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1.0 DESCRIPTION OF ALTERNATIVES UNDER CONSIDERATION

1.1 MEASURES TO CONTROL CAPACITY AND MORTALITY IN THE GENERAL CATEGORY SCALLOP FISHERY (GOAL #1)

1.1.1 No Action

Under this alternative the general category fishery would remain an open access fishery. No changes to the current permit system for the general category scallop fishery would be implemented under this alternative.

[This measure was not supported by either of the advisory panels or most of the scoping comments].

1.1.2 Limited Entry (Objective #2)

In order to fish under general category rules a vessel would have to qualify for a limited access general category permit. All other vessels that do not qualify would be permitted to fish for scallops under incidental catch rules (See Section 1.1.8). The Committee recommends two qualification criteria alternatives, two qualification time periods, three ways to calculate an allocation amount, and four overall strategies for allocating access to vessels that qualify for a permit.

[Both advisory panels support limited entry, as well as most of the scoping comments].

Rationale: This alternative is consistent with the primary goal of this amendment to control capacity and mortality in the general category scallop fishery, as well as Objective #2 to establish criteria to qualify a number of vessels for a limited entry general category permit.

1.1.2.1 Qualification criteria alternatives

The Committee recommends that two qualification criteria alternatives be considered. Both alternatives include having a general category scallop permit before the control date and some level of historical landings criteria. If a vessel meets the criteria selected from this section, and its landings are during the qualification time period selected in Section 1.1.2.2, then it will be considered for a limited access general category permit. If a vessel does not meet the criteria selected in this section, it can get an incidental scallop permit and land/possess scallops under the restrictions of that permit (Section 1.1.8).

1.1.2.1.1 Permit before the control date and landings of 100 pounds or more on any one trip during the qualification time period

In order to qualify under this alternative a vessel would have to have had a permit before the control date (November 1, 2004) and landed at least one trip with 100 pounds or more of scallops (in meat weight). This poundage was selected as an amount that would be above an incidental level of scallop catch while fishing for most other species. A vessel would qualify for a limited access permit if it had a permit before the control date and at least one trip of 100 pounds of scallops or more during the qualification time period selected in Section 1.1.2.2.

[The General Category scallop AP supports this alternative].

1.1.2.1.2 Permit before the control date and annual landings of 1,000 pounds in one or

more years during the qualification time period

In order to qualify under this alternative a vessel would have to have had a permit before the control date (November 1, 2004) and landed at least 1,000 pounds of scallops (in meat weight) during one fishing year. This poundage was selected as an amount that would be above an annual level of incidental scallop catch while fishing for most other species. A vessel would qualify for a limited access general category permit if it had a permit before the control date and could prove scallop landings above 1,000 pounds in any one year during the qualification time period selected in Section 1.1.2.2.

[The Scallop Committee recommended adding this alternative for consideration].

1.1.2.2 Qualification time period alternatives

In addition to the qualification criteria described above, a vessel has to meet the landings criteria during one of the two qualification time period alternatives described below.

1.1.2.2.1 Historical landings from March 1, 2003 through November 1, 2004

In order to qualify for a permit, a vessel would have to meet the landings criteria during scallop fishing year 2003 or scallop fishing year 2004 (but only through the control date, March 1, 2004 through November 1, 2004). The Committee recommends this time period as an alternative that would consider recent participants in the fishery. This time period would include more recent investment and dependence on the fishery. The Committee recommends that the last fishing year not extend past the control date, so a vessel would have to have had landings during the first eight months of the scallop fishing year. It was discussed that the qualification time period should be consistent with the control date.

[The Scallop Committee recommended adding this alternative for consideration]

1.1.2.2.2 Historical landings from March 1, 2000 through November 1, 2004

In order to qualify for a permit, a vessel would have to meet the landings criteria during scallop fishing year 2000, 2001, 2002, 2003 or the first eight months of scallop fishing year 2004 (March 1, 2004 through November 1, 2004). The Committee recommends this time period as an alternative that would consider more historic activity as well as recent activity in the fishery. This time period would include vessels that may have fished several years ago, but not in the last two years as the alternative above. The Committee recommends that the last fishing year not extend past the control date, so a vessel would have to have had landings during the first eight months of the scallop fishing year. It was discussed that the qualification time period should be consistent with the control date.

[The general category scallop AP supports this alternative]

1.1.2.3 Determination of qualification amount

Once the universe of vessels is identified based on the qualification criteria and time period described above, there are several alternatives for determining a final qualification amount for each vessel. The Committee recommends three approaches be considered, one that uses a vessels best year during the qualification time period, one that averages a vessels three best years, and one approach that applies a weighted factor to a vessels landings, favoring activity from more recent years. It is understood that once each vessels qualification amount is determined, their actual allocation will be scaled up or down depending on what overall allocation is selected for the general category sector. For example, if the qualification amount

determined for the entire fleet is below the amount the Council decides to allocate that sector, all allocations will be scaled up to equal to final allocation for the general category sector. Conversely, when the individual qualification amounts are added together and if they exceed the total allocation for the general category sector, individual allocation will be scaled down. Furthermore, since projected yield from the scallop fishery will vary, individual or tiered allocations will vary to match the percent allocated to the general category sector. The percent of the total projected yield will remain constant, but actual poundage will vary.

1.1.2.3.1 Allocation based on best year

A vessels qualification would be based on scallop landings from its “best year” during the qualification time period. If a vessels best year is the eight months of 2004, which will count as a full fishing year; landings will not be pro-rated for a full fishing year. Keep in mind that the qualification amount per vessel may not actually be the amount a vessel is allocated. The allocation will be scaled up or down annually depending on the projected yield of the scallop resource and the overall allocation percent the Council selects for the general category fishery.

1.1.2.3.2 Allocation based on average of best three years

A vessels qualification would be based on an average of their best three fishing years. Keep in mind that the qualification amount per vessel may not actually be the amount a vessel is allocated. The allocation will be scaled up or down annually depending on the projected yield of the scallop resource and the overall allocation percent the Council selects for the general category fishery.

?? [When incorporating this alternative with the qualification time period alternative 1.1.2.2.1 (March 1, 2003 through November 1, 2004), should this alternative average just the two years, or should this alternative only be coupled with the qualification time period alternative that uses five fishing years?]

1.1.2.3.3 Allocation based on weighting of historical annual landings

A vessels qualification would be weighted; lower weights for earlier years and higher weights for more recent years. Annual landings would be determined for each vessel, and each annual total would be multiplied by a weighting factor; for example, 1.0 for 2004 landings, 0.9 for 2003, 0.8 for 2002 etc. The average of the weighted totals for each year would be a vessels final qualification amount. Keep in mind that the qualification amount per vessel may not actually be the amount a vessel is allocated. The allocation will be scaled up or down annually depending on the projected yield of the scallop resource and the overall allocation percent the Council selects for the general category fishery.

