



New England Fishery Management Council

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MEETING SUMMARY

Scallop Advisory Panel Meeting

February 26, 2020

Hilton Garden Inn, Boston, MA

The Scallop Advisory Panel met in Boston, MA on February 26, 2020 to: 1) Welcome new members of the Scallop AP, and review Council policies with the entire group; 2) Amendment 21: Review goals, objectives, and status of this action, Provide input on the range of alternatives to include in this action, and additional tasking if necessary; 3) Discuss 2019 fishery performance, and outlook for 2020, with a focus on NLS-West; 4) Recap the 2020 scallop work priorities, and meeting outlook for 2020; 5) Receive updates on modifications to scallop dredge exemption areas and LA DAS reporting requirements, and status of type-approved VMS units; 6) NLS-S-Deep Access Area Trips: Overview of the NEFOP policy on life raft capacity requirement when carrying an observer on board; and, 7) Other Business: 7a. Provide input to SBNMS on mitigating impacts of scallop dredge interactions to historical shipwrecks on Stellwagen Bank.

MEETING ATTENDANCE:

James Gutowski (AP Chair), Jonathon Peros (Plan Coordinator), Sam Asci (Council staff), Kirk Larson, Ron Enoksen, Paul Vafides, Bob Maxwell, Brady Lybarger, Ed Mullis, Eddie Welch, Brent Fulcher, Mike Marchetti, Paul Parker, Kristan Porter, Ben Martens, Cassie Canastra, Chris Merl, Tom Coley, Charlie Quinn, and Eric Hansen.

Vincent Balzano (Scallop Committee Chair) was in attendance along with approximately 15 members of the public in the audience.

MEETING MATERIALS: Doc.1a [Meeting Agenda](#), Doc.1b [Meeting Memo from Committee Chair, Mr. Vincent Balzano](#), Doc.1c [Staff presentation](#), Doc.1d [AP Policy – Council Operations Handbook](#), Doc.1e [Travel Guidelines – Effective October 1, 2019](#); 2019 Fishery Performance and Outlook for 2020: Doc.2a [Updated Landings and LPUE data for FY 2019](#), Doc.2b [Landings, price, and revenue from NLS-West \(2018 & 2019\)](#); Scallop Amendment 21: Doc.3a [Draft A21 Alternatives \(in development\)](#), Doc.3b [Draft A21 Affected Environment \(background data\)](#), Doc.3c [SARC 65 Appendix 3 – Gulf of Maine](#), Doc.3d [A21 Action Plan](#); Relevant Meeting Summaries: Doc.4a [May 23, 2019 Scallop Committee Meeting Summary \(A21 tasking motions\)](#), Doc.4b [July 24, 2019 Scallop PDT Meeting Summary](#), Doc.4c [September 19, 2019 Scallop Committee Meeting Summary \(A21 tasking motions\)](#), Doc.4d [February 10, 2020 Scallop PDT Meeting Summary](#); Doc.5 [Correspondence](#)

The meeting began at 8:37 AM. Advisory Panel Chair Jim Gutowski welcomed the AP and members of the audience. Following introductions, Council staff provided an overview of Council Advisory Panel policies, including appropriate conduct, organization, and expectations for membership.

Key Outcomes:

- The AP received updates on a wide range of issues, including notice the NMFS plans to reinstate a biological opinion for loggerhead sea turtles.
- The AP made several motions requesting that the Committee add options to Amendment 21.
- The AP expressed concern about the ability of the LA fishery to harvest the remaining access area allocation from the NLS-West, and made two motions on topic.
- The AP made several motions under Other Business requesting that the 2020 work priorities be modified.

