



Scallop Oversight Committee Meeting Summary

Friday, January 19, 2007 – Courtyard by Marriott – Providence, RI

Attendance:

Committee Members: Dennis Spitsbergen (vice-Chair), Rip Cunningham, Hannah Goodale (designee for Pat Kurkul), Terry Stockwell, Rodney Avila, and Dana Rice.

Absent: David Simpson (Chair), Jim Salisbury, and Michelle Peabody

Council Staff: Deirdre Boelke

NMFS Staff: Peter Christopher, Dvora Hart and Gene Martin

There were about 25 members of the public present at the meeting.

The meeting began just after 9:00 am and Mr. Spitsbergen reviewed the agenda. The Committee focused on four topics: 1) approval of Amendment 13; 2) review of trends in the scallop resource and fishery; 3) identification of priorities for Framework 19; and discussion of potential implications of the MSA Reauthorization Act of 2006 on alternatives being considered in Amendment 11. Ms. Boelke reviewed an updated timeline for 2007 and explained that it would be advantageous to push the final approval of Amendment 11 sooner for two reasons. First, it will be very complex to develop and analyze Framework 19 before final decisions are made on Amendment 11. Second, since adoption of the MSA Reauthorization Act of 2006 there are several new requirements that would impact measures currently being considered in Amendment 11. However, actions in “transition” that are approved before six months after the bill was signed by the President (before July 11, 2007) do not have to comply with all the new requirements. Staff from NMFS voiced concern about how quickly the Notice of Availability could be published after submission of the Amendment 11 DSEIS and the ability to incorporate all the public comments before final decisions had to be made in June. On the other hand, one Committee member expressed that Amendment 11 has taken a significant amount of time to develop and the Council should approve the action as soon as possible to address mortality and capacity in the general category fishery. This issue was raised again later in the agenda when the Committee discussed potential implications of the MSA Reauthorization Act of 2006.

Amendment 13

Ms. Boelke went through the draft amendment that is considering reactivating the industry funded observer program in the scallop fishery. One member from the public requested that the protocol for observers should be made available for vessels so they know what an observer is supposed to be doing on a trip. Apparently a protocol type of document is available upon request and has been provided to some members of the industry. Another member of the audience requested that the Committee consider adding a provision to allow sectors in the limited access scallop fishery in Amendment 13. He recognized that the issue would slow Amendment 13 down, but emphasized that the Council should develop a mechanism to allow the industry to remain viable when the resource or fishery takes a down turn. He suggested sectors are a mechanism that could do that and the Council should identify the most appropriate vehicle to include sectors in the management program in the timeliest way. On a different note, another comment from the audience was that Amendment 13 should include reference to the SBRM action, specifically explaining the details of what that action is considering. Staff explained that after the Council makes final decisions on the SBRM Amendment a section can be added to Amendment 13 that summarizes what the Council selected. Another member of the public added that sectors for observer coverage only may be an option that could be considered in a future framework. He explained that the current system is not fair and costs should be shared among the fleet more directly, especially if certain alternatives in the SBRM action are approved and required levels of observer coverage increase. **By consensus the Committee decided to add a third example under Alternative 3.3 that would discuss the creation of a sector/cooperative for sharing the cost of observer coverage among scallop vessels (recognizing that all the examples need further development). The Committee then passed a motion to approve Amendment 13 for Council consideration including Alternative 3.2 and 3.3, motion passed with no objection.**

Scallop resource and fishery – past and present

Dr. Dvora Hart from the NEFSC gave an overview presentation on the scallop resource and fishery. She is the principle scallop assessment scientist for the Center and has been a member of the Scallop PDT for about seven years. Dr. Hart reviewed the major management actions and environmental parameters that have impacted the scallop resource. She reviewed trends in landings, LPUE, fishing effort, and fishing mortality in both Georges Bank and the Mid-Atlantic since the early 1900s. She explained that there are always going to be good and bad years in terms of recruitment, and while the variability can never be eliminated, management can reduce the fluctuations. She discussed that the average scallop meat weight has been increasing substantially in recent years from greater than 40-count to mostly 10 and 20-count. The last three years have been extraordinary in terms of landings, twice the long-term average. Several good year classes have occurred and a combination of effort reductions, gear and crew restrictions as well as closures have helped stabilize the fishery.

