

NEW ENGLAND FISHERY MANAGEMENT COUNCIL
Sheraton Harborside, Portsmouth, NH
February 9-11, 2009
Motions

Monday, February 9, 2009

HERRING

1. Mr. Blount moved on behalf of the committee:
to adopt the following as goals/objectives of the catch monitoring program (based on elements of the MA DMF proposal):
 - (1) to create a cost effective and administratively feasible program for provision of accurate and timely records of catch of all species in the herring fishery
 - Review federal notification and reporting requirements for the herring fishery to clarify, streamline, and simplify protocols
 - (2) develop a program providing catch of herring and bycatch species that will foster support by the herring industry and others concerned about accurate accounts of catch and bycatch, i.e., a well-designed, credible program
 - Avoid prohibitive and unrealistic demands and requirements for those involved in the fishery, i.e., processors and fishermen using single and paired midwater trawls, bottom trawls, purse seines, weirs, stop seines, and any other gear capable of directing on herring
 - Improve communication and collaboration with sea herring vessels and processors to promote constructive dialogue, trust, better understanding of bycatch issues, and ways to reduce discards
 - Eliminate reliance on self-reported catch estimates
 - (3) design a robust program for adaptive management decisions
 - (4) determine if at-sea sampling provides bycatch estimates similar to dockside monitoring estimates
 - Assure sea sampling of at-sea processors' catches is at least equal to shoreside sampling
 - Reconcile differences in federal and states' protocols for sea sampling and dockside sampling, and implement consistent dockside protocols to increase sample size and enhance trip sampling resolution

The motion **carried** unanimously on a show of hands (17/0/0).

2. Mr. Blount moved on behalf of the committee:
to reconsider the recommendation for a 20% CV on Atlantic herring, river herring, and haddock, and instead recommend using a 30% CV on the stocks that are not overfished (herring, haddock) and 20% on the stocks of concern (river herring).

The motion **carried** on a show of hands (10/7/0).

3. Mr. Blount moved and Mr. Preble seconded:
to include the following as alternatives in Amendment 4 for a catch monitoring program in the herring fishery:
- the Council staff example
 - the industry proposal (January 21, 2009 Kelley, Drye & Warren letter)
 - the CHOIR proposal
 - the MA DMF proposal

The motion **carried** unanimously on a show of hands (17/0/0).

4. Mr. Preble moved and Mr. Fair seconded:
to continue work on Amendment 4 and the specs package (2010-2012) under the following priorities:
1. ACLs and AMs
 2. monitoring
 3. river herring bycatch
 4. closed area access to the midwater trawlers
 5. interactions with the mackerel fishery

The motion **carried** on a show of hands (16/1/0).

Tuesday, February 10, 2009

GROUND FISH

Interim Action Discussion

1. Mr. Cunningham moved on behalf of the committee:
that the Council reinforce its recommendation for the interim rule and ask that NMFS give further consideration to its recommendation.

The motion **carried** on a show of hands (12/3/1).

Framework 42 Lawsuit Discussion

2. Mr. Preble moved and Mr. Cunningham seconded:
that the Council adopt the draft analysis on the mixed stock exception as its analysis under the summary judgment of January 26, 2009.
- 2a. Dr. Pierce moved to substitute and Mr. Avila seconded:
that the Council disagree with the conclusions of the NMFS report to the court that the mixed stock exception cannot be applied to the northeast multispecies fishery and request NMFS reconsider its position and make it consistent with congressional intent that: 1) optimum yield should be from the fishery as a whole and; 2) one stock should not dictate severe constraints on the fishery as a whole while that stock is being rebuilt.

Yes – Avila, Pierce, Fair, Goethel, Leary, Stockwell, Grout, Odlin, Rice, Alexander, Tooley

No – Blount, Cunningham, McGee, Kurkul, Preble, Gibson

Abstention(s) -

The motion to substitute **carried** on a roll call vote (11/6/0).

The substitute motion was voted:

Yes – Tooley, Alexander, Rice, Odlin, Grout, Stockwell, Leary, Goethel, Fair, Pierce, Avila

No – Gibson, Preble, Kurkul, McGee, Cunningham, Blount

Abstention(s) -

The substitute motion **carried** on a roll call vote (11/6/0).

