Scallop Advisory Council Meeting
August 10, 2017 in Augusta, ME

DMR Staff: Pat Keliher, Jon Cornish, Melissa Smith, Kathleen Reardon, Kevin Kelley, Deirdre Gilbert, and Briony Donahue

SAC Members: George Freeman, Paul Cox, Alex Todd, Jim Wotton, Tad Miller, Curtis Haycock, Carla Guenther, and Andy Mays

SAC members not present: James Sulikowski, Marcus Jones, Justin Boyce and Randy Ramsdell. One dealer seat is currently vacant.

Public: Alex Brasili, Travis Fogg, James and Alice Ackley, Randy Newcomb, Mike Murphy Sr, Mike Murphy Jr, Dana Morse, Togue Brawn, John Deraps, Roman Jordan, Vance McMahan, Ron Trundy, Josh Trundy, James West, Brian Soper, Brian Preney, Melissa Britch, Gary Hatch, Herman Coombs, Ben Martens

Meeting commenced at 4:15 pm.

Welcome/Introductions:
A. Todd opened the meeting by requesting introductions of the Council members and members of the audience.

Approval of Minutes (June 13, 2017):
Motion to approve the minutes by J. Wotton, seconded by T. Miller. Vote: Unanimous.

DMR Update:
K. Kelley presented the details of a DMR tagging study that J. Wodjenski is conducting. The project is occurring in Cobscook Bay. 1000 scallops were tagged at 3 sites in Johnson and South Bays; half were legal sized and half were sublegal. DMR requests fishermen call the number on the tag if they catch a tagged scallop and provide location (lat/long), date and tag number. If possible, it would also be helpful to have a size measurement (height: distance from hinge to top). The reward for providing this information is a hat. The purpose of the study is to further our understanding of scallop growth and movement. The scallops do not need to be returned, if they are legal sized they can be kept. See Appendix A for photo of tag. Contact: Joseph.Wodjenski@maine.gov or 207-350-7005.

Elements of the Limited Entry Program:
M. Smith provided the background on the development of a limited entry system for the scallop fishery. In law, there is a directive for the Commissioner to develop rules to allow new licenses to be issued. In developing this system, the Department’s goals are to provide access to licenses, and to continue to build diversity in the commercial fishing fleet. M. Smith provided information on the number of licenses issued and the number of active licenses since 2009 (see slides in Appendix B).

To solicit SAC input on the development of the regulation that will go out to public hearing, DMR has created a series of questions about how the limited entry system will work.
**How will licenses be issued?**

One option is a lottery, which is simple to administer, can accommodate a high level of interest, and can be designed to limit eligibility, or weight certain criteria. DMR is interested in anyone has any ideas that would be an alternative to a lottery.

C. Guenther said that she has had recent conversations about creation of a wait list instead of a lottery that occurs every year. In this example, everyone who wants to apply for a license would submit by a certain date. The names are randomized to put everyone on a list. The advantage to this approach is that people will know where they are on the list, and can plan for their future participation, get any needed certifications, etc. After the initial list is created, anyone who comes forward later will be added at the end of the list.

J. Wotton said that the system should provide a way to give priority for young people to get in.

C. Haycock said that people want an apprenticeship program. They want someone who knows what they are doing dragging around them. People are worried about someone who doesn't know anything getting a license. They want some say in who they will be fishing around.

C. Guenther said that J. Boyce was not able to attend the meeting, but suggested a lottery for current license holders. License holders could apply to be able to have an apprentice. DMR would pick a handful of licenses that would be eligible to sponsor an apprentice. If it were limited to a small number of people, it would reduce the onus on the Department.

C. Guenther said that one problem that she sees is the potential for this to create a black market (i.e. the captain charging the apprentice for the opportunity to apprentice, since it is limited to a small number of people).

