



## Scallop Committee Meeting

May 19, 2010

Hilton Hotel, Providence, RI

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Committee members in attendance: David Pierce (Chair), Mary Beth Tooley, Mark Alexander, Dave Preble, Rodney Avila, Hannah Goodale (designee for Pat Kurkul).

*NMFS Staff:* Peter Christopher, Emily Bryant.

*NEFMC Staff:* Deirdre Boelke, Jessica Melgey.

There were about 40 people in the audience.

**Purpose of Meeting:** Review status of current actions, discuss initiation of FW22, review A15 public hearing document, and approve research priorities.

This was the first meeting of the Scallop Committee since November, and David Pierce is the new Committee Chair. He is being supported by Melanie Griffin from Massachusetts DMF. There will be a Scallop PDT meeting June 8 in Newburyport, MA and a Joint Scallop/Groundfish AP meeting is scheduled for June 7 in Warwick, RI. A Scallop AP meeting will be scheduled soon.

### **Update on Status of Current Actions**

Currently, FW21 is nearing implementation – expected mid-late June. Amendment 15 was submitted to NMFS in April and will be given back to Staff with edits around the beginning of June. The public hearings for this action should take place sometime in late June and early July, and the Council is expected to take final action on A15 at the September meeting, followed by submission later in the fall. This puts implementation around June 2011.

### **Formation of Alternatives for Framework 22 (specs for FY 2011 and 2012)**

Staff told the Committee that FW22 will be initiated at the June Council meeting. FW22 final action will be at the November Council meeting, with implementation targeted for May 2011. Similar to recent years, FW22 will not be ready for final action at the September meeting because survey data will not be available and A15 work will be taking place concurrently. The audience asked what will happen between March 1, the start of the fishing year, and sometime in May when FW22 is implemented. Staff responded that measures will have to be put in FW22 to prevent excess fishing during that period, and to prevent overfishing. A specific example of how this delay is complex is Elephant Trunk access. If ETA trips rollover from 2010 to 2011, that area will open with 2 trips for full-time LA trips. And it is more likely that area will have one or zero trips in 2011.

Staff presented measures discussed by the PDT for Framework 22. Under ‘Measures always considered,’ the PDT includes **fishery specs for 2011 and 2012, ABC for both years, various No Action alternatives, standard yellowtail flounder measures, any new candidates for access areas, and specific measures for RPM in terms of sea turtles.**

A member of the Committee asked about the overlap of this action with the Habitat Omnibus amendment. The Chair of the Habitat Committee stated that the Council hopes to pick alternatives to analyze at November 2010 meeting, which is the same time as FW22 final action. There could be some difficulty with analysis for both this overlap and that with A15, because there are many alternatives in A15 that will impact measures in FW22 (fishing year, overfishing definition, ACL measures, etc.).

RO Staff asked about the potential for partial access area trips, and the PDT will develop this idea further as specification options are discussed. Four or five access area trips should be available in 2011 and 2012, but since new survey results are not available yet, speculating about availability of access area trips is premature. **By consensus, the Committee agreed with the PDT that more parts of CA2 should be considered for access in FW22.** The Committee wants the PDT to consider access in more parts of CA2 if the biomass supports it, they also tasked staff to determine if the action needed to be a joint action if more access granted in CA2.

There was also much discussion about how any potential new closure (specifically in the Great South Channel) should be managed, and some on the Committee argued that any new closures should be shorter (one or two years instead of three) and possibly smaller to reduce impacts on fishermen and cut down on natural mortality. Members of the scientific community/PDT countered that the three-year timeframe and minimum size was chosen based on biology of the species, and that any closures outside of that timeframe will be less effective in optimizing yield. For example, the Delmarva closure that was only 2 years was considered less successful than other areas. In addition, Virginia Beach was a smaller area at the margin of the resource, and that area was not very successful either. There was also a question about what minimum size for closed/access areas is specified in the regs, and Staff and RO were going to look into it. **By consensus, it was discussed that the PDT should explore a new closure in the Channel if the new surveys supported that, but the size and length of closure should be different than what was considered in FW19 and 21.** It may not be an area designed to maximize yield because of all the other factors influencing that area such as YT and EFH management. Finally, a gen cat representative asked that other Northeast openings be considered because a CA2 opening excludes the gen cat which is largely an inshore fleet.