Amendment 16 discussion

3. Mr. Cunningham moved and Ms. Kurkul seconded:
to include a rebuilding program for pollock in Amendment 16.

3a. Mr. Odlin moved and Mr. Grout seconded:
to table the previous motion.

The motion to table **carried** on a show of hands (13/0/1).

Section 4.3.1: Annual Catch Limits

4. Mr. Cunningham moved on behalf of the committee:
recommend that when setting ACLs, the Council will establish management uncertainty by such user groups as sectors, party/charter/recreational, and common pool.

The motion **carried** unanimously on a show of hands (17/0/0).

5. Mr. Cunningham moved on behalf of the committee:
recommend that the items in the PDT report Section 11A, B, and C be discussed in the ACL section of Amendment 16.

5a. Mr. Odlin moved to amend and Dr. Pierce seconded:
to eliminate subparagraphs A and B (page 65).

The motion to amend **carried** unanimously.

The amended motion **carried** unanimously.

Section 4.3.2: Addition of Atlantic Wolffish to the Management Unit

6. Mr. Cunningham moved on behalf of the committee:
to include wolffish in Amendment 16.

The motion **carried** unanimously on a show of hands (16/0/0).

Section 4.3.3.4: Potential Sector Contributions

7. Mr. Cunningham moved on behalf of the committee:
recommend that the Council not pick a preferred alternative for the PSC allocation issue and to send this section forward to the public as is.

The motion **carried** on a show of hands (13/4/0).

Section 4.3.3.5.3: Sector Monitoring Requirements

8. Mr. Cunningham moved on behalf of the committee:
that when calculating discard rates for trips conducted by members of groundfish sectors, the actual discard rate will be calculated for any and all trips for which observer coverage is provided by either the sectors or the NEFSC observer program provided such coverage is for the duration of the entire trip.

The motion **carried** on a show of hands (16/0/1).

Section 4.3.3.5.3: Standards for Sector Monitoring and Reporting Provisions

9. Mr. Cunningham moved on behalf of the committee:
that the Council approve the monitoring standards from the monitoring working group for inclusion in Amendment 16 and to delete the requirement for a bachelor's degree on page 28 and the section on the Fair Labor Standards Act on page 26 of the December version of monitoring standards.

The motion **carried** on a show of hands (16/0/1).

10. Mr. Odlin moved and Mr. Stockwell seconded:
that NMFS will grant approval of electronic monitoring equipment to be used in the monitoring program.

- 10a. The motion was perfected to read:
that NMFS will grant approval of electronic monitoring equipment to be used in the monitoring program as part of the sector operations plan.

The motion, as perfected, **carried** unanimously on a show of hands (17/0/0).

Section 4.3.3.7.2: Provisions for Transferring ACE

11. Mr. Cunningham moved on behalf of the committee:
that for ace transfers, Option 2 be the preferred alternative.

The motion **carried** on a show of hands (15/1/1).

12. Mr. Leary moved and Ms. McGee seconded:
to change the language to read "NMFS will withhold 20% of a sector's ace allocation for each stock in reserve for a period of 61 days at the beginning of each fishing year."

The motion **carried** on a show of hands (16/0/0).

Section 4.3.5: Allocation of Groundfish to the Commercial and Recreational Groundfish Fishery

13. Mr. Cunningham moved on behalf of the committee:
that the Council remove from the recreational/commercial allocation table the stocks that will not meet the criteria established to have an allocation at this time.

The motion **carried** unanimously on a show of hands (14/0/0).

14. Mr. Cunningham moved on behalf of the committee:
to recommend Option 2 as a preferred alternative for the commercial/recreational allocation, but does not recommend picking a preferred set of dates.

The motion **carried** unanimously on a show of hands (14/0/0).

Section 4.3.6: Changes to the DAS Transfer and Leasing Programs

15. Mr. Cunningham moved on behalf of the committee:
for days-at-sea (DAS) leasing and transfer measures, the Council recommend as preferred Option 2 (eliminate the DAS transfer conservation tax), Option 2 sub-option A (no refund of DAS taxed for transfers completed prior to Amendment 16) and Option 5.