M. Smith read J. Boyce’s comments that he provided to her since he was not able to attend:

"I am not completely sure how I would like to reintroduce new fishermen into the scallop fishery but I would like to see some sort of apprentice program. It would be a sad day if we let new people in that have no idea what they are doing and get hurt or possibly die. Also, new fishermen will have no idea where to fish so they will most likely just follow the crowd, making it more dangerous for everyone around.

I am glad we are talking about letting new licenses in. No matter how we go about this, it isn't going to be fair for the new comers or the current fishermen. In a perfect world, we would be able to transfer our licenses but knowing that can't happen, maybe we should look into a lottery for license holders to have the right to apprentice. This way we still have a say who gets in and will know that the new comers have at least seen how it is done. I know there has been a lot said about the cost of apprenticeships being too much but if we only allow 5 to 10 a year it should not be a problem.

Looking forward to seeing everyone else's thoughts."

M. Smith explained that, as has been the case since this issue has been discussed, the DMR does not have any resources to run an apprenticeship program similar to what is in place for the lobster fishery. It would take a new position, and to fund it would require an increase in the scallop license of ~$200. T. Brawn asked how many people the Department anticipates letting in? M. Smith said that is also an issue we are seeking SAC input on.
A. Todd said he likes the concept of apprenticeship. Based on conversations he has had, most of the interest seems to come from older people who previously held a license and gave it up and young people. He would like to set aside a number of licenses for each of those groups.

J. Wotton said he liked the idea of a lottery for a chance to be an apprentice. However, he didn’t think that people who previously held a license should have to do it.

C. Haycock said that it’s about how it’s going to be fishing around them.

B. Preney said he can’t believe we are talking about putting anyone in the industry, especially in Zone 1. Cobscook is the land of plenty and they are limited to 2 buckets. Now we are talking about bringing in new people to cut down what we have accomplished. He would like to have DMR stand up to legislature and say we are not ready.

D. Gilbert explained that the Legislature directed the Department to create limited entry when the fishery was closed in 2009, and DMR did not move forward due to the need to rebuild, as well as the reactivation of latent effort. However, the Legislature agreed to pass the owner-operator provisions last session, with the expectation that the Department would now move forward with new entry. By the time the new entry is authorized (2019), it will be 10 years after the fishery closed. This is not being “rushed”.

C. Guenther said that we can move forward with developing a system, and then talk about when to implement it.

C. Haycock said that the SAC hasn’t really talked about what is the right number of licenses. It was discussed that there is no one answer to that question – it depends on what license holders expect from this fishery – a livelihood, or something to help fill in the year.

G. Freeman asked what is the timeline?

M. Smith explained that the input from tonight’s meeting would be used to draft the regulation. When it is ready, DMR will hold public hearings, in late September or early October. It will go to the DMR Advisory Council in November. If they move it forward, it will go to the Legislature in January, because it is a major substantive rule and they need to vote on it before it can be adopted. They could accept the rule as it is presented, or alter it based on the public hearing they hold.

B. Preney said that licenses were awarded through a lottery in the urchin fishery. He said that harvesters knew it was the wrong thing to do, and the fishery has been in a downward spiral since. Zone 1 still needs a lot of work.

J. Trundy asked what about the latent licenses? Are those numbers considered? What are we going to do with them?

A. Mays noted it is very difficult to take away latent licenses because people have been paying for them for years to maintain that opportunity.

J. Trundy said then give them a time frame within which they have to use the license.

A. Mays said then that will make them go fishing, and why would we want that?

G. Hatch said to consider the guys who have been put out of business. The industry used to be about 35 of us. There are guys with boats swinging on moorings – they ought to be first in line.

A. Mays said they should not be ahead of folks that never had a chance. They gave up their license for the sake of $89.

G. Hatch said this used to be its own industry, not a fill in for people who already have a healthy industry (lobster).

J. West asked, do we have about 300 latent licenses? And we are paying how much for our licenses? We should go up on the fee for our licenses – for whatever we need for this fishery. He feels bad for latent licenses.
– but if they were going to jump back in, they would have done it by now. He has never been for taking licenses. He doesn’t agree with it, and never has. But with latent licenses hanging over our heads, he said he is not sure which way to go.

