

Appendix I
For Amendment 11 to the
Atlantic Sea Scallop Fishery Management Plan

Scoping Comments received for Amendment 11



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

Frank Blount, *Chairman* | Paul J. Howard, *Executive Director*

Scoping Comments For Amendment 11

to the

Atlantic Sea Scallop Fishery Management Plan

Written Comments Received via Mail, Fax and Email

Comments received between February 8 – March 6, 2006

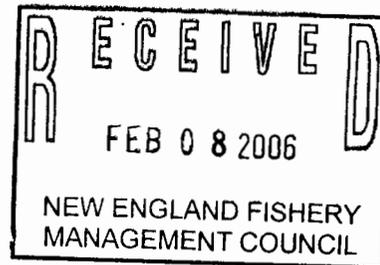
Scoping Comments for Scallop Amendment 11 - Received via mail, fax and email

Total of 58 comments, listed in order of date received

| Commenter | Hometown |
|--|-----------------------|
| Michael Ball | South Thomaston, ME |
| Philip Michaud | Eastham, MA |
| Bob Baines | South Thomaston, ME |
| Terry Alexander | Harpswell, ME |
| Arthur Osche | Manasquam, NJ |
| James Gutowski | Barnegate Light, NJ |
| Eric Hansen | |
| Stanley Sargent | Milbridge, ME |
| Daniel Cohen | Cape May, NJ |
| Vincent Carillo | Montauk, NY |
| Joseph and Michelle Letts | Fairhaven, MA |
| David Nadeau | North Chatham, MA |
| Chris LaRocca | |
| Peter Spong | Southampton, NY |
| William Reed | |
| Chris Davis | Chatham, MA |
| Donald Carter | |
| Paul Vafides | Hull, MA |
| Josept T Wagner | Ocean View, MD |
| John P Ciliberto | Trainer, PA |
| Anthony Watson | Berlin, MD |
| James Fletcher | Manns Harbor, NC |
| Jo Lundvall | Little Egg Harbor, NJ |
| Joe Smith | |
| David Wallace (Mid-Atlantic General Category Scallop Alliance) | Cambridge, MD |
| Ray Trout | Lewes, DE |
| Jimmy Hahn | Ocean City, MD |
| Andy Keese | Chatham Harbor, MA |
| Thomas Brown | |
| Jim Brindley | Gloucester, MA |
| William Albert Fooks | |
| John Borden | Kittery Point, ME |
| Dennis Williams | Kittery Point, ME |
| Richard Taylor | Gloucester, MA |
| Charles Wiscott | Cape May, NJ |
| Neal Kitson | Barnegate Light, NJ |
| James O'Malley | Narragansett, RI |
| Harriet Didriksen | |
| Eric L. Lundvall | Little Egg Harbor, NJ |
| Eric Kitson | Cape May, NJ |
| George Lapointe (Maine DMR) | Augusta, ME |
| Robert Maxwell | |
| David Frulla (Fisheries Survival Fund) | Washington, DC |
| Geoffrey Day (GC Scallopers' Coalition of New England) | Cambridge, MA |
| Stephen Ouellette | Beverly, MA |
| Willaim Dicianni | Long Branch, NJ |
| Scott Bailey | |
| Craig O'Brien | |
| Don Myers | West Creek, NJ |
| Joey Daniels | Wancheese, NC |
| Maggie Raymond (Associated Fisheries of Maine) | South Berwick, ME |
| Dallas Huckins | Machiasport, ME |
| John Wood | Machiasport, ME |
| Willaim McIntyre | |
| Jean Frottier | Wellfleet, MA |
| Comments received after the March 6, 2006 Deadline | |
| James Fletcher (second comment) | Manns Harbor, NC |
| Charles Christopher | |
| Paul Boardman | Barnegate Light, NJ |

February 3, 2006

Mr. Paul J. Howard
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



Dear Mr. Howard:

My name is Michael Ball, owner/operator of the F/V Lori Lee. I have been a commercial fisherman for 35 years and have never had a land job. I fished out of New Bedford for 16 years. I was captain of three different scallop boats during five of those years. I have seen many changes to the industry from the Hague line, meat count, and new gear restrictions. I have always wanted to own my own boat and now that I do the new amendment being discussed will push me out of the fisheries that I have a permit for.

I would like to see the control date pushed ahead one year. With only 38 more permits issued from 2004 to 2005, this is not a big increase and would allow my boat to fish. If you allocate days, I would like to see something like this:

- 150 days to 200 days for full time with history,
- 50 to 75 days part time with no history,
- allocation to be 15% of annual yield,
- no dual applications.

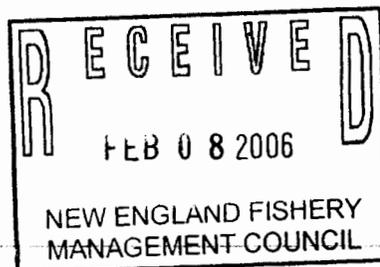
If you use hard TACS, I would like to see something like eight million pounds (8,000,000 lbs.) Total to be split into two sections, north and south, with a line to be somewhere off New York. Four million pounds (4,000,000 lbs.) to each section with splits between full and part time boats. I would like to see 60,000 full time boats and 20,000 part time boats. When TAC is filled, close the area. I would also like to see a fishing season from April 1st to October 31st and closed for five months to recoup and for safety reasons for the small boat fleet. I also think that random drug testing on operator permit holders should be mandatory!

Thank you for your time,

Michael M. Ball
6 Field Street
S. Thomaston, ME 04858
(207) 594-8199
Permit No: 241962

A handwritten signature in black ink that reads "Michael M. Ball".

cc: DBC(210)



February 6 2006

New England fisheries Management Council
50 Water st Mill 2
Newburyport MA 01950

Phillip Michael Jr
Box 333
Eastham MA
Owner/Operator
508-776-8569

Comments - General Category
Amendment II

Dear Mr Howard, I will be unable to attend
Scallop committee meetings February 21st thru 23rd

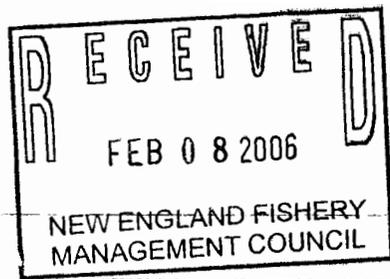
We need to establish T.A.C. for general
boats. I recommend the following

- 1) Stay with November 04 Control date
- 2) Reduce the present 279 vessels by
Increasing the 40 pound baseline to several
thousand.
- 3) Provide to the non qualifying vessels
at 200 lb license, today's price is double
past years, its fair.

I request individual pound instead of
number of trips. Otherwise the much
larger vessels, will force us small boats
out in bad weather and long distances
to catch our share before the T.A.C.

is gone. This allows us to continue to also
access other fisheries to complete year.

Sincerely, Phillip Michael



Phillip Michael Jr
P.O. Box 333

Eastham MA 02642
F/V Susan C III

February 6 2006

Dear N.E.F.M.C Paul Howard
and scallop committee.

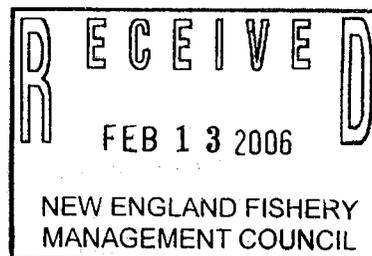
To restrict the General Category harvest and be fair to the boats that have been at this for many years, I suggest use part of the Ground fish plan. In our case use 1998 thru 2003, Must have landed certain poundage or number of trips. Those that don't qualify can obtain A 200 lb open Access permit.

Today's dollar value is double the price we received prior to this new effort. I believe this would be fair. Please don't allow 400 lb possession limit to be raised even in closed areas. perhaps we need a reduced amount to reduce effort.

Sincerely

Phillip Michael
Small boat/owner/Operator

Paul J. Howard
Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA 01950



Bob Baines
F/V THRASHER
89 Waterman Beach Rd.
South Thomaston, Me. 04858

2/9/06

GENERAL CATEGORY SCALLOP COMMENTS

Dear Mr. Howard,

I am a Maine lobsterman who has also participated in the scallop fishery for over 20 years. I have held a general category permit with landings history since 1993. It is extremely important for Maine fishermen who hold a general category scallop permit to retain the ability to harvest scallops in waters off the New England coast. Many of the fishermen who hold general category scallop permits fish on small boats in a directed fishery either on a seasonal or full time basis. The ability to continue in this fishery will allow the owner operator, small boat fleet to survive in an arena being dominated by big boat, corporate owned operations.

1. If it is the intent of Amendment 11 to control capacity in the general category fleet, then limited entry must be used. I would support the control date that has been established, although there is not much difference in the number of permits issued in '04 compared to '05. Qualifications for a limited access program should be based on hundreds of pounds of scallops landed while holding a general category permit during the last ten years.

2/3. An allocation between the limited and general category fleet should only be considered if the limited access fleet is prohibited from landing scallops under their general category permit (double dipping). A 20% quota would be a fair allocation to allow the small boat fleet to maintain economic stability. A north/south sector should be considered to evenly distribute effort.

4. A hard TAC should be used for the entire general category fleet, along with limited entry, but not on an individual basis. It would not be in the best interest of the fishing community to create individual ownership of harvesting rights. A fleet wide TAC with area and/or season limits would effectively control effort.

5. The use of sectors or harvesting co-ops should be a part of the plan as long as all qualifying general category permit holders can participate. Sector allocation has the potential to provide better stewardship of the resource, but many questions first need to be answered as far as who has the right to harvest under the general category permit.

CCD B(2/15)

6. If a limited access program is initiated in the general category fishery, there should be no bycatch of scallops allowed by vessels which do not have general category permits. The scallops can be returned with minimal discard mortality. Under a hard TAC, any incidental catch should be prohibited when the quota is reached.

7. If the general category fleet is managed under a hard TAC, the fishing year should not be changed. The general category, directed fishery scallop fleet, is predominantly a small boat fishery. A change in the fishing year to later in the year could put these boats at risk by fishing later into the fall and winter months fearing there would be no quota left by springtime. The current fishing year provides these boats with the best weather which affords the fishermen the safest time of year to be working in small boats.

I have two other comments that I feel are relevant to the General Category Scallop Fishery. There seems to be a problem in the inability to transfer general category permit history. I know of a number of fishermen who have lost their history after building new boats and not being able to transfer their old permits to the new boat because it is still an open access fishery. This problem needs to be rectified if Amendment 11 is going to make the general category scallop fishery a limited access fishery and where entry is based on the control date and history.

Also, and I understand that this has nothing to do with Amendment 11, general category fishermen must be allowed back into the traditional fishing grounds in the Great South Channel . The general category fleet is using the same gear as the limited access fleet, so there is absolutely no reason why they should be treated any differently than the limited access fleet. The general category fleet must be designated as an exempted fishery which would sustain the economic viability of the fleet and spread effort over a much larger area.

Sincerely,



Bob Baines

rsbaines@adelphia.net

JORDAN LYNN INC.

TERRY ALEXANDER

F/V JOCKA

F/V RACHEL T

Jordan Lynn, Inc

67 GROVER LANE

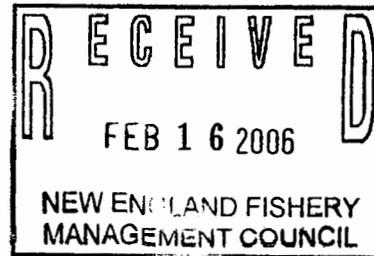
HARPSWELL, MAINE

04079

Phone:2077291850

Fax:2077257009

Cell:207-729-2538



Council Members,

After attending an informal meeting that the State of Maine hosted on the upcoming rule changes in the scallop fishery, I decided to put my two cents in on the subject.

Here is a little history on our Scallop fishery here in Midcoast Maine. We saw a Scallop boom from the late 70s till the mid 80s in our area. The Scallops just showed up one day and the next thing you know they left as fast as they came. Since that time we have not landed many Scallops. Our fleet pretty much fished on Scallops for a 8 or 10 year period and Groundfish we caught along with them. {We Scalloped with nets and at that time it was legal}

After amendment 13 rule I purchased 3 permits to lease to my 2 Groundfish vessels all of them had General Category Scallop permits also. That leaves me with a total of 5 General Category permits none of them unless you go back far enough { in the low 80s } have landings prior to the control date.

cc: DB(2/21)

In a perfect world we should all be treated the same and have the same amount of allocation. I know that's not the way it is. I know, I lost a lot of Groundfish DAS to latent effort and now the Scallop fleet is facing the same thing.

I think if we have to cut the boats that don't have landings we should give them a certain amount of days in the fishery at the 400 pound limit { we need 400 lbs a day in order to make it profitable, lets not take a booming stock and make it not economical for the boats to go and catch them } We already have the VMS aboard the boats that are in the 400 category anyway, so tracking DAS would be simple enough.

I also would like to see us be able to stack our permits in the General Category. Those of us who purchased permits since all the fish regulations would be able to get some value out of them. Lets face it, we are counting them against the effort anyway, so why not put them into the equation for real.

I think the General Category should have at least 25% of the TAC in the Scallop fishery. There are communities up and down the eastern seaboard that are depending on us getting a fair share of the TAC. That would spread the wealth throughout the smaller communities that really need it with all the cuts in the other fisheries going on.

Thank you for taking time to read and consider my comments.

Thank You

Terry Alexander

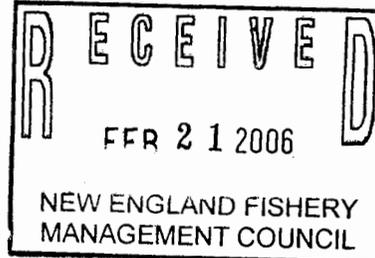


UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
1315 East-West Highway
Silver Spring, Maryland 20910
THE DIRECTOR

MAY 18 2004

*and delivered
at meeting
From :*

Mr. Arthur A. Ochse
2 Muriel Place
Manasquan, New Jersey 08736



Dear Mr. Ochse:

Thank you for your letter to President Bush regarding your opposition to proposed possession restrictions on Limited Access scallop vessels contained in Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan (Amendment 10).

On April 14, 2004, the National Marine Fisheries Service (NMFS), acting on behalf of the Secretary of Commerce, approved all measures in Amendment 10 with the exception of the following two proposed measures, which were disapproved: (1) Possession restriction on Limited Access scallop vessels fishing outside of scallop days at sea; and a (2) cooperative industry resource survey program. Please be assured that NMFS considered all comments received on the proposed Amendment 10 in arriving at its decision to disapprove these two measures. NMFS announced its decision in the Federal Register on April 30, 2004 (copy enclosed).

In light of the disapproved measure listed under item 1 above, you should no longer be concerned that you will be constrained by the proposed possession restriction of 40 pounds of scallops on Limited Access scallop vessels fishing outside of a Scallop days-at-sea (DAS). Instead, the possession restriction for Limited Access scallop vessels fishing outside a scallop DAS remains at 400 pounds of scallops. We anticipate that the final rule will be published in the near future.

I appreciate your interest in this matter.

Sincerely,

William T. Hogarth, Ph.D.



Congress of the United States
House of Representatives
Washington, DC 20515

January 28, 2004

Dr. William T. Hogarth
Assistant Administrator for Fisheries
National Marine Fisheries Service
1315 East-West Highway
Silver Spring, Maryland 20910

Dear Dr. Hogarth:

We are writing to convey our deep concerns regarding the exclusion provision of the most recent Amendment 10 to the Sea Scallop Fisheries Management Plan submitted to the Secretary of Commerce by the New England Fisheries Management Council. If approved as written, the Amendment 10 will prevent certain scallop vessels (mostly New Jersey boats) with full-time Limited Access permits from participating in the General Category scallop fishery when they are not using a sea scallop day-at-sea.

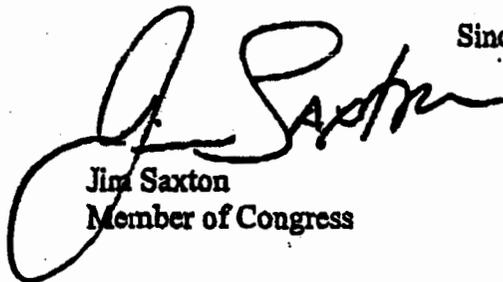
Approximately two-dozen full-time New Jersey Limited Access vessels have participated in the General Category scallop fishery when not on a day at sea since the option became available. The 400-pound daily limit of shucked scallops available pursuant to the current FMP contributes to the economic viability of these vessels and allows them to maintain crew between regular scallop trips. New Jersey shore-side operators have developed a significant consumer market for fresh "day boat" scallops based on the product harvested under this option. To our knowledge this fishery is restricted to New Jersey vessels operating from New Jersey ports.

Ironically, the NEFMC placed no other permit restrictions on the General Category fishery and allows for increased scallop landings by combination permit groundfish vessels. Therefore, if the Amendment is implemented in its current form, it will allow a new class of unlimited non-scalloping participants to enter into this fishery while concurrently reducing New Jersey's level of participation.

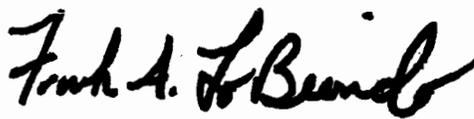
Clearly, we cannot abide such an unfair proposal by the Council process. Our request that you reject the exclusion provision in Sea Scallop Amendment 10 is wholly consistent with the position of the Mid-Atlantic Fisheries Management Council (see attached letter from R. Savage, Chairman of the Mid-Atlantic Council to Secretary Donald Evans, dated December 24, 2003). The MAFMC cites several inconsistencies with respect to the National Standards and basic issues of regional fairness.

We hope you will heed the concerns of the MAFMC and disapprove the exclusion provision of Amendment 10 to the Scallop Fishery Management Plan. Thank you for your consideration of our request.

Sincerely,



Jim Saxton
Member of Congress



Frank A. LoBiondo
Member of Congress

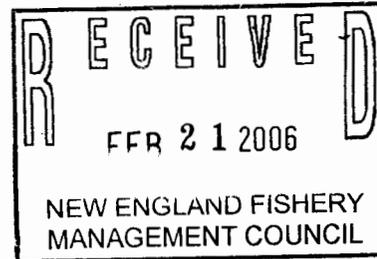


Christopher H. Smith
Member of Congress



Frank Pallone, Jr.
Member of Congress

James Gutowski
PO Box 772
1809 Central Ave
Barnegat Light New Jersey 08006



I submit these comments on the range of issues that should be addressed in Amendment 11 to the Scallop FMP.

#1 Limited entry in the Gen Cat fishery

The Council should consider limited access to manage capacity in the Gen Cat fishery. In Amendment 4 the council created the Gen Cat as a trade off to allow boats that did not qualify for limited access, or chose not to accept a limited access scallop permit that would limit their participation in other fisheries, and limited access vessels fishing off their days at sea. The Gen cat was intended for minimal impact on scallop mortality. Capacity needs to be limited so the qualifying vessels catch rates would not be reduced below what is needed to sustain a day boat scalloper.

If a limited access program is to be established the November 1, 2004 control date must be used. Prior to that control date more specific criteria should be met so the amount of qualifying vessels is not so large that it cannot be supported by a reasonable and historic percentage of the overall TAC.

Vessels applying for limited access in the directed Gen Cat scallop fishery should be able to show historic participation from Amendment 4 (1994) thru the control date set in 2004. They should have significant landings in directed scallop catches in several different years during this period. This would account for historical effort during all ranges of scallop rebuilding and scallop abundance. There may be historic participants fishing in state waters that do not fall under the Amendment 11 regime.

#2 Allocation between limited and Gen Cat fleets

The council should consider resource allocation between the limited access fleet and the day boat fleet fishing in the General category. That allocation should be consistent with historical landings and percentages since the implementation Amendment 4.

The basis for choosing "fair and equitable" allocations for the Gen Cat and or limited access fleets should be historical data. **Only** landings from **before** the November 1, 2004 control date should be considered in determining a reasonable allocation. The average Gen Cat landings between 1994 and 2004 were 2.93% of the overall TAC. The limited access fleet endured very difficult times during the implementation of Amendment 4; we have participated in cooperative research, at the peak of conservation and historical levels of scallop abundance the Gen Cat sector has exploded. Any allocation should be based on the scallop fishery Amendment 4 established; it stated if the General Category grew, the council should reduce General Category landings as opposed to re-doing the allocation of the fishery that it created.

#3 Dual applications for limited access vessels

Limited access should **not** be prohibited from targeting scallops under Gen Cat rules. Similar to any vessel applying for a limited access Gen Cat permit these vessels would need to meet the same historical criteria prior to Nov 1,2004.

This limited access sector participating in the Gen Cat since 1994 is not the problem. From 1994 thru 2004 their landings accounted for a yearly average only 0.53% of the overall TAC.

These vessels should not be segregated because they have a limited access scallop permit, in most cases they cannot target other species.

If the council continues to consider the exclusion of limited access vessels in the Gen Cat the Ad Hoc Gen Cat Advisory panel should include members who have operated limited access vessels under Gen Cat rules.

#4 Use of hard TACs in the General Category fishery

A hard TAC should be considered as an option. Along with limited access and other measures to ensure the TAC can be set at a reasonable level of the overall scallop catch.

#5 Use of Sectors and harvesting coops (Dedicated Access Privileges)

This new fishery created in Amendment 11 should insure a historical inshore day boat fishery consistent with Amendment 4. It should not consider sector-harvesting coops or access privileges enabling pounds to be stacked for longer trips further from shore.

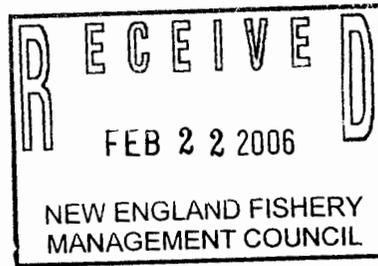
#6 Landings of incidental Scallop catch

Any vessel that does not qualify for a new limited access scallop permit should be allowed a small level of incidental scallop catch, thus preventing discards of scallops while fishing for other species.

#7 Change the fishing year

The council should not change the fishing year at this time. This will complicate an already time sensitive Amendment 11. Until R/V Albatross surveys are replaced and times are set the change if the fishing year is not warranted.

Eric Hansen F/V ENDEAVOR



Good Evening, I would like to start by pointing out that since Amendment four was implemented, the Limited access fleet has worked hand in hand with the NEFMC to help PROTECT the scallop resource. The industry has participated along with SMAST to provide the best available science needed to formulate workable fisheries management. Everyone involved should be congratulated.

With this in mind, the scallop industry has found itself a victim of its own success. The General Category, which was created by Amendment four to assist small vessels that historically landed scallops caught inshore, seasonally and in amounts too small to justify a limited access permit, has evolved into an overcapitalized industry.

The success of the scallop resource and unprecedented scallop prices have created an explosion of effort directed at this resource. We have witnessed the general category vessels legally catching over 5% of total scallop landings in 2004 and most likely double or triple that percentage in 2005. When the general category was created, the landings were not expected to be negligible. (Less than 2%)

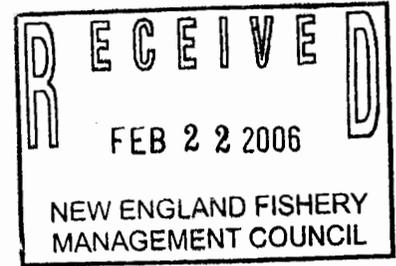
We cannot turn back the clock to rewrite Amendment four but we have to do the next best thing. A control date has been established. We must use this control date to make this a truly limited access fishery. To qualify for this new sector of the fishery we should apply some of the same criteria that the current Limited access fleet had to provide under amendment four, such as proof of directed fishery scallop landings in at least two or three years previous to the control date. Incidental catches of scallops would be unaffected as long as the value of the landed scallops amounted to less than 10% of the total landed value.

The allocation provided to this new sector of the fishery should be in line with the intent of Amendment four. I realize that an allocation of less than two percent would create severe hardships if the number of qualifying vessels is large, but please keep in mind that the current limited access fleet has been restricted severely in days at sea allowed since 1994, while the general category has remained unchanged.

I also feel that the new General category sector of the fishery should be subject to the same rules and gear restrictions as the rest of the limited access fleet, such as no stacking of permits and or days. The council voted this past year not to allow full-time boats to land any more than 18,000 lbs on any one trip in the special access areas, even if they were allocated three trips or 44,000 lbs in that area for the year. This would translate to the general category sector in that no more than 400 lbs. be landed on any one trip, even if they are allocated 4000+ lbs per year. Single small dredges should be the only method of trawling allowed since nets have been known to target smaller scallops which are the future of the fishery.

I want to thank everyone for this opportunity to voice my concerns regarding this amendment, and I hope the correct decisions are made to keep the scallop resource healthy for years to come.

Boats had to take General Category because they could not afford a VMS System. \$8000 in 1994 – now VMS is more affordable. General Category boats that could have qualified for Limited Access should have that right now.



LIMITED ENTRY IN THE GENERAL CATEGORY FISHERY.

1. A) Yes, limited entry.
1. B) The qualifying criteria should not be based on Nov. 1, 2004 control date. It should be the VMS Installation date of October 31, 2005.
1. C) Qualifications – All permits that have history or have been attached to another permit since 1994. Landings should not be considered as an individual quota. Why should a person be rewarded with the right to fish more when he helped in over fishing?
1. D) It will stop a lot of boats from fishing on the traditional bottom after the scallop season.
1. E) You will take the option away from people that do not fish outside of their homeports. Those that fish outside 3 miles along the Maine Coast the historical fishing practices would be left to only those who qualified and spent the money for the VMS.

ALLOCATION BETWEEN THE LIMITED AND GENERAL CATEGORY FLEETS.

2. A) We have an allocation of 400 pounds now. If the council needs to set an allocation it should be per boat, per year. 80,000 pounds per boat, per year.
2. B) Fair and equitable is 400 pounds per day. 1 month fishing for limited access boats equals 12 months fishing to general category boats.

DUAL APPLICATION FOR LIMITED ACCESS VESSELS.

3. A) No limited access vessel should have a general category permit. They should be prohibited from accessing both categories of this fishery.
3. B) Limited access vessels would have the same impacts put on them as general category vessels have had since the 400 pound limit was mandated. You meet your permit limits, then go home or do something else.

3. C) No incidental scallop catch or 40 pounds per trip.

USE OF HARD TAC'S IN THE GENERAL CATEGORY FISHERY (FLEETWIDE, BY AREA, SEASON, SECTOR OR ON AN INDIVIDUAL BASIS)

4. A) No hard TAC . We currently have one now at 400 pounds per day.

4. B) No

4. C) N/A

4. D) No further vessel categories. General category should be treated the same whether you have a 70 foot boat or a 35 foot boat. Size , horsepower, should make no difference. We are all grouped together and should stay equal. We already have two separate categories now.

4. E) TAC on an individual basis is fairer to each boat (within its category). Fleet wide it is not fair to the smaller boats.

4. F) No performance criteria used. The person has held a valid permit since 1994 or installed the required VMS by October 31, 2005.

USE OF SECTORS AND HARVESTING COOPS (DEDICATED ACCESS PRIVILEGES)

5. A) If a fisherman should be able to lease his poundage for the year to someone else.

5. B) Sector allocation would change the general category fishery . It would negatively affect fishing communities.

5. C) No consolidation. Only leasing of poundage for that year.

LANDINGS OF INCIDENTAL SCALLOP CATCH

6. A) Yes, 40 pounds per trip.

6. B) Yes, 40 pounds per trip.

6. C) No, we should fish with the same rules as the Limited Access boats.

CHANGE THE FISHING YEAR

7. A) Do not change the fishing year. (NO) We do not want to have an allocation that can be caught up in the fall and winter down south, before the northern boats have a chance to fish. It needs to be fair, boats from New York to Maine need a chance to fish. Status Quo is the way to go for now.

ANY OTHER COMMENTS:

The council should consider that general category permits be held by owner operator vessels only. (To be leased to other owner operator vessels only?)

1. Owner operator only
2. 10.6 ft Drag
3. 400 pounds per day or 80,000 pounds per year.
4. 4 men per boat.
5. Fishing under the same restrictions as limited access boats – twine top in drag, turtle exclusions, etc.
6. Access to the same fishing grounds as the limited access boats.

Stanley C Sargent

51 Kansas rd

Millbridge me 04681

207 - 546 - 7100

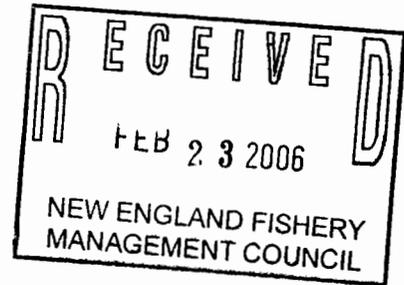


TEL. (609) 884-3000

P.O. BOX 555
985 OCEAN DRIVE
CAPE MAY, NEW JERSEY 08204

FAX (609) 884-3261

Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill # 2
Newburyport, MA 01950



Via e-mail to: scallopscoping@noaa.gov

RE: Atlantic Sea Scallop Amendment # 11 Scoping Comments

February 23, 2006

Dear Sirs,

Please consider these comments for the Amendment # 11 Scoping Process and is submitted on behalf of the vessels and crews of over thirty limited access vessels who offload and sell to Atlantic Capes Fisheries, Inc.

I strongly support the implementation of this Amendment to control and limit the effort and the associated mortality on the scallop resource from the General Category fishery. By way of history it is illustrative to remind the Council that in 2003 (and earlier) I personally submitted written comments to the NEFMC concerning Amendment #10 encouraging the NEFMC to control the growing General Category effort, in my letter of July 15, 2003 to the NEFMC I stated:

General Category participation is exploding as shrimp vessels from the south and ground fish vessels from the north all are rigging up. This effort is overwhelming enforcement, which has no idea of how much effort there is or when landings occur. While it is politically impossible to ban the category we must adopt appropriate management restrictions, which should include.....There must be an overall TAC for General Category based on historical catches, which should be no more than 2% of the total estimated harvest, reports must be filed weekly and the overall fishery closed when 2% is harvested.....There can be no rationale to increase the landing limit of General Category vessels above the current 400 pounds. We cannot be encouraging more vessels to join this effort.....

If the NEFMC had heeded these warnings in 2003 and limited General Category effort in Amendment #10 much of the over investment in new vessels and conversions would not have occurred. At the time the NEFMC considered Amendment # 10 the PDT

unfortunately reported that they did not have evidence of this increase in effort, even though we were informing the Council. But the PDT was relying on NMFS landing data, which was only compiled for 2001 and part of 2002. This unfortunate decision to delay Gen Cat effort controls allowed the problem to get much worse and will make the actions necessary to control the General Category effort that much more difficult to implement.

Now we are faced with the fact that inshore areas are being over-fished, too many new entrants have engaged in a directed Gen Cat fishery moving the fishery from controlled planned harvest to a 'gold rush' and overfishing the stocks. While some of these General Category fishermen will make a case for allowing them to continue due to their recent investments, the Council must make the correct decision to limit General Category effort so that the investment of limited access fishermen not only in money but years of curtailing their own harvests going from 240 Days at Sea to less than 100 Days at Sea is not destroyed but unregulated opportunistic entrants with no long term commitment to the fishery.

Specific comments concerning what should be implemented in Amendment #11.

Control Date: The NEFMC should base its management decisions upon the history of the fishery through the Control Date of November 1, 2004. Management decisions should not include landings and effort after the Control Date.

HARD TAC - The NEFMC should implement a HARD TAC for Gen Cat vessels averaging the history of General Category effort from 1994 through 2004. The Council staff should analyze the range of the lowest during this period (about 1%) and the maximum (about 5%) as the range of options. I would recommend in implementation as the average of the period 94 through 2004, which would be about 3% which is 50% larger than the HARD TAC of 2%, as recommended in 2003 before the explosion of effort.

Limited Entry – If the NEFMC makes the correct hard decision to limit the General Category to a HARD TAC of 2%- 3% of the catch, it should then allow the General Category fishermen to decide how to establish limited entry, but it seems to be most logical to use the Control Date to qualify fishermen. The NEFMC should evaluate various criteria, as suggested by General Category fishermen to qualify for a limited entry Gen Cat permit across a range from one pound, 1000 pounds, 2000 pounds, 10000 pounds, etc. of landings in one year.

Limited Access Fishermen fishing as Gen Cat when not on a DAS – The same qualifying criteria that is used to implement limited entry in the Gen Cat fishery should be analyzed to allow those limited access fishermen who have fished for Gen Cat while not on their DAS to continue to fish as Gen Cat. Limited Access Fishermen are similar to other fishermen (i.e. Groundfish, squid, fluke, etc) in that they have few other options. Those Limited Access Fishermen who fished in a Gen Cat manner in the period of 1994 to 2004 and have landings sufficient to qualify (see above criteria) should be given a Gen Cat permit.

How to Allocate Effort – After a HARD TAC is determined and the number of the qualifying limited entry General Category Permits is determined the NEFMC must decide

what effort controls to use to manage the allowed General Category effort. One option to consider would be to allow a derby, which would have all Gen Cat vessels fish until the TAC is caught and then all vessels would stop. This should be analyzed (and I believe should be rejected.) The NEFMC should analyze options of dividing the annual HARD TAC equally between all qualifying Gen Cat vessels and allocating to each qualifying Gen Cat a fixed number of trips i.e. 10, 20, 30 trips (whatever the math works out to be annually). A third option would be allocate the number of trips quarterly and add or subtract trips quarterly based upon how many Gen Cat vessels actually go fishing each quarter. The NEFMC should consider options which will allocate to each limited access Gen Cat vessel a fixed number of trips per year, projected to stay within the fixed HARD TAC, that each vessel can decide when to harvest.

Incidental Catches – The NEFMC should allow for incidental bycatches in other fisheries and analyze various options from 40 pounds to no more than 400 pounds, provided the scallops are no more than 10% of the catch on board.

Sector Allocations and Cooperatives – This should be the focus of Amendment #12, not Amendment #11. With the cost of maintaining vessels and fuel both the Gen Cat and Limited Access Fleets will need to consider some methods of becoming more efficient after all effort is controlled. This should be done in Amendment # 12 to be started as soon as General Category effort is managed in and the scope of General Category participants is defined in Amendment #11.

Scallop Fishing Year – A change in the scallop fishing year should be considered in Amendment #12, not Amendment #11. Recently the NEFMC and NEFSC discussed the formation of a scallop survey committee to look at the design and timing of annual surveys. I think discussion of changing the fishing year should be determined in a future Amendment, after NMFS, NEFMC, and industry develop a long term annual survey and analysis plan.

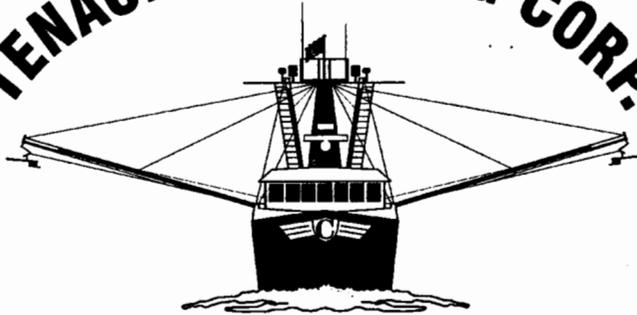
I look forward to working with the NEFMC and other members of industry, including General Category fishermen to control the mortality of the General Category sector, stop localized overfishing, and continue to foster a sustainable and economically efficient scallop fishery, which can be a model of progressive fisheries management.

Thank you for considering our comments.

Sincerely yours,

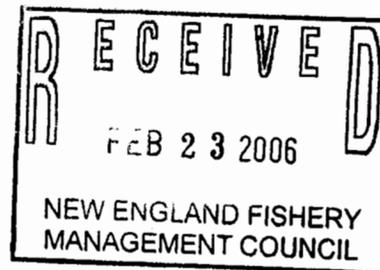
Daniel Cohen, President

TENACIOUS FISHING CORP.



P.O. Box 1432 · Montauk, NY 11954

Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA. 01950



February 18, 2006

Dear Mr. Howard,

Thank you for letting me comment on the development of Amendment 11. My main concern is with issue #3 from the council draft proposal. I am the owner of a 60 foot scallop boat from Montauk, N.Y. I don't feel that ALL limited access vessels should be categorized together. I have a limited access- part time- small dredge permit with 27 days at sea and 1 access area trip in 2006. A part time boat, with these few days, needs to be able to harvest 400 pounds under general category, outside there allocated days at sea, to stay in business. A limited access- full time permitted vessel has over two and a half times the amount of days at sea(67) and one more access area trip. Therefore you cannot consider ALL limited Access scallop vessels in the same management proposal! We are very different economically and dependant on the access under general category rules.

There also seems to be a very small amount of limited access vessels targeting scallops under general category rules. The resource is only accessible to smaller boats, close to shore, during the summer months when the scallops are just right for harvesting. With fuel prices at 2.50 per gallon, and insurance premiums in excess of \$40,000.00, the 400 lbs., per day helps round out the year. There is a very small percentage of landings from these boats. In table #1-general category landings by permit, from 1994-2005 only .54% of the total scallop landings are by limited access vessels fishing under general category rules. It also states that in 2005 alone, 13% of scallop landings are from these new entrants that want to form there own group.

Let's keep these traditional limited access vessels fishing under general category rules, even if it means subtracting the .54% from the limited access total allowable catch. Let's not eliminate a fishery (limited access) to form another (general category).

Thank you,
Sincerely,

Vincent Catillo, Jr.

A handwritten signature in cursive script that reads "Vincent Catillo, Jr.".

cc: DB(2/27)

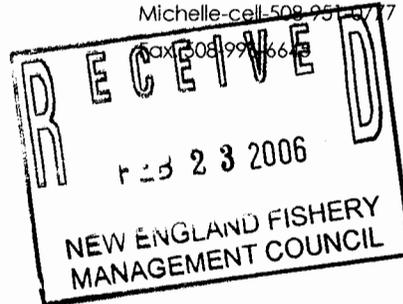
JOSEPH & MICHELLE LETTS

7 Andrew Ave.
Fairhaven, MA 02719

home- 508-996-6157
Joe-cell-443-614-2869
Michelle-cell-508-951-9777

February 20, 2006

New England Fisheries Management Council
Attn: Paul J. Howard
50 Water Street
Mill 2
Newburyport, MA 01950



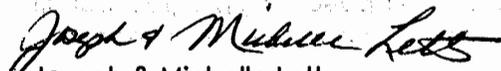
To whom it may concern:

As owners of both a large 86' full-time single dredge scalloper, F/V Ocean Reign and also a small 50' general category scalloper, F/V Rock N Rye. We would like to give you our input as far as the general category regulations as well as limited access regulations.

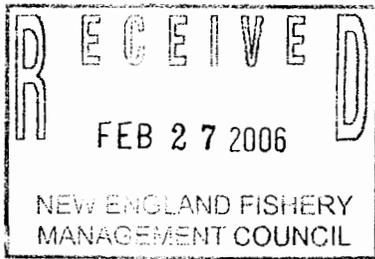
We recently were forced to put on a \$5,000.00 plus Boatracs box in order to continue fishing for the 400lbs. per day. Also a cut off date for issuance of General Category permits went into effect as of Nov. 2004. My understanding is that licenses still have been granted after the cut off date. If indeed the idea is to reduce the catch limits then I suggest that the government go back to the cut off date of Nov. 2004 and restrict any vessel which has not shown landings under the general category permit prior to the cut off date of Nov. 2004. This would reduce the general category fleet by approximately one third. I also believe that since Boatracs have been added to the 400 lb catch limit vessels, that the scallop catch rate should be monitored for 1 year prior to enforcing a "hard" total allowable catch. If after the one year of monitoring, the government feels the need to had additional restrictions, we suggest limiting the dredge size for all vessels fishing under the general category 400 lb. per day to one 10" dredge regardless of the size of the vessel. This would discourage some of the larger limited access vessels from fishing the 400lb. per day after their days have been used up.

Please keep in mind that some of these small general category permit vessels still have large mortgages on them. Our general category vessel is a refurbished steel 50' boat with state of the art safety and electronics. This is not a fly by night \$25,000.00 vessel trying to rape the industry. Our general category vessel cost over \$250,000.00 to put it to work. With all the demands already in place I would hope that our above suggestions would help reduce the catch and not harm the individuals that have history with their general category permits.

Thank you for your time and consideration.


Joseph & Michelle Letts

cc: DB(2/27)



PO BOX 1138
N Chatham, MA 02651

DAVID NADEAU
F.V. BAD Seed
CHATHAM MASS.

I THINK THE CONTROL DATE IS SOMETHING THAT MUST HAPPEN. I THINK THAT THERE SHOULD BE OTHER FACTORS IN PLACE SUCH AS LANDING PRIOR TO THE NOV 04 CONTROL DATE. MY REASON BEING IT WILL CREATE LICENCES THAT WERE NEVER HAD LANDING ALL OF A SUDDEN THEY HAVE A LICENCE THAT WILL BECOME ACTIVE BECAUSE THERE ARE A LIMITED NUMBER OF THEM. PICK A NUMBER 5,000 - 10,000 20,000 SOMETHING TO SHOW THEY ~~NEED~~ NEED THIS TO MAKE A LIVING THEN IT SHOULD BRING IT DOWN TO A CONTROLABLE NUMBER. SO THE PEOPLE THAT NEED THIS WILL HAVE ENOUGH TO MAKE A LIVING.

AS FAR AS THE LIMITED ACCESS BOAT FISHING UNDER GENERAL CAT. THAT HAS TO STOP IF WE HAVE ~~THE~~ HAVE A TAC.

INCIDENTAL SCALLOP CATCH SHOULD BE BROUGHT TO 100 LBS. SO NOT TO ENCOURAGE TRYING TO CATCH THEM A BE IN A DIFFERENT CATEGORY

cc: DB (2/28)

I THINK THAT WE SHOULD BE ABLE
TO FISH IN THE CHANEL 521.

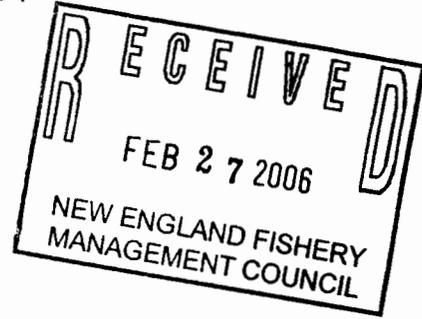
BECAUSE EVERYONE INCLUDING
MYSELF FROM MAINE TO MASS IS
GOING TO THE MID ATLANTIC. THE YELLOW
TAIL BYCATCH IS NONE EXSITANT
IN #521 THIS IS GOING TO PUT
ME OUT OF BUSSNISE FAST

MAKE THE MAX DREDGE
SIZE 8 FEET FOR THE GENERAL
BOATS TO THAT WOULD HELP ALOT

CAPT DAVID MADEW
P.O. BOX 1138
NORTH EAST HAM
MASS

Deirdre Boelke

From: Scallopscoping [Scallopscoping@noaa.gov]
Sent: Monday, March 06, 2006 2:53 PM
To: Deirdre Boelke
Subject: [Fwd: gen cat]



----- Original Message -----
Subject: gen cat
Date: Mon, 27 Feb 2006 07:27:58 -0500
From: chris la rocca <holkai@msn.com>
To: Scallopscoping@noaa.gov

I think the nov 1 control date should be used the criteria should be an avge from the period amend 4 to nov1 04.
if limited access permit holders can meet the criteria then they should get a gen cat ,also the alocated TAC should also be consistent with historical levels and there should definitely be a hard TAC. there should be no segregating of the resource by area or by time, and to change the fishing year now would be ridicilus. my name is chris la rocca i have been fishing for over 20 years i now run a full scalloper from barnegat light iwas at the meeting in cape may and wanted to send in written comments. thanx for considering my ideas

2.27.6

GENERAL CATEGORY COMMENTS,

Hello, my name is Peter Spang. I own the F/V BROOKE C, DOC# 660604, PERMIT # 231025. My concern with the upcoming rule making is with the amount of history that could be required. I fish out of Montauk New York. The few scallop boats that do fish out of there were only given one year to scramble to put any type of history together beside gearing up the boat and learning how + where to caught the scallops. The area outside of Montauk was closed to us prior to the beginning of 2004. Not certain of the exact date but it was considered a yellowtail sanctuary. I feel the general permit allow local boats to supplement their income from other slowed fisheries. Thank you for taking my comments into consideration.

Peter Spang

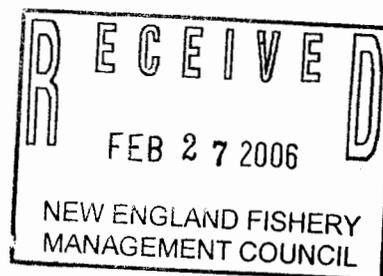
631-287-6077

FV/BROOK

3 Highlands Dr
Southampton NY 11968

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Monday, March 06, 2006 2:53 PM
To: Deirdre Boelke
Subject: [Fwd: Admendment 11]



----- Original Message -----
Subject: Admendment 11
Date: Mon, 27 Feb 2006 12:24:31 -0500
From: william reed <rschreed@hotmail.com>
To: ScallopScoping@noaa.gov

February 27, 2006 NEFMC, Scallop Amendment 11

I, William Reed, owner of the F/V North Sea and F/V Providence, have been utilizing my general category permits on the both vessels.

After attending the Scoping Hearing in Cape May Courthouse and hearing some passionate pleas, I have changed my opinion on one important issue; that is, the November 1, 2004 deadline. I just do not want to be the one to push a man's livelihood away from him, to squash a life's dream and ambition.

It is my opinion that you do not consider the November 1, 2004 deadline based on the fact that NMFS was still handing out dreams when with hindsight; they should have withheld these permits. Pandora was let out of the box. However, I would like to suggest a higher qualifying standard for maintaining this permit. Say, 50 trips, which would translate, to 20,000 lb meat or 2,500 bushels of scallops; once again landed between 1994-2005 in any one year.

Issue #2 Allocation: as much as possible for the general category fleet. Realistically, I feel that a 7.5% allocation is fair or 5% with the limited access boats eliminated from the General Category Allocation; by area will just concentrate boats, gear type not in favor of, however Mid-Atlantic boats should be required to tow 6 1/2" square cod ends with 6" twine in net. This would be consistent with the SNE region. As for turtles, they are attracted by the shucking and scallop guts from the limited access boats going back and forth over the same tow, creating a huge chum slick attracting sea turtles, tunas and sea birds. Shucking 50 bushels is not enough of a chum slick to attract much marine life. Shell stocking must continue to be allowed. I supply important markets with live scallops for sushi and we would like to continue this. As I ramble on, I am strongly in favor of an individual quota that is only transferable on a yearly basis.

Issue #3: I feel strongly in favor of not allowing the limited access boats into this category, following the advice of Bill Hogarth and local congressional representative.

Issue #4: Hard TAC appears to be a necessary evil. Again, I am in favor of an individual quota.

Issue #5: I feel that individual quotas would just be simpler for all. If not community quotas would be the next best thing.

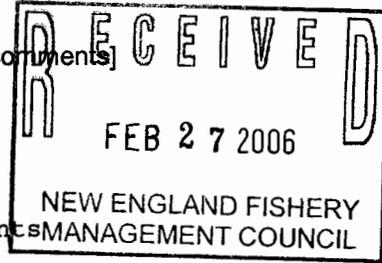
Issue #6: There needs to continue to be 40 lb or 5 bushels of individual catch- Must avoid regulatory discards.

Issue #7: Too bad January 1st does not start the year. However, leave the start date alone.

William Reed

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Monday, March 06, 2006 2:53 PM
To: Deirdre Boelke
Subject: [Fwd: atlantic sea scallop amendment11scoping comments]



----- Original Message -----

Subject: atlantic sea scallop amendment11scoping comments
Date: Mon, 27 Feb 2006 15:17:20 -0500
From: chris davis <scrounge69@comcast.net>
To: ScallopScoping@noaa.gov

NMFS; I was at the meeting in hyannis on feb.23 I did not speak as I was in a wheelchair and the meeting room was overcrowded so I will make my comments here.

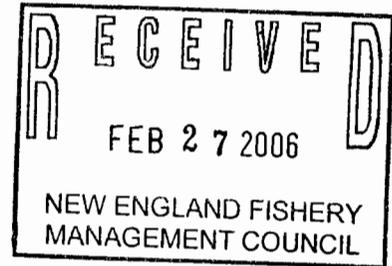
As I am sure you all know the increase in the size and catch of the GC was do to the Limited Entry vessels using up thier days early in the season causing an increase in the price which caused the GC boats to get 8, 9 ,10 dollars per pound! I spoke to a gentleman on the council that told me of the shrimpers moving in on the mid atlantic all in the GC .This gentleman told me that they were responsable for the Limited Access boats being so upset about the GC , it seems these shrimpers were rigged both sides with large rakes and were staying out 30 or more hours and landing over 1000 lbs per trip!! My responce to this was,Why if everyone knows this,and the trip limit is 400lbs WHY NOT ENFORCE THE LAWS WE ALLREADY HAVE. and bust these vessels ,that would be the best way of cutting back on OVERFISHING.! I believe that these vessels and the Limited Entry vessels that hold and use GC permits caused the overfishing to which you refered to in your paper.This dual permit situation should be outlawed.

I believe that setting a hard tac will cause GC boats ,most being smaller vessels, to fish weather that they would under todays regulations stay or GO HOME but if they knew the quota was nearly caught they will stay out or go in weather that is too much for thier boats.