The motion **carried** on a show of hands (13/0/1).

Section 4.3.7.3.2: Reauthorization of the Eastern US/CA Haddock SAP

16. Mr. Cunningham moved on behalf of the committee:
that the Council allow the use of 6-inch diamond or square mesh cod end in the eastern US/Canada area haddock SAP.

The motion **carried** on a show of hands (12/0/2).

17. Mr. Cunningham moved on behalf of the committee:
recommend adjusting the southern boundary of the triangle in the eastern US/Canada area haddock SAP to the south to the northern border of the HAPC in Closed Area 2.

The motion **carried** on a show of hands (15/0/1).

Section 4.3.7.6.2: Program Revisions to the Category B DAS Program

18. Mr. Cunningham moved on behalf of the committee:
recommend to entertain modifications to the Category B (regular) DAS program on Georges Bank in Amendment 16:
- change trawl gear mesh size in Category B (regular) DAS program to 6-inch diamond or square.

The motion **carried** on a show of hands (14/0/3).

Section 4.4.2: Commercial Fishery Measures

19. Mr. Cunningham moved on behalf of the committee:
recommend that for all non-sector vessel mortality control options, for the eastern US/Canada area prior to the beginning of the fishing year the Regional Administrator will specify the appropriate cod trip limit.

The motion **carried** on a show of hands (16/0/1).

Section 4.4.2.2: Non-sector Vessels Option 2A

20. Mr. Cunningham moved on behalf of the committee:
recommend that for day gillnet vessels that straddle two differential counting areas on the same trip, the most restrictive counting measure applies to the entire trip.

The motion **carried** unanimously on a show of hands (17/0/0).

Section 4.4.2: Commercial Fishery Measures

21. Mr. Cunningham moved on behalf of the committee:
recommend that the Council designate 4.4.2.3, (non-sector vessels Option 3A, 24-hour clock, restricted gear areas), as the preferred alternative.
- 21a. Mr. Goethel moved to amend and Mr. Grout seconded:
that the Council not go to public hearing with a preferred alternative.

The motion to substitute **carried** on a show of hands (9/8/0).

The substitute motion **carried** on a show of hands (9/7/1).

Section 4.4.2.5: SNE/MA Small Mesh Fisheries Gear Requirement

22. Mr. Cunningham moved on behalf of the committee:
that for the SNE drop chain requirement, the Council recommends the Council adopt the Groundfish Committee recommendations.

The motion **carried** on a show of hands (10/4/3).

Section 4.4.2.6: GOM Haddock Sink Gillnet Pilot Program

23. Mr. Cunningham moved on behalf of the committee:
recommend incorporating the GAP pilot program for the use of 6-inch gillnets to target haddock in the Gulf of Maine.

The motion **carried** on a show of hands (15/0/2).

Section 4.4.3.1: Recreational Fishery Provisions for Landing Fillets

24. Mr. Cunningham moved on behalf of the committee:
recommend removing the second sentence from Option 1 of Section 4.4.3.1 (provisions for landing fillets by recreational fishermen).
- 24a. Mr. Blount moved to amend and Mr. Preble seconded:
that for Options 1 and 2, the fillet sentences be removed from both.

The motion to amend **failed** on a show of hands (4/9/4).

- 24b. The main motion was voted:
recommend removing the second sentence from Option 1 of Section 4.4.3.1 (provisions for landing fillets by recreational fishermen).

The motion **carried** on a show of hands (11/3/3).

Section 4.4.5: Prohibition on Retention of Atlantic Wolffish

25. Mr. Cunningham moved on behalf of the committee:
that the Council include a year-round prohibition on possession of Atlantic wolffish (Option 1) as the only option other than 'no action'.

The motion **carried** on a show of hands (12/5/0).

Section 4.4.7.1.2: Differential DAS AM

26. Mr. Cunningham moved on behalf of the committee:
recommend that the mixed stock exception will be applied when considering any change in differential DAS counting.

26a. Dr. Pierce moved to substitute and Mr. Cunningham seconded:
That when considering any change in differential DAS counting, an analysis will be done to determine if the mixed stock exception is applicable and if so, then it would be applied.

