DRAFT

Scallop Committee Meeting
September 1 and 2, 2009
Providence, RI

Committee members in attendance: Rick Robins, Sally McGee (Chair), Mary Beth Tooley, Mark Alexander, Rip Cunningham, Hannah Goodale (designee for Pat Kurkul), Dave Preble, Jim Fair, and Rodney Avila.
NMFS Staff: Peter Christopher, Emily Bryant, Dvora Hart and Gene Martin.
NEFMC Staff: Deirdre Boelke, Jessica Melgey, and Demet Haksever.
There were about 40 people in the audience each day.

Staff updated the Committee on changes to scallop timelines. For a variety of reasons, the PDT has realized that a fully analyzed package of framework alternatives will not be available for the September Council meeting. This will be delayed until the November Council meeting. Implementation may not be in place for the beginning of the fishing year, hopefully during the month of May, definitely by June 15. At the September council meeting, the Committee will only be voting on the amendment, and the framework will be voted on in November.

The Committee spent the majority of this meeting addressing outstanding issues related to Amendment 15 alternatives. About two dozen issues were discussed; half related to specific aspects of ACLs, a handful related to general category measures, fishing power adjustment alternatives, and a few other issues. The Committee also discussed alternatives under consideration in Framework 21 and other issues that have come up related to the observer program and allocation of YT sub-ACL to the scallop fishery.

AMENDMENT 15

- *ACL-Related Items*

The remaining issues include modification of ACL structure, buffer identification for management uncertainty, and development of specific AMs for the YT sub-ACL. As requested by the SSC, the PDT has completed an uncertainty analysis for OFL and estimated the uncertainty of the projections. These analyses resulted in a recommendation of a fishing mortality rate associated with a 25% chance of exceeding OFL. This F level results in a 1% loss in yield. The SSC agreed with this recommendation and the Committee reviewed the quantitative analyses completed to determine this recommendation.

The overall ACL will be divided into two sub-ACLs: one for general category, and one for limited access. Each sub-ACL will have an associated ACT. The council modified this structure in April based on the fact that each fishery is managed differently and has varying amounts of uncertainty. There was also a question about what to do with the NGOM fishery. In the last few months the PDT has further analyzed management uncertainty. The PDT has identified seven main sources of management uncertainty. The first two sources identified were found to be no longer an issue (F from GC fishery, increases in effort from LA vessels becoming active after switching from the CPH permit category) so five remain. These are: mortality from carry-over DAS, increased mortality from upgraded or replaced vessels, uncertainty in catch from open area

DAS, ability to monitor and enforce all catch, and changes in fishing behavior that could increase landings above projected values.

The PDT tried to quantify these sources of uncertainty and perform a similar analysis for management uncertainty that was done for scientific uncertainty. The results show that in general the five sources of management uncertainty are not large-scale sources of uncertainty, most have the ability to change projected landings approximately 1-5% under different assumptions. Most of these sources of uncertainty are related to the LA fishery only. The PDT's initial approach to setting ACT below ACL was to set F a minimum one standard deviation (0.04) around ABC=ACL. On top of that there are other sources of uncertainty not captured in model, so the PDT decided to add 0.02 for a total of 0.06. When 0.06 is applied the F associated with 25% probability of overfishing comes out to be 0.24. As for the general category ACT, the PDT discussed that this uncertainty is based on unreported catch. The PDT considered calculating a "compliance index" based on enforcement input, but was split on whether it was appropriate to base a management buffer on an assumed level of cheating. Currently the PDT recommends a buffer of 0% and another alternative that is slightly higher to account for monitoring and enforcement issues.

Specific AMs have been developed for the Amendment. In the LA fishery, ACT will be used, with a DAS reduction the following year. In the GC fishery, ACT will be used and going over quota will result in an individual vessel's quota being reduced. The Committee needs to clarify if the "disclaimer" under consideration should remain in the LA section, and decide if an additional option be considered for the general category AM that would add an additional 7% reduction if an individual exceeds their IFQ. In the NGOM fishery the AM is a hard TAC with reduction the following year, but overage is unlikely based on current and past data. The AMs for the yellowtail flounder sub-ACL are still under consideration and include shifting DAS/trips, implementing a maximum number of DAS the following year, and reducing scallop possession limits. Currently there are four very general YT AMs, all of which could use additional thought and input from the Committee.

Motion 1: Cunningham/Avila:
Clarify that Option B be the only alternative in A15 for the overall ACL flowchart.
Vote: 6:0:0, motion passes
This motion was clarified that this is focused on placement of NGOM only; we will still need to discuss how to address management uncertainty.

