

1.0 SUMMARY OF WRITTEN PUBLIC COMMENT ON AMENDMENT 15 DEIS

Amendment 15 was available for public comment from July 9, 2010 to August 23, 2010. The full DEIS and public hearing document were available on the Council website and copies were made available by request. Within the public hearing document two dozen specific questions were included to help focus public comment on the wide range of alternatives under consideration. Comments and questions raised in written statements have been summarized using the same questions to help organize the written comments. After the Council takes final action and the EIS is submitted, detailed responses for each of these comments will be included.

About 65 individual comments were submitted including two “form letters.” Over 130 individuals signed one of the form letters (Comment #8), and over 20 signed another (Comment #28). In addition, two comments were submitted after the deadline, but are included in the package of written comments.

The vast majority of comments focused on providing input on what the Committee and Council should consider for the proposed action, and a dozen or so included specific questions or raised issues that should be clarified about the alternatives or analyses currently in the DEIS.

In very general terms, most comments focused on the measures to address excess capacity in the limited access fishery. The majority of comments, about 40 individual comments and over 130 anti-consolidation form letters, oppose stacking and leasing alternatives, citing potential social impacts included in the DEIS as well as challenging whether these measures fully comply with all the National Standards of the Magnuson Act. On the other hand, 15-20 comments were also received from individuals that support stacking, and in some cases leasing over stacking. Another 15-20 comments were neutral on stacking or did not comment on those alternatives. In a nutshell, commenters that supported stacking and/or leasing alternatives cited reduced costs, retirement of older vessels, reduced congestion at docks, and more efficient use of other resources such as fuel, paint etc. Those that opposed stacking generally felt that the mortality adjustment factor (5-11%) was too low, and most that support stacking felt it was too high. A handful of commenters noted that stacking and leasing could have unintended consequences on other fisheries in the region and requested that the DEIS investigate this further.

Some commenters did provide input on the ACL and AM alternatives in A15. There was general support for the ACL structure and range of AM measures under consideration. Most commenters supported the idea of improved accountability and reduced risk of overfishing with the implementation of AMs. A couple suggested that other species caught in the scallop fishery should be considered, and a few voiced concern about the effectiveness of limited access AMs in terms of ensuring that general category allocations are not affected.

Many comments were submitted related to the measures under consideration to improve the general category IFQ program; however, input was mixed. Some supported increasing the possession limit, and some adamantly opposed such a change. There was some support for IFQ rollover and increased harvest limits per platform, and some opposition. Similarly, input on CFAs was mixed.

There was very little support for changing the overfishing definition and almost no support for changing the fishing year to May 1. Many supported modifying the EFH closed areas in A15, and two comments opposed it citing that the EFH Omnibus Action is the proper place to address that when it is passed. Lastly, there was general support for improving the RSA program and some provided specific advice on which measures to select.

All written comments were reviewed by staff and individual questions or comments about specific alternatives have been included below. Only comments relative to Amendment 15 or the Scallop FMP have been included.

1.1 PURPOSE 1 – CONSIDER MEASURES THAT WILL IMPLEMENT ANNUAL CATCH LIMITS (ACLs) AND ACCOUNTABILITY MEASURES (AMS) TO PREVENT OVERFISHING

1. Do you agree with the structure of the ACL flowchart (Figure 2)? Do you agree there should be 2 sub-ACLs; one for the limited access fishery and one for the general category fishery?
 - *Support for separate NGOM ACL but unused portion should annually rollback to LAGC fleet for the next year if the NGOM fleet does not harvest that allocation.*
 - *General support for flowchart but unclear if LAGC/IFQ fleet is insulated enough from potential of reductions if the LA fleet exceeds their sub-ACL. Suggestion to take LAGC ACL right from OFL like the NGOM ACL is.*
 - *Concern that incidental catch coming from ABC=ACL section as well as LA-sub ACL; that allocation should not come off both.*
 - *One suggestion was made that the LA sub-ACL should be further divided between full-time, part-time, and occasional permits because in his opinion the part-time fleet is harvesting more scallops than anticipated and that could lead to the full LA sub-ACL being exceeded.*
 - *NMFS Comment – “The ACL discussion could be improved by describing the steps the PDT will take to establish the values associated with the various catch levels in the flowchart. I make this suggestion because the development of annual values for ACLs will need to be more transparent than it has been in the past.”*

