



## New England Fishery Management Council

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 John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

## DRAFT MEETING SUMMARY

### Interspecies Committee Meeting

Holliday Inn, Mansfield, MA

February 18, 2009

**Attendance** - Committee Members: Mr. Pappalardo (Chair), Mr. Avila, Mr. Cunningham, Mr. Blount, Mr. Goethel, Ms. McGee, Mr. Preble, Ms. Kurkul, Mr. Robbins, Mr. O'Shea; NEFMC Staff Members Mr. Nies, Ms. Boelke, Ms. Pautzke, Mr. Kellogg; NMFS: Mr. Pentony. Ms. Van Atten, Mr. Christopher, Ms. Kelly. About 15 members of the public also were present.

The Interspecies Committee met on February 18, 2009 in Mansfield, MA. The Committee Chair, Mr. Pappalardo explained that the Council's purpose in setting up the Interspecies Committee for several reasons: 1) the new MSA requirements on the Council are making it obvious that the Council is not set up to do business efficiently in terms of the way we review most science, use the spec process, fishing years don't line up, the way the FMP process works whether a framework or an amend. 2) There needs to be a broader discussion of how to manage multiply fisheries without the pressure of meeting the timelines that face the species oversight committees.

Mr. Pappalardo explained that he made the Interspecies Committee broader than other committees by including include ASMFC, MAFMC, and the NEFSC, as well as the NERO, so that the Committee can deal with processes for setting ACLs and AMs and issues such as allocation whether through sectors or sectors, ITQs, the precision that people are going to expect in that allocation decision is something we're facing plan by plan right now. But the requirements to account for mortality across multiple plans and multiple sectors whether commercial, recreational or state or federal waters are going to put increased pressure on the Council. Another suggestion was for the Interspecies Committee to explore changing the scope of fishery management units by having a plan that can account for mortality of bottom fishing whether by hooks or nets because groundfish boats catch skates or monkfish some of the time and when boats fish for monkfish they catch some skates and groundfish.

#### **1. Observer Coverage**

The committee discussed how to develop comments on the draft observer coverage priorities prepared by the Northeast Fisheries Science Center. The staff described some of its concerns about the proposed coverage levels, namely that about 2,000 observer days were targeted monitor the Georges Bank large mesh trawl fishery and that some of these days might instead be needed to cover other fishing modes or fisheries. Several committee members stated that they were not prepared to make specific recommendations about how many observer days might be shifted from one fishing mode to another and that there must be some reasons why the NEFSC allocated

the available coverage the way it had. Mr. Robbins explained that in reviewing the proposed coverage levels, the MAFMC had provided some very general comments such suggesting that if resources were available, more coverage of scup taken in the loligo fishery would help the MAFMC manage these species. Council staff also pointed out that the SBRM amendment specifically provided the Councils a chance to comment on the proposed coverage levels and therefore the Council should take the opportunity to do so because this was its only chance to influence observer coverage levels. The staff noted that 1,978 days of coverage are targeted for the U.S. Canada management areas alone, that there are no requirements for specific levels of coverage in the US/Canada area and that the CVs for the discard estimates used in the 2008 TRAC assessments were rather low. Mr. Pappalardo noted that it was not the first time the staff commented on the high level of coverage for this fishing mode. Ms. Van Atten noted that in recent years about 3,000 days were used to monitor this fishing mode and this year about 2,000 have been allocated. Ms. Kurkul also acknowledged the reduction in the proposed coverage for this fishery and explained that the NMFS Northeast Regional Office also was putting together comments on the proposed coverage levels. She added that it was trying to comment in terms of broad management needs instead of recommending changes in specific coverage levels and that it was likely to identify coverage of herring as a priority and that hopefully the process for commenting on coverage levels will evolve over time.

Mr. O'Shea commented that given this is our only opportunity to comment, it seems like we need more coverage for river herring. Mr. Stockwell commented that he was hesitant to take coverage away from other fisheries such as northern shrimp and could make any detailed comments unless someone could answer more specific questions about the proposed coverage levels.

#### **Audience comments**

Members of the scallop industry raised the issue that the scallop fishery was the only fishery in the northeast that funded its observer coverage and that was unfair. They also questioned the high cost of coverage in the northeast compared to other regions and Canada. Ms. Van Atten explained that the notation indicating that observers were industry funded applied only to the at-sea observe costs and not to any data processing costs covered by the government. Mr. Smolowitz commented that with \$3 million in RSA the scallop fishery should have almost enough observer coverage, but that as soon as the set-aside was allocated, the scallop industry received no government-funded observers. He added that this was not fair especially if scallopers need coverage to monitor turtle takes. Ms. McGee expressed agreement with Mr. Smolowitz's comments. She explained that the fisheries are in a bind in terms of having about 1/3 of the needed coverage and just because an industry steps up, it shouldn't be penalized. In response to a question to the committee from Mr. Mickiewicz about the impact of the recent finding that NMFS does not have Paperwork reduction Act clearance for many of the information items collected by observers, Ms Kurkul responded that the Science Center Director was in a better position to gauge these impacts.