1.1.2.4 Allocation of access for general category limited access qualifiers

Once the universe of vessels is identified, and their individual qualification is determined based on alternatives in Sections 1.1.2.1, 1.1.2.2, and 1.1.2.3, the Committee recommends several alternatives for allocation. The first system is an individual fishing quota; an individual amount in pounds would be awarded to individuals vessels that qualify. The second system would also be an individual allocation, but there would be two permit types (part-time and full-time). The part-time permit would have a reduced possession limit of 200 pounds, and the full-time permit category would have a possession limit of 400 pounds. The third alternative is a tiered permit

system; all vessels that qualify for each tier would receive an equal allocation in pounds, all with a 400 pound possession limit. A fourth stand alone alternative was developed, which is also an individual fishing quota system, but all vessels that had a permit before the control date would be given a permit, not just vessels that had landings during the qualification time period. However, a permit that did not have landings history would not be allocated specific access to the fishery, but would be permitted to lease or buy quota from another vessel.

1.1.2.4.1 Individual fishing quota for all qualifiers

Every vessel that qualifies for a permit based on the qualification criteria, time period, and determination approach would be allocated an individual fishing quota in pounds. The allocation would be scaled depending on estimated projected yield and the percent that is allocated to the general category sector in this action. It is possible that all qualifiers could receive a different amount; **the Committee has not discussed if these allocations would be rounded up or down.**

If this strategy is adopted there are twelve different alternatives that would result in a final calculation of individual qualification amounts. For example, since there are two qualification criterion, two qualification time period alternatives, and three ways to calculate a vessels qualification, there are twelve possible outcomes. The end result between the various combinations of alternatives is not that different.

Table 1 describes the estimated number of vessels and total qualification pounds for the different scenarios.

Table 1 – Summary of potential alternatives for qualification under individual fishing quota allocation strategy

(see packet of preliminary data handed out at Council meeting)

1.1.2.4.2 Individual fishing quota for two permit types (part-time and full-time)

Every vessel that qualifies for a permit based on the qualification criteria, time period, and determination approach would be allocated an individual fishing quota in pounds. The major difference between this alternative and the previous one is that under this alternative there would be two permit types. A vessel would qualify for a full-time permit if they had landings of 5,000 pounds or more in one fishing year during the qualification time period. If a vessel qualified for this permit they would be allocated an individual quota and would be permitted to catch that amount in as many trips as they want with a maximum possession limit of 400 pounds. Another permit type would exist for vessels that meet the criteria to get a limited access permit, but have not had more than 5,000 pounds of scallops in one year. These vessels would get a part-time permit and would be allocated an individual poundage of scallops based on their historical activity, but would be restricted to a 200 pound possession limit. Again, these vessels could land as much as they want on any one trip, but not in excess of 200 pounds.

The final allocation to all vessels in either category would be scaled depending on estimated projected yield and the percent that is allocated to the general category sector in this action. It is possible that all qualifiers could receive a different amount; **the Committee has not discussed if these allocations would be rounded up or down.**

If this strategy is adopted there are twelve different alternatives that would result in a final calculation of individual qualification amounts. For example, since there are two qualification criterion, two qualification time period alternatives, and three ways to calculate a vessels qualification, there are twelve possible outcomes. The end result between the various combinations of alternatives is not that different. Table X describes the estimated number of vessels and total qualification pounds for the different scenarios.

Table 2 – Summary of potential alternatives for qualification under individual fishing quota for two permit types

(see packet of preliminary data handed out at Council meeting)

1.1.2.4.3 Individual fishing quota – equal allocation for three tiered permits

Every vessel that qualifies for a permit based on the qualification criteria, time period, and determination approach would be allocated access to the fishery, but their allocation would be based on a tiered permit system. A tiered permit system would be developed based on annual landings from the qualification time period for vessels that had a permit before the control date. In order to qualify for a certain tier a vessel would have to show landings within that tier for one year only during the qualification time period. Three tiers would be considered:

- Tier 1: 20,000 pounds and/or 65 trips;
- Tier 2: 5,000 – 19,999 pounds and/or 30-64 trips;
- Tier 3: 100 – 4,999 pounds and/or under 30 trips

Each vessel that qualifies for a certain tier would get an equal allocation. That allocation would be based on the average pounds per vessel in the tier, but scaled, depending on estimated of projected yield and the percent that is allocated to the general category sector in this action. The percent of the total general category allocation that each tier would receive would depend on their historical share of total general category landings.

[The PDT reviewed this alternative after the Committee meeting and suggests that the Council not approve an alternative that incorporates both landings and number of trips. Combining the two approaches complicates the analysis and adding in the trip provision may not make it more equitable anyway. The Council should consider removing trips all together, or use trips in a separate alternative].

1.1.2.4.4 Individual fishing quota – stand alone alternative

The Scallop Committee developed a stand alone qualification and allocation alternative. The intent of this alternative is to award a limited access general category permit to all vessels that had a general category permit from fishing year 2000 through the control date, regardless of landings history. However, specific access to the fishery would be based on historical landings, but if a vessels did not fish and did not land scallops during the qualification time period would be given a permit and the right to lease or purchase quota from another qualifying vessel. The specifics of the alternative are described in the bullets below:

- Any vessel that held a general category permit in any year between 2000 and the control date (November 1, 2004) would qualify for a limited access general category permit.
- Quota would be allocated on an individual basis using any of the three qualification amount strategies (best year, average of best three years, and weighted historical landings method).
- Quota may be leased or sold to another qualified limited access general category permit
- Consolidation will be capped at (1%-5%) of quota (in pounds) per vessel
- Retaining a 400 pound possession limit for all vessels that qualify

This alternative only has three variations depending on how individual qualification amounts are determined (best year, average of best three years or weighted historical landings method).

1.1.2.5 Limited entry permit provisions

This amendment will consider measures to govern activities such as vessel sales, limited access permit transfers, permit splitting, changes to vessel size, and establishment of vessel baselines to evaluate changes to vessel size. These measures would apply to all general category permits that qualify for limited access. Unless noted, the provisions under consideration in this section are consistent with those in other limited access fisheries in the Northeast region.

During the 1990s, a number of limited access programs were developed in the Northeast region to address the unrestricted growth in the number of commercial vessels fishing for several species. These programs were developed over a period of years, and a variety of approaches were chosen to address important activities such as vessel sales, limited access permit transfers, permit splitting, vessel size and horsepower upgrades, ownership restrictions and the establishment of vessel baseline specifications. Therefore, in 1998, NMFS and the Councils developed a set of amendments to these management programs to establish a consistent approach to these activities in all of the limited access programs. This action, known as the Consistency Amendment, established a single set of regulations in 1999 to standardize the administration of the limited access permit programs. It is understood that this action (Amendment 11) will be consistent with the Consistency Amendment unless noted in this section.

1.1.2.5.1 Fishing History and Permit Transfers

Initial Eligibility: Consistent with other limited access programs established by the Council, initial eligibility for a general category scallop limited access permit must be established during the first year after the implementation of Amendment 11. In other words, the general category scallop limited access permits may not be applied for more than twelve months following the effective date of the final regulations for this action.

