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Scallop Oversight Committee Meeting Summary

Tuesday, May 16 and Wednesday, May 17, 2006 – Radisson Inn, Plymouth, MA

Attendance:

Committee Members: Thomas Hill (Chair), Rodney Avila (vice-Chair), Hannah Goodale (designee for Pat Kurkul), David Pierce, Michelle Peabody, Sally McGee, John Pappalardo, and Dennis Spitsbergen. Jim Salisbury was not present.

Council Staff: Deirdre Boelke (Scallop PDT Chair) and Demet Haksever

There were about 30 members of the public present at the meeting.

Tuesday May 16

The meeting began at 9:00 AM. Tom Hill welcomed everyone and reviewed the agenda. Council staff, Deirdre Boelke then reviewed all of the documents that would be discussed over the two days. In summary, she reviewed the working list of alternatives as they have been developed so far, as well as a description of a list of unresolved issues that the Committee will need to discuss at this meeting. Both the advisors and PDT met prior to this meeting to provide input on alternatives and make recommendations for additional alternatives to be considered. Some specific analyses were prepared for certain alternatives such as weighted qualification alternatives and an exception for vessels that do not qualify for a permit to fish in the Gulf of Maine only. The summary of recent meetings and meeting materials took most of the morning to review.

Robert Keese, vice-Chair of the General Category Scallop Advisory Panel was then invited to summarize the meeting they had on May 2. The main purpose of the general category scallop advisory panel meeting was to further develop qualification alternatives. The majority of the day was spent discussing potential qualification criteria alternatives, qualification time periods, and allocation strategies. About 20 motions were passed that day, half related to qualification criteria, and half related to other issues. Overall, the advisors think that an individual allocation approach would be the most favorable, rather than a TAC or tiered permit system. The motion that took the longest to develop and passed most favorably in terms of qualification was a program with three permit types: incidental, part-time and full-time. The part-time permit would have a reduced possession limit of 200 pounds and would be a hard TAC; vessels would not receive an individual allocation in pounds or trips. The full-time permit would have a 400 pound possession limit and an individual allocation for access to the fishery based on their best year from FY2000-04. Bob explained that several other qualification alternatives were recommended for analysis (a three tiered permit system and a tiered system at 2,000 pound increments), but these were not as popular as the part-time/full-time approach.

The panel also discussed a possible qualification exception for vessels homeported around the SNE exemption area. They also discussed ways to consider an exception for vessels that do not qualify to fish in the Gulf of Maine. Both of these issues were discussed at the joint meeting the following day. The panel then reviewed the list of unresolved issues and made a number of motions related to some of the issues including shell stocking, upgrade restrictions, consolidation, allocation for access areas, etc. (See page 4 and 5 of the general category meeting summary for details). The Committee had several questions for Bob related to the meeting. Specifically, one Committee member asked why the advisors suggest reducing the possession limit for part-time permits in one of the alternatives. It was explained that this permit type will most likely qualify vessels that catch scallops as bycatch while fishing for other species, and most of these vessels have not been dependent on more than 200 pounds per trip. Another Committee member asked why the advisors only suggested criterion of one 100 pound trip; he thought that seemed low and could qualify more vessels than people desire. It was explained that the general category advisors are interested in being as inclusive as possible, especially if a larger percentage is allocated to this sector of the fishery. The difference between the number of vessels that would qualify under a 100 pounds trip is not that much higher than an annual landings requirement of 1,000 or 5,000 pounds for example. Another Committee member commented that using all vessels best year will likely add up to more than the sector is allocated. It was explained that the final allocation would be scaled up or down depending on the overall allocation the Council selects for the general category fishery. Bob described the

DRAFT

complexity and difficulty the advisors have had with identifying alternatives for qualification criteria before the actual allocation percent and projected yield is known. Instead it may be more useful to identify a group of vessels that should have access to the fishery, and then the Council can identify an allocation percent that would encompass that universe of vessels.

Next, Deirdre Boelke reviewed the joint advisory panel meeting held on May 3, 2006 because neither of the advisory panel chairs were able to attend the Committee meeting to provide the summary. Overall, the first joint meeting of this kind was very successful and all participants worked hard to develop as many consensus items as possible related to alternatives in Amendment 11. The joint panel reviewed all the qualification alternatives developed the day before and voiced that this issue is more pertinent for the general category advisors, and it is up to them how many participants they think are appropriate to be in the fishery, but several suggested caution in being too liberal, allowing for excess capacity. Again, the joint panel spent a significant amount of time discussing the exceptions related to SNE and the Gulf of Maine. One suggestion was made that it may be possible to identify areas like the GOM as an exception area for vessels that do not qualify, but actually implement the details in a future action. A motion was passed to have staff analyze the pros and cons of this type of exception and preliminary analysis was completed and presented later during the Committee meeting.

The joint advisors spent time discussing some of the details of the permit provisions. It was discussed that there may be some cases that deserve extensions for the qualification period but ultimately it may be too dangerous to open the door since there is a perceived threat of many vessels getting a permit if a re-rigging clause is included. The panel then discussed the issue of transferring history. The panels supports the current policy that history is assumed to go with a vessel unless a purchase and sales agreement clearly states that the seller wishes to retain the history. The advisors then discussed consolidation and permit stacking. The advisors support some level of consolidation but do not want to see it in excess. Several motions were made related to specific consolidation alternatives, but none passed. In terms of stacking, most of the panel supports some level of stacking to improve flexibility, but again not in excess. One motion passed to allow stacking of two permits retaining the 400 pound possession limit. It was also pointed out that how the Council addresses this issue in this action is likely to have direct bearing on how it is addressed next for the limited access fleet. The joint panel also discussed some of the unresolved issues and made several motions related to some of the issues such as prohibiting net gear, changing allocation based on resource status, access in closed areas etc. (See pages 4 and 5 of the joint meeting summary for details).