2. Is scientific uncertainty accounted for properly in setting ACLs in the scallop fishery? Is a 25% chance of exceeding OFL appropriate?
 - *No specific comments*

3. Is management uncertainty accounted for properly in setting ACTs? Which option do you support for the buffer between ACLs and ACTs for the two fisheries?
 - *Some support for zero buffer for management uncertainty for the LAGC fishery – quota system should take the uncertainty out of the fishery.*

4. Which AM alternatives do you support (use of an ACT, DAS reduction, IFQ reduction, NGOM hard-TAC reduction)?
- *Some support for setting ACT below ACL to prevent derby fishing, and support for AMs that are effective in the future, not in-season.*
 - *One commenter voiced concern about the disclaimer for the LA AM. It was argued that it is inherently unfair and runs counter to the Council's intent in establishing two separate portions of the fishery.*
 - *One comment letter suggested a clarification: "if the scallop AM is triggered, that any DAS reduction be rounded down if the calculation results in fraction of a DAS less than 0.5 and that no DAS reduction is to be taken if the overage would result in less than one full DAS in the subsequent year."*
 - *One letter argued that AMs should not trigger unless OFL level of F is exceeded, and not when ACL level of F is exceeded.*
5. Are the yellowtail flounder AMs reasonable? Do you support one alternative over another?
- *Summer flounder mortality very large from the scallop fishery and may affect the stock. Commenter suggests that similar to yellowtail flounder, there should be a requirement to retain summer flounder and this action should account for mortality of this stock.*
 - *Recommend that LAGC fleet not be subject to YT flounder AMs since effort and bycatch represent an insignificant amount of bycatch.*
 - *Some commenters voiced support of general ideas about AMs in terms of what they should not do (cause derby fishing, reduce scallop yield, cause fishery to be spatially unbalanced, etc.), but most commenters did not identify a preferred alternative. Some support was voiced for a seasonal closure of part of a YT stock area that would be effective in year 3. Additional ideas suggested were: areas should be more discrete and surveyed like GB access areas, closures should be short and timed when scallop meats are poorest, and closures should not impact ability to take access area trips.*
 - *One commenter supported in-season closure of an entire YT stock area as the most effective AM to provide incentives to develop dynamic self management programs to avoid bycatch.*
 - *One letter suggested a new alternative to consider, an "in-season firewall." If NMFS projects that sub-ACL for a particular stock is likely to exceed the ACL by a substantial margin then that stock area should close to open area DAS for the period when YT concentrations are expected to be high.*
 - *Another letter argued that all year 3 AMs are contrary to agency guidance.*
6. Do you have any specific comments or issues about the administrative process, monitoring, or timing of AM measures described in this action?
- *NMFS Comment – "The Council needs to clarify the relationship between the overall yellowtail ACL for the scallop fishery and the access area allocation of 10 percent of the overall yellowtail ACL. We believe that the 10-percent access area allocation is intended*

to be part of the overall yellowtail sub-ACL for the scallop fishery, but it is not clear in the document.”