To prove that a vessel is eligible for the general category scallop limited access program under any landings criteria established through Amendment 11, applicants would have to submit third-party verification of landings history, such as dealer receipts. During the appeal process, if there is controversy over qualification, the Council recommends that NMFS apply/incorporate VTR data with dealer data for qualification purposes.

The owner of a qualifying vessel that has sunk, been destroyed, or been transferred to another person without the general category scallop fishing history but not yet replaced, would be required to apply for a Confirmation of Permit History (CPH) within the first year after the implementation of Amendment 11.

Confirmation of permit history (CPH) for initial general category scallop limited access permit qualification: A vessel that sank or was destroyed can meet the “control date” eligibility requirement for a general category scallop limited access permit if it possessed a Federal general category scallop permit before November 1, 2004 (in at least one year during the qualification time period selected). Similarly, an individual who sold a vessel that possessed a Federal general category scallop permit before November 1, 2004, but who retained the general category scallop history through a written agreement signed by both parties in the vessel sale or transfer, can meet the “control date” eligibility requirement for a limited access permit. See Section 1.1.2.5.7 for more discussion of CPH provisions.

The Consistency Amendment established a restriction that any fishing and permit history is presumed to transfer with a vessel at the time it is bought, sold or otherwise transferred from one owner to another, unless it is retained through a written agreement signed by both parties in the vessel sale or transfer. Amendment 11 would maintain this restriction established in the Consistency Amendment. The Scallop Committee recommends the addition of one alternative related to fishing history and permit transfers described below.

1.1.2.5.1.1 One vessel potentially qualifying two permits

This alternative would permit one vessel to qualify two limited access general category permits if the following applies: *If a vessel owner that sells his permits to another vessel, but retains the general category scallop history on the purchase and sales agreement, the “seller” should be able to qualify for a permit. The “buyer” cannot qualify under that history; however, if the buyer qualifies under its own landings after the sale but during the qualification period the buyer could be granted a permit as well.*

Other than this scenario, or unless the Regional Administrator determines otherwise, no more than one vessel may qualify, at any one time, for a limited access permit or CPH based on that or another vessel’s fishing and permit history. If more than one vessel owner claims eligibility for a limited access permit or CPH, based on one vessel’s fishing and permit history, the Regional Administrator will determine who is entitled to qualify for the permit or CPH.

Appeals of denial of permit: An appeals procedure will be developed similar to that established for previous limited access programs. An applicant who has been denied a general category scallop limited access permit may appeal in writing to the Regional Administrator within 30 days of the denial. Any such appeal must be based on the grounds that the information used by the Regional Administrator was based on incorrect data, must be in writing, and must state the grounds for the appeal.

Appeal review. The Regional Administrator will appoint a designee who will make the initial decision on the appeal. The appellant may request a review of the initial decision by the Regional Administrator by so requesting in writing within 30 days of the notice of the initial

decision. If the appellant does not request a review of the initial decision within 30 days, the initial decision is the final administrative action of the Department of Commerce. Such review will be conducted by a hearing officer appointed by the Regional Administrator. The hearing officer shall make findings and a recommendation to the Regional Administrator, which shall be advisory only. Upon receiving the findings and the recommendation, the Regional Administrator will issue a final decision on the appeal. The Regional Administrator's decision is the final administrative action of the Department of Commerce.

Status of vessels pending appeal: A vessel denied a general category scallop limited access permit may fish for scallops, provided that the denial has been appealed, the appeal is pending, and the vessel has on board a letter from the Regional Administrator authorizing the vessel to fish under general category scallop limited access restrictions. The Regional Administrator will issue such a letter for the pendency of any appeal. Any such decision is the final administrative action of the Department of Commerce on allowable fishing activity, pending a final decision on the appeal. The letter of authorization must be carried on board the vessel. If the appeal is finally denied, the Regional Administrator shall send a notice of final denial to the vessel owner; the authorizing letter becomes invalid 5 days after receipt of the notice of denial.

1.1.2.5.2 Vessel Upgrades

1.1.2.5.2.1 Option 1 (no upgrade restriction)

There would be no vessel upgrade restrictions. A vessel that qualifies for a limited access general category permit can replace their vessel to any size, or refit their vessel without any horsepower, gross tonnage or length restrictions. It is understood that if this alternative is selected, but a vessel is under another FMP with a vessel upgrade restriction, those restrictions would still apply.

[This option was preferred by the General Category Scallop advisory panel.

[However, it was pointed out at the PDT meeting that it may be beneficial to make this permit consistent with all other limited access permits as much as possible, and all other programs have an upgrade restriction].

1.1.2.5.2.2 Option 2 (10:10:20 upgrade restriction)

A vessel may be upgraded, whether through refitting or replacement, and be eligible to retain or renew a general category scallop limited access permit, only if the upgrade complies with the following:

- (1) The vessel's horsepower may be increased only once, whether through refitting or replacement. Such an increase may not exceed **20 percent** of the horsepower of the vessel's baseline specifications, as applicable.
- (2) The vessel's length, GRT, and NT may be increased only once, whether through refitting or replacement. Any increase in any of these three specifications of vessel size may not exceed **10 percent** of the vessel's baseline specifications, as applicable. If any of these three specifications is increased, any increase in the other two must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade.

[This option was preferred by the Scallop advisory panel; it is the same vessel upgrade restrictions that are in effect for the limited access scallop fleet].

1.1.2.5.2.1 Establishing Vessel Baselines

If an upgrade restriction is adopted, the establishing a vessel baseline would be necessary. A vessel's baseline refers to those specifications (Length Overall, Gross Registered Tons, Net Tons, and Horsepower) from which any future vessel size change is measured. Consistent with the other limited access programs that established baselines at the time they were initially implemented, the vessel baseline specifications for vessels that qualify for a limited access general category permit will be the specifications of the vessel that was initially issued a limited access permit as of the date that the initial vessel applied for such permit. If vessel upgrades are not implemented under this action, this measure is not as relevant.

1.1.2.5.3 Vessel Replacements

The term *vessel replacement*, in general, refers to replacing an existing limited access vessel with another vessel. In addition to addressing increases in vessel size and horsepower, the consistency amendment also established a restriction that requires that the same entity must own both the limited access vessel (or fishing history) that is being replaced, and the replacement vessel. In order to maintain consistency with the other regional limited access programs, this provision will be adopted for the general category scallop limited access program.

1.1.2.5.4 Stacking of Permits

The Scallop Committee recommends considering two alternatives for “stacking” or allowing vessels to consolidate access privileges on one vessel (in pounds or trips). It was assumed that the 400 pound possession limit would still be in effect even if stacking is approved unless Alternative 1.1.3 is approved (alternative to modify the possession limit restriction).

