PART 8: SPECIFICATION OF THE MANAGEMENT PROGRAM

§810 Preferred Alternative and Optimum Yield

Preferred Alternative

In view of the evaluation of alternative management strategies presented in §620, and the detailed analysis of various strategy specifications presented in Part 7, the Council selects an overall management strategy that combines immediate implementation of controls on fishing practices (through minimum shell size and meat count restrictions) with delayed implementation of complementary measures which effectively limit fishing mortality [strategy alternative 4(a), §620]. This selection is based upon the judgement that primary control on meat count (minimum size) is an effective strategy for meeting the objective, is appropriate in view of the limitations of other strategies, is compatible with prevailing fishing practices, and poses an acceptable level of administrative and enforcement costs. Specification of the meat count (minimum size) control measure is discussed in §820.

Implementation of measures aimed at limiting fishing mortality is desirable in view of the fact that the degree to which the management objective is achievable is, in the long term, directly related to the level of fishing mortality. However, measures which limit fishing mortality are not essential in the short term because fluctuations in fishing effort over the next few years will not negate the long or short-term benefits of the meat count (minimum size) control measure. The appropriate basis and means for limiting fishing mortality will be developed as part of the continuing management process (see §850), and move forward as data become available on the factors which directly affect fishing mortality (e.g., gear efficiency and the degree and nature of participation in all sectors of the fishery). In deferring action on the issue of fishing mortality, any discussion of potential measures that may have implications for product quality (e.g., trip length or number of tows on board) is also deferred because such measures are likely to have direct implications for effort. The adoption of quality control measures by the industry independent of this FMP is encouraged.

The management unit to which the above measures shall apply includes those sea scallop populations described in §130 and encompasses all commercial and recreational fishing activity affecting those populations.

Optimum Yield

Because of the decision not to adopt control on quantity landed as a strategy in the sea scallop management program, the actual catch in the sea scallop fishery will be a consequence of the structure and economics of the industry in relation to the abundance and condition of the resource. Control on minimum size and meat count is expected to have an effect on landings; although, that effect will likely be minimal in the short term (see §720, §730). Notwithstanding such catch effects, the purpose for imposition of the

meat count (minimum size) measure is the expected effect on the productivity of the sea scallop resource, that will result in long-term benefits to the industry.

Optimum Yield in the Sea Scallop FMP is therefore defined as that amount of annual, domestic sea scallop catch that results from implementation of the sea scallop fishery management program. The provisions of the management program are designed to: (1) generate increased long-term benefits from the harvesting and use of the sea scallop resources, and (2) provide the Council with necessary information for future improvements and modifications to the management program as deemed appropriate.

Maximum sustainable yield (MSY) values for the various sea scallop resource components are discussed in §244. Optimum yield is related to MSY in the following way. Increased long-term benefits to be derived from the harvesting and utilization of the resource must be based upon considerations for the long-term productivity and harvestable yield from the resource. MSY is best understood as the maximum long-term average yield derivable from the fishery. Under optimum conditions of exploitation, year-to-year catches can be expected to vary about the MSY value as a result of natural fluctuation in resource abundance. In the Sea Scallop FMP, optimum yield accommodates annual fluctuations in yield that are due to natural resource variability, and seeks to achieve an increased long-term average level of yield from the fishery approaching MSY through the initial and future adoption of various conservation and management measures.

§820 Conservation and Management Measures

The following sections define the specific measures that are adopted for implementation. Each element of the management program is described, followed by the rationale for its inclusion.

§821 Meat Count and Minimum Shell Size

Specification

The meat count measure is initially specified at 40 meats per pound (40 count), which represents a maximum average value for the trip, and is applicable to sea scallops shucked at sea. The corresponding minimum shell size measure is initially specified at 3 1/4 inches and is applicable to sea scallops in the shell that are either caught recreationally or harvested by the shell-stocking sector of the fishery. The minimum shell size measure is subject to a tolerance of 10% by number less than the specified value. The meat count specification decreases to 30 meats per pound, and the minimum shell size specification increases to 3 1/2 inches effective automatically one year from the date of implementation of this FMP.

