



Scallop Committee Meeting

November 3, 2008

Warwick, RI

Committee members in attendance: Sally McGee - Chair, Rick Robins, Dennis Spitsbergen – Vice Chair, Rip Cunningham, Rodney Avila, Dave Preble, Hannah Goodale (designee for Patricia Kurkul), Dana Rice, and Mary Beth Tooley.

NEFMC staff: Deirdre Boelke, Sarah Pautzke, and Demet Haksever

NMFS staff: Peter Christopher, Gene Martin, and Lynn Lankshear

Audience: ~60 members of the public attended.

Ms. Sally McGee opened the meeting. She introduced herself as the new chair and welcomed new members to the Scallop Oversight Committee. The two primary agenda items for this meeting were: 1) a discussion of potential Council response to NMFS regarding the turtle biological opinion (BiOp), and 2) a discussion about annual catch limits (ACLs). The Committee also discussed a motion from the Council to refine the list of alternatives in draft Amendment 15 in light of new scallop action timelines.

Council Response on 2008 Turtle BiOp

Ms. Deirdre Boelke led the discussion beginning with a review of the documents included with respect to the BiOp: Document 4 (including 3 appendices) and 3 correspondences (8c-e). She presented analyses prepared by the PDT that identified a potential threshold for assessing more than minor, assessment of the existing RPM and term and condition in terms of whether it is reasonable and prudent, as well as potential alternatives for these.

“More than minor” discussion

“More than minor” within the Reasonable and Prudent Measures (RPM) and Term and Condition (T&C) means that the basic design, location, scope, duration, or timing of the action cannot be altered and may only involve minor changes. The main issue is how to define a “minor change.” At the PDT level, it was recommended that the description of “more than minor” would be the impact on fishing mortality (F) with respect to effort shifts (bottom of page 6, doc. 4). An impact on F was chosen because it best describes what happens to the resource when effort is shifted temporally and spatially based on changes in meat weights throughout the seasons. Scallop yield (meat weight per animal) in the Mid-Atlantic is highest in the summer, and reduces in the fall and winter after the animal spawns in September. Ms. Boelke explained that expected changes in F can be tied to “more than minor” because an increase in F as a result of shifting effort will alter the basic design, location, duration, or timing of the fishery. Overall, since meat weights vary monthly, to get the same poundage (i.e. 18,000 lbs per trip) from the resource, the number of scallops landed must increase if effort is limited during higher meat weight periods. This will increase F, and that will have more than a minor affect on the fishery because some reduction will be needed to compensate for that increased F (reduce possession limits in access areas or DAS in the same year or subsequent years to compensate for higher F levels).

As a starting point, staff recommended an “acceptable” level of change in F could be 0.01. Staff explained that on average if effort is moved from the time of year with highest meat weights (July) to months outside the turtle window (November-May), yield is reduced by 8% (over 20% less in some months like November and less than 8% in spring time months like April and May). If 12% of expected effort is shifted from the turtle window (June-Oct) to the rest of the year (Nov-May) when meat weight is reduced on average by 8%, that equates to a change in F of about 0.01 ($0.12 * 0.08 = 0.01$).

One Committee member asked about how precise we can be when determining a change in F as small as 0.01. It was explained that a change of 0.01 is a small value, but it not insignificant; based on a total target F of 0.20, 0.01 is a 5% change. Compared to estimated F levels for recent years that would be a level that would probably impact the fishery. An audience member voiced concern that a 0.01 shift in F could also be due to the natural variation of the resource, so urged us to use caution when determining the level – the fishery has been subject to greater swings than that previously. A Committee member voiced concern about using F instead of effort shift for determining more than minor. The response was that the PDT felt that just looking at shifts in effort does not convey the whole impact on the resource’s yield and mortality – F is the real measure of impact on the resource. It was explained that staff also considered values lower than that (0.005), and that level of change also has expected impacts on revenue and profits. Ultimately, the Committee discussed that several examples of F thresholds are informative, but it may be beneficial not to identify a precise one because the fishery and resource changes over time and what is more than minor now may not be in the future.

