish for anything it used to have a permit for.

Rationale for rejection: The stacking related alternatives described above were rejected for a variety of reasons. Primarily, the Council wants to maintain restrictions on who can stack permits so that fishing power does not increase as a result of stacking. The intent of the stacking alternatives left in DEIS would increase flexibility and efficiency for limited access vessels, but maintain or reduce capacity by preventing increased fishing power from permits that have been stacked. The Council rejected the alternative with no limit on the number of permits that can be stacked because the intent of the stacking alternatives is that they are limited in nature – a mega vessel with lots of allocation is not the intent. The sideboard alternative was rejected because it was modified that all permits would have to be stacked – so a vessel would not be left with other permits if it stacked its scallop permit.

1.3.2.7 Permit leasing

This alternative would only allow a vessel to lease all of its allocation (open area DAS and access area trip allocations) on an annual basis. This alternative would prohibit a vessel from using some of its allocation to harvest scallops and lease out some of its allocation of DAS or access area trips.

Rationale for rejection: This alternative was rejected because the DEIS includes an option for DAS leasing and access area trip leasing – so this would be redundant. If both those leasing options are selected, it is assumed that a vessel could essentially lease its full allocation of DAS and access area trips, so this full permit option is not necessary. This would be more restrictive and would reduce flexibility than if vessels were permitted to lease DAS and/or access area trips separately.

1.3.3 Individual fishing quota (IFQ) management

In general, permit owners would be allocated scallop catch in pounds rather than DAS and access area trips. It has not been defined if the allocation would be equal for permits within the same permit category, based on historical catch levels, or some combination of the two. It has not been determined if quota would be transferrable or if any other restrictions would be considered like maximum ownership restrictions, vessel upgrade restrictions, etc.

Rationale for rejection: There was very little support for IFQs expressed during scoping; in fact, most spoke against consideration of an IFQ program in this amendment. The primary need for this action is to comply with new MSRA requirements related to ACLs, which need to be implemented by March 1, 2011. Concerns were raised about the time needed to develop and analyze a full IFQ program, including required 2/3 referendum support in New England, so timing was a serious reason this alternative was rejected for this action.

1.3.4 Measures to revise how the NGOM TAC is calculated

The scoping document included an option to consider alternative ways to calculate the hard-TAC that is used to manage general category scallop fishing in the NGOM. Amendment 11 adopted a hard-TAC for that area that is based on historical landings from the NGOM area since there is no stock assessment of this area. Currently the hard TAC for the area is 70,000 pounds. The Council does have the authority to revise that value in future frameworks, but the process for setting the TAC is the same until a formal assessment of the resource in that area is available.

One scoping comment from the Maine Department of Marine Resources recommended that these three options be considered. These three ideas were discussed at the July 8, 2008 Scallop Committee meeting and it was recommended that they be moved to the considered and rejected section.

1.3.4.1 Landings from state waters should not count against NGOM TAC so that people can still fish in state waters after the federal TAC has been reached

1.3.4.2 GC scallops caught in the NGOM should not count against IFQ tailored to scallops outside the NGOM.

1.3.4.3 All scallop vessels should abide by the 200 lb daily limit in the NGOM, instead of allowing the LA vessels 18,000 lbs while restricting all others.

Rationale for rejection: These ideas are focused on restrictions in the NGOM, and not alternative ways to calculate the TAC, thus the Committee recommended they be rejected. It was discussed that the NGOM program is not perfect, but the Council discussed these precise aspects of the program during development of Amendment 11 and decided that in order to ensure that the TAC is not exceeded, all landings in the area would have to count against the TAC (including landings on IFQ and limited access vessels fishing, and from state waters on all federal vessels). Amendment 11 was specific in what catch should be considered in calculating the TAC and what catch should count against the TAC once the fishery begins. The actual TAC can be changed by framework, but the foundation of what catch history is used, what catch is applied against the TAC, and what catch is not applied should potentially be considered in an amendment. The Council reviewed the status of alternatives in Amendment 15 at the November 2008 Council meeting and left these alternatives in the considered and rejected section.