A few members of the audience and Committee asked several clarifying questions. One member of the audience asked whether temporary stacking was considered; the answer was no. One Committee member asked what the intent of 60,000 pounds was in the stacking motion that failed. Bob Keese answered that 60,000 pounds or 150 trips is a reasonable amount that represents full-time, directed effort in the general category fishery. One member of the audience commented that many of these motions seem a bit greedy and may promote the general category fleet to compete with the limited access fleet through stacking, no upgrade restrictions etc. One Committee member asked NMFS to comment on the GOM exception area, and it was stated that the Council needs to be clear how this would fit under "controlling capacity in the general category fishery". The document needs to be clear why it is reasonable and why it makes sense to treat one segment or area differently in this program.

Deirdre Boelke then reviewed the PDT report from their meeting on May 8. The PDT reviewed the alternatives developed so far for Amendment 11, and provided feedback on many of the sections for the Committee to consider. The PDT also is in the process of updating the scallop biological reference points. The SSC will review these updated estimates and provide a report to the full Council in June. The PDT made several consensus statements related to the alternatives. One was related to considering an option that would allocate in trips rather than pounds. One suggested several factors to be considered if maintaining the historical characteristics of the fishery is an objective of this action. Another was related to the qualification exception for SNE and it was recommended that this is problematic and may violate National Standard #4. Another statement was forwarded that if the Council considers a GOM exception area, then a default TAC should be implemented to control overall mortality in that area. An additional alternative was recommended under the dual permit

DRAFT

section. One suggestion was made related to removing an incidental catch alternative and another concerning a requirement to report landings through VMS to improve monitoring. An additional recommendation was made related to changing the time general category permits are issued to match the start of the scallops fishing year. The PDT also discussed several of the unresolved issues. Related to allocation within access areas, the PDT supports allowing a variable allocation for access areas, but suggested this be done in the next framework action, not this amendment. The PDT discussed several other issues and one last statement was forwarded related to considering an alternative to reduce incentive to use net gear by adding an alternative that would reduce the possession limit for vessels that use net gear. Many of these recommendations were considered by the Committee over the course of the two-day meeting and many were incorporated in to the final list of alternatives.

The Committee asked several questions related to the PDT meeting. The Committee discussed the drawbacks and benefits of allocating access to this fishery in pounds versus trips. The PDT recommends that an allocation in trips would potentially be easier to monitor. It was also raised that some of the alternatives in the document as well as some recommendations by the advisors do not necessarily support “preserving the historical character of the fishery”, is that something the Committee and Council are trying to do with this action?. For example, considering a broad allocation range up to 11%, stacking, removing the possession limit etc. One Committee member suggested that as these alternatives are considered it needs to be noted that some may change fishing behavior in the historic dayboat fleet. The Committee was never specific about what principles and motives should guide the development of alternatives (i.e. historic versus recent participants; therefore, absent that it is understood that the alternatives should encompass ways to address both, as well as the other principles of a limited entry program as defined in the MSA). Lastly, one member of the audience suggested that there has already been a reduction in mortality in the general category fishery through implementation of the 4-inch ring. Can and will the PDT look into how this requirement has already reduced mortality? Staff replied that the PDT has not analyzed this yet, but it still would not address the capacity issue stated as part of the primary goal of this action.

The Committee then reviewed the working list of alternatives for Amendment 11. *(Keep in mind when reviewing the motions related to Amendment 11 alternatives the section numbers in the motions do not reflect the same section numbers that are in the draft document the Council is reviewing; the structure of the document has changed substantially since the Committee meeting).* There was some discussion by the Committee about how best to approach this section. It was decided that qualification criteria would be discussed first, and allocation mechanisms would be discussed in the afternoon. Two motions were made related to qualification criteria and time period alternatives. Overall two criteria (one 100 pound trip or 1,000 pounds) and two time periods (last two years and last five years) were recommended. The Committee actually broke for lunch before these votes were taken. The idea behind considering two time periods is to include one alternative that is less restrictive (FY2000-November 1, 2004). Later in the day the Committee did consider a qualification time period alternative from FY1994 through the control date, but they did not recommend including that eleven year period for consideration.

Motion #1: Pierce/Avila (modified motion):

Consider 2 alternatives for qualification criteria:

In order to qualify for a permit, had to have a permit from May 1, 2003 through April 30, 2004, and/or May 1, 2004 through the control date (Nov 1, 2004) AND landings of 100 pounds on any one trip during the qualification time period (Scallop FY2003-2004).

In order to qualify for a permit, had to have a permit in any one year from May 1, 2000 through the control date (Nov 1, 2004) AND landings of 100 pounds on any one trip during the qualification time period (Scallop FY2000-2004).

Vote: unanimous

[A motion was passed later in the day that changed the landings qualification time period to end at the control date rather than the end of the 2004 fishing year]

Motion #2: Pierce/ Avila

DRAFT

Consider 2 additional alternatives for qualification criteria:

In order to qualify for a permit, had to have a permit from May 1, 2003 through April 30, 2004, and/or May 1, 2004 through the control date (Nov 1, 2004) AND 1,000 or more annual landings in any one year during the qualification time period (Scallop FY2003-2004).

In order to qualify for a permit, had to have a permit in any one year from May 1, 2000 through the control date (Nov 1, 2004) AND 1,000 or more annual landings in any one year during the qualification time period (Scallop FY2000-2004).

Vote: unanimous

[A motion was passed later in the day that changed the landings qualification time period to end at the control date rather than the end of the 2004 fishing year]

The Committee then discussed that they did not support considering an alternative that only uses a permit criteria; they recommend that additional landings criteria be incorporated as well. Therefore, a motion was made to remove the alternative (Section 1.2.1 have a permit before the control date only). Furthermore, since the Committee decided to address allocation mechanism alternatives later in the day, so a motion was made to consider option 1.2.3 later in the afternoon.