Mr. Kaelin, representing Lund's Fisheries noted that the Sustainable Fisheries Coalition has submitted a proposal for the 2010 appropriation requesting \$400,000 to provide the difference between NMFS prioritized coverage and what is called for by the SBRM amendment plus \$1 million for shore side monitoring. This would be about 10 times more than current coverage levels. Also money for acoustic survey work under GMRI and for the NEFSC to hire a couple of people was requested. He added that that CVs for discard estimates for the offshore herring boats met the 30% standard but that the inshore fishery needs as much monitoring inshore as can be allocated to it.

Other members of the audience questioned why the cost of observer coverage was so high compared to coverage costs in Canada or on the west coast. Ms. Van Atten explained that

government funding is used to pay for about \$400-500 per observer day for data processing and administrative costs.

Ms. Raymond informed the Committee that Associated Fisheries of Maine and GMRI obtained funding for an additional 60 sea days of coverage for the northern shrimp fishery and hoped that would supplement the usual coverage of the fishery rather than substitute for it. Although it is not clear that all the coverage would be deployed this year because of weather, more information than on that fishery than usual will be available. She pointed out that the Council stated it was interested in reviewing the bycatch in all exempted fisheries and a couple of years ago was specifically concerned about the whiting fishery and also supported more whiting coverage. She also commented that in terms of coverage days projected for the US/Canada area, if the groundfish proposed rule goes forward as written the days won't be used because no one is going to steam that far to go fishing.

Mr. Pappalardo summarized the committee's comments as follows:

- The Council does not feel it has the expertise to recommend specific changes in terms of the number of observer days that might be re-assigned from one fishing mode to another.
- However, it is concerned that too many observer days might have been allocated to the NE large-mesh mixed trawl fishery that could be better used to cover other fishing modes, particularly if the activity for this fishing mode substantially decreases under the Multispecies Interim Rule.
- If there are excess days or unused days under any fishing mode, that these days be reassigned to cover fishing modes that catch small mesh species such as whiting and herring because the Council is developing an amendment to the herring FMP and also plans to develop an amendment to the Small Mesh Multispecies FMP that includes whiting and bycatch by vessels in these fisheries has been identified as a major concern by a number of groups.

## **2. Management Plan Integration**

Mr. Pappalardo explained that the reason for the agenda item was that the Council needed need to take advantage of the Committee to do some planning to deal with ACLs and AMs. He foresaw problems if the Council is not able to make more timely adjustments to plans due to fishery performance issues or stock changes. There will be times the regulatory system won't allow the Council to do things it needs to. That became more apparent from the most recent NRCC meeting; the NEFSC can only do some many assessments and the Northeast Regional Office can only process so many management actions. User groups also need to make business plans for 3 to 5 year time horizons. He suggested that the Council needed to develop an allocation key or matrix showing the ACLs for all NEFMC managed species. Currently, the Council sets ACLs for each species in each of several FMPs. It might be possible to have one or two plans. He suggested that if the Council combined the management of monkfish, skates and groundfish it will have dealt with most bottom dwellers in one FMP. Also he pointed out that fishermen need to have a 3-5 year time horizon so they can develop a business plan and so the Council can make mid-course corrections that don't dramatically change regulations like what was done under the Monkfish FMP. The Council needs to be in a position in a couple of years to make adjustments across multiple plans. If it doesn't have just one or two places to go to makes these corrections it will be in trouble.

Mr. Preble commented that the problem of the DAS controls is reducing the flexibility of individual fishermen. He suggested that there needs to be consistency in monitoring, sectors rules, ACLs and AMs. He said he foresaw monkfish fishermen being able to join a groundfish sector

and that the Council should allow commercial fishermen to move from one opportunity to the other. Other committee members including Mr. Avila and Mr. Stockwell expressed agreement with Mr. Preble mentioned the problem of bycatch especially small mesh fisheries.

Mr. Goethel said the Council is now in the transition period: some quota management and some DAS management and it should combine some FMPs. In the past we could only manage one plan at a time. For the limited access permits, he suggested that the FMPs be divided into demersal, semi-pelagic (those that are near bottom at least part of year and caught near the bottom) and pelagic species (herring and mackerel), realizing there are outliers such as scallops. The overriding concern is not to have something like a monkfish category E permit across all fisheries. The Council could have broad FMPs groupings and most fisheries would fall into these. He added that he thought all fisheries will be limited access and the sooner, the better off everything will be. In the bluefin tuna fishery there are 11,000 permits and only 500 boats catch anything.