The Committee decided to wait on survey results before making motions on access area analysis/development. AP input will also be critical. Public comment included the question of 'reciprocal' closures (a new area opening every time one is closed) and a reminder that 4 access areas will be open in the Mid in 2011 and 2012 which should cause effort shifts. It was also pointed out that access areas can't be too small either, because when the areas are fished they have to be large enough so that vessels can fish them safely.

Next the Committee discussed additional measures that could possibly be included in Framework 22 that have been raised in previous motions, correspondence or communication with staff. The first item, additional GSC exemption for LAGC vessels, is moot because this subject was tasked to the GF Committee for GF Framework 45. There were two issues regarding VMS polling brought to the attention of the Council via correspondence. The first was a request to reduce **the VMS positioning requirement for LAGC IFQ and LAGC incidental permits to once per hour (from every 30 minutes).** The Committee agreed to add this to the action without

objection. They requested staff to investigate the issue further and get more input from OLE about possible modifications to the program that would help reduce costs for all permit types. One question raised was if additional polls are added, how automatic would that process be? The second item was a request for vessels to be able to turn off their VMS if they are not intending to land scallops. The Committee decided that by consensus, **the FW should allow vessels to turn off their VMS if they do not intend to land scallops if they render their vessels incapable of landing scallops (remove dredge, wire, and main block). More OLE and AP input and background will be needed for this alternative.** Overall, the Committee is supportive of considering measures that will make VMS as cost effective as possible but not compromise enforcement capabilities.

Some members of the public voiced issues with 30 min polling change saying the 30 min regulation was very necessary and questioned the cost savings since those with incidental permits are going out for something else and not targeting scallops. In addition, someone noted that if polling costs are a concern, we need to consider it across all categories and look at the most cost effective way of polling which would be to reduce polling while at docks.

A representative from OLE noted that pinging would have to increase when the boat gets close to closed area boundaries (perhaps half a mile). An industry member was wary of this distance, noting that with vessels capable of going 10 knots per hour, the boundary should be more like 5 miles in order to catch locations near access areas with hourly pings. A member of the general category fleet spoke up to support the alternative, stating that it will help to save money in an already marginalized fleet.

In terms of the VMS power down, several people wanted to know the distinction between ‘turning off’ and ‘powering down.’ Power down is temporary, turning off is longer term (i.e. if boat is out of the water). OLE stated in correspondence prior to the meeting that this would be fine but asked that the vessel be ‘rendered incapable of fishing for the rest of the year.’ Many were concerned about how this would be done, and the OLE rep gave an example of removing dredges and block and wire. Some of the public stated that this was already being done in some cases, but that it depends on what the vessel is doing instead of scalloping. For instance, someone who wants to go shrimp fishing can’t remove the block and wire (to be rendered incapable of scallop fishing). It would work for lobster/crab fishing but need to have some flexibility in other cases.

Another potential issue for FW22 brought forward was to **modify the opening date for access areas in the Mid-Atlantic to access the resource when weather and meat weights are better.** A member of the Committee stated that this request was made before the implementation of IFQ system; fishermen can take trips whenever they like now and wait for times with higher meat weights, etc. However, it was pointed out that in access areas there is still a fleetwide trip cap, so vessels may not be able to take trips in an area if the fleetwide cap has been reached. **The Committee decided to bring this alternative to the advisory panel in order to get industry input, and to keep it as a general category only issue, opening date for access areas for limited access vessels would remain March 1.**

Next the Committee discussed a **provision to allow an incidental LAGC permit to be split from other permits**. The RO was concerned that this is a policy-heavy issue and could be a fundamental change to the fishery that needs general counsel input whether it could be considered in a framework action. **The Committee felt that this was not a high priority for this action and if it requires too much development will have to be dropped later. The Committee suggested the issue be forwarded to the AP so they could comment more on how necessary this measure is to consider in FW22.**

A member of the GC stated that there are many issues with the IFQ program that need to be modified. Two specific ones are: 1) to be able to split quota from permit (being considered in A15); and 2) to be able to split incidental 40 lb permit no quota from all other permits.