A member of the Committee asked if A15 can change A11 so that GC can get 5% of the ACL not the ACT. Split should be made before mgmt uncertainty is taken out of the estimate. Gene Martin, the NOAA attorney for the Council responded that A15 can change anything so long as it is consistent with the intent of A11, and even if it is not, A15 can consider it so long as it is justified. One Committee member added that A11 did not anticipate ACLs; the intent was to allocate 5% to the general category fishery so now that should be in terms of ACL, not ACT. The Committee decided to clarify this point in the form of a motion.

Motion 2: Preble/Robins
Revise A15 so that general category fishery is allocated 5% of fishery ACL. Noting that the ACT allocations may be different based on the management uncertainty buffers selected for each fishery.
Vote: 7:0:0, motion passes
Clarified that incidental catch and set-asides are removed before the split between LA and LAGC ACLs.

The Committee Chair asked if the Committee wants to retain the disclaimer for instances when LA AMs should not be triggered. The disclaimer states that if actual biomass is re-estimated to be more than 20% of the original estimated biomass used to set management measures then the limited access AMs would not be triggered. The PDT recommends that the disclaimer be based on re-calculated F instead of biomass. One Committee member agreed that he is more comfortable basing the disclaimer on F, because higher biomass could still allow overfishing, but basing it on F is more precautionary. Since F is different than biomass, the Committee recommends replacing 20% threshold with one standard deviation below ACL. So if recalculated F for overall fishery comes out to more than one standard deviation below overall ACL, AMs for the LA fishery would not be triggered.

Motion 3: Cunningham/Preble
Disclaimer concerning more than one standard deviation *(around overall ACL=ABC)* be modified to use fishing mortality instead of biomass.
Vote: 8:0:0 motion passes

Notes included with motion about estimated #s based on current examples:
ABC = 0.28
LA ACT = 0.24
SE around overall ACL is 0.04 (range of 0.24 to 0.32). So if recalculated F for overall fishery comes out to more than one standard deviation below overall ACL, AMs for the limited access fishery would not be triggered. If recalculated F is 0.24 or higher than AMs would be triggered.

The primary AM for the LAGC ACL is the use of an ACT. If an individual vessel exceeds their IFQ or leased IFQ in a given fishing year, their IFQ the following year would be reduced by the amount of the overage. A second option was proposed that would reduce the IFQ by the overage plus an additional 7% based on the standard discount rate used for cost-benefit analyses. The PDT discussed basing this option on expected impacts on future loss in yield and decided it is too complex because when and where scallops are harvested highly influences impacts on yield. Since the 7% recommendation is not based on a biological reason and is not specific to scallop economic, the Committee did not support including it in Amendment 15. The Committee recognizes that adding an additional charge of 7% could help reduce cheating, but we do not know if 7% is the right amount and it was also pointed out that there are stiff enforcement regulations in place that should provide enough incentive not to exceed IFQs and possession limits. For example, the current penalty schedule for exceeding an IFQ is $5k-$50k and up to 90 days (1st offense); $15k-$60k and up to 1 yr (2nd); and $30k-Max and up to revocation for a 3rd time.

A member of the audience asked if there is a penalty associated with the overage; feels that 7% is not a disincentive. Another member of the audience noted that scallops grow more than 7% in a year. Another member of the audience noted the financial disincentives of exceeding the limit already exist and include seizure of the entire trip if caught. A member of the Committee also felt that 7% was not enough of a disincentive and had no biological justification. The percentage value should be better supported by science or economics. Another Committee member added that this approach is punitive in nature and not something the Council should get involved in, enforcement should cover these issues unless it can be linked to the resource impacts.

Motion 4: Cunningham/Preble
Add option 2 under Alternative 3.2.3.9.2 to add an additional 7% to be applied if an individual exceeds their individual IFQ.
Vote: 0:8:0, motion fails

By consensus: Clarify Alternative 3.2.3.9.2 so that overages are the responsibility of an individual – not the person that leased out their quota. Intent is that the vessel that harvested the scallops is responsible. Language will be modified with NOAA.

- *YTF AMs*

The four current AM ideas and associated options for yellowtail flounder were reviewed. After review of the alternative, the Committee discussed that as written, the AMs assume that the 10% limit on bycatch in access areas is not in place. This is problematic since Amendment 16 did not change that regulation, so the Committee discussed possible ways to consider addressing that issue. Committee member with NMFS added that additional monitoring tools will need to be developed and implemented to monitor YT sub-ACLs; there was doubt that we have the current codes to do this. There were also questions of timing of implementation and how it would mesh with the groundfish fishery considering different fishing year start dates, etc.