- *NMFS Comment – “In general, my staff advise that the monitoring requirements associated with ACLs are more burdensome for the alternatives that include real-time monitoring requirements and associated area closures than those with outyear AMs (e.g., the adjustment in DAS for any overages would be made for 2012 for a 2010 ACL overage). We offer the following specific monitoring recommendations:*
 1. *require vessels to report the yellowtail stock area fished for each trip through an expanded VMS activity code;*
 2. *Clarify whether or not vessels would be allowed to fish in multiple yellowtail stock areas on a single trip. If this is the case, vessels would need to submit multiple VMS catch reports at the end of the trip;*
 3. *VMS catch report requirements applicable to yellowtail bycatch estimation in the scallop fishery should be revised to include entry of the total pounds of all species kept to compare to yellowtail caught, rather than only scallops kept.”*
- *Description of how AMs will be monitored should be more detailed.*
- *One commenter argued that surveys of access areas should be conducted year round to identify areas of high seasonal concentrations of YT, either by NMFS, industry-funded, or a study fleet.*

OTHER COMMENTS RELATED TO ACL MANAGEMENT

- *One commenter suggested that the reference and discussion of ecosystem component species is superfluous and unnecessary and recommends dropping further discussion of this discretionary component. This commenter also supports the exclusion of protected resources as a non-target species because it is managed under a different law.*
- *Another comment argued that loggerhead turtles should be considered in the ACL/AM context in Amendment 15 with associated limits on bycatch. It was also suggested that large amount of sponges and sea stars are observed on scallop trips so these species should also be considered as ecosystem component species.*
- *One commenter argued that there are places in the document that still refer to F_{max} as 0.29 despite the fact the assessment has updated the reference point ($F_{msy} = 0.38$).*
- *One letter recommends that the provision that would allow the PDT to recommend an ACL lower than ABC if it is sufficiently justified be removed because the buffers established under A15 would make this unnecessary.*
- *One commenter argued that the Council did not adequately analyze which bycatch species to potentially include as non-target stock in the Scallop FMP. It is suggested that this should have been based on a full analysis of catch and bycatch in the scallop fishery using more updated information. Specifically, a full discussion and assessment of the catch of skates, monkfish, summer flounder, and winter flounder species was requested. Lastly, a clear description of the “threshold” for what constitutes a non-target stock is lacking.*
- *One commenter questioned whether scallop management is achieving MSY when it allows 50% of the protein in the scallop shell to be discarded. Do Annual Catch Limits require utilization of protein harvested? Should annual catch limits be altered to allow 24,000 pounds of roe on product from access areas provided PSP is not in the area? Does acceptable biological catch allow the discard of 50% of the protein?*

1.2 PURPOSE 2 - ADDRESS EXCESS CAPACITY IN THE LIMITED ACCESS SCALLOP FISHERY AND PROVIDE MORE FLEXIBILITY FOR EFFICIENT UTILIZATION OF THE RESOURCE WHILE CONSIDERING IMPACTS ON VARIOUS FISHERIES AND FISHING COMMUNITIES

7. Do you agree that there is a need to address excess capacity in the Limited Access scallop fleet?
- *A few commenters did not agree there is a capacity problem; rather there is an under-harvesting problem because there are scallops dying in the ecosystem from old age.*
8. Do you support stacking and leasing as a way to address excess capacity and provide more flexibility for efficient utilization of the resource? Why?
- *15-20 comments supported stacking and/or leasing as a way to reduce the fleet size and effectively reduce capacity. Some of the benefits offered were:*
 - *Creating new opportunities for single vessel owners to increase fishing activity through leasing trips of DAS instead of purchasing an entire vessel and permit;*
 - *Upgrading the fleet profile. Good boats from which permits were stacked will be recycled through the fleet resulting in the retirement of older vessels and improving overall safety;*
 - *Reducing port congestion;*
 - *Softening the impacts of derby fishing in closed areas due to the reduction in vessels and improving safety in those areas;*
 - *Providing all vessel owners an opportunity to receive income from leased trips of DAS in the event of a catastrophic incident;*
 - *Owners will avoid the costs of maintenance, repairs, insurance and other costs associated with operating larger fleets;*
 - *Crews will no longer have to rotate from vessel to vessel, moving gear and equipment; potentially reducing accidents and improving safety;*
 - *Value of all permits will increase with the potential ability to stack/lease permits;*
 - *Consolidation has already occurred and stacking/leasing will not impact 5% ownership cap – that will still be in place;*
 - *Arguments that general maintenance will remain the same because one boat will be fishing more so it will need more maintenance than before;*
 - *It is a voluntary program, so those that do not want to stack do not have to;*
 - *Some supporters suggested that leasing would be more flexible for the industry; this is more favorable than stacking;*
 - *Some argue that job losses will be small scale because most multiple boat owners use the same crew already;*
 - *One commenter argued that stacking and leasing does address excess capacity and does not allocate or reallocate the resource, which was done in Amendment*