Assessment of existing T&C using new “more than minor” threshold

Appendix 2, Table 4 shows a comparison of the impacts on F of status quo for 2010 and the term and condition presently in the BiOp. It shows the impacts on average monthly landings and revenue, effort shifts, F, price etc. Staff summarized the various assumptions used in the model and various scenarios that were generated for this meeting. The existing RPM was assessed using the suggested threshold for more than minor based on effort shifts and impacts on F. The analyses show that the RPM measure with a 50% reduction in effort during June-Oct will shift approximately 5,163 DAS and reduce landings by 10.1 million pounds, or by 40% during June to October window. In terms of annual landings, 10.1 million pounds comprise 22% of total landings. Therefore, close to 1/4th of annual scallop landings would be shifted from June to October to the November to May window due to the June-Oct RPM alternative. This effort shift is expected to increase fishing mortality by about 0.015 as vessels attempt to catch more scallops (smaller in size) to make up for the loss in meat weight during the Nov-May season compared to yields during June-Oct.

Overall PDT input

In addition to the analyses of more than minor – the PDT provided seven overall statements for the Committee to consider. These were *not* consensus statements, but represent general feedback from some PDT members on these issues. The first had to do with the existing baseline. The sea scallop fishery is managed under an adaptive rotational management plan, where the levels of fishing and the number of access trips vary widely from year to year. Given this management, it was discussed that comparisons of current fishing effort to a historical baseline of fishing years are not meaningful, and restrictions based on such a baseline would alter the basic design,

location, scope and timing of scallop fishing in the Mid-Atlantic area and would cause changes to the fishery that are more than minor. With respect to the turtle window: it was discussed that it is not appropriate to restrict fishing effort in May and/or November to reduce turtle takes. There are no documented takes of turtle takes in the scallop fishery during those months, and analysis of sea surface temperatures (a factor shown to be correlated with bycatch rates) indicates that turtle takes are less likely in these months. The third statement summarized the evaluation of more than minor: based on an analysis of fishing effort data, the existing T&C would not provide at least one access area trip per vessel during either window of time; thus is not reasonable and prudent based on the threshold in the August 1 NMFS letter.

Given the point above, an alternative threshold for what is “more than a minor change” for this fishery at this time was discussed. Instead the measure would be percent change of effort shift caused by a specific limitation on effort, and the resulting impact that shift would have on overall fishing mortality. In addition, there are other factors that should be considered as well in determining if a restriction would have more than a minor change on the fishery including: concern about safety at sea (shift to winter months; both for industry and observers), changes in bycatch (i.e. fluke bycatch increases in winter months when overlap with scallop fishery offshore), revenue impacts (due to reduced catch and changes in price, costs, markets, supply, etc.), impacts on ability of observer program to maintain coverage from surges and shifts in effort, and general impacts of altering rotational area management and compromising the ability to achieve optimum yield.

Using the recommended threshold for more than minor, the analysis suggests that RPM#1 in the 2008 biological opinion, as well as the Term and Condition that would implement it, will result in more than a minor change to the fishery; therefore these measures should be replaced. It will be difficult to determine whether any other specific reduction in effort during June through October will result in more than a minor change to the fishery without detailed knowledge of the proposed action and a full analysis of its effects. Therefore, it was discussed that the appropriate time to consider specific turtle take reduction measures is during the development of Framework 21 when a range of alternative measures can be analyzed and given opportunity for public comment. The Committee considered the new language prepared by the PDT.

One Committee member asked whether bottom time and effort was included in the PDT analysis because of the impression that there has been a dramatic decline in bottom time (and effort) based on increased CPUE. The response was that a change in F will directly affect bottom time; lower F translates into lower bottom time. Staff explained that the SAMS model predicts bottom time by area, which the PDT will utilize during the framework process. Once 2010 specifications are known the model can be run and we will get an estimate of bottom time. That estimate can then be used to estimate and compare impacts on turtle takes. Another Committee member asked if there is a way to quantify safety at sea as a parameter. Staff responded that at this time we are not sure how that could be quantified.