G. Libby said he used to be a scalloper like G. Hatch (one of the 35). He didn’t renew his license, but if he had to do it over, he would have. He doesn’t think you should advance an 18 year old ahead of someone with a boat and bills. Togue is right – if you do nothing here, you will get something you won’t like. We need to get a few people back in.

T. Miller said whatever we do, it should not create latency in the future. If you issue a new license, it should have to be used – once every three years, or whatever is appropriate. Licenses should be use it or lose it, even for the guys in it now. If they all show up to fish, then you deal with it.

C. Haycock said that people could get around such a requirement by buying scallops and selling them as their own landings.

P. Keliher asked the Council what would be an adequate number to let in? Do you look at the gear type differently? A different ratio for gear types?

Rep. Kumiega reminded the Council that the earliest entry would be in the fall of 2018. In terms of the Marine Resources Committee, they are anticipating a system that might allow in 3-5 people/year.

B. Soper said that new divers need to be trained as existing divers were. Right now, all that is required is CPR/First Aid.

B. Preney said that even a few more divers like him or B. Soper in a small area it would take the resource down to a point where it is not worth going. All the zones are different – Zone 1 is in trouble.

C. Haycock also said that even one more boat in his area would have reduced the number of days.

C. Guenther suggested weighting the available licenses by geography – given higher weight to places where there is more resource.

J. West said that the license is for the state of Maine. Someone new getting in should be able to do the same thing an existing license holder can do.

A. Mays suggested dividing up the available licenses along the coast, but once the license is issued, allowing the license holder to go wherever they want to go.

G. Freeman said he preferred a 1:5 ratio, but wondered if realistically it should be closer to 1:2 to satisfy the Legislature.

C. Guenther asked the people in the audience how many were looking to get into the fishery. Seven people raised their hands. She asked about a staged approach –we’ll run a lottery with a 5:1 ratio in the next 2 years, but in the meantime, we’ll come up with something that is more biologically based.

A. Mays said that isn’t necessary, we already have the tools we need.

C. Guenther said we haven’t gone through the FMP conversation to know what we want this fishery to be. Do we want a few people relying on this fishery, or lot of people using it as a supplemental fishery?

A. Mays said regardless, adding a few licenses is not going to kill this fishery.

Rep Kumiega recommended something fairly simple, such as applying a ratio and perhaps some weighting criteria.

A. Mays said that we will get in trouble when we start to weight this. He reminded the Council that some people don’t have the opportunity to crew.

M. Murphy Sr. said that he wants opportunity for younger kids, and this conversation seemed to be overthought.
J. West said he liked the idea of a lottery for younger kids, and a lottery for older people. He feels bad for all of them. But it shouldn’t be opened to every Tom, Dick and Harry.

G. Hatch said to keep mind the importance of communities.

B. Soper asked why he can’t give his license to his kids.

A. Mays answered, because then you are keeping out all other Maine citizens who also deserve an opportunity to use this public resource.

J. West suggested that to enter the lottery, you either have to have been before (held a scallop license), or go with someone else.

J. Ackley suggested that for every 5 out, a license is given to a kid, and to someone who held a license in the past.

P. Cox suggested 2:1, but to only count active licenses. To be active, license was used in the last 2-3 years.

C. Guenther said she looked at licenses by zone and the majority are retired from Zone 2.

A. Todd suggested that for every 5 licenses given up, give 1 to 18-24 years old; 1 for older people who have already been scallop fishermen and want to get back in.

R. Newcomb asked, what is the figure you are after for a number of licenses?

C. Haycock suggested a 3:2 ratio, using only active fishermen. Activity determined by having had landings.

T. Miller said if you are only considering active licenses, use 1:1.

A. Mays said getting into dicing up age groups makes it too complicated, especially for a limited number of licenses. Do 1:1 with active licenses.