1.3.5 Allocation of general category IFQ by area

Under Amendment 11, a limited access general category vessel is allocated an annual IFQ based on their contribution to historical landings. The allocation is not area-specific and a vessel is authorized to harvest their quota from any area (open areas or access areas until the fleetwide maximum number of trips is reached for that area). This section is considering allocating IFQ specific to each area so a vessel would be restricted to catch (or trade) their IFQ by area.

1.3.5.1.1 No Action

This alternative would maintain the current IFQ allocation program as an overall allocation that is not area specific. A vessel is authorized to harvest their quota from any area (open areas or access areas until the fleetwide maximum number of trips is reached for that area).

1.3.5.1.2 All IFQ permit holders would receive area-based allocations

All qualifying IFQ general category vessels would receive area-based IFQ based on their contribution to historical landings. For example, if a vessel's contribution factor is 0.25% of the total general category fishery then that vessel would receive 0.25% of the TAC available to the general category fishery in all areas open to that fishery in a given year. Hypothetically, in 2009 if 0.25% equals a total allocation of 6,250 pounds, rather than receiving an overall allocation of 6,250 pounds, a vessel would receive 3,250 pounds from open areas, 500 pounds from Closed Area I, 500 pounds from Delmarva, and 2,000 pounds from Elephant Trunk.

1.3.5.1.3 Only IFQ permit holders above a certain contribution factor level would receive an area-based allocation

The Committee developed this alternative to reduce administrative burden of Alternative 1.3.5.1.2. This alternative would only allocate area-specific quota to individuals that qualify for IFQ above a certain percentage. **The exact amounts have not been identified yet**, but for example, all qualifiers would receive a general IFQ (not area specific quota) unless they qualify for **1%** or more of the total general category allocation. The table below shows several hypothetical examples of how this alternative would work for different vessels.

Table 1 – Hypothetical example of area specific allocations for general category IFQ permits

Contribution Percentage	Open Area	Elephant Trunk	Delmarva	Closed Area I	Total
0.10%	N/A	N/A	N/A	N/A	2,500
0.25%	N/A	N/A	N/A	N/A	6,250
1.0%	13,000	8,000	2,000	2,000	25,000
2.0%	26,000	16,000	4,000	4,000	50,000

N/A – Since these vessels qualify for less than 1% of the total general category allocation they would receive an IFQ allocation that is not area specific.

Rationale for rejection: This alternative was designed to provide the benefits of access areas to individual general category vessels that are more “directed” and have a greater dependence on the scallop resource compared to other general category vessels that fish for other species. However, the majority of general category qualifiers are vessels that fish for a variety of species and have qualified for lower amounts, thus may not be as inclined to fish in access areas, and in some cases may not want area allocations in various access areas up and down the coast. There would likely be burdens associated with relatively small allocations per area and the need to

trade area access, which would increase administrative burden as well. A handful of industry members that originally supported these alternatives during Amendment 11, informed the Advisory Panel and Committee during this action that this approach may not be feasible; therefore the Committee recommended moving it to the considered and rejected section.

1.3.6 Separation of YTF incidental catch TAC between LA and LAGC fisheries

This alternative would take the total YT TAC allocated to the fishery for access areas on GB and divide it between the LA and LAGC fleets. It would likely be divided the same as the scallop TAC (approximately 95% for the LA fleet and 5% for the LAGC fleet). Therefore, if one component of the fishery caught their allocation of YT bycatch in an access area, the other component of the fishery could remain fishing in the access area.

Rationale for rejection: The Committee recommended this option be considered and rejected for the same reasons it was rejected in previous action – NMFS is concerned there is no feasible way to monitor such a small bycatch TAC in real time. The total YT TAC is small to begin with and if only 5% of that is allocated to the general category fishery it is likely that bycatch information would not be available before the area should close.