AGENDA D-2
APRIL 2005

MEMORANDUM

TO: Council, SSC and AP Members

FROM: Chris Oliver
Executive Director

ESTIMATED TIME
2 HOURS

DATE: March 30, 2005

SUBJECT: Scallop Management

ACTION REQUIRED

(a) Review and Approve SAFE report
(b) Final Action on FMP update

BACKGROUND

Scallop SAFE Report

The Scallop Plan Team met in Anchorage on March 3, 2005 to review the status of the weathervane scallop stocks in Alaska and to prepare the annual Stock Assessment and Fishery Evaluation (SAFE) report. This SAFE report was mailed to you on March 21. The minutes from the Scallop Plan Team meeting are attached as **Item D-2(a)**. In updating and improving upon the SAFE report from the previous year, the plan team paid particular attention to addressing the SSC's comments at the February 2004 meeting. The minutes from the SSC meeting pertaining to the Scallop SAFE report (from February 2004) are attached as **Item D-2(b)**. The SAFE report provides an overview of scallop management, scallop harvests and the status of the regional weathervane scallop stocks. Scallop stocks are neither overfished nor approaching an overfished condition.

Scallop FMP Update

At their October 2003 meeting, the Scallop Plan Team discussed updating the Scallop FMP to reflect the current management of the scallop fishery. The current FMP has been amended 8 times since the FMP was approved in 1995. Staff has revised and updated the FMP, which was mailed to you on March 21. The executive summary and table of contents of the revised FMP is attached as **Item D-2(c)**. An overview of the changes from the original FMP to the revised FMP is provided in **Item D-2(d)** and a list of questions and answers to provide information on FMPs in general is provided in **Item D-2(e)**. Updating the FMP is a housekeeping amendment. It has simply been revised and updated for clarity and to reflect updated biological information as available and recent management actions. The amendment for the FMP update is scheduled for final action at this meeting.

Draft Minutes

Scallop Plan Team Meeting
March 3, 2005
Clarion Suites, Anchorage, AK

Plan Team members present:
Jeff Barnhart, Chair (ADF&G Kodiak), Gregg Rosenkranz (ADF&G Kodiak), Herman Savikko (ADF&G Juneau), Gretchen Harrington (NMFS), Scott Miller (NMFS), Diana Stram (NPFMC)

Public and agency personnel present:
Nick Sagalkin (ADF&G), Max Hulse (vessel owner/operator), Scott Hulse (vessel owner/operator), John Lemar (vessel owner/operator)
Telephone participation: Teressa Kandianis, Earl Krieger (ADF&G), Lauren Smoker (NOAA GC)

The Scallop Plan Team meeting convened on March 3, 2005 at the Clarion Suites Hotel in Anchorage, Alaska. The following agenda was agreed upon for the meeting. It was agreed that the discussion of FCMA cooperatives would occur at a time certain, immediately following lunch.

Agenda:

1. **Introduction and approval of agenda**
2. **Review and revise Plan Team terms of reference**
3. **Status of Statewide Scallop Stocks: compile SAFE Report**
4. **Discussion of research needs (section to add to revised FMP)**
5. **Review of Revised FMP: comments, revisions necessary, updates etc**
6. **Observer Program Overview**
7. **Update on Council action with respect to approval of Amendment 10 (revised LLP gear endorsement)**
8. **Discussion of FCMA cooperatives and the scallop fishery**
9. **New and other business**

Review and revise Plan Team terms of reference (item 2)

The team moved to revise their terms of reference such that officers are elected every two years rather than annually.

Status of Statewide Scallop Stocks: Compile SAFE Report (item 3)

The team reviewed and discussed the SSC minutes from February 2004 regarding suggestions for improving upon the previous Scallop SAFE Report. The team discussed changing the format of the SAFE Report such that it is more clear and streamlined. The team decided that there was no need to include reports that had not been updated since the previous year's SAFE Report.

The team discussed the use of grey literature, summary information and unpublished data in the SAFE Report. It was noted that most information could be included by summarizing it in the SAFE sections depending upon the confidentiality restrictions for reporting (notably a problem when individual vessel

data is included). The team discussed the waiver of confidentiality by the fleet participants and noted that in the SAFE report. Jeff Barnhart noted that it was a credit to the fleet for waiving confidentiality in order to get fishing effort data. Jeff gave an overview of how the confidentiality waivers were originally conceived, and how the data is utilized in management. He noted that every operator in the fleet has always signed off on the waiver forms, therefore in this fishery there are no issues with data and confidentiality because the fleet have voluntarily waived rights.

