



**New England Fishery Management Council
Scallop Oversight Committee Meeting Summary**
Wednesday, June 6, 2007 – Radisson – Plymouth, MA

Attendance:

Committee Members: David Simpson (Chair), Dennis Spitsbergen (vice-Chair), Hannah Goodale (designee for Pat Kurkul), Terry Stockwell, Dana Rice, Jim Salisbury and Rodney Avila, Absent: Michelle Peabody and Rip Cunningham

Council Staff: Deirdre Boelke, Demet Haksever and Lou Goodreau

NMFS Staff: Peter Christopher

There were about 35 members of the public present at the meeting.

David Simpson reviewed the agenda and purpose of meeting. The primary purpose was to review public comment on Amendment 11 and identify final recommendations for the Council to consider at the June Council meeting. The Committee also discussed the range of alternatives under consideration for Framework 19 and reviewed and approved the draft categorical exclusion document for Framework 20 to extend interim measures in the Elephant Trunk Area (ETA) to prevent overfishing in FY2007.

Amendment 11

Deirdre Boelke reviewed the Amendment 11 public hearing document, input from the six public hearings as well as a summary of written comments received to date. The public comment period is open until June 11, 2007, and about a dozen written comments were reviewed by the Committee. The Committee decided to revisit the preferred alternatives made by the Council to determine if changes were necessary after review of public input to date. Next the Committee identified preferred alternatives for the measures that were not identified yet. Last, the Committee agreed by consensus to forward a complete suite of measures to the full Council for consideration with several clarifications.

Review of already preferred alternatives

• **Northern Gulf of Maine**

It was discussed that many of the alternatives are linked and before determining the ultimate qualification criteria and percent allocation for the general category fishery the Committee should first examine the NGOM alternative since it may have impacts on the qualification and allocation decision.

The Committee discussed this topic for over an hour and was still supportive of a separate limited entry program for Option A (GOM exemption area north of 42 20). However, the Committee was not confident that this recommendation would ultimately get approved by the agency based on comments provided by NMFS in their Amendment 11 comment letter. Hannah Goodale from NMFS explained that the underlying philosophy of the alternative is not clear in terms of why this area should be treated differently. Specifically, the stock management reasons for treating this area differently are not clear. She pointed out that if this alternative is intended

to provide opportunity for more vessels, there still will be opportunity in state waters that will remain under state jurisdiction. One Committee member argued that the document does justify this alternative and since there is a hard-TAC mortality and conservation will be controlled. Another argued that this alternative is in the spirit of the vision of Amendment 11 to provide general category scallop fishing opportunity at different levels.

The Committee briefly discussed if there were ways to improve the alternative to make it more “approvable”. Ultimately, the majority of the Committee “agreed to disagree” and it was clear that the issue raised by the agency could not be resolved at this meeting. The majority of the Committee voiced that the amendment document clearly justifies the need for this management alternative and it adequately addresses capacity and mortality of the scallop resource in the NGOM. One Committee member went on to explain that one of the main reasons the general category permit was originally established was for activity in the NGOM, and without this alternative, the majority of vessels that the permit was first established for will not get a permit to fish for scallops.

- **Qualification for limited entry**

As a result of comments from the public, the Committee revisited the qualification criteria. There was concern that the 1,000 pounds and 11-year combination may qualify too many vessels, especially under a 5% total allocation. A motion was made to consider more restrictive poundage criteria, but several members were concerned that if the NGOM alternative was not approvable, they could not support 5,000 pounds because it would be too restrictive and would not provide access to a wider range of general category activity. Several other members noted that 5,000 pounds is only 12 trips, thus not that restrictive. One member of the audience pointed out that it is expensive to purchase gear and rig a vessel to fish for 12 trips, so if you were serious about scallop fishing you should qualify under 5,000 pounds. While several members supported identifying a higher poundage level, ultimately the motion failed and the Council preferred alternative for qualification remains the Committee recommendations (1,000 lbs. and 11-year time period).

- 1. Spitsbergen/Goodale**

Motion to replace the 1,000 pound alternative for qualification with 5,000 pounds for qualification.

Vote: 3:3:0, motion failed for lack of majority

The Committee also discussed if the allocation of access for qualifiers should be revisited based on public comments received. Many speakers in the public support individual allocation but have concerns about allocation in trips for different reasons. Primarily, individuals are concerned about being charged 400 pounds per trip when many do not land 400 pounds per trip. There may be safety concerns and effects on fishing behavior if vessels are only allocated 400-pound trips. The Committee discussed if the tier alternative or the alternative that would allocate 200 and 400 pound trips would better address this issue, but ultimately it was discussed that neither of those alternatives would solve the issues raised by the public. One speaker explained that general category qualifiers are facing a serious reduction under Amendment 11 and charging 400 pounds for every trip is an additional negative impact for many. The Committee discussed ways to change the allocation in trips alternative (Option B) to address these issues. For

example, potentially allocate smaller trip units, broken trip provisions, or require vessels to declare if they were going to land 200 or 400 pounds on an annual basis, or on an individual trip basis (either on their way in from a trip and/or as they crossed the demarcation line on their way out). After a lengthy discussion of ways to change allocation in trips, the Committee decided to revisit allocation in pounds because the more adjustments made to allocation in trip alternatives were suggested, the closer they got to looking like an allocation in pounds alternative.

