



Motions with Rationale from Scallop Oversight Committee meeting
September 23, 2010
Courtyard by Marriott, Providence, RI

Committee Members in Attendance: Rodney Avila, Rick Robins, Erling Berg, Mark Alexander, Jim Fair, Marybeth Tooley, Hannah Goodale (designee for Pat Kurkul), and David Pierce (Chair).

NEFMC Staff: Deirdre Boelke, Jessica Melgey, Demet Haksever

NMFS Staff: Peter Christopher, Emily Bryant

There were about 25 people in the audience, including most of the scallop advisors.

Purpose of Meeting: The oversight committee met in Providence one week before the Council is set to meet and take final action on Amendment 15. The advisory panel met the day before this meeting and provided their input on preferred alternatives, and many members of the AP (including the Chairman) were in the audience. Staff presented the decisions to be made in A15 along with input from the AP and PDT and sought motions to voice preferred alternatives for presentation to the Council next week. Motions made by the Committee along with rationale and vote are presented below.

Motions pertinent to AMs and ACLs:

Motion 1. Robins/Tooley; Move to recommend adoption of the ACL/ACT/ABC structure identified and described in sections 3.2.3.2 through 3.2.3.8 of Amendment 15, together with the proposed sub-ACLs, ACTs, structural flowchart, and related methods to account for discards, incidental catch, Northern Gulf of Maine catch, state waters catch, and other sources of mortality. *(Relevant to Decision 1 in updated decision document)*

Rationale: There is no choice to be made here, this is what the PDT and Committee put together and it is consistent with the national standard guidelines for compliance with the reauthorized Magnuson-Stevens Act.

Vote: 7:0:0, motion carries.

Motion 2. Robins/Avila; Move to recommend adoption of the ABC control rule in section 3.2.3.7.3, so that the ABC will be set at a fishing rate that has a 25 percent probability of overfishing. *(Relevant to Decision 1 in updated decision document)*

Rationale: This method has been approved by the SSC and was used by the PDT in Framework 21.

Vote 7:0:0, motion carries.

Motion 3. Robins/Berg; Move Option 1 in section 3.2.3.8.1 as the preferred alternative, establishing the LA ACT at an F rate with a 25% probability of exceeding the LA ACL to account for management uncertainty. *(Relevant to Decision 2a in updated decision document)*

Rationale: Based on the advice from the PDT and public comment supporting this option, this option is a reasonable choice for addressing management uncertainty in the limited access fleet.

Vote 7:0:0, motion carries.

Motion 4. Robins/Tooley; Move Option 1 in section 3.2.3.8.2 as the preferred alternative, establishing the LAGC ACT equal to the LAGC ACL with no buffer. *(Relevant to Decision 2b in updated decision document)*

Rationale: while the PDT did raise some concerns about spatial issues, this is a fishery that is managed by ITQ and as such has a very high certainty of managing catch and thus is it appropriate to set ACT = ACL with no buffer for management uncertainty. There is accountability incorporated into this because individual payback would be required for any overages, and it would not be the burden of the fleet. Carryover of unused IFQ from one year to the next is somewhat concerning if allowed in this action because there would be a chance of exceeding the ACL with no AM applied. RO Staff noted that this

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is the first action on ACLs and AMs so this could be corrected in the future, and thus it is likely that it would not cause any legal deficiency in the plan. In addition, rollover in the LAGC fishery is unlikely to cause overfishing. The overfishing definition is the place to address spatial issues. RO Staff asked if the LAGC carryover percentage was a frameworkable item, and that that may be an appropriate way to deal with this in the future if problems with exceeding the sub-ACL do arise.

Vote: 7:0:0, motion carries.