Dr. Hart then reviewed how the federal survey is conducted and how biomass estimates are then projected for various areas. She explained that recruitment has been down on Georges Bank, but some sort of environmental trend is going on in the Mid-Atlantic, making the area more favorable for scallops. Dr. Hart emphasized the importance of the Elephant Trunk and reported that over half of the Mid-Atlantic biomass is in that area (and one-quarter of the entire biomass). A representative from the industry informed the Council that a “best practices” handout is going to be distributed to all major ports before the ETA opens because the industry also recognizes that husbanding the resource in this area is critical. The handout includes suggestions like spacing out trips, making short tows, minimizing deckloading, shucking what is caught rather than highgrading, fishing in areas with larger scallops, moving while shucking rather than anchoring, and hanging twine tops with a 1:1 ratio to help cull out small scallops. The industry hopes that these “best practice” fishing behaviors in access areas will help reduce non-harvest mortality and maximize yield from the Elephant Trunk Area. Dr. Hart added that the growth rate of scallops in the Mid-Atlantic, and in the Elephant Trunk in particular, is much slower than the approved rate used in the projection model, so additional precaution should be considered. As for the 2006 survey, there have been declines in both open and access areas. Allocations under Framework 19 are expected to be lower than previous years, though projected catch is still higher than the historical average. The estimates using 2006 data are going to be reviewed at the benchmark assessment this year, and those findings will be incorporated into Framework 19. Lastly, Dr. Hart explained that the scallop survey is in transition and they are considering additional ways to better assess the resource.

Framework 19

Ms. Boelke reviewed a document prepared by the Scallop PDT that identified the objectives of Framework 19 and priority issues they recommend for further development. The purpose of Framework 19 is to achieve the objectives of the Scallop FMP to prevent overfishing and improve yield-per-recruit in the scallop fishery. The primary need for Framework 19 is to adjust the DAS allocations and area rotation schedule for the 2008 and 2009 fishing years as part of the biennial adjustment process implemented under Amendment 10. In addition to what has been considered in previous biennial frameworks, this framework will be the first action implemented after (or simultaneously) with Amendment 11, an action that is considering measures to control capacity and effort in the general category fishery. Depending on which measures are ultimately selected in Amendment 11, Framework 19 may also include specific requirements related to general category fishing effort and allocations. Furthermore, other issues have been raised that may be included in this action as well. **The Committee reviewed this list and agreed that nine out of ten of the “high priority” items identified by the PDT should be considered for further development. They also recommended that two additional issues be added for the PDT and advisors to develop in more detail related to annual specifications and improvements to the industry funded observer program.** Below is a brief description of each of the issues identified for further development, followed by a list of the issues that the Committee does not believe should be included at this time. Framework 19 must be submitted to NMFS in the early fall of 2007 for measures to be implemented before the start of the current fishing year (March 2008).

Ideas that have been identified as high priority for consideration in FW19 by the PDT and approved by the Committee for further development.

(Note: not in order of importance)

1. Protection of small scallops found in Hudson Canyon. If closed then should be closed to entire scallop fishery not just the limited access fleet. Allowance of further carry-over trips for future fishing years?

