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Scallop Committee Meeting

November 3, 2009

Providence, RI

Committee members in attendance: Rick Robins, Sally McGee (Chair), Mary Beth Tooley, Mark Alexander, Dave Preble, Jim Fair, Rodney Avila, Hannah Goodale (designee for Pat Kurkul).

NMFS Staff: Peter Christopher, Emily Bryant, and Gene Martin.

NEFMC Staff: Deirdre Boelke, Jessica Melgey, and Demet Haksever.

There were about 40 people in the audience.

The purpose of this meeting was to review preliminary stock projections and stock since the last assessment, to review FW21 alternatives and analyses to date, to review the PDT input of alternatives to comply with RPM in the biological opinion, to discuss preferred recommendations for final action, and to review preliminary analyses of impacts on the scallop fishery from various YT sub-ACL allocation alternatives under consideration in the GF specs package.

Erling Berg has joined the Committee as a second designee from the Mid-Atlantic. Rick Robins has been appointed Vice-Chair of the Committee.

Motions and Rationale/Discussion for each motion below

Motion 1: Robins/Preble

Identify Option 2.7.1.3 Option A (Seasonal closure of Delmarva in Sept and Oct) as preferred alternative in FW21.

Vote: 9:0:0, motion passes unanimously.

Rationale/discussion: This option was identified as preferred because the maker of the motion expressed concerns about equitability and distributional impacts of the other RPM alternatives. This alternative has more even impacts since all vessels are allocated one Delmarva trip. Southern boats would be impacted much more compared to vessels from the north if effort was constrained (DAS limit of AA limit) during the summer/fall.

It was also pointed out that for the status quo option the analyses suggest that this seasonal closure is expected to impact about 10% of the total effort that takes place in the MA during the turtle season, and that was identified as a reasonable amount of effort to impact under the requirements of ESA. Furthermore, it was pointed out that these estimates are based on assumed fishing behavior responses and historical fishing patterns, so impacts could be very different if the fishery responds differently than assumed. Specifically, if effort shifts mostly to November and December, then impacts on F will actually be higher than the results suggest, having more than minor impacts on F and ultimately the fishery from increased mortality. However, if effort shifts only to the summer, impacts on F will be reduced more than the model results suggest. Therefore, several commented that 10% seems to be a reasonable level of effort shift to use as a

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standard since actual impacts could be higher or lower. Since these impacts are difficult to predict, implementing something that could have the potential to have much higher impacts on F due to effort shifting into seasons with lower meat weight yields is risky and could have more than minor impacts on F and the fishery. Therefore, the Committee was comfortable with considering measures that have an estimated impact on effort shift of about 10%. Others added that shifting 10% of effort from that area and season should have beneficial impacts on turtles.

It was discussed that the other options may essentially impact 100% of effort in that area and season because any reduction from the historical average is less than a normal trip length. One member pointed out that shifting 18% to 23.9% of effort caused by alternatives 1 and 2, is too high.

It was discussed that this alternative is the only option with beneficial impacts expected for the fishery. Some voiced that a win/win situation should not be viewed as a negative thing. NMFS expressed concern that the action needs to limit effort up to point that would not have more than minor impact, so the Delmarva season closure may not get you to the threshold required by ESA since the estimated impact is positive for the fishery. A member of the audience added that this alternative focuses only on Delmarva, and other areas in the MA are not addressed directly by this measure. Another noted that the combination of this closure and the ETA closure will provide a large continuous corridor for turtle protection for two months during their normal migration period and that should have beneficial impacts. It was also pointed out that this FW is only for one year, so additional RPM measures could be developed in future actions since the RPM requirement will remain in place until something else supersedes it such as a new biological opinion.

Does the measure have to minimize the *extent* or the *impact* of takes? The answer provided by NMFS is that RPMs have to do both. Not every RPM has to do both; this RPM happens to focus on reducing the extent or number of takes.

Motion 2: Preble/Alexander

Eliminate the scenario that would close the Great South Channel and have an F of 0.20 (CLF20).

Vote: 9:0:0, motion carries unanimously.

Rationale/Discussion: This alternative increases DAS and has a negative impact on F in open areas. It is a bad move economically and will cause more problems with YT bycatch. In terms of the closure it was pointed out by an audience member that many vessels in the fleet can't fish in the Channel, not enough horsepower. Another raised concern about closing the channel before the habitat process is complete, which is considering a cod HAPC in this area. Another commented that the channel is a great seed producing area, but not ideal as an access area because scallops do not seem to get very large there. There is a front there, tons of predators in the area and he does not believe the ecology in that area would allow for the gains we expect from closing an area for three years.

Motion 3. Tooley/

Eliminate Scenario 4, Close the Channel with overall F of 0.18 (CLF18).
Motion fails for lack of a second.

Motion 4. Tooley/Preble

Add an alternative in FW21 to allocate the equivalent of a 10,000 pound trip in CAII for each scenario in the document now. An adjustment in DAS would be made to each scenario to keep overall F the same. There would be two options per scenario, one without CAII trip and one with it. **Vote: 1/7/1, motion fails.**

Rationale/Discussion: This motion was made to recognize that there is sufficient scallop biomass in CA2 for a partial trip in 2010. But it was noted that this addition will have great impacts on yellowtail, and the YT allocation decision is being made by the GF Committee in two days so timing will be very problematic. Staff explained that there is essentially no way all the impacts/analyses for this addition could be completed before the Council meeting. It would impact the turtle analyses etc. One Committee member commented that an opening of June 15 would have high impacts on YT.