The Committee was not satisfied with the alternatives as written and asked if different types of AMs could be added. The Agency responded that specific, predictable, hardwired AMs are needed. One Committee member did not support in-season options because they are derbies and there is no individual accountability for YT bycatch. Another Committee member added that in-season AMs may be more beneficial for YT so they should be considered. A member of the audience agreed and asked whether AMs that are not effective until two years out comply with the Act in terms of implementing AMs "as soon as possible". As a result, NMFS representatives urged the Committee to leave some in-season options in the document.

A member of the audience spoke on behalf of Fisheries Survival Fund explaining that they do not support any of the alternatives regarding yellowtail flounder, and urged the Committee to identify how to change the 10% access area allocation maximum. The audience felt that the yellowtail issue needs to be addressed by the Committee on the larger scale, searching for alternatives that will allow the scallop fishery to harvest the scallop ACL without YT completely driving the process. Some suggestions were to let scallop vessels use GF permits to land YT while scallop fishing, or allow sectors for YT bycatch, or even allocate individual YT amounts to each scallop vessel.

The Committee had a difficult time discussing AMs before knowing how much YT would be "needed" for the scallop fishery by YT stock area. Staff explained that the Scallop and Groundfish PDTs hope to provide estimated amounts and % of total YT ACL needed in the scallop fishery for 2010-2012 at the September Council meeting.

Motion 5: Robins/Tooley:
Clarify that all "subsequent year YT AMs" would be effective in Year 3 instead. All sections of document will be changed to reflect this clarification.
Vote: 8:0:0, motion passes

Motion 6: Robins/Cunningham
Recommend that the Council consider addressing the 10% limit on YT bycatch in access areas in FW21 or FW22, depending on staff resources.
Vote: 8:0:0 motion passes

Since the Committee was not satisfied with the options in the document, Staff presented a revised list of straw man YT options (1-4) as follows (#5 was added by the Committee):

1. Closure of portion of YT stock area with higher YT bycatch to both fisheries. In-season and Year 3 options.
2. Closure of entire YT stock area to both fisheries, in season only.
3. Fleet-wide max of DAS per stock area and max % of IFQ. Year 3 only.
4. Individual max of DAS per stock area and max % of IFQ. Year 3 only. Consider allowing vessels to trade area-specific DAS and/or IFQ.
5. Include an alternative to revise the opening date of access areas on GB – either to reduce YT bycatch or as an AM (in A15 or possible joint framework 21 or 22).

Audience comments on the options: A member of the audience noted the fact that in Year 3 effort will shift to the Mid Atlantic where recruitment this year was assessed to be low and this will be a hardship for the Mid Atlantic fleet. A member of the audience noted that effort pushed into the Mid Atlantic could be stymied by a turtle closure in the summer months. A member of the Committee asked if the dates of the access area openings could be changed to a time that reduces yellowtail bycatch. This has been considered but it is not an acceptable as an AM, it is just a measure to reduce bycatch. This can be adjusted in the current FW, and was added onto the above motion. This may in fact require a joint action – RO staff will look into it. A member of the audience pointed out that part of the reason the date is currently set at June 15 is because it's just after peak spawning and the weather is more ideal.

Motion 7: Cunningham/Preble
Replace all alternatives in Section 3.2.3.11.2.1 with alternatives above to be further developed by the PDT (friendly amendment to add #5).
Motion carried unanimously 8:0:0.

There was discussion on who should set buffer between YT ABC and sub-ACL for scallop fishery. Committee members and audience members suggested that these buffers should be handled by the groundfish plan. It could be done in the groundfish specifications package this fall. If it is still necessary, the Scallop Committee recommends the buffer between overall ABC

and sub-ACL for the scallop fishery for yellowtail be either 1) considered in groundfish spec package, or 2) considered in the next scallop action that could be joint if needed. One Committee member argued that it will be difficult to come up with an accurate buffer for a bycatch fishery. No recommendation was given from the committee.

- *Fishing Power Adjustments*

Council Staff presented analyses on fishing power adjustments needed in the case of stacking and/or leasing. Document 7 introduces the methods used to derive the adjustment factors. Horsepower, length, DAS used, open area biomass, and two variables to account for impacts of small dredge and trawl vessels were significant factors in the model. Vessels were grouped by horsepower (<500, 500-599, 600-719, >720) and length class (50-70 ft, >70 ft). The model recommended a second mortality adjustment with a range from 7-11%. To keep catch (and F) constant, total days should be reduced as well. These are both due to an expected increase in LPUE with stacking. Staff explained that the PDT believes there are a handful of reasons why catch could increase from stacking: the model estimates that LPUE will increase by 5% through stacking because of increased flexibility (adjust trip length and ability to end a trip early), stacking similar permits on newer platforms, other factors like skill of crew, and differences in vessel characteristics that affect vessel towing power.