The motion to substitute **carried** unanimously on a show of hands (17/0/0).

The substitute motion **carried** unanimously on a show of hands (17/0/0).

Section 4.4.7.2: Recreational Fishery Accountability Measures

27. Mr. Cunningham moved on behalf of the committee:
that the Council adopt the PDT-proposed multispecies recreational accountability measures described on page 16 of the PDT report with two changes:
- the first bullet will read: "if catches exceed ACLs, the Council will determine AMs"
- the sixth bullet will read: "the am will be either/or adjustments to season, adjustments to minimum size or adjustments to bag limits."

27a. Ms. Kurkul moved to amend and Ms. McGee seconded:
to remove Option 1 for recreational AMs from the document.

The motion to amend **failed** on a show of hands (4/12/0).

27b. The main motion was voted:
that the Council adopt the PDT-proposed multispecies recreational accountability measures described on page 16 of the PDT report with two changes:
- the first bullet will read: "if catches exceed ACLs, the Council will determine AMs"
- the sixth bullet will read: "the AM will be either/or adjustments to season, adjustments to minimum size or adjustments to bag limits."

The motion **carried** on a show of hands (10/4/3).

28. Mr. Cunningham moved on behalf of the committee:
recommend that separate AMs be determined for the private boat and party/charter components of the recreational fishery.

The motion **carried** on a show of hands (16/0/1).

29. Mr. Cunningham moved on behalf of the committee:
recommend that including in draft Amendment 16 for Council discussion the PDT recommendation for accountability measures as described on page 16 of the PDT memo.

The motion **carried** unanimously on a show of hands (17/0/0).

30. Mr. Cunningham moved on behalf of the committee:
that the Council authorize the Regional Administrator to permanently authorize additional selective gear in any program or area that restricts gear (such as the Ruhle trawl or other approved gear).

The motion **carried** on a show of hands (16/0/1).

Pollock Rebuilding Program

31. Mr. Cunningham moved and Mr. Grout seconded:
to bring the tabled motion back for discussion.

The motion **carried** on a show of hands (15/0/1).

- 31a. The motion was discussed and voted:
to include a rebuilding program for pollock in Amendment 16.

The motion **carried** unanimously on a show of hands (16/0/0).

Other Amendment 16 Issues

32. Mr. Cunningham moved and Mr. Fair seconded:
that in paragraph 2, Section 4.3.3.9, change the existing language in the Amendment 16 draft to the language in the final rule, 50 CFR 648.87 (b)(1)(viii): “if a hard TAC allocated to a sector is not exceeded in a given fishing year, the sector’s allocation of a TAC will not be reduced for the following fishing year as a result of an overage of a TAC by non-compliant sectors or by non-sector vessels.”

The motion **carried** unanimously on a show of hands (16/0/0).

33. Ms. Kurkul moved and Mr. Odlin seconded:
that the DAS counting rate be based on the first position in the differential DAS counting area and the first position out of the DAS counting area for Option 2A (Section 4.4.2.2).

The motion **carried** unanimously on a show of hands (16/0/0).

34. Ms. Kurkul moved and Mr. Odlin seconded:
that the language in paragraph 1, Section 4.4.7.1.2., be replaced to read: “in February, with available catch data, NMFS will adjust DAS counting for the following fishing year based on whether ACLs are exceeded or not.”

The motion **carried** unanimously on a show of hands (16/0/0).

35. Mr. Grout moved and Mr. Preble seconded:
that under Section 4.4.7.2, inclusion of an Option 3 that is similar to Option 1 with the exception that the 2nd sentence in paragraph 2 be replaced with the following sentence: “if the catch exceeds the ACL, NMFS will determine the measures necessary to prevent exceeding the ACL in future years following consultation with the Council and publish the accountability measure that would be put into effect using procedures consistent with the APA.”

The motion **carried** unanimously on a show of hands (16/0/0).

36. Ms. McGee moved and Mr. Preble seconded:
to make Section 4.4.7.1.1 the Council's preferred alternative for accountability measures for common pool vessels.

The motion **failed** on a show of hands (2/12/3).

37. Mr. Odlin moved and Mr. Cunningham seconded:
that the scallop fishery catch of yellowtail flounder be considered an other subcomponent of the ACL pending development of accountability measures in the scallop plan.

