

#3

September 9, 2008

**VIA ELECTRONIC MAIL**

Mr. David G. Simpson, Chair  
Scallop Oversight Committee  
New England Fishery Management Council  
50 Water Street, Mill 2  
Newburyport, MA 01950

**Re: Scallop Access Area Fishery**

Dear Mr. Simpson:

The Fisheries Survival Fund (FSF), which represents the bulk of the full-time, limited access scallop fleet, is requesting assistance from the New England Fishery Management Council in analyzing NMFS's scallop fishery observer data. As the Council is aware, NMFS closed the Nantucket Lightship ("NLS") access area before all the trips were taken this year, because it estimated the scallop fishery had caught its quota of yellowtail flounder bycatch. The early closure of the NLS access area resulted in the fleet losing approximately one hundred access area trips and millions of dollars in revenues. FSF and its participants have been trying to understand since 2006, the last time this happened, how yellowtail bycatch levels are estimated from the observer data, but NMFS has been unable or unwilling to provide sufficient underlying observer data for analysis.

As you are aware, a key component of the access area system is to get accurate and timely at-sea data. This is primarily achieved at this time by the use of on-board observers. In 2006, during the openings of the NLS and CAII Access Areas, the FSF had concerns regarding the validity of the observer data. On behalf of the FSF, Coonamessett Farm submitted a data request (April 30, 2007), to the NEFSC (see attached listing), but was denied critical position data. A follow-up FOIA request (May 9, 2007), for the position data has been denied by NMFS (PC, Moakley NEFSC, September 8, 2008). This leaves the Council/NMFS as the only institution capable of analyzing the observer data.

The scallop industry's concerns about the observed trips are as follows:

- a) The observers may be estimating the YT bycatch, not actually counting/measuring;
- b) The observers may be inaccurately estimating the scallop catch by estimating the catch volume and inaccurately converting to meat weight;
- c) A vessel with an observer may potentially behave differently from vessels without observers by fishing in different locations;
- d) There are also concerns about how the data is analyzed and expanded.

Some improvements appear to have been made since 2006 when FSF first expressed its concerns, but we cannot be sure without an analysis. A fair analysis of the data would further be predicated on knowing which observed trips used estimation versus using actual counting/measuring for both 2006 and 2008 NLSA, and the identification and impact of outliers on the catch projections. A comparison of observed trips versus unobserved trips (based on VMS data) regarding the fishing locations, CPUE (determined by LPUE), meat count, etc, could also help further any analysis.

For these reasons, the Scallop Committee and Council should undertake an analysis of this important issue. Thank you very much for your attention to this important matter.

Sincerely,

/s/

David E. Frulla  
Andrew E. Minkiewicz  
Shaun M. Gehan

Counsel for Fisheries Survival Fund

Data Request 07-004; Ron Smolowitz  
 Table structures:

G.Shield 4/30/07

SMOLO6TRP (trp and trg requested variables)

Name	Null?	Type
LINK1		VARCHAR2 (15)
PROGRAM		VARCHAR2 (3)
DATESAIL		DATE
DATELAND		DATE
PORT		VARCHAR2 (6)
CAPTYRS		NUMBER (2)

SMOLO6SDG (sdg requested variables)

Name	Null?	Type
LINK1		VARCHAR2 (15)
LINK4		VARCHAR2 (17)
GEARNUM		VARCHAR2 (1)
FRAMEHGTP		NUMBER (2)
FRAMEHGTS		NUMBER (2)
FRAMEWIDP		NUMBER (3)
FRAMEWIDS		NUMBER (3)
RCHNUSDP		VARCHAR2 (1)
RCHNUSDS		VARCHAR2 (1)
NRCHAINP		NUMBER (2)
NRCHAINS		NUMBER (2)
TCHNUSDP		VARCHAR2 (1)
TCHNUSDS		VARCHAR2 (1)
NTCHAINP		NUMBER (2)
NTCHAINS		NUMBER (2)
CHNCONFIGP		VARCHAR2 (1)
CHNCONFIGS		VARCHAR2 (1)
TWTOPUSDP		VARCHAR2 (1)
TWTOPUSDS		VARCHAR2 (1)
MSTWTOPP		NUMBER (3)
MSTWTOPS		NUMBER (3)

SMOLO6HAUL (hau, spp, sdh requested variables)

Name	Null?	Type
LINK1		VARCHAR2 (15)
LINK3		VARCHAR2 (19)
LINK4		VARCHAR2 (17)
DREDGOBS		VARCHAR2 (1)
DATEHBEG		DATE
TIMEHBEG		VARCHAR2 (4)
DATEHEND		DATE

TIMEHEND	VARCHAR2 (4)
OBSRFLAG	VARCHAR2 (1)
TOWSPEED	NUMBER (3, 1)
WIREOUT	NUMBER (3)
BTMTYPE	VARCHAR2 (1)
BTMCHAR	VARCHAR2 (2)
CLAPOBS	VARCHAR2 (1)
DEPTH	NUMBER (4)
WAVEHGT	NUMBER (2)
WTMP	NUMBER (3, 1)
GEARCOND	VARCHAR2 (2)
TENMSQ	VARCHAR2 (2)
NBUSHKEP	NUMBER (5, 2)
AVLBBUSHKEP	NUMBER (3)
NBUSHDIS	NUMBER (5, 2)
AVLBBUSHDIS	NUMBER (3)
NESPP4	VARCHAR2 (4)
HAILWT	NUMBER (7, 1)
CATDISP	VARCHAR2 (1)
FISHDISP	VARCHAR2 (3)
DRFLAG	VARCHAR2 (1)
WGTTYPE	VARCHAR2 (1)
HAUCOMMENTS	VARCHAR2 (250)

SMOLO6SDO (sdo; off watch requested variables)

Name	Null?	Type
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LINK1		VARCHAR2 (15)
LINK3		VARCHAR2 (19)
HAULNUM		VARCHAR2 (4)
NBUSHKEP		NUMBER (5, 2)

SMOLO6LEN (yt and scallop length requested variables)

Name	Null?	Type
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LINK1		VARCHAR2 (15)
LINK3		VARCHAR2 (19)
NESPP4		VARCHAR2 (4)
FISHDISP		VARCHAR2 (3)
CATDISP		VARCHAR2 (1)
DREDGEPOS		VARCHAR2 (1)
VOLMEATS		NUMBER (5)
LENANML		NUMBER (4)
NUMLEN		NUMBER (4)