The PDT believes that something should be considered to relieve pressure on small scallops that have been found in Hudson Canyon. However, the PDT is not yet in agreement about what the best approach is and needs more time to develop specific alternatives. Specific ideas discussed were: 1) keep the area closed in 2008 and 2009 and allow carry over trips from 2005 to be used after that; 2) close in 2008 and allow carry over trips in 2009 only; 3) close the area and shift unused carry over trips to another area; 4) allow vessels to make an exchange of unused trips for open area DAS; close only the southern portion where the small scallops are; prohibit general category effort if the area remains closed. The PDT agreed that general category effort should be prohibited in the area if the action closes it to the limited access fishery, and if the action permits some limited access effort then general category effort should be controlled. Pros and cons of all these ideas were discussed and the PDT does not want to push effort in areas that have known concentrations of small scallops, but they are opposed to setting precedence that access areas can be shifted to other areas. One problem remains that the area is open in 2007 for unused carry over trips and to the general category fleet unrestricted. This is not something that can be resolved under Framework 19 and does concern the PDT. The Committee agrees with the PDT that options should be developed to reduce fishing pressure in Hudson Canyon to protect small scallops. Furthermore, if the area is closed to protect small scallops it should be closed to all permit categories. A representative from NMFS did express concern about “banking” trips for long periods of time because it will become difficult to manage by area if unused trips carry over for long periods of time. A member of the audience commented that fishing in Hudson Canyon is very poor and scallops are small; he supports keeping the area closed to maximize yield.

2. Consider what the target level of observer coverage should be for the scallop fishery (area specific if necessary – how does SBRM process impact targets for FW19?).

The PDT believes it is important to describe the process used to identify recommended levels of observer coverage in light of recent litigation. It is still not clear to the PDT how the SBRM process is going to fit into identifying target levels of observer coverage, and when it is going to be effective. Therefore, the PDT thinks it may be necessary to detail the process: identify the goals of the coverage; identify the recommended level of coverage needed to attain those goals (i.e. by area and gear type), and describe how those levels of coverage can be met through the set-aside program. The Committee agrees and would like the PDT to go through this process regardless of what is decided in the SBRM process.

3. Identification of new areas with recruitment and small scallops that should be closed for future access areas.

In addition to the southern portion of Hudson Canyon, the survey also found concentrations of small scallops in the southern part of the channel and the northern part of the Nantucket lightship access area. The PDT believes it may be useful to identify some areas as potential closures to protect small scallops as well as leave the door open in case the 2007 survey finds other areas. The Committee supports the PDT identifying other potential areas for closure, and discussed the potential use of a notice action process to close areas with small scallops. Staff pointed out that notice action procedures must be very detailed upfront and that could be problematic.

4. Specific measures to reduce derby fishing in re-opened access areas.

The PDT is supportive of considering derby prevention measures for the general category fishery for both access areas and open areas. Depending on what is approved in Amendment 11 the specific options will vary. Spreading effort out by month, or maximum trips per vessel per month, or even allocation of trips on an individual basis could work for both access areas and open areas. Derby prevention options

for the limited access fleet may not be as critical for FW19 because it looks like limited access vessels are only going to get one to two trips (plus ETA trips). The Committee is supportive of developing measures to reduce derby fishing in Framework 19. One Committee member suggested that a policy about un-used trips should be developed as well, similar to the current un-used DAS policy (maximum of 10 day carry over to following fishing year).

5. Consider what percent of access area TACs should be allocated to the general category fishery, should it vary per area (2% or another value).

The PDT supports consideration of different TACs for the general category fishery for different areas. This issue was raised during Amendment 11 and the Committee agrees Framework 19 is the appropriate vehicle to address it. The Committee discussed that these options will be affected by the overall allocation decision in Amendment 11 between the limited access and general category fisheries.

6. Revisit elimination of crew size restriction for access area trips. Has the number of crew in access areas increased since Framework 18 implemented? Have the size of scallops reduced on trips with larger crews?

The PDT does not expect this to be an issue, but is uncomfortable that FW18 eliminated the crew size completely. Some analysis can be done to see if crew size and size of scallops caught in access areas changed in 2006 and part of 2007. The PDT is concerned about the potential impact of this provision on ETA trips. The Committee supports the PDT looking into this in more detail and suggests that one possible alternative could be “no more than two additional crew” over the status quo prior to FW18 eliminating the crew size restriction.