Motion 5. Robins/Berg; Move to recommend adoption of the Limited Access AMs described in section 3.2.3.9.1 of Amendment 15, including: (1) use of an ACT, (2) overall DAS reduction in the subsequent year to account for overage, and (3) include disclaimer for when LA AM would not be triggered. (Relevant to Decision 3a in updated decision document)

Rationale: this alternative includes a preventative AM in terms of an ACT, and a payback that is consistent with the national guidelines. As for the disclaimer, if there is no biological harm and updated estimates of F are actually lower than what was projected, there is no justification for a payback.

Vote 7:0:0, motion carries.

Motion 6. Robins/Berg; Move to recommend adoption of the General Category AMs in section 3.2.3.9.2 of Amendment 15, including: (1) use of an ACT, (2) IFQ reductions in subsequent year if IFQ is exceeded. (Relevant to Decision 3b in updated decision document)

Rationale: alternative includes a preventative AM in terms of an ACT, and a payback that is consistent with the national guidelines. If there is no biological harm there is no need for a payback. The general category still has concerns about the disclaimer provision for the LA fleet and how it will impact their allocation.

Vote 7:0:0, motion carries.

Motion 7. Robins/Avila; Move to recommend adoption of the NGOM AMs in section 3.2.3.9.3 of Amendment 15, including reducing the hard TAC in the subsequent year to account for an overage. (Relevant to Decision 3 in updated decision document)

Rationale: the NGOM fishery has not exceeded their TAC in the past and so the amount is appropriate, as is the payback mechanism should any overages occur.

Vote 7:0:0, motion carries.

Motion 8. Robins/Fair; Move to identify Option B in section 3.2.3.11.2.1.1 as the preferred alternative for the yellowtail flounder AMs, requiring a seasonal closure of a portion of the YT stock area pre-identified as having high bycatch, effective in year 3. (Relevant to Decision 3d in updated decision document)

Rationale: None of the yellowtail options are perfect, but this is the 'least of two evils' because it only closes portions of a stock area and because it is year 3 should cut down on derby effects. There will be additional groundfish PDT advice forthcoming that might help to further inform the full Council decision.

Vote: 6:0:1, motion passes.

Motions pertinent to addressing overcapacity in the limited access fleet:

Motion 9. Robins/;

Move option 2 to prohibit de-stacking under Alternative 3.3.2.4 as preferred.

Ruled out of order.

Motion 10. Tooley/Robins; Alternative 3.3.2 to allow permit stacking be the preferred alternative under Section 3.3.

Rationale: While we have received a lot of public comment on this issue, it is clear that we have a lot of extra steel in this fishery and that was a major driving force for this action. It is a voluntary alternative and it is likely to move very slowly as people make the decision. It is supported by national standards 5 and 6. We should be looking at efficiency in the fishery and it has implications on conserving other resources; we cannot only be thinking about fishery resources. For those industry members who would like to use it this is a good management tool that should be available to them. Several Committee members and the Chairman then spoke against the motion and a motion to substitute was made.

Motion to substitute. Alexander/Fair; Recommend No action as it pertains to stacking as preferred under Section 3.3 – measures to address excess capacity in the fishery. (Relevant to Decision 5 in updated decision document)

Rationale: the overwhelming public opinion against stacking cannot be ignored, and there are too many questions about how it will affect those who do not choose to participate. There are still questions of it being in violation of certain national standards, it may not be consistent with Council policies from Amendment 7 in 1998, and the lack of industry support is very troubling. Stacking could remove hardware from the fishery but unless the fishing power and mortality adjustments are set perfectly, privileges for those that do not stack could be impacted indirectly.

Vote on motion to substitute: 4:2:1, carries.

Vote on motion as substituted: 5:2:0, carries.

Motion 11. Robins/Avila; Motion to adopt leasing of DAS and/or access area trips as preferred. (Relevant to Decision 5 in updated decision document)

Rationale: capacity reduction is the secondary objective of the amendment and this is consistent with the national standards. There is very considerable excess capacity in the fleet and the issue needs to be addressed. Leasing would be more accessible to more vessels, not just vertically integrated businesses.

