

Scallop Plan Team Report

December 3, 2013

Meeting conducted by teleconference
Anchorage, Alaska.

Plan Team members present: Diana Stram (NPFMC) co-chair, Gregg Rosenkranz (ADF&G Kodiak)-co-chair, Scott Miller (NMFS Juneau), Peggy Murphy (NMFS Juneau), Rich Gustafson (ADF&G), Jie Zheng (ADF&G), Ryan Burt (ADF&G), Quinn Smith (ADF&G),

Plan Team members absent: Brad Harris (APU)

Public and agency personnel participating: Jim Stone (Alaska Scallop Association), Karla Bush (ADF&G), Mark Stichert (ADF&G), Scott Kelley (ADF&G), Bruce Weyhrauch, Heather Fitch (ADF&G), Melissa Good (ADF&G), Kurt Iverson (CFEC), Ben Brown (CFEC), Craig Farrington (CFEC), Tom Meyer (NOAA GC), Jan Rumble (ADF&G), Ken Goldman (ADF&G), Elisa Russ (ADF&G), Chris Russ (ADF&G), Rich Gustafson (ADF&G), Chris Siddon (ADF&G), Wayne Donaldson (ADF&G), Marsha Spafard (ADF&G), Trent Hartill (ADF&G), Tom Minio (F/V Provider), Josh Adkins (F/V Provider), Bill Harrington (F/V Kilkenney), Brandan Harrington (F/V Kilkenney)

Overview of discussion

The Scallop Plan Team met by teleconference Tuesday December 3rd, 2013 to review and comment on the ADF&G proposed state management plan for scallops in state waters. Diana Stram (NPFMC) chaired the meeting. Call-in locations were Anchorage, Juneau, Douglas, Kodiak, Homer, and Dutch Harbor. Proposal 369 (attached), submitted by ADF&G to the Board of Fisheries, was provided to participants in advance of the meeting.

The Team received an overview of the State's proposed state waters management plan from Wayne Donaldson. This proposal focuses only on areas where there is active fishing in state waters; therefore, it the Yakutat, Prince William Sound, Kodiak, and Dutch Harbor registration areas. He noted that this plan represents a starting point for the development of a state waters fishery management plan, and is focused on what the department would need to manage scallop fishing in state waters in the absence of a vessel based limited entry system. This plan does not supersede any existing regulations; rather, it works in conjunction with them. The BOF will review this proposal at their January 2014 meeting in Kodiak. At that time the BOF could develop a new plan, pass the proposed plan, modify the proposed plan or take no action.

The plan proposes a number of management measures including pre-registration of vessels, a pre-registration period, a CFEC interim-use permit, provisions for management inside and outside state waters, a 12 hour notice for change in registration area, fish tickets by registration area, daily reporting, activated VMS, and trip limits. The plan is designed to respond to the potential for increased fishing effort in state waters. Previously state and federal waters have been managed as a single management unit given the characteristics of the scallop beds and the close association of the state vessel based limited entry system and the Federal license limitation program. Beginning in 2014 however all state waters will be open access to all vessels barring any action to limit vessel size by the BOF or other limited entry action by the legislature.

The proposed plan requires preseason registration requirements to ascertain the anticipated effort in state waters annually. This allows for the establishment of appropriate management actions dependent on effort as well as pre-season planning for observer training and deployment. VMS would be required to enforce boundary lines. Sections (c) and (d) of the proposal lay out the requirements for a valid CFEC interim-

use permit (section (d)) and preseason registration requirements by area (section (c)). Once the preseason registration deadline has passed (April 1) the department will evaluate the number of expected participants by area in order to structure area-specific management measures. Proposed management measures are scaled to three classes of management actions dependent on expected effort:

Scenario 1: Effort is expected to be similar to past effort in an area, then the area will be managed with a single GHL, vessel registration and crab bycatch limits (where applicable) in state and federal waters combined (Status Quo).