7. Timing issue with Elephant Trunk interim action expiring several months before Framework 19 is expected to be implemented.

The PDT discussed that there may be measures that can be adopted in FW19 to reduce incentive for vessels to fish in ETA in Jan and Feb 2008, before FW19 is implemented. The Committee agrees something could be considered in Framework 19, but another approach may be to initiate a separate framework (FW20) that would carry over measures implemented by interim action for ETA for those two months. Staff mentioned that the action would probably qualify for a categorical exclusion since the impacts of the measures have already been analyzed in Framework 18 and the Committee requested that staff look into this option further with NMFS.

8. Development of more rapid opening and closure mechanism for access areas – when small scallops are found by vessels those areas should be investigated for temporary closure. Or could the scallop survey process be modified – i.e. if an area with small seed is found on the survey can a second more detailed survey with more stations be sent out to further assess the area?

The PDT is confident that the survey is capable of identifying areas with small scallops; one PDT member commented that is what the survey was designed to do. Rather than changing the survey process, the PDT thinks the Council needs to explore how the “fully adaptive rotational plan” approved under A10 can be used more effectively. The PDT agrees that areas with small scallops have to be closed more quickly. The Committee agrees a more adaptive program would be superior, but implementing a fully adaptive program is the challenge. The Committee would like the PDT to explore this in more detail.

9. Consideration of a no-deckloading provision for all access area trips.

The PDT is supportive of no-deckloading provisions, and measures that reduce non-harvest mortality. The Committee agrees this should be considered. A member of the audience requested that a related issue be included concerning the current specifications in bushels versus standard plastic baskets. The Committee agrees there is a concern and suggests that the issue be explored further in terms of whether action is necessary to consider changing the regulations with new specifications in standard plastic baskets.

10. Addition of setting specifications for open area DAS and access area effort on an annual basis. Eliminating the required biennial process and limiting what can be included in an annual adjustment. All other management measures would have to be included in a framework or amendment.

The PDT does not believe that an annual process would solve all the problems identified with the scallop management schedule. Instead, the PDT is supportive of the biennial process with the inclusion of a notice action procedure. The PDT thinks the notice action procedure used in FW18 can be improved by adding additional triggers and making the existing triggers more precautionary. One PDT member noted that changing the biennial framework process may have to be an amendment, and the PDT/Committee needs to be careful about what can be approved in a notice action procedure. The Committee discussed this for sometime with input from the public and disagrees with the PDT; the Committee suggests that it be included for further development.

It was suggested that mechanisms used in the Mid-Atlantic could be used in our region for scallops. One Committee member pointed out that while there are problems with a biennial process and notice action program, conducting annual specifications takes both staff resources and meeting time, and may prevent the Council from taking action on other aspects of the management program. This region has moved toward multi-year specifications so more time could be spent on improvements on the overall management program. Another Committee member added that in the Mid-Atlantic the multi-year approach may fit better because major changes in the management program have not occurred recently as in the scallop fishery. One member of the audience suggested that if the annual process could only specify DAS and access area trip allocations it should not take as much staff and meeting time. It is still not clear if this adjustment would have to be an amendment.

11. Improvements to the observer set-aside program. For example, change the way the set-aside program is set up for observer coverage – i.e. rather than 1% of the total TAC being set-aside that amount could be allocated back to the fishery and instead a small landings tax could be collected from all vessels to fund observers.

While the PDT is supportive of this topic and discussed that it may be the most effective way to implement an industry funded observer program, there are issues with implementation and the concept needs much more development. The PDT does *not* think it is critical to consider at this time when compared to other issues that should be considered in FW9. The Committee disagrees with the PDT and there was significant interest in exploring the topic in more detail for a future action. Several ideas are in development already as examples in Amendment 13 and the Committee would like the advisors to further hash out the details into specific alternatives that could be considered later. It was noted that collection of a fee is prohibited under Magnuson, so more work would have to be done to develop options that are not a required fee. Furthermore, depending on what is developed it could require an amendment.