A member of the audience pointed out that he disliked the analysis based on our inability to predict human behavior. He argued that the most recent year of permit data should be used because vessels have changed since 2007.

A member of the Committee recommended not including the second mortality adjustment. It could add too many constraints and discourage people from using the program. It was added that a more "realistic or mean" scenario should be included instead of "worse case / extreme" scenarios only. The advisors could make a recommendation about the level of stacking they think is going to occur and between which vessels. Another Committee member felt that the second adjustment may be appropriate to try to capture some of the "intangibles;" however, the range should be lower because he does not think increased flexibility could affect catch more than 5%.

However, most of the speakers in the audience supported consideration of a higher range for the second adjustment. A member of the audience felt that the range should start at 11% due to the potential increase in LPUE by large fleet owners. Another brought forth a concern regarding what consolidation will do to the single-boat owners. The conservation burden will fall upon the independent boat owners, so the range should go as high as 25%. He argued that the cost savings of stacking are still there, the analyses says profits will increase 26% even with second adjustment between 7-11%. A member of the audience noted that with stacking a vessel can go beyond the upgrade restriction, and that is not right. A single boat owner agreed that the 5-11% tax is way too low and brought up the potential for job losses. It was also argued that DAS carryover will be used right away under stacking and that will increase catch. On the other hand, a member of the audience with 8 boats and four platforms noted that their fishing style will not change, they are just looking to streamline the business and cut some costs by consolidating; he does not see how catch would increase for their vessels. Another noted that the catch rates are much closer now per vessel, so catch should not increase much at all. Several noted that it would

be helpful to clarify the motion so that it is clear that this is something that could be modified in the future by framework to an amount outside the specified range.

Motion 8: Robins/Alexander
Expand range for second fishing power adjustment for public hearing document to 5%-11% for consideration. The value for the second adjustment could be modified by framework to an amount outside the initial percentage considered.
Vote: 8:0:0, motion carries

Motion 9: Cunningham/Alexander
The fishing power adjustment factors (could include both adjustments) should be reconsidered in the future and possibly adjusted if input controls are adjusted in future actions.
Vote: 6:0:2, motion carries

The PDT has suggested developing an alternative that somehow restricts upgrading with stacked permits, or creates an adjustment that will be applied if the vessel later upgrades. A committee member raised another issue that if de-stacking is possible it's not really considered a permanent transfer – why consider both? It was decided after discussion that the PDT needs to provide scenarios related to upgrades to better illustrate what the potential concern is. The discussion also covered adjustments between different gear types. Staff explained that separate tables will be provided for transactions between trawl and dredge permits. The Committee raised concern about increasing future effort with trawl gear if dredge permits are stacked on vessels that can annually declare whether to fish with trawl or dredge gear.

A Committee member asked if the PDT could look at whether adjustments should vary depending on how many DAS are transferred. Staff responded that there may not be time before September, but that could be explored further if the Council wanted to consider different adjustments for different amounts of leased effort.

Motion 10: Cunningham/Robins
Include an alternative that if a trawl permit converts to dredge (through annual declaration) and stacks with another dredge permit it not be allowed to convert back to a trawl permit and fish both permits with trawl gear.
Vote: 8:0:0, motion carries
Intent – once a trawl permit stacks with a dredge permit it can't go back to being a trawl permit.

- ***Analysis of Stacking on Shoreside Businesses***

Scott Steinback from the Northeast Fisheries Science Center presented his analyses on the potential impacts of stacking on shoreside businesses. The inputs being used include cost and earnings information from fishery stakeholders, which is very difficult to obtain. The model used data from 254 FT LA category 2 permit holders obtained from dealer reports in 2008. Assumptions about general costs came from data from a survey of industry conducted by Georgianna (2000) which estimated gross revenue shares among crew, trip costs, overhead and loans, repair and maintenance, owner, and captain bonus. Observer data was also used to determine trip costs (2006 and 2007 (n = ~700 trips)). Overhead and loans and repair and maintenance data came from the Fixed Cost Survey, a voluntary survey NMFS sent out to all

permit owners which had a very small response (n = ~80). A production function was assigned to each of these shares which was multiplied by the percentage of total gross revenue to determine fleet totals, which was entered into the model to determine impacts under the status quo scenario (prior to stacking).

A regional input-output model was used with the previously described data and production functions to determine the direct, indirect, and induced multiplier effects that remain within the local economy. The total fleet expenditures by category for both status quo and after stacking were calculated and run through the IMPLAN model and the results suggest over a thousand jobs supported by the various trip costs associated from this fishery, such as gear manufacturers and fuel companies. When you add other jobs from fixed costs, the total is closer to 2,000 jobs in addition to the number of crew.