Mr. Cunningham suggested that although the Council has largely the same idea of where it wants to get to, how is it going to get there? One problem is trying to do it in piecemeal fashion. He stated that Dave Goethel's comments demonstrate there are a lot of small issues the Council can get really bogged down in. Maybe an ecosystems management program might provide a way to solve some of these problems.

Mr. Roberts suggested that a comprehensive system for setting ACLs / AMs would help. He described how the MAFMC is addressing these requirements through an omnibus amendment to establish ACLs and AMs for all their FMPs. He added that it's difficult to develop a vision when the Council is driven by individual management actions. If there is mishmash of input and output controls it is going to make it difficult to set ACLs. Market-based solutions should provide more flexibility and the management has lost a lot of flexibility.

Mr. Smolowitz suggested that an alternative might be to manage by fishing fleets; for example to have different types of rules including different types of access for inshore and offshore fleets. Offshore fleets might be appropriate for larger fleets and inshore fisheries might have more flexible access. There is a place for technical measures (input controls) and to allow boats to harvest a variety of species. The management of the general category scallop boats was wrong; scallops were an important part of the income of the inshore vessels, which need more flexibility than larger vessels. The inshore fleet could have been given a chance to harvest that resource. The Council needs to separate the two fleets; otherwise we will turn this fishery into survival of the fittest.

Mr. Platz commented although he is an inshore fisherman he fishes 20 to 30 miles offshore. He favored output controls and stated that input controls such as limits on vessel horsepower and vessel size have nothing to do with his harvesting efficiency.

Ms. Didrikson, noting that she has owned vessels for a long time, commented that horsepower makes a difference in some fisheries like scallops. Trying to make boats specialize in a one fishery is a problem and many boats could fish almost any species. She strongly opposed measures that would lead to greater corporate ownership of fishing permits and vessels. Already some boats are recruiting cheap foreign labor but the resource should be used so that it benefits the most people. It should not make billionaires out of some people and put other people out of work.

Mr. Brazer suggested that it is important for the committee to develop a strategic plan where the Council wants to go and how to get there before taking specific actions. It's important for the committee to decide what it needs to do.

Mr. Minkiewicz suggested the Council needs to be careful. One way to increase flexibility is through quota shares but once quota share management is established it makes the quota shares very valuable. The barriers to entry will be high under such a system and it will cost a lot to get into that kind of fishery. It now costs millions of dollars to get into the Pacific halibut fishery or the Atlantic sea scallop fisheries. Even in groundfish there are barriers. That's not saying that it's a bad thing to have quota shares but the barriers to entry is an issue that should be recognized.

Ms. McGee pointed out that any open access fishery may attract boats from other fisheries when capacity is reduced in the other fisheries. If a problem is solved in one fishery, it goes to the open access fishery. To Mr. Avila's point that the only non-limited access fishery left is the whiting fishery and the Council plans to limit access to whiting, Ms. McGee commented that the Council also has to consider state-water and MAFMC fisheries. There was some discussion that the Council can only manage the fisheries it has under control and that the managers of other fisheries will have to adopt appropriate controls.

Dr. DuPaul commented that right now the management systems have resulted in a mishmash of areas, boundaries and HAPCs? He asked whether the boundaries serve any purpose for integrating fisheries management.

Mr. Goethel expressed concern about having to account for every fish in every fishery and agreed that rules need to be reviewed because they are so complex. Once the Council controls about 95% of the catch, that's about as well as it can do.

Council staff reviewed some of the history of groundfish management to provide some perspective. The 1984 groundfish plan was about the only management plan back then. Originally, the Groundfish FMP was the only FMP. The Council got away from the plan because it was not very effective. It is advisable to re-examine why the Council moved away from broad management plans; was it because Council members were mistaken or were there good reasons? If the Council is going to move to broader scale plans it should understand the reasons why and why this a better way of managing than back in 1984. If the lack of flexibility or "boxes" are things we want to move away from we also must remember that the failed DAS management system has turned the scallop fishery into a very profitable fishery and has rebuilt redfish, monkfish, and haddock and has rebuilt GOM cod to the largest stock size in nearly 30 years. Secondly, the alternative systems that are being suggested seem to offer flexibility, but a lot of the "boxes" in the current regulations or what turned into boxes were created as attempts to provide flexibility for specific fishermen. We have diff types of gill net regulations because some gillnetters stand by their gear and other who take day trips and we did not want to make everybody bring all their gear back. We have different trip limits in different areas because some catch cod from a different stock and don't want to be subject to more restrictive limits. Realistically, flexibility is not going to come about through just a changed management system. Probably the one way to increase flexibility which is something that the Council does not like recognize and that is very difficult to deal with is that probably we need fewer boats. The number of boats landing groundfish already has decreased from about 1200 in 2001 to about 550-600 now which is a huge change at great cost and disruption to the industry, but going to quota management will not allow the fleet to expand back to 1200. The only way for alternative management systems to be successful is for the Council to confront this issue. Although we this

are not necessarily advocating cutting people and boats, if boats are allowed to shift from fishery to fishery it's going to be very difficult to do with the number of boats that are out there now.