1.1.2.5.4.1 Allow stacking limited to two permits

A vessel that qualifies for more than one limited access general category permit, or leases/purchases additional quota (if permitted in this action) would be permitted to stack their allocation onto one vessel. For example, if an individual currently owns two vessels and both qualify for a general category permit, that individual would be permitted to stack their access privileges onto one vessel to save operation costs. This alternative is not specific to permit type or amount of quota. So conceivably, two permits with the largest allocation could be stacked, and two permits with the smallest allocation could be stacked.

1.1.2.5.4.2 Allow stacking up to 60,000 pounds or 150 trips per vessel

This alternative would allow a vessel to stack up to 60,000 pounds or 150 trips (depending on how access is allocated) onto one vessel. This amount was identified as a “full-time” amount of general category scallop landings or number of trips on an annual basis. Therefore, if an individual has three vessels that qualify; Vessel A with 20,000 pounds, Vessel B with 30,000 and Vessel C with 40,000 pounds; that vessel could stack the quota from Vessel A and B, Vessel A and C, but not Vessel B and C because it would be in excess of 60,000 pounds.

1.1.2.5.5 Voluntary Relinquishment of Eligibility

The consistency amendment included a provision to provide a mechanism for a vessel owner to voluntarily exit a limited access fishery. In some circumstances, it could allow vessel owners to choose between different permits with different restrictions without being bound by the more restrictive requirement (e.g., lobster permit holders may choose to relinquish their other northeast region limited access permits to avoid being subject to the reporting requirements associated with those other permits). If a vessel's limited access permit history for the general category scallop fishery is voluntarily relinquished to the Regional Administrator, no limited access permit for that fishery may be reissued or renewed based on that vessel's history or to any other vessel relying on that vessel's history.

1.1.2.5.6 Permit Splitting

The consistency amendment established a measure that requires limited access permits issued to a vessel to stay together with the vessel as a "package." They may not be split apart and distributed among other vessels by making a vessel replacement because that would increase overall fleet capacity. Therefore, all limited access permits must be treated as a "package" for the purposes of vessel replacement, or for the purposes of limited access permit retention when a vessel is sold or transferred. The general category scallop limited access program will adopt this restriction upon implementation of Amendment 11; therefore, a vessel could not sell a limited access general category permit separately from other limited access permits the vessel may have.

1.1.2.5.7 Permit Renewals and Confirmation of Permit History (CPH)

Continued Eligibility: This section refers to permit renewals and CPH once a vessel qualifies for a limited access general category permit. A vessel owner must maintain the limited access permit status for an eligible vessel by renewing the permits on an annual basis or applying for issuance of a CPH. A CPH is issued to a person who does not currently own a fishing vessel, but who has legally retained the fishing and permit history of the vessel for the purpose of transferring it to a replacement vessel at a future date. Annual renewal is considered important in establishing participants who have an active interest in maintaining their ability to participate in a limited access fishery, and conversely allowing permits to lapse and be cancelled for those who do not. The CPH is important in this regard because it provides a benefit to a vessel owner by securing a vessel history through a registration system.

Therefore, to be eligible to receive a general category scallop limited access permit, a vessel must have been issued a general category limited access permit in the preceding year, be replacing a vessel that was issued a general category scallop limited access permit for the preceding year, or be replacing a vessel that was issued a confirmation of permit history (CPH – see below). If a vessel's limited access permit history is cancelled through failure to renew or otherwise, no limited access permit for that fishery may be reissued or renewed based on that vessel's history or to any other vessel relying on that vessel's history.

All general category scallop limited access permits would be issued on an annual basis by the last day of the fishing year for which the permit is required, unless a CPH has been issued (see below). Application for such permits must be received no later than 30 days before the last day of the fishing year.

Confirmation of permit history (CPH): A person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person, must apply for and receive a CPH if the fishing and permit history of such vessel has been retained lawfully by the applicant. To be eligible to obtain a CPH, the applicant must show that the qualifying vessel meets the eligibility requirements for the general category scallop limited access permit in question. Issuance of a valid CPH preserves the eligibility of the applicant to apply for a limited access permit for a replacement vessel based on the qualifying vessel's fishing and permit history at a subsequent time. If fishing privileges have been assigned or allocated previously under this part, based on the qualifying vessel's fishing and permit history, the CPH also preserves such fishing privileges. A CPH must be applied for in order for the applicant to preserve the fishing rights and limited access eligibility of the qualifying vessel.

An application for a CPH must be received by the Regional Administrator no later than 30 days prior to the end of the first full fishing year in which a vessel permit cannot be issued. Failure to do so is considered abandonment of the permit. A CPH will remain valid until the fishing and permit history preserved by the CPH is used to qualify a replacement vessel for a limited access permit. Any decision regarding the issuance of a CPH for a qualifying vessel that has applied for or been issued previously a limited access permit is a final agency action subject to judicial review. Information requirements for the CPH application are the same as those for a limited access permit. Vessel permit applicants who have been issued a CPH and who wish to obtain a vessel permit for a replacement vessel based upon the previous vessel history may do so pursuant the relevant upgrade restrictions.

1.1.2.5.8 Percentage Ownership Restriction

1.1.2.5.8.1 Maximum of 1-5% of total number of permits

The Scallop Committee recommends that this alternative be considered. It is not clear yet what percentage of permits is appropriate because the number of permits that are likely to qualify is unknown. This alternative would establish some maximum that would be determined later based on the number of permits that are allocated. If different permit types are implemented (part-time/full-time or different tiers) this alternative assumes that all permits are equal. For example, a vessel could only own 1-5% of all permit types (that could include only full-time permits or a combination, etc.).

1.1.2.6 Measures to reduce incentive for limited entry qualifiers to fish for scallops with a net

1.1.2.6.1.1 Prohibit a vessel from switching to net gear if it qualified under dredge gear

If a vessel qualifies for a limited access general category permit while using dredge gear, it would be prohibited from switching to net gear. Likewise, this permit would not be able to be sold to a vessel that plans to catch scallops with net gear. Once a permit is given to a vessel that qualified using dredge gear that access to the fishery would be restricted to dredge gear only.

1.1.2.6.1.2 Prohibit the use of nets in the general category fishery, with an exception for vessels on a multispecies DAS

This alternative would prevent all limited access general category qualifiers from landings scallops with a net. However, there would be an exception for vessels fishing under a multispecies DAS. It was raised during scoping that there is a component of the general category fishery that lands scallops while on a multispecies DAS and those vessels should be able to continue that activity, and have scallop landings as a component of overall catch with net gear. Since multispecies DAS are limited, the amount of fishing for scallops with nets in the multispecies fishery is not expected to be substantial.

[Both advisory panels support this alternative].

1.1.2.6.1.3 Lower possession limit for vessels that target scallops using a net

This alternative would reduce the incentive to fish for scallops using a net, but provide some level of landings to reduce scallop bycatch for vessels that fish with a net for other species and catch scallops incidentally. The Scallop Committee recommends that the Scallop PDT review available data and provide what the “lower possession limit” should be, i.e. 200 pounds.