4. This is in compliance with national standard 5. And excess fishing capacity can put pressure on managers to make more of the resource available for harvest thus lead to overfishing;

- *Keeping all the current vessels in the fishery does not benefit the fishery, it only adds costs. A vessel is better maintained when it is working than sitting;*
 - *Crew wages should be stable or increase as overall trip expenses for operating one vessel (as compared to two) should decrease; and*
 - *Electricity, paint, and many other non-renewable resources would be saved, reducing the carbon footprint of the fishery.*
- *Majority of comments received oppose stacking/leasing for the reasons below:*
 - *Majority of the fleet is opposed because it will lead to large conglomerate fishing operations. Smaller companies will be taken over by larger ones. Concerns about a few large owners dominating the industry – will likely lead to unfair business practices, unemployment, lower wages, and monopoly pricing;*
 - *Loss of fishing and shore side support jobs. There would be substantial trickle down effects for other fisheries and would eventually reach even landlords and coffee shops;*
 - *Fishery is not overfished, bycatch is reducing, industry is profitable – why try to fix something that is not broken? Why are we trying to drastically change something that is such a success and a model for the rest of the world?;*
 - *Social impacts section of Amendment 15, prepared by Dr. Julia Olsen of NMFS, cites numerous examples of the potential negative consequences of consolidation;*
 - *Only a handful of vessel owners want this, and the Council should instead consider what is best for the nation, working people and the majority of the industry;*
 - *Stacking/leasing will lead to further consolidation and takes a traditional fishery out of the hands and care of those who have the most interest in the long-term future of the resource. Eventually, the owners and crew will not have the fishing rights, and will have to lease it from people that do not even own a boat;*
 - *Stacking/leasing will not reduce capacity – it will only increase the profits of a select few;*
 - *Increased profits for vertically integrated companies will increase their purchasing power and market share of scallop product impacting prices for the entire fleet;*
 - *Stacking and leasing alternatives are in violation with National Standard 5, as well as #1, #2, #4, and #8;*
 - *Overcrowded ports from excess capacity in the groundfish fleet, and it is generally safer for a vessel to be at port than at sea;*

- *Concern that value of a vessel and permit that is not stacked will be reduced because it cannot compete with fleet owners – becomes virtually half a license;*
 - *If there was more access to the scallop resource that is harvestable, there would not be a capacity issue;*
 - *Impacts on other fisheries will be felt and the EIS should investigate those potential impacts in more detail. Vessels will give up their scallop allocation and go full time in other fisheries like fluke, scup, whiting, squid and others. If stacking is permitted, then these boats should surrender their other permits;*
 - *Individuals pushing consolidation are the ones with the problem, overcapitalization of their own fleet has created internal economic inefficiencies and reducing fleet size will hurt everyone but the consolidated vertically integrated fleet owners;*
 - *Financial desires of a few should not affect the majority of owners who know the fishery is functioning sustainably and profitably;*
 - *Stacking/leasing is driven by efficient use of machinery, not efficient use of resource;*
 - *Devastating for waterfront. Boat brokers would be flooded with former scallopers, so values of all vessels would plunge. Conversely, price of stacked permit would be so high – only a few could ever afford it;*
 - *If majority of fleet is opposed so Council should not support stacking/leasing. There could be an issue if it is perceived that management decisions are purposely benefiting a certain group of fishermen/investors to the detriment of other fishermen; and*
 - *The alternatives create further inequity between small fleet/single vessel and large fleet owners.*
9. If stacking and/or leasing is adopted should the Council also adopt a fishing power adjustment? Are the fishing power adjustment alternatives reasonable and do you believe they will minimize increases in mortality from stacking/leasing?
- *The model used to develop the fishing power adjustment alternative does not reflect changes that are already occurring in the fishery under current rules. Specifically, LPUE has been steadily increasing, and absent stacking/leasing LPUE will likely continue to increase. The model does not show a comparison between the expected increase in LPUE occurring under the current upgrade and replacement rules versus and increase in LPUE from stacking/leasing.*
 - *Some support for the concept, but concerned it will not work. Vessels will continue to be replaced and upgrade, and adjustments will not keep up with increased catches.*
 - *Some believe the adjustments should be higher to ensure catch remains neutral. Concern the fishing mortality adjustment is not sufficient alone because those values can be manipulated relatively easily.*