Motion #3: Avila/Spitsbergen

Remove 1.2.1 from document (use of the control date only for qualification)

Vote: unanimous

Motion #4: Avila/McGee

Strike option 1.2.3 (to consider later under allocation)

Vote: unanimous

Staff reviewed some of the preliminary analysis for some of these qualification alternatives, including the number of vessels that may qualify under the different options as well as their landings based on each vessels best year. The Committee then discussed the other qualification alternatives suggested by the advisors including the part-time/full-time scheme, and the three tiered permit system. Several drawbacks of the part-time permit under a 10% TAC were discussed. The Committee is concerned that it will take a significant amount of time to develop measures that would prevent a small derby fishery for that component of the fishery, and NMFS suggested that monitoring a hard TAC for such a small section of the fishery would be difficult and may not outweigh the costs. The Committee decided to wait discussing whether these permit systems should be included in the document until later the next day after the Committee had a chance to review the data in more detail. Instead the Committee then discussed the exceptions recommended by the advisors before getting in to the details of the rest of the qualification alternatives. First, they discussed the qualification exception for vessels from around the SNE exemption area. There was some concern that including this exception will lead to other exceptions, and those vessels could have moved to other areas if they wanted to prosecute the scallop fishery, as other vessels did from other areas. A motion was made to consider a qualification exception as suggested by the advisors, but it was not seconded.

Motion #5: Avila/

To include 1.2.5

Failed, not seconded

There was significant discussion about whether to include landings from after the control date as part of FY2004 for qualification, or should FY2004 only include landings from March 1, 2004 through November 1, 2004 (total of eight months). One member of the audience suggested that other limited access programs have included the last full fishing year, not just up to the control date. A motion was made to clarify that point that qualification criteria will only include landings before the control date. Specifically, a vessel that had a permit before the control date but no landings until after the control date, but before the end of the 2004 fishing year would not qualify for a limited access permit.

Motion #6:

DRAFT

Clarify qualification time period as stated in Section 1.3 and the motions passed earlier (Motion 1 and 2) to end through control date of November 1, 2004 (not the full scallop fishing year March 1, 2004 through Feb 28, 2005)

Vote: 5:0:2, motion passed

The Committee then discussed the second exception recommendation related to the GOM. The advisors suggested an alternative that would create an exclusive zone in the GOM where vessels who did not qualify for a permit could fish at a lower possession limit. One member of the audience suggested that if a lower tiered permit system is approved this concept may not be as necessary and 100 pounds per trip may even be possible. Another member of the audience requested the Committee to consider this type of alternative to recognize that there are many permit owners that had substantial landings before a general category permit even existed (pre 1994). The Committee reviewed the preliminary analysis including pros and cons of a GOM exception and decided not to recommend including it at this stage. It is possible that the Council may consider this at the meeting in June, but the Committee did not have a strong recommendation on this topic.

The Committee then briefly discussed monitoring alternatives for this limited entry program. A suggestion was made by the PDT to require daily reporting through VMS and the Committee agreed this was a reasonable suggestion.

Motion #7: Spitsbergen/Pappalardo

Require vessels that qualify to report landings through VMS (whatever is adopted, i.e. hard TAC, IFQ, number of trips etc.)

Vote: motion carried, one abstention

The Committee then moved onto the permit provisions section of the document and considered details about permit issues such as appeals, permit splitting, permit splitting, permit history etc. The first issue discussed was related to inaccuracies in the data. Staff has explained that as these data have been reviewed, there are some issues such as multiple trips being recorded together in the dealer database, limited access landings entered with the wrong permit number etc. The Committee supports that if a limited access program is adopted and a vessel does not receive the allocation that they expect based on the qualification criteria selected, NMFS should use VTR data during an appeals process.

Motion #8: Pierce/Avila

That VTR data be applied/incorporated with dealer data for qualification purposes (during appeals when there is controversy over qualification).

Vote: unanimous

The Committee then discussed the issue of vessels that have sold their vessel but retained their general category history; should these vessels be considered for a permit. This issue was discussed for sometime and it was decided to revisit this important issue the second day of the meeting after people have a chance to develop ideas. It was explained that in the herring process, if a vessel sold their vessel, but retained the herring open access history, the Council recommended that individual could not apply for a permit. The Committee decided that for this fishery, it may be more appropriate to allow a "seller" to apply for a permit if they retained the history in the purchase and sales agreement. The issue of a potential re-rigging clause was then considered. Again, this issue is complex and the Committee wished to revisit this issue on the second day.

Next the Committee discussed the possibility of including a re-rigging clause. It was discussed that a re-rigging clause is intended to protect vessels that were "in mid-stride". Many limited access programs have included one, but it is not necessary. The Committee discussed that limited entry has been discussed in the fishery for some time, there have been several control dates, and the writing has been on the wall; therefore, if a vessel did not have a permit and a relatively small level of landings before the control date they could not have been that serious about this fishery. A member of the audience added that a re-rigging clause has been used in previous limited access programs primarily when a landings criterion was not included, so may not be warranted in this program which includes landings criterion before the control date. One Committee member noted that including

DRAFT

a re-rigging clause is not consistent with the Council's intent to use the control date. Since no motion was made to include a re-rigging clause, the Committee does not recommend that the Council include one in this action.