Mr. Pappalardo commented that the implementation of ACLs and AMs are going to make things less flexible and that's why he was trying to stimulate some good suggestions. To Mr. Goethel's point, we can't drop everything to develop new approaches, but that doesn't mean we can't continue to develop new ideas in the background and apply some of the thinking as the Council makes some changes to current FMPs. We may go through this exercise and determine that we are already doing the best we can. He added that he planned on putting together some notes of this meeting to capture the essence of this discussion and the goal.

Mr. Cunningham commented that he accepted the historical background provided by the staff but noted that there are several concepts of what flexibility means. To him flexibility meant allowing people to run their own businesses without being over-regulated; to let them manage their own business in a way that's most profitable; to fish when it's either safest or when it's the most profitable and they can get the most for their fish. That's flexibility rather than allow boats to jump around to different fisheries.

Mr. Avila stated that he wanted to clarify that the Council did not intend to get back to a 1,200 boat fleet and that right now the 550 vessels fishing groundfish are a little too many for anyone to run their business profitably.

Mr. O'Shea agreed that it's important to get everyone to agree to a problem statement and a vision. If the Council does not agree about what the problems are, it will not agree about the solutions. It is critical that the states share the Council's goal and vision whether it's the rebuilding target or the level of participation. If the states don't take complimentary action, it will affect Council FMPs. We are going to have a good test of that with winter flounder. There are cases where we don't have state plans and there's the danger that when the Council cuts fishing, the states will allow their fisheries ratchet up.

Ms. Kurkul pointed out that the goal of the DAS system was to allow boats the flexibility of when and where to fish. She thought that some of the problems were due to a lack of a shared mission or vision. A shared vision is critical, but because it is so difficult to achieve managers tend to avoid it. As a result it has led to making decisions on our vision implicitly instead of explicitly. If we can change that model it would be good for the fishery and the industry.

Mr. Preble commented that the Council needs two tracks – to establish the vision of where we want to end up and at the same time keeping up with what we need to do. We need to adapt the management as we develop our vision and “open the doors to the boxes that we put ourselves in”. He added that it will be difficult to manage both sectors and the non-sector vessels in groundfish. The overall vision should be a system that allows flexibility and eliminates overfishing. What we lack is the opportunity to move from one fishery to another.

Mr. Roberts noted that although sometimes there's resistance toward moving toward limited access at the state level, Virginia and other states are changing their attitudes. Virginia recently has adopted control dates for three fisheries. He also mentioned that the MAFMC also is developing a limited access program for the mackerel fishery which is the last open access fishery other than dogfish. He added that excess capacity leads to a loss of flexibility and correcting that is going to take a long time.

Ms. Raymond noted that one of the reasons the issue of combining FMPs came up was due to a monkfish issue that would require a change to the groundfish plan as well as to the monkfish plan. Also at the last Council meeting the issue of the ACLs and AMs for groundfish might be a problem because the scallop plan is developing some of the AMs. She thought the purpose of this agenda item was to deal with those types of issues more effectively as they come up. One way to solve these problems might be to have only one FMP with all the FMPs included in it. That might be way to streamline that process. If the Council is trying to make its job easier, it should focus on these issues rather than whether one type of management program works better than another.

Ms. Didrikson stated that the MSA values communities. The number of boats is not the same as capacity because fewer boats can catch the same amount of product. When there are fewer boats catching the same amount of fish, you are really dividing wealth. For ITQs, you are talking about who has the most money to buy it and every pound will be caught. For over a century people who were the best fishermen earned the money to buy the better boats. There have never been so many people going under as in the last decades. And when the fishery is at such a high level you wonder at all the pain that is occurring. The resource is there for people, and the Council doesn't have the right to say that some people go before other people. It has to be concerned about how the resource is going to benefit the people of the U.S. and the people who are making their living from it. Efficiency should be the most people who are earning a living with respect to what the resource can produce not how many people you can get rid of so that some people can become extremely wealthy. It might be difficult to manage more people but it doesn't mean that more people are less law-abiding. In Iceland, less people have not improved safety or resource management problems. Reducing the number of boats will create an industrial fishery with people paid on a daily basis or by the cage. The MSA has broad concerns and she hoped the Council considers these particularly with respect to the community and the fishery.