Several PDT members were in the audience and added input. One voiced that all issues have effects on a fishery. The problem is not each individual issue, but the cumulative impact. The issues raised were inclement weather, changes in bycatch, gear efficiency (extra fuel, 4” rings in bad weather), etc. The argument is that alone, each impact may be minor, but cumulatively they

are more than minor. Additionally, the changes in fishing effort described by the BiOp and PDT analyses are in the mid Atlantic. The PDT member argued that we have not analyzed the impact on the whole fishery or regional fisheries, and the impacts on vessels homeported in the Mid Atlantic may be bigger than those homeported in northern areas. All of these issues will need to be considered in the framework before a conclusion can be made that a measures will have less than a minor impact on the fishery, since these restrictions will likely have different regional impacts. Another PDT member reminded the Committee that this discussion should not just consider 2010; these RPMs and T&Cs will be in place until they are revised by a future BiOp. Thus, this member advised the Committee to stay away from specific triggers because what will happen in the future to the fishery is uncertain – and whatever is crafted will potentially be around for years beyond 2010 and 2011.

Public input:

One member of the public pointed out that we do not know what the goal of the RPM and T&C are and asked what we are aiming for. The response was that the charge is to minimize impacts on turtles until it has more than a minor change on the fishery. The individual pointed out that in previous BiOps, there were tangible goals and targets. Now we are being asked to define these goals and targets ourselves.

It was asked why the limited access fleet was the only one identified for the effort reduction in the Mid Atlantic. It was pointed out that this BiOp was initiated because for the first time we had an estimate of loggerhead takes in the trawl fishery, not because of a change in the fishery. In addition, the BiOp explains that the restrictions placed on the general category fishery as a result of Amendment 11 (limited entry, IFQ management, etc.) were viewed as sufficient in terms of reduced effort compared to previous years. One Committee member asked if TEDS are currently required in the trawl component of the fishery. The response was no, although this is being looked at.

A member of the audience noted that at the PDT meeting data was presented about reduction in tow time and how it has been reduced by 50% since 2003-2004 – the years the turtle take estimate is based on. He argued that if CPUE is increased, affected habitat and impacts on turtles are reduced because tow time is reduced and this reduction needs to be factored in the decision. If reductions from A11 were considered sufficient for the general category fleet, why weren't reductions in F from rotational area management sufficient for the limited access fishery? Furthermore, alternatives should be pursued that promote fishing outside of the Mid-Atlantic when turtles are present – i.e. access into areas on GB with high scallop abundance. He asked why the focus of alternatives is always on reductions of effort, and why alternatives could not be pursued that are a win-win for turtles and the industry.

Another audience member asked how the 50% (and 30%) reduction in the BiOp was decided upon – what the supporting data was. He also asked if any analysis of meat yield within April and May was done. Lastly, he pointed out that if scallop fishermen are fishing the maximum that they can in May because that is the peak time for meat weights, there may not be room for the month of May to absorb any effort shift. He also asked why it seems like the scallop fishery is being singled out – he asked if effort reduction RPMs are being considered in other biological opinions.

After much discussion and considering the analyses and input from the PDT, the Committee passed several motions that: 1) found the existing term and condition not reasonable and prudent, and 2) suggested a new reasonable and prudent measure, as well as a new term and condition for that drafted in the biological opinion.

MOTION 1 (Robins / Avila): Committee finds 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, F, landings, and potentially safety at sea in the scallop fishery. Vote: 7:0:1. Motion carries.

A PDT member in the audience questioned if this language does not restrict the term and condition to the season, baseline period, or percent reduction in the original term and condition in the BiOp. Ms. Boelke responded that this language would not constrain the new term and condition to the parameters in the existing term and condition. Next the Committee moved on to the RPM. One Committee member asked if the PDT suggestion gets away from specifying DAS and access area trips by using the term effort. Again, it was clarified that the suggested language would give more flexibility in terms of what the limit would be (would not have to be in DAS and access area trips).

A Committee member provided a second motion that provides flexibility in the existing RPM. This motion originally had a second phrase about requiring NMFS to continue to investigate and implement as appropriate, gear modifications for scallop dredge and trawl gear to reduce the capture of sea turtles and/or the severity of interactions that occur, but it was pointed out that issue is addressed by another RPM in the existing BiOp, so that phrase was withdrawn from the motion. It was also clarified that the intent is that FW21 is the vehicle that would implement the RPM. One Committee member voiced concern that the language in Motion 2 seemed very general.