[The Scallop PDT reviewed this alternative and thinks there is some data that could be analyzed to determine a lower possession limit for net fisheries. However, some PDT members noted that it would be complex to develop a reduced possession limit for each net fishery because of equity and enforcement concerns. Furthermore, it was noted that it is sometimes difficult to identify when a vessel is “in” a particular fishery].

1.1.2.6.1.4 Lower possession limit for net fisheries other than under a multispecies DAS

For any net fishery (i.e. fishing on a limited access regulated species) not operating under a DAS, a vessel that qualifies for a limited access general category permit may use a net and land up to 200 pounds per trip, even if their permit allows them to land up to 400 pounds. This provision would not allow a vessel to land more scallops than it would be permitted to under its limited access general category permit. This alternative is similar to Section 1.1.2.6.1.3, with an exception for vessels fishing under a multispecies DAS. These vessels would not be restricted to the lower possession limit.

1.1.2.7 Sectors and Harvesting Cooperatives

1.1.2.7.1 No Action

A process for future sector allocations in the general category scallop fishery would not be established in Amendment 11.

1.1.2.7.2 Establish a process for sectors in the general category scallop fishery

This alternative would establish a process for the creation of fishing “sectors” and the allocation of TAC shares to the sectors. Groups may be formed around common fishing practices, common homeport or landing port, common fishing area, common marketing arrangements, etc. This section provides details on eligibility criteria, operations plan elements, monitoring and enforcement of sectors, allocation rules, and other related issues. How the sector chooses to

harvest its allocation could include a wide range of arrangements, including, but not limited to, a plan that simply sub-divides the TAC or a measure of effort among the vessels.

The purpose of establishing this process is to allow greater opportunities for fishery participants to proactively engage in resource governance, to provide greater flexibility for participants, to guide the appropriate development of capacity, and, last, to create outcomes that are more socially and economically relevant for fishing groups within the biological limitations of the fishery (TACs).

1.1.2.7.3 Participation

Only vessels with limited access general category permits are eligible to form sectors. Sectors are self-selecting, meaning that participation in a sector is voluntary, and that a set of mutually agreed upon vessels are eligible to participate. Any interested group that meets the eligibility criteria can submit a proposal for a sector. To initiate the process of sector creation, a group (two or more) of permit holders must agree to cooperate and submit a binding plan for management of that sector's allocation of TAC. Vessels electing to enter a sector are expected to cooperate and decide how to manage the allocation. Vessels that do not choose to participate in a sector will remain in the competitive "common pool" fishery and will fish under the un-allocated TAC(s).

Participation by non-limited access general category vessels in the sector is subject to approval by the Council as part of the action that implements the sector allocation, provided the details of such participation are specified in the sector's operations plan. Does Council want to allow this participation by non limited access vessels? The harvest of a sector allocation may not be limited only to sector members. A sector operations plan may specify that the sector will contract with non-sector vessels to harvest the sector allocation. In this case, if the Council endorses this approach, the landings history of the contracted vessels would not be used in the calculation of future sector shares, the contracted vessels may not build herring catch history for themselves, and the operations plan will specify the contract details that will bind the contractor vessel to the rules of the sector.

1.1.2.7.4 Formation of a Sector – Operations Plan

A group that wants to form a sector and receive an allocation is required to submit a legally binding operations plan to the Council, which will ultimately require approval from the NMFS Regional Administrator. The operations plan must be agreed upon and signed by all members of the sector and, if approved, will constitute a contract.

The operations plan submitted by a self-selecting sector will be required to have, at a minimum, the following components:

- A list of all participants;
- A contract signed by all participants indicating their agreement to abide by the operations plan;
- An entity name, address, phone number, and the name and contact information for a sector representative (a manager or director) that NMFS can contact regarding sector management issues;

- A plan explaining how the sector will harvest its allocation, including contracts and methods to inform NMFS of changes in those arrangements over the year;
- The original distribution of catch history of vessels in the sector (maintaining vessel data confidentiality);
- A plan detailing how the sector will avoid exceeding its allocated TACs – this plan should include provisions for monitoring and enforcement of the sector regulations, including documentation of both landings and discards;
- Rules for entry to and exit from the sector, including sanctions and procedures for removing members for contract violations;
- Procedure for notifying NMFS if a member is no longer part of the sector for specified reasons;
- A process through which the operations plan can be amended by sector members (i.e., how the sector will make decisions to amend their operations plans);
- If the sector plans to contract for harvesting services with vessels other than those in that sector (see Monitoring, Enforcement, Transparency), details of such arrangements should be described in the operations plan;
- An appropriate NEPA document assessing the impacts of forming the sector is also required and must be submitted to NMFS through the Council – the development of the NEPA document is the responsibility of the applicants.

1.1.2.7.5 Sector Review, Approval, and Revocation

A sector will submit its operations plan and NEPA document to the NMFS Northeast Regional Office and the Council no less than one year prior to the date that it plans to begin operations. The Council will consider this plan in the course of the periodic framework adjustment or specification process and may, if approved, implement it through either of those processes. After Council approval of a sector, the details of its operation will be primarily addressed between the sector and NMFS, although the Council will review and provide comment on these details.

The Regional Administrator may withdraw approval of a sector, after consultation with the Council, at anytime if it is determined that sector participants are not complying with the requirements of an approved operations plan or that the continuation of the operations plan will undermine achievement of fishing mortality objectives of the Sea Scallop FMP. Withdrawal of approval of a sector may only be done after notice and comment rulemaking as prescribed by the Administrative Procedure Act.

A sector is required to resubmit its operations plan to the NMFS Regional Office by September 1 (NMFS-what would the appropriate date be for scallops?) every year, whether or not the plan has changed. NMFS may consult with the Council and will solicit public comment on the operations plan for at least 15 days, through proposed rulemaking in the *Federal Register*. Upon review of the public comments, the Regional Administrator may approve or disapprove sector operations, through a final determination consistent with the Administrative Procedure Act.

1.1.2.7.6 Allocation of TAC to Sectors

The sector allocations represent a percentage share of TAC(s), not absolute amounts. TACs are established through the fishery specification process, which is currently a biennial process. If declining stock conditions or other factors result in the need to reduce fishing mortality, the TACs will likely be reduced accordingly. In this case, the sector's percentage share of the TAC will not change, but the amount of TAC (pounds of scallop meat) that this share represents may decrease due to reduced TACs. The same is true if the TACs increase for any reason. The calculations used in determining a sector's share are based on a vessel's qualification amount (depending on which alternative is selected that could be their best year, average of three best years, or their best year "weighted").

Sector Share Determination

Sector shares cannot be calculated until NMFS makes its final determination of vessels eligible for limited access under the provisions of this amendment. When a sector proposal is submitted, NMFS will verify the qualification landings levels per vessel wanting to join a sector. The averages for vessels wanting to join a particular sector will be added together and divided by the sum of the qualification average. When this fraction is multiplied by 100, the result is the sector's percentage share of the TAC (see below).