Update on VMS Unit Issue

Tim Donovan of the Office of Law Enforcement provided the AP with an update on the McMurdo VMS system issue which will be going offline on March 31st, 2020. There was no update as to the status of type approval for the new McMurdo unit that is being tested. There are two new providers available with approved VMS systems: 1) Woods Hole Group, and 2) Add Value Technologies. Skymate is also another approved VMS provider that could support the needs to vessels in the northeast. Vessels need to have an operational VMS unit on April 1st to be in compliance. Any vessels without an operational VMS unit at that time will have to apply for a power down exemption to avoid being out of compliance.

Discussion: There was some question of where the money is coming from for vessel reimbursement for installing VMS units. Some felt the cost of replacing the McMurdo unit will be a big hit for small vessels. A member of the public said that they had been in correspondence with a McMurdo representative, and reported that they heard testing of the new Omnitrac unit should be in its final stage and that upon type approval there should be roughly 400 units available to install. Mr. Donovan had no comment on the validity of this report.

Staff provided other updates related to FW32 and other ongoing work. FW32 is on track for target implementation on April 1st. The NGOM overage that occurred in FY2018 (3,718 lbs) will be deducted from the FY2020 TAC. The new NGOM TAC for LAGC vessels will be 206,282 lbs for FY 2020. There were recent changes to the Council's policy on modifying work priorities mid-year—any changes to priorities must first go through a Committee and then be voted on by the Council with a 2/3rd vote of members present before being added to the list. Staff gave a brief overview of a recent Agency rule that expanded scallop dredge exemption areas to include all of Georges Bank and implemented a requirement for LA vessels to submit pre-landing notifications for open area trips.

Turtle Biological Opinion

GARFO staff provided an overview of a recent letter to the Council regarding reinstatement of the Biological Opinion on protected/endangered species of sea turtle. Since the 2012 Biological Opinion, scallop fishery dredge hours have been used as a surrogate of effort in the Mid-Atlantic during times of the year when the fishery and sea turtles overlap to assess potential impacts. The two-year average for both the 2015-2016 and 2016-2017 periods exceeded the ITS trigger of a two-year average of 359,797

dredge hours, meaning NMFS is required to reinitiate the Biological Opinion. Discussion on this item was brief but several suggestions were made by the AP and public related to better, more accurate, ways to gauge scallop fishery effort in the Mid-Atlantic and potential impact to sea turtles (i.e. using VMS data, considering dredge hours in SAMS projections, etc.).

Amendment 21

Staff provided an overview of progress to date on Amendment 21 including alternatives that the Committee tasked the PDT to develop (see [Doc.1c](#) for presentation and [Doc.3a](#) and [Doc.3b](#) for additional information). AP Chair Jim Gutowski noted that the focus of the meeting will be getting reacquainted with A21 and providing input to the Committee on alternatives that should move forward or be removed from the document. There were some clarifying questions related to income composition analyses by permit type and habitat management area boundaries in the Gulf of Maine. It was noted that 25 unique LAGC IFQ vessels have been active in the NGOM since the area was established through Amendment 11. There were 6 LAGC IFQ vessels that were active in the NGOM in 2018. The high was 12 vessels in 2016.

The AP had the following discussion related to the NGOM, including the allocation share ideas detailed in [Doc.3a](#):