In order to address some of the SSC's comments on information to be included it was decided that ADF&G staff would use unpublished data (used for managing the fishery) and summarize as much information in the SAFE Report as is possible within confidentiality restrictions. Some information likely to be included is catch, effort and shell height, discarded and retained catch. It was noted that the trend in data collection is becoming more explicit each year and progressing towards bed-by-bed data.

The team agreed that it would be useful to annually update a map showing the general areas fished. Specific areas cannot be shown but general overview of areas fished could be included.

The team discussed the problem with addressing the SSC's comments requesting age composition information, noting that age data is available for Cook Inlet and Prince William Sound only while size information is available for the remainder of the state. Current work is focusing upon aging. It may be possible to include abundance estimates from Bill Bechtol's draft work noting the time lag in finalizing reports and assessments. Additional information from research work from a camera survey may also be included in draft form.

The team discussed the difficulty in designing surveys that serve as an index of area biomass and there are no plans for this in the immediate future. Team members noted that scallops occur over wide areas that are closed to commercial scallop fishing, noting that catch data of scallops is available from the trawl survey in areas and personal communication with commercial fishermen has also shown the presence of scallops in many areas. Due to economic constraints it is not possible to survey the entire Shelikof, for instance, nor feasible from a survey design standpoint. Some of the scallop areas have been closed for over 30 years to protect king and Tanner crabs and crab habitat.

Gregg Rosenkranz noted that future research plans in 2006 include a video survey stock assessment; however this is not intended to provide an area-wide abundance estimate and will logistically focus upon that portion of the area that is fished commercially.

The team reviewed the rationale as listed in the EA for amendment 6 to the Scallop FMP for discussion of why the overfishing definitions are defined on the statewide stock when a statewide biomass estimate is not possible. Amendment 6 noted that biomass estimates for scallops are lacking such that numerical estimation of MSY for weathervane and other scallop species is not possible at that time. The team discussed that this remains the case for scallops in Alaska. An OY range (0-1.24 million pounds of shucked meats) was established for scallops based upon the average landings from 1990-1997 (excluding 1995). It was pointed out in discussion that actual harvests of scallops by registration area are much lower than the upper end of the OY range. Under state regulations, harvests by region are capped, and the sum of all of the harvests caps is lower than the upper end of the OY range. Areas are managed conservatively, well below the upper end of OY.

The SSC had suggested that index areas should be established for scallop beds which are not surveyed, and suggested coordination with other trawl surveys for abundance estimation. Some fishermen present noted that some draggers in the BSAI area have noticed scallops in some areas (where abundance estimates are lacking). The team discussed the utility of requesting information from NMFS and other surveys. It was discussed that additional information (ie from AFSC trawl surveys) would not provide a

true index of abundance but could provide similar information as is utilized for crab index of abundance. There was discussion of the potential utility of obtaining additional information from these surveys in order to start to build upon these data for future abundance index but concerns were expressed regarding the possibility that only location data would be obtained.

Some of the reasons noted for lack of statewide biomass estimates include the cost prohibitive nature of attempting to survey all areas for scallop abundance estimates, and that the proportion of areas closed to fishing is much larger than the areas fished.

Teressa Kandianis commented on some GIS work done by a graduate student on the proportion of closed areas in the state. This work was done as the fishermen were trying to get the BOF to open an area around Chirikof where there are known scallop concentrations in the area but it remains closed to fishing. She noted that there are probably a considerable amount of scallops taken in groundfish fishery in this region. The team noted that checking observer records from the groundfish fishery would be useful to verify this.

Discussion focused on to what extent the overfishing definitions should be revised to be area-specific given the apparent disconnect between discrete scallop beds and fishing areas and a statewide overfishing definition. However, while area-specific overfishing definitions might represent a better match between the management and prosecution of the fishery, the team noted that in the absence of surveys and better abundance estimates this is not feasible at this time.

The team discussed the problems noted with the Central region's reported low estimates of meat recovery. The team was still unclear as to what the reason is behind this. Central region has not provided an explanation; however there does not appear to be any indication of a conservation problem. It was noted that there is confusion with reporting pounds per nautical miles in the assessment while other reports use meat per dredge hour. The team discussed the fact that the assessment author (Bill Bechtol) has retired from ADF&G and the position is not yet filled. The plan team agrees with the SSC comments and fully supports age structured modeling in Kamishak Bay. The team notes that the age-structured analysis was a preliminary analysis only and some problems were noted, particularly with some aging error (possible 2 year error when ages in the model as assumed to be exact). The model was not used to manage the fishery. The assessment is unlikely to be updated until a new assessment author is hired.