10. Whether you support stacking and/or leasing do you believe both adjustments are necessary? Is the 5-11% range appropriate for the second adjustment? Too low? Too high?
- *One commenter believes the PDT has vastly overstated the benefits and grossly underestimated the costs of stacking/leasing. For example, under stacking, two vessels can't fish in the most productive areas at the same time, so there is also some lost flexibility under stacking/leasing.*
 - *Range is too low because it does not account for everything.*
 - *Range was lowered to 5% by the Committee and was not based on science and analyses prepared by the PDT.*
 - *Several commenters said that because the mortality adjustment is based on models and predictions and not real world data they could not support it. They argued that vessel power is not as important as the document suggests, and shucking capacity is the issue as well as density of scallops.*
11. If stacking is approved, do you support that the 10 DAS carryover provision stay the same or be increased?
- *Some support for increasing carryover to 20DAS for stacked vessel*
 - *Some support for keeping carryover at 10 DAS*
12. If stacking is approved, do you support that de-stacking should be allowed or prohibited?
- *Some support for de-stacking but with the requirement that de-stacked permit may only be assigned to another limited access active scallop vessel (or its replacement) or moved to CPH for leasing.*
 - *Some support for splitting catch history evenly (50/50) if a stacked vessel later de-stacks its permits.*
 - *Oppose de-stacking. Too much Council time spent on this. Government should stay out of difficult partner scenarios, estate planning leaving that to the lawyers and businessmen themselves.*
 - *NMFS Comment – “Four specific concerns were raised about de-stacking and catch histories. NMFS suggested these issues should be clarified before adoption of de-stacking.”*
13. If stacking is approved, do you believe there should be any restrictions on vessel upgrades?
- *Some support for Option A – subjects any upgrades on vessels to the 10/10/20 rule.*

14. Should there be any restrictions on leasing?

- *Some support for leasing from different permit categories with associated adjustments. However, noted that adjustments will lead to partial DAS allocations, and that may be too cumbersome to monitor.*
- *Concern that the lay of the settlement will change in favor of the owner; the Captain and crews always end up paying for the leasing resulting in lost wages.*
- *Would only support leasing in case of serious hardship as a relief valve. To avoid abuse, leasing could only occur during the last month of the year and with documentation of catastrophe (surveyor/mechanic letter).*
- *Oppose leasing because of potential impacts on other fisheries. Vessels could re-rig and fish for other species they have permits for but have not fished for. Leasing will exacerbate excess capacity in other fisheries like squid, scup, fluke, monkfish, and small-mesh fisheries. Some vessels that lease out scallop effort may shift into other fisheries just to get history in those fisheries. Commenter argues that since groundfish sectors were approved effort in other fisheries has increased because vessels have leased out their groundfish allocation and that could also happen as a result of leasing in the scallop fishery.*
- *One commenter suggested that the processing time for lease applications should be reduced.*

15. If leasing is approved, should a vessel be permitted to lease from Confirmation of Permit History (CPH)?

- *Some support for leasing from CPH.*
- *Only if permit there from hardship. Permit leasing should have a time limit that is reasonable to allow replacement vessel purchase/construction. Unrestricted leasing from CPH would be no different than unregulated stacking.*
- *Some opposition to leasing from CPH – why enrich a bunch of armchair fishermen/investors?*