MOTION 2 (Robins/Spitsbergen): *Replace existing RPM with:* 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. Vote 7:0:1, motion carries

Motion 3: (Robins/Spitsbergen) *Committee proposes the following term and condition to replace what is currently in the biological opinion.*

No later than 2010, NMFS must limit allocated limited access scallop fishing effort in the area(s) and period(s) in which turtle takes in the scallop fishery have commonly occurred. The total amount of effort that can be limited will be restricted by a maximum amount of effort that can be shifted to other areas and/or seasons without having a substantial impact on overall fishing mortality and/or cause more than a minor change to the fishery.

Motion 3 Discussion

A Committee member asked if specific threshold should be identified in the language. Another Committee member argued that this was language that was never agreed upon by the PDT and asked for time to wordsmith. An audience member asked if the Scallop PDT and NMFS will have the same definition about minor and major. It was clarified that because the motion is

vague, it leaves latitude for describing how much effort shift and change in F will be considered more than minor. What is considered more than minor could change in 2012, so we may want to avoid a specific threshold. However, the unease associated with the non-specific wording is understood.

An audience member asked if the fishermen will have to show a reduction or loss and asked what the potential gains are. The current requirement is to remain within a minor impact, but was wary if this is a one-time determination. It was pointed out that this BiOp will remain in effect until the next BiOp is published and also that one reason to not add a threshold is so that changes can be made in future years. There will need to be some shift in effort, but the maximum threshold that determines the “more than minor” status will be based on the issues discussed in this meeting.

Motion to amend Motion 3: (Goodale/Spitsbergen)

No later than 2010, NMFS must limit the amount of allocated LA fishing effort that can be used in the areas and periods in which turtle takes in the scallop fishery can and/or have occurred. The total amount of effort will be limited to minimize the anticipated impacts on sea turtles up to the point that any additional amount of effort shifted (to other areas and/or season) would cause more than a minor change to the fishery (e.g. a substantial impact on overall fishing mortality).

Discussion on Motion to Amend

A NMFS representative said that the first part of the sentence of the original motion 3 was clarified to be the part “used,” not “allocated.” “Commonly occurred” was a concern because it was unclear if that was limited to just where takes were observed, but estimates are based on areas where takes are *estimated* to have occurred, not just observed. With respect to the last sentence of motion 3, it was rephrased to show consistency with the ESA, which is to minimize impacts to turtles without making more than a minor change to the scallop fishery.

However, a Committee member voiced concern about the language “can and/or have.” He argued that the door will then be opened to a poorly defined version of “affected universe.” He suggested modification to “have occurred” from “commonly occurred.” His argument is based on performing an analysis that becomes more difficult when it is based on “can and/or have” rather than observed takes (another Committee member agreed with the “can and/or have comment”). He also said that we have defined the RPM to not be reasonable and prudent based on F, safety at sea, etc., and so had a broader definition about what constitutes more than a minor change to the fishery than what is captured in the parentheses. Another Committee member agreed. Based on these two changes, the Committee voted on the following motion:

Several Committee members voiced concern about the language of both motion in terms of clarity and specificity. After several attempts to word smith the motion, the Committee Chair decided to break for lunch and start the afternoon with a motion that folks were content with. The motion below is more specific about the area that can be limited, and the wording of the second part is clarified so that a restriction can be put in place but it would be limited to a level that would not result in more than a minor impact on F or the fishery. The intent of that phrase is to acknowledge that there are several factors that should be considered in addition to changes in

fishing mortality. Also, several people pointed out that changes in CPUE should be incorporated when possible.

Motion to amend Motion 3 (after friendly amendment): (Goodale/Spitsbergen)

No later than 2010, NMFS must limit the amount of allocated LA 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.

Vote: 8:0:0, amended motion carries.

Vote on main motion as amended: 7:0:1, motion carries

In addition to drafting new language for the first term and condition, several Committee members felt that additional term and conditions should be included to address some of the concerns raised at this meeting. Motion 4 and 5 are recommendations for new term and conditions.

MOTION 4 (Tooley/Preble): *Add a new T&C 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 alternative access areas to increase the catch-per-unit of effort in the scallop fishery during seasons when the scallop fishery and sea turtles overlap. Vote: 7:1:0. Motion carries.