C. Guenther said that latent license holders are keeping their licenses, hoping to keep the opportunity in their community. Even if they are not going to go, they want to keep scallop opportunity maintained in a place. They would let licenses go if they thought it would keep activity in the area.

Rep Kumiega said that in legislation passed last session, activity was defined as having a certain number of landing days.

J. Trundy asked if you could qualify for the lottery by having submitted federal vtrs?

R. Newcomb said that having been on a boat is just a smokescreen. Running the boat is totally different than picking the table.

J. Ackley supported more chances for more experience.

P. Cox said that you should give the chance first to someone who has a boat.

B. Soper said they should have to have a dive certification.

The Council agreed by consensus that there should be two lotteries – one for divers and one for draggers.

P. Cox said he doesn’t think you should have to be dive tender – you should just have to have your dive certificate.

The Council worked on a recommendation package for eligibility and weighting of a limited entry system:

- Lottery
  - Two separate lotteries for dive and drag

- Eligible criteria (must meet all of these to enter the lottery):
  - Does not have any fishing violations within the last 7 years
  - Has held a commercial license or crewed with an active scallop license holder
  - Minimum age of 18 years
  - Cannot enter lottery if you hold either a scallop dive or drag license
• Weighted criteria (to increase potential chances):
  • Crewed previously (requires affidavit)
  • Dive tender (requires affidavit)
  • Previously held a state scallop license
  • Current NGOM permit holder
  • Participated in collaborative research projects
  • Additive lottery – non-winner would build up 1 additional chance annually
  • Limited Access Groundfish permit holder
  • Currently owns a vessel (state or federal) associated with a license

• Exit ratio
  • Drag licenses – 3:2
  • Dive licenses – 1:1
    • Ratios to sunset with 10 year rotational plan for re-evaluation

• Category for drag:
  • “New recruit 18-30”
  • “Established”

• Propose a fee:
  • $100 to enter yearly

Council voted in full support of the recommendation.

Meeting adjourned at 7:18 pm
Appendix A
Scallop Advisory Council Meeting Agenda
Thursday August 10th, 2017 @ 4pm

1. Welcome/Introductions
2. Approval of Last Meeting Minutes (06/13/17)
3. DMR Updates
   a. Update on tagging study
4. Discussion: Elements of the limited entry program
5. Other Business
6. Adjourn

Limited Entry Discussion

• Legislative directive:

Scallop license limited entry system. Notwithstanding subsection 2, the commissioner shall establish by rule a limited entry system under which a person who did not hold a hand fishing scallop license or a scallop dragging license in the previous calendar year may become eligible to obtain that license. The rules for a limited entry system must include provisions for the method and administration of the program. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subsection 2-A.

• Department goals:
   1. Provide access to licenses through a limited entry system
   2. Continue to build diversity within the commercial fishing industry

License Data and Trends 2011-2016

• Table 1: Number of licenses issued by gear type (2009-2016*).

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Scalloping Diver</td>
<td>115</td>
<td>68</td>
<td>56</td>
<td>41</td>
<td>37</td>
<td>34</td>
<td>29</td>
<td>25</td>
</tr>
<tr>
<td>Scalloping Diver w/Tender</td>
<td>44</td>
<td>48</td>
<td>52</td>
<td>49</td>
<td>48</td>
<td>51</td>
<td>52</td>
<td></td>
</tr>
<tr>
<td>Combined Diver</td>
<td>155</td>
<td>155</td>
<td>107</td>
<td>98</td>
<td>86</td>
<td>82</td>
<td>78</td>
<td>77</td>
</tr>
<tr>
<td>Scalloping Dragger</td>
<td>612</td>
<td>612</td>
<td>585</td>
<td>572</td>
<td>549</td>
<td>545</td>
<td>534</td>
<td>523</td>
</tr>
</tbody>
</table>

• Table 2: Decrease in number of licenses issued by gear type, annually (2010-2016*).