16. If leasing is approved, do you support sub or re-leasing?

- *Some support for re-leasing.*

17. Under leasing, should DAS and landings history accrue to the Lessor or the Lessee?

- *NMFS Comment – “With regard to scallop days-at-sea (DAS) leasing (Section 3.3.3.1.2), I urge the Council to adopt measures consistent with the NE multispecies DAS leasing program, where the catch history would be allotted to the vessel landing the catch (i.e., the lessee), rather than the vessel that leased out the DAS (i.e., the lessor), and the DAS usage history would be applied to the lessor. Although there is no discussion of catch history under the access area trip leasing alternative, I recommend that the Council apply catch history and access area trip usage in the same manner as with DAS leasing.”*

- *One letter suggested that landings history should accrue proportionally to the originating permit. The identity of each permit should be maintained and vessel owners can identify which permit to accrue landings to when it reports through SAFIS.*
18. Are there any other issues that should be taken into account in the economic and social impact analyses of the stacking/leasing alternatives?
- *Request for a comprehensive assessment of the entire fishing community (housing, education, taxes, unemployment, etc.), in particular New Bedford. Additional job losses are not acceptable and the commenter suggested that while stacking/leasing does not require a referendum vote, there is precedent.*

OTHER COMMENTS RELATED TO STACKING/LEASING ALTERNATIVES

- *Council should clarify that the ownership cap does not limit a 5% owner's ability to lease-out DAS and access area trips.*
- *Suggestion that Section 3.3.3.9 be eliminated because those provisions are discussed in other sections and it is redundant.*
- *Support for making the fishing power and mortality adjustments frameworkable. Suggestion to add to the list of frameworkable items. And if they are adjusted, DAS assigned to all stacked permits (past and present) be adjusted going forward.*
- *One commenter feels that the portion of A15 that attempts to force the industry to adopt leasing/stacking has been an unfair process that has continually ignored the wishes of the majority of permit holders and does not show where any true conservation will occur.*
- *One commenter argued that the failure of the Council to consult with community leaders on development of Amendment 15 is in violation of the Magnuson Act. In addition, the public has not been adequately informed as to the regulations being proposed and cannot fully understand their impacts. There are too many uncertainties in the document. Lastly, the makeup of the Council, Committee and Advisory panel is biased and favors larger vessel owners and elimination of vessels.*
- *One commenter voiced general frustration with the process in terms of how an action can be initiated if only a small group of individuals want it; concern that the process was not public enough, that the document was not properly prepared, and that some Council members are biased and will have monetary gain from stacking/leasing.*
- *One commenter argued that if all permits are stacked effort in other fisheries should actually decrease, because that one vessel will have less time to fish in other fisheries with two scallop permits on it. It was suggested that if the Council still believes there is an issue, one suggestion would be to place all non-scallop permits in CPH if vessels have incompatible baselines.*

1.3 PURPOSE 3 - ADJUST SEVERAL ASPECTS OF THE OVERALL PROGRAM TO MAKE THE SCALLOP MANAGEMENT PLAN MORE EFFECTIVE

19. For the measures that consider adjusting the overfishing definition, which one do you support (No Action, A10 time-averaged, or hybrid alternative)?

- *Most commenters that said anything about the OFD recommended No Action. One said that changing the OFD should wait until decisions have been made about habitat closed areas and others suggested that it is functioning fine now in terms of preventing overfishing. Another letter opposed any OFD that excludes scallops in closed areas from the overfishing calculation.*
- *NMFS Comment – “I encourage the Council to adopt the “hybrid” OFD in Amendment 15. This OFD will be much more consistent with the Council’s area rotation program than the current OFD. I recommend updating the OFD Alternatives in Amendment 15 to incorporate the new reference points that have been established through SARC 50. Reference to F_{MAX} and B_{MAX} should be changed to F_{MSY} and B_{MSY} , respectively.”*

20. Will the general category alternatives help to add flexibility to the LAGC management program? Do you support an allowance of IFQ rollover up to 15%? Are you in favor of changing the possession limit? If yes, by how much? Or should it be eliminated? Are you in favor of modifying the maximum quota one vessel can fish to 2.5% compared to 2%? Do you support allowing transfers of IFQ to other IFQ vessels and/or permit banks?