Scenario 2: Effort in state waters is expected to substantially increase over previous years to a point where the area would then need different management in state versus federal waters. This would necessitate that registration, GHLS, and crab bycatch limits are specified separately in state and federal waters within each area.

Scenario 3: Effort in state waters is expected to be very high compared with previous years. Under this circumstance the state may not have the appropriate tools to manage such a fishery in state waters and would likely close state waters to scallop fishing in that area.

The team members, ADF&G staff and members of the industry discussed several components of the plan and potential issues with plan implementation. These concerns were centered around the following: registration (CFEC permits and preseason-registration), notification requirements for moving between state and federal waters, establishment of GHLS and crab bycatch limits between state and federal waters, trip limits and potential for overcapitalization and localized depletion. A summary of discussion by issue is listed below.

Registration:

CFEC interim-use permit is necessary prior to ADF&G preseason registration. Interim-use permits will be issued in two classes for state and federal waters. Within those categories the permits will be broken out by $>$ and $\leq 80'$ vessel length. Fees for permits are as follows, Federal waters \$3,000 ($> 80'$), \$525 ($\leq 80'$); State waters \$450 ($> 80'$), \$75 ($\leq 80'$). CFEC staff noted that while two permits are now necessary there is no longer a need to renew the previous CFEC vessel limited entry permit as the program will have expired. Registration would then be required for each registration area in which a vessel intends to fish. The registration deadline would be April 1. This would allow sufficient time before the fishery opens on July 1 for ADF&G to assess management needs and observer training requirements. Team members noted that no documentation is required with the interim-use permit on the vessel ownership, size or capacity. ADF&G staff indicated that this information would likely be required for pre-registration.

Notification for fishing in state versus federal waters:

The team discussed the 12 hour notification requirement in the proposed plan (section (f)). Team members and industry commented that both the timing and the fish ticket requirements could be problematic. The timing requirement is to allow the state sufficient time to evaluate relative catch levels for managing the fishery. However, industry noted that without the ability to predict how their catch rates on one side of the bed will be this could be highly inefficient if trip limits are also used as a management measure. If they finished fishing in 3 hours they would need to wait an additional 9 hours before moving

to the other side of the state/federal line to continue fishing. Team members expressed concern for the potential for vessels to have to stand down on the grounds during waiting periods. This could potentially expose vessels and crew to severe weather and could raise vessel safety issues. Team members also expressed concern that waiting periods combined with trip limits could cause some operators to abort trips due to economic issues.

Owners of non-freezing vessels noted that the fish ticket requirement (a fish ticket must be filled out prior to switching from state/federal) is problematic on smaller vessels as the vessel does not know their exact weight caught until the scallops are offloaded. Thus any vessel that doesn't process (i.e. freeze) at sea will be hampered by this restriction. Discussion centered around the possibility of redefining this to be based upon reported weight instead of fish ticket weight as a proxy for official catch record for management purposes. Catch could be delineated on board from each area for fish ticket processing and exact catch weight determined later upon offload.

GHLs and crab bycatch limits in state versus federal waters:

Management of separate GHLs and crab bycatch limits in state versus federal waters was noted to be problematic. The team expressed concern regarding the potential for differential harvest and localized depletion on scallop beds which cross the state-federal boundary line. ADF&G staff noted that observer data, harvest data, and Westward region bottom trawl survey data (used to set crab bycatch limits) would be evaluated to estimate the relative proportion of scallop harvest and crab bycatch in state and federal waters and these evaluations would be used to inform the GHL-setting process should separate management in some areas be necessary. There is considerable uncertainty with establishing boundaries for harvest and crab bycatch in this manner, however. Central region staff noted that due to their surveys they have the data to provide separate estimates for harvest (GHL's) and crab bycatch in both state and federal waters if necessary. It was also noted that the state's procedures for closure of miscellaneous shellfish registration areas (5 ACC 38.035) are included in the proposed plan by reference. These procedures detail the factors fishery managers consider in closing an area or part of an area to a fishery to avoid jeopardizing the health of the species.