Two scenarios were run: 1) everyone stacks; 2) only multi-boat owners stack. These were compared to the status quo. Under scenario 1), there is a slight decrease in sales and slight increase in income, and a decrease in jobs. The same is true for scenario 2), but the effects are less pronounced.

This analysis should be considered in the affected environment section of the Amendment. The PDT plans to bring this data to the advisors in September in order to get input on assumptions used and scenarios if there is time during the next meeting.

Day 2

- *Update on LAGC IFQ Permits*

The Regional Office reported the following current permit numbers: GC IFQ 294, 50 in CPH; NGOM 107, 6 in CPH; incidental 286, 6 in CPH. They are hopeful to finish the appeals this fall and a letter will follow to qualifiers about IFQ allocations for 2010 fishing year.

- *Observer set-aside*

NMFS informed the Committee that the observer set-aside for open areas recently ran out and effective on September 9, no more compensation would be left for open area trips. Observer set-aside also ran out for Delmarva and Elephant Trunk earlier this year. While this was not on the agenda, the Committee took comment from the audience since FW21 is considering small modifications to the observer program.

A member of the audience noted that open area observer set-aside running out with six months left in the fishery is unacceptable and forces the industry to pay out of pocket. Another commented that this has never happened before and thinks the industry deserves an answer about what happened. Another speaker suggested that the federal government pay for the coverage during the rest of the FY because the set-aside was mot managed properly and drew attention to the fact that there is specific funding available to monitor groundfish, and the majority of these scallop trips are monitored for finfish bycatch concerns so there is justification to use that funding. A member of the audience agreed with the previous two speakers and asked that the Committee take more responsibility. NMFS agreed to report back to the Committee on September 16 at the next Committee meeting with more information.

A member of the Committee brought up an issue he felt was unresolved from yesterday related to de-stacking. Based on concerns raised by the agency he argued that Section 3.3.2.3 have two options: Option A) allow de-stacking and Option B) prohibit de-stacking. Another Committee member felt that adding further restrictions on stacking will make business decisions harder and less stacking will occur as a result. Two other Committee members agreed with the motion in order to get more public comment on the benefits of each approach. The language needs to be clarified to disallow "jumbo" permits and say that "if de-stacking is allowed you could stack again in the future." A Committee member noted that de-stacking would be in conflict with the goal of decreasing capacity, because it does not ensure that steel is permanently removed from the fishery.

A member of the audience believes de-stacking is needed because it helps maintain identity. If you have a partner, you can't de-stack. He believes it will be harder to track vessel history if you can't de-stack. If you can't de-stack, it will lead people to lease more and that does not get rid of steel. Another member of the audience noted that preventing de-stacking is a de facto jumbo permit. We want to maintain vessel history for each permit. In his opinion, single boat owners would not want to prevent de-stacking. A member of the audience asked that the Committee use foresight to prevent the loss of small fishermen and not support stacking in general. Another member of the audience stated that scenario 2 is not realistic and that this inability to answer for what will happen to permit history shows a lack of preparation for stacking and the Committee needs to take responsibility.

Motion 11: Preble/Fair
Separate out Section 3.3.2.3 and break out issue of status of stacked permits and allowance of de-stacking. A15 should include two options for de-stacking: Option A) allow de-stacking and Option B) prohibit de-stacking.
Vote: 7:1:0, motion carries

- ***General Category Measures***

The question was brought to the Committee of whether IFQ rollover is automatic or if NMFS will have to be notified. The Regional Office noted that it is not necessary to notify NMFS and the rollover is automatic. ***By consensus this will be clarified in the document that the IFQ rollover will be automatic and mirror how the DAS carry-over program works for LA vessels.***

The Council had asked the PDT to look into the potential use of "regional fishery associations" or something like them in terms of an entity being permitted to purchase IFQ with or without having to own a LAGC IFQ permit. A member of the CCCHFA has assisted the PDT in outlining options available to the fishery. A Community Fishing Association (CFA) accumulates or secures quota which it can then lease to small fishermen who can't afford to buy enough for a viable year. This differs from sector-based management, which is no longer a viable option for vessels on the Cape that were considering a sector because the Council did not approve the exemptions the sector was requesting.

A member of the Committee noted that the current scheme under ITQs is "kind of" working now without a CFA so what is the benefit and is it necessary? CCCHFA agreed that the current

system is working somewhat, but there is risk involved, but it can provide immediate benefits to the small fishing ports. The Committee reviewed draft text for including a CFA alternative in A15.