**In terms of yellowtail provisions for FW22**, a Committee member suggested adding time-area closures that will help reduce YT bycatch (proactively instead of reactively) to the list of yellowtail alternatives. While this makes sense, Staff responded that resources needed for that analysis is large and there may not be time in this action. **Therefore, the Committee decided to forward this idea of a proactive time/area closure to reduce YT bycatch to the joint Committee for them to consider in the joint amendment.** Next, the Committee discussed one alternative discussed by the Joint GF/Scallop Committee that could be implemented in the Scallop FMP only – gear modifications. Specifically, they reviewed input from the PDT about possible modifications to twine top regulations (reduce hanging ration and institute a minimum twine top length) and require all vessels to use the “turtle dredge”. **Ultimately, the Committee decided not to pursue gear modifications in this action due to the complexity of gear regulations and the time and analysis the alternatives would take. In addition, research is planned for this topic and we should wait to include the results.**

The Committee revisited the **Observer non-pay issue that was considered and rejected in Framework 21**. It was explained that modifications to how things are defined would need to be modified in order for NMFS to issue permit sanctions for non-payment of observer service providers. Several Committee members still feel that permit sanctions don’t work, and that payment issues should not be linked to permits. **Therefore, the Committee decided not to include this issue in FW22.**

There is also the issue of IFQ vessels **leaving 50 bu seaward of the demarcation line and landing 50 bu**. Amendment 11 included a provision to allow a vessel to be in possession of 100 bu. of scallops seaward of the demarcation line to provide flexibility and to account for any seasonal and spatial variation in meat weights. However, now it seems that 100 bu. may be more flexibility than necessary and fishing behavior has changed in some areas as a result of this measure. Vessels are targeting more scallops and buoying them off to be landed the next day. The PDT is not sure how prevalent this activity is and if there are any quality and mortality issues. **The Committee decided to forward this issue to the AP to see how widespread this issue is and to ask the PDT if this is a significant problem or not and to consider what a more appropriate bushel equivalent would be to account for meat weight variations.**

The Committee asked the public if there were any other issues that should be considered in FW22. A gen cat representative requested that the Committee consider developing near shore access areas for use by gen cat vessels only. The Committee did not act on that request.

### **Amendment 15 Public Hearing document**

Staff presented the A15 public hearing document for Committee input. This document will be distributed at public hearings and help to guide public comment before A15 final measures are decided on. Staff requested help from the Committee in clarifying the document.

There was concern about changes in the RSA process that may have changed the need for several of the RSA alternatives. Staff will include a description of the changes that have happened and those that have been addressed – some may be moved to the considered but rejected section if they are no longer necessary.

A Committee member asked how the public will be able to access the full DEIS and Staff said that it will be available online after it has been reviewed by NMFS and filed with EPA. It was also questioned whether the title of the economic impact section is clear enough.

Members of the audience asked for clarity in the overfishing definition section; in particular that current means of management have not been incorrect (*F* and DAS are based on biomass in open areas, so the claims that we are underestimating *F* and reducing YPR are not accurate). Instead we should explain that the hybrid definition is an improvement on what we are currently using.

A member of the public wanted clarification on the issue of de-stacking: aren't there conditions under which a vessel owner would be prohibited from de-stacking? The document presents an either/or approach. While Staff recalls discussion of de-stacking alternatives there were never any motions to formulate more specific provisions about restrictions on de-stacked permits. It appears likely that questions on where de-stacked permits can go are likely to arise in public hearing process, and will likely lead to a need to make specifications in the EIS. For example, a provision could be added to restrict where a de-stacked permit can go. In order to prevent capacity from increasing, a de-stacked permit could be restricted to only go on an active vessel or a permit in history – not on a new vessel outside of the fishery. The Committee was generally supportive of this idea, and if it comes up during the public hearing process the Council could include language in the final action to clarify any restrictions on de-stacked permits.