Motion 4 Discussion:

One Committee member offered that Motion 4 reads better without “must.” One Committee member asked for clarification in terms of what NMFS is supposed to produce as a result of this motion: is this a one-time deal or annual, is this asking for an action or just asking NMFS to provide information to the Council? The concern is that this seems to one individual to be more of an FMP item, instead of a BiOp item – it is not clear why this is an RPM for turtles. Another concern was that it does not seem different from what NEFMC does every year after the scallop survey is conducted – determine if there are any areas with high abundance of scallop scallops and recommend closing these areas. It was clarified by the maker of the motion that this would be in addition to annual measures and would be providing information to the Council.

It was pointed out that the focus is the season issue and not being restricted to the mid-Atlantic. In other words, the impetus is to look at the northern areas to see if they can be opened, which will remove some effort from the mid-Atlantic during those months and give the scallop vessels areas to fish. This motion emphasizes the benefit earned from the rotational scheme and shows that turtle interactions potentially could be reduced if rotational management is expanded.

A member of the audience said that while he supports area closures, this motion seems to be a precursor to getting around the habitat process, which is doing well in its own process. The concern is that this measure, which seeks to open up the closed habitat areas. He suggested overlaying this issue on the habitat elements after they are implemented instead of seeking to open up the habitat areas through the scallop FMP (based on turtle concerns). However, other audience members agreed with the motion, arguing that redirecting fishing effort to areas of high

CPUE is a good idea because the effort will be moved out of the mid-Atlantic, and it was suggested that the first term and condition should incorporate CPUE. It was also argued that this motion (identifying areas with high CPUE and putting effort in those areas) will do more for minimizing impacts on sea turtles than all the other RPMs combined.

MOTION 5 (Tooley / Avila): Add a T&C 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 A10 and A11. Vote: 7:0:1. Motion carries.

Discussion of Annual Catch Limits

Ms. Sarah Pautzke provided a presentation to the Committee about the development of ACLs at the PDT level thus far. She described how the MSRA-mandated terms correspond with current terms in the Scallop FMP. She also described a flowchart that depicts how an overall ACL could be allocated to the scallop fishery, with two sub-ACLs being allocated – 1 each to the LA and LAGC fisheries, but reminded the Committee that we are open to suggestions with respect to other categories that may qualify for a sub-ACL, such as the incidental permits and NGOM permits. Ms. Pautzke summarized the various sources of biological and management uncertainty in the Scallop FMP and their impact on the buffers between OFL, ABC, and ACL (or ACL and ACT) were described. Overall, the PDT believes that the level of biological and management uncertainty in this fishery are relatively small.

Need for ACT Discussion

One Committee member offered that they did not see a need for the ACT because it is not required by the MSRA. Additionally, the groundfish FMP did not utilize an ACT. However, it was pointed out that although the groundfish FMP does not use an ACT, the skate plan does. Another Committee member argued that if the ACL is set appropriately than an ACT is not necessary.

ACLs for Non-target species

A member of the audience asked what the PDT suggested for incidental catch in terms of an ACL. Staff responded that currently the PDT argues that an ACL should not be set for the incidental catch fishery because that is a target TAC removed before allocations are given to the limited access and general category fisheries. A11 included a limited entry program for incidental catch – vessels have to apply for a permit and can land up to 50 pounds of scallop catch per trip – no annual maximum per vessel or for the fleet. A target TAC of 50,000 pounds was set – and if in the future that amount needs to be adjusted it can be changed by framework. This component of the fishery does not need an ACL because the rest of the fishery (LA and GC) is allocated effort after this amount is taken off the top and if this portion of the fishery catches more or less than projected – the target TAC can be changed. Similarly, any other mortality from discards in the scallop fishery and other fisheries are removed from the top before the fishery ACL is set.

The PDT is working on a threshold for identifying non-target species. To date there are a handful of candidate species, but the only one that has been identified in another FMP is

yellowtail flounder (for 3 stocks). An audience member recommended that a policy decision from the Council should be made that would identify a threshold over which an ACL would be required. The concern is that small bits of bycatch cumulatively may become significant. He would like the Council to recognize that and create some overarching guidance in an omnibus approach potentially using a matrix. Mr. Cunningham, the Chair of the GF Committee brought a motion from the Groundfish Committee for consideration.