Research on weathervane scallop genetics is being conducted by Jim Seeb at the ADF&G genetics lab in Anchorage. There are no current plans to evaluate oceanographic transport of larvae but this might be something to note under research needs. Gregg Rosenkranz noted that in Shelikof the currents are unidirectional but there is observed consistent recruitment to beds. Jeff noted that same for all GOA scallop beds.

The team would still benefit from the inclusion of a stock assessment author as a team member. The team also discussed the possibility of a fishery manager but no personnel were specifically recommended. The team also discussed the possibility of collaborative efforts with east coast scientists, specifically encouraging Dvora Hart (NEFSC) to possibly attend the plan team meeting next year to share assessment ideas and increase scientific collaboration. Issues of differences between the east coast scallop management and Alaska scallop management could be highlighted. It was noted that the east coast has the reverse of Alaska in that good assessment data is available but the fishery-dependant data are poor.

The Team discussed ideas for improving upon the structure of the SAFE report. The team strives to improve upon the SAFE report each year and is attempting to increase the clarity of the document and include any updated information annually. This year the document is much shorter given the lack of

updated management reports from the previous year. The team notes that the breadth of the SAFE Report will vary from year to year depending upon updated reports.

The team discussed the mechanism for comparison of bycatch information from Sea State and how bycatch is monitored within the co-op. It was noted that in the BSAI the crab bycatch rate was elevated during the 2004/05 season. Cooperative members indicated that they try to stay within reasonable rates but if rates are high then they try to get out of that area. They noted that with variable rates it's possible to runaway on bycatch numbers within a week. The methodology for monitoring by Sea State was discussed. Sea State has to be notified prior to fishing. The agency looks once a week at bycatch while the coop and Sea State look at varying intervals, some vessels report every 24 hours, others every 7 days. Teressa Kandianis provided an overview of the how the cooperative manages bycatch and the relative expectations of the captains and responsibilities. There was a discussion of a specific incident of high bycatch where the captain grossly exceeded bycatch allowed him by the cooperative.

The team noted that economic information would be useful to include in the SAFE report. The team notes that with the inclusion of economist on the SPT economic information should be possible for inclusion in future SAFE Reports.

Discussion of FCMA cooperatives and the scallop fishery (item 8)

Lauren Smoker provided the team an overview of the FCMA. She noted that it is a statute that provides for the formation of fishery cooperatives and provides limited anti-trust protection for cooperatives formed in accordance with the statute. There was some confusion regarding the description of the set-aside in the EA for amendment 10, thus the purpose of the discussion was centered on clarifying this. The cooperative of their own accord sets aside a portion of the quota, but there is nothing in federal regulations or in the FCMA that prescribes this activity.

The team discussed the nature of the cooperative management and clarified that the set-aside is solely a cooperative internal management feature and is not an allocation. Teressa Kandianis clarified that it is an FCMA cooperative and not a Council cooperative. It was the cooperative's intention that they did not want to preclude anyone else's ability to fish as well as the intent to avoid exceeding the GHR. The cooperative manages internally with a set-aside in an area where they thought someone would fish. If it is not fished, then the coop goes back and reallocates that amount amongst coop members if not taken. She reiterated that the cooperative is a voluntary association and has no allocation of harvest.

Lauren also clarified that the FMP provides for license limitation not a form of harvest control. Currently, fishery participants are able to agree to form a cooperative. If co-op members choose to leave the co-op but continue to fish in the scallop fishery, either the cooperative would have to take this into consideration in determining the set-aside or cooperative members may reconsider the viability of a cooperative. Nothing in the cooperative structure, the FMP, or implementing regulations prohibits non-cooperative boats from fishing.

The team discussed the language in Amendment 10 and Gretchen Harrington agreed to revise the description of the cooperative such that it would be explicitly clear that the cooperative is voluntary in nature and does not receive a harvest allocation nor precludes fishing from any non coop boats. The cooperative is one member in the race for fish and cannot preclude other vessels from participating. The cooperative description is a necessary aspect to the EA for amendment 10 given the need to understand the economic aspects of the fishery and the potential impacts of the amendment.