- A question was raised related to the level of biomass needed in the NGOM to support a realistic fishing opportunity for the LA component. Some suggested that 3 million pounds of exploitable biomass (i.e. roughly 9,000 lb trip per FT LA vessel) was enough for LA vessels to want to fish in the area.
- It was suggested that allocation share ideas recognize the LA, LAGC IFQ, and LAGC NGOM as distinct user groups, whereas the current management approach uses a communal LAGC TAC, and considers LAGC IFQ and LAGC NGOM together. Considering this, a member of the AP suggested that LAGC IFQ vessels should be able to fish in the NGOM under the LAGC IFQ possession limit (i.e. currently 600 pounds).
- Several people suggested that managing the NGOM like one access area would make sense—using the existing framework for access area management would allow for removals and overall effort to be tracked closely, and allow for conservative management in the future.
- Some felt that the NGOM should be incorporated into the rest of the fishery and the ACL flowchart and managed as a whole. They noted that the NGOM has become a productive fishing opportunity and felt that NGOM permit holders are looking to preserve their interest in maintaining a small boat inshore fishery; however, the overlap of LAGC IFQ and LA vessels fishing in nearshore areas is something that the LAGC components deals with all the time outside of the NGOM, which raises the question of why the NGOM would be managed differently than the rest of the resource and fishery.
- One member of the AP was unclear of what the impacts would be if the NGOM was or was not included in the ACL flowchart.
- An AP member felt that the cost of an at-sea observer represents a substantial portion of the revenue from a 200 pound trip. It was suggested that a way to offset this cost would be to set-aside a part of the NGOM TAC to allow vessels with an observer to land an extra 100 pounds.
- Related to derby fishing, a member of the AP felt that breaking up the NGOM TAC into seasons would just create several derbies throughout the fishing year. They also noted that being able to fish

double trips (i.e. two declarations in one day) improves safety because it gives vessels more flexibility to fish around good weather windows. Regarding developing a gear restricted area, they felt that each component of the fishery should be allowed to harvest their share of the TAC under whatever rules are currently in place (i.e. LAGC can fish a 10.5' dredge, LA can fish up to 31' maximum dredge width).

- Several AP members suggested that managing the NGOM as a series of sub-areas would be challenging both in terms of monitoring and administering. Some felt that area management within the NGOM should be something that the Council could pursue at some point in the future when more survey data is available to support it. Generally, those hesitant about managing sub-areas of the NGOM felt that a simpler approach would be appropriate.
- Another AP member thought that rotational management measures used in the past that allowed vessels to exchange DAS for access to access areas could be a mechanism worth pursuing when developing options for LA access to the NGOM.

Motion 1: Hansen/Fulcher

The AP recommends that committee adds as an option to Amendment 21:

After a survey of the NGOM and an allocation of harvest is chosen for the NGOM, the first 210,000 pounds goes exclusively to NGOM permitted vessels for harvest at a rate of 200 pounds per day per vessel. 10% would be available for RSA. Additional pounds could be set-aside to support monitoring.

When the agency determines the NGOM vessel quota is caught it will close the NGOM to NGOM permitted vessels.

Every pound that is allocated above 210,000 in the NGOM is allocated to the LA fleet at 94.5% and the LAGC IFQ fleet at 5.5%.

Rationale: 210,000 is 3x the 70,000 lbs TAC. This would apply specific values to Alternative 1, 4.1.2.1 in Doc. 3a, with some modifications to when the LAGC IFQ can fish in the NGOM. This restricts the LAGC IFQ access to the area until the TAC for NGOM permitted vessels is over 210,000 lbs. The LAGC IFQ pounds could be fished inside or outside of the NGOM management area. The NGOM fishery has been a supplemental fishery for NGOM permit holders.

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

Discussion on Motion 1:

- Those in opposition to Motion 1 felt that this allocation share approach was capping the potential LAGC NGOM share at too low a level without offering much benefit to the LA and LAGC IFQ fishery. They felt that using the historic 70,000-pound TAC as a basis for a 210,000 pound cap (i.e. see rationale) was inappropriate because it does not reflect increases in biomass in the NGOM estimated through recent surveys and the potential for more effort.
- Another AP member did not support capping opportunity for NGOM permit holders at the level specified in Motion 1.

- With regard to the idea of not allowing LAGC IFQ vessels to fish in the NGOM until the TAC exceeded 210,000 pounds, it was noted that several LAGC IFQ vessels have fished in the NGOM since its creation; several AP members were hesitant around Motion 1 because it would prevent LAGC IFQ vessels from accessing the NGOM until the area TAC is over 210,000 pounds. Others did not see this as a problem, suggesting that many Maine-based IFQ qualifying permits have moved to other regions of the fishery over time.
- One person felt that the NGOM was intended to be separate from the rest of the fishery when it was established through Amendment 11 and felt that it should continue being managed separately from the rest of the fishery.
- Another AP member felt that the approach in Motion 1 will lead to a future discussion about the NGOM fishery being overcapitalized regardless of what the allocation associated with the NGOM “cap” is. Related to this, a member of the public felt it will be very challenging to come up with the appropriately sized TAC if the number of permits that could enter the fishery are not known—they felt this could only be done after establishing a control date.