Vote: 5:2:0, motion carries.

Motion 12. Robins/Avila; Committee supports Option A in Section 3.3.3.1.1 – all leasing of open area DAS would have a fishing power adjustment applied (both adjustments). (Relevant to Decision 11 in updated decision document)

Rationale: the intent behind this adjustment was to have a conservation-neutral action in terms of catch increasing as a result of stacking and/or leasing of open area DAS. The FPA incorporates the landings records for the fleet and provides an appropriate way to allow leasing without an increase in fishing power and thus mortality.

Vote: 7:0:0, motion carries.

Motion 13. Robins/Berg; Move to establish a Mortality Adjustment of 11 percent, in addition to the Fishing Power Adjustment factor, as a preferred alternative for stacked permits. (Relevant to Decision 11 in updated decision document)

Rationale: compelling concerns from public make the mortality factor particularly critical. Risk aversion is called for in setting the value. PDT analysis shows that any adjustment would have to be very significant (upwards of 30%) to make leasing unprofitable. For this reason, we should pick the highest percentage (most conservative option) possible in effort to be risk averse, and adjust the value in the future if needed.

Vote: 6:0:1, motion carries.

Motion 14. Robins/Avila; Move to identify Option 2 in section 3.3.3.1.2 as the preferred alternative, requiring that the catch history and DAS usage for leased open area DAS and access area trips is applied to the lessor. (Relevant to Decision 12 in updated decision document)

Rationale: the Committee received a compelling letter of correspondence since the last meeting explaining why history is so important and why the original permit owner should retain the history. Since all permits are active in this fishery a permit owner should retain both the catch and DAS history so their permit is not devalued. Doing otherwise will just impede leasing.

Vote: 7:0:0, motion carries.

Motion 15. Tooley/Berg; Approve Section 3.3.3.4 regarding the ownership cap restrictions as they apply to leasing and clarify that under the first point an individual at the 5% ownership cap would be permitted to lease "out" not lease "in" any additional effort. (Relevant to Decision 13 in updated decision document)

Rationale: Maintaining the ownership cap is important in this action and this alternative will see that no one goes over the cap by leasing additional effort.

Vote 6:0:1, carries.

Motion 16. Robins/Berg; Identify Option in section 3.3.3.5 as the preferred alternative, restricting leasing to vessels within the same permit category, and no vessel could lease more than one full permit in the same category, as adjusted by FPA and mortality tax. (Relevant to Decision 14 in updated decision document)

Rationale: restricting leasing to the same permit category will cut out a lot of complication in applying fishing power adjustments and restricting vessels to being able to only lease one full permit will keep boats from accumulating too much effort.

Vote 6:0:1, motion carries.

Motion 17. Robins/Tooley; Move to identify Option 1 in section 3.3.3.7 as the preferred alternative, allowing leasing from permit in CPH. (Relevant to Decision 16 in updated decision document)

Rationale: those who favor leasing feel this is an essential step to get rid of excess capacity. It was also favored by the AP. Since all permits are currently active, leasing from CPH will actually decrease DAS available in the fishery because adjustments will be applied.

Vote: 7:0:0.

Motions related to minor improvements to the LAGC program:

Motion 18. Move to modify the LAGC possession limit to 600 pounds. (Relevant to Decision 18b in updated decision document)

Rationale: this change will allow small boat owners to be more efficient and provide a safety mechanism in the case of rising fuel costs. It will cut down on fuel consumed, wear and tear on vessels, and the time fishermen have to spend away from home without causing a large change to the program.

Vote: 6:0:1, motion carries.

Motion 19. Tooley/Avila; Move to support carryover of 6000 pounds for LAGC vessels into the next fishing year. (Relevant to Decision 18a in updated decision document)

Motion withdrawn without objection.