MOTION 6 (Cunningham / Preble): Move that the Scallop Committee request that the Scallop PDT work with the GF PDT to develop AMs necessitated by the scallop fishery interaction with species managed under the GF FMP. AMs for GF ACLs be developed by and implemented by Scallop Committee under the Scallop FMP. Vote: 8:0:0, motion carries unanimously. (note: For 2010 AMs would have to be in GF A16)

Motion 6 Discussion

It was asked to the maker of the motion how the AMs will be worked out between the two FMPs. The response was that that issue is under discussion and will probably need to be worked out between the two PDTs and NMFS. Staff commented that the AM issue has been discussed amongst staff and the next step is to get guidance from NERO staff about the most appropriate place to include AMs from the other fishery. The hope is that the GF plan will allocate an ACL, but the SC plan will identify the AMs. NMFS legal guidance at the meeting was that it does not matter whose FMP the AMs are included in, as long as they are addressed for each species in question. However, the caveat is that this guidance is pending final approval of the NS1 guidelines. One concern voiced by staff is whether a GF action would be required to change an AM for the scallop fishery. Legal guidance said that either plan could make the change.

Several Committee members voiced that the GF plan should be responsible for the GF ACLs, while the AMs should be created in the scallop plan. However, it was noted that there may be a timing issues since the GF ACLs and AMs are required by 2010, and the scallop action (A15) will not be in place until 2011. A couple options were offered: 1) a 1-yr AM in GF A16 for the scallop fishery, or 2) specify an AM in FW21. The second option is not viable because the AM(s) must be vetted through the amendment process.

An audience member questioned why we are not considering other FMPs in addition to the GF FMP, such as skates, monkfish, and summer flounder. The working papers for AMs must be developed for the SC Committee to review before February. Staff commented that ideally we want everything with regards to ACLs and AMs detailed for the Council to say it's ready for analysis, so decisions about non-target species may need to be made before those other plans are initiated (i.e. monkfish).

It was also pointed out by an audience member that the goal of the MSRA is not to fundamentally rework fishery management, but instead standardize plans across the U.S. He argued that the scallop fishery already has a target and allocated effort restricted by that target. The target F is more than 80% less than the threshold, so there is sufficient precaution in the system already – we just need to codify it to comply with MSRA.

Uncertainty Discussion

Concern was voiced by a Committee member about the argument that DAS allocations increase management uncertainty. He asked if the model is sophisticated enough to reduce the amount of uncertainty associated with this allocation. While it is true that DAS are not a major source of uncertainty, the PDT is leaning towards it being a small part. A Committee member asked then how uncertainty will change when ACLs are set with regards to open area DAS. The response was that there is uncertainty associated with open area DAS, but if this system of allocation is changed in response to the required ACLs then the buffer between ACLs and ABCs could be reduced due to increased management certainty.

It was pointed out by an audience member that some uncertainty about DAS stems from incomplete surveys of the open bottom, thus may be better suited for biological uncertainty instead of management uncertainty. The years when LPUE per DAS are higher than expected may not be due to uncertainty from the models used, but instead more resource available in open areas outside the survey strata. It was pointed out that uncertainty goes both ways. A question was raised about whether the buffers between OFL and ABC and ACL and ACT are something that can be altered annually and the reply was that yes, it can be adjusted in a framework action. The understanding is that the specification process will include the ACL terms as well as fishery allocations.

NGOM ACL Discussion

Whether the NGOM allocation should have an associated ACL or just be a quantity removed as a hard TAC off the top before the scallop fishery overall ACL was discussed. A Committee member asked us to explain more about why the NGOM should have a TAC. It was replied that the proposed rule has advised us to identify potential state/federal issues, which may qualify to not have an ACL. The NGOM TAC is so small that it should qualify as a state/federal issue without an associated ACL. The Committee member then suggested maybe having the NGOM TAC be similar to the GC incidental permit lens. He also said that in the GF plan, there is a category of 5% for "other" that might be useful for the NGOM and incidental allocations.

An audience member suggested making the NGOM TAC a sub-ACL, similar to what groundfish is doing. It was cautioned though that we should be careful in how many ACLs we decide upon because it could make the FMP very cumbersome. For the time being, the PDT suggests that there be no (sub)ACL for the incidental or NGOM permits because it's an amount taken off the top and nothing happens if the quota is overreached. A Committee member agreed with having as few ACLs as possible.