Motion 2: Hansen/Fulcher

Recommend that the Committee develop options in A21 that would allow for LA DAS conversion of NGOM allocation. For the LA quota, the PDT will convert the pounds available into a total number of allowable DAS. If a LA vessel harvests NGOM scallops, the time in the NGOM area will count against the LA individual vessel DAS allocation and the overall NGOM LA DAS allocation. When NMFS determines that the overall DAS LA NGOM allocation is used, it will close the area to LA fishing.

For the LAGC quota, it will allocate the quota in 600 pound trips. When the agency determines the 600 pound trips are used, it will close the area to LAGC fishing.

Rationale: The Council has used DAS conversions for the LA in the past. This would provide flexibility for LA vessels. Preserve access in the NGOM for LA vessels.

The motion carried on a show of hands (13/2/2).

Discussion on Motion 2 was brief. Several AP members voiced support for the concept of DAS conversion. One person was hesitant that this approach could be difficult to administer but generally the AP agreed that the DAS exchange mechanism could be a tool the Council uses to manage LA access to the NGOM at some point in the future.

Motion 3: Lybarger/Mullis

The AP recommends that Committee add the following option to Amendment 21:

After a survey of the NGOM and an allocation of harvest is chosen for the NGOM, the first 70,000 pounds goes exclusively to NGOM permitted vessels for harvest at a rate of 200 pounds per day per vessel. 10% would be available for RSA. Additional pounds could be set-aside to support monitoring.

When the agency determines the NGOM vessel quota is caught it will close the NGOM to NGOM permitted vessels.

Every pound that is allocated above 70,000 in the NGOM is allocated to the LA fleet at 90% and the LAGC IFQ fleet at 5%, and LAGC NGOM 5%.

Rationale: 70,000 lbs TAC that can increase as biomass increases. This would use a modified tiered approach, with some modifications to how the LAGC IFQ . The NGOM fishery has been a supplemental fishery for NGOM permit holders. This restricts the LAGC IFQ access to the area until the TAC for NGOM permitted vessels is over 70,000 lbs. The LAGC IFQ pounds could be fished inside or outside of the NGOM management area.

The motion carried on a show of hands (12-2-1).

Discussion on Motion 3:

- Those opposed noted that the current split between LAGC and LA is 50/50 after the first 70,000 pounds and felt the allocation share approach in Motion 3 was a step in the wrong direction. It was suggested that under this allocation share scheme, it would take a tremendous amount of biomass while maintaining a conservative fishing mortality rate before it would be worthwhile for the LA component to access the NGOM. They felt that more reasonable split would offer NGOM permits the chance to have a consistent fishery and to pay for research and observers without having to rely on the LA component to support these needs.
- An AP member suggested the 70,000 pound starting point could act as a failsafe for the NGOM if the resource there takes a downturn at some point in the future.
- Another member of the AP felt that the allocation share options for NGOM permit holders in Motion 1 and Motion 3 were unacceptable and stated that they would never pass through the Committee or Council.
- The maker of the motion reiterated that the allocation share approach in Motion 3 is a starting point that is worth considering as the Amendment moves forward.
- In response to the back and forth, the AP Chair encouraged AP members to make motions that represented their own viewpoints on how the NGOM should be shared. No additional motions on allocations were offered.

Motion 4: Porter/Welch

Recommend that the Committee task the PDT to stop work and remove options designed to reduce the derby style fishery and expand opportunities across the fishing year in Section 4.2 Action 2 – NGOM Fishing Season (Alternative 2-5), and keep status quo.