According to CCCHFA there's a very vague outline in Magnuson for these entities. They leave a lot of space for regional councils to tailor the plans to their needs. A member of the Committee raised concerns over non-fishing entities possessing quota and driving the price of GC scallop catch. He agreed that the goals are appropriate but that there is still trepidation on the Council. Another member of the Committee wants to be sure that there's no way for these entities to circumvent the rules and use quota improperly. Another member thinks that the definition of "community" is vague and needs some definition before we proceed, and "participant" should be clarified as well.

An audience member who is in the GC fleet wanted to know if the CFA will maintain A11's intent. Staff clarified that the CFA provision does not intent to change any of the regulations in A11 in terms of ownership caps etc. The fisherman stated that the IFQ program is not even in place yet so formation of CFAs may be premature. A speaker for Fisheries Survival Fund did not support inclusion of CFAs in the document because it is fraught with issues and is incomplete. Introducing it at this point will bog down the Amendment and while the intent may be good there is much work to be done that can't get done in time for a vote.

A member of the Committee wanted to know the amount of time available to incorporate this into the document and if it is realistic to include based on resources. Staff responded that including this option is not really an analysis issue, but clarifying the unresolved issues in the alternative is a concern, and that requires Committee/Council time, not PDT analyses. Can we submit this to the Agency without some of the questions being ironed out? A member of the Committee wants to know if AP input will be helpful and if time can be taken to review the material further before the next meeting.

The Committee thought it was important to clarify the document to be sure that CFAs would apply to scallop LAGC permits and quota only. CCCHFA has no intentions to involve the LA scallop fishery in this, but there is interest in diversifying assets to include quota in groundfish and lobster to keep communities afloat. A member of the audience was concerned that quota ownership would not be limited to communities and that entities as far away as the middle of the country could have shares. The multispecies fishery has not benefited from this type of organization and the LAGC fleet does not need it, according to the speaker.

Motion 12: Robins/Avila
Include the proposal to include CFAs in A15 – Alternative 1.1.1.1.2 in Document #12.
Vote: 6:1:1, motion carries

Motion 13: Robins/Preble
Clarify that Community Fishing Associations (CFAs) would apply to LAGC permits and quota only.
Vote: 8:0:0, motion carries

- *Research Set-Asides*

The Committee discussed if the RSA alternatives were complete. One alternative specifies that RSA can be in pounds rather than a percentage, but it does not specify if the pounds need to come from all areas open, or have to be area-specific at all. It was discussed that the areas where RSA should come from could be identified in the FW process, even beyond areas not open to the fishery that year. One comment from the audience pointed out that a variety of areas should be identified in the future so that vessels from one area would not have to travel far to get compensation pounds.

Most of the alternatives in A15 are related to streamlining the process and reducing the need to get special permits to conduct research. Problems have been encountered when RSA projects attempt to conduct research but are not granted permits. Section 3.4.4.11 lists regulations from which RSA projects could be exempt. The Committee discussed if that list was complete enough, recognizing that adding items increases the amount of analyses needed. The PDT will leave the list in the document as is with three bullets and look into the new rule and whether it fixes any of the issues.

A member of the audience noted that NMFS recently passed an EFP rule, so that may alleviate some of the issues we have with obtaining permits to conduct RSA projects. If the rule considers all gear research to be scientific, then getting EFPs is not necessary. One member of the audience asked if the new rule addressed whether gear research can be done on a commercial vessel and still be considered scientific research, and whether or not catch can be retained and the trip still be considered scientific research. Because the impacts of the new rule on the RSA program were not certain at the meeting, NMFS agreed to report back to the Committee on what impacts the rule has on the RSA program and what changes it really makes.

Review of final projections for FY2010 based on survey results from 2009

The Committee got an update from the PDT about the recent SSC meeting when the ABC control rule and ABC for 2010 were reviewed. The SSC asked for an evaluation of uncertainty around Fmax. Monte-Carlo simulations were used to determine the distribution around the model parameters. These distributions were used to model Fmax in both the Mid Atlantic and Georges Bank. The probability of overfishing was plotted alongside the fraction loss of YPR to search for a best risk scenario. The PDT recommended an ABC F for which 1) the probability of overfishing is equal to 0.25, or 2) the F where the expected loss of YPR is 1%, whichever is less. The SSC supported use of only criterion 1). The SSC also set ABC for 2010: 25613 metric tons, with 3363 mt ABC discards, and a total ABC of 28975 (total breaks down to 18983 MA and 9992 GB).