The team discussed the issue of Crab Bycatch Limits. Diana and Jeff noted that this issue was raised at the Council meeting in Sitka when debating the potential impacts of the gear restriction modification.

Teressa explained how the cooperative manages crab bycatch and the problems with expanding effort and the learning curve involved for new vessel operators in the industry (in understanding different management practices in Alaska as compared with other regions).

The team discussed the nature of cooperatives in general and the wide range of cooperatives currently in Alaska. Lauren explained that the definition of a cooperative and how it functions under the law varies greatly depending upon the type of cooperative and the fishery in which it participates. Not all co-ops have to be FCMA coops. Crab harvesting co-ops are an example of non-FCMA co-op. Activities that they may engage in as co-op will thus be limited by anti-trust laws. If a cooperative is not an FCMA co-op, they are not afforded exemption from anti-trust laws.

It was noted that there is currently a permit for sale in the scallop fishery for a maximum of an 80-ft boat, using two 15ft dredges. The team had a brief discussion of potential impact on the fishery if this permit is sold and then fished.

Research Needs (item 4)

The team discussed overall research needs for scallop biology and management. Jeff provided a list of research questions based upon a workshop that was held in Kodiak in 2000. The team agreed that these research questions provided a comprehensive overview of the research needs for scallop. This document will be used in the updated SAFE Report for the section on research needs.

FMP Update (item 5)

Diana Stram provided the team with an overview of the updated FMP and the changes from the previous FMP. It was explained that the FMP update will be a housekeeping amendment to the FMP and final action is anticipated by the Council at the April meeting. The team discussed the state agreement to abide by the federal FMP for scallop. Gregg Rosenkranz raised the issue of what to do with the state water fishery and federally permitted vessels. It was explained that a vessel can surrender their federal permit and fish in state waters without compliance with federal regulations.

The team discussed the socio-economic sections (Table 13) and the importance of looking at the impact of cooperatives on coastal communities. It was noted that in the discussion of Table 13 there are many communities which historically had substantial landings and now have very limited scallop landings. There has been no analysis of the economic impact on communities of reduced fleet size. Herman Savikko noted that given the regulation for mandatory economic information collection via crab rationalization, substantial information will be available and could be analyzed (by someone if interest lies) at some time in future to look at these impacts. At this point no analysis of this has been done.

There was further discussion of economic and social impacts on communities. The team recommended the development and presentation of a discussion paper on the social and economic impacts of limited access fishery and the voluntary cooperative within the scallop fishery. Scott Miller, the team's new economist, offered to work on this paper for presentation to the team next year.

Observer Program Overview (item 6)

The team discussed the importance of the observer program to the scallop fishery. The Scallop Plan Team endorses the use of the observer collected data in overall management of the fishery noting that for some areas there would be no information on scallops at all if not for these data. Jeff Barnhart provided an overview of the use of observer data and importance of observer data in managing the fishery. Not only are information on scallops collected, but observer data is used to monitor crab bycatch limits.

The plan team strongly supports the continuation of 100% observer coverage. Recent Council analyses for EFH and HAPC specifically depended upon observer data to augment existing information on smaller scales than statistical areas. Observer data was particularly useful in showing that the proposed HAPC would have minimal impact where in the absence of that data, the impact analysis might have led to a different analytical conclusion. For analyzing spatial impacts, particularly on a fine scale, the observer data is critical.

The Scallop Plan Team had the following motion (approved unanimously):
The Scallop Plan Team feels that the observer program is a vital component of management under the FMP and the team strongly endorses the continuation of 100% onboard coverage in this fishery.

Update on Council Action on Amendment 10 (item 7)

Gretchen Harrington and Diana Stram updated the team on the Council action with respect to Amendment 10 to the FMP. The Council took final action on this amendment in October 2004, selecting as their preferred alternative the alternative to approve both gear restricted licenses for the use of 2 dredges with a combined width of no more than 20 feet. The EA for amendment 10 is currently undergoing internal review at NMFS. The timing of the regulations is such that it may be 6 months before the regulations are promulgated. Until this time the Hulses must continue to use only a single six foot dredge in federal waters. The team expressed concerns regarding the time lag for implementation of this amendment, noting the corresponding difficulty of anticipating appropriate observer coverage and observer training. Jeff Barnhart indicated that he would work with the Hulses to problem solve the mechanics of working with independent observer contractors.