The Committee then discussed stacking and consolidation. It was noted that the advisors spent a significant amount of time discussing these issues, but had a difficult time defining a precise limit for consolidation. One motion did pass at the advisor level related to stacking up to two permits, and another one with specific amounts failed. A motion was made to include both these alternatives for consideration for stacking. Several members of the audience commented on this issue raising questions and concerns about the motion. One Committee member suggested that this motion may be against the original intent of the action to control capacity, and would enable the nature of the fishery to change from what it was intended to be. And another Committee member commented that this fishery has already changed since Amendment 4, and Amendment 11 will further change the nature of the fishery so these types of measures allow more flexibility for business owners. Another Committee member added that if this action grants an excess number of permits, this measure could help people stay in business if individual shares are too small, or the resource fails in the future. One member of the audience suggested that stacking provisions need to be flexible, because if too many vessels are given permits then the industry needs a way to stay in business and stacking is just a form of industry funded buyout. On the other hand another member of the public voiced concern that stacking leads to large corporations owning all the access to the fishery, and some restrictions on stacking are needed to help the access stay on small vessels that currently are and have been the general category fleet.

Motion #9: McGee/Peabody

Consider adding two options under Section 1.6.5 incorporating motions discussed at the joint advisory panel meeting (1. Allow permit stacking but limited to two permits, and 2. Allow stacking up to 60,000 pounds or 150 trips per year per vessel). Neither option would allow a vessel to land more than 400 pounds per trip.

Vote: 5:1:1, motion passed

The Committee also discussed permit renewals. No specific motions were made, but it was noted that vessels are permitted to renew their permit very late in the fishing year (application must be received no later than 30 days before the last day of the fishing year), and the question is why. It was noted that this causes complications for state fisheries, and the Committee requested NMFS to update the Council as soon as possible on what and when the agency can do something related to this issue for all federal permits region wide.

The next section in the permit provision section discussed was a percent ownership restriction. Since the Committee does not know the number of vessels that will be granted a permit, they had difficulty identifying an appropriate maximum ownership restriction, thus identified a range of 1-5% to be analyzed, and then after an alternative is selected a more precise percentage can be identified. One member of the audience stated that this motion could be dangerous in the general category fishery because if access is granted on an individual basis based on your best year for example, it may be possible to put up to 5% of the large allocations together and ultimately one owner could have a substantial portion of the fishery.

Motion #10: Peabody/Spitsbergen

Consider an option under Section 1.6.10. that would consider a percentage ownership restriction that ranges from 1% to 5% of permits (all permits equal).

Vote: unanimous

The last section of the permit provision section was "other restrictions". Both the advisors and the PDT made several recommendations about other measures such as gear restrictions. The PDT has always supported alternatives that reduce the incentive for vessels to target scallop with net gear, since that gear is not as selective. Motions 11-13 were passed to consider alternatives that would do just that. The Committee did spend a significant amount of time trying to identify an alternative that would reduce incentive to use nets, but allow vessels that use nets to catch scallops primarily as bycatch to continue that activity. Specifically, if a vessel is under a multippecies DAS that would prevent a high amount of effort since days are limited. Furthermore, it was the intent that these alternatives would only apply to vessels that qualify for a limited access permit. The Committee had a more difficult time identifying measures for other net fisheries such as the fluke fishery. They decided to sleep on this issue and address is again on the second day. Motion 13a below is a motion that was

DRAFT

passed the second day to modify Motion 13. The primary intent is to allow net vessels to land the scallops they catch as bycatch, but reduce incentive to target scallops using nets.

Motion #11: Pierce/Peabody

Add #3 under Section 1.6.11 (Other restrictions). “If a vessel qualifies under dredge gear, it should not be permitted to switch to a net.

Vote: unanimous

Motion #12: Pierce/Peabody

Add #4 under Section 1.6.11 (Other restrictions) “Consider a lower possession limit for vessels that target scallops using nets under a limited access general category permit”.

Vote: unanimous

[Intent for qualifiers only and not to restrict vessels on a DAS]

Motion #13: McGee/Pappalardo

Add #1 (prohibit the use of nets) with addition advisory panel suggested to allow vessels that are fishing with a net under a multispecies DAS to continue to use nets.

[Committee decided to consider this option overnight and readdress in the morning]

Motion 13a: Modified motion discussed the second day:

Spitsbergen/Pappalardo

Prohibit the use of nets for general category qualifiers, but allow vessels that qualify for a general category limited access permit to fish with a net when fishing under a multispecies DAS

AND

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.

Vote: 3:2:2, motion passed

Meeting ended at 6:15 PM.

Wednesday May 17

Staff explained where the Committee left off from the first day of the meeting and what areas still needed to be addressed. Specifically, allocation, several permit provision issues not fully discussed from the previous day, and then review the list of 27 “unresolved issues”.

The first issue discussed was how access should be granted to the general category sector in open and access areas. Currently general category vessels have been allocated 2% of the TAC per access area in a total number of fleet-wide trips in the actions that approve specification (i.e. biennial frameworks). Both the advisors and PDT made several suggestions about this issue and the Committee decided to consider the current process, which is an allocation of TAC per access area (2% or whatever amount is deemed appropriate for that area) in a specification process, and an alternative that would allocate the same percent per access area as the Council selects for overall allocation (2.5 – 11%). The complication with the second approach is that then it may be necessary to allocate a specific number of trips to each vessel for each access area, rather than a fleet-wide TAC. Many issues were raised such as safety, efficiency, etc. One member from the public suggested that it may be most appropriate to identify near shore access areas exclusive for the general category fishery and leave the offshore areas for the limited access fleet. Overall it was discussed that effort should be taken when CPUE is highest, but that has to be within reason with the general category fleet because they are constrained by size and the possession limit. Rather than developing complex alternatives that would allocate a specific number of trips per area for the general category fleet it was presumed that there is latitude to allocate a variable allocation per area for the general category fishery (different than 2%) through a framework. No one around the table was positive if the percent can be variable per area and different than 2%, so if it is learned later that a variable

DRAFT

allocation *cannot* be implemented through a framework, then the Council should consider adding that measure as a frameworkable item in this amendment.