It was explained that the actual landings at a given F is dependent on the spatial distribution of F, so calculation of ABC involved the assumption that F will be spatially uniform in both regions, but that the Mid Atlantic will be fished harder than Georges Bank as consistent with the recent pattern (excluding 2006). This spatial component of the fishery argues that Ftarget should be set lower because the model assumes that fishing is uniform.

Next the Committee revisited the management uncertainty discussion related to whether the LA buffer for uncertainty should be based on a % probability of exceeding ABC, similar to the

approach approved by the SSC for setting ABC. A member of the Committee stated that using a probabilistic approach for ABC makes sense because it provides a clean solution for an ABC control rule accounting for scientific uncertainty. However, for management uncertainty a similar approach does not seem as appropriate because the SAMS output includes more than management uncertainty. The PDT does recommend that the 0.04 standard deviation value be changed to 0.06 because SAMS was not capturing everything. For now the Committee agreed to leave this probabilistic approach in the documents, but requested that the PDT develop a second LA buffer based primarily on the uncertainty in open area catch since that has been identified as the primary source of management uncertainty for the LA fishery.

The question was brought up of whether we need an ACT control rule. The ACT is determined in the spec package and we should not box ourselves in, the Committee did not include a specific ACT control rule – it is not required.

Motion 14: Robins/Cunningham
Include two options for identifying management uncertainty for the LA fishery:
1) Set LA ACT at F with 25% probability of exceeding LA portion of total ACL (after removing incidental catch, general category ACL and set-asides from the overall ACL=ABC) and;
2) Identify a specific buffer based on results of new analyses of:
A) variability in estimate of LPUE, or
B) projected LPUE compared to actual LPUE estimates from open area DAS.
A member of the audience asked how the proposed scenario prevents the possibility of underfishing. This was a statement for no big buffer between ACT and ACL.
Motion carries 8:0:0.

As for the GC fishery, SAMS does not separate out the two fisheries, but it could be done (at 5% allocation). One source of uncertainty related to impacts on F from the GC fishery could be based on assumptions of when GC vessels fish. If they fish when meat weights are poor, which creates uncertainty in F for that sector, impacts on F could be more even though the fishery stayed within its allocation. Ultimately, the Committee discussed including 2 options for management uncertainty for the GC sector: 1) no buffer (0%, ACL = ACT) and 2) some amount other than zero to address compliance considerations and other implementation error. This was amended to be 5%. Another Committee member was concerned that there was no scientific basis for the 5% value, and he would feel better if that value was more of a range. Another Committee member finds the cheating assumption built into this % offensive and feels it has the possibility to encourage overages. He wants to be clear that this buffer is not based on an assumed level of cheating.

A member of the audience that is a general category fisherman feels that the second option should be removed because enforcement makes fishermen pay enough and there is no need for an additional penalty across the fleet.

A Committee member suggested that we add a possibility of IFQ carryover as a source of uncertainty to option 2) above. This was accepted and the following motion passed.

Motion 15: Robins/Avila
Include 2 options for the LAGC buffer for setting the LAGC ACT:

1) zero buffer (LAGC ACL = LAGC ACT);
2) up to 5% to account for potential monitoring concerns, IFQ carryover provision and other implementation error

Vote: 7:0:1, motion carries

Overview of FW21 Alternatives

Final action on this Framework is slated for November. This is a one-year action to set specifications for just 2010, including RPM required in the recent turtle biological opinion, area rotation adjustments including consideration of a new scallop access area in the Great South Channel, and other measures including minor adjustments to the observer set-aside program.

Alternatives are given for no action under the current rotation scheme, no action if IFQ program is not fully implemented before March 1, 2010, and measures that will be in effect March 1, 2010 until FW21 is implemented.

A full trip in NLCA is the preferred alternative. The PDT has also suggested three other alternatives if the scallop fishery is not allocated enough yellowtail for a full trip in NLCA. These all involve splitting a trip between NLCA and either CAI or CAII.

The RPM states that NMFS must limit the amount of allocated scallop effort by LA scallop vessels that can be used in the area and during the time of year when sea turtle distribution overlaps with scallop fishing activity. Restrictions on fishing effort shall be limited to a level that will not result in more than a minor impact on the fishery. Four alternatives have been developed by the PDT to approach the need for an effort reduction. These are restricting open area DAS during the "turtle window" timeframe (four options varying area and time), restricting access area trips in MA during the "turtle window" timeframe, considering a Delmarva closure, and reducing possession limits in ETA and/or Delmarva to reduce fishing time. These alternatives all need to be analyzed in regards to the effort shifts that will occur to determine whether they will cause a more than minor impact on the fishery.