The question of limited entry for GC vessels is one that won't have much affect immediately but the small boat fleet has always changed fisheries when the need arises, the fishermans monument at Chatham Fish Pier has a Quote on it "EVER CHANGING TO REMAIN THE SAME"and I believe it is true of the Chatham fleet and all the small boat fleets in New England, so to tell a fisherman he can't throw on a scallop rake and go catch 400lbs when he is driven out of his present fishery by lost days at sea , or lack of fish he was working on ,would be the end of small boat fleets and I believe that would be a great loss to New England. Unless of course the majority of the small boat fleet has a GC permit then using the control date as a shut off could be justified as a protection from an overabundance of GC boats from elsewhere.n the case of seperate allocations for the GC and the limited entry vessels I think that we should give the GC boats a portion of the total catch and leave the TAC as it is, nonexistent.The DAP might be a way of dealing with the extra vessels from elsewhere but would be a difficult project.Lastly I think the incidental catch and the fishingyear should be left as they are.Thank you , Christopher Davis ,owner F/V Coming Home ,Chatham Ma.

Deirdre Boelke

From: Scallopscoping [Scallopscoping@noaa.gov]
Sent: Monday, March 06, 2006 2:53 PM
To: Deirdre Boelke
Subject: [Fwd: Amendment 11]



----- Original Message -----

Subject: Amendment 11
Date: Mon, 27 Feb 2006 17:26:22 -0500
From: Donald Carter <neindustrial@hotmail.com>
To: Scallopscoping@noaa.gov

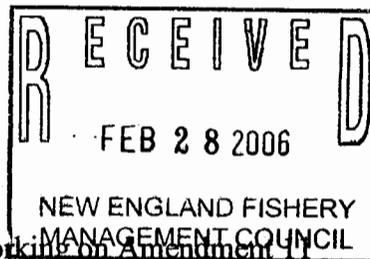
Mr. Paul Howard, As a Day/General Category Scalloper, I had atended Both the Meeting in Boston 2005 and Also the Meeting at Cape May NJ Feb 2006, Both where Confusing on the Game Plan to see just what the Process is to Control the GC Quotas, I had sugested at the Meeting in Boston 2005 to Install Sky Mate / Boat Trax, of which Finaly Happed in Dec 2005. That alone cut the 400 pound Boat Fleet by 70%, and I had also Asked to Stop giving out the GC Permits that Meeting or ASAP, of which hasn't happed, I had Also asked for a 250 Day GC Fishing Year Pr. Permit, of which I fill would Cut another 30% of the Total Harvest in the GC Fisheries.

I'm also asking for you to Look at the GC fisheries now that the Boat Trax / Skymate System are in use, And now take a true Survey for ONE YEAR on the Pounds Taken by the GC Fisheries, I Also Fill that is Going to Make a Differance in the Total Catch By 400 Pound GC. Most of the Boats in the GC will have a Hard Time With the Weather to get in 250 Days. The New Control Date should be Moved to Dec.05 to Start a Catch history Per. Permit, Because of the Tracing Systems now in Place. Please No Catch Durby that would make it a Dangerus Fisheries. Make GC a Limited Entry Fisheries. Have a Single Dredge Size up to 15' Max. The LA Vessals have Landed Scallops in the GC Rules, That may be OK only if it Goes Agianst the LA Catch and not the GC Catch. No Hard TAC should be Considered That would Also Cause a Durby Type Fisheries. Keep the GC and LA Fisheries Opened to All that Have Boat-Trac System/Sky Mate, and a Dec 05 Dead Line for 1B Permits. Total Days 250 at Sea and/Or 400 Pr.

Day Total Wt. should be Set as to Trac Pr. Vessel. Thanks For Your Time.
Please Call me if there's Somthing I can Add to the Advisory Panel. Don Carter
1-609-884-1771

Save time by starting a search from any Web page with the MSN Search Toolbar-FREE!
<<http://g.msn.com/8HMBENUS/2731??PS=47575>>

Comments In Response To Scallop Amendment 11
Seven Specific Scoping Issues



To: Deidre V. Boelke, Fishery Analyst, Lead Staff Member working on Amendment U
From: Paul Vafides, Hull, MA. Full Time Commercial Fisherman since 1973/Boat Owner FV Salvatore from 1973-1989 (Lobstering, offshore gillnetting, scalloping downeast Maine and offshore), Crew on offshore groundfish trawler for 3 years, Captain of offshore groundfish trawler for 13 years, Purchased FV Donna Jean II March/2004 with General Category Scallop Permit, Multispecies C Days, Offshore lobstering permit.

Thank you for this opportunity to respond to the scoping issues in writing. Conservation of species for the ongoing purpose of sustaining food supplies is of vital importance. Having reliable unbiased data, reliable unbiased science, peer reviewed science, and integrity from hired lobbyists, hired lobbyist scientists and most importantly from the fishermen is also a vital part of this process. It is also the important job to understand that boats must be maintained and crewed by competent and responsible fishermen. Boats must be insured, maintained, and provide a living to insure this type of responsibility. It is the hope that the council also shares these goals. If not, lives will be lost, boats will be uninsured and continue to be crewed by noncitizens, and laws will continue to be broken.

Final Scoping Document

- Additional issues that should be included are to disallow shell stocking and netting scallops. Historically, shell stocking has been devastating to the scallop business and nets catch to many small scallops.
- No VMS=No GC Permit. Dealers should be equally responsible as the permit holder for buying scallops beyond the limit from boats. The proposed bag tagging program along with the VMS should solve this problem.

Issue # 1-Limited Entry

- The control date of Nov. 1, 2004 should be approved immediately. All boats gaining licenses after this date were properly warned.
- In addition, there should be a significant history attached to this control date along with compliance to VMS. A 5 year average would provide a fair judgment of boats actively fishing the GC permit. This would provide for boat owners who may have been ill for several years, had boat breakdowns, or any of the many possibilities that could have ill-fated a vessel or family.

Issue # 2-Allocation

- Boats with GC permits that have historically depended upon, have a proven history of active permit usage should be allocated 20%. Without this type of assurance then fishing boats would not be able to maintain there well being, pay their crew, and maintain appropriate insurance coverage for vessel and crew.
- There should be consideration of the approximate 54 days that LA boats fish unrestricted in open waters plus closed areas in addition to their other multispecies permits (which often times are not even used or leased because

they are considered full time scallop boats and do not need the additional income). Their corporations are able to maintain their vessels, insure their vessels, pay and maintain crews. The GC permit was also traditionally created for Chatham and Maine for small boats that fished for 5-6 months in other fisheries. They too need the same right to maintain their vessels, insure their vessels, pay and maintain crews. By increasing the number of GC permits, allowing overfishing, allowing LA boats to fish with a GC permits using and allowing nets to fish for scallops, the purpose of the GC permit has been lost. Many of the boats using the permit now have become full time scallop boats with no other target but scallops using the GC permit. The traditional GC permit holders depended upon 5-6 months of fishing with 70-100 trips. By looking at your statistics, it looks as though GC boats only used an average of 38 trips. The price of Scallops just three years ago was about \$4/lb and was all I was hoping for. I was also dependent upon 5-6 months of fishing with an average of 15-20 trips/month out of Chatham. 38 trips would not sustain the insurance to cover my boat, one man crew, boat payment, and dockage for the 5-6 months of fishing. I think you will find this to be true of most of the Maine boats as well, that scallop in addition to lobster fish.

- To prevent a derby style of fishing created by fleet, area, or season, it would probably be in the best interest for boats to receive individual allocation.

Issue # 3-Dual Application for limited access vessels

- LA vessels should not be allowed to fish under GC permits. Some of these vessels reach 90-100 feet in length. No, this should be stopped immediately.
- No, incidental catch should be thrown back if it is still alive and most of the time it is. Why would there be incidental catch on a LA boat?

Issue # 4-Hard TACS

- Yes, a hard TAC would be effective in preventing overfishing so long as it does not create the derby style fishing created by fleet-wide, area, or season. Criteria should again be based on history and should probably be on an individual basis so that the vessel can choose the best and safest time to fish in coordination with other fishing efforts of the vessel.

Issue # 5-Sectors, DAPS

- A dedicated access privilege is certainly better than derby style fishing. It would of course be good for me since I am based out of Chatham. It provides for the sector to police itself.

Issue # 6-Incidental Scallop Catch

- Both the LA and GC fleets should not land small amounts of scallops. If the boat is targeting another species than throw them back.
- If you are going to provide for incidental catch then make it small so that you are not providing for effort to target scallops.

Issue # 7-Change of Fishing Year

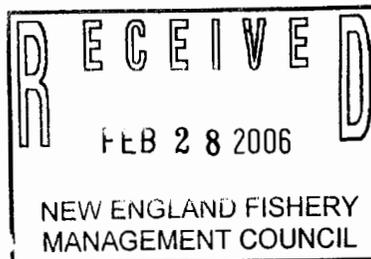
- No

It is very difficult to observe the big boat fleet versus the small boat fleet. I have long term friends from both sides of the street. I have been in this business since the inception of the 200 mile limit and seen shell stocking, thousands of pounds of juvenile fish landed, boats repeatedly go into closed areas, foreign captains and foreign crews that couldn't read the laws let alone speak in English, illegal dumping of millions of gallons of toxins, hauled back barrels and barrels of toxins, seen deformed species near nuclear plants, wonder what all the chlorinated water from the outfalls will create. On the other hand, I have also seen honesty, hard work, sacrifice, respect for the fisheries, respect and concern for the crew and families, respect for the ongoing and preservation of the industry. You have a difficult task indeed. What I think of greatest importance is integrity and honesty from all parties. This is becoming an old man's trade and will remain so unless vessels are allowed to provide an adequate living to the families that are involved. This industry could easily become only a few corporations owning all the vessels which certainly would make your job much easier but would also become the breeding ground for green card holders crewing all the vessels for minimum wages. There would be only a few ports housing the fleet and it would be likely as well that the same corporations that owned the boats also were the fish dealers. Millions of dollars to many ports would now be diverted to trillions going to a few ports. I always question the ultimate goal of the National Marine Fisheries as we all should.

If an adequate living is guaranteed to the license holders in the entire fleet (whether scalloping or fishing) than you will in all likelihood find that the families that will continue the traditions of the fisheries will be educated to follow the laws, offer insights to your sciences (which really do need to have peer reviews, a more precise analysis of the scientific method being used to guide your explanations and predictions, what are additional variables to be considered, your statistical procedure), work in conjunction with all concerned parties, and maintain the fisheries industry for further generations. 200 LA boats 60 million pounds there is plenty for all.

J W COMMERCIAL FISHING INC.

Joseph T. Wagner, Pres.
124 Woodbine Ocean View Rd.
Ocean View, NJ 08230
Phone (609) 624-0848



Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA 01950

February 24, 2006

Re: Scallop Scoping

Dear Mr. Howard,

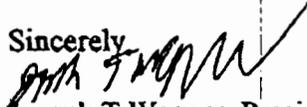
I attended a meeting held at the Cape May County Extension Center in Cape May Court House, New Jersey, the other night. As I listened to the presentation and public comments I have a few concerns.

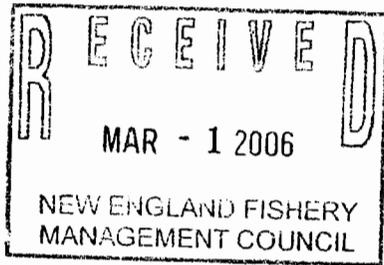
First, I feel that if the November 1, 2004 control date is going to be used that anyone who held a permit before then whether or not they used them should be entitled to keep their permit. I feel the use it or lose approach is extremely unfair. Lets question that accuracy of reporting. It is common knowledge that people have fabricated receipts and lied on reporting. My question to you is why should someone be rewarded for falsifying reports and someone like me who has not reported landings be penalized for not doing the same?

Secondly, I feel that if the date is changed to allow more individuals in then all General Scallop permit holders who hold a permit in 2006 be allowed in. After all, I received my permit renewal application in the mail approximately 10 days ago. This permit is still open access and can still be obtained by people who apply even today. There are still people gearing up and spending large sums of money to fish the fishery to subsidize income lost elsewhere, myself included.

Finally, I feel that if the general scallop fishery is posing such a problem. Then I feel one way to rectify the situation rather than eliminate any permit holder would be to allow each permit so many days. This way it is a win win situation. It prevents those permit holders from going everyday and the permits not being used are not hurting anything but yet are there to allow flexibility if needed.

Sincerely,


Joseph T Wagner, President



F/V Melanie Lee
John P. Ciliberto
925 Sunset Street
Trainer, Pa. 19061-5221
February 25, 2006

Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA 01950

Dear Mr. Howard and Council Members,

The GC Fishery is currently my only source of income. I am still in debt from buying and rerigging my boat for scallop fishery.

I had my permit before, November 2004, but was rerigging the boat until September 2005. This caused me, a huge financial burden.

I think ~~that~~ there should be a clause for this type of situation in your Fishery Management Plan. Because, if I lost my permit,

my crew and myself would be unemployed, and I would probably go bankrupt.

Perhaps other ways of reducing overfishing could be accomplished by dredge size restrictions.

I only pull a single 8' dredge.

Another idea I had is to take away the permits of the people caught in closed areas. Also people that go over the limit. The ones that cheat. This would help reduce some of the pressure in fishing and get rid of the people who cheat.

Also, there are a lot of people who have permits that are not active. They may have a VMS onboard for other fisheries, but do not rely on scalloping to make a living.

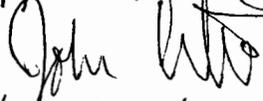
Maybe you could use a combination of qualifying things like a permit before November 2004 and an VMS

onboard with fishing activity.

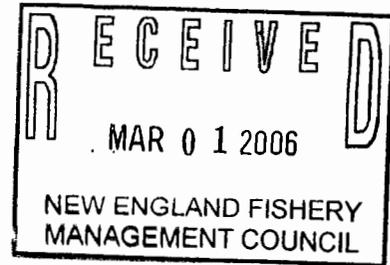
The GC, has also been a big economic boost for the local economy. I hope you will take ~~the~~ my personal and professional concerns and ideas into your consideration.

Most sincerely, and thank you,

John P. Ciliberto


F/V / Melanie Lee

SCALLOP SCOPING - DRAFT COMMENTS March 1, 2006



General Comments

The rationale and basis for the November 1, 2004 control date are not clear in relation to how this control date versus any other control date will control or affect effort and potential over fishing by general category permit holders, and, by extension, how a control date for general category permits will affect potential over fishing by limited access permit holders. Why is a control date not based on the seasons?

It appears that the estimated catch for 2006 will exceed the estimated overall TAC. The documentation and analyses should more clearly outline the TAC and catch for each area and sector and examine the potential and implications of over fishing in 2006 and 2007.

Over fishing cannot be determined for the entire resource or stock. Because of the sectors (limited access and general category) involved and rotational openings of the open and closed areas over fishing can only be determined on a "local" basis. It is not clear from how proposals to control the general category sector will affect overall over fishing or localized over fishing.

Consideration should be given to combining proposed Amendments 11 and 12.

It is difficult to determine at this point how separate consideration of general category and limited access sectors can comprehensively address the overall issue of controlling effort in order to avoid over fishing, given the dominance of landings by limited access vessels.

Changes in the general category permits have the potential to have a substantial economic affect on small fishing communities. These impacts must be carefully examined.

Directed general category vessels should be limited to dredges only.

Issue #1 - Limited Entry

If it determined that control of the general category permits are necessary to prevent over fishing, limited access for general category permits should be a leading consideration based on a control date (justified in relation to effort control and over fishing), landings, and possession of VMS. A control date based on the end of the 2006 season should be included in the DSEIS and compared with the proposed November 2004 control date.

In the consideration of limited access for general category permits, consolidation and stacking of permits should be considered on two bases: (1) permanent

transfer or sale of permits to allow consolidation on fewer vessels, and (2) stacking of permits with an option of stacking to allow more days at sea , or, multiples of trip landings limits.

Issue #2 – Allocation

The basis for allocation should be to achieve the stated purpose of the amendment; to control fishing effort in relation to the potential to cause over fishing. It appears that the primary concern is future (continued) growth of general category permit holders that might contribute to over fishing, rather than a current determination that general category permit landings are causing over fishing. This should be analyzed with consideration to holding general category landings within a limit (e.g. 35% allocation) and the potential to affect over fishing. There is no justification at this time to reduce the catch by general category permit holders. There is probably a practical limit to the continued expansion of general category permits under open access. This should be examined.

If allocations are made to the general category permits the allocations should be equated to days at sea by limited access permits.

Issue #3 – Dual application for limited access vessels

Landings under general category permits held by limited access vessels is relatively small in relation to the direct landings by limited access vessels (less than 1% most years). Consideration should be given to having clear categories of either limited access or general category landings, particularly if limited entry is adopted for general category permits and allocations to general category permits are equated to days at sea. If the TAC is allocated to limited access and general category, the 1% share of the general category catch by limited access vessels can be considered for allocation to limited access.

Issue #4 – Hard TAC's

It is difficult to understand how a hard TAC can be considered for the general category fishery without having a hard TAC for the entire fishery. It seems elementary that a general category hard TAC must be derived from a total hard TAC in order to understand the relationship of effort and over fishing by the general category fishery to over fishing by the entire fleet.

No hard TAC should be allocated to the fishery above 43.00. That area should remain an open access fishery based on a 100 pound landing limit.

Issue #5 – Sectors, DAPs

If dedicated access is implemented for general category permits to prevent over fishing, allowance should be included to form cooperatives and associations to achieve the greatest benefit for the many different classes of general category vessels.

Issue #6 – Incidental scallop catch

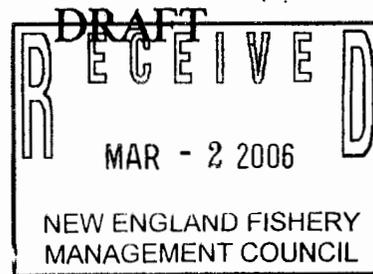
A 100 pound scallop by catch allowances for either vessels targeting other species or for general category vessels in the event a hard TAC is reached should be evaluated. In general, it appears that a 100 pound by catch allowance would have negligible effect on effort or over fishing at the current and anticipated resource levels.

Issue # 7 – Change of Fishing Year

The fishing year should not be changed in this amendment.

Anthony W. Watson
F/V Kellie Ann
8041 Ironshire Station Rd.
Berlin, MD 21811
(H) 410-641-3295
(cell) 410-726-1317

New England Fishery Management Council
 Scallop Management / General Scallop
 50 Water Street
 The Tannery Mill - 2
 Newbury Port MA 01950



Dear Sir,

As a scallop advisor I request print out of VMS scallop tow tracts for limited access vessels on days at sea be made available. To aiding the general scallop category discussion; VMS Towing tracts for Vessels engaged in day scalloping (based on vessel trip reports.)

(IT IS REQUESTED THAT THE TOWED AREA BE TO SCALE) (i.e.. the lines on the map represent the actual area towed to scale.)

THE REASON: After viewing where the Limited Access scallop Vessels tow for scallops when on open area days. It will be possible to draw a line along the coast to allow General Scalloping West of the Line; Limited Access scalloping East of the line.

This line will have East & West quarter or half mile no scallop zones, from the delineated line. Every fifth year the quarter or half mile no scallop zone will be removed to allow harvest by both sectors to the actual line.

In theory this action will allow general scalloping in the resource area closest to shore which is not traditionally worked by limited access scallopers. (VTS data will show historic open area used days; area actually used by limited access scallopers.)

Management with this method would allow partial utilization of a portion of the thirty to forty million pounds of scallops currently dying of senescence & predators (old age or size to large to move from predators(starfish)) per year due to lack of harvest. (lack or resource utilization, WASTE OF THE RESOURCE! can be addressed through general scalloping.

Resource variation from cycles could be compensated by moving the line East or West through management frame work or amendment. General Category access to managed areas (closed to allow grow out) would be allowed on the western portion of the managed areas when opened by drawing the same type general category harvest line. Dredges Vs Nets should not be an issue as the 400# price will control size harvested. Shell stock general Category scallops have additional value of roe. (Roe on scallops should be addressed as an addition to the allowed 400# (vessel landing roe on scallops could land 500# per day (25%) Full time vessels from closed areas could land 18,000# plus (25% roe) from closed areas without PSP. (Issue for Elephant trunk area when open.) Control date for new vessels should be moved to 2006!

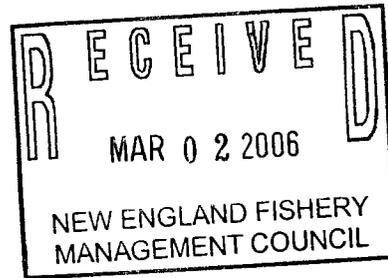
Number of general Category VMS vessels should be made available.

James Fletcher
 James Fletcher 123 Apple Rd Manns Harbor NC 27953 252 473 3287 cell 757-435
 8475

02-13-06

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Monday, March 06, 2006 2:52 PM
To: Deirdre Boelke
Subject: [Fwd: comment on general cat.]



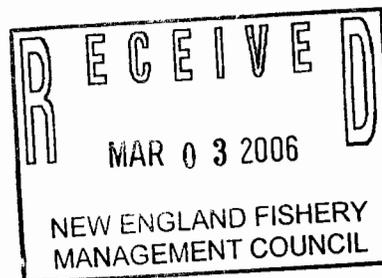
----- Original Message -----

Subject: comment on general cat.
Date: Thu, 02 Mar 2006 23:28:37 -0500
From: Jo Lundvall <lundvall17@msn.com>
To: ScallopScoping@noaa.gov

Dear sirs: My name is Eric Lundvall , I own th e F/V Rayna & Kerstin . I am a fishing industry veteren of 25 years from Barnegat Light , New Jersey. I am a current participant in the general category scallop fishery and have been well before the control date of November 1, 2004. I urge you to adhere to the control date for the gen. cat. fishery and adopt a limited access permit for participants involved prior to the date. I belive qualifying criteria should include a solid landing history of at least 20,000 lbs. of shucked scallop meats prior to the control date. Please do not let the same mistakes be made in other recent limited access fishery qualifications(example monkfish) where vessels qualified through loop holes such as providing reciepts for equipment or retrofitting prior to the control date. I find it unbelievable , the amount of vessels blatently rigging up to go scallop day fishing to this day just in Barnegat Light with out ever landing a scallop prior to the control date. I believe limited access vessel should also qualify to continue to participate in the general category fishery, as long as they participated in the gen.cat. fishery prior to the control date and had to provide the same qualifying landing criteria. Thank you in advance for reviewing my opinion. Eric L.Lundvall 400 Wood St. Little Egg Harbor NJ 08087 ph# 609-618-5360

Deirdre Boelke

From: Scallopscoping [Scallopscoping@noaa.gov]
Sent: Monday, March 06, 2006 2:52 PM
To: Deirdre Boelke
Subject: [Fwd: scoping comments]



----- Original Message -----

Subject: scoping comments
Date: Fri, 03 Mar 2006 05:35:41 -0800 (PST)
From: Joe Smith <cbass1246@yahoo.com>
To: Scallopscoping@noaa.gov

1 I would support limited entry as long as there are input controls in place to deter businesses from buying up all the permits. Boat size, dredge size, OWNER OPERATOR , will keep this fishery in the hands of fisherman, and allow young guys a chance.

2 Two points to factor into the allocation formula.1 this all goes back to amendment 4 which took 3-4 years to be completed. Well the government scientists and regulators were telling us during that whole time that the resource was IN TROUBLE so anyone who listen or saw with their own eyes, and did something differ ant is not accounted for in your statistic ts. The government never said keep on fishing or you will be eliminated when the stocks recover.2 Check your survey results for 88-94 and you will see that the inshore resource was over fished first and hardest. A lot of day boats were squeezed out by the trip boat fleets irresponsible actions. They would stop there on the way out and come back in when the wind blew, towing all the time. WITH PROPER MANAGEMENT THE RECENT LANDING LEVELS ARE WHAT WE SHOULD HAVE BEEN ENJOYING ALL ALONG.

3 A day boat should be a day boat, eliminate the 80 footers

4 Hard Ta cs will lead to derby fishing which has pr oven time and time again to be DEADLY.

5 Individual quotas seem like the safest and most easily enforced system.

6 keep it at 40 pounds

7 Go by the best available science.

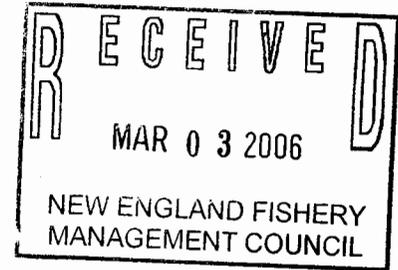
Thank
you Capt. Joe Smith F/V ALISON LEE

Do You Yahoo!?

Tired of spam? Yahoo! Mail has the best spam protection around <http://mail.yahoo.com>

Mid Atlantic General Category Scallop Alliance

**1142 Hudson Road
Cambridge MD 21613
Phone 410 376 3200
Fax 410 376 2135**



March 3, 2006

Re: General Comments on General Category Scallop Scoping

The rationale and basis for the November 1, 2004 control date are not clear in relation to how this control date versus any other control date will control or affect effort and potential over fishing by general category permit holders, and, by extension, how a control date for general category permits will affect potential over fishing by limited access permit holders. Why is a control date not based on the seasons?

It appears that the estimated catch for 2006 will exceed the estimated overall TAC. The documentation and analyses should more clearly outline the TAC and catch for each area and sector and examine the potential and implications of over fishing in 2006 and 2007.

Over fishing cannot be determined for the entire resource or stock. Because of the sectors (limited access and general category) involved and rotational openings of the open and closed areas over fishing can only be determined on a "local" basis. It is not clear from how proposals to control the general category sector will affect overall over fishing or localized over fishing.

Consideration should be given to combining proposed Amendments 11 and 12. It is difficult to determine at this point how separate consideration of general category and limited access sectors can comprehensively address the overall issue of controlling effort in order to avoid over fishing, given the dominance of landings by limited access vessels.

Changes in the general category permits have the potential to have a substantial economic affect on small fishing communities. These impacts must be carefully examined.

Directed general category vessels should be limited to dredges only.

Issue #1 – Limited Entry

If it determined that control of the general category permits are necessary to prevent over fishing, limited access for general category permits should be a leading consideration based on a control date (justified in relation to effort control and over fishing), landings, and possession of VMS. A control date based on the end of the 2006 season should be included in the DSEIS and compared with the proposed November 2004 control date.

In the consideration of limited access for general category permits, consolidation and stacking of permits should be considered on two bases: (1) permanent transfer or sale of permits to allow consolidation on fewer vessels, and (2) stacking of permits with an option of stacking to allow more days at sea, or, multiples of trip landings limits.

Issue #2 – Allocation

The basis for allocation should be to achieve the stated purpose of the amendment; to control fishing effort in relation to the potential to cause over fishing. It appears that the primary concern is future (continued) growth of general category permit holders that might contribute to over fishing, rather than a current determination that general category permit landings are causing over fishing. This should be analyzed with consideration to holding general category landings within a limit (e.g. 35% allocation) and the potential to affect over fishing. There is no justification at this time to reduce the catch by general category permit holders. There is probably a practical limit to the continued expansion of general category permits under open access. This should be examined.

If allocations are made to the general category permits the allocations should be equated to days at sea by limited access permits.

Issue #3 – Dual application for limited access vessels

Landings under general category permits held by limited access vessels is relatively small in relation to the direct landings by limited access vessels (less than 1% most years). Consideration should be given to having clear categories of either limited access or general category landings, particularly if limited entry is adopted for general category permits and allocations to general category permits are equated to days at sea. If the TAC is allocated to limited access and general category, the 1% share of the general category catch by limited access vessels can be considered for allocation to limited access.

Issue #4 – Hard TAC's

It is difficult to understand how a hard TAC can be considered for the general category fishery without having a hard TAC for the entire fishery. It seems elementary that a general category hard TAC must be derived from a total hard TAC in order to understand the relationship of effort and over fishing by the general category fishery to over fishing by the entire fleet.

No hard TAC should be allocated to the fishery above 43.00. That area should remain an open access fishery based on a 100 pound landing limit.

Issue #5 – Sectors, DAPs

If dedicated access is implemented for general category permits to prevent over fishing, allowance should be included to form cooperatives and associations to achieve the greatest benefit for the many different classes of general category vessels.

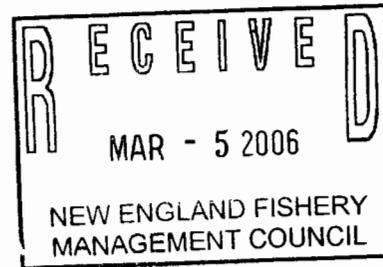
Issue #6 – Incidental scallop catch

A 100-pound scallop by catch allowances for either vessels targeting other species or for general category vessels in the event a hard TAC is reached should be evaluated. In general, it appears that a 100-pound by catch allowance would have negligible effect on effort or over fishing at the current and anticipated resource levels.

Issue # 7 – Change of Fishing Year

The fishing year should not be changed in this amendment.

David H. Wallace
For
MAGCSA



March 5, 2006

Dear Sirs,

Please consider my views regarding the seven points for opinion within the scallop scoping document.

1. Limited entry should be considered to curtail the growing number of General Scallop Category participants. However, those who have made financial commitments should be considered. Would you consider allowing those who committed to VMS purchase? It is clear their intent was to continue scalloping. Any level of landing would show their participation and should suffice the issue. It would be contrary to repeated NEFMC and NMFS literature that strongly emphasizes the existing General Scallop Category was established for limited harvesting and consequently requires a high level of landings to qualify for the license. To require a high level of landings would reward those who abused the category for it's original purpose and punish those of us who occasionally use it to fill gaps and work part time in that respect as intended.
2. Allocation should be evenly distributed between qualified participants but should be transferable in 1000 lb. increments to assure the maximum harvestable levels.
3. General Category licenses should not be allowed to be possessed by those boats who already harvest scallops under another license.
4. TAC should be for individuals not for sectors or industry.
5. We should not use TAC for sectors since most vessels are small and impractical for port changing.
6. Incidental catch should be allowed an expected level.
7. Fishing year should begin August 1 when the weather has settled down, not in winter when the seas are rough.

Gear should be limited to dredges no bigger than 10.5 foot to standardize equipment and harvest methods.

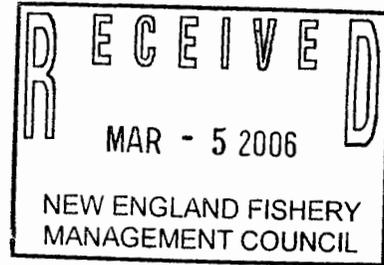
Each state should have a minimum number of eligible participants to assure all states have some representation in the industry. Based on historical port landings, not on state of ownership as some boats are incorporated in one state but land in many others. Delaware fisherman should have at least 10 eligible participants to assure safety to those returning to the same port.

Under NO circumstances should a derby type atmosphere be encouraged as this will surely result in men lost at sea when fishing in rough water while they should be at the dock. They may be afraid they will miss allocation if they don't fish as often as possible before the TAC is reached. The fishermen should be able to fill their allocation at their own discretion not pressured by derby fishing.

Ray G. Trout Jr.
F/V Emily Jayne
Lewes, Delaware
302-745-1793
PO Box 637
Lewes, DE 19958

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Monday, March 06, 2006 2:57 PM
To: Deirdre Boelke
Subject: [Fwd: my comments to the council]



----- Original Message -----
Subject: my comments to the council
Date: Sun, 05 Mar 2006 17:29:02 -0800 (PST)
From: jack stormy <stormyseasllc@yahoo.com>
To: ScallopScoping@noaa.gov

To: Paul Howard

My name is Jimmy Hahn, I am 34 years old. I'm not a millionaire. I did not have a permit handed down from my family, I could not afford a boat when permits most limited access permits were given out. I currently purchased a 43' day scalloper that sails out of Ocean City Maryland, I currently hold every open access permit available from the NMFS including the general category scallop permit which I received after November 2004. I started scalloping in June of 2004, after spending over \$ 45,000.00 rigging my boat. Since June of 2004 I have made over 100 trips, In November of 2005 I purchased a Sky mate system per the NMFS to continue Scalloping. I have done everything to comply with the rules set by the NMFS. THIS IS MY LIVELY HOOD.

I believe the Council should use the controls that are in place now and not used the control date of Nov 2004. The VMS have lower the numbers of permits from 2700 to just over 835 That's almost a 70% decrease in effort. Next I think in order to hold a VMS permit you must have at least 30 days or 5000 pounds landed in a year. This would get rid of all the permit holders who do not plan to scallop but are waiting to sell their permits for big money.

I believe the allocations should be a little fairer. General Category boat only land 12% for over 2700+ permits, Limited Access boat land 88% for 300+ permits. How is that fair. Even if you use the VMS permits that's still 835 to 300. I don't think it needs to be 50% - 50% just a little closer in numbers. Since Limited Access can fish in both fisheries.

I believe the boats should either be Limited Access or General Category. NOT BOTH. The Limited Access are allowed now to catch over 87% TAC that's enough. Boats fishing in the General Category should not be able to fish with nets or a dredge over 10' 6".

I believe a hard TAC should be put in place for the entire east coast since most boats travel to find the scallops, not state quotes.

I believe that the scallop industry should be the first to implement a drug testing for the captains and crews if either test positive, the boat lose it permits. This would clean up and fishery loaded with drugs.

In closing by using the date of Nov 2004 for a cutoff date, you will make me spend an additional \$40,000. to \$100,000 for a permit to continue scalloping. I was not old enough to receive a Limited Access permit and do not have the money to purchase a permit. The General Category is my only way of scalloping. The scallops with the closed areas and proper regulations is a unlimited resource. I hope that you do not take my only way of making a living on the ocean.

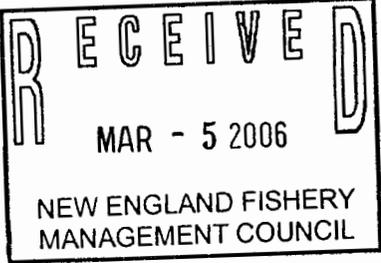
Thanks
Jimmy Hahn
410 310 4296

Deirdre Boelke

From: Scallopscoping [Scallopscoping@noaa.gov]
Sent: Monday, March 06, 2006 2:57 PM
To: Deirdre Boelke
Subject: [Fwd: Atlantic Sea Scallop Amendment 11 Scoping Comments]

----- Original Message -----

Subject: Atlantic Sea Scallop Amendment 11 Scoping Comments
Date: Sun, 05 Mar 2006 22:14:44 -0500
From: missrockville@adelphia.net
To: Scallopscoping@noaa.gov



Andy Keese
F/V Miss Rockville
Chatham Harbor, MA

Dear Council Members,

My name is Andy Keese. I am the owner-operator of the F/V Miss Rockville. I have listed my comments below pertaining amendment 11.

1. Owner-operators can only obtain a general category permit. This will keep the fisherman owning the fishery.
2. A size limit on vessels. This would help to prevent over fishing. Larger vessels can fish many more inclement days than smaller vessels. Weather would be a natural restriction on fishing time.
3. An eight foot dredge size limit for general category participants. Smaller dredges would be beneficial for the habitat and also slow down overfishing.

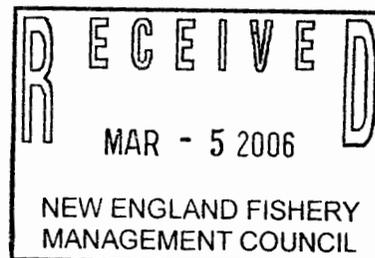
Thank-You.

Sincerely,

Andy Keese

Deirdre Boelke

From: Scallopscoping [Scallopscoping@noaa.gov]
Sent: Monday, March 06, 2006 2:57 PM
To: Deirdre Boelke
Subject: [Fwd: Atlantic Sea Scallop Amendment 11]



----- Original Message -----
Subject: Atlantic Sea Scallop Amendment 11
Date: Sun, 05 Mar 2006 23:22:17 -0500
From: scallopt@bellsouth.net
To: Scallopscoping@noaa.gov

Dear Council members; Thank you for allowing me to voice my comments concerning the general scallop fisheries.

#1; Limited Entry- I would like to see limited entry implemented. My reason being pure economics for the vessels that qualify. To many vessels and no one survives. I know the council has and will continue to protect the fisheries. That is your job and my job is to try and stay profitable and give the consumer a very safe and healthy product. I would like the qualifying criteria to be based on the beginning of the 2005 fishing year (April) and also with the VMS installed by the allotted time established by the council. In other words if you were issued a permit by or before April 2005 and you installed a VMS on your vessel then you would qualify for a limited general category permit. I do not have enough info on the affects of the fishing communities. I do not know enough about the NE region, such as, the location of commercial docks that are left nor the location of the fishing grounds in respect to the docks. I do know that so far I haven't been

able to find a single dock north of Cape May, NJ that will allow my vessel to pack out. As for as fishing communities being impacted by anything the fishery councils do is a myth in today's world because there aren't any fishing communities south of Long Island left. They have been replaced by condos. #

2-Allocation; I am in favor of specific limits fishery wide. This way a permitted vessel will have the option to either stay or move to a more profitable area.

#3-Dual Application; I would like to see the limited Access vessel not be allowed to hold both permits. I can not understand why a LA vessel owner would consider a GC permit in the first place. These vessels, as you know, make a lot of money in a short time thanks to the hard work of the council in their fishery management. They have very little expense in their operation either in fuel

or wear and tear of their equipment. The GC vessels on the other hand have an enormous amount of expense coming in and out everyday. In the mid-atlantic region we steam an average of 60 miles each way to the fishing grounds and dock. The wear and tear on our equipment is astronomical and the amount of fuel used is STAGGERING. I can not see any impact on the LA permit vessel if they are not allowed to hold both permits. Without the catch data on the LA vessels while they were fishing for other species I can not say what would be a fair landing of scallops.

#4-Use of Hard TAC's; I am in favor of a hard TAC if and only if a limited entry is established. I think if a hard TAC and limited entry together were established there would never be a hard TAC limit caught in the general category fishery. The general category fishery is basically a May thru August fishery. My vessel fished this fall and winter

in the mid-atlantic region and was only able to fish 58 days from Sept. thru Jan. 2006. This was a mild fall and winter compared to other years otherwise I would not have fished that much.

#5-Use of DAP's; I do not understand anything about DAP's and how they work.

#6-Landings of incidental scallop catch; This is a very hard question for someone like myself to answer since I do not know what other fisheries would allow you to catch scallops as a by catch.

#7-Fishing year; I think the only people that can answer this question is the data collector and processors of the info.

Once again thank you for your time. I hope some of it is not all

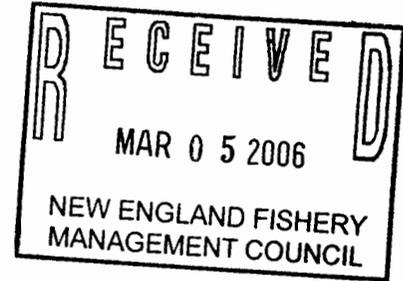
of the above makes sense.

Thomas Brown owner F/V Jordan's

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Monday, March 06, 2006 2:56 PM
To: Deirdre Boelke
Subject: [Fwd: Re: Fwd: GC scallop comment]

----- Original Message -----
Subject: Re: Fwd: GC scallop comment
Date: Sun, 05 Mar 2006 06:49:42 -0800 (PST)
From: Jim Brindley <brindley4@yahoo.com>
To: ScallopScoping@noaa.gov



don, COMMENT FOR GC SCALLOP SCOPING DOCUMENT

Issue #1- support control date.
Issue #2- support 5.8% for calculating GC share of projected landings.
-allocate DAS on individual basis.
(based on vessels best year (2000-2004) issue#3-allow dual application for LA vessels.

Jim Brindley

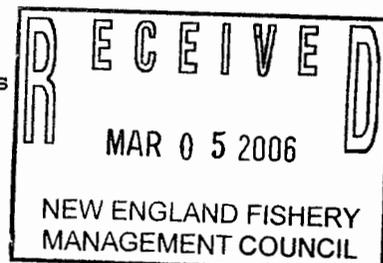
Yahoo! Mail
Use Photomail
<http://us.rd.yahoo.com/mail_us/taglines/pmail2/*http://photomail.mail.yahoo.com>
to share photos without annoying attachments.

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Monday, March 06, 2006 2:56 PM
To: Deirdre Boelke
Subject: [Fwd: Atlantic Sea Scallop Amendment 11 Scoping Comments]

----- Original Message -----

Subject: Atlantic Sea Scallop Amendment 11 Scoping Comments
Date: Sun, 05 Mar 2006 17:19:57 -0500 (EST)
From: Lfooks@aol.com
To: ScallopScoping@noaa.gov
CC: Lfooks@aol.com



Council Members;

I am writing to express my concern about the new regulations to general category permit holders. I have a gen-cat permit with vms.

My main concern is that the limited access permit holders are harvesting more scallops percentage wise than the gen-cat permit holders.

When I got my permit I was expecting to be able to work for myself and in so doing mortgaged everything to buy a boat and have it rigged for day scalloping. Should the council decide to severely limit or rescind my permit I will have to file bankruptcy and lose the home I grew up in.

I realize that management of the scallop harvest is necessary, therefore, I would suggest making scallop permits a closed entry .

Also, I would propose that permit holders not engaged in the harvesting of scallops be rescinded.

I disagree with the limited access permit holders who at the Cape May, NJ meeting wanted the Nov. 04 date to be utilized.

I was in the process of rigging my boat when the Nov 04 date was first mentioned.

I, of course, am only one voice but the economic impact of an average of 3 men per boat with families losing their only source of income will be devastating.

Also, as I mentioned at the meeting, the owners of limited access permits own more than one vessel, some as many as 15-20 with each boat stocking 2-3 million dollars per year. I'm struggling just to pay for my boat and household bills, as are most of the gen-cat permit holders I know.

As for Danny Cohen's comment that the cutoff date should be sooner than later, he wants no competition from the day scallopers when the elephant trunk opens.

If you subtract the permit holders not using them, and not allow vessels engaged in other fisheries {i.e. clamming, quahogging etc.} to catch 400 Lbs. a day, you would then have a better basis to pose a hard tac on the general category permit fleet.

Sincerely,

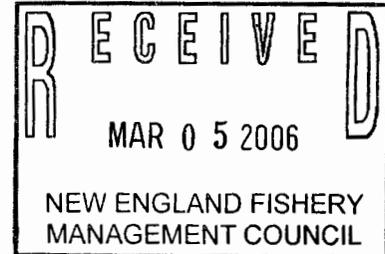
William Albert Fooks

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Monday, March 06, 2006 2:55 PM
To: Deirdre Boelke
Subject: [Fwd: Opinions on amendent 11]

----- Original Message -----

Subject: Opinions on amendent 11
Date: Sun, 05 Mar 2006 22:49:13 +0000
From: johnmborden@comcast.net
To: ScallopScoping@noaa.gov (Fishery Management Council)



To: The Scallop Scoping Committee

I am the owner of two general scallop permitted fishing vessels: one is exclusively a scallop dragger and other is a vessel with a ground fish and lobster permit. Currently, they are both actively engaged in the scallop fishery.

Over 30 years, I have been a successful commercial fisherman by being both flexible and diversified. I have owned and operated both large offshore vessels and smaller day boats.

My comments on the seven issues are as follows.

Issue #1: On limited entry, the use of the control date will be effective in halting expansion and reduce the pressure on the resource. However, if this is coupled with landing history it will not be reasonable because some vessels have had to bounce around to make ends meet. Just having a permit prior to the control date should be sufficient to halt any expansion which appears to be your goal.

If landings are an issue, you should consider the vessels that have made the effort to be in compliance by purchasing/installing a VMS and not penalize them for the lack of landings prior to the control date.

Issue #2: Regarding separation of allocation, limited access vs. general, this is primarily a small boat fishery in New England. Limited access boats, on the other hand, are larger and have ten times the capability than general boats. This is not a logical comparison. I believe they should be separate based on the percentage of general vs. limited access participants.

Issue #3: I don't believe that limited access vessels need to consider utilizing the fishery under a general category permit after they have exhausted their days at sea allocation. They are successful enough without it and if the resource is over fished this would not help the situation. TAC is another way to complicate the process as well as eliminate the independent fisherman. The majority of general category boats are independent owner/operators.

Issue #4: As far as sectors, this is tough because there have been recent increases in both landings and effort in the southern areas, i.e. New Jersey to Virginia. If you allow them more TAC you will be rewarding them for their effort and also stimulating the over fishing and "cheating" that is occurring in that area.

Issue #5: Time windows are also tough for us in a New England fleet because we fish primarily smaller boats and sometimes have to travel further than the southern fisherman. We can only take advantage of small windows of weather and those never coincide with anyone's schedule.

Issue #6: Incidental landings should be allowed. There is far too much waste in the

industry already. I wish the fishery managers or the public was a little more aware of this problem. It would be an insult not to let a fisherman take home a meal. He has earned it.

Issue #7: The fishing years should stay the same. Changing it would give the regulators more to do to get this situation resolved.

Sincerely,

John M. Borden

Owner/Operator, F/V Mary Baker

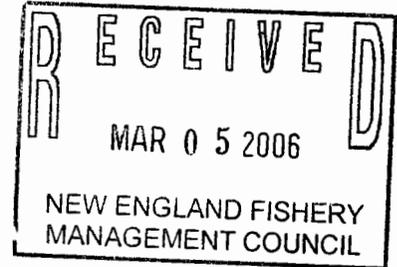
10 Charles Hill Road

Kittery Point ME 03905

207.439.6227

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Monday, March 06, 2006 2:55 PM
To: Deirdre Boelke
Subject: [Fwd: Opinons on amendent 11]



----- Original Message -----
Subject: Opinons on amendent 11
Date: Sun, 05 Mar 2006 22:50:55 +0000
From: johnmborden@comcast.net
To: ScallopScoping@noaa.gov (Fishery Management Council)

To Scallop Scoping Committee:

I grew up in the New Bedford area and spent most of my life, for over 40 years, in the scallop industry. Currently, I am the captain of a general category scallop permit boat, however, I have been on both sides, big boats and small boats. Enclosed are my personal opinions and comments on your plans to control the fishery which seems to eventually phase out the active general scallop fishery.

Issue #1

It is my understanding that anyone who received a general scallop permit after November 1, 2004 did so with the understanding that it may not be valid in the future. I can live with that.

I don't think that the amount of scallops landed is as important as the fact that they were in the fishery before the control date. The communities most affected would be, as always, the small boats that live from stock check to stock check.

--

Issue #2

The allocations between general and limited access permits should be determined by the number of active permits in each category. For example, if there are 2500 general permits and 400 limited access permits, I would hope that at least 25% of the allocation would go to the general category, especially since limited access fishermen can become general access anytime they wish.

Issue #3

In the near future the limited access boats are due to receive an increase in their "days at sea". I would hope that they will no longer need to jump into the general category to survive.

Issue #4

At this time I believe that TACs would not be necessary due to the fact that boats who had to enter general category should be able to return to their fishery as their "days at sea" numbers return. These are both limited access boats as well as the "multi species" draggers. I believe we should all learn a valuable lesson about individual allocations from what happened to the Sea Clam fishery.

--

Issue #5

The general scallop fishery is made up of mostly independent individuals who work as they see fit. You would be hard pressed to find two of us who would agree on much of anything at all. Forcing us into formal groups, I think, would be courting disaster.

Issue #6

It is my opinion that other fisheries should be allowed to bring home a 50 lb. "bring home to eat" bycatch.

Issue #7

March 1 seems as good as any time to start a fishery year. It would not make sense to start it later, when scallops to spawn.

When I look out at the boats in the general scallop fishery, I see many 60-90 ft. boats that had to become general category scallop boats. It is my opinion that this is the reason for the increase in general scallop landings.

Hoping for a future,

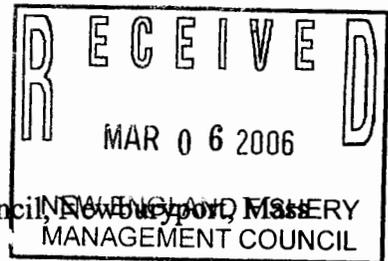
Dennis Williams

Captain F/V Intrepid

10 Charles Hill Road, Apt 1

Kittery Point, ME 03905

207.475.5302



Date: 6 March 2006

To: Scallop Committee, New England Fishery Management Council, Newburyport, Mass

From: Richard Taylor, www.seascallop.com, Box 7002, Gloucester, Mass rtaylor@cove.com

Subject: Comments submitted for the Scoping Process of Scallop Amendment 11

Background comments -- Whose scallops are these anyway?

The Council staff has done a good job in refining the short list of seven issues during the beginning of this scoping process for Amendment 11 to the Scallop Fishery Management Plan, especially so given the restrictive guidelines imposed by the Executive Committee on the issues that may be considered. Realizing fully that we have continually postponed addressing many of these issues, and that timely action is needed at this point, the delay has served to allow the benefits of area management to be seen by all concerned, and to think about how we manage the participants in this fishery going forward. The best news is that integrated within the document are questions that give opportunity to address some of these larger issues confronting us after seeing the rapid rebound of scallop populations possible using a more enlightened management strategy in the Atlantic scallop fishery such as we have witnessed these past few years.

With more effective management landings have grown to double the previous 30 years landings average, this with approximately 50% of the dredge time on bottom, and with a significant fraction of the traditional scallop production areas currently unavailable to the scallop fleet due to groundfish concerns. This situation has occurred while we have been hobbled by partial adherence to the Days At Sea equilibration to pounds. I believe that if we are careful biomass can continue to grow. Built into Amendment 10 is the concept of monitoring biomass in areas and then restricting catch to a small fraction that not only let's the remaining biomass grow to its former level but beyond it in succeeding years. Additional benefits are gained by having large numbers of adult spawners in close proximity each and every year producing an increasing amount of seed.