New and Other Business (item 8)

Gretchen Harrington updated the team on EFH and the Council action requiring VMS in the AI area. NMFS is in the process of figuring out how to implement this requirement for scallop vessels fishing in the Aleutians. NMFS estimates that the regulations will be in place by late August therefore this would not be a consideration for the 2005 scallop fishery. However, for vessels choosing to fish in the AI area, this would be a consideration in 2006.

The team discussed the relative timing for the meeting the following year. The team will plan to hold its annual meeting in March with the update to the Council at the April meeting. The exact dates and location for next year's meeting are yet to be determined.

The meeting was adjourned at 4:50pm.

SSC Minutes on Scallop from February 2004 Meeting

D-2 Scallop SAFE

The SSC received a report on the scallop SAFE and the scallop FMP from Diana Stram (Council Staff) and Jeff Barnhart (Scallop Plan Team chair, ADF&G). Public testimony was presented by Teressa Kandianis. The SSC notes that this is the first SAFE report since the implementation of the FMP. We fully support the Plan Team's intentions to prepare a SAFE document annually. The SSC suggests several improvements and additions for future SAFE reports as follows:

1. The SAFE report should be more user-friendly by summarizing important information up front, with clear identification of where supporting, detailed information may be found in any attachments or published documents. The BSAI or GOA groundfish safe documents are recommended as templates.

2. Tables of past and present survey abundance estimates and time series of age composition should be included in the SAFE document.

3. Survey biomass and catch must be presented in consistent units.

4. The current practice of limiting surveys to regions previously fished may misrepresent scallop biomass. Efforts should be made to design surveys that will serve as index areas for biomass estimation. A time series of abundance should be maintained for areas that are consistently sampled over time. If new beds are discovered, survey abundance estimates should be treated separately from the historical index areas.

5. If possible, index areas should be established for scallop beds currently not surveyed. If cost is prohibitive, ADF&G should explore whether NMFS trawl surveys, NMFS – ADF&G small mesh surveys or depletion estimators could be utilized for abundance estimation.

6. Given that there are a number of apparently discrete beds dispersed across large areas of the Gulf of Alaska and the Bering Sea, the treatment of Alaskan scallops as a single stock for overfishing determinations needs further evaluation. This evaluation might include results of recent genetic analyses, duration of the larval stage, and estimation of advection rates by dominant currents.

7. The determination of stock status should be supported by catch data in the summary section, including a graph of catch history relative to the OY level for the state as a whole.

The SSC supports use of an age-structured analysis in the estimation of population biomass, mortality rate, and historic harvest rates for the Kamishak Bay population. We requests that the model be fully specified and that the parameters be clearly identified as to which are fixed and which are free. Likewise the document should distinguish data from parameters. The SSC requests a presentation when the model is updated.

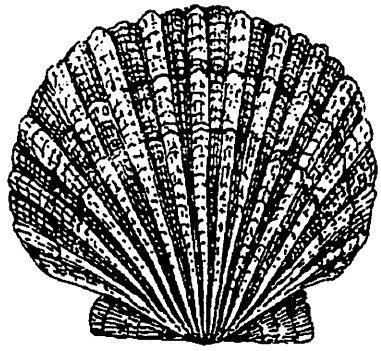
The SSC notes that the cooperative structure of the industry is a unique and salient feature of the fishery, for which a more complete treatment would be useful. The SSC appreciates Ms. Kandianis' offer to supply economic information for inclusion in a SAFE report, and the SSC suggests that this could be incorporated into the Economic SAFE report, and referenced in the scallop SAFE report. A separate, standalone report that describes this cooperative may be worthwhile for comparison to other cooperative systems.

The SSC supports an amendment of the scallop FMP that, at a minimum, would be a housecleaning rewrite to bring the plan up to date in a coherent, easier-to-read document. As noted by the presenters, the FMP has gone through a number of amendments without a substantial rewrite. In its current form, it is a challenge to read the FMP and determine how the fishery is managed.