Membership Changes

If a pre-existing sector accepts a new member, the percentage share brought to the sector is based on that vessel's average qualification landings at the time it joins the sector (i.e., the vessel is treated as a 'sector of one' and a share based on the appropriate adjusted TACs is calculated. This new single-vessel-sector share is added to the pre-existing sector). If a vessel leaves a sector, that sector's share is reduced by the individual vessel share the exiting vessel had when it joined the sector.

Interaction Between Sectors

A vessel **may not** be a member of more than one sector.

Illustrative Example

Assumptions:

- 720 vessels qualify for a limited access general category permit;
- 10 vessels wish to form a sector in 2009;
- Total TAC for the general category fishery is projected to be 5.0 million pounds in 2009;
- The sum of the sector vessels' qualification average is 100,000 pounds.

This sector would be allocated 100,000 pounds in 2009. The remaining 900,000 pounds would be allocated to the rest of the limited access general category permit qualifiers.

1.1.2.7.7 Monitoring, Enforcement, and Transparency

It will be the responsibility of each sector to track its activity and enforce any provisions adopted through procedures established in the operations plan and agreed to through the sector contract. Therefore, sector contracts should describe graduated sanctions including grounds for expulsion.

Once a vessel enters into a sector, it cannot fish during that fishing year under the regulations that apply to the common pool. Additionally, vessels cannot shift from one sector to another during a single fishing year. Therefore, if a vessel leaves a sector for whatever reason, it cannot participate in the general category scallop fishery during the remainder of that fishing year.

For the purposes of enforcement, a sector is a legal entity that can be subject to NMFS enforcement action for violations of the regulations pertaining to sectors. Vessels operating within a sector would be responsible for judgments against the sector. Sector operations plans will specify how a sector will monitor its landings to assure that sector landings do not exceed the sector allocation. At the end of the fishing year, NMFS will evaluate landings using VMS, and any other available information to determine whether a sector has exceeded any of its allocations based on the list of participating vessels submitted in the operations plan. If a sector exceeds its TAC, the sector's quota will be reduced by the overage in the following year, and the sector may be subject to additional enforcement action. If the sector exceeds its TAC more than once, the sector's share may, after consultation with the Council, be reduced or the sector's authorization to operate will be withdrawn by NMFS.

Participation by non-limited access vessels in the sector is subject to approval by the Council as part of the action that implements the sector allocation, provided the details of such participation are specified in the sector's operations plan. The harvest of a sector allocation may not be limited only to sector members. A sector operations plan may specify that the sector will contract with non-sector vessels to harvest the sector allocation. In this case, if the Council endorses this approach, the landings history of the contracted vessels would not be used in the calculation of future sector shares, the contracted vessels may not build herring catch history for themselves, and the operations plan will specify the contract details that will bind the contractor vessel to the rules of the sector.

1.1.2.7.8 Trading

Permanent or temporary transfers of quota between sectors or between sector and non-sector participants are not permitted. For purposes of harvesting a sector allocation only, vessels under contract to a sector are assumed to be part of that sector for the duration of that contract.

1.1.2.7.9 Movement Between Sectors

A vessel can only participate in one sector during a fishing year. Once a vessel elects to be in a sector or fish in the common pool for a given area, that vessel must remain with the sector or common pool for that area for the rest of the fishing year. Each sector will set its own rules on movement into and out of the sector.

1.1.2.7.10 Other Provisions

If a sector is approved, the Regional Administrator shall issue a Letter of Authorization to each vessel operator and/or owner belonging to the sector. The LOA shall authorize participation in the sector operations and may exempt participating vessels from one or more Federal fishing regulations as appropriate. The LOA also may include requirements and conditions deemed necessary to ensure effective administration of and compliance with the operations plan and the sector's allocation.

1.1.2.7.11 Measures to address “Excessive shares”

National Standard 4 of the Magnuson-Stevens Act states that:

“If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be... carried out in such manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.”

NOAA’s guidelines on the *avoidance of excessive share* portion of this standard (see 50 CFR Ch. VI: 600.325) state that “an allocation scheme must be designed to deter any person or other entity from acquiring an excessive share of fishing privileges, and to avoid creating conditions fostering inordinate control, by buyers or sellers, that would not otherwise exist.”

Neither the language in National Standard 4 nor the NOAA guidelines specifically define “excessive share.” A GAO report on Individual Fishing Quotas (GAO report # GAO-03-159) recommends that the NOAA develop guidance on factors to consider when regional councils define what would constitute an excessive share in future IFQ programs. In response to the GAO recommendation, NOAA agrees but notes that caps are not necessarily appropriate in all new IFQ fisheries. NOAA also stated that it will conduct research to provide guidance on the three categories of factors: (1) market effects, (2) distributional issues, and (3) equity considerations.

[Does the Council want to include a measure to address excessive shares; perhaps a maximum percent share a sector can be allocated?]

1.1.3 Alternative to modify the possession limit restriction

The Scallop Committee recommends inclusion of an alternative that would change the current 400 pound possession limit to be changed to a 400 pounds per 24-hour day restriction, with a cap of no more than five days to be landed at once. If a vessel is on a multiple day trip it would be permitted to bring in more than 400 pounds on one trip. For example, if a vessel went on a three-day trip (which could be confirmed through VMS), it could possess and land up to 1,200 pounds of scallop meat, or if it was a two-day trip, the vessel could land/possess up to 800 pounds. This alternative would apply to both access area trips and open area trips, but a vessel would be restricted to a five day limit, or 2,000 pounds per five-day trip.

1.1.4 Hard Total Allowable Catch (Hard TAC)

One option to control capacity and mortality in the general category fishery aside from limited entry is implementing a hard total allowable catch limit. If this action does not implement a limited entry program for the general category fishery, a hard total allowable catch limit could be adopted, which would close fishing to that sector once a certain limit was reached.

Rationale: This alternative is consistent with the primary goal of this amendment to control capacity and mortality in the general category scallop fishery. If the Council determines that limited entry is not the most effective way to control capacity and mortality in the general category fishery, then this alternative is justified.