Staff explained that the allocation in pounds was not originally identified as preferred because of monitoring concerns raised by some, and issues about cost recovery requirements under MS-Act. It was discussed that the surf clam/ocean quahog program, the only quota management program in this region is currently in the process of determining what the cost recovery estimate for that quota program should be. NMFS reported that the estimate is \$50,000 to monitor and manage that quota program. The Committee voiced that most general category qualifiers would likely be more willing to pay for a cost recovery program than face impacts of allocation in trips, provided the cost was not excessive. It was explained that a cost recovery program would have to be developed by the Council, but NMFS provides the cost estimates. A motion was made to change the preferred alternative from individual allocation in trips (Option B) to individual allocation in pounds (Option A) in order to resolve the problems identified during the public comment period about allocation in trips. The Committee is still supportive of maintaining the 400 pound possession limit.

2. Salisbury/no second

Replace Alt. 3.1.2.4.2 (individual allocation for two permit types) as preferred.

Motion withdrawn

3. Stockwell/Rice:

Motion to replace the preferred alternative - individual allocation in trips (Option B) to individual allocation in pounds (Option A).

(keeping the 400 pound poss. limit)

Vote: 6:0:0, motion passes

Review of alternatives that have not been identified with a preferred alternative

The Council identified some of the issues considered in Amendment 11 with preferred alternatives for the public comment period, but not all. The Committee next went back to sections without preferred alternatives and discussed potential preferred alternatives for the Council to consider. Ultimately, the Committee reviewed each remaining section and the motions below identify their final recommendations for preferred alternatives.

- **Limited entry permit provisions**

Upgrade restrictions

The Committee discussed upgrade restrictions and heard input on both sides from the public hearings and input at this meeting. A motion was made to identify no upgrade restriction in light of the decision to allocate in pounds, but that motion failed. A second motion was made to identify the 10:10:20 alternative, and a member of the audience explained that the horsepower

DRAFT

provision has become meaningless in the groundfish fishery and they are considering removing it. So a motion was made to that effect.

3. Spitsbergen/Salisbury

Identify no upgrade restriction alternative as preferred under permit provision section. (packaged with preferred stacking provision alternative of 60,000 lbs or 150 trips)

Vote: 2:2:2, motion failed

4. Stockwell/Rice

10:10:20 alternative be identified as preferred for vessel upgrade restriction (friendly amendment to remove the gross and net tonnage provisions from the 10:10:20 restriction).

Vote: 5:0:1, motion passed

Other permit provisions

Several other permit provisions were discussed together and a motion was made to approve them in one motion since they are similar to other permit provisions in the Consistency Amendment.

5. Avila/Salisbury:

Identify several permit provisions as preferred Sections 3.1.2.5.3 (vessel replacement), 3.1.2.5.5 (voluntary relinquishment), 3.1.2.5.6 (permit splitting), 3.1.2.5.7, (permit renewals), and 3.1.2.5.9 (ability to have both multispecies and general category limited entry permits).

Vote: 6:0:0, motion passed

Stacking

The Committee discussed the stacking alternatives for some time. They continue to support the preferred alternative of stacking up to 60,000 pounds or 150 trips, but they made several motions to clarify the stacking alternatives based on input from the NMFS comment letter that this section was not clear.

6. Salisbury/Rice

Section 3.1.2.5.4 (permit stacking) is for limited access general category qualifiers only – these alternatives would not apply to limited access vessels who may also qualify for a general category permit. Those vessels would not be permitted to stack limited access general category permits on a vessel that is limited access already.

Vote: 4:1:1, motion passed

7. Salisbury/Rice:

Clarify language of stacking alternatives to be that stacking could be permanent or on an annual basis and that a vessel could only lease/sell their entire allocation – not a portion of their allocation.

Vote: 5:0:1, motion passed

8. Salisbury/Spitsbergen

When a vessel wants to permanently stack a general category limited entry permit they also must either transfer all of their federal limited access permits OR permanently cancel such permits.