Motion #1: Spitsbergen/Peabody

Two options under Section 1.7.2.1:

- 1) No Action (% to be set in specification process-can be variable for each area) and
- 2) Access area allocation the same % as allocated overall (2.5 to 11% for each area)

Vote: unanimous

The Committee then discussed how limited access qualifiers would be allocated access to the fishery (individual fishing quota, tiered permit system, TAC etc.). They considered the part-time/full-time alternative recommended by the advisors. That alternative included a hard TAC for vessels that qualify for a part time permit (200 pound possession limit) and an individual allocation for full time qualifiers (400 pound possession limit). After some discussion, it was discussed that the hard TAC element of this proposal is problematic. It would be difficult for NMFS to monitor this small 10% TAC between the large number of vessels that would qualify for this permit (about 300), and complex measures would have to be identified to prevent a derby fishery in that component of the fishery. NMFS did raise some concerns related to monitoring a relatively large number of vessels fishing under a relatively small amount of the total scallop catch; the Council needs to have realistic expectations. The Committee discussed that it should be the vessel's responsibility to stay below their allocation, and if they reach their allocation, it will be difficult to monitor those vessels when they are fishing for other species. Several Committee members comments that this program did not seem unrealistic; enforcement and monitoring capabilities have improved with electronic reporting, VMS, etc., and if a vessel has more than 40 pounds of scallops onboard after they have caught their allocation then they are in violation and would have to , simple as that. **In order to eradicate some of the monitoring issues discussed, it was recommended to amend the monitoring motion made the previous day (Motion #7) to include that “vessels still need to report through VTR and declare they are on a general category scallop trip when they leave the dock”.**

The Committee determined that this alternative is worth analyzing in the document, but the part-time permit should not be a hard TAC, rather an individual allocation based on participation with a reduced possession limit. One member of the public recommended that rather than an individual allocation for the part time fleet, one way to address a derby if it is a fleetwide hard TAC is a limit of two trips per week (with a 200 pound possession limit). NMFS voiced concern that this measure may be very difficult to enforce; for example, an individual allocation of 1,500 pounds for hundreds of vessels may be problematic with the current level of dockside enforcement.

Motion #2: Spitsbergen/Peabody

Adopt an allocation alternative for part-time and full-time permits. Individual allocations would be awarded based on best year during qualification period selected.

Vote: unanimous, one abstention

The Committee then reviewed the three tier permit alternative developed by the advisors. While this alternative was not preferred by the advisors, the Committee decided to include this type of allocation program for consideration.

Motion #3: Pappalardo/Peabody

Include for analysis, section 1.2.4 under allocation (three tiered permit allocation system). Percent allocation for each tier should be determined by analysis (based on historical share of landings, not necessarily 50%, 40%, and 10% for each tier)

Vote: unanimous, one abstention

The Committee decided to include the two alternatives in Section 1.7.4 that consider how to allocate a portion of the TAC to limited access vessels that qualify for a general category limited access permit. It was then decided that the section that considers allocation for incidental catch should be removed from the document. Incidental catch would be very difficult to monitor, and is not expected to have a significant impact on mortality, so it is not necessary to implement an allocation that would be monitored and closed when a certain TAC was caught.

Motion #4: Pappalardo/ Avila

DRAFT

Remove 1.7.5 from consideration (allocation for vessels that land scallops under incidental catch)

Vote: unanimous

The Committee then considered an alternative forwarded by the general category advisors related to an allocation that would adjust based on resource condition. Specifically, it was recommended that if projected yield is above 60 million pounds, the amount above 60 million should be allocated equally between the general category and limited access fleet. The Committee did not include this recommendation, so it will be moved to the considered and rejected section for the document the Council will review.

The next topic discussed was related to Section 1.8 (Dual permits: limited access vessels being permitted to land scallops under general category rules. It was decided to leave these alternatives in the document for consideration, but eliminate the No Action, because if limited access is approved in this action, then a current limited access scallop vessel would not be have a permit, so more accurate to just have alternative 1.8.2 and 1.8.3.

Motion #5: Spitsbergen/Avila

Include all of Section 1.8 (but remove No Action, because not relative for Amendment 11 since this action will change the general category permit)

Vote: unanimous

The Committee then moved onto Section 1.9 (Hard TACs). It was discussed that if limited entry is not adopted in this action, another alternative should be included in the document to control capacity and mortality, specifically implementation of a hard TAC. It was discussed that a fleetwide TAC, TACs by area/season, and on an individual basis could be considered. The Committee notes that a fleetwide TAC is problematic because of derby issues. Secondly, the alternative that would implement a TAC by area/season is incomplete because the details of what areas and seasons would be used have not been defined. The Committee agreed areas and seasons could slow a derby fishery, but did not believe spending Committee time developing the specifics of this measure was warranted. Lastly, the individual TAC alternative would be taking the full general category allocation and dividing it equally among permit owners. It was not clear if the Committee intended this pool of vessels to be vessels that had a permit in any year before the control date, in 2004 before the control date, any vessel that has a permit when Amendment 11 is implemented, or any number of permits depending on how many vessels apply for a permit each year since it would be an open access fishery.

Motion #6: Peabody/ Pappalardo

Include Section 1.9 in amendment (understanding that this section is an option if limited access is not adopted. This section would be alternatives to reduce mortality if limited access is not adopted).

Vote: unanimous

The Committee then moved on to Section 1.10 (Incidental Catch). Since it was discussed that incidental catch does not have a significant impact on scallop mortality, the Committee recommends that complex alternatives for that sector of the fleet does not make sense and will distract the PDT and Committee from developing other alternatives. It was also discussed that prohibiting incidental catch is not a reasonable alternative because it would increase bycatch.

