

Scallop Sector Incidental Catch Sectors (SICS)

Design Issues
March 26, 2010

Overview

This paper was prepared by Council staff to highlight issues that warrant discussion should the Joint Groundfish/Scallop Committee develop an alternative that allows scallop permit holders to form sectors for the purposes of acquiring groundfish for incidental catches. This list is not exhaustive; further issues will likely surface as measure development continues.

1. Scallop Fishery Multispecies Sub-ACLs

Issue: Does the Council intend to continue to allocate a portion of groundfish stocks to the scallop fishery, or does it intend to have the scallop fishery acquire all groundfish stocks it needs from the groundfish fishery through transfers from groundfish sectors?

Background: At present, the multispecies plan specifies that there will be sub-ACLs for groundfish stocks caught by the scallop fishery if the fishery catches an appreciable amount of a stock (five percent). Only two stocks meet that criteria and have scallop fishery sub-ACLs included in Framework 44: GB yellowtail flounder and SNE/MA yellowtail flounder.

The allocation of these two stocks to the scallop fishery was based on an estimate of the yellowtail flounder scallop vessels would catch if they harvested all available scallop yields. The allocation for 2011 and 2012 was 90 percent of this estimate.

The design of scallop sectors hinges, in part, on whether the Council expects to continue a similar allocation in the future and use scallop sectors to supplement this amount, or intends to have the scallop fishery acquire all of the needed incidental catch stocks from the groundfish fishery.

Options: There are two basic options:

1. *Continue allocating groundfish stocks to the scallop fishery and use sectors as a means to supplement and manage those allocations.*

Advantages:

- Acknowledges the scallop fishery has a history of catching these stocks and is entitled to a share of the resource
- Avoids revisions to current multispecies ACL process and decisions

Disadvantages:

- Complicates administration of SICS
- Implies future allocation decisions will be needed

2. *Require scallop fishery to acquire all incidental catch species from the groundfish fishery.*

Advantages:

- Simplifies administration of SICS
- Future allocation decisions avoided

Disadvantages:

- Does not acknowledge the scallop fishery has a history of catching these stocks and is entitled to a share of the resource
- Creates need to revise multispecies ACL process and decisions
- Makes SICS membership mandatory for all scallop vessels (since that would be the only way to acquire needed incidental catch quotas), or requires development of another approach for common pool vessels to acquire ACE

2. Section 1.1.1.2 – Formation of Sectors

Issue: What scallop fishery permits should be allowed to form SICS?

Background: There are 3 different “categories” of scallop vessels relative to the ICS alternative: Scallop DAS vessels that have a NE Multispecies scallop incidental catch open access permit; Scallop DAS vessels that have NE Multispecies DAS permit; and LAGC (IFQ) scallop vessels that have a NE Multispecies DAS permit. The ICS alternative should describe these categories of scallop vessels and how they could be involved in an ICS.

Options: To be developed.

3. Section 1.1.1.4 – Allocation of Resources

Issue: The Committee should discuss whether Scallop Incidental Catch Sectors (SICS) will receive an initial allocation of groundfish stocks or not.

Background: A potential sector contribution (PSC) is calculated for each groundfish permit eligible to join a sector. When a permit joins a sector, the sum of the PSCs for all permits in the sector is multiplied by the ACL to determine the pounds of a stock allocated to the sector that year. The amount allocated to a sector is called the sector’s Annual Catch Entitlement (ACE). There is no cap on ACE that an individual sector can be allocated or acquire (the lack of a cap will be the subject of future Interspecies Committee meetings).

For LAGC scallop sectors, the sector share is the sum of the contribution factors for permits that join the sector. The contribution factor is converted to a contribution

percentage and multiplied by the TAC to get the catch for these vessels. There is a cap on the contribution factor an LAGC sector can hold.

Neither sector example above uses discarded fish in the calculation.

In recent years, scallop vessels have only been allowed to land a limited amount of groundfish per trip. Most vessels discard groundfish – little has been landed. Discards cannot be attributed to individual vessels. For these reasons it will be difficult to determine a PSC that is based on landings.

Options: There are two general approaches to this issue the Committee should discuss. They can be considered an “acquire” option – where SICS only get groundfish ACE they acquire from multispecies sectors – and an “allocation” option – where SICS are allocated groundfish, but can also acquire additional groundfish from multispecies sectors.