Rationale: Seasonal options may create two derby fisheries.

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

Discussion on Motion 4:

- Those in support of Motion 4 generally did not feel that these measures would improve how the NGOM is currently managed. Several noted that safety issues could arise from reducing the existing flexibility that vessels have to fish around weather windows.
- It was suggested that spreading out effort across the season could have negative impacts on the scallop resource because it would mean that fishing would occur during seasons when meat yield is less than optimal.
- One AP member was opposed to Motion 4 because they felt that measures to reduce the derby style fishery could add value to the overall management of the NGOM and they should be investigated further.

Motion 5: Enoksen/Fulcher

Recommend that the Committee ask the Council to reconsider the development of a control date that could be used to limit future participation in the Northern Gulf of Maine fishery.

Rationale: The Council voted down setting a control date at its December 2019 meeting. This is requesting that this motion be reconsidered.

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

Discussion on Motion 5:

- The AP member in opposition to Motion 5 noted that the Council has voted down establishing a control date for entry to the NGOM on two different occasions.
- One AP member who spoke in support of Motion 5 expressed concern with the potential influx of zero allocation IFQ permits entering the NGOM fishery. They noted that these IFQ permits were originally allocated quota based on their qualification which is still being fished somewhere in the resource, and that moving to a NGOM permit means the original allocation is being fished twice.
- Several others voiced support for establishing a control date, citing again the challenges associated with developing management measures for the NGOM without knowing how many vessels could enter the fishery in the future.

LAGC IFQ Possession Limit and One-Way Quota Transfers to LAGC IFQ-Only

Staff provided the AP with an update on the other items being addressed through Amendment 21: 1) the LAGC IFQ possession limit and 2) allowing one-way quota transfers from LA vessels with IFQ to LAGC IFQ-only vessels.

Motion 6: Enoksen/Lybarger

The AP recommends that the Committee add an option to A21 that would set the LAGC IFQ quota accumulation cap at 5.5% of the APL.

Rationale: This would change the pool of quota used to calculate the accumulation cap, is a simple approach.

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

Discussion on Motion 6 was brief. A question was raised as to why these alternatives are not considering transfers of IFQ among LA vessels. Overall the AP agreed that, if temporary and(or) permanent transfers from LA vessels with IFQ are allowed, the existing quota accumulation caps in the LAGC IFQ fishery (2.5% per permit, 5% per owner) should apply to the quota pool that would become available to LAGC IFQ-only vessels (i.e. 5.5% of the APL).

Implications of Larger Crew Limits in the NLS-S-Deep

Chad Keith of the NEFOP gave an overview of safety check requirements for any vessel selected to carry an observer on board, including the requirement that a vessel have appropriate life raft capacity to accommodate having an observer on-board. This includes LA vessels fishing in the NLS-S-Deep in FY2020 that will be allowed to carry additional crew; such vessels will need to be in compliance to NEFOP safety requirements when they are selected to carry an observer or will not be allowed to leave on the trip.

FY2019 Fishery Performance and Discussion on the NLS-West

Council staff and Chad Keith of NEFOP provided an overview of fishery data and observer records to date in FY2019. The focus of the presentation was on fishing activities in the NLS-West to support discussion around the unaccounted loss of biomass seen in this area between the 2018 and 2019 surveys. Fishery data, observer data, and comments from advisors noted that catch rates in the NLS-West dropped dramatically from the start of FY2019 to present. Several theories of what drove the loss in biomass were discussed, including high discard rates, increased incidental mortality, and potentially inaccurate surveys estimates/projections for this area. Many AP members expressed concern that vessels will not be able to harvest the remaining ~4.2 million pounds of allocation before the NLS-West turns into open bottom with the implementation of FW32.