Mr. Pappalardo noted again that the Council is going to have more problems trying to get plans done because of the way it's set up, the timelines it need to adhere to implement ACLs and because it might have to set an ACL in one plan with the AM in another plan. It needs to look at how the plans are structured, how long it takes information to flow into the system and how long for the system to react to that information. There are some overarching issues that haven't been mentioned. One of them is if it combines plans, what happens with permits and does it even have the permits in place to allow the suggestions made by Ron Smolowitz or Dave Goethel to be implemented. He added that he would work with staff to hopefully articulate the issue that we can work on constructively to head off the problems he anticipated in the next couple of years. Maybe as a result of the Council discussion of the committee's the Council will develop a prioritized list of things to work on with respect to these issues.

Mr. Stockwell pointed out that the states' concerns were first to ensure that resources are not overharvested and second that the states are not are affected by bycatch in federal fisheries. Agreeing with Maggie he there had been two discussions, one on how to better coordinate the interplay of our FMPs and the other on looking farther down the road.

Mr. Goethel stated that the Council over the years has defined a sustainable fishery biologically but not socially and economically in terms of the number of boats a fishery can support. There are vastly different views about what a sustainable number of boats is whether it is the maximum amount of employment or the maximum amount of money that can be generated. Figuring this out might be the next step the Council has to take in its visioning. Does it want the minimum number of boats harvesting the maximum amount of product or do we want to have a relatively large number recognizing that number is a lot smaller than any number we have seen in the past but operating at some scale of inefficiency to preserve employment? Those are the things we have

never really wrestled with at this level because we have not had the luxury to be able to determine it. We have been using Darwin to determine fleet size because it has been survival of the fittest.

The committee did not take any specific action but in their discussion it agreed to the following:

1) Management plan integration might reduce the problems caused by differences in fishery management plans. 2) It would be very difficult for the Council to develop a vision for its fisheries in the future, but such a vision might make managing the fisheries easier.

### **3. Options to address the yellowtail flounder incidental catch by scallop vessels in access areas in New England**

Council staff had presented a white paper on options addressing this issue at the November 2008 Council meeting and the Council referred the issue to the Interspecies Committee. Ms. Boelke from the Council staff presented background information based on the earlier staff presentation. She explained that the 10% yellowtail flounder bycatch TAC allocated to scallopers in controlled access areas had been exceeded in 2006 and 2008 and the open area compensation trips did not enable the boats to make up for all the lost yield. As a result, the scallop industry was interested in acquiring an additional allocation of yellowtail flounder to avoid similar closures in the future. Additionally the new ACL requirements will limit the amount of yellowtail flounder that scallopers can catch in the open areas. Groundfish Amendment 16 proposes three sub-allocations by stock areas of yellowtail flounder to the scallop fishery. In effect, these will become yellowtail flounder ACLs for the scallop fishery.

The problem faced by the Scallop Committee in trying to address the problem is that it would require action under the Groundfish FMP and it is too late to include any measures in groundfish Amendment 16. Mr. Pappalardo noted that unless something were done under Amendment 16, the earliest action the Council could take would not be implemented until 2011. Ms. McGee also noted that one option (#3) suggested by the staff was to form a scallop sector to deal with yellowtail flounder bycatch. Ms. Boelke explained that even under that option, the Council would have to make some changes to the Groundfish FMP.

Dave Goethel asked whether there were any gear modifications that could decrease the catch of yellowtail flounder in the scallop fishery because that seemed to be the only option until 2011. He suggested that if we do nothing, gear modifications would reduce the yellowtail bycatch. Mr. Smolowitz replied that flatfish bycatch could be reduced over the next few years but that would take some time. He disagreed that doing nothing would not create an incentive for scallop boats to decrease yellowtail flounder bycatch because captains operate as individuals. When the boats were moved outside the access areas, the bycatch of yellowtail flounder probably increased because of the greater towing time required to catch a certain amount of scallops. He added that it looks like boats would be allowed about 1,000 lbs of yellowtail bycatch per trip in Closed Area II this year and that would force a closure. He suggested that one option would be to estimate likely bycatch to achieve the optimum yield and if that amount were exceeded to adjust the amount of scallops allowed per trip in the following year. Making the adjustment in the following year would avoid the derby fishing that has taken place in the past. Already, the areas TACs are lower than the optimum yield from the area because the number of trips is rounded from the number calculated to meet the target yield. The other options are too complicated to implement at this time.

He added that the new turtle excluder dredge reduces bycatch 20-30%. So there are solutions that are promising. However, doing nothing will not provide incentives particularly when boats have



only one closed area trip. In addition to the derby effects, effort is displaced where the bottom towing time increases greatly. It looks like in upcoming year that one of the areas will close when only 10% of the scallops are caught. The fleet took about 54,000 pounds of yellowtail while catching over 5 million pounds of scallops.