Amendment 15 Discussion

The Council previously passed a motion (at the October 2008 Council meeting): *to direct the Committee to refine the list of alternatives in draft Amendment 15 in light of new scallop action timelines. For example, the Committee should seriously consider the list below as well as any other alternatives that could impact timing of the action (IFQ program for the limited access fishery and the alternative that would convert open area DAS into access area trips in open areas).*

There was some confusion at first about which alternatives were under consideration for rejection. It was clarified that the Council had already moved one option to the considered but rejected section (unlimited stacking), and this request from Council was specific to the two alternatives described above (IFQs and converting open area DAS into trips). The Committee discussed both these alternatives and recommended that the IFQ alternative be eliminated and the other option (convert open area DAS into trips) remain for the time being.

MOTION 7 (Cunningham / Avila): Remove IFQ program alternative for LA fishery to the considered and rejected section in A15 (Alternative 3.3.4). Vote: 7:0:1. Motion carries.

Motion 7 Discussion:

A Committee member commented that in their opinion this fishery is ripe for an IFQ program because there are benefits with respect to turtle issues and ACLs, but acknowledges that an IFQ program requires a referendum and there does not seem to be sufficient interest to pursue this at this time. The process would likely be lengthy and impact compliance with ACLs, and another Committee member agreed. An audience member voiced that they support removing IFQs from this document because there is not consensus on this topic from the industry. Another audience member agreed, saying that IFQs and stacking should be in another amendment that is considered by itself because of all the issues and time that should be spent on it. One commented that stacking of permits would do the same thing as IFQs and these measures will not address capacity as the document implies. It was argued that permits will be moved on more sophisticated vessels and F will increase in open areas as a result. The next step will be that all vessels will have to be cut back to make up for higher F; single boat owners will subsidize economic relief for people with many vessels. Another speaker explained that an unofficial survey of permit owners is showing that about 125 permit owners are against stacking and IFQs. He added that if some measures are combined like the turtle restriction for 5 months, and some vessels stack, they may not even be able to fish their allocation in the months outside of other restraints on the fishery.

Conversion of open area DAS into access area trips in open areas:

It was discussed that this alternative has allocation implications and may take resources to fully develop and analyze this alternative. One Committee member asked just how much time would be needed and staff responded that this alternative needs a lot more work because it is mostly just a concept at this point, but if it is an option that people support it should be identified as a priority. Issues that need to be decided for example are, how many areas we want to look at, how we want to take different vessel capacities into account, should broken trips be permitted, etc. Another Committee member then asked if we already have the authority to go to full rotational area management. Staff response was that the criteria for closing an area for area rotation is that a certain percentage of the resource has to be small scallops to qualify – and that would not be the case for many open areas. The other issue is that this might become an allocation of quota under a different name depending on how it is developed (with full broken trips it probably would). No motion was passed at this time to remove this alternative from development, but we were reminded that this can be discussed again at the full Council meeting on November 20. The Committee also discussed the potential benefits of an expanded rotational area management system in terms of reduced impacts on habitat and sea turtles.

Final Issue of the day: Alternative to allowing stacking

A number of individuals in the audience came to speak in opposition of stacking. While that alternative was not included in the Council motion the Committee was tasked with for this meeting, the Committee took comment from the audience. A handful of speakers spoke against stacking and requested that the Committee make a motion to remove that option from A15. The sentiment from most speakers was to pull all stacking and consolidation measures out of A15. Ultimately the Committee did not make such a motion and urged the public to continue participating in the process and speaking in favor of the No Action alternative (no stacking).

In general the commenters stated that people will stack their permits onto their most efficient vessels, and when fishing under DAS, the permit from the less efficient vessel will catch more on the more efficient vessel. It was argued that the result is that the stock will be fished harder and subsequently, single boat owners bear the brunt of the following year's diminished allocation. One commented that this would be the first step toward industrialized fishing. Another added that there is a silent majority of folks against stacking and the public process is against them and the perception is that people have made their mind up about stacking already. Another reminded the Committee that this issue has been voted down twice before and stacking is just a maneuver around IFQs because fleet owners know that a referendum would never pass in this region. It was suggested that there are too many ways to get around ownership restriction measures and vessel baseline restrictions so any fishing power alternative to control capacity would be abused. There was discussion by the committee regarding the Council decision at its last meeting to move the alternative allowing unlimited stacking to the considered but rejected portion of the document. Committee members pointed out that this is not a final decision and the only option we have at this point is for the Committee to suggest removing it from the document.