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Scalloping Diver (Combined)</td>
<td>-22</td>
<td>-16</td>
<td>-14</td>
<td>-9</td>
<td>-4</td>
<td>-4</td>
<td>-1</td>
</tr>
<tr>
<td>Scalloping Dragger</td>
<td>-5</td>
<td>-26</td>
<td>-13</td>
<td>-21</td>
<td>-4</td>
<td>-9</td>
<td>-9</td>
</tr>
</tbody>
</table>

• Table 3: Number of active licenses by gear type (2008-2016*).

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Scalloping Diver</td>
<td>32</td>
<td>32</td>
<td>38</td>
<td>36</td>
<td>21</td>
<td>32</td>
<td>30</td>
<td></td>
</tr>
<tr>
<td>Scalloping Dragger</td>
<td>155</td>
<td>157</td>
<td>209</td>
<td>215</td>
<td>351</td>
<td>327</td>
<td>341</td>
<td>314</td>
</tr>
</tbody>
</table>

* 2016 data is preliminary, not final.
* Average age of license holder is 51 years for both dive and drag
How will licenses be issued?

- The potential option is a lottery
  - Simple to administer
  - Can accommodate the expected high level of interest
  - Can be designed to limit eligibility and/or weight criteria

• Are there any alternatives to a lottery?

How many licenses should be issued?

• Typically, the number of licenses issued is based on the number of licenses not renewed in the previous fishing year.

• Do you think we should reduce the number of licenses?
  - For example, should we apply a ratio other than 1:1?

• If there are separate lotteries for divers and draggers, do you think there should be a different ratio?

Who should be eligible to enter the lottery?

• Potential criteria:
  - Has held a commercial license in the past
  - Is a current crew member or dive tender
  - Holds other commercial fishing licenses
  - Does not have any fishing violations within the last 7 years

• Are there other eligibility criteria to consider?

Should a person’s chances be weighted?

• In some lotteries, applicants are given multiple chances in the lottery for meeting certain criteria

• Do you think any eligibility criteria should be used for weighing a person’s chances?
  - For example, an extra chance for every year they served as crew?
Should there be a fee to enter the lottery?

• Under existing law, the Department does not have the authority to charge a fee to enter the lottery. However, this is a major substantive rule, which will require the Legislature’s review and approval. The Legislature could potentially add a fee during their review.
  • If a fee was added, advocate revenue to towards Scallop Fund

• Do you feel a fee to enter should be charged?
  • What would be an appropriate amount to charge?

Submitting Documentation

• Documentation supporting eligibility criteria from chosen lottery winners will be fact checked prior to issuance of a license
• License shall be revoked, should the information submitted for the lottery be deemed a misstatement or misrepresentation per section 6307 below

§6307. Misstatement or misrepresentation
It shall be unlawful to intentionally or knowingly make a misstatement or misrepresentation on an application for a license or certificate.

Potential System for Limited Entry: Draft

• A lottery system
  • Two lotteries, one each for drag and dive licenses?

• Separate exit ratios
  • Drag entry ratio of 2:1
  • Dive entry ratio of 1:1

• Weighting associated with having a license and/or time as crew
SAC Recommendations for Limited Entry: Pt 1

- Lottery
  - Two separate lotteries for dive and drag

- Eligible criteria (must meet all of these):
  - Does not have any fishing violations within the last 7 years
  - Has held a commercial license or crewed with an active scallop license holder
  - Minimum age of 18 years
  - Cannot enter lottery if you hold either a scallop dive or drag license

- Weighted criteria:
  - Crewed previously (affidavit)
  - Dive tender (affidavit)
  - Previously held a state scallop license
  - Current NSWOM permit
  - Participated in research
  - Additional lottery – non-winner would build up
  - Limited Access Groundfish permit
  - Owns a vessel (state or federal) associated with a license

SAC Recommendations for Limited Entry: Pt 2

- Exit ratio
  - Drag licenses – 3:2
  - Dive licenses – 1:1
    - Sunset with 10 year rotational plan for re-evaluation

- Category for drag:
  - “New recruit 18-30”
  - “Established”

- Propose a fee:
  - $100 to enter yearly