One idea is to adjust the allocation to achieve the optimum yield from that area. If the allocation is exceeded, the scallop allocation would be reduced the following year. Now there is no place to shift the fleet. The scallop fleet already is taking less than optimum yield because the number of allocated trips is rounded down and the industry has been way ahead on the bycatch issues through the development of a 10-inch twine top and the turtle excluder devices. Some of the other solutions such as quota transfers are very complicated and cause equity issues. He recommended that there be no in-season closures and that the Council reevaluate the overall 10% yellowtail flounder allocation.

Mr. Pappalardo asked whether increasing observer coverage to get a more accurate estimate of bycatch would help. Mr. Minkiewicz noted that the Council has an outstanding request about how the yellowtail flounder bycatch was calculated and alleged that peoples' experiences don't add up to estimates based on observed trips. Before the Council makes any big decisions, the Science Center needs to answer this question.

Dr. DuPaul commented that one of his students did some work on hanging ratios, (2 v. 3) and a short twine top could significantly reduce bycatch. One computation shows that the access areas might have been able to stay open another 6-7 days if everyone used them. However, the problem is that it would be a voluntary solution and not every boat will use the modified gear. Also after this year there is not enough scallop biomass in Closed Area II or the Nantucket Lightship Area for controlled access fishery and mandatory gear solutions usually are very successful because it is very difficult to translate them into effective regulations. On the other hand, the closure of Closed Area II and Nantucket Lightship Area for several years should allow enough time to develop some gear solutions based on what been done recently.

Mr. Roberts commented that gear solutions offer some benefits in the long-term, but in the meantime we should consider the 10% bycatch limit. It might lend itself to economic analysis and we should consider some mechanisms that might allow the transfer of quota. sectors are no longer an option because they have been stricken from Scallop Amendment 15, but perhaps the transfer of yellowtail quota could be made to the scallop industry as a whole. We obviously don't have the mechanisms for this so they would require additional action. but in the long-term we need to consider that because it's a constraint that has tremendous economic implications. If we did it through a transfer the people transferring the yellowtail would be fairly compensated.

Mr. Nies explained that the 10% yellowtail flounder allocation number applies only to the three access areas on Georges Bank/Nantucket Lightship Area not to other rotational access areas or to the open area. When Amendment 16 is approved there will be ACLs and the yellowtail flounder ACL will have a subcomponent for the whole of scallop fishery. The Council will have the opportunity when it sets groundfish ACLs this fall to decide at what level to set that but it will not be able to change the amount in the access areas, which is limited to 10%, because the amendment didn't change it. Right now, individual permit holders don't get an allocation, so individual transfers of yellowtail allocation would not be possible. Groundfish Amendment 17 might consider individual allocations which would make those types of transfers a lot easier to do. The idea of estimating the highest economic yield is fine but the Council has to remember that the constraint is the yellowtail flounder rebuilding plan. The Council probably can't allocate as much yellowtail as the scallop fishery needs, because that may bump up against the yellowtail

TAC. Particularly in Closed Area II there potentially is a larger problem when doing those calculations and that is recent assessments have shown that most GB yellowtail flounder (about 70+% of the survey biomass) is in Closed Area II. So the extent that we use closed areas as management tool to rebuild that stock, you have to be concerned about the amount of yellowtail flounder coming out of that area.

Ms. Didrikson asked: 1) Have there been any surveys to determine when would be the least amount of yellowtail in Closed Area II so that openings would occur when there was the least amount of fish in the area? 2) Why aren't the multispecies people using up their allocation of yellowtail flounder when they have the option to lease DAS? She suggest that the draggers be allowed to catch their yellowtail flounder and then the Council should let the scallopers fish in the areas when there aren't any yellowtail flounder. Mr. Pappalardo responded that he couldn't answer the first question and he thought that groundfish boats probably didn't want to give up their allocation. Ms. Boelke responded that the scallop PDT is going to reevaluate the dates for the Closed Area II controlled access fishery in Framework 21 in terms of reducing yellowtail bycatch. It will reevaluate observer data and consulting advisers. Because groundfish vessels are allocated DAS

In response to a question from Mr. Pappalardo, Mr. Nies explained that in most years the groundfish boats have fallen short of catching the yellowtail TAC but a little bit and went over by about 10% in 2007 but most of the years the target fishing mortality rate has exceeded. Generally speaking, there is not a lot of yellowtail available to be transferred to the scallop fishery.

Mr. Smolowitz agreed with most of Mr. Nies' comments but added that scallop effort rotates every year and some years like this year four of the five access trips will be in the Mid-Atlantic so the yellowtail bycatch on Georges Bank will be minimal. He stated that this year the trip will be in Closed Area II instead of the Nantucket Lightship Area so there will be a higher bycatch rate. As a result, the yellowtail allocation should be tailored annually to area rotation system. If the Council wants to reduce bycatch increase CPUE and decrease discards, he suggested opening the habit closed areas claiming it would probably decrease yellowtail bycatch by 90% decrease swept area and habitat impacts as well. The key is to have incentives by providing an allocation that would be reduced by any overages in the following year.