Motion #7: Spitsbergen/ Peabody

Eliminate Section 1.10.2 and 1.10.3 (under incidental catch)

Vote: unanimous

There was one issue raised by an audience member related to incidental catch of scallops in the multippecies special access program that was discussed in more detail. Specifically, it was suggested that since the limited access scallop fleet is allowed to land some groundfish in access areas within the groundfish closed areas, it makes sense to award a level of scallop landings to multispecies vessels. (add comments against from tape?)

Motion #8: Avila/Peabody

Any groundfish vessels fishing in an SAP be allowed to land scallops in excess of the incidental catch limit (40 pounds), but not to exceed 400 pounds per trip (Appropriate limit would be determined by looking at previous bycatch rates from previous SAP program).

DRAFT

Vote: 2:3:2, motion fails

Next the Committee reviewed Section 1.11 (Sectors and harvesting Cooperatives). There were several comments by some Committee members and the audience that this may be premature before we know the universe of vessels that will qualify for a permit. Furthermore, it may distract this relatively quickly moving process, and it may be more beneficial to identify this as a priority for a future action. Ultimately the Committee recommended that it remain in the document for consideration to potentially improve flexibility for general category qualifiers. It was noted that staff should work with NMFS to be sure the most up to date version from the Herring DSEIS be used as a framework for this section since the Council spent a significant amount of time developing that section, although it was ultimately not recommended as part of Herring Amendment 1.

Motion #9: McGee/ Peabody

Retain section 1.11 in DSEIS for public comment (staff with work NMFS staff to be sure most recent version Herring Amendment considered, including final options preferred in the final process)

Vote: unanimous

The Committee then reviewed the last section of the document (Section 1.12), measures to allow better and more timely integration of recent data. The Committee briefly reviewed the measures in that section and agreed to add one recommendation from the PDT to adjust the application year for a general category permit if the fishing year is not changed.

Motion #10: Pappalardo/Spitsbergen

Include Section 1.12 (all three options) with the addition:

Add PDT recommendation under No Action Alternative under Section 1.12.1. (If the No Action is selected, consider adding that the general category permits should be issued to match scallop fishing year (change from May to March).

Vote: unanimous

The Committee then revisited some of the issues they did not resolve from the previous day; first, permit history. The Committee recommends the Council consider the motion below.

Motion #11: McGee/Avila

A vessel owner that sells his permits to another vessel, but retains the general category 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.

It is understood that if limited access is adopted in this action, then the limited access general category permit would have to be sold as a package with other limited access permits, consistent with what is the current policy.

Vote: unanimous

The Committee then revisited an idea that was briefly discussed the previous day related to developing an alternative that would consider giving permits to vessels that had a permit before the control date but no landings history. The idea behind this alternative is to give a permit to vessels that had a permit, but if they did not have any landings they would not be allocated specific access to the fishery. Rather they would have an opportunity to lease/buy quota from other qualifiers that were allocated a specific level of access based on historical activity during the qualification time period. Total quota would be capped at 1-5% of the total general category quota, whatever value is deemed appropriate through analysis. This alternative also proposes to maintain the 400 pound possession limit to reduce incentive for small vessels to lease/buy quota and develop new “limited access like” effort. As approaches for determining individual allocations were discussed under this motion it was decided to consider an average of a vessels best three years for all alternatives (Motion 13).

Motion #12: Pappalardo/Peabody

That the Committee establish a separate alternative under 1.7 for allocation:

- 1) 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.

DRAFT

- 2) Quota would be allocated on an individual basis taking average of vessels best 3 years (FY2000-November 1, 2004); or option b) based on best year (option b was added in the next motion to consider both approaches under this alternative)
- 3) Quota may be leased or sold to another qualified limited access general category permit
- 4) Consolidation will be capped (1%-5%) of quota (in pounds)
- 5) Retaining a 400 pound possession limit for all vessels that qualify

Vote: unanimous

Motion #13: Pappalardo/ Avila

In all alternatives that use best year for determining allocation for the general category fishery, use both the best year and average of best 3 years from 2000-control date (for IFQ alternative, part-time/full time alternative, and tiered permit system).

Vote: unanimous

The Committee then discussed the document that includes a list of unresolved issues that came up during scoping or at previous meetings during development of measures for Amendment 11. The Committee briefly went through each of the 27 listed issues. When necessary a motion was made to address that issue and include it in the document. Otherwise the discussion below is a summary of what the Committee discussed related to each unresolved issue.

ISSUES RELATED TO QUALIFICATION

1. How should the Council handle landings history for qualification purposes for a vessel that has upgraded, been sold, etc.?

For the recent Herring Amendment, the Council decided that history transfers with the vessel even if it was specified in the sales agreement that the seller wished to keep the herring history. The Committee decided not to recommend the same process for this amendment; instead Motion #11 from the second day addressed this issue. Also, if a vessel has limited access permits such as groundfish or monkfish, it is not possible to split scallop general category history from the other permits. These concepts have been incorporated into draft language in the section under permit provisions.

2. Should the Council consider landings history from state waters for qualification purposes?

The Committee discussed that if a vessel has a federal general category permit and recorded their landings through VTR, if they were caught in state waters, those landings would count for qualification for a limited access permit. If a vessel does not have a federal permit and has not recorded landings through VTR then those landings under a state permit will NOT count for qualification.

3. How should the Council consider landings history for a vessel that only fished part of the fishing year before the control date - should those landings be weighted for the full fishing year?

In other limited access plans the Council has counted partial year landings as if they were full year landings—it has not weighted them as a full year. That could be complicated and may not treat vessels fairly. For example, vessels that had a permit all year may have had equipment problems or been restricted by regulations in other fisheries so they could not fish a full year either. The Committee agreed with this principle, and does not want to include landings beyond the control date for qualification.

4. How should the Council handle landings history for vessels that have been restricted by other FMPs. For example, seasonal closures and areas like the SNE exemption area?