The motion **carried** on a show of hands (15/0/1).

38. Mr. Cunningham moved and Mr. Fair seconded:
that the Council approve taking Amendment16 out to public hearing.

The motion **carried** unanimously on a show of hands (16/0/0).

Wednesday, February 11, 2008

COUNCIL POLICY REVIEW

1. Mr. Preble moved and Mr. Goethel seconded:
to adopt the revisions to the Council's operations handbook as discussed this date and as amended.

The motion **carried** unanimously on a show of hands (16/0/0).

SKATES

2. Dr. Pierce moved and Mr. Fair seconded:
to refer the draft amendment to the committee and advisors modifying the alternatives to address the new PDT and SSC recommendations and recommend a final alternative for approval at the April Council meeting.

The motion **carried** on a show of hands (9/7/0).

SCALLOPS

3. Ms. McGee moved on behalf of the committee:
to move Alternative 3.3.2.4 - sideboard for bycatch for stacked permits - to considered but rejected section.

The motion **carried** unanimously on a show of hands (15/0/0).

4. Ms. McGee moved on behalf of the committee:
to clarify the alternative for leasing so that:
- Leasing be allowed at any time during the year up to 60 days prior to the end of the fishing year, with a 45-day notice period
 - Prohibit carryover of leased DAS or access trips
 - Leased DAS or access trips may be “re-leased or sub-leased” with the same restrictions
 - For history of leased effort, include 2 options:
 1. History of leased effort will be the same as it is done in the Groundfish FMP: lessor will maintain DAS usage history and catch from leased effort would accrue to lessee
 2. Keep history of DAS usage and catch history with lessor
 - Fishing power adjustment for leasing would mirror alternatives developed under stacking section
- 4a. Mr. Goethel moved to amend and mr. Stockwell seconded:
to remove the following bullet “leased DAS or access trips may be “re-leased or sub-leased” with the same restrictions.”

The motion to amend **failed** on a show of hands (5/8/2).

- 4b. The main motion was voted:
to clarify the alternative for leasing so that:
- Leasing be allowed at any time during the year up to 60 days prior to the end of the fishing year, with a 45-day notice period
 - Prohibit carryover of leased DAS or access trips
 - Leased DAS or access trips may be “re-leased or sub-leased” with the same restrictions
 - For history of leased effort, include 2 options:
 1. History of leased effort will be the same as it is done in the Groundfish FMP: lessor will maintain DAS usage history and catch from leased effort would accrue to lessee
 2. Keep history of DAS usage and catch history with lessor
 - Fishing power adjustment for leasing would mirror alternatives developed under stacking section

The motion **carried** unanimously on a show of hands (15/0/0).

5. Ms. McGee moved on behalf of the committee:
to clarify the leasing alternative so that:
- Two options for who can lease are considered:
 1. Restrict leasing to same permit category only; or
 2. Leasing will be allowed between different permit categories for access area trips only. If possession limits are different, the lessee would be limited to the possession limit of the lessor and leasing of open area DAS between different permit categories would be prohibited.
 - Ownership cap restrictions apply to leasing
 - Leasing could be between scallop-permitted vessels only. In terms of leasing from CPH vessels, 2 options will be considered:
 1. Allow leasing from CPH vessels
 2. Prohibit leasing from CPH vessels
 - A vessel can only be allowed to lease twice the amount of allocation of annual DAS and access area trips of the lessee, carryover DAS would not be included
 - Leasing would be prohibited for vessels that have stacked permits (if stacking is adopted)

The motion **carried** unanimously on a show of hands (15/0/0).

6. Ms. McGee moved on behalf of the committee:
to remove Alternative 3.3.3.1 – allow leasing of a scallop permit.

The motion **carried** unanimously on a show of hands (15/0/0).

7. Ms. McGee moved on behalf of the committee:
to add a 3rd option, or sub-option, for fishing power adjustment alternatives. The 3rd option would limit the use of an adjustment to stacking/leasing of permits that are not in the same 10:10:20 vessel upgrade restriction category. If vessels are in the same upgrade restriction category, an adjustment would not be applied. This sub-option will be added to Alternative 3.3.2.2 and 3.3.3.3.