Ms. VanAtten commented that the observer program is trying to produce more real time information and is producing more maps of bycatch hotspots in the access areas. It found that 20% of the area accounted for 80% of the yellowtail flounder bycatch. That information will included in the response to the Council's request about how yellowtail flounder bycatch is estimated. The maps also will be put on the website so that fishermen can identify hotspots.

Mr. Brogan asked why is yellowtail flounder so special and why isn't the Council worried about the substantial bycatch of skates, monkfish, fluke or winter flounder. Mr. Nies responded that the definition of 'substantial' that the Groundfish Committee used to classify bycatch was whether another fishery catches more than 5% of a groundfish species. As for monkfish, scallopers were specifically allocated monkfish based on their historical catch.

Mr. Minkiewicz asserted that 1,000 pounds of yellowtail bycatch would enable scallopers to land more than \$150,000 worth of scallops. Mr. Pappalardo noted that the problem is more complicated because of the value of yellowtail flounder to the groundfish fishery Mr. Welch explained that scallop boats are allowed 300 pounds of monkfish per day and they are not discarding them.

Mr. Allen commented that although Mr. Minkiewicz's point was valid maybe there's a value of yellowtail to groundfish. Economists have pretty well-accepted ways to calculate these values by using "shadow-prices". He thought it would be helpful to try to bring people along by looking at the economic questions in a structured scientific approach.

In response to Mr. Pappalardo statement that he was not sure how much of a problem there would be in the upcoming year, Mr. Minkiewicz's stated that based on last year's experience, there will be a problem in Closed Area II. Also the boats will only get one trip and there are a lot of yellowtail flounder. Finally the way the lines are drawn, the boats are being put right on top of the yellowtail flounder.

Ms. Boelke noted that that in 2010 there might be an allocation of a ½-trip in Closed Area I and a ½-trip in the Nantucket Lightship Area. Closed Area II most likely will not open in 2010. Dr. DuPaul commented that maps have shown there are some places where high catches of scallops can occur without high bycatches of yellowtail flounder, but it is going to be problematic. he predicted that trips will end early because of high yellowtail bycatches. Mr. Smolowitz added there's an incentive for a vessel with an observer to stay out which causes a higher bycatch of yellowtail – the boats make extra money at a fixed rate of pay from taking an observe and therefore might want to stay out longer to make more money and that might already have happened in the Nantucket Lightship Area.

Mr. Goethel commented that if an individual may buy quota from a sector there are going to be sectors set up to obtain yellowtail flounder. If the Council can't allow that, why not? That would seem to solve the problem. Mr. Pappalardo responded that there was no option for a vessel not in a sector to buy ACE.

Mr. Nies agreed that individual vessel may not buy ACE from a sector and if it were possible it would trigger LAPP requirements. There is an option in Amendment 16 to allow putting a groundfish permit on a scallop vessel, but it might be counterproductive to allow a vessel could to catch its yellowtail allocation inside a groundfish closed area specifically intended to protect yellowtail.

Mr. Goethel noted the Committee was left with 2 alternatives: 1) Increase the yellowtail allocation to scallop boats and 2) for boats to modify their scallop gear. A promising way to attack the problem might be to change opening dates.

Ms. McGee commented that she was not sure what the committee was recommending but that there's still probably going to be a yellowtail flounder interaction in another two years. Mr. Avila suggested as the stocks rebuild there are going to be more stock interactions. Mr. Roberts suggested there should be some economic analysis to shed some light on the problem and that the Councils should find a solution that would be industry-wide rather than confined to just sectors.

### **Summary**

Mr. Pappalardo summarized the discussion noting that there were several suggestions for some type of economic analysis, suggestions to chance the seasons to get the scallop fleet earlier access. At this point there was not suggestion to increase observer coverage and there is no sector opportunity in Amendment 16 for scallop boats and the amendment has no provision for sectors to transfer ACE to individual vessels. The best the Council could do is to acknowledge this problem is going to continue and sometimes grow.

In the mid to long-term, the Council might be able to address the issue by changing gear requirements or through changes to sector or other measures to allow the transfer of yellowtail allocation to scallop vessels.

4. **Measures to prevent increased effort in non-scallop fisheries (e.g. fluke, squid, groundfish and monkfish) by scallop vessels that may lease their scallop allocations to other vessels under Scallop Amendment 15**

Ms. Boelke summarized the contents of the memo from the Scallop Committee to the Interspecies Committee about this issue which explained that Amendment 15 to the Scallop FMP is considering an alternative that would allow limited access scallop vessels to lease DAS and/or access area trips to other limited access scallop permit holders. There is concern that if for example, an individual has two vessels and leases all scallop effort from one vessel to the other, that one vessel will have more time and incentive to increase effort in other fisheries that second vessel may have permits for. The Scallop Committee developed several options that were included in the motion below.