- *Some opposition to increasing the possession limit. Reasons include: more pressure on other fisheries if IFQ can be caught faster, more time to fish for other species, and would change interest in fishery and alter makeup of fleet. One commenter suggested that possession limit should stay 400 for vessels north of Virginia, but for Virginia and North Carolina it should be 1,000 because of the distance to fishing grounds.*
- *Some support for increasing the possession limit to make the fishery more profitable by eliminating steam time (man hours, wear and tear on vessels, and fuel) and improve safety because it would be easier to time trips with weather.*
- *Some opposition to changing cap per platform from 2% to 2.5% and some support.*
- *Some opposition to quota transferring from one vessel to another or to a permit bank. If it is passed then all permits should be transferred or surrendered to prevent increased capacity in other fisheries.*
- *General support for 15% rollover provision for unforeseen events, one commenter would support 100%, but that was not an option in the document.*
- *One commenter supported that LAGC IFQ and LA with LAGC IFQ should be able to lease between each other, but if the Council does not allow that provision, it was suggested that LA vessels with LAGC IFQ permits should at least be able to lease within their own allocation pool (0.5% of the total allocation).*

- *NMFS Comment – “A 15-percent IFQ carryover allowance may be more than is necessary to account for unforeseen events in the IFQ fishery. I suggest that the Council may want to consider a lower carryover percentage. The Council needs to consider the impacts of various carryover levels on ACLs. The Council will also need to address the IFQ cap per vessel (2 percent, currently) since it is possible that a vessel already at the 2-percent cap could carry IFQ over, causing it to exceed the 2-percent cap. Finally, the Council will need to clarify how the provision would apply to leased IFQ—I recommend that the Council should be consistent with the provision in the NE multispecies leasing program, under which DAS are carried over by the recipient vessel (lessee). I am concerned that allowing leasing and transfers between the two IFQ fleet components may alter the character of the IFQ fishery. The Amendment 15 document does not address how this would be administered, given that it would mix the two TACs allocated to the separate IFQ fleets. IFQ/DAS vessels are not subject to a 2-percent ownership cap, so if such a vessel accumulates IFQ through the transfer process, it can acquire substantial amounts of IFQ, unless the cap provision is extended to this fleet. This appears to be at odds with the original reason for allowing scallop DAS vessel to qualify for IFQ permits based strictly on their activity, which split the vessel’s time between DAS and general category fishing. It would be especially problematic if the Council adopts a higher possession limit for IFQ vessels. If a higher possession limit is adopted, the Council must consider the impacts on its original intent to maintain the character of the general category IFQ fleet.”*

21. Do you support establishing a process that would allow for the establishment of Community Fishing Associations (CFAs) in the LAGC fishery? Would a permit bank be helpful in your community or port, or would you consider participating in one?

- *Some support but only if fishermen are in charge – don’t want to work for the “company store.”*
- *Some support but only if all permits are purchased to prevent increase capacity in other fisheries.*
- *Some oppose consideration at this time. Could further the consolidation that is going on already. Some noted that it needs further development and not enough detail to comment fully.*
- *NMFS commented that the CFA alternative is not fully developed and the need for the measure is unclear. Their letter listed almost a dozen concerns about the alternative developed to date.*