The Committee did not recommend including the alternative for a qualification exception for vessels from SNE. They are not very supportive of including exceptions because it could qualify too many permits. Furthermore, it may be possible to address some of these concerns through a tiered permit system; these vessels with lower landings could qualify for a lower tier.

DRAFT

5. How should the Council handle vessels that were in the process of getting a permit before the control date, but due to paperwork delays did not get one before November 1?
In the past, processing delays were not waived. If the Council selects an additional performance criteria like historical landings this will not be an issue because a vessel in this situation would not have landings before the control date. It was suggested that rather than having a permit before the control date, the language could be changed to “date of issuance” in case the permit did not reach the vessel before November 1, 2004.
6. Should the Council consider a re-rigging clause?
The Committee discussed re-rigging for sometime during this meeting. They decided not to include a re-rigging clause to extend the qualification time period. While other limited access plans have had them, this one is unique because there is most likely going to be a landings criterion and there have been several control dates warning the public that a limited entry program is going to be considered.
7. Should the Council recommend that landings from areas now known to be illegal not be considered for qualification purposes? For example, a number of vessels have fished in areas outside the GOM exemption fishing area, and enforcement actions were not taken on those trips. Only recently has it been clear that those areas are not exempt.
The Committee reiterated that landings recorded through the dealer and VTR database will be included for qualification purposes. NMFS is not going to go through each trip report and determine if it was from a legal area.
8. Should the Council consider an alternative that allocates a minimum number of permits to all coastal states to ensure all states are represented?
The Committee was not interested in including this alternative for consideration.
9. Should any of the appeals process used in Amendment 4 be considered for this action?
The Committee agrees the appeals process should be similar to what was approved in the Consistency Amendment, including 30 days to appeal, etc. The Committee agrees that appeals should just be for vessels that believe their landings data used for qualification is inaccurate.
10. Should the Council consider an alternative that would limit the total percentage a general category vessel owner could own?
The Committee addressed this in Motion #10 on the first day of the meeting.
11. Should the Council consider allocating a different percentage to the general category sector for access areas? Currently 2% of the total harvest of each access area is allocated to general category vessels, should that percent remain at 2%, should it equal whatever the final allocation is for the general category fishery (2.5-11%), should it be different for different areas? Should general category vessels be allowed to trade access area trips if this action allocates trips or pounds per vessel for each access area? What happens to poundage that is not caught; should it be reallocated the next year or to a different area?
The Committee discussed this for some time at the beginning of the second day of the meeting and passed Motion #1 to address it.
12. Should the Council consider an alternative that would identify an incidental catch cap for each fishery? When that cap is reached, should incidental catch of scallops cease for that fishery?
This alternative would require a significant amount of analysis. It has been raised by NMFS staff that a similar alternative was considered in Herring Amendment 1 for bycatch of herring, and that process found it very difficult to identify when a vessel was participating in a particular fishery. Furthermore, the PDT thinks mortality from this activity has a small impact on mortality, so developing complex alternatives is not justified.

DRAFT

13. Should the Council consider any additional gear restrictions for vessels that qualify (dredge width, use of nets etc.)? If the Council considers an alternative to ban the use of nets for general category vessels, should the Council consider allowing general category vessels to use nets only if they are fishing on a multippecies DAS?

The Committee discussed this at the end of the first day, and passed Motions #11-#13.

14. Should the Council consider prohibition on shell stocking for vessels that qualify?

The Committee decided not to include this alternative. The public has explained that there are important economic benefits for shell stock product. The Committee did request the PDT to examine what amount of bushels is appropriate to equate to 400 pounds of scallop meat.

The PDT discussed analysis that could be done to address that 50 bushels do not equal 400 pounds. While this may have been based on a historical average, or a disincentive to shell stock, the PDT does have data that can estimate the bushel to meat conversion by area and season. The PDT thinks that if mortality is controlled in the general category fishery through limited entry or a TAC then shell stocking should be permitted, and this action should not prohibit the additional economic opportunity. Two members of the PDT will investigate further how to take available data, incorporate a shell-height:meat weight factor and potentially recommend a new conversion for number of bushels to equate to 400 pounds of scallop meat. The PDT does not recommend a different amount for different areas and/or seasons. Instead, they recommend potentially a new amount in bushels that would be an average across space and time. It is possible that these analyses could be completed in time to include in Amendment 11. Staff will inform the Council when these analyses are available.

15. Should the Council consider adding a clause that vessels that qualify need to be owner operated?

This would be a new concept for the Council since it is currently only used in state manages fisheries like the lobster fishery. The Committee discussed it briefly and decided not to recommend it; there may be legal issues, how do you define owner, etc. The Committee passed consolidation restriction motions instead.

16. Should the Council consider a clause for new entrants in the limited entry general category program? Should the Council consider some sort of apprentice program? Should new entrants be required to use dredges?

This would be a new concept for the Council and may take time to develop; it could be considered in a future action.

17. If the resource is projected to increase to a “high” level sometime in the future, should the “new available” resource be allocated at the same percentage as implemented under this amendment, evenly among the two sectors (limited access and general category), or should it be allocated differently. For example, auction the quota, release quota in a lottery system, or allow it to be landed by any permit holder?

The Committee discussed this idea and decided not to include it in the document, it has been moved to the considered but rejected section.

18. For vessels that do not qualify, should a small number of days be set aside for those vessels?

The Committee did not add this as an alternative. This action is to control capacity so this is not necessary at this time.

19. Should owners that have several vessels that qualify be permitted to “stack” access privileges on one vessel (in trips or pounds)?

While all limited access programs in this area do not allow permit stacking, the Committee decided to include two alternatives for a limited amount of stacking in this action (Motion #9 from the first day).