**Scallop motions from Jan 22 Scallop Committee meeting**

Motion 7: Tooley/Spitsbergen

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 vessel has permit for
2. limit catch of other directed fisheries to vessels "best year" from historical landings
3. if lease more than 50% of total effort (DAS and access area trips) the vessel would not be able to participate in other fisheries
4. if lease any amount, a vessel not permitted to fish in other fisheries
5. if lease any amount, must "stand down" from all fisheries for the number of days/trips equal to the lease

Mr. Roberts explained that the Mid-Atlantic Fishery Management Council was concerned about the potential problems additional fishing effort that might be created if some boats were allowed to split their permits. Mr. Avila was less concerned because there were adequate controls in most fisheries and many of the permits were not being used to a greater extent because boats did not want to or could not easily switch fisheries. There are no open fisheries for these boats to go to other than whiting and the price of whiting is not high enough for these boats to participate.

Mr. Blount asked if the vessels selling their scallop permits wouldn't have more days to catch squid. Mr. Avila responded that squid is a seasonal fishery so it would have no impact

Ms. Kurkul commented that if the concern is that there is going to be an effort shift from one fishery, the way to deal with that is within the fishery that is going to be affected. Otherwise it means there is not an effective way of dealing with effort in that fishery and Mr. Avila agreed.

**Audience comments:**

Ms. Didrikson opposed leasing because it would allow effort to be transferred to more powerful boats.

Mr. Kaelin, representing Lund's fishery, said that his firm is very concerned about the transfer of effort. It supports stacking and leasing but is concerned about the transfer of effort to the Mid-Atlantic.

**Motion:**

The Committee concluded the discussion by unanimously passing the following motion made by Mr. Goethel and seconded by Mr. Avila

To recommend to the Scallop Committee to move [Scallop Committee] Motion 7 to the "considered-but-rejected" alternatives.

**5. Process for changing specifications for multiple species caught in fisheries managed under annual catch limits (ACLs) in different FMPs**

Mr. Pappalardo explained that he was concerned that adjusting specifications for different FMPs was going to be more difficult in the future because fishing years differed; the timing of making changes to specifications differed and also because there would be assessment updates or benchmark assessments for some stock but not others. This would be more problematic because ACLs for species might be determined in one FMP while the AMs were established in another FMP.

Ms. Kurkul commented that essentially Mr. Pappalardo was concerned about the most expeditious way to change ACLs. She mentioned that the specifications process is faster than framework process but added that she did not think an omnibus amendment or specifications package was necessary as long as the Council was consistent in how it approached adjusting specifications. But Ms. Kurkul also noted that the current specifications process addresses only the species managed under a single FMP.

The Chair suggested that it would be useful to develop a matrix of ACLs and TACs for all species/ stocks managed by the Council to help guide the process of making adjustments. Other committee members expressed concerns about the timing of specifications. Mr. Stockwell commented that the Council would not be able to change ACLs frequently enough because of the timing of stock assessments. Herring assessments probably would not occur more frequently than every two years. In response to concerns expressed by other committee members, Ms. Kurkul commented that simple assessment updates should be available more frequently than every three years and that new information can be evaluated annually although the Council might not be required to make a change under a multi-year specifications process.

One suggestion for streamlining the specifications process was to use the same fishing year for all FMPs, but some committee members wondered whether a uniform fishing year might not be more rather than less problematic.

## **6. Transfer of quota in among General Category Scallop permit holders**

The committee discussed the issue of whether general category scallop permit holders should be allowed to split permits (transfer only their general category scallop permits without transferring all other permits together as currently required). This issue was discussed at the February 9-11, 2009 Council meeting without any resolution. Members and representatives of the scallop limited access sector commented that allowing permit splitting would lead to the transformation of the small boat fleet into a fleet of larger boats that specialized in catching scallops and therefore would defeat the Council's original objective of creating general category permits. General category permit holders have argued that the individual allocation quota allocations have not been large enough to allow them to remain economically viable and they cannot afford to buy all the permits a vessel might own just to obtain the general category scallop permit.

The committee decided by consensus to recommend that the scallop committee include an option in Amendment 15 to allow the transfer of quota in the scallop general category fishery much like the leasing program but as a permanent transfer of ITQ. It noted that this option does not raise issues and complications of permit splitting. Under this option a boat would not be required to transfer all of the scallop allocation associated with its permit.

## **7. Future tasks for the committee**

Mr. Pappalardo suggested that at its next meeting the committee should consider whether there were changes that should be recommended to vessel permitting, upgrading and permit transfer restrictions that were implemented through the omnibus amendment for these issues.

The meeting adjourned at 4:30.