Vote: 6:0:0, motion passed

- **Measures to reduce incentive to fish for scallops with trawl gear**

The Committee discussed that any measures to reduce mortality impacts on scallops is supported, but these alternatives at this time may not be necessary since Amendment 11 is controlling capacity and mortality under limited entry. In the future if it is necessary to revisit this issue for the relatively small number of vessels that catch scallops with nets then the Council can do so. Therefore, the preferred recommendation from the Committee is No Action for this topic. The Committee did discuss several ideas first, but ultimately suggested No Action as preferred because the main reason these were developed was in response to the newer directed trawl effort that entered the fishery in recent years, but these vessels are not likely to qualify so this is no longer a priority issue.

9. Stockwell/Spitsbergen

Identify 3.1.2.6.2 as preferred. (Prohibit a vessel from switching to trawl gear if it qualified under dredge gear during qualification time period).

Substitute motion:

Salisbury/Avila

No Action be preferred for Section 3.1.2.6 (measures to reduce incentive to scallop with trawl gear for qualifiers).

Vote motion to substitute: 5:0:1, motion passed.

Main motion as substituted: 5:0:1, motion passed.

- **Sectors**

The Committee is in support of including a mechanism for sectors for general category qualifiers.

10. Stockwell/Salisbury

Allow sectors for limited entry general category qualifiers as preferred.

Vote: 6:0:0, motion passes

- **Interim measures for transition period**

There was general agreement that some sort of measures should be implemented to cap general category effort during a transition phase to limited entry. However, the Committee was not comfortable supporting a 10% fleetwide TAC for qualifiers and vessels under appeal. It was discussed that a hard-TAC would be a derby fishery and would have negative impacts on the vessels that depend on this fishery and will ultimately qualify under the limited entry program. The Committee spent some time discussing potential alternatives but never developed a final recommendation to add. The Committee did discuss that the application and appeal process should be as expeditious as possible to reduce the time this fishery is under interim measures. A motion was made to reduce the length of time vessels have to apply for a permit and the Committee suggested that NMFS send out notice to vessels as soon as possible to start getting their landings data organized if the Council approves a limited entry program.

11. Spitsbergen/Avila

Identify interim 10% hard-TAC alternative for transition period to limited entry as preferred.

Avila/Rice:

Amend 10% to 5% hard-TAC for transition period

Vote: 0:6:0, motion fails

12. Spitsbergen/Stockwell:

Move to table.

(No preferred alternative for interim period)

13. Rice/Salisbury:

Recommend that NMFS consider a 90-day requirement for vessels to apply for a limited entry permit once Amendment 11 is effective.

Vote: 6:0:0

- **Monitoring**

The Committee first discussed No Action for this suggestion based on input from NMFS in their comment letter that the agency could monitor both a hard-TAC and individual allocations through the existing dealer reporting methods. However, several members of the audience voiced support for VMS and explained they would rather be required to report through VMS to help keep this fishery honest and improve reporting, especially if allocation is going to be in pounds.

14. Stockwell/Rice:

No Action as preferred for monitoring alternatives.

Substitute motion: Salisbury/Spitsbergen

Identify reporting and declaration of scallop trip through VMS as preferred.

Substitute Vote: 5:0:1

Main motion: 5:0:1, motion passed

- **Allocation of Yellowtail flounder bycatch TAC**

The Committee identified No Action for this alternative due to concerns about being able to monitor a small portion of an already small TAC with accuracy.

15. Goodale/Salisbury:

No action as preferred for YT bycatch allocation

Vote: 6:0:0, motion passes

- **Incidental Catch**

The Committee did not identify a preferred alternative for this topic.

16. Avila/Spitsbergen

Identify the new incidental catch permit as preferred. Clarify that if a vessel opts into this incidental catch permit instead of the limited entry general category fishery it would be a one-time transfer.

Vote: 2:3:1, motion fails

- **Measures to better integrate scallop survey and fishery data**

The Committee discussed this issue at length. There was no support for changing the fishing year during the public comment period to date, except for the comment letter from NMFS. The Committee understands the issues we have with survey timing and using older data for management decisions. The industry that was present at the meeting responded to the comment in the letter from NMFS that the document does not include why the reasons for NOT changing the fishing year outweigh the benefits of improving the timing and integration of survey and fishery data if the fishing year were changed.