The observer set-aside improvements include prohibiting vessels from not paying for observers and limiting the amount of observer compensation general category vessels can get per observed trip in access areas to prevent a three-day compensation loophole (1600 lbs). This is a source of going through observer set-aside too quickly and "overpaying" for observer coverage. The PDT suggested limiting it to two days' worth of compensation as a rule.

Review of Survey Results from 2009

The NMFS survey took place aboard R/V Hugh Sharp for the second year in a row, with the HabCam deployed on the 3rd leg of the cruise. Biomass was observed to be less concentrated than in recent years with a reduction of biomass in ET but increases elsewhere in MA and in open areas in both regions. Strong recruitment was seen on Georges Bank, especially in the South Channel, Northern Edge, and the Southeast portion of CAII. Recruitment was poor in the Mid Atlantic compared to recent years.

The updated CASA model used the same assumptions as the SARC-45 model, and added data updates from the 2009 surveys, estimated 2009 landings, and the most recent observer data through 2008. F was estimated at 0.42 in the Mid Atlantic, and 0.18 on Georges Bank. Looking at the biomass at shell height estimated by the model, exploitable biomass in the MA is high but truncated, and GB exploitable biomass is lower but two large year classes have yet to enter the fishery. The low recruitment shown in the MA should make us cautionary. High F in MA can be reduced in 2010 by reducing the number of ET trips from 3 to 2 and reducing the allocation to the GC fishery from 10% to 5%.

Framework 21 Projections

Four alternatives were given as follows:
1) No closure, F = 0.20 (status quo)
2) No closure, F = 0.24
3) S. Channel closure, F = 0.20
4) S. Channel closure, F = 0.18

The two no closure alternatives give higher landings initially, but they are surpassed by the closure alternatives within three years. The alternative with 0.24 without a closure results in localized overfishing, particularly in the area of the proposed closure. The highest long-term landings are in the closure scenario with an F of 0.18, the highest 2010 landings are in the closure F = 0.20 alternative. Overall, both closure alternatives produce roughly 3 million additional pounds from the Channel long-term if closed, compared to if the area is left open.

There are adult scallops in the proposed closure area in large numbers. The SAMS forecasting model is spatial in nature and assumes that the effort is proportional to the exploitable biomass.

A member of the audience is concerned that if we make management scenarios based on yellowtail flounder it will be the "tail wagging the dog" instead of basing alternatives on scallop abundance. Another audience member wanted to know why if yellowtail numbers are so high why can't more be harvested, something seems off? One suggested that if an access area closes because of bycatch, effort should not move to open areas as it is set up now, trips should be sent to CAII, especially if there is resource available in that area.

The Committee wants the PDT to continue development of the existing alternatives presented and the PDT will continue analyses of FW21 alternatives and update the committee at a later date.

Discussion of YT sub-ACL

Staff updated the Committee on progress the GF and Scallop PDTs have made in estimating YT catch needed in the scallop fishery for 2012-2012, which will have to be included in the upcoming GF specification package. The working analysis is to project the amount of metric tons scallop catch in the coming years, and apply a discard: kept ratio from observer data to that number to determine how much yellowtail bycatch is needed for the fishery. Projected yellowtail ABCs are known and SSC-approved, and a large cut has been made in GB allocation for 2010. Numbers should be presented to the Council at the September meeting.

A Committee member voiced disappointment in not being able to separate yellowtail and scallop fisheries in space or time to solve some of these problems.

A member of the audience brought up concern for bycatch of other species and whether or not the addition of other species is frameworkable. A primary FMP must identify the problem and the need for a sub-ACL, new measures could be developed by framework. NS1 guidelines say that the primary FMP should identify the problem, and the secondary FMP needs to work within the objectives of the primary FMP. For example, in the fluke plan bycatch is accounted for before ACL set for the fluke fishery so a sub-ACL for the scallop fishery is not necessary – it is not an allocation issue, it is accounted for off the top.

A member of the audience that represents an observer provider commented on the observer non-pay issue under consideration in FW21 (Section 2.8.1). He asks for government support in preventing vessels from not paying for observers by prohibiting vessels that have not paid from fishing. He supports inclusion of the alternative in FW21.

Other Business

A member of the audience asked if adding additional species with sub-ACLs could be included later. The Committee responded that primary FMPs identify if sub-ACLs are required. It was also asked if AMs could be frameworkable and the answer is yes.

A member of the audience spoke about GC leasing only in full amounts and requested the Committee consider adding to A15 or FW21 that GC vessels should be able to lease IFQ in smaller units.

A member of the audience suggested giving YT ACL to individuals or smaller fleets to make fishermen responsible. This would prevent the entire fleet from paying for irresponsible fishing, i.e. boats fishing in areas known to have high YT bycatch. This was called “a yellowtail sector for scallopers.”