Motion 5. Preble/Cunningham

Add an alternative in FW21 that would allow leasing of partial allocations (in amounts equal to or greater than 100 pounds) throughout the fishing year with existing applications and protocols. It is understood that the intention is not to slow down the implementation of FW21.

Vote: 7:0:1, motion carries.

Rationale/Discussion: A member of the audience explained that this FW already includes several measures to adjust the IFQ program to make it more workable, and this request is in line with that. He explained that this was discussed at the last AP meeting and it was supported. The Committee agreed that increased flexibility in lease amounts would be helpful for the IFQ program. Before this can be added in FW21 NMFS must look into why the current increments exist and what it would take to change them; an amendment may be needed, depending on the reason the restriction was put in place in A11.

Without objection, changing the VMS positioning requirement for LAGC IFQ and LAGC incidental permits to once per hour will be included in FW22.

Rationale/Discussion: Letter from the public about this issue. It costs \$50 a month (\$600 annually) to have 30 minute polling. For an incidental LAGC permit, 50 pounds a trip will not recoup that cost. Some permit types can power down, but this permit can't. Committee agreed this is a reasonable issue to add to FW22, but too late for this action. NMFS did comment that Enforcement prefers 30 minute polling to help enforce fishing near closure boundaries. A member of the audience added that research is not permitted in this area/time either, so the entire spawning issue should be revisited.

Motion 6: Cunningham/Preble

Recommend that the Council support consideration of extending exemption in GSC area in April-June for LAGC IFQ permit holders if the data supports this action.

Vote: 7:0:1, motion carries.

Rationale/Discussion: The Committee discussed that this request seems reasonable if there is data to support that fishing in April-June complies with GF regs for allowing exemptions. This is not something that needs to be added to FW21 and it was asked if this will come up at the GF meeting on Thursday. If a letter from the public is sent NMFS about this, the Council could later consider endorsing such a request.

By consensus: Include two alternatives for Section 2.8.2 sent by NMFS RO into FWE21 for limiting the amount of observer compensation for general category vessels.

Motion 7. Goodale/Robins

Increase observer set-aside TAC from access areas and open areas from 1% to 2%.

Vote: 1:7:0, motion fails.

Rationale/Discussion: It was explained that there may be issues covering all the observer coverage needed in 2010 with reduced allocations, thus reduced set-asides. This would provide more flexibility in setting the compensation rates so vessels required to carry an observer would be more likely not to incur additional costs from the rate being set too low or running out during the year. 2% would allow for more flexibility to account for unanticipated fishing behavior changes and projections in scallop price and abundance. An audience member argued there are other ways to increase flexibility and the Council should wait until other changes are made to the program that are supposed to increase transparency, improve tracking etc. More confidence is needed in the program that gets 1% before going to 2%. Another commented that the agency should give less in access area trips to help the coverage last longer, 200 pounds is plenty. Another commented that more than 1% may be needed, but maybe it could be a rolling amount so that if it is not used the catch could be applied to the next year.

Motion 8. Robins/Tooley

Recommend that the GF Committee consider allocating 100% of the projected YT ABC “needed” to the scallop fishery for each YT stock area for 2010, and 90% of what is needed for 2011 and 2012.

Vote: 5:1:1, motion carries.

Rationale/Discussion: The Committee decided to recommend 100% for 2010, because there is no tool in place to constrain YT catch in the scallop fishery for 2010 – AMs will not be in place until 2011 under Scallop A15. So if the scallop fishery is allocated less than projected scallop fishing is expected to need, there is a good chance that amount would be exceeded, and no AMs would be in place for the scallop fishery. For 2010, the Scallop Committee is under the impression that GF A16 is set up so that if the scallop fishery exceeds their sub-component ACL

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in 2010 and the GF fleet was near their ACL so that the combined ACL was exceeded, AMs would trigger in the GF fleet to account for the combined overage, even if the overage was actually due to higher bycatch levels in the scallop fishery. Technically, this could still happen in 2010 even with 100% allocation since fishery-specific AMs will not be in place for the scallop fishery until 2011, but the chance of that occurring is lower if the scallop fishery is allocated 100% of projected YT needed for projected scallop catch.

The Committee was not overly content with the situation, especially with 2010; a unique year because of the different AM implementation schedules in each FMP. One suggestion was made that an option should be added to Scallop A15 to account for any YT overages by the scallop fishery in 2010 at a later date (i.e. in 2012 or 2013) after YT AMs are implemented in the scallop fishery. Some thought this would be a more fair approach. AMs would not be triggered in 2011 since A15 not in place yet, but overages would be addressed as soon as possible after YT AMs are implemented in the Scallop FMP.

For 2011 and 2012, the Scallop Committee recommended that 90% of the projected YT catch needed for the scallop fishery by YT stock area should be allocated. This recommendation was made to recognize that there are high impacts to scallop revenue that trickle down into fishing ports in the Northeast if scallop catch is restricted, so the allocation amount should be relatively high. However, the Committee recognized that there needs to be incentive in the scallop plan to reduce YT bycatch, so 90% would afford that incentive.

The Committee added that this allocation decision needs to be responsive to scallop area rotation and the decision should be made as often as possible. Every three years is too long; scallop catch projections and access area schedules are likely to change and this process should be reviewed as often as it can be.

Many members expressed interest in addressing this issue in a more holistic way; initiating joint actions to consider measures that would provide more flexible use of YT between the fisheries, considering sectors to manage this bycatch, or even individual allocation of YT in the scallop fishery to provide maximum incentive to reduce YT bycatch were all discussed as possible ways to address this issue. Several members voiced that when the Council discusses priorities at the November Council meeting, an overall plan should be discussed about how best to address this issue, especially since other species may be handled this way in the future.