DRAFT

20. Should this action consider a “broken-trip” provision for the general category fishery? For example, if vessels are allocated a certain number of trips with a maximum of 400 pounds, if they only land 200 pounds should they be permitted to catch the remaining 200 pounds on a different trip?
The Committee supports allocating this resource in pounds, not trips. Therefore, it is not necessary to consider a broken-trip provision. A vessel would be allocated a total poundage and they could land that amount in whatever increments they wish less than 400 pounds. If an alternative is developed that allocates access in number of trips it may be necessary to consider a broken trip provision. However the only program that has a broken trip provision is access area trips for the limited access scallop fleet, which are long, high value trips.
21. Should the Council consider alternatives that will promote the landing of roe-on scallops?
This issue was not identified as something the Council was seeking scoping comment on for Amendment 11. The Committee decided not to include an alternative to address this in this action.
22. Should the Council consider an alternative that would take permits away from vessels that cheat?
The Council does not write sanctions and enforcement violations into amendments; issues like this are dealt with separately through NOAA General Counsel and NOAA Enforcement. The Committee did not include an alternative to address this in this action.
23. Should the Council consider an alternative that would allow general category vessels exclusive access to areas inshore? General category vessels would be restricted to areas inshore and limited access vessels would be restricted to areas offshore?
This alternative would take a significant amount of time to analyze and we may not have the data available that would be needed to identify where this line should be drawn. Furthermore, this line may have to be changed on a regular basis. It may be more appropriate to consider this type of strategy in a future scallop action. The Committee did not include an alternative to address this, but did note that if the Council wanted to address this sooner rather than later this action could include measures to consider exclusive inshore areas for the general category sector but in order to do that the process would have to slow down so specific areas would have to be identified and analyzed.
24. Should the Council consider an alternative where limited access general category permits expire when an owner dies, and that permit is then passed on to a different individual that has been waiting for a permit?
This would be a new concept for the Council since permits have historically been issued to a vessel. NMFS has never maintained a “waiting list” as some states do. The Committee did not include an alternative to address this in this action.
25. Should the Council consider alternatives to promote research by the general category sector; for example a specific set-aside for general category related research?
The Committee did not include an alternative to address this in this action. Instead, the Committee discussed that general category research is part of the current set-aside program and maybe more general category vessels will apply after this action. Furthermore, it was suggested that a specific research set-aside could be added as a frameworkable item.
26. In addition to VMS, should the Council consider the use of Interactive Voice Reporting (IVR) for the general category fishery? IVR is a weekly reporting requirement used to monitor a TAC.
The Committee did not include an alternative to address this in this action. Instead they passed Motion #7 on the first day as amended on the second day.
27. Since this amendment is considering limited entry, does the Council need to consider an allocation of yellowtail flounder bycatch similar to the limited access scallop fishery?
According to the regulations for access areas, the scallop fishery (limited access and general category) vessels are allocated a 10% set-aside of yellowtail flounder bycatch. Once that cap is reached the access

DRAFT

area closes. Should the 10% cap be divided between the two sectors at a certain level so one fishery can't close down another? The Committee passed a motion related to this issue to be considered in addition to the No Action. The Committee also requested the PDT to examine if bycatch rates are substantially different between the two fleets.

Motion #14: McGee/Avila

To include in the DSEIS that the general category be given a proportional allocation of the 10% YT cap in access areas for the scallop fishery. (proportion meaning whatever is allocated overall (2.5 and 11%)).

Vote: unanimous, one abstention

The Committee then discussed several other issues that were not yet discussed. The first was the consideration of removing the possession limit for the general category fleet. The Committee discussed that if an individual allocation is considered, the possession limit may not be necessary to control mortality. In addition, it would enable general category vessels to operate more efficiently, especially to prosecute access areas if their vessel is equip to do so. There were some comments from the public in favor of this motion as well as against. One commenter was in favor of this motion but only for access areas. Another commented that it would be favorable for vessels to catch their general category quota and then fish for other fisheries. Another voiced that removing the possession limit could erode the nature of the small boat fleet and encourage vessels to develop operations like the current limited access fleet. Another commented that this would increase the price of quota in the general category fishery and it would be more difficult for small boats to compete with large corporations to buy quota if scallops could be landed in more than 400 pounds at a time. The Committee agreed that some cap may be necessary to prevent behavior from changing drastically, but some measure should be considered to allow vessels to make multiple day trips and land more than 400 pounds to save costs etc.

Motion #15: Pappalardo/ Spitsbergen

Consider the current 400 pound possession limit to be changed to 400 pounds per 24-hour day restriction with a cap of no more than five days (if a vessel is on a multiple day trip it would be permitted to bring in more than 400 pounds on one trip).

Vote: unanimous, one abstention

The Committee then re-visited some of the alternatives developed for determining the amount a vessel would be allocated. In addition to using a vessels best year and an average of three best years, the Committee discussed adding a third approach that would weight a vessels qualification taking into consideration length of time in the fishery. The Committee recognizes that one alternative should be considered that gives more weight to recent years to reflect

Motion #16: Pappalardo/ McGee

Consider another strategy for determining qualification allocation, a weighted system as described in example 2 of method 2 in document 11 (page 4 and 5). Specifically, lower weights would be given to earlier years during the qualification time period.

Vote: unanimous, 2 abstentions

Other Business:

A member of the audience explained that NMFS is interpreting a maximum net size restriction that is not consistent with the Council's intent. She explained that the restriction was intended to be exclusive to the scallop plan to all vessels using a net, not to apply this restriction in other fisheries. The Committee asked this individual to draft a letter to the Council and recommended that this issue could be discussed at the June Council meeting. It may be necessary for the Council to write a letter to NMFS requesting that they send a clarification letter to permit owners that the restrictions on the size of a trawl net sweep are for vessels fishing for scallops, and they were not intended to affect multippecies vessels on a DAS that may have scallop bycatch.

Meeting ended at 4:45 PM.