



New England Fishery Management Council

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

**MEMORANDUM**

**DATE:** February 12, 2009  
**TO:** Interspecies Committee  
**FROM:** Scallop Committee  
**SUBJECT:** **Discussion of 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 A15**

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 2 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 is very concerned about increasing effort in other fisheries as a result of leasing in the scallop fishery and wants to get the Interspecies Committee to consider how best to address this issue. The Scallop Committee developed several strawman ideas, but has requested that the Interspecies Committee consider these ideas and/or other approaches to address this issue in Amendment 15 or other appropriate actions.

**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

Motion to amend: Cunningham/Preble Add to Motion above: Forward this issue to the Interspecies Cmte to address as soon as possible. Ideas from the motion above and discussion on this issue should be forwarded as well.

Vote on both parts of motion: 8:1:1, motion carried

**Committee Discussion on the motion above** *(from draft Committee meeting summary)*

A Committee member questioned what would happen to the other permits if a vessel leased its full permit or its full DAS and had other permits. A concern is that if there is a vessel that leases its whole scallop permit to another vessel but retains its fluke permit (for example), it could then put that vessel into the fluke fishery full time. Staff replied that this concern has been voiced previously and that the most restrictive approach to solving this dilemma is to prohibit the use of other permits associated with a vessel if you lease your scallop permit. Another option is to restrict how much a vessel can participate in another fishery, but this idea has not yet been developed. A Committee member asked if it would be possible or feasible to limit a boat to its historical basis of participation in another fishery, to which a NMFS representative replied that the plan could be constructed to do that, but it's unclear how easy it would be. A Committee member stated that a sideboard would need to be tied to scallop management and NMFS Counsel agreed, stating that these kinds of measures may not have the rationale for how it relates to scallops – it would be difficult to justify limiting access to another fishery without a clear nexus to the scallop FMP. The primary concern is that if capacity reduction is achieved and vessels lease their DAS/effort, they can potentially redirect their effort to other fisheries, thereby increasing their impact on those fisheries (unintended consequence of leasing). NMFS' legal advisor argued that spillover in other fisheries should be dealt with in other fisheries.

One Committee member argued that all boats with multiple permits that qualify for summer flounder and scallops do access both fisheries because there are only 80 days of scalloping and the windows are open for both fluke and summer flounder at different times. Therefore, if a boat owner has a permit in NJ, VA, or NC, they fish in both fisheries. His concern is that if we add restrictions to vessel owners who lease their scallop permit, the fluke and summer flounder fishermen will be further restricted beyond the 1 week to 1 month fishing season that already restricts summer flounder and fluke fishermen.

An audience member suggested that we want to ensure that nothing done in the scallop fishery negatively impacts other fisheries by transferring effort to them. Therefore, he suggested that there be 4 options: 1) limit catch to vessel's best year in that fishery, i.e. tie it to historical catch and make that the vessel's limit, 2) no restriction in the other fisheries (those other fisheries are already very restricted), 3) if a vessel leases out more than 50% of its days, it cannot do anything else (you're allowed to lease only a certain percentage), 4) if you lease anything at all, you pay your price and cannot fish any other fisheries.

Overall, the intent of these measures is to keep fishing in other fisheries by scallop vessels neutral as well. Another Committee member said that this may hang up this Amendment greatly. A friendly amendment to motion 7 was created that stated that the Interspecies Committee needs to review sideboards. Although this motion passed, a Committee member did voice a concern that if this needs to be reviewed by another committee, it may not end up in Amendment 15 if the review takes too long. However, because the Interspecies Committee meeting is scheduled for February, although they will not review the sideboard alternative in time for the Council meeting, it will be good to have them review this alternative.

**Council discussion on this issue:**

Several Council members agreed that something should be considered in the scallop action to prevent effort from increasing in other fisheries as a result of leasing under the Scallop FMP. However, others felt that increases in effort in other fisheries should be dealt with under those FMPs – each fishery needs to manage the harvest and mortality of that species, it should not be done under a different FMP. Several added that this shift is not as much as people think it will be because all other fisheries are heavily regulated already, so effort cannot just increase. For example, states that regulate fluke have a quota, and every vessel has to qualify, so it has already been identified who can fish and up to how much. It was also pointed out that this concern has come up in the past with other leasing and limited access programs, and time and time again the effort shifts that people are concerned about never happen to the level that is expected.

Several concerns were also raised about what legal authority there really is to manage fishing in other fisheries under the Scallop FMP. It was pointed out that in order to regulate vessels under an FMP there needs to tie measures to the objective of that FMP. So in order for the Scallop FMP to regulate what vessels can do in other fisheries there would have to be a link to how that activity impacts the scallop resource – i.e. if that fishing activity negatively impacts scallop bycatch. The Council agreed with the Scallop Committee that the Interspecies Committee should discuss this issue in terms of whether it should continue to be pursued, or if the burden of potential effort shifts should rest on those FMPs, or if an Omnibus action is needed. The Chair of the Council explained that if there is time, the Interspecies Committee will discuss this issue at the meeting on Feb 18 and report back to the Scallop Committee.