The core of my concern is that this is a renewable resource and we are handling it as if it were a perpetual corporate asset, first for the ~300 vessels identified in the initial qualification period 1985-1990, and now again for the nearly 3000 participants in the general category sector, based entirely on the timing of the birth of each permit holder. While identification of qualifying participants, and limits on effort, along with other changes, were mandatory in order to begin rebuilding the fishery, I find it difficult believe that the New England Fishery Management Council has a stated objective to ensconce a limited number of citizens with perpetual rights to the entire future biomass of the scallop resource, especially so in light of the continuing necessity of significant annual federal expenditures for continued assessment and management of this public resource. In my opinion that we should not let this happen, any more than we should bequeath the current commercial charter recreational fishing operators with perpetual rights to the cod, haddock or tuna resource.

Almost without exception each and every permit holder in the Limited Access DAS fleet served his time on deck, worked his way up to the wheelhouse, and then to an ownership position. At this time I estimate 50 to 75% of the current owners are ashore with a new generation of skippers

running their vessels. Given their age most of the remaining owner/operators will, in perhaps in as little as 10 years, come ashore as well, and almost all DAS vessels will be run by skippers that have no direct stake in the fishery. My question is: is this what we had in mind when we signed on to the Law of the Sea and began the Fishery Management Council process? A fleet of sharecroppers with no chance, short of winning the lottery, of ever sharing in the larger bounty brought on by effective management.

Central to all but the last scoping item (related to timing of the fishing year) in Amendment 11 are the concepts of allocation and percentage of catch effectively earmarked for certain permit categories and sectors. None of us would tolerate the idea that the first 300, (or the first 3000 to extend the analogy to the current general category discussion), settlers on this land had perpetual rights to cut down all the oak trees because they happened to be the ones that over-harvested the existing trees enough that government had to step in and regulate the harvest of oak trees. Even more onerous is the idea so that the permits to harvest trees might be passed down through generations as a family or corporate asset. This is exactly why the colonial citizens sought to throw off the British. We should not forget that lesson. Permits should expire with the permit holder and return to a common pool, so that succeeding generations of fishermen from ports that have been here for almost 400 years have access to these renewable resources. Left to exchange based on access to money these permits will flow toward corporations without a continuing stake in the fisheries, or the communities these fisheries help support.

Point by point comments to specific issues in the scoping document

1) Limited entry in the general category fishery

In the near term identification of the participants in critical, in the longer run we need to address future generations (and lest we think this is far into the future, implementation of a control date effectively establishes a new generation, as was the original Limited Access permit control dates). If we look closely at the data generated to date in the Scallop Plan Development meetings less than 100 vessels are responsible for the 75% of the landings and that has primarily been in one area in the Mid Atlantic. This situation would not have arisen if this area had been effectively surveyed, the biomass estimated, and landings controlled by maintaining the Fishing mortality at levels the .2 to .3 level as in the other managed areas. The situation points up the necessity of obtaining timely data. In particular, the General Category VTR data was withheld from the public for 5 years, while everyone on the docks in New Jersey watched them fill up with vessels.

2) Allocation between the limited and general category fleets

With the exception of the entirely arbitrary 2% TAC for the General Category from the Closed Areas this issue has been given little direct focus to date. I estimate the first 100 million pounds from these closed areas accrued solely to the Limited Access fleet. We must address this imbalance in this amendment. Dedicated inshore areas for General Category, managed under the rules established in Amendment 10, are one suggested method given the growth of the sector.

Tied directly to this issue is that there are different rules for vessels in different areas. I believe that local control is a primary goal, the implication is that then vessels are no longer free to move out of their local area.

A third issue within this item is that almost the entire Gulf of Maine is currently lost to the scallop fishery due to groundfish concerns. It is current (with the exception of the SMAST video survey on Stellwagen) a enormous wildcard in the biomass equation that must be addressed in this Amendment 11. This is a necessary item for future TAC Set Aside reseach funding.

3) Dual application for limited access vessels

Most Limited Access vessels have too far to steam to make it economically possible to participate in the General Category fishery even if they were interested in doing so. The result is that most are not in a position to use both permits. Additionally examination of the data provided to date reveals that this amount of scallops is not why we are having this Amendment. The only reason to go down this road is some perception of fairness of access, however solving this problem doesn't change the larger problem.

4) Use of hard TACs in the general category fishery (fleetwide, by area, season, sector or on an individual basis)

Fishery regulations should attempt to treat all participants with the same methods. As our assessment and landings tracking methods improve we will be in better shape to shift the entire fishery to TAC based on area, as we currently manage the Closed Area and Scallop Growout Areas fisheries. The remainder of the fleet fishing under DAS is not on a TAC, though this needs to be addressed as well.

5) Use of sectors and harvesting coops (Dedicated Access Privileges)

These are tremendously important long term issues as we move toward quota based fishery, the draggers will always have a bycatch of scallop, and we must begin here in this Amendment. I believe that adoption of community quota would help to preserve perpetual access to the scallop resource for historical fishing communities.

6) Landings of incidental scallop catch

This issue is rolled into the last (#5) and must be dealt with in this Amendment.

7) Change the fishing year

While on the surface of it the integration of survey data in the most timely manner is a critical issue, shifting the year forward to the fall starts off the vessels with the worst product in the worst weathers. Moving it back to January is less onerous but apparently not going to solve the data problem. I have yet to be convinced that changing the date will help us more than it hurts us.

Other items suggested for inclusion in Amendment 11

Nowhere have done the basic drill to have the General Category in what ever form or percentage operate under the provisions of our current management plan, Amendment 10, the plan that has essentially codified the use of closed rorational areas. This is central to long term success. Also we have not integrated the General Category into helping to provide the research necessary for improving their own management. This item needs addressing this time around as well.

Richard Taylor
www.seascallop.com
rtaylor@cove.com

Monday, March 06, 2006

I am writing this email to state my position on the general category scallop fishery for the development of Amendment 11. As a participant in the limited access fishery I feel due to the drastic increases in the general category fishery has contributed to scallops being over fished.

1) Limited entry in the general category fishery

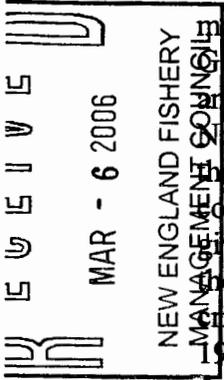
The first action the council needs to be considered is to use limited access to manage capacity in the general category fishery. I feel by using limited access to control GC you would be able to have a considerable amount of control on how many vessels and pounds to be landed and not just a wide open fishery as it is right now. The November 1, 2004 control date is a start on the qualifying criteria for limited access, but there is a enormous amount of vessels before that date and it will be a permit battle on the control date, when it should be on landings. I know that Limited Access fisherman were given the full-time, part-time and occasionally fishery standings due there participation in the fishery from 1985 to 1990. The council should take this approach and use a similar criteria based procedure of landings in pounds and trips landed from a date of 1994 to 1999. I pick this end date because that is when the Limited Access fisherman were seeing a abundance of scallops and GC fisherman weren't heavily participating in the fishery.

2) Allocation between the limited and general category fleets

The second action that the council is considering about the allocation between the limited and general category fleets is not fair or correct to the limited access fisherman. In the table on page 4 of the scoping document it dates back to 1994 when Limited Access were put upon DAS restrictions, which was a hard take then, but now know the fishery is substantially improved with record landings and minimum catch efforts due to the DAS, closed areas, and crew restrictions. The table states the efforts of each category, but the information that should be considered is that of the GC landings what else was landed with those scallop landings. Since the GC fishery was established to accommodate scallop by catch on fishing trips for other species, the council should consider using a criteria of what percent were targeting other species and what percent were targeting scallops in the GC fishery. By using this procedure you would be allocating of who and how many pounds were landed under each section of the general category. This would allocate a fair and equitable division of the fishery to find out who was directly fishing for scallops and who was using the general category for its original cause. I feel a major contribution to having a general category fishery now and for the past few years was due to the hardships the Limited Access Fisherman endured and not the general category direct fisherman of today.

3) Dual application for limited access vessels

The third action council should take into account is about whether a limited access should bear both a limited access and general category permits. Limited Access vessels should not be prohibited from targeting scallops under general category rules but should endure some guide lines in the fishery. Table 1 of the scoping document states that limited access vessels landed 0.70% in 2005 and an average of 0.54% since 1994 which is not a considerable amount of landings but those landing provide a positive economical impact for the vessels. One of the main reason I feel that Limited Access vessels should participate under general category rules is that many captains are getting older and by allowing to be a participant under general category rules it allows younger prospects of the scallop industry to operate the vessel and learn how to catch scallops so there can be a



Monday, March 06, 2006

new era of fisherman in the scallop fishery. Another reason I feel that limited access vessels should be able to participate is that with the opening of closed areas on Georges Bank and Nantucket in the recent years many vessels are steaming from the mid Atlantic states a day and a half to get to the ports to where they will be fishing while fishing these closed area trips, by allowing to harvest the allowable 400 lbs. of scallops it enables to put that towards the current price of fuel of 2.20 per gallon. By not allowing Limited Access vessels to participate at all is very detrimental, but I do feel there should be a certain percentage of allocation for this part of the fishery. I believe that limited access vessels should always be allowed to fish under general category rules and if not the impacts for not allowing participation are going to be substantially negative for the stated reasons.

4) Use of hard TACs in the general category fishery

In the forth action of using hard TACs in the general category fishery by fleetwide, by area, season, sector or on an individual basis will have many outcomes upon each action. A hard TAC of scallops in the general category fishery would be the best and most effective way of managing this Day Fishing. The council needs to consider on a individual bases of how many trips and many pounds of scallops were legally landed from a time line of 1994 to 1999. A key part of data that should be taken into account is what other types of species on how many pounds were reported in that time line on there Fishing Vessel Trip Report. This would allow to see who landed and what was landed to see who gets how many pounds in a TAC approach. Another approach would be to take the average of landings since 1994 and that can be the allocation of scallops to the general category including the limited access fisherman. I also feel an implementation of a harvest period should be looked into since day boats are fishing the winter months when scallop yields are about 64 bushels for 400 lbs, to where in the summer months it is around 44 bushels respectively. That is a considerable amount of more scallops that needs to be harvested to achieve the 400 lb. limit.

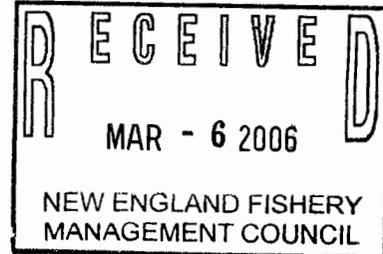
The comments that I have provided from the scoping document for Amendment 11, I would anticipate them to be taken in consideration for the best possible outcome in the scallop fishery. The short term effects of "Day Fishing" for scallops is going to be harsh to the long term outcome of having a renewable resource of scallops. At my age 22 I have participated in the Limited Access Scallop fishery since 1999 with my father who has been at for 27 years now, and I am next in line to take over operations and consider myself and others my age the next generation to the fishing industry. I know I have not been in the fishery as long as others but it is obvious to see the substantial improvement to the fishery that have made to bring it to this level of success.

Thank you for taking the time to listen my concerns. I can be reached by email at offshore5073@hotmail.com for future information or concerns and if there if a mailing list of information I would like to be on that list to receive future information.

Sincerely,

Charles Wiscott
Fishing Vessel Susan L
Cape May, NJ

New England Fishery Management Council
50 Water Street
Newburyport, MA 01950



Attn: Frank Blout, Deirdre Boelke

1. The council must use a the control date already set with the possible consideration for appeal process for vessels purchased or rigged ahead of the time of the control date. The people affected by this will be the owner/operator.
2. Finances must be considered in the allocation between General Category and Limited Access Vessels. Currently Limited Access Vessels Stock between 1.2-1.8 million dollars per year, many owners have multiple vessels which gives them the resources to buy permits for this and other fisheries. General Category Vessels are mostly owner/operated without the financial means to buy permits. This is their sole income.
3. Limited Access Vessels should not be allowed to fish in the General Category unless there on a day at sea. Limited Access Vessels will have a much greater impact on General Category Vessels already facing what seems to be a severely limited fishery. Why should the Limited Access Vessels be allowed to fish in the General Category when there days at sea have expired under the Limited Access Vessels.
4. I believe a hard TAC should be used only if it is used for limited access vessels. This has historically formed Derby Style Fishing.

Thank you in advance for you time,

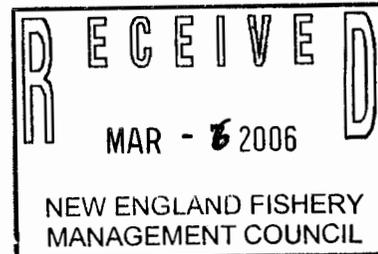
Neal Kitson
Owner F/V Lori Megg
Barnegat Light, NJ 08006

East Coast Fisheries Federation, Inc.

Received via email on 3/6/06:

March 6, 2006

Mr. Thomas Hill, Chairman
Scallop Committee, NEFMC
50 Water Street. Mill 2
Newburyport MA 01950



Dear Tom:

First, my thanks for your skilled Chairmanship of the New Hampshire and Hyannis scoping hearings. They were very well run and distractions diplomatically avoided. My compliments to Dierdre as well for her clear presentation.

Following up on my remarks at the hearing, it is important for the Council to be aware of the unique situation which has been created for the full-time scallop fleet. As I noted, catching a few winter flounder off New Jersey in the groundfish qualifying period now enables a permit-holder to fish for haddock, graysole and pollock on Georges or in the Gulf of Maine. The same is true in several other FMPs crafted by both the NEFMC and MAFMC.

Exactly the opposite was done with the full-time scallop fleet. Despite substantial history in both the monkfish and yellowtail fisheries, they were effectively denied those opportunities. This is in spite of the fact that, in many cases, full-time scallop boats caught far more monkfish and yellowtail than those who were eventually given permits.

Prior Council actions have created a large group of people in the full-time scallop fleet who have been made utterly dependent on a single species. I point this out only to make the Council keenly aware that, having created that unique dependence, there is a special obligation with it. That obligation is to realize that Council actions must be consistent with the situation the Council itself created. This applies whether the issue is the General Category fishery, the Elephant Trunk fishery, or anything else.

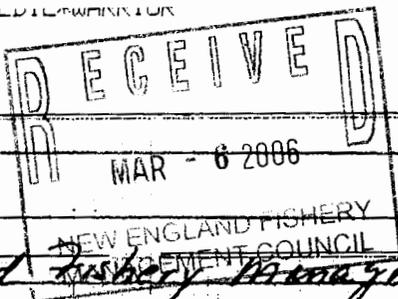
I hope that realization will guide all the future scallop actions taken by the Council, and thank you for your consideration of this aspect of scallop management.

Sincerely,

via email

James D. O'Malley
Executive Director

P.O. Box 649 · Narragansett, RI 02882
Phone: (401) 782-3440 · Fax: (401) 782-4840



MARCH 6th, 2006

New England Fishery Management Council

Faxed 978 465 3116

Re: Amendment 11 to Sea Scallop Fishery Management Plan
attention: Dieder

The right to catch 400 lb. per day is part of the Limited Access Permit if that is taken from the Limited Access Permit it would be diminishing the value of the Limited Access Permits. The 400 lb. right is part of the Limited Access Permit; it is folded in it is not a separate Permit, this has been the case since Amendment 4 to Sea Scallop F.M.P. I object to taking this Right Away - I spoke to you on the phone but I wanted to put it in writing to make it ^{part} of the Record as today is the final day. So it is my opinion that in taking away the 400 lb. would be that Amendment 11 is about more than General Permits.

Sincerely,

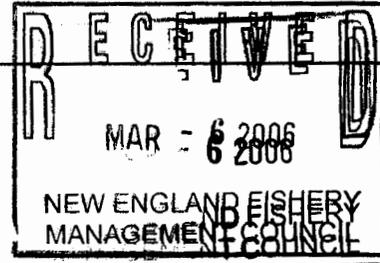
Harris Ann Robinson

HAR

Atlantic Sea Scallop Amendment 11
Scoping comments

ERIC
Lundvall

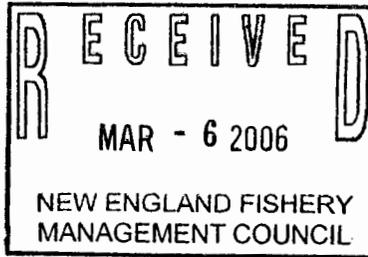
From: "Jo Lundvall" <lundvall17@msn.com>
To: <Scallopscoping@noaa.gov>
Sent: Thursday, March 02, 2006 11:28 PM
Subject: comment on general cat.



Dear sirs: My name is Eric Lundvall , I own th e F/V Rayna & Kerstin . I am a fishing industry veteren of 25 years from Barnegat Light , New Jersey. I am a current participant in the general category scallop fishery and have been well before the control date of November 1, 2004. I urge you to adhere to the control date for the gen. cat. fishery and adopt a limited access permit for participants involved prior to the date. I belive qualifying criteria should include a solid landing history of at least 20,000 lbs. of shucked scallop meats prior to the control date. Please do not let the same mistakes be made in other recent limited access fishery qualifications(example monkfish) where vessels qualified through loop holes such as providing reciepts for equipment or retrofitting prior to the control date. I find it unbelievable , the amount of vessels blatently rigging up to go scallop day fishing to this day just in Barnegat Light with out ever landing a scallop prior to the control date. I believe limited access vessel should also qualify to continue to participate in the general category fishery, as long as they participated in the gen.cat. fishery prior to the control date and had to provide the same qualifying landing criteria. Thank you in advance for reviewing my opinion. Eric L.Lundvall 400 Wood St. Little Egg Harbor NJ 08087 ph# 609-618-5360

Sincerely

ERIC L. LUNDVALL



New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Attn: Frank Blout, Deirdre Boelke

I attended the general category meeting in Cape May, NJ and was pleased to see the turn out and hear the discussion. I currently have two general category vessels day scalloping out of Lunds Docks, in Cape May, NJ. As a boat owner I agree with the council that their needs to be control established in the General Category Scallop Industry.

Since the VMS tracking device became mandatory for all vessels who day scallop under the General Category, the number of active permits has greatly been reduced from roughly 2800-800 permits. If this isn't reduction of the industry what is? Installing the VMS was a financial burden and it took days away from sea, but I knew it was required to be installed on my boats to continue to day scallop. I spent roughly \$10,000.00 to purchase the VMS tracking system and the cost of labor was over \$1600.00. I lost days at sea and that equals lost income, but I took the money and time to install the VMS because day scalloping is my future and my income. I employ two full time crews who have worked for our corporation for over a year and this is their income, all of our lives will be affected by this proposed amendment by council. I don't have the money to buy a full-time permit, the General Category is my only source of income.

But I also feel there must be an appeal process for boat owners who didn't have any landings by the control date. This crucial to many of us in the General Category Industry who put all our money and resources into our boats before we could get any landings. In my case I spent \$35,000.00 to rebuild my engine after my engine blew up, which was unexpected. The boat was purchased in May of 2004, had a permit by August 2004, but because of the unexpected time and cost of the engine work. The boat didn't make its first trip until December 2004. The General Category Permit holders are not rich, we don't have the financial resources like the Limited Access Vessels, The Limited Access Vessels are much more well off financially, they have the resources to buy new boats and new permits. The 400lb limit has to stay in affect otherwise bigger boats who burn more fuel would not be able to make a living. Limited Access Vessels should NOT Be allowed t fish in the General Category unless there on a day at Sea. Limited Access Vessels will have much greater impact on General Category Vessels already facing a severely limited fishery. The Limited Access Vessels should not be allowed to go out and catch 400lbs when they have used all of their days at sea. Its not fair.

Although it wasn't intended to turn out that way, for many of us the General Category has turned into a Directed Fishery, we have no other income, we don't have other boats and permits, we don't have the 1.2-2 million dollars a year income off our boats a year like the Limited Access Boats have. I believe a TAC should only be used for

Limited access vessels. If a TAC is put in place, boats will be forced to go out to sea in conditions that are unsafe to catch the quota before it is officially caught. The boats going out to see will become a free for all.

The bottom line, is we agree with council we need control, but we feel an appeal process is necessary for the benefit of the people who have invested money and time in an industry that was full of promise, but because of a few, things have started to decline. The General Category guys will loose everything they have, look beyond boats, lets look at the big picture, billsnot being paid, mortgages, health insurance for our children. These two industries can't seem to work together, The Limited Access Boats and the General Category Boats, because the Rich stay Rich and the working men don't seem to be protected. As one of your council members told me, he would rather see me collect unemployment than send my boats to sea. That's really working together.

Thank you for your time,

Eric N. Kitson
Operations Manager
J&B Fisheries, Inc
Cape May, NJ

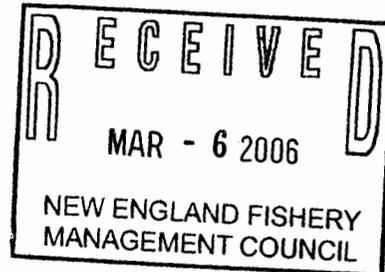


JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
DEPARTMENT OF
MARINE RESOURCES
21 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0021

GEORGE D. LAPOINTE
COMMISSIONER

March 6, 2006



Paul Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Paul:

I am writing to comment on the scoping process for Amendment 11 to the Scallop FMP. DMR hosted several meetings of our own between Feb. 6 and Feb. 13 and collected feedback from the industry. Comments from interested parties who attended those meetings are incorporated into the letter. Comments specific to each meeting are attached.

The scoping document lists several issues and requests advice on those issues, so I'll structure this letter according to that format.

Issue 1: Limited Entry in the general category (GC) fishery:

The Council has already committed to limited entry in the GC fishery to control the increasing effort, especially given that for the past three years the fishing mortality rate for scallops has been higher than the target rate and thus the fishery has had overfishing occurring. I am very concerned however about shutting people out who are not having an impact on the fishery.

I'll describe Maine's active GC fleet: There are some Maine fishermen (less than 50) who choose to travel to Cape Cod or Southern New England for some portion of the year to supplement their income by day-boat scalloping in a directed fishery for a few weeks up to a couple months. There are also a very few fishermen in Maine who choose to day-boat scallop in a directed fishery from the Cape or Southern New England for their sole source of income.

By far the vast majority of our fishermen would go scalloping in federal waters if there were scallops in the Gulf of Maine (GOM), but there haven't been enough scallops to pursue since the late 1980s. I think it is very important for the people in coastal Maine to have access to the scallop resource in the GOM when the resource in this area returns. These are the people I do not want to exclude from the fishery - they are not fishing, they don't want to travel to where the scallops are, but if the resource returns in the GOM, they should have the opportunity to harvest that resource. With this in mind I suggest continuing an open fishery for the waters north of 43-00 north latitude with a maximum landing limit of 200 pounds per calendar day with the same input controls as the current small dredge exemption area in the GOM (a maximum dredge width



THIS IS A RECYCLED PAPER

OFFICES AT STEVENS SCHOOL COMPLEX, HALLOWELL.

PHONE: (207) 624-6550

TTY: (207) 297-4474

<http://www.maine.gov/dmr>

FAX: (207) 624-6024

Paul Howard

Page 2

March 6, 2006

of 10.5 feet, four inch rings, 10 inch twine tops, no more than 5 persons allowed on board) and with the additional caveat that the vessel must be owner operated (with reasonable exceptions¹).

I note that the scallop survey is not done in the GOM so we really have no idea what is out there. I respectfully request that the Science Center and SMAST include the GOM in their scallop surveys.

Control Date:

There is some controversy among the Maine industry regarding the control date. There are certainly some members of our industry who would prefer that Dec. 1, 2005 (VMS installation date) were the control date. However, I think the right thing is to honor the Control date set by the Council in 2004 and leave it at Nov. 1 2004.

Issue 2. Allocation between the Limited and General Category Fleet:

This is a tricky issue that has generated much discussion among the Maine industry. I recognize there is a lot of pressure to allocate landings to the GC fleet at their historic levels. However there are several reasons not to submit to this pressure, and allow the GC fleet the opportunity to catch a larger proportion of the TAC than they did in past.

First, we are already limiting the GC fishery by making it limited access and cutting more than 2000 permits out of the fishery.

Second, the increase in landings in the scallop fishery gives us enough scallops and economic benefit from the fishery to allow a higher percentage to the GC fleet while continuing increased economic benefits to the limited access fleet.

Third, the original intent of the GC fishery in Amendment 4 was to allow for a small directed fishery by day-boats and a bycatch fishery for those vessels targeting other stocks, which have some small incidental catch of scallops.

I strongly support increasing the allocation to the GC fleet above historic levels to a level that will allow a sustainable and economically viable day-boat fishery. I think we should allow a day-boat fishery to exist and craft the amendment accordingly.

Issue 3. Dual Application for Limited Access vessels:

Given the fact that the fishery has had overfishing occurring in each of the past three years, it suggests that the current management system is not working. Because we are closing the GC fishery to new entrants and new effort, then we should not allow Limited Access vessels to fish outside of their DAS. The Limited Access fleet has access to (and has landed) millions of pounds of

¹ Reasonable exceptions to be determined by the Council but to include immediate family members in the case of death or disability.

Paul Howard

Page 3

March 6, 2006

scallops through their DAS and Special Access Areas. In a fishery where overfishing is occurring, it does not make sense to allow the biggest, most effective harvesting platforms to fish outside the regulations designed to control their effort. The Limited Access vessels should not be allowed to fish in the day-boat fleet.

According to the table on page 4 of the scoping document, Limited access vessels fishing outside their DAS landed 0.70% of 5.6 million pounds – or 39,200 pounds in 2005 – a pretty insignificant number of pounds relative to their total projected landings of over 60 million pounds. In spite of this low landing, I feel very strongly that limited access boats (with DAS and access to Special Access Areas) should not be able to fish as part of the day-boat fleet. We should reserve that category for smaller vessels that can only fish the near shore.

However, if the Limited Access vessels are targeting other species and have bycatch of scallops, they should be allowed to keep a very small daily trip limit – I suggest something on the order of 200 pounds per calendar day, up to some reasonable maximum based on scientific evidence of bycatch rates.

Issue 4. Use of Hard TACs in the GC fishery (fleetwide, by area, season, sector or individually)

I do not think it is appropriate to limit the GC fleet with a Hard TAC if the Limited Access fleet will continue to operate without a Hard TAC. If the entire fleet will be required to operate under (limited access, day-boat, bycatch) were to shift to a Hard TAC, then perhaps it should be done such that 80% of the TAC is allocated to the Limited Access fleet, 19% to the GC fleet and 1% to the bycatch in all other fisheries.

If we have to go to individual TACs then for the Limited Access fleet, it should be done according to permit category and using historical activity (years and pounds landed) as qualifying criteria. For the GC fleet, an area based TAC may be preferable given that a line already exists at 73-00 west separating the Mid Atlantic from Southern New England.

I recognize that this is a controversial issue and there is no way to do any allocation fairly. It is true the limited access boats have made a commitment to this fishery but there is a historical and culturally important day-boat fleet in New England that is getting wiped out by the march towards economic efficiency. I strongly believe there should be room in this (and other FMPs) for a day-boat fishery to operate sustainably.

Issue 5. Use of Sectors and Harvesting Cooperatives (Dedicated Access Privileges):

If the Council decides to go along with Hard TACs then the development of sectors and co-ops should be allowed. That said, I think the first question to be answered has to be whether the Council will recommend Hard TACs for the entire scallop fishery. If the Council votes to recommend Hard TACs it should be for every segment of the fishery and special access area, not just for the GC fleet.

Paul Howard

Page 4

March 6, 2006

Issue 6. Landings of Incidental scallop catch:

As mentioned earlier, landing scallops caught incidentally in other fisheries should be allowed; I suggest a 100 pound landing limit as a place to start. It may be necessary to prevent over-harvest by assigning a bycatch cap to each fishery based on historic patterns.

Issue 7: Changing the Fishing Year:

I am opposed to changing the fishing year because if the year were to start in the fall, when the data was all collected, the day-boats, particularly in New England would be at a significant disadvantage due to weather. I think it would unnecessarily complicate the scallop plan if the limited access boats started at one time and the day-boat fleet started at another time. We should leave the start of the fishing year for scallops at March 1.

Other Issues:

I appreciate the Regional Administrator sending out the letter (February 17, 2006) addressing the concerns of vessel owners who may have sold their boat, bought another one without retaining their catch history. There are quite a few Maine fishermen who are in this situation and are concerned they will lose access to the fishery. I would be happy to discuss options of how to address this problem if you have any suggestions.

Please contact me if you have any questions about my comments.

Sincerely,

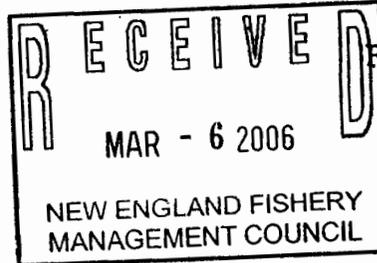


George D. Lapointe
Commissioner

cc: Tom Hill

W. William Anderson

702 Dixie Road
 Moose River Cove
 So. Trescott, Maine 04652
 United States of America
 207-733-2179



February 22, 2006

George D. Lapointe, Commissioner
 Department of Marine Resources
 21 State House Station
 Augusta, Maine 04333-0021

Dear Commissioner Lapointe:

I received your notice of meetings to discuss General Category Scallop permits. I hold a 1B General Category Scallop permits. According to Commercial Fisheries News only 816 vessels have taken out 1B permits by early December. This alone significantly limits the number of boats with 400# permits. It is my opinion that anyone who went to the trouble of purchasing and installing a VMS by December 1, 200 should allowed to stay in the 400# category, weather they have landings or not.

From what I read there is concern about effort in the General Category. You now have 800 vessels to put in a Limited Access General Category with permission to land 400#. There were 2831 in the 400# General Category. This is a very significant reduction in potential effort. Everyone had months to decide whether having the ability to land 400# per day was important to their operation.

If you want to have a total allowable catch it should effect all limited access boats not just General Category Boats. When you reach the total allowable catch General Category boats should be able to continue to fish at the 40# per day level. Or at least those with VMS so all additional landings are recorded this way.

Those bigger boats have deeper pockets and many are large companies with multiple boats in many fisheries in some cases. Allowing 800 boats to continue to fish at the 40 pound per day level would allow a small operator to continue to have some cash flow to pay bills or buy groceries. I do not feel it would be fair to put a total allowable catch limit on the small boats while the big boats just keep on fishing. It appears to me that there has been some significant increased in effort in those limited access categories. There are always new boats being built old boats with permits purchased and upgraded.

I see where the New England General Category Scallopers Coalition was thinking about limiting drag size at 8 feet I could support that or 10 feet limitation similar to Maine Law. If drag size is seen as necessary for General Category Limited Access Boats. They are already limited by the amount they can land. It would be nice if you could work with The NEGCS to come up with a proposal for limited access General Category Boats to be submitted to the New England Council so General Category Boats with 1B permits will speak with one voice and have a better chance of getting what they want or need.

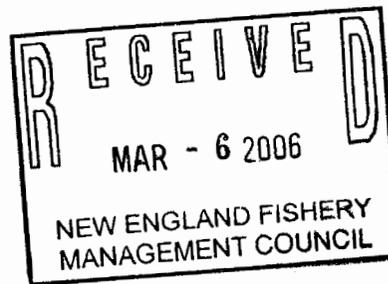
Can a General Category Permitted boat go on a multiple day trips as long as they do not exceed the per day limit or do they have to come in to port every night? For example, Three days out can not land over 1200# or do I have to come in to port every night and land my scallops?

Sincerely,

Bill

W. William Anderson

Paul J. Howard
Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA 01950



Bob Baines
F/V THRASHER
89 Waterman Beach Rd.
South Thomaston, Me. 04858

2/9/06

GENERAL CATEGORY SCALLOP COMMENTS

Dear Mr. Howard,

I am a Maine lobsterman who has also participated in the scallop fishery for over 20 years. I have held a general category permit with landings history since 1993. It is extremely important for Maine fishermen who hold a general category scallop permit to retain the ability to harvest scallops in waters off the New England coast. Many of the fishermen who hold general category scallop permits fish on small boats in a directed fishery either on a seasonal or full time basis. The ability to continue in this fishery will allow the owner operator, small boat fleet to survive in an arena being dominated by big boat, corporate owned operations.

1. If it is the intent of Amendment 11 to control capacity in the general category fleet, then limited entry must be used. I would support the control date that has been established, although there is not much difference in the number of permits issued in '04 compared to '05. Qualifications for a limited access program should be based on hundreds of pounds of scallops landed while holding a general category permit during the last ten years.

2/3. An allocation between the limited and general category fleet should only be considered if the limited access fleet is prohibited from landing scallops under their general category permit (double dipping). A 20% quota would be a fair allocation to allow the small boat fleet to maintain economic stability. A north/south sector should be considered to evenly distribute effort.

4. A hard TAC should be used for the entire general category fleet, along with limited entry, but not on an individual basis. It would not be in the best interest of the fishing community to create individual ownership of harvesting rights. A fleet wide TAC with area and/or season limits would effectively control effort.

5. The use of sectors or harvesting co-ops should be a part of the plan as long as all qualifying general category permit holders can participate. Sector allocation has the potential to provide better stewardship of the resource, but many questions first need to be answered as far as who has the right to harvest under the general category permit.

6. If a limited access program is initiated in the general category fishery, there should be no bycatch of scallops allowed by vessels which do not have general category permits. The scallops can be returned with minimal discard mortality. Under a hard TAC, any incidental catch should be prohibited when the quota is reached.

7. If the general category fleet is managed under a hard TAC, the fishing year should not be changed. The general category, directed fishery scallop fleet, is predominantly a small boat fishery. A change in the fishing year to later in the year could put these boats at risk by fishing later into the fall and winter months fearing there would be no quota left by springtime. The current fishing year provides these boats with the best weather which affords the fishermen the safest time of year to be working in small boats.

I have two other comments that I feel are relevant to the General Category Scallop Fishery. There seems to be a problem in the inability to transfer general category permit history. I know of a number of fishermen who have lost their history after building new boats and not being able to transfer their old permits to the new boat because it is still an open access fishery. This problem needs to be rectified if Amendment 11 is going to make the general category scallop fishery a limited access fishery and where entry is based on the control date and history.

Also, and I understand that this has nothing to do with Amendment 11, general category fishermen must be allowed back into the traditional fishing grounds in the Great South Channel. The general category fleet is using the same gear as the limited access fleet, so there is absolutely no reason why they should be treated any differently than the limited access fleet. The general category fleet must be designated as an exempted fishery which would sustain the economic viability of the fleet and spread effort over a much larger area.

Sincerely,

Bob Baines
rsbaines@adelphia.net

DMR Scallop Meeting Summary

Portland, ME

Feb 6, 2006

Meeting Room at the Casco Bay Lines Ferry Terminal

In attendance: George Lapointe, Terry Stockwell, Cindy Smith, Barbara Stevenson, Maggie Raymond, Kurt Denholm, Terry Alexander, John Higgins, Phillip Chase, David Todd, Mark Roberts, Mike Stinchfield, David Horner

Points from Portland Meeting:

- The rules should be changed so the Limited Access (LA) vessels cannot fish outside of their DAS under General Category (GC) rules. Limited Access vessels should not be able to fish outside their DAS.
- There are two kinds of (federal waters) scallopers in Maine - a directed day boat fishery and a bycatch fishery. We must protect both.
- It is critical to allow bycatch of scallops in the groundfish (particularly the yellowtail founder) fishery.
- The bycatch catch limit should be more than 40 pounds per trip, 40 pounds is too low.
- Allocating 2-5% of the TTAC to the GC sector of the fishery is way too low. The GC sector should be allocated at least 20% of the TTAC.
- The Nov 1, 2004 control date should be changed – possibly to December 1, 2005 when VMS was required.
- There should be an open access permit in the small dredge exemption area in the GoM – with maybe a 200 pound landing limit.
- Suggest giving the guys with no recent landings history a limited number of DAS to fish at 400 pounds per DAS.

DMR Scallop Meeting Summary

Rockland, ME

Feb 7, 2006

Marine Patrol Meeting Room (Ferry Terminal)

In attendance: George Lapointe, Terry Stockwell, Cindy Smith, Alan Talbot, Dennis Young, Jr., Wallace Gray, John Higgins, James Wotten, Gordon Connell, Doug McLennon, Michael Ball, Jeremy Smally, William P. Waldren, Bob Baines, Jeremy Alley, Matt Ross, Ivan Chase, David Aho

Points from Rockland Meeting:

- GC sector of the federal scallop fishery should be allocated at least 15-20% of the TTAC
- ME fishermen need flexibility to fish in different fisheries throughout the year.
- Opposed to having the VMS requirement be part of the qualifying criteria.
- Maine fishermen need access to the GOM scallops when they come back
- Changing the fishing year would be bad for Maine boats. If the season starts in the fall, Maine guys generally have smaller boats and poor weather conditions so they will have less opportunity to catch scallops in the fall and winter (before the fishery gets fished out or closes for the year).
- Opposed to changing the fishing year.
- I was not able to keep the landings history when I sold my boat; I was told I couldn't transfer that history to my new boat. How am I going to be able to fish in this fishery?
- One guy suggested a weekly quota with a Hard TAC to spread out the landings. He explained that 400 pounds per day equals 2,800 pounds per week; he is willing to only catch 1,800 pounds in the week but he wants to be able to decide when to fish.
- One man asked how to let the guys in who qualified originally but didn't bother getting the limited access permits because scallops were scarce and the price was only \$3 a pound.
- The Limited Access vessels should not be allowed to fish outside of their DAS on GC rules.
- There was a suggestion to split the fishery into a Northern and Southern zone with the dividing line being the 73-00 west longitude line.
- There was a suggestion to stick with the existing control date of Nov. 1, 2004, (not changing it).
- How can we change the rules so we can go scalloping under the GC rules in the Great South Channel? It's a groundfish rule, so it would have to be in a groundfish action.
- We should allow groundfish draggers some incidental bycatch.
- Another man disagrees: We should not allow a bycatch fishery.

DMR Scallop Meeting Summary
Machias, ME
Feb 9, 2006
U Maine Science Building, Room 102

In attendance: George Lapointe, Terry Stockwell, Cindy Smith, Ivory (Fuzzy) Preston, Mike Danforth, David Look, Ben Crocker, Edmund B, Lanny Wood, Leigh Feeney, Walter Jerome, Howard Robbins, Leo Murray, Fannee Beal, Bernard Beal, John D. Wood, Matt Fronczak, John Polk, Larry Wood

Points from Machias Meeting:

- A hard TAC is a bad idea unless there is a line so the southern boats can't come up north. The boats in the Mid Atlantic have the capability of catching the whole TAC.
- Maine boats should have access to scallops in the GOM when they come back.
- The General Category fishery should get at least 25% of the TAC.
- In 2005 the GC landings were lower than they would have been otherwise because the Hudson Canyon Area was terrible fishing.
- The Groundfish closures are what made the scallops come back, not the sacrifices of the limited access fleet.
- Maine boats used to sell their catch for cash, so they have little in the way of recorded landings history.
- Maine boats would lose in the derby fishery created by a Hard TAC.
- Last week off Rhode Island there were 19 boats over 75 feet fishing the GC scallop fishery, wasn't this GC originally supposed to be limited to 45 foot boats?
- There are people who sold their boats without retaining their federal waters scallop catch history, and therefore will probably not qualify for the new limited access GC fishery. How can we address that problem?
- Some people prefer to lower the daily landing limit to 200 pounds so it is not worth it for the bigger boats to participate.
- Requiring VMS to stay operational even when fishing in state waters is just a ploy to make us quit fishing.
- We need to allow incidental catch in the groundfish fishery.
- Catch increased dramatically after the year 2000 because in that year they made a rule that LA had to keep the VMS on all the time and couldn't duck inside to shuck, deliver and go back out again.
- We need to protect Downeast fishermen.
- Absolutely we should not lower the 400 pound daily limit.
- Many Maine fishermen want to be able to lobster for some months and scallop for some months.
- I want to support the Maine guys who go down to the Cape to fish. I want to be able to go scalloping again sometime.

DMR Scallop Meeting Summary
Ellsworth, ME
Feb 13, 2006
Ellsworth City Hall

In attendance: Terry Stockwell, Cindy Smith, Susan Jones, Stanley Sargent, Adam Stanwood, Russell Leach, David Leach

Points from Ellsworth Meeting:

- You should get your VMS and go fishing or you will be done.
- I chose not to buy VMS back in 1994 when it cost \$8,000 and \$300 per month to operate, when scallops were selling for only \$3 per pound. You should let the guys who qualified back then enter the Limited Access fishery now.
- I bought a new boat but didn't keep my old landings history when I sold my old boat. Now what am I supposed to do?
- Rebate money for VMS will just encourage everyone who hasn't bought one yet to go buy one.
- I can't transfer my federal landings from my old boat to my new boat, what am I supposed to do?
- The GC segment of the fishery should be allocated at least 25 or 30% of the TAC, not a Hard TAC of pounds.
- The 400 pounds per day is our hard TAC, there do not need to be any other limits on the GC fishery.
- I only want a specific allocation of pounds if it is transferable.
- There is no need for sectors in the GC fishery.
- We should not change the start of the fishing year – it would be a safety disadvantage for Maine boats.
- Opposed to permit stacking, it does not remove capacity; rather it allows big companies to operate more efficiently.
- We have to protect the Maine fishing communities. There must be a way to allow Maine fishermen to fish in federal waters for scallops for a few months per year.
- When scallops come back to federal waters in the GOM then Maine fishermen have to be allowed to go fish for them. It would be totally wrong to shut out Maine fishermen.
- People who don't qualify for this limited entry should still have some access to the fishery... maybe 200 pounds per day would be ok.
- How will my sons and nephews be able to go fishing for a living?

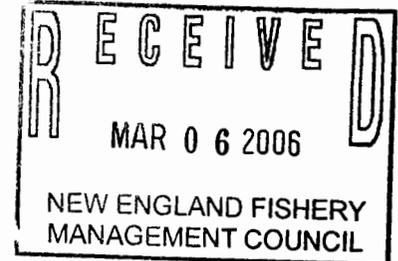
Additional Comments by phone or in writing:

- Limited access is an acceptable way of controlling capacity
- Support the current control data even though there is not much increase from 2004 to 2005.
- Qualification period should be 1994-2004; but only require a few hundred pounds of landings in any one year.
- Allocation between limited access and GC fleet only if the LA fleet is prohibited from landing outside their DAS.
- The GC fleet should get at least 20% of the TAC
- There should be North and South sectors to evenly distribute catch.
- Hard TAC for the whole fishery would be fine but only for the limited access and the general category fleets, but not for individuals.
- Sectors might be ok, as long as all GC permit-holders can participate.
- No bycatch or incidental catch fishery
- Do not change the fishing year.
- You have to fix the problem of historical landings not being transferred to a new boat in an open access fishery.
- You should let them go back to fishing in the Great South Channel because they use the same or smaller gear than the limited access fleet.
- We need a larger % of the TAC than 3-5%, at least 20%
- We should have a separate TAC for the GC
- Dec 1, 2005 should be the control date
- It would be ok to have an open access permit for the GOM with low landing limit
- Individuals should be able to consolidate their permits and history to the most advantageous position for the future.
- NO IFQs

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Tuesday, March 07, 2006 4:34 PM
To: Deirdre Boelke
Subject: [Fwd: Atlantic Sea Scallop Amendment 11 Scoping Comments]

----- Original Message -----
Subject: Atlantic Sea Scallop Amendment 11 Scoping Comments
Date: Mon, 06 Mar 2006 22:14:17 -0500
From: Robert & Debra Maxwell <bdmaxwell@comcast.net>
To: ScallopScoping@noaa.gov
CC: Donmyers46@aol.com



The most practical way in all fairness to all parties within is to have individual days at sea because it is a program already in effect by NMFS. This gives people who were in the fishery what they deserve. For instance, by using the control date of November 1, 2004 and picking the highest days at sea from any one year from 1999 to 2004 allows for people to pick there best year prior to the control date that *were active* in the fishery. If you do not have any landings from 1999 thru November 1, 2004 you end up with 40 pound by catch. There should absolutely not be any rig up clause what so ever, if you have no landings between the dates above then you do not qualify. By using this criteria it would make this general category limited access a more sustainable fishery by utilizing the 8.5 percent of total landings in 2004.

Thanks

Robert Maxwell

Collier Shannon Scott

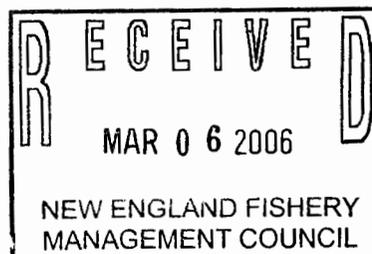
Collier Shannon Scott, P.C.
Washington Harbour, Suite 400
3050 K Street, NW
Washington, DC 20007-5108
202.342.8400 TEL
202.342.8451 FAX

David E. Frulla
Member of the Firm
202.342.8648
DFrulla@colliershannon.com

March 6, 2006

**VIA ELECTRONIC MAIL
AND ORIGINAL BY FEDERAL EXPRESS**

Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA 01950



Re: Atlantic Sea Scallop Amendment 11 Scoping Comments

Dear Captain Howard:

As you know, we represent the Fisheries Survival Fund. FSF's participants include the bulk of the full-time, limited access scallop permit holders, homeported from Massachusetts to Virginia. We appreciate this opportunity to present these comments in connection with the Council's scoping process for Scallop Amendment 11.

Circumstances have conspired to convert a persistent and troubling issue regarding the need to control the growth of the General Category into a major problem. As you know, ever since the Council commenced development of Scallop Amendment 10, in 2000, FSF has been advocating for bringing General Category scallop effort under the management limitations that have so successfully been applied to the limited-access fleet since Amendments 4 and 7 – limitations which have seen the scallop resource rebuilt and the fishery transformed into one of the success stories of the post-Sustainable Fisheries Act era. However, the period from 2003 through 2005 saw General Category landings outside the Limited Access fleet increase from 3% to over 12%. A number of factors were at play – historically high scallop prices, good sets of scallops in near shore beds, and the Region's last remaining open access fishery available to those experiencing hard times in other fisheries from the Gulf Coast to Maine.

FSF and its participants have consistently and increasingly expressed concern over the unchecked growth in effort, landings, and capitalization in the open access General Category fishery occurring in New England and, particularly, the Mid-Atlantic. Almost 70% of the General Category scallop landings now come from the Mid-Atlantic. These trends threaten the resource, the prospects of the long-term dayboat scallopers whose livelihoods depend on local, inshore scallop beds, and the very concept of rational, conservative exploitation of New England's fisheries resources. FSF therefore thanks the Council for undertaking development of this important Amendment 11, and thanks it in advance for proceeding towards prompt and timely implementation.

The Council in Amendment 11 will, unfortunately, have to make some hard choices – choices that have been made harder because General Category growth was not addressed a few years ago when problems with the General Category were emerging. However, it would be bad resource management, horrible precedent, and not fair, for the Council to palliate the problem by fundamentally reallocating the scallop resource at a time when the pendulum has swung such that returns from the scallop fishery are (or more accurately, were in the 2005 fishing year) at a cyclical pinnacle and conservation sacrifices need to be made to rebuild other fisheries the way the scallop fishery has been rebuilt.

That said, the Fisheries Survival Fund has always recognized a discrete, historical in-shore, small vessel, dayboat scallop fishery mostly along the New England Coast. The dayboat fishery was prosecuted from existing vessels and generally seasonally. Under Amendment 4, which should control, the General Category was intended for these fishermen, not new participants, in new vessels, who have in recent years turned to directed scalloping as a full-time pursuit.

Independent of this small inshore directed dayboat fishery, the Fisheries Survival Fund recognizes that directed fishing operations for other species also catch incidental amounts of scallops. Amendment 11 should distinguish the incidental catches from directed dayboat operations and treat them separately. There appears to be no need to limit truly incidental scallop catches.

While the FSF recognizes the need for the dayboat fleet to develop an effective set of measures to achieve the Council's goals, FSF's resources and expertise are available to assist the Council and historic dayboat scallopers in developing viable solutions. FSF does believe, however, that Amendment 11 should be developed consistent with certain important decisions the Council has already made.

FSF will use these scoping comments to set forth a series of principles that should guide Amendment 11, and will then proceed to address the questions the Council has specifically raised in its scoping document.

FUNDAMENTAL PRINCIPLES FOR AMENDMENT 11

1. **The Council should not use Amendment 11 to provide for a General Category sector that is larger than can be supported by the reasonable allocation of the scallop resource according to historical landing percentages.** The Council's experience with groundfish shows that it is very difficult to implement effective conservation limits when an inordinate number of permit holders qualify for entry into a fishery. This point may be even more salient for the General Category scallop sector, which should reasonably be expected to have only a modest allocation of the fishery to begin with. As explained below, from the inception of Amendment 4 in 1994 until the year the General Category control date was implemented (November 1, 2004), the General Category effort (not including Limited Access permit holder landings off the DAS

program) did not account for more than approximately 5% of overall scallop landings, and averaged approximately 3% of these landings.

2. Amendment 11 should be based on the allocation of the scallop fishery that Amendment 4 established. It is important to recognize that the Council has already made what was supposed to represent a durable allocation of the fishery in Amendment 4. Amendment 11 should be consistent with the purposes for which Amendment 4 created the Limited Access fleet in the first place.

More specifically, Amendment 4's primary purpose was to include essentially the entire directed scallop fishery in the limited access regime so that it would be "easier to control fishing mortality." Amendment 4 accordingly established a series of limited access categories covering almost all those permit holders who chose to participate in limited access and could document virtually any participation. To qualify for limited access, a vessel need only have landed a total of 400 pounds of scallops during the qualifying period.

Amendment 4 did substantially rationalize the scallop fleet, with positive consequences for the fleet and the resource. This rationalization allowed the conservation measures implemented for the scallop fishery (for example, days-at-sea ("DAS") limits, ring-size limits, and crew limits), to take hold and rebuild the resource, while allowing participants to still obtain a return from the fishery. Further, the fleet has also been able to invest in research and constructive engagement with the Council and NMFS. And, in reliance on Amendment 4, the limited access fleet has created solid domestic and international markets for healthful, abundant, reasonably-priced Atlantic scallops. This is the promise of fishery rationalization.