Trip limits:

Members of the industry commented that the proposed method of establishing trip limits based on weight/number of vessels is inequitable. Other measures of calculating trip limits such as maximum allowable fishing time in a day should be considered as well. The team expressed concern regarding the potential for the trip limits as proposed to exert a negative impact on existing operators. For example, under open access a small trip limit could be profitable for small vessels newly entering the fishery, while larger existing vessels may not be able to operate cost-effectively under small, weight based, trip limits. This could displace the larger vessels presently operating in the fishery, all of which are Alaska home ported at present.

Overcapacity and localized depletion:

The team discussed additional management measures that may be considered by the BOF in January such as the vessel size limitation (80') that was proposed previously. Members of the public and the Team

noted that an increase in entry-level participants could represent a conservation concern for the resource and overcapitalization of the fishery. Industry participants further noted concerns that any increase in state waters effort would exert a differential impact on state waters habitat. Even absent additional participants the lack of a vessel based license limitation program in state waters allows for increased participation from some federally licensed vessels that were not previously able to fish inside 3 miles.

Scallop Plan Team recommendations:

The SPT has the following recommendations for the Council to consider in consultation with the BOF as they move forward in development of a state waters fishery management plan in January.

- 1- The SPT strongly recommends that any plan should maintain the continuation of 100% observer coverage requirements and mandatory VMS requirements to ensure adequate data reporting and enforcement of the fishery.
- 2- The SPT recommends that further consideration be given to the notification time frame and fish ticket provisions proposed under provision (f) noting that the current proposal could be inefficient for all operators as well as inequitable to catcher vessels that do not process at sea.
- 3- The SPT recommends that further consideration be given to the conservation concerns and potential for localized depletion when setting two different GHs and crab bycatch limits across the same bed.
- 4- The SPT reiterates concerns that were raised in the original analysis establishing the federal LLP that indicate “a total of about 6 or 7 vessels could participate full time in the Alaska statewide scallop fishery at the breakeven level. More vessels could participate at a breakeven level if ex-vessel prices for scallop, or current annual harvest levels increased.” (NPFMC, 1999, EA/RIR/IRFA for Amendment 4 to the Scallop FMP)¹. Currently harvests are significantly less but ex-vessel prices are considerably higher than was estimated for that break-even analysis in 1999 with the current number of vessels participating ranging from 3-5 since 2003/04.
- 5- The SPT further notes that many permit holders (both LLP and State vessel based permits) have not participated in recent years due most likely to the economics of the fishery². Any increase in fishery participants has the potential to economically disenfranchise current permit holders and historical fishery participants.

¹ Analysis at that time indicated that “it was estimated that about nine vessels would be able to operate full-time at the break even level, assuming total landings of 1.3million pounds at \$6.02 per pound” and 6 vessels if scallop biomass declined from that level and/or 7 vessels if crab bycatch limits are increased (due to increased crab biomass) and thus not constraining. (NPFMC,1999). Fishery total revenue, under the breakeven analysis of 1.3 million pounds at \$6.02 per pound, was estimated to be approximately \$7.8 million. The 2012/13 harvest of approximately 417,000 pounds, with a value of \$10.63 per pound, generated approximately \$4.4 million in fishery total revenue. Thus, fishery total revenue has declined by \$3.39 million, or approximately by 43 percent. Thus, it is highly likely that considerably fewer vessels can “breakeven” under present conditions than indicated in the original analysis. While useful in consideration, it should be noted that this analysis (NPFMC 1999) is fairly dated (based upon fishing activities in 1993) and cost data collected at the time were largely provided in public testimony to the Council. Moreover, cost structures in the fishery may very likely have changed over the last 20 years.

² Note that other factors are involved in the current levels of participation including consolidation of permits under the voluntary cooperative, recent permit sales and resulting potential for re-entry into the fishery by those permits.