There was also comment on the section discussing stacking background. Some felt that the statement of boats 'being unprofitable at continued level of inefficiency' is misleading, because boats considering stacking are not at risk of being 'unprofitable' – that is not the main motivation behind stacking – it is to improve efficiency. It was also requested that a note should be made that some members of industry have been against stacking from the beginning. The Chair agreed and staff will revise the paragraph to be more accurate. It was also suggested that the question about how accurate the scientific uncertainty information is may not be useful.

There were several comments about the questions Staff developed to help focus public comment at the end of the draft public hearing document. Many felt that the question of whether the public

believed overcapacity to exist (#7) to be irrelevant since the existence of overcapacity was reason for the development of leasing/stacking alternatives in the first place. Others felt that the question should be left in unless it could be clearly illustrated that overcapacity is fact. A Committee member suggested that we change question 7 to “do you agree that there is a need to *address* excess capacity?” and the following motion carried.

**Motion 1: Alexander/Avila Change wording of question 7 to “Do you agree that there is a need to address excess capacity in the limited access fleet?” 5-0-1**

### **Research Recommendations**

Staff needs to give final research recommendations to NMFS so they can be published in the next federal funding announcement in June. The PDT made two recommendations to modify the list of research priorities from the previous RSA program in 2010: 1) the second bullet under ‘OTHER’ be moved to medium priority and the term ‘seasonal growth’ be added; and 2) the last bullet about research projects to help calibrate the transition of the federal dredge survey should be more specific based on the outcome of recent assessment discussions. The Committee in general was happy to accept the PDT’s recommendations, but also had other ideas/concerns. The following motions outline the conclusion of these discussions. Motion 3 was passed in hopes to understand more about the biomass in areas outside of the standard survey area in hopes that new access areas can be developed closer to shore, and to improve overall biomass estimates.

**Motion 2: Preble/Alexander Recommend to move the second bullet (scallop biology) to medium priority and to include research restricted to incidental gear mortality, seasonal growth, and discard mortality. 4-0-2, motion carries**

**Motion 3: Preble/Alexander Recommend moving bullet number 1 (other surveys) up to medium priority. 4-0-2, motion passes**

There was also interest in devoting more resources to including predation into analyses/assessment based on recent research, but it was not moved forward at this time.

Public input regarding research recommendation included that incidental and discard mortality are the most problematic in the assessment – seasonal growth ‘spurts’ are difficult to get a handle on. One PDT member commented that the highest priority remains resource surveys because they are an annual need – some were wary of moving anything else into ‘highest’ category as ‘competition’ for the surveys.

A member of the LAGC fleet stressed that inshore surveys (i.e. inshore NJ, NGOM) need to be included in priorities because that is where much of the LAGC fishes and right now little of the biomass is included in the assessment. It was also noted that the 2% set-aside was originally given as a ‘second opinion’ on government surveys, and that they should continue to be highest priority. It was added that industry and advisors should have more say in what types of research priorities are identified and which projects are funded.

Staff explained that these research recommendations will be forwarded to NMFS so they can be published in the upcoming federal funding announcement. In addition, these recommendations

will be forwarded to the SSC so they can be integrated into the 5-year research priorities the SSC is developing.

### **Other Business**

The Committee reviewed a letter of correspondence about impacts of Amendment 11, but no action was taken. The Committee then discussed a comment from the last Council meeting about the possibility of creating a separate AP for gen cat interests as was done under A11 development. A gen cat representative stated that the LAGC and LA fleets are existing under two separate goals/systems, and that a separate panel would help to delineate the separate needs and allow management and policy to move forward more effectively for each. The Committee decided to request that this be discussed at a future Committee or Council meeting when it can specifically be noted in the meeting agenda.

Lastly, a representative from an observer service provider offered to give a presentation at a future meeting about the importance of the observer program. It seemed to him that the Committee may not be aware of all the important work the observers do and how all the data are used in the management program. The Chair encouraged the individual to write a letter to the Executive Director with that request and then it could be potentially added to a future agenda.