However, Amendment 4 entailed a considerable sacrifice by those who chose to enter the Limited Access scallop fishery. Limited Access participants relinquished other New England permits and opportunities to concentrate on scallops under Amendment 4, and did so at a time when the scallop resource was at a very low level (when catches were less than 400 pounds per day). The fact that the Council required those opting for a Limited Access scallop permit to relinquish other New England permits adds strongly to the equities in not requiring any fundamental reallocation of the scallop fishery from what was achieved following the extensive Amendment 4 processes. The Limited Access fleet's days at sea have been curtailed since Amendment 4, and they continue to be curtailed to this day. By contrast, the General Category has seen no new limits since 1994, save for the VMS requirements recently imposed.

3. The Council should not use Amendment 11 to fundamentally alter the General Category fishery. The Council created the General Category in Amendment 4 as a compromise to allow some modest scallop landings for those vessels who could not meet Amendment 4's exceedingly limited qualification standards, did not or could not document their landings history, or otherwise decided not to accept the burdens of a scallop limited access permit, including limited opportunities to participate in other fisheries.

Significantly, the General Category was supposed to have only a minimal impact on scallop mortality. In fact, Amendment 4 specifically intended for General Category scallop mortality to be so insignificant that it was not planned to be counted in setting overall scallop mortality estimates. If the General Category grew, Amendment 4 specifically stated that the Council should reduce allowable General Category landings, as opposed to re-doing the allocation of the fishery that Amendment 4 created. The recent, explosive General Category growth should be constrained to maintain the General Category's historic purpose and share of the fishery. As explained above, the Council should not fundamentally revisit the decisions it made in Amendment 4.

4. Amendment 11 should not detract from the purposes of Amendment 10. Following the rebuilding of the scallop resource, the Limited Access fleet has invested in developing an area management amendment, Amendment 10, that has great prospects to improve long-term scallop yield. The Amendment 10 system of rotational area closures and controlled openings represents a dramatic management improvement, especially as compared to past races to new sets of scallops just as soon as they were large enough to be retained by the gear.

Consistent with these efforts to improve yield, any allocation regime should take into account the type of gear used by the various types of dayboat scallopers. For instance, the Council should consider options to ensure scallop yield, including but not necessarily limited to requiring any new dayboat category to use dredges only, with 4-inch rings. Extensive research, over many years, has demonstrated that a directed scallop trawl fishery is able to target smaller scallops, limiting the Council's ability to achieve optimum yield from the scallop resource under Amendment 10.

5. Amendment 11 must reflect the realities of the scallop resource. In 2004, according to Northeast Fisheries Science Center estimates, scallop fishing mortality was more than 50% above the target. In 2005, the Council decided against precipitate action to correct that problem because decisions made in Amendment 10 and Framework 16 were to reduce Limited Access scalloping in 2005. Moreover, it was understood that DAS would be further adjusted in 2006 and 2007 under Framework 18. Preliminary catch statistics in the Amendment 11 scoping document suggest that Amendment 10 and Framework 16 did function as intended. Limited Access catch in 2005 did indeed drop to under 40 million pounds, from the approximately 60 million in 2004. Although nominal Limited Access DAS allocations are going up in 2006 and again in 2007, many of these DAS (more than half) are to be tied to access area trips, meaning that it is not likely that all days allocated will be fished. The actual number of days spent at sea by each Limited Access vessel is being tightly constrained. In contrast, General Category effort and landings have increased quickly, and they, too, must be constrained.

There are also troubling signs that the problems seen in Hudson Canyon in 2004 and 2005 are now becoming general across the Mid-Atlantic (outside the Elephant Trunk access area) and in coastal waters of New England. While scientific projections for the Elephant Trunk Area are very encouraging, neither scientists nor industry have any experience with such dense scallops. As has been shown in the Hudson Canyon access area, and before that in the Virginia Beach access area, it is not a certainty that the dense concentrations of scallops in the Elephant

Trunk will survive and grow as projected. Nor has there been much sign of further major recruitment, following the year-classes protected by the rotational closure. All of this is to say that the Council should be conservative in allocating scallops as its "margin for error" (scallops at historic levels of abundance, at least in recorded times) may be shrinking.

6. Amendment 11 must account for the Council's legal mandate to maintain rebuilt fisheries over the long run. Suggestion has been made that there are more than enough scallops to satisfy the needs of both the Limited Access fleet and the new entrants to the dayboat fishery. Recent reports from the fishing grounds suggest that that is no longer true but, even when the ocean had many scallops, the claim was a mistaken one.

The Sustainable Fisheries Act of 1996 changed the basis of fisheries management, placing an increased emphasis on conservation, and insuring that fisheries resources be and remain rebuilt. The goal was to replace (or at least moderate) the "boom and bust" cycles that prevailed in many fisheries. The Atlantic sea scallop resource was rebuilt, and thus there are many scallops in the ocean. However, rebuilding was achieved by restricting the mortality rate. Modern fisheries management supposes (as the Act requires) that high biomasses must be maintained by keeping mortality rates low.

Thus, while there may be relatively many scallops to catch, there is only a limited amount of mortality permitted. The limits are so strict that "full-time" vessels are only working some 80 days per year, and it has already been suggested to the Council by the Capacity Committee that it may have to consider reducing the number of Limited Access vessels so as to increase their commercial viability. In that situation, there is no justification for transferring substantial portions of the allowable scalloping opportunities to new entrants.

RESPONSES TO THE COUNCIL'S SCOPING QUESTIONS

I. Limited entry in the general category fishery:

- **Should the Council consider and use limited entry to manage capacity in the general category fishery? Why or why not?**

The Council should consider creating a new limited access dayboat permit whose holders would be allowed 400 pounds per day for a reasonable number of days per year for an in-shore scallop fishery. This is separate from allowing continued incidental catches of scallops in directed fisheries for other species; accordingly, the Council should not consider a new limited entry program for vessels operating in other fisheries and landing only incidental catches of scallops.

More specifically, Amendment 11 should design this dayboat permit to provide a reasonable amount of access for a discrete, numerically-limited, well-understood set long-time, directed day-boat scallop fleet which opted out of limited access under Amendment 4. From 1994 until 2004, when the Council set a new General Category control date, these dayboat fishermen, along with fishermen in other fisheries with traditional incidental scallop catches,

landed about 3% of total landings on average. However, and significantly, as explained above, the Council should not use Amendment 11 to create a new fleet sector that is larger than can be supported by a reasonable allocation of the scallop resource according to historical landings percentages.

The Council may want to consider whether there are any discrete historic, dayboat scallop fisheries that are prosecuted in state waters, outside the NMFS Atlantic scallop assessment area (perhaps north of the 42° 20' line), that might present a rationale for exclusion from the Amendment 11 regime. Such an exclusion should not apply to vessels that opt to fish for scallops outside this narrow context and geographically limited area.

- **If a limited access program is established, should qualifying criteria be based on the November 1, 2004 control date?**

Any new limited access program for the General Category must be developed using the November 1, 2004, control date. Others who cannot demonstrate significant landings before the control date should not be able to continue to participate in a 400 pound per day dayboat scallop fishery.

It will not be enough, however, simply to admit every vessel that held a general Category permit as of the control date, nor even every vessel that had recorded a scallop landing before that date. Either approach would leave such a broad number of qualifying vessels that each participant's share of the remaining fishery would be reduced below what is needed to sustain an active dayboat scalloper.

- **What types of qualification criteria should the Council consider if it designs a limited access program for the general category fishery?**

To qualify for a limited access permit for directed dayboat scalloping (as opposed to being allowed a much more limited level of incidental landings in directed fisheries for other species) under Amendment 11, a General Category vessel should be required to demonstrate significant catches from directed scalloping (again, as opposed to incidental landings), in several different years prior to the November 1, 2004, control date, over the duration of Amendment 4, 1994-2004.

Further, vessels with incidental catches of scallops, but no history of participation in a directed dayboat scallop fishery before the control date, should not be included in any new directed dayboat permit category. Thus, to qualify for a limited access permit, a vessel should be required to demonstrate that its scallop landings on a certain number of trips, over a certain number of years, exceeded a level that would be considered incidental bycatch from directed effort in other fisheries.

Unrecorded landings, illegal landings, and other scallop landings inconsistent with the regulatory regime, should not be permitted to count towards qualifying.

II. Allocation between the limited and general category fleets

- **Should the Council consider allocating the scallop resource among defined fisheries and/or seasons, or individual basis; or should the Council set specific limits fishery wide for the general category fleet?**

The Council should establish a durable allocation of the scallop resource between the current Limited Access fleet and the dayboat fleet that has been fishing in the General Category. There is no indication that landings of incidental catches of scallops are increasing, and FSF sees no reason to impose a specific allocation on such landings at this time.

The Council should not allow Amendment 11 to create a set of qualifiers for any new day-boat fleet that is larger than is consistent with a reasonable allocation of the scallop resource according to historical landings percentages. While how this outcome is achieved is a matter of greatest import for the General Category vessels and their organizations, rather than the FSF, there are certain truisms that the Council will have to consider as it makes such decisions.

For instance, a hard cap limit of some percentage would involve issues of enforcement costs and enforceability more generally. The task of managing the General Category fleet would be made simpler if its size is consciously pegged at a number projected to fit comfortably within the sector's target share. That share, in turn, should be tied to the historical share of this sector.

On the other hand, the success of the scallop fishery to date has been built on individual allocations, specifically in DAS to Limited Access vessels. While a similar system may or may not meet the needs of the General Category, there may be solutions which are fairer and more effective than a categorical hard quota. Given its dispersion and the geographic and operational differences of the participants, for example, a possibility might include regional management solutions within the General Category as a whole.

- **What should the basis be for choosing "fair and equitable" allocations (or catch limits) for the general category and/or limited access fleets?**

Only landings from before the November 1, 2004, control date should be factored into determining a reasonable allocation. The control date is recent, well-publicized, and follows years of Council discussions about the need to limit fishing effort and capitalization in the General Category. Using the control date already provides for a broad (actually a way too broad) number of potential qualifiers, without adding speculative effort that cascaded into the fishery in 2005 and even 2006 when prices were high. Effort in 2005 has created conservation issues and is fundamentally changing the extent and even the nature of the General Category fishery.

Indeed, in recent years (up until the control date), overall scallop landings from the General Category (excluding Limited Access participants fishing off DAS) were 1.03% of overall landings in 1999, 3.80% in 2000, 4.33% in 2001, 2.35% in 2002, 3.04% in 2003, and 5.35% in 2004. Any allocation should be included in this range, perhaps as an average, because the time period encompasses periods of high and low scallop abundance, as well as different points in the abundance cycle for a range of other New England and Mid-Atlantic fisheries. The average of the annual percentages for 1994 to 2004 inclusive was 2.93%. And, of that approximately 3%, approximately one-third (1% of the overall scallop landings), came from incidental catches of scallops in directed fisheries for other species. In addition, the Scallop Committee and Council had begun developing General Category measures, using a 5% allocation, which represents the upper end of the pre-control date historic range.

As explained in detail in FSF's introductory remarks, a fair and equitable allocation should reflect the many forms of investment the Limited Access fleet has made in developing the scallop fishery into one of the Nation's post-Sustainable Fisheries Act success stories. The Limited Access fleet sacrificed the most for, has the most invested in, and is the most dependent upon, the long-term success of this fishery.

III. Dual application for limited access vessels

Certain Limited Access participants, particularly in New Jersey because of its unemployment laws, have fished under General Category rules to maintain their crews. This is perfectly legal and consistent with applicable regulations. In any event, no vessel should be considered for exclusion from the General Category unless the Council proceeds to implement a limited access fishery for the directed dayboat sector. Furthermore, separate and apart from any new limited access category, certain Limited Access scallopers have permits in other fisheries and they should be able to continue to land scallops caught incidentally in their permitted, directed fisheries for these other species.

If the Council does proceed to consider such an option, the Ad Hoc General Category Scallop Advisory Panel should include those members of the Council's Scallop Advisory Panel who have operated a Limited Access scallop vessel under General Category rules, in addition to those members who hold General Category permits, in order for the Council to gain a true understanding of the scope, scale, and rationale for the fishery.

IV. Use of hard TACs in the general category fishery

A hard TAC for the directed dayboat sector should be considered as an option if a hard TAC is required by the other management options selected. However, a hard TAC should be considered only in conjunction with other General Category measures, such as limited access for a directed dayboat fleet, which will ensure that any such TAC can be set and maintained at a fair and equitable level of the overall scallop catch. Specifically, the primary measure in Amendment 11 should be to limit access to, and hence capacity in, directed dayboat scalloping.

A hard TAC should be one alternative considered in conjunction with such new limits, albeit a hard TAC would be less necessary if access is limited to a sufficiently discrete number of qualifiers and if other input controls (such as DAS and the 400-pound trip limit) are applied to this limited number of qualifiers. The more vessels that qualify under Amendment 11, the more demands there will be for suboptions under any quota system to divide the catch by area, sectors, seasons, and the like. Finally, other alternatives that build on the Council's success with individual allocations in the Limited Access fleet should also be developed, such as individual limits on the number of trips for the qualifying members of the General Category fleet.

If hard TAC management is adopted as part of Amendment 11 for the General Category, it should not be required for the Limited Access fishery. The two fisheries are different and require different management. The existing Limited Access sector is already subject to a combination of input and output controls (open area DAS, access area TACs, crew size limits, ring size and twine top limits) to limit mortality.

V. Use of sectors and harvesting coops (Dedicated Access Privileges)

The Council should ensure that the fishery it creates in Amendment 11 is confined to dayboat scallop fishing on coastal scallop beds, in vessels that are consistent with this fishery's historical roots. Amendment 11 should not allow, through the creation of sectors or other forms of consolidation, for the grouping of poundage onto larger vessels capable of and planning to fish offshore.

More specifically, historic directed dayboat scalloping has been filling a demonstrable niche in the fishery by harvesting coastal scallop beds. This dayboat fishery has also provided an entry-level, owner-operator-based fishery that tends to have been located in small communities, often without the infrastructure to support an offshore fleet. This fishery is worth maintaining for these goals. These goals would not be met by allowing 10 dayboat permit holders to get together, essentially as passive investors, and add what amounts to another full-time, off-shore vessel by consolidating their allocations onto one large vessel.

Further, Amendment 11 is, and should be, on a fast track. As recent experience from herring has shown, the development of sectors and harvest coops can be complicated and potentially time-consuming, if the Council wants to understand their actual allocative impacts. Accordingly, the Council may ultimately need to allow for the development and consideration of these approaches once Amendment 11 is completed.

VI. Landings of incidental scallop catch

Vessels that do not qualify for a new limited access permit under Amendment 11 should be allowed a minimal level of incidental scallop catch, to accommodate historical fishing patterns and prevent discarding of scallops in directed fishing for other species.

Paul J. Howard, Executive Director
March 6, 2006
Page 10

Collier Shannon Scott

As noted above, the incidental catch permit should remain open-access. There are currently no issues with this sector of the fishery, and thus no pressing reason to change the rules, other than to develop alternatives to insure that such catches truly remain "incidental" to other, primary fishing efforts. In that regard, perhaps a good definition of incidental might be is that proposed in Framework 17, of 40 pounds per day fished.

A true incidental catch limit, tied as it should be to vessels fishing under rules of other, directed fisheries and set at a number that would not be profitable to entice vessels to engage in directed scallop trips, is a historical use that should be protected under Amendment 11. Incidental scallop landings have accounted for only a fraction of the total scallop landings. It is simply a completely different fishery, and should be treated as so under Amendment 11, from the directed dayboat scallop fishery that is in part historical, but also in larger part a recent phenomenon created by the confluence of the Amendment 4 General Category rules, record scallop prices, and historically-high levels of abundance.

VII. Change the fishing year

The Council should not change the fishing year at this time. Such a change would represent an added complication, and one which the Council has already considered and rejected as part of Amendment 10.

Furthermore, consideration of changing the fishing year is premature until NMFS figures out how it will replace the *R/V Albatross* surveys. If the Council wants to ensure the fishing year corresponds with the survey over the long run, it should thus wait to know when and how the new surveys will operate.

Changing the fishing year should not be done casually or repeatedly, as it will cause severe disruptions to the established seasonal practices of the fishery and scallop markets. Thus, the Council should not change the fishing year, only to have to consider changing it again when its new survey approach is developed.

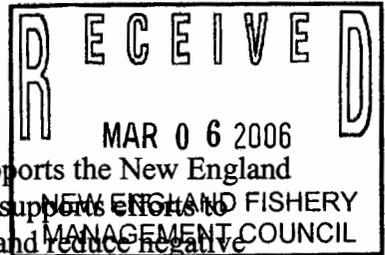
Thank you again for this opportunity to comment on the Amendment 11 scoping. Please do not hesitate to contact us if you have any questions or require additional information. FSF representatives will also be participating in the Amendment 11 process, and will provide additional comments and perspectives, as appropriate.

Sincerely,



David E. Frulla
Shaun M. Gehan

Counsel for the Fisheries Survival Fund



The General Category Scallopers' Coalition of New England supports the New England Fishery Management Council's desire to reduce overfishing and supports efforts to reduce by-catch, increase scientific understanding of the stocks, and reduce negative impacts on habitat critical to rebuilding groundfish stocks. We strongly support efforts to ensure the economic vitality of small fishing communities.

We also wish to build on the successes of the ideas put forward in the Amendment 10 process. It is very clear to us that leaving 80% of the stock behind on the fishing ground to enable the remaining scallops to continue to grow and spawn is the way to go. Rotational management, seasonal closures and areas closed to protect habitat and to allow the scallop biomass to increase are critical to the future for this fishery. Any changes in to the fishery brought about by Amendment 11 should be reflective and supportive of these key management methods.

We are committed to working with the Council on its shortened timeline, and we are pleased to present these comments.

Allocation

Allocation is the single most important issue facing the Council and once this issue is decided, we believe many of the other issues can be quickly resolved.

There should be a separate allocation for general category and limited access fleets and each should be managed following methods laid out in Amendment 10.

The Coalition requests a substantial amount of the total allocation of scallops located economically and safely within reach of directed day boat scallopers. We also request with proportional access to days or pounds in existing and future rotationally managed areas.

We request a fair and reasonable allocation substantially higher than the so-called historical norm of 2 – 5%. Today the scallop resource is larger than predicted and the DAS fleet has made record profits. We appreciate the past efforts of the DAS fleet to help rebuild the stock and understand their desire to capture as much of the resource as possible. However, we do not believe that a small class of boat owners should have exclusive ownership of a large public resource. We believe the resource is large enough so that all scallop fishermen can reasonably participate through an allocation that reflects today's realities.

The general category fishery has historically been retarded from growth because there weren't enough scallops close to home. Strong fishing pressures brought about through historic overcapacity, overcapitalization and aggressive targeting of inshore scallops by the DAS fleet reduced the local biomass. Amendment 10 changed all that.

As a result, the directed day boat fishery in New England is only now just evolving due to positive changes in the fishery which draw the DAS fleet to other, higher value areas.

This allows once heavily targeted areas within approximately 50 miles of shore to build biomass. If the directed boat fishery can responsibly participate in this fishery, it rightfully deserves substantial access to this resource.

Current and future management methods will continue to create significant scallop resources within safe economic reach of day boat scallopers. Fishermen like to return home to their families at night when they can. Some harbors are natural for smaller boat fisheries as frequent shoaling or shallow waters prevent access by deeper draft vessels. Small fishing communities ravaged by groundfish closures deserve to have a local fishery that works for them. The day-boat scalloper naturally lands a high quality product and consumers understand this additional quality and value. This can keep the bulk of monies earned by the day-boat scalloper in the immediate community.

We know that DAS captains and crew look forward to the day when they can “retire” and start fishing their own general category small vessels and know that the 2 different classes of access, while often in opposition to each other, each are part of the same fishery and that which benefits one benefit both.

Allocation issues when fully addressed in light of overfishing and overcapacity will allow a more full discussion of the allocation of TAC among regions, gear type and bycatch / incidental fisheries.

Manage Overfishing Regionally and Fairly

To fully address overcapacity and overfishing as the predominant concerns of Amendment 11, we need to understand in what regions and to what extent overfishing is occurring. FW 18 states that mortality is 2 times target in the Mid-Atlantic, and it is about 50% target in Georges Banks areas so we are firmly in support of reducing fishing mortality where it is occurring. Simply creating a limited access fishery and lowering effort or the number of vessels equally across the entire general category fishery will not likely fairly or fully address the issue.

It is clear that the general category catches only a fraction of scallops that the DAS fleet captures; subsequently if the general category fleet needs to take a reduction in effort it should be proportional to that, if any, which the DAS fleet will take. Otherwise, focusing on the general category fleet to address overfishing without regard to the DAS fleet is economically disproportional and simply unfair.

Anecdotal information indicates generally accepted deckloading practices wastefully kill approximately 10% of scallops landed. Better understanding and practices might allow some portion of these unnecessary losses of tens of millions of dollars to be allowed to live to grow and reproduce for harvest later.

One participant suggests another approach to reduce mortality might be to go to 4.5 inch rings across the entire scallop fishery. Others suggest only minimal cuts in capacity would be necessary if wasteful deckloading mortality is greatly reduced.

We understand that the biological stock is viewed as inseparable, yet wish to reinforce the fact that NEFMC recognizes 5 distinct fisheries:

The management unit for the Scallop FMP consists of the sea scallop resource throughout its range in waters under the jurisdiction of the U.S. The five resource areas generally recognized within the management unit are: (1) Delmarva; (2) New York Bight; (3) South Channel and southeast part of Georges Bank; (4) Northeast peak and the northern part of Georges Bank; and (5) the Gulf of Maine. The Delmarva area includes scallops as far south as North Carolina (NEFMC 2003). (quote taken from Scallop Framework 18, December 2005, Section 3)

Any discussion of methods to address overfishing must be couched in light of unique aspects of each of these 5 areas. What works well in one area may not work in others. Regional quotas, limited hard TACs, rotationally managed areas or other means to allow effective management are necessary.

The adoption of VMS may curb a substantial amount of the growth through the reduction of illegal catches; at the very least it will substantially increase our understanding of the fishery. A best approach would delay any changes to the fishery until several years of data have been acquired through this significantly improved system so that decisions are made on best available data. At the very least, groundwork needs to be laid in this Amendment to allow flexibility to more dynamically address regionally changing conditions as understood by ongoing improvements gained through increasing use of technology.

Creation of a Limited Access fishery out of the General Category

We absolutely support the transition of the general category fishery to a limited access fishery as we understand this will be a more easily managed fishery. This appears to be a good way to slow growth and excessive new entrance to the fishery. Yet since recent growth and new entrance appears to be heavily weighted to the southern states, where overfishing is happening at twice target with new entrants in the Mid-Atlantic landing 22% of general category scallops in 2004, it seems natural that key efforts to address overcapacity or overfishing should be regionally or geographically focused.

Regulated species bycatch TAC should be more easily managed with a limited access directed dayboat scallop fishery. Through the use of VMS and bycatch hard TAC's, the small mesh closures and exemptions should become a thing of the past, thus reducing enforcement efforts.

We support **uniform rules** for gear use; specifically we support a single 10.5 foot dredge (bearing the standard 4 inch rings / 10 inch twinetop) as the maximum sized dredge gear used by a directed day boat fishery to target scallops. We also support the Shinnecock line and wish to allow boats to cross this line only if they have intentionally declared in to one fishery and out of another for a minimum of time such as 30 – 60 days.

We also support some way to **allow controlled new entry** as an absolute control date disallowing any new ongoing entry will unnaturally constrain the evolution of the fishery. Suggestions to resolve this difficult issue include the creation and use of a sternman or apprentice program as used in Maine for lobster, or some form of new permit generation through a lottery, family participation or to reward unique contribution to the industry.

Generally, **we support the use of a control date** with history or other methods to lower overcapacity and limit effort to legal and traditional users of this resource. We also support any increase in enforcement activity to reduce illegal fishing or landing of scallops and wish to note that some landings history may be under or over-reported and may be the result of state and federal oversight. Of course, it is not known how much landings history is a result of mis-reporting. Not fully taking this into account may increase or discount future access to the fishery in a disproportionate way.

In our view, the “best use of science” should include a clear intention to increase understanding of methods to increase information and decrease illegality, especially in light of reduced enforcement workforces and increased workloads and base any adjustment on scientifically solid numbers. We’ll bear the hardship, as illustrated by the over 800 vessels purchasing VMS even though they may be prevented by fishing through the implementation of the November 2004 control date.

Learning from DAS to answer questions about allocation, TACs and limited access

There are many good refinements that the DAS fleet has developed over time that the evolving directed day boat scallop fleet can benefit from such as the ability to trade days, the “tiering” of vessels into different type permits such as small dredge, part time, occasional and full time access, the use of hard TACs and other measures to limit bycatch, the use of closed and rotationally managed open access areas to improve recruitment and reduce mortality while landing the same or greater weight of scallops per unit of effort.

There should be a provision in the new directed day boat fishery for vessels in varying circumstances to be somewhat self-limiting by vessel size, power, range, weather and other reasonable limiting factors. Boats targeting over 100 days of fishing per year should be controlled for and allowed, with the bulk of permits targeting the more common 30 – 60 days per year, perhaps through the issuance of tiered permits much like the DAS fleet has developed. Ideally, the permit holder should be able to move in a controlled fashion from one type of permit to another without substantial penalty in the event of an increasing or decreasing biomass.

We also support the idea that no limited access vessel should hold more than 1 limited access permit for that species.

Dedicated Access Privileges

We also **strongly support the idea of dedicated access privileges** to more effectively manage access to the fishery and to lessen conflict and manage for critical habitat and lower the burden of management as necessary by the Council.

Ideally we would like to see an inshore area, approximately delineated as a “50 mile limit” that designates an inshore zone for the directed day boat fishery fleet, where larger DAS boats are limited in access to this zone.

Our Coalition has been working with the Cape Cod Commercial Hook Fishermen’s Association to more formally address this issue. We feel that allying ourselves with organizations of this caliber will significantly advance our understanding and ability to manage and adapt to future changes.

We are beginning to work with the Hook and Gillnet Sectors and with members of the Habitat Council to work towards local control to eliminate gear conflict and to lessen impact on areas critical for groundfish spawning.

Other Considerations Not Mentioned in Scoping that should be included

We also would like to put on record our desire for the following measures to be considered now or in the future:

Increased use of Science and Management Methods

We also wish to support the additional increased use science and management methods, particularly the use of TAC Set-Asides to fund observers and research. This past summer many general category boats assisted voluntarily and informally, without any compensation to support an RSA project entitled “Increasing the Economic Value of the Atlantic Sea Scallop” and many have expressed interest in participating in additional research.

RSA funding, to date, has rarely been awarded to any efforts proposed by or to uniquely benefit the general category partially due to the economies of scale necessary to conceptualize, fund and conduct this type of research. Some method should be created to more fairly allow the general category to participate in research given that the scale is naturally tilted to the individuals and organizations better off economically due to 10 years of prolonged growth of biomass and increases in price in this industry. Furthermore, the dayboat fishery, because it tends to be an owner-operated fishery, tends to not have good on-shore representation so methods and money should be directed to this somewhat disadvantaged fishery so that they can become more sophisticated, much like the larger DAS fleet has done.

Demarcation Line

Please consider the implementation of a demarcation line outside of which any 1B permitted vessel fishing for scallops while shucking is not limited to possession of not more than 400 pound or 50 bushels. Standard practices where up to 90 bushels shuck out to 400 pounds of scallops cause most 1B vessels while fishing to be in violation of this rule at most times. By using a simple demarcation line (eg the VMS demarcation line), any 1B vessel found inside of this line with more than 400 pounds or 50 bushels would be in violation. This would substantially lessen enforcement efforts with minimal risk.

Closed Area II

We wish to remind the council that the general category has been awarded 2% of TAC in closed areas. Due to the 400 pound possession limit and the size of our vessels, we have not been able to take full advantage of this lucrative fishery and wish to renegotiate, roll-over or trade this uncaptured resource for access to other areas much like the DAS fleet is able to do.

New Forms of Product

Please plan for the future that roe-on, live or other approaches to add value to the scallop catch need to be considered with this or any future Council actions. For instance, a boat may conceivably be landing considerably more than 400 pounds of roe-on scallops, based on the exact same mortality from 400 pounds of adductor muscles, yet there is no provision in the laws for this.

Permit Transfer

We need a clear and well understood legally acceptable method to transfer permits and permit history between qualified scallop fishermen that fairly reflect past history and the ability to use that history toward resolving future allocation issues.

More Clearly Address Overfishing as Management Tool for Scallops

Overfishing as a scallop resource management tool should be more fully examined. Scallop stocks are sedentary and closed area rotational management does not work optimally under the traditional definitions of overfishing. Provisions need to be made to more fully address the difference of the scallop stock.

Respectfully Submitted by

Geoffrey Day
Executive Director
General Category Scallopers' Coalition of New England
PO Box 300261
Cambridge, MA 02140
617-576-2100

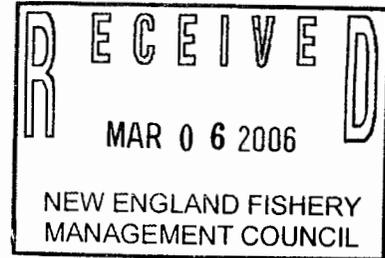
CIANCIULLI & OUELLETTE
ATTORNEYS AT LAW AND PROCTORS IN ADMIRALTY
A Professional Association

163 CABOT STREET
BEVERLY, MASSACHUSETTS 01915

Stephen M. Ouellette*
Lori A. Cianciulli

David S. Smith*

*Also Admitted in Maine



Telephone: (978) 922-9933
Facsimile: (978) 922-6142

E-mail: fishlaw@aol.com
<http://www.fishlaw.com>

March 6, 2006

Frank Blount, Chairman
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Re: Comments on Scoping Document for the General Category Issues

Dear Mr. Blount:

I have been asked to submit comments on the scoping document for the proposed amendment to develop new rules for the general category scallop fishery for a number of general category vessels fishing from the Barnegat Light area. We offer the following comments and suggestions:

It is apparent that the general category has evolved into a different fishery than that initially envisioned under Amendment Four to the Atlantic Sea Scallop Fishery Management Plan (the "FMP"). In response to a number of changing elements, including the increase in scallop availability, declines in other stocks, harvesting restriction in other stocks to meet rebuilding deadlines and the increase in prices, a number of vessels have transitioned into the general category scallop fishery. As a result of this, general category landings have risen dramatically as a percentage of the overall TAC. Participating vessels have also become economically reliant on the fishery, and the daily landings of fresh scallops have developed into an important element of the market. While it seems appropriate to take steps to limit the growth in this fishery, my clients believe that the new measures should preserve the newly developed fishery, at the 2004 levels.

The primary impetus for the proposed amendment is from the limited access vessels, concerned that increasing landings may erode their access and negatively impact the successful rebuilding to date. There is no question that limited access participants have borne a significant burden of the recovery, or that it is through their efforts great strides have been made in returning this fishery to a healthy condition. Nonetheless, the recovery of the stock and increase in market price have created a scenario of success that few could have imagined when Amendment 4 was implemented. With TACs expected to rise, the imbalance between the scallop fishery and others will increase. The traditional fishery would see a shift in effort to the scallop fishery by many more vessels, but this tradition is now prevented by the limited access program in place. My

CIANCIULLI & OUELLETTE

Frank Blount, Chairman

March 6, 2006

-2-

clients would like to see the general category fishery maintained; at least as it had developed through the 2004 control date, with establishment of a new limited access permit.

The initial question is how the fishery should be allocated. This is largely a judgment call to be made by the Council. Reportedly, general category landings had increased to about 5.8% of total TAC in the year leading up to the November 2004 control date, including limited access vessels outside of their DAS. Since some vessel may have had higher landings in prior years, a larger percentage may be necessary to effectively anticipate the total percentage necessary to sustain the general category. My clients suggest that the council consider an allocation around 5.8% of the total scallop allocation, for the new limited access category. This percentage might have to be increased slightly if some vessels had higher landings in prior years, as not all vessels had their peak landings in 2004. This would also include limited access vessels fishing outside of their scallop DAS. Since DAS and associated trip limits will be set based on maximum fishing effort in 2004, this will effectively establish a quota system that has the same effect as a hard TAC.

My clients strongly support the 2004 control date, and believe that vessels' participation in the years prior to 2004, should be used to qualify vessels for the new limited access permits. The new limited access permit should be based on individual days at sea, either the total pounds landed in a vessel's highest year from 2000-2005, divided by 400 pounds or actual days fished. Annual allocation will be established by increasing or decreasing either the available number of days, or possibly trip limits.

My clients oppose extending qualification periods for vessels that claim they were in the process of switching over to scalloping. This clearly creates a danger of being overly inclusive and would require either a reduction in effort for vessels that were actively engaged in the fishery prior to the control date, or would require a greater allocation to the new permit category. My clients contend that the public was given adequate notice of the control date and all should be bound by it.

Landings in the new limited access category should still be controlled through the same 400 pound landing limit and would still be a small boat fishery. Vessels should be permitted to consolidate their DAS and or to lease them. Since the proposed limits on the new limited access permits will be based on DAS and trip limits, few other controls are necessary. Vessels in the southern areas should be allowed to fish up the current maximum dredge size. Even limitations on vessel size and horsepower appear unnecessary, as trip limits/vessel allocations remain the primary control. Leasing and consolidation should not be limited by vessel size or horsepower.

CIANCIULLI & OUELLETTE

Frank Blount, Chairman

March 6, 2006

-3-

Because of the changing conditions of scallop stocks, particularly in inshore regions, some of which are not even included in the stock assessment, it may be desirable to continue a very limited open access category, perhaps 1% of the total TAC, in addition to the 5.8% set forth above. This would be subject to DAS limitations, possibly as low as 10-20 days per year to start, a low daily trip limit of 200-300 pounds per day, et., in turn limited by hard TACs, possibly by region or season.

We look forward to working with the advisors, other industry groups, the Scallop Committee, Council Staff, and the Council in developing a fair and equitable allocation for the current general category participants and limited access vessels and development of appropriate management measures for the general category.

Very truly yours,

/s/ Stephen M. Ouellette

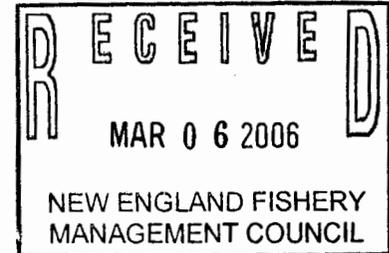
Stephen M. Ouellette

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Tuesday, March 07, 2006 4:34 PM
To: Deirdre Boelke
Subject: [Fwd: Atlantic Sea Scallop Amendment 11 Scoping Comments]

----- Original Message -----

Subject: Atlantic Sea Scallop Amendment 11 Scoping Comments
Date: Mon, 06 Mar 2006 22:55:03 -0500 (EST)
From: Marlinblackxxx@aol.com
To: ScallopScoping@noaa.gov



Paul J. Howard-

Mr. Howard I could not let the March 6 deadline for comments pass without voicing some observations that I have made. I was in attendance at the Feb. 21st meeting in Cape May Courthouse and have pondered many of the questions raised and have spoke with many general category guys in the Point Pleasant NJ area.

In order for proper disclosure I should state that I am not presently in the fishery but am in the process of buying a general category vessel with a catch history prior to the control. I think it is only fair to inform you of that fact.

During the meeting in Cape May the first few speakers were limited access vessel owners and consultants and captains and it seemed that they would all like to participate in the general category fishery, place a hard tac on the general access fleet, and did not want to allow the general fleet very much in the way of a percentage of the total catch. They raised concerns about the health of the scallop biomass but would not like a hard tac placed on themselves. This being the first commercial fisheries meeting of any sort that I have attended I found it interesting. Towards the end of the meeting a general access vessel owner spoke and brought up a very valid point. He said that the limited access was doing just fine a few years back when the total catch was 20-30 million pounds and now their catch is in the range of 53 million pounds and they do want others to participate. Now I don't care who does the math even at \$7/lb, each boat in the limited access fleet grosses around 1.5 million a year. With 25% of the permits owned by 9 companies I find their genuine concern for the health of the biomass a bit less than sincere. As I understand it they will soon be allowed to stack permits which will cut overhead and reduce more jobs in the future and continue to concentrate more wealth to a few at the cost of the many. From what I have heard a similar situation took place in the clamming industry.

My points are these-it seems very clear to me-let's not over manage

1st-Do not let new applicants into the general access fishery 2nd-Do not allow limited access vessels to participate in general access fishery 3rd-See what happens to the price-if it drops the fishing pressure will subside with no more management needed-if not- 4th-Use the Nov.1, 2004 control date-discover how many boats are left in the fleet-still to much pressure- 5th-Limit days allowed to fish-5dys/week-no sat/sun 6th-Cut days further 7th-Institute hard TAC on total fishery not just one part

I think by that time you will see the cyclical effects of the fishery and it will be a price issue rather than a pressure issue.

It seems hard to see how a TAC could be placed only a part of the fishery if the true motive of a TAC is concern for the biomass especially if it only applies to 10-15% of the total catch. How would it work-okay 850 boats are allowed 6.5 million pnds and you other 250 go ahead and catch 50,60,70 million pounds. That would not appear to be concern for the biomass,or concern for the couple of thousand of fisherman who would be

affected. I would move slowly-there does not seem to be a need to take multiple steps at once.

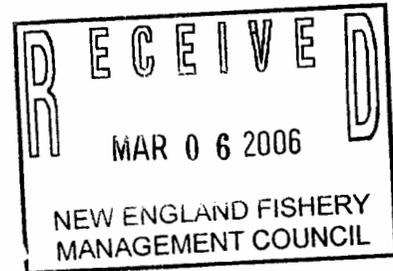
I am not educated enough on the idea of sectors and harvesting coops to know if they are a good idea. I would like to say as a newcomer to the entire fisheries management world there seems that there should be some information given to an applicant for a permit. If someone applies for a general access permit today nobody at nmfs makes them aware that a control date has been set and what that means. At least send them the info when they send out the application.

Regards,

William DiCianni
Long Branch, NJ
732-222-0296

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Tuesday, March 07, 2006 4:34 PM
To: Deirdre Boelke
Subject: [Fwd: Amendment 11]



----- Original Message -----
Subject: Amendment 11
Date: Mon, 06 Mar 2006 15:13:28 -0500 (EST)
From: BaileysOystersCo@aol.com
To: ScallopScoping@noaa.gov

March 6, 2006

Dear Mr. Howard,

As a Day/General Category Scallop license holder, I had the pleasure of attending both the meeting in Boston in 2005 and also the meeting in Cape May in February of this year. I walked away from both meetings not sure how the control of the GC Quotas was going to be handled. A suggestion was made at the Boston meeting to install Sky Mate/Boat Trax, which was put into place in December of 2005. This cost me approximately \$10,000.00 for each of my vessels to install & maintain these systems. However, this has cut the 400 pound boat fleet by 70%. I feel now that this system is in place the control date should be reset to December 2005 for a true study of the fleet catch rates and size of operating vessels.

In reference to the issue of eliminating GC category boats, I am suggesting a maximum of 200 working days per year, with a maximum dredge size of 16 foot, which will further reduce catch amounts by GC Boats and possibly making it limited entry as of December 2005. These are compromises I feel are necessary because it would be extremely unfair to eliminate GC category boats after making all boats install Sky mate systems at approximately \$10,000.00 in order to keep their existing permits.

I also do not feel this is a stock issue because the stock is there. I feel it is an issue of a few people wanting to monopolize this viable fishery. This fishery is helping a few small operators earn a living and maintain their businesses. I myself, have three General Category vessels which employ crews and captains, and this would be a serious economic hardship to the crew, captains and their families.

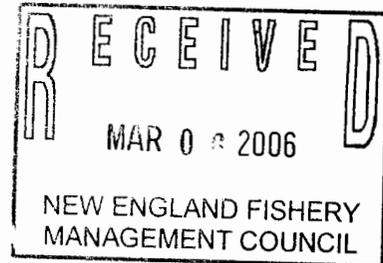
Thank you for your considerations. If you have any questions or concerns, please do not hesitate to call me.

Sincerely yours,

Scott R. Bailey
Bailey's Oysters, Crabs & Soft Crabs, LLC
(856) 207-2239

Deirdre Boelke

From: ScallopScoping [ScallopScoping@noaa.gov]
Sent: Tuesday, March 07, 2006 4:34 PM
To: Deirdre Boelke
Subject: [Fwd: Att: Mr. Paul J. Howard]



----- Original Message -----

Subject: Att: Mr. Paul J. Howard
Date: Mon, 06 Mar 2006 20:24:39 -0500 (EST)
From: Cjob96@aol.com
To: ScallopScoping@noaa.gov

Dear Mr. Howard,

I attended the Scallop meeting on February 21, 2006 in Cape May County, NJ. I own and operate a commercial fishing vessel, and hold a Category B, General Scallop Permit. I would like to see the Control Date of November 1, 2004 go into effect. I have been fishing for the last twenty years, and in January of 2004 was finally able to afford to purchase my own fishing vessel. I have invested much time, labor and money on pursuing my life's dream. I purchased and had the VMS installed almost immediately upon receiving information that this was a new NMFS requirement. All of my fishing logs to date are completed and turned in to NMFS as well. I feel that, while fishing over the past twenty years, attending Tuna & Monkfish Meetings, working deck and also running other people's boats as Captain, that I never could see a "light at the end of the tunnel", as whichever working fishery at the time was going through amendments and regulations, some better than others. Perhaps a consideration would be to recognize a percentage of income that GC applicants that have abided by all regulations thus far and have the control date pertain to income made from Scalping and other Fisheries from vessels other than their own, being that in this business, most people have to work their way in more than one fishery and be versatile to be able to finally afford a fishing vessel of their own. Thank you for your time and consideration.

Sincerely,
Capt. Craig O'Brien
FV Julianne

DON MYERS

F/V CASSIAR
F/V SNOOPY II
~~XXXXXXXXXX~~

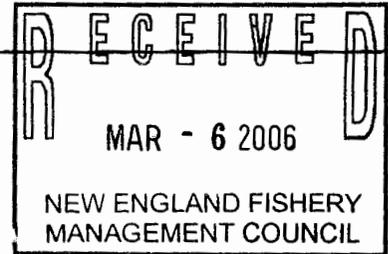
P.O. BOX 146
WEST CREEK, NJ 08092

HOME - 609-296-9343
CELL - 709-9765
FAX - 296-8043

3/6/06

TO - NEFMC

RE - SCARLON AMEND, II SCOPING COMMENT.

I SUPPORT -

- 1 - NEW LIMITED ACCESS G.C. PERMIT
- 2 - THE CONTROL DATE FOR QUALIFYING
- 3 - INDIVIDUAL DAS
- 4 - THE G.C. SHOULD BE ALLOCATED 5.8% OF THE TOTAL.

TO QUALIFY -

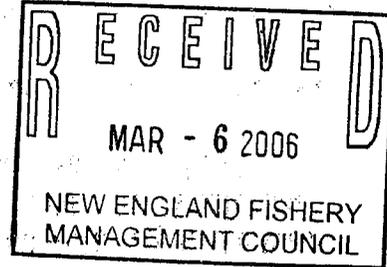
- 1 - PICK YOUR BEST YEAR (REGARDING DAYS FISHED) IN THE 5 YEARS PRECEDING THE CONTROL DATE (2000-2004)
- 2 - EACH DAY YOU FISHED WOULD BE COUNTED AS
"1 SNARE" (THIS WOULD BE A PERFECT 'GAUGE' FOR PAST PARTICIPATION)
EACH SNARE MIGHT BE WORTH 1 DAS OR $\frac{1}{2}$ DAS OR
HOWEVER IT WORKS OUT AS A PERCENTAGE OF THE TAC.
THIS WOULD MAKE IT EASY FOR NMFS TO REGULATE DAS
UP OR DOWN AS NEEDED ($DAS \times 400 = TAC$)

I ALSO SUPPORT -

- 1 - 400 LB. PER DAY TRIP LIMIT
 - 2 - DUAL APPLICATION FOR L.A. VESSELS (THEY WERE PART OF THE 5.8% IN 2004)
 - 3 - HARD TAC FOR EVERY SEGMENT OF THE FISHERY (WE WOULD NEVER GO OVER WITH DAS & DAILY LIMIT)
 - 4 - PERMIT STACKING & DAS LEASING REGARDLESS OF BASELINE SPECS.
- I DO NOT SUPPORT DEDICATED ACCESS PRIVILEGES (TOO COMPLICATED, SEEMS LIKE SIMPLE IS ALWAYS BEST)

THANKS
DON MYERS

New England Fishery Management
Scallop Management
General Scallop Comments
50 Water Street
The Tannery Mill 2
Newbery port MA 10950



Dear Sir,

Wanchese Fish Company has vessels with Limited Access Scallop permits. General Scalloping is a traditional part of the scallop industry, Management of scallops and the related price increase has created is the problem with general category.

The moratorium date should be moved to 2006

A line should be drawn from Maine to Carolina allowing general scalloping to the West & limited access vessels scalloping to the East. Closed areas could have a similar line. Vessel tracking lines from years back should be used to help establish where the North South line be drawn.

Currently scallops die of old age (not thick enough to use open area limited access days at sea.)

General Scallopers harvest from areas closest to shore; this should be allowed to continue. The line will make management simple.

Thank You,

A handwritten signature in cursive script that reads "Joey Daniels".

Joey Daniels Wanchese Fish Co.
03-02-06

PO
BOX 369

WANCHESE
NORTH
CAROLINA
27981

919
473-5001

919
473-5004
FAX

fishery in three distinct ways: 1) by... seasonal directed fishery as an adjunct to other limited access fisheries, and 3) bycatch in the limited access groundfish fishery.

201

Regarding Amendment 11 to the Scallop Fishery Management Plan AFM endorses:

- Adherence to the November 2004 control date for determining eligibility for a new "limited access" permit in the general category scallop fishery.
- Qualification criteria (landings history) for the new "limited access" permit that reflects a significant level of dependence on the fishery.
- A "tiered" permit system that would assign differing levels of future participation. One "tier" for qualifiers (described above) and a separate "tier" for non-qualifiers that also have a history of general category scallop participation within the existing small dredge exemption area in the Gulf of Maine. Future participation for this tier would be at a reduced number of opportunities (trips, not trip limits), compared to the new limited access tier, and would also be limited to the existing small dredge exemption area in the Gulf of Maine.
- Hard TACs only if they are applied to the entire fishery, and only if they can be structured to prevent derbies (e.g. seasonal distribution of the TAC and/or individual allocations).
- Sector allocations that are based on history of participation by sector members, not on set-asides (e.g. "community allocations").
- Bycatch allowance for other fisheries that reflects recent actual bycatch numbers. For the groundfish closed area II special access program, a different bycatch allowance may be prudent if data from the special access program supports an increased bycatch allowance as compared to average bycatch levels in other fisheries.

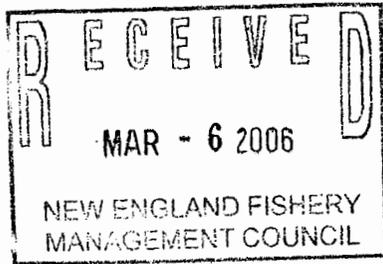
AFM looks forward to working collaboratively with the Council to ensure to the extent possible that the needs of our members are met while simultaneously crafting a biologically sustainable management regime for the general category scallop fishery.

As always, we appreciate your consideration of our views.

Sincerely,



Maggie Raymond
Associated Fisheries of Maine



Dallas W. Huickins
PO Box 371
Machiasport, ME 04855
(207) 255-0725
March 1, 2006

Paul Howard -

I am writing in regards to the general sea scallop regulations you are trying to put into effect.

I received a letter in September 2005 stating that in order to keep my 400lb limit license I needed to install a VMS on my fishing vessel.

So to keep my license I then had to install a generator to run the computer I also had to purchase to go with this VMS. I then had to buy rigging for scalloping so I would not loose my license. This combined has cost me approximately \$70,000.

When I put all of this money and work into my boat I was never informed of any possible date of Nov 2004 having to have previous scallop landings.

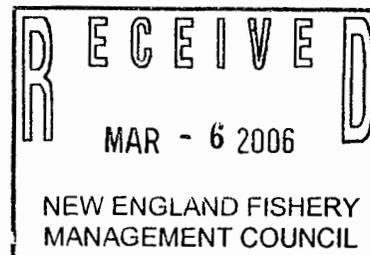
Therefore I feel you should not be able to use a cut off date for any fisherman who went ahead and installed the VMS.

If any restrictions at all are to go into effect, which I am against, the people who purchased the VMS instrument should be able to keep their 400 lb licenses.

Please feel free to contact me in any way regarding this matter.

Sincerely,
(Dallas Huckins)

John D. Wood, F/V Mistress II
P.O. Box 173
Machiasport, Me 04655
Home: 207-255-36850
Fax: 207-255-5841



January 28, 2006

New England Fisheries Management Council
RE: Atlantic Sea Scallop Amendment 11 Scoping Comments
Seven specific scoping issues

Issue #1 – Limited Entry

Control Date: The November 1, 2004 control date must be adhered to. In addition to the control date three to five year prior landings, or 3-5 consecutive years of landings, should also be considered to protect the historical participants that have been using the GC as a directed fishery for years and this would reflect a significant level of dependence on the fishery.

Impacts: With the November 1, 2004 control date the number of participants would drop to between 407 and 425. And with the three to five years of prior landings also being part of the qualifying criteria, it would lower the participants to between 300- 352, which is where it has historically been.