The Regional Director shall thereafter have authority to change the meat count and minimum shell size designations upon a finding of fact relevant to the criteria detailed in Part II(C) of Appendix A, and after consultation with

the New England, Mid-Atlantic and South Atlantic Fishery Management Councils. A fact-finding process by the Regional Director may be originated either at his initiative or upon a request from the Council. Such changes shall be made only within a range of 25 to 40 meats per pound, with the corresponding shell sizes, and shall not be made in increments greater than five meats per pound.

Rationale

The Council believes that the long-term biological and economic analyses of alternative specifications of age-at-first-capture (represented as meat count) presented in Part 7 indicate that the 30 meats per pound measure, as a maximum average value (and its corresponding shell size), provides significant long-term benefits in terms of yield per recruit and the long-term, overall productivity of the sea scallop resource. Further, this 30 meat count value, relative to others considered, is judged to be most appropriate to the achievement of the adopted management objective. However, immediate imposition of a 30 meat count control measure would cause some fleet sectors to suffer short-term economic losses (see §730) that would not necessarily be outweighed by biological benefits to the resource, given its current condition. These sectors are primarily represented by those vessels in the regional shell-stocking fisheries. Therefore, to mitigate such impacts, the Council initially adopts a meat count of 40 meats per pound and a corresponding minimum shell size of 3 1/4 inches to be in effect for the first year following Plan implementation. This action will in addition provide an opportunity for State management authorities to adjust their regulatory measures to the target values of 30 meats per pound for shucked sea scallops and 3 1/2 inches for sea scallops in the shell (see §420 and §430).

The Council recognizes that the initial specifications of a 3 1/4 inch minimum size in 1982 and a 3 1/2 inch minimum size in 1983 for shell-stocking vessels operating in offshore Gulf of Maine waters will likely correspond to a meat count substantially in excess of 40 and 30 meats per pound, respectively (see §242). However, the Council believes that with the relatively low level of expected catch from that area, and in the interest of consistent and enforceable management policy, this discrepancy will not diminish the effectiveness of the management program. Vessels which land shucked scallops from the offshore Gulf of Maine will be subject to the 40 and 30 meat count specifications, but will probably have to concentrate on larger scallops than in other areas in order to comply with the measure.

Whereas meat counts (and corresponding minimum shell sizes) less than 30 meats per pound (e.g., 25 meats per pound) are not specified for implementation at this time, the Plan does, however, contain a mechanism for adjusting the management measure specifications in the regulations if the Regional Director and the Council deem it appropriate to do so based upon available biological and socioeconomic information. The fact-finding process that is specified would allow changes to be made in the specification of the measures without requiring the formal and time-consuming plan amendment process. Appendix A to this FMP contains details of the procedures for within plan adjustments in the meat count and minimum size control measures.

§822 Compliance Monitoring and Enforcement

The meat count and minimum shell size restrictions are applicable to the direct and indirect harvesting of sea scallops from all areas under United States jurisdiction and by every sector of the commercial and recreational fisheries. The meat count is a minimum average measure for each trip catch and it is the Council's intent that enforcement of this measure shall occur primarily at the dock and at the end of a vessel's trip. The Council recognizes, however, that at-sea enforcement may be necessary under certain circumstances such as, for example, when regulatory measures applicable to territorial waters are not yet complementary to the federal regulations, and inspection of catches is desired before a vessel leaves the FCZ. The minimum shell size measure applies to all shell-stocking vessels and to recreational fishing activities. In the latter case, a 10% (by number) tolerance is allowed for sea scallops in possession that are smaller than the specified value. Specific sampling techniques for monitoring compliance with both the meat count and minimum shell size measures are to be developed by the NMFS Enforcement Division.