This value exceeds the amount of allocated pounds to almost 50% of current IFQ holders. Staff reminded the Committee that IFQ carryover percentage was not only identified to be analogous to the 10DAS carryover for the LA fishery, and that the 15% value was consistent with other IFQ programs.

Motion 20. Robins/Tooley; Allow a rollover of up to 15% of annual quota for LAGC vessels – Alternative 3.4.2.1.2. Clarify that 15% refers to original allocation for that year, not including any leased quota. (Relevant to Decision 18a in updated decision document)

Rationale: this is seen to be a safety mechanism for IFQ owners in the case of bad weather/unforeseen circumstances at the end of the fishing year that prevent them from using all their quota. Fifteen percent is a reasonable amount modeled after other IFQ programs and can be changed if it increases management uncertainty for this portion of the fleet.

Vote 6:0:1, motion carries.

Motion 21. Move to support increasing the maximum quota one vessel can harvest from 2% to 2.5%. (Relevant to Decision 15c in updated decision document)

Rationale: the two ownership cap provisions for the LAGC are currently incompatible because they would require an individual to own more than two vessels if they wanted to own 5% of the quota. This would make the restrictions more consistent and more efficient for vessel owners.

Vote 4:2:1, motion carries.

Motion 22. Robins/Avila; Move to supports alternative 3.4.2.4.1 Option B – that LAGC quota can be split from permit for LAGC IFQ vessels only. Vessels with LA permits would not be able to split quota. (Relevant to Decision 15d in updated decision document)

Rationale: this allows for easier movement of quota between fishermen and increases the likelihood that all quota will be harvested.

Vote 5:0:1, motion carries.

Motions regarding other alternatives to make the FMP more effective:

Motion 23. Robins/Alexander; Move to identify option 3.4.1.3 as the preferred alternative, establishing the hybrid overfishing definition to address the spatial heterogeneity of F. (Relevant to Decision 17 in updated decision document)

Rationale: though public comments favor No Action, it is clear that the current approach is not consistent with management and can be improved upon. In the long run it should reduce the risk of growth overfishing and increase yield per recruit. No Action ignores the fact that the scallop fishery is not spatially uniform.

Vote 7:0:0.

Motion 24. Tooley/Avila; Move to select Alternative 3.4.5.1 as preferred; the fishing year would maintain March 1. (Relevant to Decision 21 in updated decision document)

Rationale: this had no support from industry for various reasons including fear of change in or loss of markets, upsetting general business practices, and the proximity of turtle closures to the start of the fishing year in the Mid-Atlantic. Committee is sympathetic to administrative burdens it causes, but the process seems to have adjusted.

Vote 5:1:0.

Motion 25. Goodale/Alexander; Move that the Council include an alternative in A15 to modify spec package so that a third year would be recommended until superseded by the next spec package. (Relevant to Decision 21 in updated decision document)

Rationale: in light of the previous motion the Council may want to consider developing measure for a third year as an insurance policy in the case of rollover due to delayed implementation; the third year specs would be replaced with a new, updated framework but would be there for the start of the third fishing year until updated measures could be in place.

Vote 4:2:0, motion carries.

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Motion 26. Move that Committee adopt the RSA alternatives supported by the Advisory panel. In addition, the compensation time period for Alternative 3.4.4.9 shall extend one quarter into the following fishing year and the initial RSA set-aside value shall be 1.25 million pounds.

AP motion: support RSA alternatives: 3.4.4.2 through 3.4.4.5; and 3.4.4.7, 3.4.4.8.5, and 3.4.4.9 through 3.3.4.11, excluding 3.4.4.6. Clarify that the value used for 3.4.4.5 should be added to the list of frameworkable items in the FMP. (Relevant to Decision 20 in updated decision document)

Rationale: the scallop industry supports the RSA program but sees that it can use some improvement. These measures will help to improve timeliness and effectiveness of the plan to ensure that the RSA poundage is benefiting the fishery.

Vote: 4:0:1, motion passes.