Issue #2 – Allocation

The allocation for GC should be set at 15 % to 20 % based on the qualification criteria and the amount of GC vessels in the fleet as a result of limited entry, if this is used. The council may also want to consider allocation on an individual basis. Example "IFQ" based on past historical landings. The main goal for allocation should be determined by the size of the GC fleet should limited entry be used.

Issue #3 – Dual application for limited access vessels

The Amendment should include an alternative to prevent LA vessels from fishing under a GC permit. In the past the Council has included alternatives that prevented DAS groundfish vessels from possessing an open access hand gear permit. The same alternatives should be considered for LA scallop vessels fishing under a GC permit. The Council should include an alternative to allow an incidental scallop catch of 100 pounds for the vessels

that may not fall under the control date or additional criteria of this Amendment.

Impacts: The LA vessels would catch 75 % of the allocation, the GC vessels would catch 20 % of the allocation, and that would leave 5 % of the allocation for incidental, observer coverage, and research set aside.

Issue #4 – Hard TACs

Only if they are applied to the entire fishery, and only if they can be structured to prevent a derby style of fishing (IFQ)

Issue #5 – Sectors, DAPs

Sector allocations that are based on history of participation by sector members, not on set-asides (e.g. “community allocations”)

Issue #6 – Incidental scallop catch

If limited entry is adopted for the GC fleet, vessels that do not qualify should be allowed to land 40- 100 pounds of scallops. If a hard TAC is reached and the GC fisheries closes, there should be a incidental catch limit for GC vessels based on actual bycatch numbers from historical participants when targeting other species. (E.g. groundfish boats)

Issue #7 – Change of fishing year

The fishing year should not be changed because if hard TACs were considered in the GC fishery the GC vessels in the Mid-Atlantic would have a better opportunity to land the GC TAC before the New England GC vessels due primarily because of the weather.

Sincerely,



John D. Wood

TO: PAUL J. HOWARD

RE: ATLANTIC SEAT SCALLOP AMENDMENT II SCOPING COMMENTS

FROM: WILLIAM MCINTYRE - F/V - SHADY LADY

RECEIVED
MAR - 6 2006
NEW ENGLAND FISHERY
MANAGEMENT COUNCIL

As a fisherman who is just converting over
this fishery from flag longlining I am
for limited entry using the VMS (operating
currently) to determine who should be allowed
into the general category. With 800+ VMS
currently operating that would limit the
number of general category permits to roughly
35% of total general category permits - greatly
reducing the fleet.

Allocation should be determined on an
individual basis, not determined by previous catch
records. For example if you allocate 600,000 pounds
to the GC, simply divide that poundage by 800+ boats
currently using the VMS. ($600,000 / 800 = 750 \text{ lbs per boat}$)

If each boat knows how many pounds they
could catch they could get the maximum dollar for
their load and this would be much safer for all
concerned boats preventing them from having to go
out in adverse weather conditions to catch a
piece of a general category quota determined by
an opening date.

I feel the LA should not be able to land
product under G.C. rules.

I do not know enough about this fishery to
comment on changing the fishing year.

(2)

THE NMFS BY NOT HAVING A SPECIFIC DATE
UPON WHICH PERMITS WOULD OR WOULD NOT BE ISSUED HAS
OBVIOUSLY HELPED IN MAKING A DIFFICULT DECISION EVEN
HARDER.

FOR THESE BOATS JUST GETTING INTO THIS FISHERY
(LIKE MYSELF) YOU ARE TALKING ABOUT CAPITAL OUTLAYS OF
BETWEEN \$45,000.00 - \$120,000.00 DETERMINED BY YOUR SPECIFIC
NEEDS. YOU, MEANING THE NMFS, CAN NOT SIMPLY DISREGARD
THE FISHING VESSELS WHICH FALL INTO THIS CATEGORY AND
HAVE MET ALL YOUR CURRENT PRE-EASING REQUIREMENTS.!!

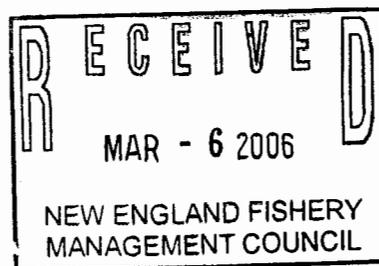
THANKS

BILL MCINTYRE

F/U - SHADY LAY

JOB # 908223

Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA 01950
Phone: (978) 465-0492



RE: Amended copy of Atlantic Sea Scallop Amendment 11 Scoping Comments.

Dear Mr. Howard;

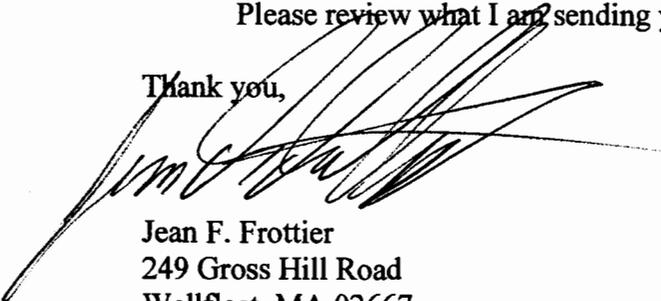
Please find enclosed a copy of my comments that has been amended to correct for my brain cramp which made me keep referring to the Scallop Framework 18 as "amendment 18", and to reflect some of what was said at the Hyannis hearing.

The reason for my extended filing, and such attention to formality, has to do with the harm that the Council has done to me, and also many others like me, with actions that are contrary to the Council's stated policy and express provisions of the MSFA. The way that things are going this ugly mess will eventually end up in court. For my part, I want the record to show precisely what I said to the Council and when.

The day that Council dealings become honest will be the day that we can begin to solve our never-ending fishing crisis. As I write you this cover letter, NMFS is proposing yet another emergency action because you folks screwed-up again.

Please review what I am sending you, and have the record show what was sent.

Thank you,



Jean F. Frottier
249 Gross Hill Road
Wellfleet, MA 02667

Atlantic Sea Scallop Amendment 11 Scoping Comments

My name is Jean Frottier, I am now 62 years old, I have been a commercial fisherman for 35 years, and I have fished full-time since 1990. I am also a commercial diver who has logged fully 11,000 hours underwater in Massachusetts state waters. Throughout the past 35 years I have fished out of Provincetown for lobsters by diving and pots, I then fished for tuna until that season would be closed, and then I would jig for cod in the Gulf of Maine and Georges Bank. This mode of fishing was clean, and it worked, until the NEFMC began their regime of mismanagement that has resulted in changing the entire environmental order of the area under their control. Much like the asteroid that rapidly changed the environmental order that once favored the dinosaurs, NEFMC policies have very rapidly reordered the New England marine environment that once favored the cod and yellowtail flounder that are today in such dire condition. As USGS/NMFS studies say, glaciers and their aftermath "resulted in habitats favorable to commercial species", but now we have a much different environment to which we must all adapt. Where we once had the underwater equivalent of a forest we today have the underwater equivalent of a plain. We must all now fish on what is left available.

The NEFMC has scheduled meetings because the council now says "there is an alarming problem with the general category landings". True to form, the council chose to form and scope a debate without any input from long-time general category stakeholders. Recognizing that trouble was coming, the NEFMC puts together an *ad hoc* committee of general category representatives, but none of what we are considering here has any input from this group. The scoping document prepared by the NEFMC also ignores one of the major causal factors driving the increase in general category effort, namely, the mismanagement of the multispecies fishery. The Director of the Mass. DMF says it well: "successful management of cod has continued to elude the New England region". This is not rocket science. When the NEFMC closed large tracts of offshore fishing grounds to bottom fishing, all that offshore effort would perforce be diverted to the remaining bottom. Like a balloon, you push in one place and it bulges in another place. With no regulations put in place to control the size and power of the boats moving their operations into inshore waters, and with no serious effort made to regulate the gear employed by such boats, the destruction of the fish stocks and the inshore bottom habitat was just a matter of time. That inevitability is today manifest. We now look to what is left.

In order to have empirical evidence of the big picture, the record of these hearings should properly contain copies of a document entitled "Relative Distribution and Abundance of Cod in the Northwestern Atlantic 1979-2005" -- derived from NEFSC Spring Bottom Trawl Surveys, and also a copy of a USGS report and map, dated July, 2001 (see Exhibit II, print copies of cumulative summer cod surveys, and copy of two page USGS paper). Looking at the surveys in chronological order, along with the excellent USGS map, one is confronted with stark and shocking evidence of the consequences of misguided NEFMC/NMFS policies. Using these maps, one can readily see that fully 11 years of groundfish "closures" have only resulted in much less cod distributed in the NCLA and CAI, little change in CAII, and a virtual disappearance of cod distribution in the open areas extending northward to Nauset Light. Why is this?

Well, much of the answer lies in the fact that under NEFMC “management” these are not closed areas, but are being administered like private fishing preserves for special interests favored by the Council. These include the limited access scallop fleet comprised of about 320 large boats, the “midwater” small pelagic trawler fleet of about 17 very large boats, and an unknown number of boats at least claiming to be charter boats. Viewed from this perspective, the groundfish boats are the ones who have, in fact, been paying for the prosperity of a few by the great decade long sacrifices of the groundfish fleet as a whole. How can you have progress with leaches living off the bottom, and cheats freely crossing the line along the “fence” (CA I, west side) because they were successful in preventing a requirement for VMS in Amendment 13 and before? All you can say here is “good job Brownie” – like in hurricane Katrina fame.

Tragically, the truth is that we are ruled by a council that has been cited by others across the nation as the poster-boy for everything that is wrong with the council system. We also have U.S. District Court Judge Kessler ruling that NMFS was “frustrating the will of the Congress” – essentially because NMFS had been rubber-stamping actions of the NEFMC which were contrary to explicit mandates of Magnuson-Stevens. This is a council that has also demonstrated contempt and prejudice towards clean fishing and towards fishermen using historical and sustainable fishing methods. For me personally, and for all other jig, hook, or drop gillnet fishermen, NEFMC prejudice translated into a continuation of the unenforceable gillnet rules which even the U.S. Coast Guard and NOAA Law Enforcement had long and often reported to the NEFMC as having “little probability of enforcement”. The result – prime bottom monopolized by illegal gillnets.

For the past nine years, every time I would go to my primary fishing grounds on the backshore of Cape Cod I would find some combination of legal and illegal gillnets parked on the bottom, and preventing me from fishing the prime bottom. These nets would remain day after day, untended for a week or more, then they would be hauled, and the totally rotten and half eaten fish discarded. Sometimes this would happen while I was trying to jig next to an unmarked net, and a State licensed boat, with absolutely no right whatsoever to fish in Federal waters, would come up and haul the net. When he tried to reset his illegal net I would yell at him, cut the end, and we would get into a big fight. However, when I would return to the fishing grounds the illegal nets would be back, and both the U.S. Coast Guard and NOAA Law Enforcement said that there was nothing they could do about it. Unless the fishing conditions had changed, these nets would be set again and again on the prime bottom, and the cycle would repeat itself.

When I tried to fish in open areas outside the carpet of legal/illegal gillnets, I would often have to confront hard bottom draggers ripping up the wrecks and rock piles upon which my mode of fishing depended. It is quite a sight to see a large dragger next to you with his gear all ripped-up and a piece of one of the treasured wrecks entwined in his gear. Or, to watch a hard bottom dragger belching black smoke as they rapidly power-up to mow-down a piece of bottom structure. Today, the productive bottom is gone and the fish are gone. Game over! I have here provided an exhibit comprised of eight (8) items, beginning with the NEFMC scoping letter for Amendment 13, dated April 7, 2000, showing what I was trying to do to stop; (a) the lawlessness, (b) the habitat

destruction, (c) the gross waste of cod and other species, and (d) to have the NEFMC itself comply with the law (see attached Exhibit I). For the record, this illegal and grossly wasteful gillnet fishing ongoing. Today it is no longer possible to continue fishing like I have for the past 35 years, and I must now adapt my fishing to the realities of the new environmental order that is in place. I intend to get a General Category B permit on May 1, 2006, and I will fight in court, if necessary, to be able to fish on the only thing left.

Now, many disenfranchised members of the groundfish fleet, myself included, need to move into the general category scallop fishery as a matter of survival. The NEFMC scallop committee, dominated by limited access stakeholders and their allies, falsely tries to paint groundfish boats left with no other options as opportunists and profiteers; "The number of permits explodes as soon as there's any scallops close to the beach. ..." (Tom Hill, Scallop Committee Chairman). In truth, it is the limited access big boat fleet that shows up as soon as there are scallops "close to the beach", and soon wipes them out. Notwithstanding, it is also true that the whole spectrum (good, bad, and ugly) of groundfish boats are looking to move into the general category fishery. Without any input from long-time general category stakeholders, the NEFMC has already proposed a November 2004 cut-off date based on a mere 40 pounds of scallop landings. That led to the spectacle at the NEFMC meeting of June 22-23, 2005, where a representative of the big-boat dragger fleet tried to pass-off some of that gang as "long-timers" because they caught, or claimed to have caught, this mere 40 pounds of scallops. Not a good start!

I. Number One Consideration for NEFMC – Define the General Category.

Without a doubt, the first thing that the NEFMC must do is to clearly define the general category as to what it is, and what it is not. From day one, the general category has been defined as an open category with a 400 pound limit which was set when scallops were selling for their historical average price of about \$5.00 per pound. It was also very common to see the term "day boat" attached to those working under a general category license. It is my position that the general category should never be allowed to become subverted into a sub-set of the industrial type of scallop fishing conducted by the limited access fleet. Notwithstanding, some are today trying to do exactly that. If one looks, one sees that limited access stakeholders and their allies are buying general category permits, and some industrial grade groundfish boat owners are doing the same. This will be the core battle that will have to be settled first. Look at what the NEFMC has already said in their Framework 18 -- concerning **6.1.1.4 National Standard 4: Fairness and equity** -- "The proposed action maintains equity by allowing fishermen, vessel owners, and fishing communities to benefit from the scallop biomass that has built up in the Georges Bank closed areas and projected to increase in the Mid-Atlantic controlled access areas. Vessels with general category scallop permits as well as vessels with limited access scallop permits will be able to fish in the proposed access areas. Some vessels with general category permits may have targeted scallops in these areas before they were closed and many more have been affected by the severe restrictions in other fisheries that are under rebuilding programs. Access therefore allows these vessels that may have been disadvantaged by the closures or are under severe restrictions in other fisheries to benefit from the surplus scallop biomass in the access areas".

First of all, there is no "surplus scallop biomass". If we are to believe the NEFMC scoping document, the situation is as follows:

“Overfishing is occurring on the scallop resource and growth in fishing effort and landings by the general category sector is one of the contributing factors”.

What we see is the NEFMC saying different things at different times in order to accommodate the agenda at hand. Furthermore, what all this shows is that the big fish are, again, trying to feed off of the little fish. The very same large heavy metal boats that have caused the greatest harm to the fish stocks and bottom habitat are now scrambling to monopolize whatever is left. And, the NEFMC is already showing favoritism for this.

If the general category is to remain in the traditional mold of open and small scale, as I believe, some of the tools available to the NEFMC to keep it that way are:

- (1) Owner operator requirement for participation in open general category – at least 51% ownership by operator.
- (2) Establish a line of demarcation between inshore and offshore waters (long overdue) and separate big boat fishing from small boat fishing. The inshore scallop resource will be destroyed just as inevitably as the inshore groundfish stocks and the inshore cod bottom unless industrial grade fishing is moved out from the beach.
- (3) Limiting the time that the fishing gear can be used within a given time period. Using VMS, it is already possible to make valid assumptions concerning fishing behavior, (e.g., <1 knot = laying-to, and >5 knots=steaming).
- (4) Regulate the fishing power of boats in the inshore general category. Heavy weather high horsepower fishing platforms grinding on the bottom hour on end should not be allowed inshore.

II. Next Consideration – Restore the Fleet Wide Historical Balance.

At this point, the NEFMC should recognize that after fully eleven (11) years, one can reasonably assume that the trend shown by that loop of the spring cod surveys means that the cod will never return in mass to the closed bottom as long as it is being used as it is. Logically, and fairly, why should only one of the historical user groups have all the resources that are today on that bottom? With these “closed” areas now shown to contain up to 80% of the total scallop biomass, it seems only right and proper that the TAC for these areas should be split between the two historical user groups of that bottom. The only other option would be to close the areas completely, to everybody, in the hopes that the cod might eventually return, but that makes absolutely no sense. What we have today is not the end of the world, just the end of the world we used to have. That said:

- (1) The NEFMC should now admit that the Georges Bank closed areas have been a failure with respect to its intended purpose, and that upon a record of 11 years it is not likely that the cod will come back into the these areas, and that a new environmental balance has developed.
- (2) The NEFMC no longer has any good reason for not opening more of these areas to limited scallop fishing.

- (3) The NEFMC should split the general category and form a large-boat limited access category.
- (4) The NEFMC should determine which boats historically fished the waters within these closed areas and set forth the criteria for a switch-over to scalloping in these areas.
- (5) The NEFMC should split the scallop TAC for these “closed” areas between the former groundfish users and the scallop boats – which are today being given everything.

III. Next Consideration – Protect the Bottom Habitat and Impacted Stocks.

The ocean equivalent of the forest is gone – from Race Point to the Great South Channel - and it will never be restored until after the next glacier. Notwithstanding, we still need to protect what is left - along with the valuable fisheries that the remaining habitat will still support. The NEFMC has clearly learned the value of managing the bottom to maximize the production of scallops. The other very important species now thriving in this new environmental order is lobster. However, when the lobsters migrating across the scallop grounds run into scallop gear it is not a pretty picture. At times the result is a deck full of mostly crushed and broken lobsters, many of those new eggers, ripped from the population trying to migrate back to their winter grounds in the Georges canyons. Here is what the NEFMC has represented in their Framework 18: *“(3) Can the proposed action reasonably be expected to cause substantial damage to the ocean and coastal habitats and/or essential fish habitat (EFH) as defined under the Magnuson-Stevens Act and identified in FMPs?”*

Response: No, the proposed action is not reasonably expected to cause substantial damage to the ocean and coastal habitats and/or EFH. The conclusion in the EFH Assessment (Section 0) is that this action will have minimal impact on EFH. . This action will not change the measures put in place under Amendment 10 to reduce impacts on EFH. Specifically, this action does not allow access into the Habitat Closed Areas, and it maintains the requirement for scallop vessels to use 4-inch rings, which are believed to reduce impacts on benthic environments.”.

But, here is what the USGS Fact Sheet on Geology and Fishery of Georges Bank says:

“USGS/NMFS sidescan sonar surveys of fishing grounds shows extensive scarring of the bottom by groundfish trawls and scallop dredges”

Some possible steps to take:

- (1) Control the size and weight of the gear allowed in all open areas.
- (2) Control the time the gear is allowed to be on the bottom in any given day.
- (3) Close migration areas to scallop gear and roller gear during times of peak lobster migration over the fishing grounds.

IV. Next Consideration – Use the Scallop Resource to Help Communities.

The NEFMC has a responsibility to the many small communities along the coast that have already lost so much as a consequence of NEFMC mismanagement and the manifest prejudice towards the small boat fleet. The NEFMC has hurt a great many small fishing communities with policies devastating to the small-boat groundfish fleet that operated out of these ports. Now, the cod are at the lowest level yet measured and we

have empirical evidence that much of the remaining bottom habitat may never again support large populations of cod. We are seeing a repeat of the Canadian experience. A properly structured general category fishery is today more important than ever.

V. Other Valid Considerations for NEFMC General Category Policies.

- (a) The NEFMC needs to set a realistic landing weight for determining the true “long-term” participants in the general category fishery. Any boat that has not fished at least 20 to 25 days in a year and/or landed 8,000 to 10,000 lbs of scallop meats is not a real “long-time” participant.
- (b) The NEFMC should properly follow the lead of other Councils and make a distinction between inshore and offshore waters. The Pacific Council defines inshore waters as out to 40 miles.
- (c) The NEFMC must finally enact measures that recognize the differences between the resource and habitat impacts of big boats verses small boats. The NEFMC should then start using the extensive data that it has been collecting and charting about the length, weight, horsepower, and age of federally licensed boats. Simply, big boats do more harm to the bottom with the heavier gear that they need to use.
- (d) Enforcement concerns – big boats and small boats are here, again, not equal. Big boats have much greater per hour costs of operation, and therefore have greater incentive to make-up for this by taking more than the legal limit. Big boats also have many more places to successfully hide contraband. Solution – limit the length of a fishing trip for all general category boats. Remember the term day boat?

The NEFMC tries to ignore the reality that the groundfish collapse orchestrated by shortsighted and disastrous NEFMC policies is directly linked to the growth of general category effort. The NEFMC conceals facts, misrepresents facts, and then prepares a scoping document without any input from general category stakeholders. Born of the foregoing, the NEFMC scoping document first tries to limit all discussion to “seven specific issues” and states; *“Comments on other aspects of scallop management are not invited at this time, and will not be considered during the development of Amendment 11.”* At the end, the NEFMC changes course, and states; *“The Council needs your input both to identify management issues and develop alternatives that meet the Scallop FMP objectives.”* Which one is it?

The staff of the NEFMC readily admits that this general category issue is going to be ugly, but here is what the NEFMC has already represented in their Framework 18:

8) *Are the effects on the quality of the human environment likely to be highly controversial?*

Response: No, the effects on the quality of the human environment are not likely to be highly controversial. The proposed action will modify the rotational area management program, overall improving flexibility and performance of the program, which will have positive impacts on the long-term success of the program, thus positive impacts on the human environment. Sections 5.2 and 5.3 assess both the economic and social impacts of the proposed action, and Section 5.4.4.5

describes the potential cumulative effects of this action on the human environment. Overall, the proposed action is expected to have positive impacts on landings and revenues, thus beneficial for the human environment and is not likely to be highly controversial". Please!!

Finally, if any member of the NEFMC finds my comments to be hostile and/or offensive, please take time to review the documents that I have provided in Exhibit I. You must expect to be judged and treated according to your actions and their results. How many of your failures do you expect us to endure? Additionally, please review the record of hearings on the four (4) alternatives presented for the public in the Amendment 13 process. Then, look at the alternative 5 that came into the back door to become the law that has been re-written ever since. Now look to what is going on in the NEFMC Framework 42, and compare that to the public record for amendment 13. It was all said years before your Framework 42 now in play. The NEFMC, for no legitimate reason, chose to ignore all the good advice that was presented by the public. I see the dishonesty of that Amendment 13 process repeating itself on this general category issue. For the small coastal communities, this is the most important turning point since the 1976 act that created the eight Regional Councils. The failure to control industrial grade fishing was the primary mistake made then and since. So far, we can see history repeating itself. This time around the NEFMC/NMFS must get it right and play it straight – period.

Jean Frottier
Wellfleet, MA
E-Mail: woofy1@comcast.net

ADDENDUM – Post Hearing on February 23, 2006, Hyannis Airport

Worthwhile considerations from points raised at the hearing:

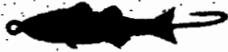
- (1) One owner of two limited access boats suggested putting all general category boats into a limited DAS program. I would suggest that from there the NEFMC could split the general category into “full time” and “part time” sectors. The NEFMC should be at all times mindful that scallop dredges have negative impacts on the bottom and can cause permanent damage to certain hard bottom habitats.
- (2) One speaker owning limited access scallop boats pointed out that many boats now fishing in the limited access scallop category gave-up their groundfish history in order to be able to participate in the program. The NEFMC could consider giving a number of active groundfish boats, with a history of fishing in the scallop access areas, the option of giving-up their groundfish permits in exchange for a limited access scallop permit. The idea would be to move strong boats out of a very weak fishery into a much stronger fishery being conducted on the once shared bottom.
- (3) One speaker owning two limited access scallop boats, and having his primary business in the surf clam fishery, pointed out that everybody should be thinking about compromise if all this is to turn out well.
- (4) The Scallop Committee Chairman called the limited access fishery (and the part that the NEFMC played) a “great success”. The truth is that this fishery is only a “great success” if one ignores the huge cost to the other fishers, fish stocks, and EFH caused by the fleet displacement from “closed” areas upon which it operates.

Exhibit I.

Copies of:

- (1) NEFMC Letter to Groundfish Permit Holders, RE: Amendment 13, dated April 7, 2000.**
- (2) Frottier letter to Massachusetts Director of DMF and to NEFMC, dated November 26, 2001.**
- (3) Frottier letter to NEFMC Chairmen Barbara Stevenson.**
- (4) Frottier letter/comment sent to Patricia Kurkul, RE: Amended Interim Rule for Groundfish, dated May 25, 2002.**
- (5) Copy of the first six (6) pages of the NEFMC Public Hearing Summary, Hyannis, MA, for hearing held on September 14, 2003. Frottier comments highlighted on pages 5-6.**
- (6) Frottier letter to NEFMC Council Members – entitled Lawlessness and Consequences, dated October 14, 2003**
- (7) Frottier letter/comment sent to CFN, dated December 8, 2003.**
- (8) Frottier Comments on the Proposed Rule for Amendment 13, sent via FAX on February 26, 2004.**

1



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01850 | PHONE 978 485 0482 | FAX 978 485 3110
Thomas R. Hill, Chairman | Paul J. Howard, Executive Director

April 7, 2000

To: Groundfish Permit Holders

Subject: Industry Participation in the Development of Amendment 13 to the Northeast Multispecies Plan

The Council is developing Amendment 13 to the Northeast Multispecies Plan. One of the major goals of this amendment will be to develop stock rebuilding plans for stocks that are overfished. There is also an opportunity to address other groundfish management issues that were identified through the Council's scoping process.

The best way to become involved in the amendment development process is to attend the Groundfish Committee meetings and participate in the discussions. If you are unable to attend, please send us your ideas by letter or fax – the sooner the better. We are interested in your thoughts and ideas on groundfish management. We look forward to your suggestions on management measures that will improve recovery of fishery resources and that will improve our management program. Our plan is to develop the broad outlines of the management alternatives by June 2000, approve a public hearing document in September 2000, conduct public hearings throughout the region in October and November, and approve the final management measures in January 2001. This ambitious schedule means you must act now to provide your input.

The management measures we choose for Amendment 13 must comply with the ten National Standards for fisheries management contained in the Magnuson-Stevens Act (Act). Some of the criteria the Council will use when evaluating management measures include the following:

- *Do the measures achieve our biological goals?* The management program must achieve optimum yield. In the case of overfished stocks, the measures must achieve rebuilding in the time period mandated by the Act. This criteria is the most important consideration in the development of this Amendment.
- *Are the measures fair and equitable?* We recognize that "fairness" is often in the eyes of the beholder. Nevertheless, the management measures in Amendment 13 must be fair and equitable to fishermen in all states, in different permit categories, using different gear types, etc.
- *Do the measures take into account the needs of fishing communities?* Consistent with the conservation requirements of the M-S Act, management measures should consider the needs of fishing communities, provide for the sustained participation of those communities and to the extent possible, minimize adverse impacts. This does not mean the management measures

cannot have adverse economic impacts if that is the result of meeting the biological goals mandated by the Act. It means that, if possible, measures should be chosen that minimize any adverse impacts.

- *Do the measures address bycatch concerns?* To the extent practical, management measures should minimize bycatch and, to the extent bycatch cannot be avoided, management measures should reduce the mortality of bycatch. Bycatch includes all fish that are harvested but are not kept for commercial or personal use.
- *Do the management measures promote the safety of life at sea?* Management measures should not encourage unsafe fishing practices.
- *Can the measures be administered?* The National Marine Fisheries Service may not be able to implement extremely complex measures. Complex measures are difficult to understand. Limits on personnel and agency funding must be considered when developing any management program.
- *Are the measures enforceable?* It makes little sense to adopt regulations that cannot be enforced. There are a number of factors that must be considered when determining enforceability. Regulations that have the support of most fishermen impose less of a burden on enforcement agencies. Clear cut rules with few exceptions are more easily understood by fishermen and boarding officers alike.
- *Are the measures flexible?* The management program we implement will be in place for a long time. Can the measures be readily adapted to new scientific information or changes in the industry?

As you prepare your input, please evaluate your proposals in light of the National Standard guidelines and the above broad concepts. We look forward to your participation in the development of this critical amendment. Please check our web page (www.nemc.org) frequently for updates on the meeting schedule and progress in developing the amendment. If you are not currently receiving meeting notices, please contact us and we will add you to our mailing list. If you have any questions about the timing of the amendment, schedule of the meetings, or how to participate in the process, do not hesitate to contact the Council staff Tom Nies at (978) 465-0492.

2

November 26, 2001

Sent by U.S. Mail and email.

NEFMC Council Member
Paul Diodati, Director
Division of Marine Fisheries
251 Causeway Street
Boston, MA 02114

RE: Ongoing problem of illegal sink gillnets set on Cape Cod backshore, and the obvious inability to enforce rules pertaining to the use of sink gillnets.

Dear Mr. Diodati;

This letter is being sent to you for consideration as both a member of the New England Fishery Management Council and as the Director of the Massachusetts Division of Marine Fisheries. By reason of such offices, I believe you are already aware that both the State of Massachusetts and the New England Fishery Management Council have promulgated various rules pertaining to the use of sink gillnets which cannot possibly be enforced. This absurdity comes about because neither the State, NOAA, or the U.S. Coast Guard had/has any vessel equipped to haul gillnets, and/or to then handle that gear and any fish contained therein. In essence, such a situation means that this one user group in the multispecies fishery is being issued what is tantamount to a license to steal.

Predictably, illegal gillnet fishing activity will be the result. The hallmark of such illegal fishing activity is the use of anonymous gillnet gear. No one disputes that existing rules require that fixed gear, including gillnet gear, must be marked – at least in a manner sufficient to identify the owner. Notwithstanding, I can tell you from personal observation over some years now that the area around 42° 00.00N and 70°00.00W is regularly plastered with numerous sink gillnets which bear no markings to identify the boats which are setting them. Some boats are trying to conceal the fact that they are illegally fishing in Federal waters on a State permit, and others seek to conceal the fact that they are fishing more gear than allowed under their Federal permit, and/or the fact that they are fishing in the GOM. This lawlessness is having a particularly devastating effect on other fisherman who are in all respects legal and who also wish to fish the area.

As I am sure you are aware, when a sink gillnet is set on a particular piece of bottom all other fisherman are prevented from fishing that bottom. Furthermore, a sink gillnet will often impede fish movement in such a way as to have a detrimental effect on fishing that extends far beyond the point where a given net is set. The foregoing are just two of many good reasons why the use of sink gillnets should be carefully controlled, but they rise to paramount concerns when we are speaking to the matter of illegal gillnets. Periodically, those of us who are fishing in that 42°00.00N and 70°00.00W area have been challenged and/or boarded by the U.S. Coast Guard while on fisheries patrol. On these occasions the Coast Guard patrol goes from boat to boat and goes through their checklist. The Coast Guard then motors over to some of the anonymous gear in the area, notes its location, and then goes home. That is all that they can do!

From personal observation while tuna fishing, I can also say that I have come across completely anonymous fixed gear from the Jeffreys Ledge to the B Buoy. Where it has long been known that the Coast Guard cannot even determine if anonymous fixed gear is gillnet or lobster gear -- all rules pertaining to tagging of gillnets or number of nets allowed are rendered into farce. Worst of all, there can be no real doubt that the New England Fishery Management Council knew this would be the case prior to promulgating such unenforceable rules and passing them off as "effort controls" for gillnetters. The resulting situation is bad, and the integrity of our fisheries management now rendered suspect. Surely, this is a betrayal of the public trust!

Unlike mobile gear fisherman, hook fisherman cannot take effective extra-legal action to free ourselves from the abuse of rogue gillnets. The last thing anyone needs, especially we hook fisherman, is a bunch of ghosting gillnet gear on our fishing grounds. Additionally, few, if any, fisherman would advocate the establishment of the massive law enforcement apparatus that would be required to effectively police gillnetters traveling over a range that sometimes extends some fifty miles from port. The only effective, fair, and reasonable solution is, as it has always been, to require that the gear stay with the boat. The practice of long-term "soaking" of gillnets has always been abhorrent to conscientious/responsible fishermen, and represents an insult to reason -- as well as to legitimate objectives of fisheries management. The market even had to coin the euphemistic term "scaler" for the half-rotten product that actually gets to market.

Finally, the gillnet regulation fiasco, such as that which has so long been evident in the 42°00.00N and 70°00.00W area, also represents an insult to certain key requirements set forth in the Sustainable Fisheries Act -- including the following most relevant portions:

Preventing overfishing, and ending overfishing of currently depressed stocks;

Rebuilding depleted stocks;

Reducing bycatch and minimizing the mortality of unavoidable bycatch.

With so much clearly weighing against the practice of unattended "soaking" of sink gillnets -- why is it being allowed? The bottom line: fishing with gillnets only becomes dirty, wasteful, and totally uncontrollable when these nets are allowed to be fished away from the boat.

In closing, I would like to say that I believe that the Division of Marine Fisheries has been doing a far better job of fisheries management under its jurisdiction than the New England Council has been doing under theirs. This letter is also being carbon copied to Patricia Kurkul, for her consideration as the Regional Administrator of NOAA and as a member of the Council.

Thank you for your consideration and for any help you can provide to solve this mess.

Sincerely yours,

J.F. Frottier
249 Gross Hill Road
Wellfleet, MA 02667
Telephone (508) 349-7291
Email: woofy1@mediaone.net

To: Barbara Stevenson
NEFMC Member, and
Owner of 3 Groundfish Trawlers

Reading your March 6, 2002 commentary, and the Sen. Collins statement, I am struck by the fact that people who know better, or at least should know better, continue to ignore the reality of extreme bycatch discards and destructive fishing practices of the trawler fleet and the gillnetters who "soak" their gear for extended periods. You folks seek to blame the environmentalists for the present crisis and the spate of recent litigation, but you should properly be blaming yourselves. The environmentalists are merely taking advantage of your manifest and continuing failings, and now they have become the tail that wags the dog.

Tragically, commercial fisherman who fish responsibly - in a manner that results in practically no discards whatsoever and no measurable damage to the bottom - currently have, and never had, any support or recognition from the New England Council and/or NMFS. In point of truth, if discards were not treated as mere abstraction, most draggers and gillnetters would (each season) be off the water in very short order. As one who now fishes single-handed with: (1) jigs, (2) either four or five hooks on each of two active rods (electrically driven), (3) in daylight hours, and (4) in an environment long degraded and/or monopolized by draggers and soaking gillnets, I average more than 400 pounds of cod per fishing trip - in the bad years. Obviously, a high horsepower dragger fishing 24/7 while pulling a net with a sweep extending to the better part of the length of a football field, or a gillnetter "soaking" miles of gillnets for days on end, will be catching (killing) many multiples of what I am catching when operating on "cod bottom". All this is wasted - day in and day out, year after year. The New England Council and NMFS has never structured any penalty for those who generate substantial bycatch and dead discards, nor any reward for those who fish without waste. For instance, the rod and reel fisherman brings in his catch one line at a time, and is therefore the only gear type that cannot accidentally exceed the daily catch limit by much, but that reality is not recognized nor rewarded. When one looks objectively at our present system one sees that all fishermen, and fishing communities, are being made to suffer greatly, and for undue length, so that the most wasteful and destructive fishers can keep conducting business as usual. To avoid sinking, best to first try plugging the hole in the boat!

The Council and NMFS pretend that cod discards amount to only 1000 m.t. per year total, but from what I have seen it is certainly more than this already unacceptable number. In point of fact, they have in place no reliable measure with which to truly gauge the waste problem. The Council and NMFS also admit to knowledge that the requisite catch reports are regularly being (illegally) falsified with respect to discards. Unfortunately, observers can only provide a partial answer because: (1) neither the Council or NMFS has any idea how many gillnets are out there under that carpet of (illegally) unmarked buoys, (2) no gillnetter is ever going to take an observer out to his pirate gear and/or to his dirty (long soaking) gear, and (3) an observer can only monitor part of the operation of a dragger fishing 24 hours a day. The record shows that both the New England Council and NMFS long knew that there was/is a problem of bycatch

waste, and they pay lip service to the problem, but year after year nothing was/is done to reign-in the most wasteful. Clearly, if it were not for the environmentalists prevailing in their lawsuit - wherein Judge Kessler expressly references the Defendant's "duty to assess and report bycatch", and their failure to do so - the Council and NMFS would have continued to unlawfully ignore the problem. Strangely, NMFS now proposes to indirectly address the bycatch waste problem by limiting the amount of time all fishers can spend "on the pile" during peak periods, and you folks start to howl and complain. So, what do you folks propose (instead) to put a stop to the ongoing bycatch waste that is truly at the heart of the seemingly endless cod problem? Why do I never hear any of you talk about the portion of Judge Kessler's decision relating to bycatch?

To Senator Collins, and to other legislators who may also chose to become involved, I would ask that you do not fail to understand that the health of our fish stocks, as well as the success of any management scheme, is perforce based upon fish mortality, and not on landings. We cannot continue to ignore one of the most fundamental rules of nature (see the story of the American Buffalo) and here achieve any measure of true success. As I write this, the example(s) of partial success which you folks now call to attention have come about by great and prolonged sacrifice by all fishermen, and much of that sacrifice has been negated by the wasteful fishing practices of many draggers and all "soaking" gillnetters. These wasters do not fish responsibly, and it heaps insult upon injury for anyone to represent that they do. Please take the time to do the math, and take, for example, the (understated) 1000 m.t. per year cod discard figure and calculate how many non-wasteful fishermen such discards would today support -- or could have supported over the years since Magnuson was enacted. Reasonably, the consequences of waste should befall those causing the waste -- otherwise, our fisheries management will continue to be dishonest and unlawful.

Finally, I would call attention to the problem of the continuing degradation/destruction of what the fisheries laws refer to as essential fish habitat (EFH). Being 58 years old, I remember the "hard" (rocky) bottom as it was before it was essentially bulldozed flat, and when it was capable of "holding" large amounts of fish. Today, the "hard" bottom most closely resembles a roadway -- it still goes up and down, but without any distinctive structure. In the past, we could go to the various defined wrecks and rockpiles to catch fish, but today the wrecks and rockpiles are gone - and so are the fish. Our prime fishing areas are now almost completely flat and denuded. As a consequence, the cod are always moving - the bottom can no longer "hold" many fish, and that sad fact should reasonably be a consideration in any process used to determine the current biomass. For its part, the New England Council has complied with the law to the extent that it has identified EFH (including all the bottom on which I fish), but has failed to comply with that portion of the law which speaks to protecting and restoring such areas. Significantly, much of what has been destroyed by the draggers and scallopers had been put in place by catastrophic acts of nature, and can now exist only in memory. And, the traces that remain today have yet to be protected in any way. Imagine, for instance, what your neighborhood would look like if a group of bulldozers ran through it on a regular basis!

Bottom line – these environmentalists won their case because you folks betrayed both the fisherman and the fish with endless schemes seeking to perpetuate the wasteful and destructive status quo. If you feel that is not the case, I would appreciate hearing from you about how you folks propose to actually end substantial bycatch discards and ongoing bottom destruction.

Sincerely,
J.F. Frottier
Wellfleet, MA

4

May 25, 2002

Patricia Kurkul,
Regional Administrator
National Marine Fisheries Service
One Blackburn Drive
Gloucester, MA 01930

RE: Comments on the Amended Interim Rule for Groundfish - total inability to enforce any gillnet regulation.

Dear Ms. Kurkul;

The Amended Interim Rule for Groundfish (again) improperly favors the gillnet gear sector with a regulatory scheme that the National Marine Fisheries Service knows cannot be enforced. As a result, all other gear sectors will continue to be abused by illegal gillnets. What part of what law allows this? NMFS must here recognize that any piece of bottom on which a gillnet is set represents a piece of bottom denied to all other fishermen.

Both the U.S. Coast Guard and NOAA Law Enforcement are on record as coming before the Enforcement Committee of the NEFMC to make it known that they are unable to enforce existing gillnet regulations. Consequently, for the years prior to the Amended Interim Rule for Groundfish, NMFS is shown as having no actual knowledge of the following information:

- (1) how many gillnets were out on the fishing grounds,
- (2) how long gillnets were being allowed to "soak",
- (3) how any set gillnets were actually configured,
- (4) how many fish the legal and/or illegal gillnets were actually killing/wasting.

There can be no good purpose served by more of the same. Furthermore, where gillnetters were/are being issued what is tantamount a license to steal, NMFS should recognize that they will do just that. The Coast Guard is clearly aware of the problem, and NOAA law enforcement is clearly aware of the problem, but there is nothing that they can do about it. They are neither equipped to haul nor handle gillnets - which can legally be up to one mile long. There is also no protocol for monitoring set gear. The situation of gillnets has always been a bad joke played on all other fishermen!

For many years now, I have been prevented from fishing on prime bottom because these areas are covered, for many months at a time, by unmarked/illegal gillnet gear. Some boats are trying to conceal the fact that they are illegally fishing in Federal waters on a State permit, and others seek to conceal the fact that they are fishing more gear than allowed under their Federal permit and/or the fact that they are fishing in the GOM. This lawlessness is having a particularly devastating effect on other fisherman who are in all respects legal and who also wish to fish the area. We are prevented from making the landings that will possibly determine our future in the multispecies fishery.

Some gillnet boats range 40-50 miles from their homeport, and can/do set gear along that entire range. Also, NMFS must certainly be aware that a long-soaking gillnet is a wasting gillnet. The only possible remedy to this regulatory fiasco is to treat the gillnet gear sector like every other; i.e., require that the nets stay/return with the boat. Such an action would reduce the current riot of lawlessness to the dull roar that is commonplace in the other sectors.

The problems associated with enforcing rules pertaining to the use of fixed gear must be confronted in any legitimate regulatory scheme. As it now stands, the Amended Interim Rule for Groundfish is just another chapter in a long-standing betrayal of the public trust. Promulgating more rules that NMFS knows to be unenforceable, and misrepresenting such rules as "effort controls", is not contemplated by Magnuson-Stevens or the Sustainable Fisheries Act.

Sincerely yours,

J.F. Frottier
249 Gross Hill Road
Wellfleet, MA 02667
Telephone (508) 349-7291
Email: woofy1@attbi.com

§ 648.84 Gear-marking requirements and gear restrictions.

- (a) Bottom-tending fixed gear, including, but not limited to, gillnets and longlines designed for, capable of, or fishing for NE multispecies or monkfish, must have the name of the owner or vessel or the official number of that vessel permanently affixed to any buoys, gillnets, longlines, or other appropriate gear so that the name of the owner or vessel or the official number of the vessel is visible on the surface of the water.**

- (b) Bottom-tending fixed gear, including, but not limited to gillnets or longline gear, must be marked so that the westernmost end (measuring the half compass circle from magnetic south through west to, and including, north) of the gear displays a standard 12-inch (30.5-cm) tetrahedral corner radar reflector and a pennant positioned on a staff at least 6 ft (1.8 m) above the buoy. The easternmost end (meaning the half compass circle from magnetic north through east to, and including, south) of the gear need display only the standard 12-inch (30.5-cm) tetrahedral radar reflector positioned in the same way.**

- (c) Continuous gillnets must not exceed 6,600 ft (2,011.7 m) between the end buoys.**

- (d) In the GOM/GB regulated mesh area specified in § 648.80(a), gillnet gear set in an irregular pattern or in any way that deviates more than 30 from the original course of the set must be marked at the extremity of the deviation with an additional marker, which must display two or more visible streamers and may either be attached to or independent of the gear.**

See Frothien
Comments p. 5-6

Pages 1-6
OF 26 Pages
5

New England Fishery Management Council
Amendment 13 to the Northeast Multispecies FMP
Public Hearing Summary
Hyannis, MA
September 14, 2003

A public hearing was held to receive comments on the draft Amendment 13 to the Northeast Multispecies Fishery Management Plan and the accompanying Draft Supplemental Environmental Impact Statement (DSEIS). The meeting was chaired by Groundfish Oversight Committee Chair Mr. Frank Blount, assisted by Council staff Tom Nies. This meeting was held in two parts, with commercial measures discussed in the afternoon and recreational fishing measures discussed in the evening. Council members Mr. Eric Smith, Dr. David Pierce, and Mr. John Pappalardo were present in the afternoon, and Mr. Smith was also present in the evening. Approximately sixty-five to seventy people attended the afternoon session for commercial regulations, and about twenty to twenty-five attended the evening session on recreational regulations. Seventy-two people signed the attendance sheet.

Both sessions followed the same procedure. After introductions, Council staff provided an overview of the amendment documents (including the public hearing document and the measures matrix) and described the comment process and future actions. The public then asked questions to clarify the issues before providing comments.

Afternoon Session (Commercial Measures)

Mr. Keith Burkman, Town Manager, Provincetown MA: I have a question on the process, in order to gauge the impacts and decide what we need to do. It would be helpful to understand the process by which this group makes a recommendation to the Secretary, and what type of review and editing may take place at that level. How much opportunity will state, local, and federal officials have to express their concerns. Usually it is cut and dried at local hearings - you comment directly to the decision maker. This process is more complicated. *Mr. Blount: Congressional staffs have already been briefed by NMFS. There are five more public hearings, and the comment period ends in mid-October. The Groundfish Committee will meet in late October, and develop a recommendation for the full Council. The Committee may pick a recommended alternative. The full Council meets the first week of November, will consider the recommendations of the Committee, and decide on a proposed action at that time. The final document must be submitted to NMFS by mid-December. NMFS will review the document, and either accept or reject the Council's proposal. They could reject it outright, or they could reject parts of it. Once NMFS completes its review, it is given to the Secretary of Commerce to review, and the new regulations are put in place by May 1, 2004.*

Mr. Nies: NMFS does not believe this action is subject to judicial review under the Framework 33 lawsuit, but not all parties to that lawsuit agree.

Mr. Ted Leguinza, fishermen, Chatham MA: In Alternative 1, is hook gear required to sign in and use the GB cod seasonal trip limit, or can a fishermen choose to abide by the other trip limit? *Mr. Blount: A fishermen could choose to use either one.*

Mr. Ron Smolowitz, Fisheries Survival Fund: With respect to the hard TAC options, is there any discussion or analysis of how this will affect other fisheries? *Mr. Nies: Similar comments have been made at other public hearings. The document is not clear, in some places saying that if the TAC is caught all groundfishing with gear that catches the species is subject to some type of*

additional restrictions, in other places implying it is all gear capable of catching groundfish. It was intended to affect only groundfishing.

Mr. Steve Scannel, fisherman, MA: Could I have more detail on the formula used for the US/CA resource sharing understanding? **Mr. Nies:** *The details of the formula are in one of the appendices. The shares are based on a calculation that uses both survey distribution and historic catches in the agreement area. Over time, the historic catch becomes less important until eventually the survey distribution becomes the only factor considered.* **Dr. Pierce:** *Another aspect is what biomass targets will be used. It is not clear the Canadians will accept the NMFS proposed biomass targets.*

Mr. Paul Parker, Executive Director, Cape Cod Commercial Hook Fishermen's Assn., Chatham, MA: With respect to the US/CA agreement, will it be a hard TAC? **Mr. Nies:** *There are two options, one where it would be a hard TAC and another where it would not be.*

Mr. Parker: If it is not a hard TAC, and the U.S. allocation is exceeded, where do those fish come from? **Mr. Blount:** *Just those areas on Georges Bank.*

Mr. Parker: Is there any downside if they overfish the eastern Georges Bank? I don't think many people even know this agreement exists. What about bycatch TACs? Can you only access haddock until you start overfishing cod? **Dr. Pierce:** *Your concerns are valid. When the Committee talks about this agreement, we will have to have in front of us all the specific in order to avoid confusion. With respect to bycatch quotas, I expect NMFS will push for a strategy— that whatever bycatch occurs in other fisheries, that would be tallied up and come off the TAC for the next year, and we could wind up spiraling downward.*

Mr. Parker: Is this agreement tied to the Amendment 13 process?

Mr. Shawn Fortier, fisherman, Provincetown, MA: Back in April of 2000, the Council made a statement concerning enforceability of regulations. Has there been any consideration of whether these measures are enforceable? We cannot expect an increase in enforcement resources. **Mr. Nies:** *Volume I of the full amendment includes an evaluation of whether the measures are enforceable. This was prepared with the assistance of NMFS and the Coast Guard. Some measures may not be enforceable.*

Mr. William Henchy, counsel for the Provincetown Fishery Association and CCHFA: What process is being followed for the US/CA Resource Sharing Understanding? Is it a treaty? Who runs the meetings? Are they open to the public? **Mr. Nies:** *the discussions have been held between NMFS and Canada's Department of Fisheries and Oceans. NMFS asked the Council to suggest industry participants, all of who have been Council members. I do not believe NMFS has publicly announced the meetings, but I am not sure if they are open to the public or not. It is not a treaty. The NERO Office of Sustainable Fisheries was involved, but I believe it is being run as a special project under the Regional Administrator.*

After a short break, public comment was received. In addition to oral statements, a written statement was provided for the record from Mr. Luis Ribas (attached). In addition, six commenters provided copies of prepared statements that they read into the record.

Mr. Tom Luce, longliner, Chatham, MA: I want to address the worst case scenario under Alternative 2. Hook gear restrictions are down to 1,000 hooks per day. Once the cod TAC is

reached, no one can fish for cod. I should get back my 3,600 hooks to fish for haddock or some other species. Other gear types have that ability.

Mr. Robert O'Leary, Massachusetts State Senator for the Cape and Islands: I am struck by how complex this whole business is. It is difficult to understand all that is going on – I don't envy you your task of trying to protect both industry and the species. Having said that, it is important to look at the communities that are dependent on this industry. It is not just about fish species, it is about a way of life in communities across New England. One of the proposals but forward, a subset of the four main alternatives, is the principal of sector allocation. This proposal has been advocated by fishermen on the Cape. I speak in favor of that option. It seeks to give fishermen in the community a stake in managing the resource in a way that give them flexibility yet requires them to be accountable. In all of the complexity in this plan, flexibility will be lost. Sector allocation should be approved, at least on an experimental basis. If you set up a system that allows a community to help manage the stock, you will accomplish a great deal.