1. *Do not allocate groundfish stocks to Scallop Incidental Catch Sectors.* The only resource the sectors would have would be Annual Catch Entitlement (ACE) obtained from multispecies sectors.

Advantages:

- Simplifies implementation - avoids a debate over the appropriate allocation formula.
- Avoids complications that might develop if a future action adopts some form of scallop permit consolidation or effort transferability.

Disadvantages:

- Complicates administration of sector-specific accountability measures. This is because a sector does not have an allocation that can be reduced should an overage occur. This subject is discussed further in a following section.

2. *Allocate scallop sectors (and common pool vessels) a percentage of any scallop fishery groundfish stock sub-ACL.* Similar to multispecies permits, a PSC for groundfish stocks would be determined for scallop permits. Sectors that form would be allocated part of the scallop sub-ACL based on the sum of these PSCs.

Advantages:

- SICS and common pool vessels can be held accountable for all incidental catches of any groundfish sub-ACLs.
- Simplifies use and tracking of the sub-ACL and any ACE acquired by scallop sectors, implementation of AMs.

Disadvantages:

- Complicates implementation; allocation formulas would need to be developed.

4. Section 1.1.1.5 – Mortality/Conservation Controls

Issue: The Accountability Measure (AM) used for sectors (a hard quota) is not consistent with some of the AM options under consideration in Amendment 15 to the Scallop FMP.

Background: The Council's sector policy states the following: "Mortality Controls: Any allocation of TAC applied to a sector, when reached, would result in the sector fishery closing." This is consistent with NOAA's draft catch share policy, which says: "Each recipient of a catch share is directly accountable to stop fishing when its (sic) specific quota is reached."

Multispecies sectors are required to stop fishing in the relevant stock area when an ACE is projected to be caught. Scallop LAGC sectors are required to stop fishing when the sector allocation is projected to be harvested. When the cap on scallop fishery catches of yellowtail flounder in the Georges Bank closed areas is caught, the area is closed to scallop fishing.

Amendment 15 is considering a range of AMs that will be triggered if the scallop fishery exceeds its sub-ACL for yellowtail flounder. A final decision has not been made. The September 15, 2009 version of the amendment describes the alternatives as:

- Closure of portions of the yellowtail flounder stock areas with high catch rates (in-season or year three)
- In-season closure of entire stock area
- Fleet-wide maximum DAS or maximum IFQ percentage that can be used in a yellowtail flounder stock area in year three
- Individual permit maximum DAS or maximum IFQ percentage that can be used in a stock area in year three

Only the second alternative is consistent with the Council's sector policy. If one of the other AMs are adopted for the scallop fishery, the question is what AM to use for SICS.

Options: Some possible options the Committee may want to consider include:

1. SICS vessels cease fishing when it is projected the ACE allocated or acquired by the sector will be caught.

Advantages:

- Consistent with Council sector policy, NOAA draft catch share policy, multispecies sectors, and LAGC scallop sectors.
- Consistent with Council's stated intent to manage groundfish catches with quotas.
- Simplifies administration: no need to design sector specific AMs.

Disadvantages:

- Yellowtail flounder AM for SICS vessels may differ from AM for common pool vessels (depends on Council decision on yellowtail flounder AM and whether sector is an LAGC sector). If this is the case, may discourage sector formation.

- If groundfish sub-ACL is not allocated to common pool and SICS vessels, how is AM implemented?
 - Why would a sector acquire ACE that will lead to a shut-down if caught, while vessels without ACE can continue fishing and AM is not implemented until year 3?
 - How do the different AMs apply to a sector that fishes on both the sub-ACL and the ACE it acquires?
 - Can SICS acquire ACE in year 3 to avoid the sub-ACL AM?

2. *SICS vessels are subject to the same AM for exceeding groundfish sub-ACLs as other scallop vessels.* The AM adopted by Amendment 15 would be tailored to each SICS.