The motion **carried** unanimously on a show of hands (15/0/0).

8. Ms. McGee moved on behalf of the committee:
to include an option, if leasing is approved, to amend the current ownership cap to include two new options:
1. Any individual that owns the maximum number of permits allowed may not lease additional scallop DAS or access area trips
 2. Notwithstanding (1) above, permit ownership and leasing of scallop DAS and access area trips shall be limited to the greater of 5% of the permits or 5% of the allocation of scallop DAS and access area trips or poundage

- 8a. Mr. Odlin moved to amend and Mr. Preble seconded:
to delete Option #1 above.

The motion to amend was **withdrawn**.

- 8b. The motion was perfected to read:
to include an option, if leasing is approved, to amend the current ownership cap to include two new options:
1. Any individual that owns the maximum number of permits allowed may not lease additional scallop DAS or access area trips; however, any person or entity may lease within the vessels that he/she owns and would be subject to all other leasing provisions
 2. Notwithstanding (1) above, permit ownership and leasing of scallop DAS and access area trips shall be limited to no more than 5% of the permits or 5% of the allocation of scallop DAS and access area trips or poundage

The motion **carried** unanimously on a show of hands (15/0/0).

9. Ms. McGee moved on behalf of the committee:
to include sideboard alternatives for other directed fisheries prosecuted by permitted scallop vessels that lease allocation to another vessel:
1. No restriction on fishing in other fisheries for which the vessel has a permit
 2. Limit catch of other directed fisheries to vessels “best year” from historical landings
 3. If a vessel leases >50% of total effort (DAS and access area trips), the vessel would not be allowed to participate in other fisheries
 4. If a vessel leases any amount, it is not permitted to fish in other fisheries
 5. If a vessel leases, it must “stand down” from all fisheries for the number of days/trips equal to the lease

This issue will be forwarded to the Interspecies Committee to address as soon as possible. Ideas from the motion above and discussion on this issue will be forwarded as well.

The motion **carried** on a show of hands (14/1/0).

10. Ms. McGee moved on behalf of the committee:
to delete Section 1.3.1 (in Document 2b) to “convert open area DAS into access area trips with possession limits” from analysis and move it to considered but rejected.

The motion **carried** on a show of hands (8/6/0).

11. Ms. McGee moved on behalf of the committee:
to include draft sector proposal from CCCHFA in Amendment 15 with no exemptions.

- 11a. Mr. Cunningham moved and Mr. Odlin seconded:
to move the question.

The motion **carried** on a show of hands.

- 11b. The main motion was voted:

The motion **carried** on a show of hands (9/4/2).

12. Ms. McGee moved on behalf of the committee:
to add a new hybrid alternative to the overfishing definition for consideration.

The motion **carried** unanimously on a show of hands (13/0/0).

13. Ms. McGee moved and Mr. Goethel seconded:
to accept SSC input on setting ABC control rule and make necessary adjustments to the final DEIS. Specifically, quantitative analyses of the ABC control rule will need to be added and any reference to 10% buffer between the overfishing level and ABC will need to be removed.

The motion **carried** unanimously on a show of hands (13/0/0).

14. Ms. McGee moved and Mr. Odlin seconded:
to include an alternative in Amendment 15 to allow general category scallop quota to be split from other permits held by the same vessel and transferred independently.

- 14a. The motion was perfected to read:
to direct the committee to develop an alternative in Amendment 15 to allow a limited access general category IFQ permit to be split from other permits held by the same vessel and transferred independently. Also, consider allowing permit splitting of Northern Gulf of Maine general category permit.

The motion, as perfected, **carried** on a show of hands (9/5/0).

15. Ms. McGee moved but it did not receive a second:
to include 3.6.6.6 allocation of general category IFQ by area back into the active portion of the document.

16. Ms. McGee moved and Mr. Stockwell seconded:
to approve a range of Amendment 15 alternatives for analyses, as amended today, with the exception of the accountability measures and the limited access general category IFQ permit alternative (motion 14a) which will be discussed further at the April Council meeting.

The motion **carried** unanimously on a show of hands (14/0/0).