Dr. Pierce: It would be helpful if those interested in sector allocation got more insight into the specific proposals. Will those individuals who want to pursue that strategy have to do more than what is in the amendment? **Staff:** yes. They will have to develop a plan that identifies the participants, describes how they will monitor the fishery to remain within the allocation, and may have to prepare an environmental assessment.

Dr. Sheryl Andrews, Acting Chair, Provincetown Board of Selectmen: I ma here with two other Provincetown selectmen. Provincetown has spent the last ten years working to revitalize our waterfront. From the outset of the reconstruction of our pier, we have been committed to maintaining a vital commercial fishing fleet. We now have a state of the art pie, and independent agency to run it, and a newly energized fishing organization to use it. We are here because the Council is considering alternatives that may devastate our small fleet. Give special attention to the concerns raised by our fishermen. Every year we have fewer and fewer fishermen left in Provincetown. They are becoming their own endangered species. Don 't let that happen.

Mr. Keith Burkman, Town Manager, Provincetown: At some point we will say "ditto" to whatever the Provincetown Fishermen's Association says, whether at this meeting or later. The need of Provincetown are unique. I was touched by Senator O'Leary's comment – the fabric of the community is what this is all about. We have a seasonal, tourism based economy. For year round employment, there are two choices – government or commercial fishing. There seems to be no process here that will ensure our fishing fleet can continue to earn a living. The solution that may help Provincetown may not help another port. We would hate to see our community with its year round economy hanging by a thread go to the wayside because of a solution – a cookie cutter approach – leads to a solution that helps another port but doesn't help our small fishing fleet. We urge you to listen carefully to what our Provincetown fishermen say. If there is any way a unique solution can be crafted for our port, that is vital. We ask for your support.

Mr. Bill Boucheau (spelling uncertain), commercial fishermen, Provincetown, MA: The area around Provincetown is part of the Gulf of Maine regulated Mesh Area. Provincetown small boats have long harvested fish in this area – at one time, the dayboat fleet numbered 80 boats. Due to overfishing many management tools have been used. The Western Gulf of Maine closed area is one, with its southern end only ten miles off Provincetown. That area has been off limits to us for ten years. With days-at-sea (DAS) – at one time we could fish 365 days, now we are reduced down to some individual DAS number for each boat, based on past use. Our cod limit per DAS has low as 30 pounds at the same time that anyone south of the Gulf of Maine could land 2,000 pounds per DAS. While six months of rolling closures may represent only 50 percent

of the fishing time, it represents the period when 80 percent of our landings were caught. And an unexpected outcome of rolling closures is the surge of fish harvested in great numbers by offshore boats with massive gear and horsepower fishing twenty-four hours a day when the closure opens – dumping all that fish on the market and depressing prices, fish that could support the dayboat fleet for a long time. The DAS baseline ordered by Judge Kessler is unfair. The inshore fleet has made the greatest sacrifice for these stocks. Someone fishing elsewhere is now rewarded with more DAS than fellow fishermen. Surely as stocks rebound they will enter the inshore area and use their DAS. Before any more cuts come to impact coastal communities, the playing field has to be level for all. If the goal is to reduce DAS to 28,400 DAS, divide that number by all the permit holders, and have a way for fishermen who desire more DAS to transfer DAS. I'm in favor of improving stewardship as in Alternative 3 or as supported by the CCHFA. Perhaps in blocks 124 and 125, there could be no night fishing, trip limits on yellowtail flounder, gear used to reduce bycatch such as cod. These approaches would manage the impacts on coastal communities. The recovery of stocks looks promising. We now have an \$18 million fish pier. I see a bright future – except NMFS has seen fit to increase target levels to levels never seen before. These would manage without impacts coastal communities. Recovery of stocks looks promising. If these targets must be raised, let's do it in steps.

Mr. Steve Scannel, scallop fisherman, Nantucket: I am also a student at Cape Cod Community College. I look at a document like this, the talk of TACs, and think that is what an accountant would do. All the stocks that we fish on are well down and under historic levels. Habitat is still in state of destruction. Whatever TAC we have now, just cut it in half. In the late 1970s and early 1980's we just put a huge band-aid on the problem. We grandfathered in the people in the fisheries and the gear they used. What I propose to NMFS and the Council and Congress: take all the old deals and put them in the wastebasket. We need to replace the regulations with a market based quota system, as opposed to our current monopoly rights based system. Those fishermen with licenses have a monopoly club with ownership in the aggregate. To be a high school kid and told you can't get a license to be an independent fisherman – that type of thinking belongs in the trash barrel. We are wrecking habitat when we don't have to. We have gear that is ridiculously destructive. There is no call to do that in 2003. I know you have done a lot of hard work, but it is based on huge band-aids that were put on in the later '70s and '80s. You have a document called the market based quota system - this system is designed for public resources. It is fair. It doesn't leave anyone out. It is based on equal opportunity. Our current program is very inefficient in that we do not internalize all the destruction taking place with bad gear. We need a system that charges people to wreck the bottom or discard fish. If we are going to put limits on fishermen, they should be dollar limits, not these systems that are poundage limits that give high grading and discarding the edge. That is a wasteful way to fish.

Mr. William Henchy, counsel for the Provincetown Fishermen's Association and the CCHFA, Orleans, MA: I will limit these comment to represent PROFISH. You have already heard a little from the Provincetown fleet. That fleet is limited in terms of mobility and the weather that it can fish. It is primarily a small, dayboat dragger fleet. There used to be some tub trawls, but they were eliminated with the GOM cod trip limit. Provincetown has been very heavily impacted by rolling closures that have made the commercial viability of the fleet a problem. Rolling closures do their job, but due to the geographic location, they keep Provincetown boats off fish when they are available to the fleet. Our recent pier reconstruction is a good thing – the fleet now has a first class facility to build its future. PROFISH has been energized the last several years. If not for the measures under consideration, the future looks quite bright for the Provincetown fleet. Commercial fishing provides 87 percent of the year round jobs in Provincetown, the largest year round employer. With certain exceptions, fish stocks are recovering in the Gulf of Maine and recovering at a reasonable clip. The Northeast Fisheries Science Center has adjusted the

rebuilding targets for important species in GOM. Coupled with time limits in the SFA, this puts the Council in the position of attempting to create a plan amendment to meet MSA requirements. The situation has become nonsensical. In order to achieve rebuilding levels, fishermen have to take cuts in the short term to achieve gains in the long term. As a matter of public policy, it doesn't make much sense to commercial fishermen. I have some specific comments to make. Area management and sector allocation and special access programs are good and should be encouraged. It has become clear that the one size fits all approach in Alternatives 1, 2, and 4 don't go far enough in recognizing legitimate needs or limitations of gear types within the fleet. PROFISH supports the GB cod and hook gillnet sector allocation. We suggest the approval process should be tightened to impose some requirements on the regional Administrator. By way of example, the process to get the raised footrope trawl approved was onerous and unnecessarily long. We will submit comments on proposals for other sectors to be included. PROFISH supports either the phased or adaptive rebuilding strategy, with our preference the adaptive strategy. PROFISH supports the Council's proposed policy on cooperative research and its impact on DAS baseline calculations. I represent a fisherman who lost DAS under the settlement agreement because he participated in research. PROFISH opposed the rolling closures in Alternative 1, the DAS reduction in Alternative 1, the hard TAC options in Alternative 4, the hard TAC backstop option in Alternative 2. Hard TACs will result in a race to fish, which works against the inshore fleet. They will also exacerbate bycatch mortality in violation of the law and the court order. Particularly relevant, we think hard TAC will create safety at sea issues as vessels choose to fish in adverse weather to compete for the TAC. We request further analysis of a couple of things: there is no analysis of the Council's option under National Standard 1 to permit mixed stock overfishing, which may be important for Cape Cod/Gulf of Maine yellowtail flounder in particular. In addition, we ask the Council to analyze the status quo with additional measures necessary to rebuild most stocks by 2014. Additional analysis might provide the Council with additional tools to bring to bear. We will submit detailed written comments at a later date. (A summary of these comments is attached).

Mr. Mark Leach, fisherman, F/V Sea Holly, Harwichport, MA: Basically this next group of regulations is consolidating DSA by tremendous amounts, using trip limits, etc. the staff pointed out that under rebuilding scenarios we will need about ten years before we see net benefits. For Amendment 7, hearings were held in a large room and it was loaded – look at the size of this room. Has the cost of management been cut? I don't mean that in a negative fashion. We are going to have a large economic hit here. I have been promoting a permit buyback or DAS buyback of some sort. Certainly in these times when we are sending \$87 billion to Iraq it will be tough to convince Congress to subsidize fishing. Maybe some of the money used for management should be used for a buyback.

Shawn Fortier, commercial fisherman, Provincetown, MA: I am a director of PROFISH, but I am speaking for myself. When I was following the CLF vs. Evans lawsuit, I noted the following affidavit from Paul Diodati. In his statement to Judge Kessler, he said that currently discards are responsible for half of all fishing mortality on GOM cod. One of the primary reasons we cannot reach mortality targets must be because of these discards. We are shoveling sand against the tide. When we have all these options put forward, there has again been no effort to make those responsible for discards suffer the consequences of discards. In present management time, a jig fisherman - a guy who fishes commercially, full bore fishing with jig - is not even recognized. I asked about enforceability - unfortunately these issues are not identified. To use the words of Council, it makes little sense to put forward measures that cannot be enforced. As I travel around the Cape, I see broken nets set on every broken piece of bottom. I'm speaking now for the last seven years 7 years. I get upset when I see gillnet regulations that can't be enforced because none of the enforcement units have a net hauler. You don't even know how many illegal gillnets are in

the water. They are in the closed areas with no surface markers, they are in other places with no radar reflectors. State licensed boats are putting nets in federal waters. All of this creates mortality, and I can't even get to the bottom. It affects me I am being penalized by a gear that causes much harm – there is a great deal of bycatch by both gillnets and trawls. There are those who avoid bycatch with short tows or by staying off the bottom. I've seen guys throw a whole net full of bycatch over and not move one inch before they reset. Management now concentrates on landings and not mortality. The fish are dead, that is what counts. When I try to comment on these things – what seems to make a lot more sense is status quo with a directed effort at the high level of discards. That will get you there on the codfish in and of itself. Go up to the bank on Stellwagen on the December 1 opening. There is a problem with current management – literally a gang rape of the bottom. Those large boats get their multiples of their 400 pound limit on the first tow, but they keep towing on for other species. There is no mechanism to get the ones who are causing waste to be responsible for it. If they got off the water when they exceeded the limit, they wouldn't keep doing it. When I keep looking at these measures – I see more restrictive gillnet measures – but I know for a fact they don't have a way to tell if it is gillnet or lobster gear. The gear just sits there, and after a while they don't even come out any more. As long as we continue down this path, all I see is a lot of pain and the good guys don't gain anything here. If you try to identify the jig fishermen – the one thing I can do with my hooks – it is like stopgap. If you are going to a hard TAC - RI has tried to do this – people should be allowed some access to the fish. If the guys are doing it by accident, how many times are we going to allow this to happen? All of those fish going over are going to hurt me. I am astounded that there are elements that cannot be enforced and they have not been identified. I hope something good comes out of this but I don't see it.

Mr. Ron Smolowitz, Coonamesset Farm, Fisheries Survival Fund. My comments are more on the surrounding issues, not on the direct options. Sometimes the details are very important. On page 22 of the public hearing document, there is talk of a ten inch twine top in five of the thirty minute squares for scallop dredges, but in Amendment 10 it looks like we are going to ten inch twine top throughout the range. We should try not to use the groundfish plan to manage other fisheries. Just think of the consequences if the scallop plan set a sweep length requirement on groundfish gear. It is very important for the Council to set policy that bycatch and habitat issues of fishery will be addressed in that management plan. PHD page 40 – my concern is that doc says to all gear capable of catching species. This is an issue between sectors. We should also be cautious about hard TACs for that reason. On page 47 there is a discussion of bycatch in the exempted fisheries. I would put forward that scallop gear catches less than five per cent bycatch – I would think that the Council should consider scallop dredge gear should be exempted in the multispecies plan and that way bycatch and habitat could be addressed in the scallop plan. This would be a benefit to the groundfish fishery in the long term. On page 49, the rationale for closed areas and access to closed areas relates to the whole exempted fishery issue. Vessel Monitoring Systems should be considered for all vessels, it would benefit all fishermen; we would not have to close large areas of the ocean for particular reasons. My biggest concerns about are the habitat closures. I chair the habitat Advisory Panel. We started a process to come up with areas, to consider them habitat control areas or management areas. All areas need to be managed for habitat. The biggest flaw in Amendment 10 and Amendment 13 is really they just point out how insufficient the data we have are; new data is pouring in that gives a better picture of the seafloor – not just substrate, but epifauna. These documents divide the ocean into areas, but consider nothing about depth, temperature, epifauna, etc. In analysis we look at species, leading to conclusions like that scallop fishing adversely impacts redfish. One of the things that bothers me is the technical advice we received. In this document, it gives no credit for rolling closures, possession limits, or hard TACs, even though the NRC said reducing fishing effort or frequency has significant benefits. n tech advice we received. I suggest to the Council that the habitat issue should be addressed in the

6

October 14, 2003

RE: Lawlessness and Consequences.

Dear NEFMC Council Members:

My Name is Jean Frottier, I am 60 years old, and I have been a commercial fisherman for 32 years (full time for the past 13 years), and I am the sole source of support for my wife and nine year old child. My boat is the 36 foot F/V ANNALISE, and I fish: (1) for lobsters by diving (I have logged over 10,000 hours underwater) and pots, (2) by rod and reel for tuna, and (3) by jig for cod with electrically driven reels. From day one, I have made a deliberate effort to fish in ways that do not cause bycatch and/or damage the bottom. My fishing methodology is as far removed from "industrial fishing" as one can get, but on anything approaching a level playing field it is a system that works. Most importantly, it is a system that is completely sustainable.

That said, I wish to inform the members of the NEFMC that I, and others who fish responsibly, have long been disadvantaged and abused by unfair/unlawful measures enacted by this council. Recognizing the constraints of space, for the purposes of this commentary, I will concentrate on the problems the NEFMC has caused by improperly/unlawfully favoring the gillnet sector with: (1) rules which cannot be enforced, and (2) preferential access to prime fishing bottom.

RULES WHICH CANNOT BE ENFORCED

Nothing so clearly exposes the dishonesty of the management process as the unenforceable gillnet rules - which time and again are incorporated into measures adopted by the NEFMC. Tragically, these NEFMC actions are today shown to be deliberate and purposeful. For example, by letter dated April 7, 2000, on NEFMC letterhead, to all Groundfish permit holders, the NEFMC explicitly set forth the following:

"... The management measures we choose for Amendment 13 must comply with the ten National standards for fisheries management contained in the Magnuson-Stevens Act (Act). Some of the criteria the Council will use in evaluating management measures include the following:

- *Are the measures enforceable?* It makes little sense to adopt regulations that cannot be enforced."

Looking at each of the four proposed alternatives for Amendment 13 put forth for public comment by the NEFMC - we see that they all, again, contain gillnet regulations which the NEFMC knows full well cannot be enforced. At the Amendment 13 meeting in Hyannis, Mass., I specifically asked the Council representatives about what NOAA law enforcement and/or the U.S. Coast Guard had said about enforcement of the any of the provisions put forth by the NEFMC for public comment. The response was, at first, an uncomfortable silence, and then an admission from Tom Nies that the U.S. Coast Guard had stated that some of the proposed measures were said to be unenforceable. Mr. Nies did not elaborate or identify which measures were considered by the Coast Guard to be unenforceable and/or when the Council was informed of such fact. By reason of the fact that the NEFMC itself states that "*It makes little sense to adopt regulations that cannot be enforced.*", the NEFMC is today shown abusing the SFA process by secreting vital information from the public when their proposed measures are put up for "public commentary". My question here to each Council member is: "Why are you doing this?"

FAIRNESS -

" * *Are the measures fair and equitable?* We recognize that 'fairness' is often in the eyes of the beholder. Nevertheless, the management measures in Amendment 13 must be fair and equitable to fisherman in all states, in different permit categories, using different types of gear, etc."

All members of the NEFMC are certainly aware that any piece of bottom upon which a gillnet sits is a piece of bottom denied to all other fishermen for the duration of the time that the net is left on that piece of bottom. By favoring the gillnet sector with: (1) laws that the NEFMC knows cannot be enforced, and (2) by the NEFMC permitting gillnets to remain set on a chosen piece of bottom for as long as the gillnetter wishes, the NEFMC is unlawfully favoring the gillnet sector. The measures the NEFMC currently has in place, and each of the four proposed Amendment 13 management schemes, improperly favor the gillnet sector with measures that are tantamount to granting the gillnet sector the best fishing bottom for as long as the gillnetter wants. This is certainly not a question of fairness that is "in the eyes of the beholder" - because no one else can possibly fish that particular piece of bottom until the net is removed - period!

All of the foregoing is bad enough in-of-itself, but when one adds in the problems of the illegal nets, and bycatch waste caused by soaking nets, the sordid perversion of the Magnuson-Stevens/Sustainable Fisheries Act by the NEFMC cannot be denied. Clearly, by reason of the fact that there is no set protocol for hauling and inspecting a set gillnet, it is amply clear the NEFMC never had any intention of enforcing their gillnet regulations. As a direct consequence of adopting gillnet regulations which cannot be enforced, the prime fishing bottom is literally carpeted with illegal gillnets of all manner. As a direct consequence of granting gillnetters preferred access to the prime bottom, long term soaking of gillnets has become standard gillnet fishing practice. The gillnets, both legal and illegal, remain on the prime bottom 24/7. In turn, the foregoing causes extreme levels of wasteful bycatch, and also damage to EFH - as the gillnet's lead line sweeps back and forth over the bottom with the change of tide. The waste and damage gets worse still when some dragger or scalloper decides to take matters into his own hands - and clears out some of these parked gillnets - and then dumps the junk in a heap - a ghosting, killing, and entangling heap.

Tragically, all this could be made to end almost overnight by simply requiring gillnetters to fish their nets within sight of their boats, and requiring gillnet boats to return from each fishing trip with their nets. In other words, by simply treating the gillnet sector like every other gear sector! Furthermore, until such time as the gillnets are made to return with their boat, all DAS regulations placed upon the other gear sectors will remain manifestly unfair. A set gillnet keeps fishing/killing/wasting as the owners boat sits tied at the dock, and that cannot be said about any boat in any other groundfish sector! Consequently, the NEFMC cannot put a legitimate face on any of their present or proposed gillnet regulation measures.

The many years of NEFMC fisheries mismanagement, so well exemplified by NEFMC "regulations" adopted for the gillnet sector, has turned deadly serious today in the form of Amendment 13. The NEFMC has already framed the issue into a choice of one of four "alternatives", but by the inclusion therein of gillnet regulations that the NEFMC knows are unenforceable, the sordid and underhanded nature of NEFMC "management" becomes an issue which trumps all others. At the Hyannis meeting on Amendment 13, I tried to make the point that the consequences of bycatch waste and habitat destruction should be made to fall primarily upon those who are the cause of the problem. Unfortunately, the actions of the NEFMC make it clear the NEFMC has yet to see it that way. Given the hand that the NEFMC

has dealt us with their four alternatives, the only thing that could possibly conform to SFA law, the NEFMC guidelines articulated by the April 7, 2000 letter, and the apparent wishes of most of all others who have come forth to comment, is to adopt some form of the status quo - with certain critical provisos as follows:

- (1) Change the system that allows gillnetters to set illegal nets and encourages the long-term soaking of gillnets.
- (2) Recognize the difference between a dragger pulling a 50-60 foot sweep with a 300-400 horsepower engine from a dragger pulling a 200-250 foot sweep with a 500-1500 horsepower engine. All draggers do not waste/damage/discard the same!
- (3) Reward all responsible fishing practices which cause little bycatch and/or EFH damage, and adopt regulations which discourage and punish wasteful and destructive fishing practices.

The "SECOND AFFIDAVIT OF PAUL J. DIODATI", filed in the CLF v. Evans case, shows us why this would work. In his filed affidavit, the Director of the Massachusetts Division of Marine fisheries raises many valid points, backed-up by Massachusetts sea sampling data, including the following:

- (1) "20. ... SAW 33 determined that GOM cod discards in 1999 were 2,500 metric tons (mt) more than commercial landings (emphasis added). ... Furthermore, without first addressing the bycatch and discard problem other management measures adopted to achieve SFA targets will be frustrated."
- (2) "22. The Commonwealth proposes a much more effective, timely, resourceful and restrictive short-term remedy to reduce bycatch and discards. Its proposed remedy is based on the most recent conclusion of the Council's Scientific and Statistical Committee (SSC) that in 1999 and 2000 50% of GOM cod fishing mortality was due to discards. Thus, this Court must assure that any short-term remedy focus on measures that will dramatically reduce mortality caused by discarding. Such a remedy must include an irrefutable and substantial by-catch and discard mortality-reducing measure(s)."
- (2) "23. Dragging and gillnetting can cause large amounts of discards, especially when trip limits, such as the current 400 pounds, are low and cod abundance from a recovering stock is high. The Commonwealth would propose a shift in how GOM groundfish fisheries are prosecuted in the "inshore" portion of the GOM."

Reasonably, the NEFMC should devise measures that will get the needed mortality reductions from what is today being wasted - rather than from the livelihood of those who are not causing the waste. Additionally, that 50% GOM waste estimate mentioned by Mr. Diodati is certainly low because: (a) no one has any idea whatsoever about how many illegal gillnets are out there, (b) it is impossible to calculate how many fish a long soaking gillnet has killed before it is even hauled, and (c) no one can accurately determine the extent to which draggers and gillnetters are lying about their discards on their VTRs. In reality, it is very likely that year after year the discards of GOM cod equal or exceed the landed catch. The NEFMC council members must understand that people who fish responsibly, and cause little or no discards, see the issue of discards as a matter of "fairness" when their ability to make a living is constantly being sacrificed by the NEFMC to essentially "keep the pigs feeding at the trough".

Finally, on a personal level, for a period that now extends to seven (7) years, my ability to jig for cod on the backshore of Cape Cod, (the "broken bottom" in the vicinity of the 42N and 70W intersection), has been greatly impaired, even prevented, by parked gillnets. Most of the gillnets set in this area are illegal nets with no identifying markings on the buoys, and no tetrahedral

reflectors. Here, we have a group of Massachusetts State licensed boats illegally setting nets in Federal waters on a regular basis, and other gillnetters who come from afar to set nets in excess of their legal allotment, and/or to set nets above the 42N line. Because these are illegal nets, they are poorly tended, and are allowed to soak (read - kill/waste), for very long periods - and they all sit on the prime cod bottom. At various times over these past seven years, elements of the U.S. Coast Guard, NOAA law enforcement, and the Massachusetts Environmental Police, have tried to put a stop to this flagrant lawlessness - to no avail. They are all unable to haul a gillnet, and none of these agencies has a protocol in place for hauling/handling a set gillnet - which can legally be up to one mile long. So it all falls back on the NEFMC for enacting gillnet "regulations" which they fully know are unenforceable. This situation must end, and Amendment 13 provides the NEFMC the opportunity to redress this long-standing wrong. The NEFMC must now abide by the mandate of the SFA and their own articulated guidelines, and that, in turn, will provide the fishing mortality reductions to which Amendment 13 is directed.

Sincerely yours,

Jean F. Frottier
249 Gross Hill Road
Wellfleet, MA 20667
E-mail woofy1@comcast.net

7

December 8, 2003

Commercial Fisheries News
PO Box 37
Stonington, ME 04681

To the Editor;

A 10/28/03 article in the Boston Globe quoted "a high-ranking National Marine Fisheries Service employee who asked not to be identified": "In New England fishing, it's all about end runs for the special interests. If you don't get what you want locally, you go up a notch. You go to the national head of the service, ...".

Bingo! Now, Amendment 13, and the lead in CFN's December issue: "New England council adopts Northeast Seafood Coalition plan". At the public hearings on Amendment 13, many came with that excellent CFN breakdown of the four "preferred alternatives". After the fact, CFN publishes the full-page ad: "We at the Northeast Seafood Coalition want to share our review of Alternative 5. Filed papers for the Northeast Seafood Coalition, Inc. show this entity for what it is - a politically well-connected group of draggermen and gillnetters." CFN also published a letter speaking to how Dr. Hogarth became involved. But, Alternative 5 serves the interests of this one group by misusing the SFA process to prevent timely challenge by others.

Commenting after the fact, I can only point out that the problem of massive dead discards of regulated species caused by draggermen and gillnetters is, of course, (again) completely ignored. Where the level of dead cod discards in the GOM is shown equal to, or exceeding, the landed catch, we see the Council and the head of NMFS again willing to countenance the appalling waste that has frustrated all prior initiatives. We see (again) the inclusion of gillnet regulations that all know are impossible to enforce - by reason of the fact that enforcement has no means to haul/handle a gillnet, or its catch. We see continued use of different regulations on either side of the 42N line with no ability to enforce violations.

Why do I care? I am now 60 years old, and I have been a commercial fisherman for a long time. In the winter I jig for cod on a limited access hook license. Jigging is as clean as it gets, but NMFS does not even recognize it as a distinct category. Instead, the Council and NMFS allow gillnetters to soak their nets (about as dirty as it gets) on whatever piece of bottom they chose for as long as they wish. That, in combination with gillnet regulations which cannot be enforced, leaves the prime bottom carpeted with unmarked (illegal) nets, and no good place for people like me to fish. Alternative 5 insures that this abuse will continue.

Jean Frottier
Wellfleet, MA

8

February 26, 2004

Sent by FAX
(978) 281-9135
Sent using 281-9207

Patricia A. Kurkul, Regional Administrator,
National Marine Fisheries Service
One Blackburn Drive
Gloucester, MA 01930

RE: Comments on the Proposed Rule for Groundfish Amendment 13.

Dear NOAA Regional Administrator,

Any comment on Amendment 13 must be considered in light of what a "high-ranking National Marine Fisheries Service employee" is represented to have said to a Boston Globe reporter prior to the adoption of the "Alternative 5" that now constitutes the current NEFMC proposal up for review:

"In New England fishing, it's all about end runs" for the special interests, says a high-ranking National Marine Fisheries Service employee who asked not to be identified. "If you don't get what you want locally, you go up a notch. You go to the [national head] of the service, then you go to the head of the Department of Commerce, then you go political and threaten the budget allocations. It's endemic."

It is hard to imagine a more perfect example to the truth of the foregoing quotation than the Amendment 13 proposal put forth by the NEFMC. At the public hearings on Amendment 13, "Alternative 5" was never set forth for public discussion or comment, yet it now sits before NMFS for final review. Having attended the public hearing held in Hyannis, Massachusetts, I can say first hand that the attendees were asked by Mr. Tom Nies to limit their comments to the four alternatives that had been set forth in a "measures matrix" provided by the NEFMC for discussion purposes. Attendees were also discouraged from cross-mixing parts of the four alternatives in their comments. We were left with the clear impression that it was to be a choice of one of the four. Obviously, the Northeast Seafood Coalition was given a key to the backdoor and allowed to cobble together the self-serving insult to due process and honest dealings that the NEFMC has placed before NMFS for "review". The record will clearly show that this NMFS review is the only opportunity given to the public to offer any challenge to the Northeast Seafood Coalition's "Alternative 5" that now sits before NMFS as the NEFMC proposed rule.

Enforcement:

The most striking deficiency of this proposal put forth by a group of draggers and gillnetters relates to enforcement. As a commercial jig fisherman who has suffered greatly as a consequence of years of unlawful conduct by certain draggers and especially gillnetters, I am one of those who is demanding an end to regulations which are known to be unenforceable prior to passage. In a certain NEFMC letter dated April 7, 2000 letter addressed to "Groundfish Permit Holders" they state:

"Some of the criteria the Council will use when evaluating management measures include the following:

- "Are the measures enforceable? It makes little sense to adopt regulations that cannot be enforced."

Looking to the NEFMC "Public Hearing Summary" for the September 14, 2003 meeting in Hyannis, Massachusetts NMFS will find me asking the NEFMC representatives about enforcement of the measures set forth in their "measures matrix":

"Mr. Shawn Fortier (sic), fisherman, Provincetown, MA: Back in April of 2000, the Council made a statement concerning enforceability of regulations. Has there been any consideration of whether these measures are enforceable? We cannot expect an increase in enforcement resources. Mr. Nies: Volume I of the full amendment includes an evaluation of whether the measures are enforceable. This was prepared with the assistance of NMFS and the Coast Guard. Some measures may not be enforceable.

NMFS is asked to take express notice of the fact that Mr. Nies does not identify the suspect measures for the public, and he misrepresents what was actually said to the Council about some of the NEFMC proposals by using the phrase "may not be enforceable". In truth, it is a matter of record that, for many years, NOAA Law Enforcement and the U.S. Coast Guard has told the NEFMC Enforcement Committee that the regulations pertaining to the number of gillnets, the configuration of gillnets, and the size of gillnets have little possibility of enforcement.

The fishermen proponents of the underlying "Alternative 5" are draggers and gillnetters who fish at night (hook fishermen do not), and they ended their Amendment 13 proposal with the following: "There is no VMS requirement automatically implemented by this alternative". . . NOAA should remain mindful of the fact that at sea approximately 90% of fisheries violations occur at night – while approximately 90% of enforcement activity occurs during daylight hours. The proposal put forth for approval by the NEFMC continues to ignore the documented failures to enforce present fisheries regulations in any meaningful manner. The NEFMC's Amendment 13 proposal continues to ignore the longstanding concerns of Law Enforcement which have time and again been brought to the attention of the "Enforcement Committee" of the NEFMC. Now they add yet more questionable measures with no VMS. VMS represents the only possibility for any nighttime enforcement given the inherent dangers of nighttime boarding and the extreme demands on Coast Guard resources for Homeland Security. NMFS should not approve a complicated management scheme that has no reasonable possibility of being enforced.

Fairness:

The NEFMC's April 7, 2000 letter also had something to say about "fairness":

- "Are the measures fair and equitable? We recognize that "fairness" is often in the eyes of the beholder. Nevertheless, the management measures in Amendment 13 must be fair and equitable to all fishermen in all states, in different permit categories, using different gear types, etc."

With NMFS now as the "beholder", I ask, *What is the least bit fair about continuing to allow gillnetters to set all the illegal nets they want on any piece of bottom they want for as long as they want?* That is exactly what the NEFMC is doing by (again) adopting gillnet regulations they know full well are unenforceable. Gillnetter lawlessness has gotten to the point where we have Massachusetts State licensed gillnetters setting hundreds of nets as much as 2½ miles into Federal waters. This has been going on in our area for the past six years! The Coast Guard has witnessed the problem of illegal nets during their regular boarding operations off Cape Cod. We have also made complaints to the Coast Guard, NOAA Law Enforcement, and the Massachusetts Environmental Police. Nothing is being done about it because there is nothing that they can do about it! Law enforcement has told this to the NEFMC on many occasions.

On a personal level, the draggers and gillnetter lawlessness has resulted in a substantial loss of my income and has damaged the value of my permit. The same is probably true for most hook fishermen. NMFS is certainly aware that any piece of bottom upon which gillnets are set represents bottom denied to all other fishermen. Reasonably, if NMFS has no means to remove illegal/killing/wasting gillnets, then they should be banned until such time as NMFS does, or NMFS should insist that the NEFMC adopt regulations which at least controls the problem – such as requiring the nets to return with the boat.

Fairness issues also arise in other aspects of enforcement. How is it fair to allow those who fish day and night to be exposed to little more than 50% possible enforcement, while those (like hook fishermen) who fish only in daylight hours are 100% exposed to enforcement activity? Illegal fishing activity by draggers and gillnetters clearly has the potential to cause great harm to the resource. However, we see the greatest exposure to law enforcement falls upon the sectors known to cause the least harm. This underhanded draggers/gillnetter proposal seeks to protect the ongoing nighttime lawlessness!

Bycatch and fairness. What is fair about regulations that allow some draggers and gillnetters to discard huge amounts of regulated species at the expense of all those fishermen who do not fish dirty?

No Effective Bycatch Reduction:

This draggermen/gillnetter Alternative 5/Amendment 13 proposal contains no effective bycatch reduction measures. What I can relate to NMFS first hand is that while tuna fishing off the BB Buoy when there was a 2000 pound daily limit for codfish, I personally witnessed draggers discarding huge amounts of cod on a tow by tow basis – during daylight hours. How can raising the GOM limit to 800 pounds and dropping the GB limit to 1000 pounds possibly reduce the overall cod bycatch problem caused by draggers? How can yet more gillnet regulations which cannot be enforced possibly mitigate the huge bycatch problem caused by any gillnet that is allowed to soak more than one tide? NMFS certainly knows by this time that controlling bycatch is absolutely critical, and this “alternative 5” does nothing to help.

Using the year 2001– Possible Fraud – Increase in DAS:

Using the 2001 in this Amendment 13 proposal is problematical. One of the glaring problems stems from the way the State of Massachusetts distributed their portion of the \$10,000,000.00 received in 2002/2003 to compensate Federal multispecies permit holders for their lost days at sea. For whatever reason, Massachusetts decided to use the year 2001 in their calculations. That resulted in the largest payments often going to the fishermen who had little participation in the fishery prior to 2001. The State’s use of 2001 makes no sense, but now we see a proposal put forth by a group consisting of mostly of Massachusetts draggermen, gillnetters, and politicians which employs the year 2001 for DAS calculations. If this proposal goes through as presented, these “year 2001 fishermen” will get back the “lost” DAS for which they have already accepted compensation checks. Cute! Under the circumstances, NMFS should secure the fishing history of all the proponents of “Alternative 5” and the fishing history of the Council members who voted for this thing. Something is wrong here! Because the Northeast Seafood Coalition proposal was a back door deal there was no prior opportunity to offer any challenge to this scam.

Using the 2001 DAS data also increases the overall number of days, and swells the number with an unknown quantity of completely “paper days”. Fishermen who actually fished the DAS called in should not have to see their right to fish in any way diminished by those who did nothing more than call in and leave their boat sitting at the dock. Each day that is counted in the total must at least be a day that was actually fished. Furthermore, NMFS signed a consent decree in year 2000, and the entire situation remains far more equitable and far less problematical if Amendment 13 also stays within the same timeframe.

That October 28, 2003 *Boston Globe* article also says: “William Hogarth, the current director of the National Marine Fisheries Service, pledges that he won’t let political pressures affect his decision making”. However, fishermen like myself who are very much troubled by this Amendment 13 proposal and how it came about have good cause to question such a representation after having read Dr. Hogarth’s gushing endorsement of “Alternative 5” (printed in the December issue of *Commercial Fisheries News*). As NMFS can see from the points that I have raised, and the from the manifest deficiencies which I do not have enough space to set forth, neither the process nor the proposal is worthy of Dr. Hogarth’s premature enthusiasm. At the barest minimum, NMFS must reject any element of this proposal that NMFS knows cannot be enforced, and strip the proposal of the fraud involving taxpayer dollars for “lost” DAS.

Finally, if NMFS is at all serious about substantial reductions in DAS, bycatch waste, and habitat destruction – it is as simple as putting an end to fishing at night, and requiring gillnetters to bring their nets home with their boat. Such measures are certainly fair to all fishermen – and Homeland Security would have a much easier job. NMFS should also be mindful of the fact that the cod are already gone. GONE! Each year after 2001 the fishing has been getting worse – in an area extending from the Stellwagen Bank to the BA Buoy. There is already a serious problem with the cod stocks, and this Amendment 13 proposal seeks to prevent anyone from doing anything about it for another two years. Is NMFS going for that too?

Jean F. Frottier
249 Gross Hill Road
Wellfleet, MA 02667
E-mail: woofy1@comcast.net

EXHIBIT II.

Part I.

Relative Distribution and Abundance of Cod in the Northwestern Atlantic 1979-2005 Derived from the NEFSC Spring Bottom Trawl Surveys

This animation loop shows relative cod stock weight and location 1979 - 2005. Each frame represents 3 years of survey data for cod and frames advance every 3 seconds after the file has completed downloading. (yellow circles indicate cod are present, larger circles indicate more cod, plus sign (+) indicates sampled area where no cod were found)

The information displayed here represents 27 years of data, part of a larger 40 year timeseries collected consistently since 1963.

The Northeast's resource survey constitutes the world's longest and most comprehensive standardized measure of distribution and abundance trends in commercially harvested finfish.

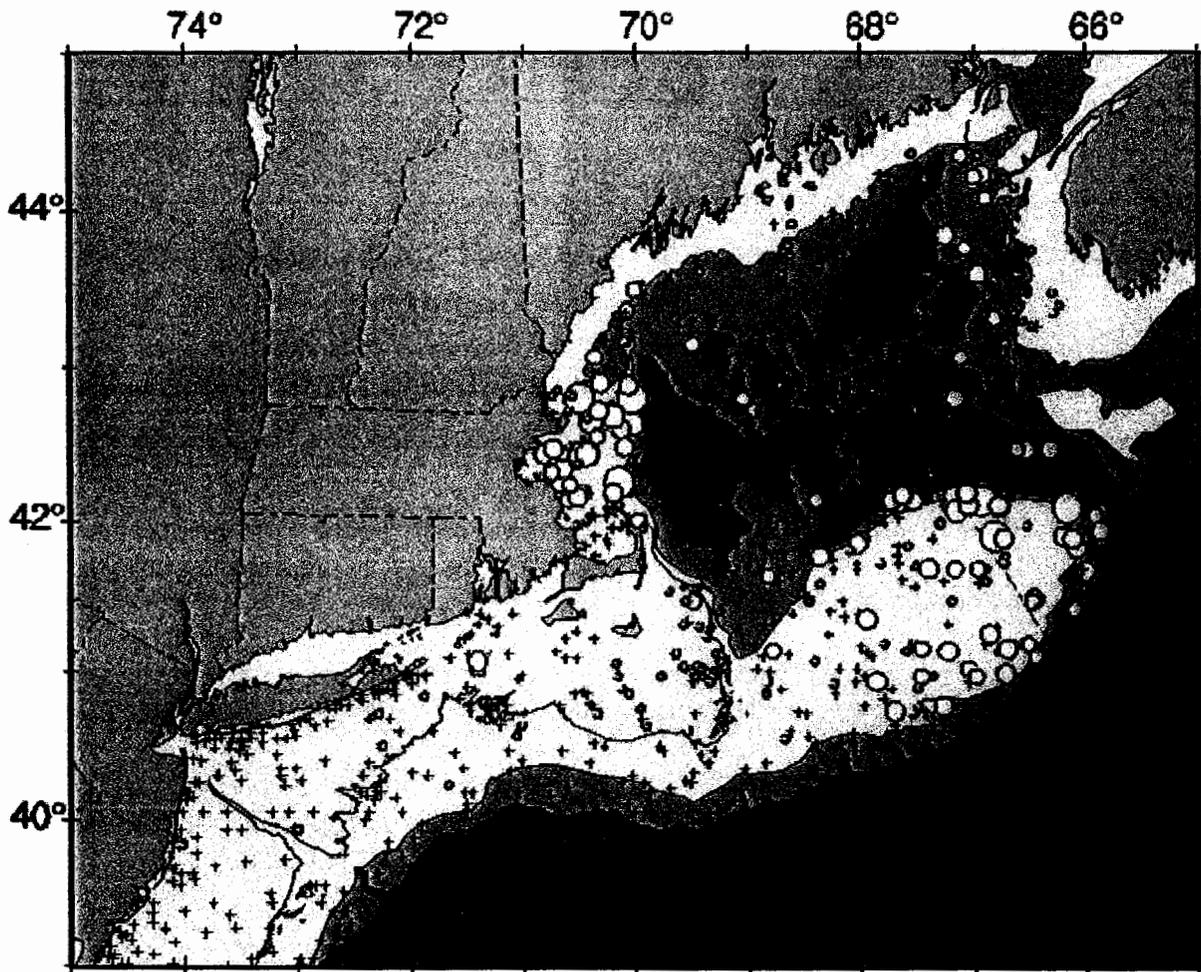
It is not a measure of actual abundance.

It is not a stock assessment.

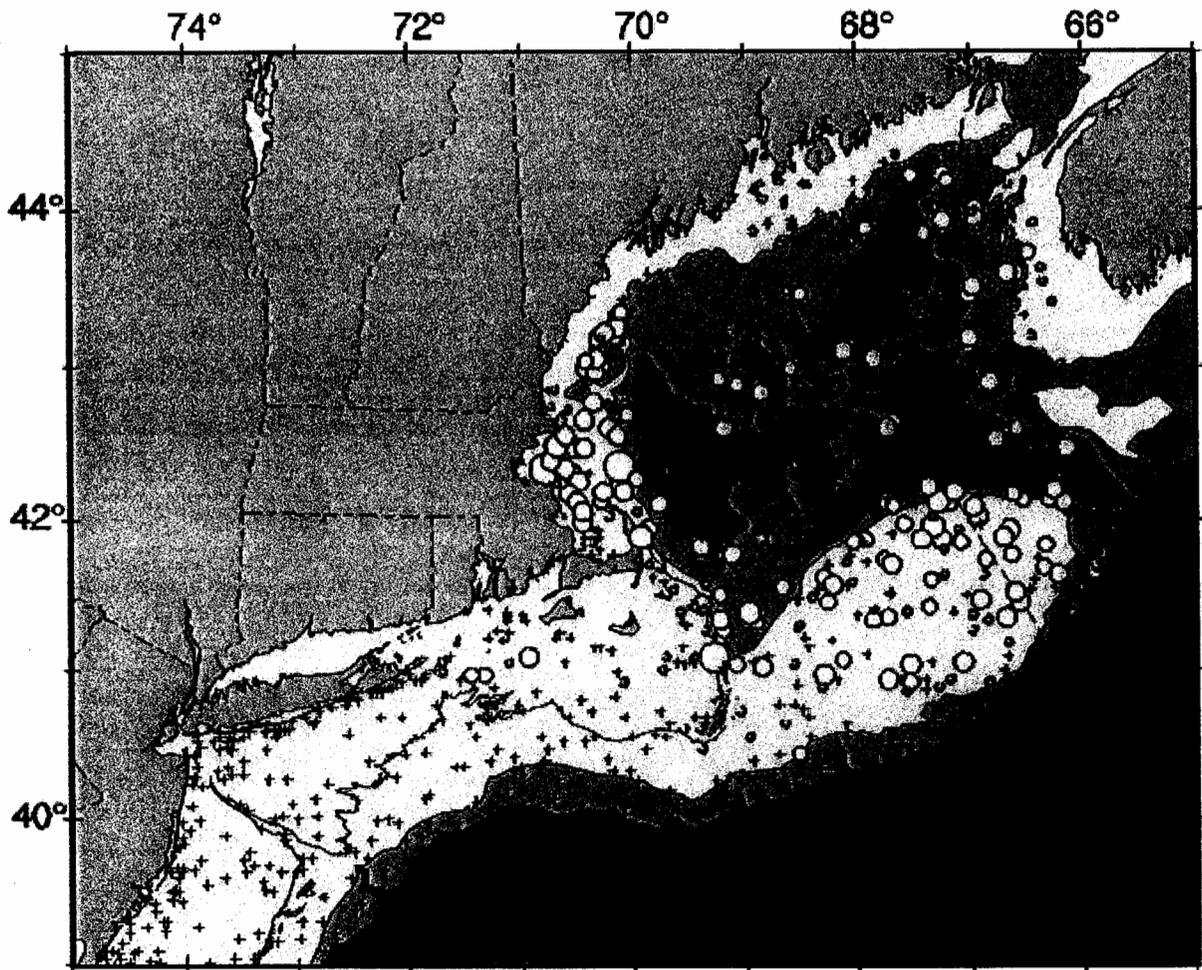
These pictures are animated on this page, but each frame of the animation may also be viewed and downloaded:

- [79to81.gif](#)
- [82-84.gif](#)
- [85-87.gif](#)
- [88-90.gif](#)
- [91-93.gif](#)
- [94-96.gif](#)
- [97-99.gif](#)
- [00-02.gif](#)
- [03-05.gif](#)

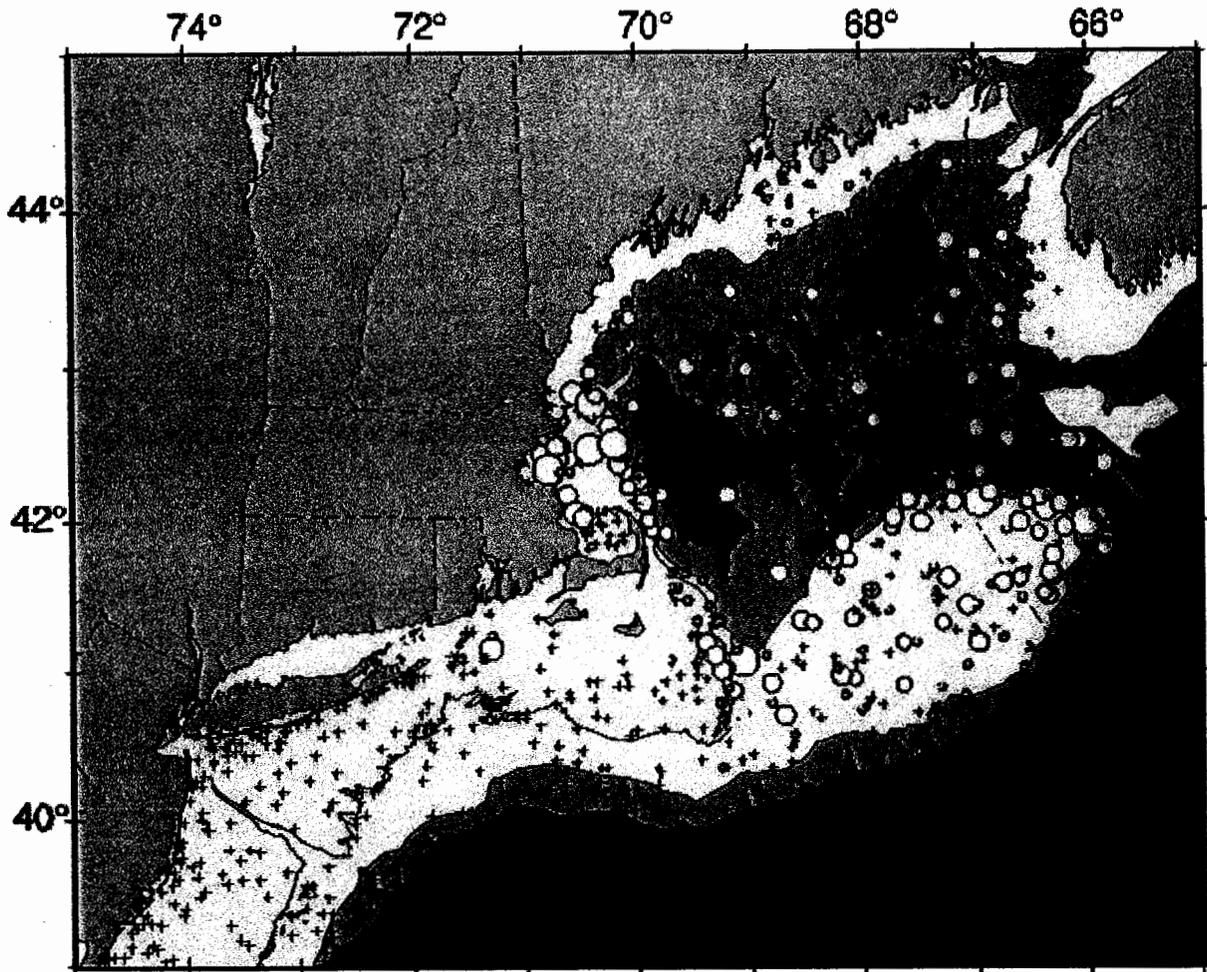
[For general information on cod stocks: Click Here](#)