Item D-2(c)
April 2005

DRAFT

Fishery Management Plan for the Scallop Fishery off Alaska



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March 2005

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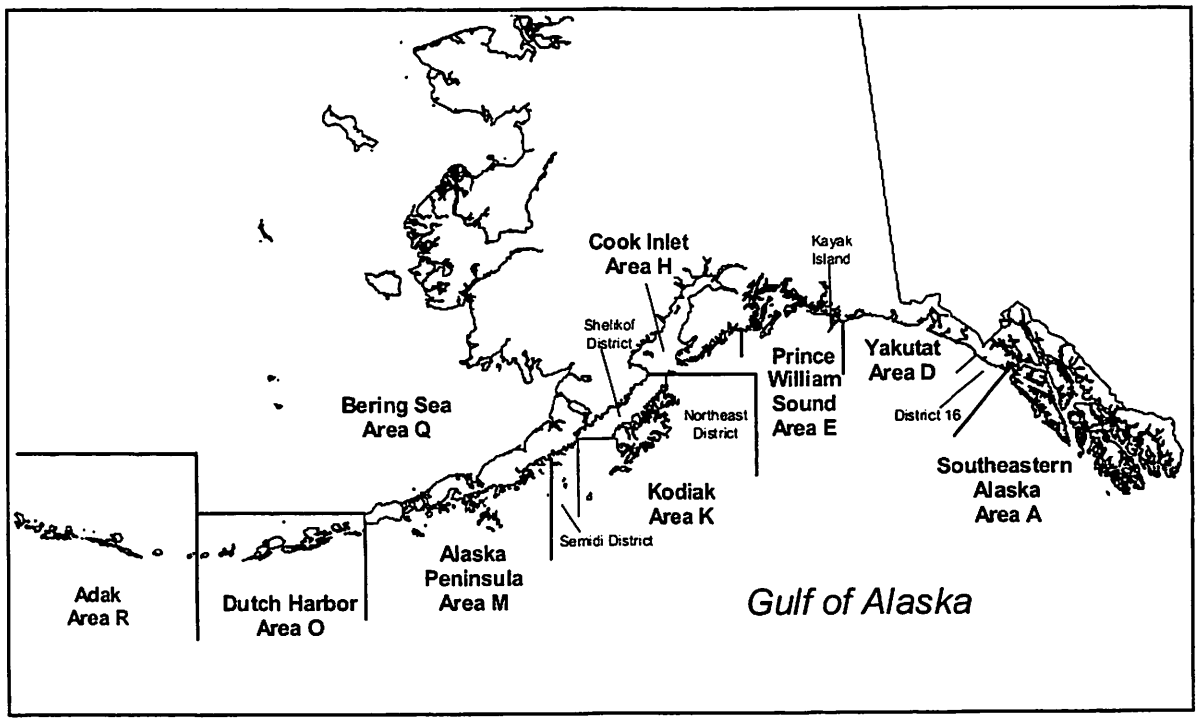
Executive Summary

This Fishery Management Plan (FMP) governs scallop fisheries in federal waters off the State of Alaska. The FMP management unit is the U.S. exclusive economic zone (EEZ) of the Bering Sea, Aleutian Islands, and the Gulf of Alaska, and includes weathervane scallops and other scallop species not currently exploited. The GOA is defined as the U.S. EEZ of the North Pacific Ocean, exclusive of the Bering Sea, between the eastern Aleutian Islands at 170°W longitude and Dixon Entrance at 132°40'W longitude. The BSAI is defined as the U.S. EEZ south of the Bering Strait to the Alaska Peninsula and Aleutian Islands and extending south of the Aleutian Islands west of 170° W long.

Alaska weathervane scallop fishing registration areas



This FMP was approved on July 26, 1995, which established a 1 year interim closure of federal waters to scallop fishing to prevent uncontrolled fishing. This FMP has since been amended several times, initially in order to establish a State-Federal management regime, then to address several Federal requirements under the Magnuson Stevens Act as well as to address issues such as overcapacity in the fishery. The scallop fishery is jointly managed by the National Marine Fisheries Service (NMFS) and the Alaska Department of Fish and Game (ADF&G) under this FMP.

Management measures in this FMP fall into two categories: Category 1 measures are those delegated to the State for implementation, while Category 2 measures are limited access management measures which are fixed in the FMP, implemented by Federal regulation, and require and FMP amendment to change. Category 1 and 2 measures are listed below.

CATEGORY 1 (Delegated to the State)	CATEGORY 2 (Fixed in FMP, Implemented by Federal Regulation)
Guideline Harvest Levels	License limitation program
Registration Areas, Districts, Subdistricts and Sections	Optimum Yield specification
Gear Limitations	Overfishing specification
Crew and Efficiency Limits	EFH/HAPC designation
Fishing Seasons	
Observer Requirements	
Prohibited Species and Bycatch Limits	
Recordkeeping and Reporting Requirements	
In-season Adjustments	
Closed Areas	
Other	

This new version of the FMP has been revised to remove or update obsolete references to management measures, outdated catch information and other scientific information. The FMP has also been reorganized to provide readers with a clear understanding of the Scallop fishery and conservation and management measures promulgated by this FMP.