Enforcement of the management measures shall be accomplished through a prohibition against the possession of non-conforming sea scallops up to and including the point of first transaction in the United States. The Council's intent in adopting the possession measure is to distribute the responsibility for compliance with the measures among all who participate in those first-point-of-sale commercial sea scallop transactions, as well as those involved in the actual harvesting, and to thereby expand the time frame in which enforcement can be accomplished.

§823 Licensing and Reporting

The Council specifies that any vessel taking and landing sea scallops must obtain a permit from the Regional Director of the National Marine Fisheries Service. Any U.S. vessel is eligible for a sea scallop permit, which is to be issued without charge. The primary purposes of the permit are to collect fishery statistics (see §860), to identify participants, and to foster communications in the management program. Information obtained is necessary to provide a continuous review of conditions in the fishery and to meet the Council's objectives for continuing management (see §850). For example, data acquired under these measures will allow the Council to analyze various approaches to achieve control on fishing mortality and develop appropriate measures as required.

§830 Other Management Parameters

This section defines the management parameters, other than optimum yield and maximum sustainable yield which have been defined in §810, that are required to be specified in fishery management plans by section 303 of the Magnuson Act. These parameters - Domestic Annual Harvest (DAH), Total Allowable Level of Foreign Fishing (TALFF), Domestic Annual Processing (DAP) and Joint Venture Processing (JVP) are required by the Act to allow determinations of whether participation by foreign fishing or foreign processing vessels in the fishery under management may be appropriate.

§831 Domestic Annual Harvest (DAH)

In view of the sea scallop management program selected by the Council for implementation and the analysis described in §330, the DAH for sea scallops from all areas equals the optimum yield. In 1982 and 1983 it is anticipated that DAH will be as follows:

1982	32,500,000 pounds	(14,730 metric tons)
1983	32,700,000 pounds	(14,835 metric tons)

Alternatively, using the short-term analysis of the sea scallop fishery described in §712, it is expected that DAH will be as follows:

1982	29,061,000 pounds	(13,182 metric tons)
1983	33,984,000 pounds	(15,415 metric tons)

§832 Total Allowable Level of Foreign Fishing (TALFF)

The Council determines that there is no surplus in the sea scallop fishery that may be made available for allocation to foreign fisheries. This determination is based upon the Council's specification of optimum yield (§810) and its assessment of the domestic industry's capacity to harvest the sea scallop resource.

The determination that the total allowable level of foreign fishing shall equal zero does not affect any allocations of the Georges Bank scallop resource to U.S. and Canadian fisheries that may be made pursuant to any negotiations between the U.S. and Canadian governments.

§833 Domestic Annual Processing (DAP)

Domestic annual processing capacity for Atlantic sea scallops is estimated to be 60,448,000 pounds (27,420 mt) for 1982 and 61,685,000 pounds (27,980 mt) for 1983. These estimates of processing capacity are significantly greater than the domestic harvesting capacity estimates specified in §831 for 1982 and 1983. This difference arises from the fact that domestic firms have historically handled and processed large amounts of imported Canadian fresh, chilled and frozen sea scallops, which on the average have exceeded domestic sea scallop landings during the past 20 years.

§834 Joint Venture Processing (JVP)

On the basis of the above estimates of the harvesting and processing capacity of the U.S. sea scallop industry, the Council determines that there should be no opportunity for joint ventures between U.S. sea scallop fishermen and foreign processing operations in the foreseeable future. Domestic processing capacity is expected to easily absorb any future increase in domestic harvests of sea scallops. Therefore, joint venture processing (JVP) is set at zero.

§840 Continuing Fishery Management

It is the Council's intention that the Sea Scallop FMP constitute a program of continuing fishery management. This program recognizes the need to

establish initial management measures aimed at resource conservation and the achievement of management objectives. Importantly, the program also recognizes the need to study and to adopt additional measures, at the Council's option, in response to an improved understanding of various aspects of the fishery and directed at more efficient management and enhanced achievement of management goals. The Council believes that the continuing management program represents a rational approach to the management of a fishery where economic importance and intense exploitation justify immediate management action, but where the present understanding of the relationships between theoretical controls and operationally meaningful control measures is incomplete.