Proposal 369 – Implement a management plan for an open-access weathervane scallop fishery in waters of Alaska.

CITE THE REGULATION THAT WILL BE CHANGED IF THIS ACR IS HEARD. If possible, enter the series of letters and numbers that identify the regulation to be changed. If it will be a new section, enter “5 AAC NEW”. 5 AAC 38.0XX. State-Waters Weathervane Scallop Management Plan.

WHAT IS THE PROBLEM YOU WOULD LIKE THE BOARD TO ADDRESS? STATE IN DETAIL THE NATURE OF THE CURRENT PROBLEM. Address only one issue. State the problem clearly and concisely. The board will reject multiple or confusing issues. The Commercial Fisheries Entry Commission (CFEC) limits participation in the weathervane scallop fishery in waters of Alaska under the vessel-based permit system AS 16.43.450–AS 16.43.520. The vessel-based permit system is scheduled to sunset December 30, 2013. National Marine Fisheries Service has a license limitation program (LLP) for weathervane scallop that limits participation in federal waters.

Beginning December 31, 2013, weathervane scallop fisheries in waters of Alaska will revert to an open-access fishery; federal waters will remain under the LLP program. This ACR requests the Alaska Board of Fisheries (board) to implement a management plan for an open-access weathervane scallop fishery in waters of Alaska.

WHAT SOLUTION DO YOU PREFER? Or, if the board adopted your solution, what would the new or amended regulation say?

5 AAC 38.0XX. State-Waters Weathervane Scallop Management Plan. (a) In addition to the other requirements of 5 AAC 38 that apply to weathervane scallop, including the applicable provisions of 5 AAC 38.076, the provisions of the management plan in this section apply to the commercial taking of weathervane scallop in the state waters of Alaska in Scallop Registration Area D (Yakutat), Scallop Registration Area E (Prince William Sound), Scallop Registration Area K (Kodiak), and Scallop Registration Area O (Dutch Harbor).

(b) The weathervane scallop vessel registration year is April 1 through March 31.

(c) To participate in a state-waters weathervane scallop commercial fishery specified in (a) of this section, a vessel must be registered under (d) of this section by the preseason registration deadline specified in this subsection. The preseason registration deadline for the scallop vessel registration year is 5:00 p.m. April 1. The preseason registration applies only under this section and does not satisfy other registration requirements of 5 AAC 38.076.

(d) To preseason register a vessel, the vessel owner, or the vessel owner's authorized agent, must possess a valid CFEC interim-use permit for statewide scallop that includes the vessel's ADF&G license number. The vessel owner, or the vessel owner's authorized agent, shall submit a preseason registration form in person, or by mail, electronic mail, or facsimile transmission, to the designated department office in the area responsible for management of the fishery indicating the registration area or areas that the vessel is being preseason registering for by the deadline specified in (c) of this section. The form must include the vessel operator's

(1) CFEC interim-use permit number; and

(2) intent to participate in the commercial weathervane scallop fishery in the registration area in either the state waters only or the state waters and the federal waters of the exclusive economic zone.

(e) Based on the department's assessment of vessel effort, manageability, and available harvest in state waters, the commissioner may manage weathervane scallop in the state waters separately from weathervane scallop in the federal waters of the exclusive economic zone.

(f) If the commissioner determines that it is necessary for management and conservation purposes, the commissioner may require a vessel operator to register as provided by 5 AAC 38.076 for either the state waters of Alaska or the federal waters of the exclusive economic zone. The operator of a participating vessel may change registration only by notifying the designated department office in the area responsible for management of the fishery for which the vessel is currently registered. The vessel operator shall notify the department at least 12 hours before a change in registration under this subsection. Before changing registration and leaving the applicable waters, the vessel operator shall ensure that all harvested scallops are shucked and the harvest weight is reported to the department on a fish ticket.

(g) A registered vessel operator must report each day to the designated department office in the area responsible for management of the fishery any information that the commissioner determines is necessary for the management and conservation of the fishery.