Overview of Revisions for Updated Scallop FMP

Revised Scallop FMP outline			*New Section*	*Updated section*
Title Page				
Cover sheet				
Executive Summary				✓
Table of Contents				✓
List of Tables				✓
List of Figures				✓
1.0	**Introduction**			✓
1.1	Amendments to the FMP			✓
1.2	Foreign Fishing			
2.0	**Management Policy and Objectives**			
2.1	National Standards			✓
2.2	NPFMC Policy and Objectives			
2.3	Procedures for FMP Implementation (Federal/State)			
3.0	**Conservation and Fishery Management Measures**			
3.1	Federal Management Measures			
	3.1.1	Optimum Yield and Overfishing		✓
	3.1.2	Limited Access Management		✓
	3.1.3	EFH and HAPC		✓
3.2	Management Measures: Delegated to the State			
	3.2.1	Setting Harvest Limits		✓
	3.2.2	Guideline Harvest Ranges		✓
	3.2.3	Gear Limitations		✓
	3.2.4	Crew and Efficiency limits		✓
	3.2.5	Fishing Seasons		✓
	3.2.6	In-season Adjustments		✓
	3.2.7	Closed Areas		✓
	3.2.8	Prohibited Species and Bycatch Limits		✓
	3.2.9	Crab Bycatch Lmits		✓
	3.2.10	Time Period for CBLs		✓
	3.2.11	Observer Requirements and At-Sea Catch Sampling		✓
	3.2.12	Recordkeeping and Recording Requirements		✓
	3.2.13	Other		✓
4.0	**Description of Stocks and Fishery**			
4.1	Geographic Description of Management Area			✓
4.2	Physical Characteristics of Management Area		✓	
4.3	Description of Stocks and Fishery			✓
4.4	Present Condition and Abundance			✓
4.5	Ecological relationships		✓	
4.6	Habitat of Managed Stocks			✓

Revised Scallop FMP outline			New Section	Updated section
	4.6.1	Habitat Types		✓
	4.6.2	Determination of Essential Fish Habitat		✓
	4.6.3	HAPC		✓
	4.6.1	EFH Habitat REcommendations		✓
4.7	Fishing Activities Affecting the Scallop Stocks			
	4.7.1	History of exploitation (summary)		✓
	4.7.2	Commercial Fishery		✓
		4.7.2.1 Voluntary Scallop Cooperative	✓	
	4.7.3	Subsistence Fishery	✓	
	4.7.4	Recreational Fishery	✓	
4.8	Economic and Socioeconomic Characteristics			✓
4.9	Fishing Communities		✓	
5.0	**Relationship to Applicable Law and Other Fisheries**			✓
6.0	**Reference Material**			✓
6.1	Sources of Available Data		✓	
6.2	Management & Enforcement Considerations			✓
6.3	Literature Cited			✓
Appendix A		History of the Alaska Scallop Fishery and FMP		✓
Appendix B		Geographical Coordinates of Areas Described in the FMP		
Appendix C		Section 211 of AFA		✓
Appendix D		EFH		✓
Appendix E		Research Needs	✓	
Appendix F		Community Profiles	✓	

FMP QUESTIONS AND ANSWERS

What is the FMP?

A fishery management plan (FMP) is developed by the Council for each fishery under its authority that requires conservation and management. FMPs describe the fisheries and contain necessary and appropriate conservation and management measures, applicable to fishing activities undertaken in the EEZ. The plans are submitted to the Secretary of Commerce (Secretary) for approval. If approved, the Secretary promulgates regulations implementing the conservation and management measures set forth in the FMP.

What is the difference between the FMP and the regulations?

FMPs are required to contain the conservation and management measures necessary and appropriate for the conservation and management of the fishery. The conservation and management measures contained in an FMP may be very detailed and specific measures, or they may provide a broader, overarching authority for the promulgation in regulation of certain types of management measures that are not specifically articulated in the FMP. The level of specificity contained in FMPs varies according to the action under consideration by the Council. Although the FMP contains the management measures necessary for conservation and management of the fishery, the FMPs do not have the force and effect of law. The regulations that implement the provisions of the FMPs, and that must be consistent with the provisions of the FMPs, do carry the force and effect of law. The regulated community must be able to understand the regulatory requirements it is subject to and therefore the regulations contain the level of detail necessary for the agency to enforce such regulations.