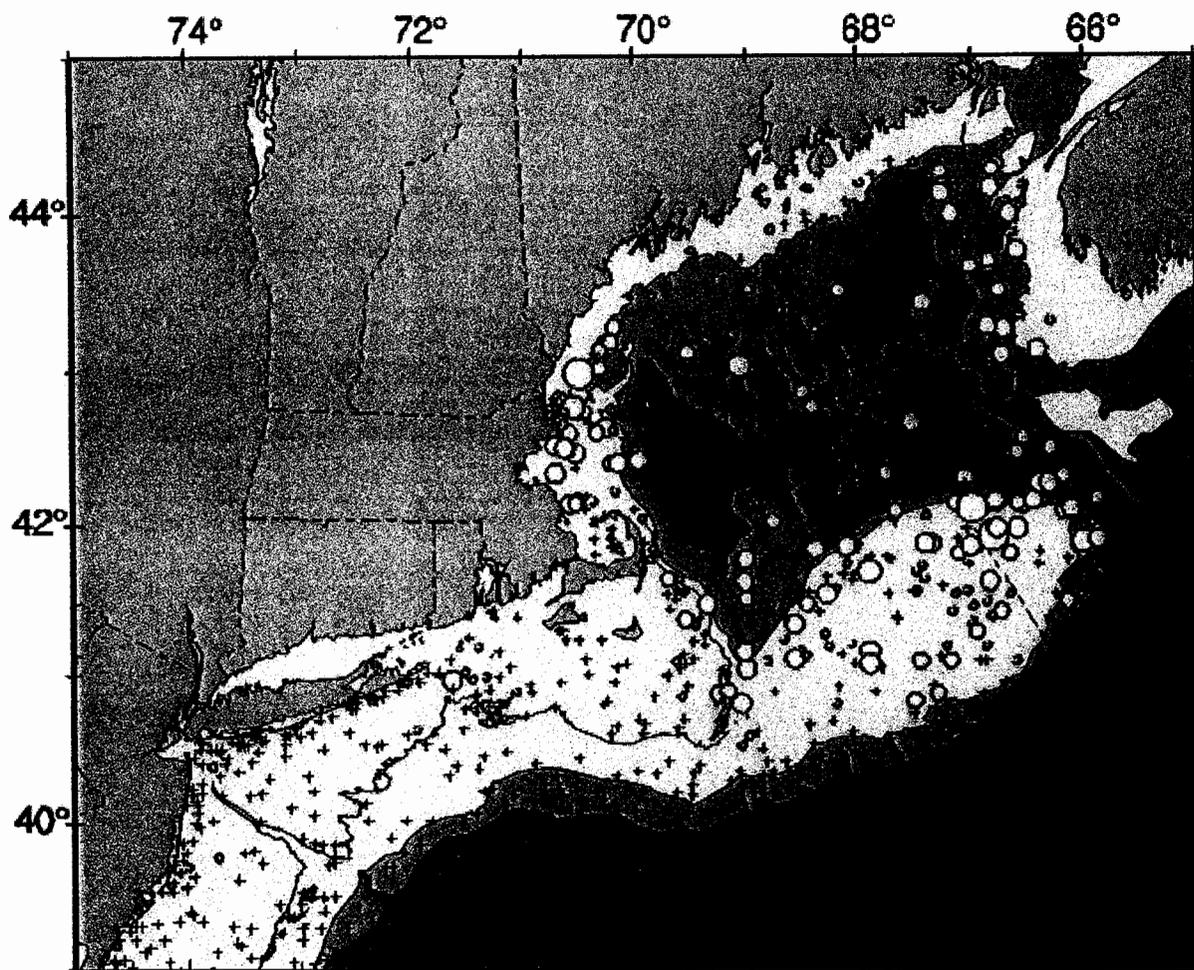
Spring 2003-2005



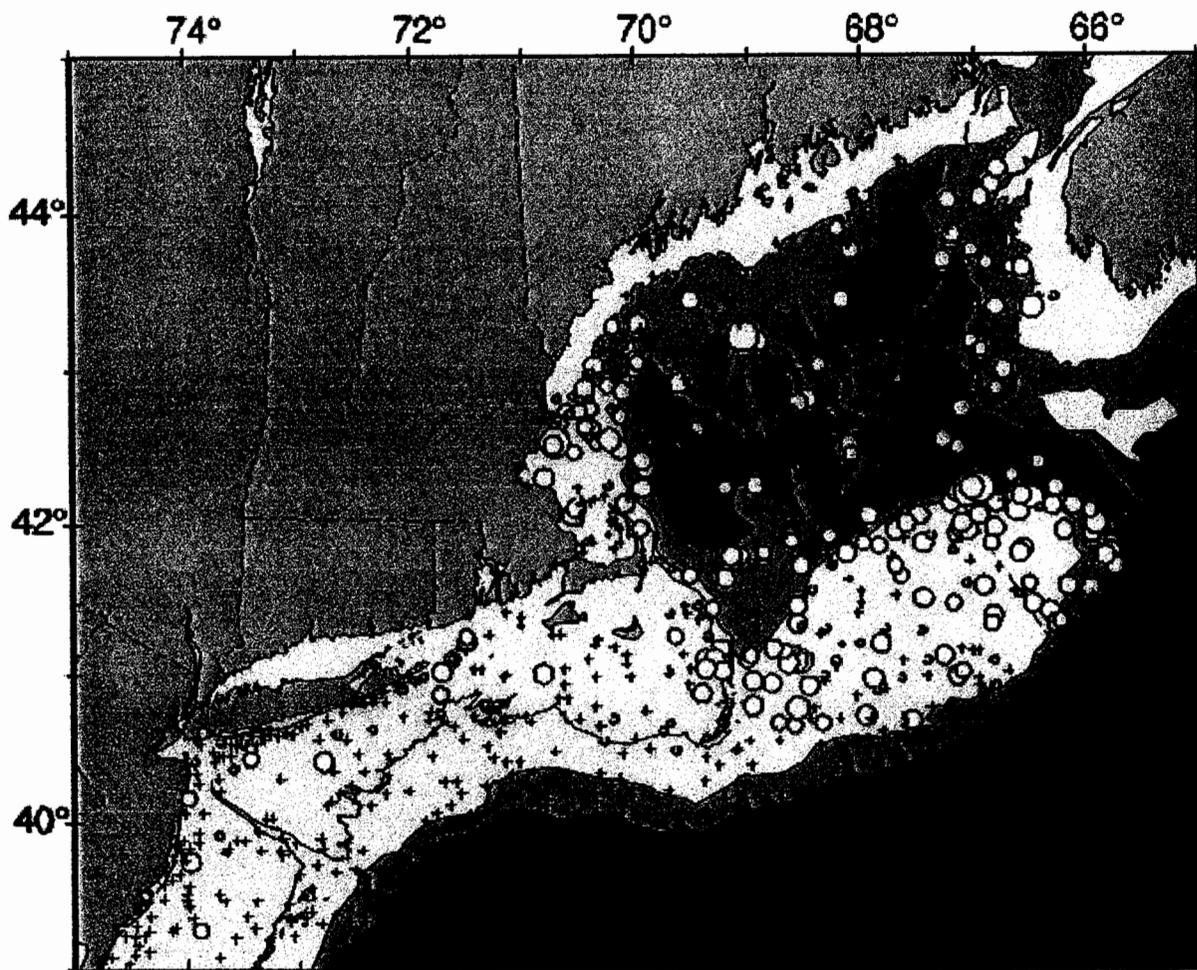
Spring 2000-2002



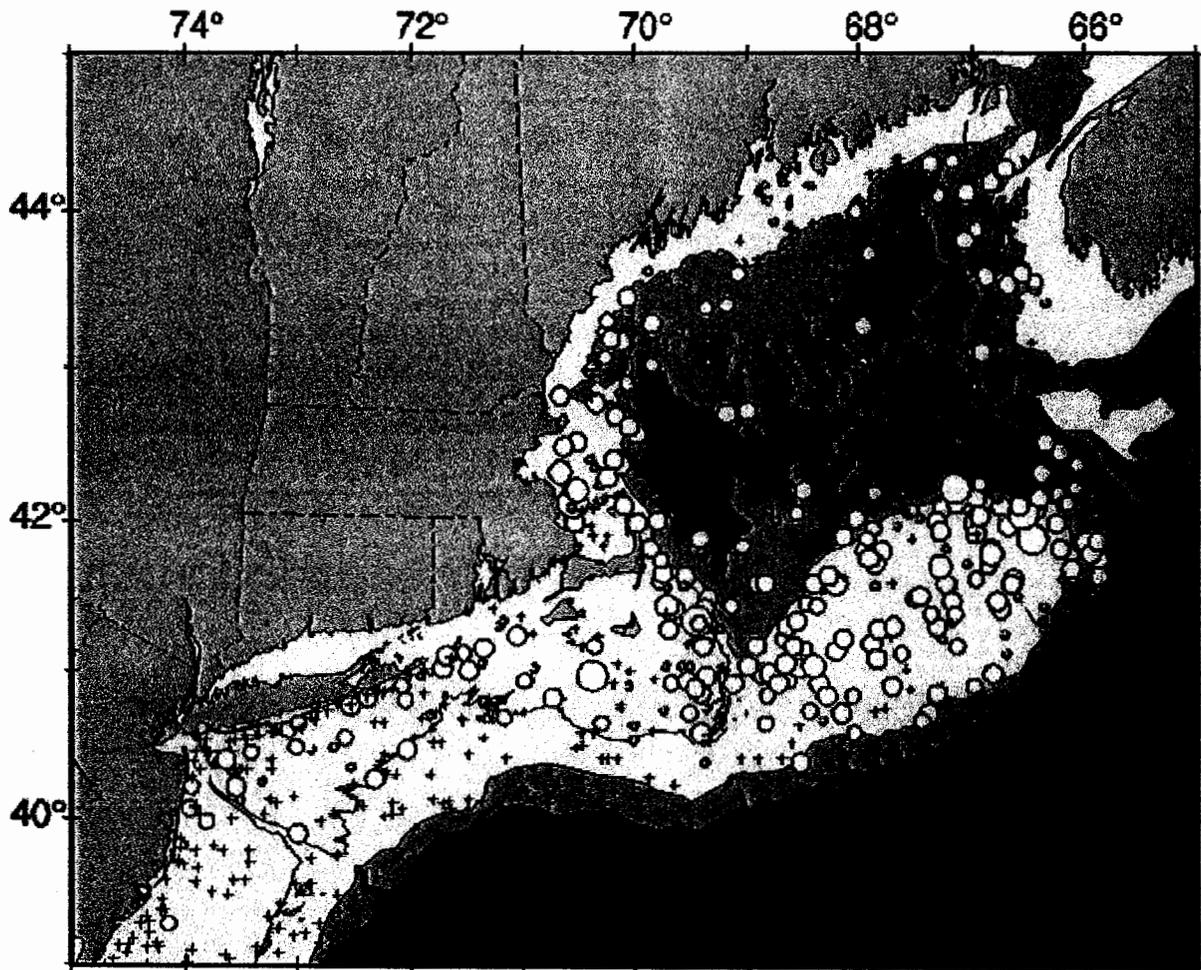
Spring 1997-1999



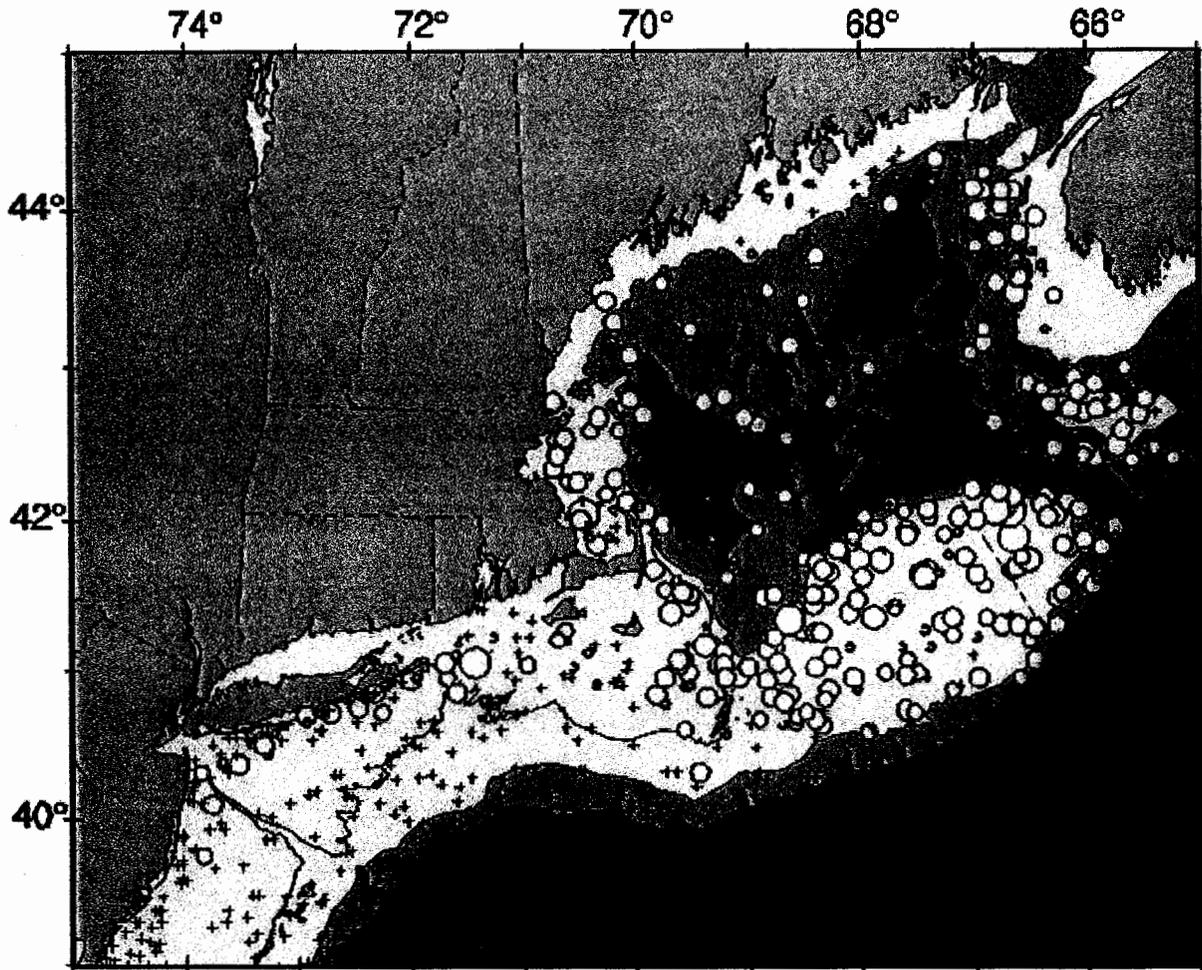
Spring 1994-1996



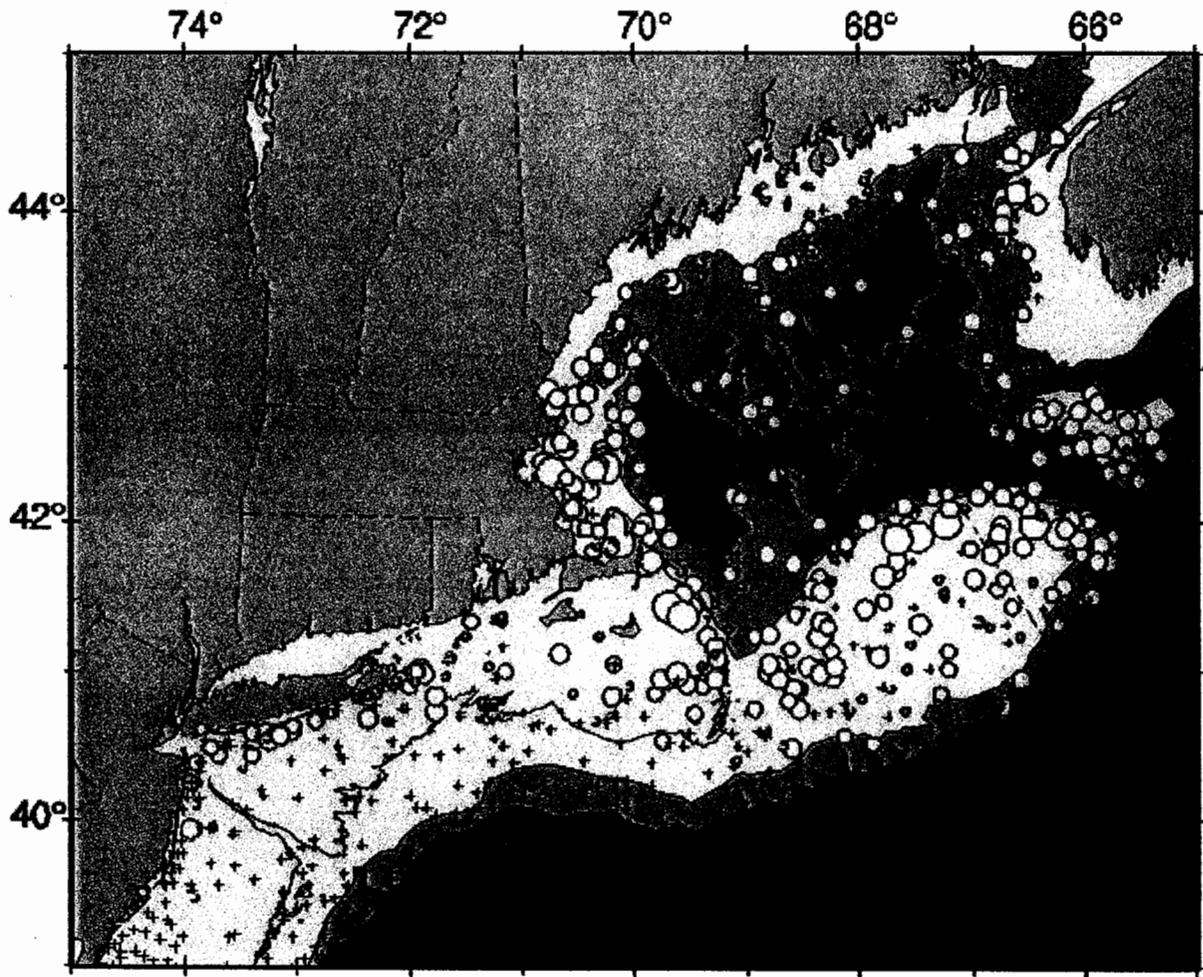
Spring 1991-1993



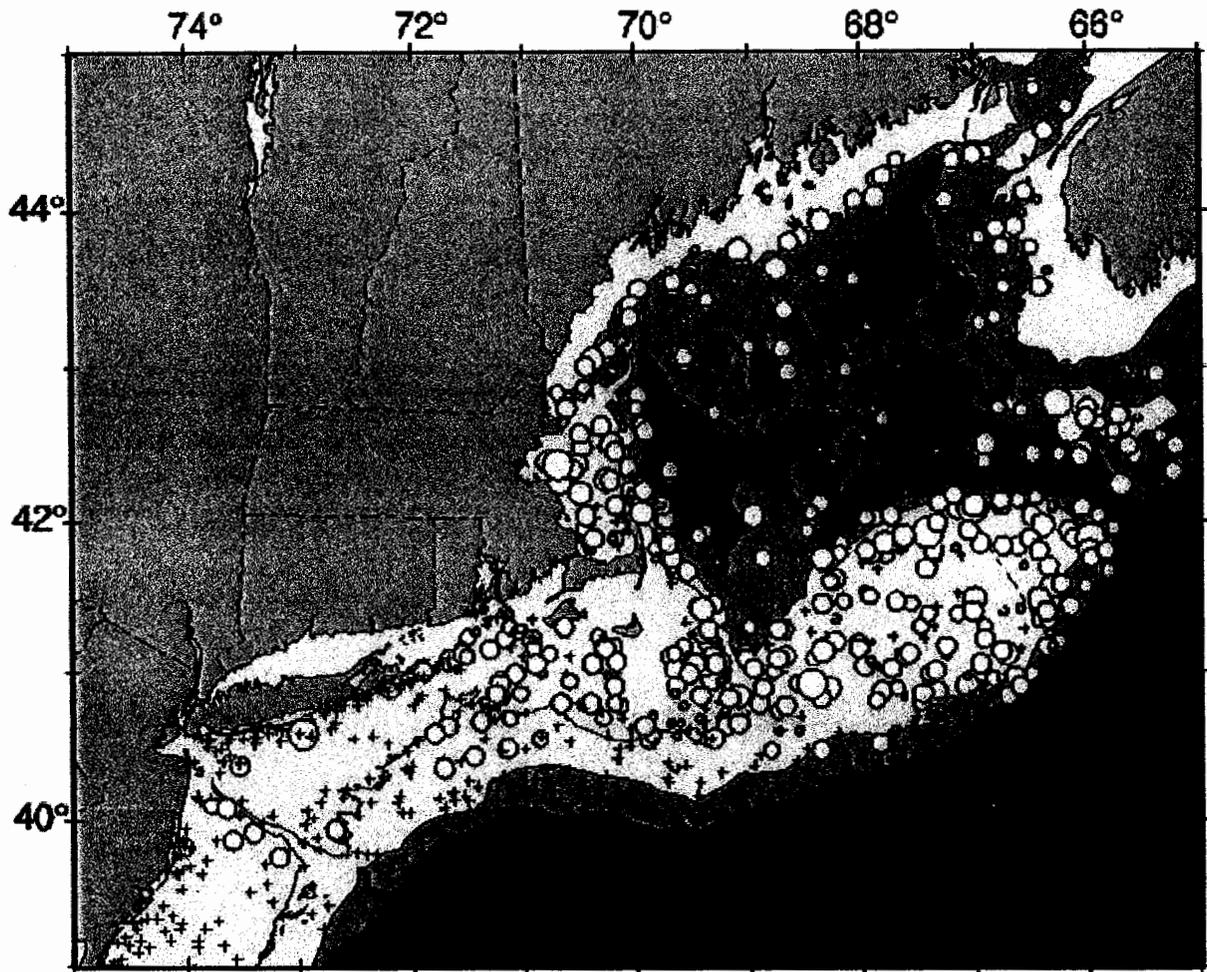
Spring 1988-1990



Spring 1985-1987



Spring 1982-1984



Spring 1979-1981

Exhibit II

Part 2.

Copy of USGS Fact Sheet:

Habitat Geology Studies on and near Georges Bank, off New England

Habitat Geology Studies on and near Georges Bank, off New England

Introduction

Georges Bank was once the premier East Coast fishing ground for groundfish and scallops. The decline of groundfish species due to overfishing contributed to the increasingly restrictive management of fish stocks and a need to identify and protect essential fish habitat (EFH).

Marine habitat geology is the study of the distribution of geologic materials that form the seabed, the geologic processes (such as sediment movement and deposition) that affect the seabed, and the interplay of geologic factors and species behavior that gives rise to biological habitats in general and to specific habitats deemed essential to the success of a particular species (EFH's).

Management Needs

In response to the growing need to manage fish stocks and to protect seabed environments and habitats, there is an increasing demand to know (1) the distribution of geologic materials and processes that are the framework of habitats (fig. 1), (2) the location and character of EFH's, (3) the impact of habitat disturbance by fishing gear, and (4) the processes and time periods required for the recovery of disturbed habitats.

Large areas on and near Georges Bank have been closed to fishing since December 1994 to conserve groundfish stocks (fig. 2). Sea scallops had been depleted in these areas, but they have recovered locally since 1994. Parts of the closed areas recently have been opened for a limited time to allow scallop dredging, thus raising questions regarding the disturbance of EFH's and the bycatch of protected groundfish species.

USGS Research Results

Geologists and biologists of the U.S. Geological Survey (USGS), the National Marine Fisheries Service (NMFS) and National Marine Sanctuaries System (NMSS) of the National Oceanic and Atmospheric Administration (NOAA), the University of Rhode Island, and the University of Connecticut have been conducting joint studies of the seabed geology

and biological habitats of Georges Bank for several years. These studies have shown that—

- Herring spawning sites are located on gravel bottom only where currents are strongest
- Juvenile cod survive best on gravel habitat, especially where sponges, tube worms, and other attached species (known as epifauna) increase the complexity of the seabed (fig. 1A)
- Attached species are not able to colonize gravel habitat that is buried occasionally by moving sand
- Dredging and trawling on gravel habitat remove epifauna and decrease habitat complexity, but fishing gear apparently has less long-term impact on sand habitat, especially where sand is moved by bottom currents
- Scallops prefer habitats of gravel and nonmoving sand (weak bottom currents)
- Closure of large areas to fishing allowed depleted sea scallop populations to increase markedly in 4–6 years
- Some sand-dwelling flounder species possibly prefer moving sand (strong bottom currents), but others prefer nonmoving sand habitats

These results are being used by the New England Fishery Management Council (NEFMC) and the NMFS in deciding where fishing may occur and where the seabed must be closed to fishing to protect fish stocks and habitats.

Seabed Mapping

The absence of maps showing the geology and habitat character of the seabed is the greatest single obstacle to the gathering of information required for the informed and successful management of the region's seabed habitats. The USGS has used multibeam sonar technology to map part of Closed Area I in the Great South Channel region (figs. 2, 3). The habitat information provided by these multibeam sonar images of the seabed has been used by the NEFMC to make management decisions that opened some parts of Closed Area I to scallop dredging and protected other parts that are valued as groundfish habitat.

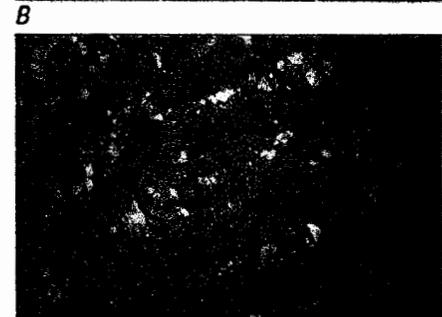
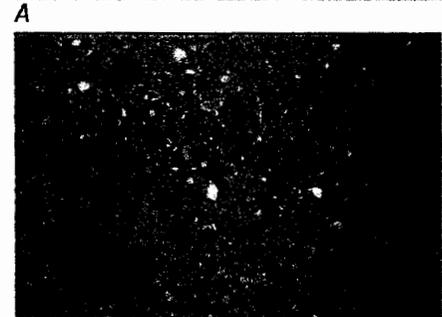
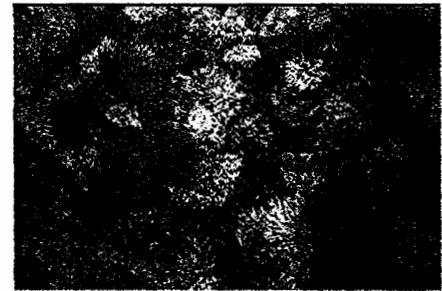


Figure 1. Photographs of the seabed showing some typical Georges Bank habitats. See figure 2 for locations. *A*, Undisturbed gravel habitat with epifauna of tube worms and other attached species. *B*, Gravel habitat disturbed by scallop dredges and lacking epifauna. *C*, Moving sand habitat (strong bottom currents) with sand dollars in ripple troughs. *D*, Non-moving sand habitat (weak currents) with sea scallops.

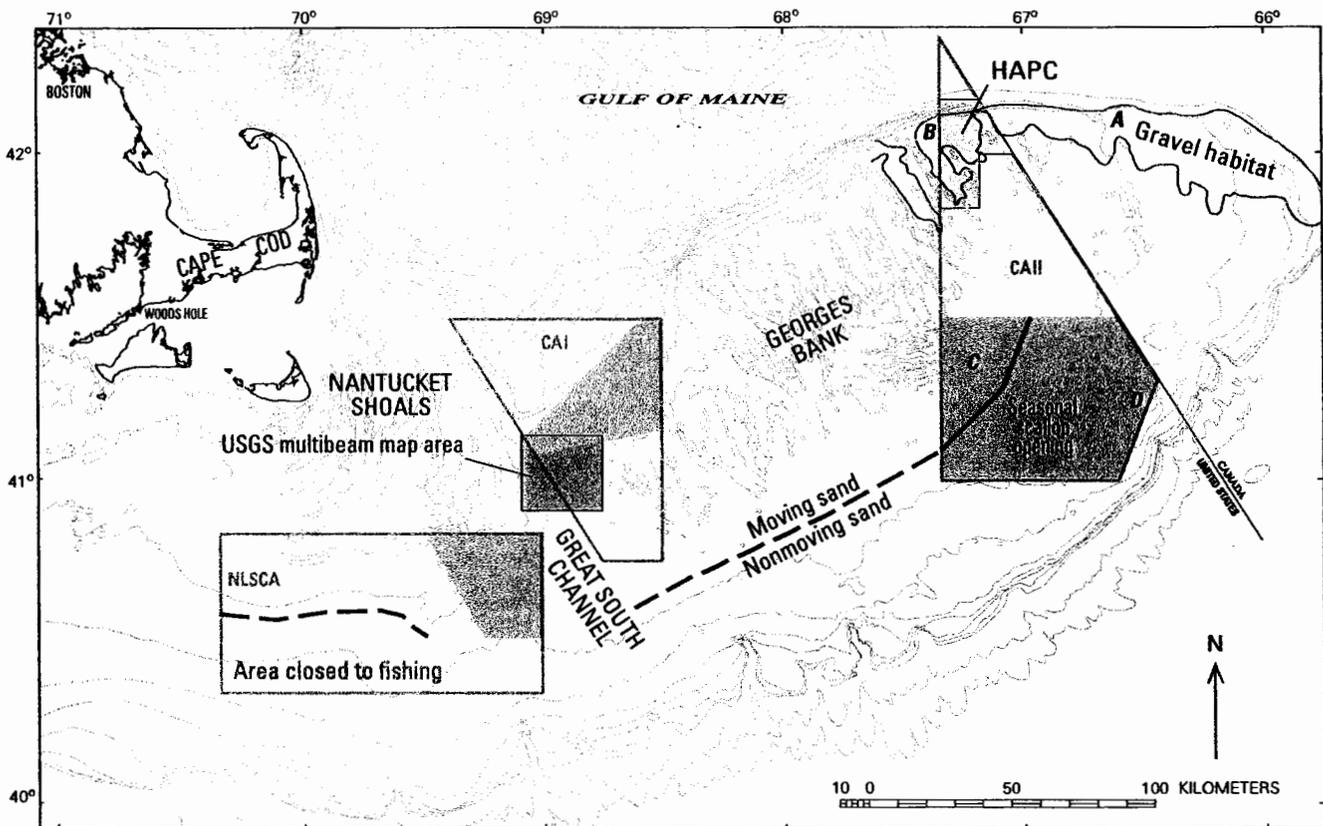


Figure 2. Map of Georges Bank and nearby regions showing areas closed to fishing since December 1994 (CAI, CAII, NLSCA), parts of closed areas that were opened seasonally to scallop dredging (pink), part of Great South Channel mapped by USGS multibeam sonar (orange; see fig. 3), gravel habitat on the northern edge of the bank (red outlines),

a habitat area of particular concern (HAPC, yellow) recognized for juvenile cod, boundary (green line, dashed where inferred) between moving sand habitat (strong bottom currents) and nonmoving sand habitat (weak currents), and locations of habitats shown in figure 1 (A, B, C, and D). Base map from NOAA's National Ocean Survey Chart 13200.

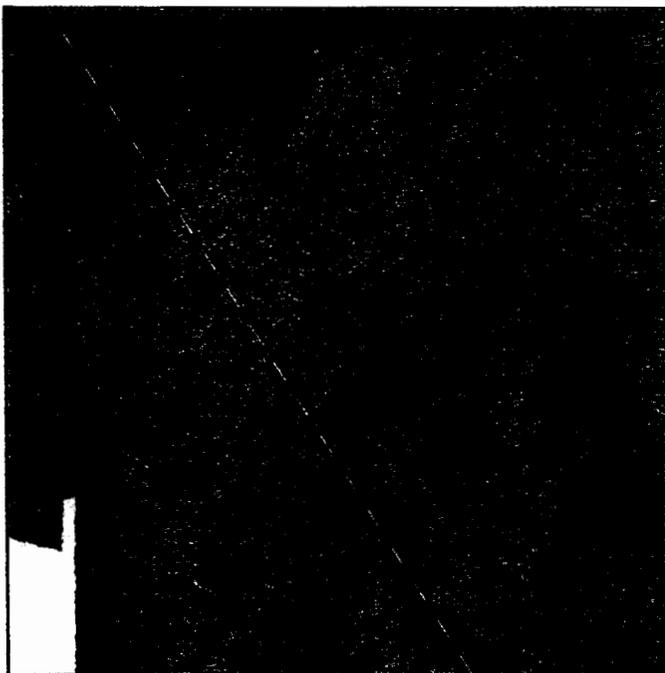


Figure 3. Part of Great South Channel (fig. 2) showing backscatter intensity draped over shaded-relief imagery of the seabed. Colors of backscatter data derived from multibeam sonar mapping indicate the wide variety of habitats in this important fishing ground: orange indicates high-backscatter material (coarse sand and gravel); green indicates moderate-backscatter material (sand); and blue indicates low-backscatter material (fine sand). Closed Area I (CAI) boundary is white dashed line. Area shown is 26 x 26 kilometers.

For more information, please contact:

Page C. Valentine
 U.S. Geological Survey
 384 Woods Hole Road
 Woods Hole, MA 02543-1598
 Telephone: (508) 457-2239
 E-mail: pvalentine@usgs.gov



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
Frank Blount, *Chairman* | Paul J. Howard, *Executive Director*

Scoping Comments For Amendment 11
to the
Atlantic Sea Scallop Fishery Management Plan

Written Comments Received
via Mail, Fax and Email

Comments received after the March 6, 2006 deadline

New England Fishery
 Management Council
 Scallop Scoping Comments
 The Tannery Mill 2
 Newbury Port MA 01950
 Fx 978-465-3116



**GENERAL
 CATEGORY
 SCOPING**

Dear Sir,

BUY BOAT! The Plan development should consider allowing buy boats to purchase scallops at sea. Purchase of scallops is not covered in the prohibition of transferring scallops at. The purchase of scallops by a dealer at sea on a buy boat would have all the necessary reporting by the vessel & the dealer on the buy boat.

Advantages of allowing buy boats!

Saving of fuel, (vessels could ~~stay~~ on the grounds and not burn fuel steaming back & forth to port each day, vessels would not need as much dock space in Northern ports where recreational vessels utilize most available dock space. Trips to the ports would be staggered or to central located ports where dock space was available for fuel & repair. Vessels could work area around buy vessel, not areas closest to port, general scallop vessels could scallop in areas with scallops that are large but not in sufficient amounts to justify utilizing days at sea by limited access vessels.

If the north South line is adopted then areas to the east of the line could be harvested by general scallop permitted vessels, areas that the vessel tracking system show currently limited access vessels do not scallop.

Currently ~~thirty million pounds plus~~ are not utilized due to management. These scallops die of old age or predators because they become too large to move. By allowing buy boats for general category scallops a portion of the regulatory wasted scallops could be harvested.

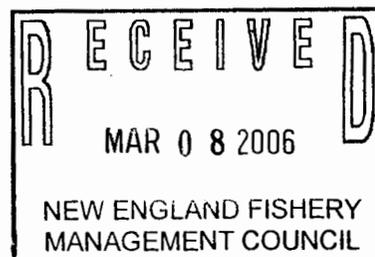
Currently areas of low abundance but large scallops are being allowed to die. the buy boat with general scallop vessels could economically & efficiently harvest these areas. Example: areas off Virginia Beach Va. have marginal scallop populations, the limited access fleet does not work the area. the area is too far off shore to allow economic harvest by the general category. thus a buy boat / dealer & general scallops could harvest the area, Scallops that will currently die of old age would be utilized for economic return.

Law Enforcement could put an agent on the vessel,, calculate the purchases and visits by General scallop vessels and know what the dealer/ buy boat had on board. With the fines for non compliance the buy boat/ dealer would have no incentive to break the law.

BUY BOAT MUST BE CONSIDER FOR ECONOMIC REASONS, FOR UTILIZATION OF THE RESOURCE.

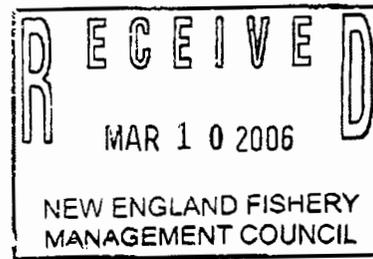
Sincerely

James Fletcher
 James Fletcher
 03-08-06



March 6, 2006

Paul J. Howard, Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, Ma 01950



Dear Mr. Howard:

My name is Charles Christopher Jr and I am a 5th generation fisherman. My family has been fishing the waters off the coast of the United States since the early 1800's.

My father and family has been scallop fishing since 1979. We were there when the trips were 21 plus days long and the price was a little more than \$2. It was very hard to make a living and support a family, however we hung in there. Several years later we purchased our own boat, the F/V Christopher Pride and the road ahead proved nothing but finical hardship. Over time things did get better, until September 2003. Our vessel, Christopher Pride, caught fire and sank at the Lobster House in Cape May NJ again giving us huge finical burdens. We had no insurance on the vessel and therefore had to come out of pocket. All of our finical resources had been drained. Know one would touch us finically with a ten foot poll. Finally, two years ago we were able to get financing and my father and uncle (50/50 partners) now own the F/V Christopher's Joy.

The problem that I am faced with is, now that I am finally able to purchase a vessel and use it for day scalloping, the council wishes not to allow me to do so. I am in the process of buying a 60' shrimp boat to use for scalloping. I have sunk a lot of money and time into this project. I am not a new comer to this industry whatsoever, I was just not finically able to do it on my own until now. I hope that the council will take into account that I personally think that HISTORY of your fishing in the industry should play a role to who gets in and who is out.

Something that I don't clearly understand is that in 1994 when Amendment 4 was set forth, those that were in, were in, and those that were out, were out. We as industry has allowed those that have not scalloped a day in there life (up until 2 plus years ago) to enter our fisheries, (that's not fair to me!). I guess what I am trying to say is that if someone like me and my family along with the history that we have in this industry can't get a day fishing scallop permit, no one should. We should simply go back to the control date of Oct 1994 and honor Amendment 4. We should let no one pass that 1994 date enter the industry. It's simply not fair for so many new comers to think that they can't just come into the scallop industry. Years ago, they choose to shrimp, fish or what ever they did, we choose to scallop!

My views are very mixed, I agree with some of the things that the council proposes and than again, I agree with some of the things that the fisherman says. One of the things that I will comment on is something that a gentleman brought up at the meeting, (I will not say his name but it is on record). He mentioned the word "GREED". I think that some of us in the scallop industry feel that there is a type of monopoly going on. The

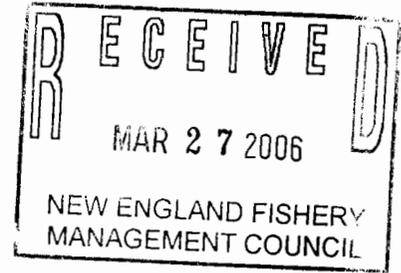
companies with the fleets (3 or more vessels) seems to want all of the rules and regulation to go according to their needs and not want the smaller guys (like myself) to succeed or build and expand our small businesses. These guys seem to have more of a say so and controls what happens because they have more money/power.

I do apologize to the council for not addressing each of the questions that was listed in the draft giving to us at the meeting. However, I do strongly think that much time, thought and many more meetings should be conducted so that this matter will be fair and just. Also, I really think that the 1994 control date, including myself should be a major factor in the decision making for the council.

Sincerely,

Charles Christopher

From: boardman [mailto:board.man@comcast.net]
Sent: Monday, March 27, 2006 9:23 PM
To: Deirdre Boelke
Cc: scallopscoping@noaa.gov
Subject: Sea Scallop Amendment 11 Scoping Comments



Attention: Paul J. Howard, Executive Director
New England Fishery Management Council

Dear Sir,

My name is Paul Boardman and I am a General Category Scalloper. I own and operate the F/V Heckler and live and fish out of Barnegat Light, N.J.

I originally submitted comments on March 5, 2006 to the designated email address "scallopscoping@noaa.gov", however, for whatever reason they were not included with the other public comments so I thank you for the opportunity to submit the following comments for your consideration:

1) Limited Entry.

Council should use limited entry to reign in the fleet.

November 1, 2004 control date should be used.

However, there must be a "re-rigging clause" to protect the interests of those few individuals that were genuinely re-rigging for scallops prior to the control date.

In order to qualify under a re-rigging clause may I suggest the following criteria:

Vessel owner must possess legitimate receipts dated prior to November 1, 2004 for a considerable sum, ie: at least \$5000- must have been spent.

Receipts must be for dedicated scallop gear, ie: dredges, deck winches, towing cable, construction of gallows, A-frame etc.

Vessel must have commenced Gen Cat scalloping within 6 months of the control date.

Vessel must have possessed a general category scallop permit prior to the control date.

Vessel must also possess at least 1 other limited access federal permit, ie : multi species, monk fish, lobster, longlining etc.

Any re-rigging vessel should be allowed a full 12 months from the date of their first scallop trip to achieve any additional qualifying criteria.

I believe a strict criteria as I have outlined above would result in very few additional vessels qualifying for any Gen Cat permit.

Yours sincerely,

Paul Boardman

Appendix II
For Amendment 11 to the
Atlantic Sea Scallop Fishery Management Plan

Written public comments on the Amendment 11 DSEIS

WRITTEN COMMENTS ON AMENDMENT 11 DSEIS

(Deadline for comments June 11, 2007)

| Comment # | Date Received | Name | City, ST |
|------------------|---|--------------------------------|-----------------------|
| BATCH 1 | COMMENTS RECEIVED BEFORE COUNCIL MAIL DATE (FRIDAY, JUNE, 8) | | |
| 1 | 4/30/07 | B. Sachau | Florham Park, NJ |
| 2 | 5/18/07 | Donald A. Williams III | Owls Head, ME |
| 3 | 5/21/07 | Patricia Kurkul, NMFS | Gloucester, MA |
| 4 | 5/26/07 | Kenneth Ochse | |
| 5 | 5/28/07 | Maggie Raymond, AFM | S. Berwick, ME |
| 6 | 5/30/07 | G.C. Dean | Ocean City, MD |
| 7 | 5/30/07 | Edmund Blane | Seaville, NJ |
| 8 | 6/3/07 | Maine DMR public hearing notes | Portland, ME |
| 9 | 6/3/07 | Fisheries Survival Fund | Washington, DC |
| 10 | 6/4/07 | David Tedford | Chester, MD |
| 11 | 6/4/07 | James Gutowski | |
| 12 | 6/5/07 | Atlantic Capes Fisheries Inc. | Cape May, NJ |
| 13 | 6/6/07 | Scott Bailey | |
| 14 | 6/6/07 | Nordic Fisheries, Inc. | New Bedford, MA |
| 15 | 6/6/07 | Ray Trout | Lewes, DE |
| 16 | 6/6/07 | Stanley Pritchett | Cambridge, MD |
| 17 | 6/6/07 | James Fletcher | Manns Harbor, NC |
| 18 | 6/6/07 | William Anderson | Trescott, ME |
| 19 | 6/6/07 | Michael Welch | |
| 20 | 6/7/07 | Ralph Dennison | |
| 21 | 6/7/07 | Capt. Mike Skarimbas | Montauk, NY |
| 22 | 6/8/07 | Denis Lovgren | Point Pleasant, NJ |
| 23 | 6/6/07 | John, Mary and AJ | |
| 24 | 6/8/07 | Eric L Lundvall | Little Egg Harbor, NJ |
| 25 | 6/11/07 | Walter Jessiman | Cutler, ME |
| 26 | 6/11/07 | Troy Ramsdell | Cutler, ME |
| 27 | 6/11/07 | Robert W. Maxwell | |
| 28 | 6/11/07 | Stephen M. Ouellette | Gloucester, MA |
| 29 | 6/11/07 | David E. Frulla | Washington, DC |
| 30 | 6/11/07 | Richard Taylor | Gloucester, MA |
| 31 | 6/11/07 | Ronald Enoksen | New Bedford, MA |
| 32 | 6/11/07 | Phillip Michaud | Wellfleet, MA |
| 33 | 6/11/07 | Heinz J. Mueller | Atlanta, GA |
| 34 | 6/11/07 | William D. Delahunt | Washington, DC |
| 35 | 6/11/07 | Stanley C. Sargent | Milbridge, ME |
| 36 | 5/30/07 | Wallace A. Gray | Stonington, ME |
| 37 | 6/5/07 | Jimmy Hahn | Ocean City, MD |

Woneta M. Cloutier

|

From: Deirdre Boelke
Sent: Thursday, May 24, 2007 10:09 AM
To: Woneta M. Cloutier
Subject: [Fwd: ublic comment on federal register of 4/30/07 vol 72 #82 pg 21226]

----- Original Message -----

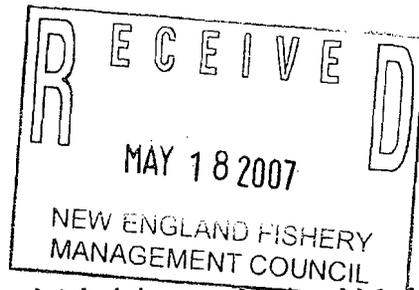
Subject: ublic comment on federal register of 4/30/07 vol 72 #82 pg 21226
Date: Mon, 30 Apr 2007 07:46:16 -0400 (EDT)
From: Bk1492@aol.com
To: Scallop.Eleven@noaa.gov, americanvoices@mail.house.gov,
comments@whitehouse.gov, vicepresident@whitehouse.gov

doc noaa id 042507A - new england fishery mgt council

cut all quotas by 50% this year. cut them each year thereafter by 10%.
stop catering on ly to commercial fish profiteers, and relying on the fake information they provide to you (it is
only done so they can continue raping the ocean).

the interests of our children are being severely compromised.
b. sachau
15 elm st
florham park nj 07932

See what's free at <http://www.aol.com>.



#2

Donald A. Williams III
58 Granite Point Drive
Owls Head, ME 04854

Patricia Kurkul, Regional Administrator, National Marine Fisheries Service
Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930

cc Maine Senator Olympia Snowe
cc Maine Senator Susan Collins
cc Maine Congressman Tom Allen
cc Maine Congressman Mike Michaud
cc Terry Stockwell, Maine Department of Marine Resources

Tuesday, May 15, 2007

Comments on Scallop Amendment 11

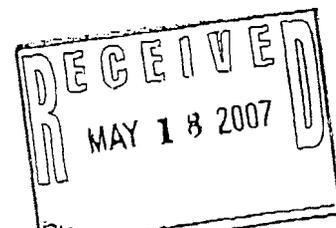
Dear Ms. Kurkul,

I am writing in response to pending action on the New England Fishery Management Council (NEFMC) concerning Scallop Amendment 11, specifically pending changes to the allocation of the General Category fishery.

I am a commercial fisherman from a small town in Maine. I have a state lobster license as well as a Federal Area 1 lobster permit and currently I also have a General Category 1B, 400lb VMS scallop permit. After fishing through high school in a small skiff, I went to college and after graduation, I financed my first full-time fishing boat to go lobstering. After three years, I was able to pay this boat off, and last spring I had a new boat built. My intent was to fish for lobsters, both inshore and offshore, and to go scalloping in the winter/spring. To this end, when I financed my new boat, I also included equipment to go scalloping- dredge, winches, etc. I applied for a 400lb permit and also invested in a Boatracs VMS unit. Since this time, I have not yet been scalloping with the permit, due to the uncertainty of its future. I have however, complied with all reporting requirements and have kept my VMS active while awaiting final ruling on the General Category issue. Recently I was just re-issued my permits for 2007.

My concerns currently are that implementation of new rules for the General Category fishery within Amendment 11 will shut me out of the fishery. I do not qualify under any of the proposals the council has put forth in the final draft, other than the no action alternative; I was issued a license after the control date of November 1, 2004. Therefore, depending on when the rules are finally enacted, a license I already possess will be taken from me due to an arbitrary date established by NEFMC.

I believe that this is completely unfair and these are my reasons. The scallop fishery has a long



history of small boats from Maine. Before there was ever limited access and general category fishing, boats and men from Maine sailed all over the East Coast in search of scallops to feed their families. My father did so when he was my age, and his father before him lost his life on a scallop boat when they towed up a mine from World War II and it exploded, killing nearly all on board. Regulations have changed the industry. It no longer is the traditional small boat fishery of my father's time. What has not changed however is the need for people such as me to have alternatives in the fishing industry. As more and more species come under federal regulation, it is nearly impossible to diversify and participate in other fisheries. It is hard for self-employed fisherman such as myself to not feel like the deck is stacked against us. We do not work for corporations or have multiple vessels to supplement our income. I have one boat and one very large payment that requires me to fish year round. I need this license to supplement the down time between lobstering seasons. My whole livelihood has been invested in the hopes of using this license, and now I am in fear of losing it.

I also take issue with some other comments and proposals being presented. There has been uproar within the limited access fishery over the total share that the general category fishery will receive each year. Proposals have ranged from 2-11% of the total allowable catch for a given year. Firstly, the amount of scallops that I am going to catch using this permit in a year will not even be close to what one boat on one trip in the limited access fishery can catch. They have a year-round focused effort in very large boats. I am trying to use this permit to scallop when I cannot go lobstering. These are two examples of completely different effort, and I believe this should be considered.

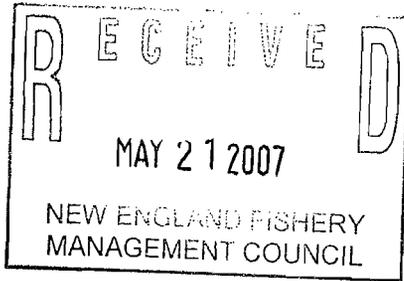
Secondly, in section 3.1.6 of Amendment 11 there are proposals to allow limited access boats to continue fishing under the general category license. It is unbelievable to me that the council is proposing to take my license and continue to allow boats who have already been issued limited access to also fish within the general category fishery. Once again, it seems on the surface that the council is more concerned with allowing limited access boat owners all they want at the expense of traditional small boat fisherman. How can the council take from the small boat fisherman and give to large boat limited access companies? Is there not a conflict if these boats can fish in the limited access fishery and as soon as their days are used up, switch to the 400lb general category fishery? Is this not an issue of allocation not conservation?

In conclusion, what I am asking of you is to allow me to keep a license that I already have. I am asking the New England Fishery Management Council to reconsider the criteria for eligibility. I am asking you to help preserve this traditional small boat fishery for me and others in my situation. While to the large scallop fleet owner in New Bedford, my wish to be included in this fishery may not seem important or even relevant, it is important to me. I have invested time, money, and my future in the hopes of participating in this fishery. I hope that this chance will not be taken from me. Thank you for your time.

Sincerely Yours,



Donald A. Williams III



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

#3

MAY 21 2007

John Pappalardo, Chairman
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Dear John:

Staff in the Regional Office and Northeast Fishery Science Center (NEFSC) have completed their review of Draft Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan (Amendment 11) and the Draft Environmental Impact Statement (DSEIS). Amendment 11 is a challenging undertaking to control capacity and mortality in the general category scallop fishery. Reviewers commended the New England Fishery Management Council (Council) and its staff for completing a very complex document that provides a comprehensive overview of the issues and impacts of Amendment 11.

I urge the Council, as it selects measures to be adopted for inclusion in Amendment 11, to make efforts to minimize the complexity of the amendment and to keep in mind that implementation of Amendment 11 will require effective and efficient monitoring and compliance measures. Also, as with any allocation, the Council must clearly articulate the rationale for its allocation decisions.