Motion 7: Lybarger/Fulcher

The AP requests that the Committee develop options that could:

1. NLS-West not open on June 1, 2020 as open bottom.
2. NLS-West would remain an access area for FY 2020.
3. Any uncaught allocation from FY2019 would roll-over and be available for harvest in this area in 2020.

Rationale: It is unlikely that the fleet will catch the remaining allocation in NLS-West before May 31, 2020. Businesses and crews are counting on harvesting these pounds. The AP feels that science contributed to a misallocation. The idea is to allow vessels to keep fishing the area so they can try to catch their allocations. Yields are likely best in June. It will be hard to find a crew to catch 500lbs a day.

The motion carried on a show of hands (15-0-0).

Motion 8: Lybarger/Coley

The AP requests that the Committee request the Council:

- To add a 2020 priority for to explore options for harvesting of uncaught allocation in NLS-West in the NLS-S-deep in FY2021

Rationale: It is unlikely that the fleet will catch the remaining allocation in NLS-West before May 31, 2020. Businesses and crews are counting on harvesting these pounds. Develop options that would facilitate the harvest of uncaught allocation in NLS-West in the NLS-S-deep in FY2021 after 2020 surveys have been completed as part of the 2021 specifications process.

The motion carried on a show of hands (14-1-1).

Discussion on Motion 7 and Motion 8:

- Council staff explained that it was highly unlikely that the Council and NMFS could act to keep the NLS-West an access area for FY 2020 (Motion 7).
- Many AP members supported Motion 7 and Motion 8, suggesting that many businesses will be negatively impacted if the remaining NLS-West pounds are left unharvested. They felt that maintaining the NLS-West area in FY2020 and beyond will allow vessels to fish unharvested allocation when yields have improved and catch rates come back up.
- The AP discussed the timing of Motion 8—it was noted that, even if the Council prioritized this item, such a measure would not be included in FW32 before implementation (i.e. on April 1st). Furthermore, GARFO staff noted the unlikelihood that this would meet the criteria for an emergency action (i.e. not necessarily an ‘unforeseen’ event).

Other Business

The AP received an update from the Stellwagen Bank National Marine Sanctuary regarding shipwreck avoidance for scallop vessels towing around Middle Bank in FY2020. SBNMS will provide scallop fishermen with coordinates of shipwrecks within the sanctuary to help avoid dredge interactions.

Motion 9: Welch/Quinn

The AP requests that the Committee request the Council to add a 2020 priority to explore options to allow moving (transplanting) scallops out of the NLS-S-deep area into the NLS-Triangle, and to keep the NLS-triangle closed for one year.

Rationale: The NLS-Triangle is scheduled to remain closed in FY2020. The area is adjacent to the NLS-S-deep. Conduct a transplant operation to see if these older scallops that have not grown normally will be able to grow. Opportunity to learn from large set of scallops in the NLS-S-deep.

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

Motion 10: Mullis/Welch

The AP requests that the Committee request the Council to add a 2020 priority to initiate action to revise Habitat Management Areas on Northern Edge of Georges Bank.

Rationale: The Scallop RSA has supported research on dredge impacts in this area. This information should be used to support management. There is a need to identify a list of what would be required to access this area. It is time address this priority. It has been on the list for several years.

The motion carried on a show of hands (15-0-0).

Discussion on Motion 9 and Motion 10 was brief. The AP reiterated previous support for transplanting scallops from the NLS-S-Deep to better understand if this could be a useful mechanism for management at some point in the future. Regarding access to the Northern Edge, the AP felt strongly that this should be a work priority for 2020 and that it should be led by the Scallop Committee.

Related to 2020 scallop priorities but not to Motion 9 or Motion 10, a member of the public commented on the East Coast Scallop Harvesters Association proposal to initiate a pilot project for leasing in the LA component. They acknowledged that the Council did not prioritize this for 2020, but that the ECSHA will be moving forward with developing the concept of a leasing program and would like to provide a brief update to the AP on this matter at the March meeting.

No other business was discussed. The meeting ended at 4:49 PM.