1.1.4.1 Fleet-wide hard TAC

A hard TAC would be developed for the general category sector of the fishery, and when the Regional Administrator projects that TAC is going to be reached, the fishery would close. If the Council selects No Action for limited entry (Section 1.1.1), this alternative could be selected and the general category fishery could be managed by current input controls (possession limit) and a hard TAC. Either way, once the fleet-wide hard TAC is projected to be caught, the general category fishery would close. *[Both advisory panels opposed this option, and many scoping comments suggested this option would lead to a derby fishery].*

1.1.4.2 Hard TACs by area, quarter, or combination of area and quarter

A hard TAC would be developed for certain areas, quarters, or both. Once the Regional Administrator projects the TAC for that area is going to be reached, the fishery would close. This option could be implemented for only vessels that qualify for a limited access general category permit, or if the Council decides not to implement limited entry. It is not clear yet whether vessels would be restricted to certain areas, or if they would be permitted to move freely to different areas. *[Some advisors and scoping comments suggested several areas that could be managed with an area TAC for the general category sector, but the General Category AP supports allocation on an individual basis rather than fleet-wide by area or quarter].*

1.1.4.3 Hard TAC on an individual basis

If the Council selects No Action for limited entry (Section 1.1.1), this alternative could be selected and the general category fishery could be managed by current input controls (possession limit) and a hard TAC on an individual basis. For example, the total general category TAC could be divided between all general category permit owners (**?before the control date or current permit holders?**). All permits would be allocated an equal share of the general category allocation. A vessel would be responsible to monitor their own TAC, and would be in violation if they land/possess more than their individual TAC. After an individual TAC is caught, a vessel could land/possess scallops and under an incidental permit while fishing for other species (Section 1.1.8).

1.1.5 Monitoring Provisions

1.1.5.1 Require landings and declaration of scallop trip through VMS

Same requirement no matter what strategy is adopted for controlling capacity and mortality (limited entry or hard TAC). Currently all general category vessels that want to land more than 40 pounds of scallops are required to have VMS, but they are not required to report landings through VMS. This alternative would add the requirement to report landings through VMS and a vessel would also be required to call in to NMFS when they are leaving port to declare that they are going on a general category scallop trip.

1.1.5.2 Require all scallop bags to have identification

In order to improve monitoring and enforcement in the general category fishery this alternative would require all scallops to be in a marked bag or other container for shell stocked scallops. A vessel would have to identify their permit number and date of landing on each bag or container. This requirement would improve the ability to trace product throughout the wholesale process

and reduce illegal landings. No person, including dealers could be in possession of scallops that are not identified with a permit number and date of landing. There is a program currently being tested that would develop a standardized bag and tag for the scallop fishery and it may be possible to implement some type of bag tag program in a future action (See Section 1.3 for more discussion).

1.1.6 Limited access fishing under general category rules

1.1.6.1 Permit or prohibit limited access vessels from fishing under general category

1.1.6.1.1 Permit limited access vessels that qualify under general category rules

This alternative would only allow limited access vessels that qualify under the same criteria selected for the limited access general category permit to fish under general category rules. Limited access vessels that do not qualify would be permitted to land/possess scallops under incidental rules while fishing for other species (See Section 1.1.8). The landings from this sector of the fishery could be deducted from the general category or limited access portion of the total harvest (See Section 1.1.6.2).

[This option was supported by both advisory panels].

1.1.6.1.2 Permit occasional or part-time limited access vessels that qualify under general category rules

This alternative would only allow occasional and part-time limited access vessels that qualify under the same criteria selected for the limited access general category permit to fish under general category rules. This alternative would exclude full-time vessels from qualifying for a limited entry general category permit. Limited access vessels that do not qualify would be permitted to land/possess scallops under incidental rules while fishing for other species (See Section 1.1.8). The landings from this sector of the fishery could be deducted from the general category or limited access portion of the total harvest (See Section 1.1.6.2).

[This alternative was recommended by the PDT as a reasonable alternative to consider that is in-between Alternative 1.1.6.1.1 and Alternative 1.1.6.1.3].

1.1.6.1.3 Prohibit all limited access vessels from fishing under general category rules

Vessels with a limited access permit (full-time, part-time and occasional) would no longer be permitted to fish under general category rules while not on a scallop DAS. All limited access vessels would be allowed to land/possess scallops under incidental rules while fishing for other species (See Section 1.1.8).

[This option was supported by some of the scoping comments].

1.1.6.2 Allocation of quota to limited access vessels under general category

If the Council determines that limited access vessels that qualify for a general category permit under the same qualification criteria (Section 1.1.6.1.1 or 1.1.6.1.2) should receive a general category permit, then that effort would have to be attributed to (or removed from) either the general category allocation or the limited access allocation. If the Council decides not to permit limited access vessels to fish under general category rules (Section 1.1.6.1.3) then this section is irrelevant.

1.1.6.2.1 Landings from this sector of the fishery would be deducted from the general

category allocation

Similar to how these landings have been recorded in the past, landings from limited access vessels that qualify to fish under general category rules would be counted against the allocation for the general category sector. *[This alternative was not supported by either advisory panel].*

1.1.6.2.2 Landings from this sector of the fishery would be deducted from a separate allocation added onto the general category allocation

An additional allocation would be given to limited access vessels that qualify to fish under general category rules (Section 1.1.6.1.1 or 1.1.6.1.2). The allocation would be based on the historical average since implementation of Amendment 4, understood to be about 0.5% of the total catch. Individual allocations would be scaled to equal a total of about 0.5% of the total projected yield of the scallop fishery.

[Both panels supported that a separate allocation should be given to limited access vessels that qualify (Section 1.1.6.1.1), and it should not be deducted from the general category allocation].

1.1.7 Allocation between limited access and general category fisheries (Objective #1)

1.1.7.1 No Action

The Council would not allocate a certain percentage of the total available scallop harvest to the general category sector. Currently the landings from the general category sector are estimated, and then limited access specifications are set to harvest the remaining portion of available harvest. The landings from the general category sector are not an actual allocation, and vessels may under or over-harvest the estimated amount. This alternative could be selected whether limited access is recommended or not. Similarly, if a hard TAC is recommended this alternative could also be selected. *[Neither panel supported no action; both panels supported allocating a percent of the total allowable catch to general category vessels that qualify for a limited access permit].*

1.1.7.2 Allocation for vessels that qualify for a general category limited access permit

The Council approved at the April 2006 Council meeting that the range of 2.5 to 11% allocation of the total available scallop harvest be considered for the general category fishery in Amendment 11. The rationale for the lower bound of the range was to consider the approximate historical average since Amendment 4 was implemented (1994-2005). The rationale for the upper bound is to consider an amount that reflects the percent of current landings (based on available data from fishing year 2005) from vessels with general category permits before the control date. Based on available landings data for 2005, approximately 85% of all general category landings were from vessels that had a permit before the control date, and 85% of the approximate 13% of total scallop landings is roughly 11% of the total scallop landings for 2005. Since this action is considering the control date as a component of the qualification criteria, the Council voiced that it is appropriate to include in the range of allocation alternatives an amount that reflects the current participation of vessels that would qualify if having a permit before the control date were the only qualifying criteria.

The Council added that a higher percentage than historic norms is justified for economic and social reasons, recognizing this fishery is an important component of fishing communities along the coast. It was further suggested that a relatively high value compared to historic norms is appropriate to consider for analysis since the general category sector landed 13% in 2005, and if the resource remains healthy then a higher percentage may be more appropriate in the long term. In addition, this range is responsive to the advisory panel requests. Lastly, the Scallop Committee suggested that is important to analyze a relatively high percent to illustrate the potential consequences of a high allocation value. The Council did not identify specific allocation percentages within the range under consideration, so the Scallop PDT will examine a feasible number of alternatives between 2.5 and 11%. The Council can select any value within the range so long as the specific alternative is analyzed and available to the Council before final decisions are made. Table 3 describes an example of possible allocations within the approved range for TAC values from 40-70 million pounds. The Scallop PDT is currently updating the scallop biological reference points with updated data. Once a peer reviewed value is approved (by the SSC Committee) the Council can use that updated estimate of maximum sustainable yield as guidance for selecting allocation and qualification alternatives for Amendment 11. This updated value is expected to be available for the June 2006 Council meeting.