The list of reasons given include: 1) there is always a boom in fishing effort when a fishing year begins and that should be when yield is high. In the case of scallops, yield is highest in late spring so a March 1 start date is favorable to reduce mortality; 2) spring and summer are good weather months so more effort during that time of year is beneficial for safety; 3) scallop yield falls off in the fall when scallops spawn, so an August 1 start date would increase mortality; 4) the processing industry has developed over the last decade based on a March 1 start date, and there would be inventory management issues if the year changed. For example, since most scallops are caught in the spring and summer some are frozen and sold off during the winter when supply is lower. It is true business models could be changed if the fishing year changes, but that would come at a cost to the industry; 6) the market is better in spring and summer when demand for fresh scallops is higher, so it makes sense to keep the start of fishing year when demand is highest; 7) since the entire scallop survey program is in flux and we are not sure what vessel or vessels are going to be used, when the survey is going to take place, and how the scallop resource is going to be assessed in the future why change the fishing year now when everything could be different next year; 8) survey technology is improving and information is becoming available much sooner; and 9) from a port and fishing pier perspective it helps that the scallop and groundfish fishing years are staggered. Vessels are usually worked on right before the opening of a fishing year, so the scallop vessels are worked on first, and then the groundfish vessels. In a port like New Bedford, it would be very difficult for all the vessels to get worked on at the same time if the fishing years were both May 1.

The Council did support changing the issuance date of the general category permit to be consistent with the limited access scallop permit to improve integration of landings data.

17. Avila/Rice:

No Action as preferred for Section 3.2

Substitute motion: Spitsbergen/Stockwell

Identify alternative 3.2.1.1 as preferred – change issuance date of general category permit.

Vote on substitution: 5:0:1, motion passed

Main motion: 5:0:1, main motion passed

- **Other measures**

The Committee supported both alternatives under other measures. Vessels fishing for other species with trawl gear should not be restricted to the 144 net sweep restriction that was intended

DRAFT

to reduce mortality from trawl vessels that are directing on scallops. In addition, the Committee agrees that a vessel should not be in violation of the 50 bu. possession limit while in the process of fishing. If it takes more than 50 bu. to cut 400 meats a vessel should be permitted to have more than the possession limit while fishing at sea, but still restricted to 50 bu. shoreward of the demarcation line.

18. Stockwell/Salisbury:

Clarification of trawl gear restriction be the preferred alternative.

Vote:6:0:0, motion passed

19. Stockwell/Rice:

Identify 100 bu. possession limit seaward of VMS line as preferred alternative.

Vote: 5:0:1, motion passes

By consensus – the Committee agreed to forward Amendment 11 to the Council with a full list of preferred alternatives with clarifications for several aspects of the alternatives. Since many of the preferred alternatives are interrelated, the Committee is forwarding this suite of measures as a package. The only two issues without a preferred alternative are: 1) interim measures for the transition period to limited entry, and 2) incidental catch.

Framework 19

The Committee briefly discussed the list of issues previously identified for inclusion in Framework 19. The Committee met in January 2007 and identified a list of twelve issues for inclusion so far. The Committee received two requests from the public regarding additional measures. These issues were discussed and the Committee decided to add them to the list of issues to be considered, provided they do not slow down Framework 19. One issue is related to a 30-day VMS power down provision for limited access scallop vessels. And the other is a consideration of lifting the single dredge restriction for limited access small dredge vessels in access areas since they are fishing under a possession limit with no crew restriction. Staff explained that the PDT and advisors have not made much progress on Framework 19 to date, but after Amendment 11 is submitted alternatives will be further developed and analyzed.

20. Stockwell/Avila:

Add two issues raised by the public for inclusion in Framework 19 for consideration for further development

Issue 1 - 30-day power down and

Issue 2 - restriction to use single dredge in access areas

Vote: 6:0:0

Framework 20

The Council initiated Framework 20 at the April Council meeting to extend interim measures through the end of fishing year 2007 to prevent overfishing. Staff reviewed the draft Framework 20 document. The Committee approved the document for Council consideration at the June Council meeting.

21. Spitsbergen/Stockwell

Identify the extension of interim measures for Jan-Feb, 2008 as final action for Framework 20.

Vote: 6:0:0, motion passed

Other Business

The Scallop Committee reviewed a motion forwarded from the Enforcement Committee related to the 400 pound possession limit per “day/trip”. Several members of the public have submitted comments regarding how the regulation is being enforced and the Enforcement Committee discussed the potential safety concerns of the regulation. It was explained that when the 400 pound possession limit was first implemented it was intended to be a restriction of one landing per day. Over time the regulations have been changed and the current restriction preventing a vessel from starting a trip within 24-hours of landings a trip is not how the rule was intended to be written. The Committee supports revising the regulation to reflect how it was first intended to be under Amendment 4. It is not yet clear what the most expeditious mechanism is for implementing this change, a regulatory amendment or adding this to Framework 20.

22. Avila/Rice:

Develop an action that will address the 24-hour period issue from the Enforcement Committee to be done in the most expeditious way (Regulatory Amendment or Framework 20). The document would consider allowing one landing per calendar day consistent with how current regulations are worded for limited access vessels fishing outside a DAS. With the understanding that a vessel could leave for a second trip in the same calendar day, but not land until the next calendar day.

Vote: 6:0:0, motion passed