What governs the contents of the FMP?

The Magnuson-Stevens Act (16 USC 1801, et seq.) Section 303 describes the specific required and discretionary provisions of the FMP. There are fourteen required provisions and twelve discretionary provisions set forth in Section 303. Pursuant to Sections 301 and 303, any FMP and any regulation promulgated to implement the FMP must be consistent with the national standards, other provisions of the Magnuson-Stevens Act, and other applicable law.

What goes in the FMP?

The first of the required provisions of an FMP, as described in the Magnuson-Stevens Act, is to contain the conservation and management measures applicable to foreign and domestic fishing vessels. There are, however, thirteen other required provisions, including a description of the fishery and fishery sectors, present and future condition of MSY and OY, requirements for scientific and social and economic data, identification of essential fish habitat, and overfishing criteria.

Does the FMP need to contain all the details of the management regime?

No. The Council may be as specific as it chooses in its development of the FMP and amendments as long as it meets the requirements found in Sections 301 and 303 of the Magnuson-Stevens Act. At a minimum, the FMP must describe the conservation and management measures sufficiently so as to clarify the intent of the measures. In fact, in the North Pacific, it has often been the Council's practice to include the overarching framework of its management measures in the FMP and have the details presented in the implementing regulations. Some overarching frameworks are more specific than others.

Why are some of the management measures described in detail, and others not?

There are a number of factors that come into play in determining the level of specificity of FMP amendment language. For example, the type of management measure may dictate the level of specificity within the FMP (for example, general authority for recordkeeping and reporting requirements versus a limited access system for a particular fishery). Also, the Council's preference for stating a more explicit management approach to address a certain management issue versus a broader approach that may evolve over time through the implementing regulations is a factor in determining the specificity of FMP amendment language.

Do we need to include all of the descriptive information that changes every year?

The Magnuson-Stevens Act, Section 303 requires that the FMP describe the state of the fishery and stocks. Even though this information is updated annually in the SAFE reports, it must be included in the FMP. In an effort to reduce the burden of annually updating the FMP, a goal of revising the FMP has been to create descriptions that satisfy the requirements of section 303(a) and that have some longevity to them while also referencing those sources where current information is available.

Why is there so much more habitat information than anything else?

The 1996 amendments to the Magnuson-Stevens Act (Sections 303 and 305 (b)) require NMFS and regional Fishery Management Councils (Councils) to describe and identify essential fish habitat (EFH) within FMPs based on guidelines established by the Secretary, minimize to the extent practicable adverse effects on EFH caused by fishing, and identify other actions to encourage the conservation and enhancement of EFH. EFH is defined in the Magnuson-Stevens Act as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity."

As required by the Magnuson-Stevens Act, NMFS developed guidelines, (located at 50 CFR part 600, Subpart J), to assist the Councils in the description and identification of EFH and in the consideration of actions to ensure the conservation and enhancement of EFH. The EFH regulations also include guidelines for identifying adverse impacts from both fishing and non-fishing activities and considering the practicability of actions for minimizing adverse effects on EFH from fishing. In addition, the implementing regulations identify eight other activities that either should or must be included when amending the FMPs.

Why do we need an amendment to make non-substantive changes to the FMP?

Pursuant to the Magnuson-Stevens Act, each FMP must be submitted by the Council to the Secretary for review and approval. Additionally, changes to an already approved FMP must be submitted to the Secretary for review and approval as an FMP amendment. Because minor, non-substantive changes amend the Secretarially-approved FMP language just as substantive changes do, all changes to approved FMP text must follow the process set forth in section 304 of the Magnuson-Stevens Act.

What happens if the revisions to the FMP create an erroneous change to the conservation and management measures?

Any time the FMP is revised, there is a chance that the revision may inadvertently make an unintended change to FMP language. For example, in revising the FMP to incorporate housekeeping changes, staff may incorrectly describe the Council's intended conservation and management measures. Should this occur, the regulations implementing the FMP would be inconsistent with the FMP itself. However, it will be clear from the record that this is a technical error in the FMP, which will be amended as soon as possible. It is unlikely that there would be further consequence.