Table 3: Estimate of the lower and upper bounds of the range approved for consideration in Amendment 11 for the general category allocation with various TAC values (40-70 million pounds).

	2.5%	11.0%
40.0	1.0	4.4
50.0	1.3	5.5
60.0	1.5	6.6
70.0	1.8	7.7

It is understood that whatever alternative is selected to control capacity and mortality in the general category fishery, the total amount allocated to the general category permit owners would be roughly equal to the overall percent selected in this alternative. Furthermore, the percent will remain the same in future years, but the total and individual poundage will vary based on changes in projected yield. Therefore, total and individual allocations in the general category fishery will be specified in each biennial framework, or whatever action implements specifications for future fishing years.

1.1.7.2.1 Allocation for limited access general category qualifiers between open and access areas

During development of alternatives the advisors, PDT and Committee have discussed the complication of allocation for limited access general category qualifiers in terms of open areas versus access areas. The alternatives in this section describe how the general category allocation would be allocated in terms of open areas or access areas.

1.1.7.2.1.1 No Action

Currently the general category has been allocated 2% of the TAC for each access area, allocated in a fleetwide total number of trips. For example, in 2005 X number of trips were allocated to the general category fleet in Closed Area I, which was about 2% of the TAC for that access area (X trips x 400 pounds = X pounds). Framework 18 recently allocated 2% of the access areas to

the general category fleet for FY2006 and FY2007. This allocation decision is currently made during the biennial specification process. So if this alternative is selected, it is understood that a specific percentage of the TAC per access area would be allocated to the general category fleet, converted into a total number of fleetwide trips. It is understood that this allocation (2% or otherwise) could be variable for each area in future years. The framework would analyze the impacts of variable allocations.

1.1.7.2.1.2 Allocate the same percent that is allocated overall for each access area

This alternative would allocate an equal percent of access area TAC to what the Council selects for overall allocation for the general category fishery (Section 1.1.7). For example, this document is considering allocating a portion of the total TAC (2.5% to 11%) to the general category fishery. If the Council selects 2.5%, then the general category would be allocated 2.5% of the TAC in all access areas as well (starting in FY2008). On the other hand if the Council decides to allocate 11% of the TAC to the general category fishery, then 11% of each access area would be allocated to that sector of the fleet (starting in FY2008). It is assumed that the allocation for access areas would still be a fleetwide total allocation of trips, not on an individual basis. Once the total number of trips is taken, the access area would close for all general category vessels.

1.1.7.2.2 Allocation of yellowtail flounder bycatch TAC in access areas

Currently 10% of the yellowtail flounder TAC is set aside as bycatch for the scallop fishery in access areas. Limited access scallop vessels are permitted to land the yellowtail flounder they catch as bycatch, but the general category fleet is not. The 10% bycatch cap is monitored through observer coverage and extrapolated. The regulations consider YT bycatch from both the limited access and general category sectors under the same TAC and once the bycatch TAC is reached the access area would close to all vessels. The Scallop Committee recommends that rather than the 10% TAC being an overall cap for both fisheries, this action could consider dividing the TAC between the limited access and general category fishery.

1.1.7.2.2.1 Allocate a proportional allocation of the 10% bycatch cap to the general category fishery

Rather than both fisheries being under the 10% cap equally, this alternative would actually divide the bycatch TAC between the limited access and general category fisheries. Whatever overall allocation of the scallop yield is given to the general category fishery (2.5%-11%), that same percentage of the yellowtail flounder bycatch cap would be given to the general category fleet for access areas. It is understood that this catch could not be retained by general category vessels; they still would not be permitted to land the yellowtail flounder that they catch. This alternative would prevent one sector of the fishery closing the access area for the other sector. For example, if the 10% bycatch TAC was reached for Closed Area II during the winter months by limited access vessels before the majority of the general category sector could access area, this alternative would prevent one sector from closing the access area for another sector.

[The PDT reviewed this alternative and noted that this option would require more observer coverage to monitor both fisheries equally, and that would cause administrative and monitoring problems. Furthermore, the PDT does not expect the bycatch rates to be that different, taking into account the differences in gear size and amount of scallops landed. The largest impact on bycatch is going to be fishing location]

1.1.8 Incidental Catch (Objective #4)

1.1.8.1 No Action

All vessels with an incidental scallop permit would be allowed to possess and land up to 40 pounds of scallop meat per trip. All general category vessels that do not qualify for a limited access permit could get an incidental permit. All vessels that qualify for a limited access general category permit (if one is adopted in this action), and all current limited access scallop permit owners would be permitted to land up to 40 pounds of scallops per trip when targeting other species. The incidental permit would remain open access; any vessel can apply for one. A vessel would not be required to have VMS to land/possess 40 pounds of scallops under an incidental permit.

[This alternative was supported by both advisory panels and many scoping comments].

1.2 MEASURES TO ALLOW BETTER AND MORE TIMELY INTEGRATION OF RECENT DATA (GOAL #2, OBJECTIVE #5)

1.2.1 No Action

No additional measures would be implemented to improve the integration of recent data in the management process. Specifically, the scallop fishing year would remain at March 1.

Rationale:

[Both advisory panels and all public scoping comments support no action].

1.2.1.1 Change the issuance date of general category permits from May 1 to March 1

Whether limited access is implemented by this action or not, this alternative would change the issuance date of general category permits from May 1 to March 1. This change would improve integration of fishery data into the management decision process. Currently, the limited access portion of the fishery is issued a permit on March 1, the start of the scallop fishing year. Because the general category permit is not issued until two months later there is a lag time in summarizing data.

1.2.2 Change the start of the fishing year to May 1

The scallop fishing year would be changed to start May 1.

Rationale:

[This is one of the options suggested by the Scallop PDT. This schedule will work if the scallop survey is moved from late summer to late spring/early summer].

1.2.3 Change to start of the fishing year to August 1

The scallop fishing year would be changed to start August 1.

Rationale:

[This is one of the options suggested by the Scallop PDT. If the scallop survey remains when it is this date would provide time to use the most recent data in management decisions].

**1.3 ADDITIONAL MEASURES THAT CAN BE IMPLEMENTED BY A
FRAMEWORK ACTION TO THE SCALLOP FMP (NOT COMPLETE)**

1.4 CONSIDERED AND REJECTED ALTERNATIVES (NOT COMPLETE)

(Detailed text for Section 1.4 will be handed out at the Council meeting)