(h) A vessel participating in the scallop fishery must have on board an activated vessel monitoring system (VMS) approved by the National Marine Fisheries Service.

(i) If the commissioner determines that a trip limit will contribute to conservation or promote an orderly fishery, the commissioner may close, by emergency order, the commercial weathervane fishery in a registration area, or portion of a registration area, and reopen the fishery during which a trip limit is in effect based on the guideline harvest level or remaining guideline harvest level divided by the number of vessels that are registered preseason under (d) of this section.

(j) For the purposes of this section,

(1) the boundary between the state waters of Alaska and the adjacent federal waters of the exclusive economic zone in

(A) Scallop Registration Area D is the territorial sea boundary of Alaska as shown on *NOAA Chart #16016* (22nd Edition, August 2012), adopted by reference;

(B) Scallop Registration Area E is the territorial sea boundary of Alaska shown on *NOAA Chart #16723* (15th Edition, January 29, 2000), adopted by reference;

(C) Scallop Registration Area K is the territorial sea boundary of Alaska as shown on *NOAA Chart #16580* (14th Edition, January 2008), as revised as of November 2011 by the chartlet for Uyak Bay on Kodiak Island, adopted by reference;

(D) Scallop Registration O is the territorial sea boundary of Alaska as shown on *NOAA Chart #16011* (38th Edition, August 2012), adopted by reference;

(2) the designated department office in the area responsible for management of the fishery in

(A) Registration Area D is the department's office in Douglas or Yakutat;

- (B) Registration Area E is the department's office in Cordova;
- (C) Registration Area K is the department's office in Kodiak;
- (D) Registration Area O is the department's office in Dutch Harbor.

STATE IN DETAIL HOW THIS ACR MEETS THE CRITERIA STATED ABOVE. If one or more of the three criteria set forth above is not applicable, state that it is not.

- a) **for a fishery conservation purpose or reason:** Yes. Scallop beds are currently managed as a unit in both state and federal waters because effort is stable due to the vessel-based limited entry program in state waters and the LLP program in federal waters. Several weathervane scallop beds straddle the boundary separating waters of Alaska (0–3 nm) and federal waters (3–200 nm). With sunset of the state's vessel-based program, the department may need to manage state-waters scallop separately from federal-waters scallop if effort increases in state-waters to ensure scallop beds are not overharvested. The management plan was developed by the department to provide the board and public an opportunity to deliberate on a weathervane scallop management plan for state waters.
- b) **to correct an error in regulation:** N/A.
- c) **to correct an effect on a fishery that was unforeseen when a regulation was adopted:** N/A.

WHAT WILL HAPPEN IF THIS PROBLEM IS NOT SOLVED PRIOR TO THE REGULAR CYCLE? The next miscellaneous shellfish board meeting occurs in 2014/15 cycle; however, a management plan is needed for the 2014/15 scallop season.

STATE WHY YOUR ACR IS NOT PREDOMINANTLY ALLOCATIVE. This agenda change requests the board to implement a management plan to allow the department to manage weathervane scallops in state waters under open access.

IF THIS REQUEST IS ALLOCATIVE, STATE THE NEW INFORMATION THAT COMPELS THE BOARD TO CONSIDER AN ALLOCATIVE PROPOSAL OUTSIDE OF THE REGULAR CYCLE. N/A.

STATE YOUR INVOLVEMENT IN THE FISHERY THAT IS THE SUBJECT OF THIS ACR (e.g., commercial fisherman, subsistence user, sport angler, etc.). The Alaska Department of Fish and Game manages weathervane scallop fisheries, subject to the regulations established by the board.

STATE WHETHER THIS ACR HAS BEEN CONSIDERED BEFORE, EITHER AS A PROPOSAL OR AS AN ACR, AND IF SO, DURING WHICH BOARD OF FISHERIES MEETING. Not previously considered.

SUBMITTED BY: Alaska Department of Fish and Game.