Parts 2, 3 and 7 of this FMP provide analytical support for a broad range of management decision making. The analyses contained in these parts provide the scientific basis for the Council's decision to adopt immediate control measures on age-at-entry in the sea scallop fishery. Additionally, however, these analyses provide a firm analytical foundation for future Council action to further consider and possibly propose respecification of the initial control measure and/or the imposition of other complementary control measures. In effect, the FMP is designed to provide a framework and support for a program of continuing sea scallop fishery management, responsive to the Council's evolving understanding of the resource and the fishery it supports. Various aspects of the continuing fishery management program as discussed below.

§841 Reassessment and Respecification of Management Parameters

Periodically the Council will review the current specifications of domestic annual harvest (DAH), domestic annual processing (DAP), and joint venture processing (JVP), and advise the Secretary of any appropriate changes to the FMP. Given the Council's present approach to managing the sea scallop fishery, changes in optimum yield (OY) are not likely to occur because of the manner in which it is defined; and as a consequence, no formal action to amend the FMP would be required by a Council determination of the need to respecify DAH or DAP.

§842 Regulatory Adjustments in Management Measures

The Council anticipates the need to make periodic adjustments in the management measures specified in the program. Such adjustments are possible in the specification of the meat count and minimum shell size measures, (§821) and specification of the types of statistical data to be required of vessels participating in the fishery (§823). The Council intends that, following the NMFS Regional Director's recommendation (made pursuant to procedures and criteria outlined in §821 and Appendix A), adjustments in the management measures will be handled by means other than formal amendment of the FMP. Changes in the recordkeeping and reporting requirements will also require only informal rulemaking procedures.

§850 Data Requirements

The Council identifies the following data requirements pursuant to section 303 (a)(5) of the Magnuson Act.

In order to undertake the economic impact analysis required for further management measure evaluation and selection as part of the continuing sea scallop fishery management program, the Council's continued access to data sources used in the formulation of this Plan is required, and an expansion in the range of data previously collected is necessary.

Data which must remain accessible to the Council include:

(1) that which is contained in the NMFS weigh-out/interview data base on sea scallop fishing; and

(2) that which is contained in the existing, voluntary NMFS data base on sea scallop processing.

Additional necessary data include:

(1) expanded NMFS weigh-out/interview data collection for all New England, Mid-Atlantic and South Atlantic coastal states;

(2) vessel employment data on a trip-by-trip basis to be included in the weigh-out/interview data base; and

(3) expanded, voluntary NMFS processing data collection which should be compiled on a monthly basis and which should additionally include annual capital inventory and physical production capacity on an individual plant basis.

The Council supports implementation of the NMFS Three-Tier Data Collection System as the vehicle by which the additional data needs can be accomodated. However, the Council requires that all data collected relevant to the sea scallop fishery shall be retained indefinitely for management analysis purposes.

Biological data required for the analysis of the sea scallop resources and analysis of the impacts associated with the management program include:

(1) data routinely collected as part of the NMFS Three-Tier Data System, to include more exact information (through the second and third tiers) on applied effort and catch location. Additionally, the system must encompass all geographical areas where sea scallops are landed;

(2) NMFS port sampling must be strengthened through broader coverage of ports and the requirement that all participating vessels provide NMFS, on request, with shell samples and relevant data on discards (below cull size); and

(3) information relating to the operating characteristics and efficiency of gear used to fish for scallops should be provided voluntarily to NMFS port agents as part of the Three-Tier Data Collection System.

Currently little data exist regarding the social and cultural context of the regional sea scallop fisheries (§340). As part of its continuing management program, the Council will compile pertinent data as they become available either through existing or planned research programs, or through Council-initiated research, where appropriate. Although these data will be assembled for future inclusion in the FMP, their acquisition is not presently considered essential for effective implementation of the sea scallop management program.