Advantages:

- Consistent treatment of SICS and common pool vessels

Disadvantages:

- Might not be consistent with Council sector policy, draft catch share policy, multispecies sectors, or LAGC sectors (depends on AM adopted by Amendment 15)
- Might conflict with Council's intent to manage groundfish through quotas (depends on AM adopted by Amendment 15)
- May be difficult to administer. Specific AMS may need to be developed for each sector – this depends on whether AM designed for fishery as a whole is appropriate for the activity of a specific sector
- If groundfish sub-ACL is not allocated to common pool and SICS vessels, how is AM implemented?

5. Section 1.1.1.6 – Monitoring and Enforcement

Issue: How do the monitoring requirements for SICS fit in with the Scallop FMP industry-funded observer program?

Background: Unlike the multispecies plan prior to Amendment 16, the Scallop FMP includes provisions for an industry-funded at-sea observer program. The program does not include a dockside monitoring element. In addition to observer requirements, the program includes a set-aside to offset the cost of paying for observers.

The sector monitoring requirements adopted in Amendment 16 for multispecies sectors establish standards for dockside and at-sea monitoring providers. According to the amendment, all costs are to be borne by the industry, without any compensation in the form of increased catch or DAS. NMFS, however, is covering these costs for at least FY 2010.

In addition, NMFS is expected to detail how multispecies discards are calculated for groundfish sectors. The approach is expected to differ from how yellowtail flounder

discards have been estimated in the scallop fishery in the past. It has yet to be determined if the new method should be used for the scallop fishery and/or SICS.

Options: To be developed.

6. Tracking Scallop Sub-ACL

Issue: Catches of groundfish by SICS vessels must be correctly assigned to the appropriate sub-ACL.

Background: Scallop vessels are currently assigned a sub-ACL for two yellowtail flounder stocks. Catches of groundfish when scallop fishing are counted against this sub-ACL. If the sub-ACL is approached or exceeded, it triggers AMs.

If all groundfish caught by SICS vessels is either allocated to the SICS or acquired from groundfish sectors, all catches by SICS vessels apply against these quantities. AMs should be triggered based on exceeding these amounts and none of the catch by SICS vessels should count against the scallop fishery sub-ACL.

If SICS vessels are allowed to have some of their groundfish catch count against the scallop fishery sub-ACL, a mechanism needs to be developed to accurately apply catches to the appropriate category: either the sub-ACL or the SICS ACE.

Options: To be developed depending on how SICS get groundfish ACE.

7. SICS Groundfish Cap

Issue: Should there be a limit on the amount of groundfish that can be acquired by SICS?

Background: The Council sector policy and the draft NOAA catch share policy require consideration of a cap on the amount of a resource that can be acquired by a sector. There are usually two underlying reasons to consider a cap. A sector might be able to acquire a share that provides the sector market power. In the case of SICS, this might include the ability to prevent other scallop sectors from acquiring groundfish to target scallops. A second issue is that an excessive share might conflict with management objectives.

A possible complication with SICS depends on program design. The transfer of groundfish to SICS could affect groundfish fishing opportunities, which may conflict with groundfish management objectives. Depending on AMs adopted for SICS, this could remove groundfish from hard quota management. There may be a limit to the amount of groundfish the Council is willing to exclude from quota management.

For SICS, there may be a desire to consider two separate caps. The first might be an overall limit on the groundfish that can be acquired by the scallop fishery. The second might be a cap on what an individual SICS can acquire.

Option: To be developed pending Committee guidance. There may be analytic work that can guide development of an appropriate cap if one is contemplated.

8. Fishing Years

Issue: The scallop and groundfish fisheries have different fishing years.

Background: The multispecies fishing year begins May 1; the scallop fishing year begins March 1. This might complicate administration of ACLs and any allocations for the SICS.

Multispecies assessment data is compiled on a calendar year basis. Calculated catch levels thus represent calendar year catches. Since Amendment 7, these catches have been “slid forward” to the fishing year without any adjustment; this practice is continued in Amendment 16.

For the scallop access areas on GB, catches of yellowtail flounder are capped. The cap is ten percent of the ACL for the fishing year. These have been calculated and monitored on a fishing year basis without adjustment for the fact the two fishing years differ.

Options: Preliminary options identified include:

1. Change fishing years of the two fisheries so they match.
2. Clearly define rules for exchange of ACE between the fisheries so exchanges do not cross fishing years.

Further discussion is needed on this issue.