The issues below were discussed, but the Committee recommends that they be considered at a later date (not for inclusion in Framework 19).

12. Revisit seasonal closure of ETA to protect sea turtles.
13. Specific consideration of opening dates – which dates are most appropriate for when specific areas should be re-opened.
14. Addition of setting specifications for open area DAS and access area effort on an annual basis. Eliminating the required biennial process and limiting what can be included in an annual adjustment. All other management measures would have to be included in a framework or amendment.
15. Re-examine the compensation rate vessels are awarded for carrying an observer.
16. Consider a specific research set-aside for the general category fishery (either a component of existing 2% RSA or an additional set-aside).
17. Consideration of overages and/or underages of general category trips per access area – should future cuts and/or allocations be made?

18. Consideration of overages and/or underages of yellowtail flounder bycatch TAC in access areas – should future cuts and/or allocations be made?
19. Consider changing the allocation of yellowtail flounder to the scallop fishery – is 10% the appropriate value?
20. Consider leasing of groundfish DAS to scallop vessels so that the effort associated with those DAS could be “used” for additional yellowtail bycatch caught on scallop vessels in access areas.
21. Is monkfish bycatch an issue in access areas – for both limited access and general category fleets? Does the possession limit for limited access vessels need to be re-examined to reduce bycatch or to reduce incentive to target monkfish? Should general category vessels have a possession limit of monkfish to reduce bycatch?
22. Potential improvements to the research set-aside program.

Amendment 11 and the MSA Reauthorization Act of 2006

Ms. Boelke summarized how the MSA Reauthorization Act of 2006 could impact alternatives already approved in Amendment 11. Specifically, the referendum and cost recovery requirements of limited access privilege programs (LAPP) may affect the individual fishing quota alternatives under consideration. She explained that since the timeline of Amendment 11 has moved several months earlier, so long as final decisions are made at the June 2007 Council meeting then this action would fall under the “transition clause”. Therefore, the Council could select an individual fishing quota program and a 2/3 referendum would not be required. However, if final decisions are not made before July 11, 2007 (the date the transition clause expires) the Council should be aware that any alternative that involves allocation of individual quota shares in pounds would be subject to the new restrictions, namely a 2/3 referendum and cost recovery program. These additional requirements are likely to slow the amendment down since there is no guidance yet about how and when a referendum would take place. One Committee member asked NMFS if they have a sense of when guidance on aspects of the new Act would be available. The NOAA attorney representative responded that there are no definitive plans yet, but NMFS would provide ad-hoc guidance to the Council if national guidance was not available in time for Council actions under development. **The Committee discussed this issue and determined by consensus that the IFQ alternatives should remain in the document, with a qualifier. The qualifier would be that if final decision on Amendment 11 does not take place at the June 2007 Council meeting the Council should be aware of these additional requirements when selecting final measures because if the IFQ alternatives in particular were selected after July 11, 2007 they would have to comply with the new referendum and cost recovery provisions. Therefore, if final decisions are not made in June some options in the document will not be as viable if the Council wants to stay on the current timeline for implementation.**

Other Business

One member of the audience suggested that the Scallop Committee request the Council to have the TMGC meet to discuss that fishing regulations for transboundary stocks are not compatible. The Scallop Committee determined that this is a groundfish issue and not one the Scallop Committee should get involved in; instead it was suggested the individual raise the same issue under other business at the February Council meeting. Another member of the audience commented that considering sectors for the limited access fishery is an important consideration and one the Council should consider again in the Amendment 11 process. It was discussed that if during the public comment period or before the DSEIS is approved in April there is interest in bringing the alternative from the considered but rejected section back into consideration that could be done. Staff did not get an opportunity at the meeting but it should be pointed out that depending on when an option is added, it could require additional analysis or public hearings. Lastly, the next Scallop Committee meeting will probably be held in late March to review Amendment 11 before the April Council meeting.