22. Do you support making the EFH closed areas consistent with EFH closed areas implemented in Amendment 13 to the Multispecies FMP? Has anything changed in the last few years that would change the conclusion the Council made in a previous action to make the areas consistent?
- *Strong support for modifying EFH closed areas in Amendment 15.*
 - *Several comments opposed. One argued that changes should be coordinated by the Habitat Committee and analyzed using the tools developed as part of the Omnibus Amendment.*
23. Do you support any of the measures to improve the research set-aside program? Which ones? Are there any you do not support?
- *General comment that research may be more efficient and accurate if fishermen and fishing vessels were used to collect research.*
 - *One request that program should clarify how LAGC vessels can participate more, particularly about research priorities that would benefit them like surveying near shore areas.*
 - *Some commenters listed specific alternatives they support. One letter supported majority of them except the alternative that would increase the overall set aside.*
 - *NMFS Comment - Suggests that Alternative 3.4.4.11 be clarified so that it is clear that exemptions would only be for RSA projects and not all research projects that apply for an EFP. NMFS also requests more explanation in the discussion of RSA rollover – use of the term “unused RSA” is unclear.*
24. Do you support changing the start of the scallop fishing year to May 1? Please provide specific reasons why you do or do not.
- *Most commenters oppose changing the start of the fishing year to May 1. Primary reasons include: reduced ability to harvest at the premier time of year when yields are best, negative impacts on established markets, limited window of access before any turtle measures may be effective, and while actions are implemented late, the current system seems to be administratively feasible.*
 - *NMFS commented that the current process causes unnecessary confusion for the industry, and requires equally unnecessary administrative “patches” to be devised to ensure that conservation objectives are achieved. It also delays the award of research set-aside, creating difficulties for researchers. Shifting the start of the scallop fishing year to May 1 would simplify implementation of the yellowtail ACLs and AMs for the scallop fishery with a May 1 start date. The Standardized Bycatch Reporting Methodology observer coverage requirements are finalized in April, and could also be better coordinated with the scallop fishery.*

1.4 GENERAL COMMENTS RELATED TO AMENDMENT 15

- *The cumulative effects section should include a discussion of the potential contributing effects of invasive tunicates, and changes in water quality resulting from increasing acidifications and water temperature.*
- *Some input that modifying the general category possession limit should not be frameworkable and some input that it should.*

1.5 GENERAL COMMENTS NOT RELATED TO AMENDMENT 15

- *Some commenters believe that there are a few people in the fishery that are already in violation with the spirit of the ownership cap restriction, 5% of permits. And while there is a cap on the permits, there is no cap on the buyers/wholesalers.*
- *Concern that more Council members should attend public hearings.*
- *Amendment 11 was unjust and criminal. It took a part-time small boat fishery and changed it into another limited access fishery.*
- *Request to repeal the small dredge exemption program.*
- *State of Maryland made five specific requests not related to Amendment 15, but related to ways to increase fishing opportunities for Mid-Atlantic general category fishermen. First, requested that NOAA and the Council develop a program that would make funding available to specific categories of general category fishermen (new entrants, small scale fishermen) to lease permits and quota. Second, it was suggested the NOAA expand their grants program of state-operated permit banks to include Mid-Atlantic sea scallop permits. Third, the Council should allow permit banks to purchase LA scallop permits to be converted to general category quota. Forth, that the Council create an inshore scallop management area exclusively for the general category fishery. And last, create a central lien registry to improve financing vessels.*
- *One commenter raised confusion about why there are 18 voting members on the Council when the Magnuson Act says there should be 17.*
- *Request to revise how the NGOM TAC is established. Argument that it needs to include state water biomass and catch since so much of landings with NGOM permit are from state waters. And if federal NGOM TAC is too low, those vessels will not be able to participate in state water fishery once federal TAC is harvested.*
- *The discards of scallop viscera in controlled access areas concentrate sea turtles because they are attracted to food. A Reasonable Prudent Measures could be that vessels land viscera.*
- *The Council and PDT have not addressed the need for the market to have smaller scallops, and this has created a market share for imported scallops because of measure in place - ring size and rotational management.*
- *PDT and Council have not addressed the potential for scallop aquaculture and managing predators to further optimize yield (i.e. starfish).*