Limited access criteria

I urge the Council to consider the implications of adopting limited access qualification criteria that are overly liberal in qualifying vessels. There would be allocation implications of allowing a relatively large number of vessels to be active in the general category fishery. Liberal qualifications criteria penalize legitimate participants with a current dependence on the fishery. Historically, they have also led to the Council needing to take additional and often, more painful action in the future.

Accounting for incidental catch

Amendment 11 includes incidental catch alternatives allowing vessels to fish for scallops without qualifying for a scallop permit or allocation, or without any federal scallop permit (the "No Action" alternative). In addition, TAC alternatives allow vessels to continue to fish "under incidental rules" (i.e., for 40 lb of scallops) after the TAC is attained. However, there is no discussion in Amendment 11 of a mechanism to account for scallops that may be caught by such vessels. The Council must provide a description of how it will account for all scallop catch, and cannot leave any harvest unaccounted for in mortality estimates. Amendment 11 should specify that the Scallop Plan



cc: DB Council (5/23)

Development Team (PDT) would need to provide an estimate of incidental catch and resulting fishing mortality based on available information.

Gulf of Maine Management Area (GOM Area) Alternatives

The Council has chosen the GOM Area Limited Entry Program as a preferred alternative. As I noted during the Council discussion of Amendment 11 on April 12, 2007, the GOM Area alternatives are not sufficiently justified on the basis of conservation. The justification is largely based on the fact that the scallop resource in the area has been sporadic over time. However, one of the reasons that it has been sporadic is that it has been consistently overharvested. The proposed program essentially recommends perpetuating that trend by liberalizing the limited access qualification criteria and allowing a large number of vessels to fish on a small portion of the resource. Without the ability to monitor state waters fishing activity, the effectiveness of the federal management program in the Northern Gulf of Maine would be severely compromised. As my staff and I have repeated at numerous meetings, this measure must be consistent with conservation of the scallop resource. Currently, I do not believe that the justification and analysis of the measure support its inclusion in Amendment 11.

Measures to allow better and more timely integration of recent data

I strongly urge the Council to adopt a change in the fishing year for the scallop fishery. Without a change in the fishing year, the Council will need to continue to make decisions based on survey data that is not current. Moving the fishing year to May or August would provide timely scientific information for use in the Council's framework management process. The arguments against changing the fishing year have not been sufficiently articulated, even though the problem associated with the current fishing year and availability of survey information is clear. If the fishing year is not changed, the Council may have to use more caution than would otherwise be necessary in establishing management measures. It could also encourage complex and rigid adjustment mechanisms in frameworks (like the Elephant Trunk Access Area trip adjustment procedure included in Framework 18). Without a change in the fishing year, the Council and NOAA Fisheries Service can also expect repeated requests to modify measures every year. This fishery cannot be managed in a way that precludes deliberative consideration of annual measures and requires the Council and NOAA Fisheries Service to react to "urgent" situations.

Allocation in trips

Although the alternatives that allocate harvest in trips currently do not include broken trip provisions, I suspect that there will be support during public hearings for including a broken trip provision. A broken trip provision identical to that established for limited access vessels in access areas would result in a significant administration burden, and would be ineffective. As an example, the limited access broken trip provision occupies the majority of a full-time staff's time. In the 2007 fishing year alone, we have had 132 broken trip requests for the Elephant Trunk Access Area and 22 requests for the Hudson Canyon Access Area. The volume of broken trips increases substantially with bad weather. Each request requires verification of landings and manual entry of trip information. The volume of broken trips with general category trip allocations will be higher than access areas. While incentives for broken trips may be higher with the larger possession limits for limited access vessels in access

areas, we have been surprised that owners file broken trip forms for compensation trips that would allow less than 100 lb of scallops.

The Council could consider putting limitations on a general category broken trip provision. For example, under trip allocation alternatives, vessel owners could elect to fish under a 200-lb or 400-lb possession limit each fishing year, with the trip allocation specified accordingly.

Monitoring provisions

If the preferred alternative is adopted for allocating a portion of the overall scallop catch to the general category fleet, the general category fleet will only represent five percent of the total scallop fishery. A hard TAC may therefore be the best alternative in terms of ability to monitor and enforce the program. However, I recognize that an overall TAC presents management challenges including the potential for a derby fishery. This TAC could be divided by trimester to minimize the incentive to derby fish.

After further consideration of monitoring requirements, we do not believe that trip-by-trip reporting through the vessel monitoring system or interactive voice response system is necessary. NOAA Fisheries Service would be able to monitor the status of overall TACs using weekly dealer reports. Vessel owners and/or operators would be responsible for staying within their allocation under IFQ alternatives and would be subject to enforcement action if independent weekly dealer data showed that they landed more than their allocation.

Allocation of yellowtail flounder bycatch TAC in access areas

NOAA Fisheries Service cannot effectively monitor a yellowtail bycatch TAC specifically for the general category fleet because the yellowtail bycatch TAC for that portion of the fleet could be extremely small. For example, if the general category fleet is allocated 5 percent of the SNE yellowtail bycatch TAC, using 2007 TAC figures, it would be allocated roughly 2,300 lb of yellowtail (5 percent of the 20.8 mt yellowtail bycatch TAC). We could not administer such a TAC effectively. I therefore urge the Council to adopt 3.1.7.3.1 "No Action" for yellowtail flounder bycatch TACs.

Sectors and harvesting cooperatives

I urge the Council to adopt the sector and harvesting cooperatives alternative. It would enable industry groups to develop future proposals. This program is proving effective in the Northeast Multispecies FMP and adds a management mechanism to the Scallop FMP that could be very effective in the future.

Stacking of permits

The permit stacking discussion implies that only stacking of full permits is authorized, and only if the stacked permits will result in a total allocation less than the cap (i.e., 60,000 lb or 150 trips). The intent seems to be that stacking is permanent. The Council should clarify if this is their intent. If the Council intends to allow permanent stacking, it must specify whether or not limited access permit splitting rules apply to current limited access vessels that also qualify for a limited access general category scallop

permit.

Ownership Cap

The Council needs to specify how the 5 percent ownership cap is calculated. Is it the Council's intent that an individual can have an ownership interest in no more than 5 percent of permits or 5 percent of the allocation?

Measures to reduce incentive for limited entry qualifiers to fish for scallops with trawl gear

Alternative 3.1.2.6.4, which states "A limited access general category qualifier can fish with trawl gear, but scallops cannot be more than 5% of total regulated species onboard" is not enforceable. It is very difficult to assess the amount of fish and scallops as a percentage for at-sea or dock-side monitoring. The Office for Law Enforcement also noted that while it could enforce different possession limits (as proposed under Section 3.1.2.6.3) if vessels are issued a permit that specifies their allowance, different possession limits for different vessels would add to the enforcement burden. General category vessels that qualify to use trawl gear should be issued a permit for trawl gear, as is done for current limited access trawl vessels.

Also regarding qualifying to fish with trawl gear (Alternative 3.1.2.6.1), can a current owner who fishes with a trawl qualify for this permit if the scallop landings used for eligibility were harvested with a dredge by a prior owner? This needs to be clear.

Fleetwide Hard TACs

I am concerned about the proposal in several alternatives to use a five-year rolling average to calculate allocations for quarterly hard TACs given the nature of the fishery. It seems that unusual weather or other influences could affect landings (and therefore allocations) in subsequent years.

I hope that the Scallop Committee and Council will consider these comments at their meetings. Please do not hesitate to call me if you have any questions or concerns that you would like to discuss prior to further Committee and/or Council discussion on Amendment 11.

Sincerely,



Patricia A. Kurkul
Regional Administrator

cc: Paul Howard

Comments
#4

Deirdre Boelke

From: Scallop Comments [Scallop.Eleven@noaa.gov]
Sent: Tuesday, May 29, 2007 8:08 AM
To: Deirdre Boelke
Subject: [Fwd: "comments on scallop amendment 11"]

----- Original Message -----
Subject: "comments on scallop amendment 11"
Date: Sat, 26 May 2007 00:14:01 -0400 (EDT)
From: VOICOMOXY22@aol.com
To: Scallop.Eleven@noaa.gov

My name is Kenneth Ochse I own and operate the Christian and Alexa. The official number is 937930. The Christian and Alexa has a fulltime limited access scallop permit. I own the vessel with my brother Arthur Ochse and it is the only vessel we own. We have both been scalloping fulltime since 1976. I have a few comments on amendment 11.

The question of should the general category be a limited entry? Yes it should ,because it has worked in the fulltime limited access fishery. Without all the regulations that came with limited access we would not be having this discussion because the scallop resource would not would have recovered where it could take the amount of effort we have seen in the past few years. The general category allocation should be set at the lowest possible percentage to insure that overfishing does not occur and the fishery becomes sustainable again. With reduced effort the resource would be rebuilt as it was before the big influx of boats. 2.5% of the tac would be a low enough number to achieve this.

To qualify for a general category permit the boats would have had to participate in the fishery before the control date and to have fished for scallops from March 1, 2003 to November 1, 2004 with at least 5000lbs of reported catch. These are the most restrictive dates and pounds but are needed to reduce effort and not greatly impact the boats that have historically targeted scallops in the general category. Also allocation should be kept to a maximum of 400 pounds per trip so as not to increase effort. By allowing more pounds this would keep the vessels on the grounds for longer periods of time which the fishery does not need..

Stacking of days or pounds on to one vessel would also increase effort and should never be allowed. One boat,one permit. It has worked for the limited access boats.

To answer the question of should the limited access vessels be allowed to possess a general category permit I will say without hesitation that they should as long as they meet the qualifications. I don't agree with the preferred alternative to qualify. I think the most restrictive measure would have the most positive effect on the overall fishery by greatly limiting the effort and insuring that the fishery remains sustainable for all that participate.

See what's free at AOL.com <<http://www.aol.com?ncid=AOLAOF00020000000503>>.



Comment
#5

ASSOCIATED FISHERIES OF MAINE

PO Box 287, South Berwick, ME 03908

207-384-4854

May 28, 2007

Ms. Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
One Blackburn Drive
Gloucester, MA 01930

Comments on Scallop Amendment 11

Dear Pat:

Members of Associated Fisheries of Maine (AFM) participate in the general category scallop fishery in three distinct ways: 1) a directed fishery that comprises 100% of vessel income, 2) seasonal directed fishery as an adjunct to other limited access fisheries, and 3) bycatch in the limited access groundfish fishery

3.1.7 - Allocation between limited access and general category fisheries

For the purposes of comment, AFM takes decision 3.1.7 "out of order" (in terms of its position in the SEIS) because this allocation decision is critically linked to so many other Amendment 11 decisions.

The public hearing document describes the importance of the allocation decision in this way: "Ideally this percentage would provide enough landings to be spread among various general category vessels that participate in this fishery at a variety of levels without having substantial impacts on the existing limited access fishery."

However, that "ideal" outcome is linked to several subsequent decisions, including:

- Whether or not current limited access permit holders may qualify for a new limited access general category scallop permit (3.1.6.1), and whether or not this allocation will include the future landings by these "dual" permit holders
- Whether or not this allocation will include future landings by vessels that qualify for a new limited access incidental catch permits (3.1.8)
- Number of vessels that ultimately qualify for a new general category limited access scallop permits (3.1.2.1)

If the percentage of harvest allocation includes all future landings in the general category scallop fishery by limited access general category permit holders (as defined by the Committee's preferred alternative), landings by current limited access permit holders who become dual permit holders, and landings from incidental catch permit holders, then 5% will undoubtedly be less than "ideal", and the percentage allocation should be increased to accommodate those decisions.

3.1.2.1 Qualification criteria alternatives (for limited access general category permit)

The preferred alternative results in an estimated 459 initial qualifiers (Table 2, public hearing document), and history of limited access programs in New England suggests that this estimate will ultimately equal or exceed 500 actual qualifiers after all appeals have been exhausted.

It is clear from debate on this decision to date, that the eleven year qualifying time frame and the 1000 lb landings criteria are each supported by separate rationale, and further, the supporters of each will not be swayed, even though the combination of these two components will likely result in more qualifiers than can be ideally supported by a harvest allocation of 5%. *Therefore, if the preferred alternative is adopted, it is essential to increase the percentage of allocation harvest for qualifiers beyond the proposed 5%, so that those qualifiers most dependent on the resource are able to remain economically viable.*

3.1.2.4 Allocation of access for general category limited access qualifiers

AFM supports 3.1.2.4.1 Individual allocation for all qualifiers (Option A) – allocation in pounds.

AFM concurs with the statement in the public hearing document (page 9) that “individual allocation is the fairest strategy”. AFM, however, supports allocation in pounds, rather than trips. Allocation in pounds will allow each permit holder to manage his allocation in the safest and most economical manner. Allocation in trips raises significant safety considerations. Allocation in trips, as will be explained later, also creates a dilemma for vessels that may qualify for a limited access incidental catch permit.

AFM strongly supports allocations made on an individual basis, as opposed to “equal” basis, whether in pounds or trips.

3.1.2.4.5 and 3.1.2.4.6

AFM strongly opposes a quarterly or fleet wide hard TAC for the general category harvest, without individual allocations or other restrictions to control the hard TAC.

3.1.2.5.4 Stacking of Permits

AFM supports 3.1.2.5.4.3 Allow stacking up to 60,000 pounds or 150 trips per vessel.

If, for whatever reason, none of the “permit stacking options” are forwarded with this Amendment, AFM requests that options to allow vessels to consolidate or lease allocations of pounds or trips be added to the list of items suitable for future framework action.

Comments on scallop amendment 11
May 28, 2007

3.1.2.7 Sectors and Harvesting Cooperatives

AFM supports establishment of a process, in Amendment 11, to allow general category limited access permit holders to form sectors and/or harvesting cooperatives.

AFM does NOT support 3.1.2.7.2.9.1 - 20% maximum allocation per sector. A 20% limitation on allocation has no useful purpose and simply restricts the number of members within a sector.

Further the regulations that govern the formation of sectors in the multispecies plan, now allow for the Council to approve allocations in excess of 20% (see 648.87 (b)(ii) "A Sector shall be allocated no more than 20 percent of a stock's TAC, unless otherwise authorized by the Council.")

3.1.2.8 Interim measures for transition period to limited entry

*AFM supports 3.1.2.8.2 Transition to limited entry alternative **without** a hard-TAC.*

Imposition of a hard TAC on the general category fleet, without measures to control the harvest, will result in a derby-style fishery with consequent negative results in terms of safety and economic return.

3.1.3 - Establish a Northern Gulf of Maine Scallop Management Area (NGOM)

AFM supports 3.1.4.2, Option A- Amendment 11 would not apply to the Northern Gulf of Maine (the GOM exemption area north of 42°20N). Of the two options, option A more closely corresponds with the "historic" general category exemption area established in multispecies framework adjustment #21.

AFM strongly opposes Option B -the area north of 43° does not correspond well with the exemption area established in multispecies framework adjustment #21, nor does it correspond well with the historic availability of the scallop resource in the Gulf of Maine. Therefore, Option B is not worth efforts required to implement and monitor a separate management area.

3.1.6 Limited access fishing under general category rules

AFM supports 3.1.6.1.2 Permit limited access vessels that qualify under general category rules.

AFM supports 3.1.6.2.2 Landings from this component of the fishery would be deducted from a separate allocation added onto the general category allocation.

Comments on scallop amendment 11
May 28, 2007

3.1.8 Incidental catch

AFM supports 3.1.8.2 - Establish a new permit category for incidental catch.

This option will minimize discards by allowing a small amount of incidental catch in other fisheries to continue.

However, this section does not adequately address historic incidental catch in excess of 40 lbs/trip.

For example, some groundfish permit holders have historic incidental catch and landings of scallops in excess of 40 lbs, as current regulations allow up to 400 lbs per trip. Many of these permit holders will meet both the qualification time period and landings qualification defined by the Committee as preferred. However, they will not be able to continue landing in excess of 40 lbs/trip if the Council chooses 3.1.2.4.1, option B - allocation in trips, because these are groundfish vessels that would not be declaring scallop trips.

3.3.1 Trawl gear restriction

AFM supports option 3.3.1.2 Clarification of trawl gear restriction for vessels fishing under a multispecies or monkfish DAS.

3.3.2 Possession limit of 50 bushels

AFM supports 3.3.2.2 Possession limit of 50 bushels shoreward of the VMS demarcation line and up to 100 bushels seaward of that line.

AFM suggests that the possession limit for bushels would be easiest to enforce if the possession limit in all areas were made consistent. By way of example, limited access and general category permit holders that today fish south of 42°20'N are restricted to the 50-bushel cap when the vessel is **shoreward** of the demarcation line [648.52 (d)]. Removing the reference to 42°20'N, would make this restriction consistent for all areas, and solve the problem identified, which is that 50 bushels of in-shell scallops is not always equivalent to 400 pounds of scallop meat.

As always, we appreciate your consideration of our views.

Sincerely,

M. Raymond

Maggie Raymond
Associated Fisheries of Maine

Deirdre Boelke

From: GilbertGCDEAN@aol.com
Sent: Wednesday, May 30, 2007 8:55 AM
To: Scallop.Eleven@noaa.gov
Cc: Deirdre Boelke
Subject: Comments on Scallop Amendment 11

My name is Gilbert C. Dean. I own and operate a general category scallop vessel "Gold Digger", federal permit #150158 out of Ocean City, MD. I fully understand what you are trying to do and why with Amendment 11. Believe me that "most all" of us want to protect the fishery and do the right things to preserve it for years to come. However, some of the things that are recommended within Amendment 11 are unnecessary, unfair and possibly illegal. Here are a couple of reasons why.

1. Control date of November 2006. In Feb/March of 2006, I wanted to get into the scallop business. Having heard all of the "rumors" about the possibility of the fishery being closed, I personally called the NMF with my concerns. I wanted to be assured that before I invested in excess of \$350,000 for a new boat and gear that I was not going to be closed out anytime soon. I was given that assurance and told that they knew of nothing being considered that I should worry about and issued me a permit in May 2006.

I should have at least been advised of the proposals included in Amendment 11 and really should not have been issued a permit without such a warning to the effect. To my knowledge, you are still issuing permits to anyone who applies.

According to your records, there were 699 permits issued after the proposed control date. Out of the 699, only 119 are actually being used. Those 119 should be included into your proposed limited entry fishery. Those 119 general category boats are not going to have hardly any effect on the overall catch or adversely effect your overall plan.

This would satisfy all current permit holders with history and avoid any possible lawsuits that may arise based on this particular issue.

2. Proposed 5% share for general category vessels. The general category vessels caught between 12 and 14% in 2005 and 2006. That level should at least be maintained for the general category vessels in the future to be fair to all user groups.

3. Current Limited Entry Vessels should not be allowed to fish on general category permits. You have already proposed giving them 95% which is not only unfair but ridicules.

4. Board Members. If there are any members on the board from any one user group, there should be and equal number of board members from the other user group providing equal representation. If this cannot be done, then no one on the board should have any affiliation to any particular user group.

As stated above, I have invested in excess of \$350,000 getting into this fishery not even 13 months ago based the information provided by you and the issuing of the permit. Scallop fishing is my sole source of income. How am I supposed to make a living now? How am I supposed to pay off the balance owed on the loans secured to get into this fishery? What am I supposed to do with a scallop boat will definitely decrease in value should Amendment 11 go through as proposed?

You should change it to a limited entry, protect the ones that you have already issued permits, base your TAC on those numbers, move your control date to say June 1, 2006 and stop issuing additional permits immediately.

Regards,

Captain G.C. Dean

6/4/2007

6311 Suicide Bridge Road
Hurlock, MD 21643
410-943-1707
410-463-0049

See what's free at AOL.com.

Comment #7



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

MAY 18 2006

- handed out at public hearing 5/30/07 -

Edmund Blaine
30 Foxborough Rd
Seaville, NJ 08230

Dear Mr. Blaine:

This letter is in response to the concerns you expressed in your letter regarding the requirements that are associated with the November 1, 2004, control date for the general category scallop permit. Currently the New England Fishery Management Council (Council) is working on Amendment 11 to Scallop Fishery Management Plan which proposes to make the open access general category fishery a limited access fishery. The proposed criteria to be used to qualify vessels for the limited access permit are still being developed by the Scallop Committee and the Council. I suggest you inform the Council of your special circumstances, as it further develops Amendment 11. It is important that the Council be aware of special circumstances as it develops new programs, so that there can be discussion and consideration of how they should be handled.

Sincerely,

George H. Darcy
Assistant Regional Administrator
for Sustainable Fisheries



July 31, 2006

To: New England Fishery Management Council
50 Water Street
Newburyport, Massachusetts 01950

Edmund Blaine
30 Foxborough Road
Seaville, NJ 08230

Re: General Category Scallop Permit/ Special Circumstance

Before Amendment 11 is finalized, I would like to address the council with my special circumstances as follows: I began searching for a bigger and safer vessel in June, 2004 in Nova Scotia. This vessel was specifically purchased for scalloping. On Sept 14, 2004, I spoke with Peter Christopher regarding a general category scallop permit for this new boat. He told me there was no control date as of that date and there was no projected date in the near future. He sent me an application and advised me to send it in when I obtain all needed documentation after settlement on my new boat. It took a substantial amount of time to get the paper work from Canada. The sequence of events happened as follows:

PURCHASE DATE OF VESSEL---9/20/04

DATE OF ENTRY INTO THE U.S.---9/24/04

CERTIFICATE OF TITLE ISSUE DATE---10/22/04

FEDERAL FISHERIES PERMIT ISSUED GENERAL CATEGORY SCALLOP PERMIT---
12/03/04

ALL DOCUMENTATION IS AVAILABLE IF NECESSARY.

Enclosed, you will find a copy of a letter I received from George Darcy. He is an Assistant Regional Administrator for Sustainable Fisheries and has advised me to provide you this information so you can act accordingly when working on Amendment 11. I have invested a significant amount of money in the vessel, the gear and the Vessel Monitoring System and hope that you will take my situation into consideration when implementing the regulations of this fishery. Thank you very much for your time.

Sincerely,

Edmund Blaine
F/V Laura Marie

**Draft Amendment 11
to the Scallop Fishery Management Plan
DMR Public Hearing
May 22, 2007
Casco Bay Lines
Portland, Me**

Public Attendees: Rick Cullow, Bob Tetrault, Donald Williams and Gary Hatch. Terry Stockwell, Kohl Kanwit and Donna Hall from the Department of Marine Resources.

Terry Stockwell presented the Amendment 11 Public Hearing PowerPoint prepared by the NEFMC and explained the proposed measures that concern Maine General Category scallopers which include:

- a limited entry program with specific qualification criteria (permit in at least one year from March 1, 1994 – November 1, 2004 and at least 1000 pounds of scallop landings in any one of those years)
- individual allocation of access for qualifying vessels in number of trips with a maximum of 400 pounds per trip
- a separate limited entry program for vessels to fish at a reduced level in the Northern Gulf of Maine
- an overall allocation of 5 % of the total projected annual scallop catch for the general category fishery

Public Comments:

R. Cullow – I think anyone who had landings and had a permit should be able to have one, anyone with idle permits should not. I don't have a permit anymore, the boat is still there but I don't have the permit. Somehow there needs to be a way to be grandfathered if you were issued permit in 2007 they should be able to get a permit.

B. Tetrault – I never had bi-catch of 1000 lbs, it was always under, but I have landings but I cannot show 1000 lbs.

G. Hatch – We are not going to get any qualifying criteria, if we were not going to look at the way the fishery should be managed. We are only left with being hard-nosed. We'll manage this but like a small boat fishery, we'll say no the big boats, they are not going to come back like they did 20 years ago and wipe this out. We're just taking the history and throwing it out.

B. Tetrault - This State had an active fishery and was managing it; this sounds like protection for certain group.

R. Cullow - Why are you still issuing licenses, the control date should be out the window, it should go on if you were issued a 2007 license you should be allowed to continue being issued a license, this doesn't add up, if you give the license, land the scallops, they shouldn't be allowed to take away.

D. Williams - Where did that date come from? What are the other alternatives? I built boat, invested all this money and I've asked questions for 2 years and no one could give me any answers. Some people say there is nothing we can do, where do I stand on this matter? They just issued me a federal permit, I can't believe they can just take it away, just because of a date, how can they do this? Have they worked out transfer of permits? This is part of my families' heritage, it's unbelievable that the feds can come in and take it all away. What I want is to have my 400 lb permit and not lose it, have they thought about the impact of what can happen down the road?

B. Tetrault - Why are they differentiating, don't the habitat people get to chime in on that? Why should you shut the door on certain people?

R. Cullow -- We're losing out on every permit that we've ever had, your taking that much away and it will keep another 100 families out, the big boats are not up around here anymore.

D. Williams - It doesn't look like conservation, it looks like allocation instead, what I'm going to catch in a year is a drop in the bucket as to what the big boats are catching. You have to know I have an interest in this, but what am I going to do, the State has to take in to consideration there are going to be more people, have they figured out the transfer or the buy out.

B. Tetrault - We need to add unique history to this document, I'm trying to help you at being successful at getting this thing. This looks like a political solution, didn't we just get rid of this small mesh line, we spent years getting rid of it, why do we want it back, why are we inviting it back?

G. Hatch - We have to fight for Gulf of Maine, this is like trying to outrun a steamroller- think about the majority voters on this council, this is no more than a majority of big fisherman that want to buy permits up...this is perfect of our government at it's best, every time it gets more and more, they are managing 5% of the industry, it's got so thick we can't manage it, we have to say NO, this has nothing to do about managing the fishery it's all about money.

D. Williams - It's hard not to see it that way, they just want to take away from the little guy, this is important to me, and this is nothing that I would prefer.

R. Cullow - I just invested 50K in a boat, there has to be something for people who had a 2007 permit.

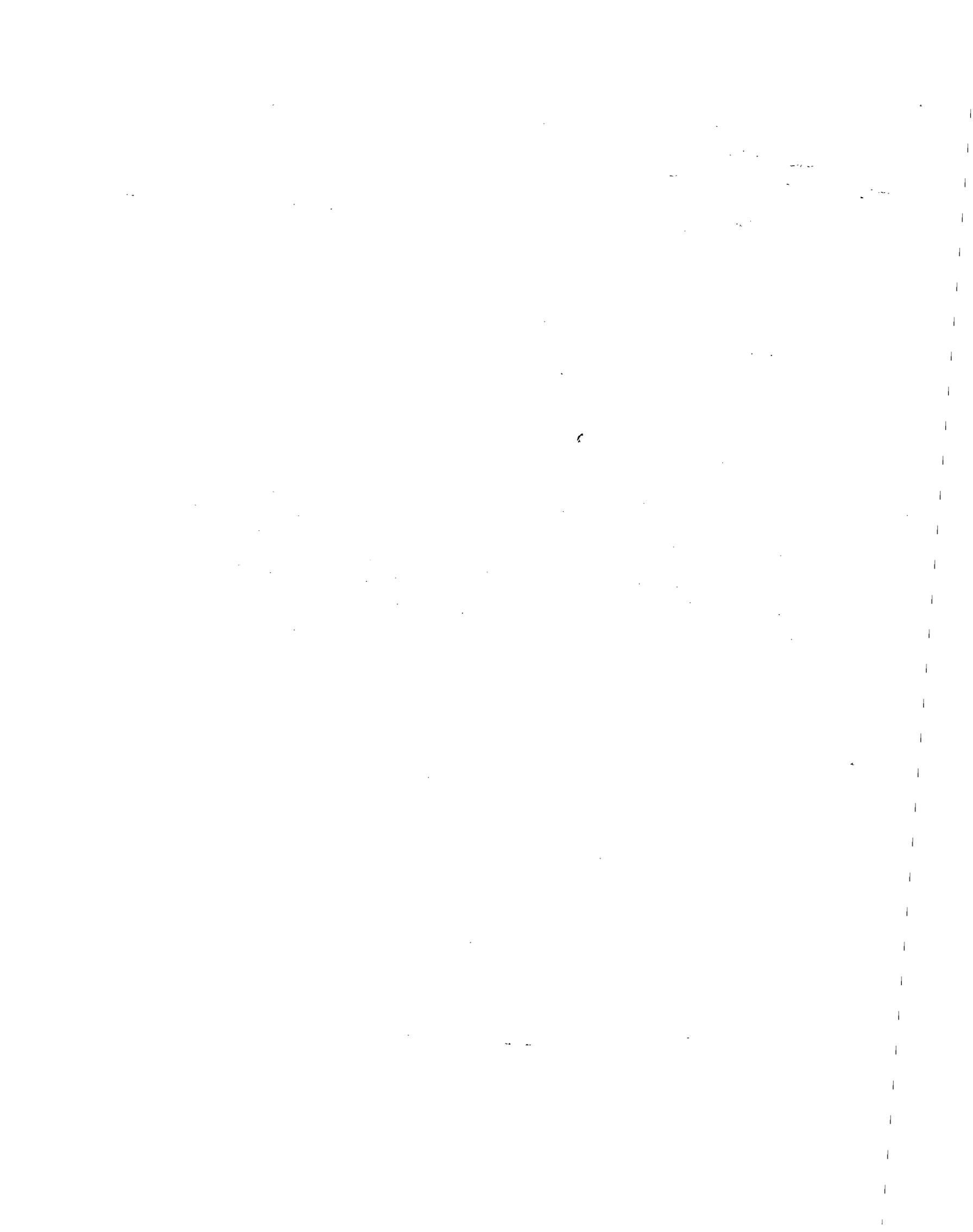
B. Tetrault -I would work on that 1994 thing, we can't just walk in to the wall, and I have records that go back to 1983. Do you want us at the next meeting? There is too many Mainers' that will be eliminated and it shouldn't be that way. We're just looking for a bi-catch. 1994 cuts off too many people, it won't add anything to landings.

G. Hatch -That's what got the limited access guys going.

D. Williams – When you think of all other factors, the number of people that actually have permits to those that used them, if they are allocating 5% to general category or even a smaller amount going to the small guy, why is it us that has to take the sacrifice, there needs to be more enforcement out there.

B. Tetrault – If you go back to 1975 the boats came up for New Bedford to fish here. We are humble and weak.

G. Hatch -We are setting ourselves up the same way as the quahogs if you look at this chart. Gov. Brennan got it back for the downeast guys. The driving force to this is money; limited access is worth 2.5 million and they are saying they will spend the money to get what they want. This is the end of us, this is completely bull and we need to be brave or stupid. We publicly need to go and change the process, this is total failure of the process, what are you going to qualify, 14-15 people in this State, those are the real numbers. We need to get as many signatures as we can get.

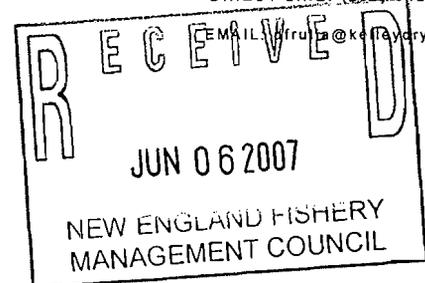


comment
#9

KELLEY DRYE
COLLIER SHANNON

DIRECT LINE: (202) 342-8648

EMAIL: fruta@kelleydrye.com



June 4, 2007

VIA ELECTRONIC MAIL

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

Re: Amendment 11 to the Sea Scallop Fishery Management Plan

Dear Mr. Simpson:

As you know, we represent the Fisheries Survival Fund ("FSF"). FSF's participants include the bulk of the full-time, Limited Access scallop fleet. FSF's participants have been involved in Amendment 11's development, while recognizing that General Category participants also have an interest in designing a limited access scheme that matches their diverse fishery.

FSF submits this letter for the Scallop Committee's consideration in advance of its June 6 meeting to select final Amendment 11 alternatives for the Council's consideration. FSF will also provide a fuller set of comments by the June 11 deadline. Now that the public hearing process is over, many of the issues confronting the Committee have come into better focus, based on the public hearings and the analyses in the Public Hearing Document ("PHD").

FSF participants attended four of the public hearings (Hyannis, Fairhaven, Newport News, and Manahawkin), and their attendance exceeded that of the General Category participants, at all but perhaps the Hyannis hearing (where the respective contingents were relatively equal). In summary, and as explained below, FSF submits that the Council should allocate no more than five percent of the overall resource to the General Category (a point with which certain General Category participants agreed), but the Scallop Committee and Council should take steps to more effectively distribute that share using Amendment 11 options. The episodic nature of the General Category also argues against a 10% allocation during the transition to the Amendment 11 limited access program, though some lower cap is necessary.

Executive Summary

The PHD Amendment 11 Vision Statement summary states, among others, "Amendment 11's overall intent is to ... maintain the diverse nature and flexibility within this component of the scallop fleet, and preserve the ability for vessels to participate at various levels. The Councils' vision for the general category fishery ... is a fleet made up of relatively small vessels, with possession limits to maintain the historical character of this fleet and provide opportunities to various participants including vessels from smaller coastal communities." PHD, at 1.

As is explained herein, the Vision Statement can be realized with a five percent allocation, and other long-term problems (such as latent effort and disproportionate shares) can be avoided. Such a five percent share may be most effectively divided among General Category qualifiers under the Vision Statement if: (1) the control date is maintained; (2) directed day boat scallopers landing over 5,000 pounds in their best year are provided with allocations of 400-pound trips; (3) a "contribution factor" should be used to recognize multi-year participation during the qualifying period (Alternative 3.1.2.3); (4) General Category fishery qualifiers landing between 1,000-4,999 pounds in their best year (most likely these are incidental catches) are provided with 200-pound trips under Alternative 3.1.2.4.2; (5) General Category qualifiers directing on scallops with a net should have a reduced possession limit of 250 or 300 pounds so as to equalize mortality in recognition that scallop trawls demonstrably catch smaller scallops (Alternatives 3.1.2.6.3.1; 3.1.2.6.3.2); (6) General Category dredge qualifiers should only be able to scallop with a dredge (Alternative 3.1.2.6.2); (7) the Consistency Amendment should be maintained and only one permit should qualify per vessel (Alternative 3.1.2.5.1.1); (8) illegal and unrecorded landings should not count toward qualifications or allocations; and (9) a Northern Gulf of Maine exemption area makes far more sense for that very episodic fishery than an additional overall allocation of scallops, especially in terms of not creating latent effort.

The Public Hearings

One surprising result was that many of the public hearings were lightly attended by General Category participants. In fact, at Durham, there were no General Category participants in the audience. In Newport News, about ten General Category fishermen attended, but their landings history uniformly post-dated the control date, and they argued for a forward extension of the qualifying period. By contrast, in Ellsworth, the large majority (if not virtually all) of the public hearing participants had not landed scallops during the qualifying period, but prior to it.

For its part, the final public hearing in Manahawkin was attended by over twenty participants of the FSF and only a few members of the General Category fishery. Notably, all the General Category fishermen who testified declared that a five percent allocation was sufficient. In general, the General Category fishermen at the Manahawkin hearing were more concerned with creating stricter qualification criteria for the Limited Access fleet.

The public hearings did reveal that there are some essentially full-time General Category participants from New England. About a dozen of them attended the Hyannis public hearing, and some of those present at Hyannis (along with a few others) also participated at Fairhaven. This contingent has been very active in Amendment 11's development.

An Episodic Fishery Should Not Receive a Disproportionate Overall Allocation

The public hearing materials show that the Scallop Committee and Council will need to be careful about acceding to a vocal minority's demand for individual allocations, coupled with an historically disproportionate share of the overall resource. FSF considers any more than the 5% share that the non-Limited Access General Category landed in the control date year of 2004, *see* PHD Table 1, to be disproportionate.¹

As explained above, a handful of day boat scallopers that claim to operate essentially full-time were present at the Hyannis and Fairhaven public hearings. Notably, this contingent is not a large group overall: according to the Public Hearing Document, only 37 General Category participants landed over 20,000 pounds of scallops in 2004, the year of the control date. This number of "high liners" was 23 in 2003, only 9 in 2002, and 19 in 2001. (PHD Table 7.)

Nonetheless, certain participants in this modestly-sized directed day boat fishery contingent from New England have been steering the Amendment 11 process toward individual allocations, apparently so that they can maximize their personal shares.² These fishermen have made it clear they do not want to get grouped into tiers where their relative shares might be averaged with others having less history. Their approach may be understandable from their perspective (although some of their personal attacks on the Limited Access fleet aren't).

¹ An allocation of even seven percent bears no relation whatsoever to the historic General Category fishery, and would be fundamentally unfair and wasteful (as the allocation would go unharvested in this demonstrably episodic fishery). Indeed, even a five percent allocation is generous. During the Council's preferred qualifying period, 1994-2004, General Category landings (by Amendment 11 qualifiers and non-qualifiers alike) averaged under two percent of overall harvest. (PHD Table 1.) The Council's preferred alternative of five percent thus represents a 255% increase over average landings in the qualifying period. An allocation above five percent represents an even greater windfall and would credit overfishing by the post-control date fleet to the historical General Category fleet. Such a result is not only unjustifiable as a matter of policy, but defeats the purpose of establishing the control date in the first place.

² In that vein, claims were made at the public hearing in Fairhaven that the General Category needs an average of 4.0 million pounds to be "satisfied." An allocation at that level would provide every qualifier with virtually his or her best year as a dedicated allocation, notwithstanding the episodic nature of most of the General Category fishery. (*See* PHD Table 11, which reports "total best year landings" for preferred option qualifiers as 4,187,916 pounds.)

In contrast to this handful of “full-time” day boat scallopers, the Public Hearing Document demonstrates that most General Category participants fish only episodically. In fact, of the 459 estimated qualifiers, only 234 (or roughly half) of the qualifiers had any recorded scallop landings at all in 2005, the year after the control date. (PHD Table 11.)

If the preferred alternative of individual allocations is chosen, then there is a strong likelihood that up to half of the general category quota could go unused. This would be a huge loss of sustainable scallop yield—yield that the Limited Access fleet would fish each year, because scallops are their fishery, and dependently so, ever since Amendment 4. In fact, the Scallop Committee and Council will need to be careful not to end up creating the same kind of latent effort that plagues the groundfish fishery, via significant, permanent, individualized allocations of scallops to vessels that will not regularly harvest them.

The potential for such latent effort from a disproportionate overall allocation is even more manifest when potential Maine qualifiers are considered. According to the Public Hearing Document, 130 Maine vessels would qualify under 11-year timeframe, but only about half that number, or 70, would qualify under a 5-year period. Put differently, 60 projected Maine qualifiers under the preferred alternatives have not landed even 1,000 pounds of scallops in any qualifying year since 1999, but they would get a dedicated, individual allocation of scallops under the Council’s preferred alternatives. (PHD Table 13.)

In addition, Amendment 11 would already fundamentally reallocate the General Category fishery back to New England, to the benefit of these participants on the Cape and in Maine seeking a disproportionate overall allocation. In recent years, about 70% of General Category landings have come from the Mid-Atlantic (PHD Table 10), but only 149 of the estimated 459 qualifying permits (or about 32% overall) under the Council’s preferred alternatives are from the Mid-Atlantic.³ (PHD Table 13.) It is not clear whether Amendment 11 will result in a major increase in effort in inshore New England fishing grounds or a cash transfer program as/if allocations are sold or leased.

Gulf of Maine

The Ellsworth public hearing showed just how real that Amendment 11’s potential to create latent effort really is. There, most attendees were self-described lobstermen who advocated for the no-action alternative. The rationale was that none would qualify under even the most lenient criteria because most (if not all) had not landed any scallops since the 1980s. However, they wished to retain an option to re-enter the fishery in the future, via a large dedicated allocation of scallops to the General Category. They did not (and cannot) explain why the Council’s preferred alternative to create a Northern Gulf of Maine exemption area would not

³ Of this number, 88 are from New York and New Jersey, and 61 are from other Mid-Atlantic states. (PHD Table 13.) Of the 310 projected New England qualifiers, 130 are from Maine, 168 are from Massachusetts and New Hampshire, and only 12 are from Connecticut and Rhode Island. (PHD Table 13.)

suit their episodic fishery better than their receipt, via Amendment 11, of a large dedicated allocation of the overall scallop harvest they would rarely take (but might sell or lease as a windfall).

Recognizing Incidental Catch By Qualifiers

Another contingent of General Category participants largely went unrepresented at the public hearings. According to the Public Hearing Document, about half of those recording General Category landings in the years when the statistics were available landed between 1,000 and 4,999 pounds of scallops in their best year. Indeed, a full 256 of the 459 projected qualifiers landed between 1,000 and 4,999 pounds of scallops in their best year. (PHD Table 2, derived by subtracting the number of 5,000 pound qualifiers from the number of 1,000 pound qualifiers). This proportion applies year over year, as well.⁴ It appears that many of these General Category participants landed scallops incidentally, in other directed fishing operations. A non-transferable allocation, in line with Option 3.1.2.4.2, that enabled them to land 200 pounds of scallops per trip as incidental landings would make a better use of these qualifiers' allocable shares under Amendment 11 than directed 400 pound day boat trip allocations. Such an approach is also more in line with the Vision Statement.

* * *

We appreciate your taking the time to review our comments. FSF believes the Committee has the ability to lead the scallop fishery towards a successful future with Amendment 11.

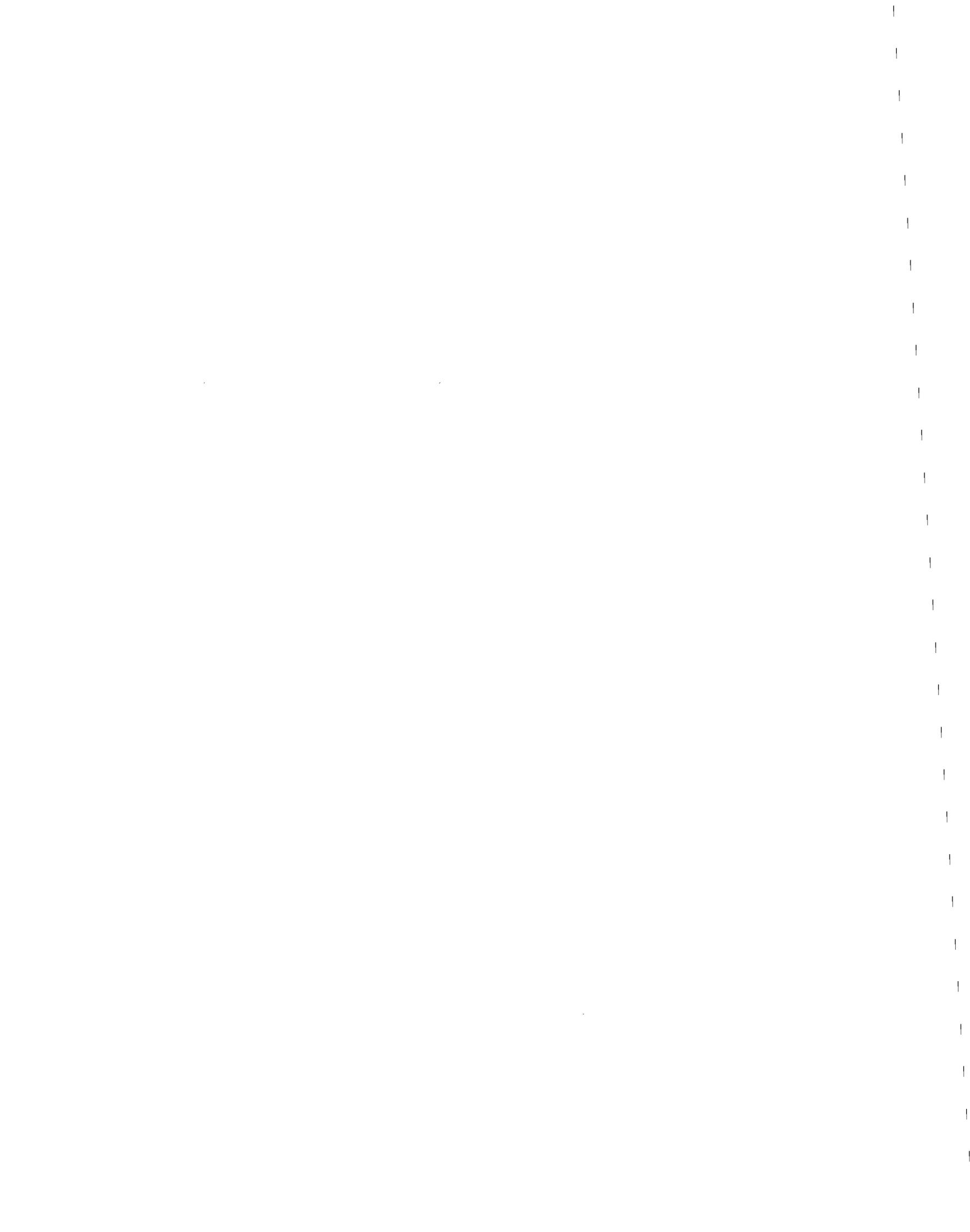
Sincerely,



David E. Frulla
Shaun M. Gehan
Andrew Minkiewicz

Counsel for Fisheries Survival Fund

⁴ In 2004, 114 vessels landed over 5,000 pounds, and 109 vessels landed between 1,000 and 4,999 pounds. In 2003, 71 vessels landed over 5,000 pounds, while 58 landed between 1,000 and 4,999 pounds. In 2002, 55 vessels landed over 5,000 pounds, while 72 landed between 1,000 and 4,999 pounds. In 2001, 60 vessels landed over 5,000 pounds, while 45 landed between 1,000 and 4,999 pounds. (PHD Table 7.)



Comment
#10

June 4, 2007

David Tedford
104 Bentons Pleasure Road
Chester, Md 21619
410-310-8767

U.S. Congressman Wayne Gilchrest

Dear Sir:

My name is David Tedford and I am 49 years old. For the last 30 years, I have worked on the water commercial fishing, oystering, crabbing, clamming, hard shell clamming, soft shell clamming, patent tonging for oysters, diving for oysters, and hand tonging for oysters. I am a fourth generation waterman; my great great grandfather worked on the water, my grandfather, my father, and now myself. I have primarily worked in the Chesapeake Bay and its surrounding waters, but due to the digression of the shellfish business and harsh restriction laws for Commercial Waterman in the Bay, I have recently begun to work in the Atlantic Ocean. Presently, and since November of 2005, I am catching scallops in the Atlantic. I have a General Category Permit granting me the right to catch 400 pounds of scallops per trip. I like this job, it's a lot of fun, and it is still a viable way of making a living working on the water, which I have always enjoyed.

It seems to be that my rights as far as working the water have been taken away. I used to hard shell clam in the Coastal Bays off the shores of Ocean City, and in the last year, a law to stop clamming in 2008 was legislated. My right as a permitted Commercial Clammer has been taken away with the inability to hard shell clam in the back bays, in Chincoteague Bay, and Isle of Right. This is just one way that our government has taken away my right to make an honest living. And as if this law was not enough, the New England Fisheries Management Council has now proposed Amendment 11 to the Scallop Fishery Management Plan (FMP) that, if passed, will refuse me the right to scallop simply because I was licensed after 2004- the "control date" for scalloping licensure. The Council may be denying me the right to renew my permit when it expires in March of 2008. The elementary fact that I have been working the water for my whole life is not considered relevant simply because I attained my scalloping license in 2005, not 2004.

What is being proposed is quite unfathomable. I will be able to work one day, and denied that function of survival the next. After having commercial fished for the last 30 years, not just as a job, but as a traditional way of life, it is an abomination that this governmental agency in this Land of Freedom and Opportunity is denying my family's income! I have income tax records to prove the fact that I have been in this profession for 30 years. I have been paying taxes on commercial fishing for the duration of that time and this law will restrict me from my family's way of life. The most ironic and disheartening fact about this bill, is that if some person who had never worked a day on the water in his life, bought a boat, obtained a permit, and went scalloping before the year

2004, worked for a couple of years, and left the industry would be eligible to reinstate their scalloping license because of their history- but not me, a life-long Commercial Waterman. When I obtained my permit from the National Marine Fisheries, no one from this department notified me in writing, or even verbally, that I may not be able to renew the permit. In order to continue my career, I bought an ocean boat and built a scallop rig. To obtain the equipment to scallop in the ocean, I invested over two hundred thousand dollars. Now Marine Fisheries is telling me I may not be able to continue the endeavors in which I spent so much time and money to begin, due to problems with the fisheries. I obviously would not have started in this business and invested such a magnificent amount of time, energy, effort, and money to stick my neck out in this way had I known my permit was not to be renewed. It seems it would have saved, not just me, but many hardworking Commercial Fishermen a great amount of stress and anguish had Marine Fisheries denied permit requests after their proposed "control date" in the first place.

From day to day experience, there does not seem to be a lack of scallops. However, Marine Fisheries believes, due to statistics, that day boats are the prime cause of scallop numbers deteriorating in the Ocean and that day boats are responsible for immense disturbances of the ocean's floor. In actuality, Marine Fisheries should know (with all the information on which we file reports, such as: when we leave port, when we come in, how many each boat has caught, in what area they were caught, in what depth of water, etc.) that day boats are much less responsible for these disruptions than the trip boats their Council seems to be endorsing. It takes only a matter of simple logic to figure out that the small percentage of day scallopers is not damaging the ocean the way trip boats are. Day scallopers dredge for a few hours each day. Trip boats are continuously dredging for eight to ten days. These boats catch 18,000 pounds of scallops- obviously a multitude compared to a day scalloper's 400 pounds. According to Amendment 11 Draft Environmental Impact Statement (DSEIS) to the Scallop Fishery Management Plan "prepared by the New England Fishery Management Council" states in table 1 that General Category vessels only landed 12.18% of the scallops caught in 2006. A few General Category vessels are not even putting a dent into what is being caught. There must be an obvious correlation between those catching the scallops and those causing fishing mortalities. If General Category vessels are catching less, we are causing less fishing mortalities.

Our product is certainly worlds fresher and therefore healthier. It seems consumers should much rather want to buy fresh day scallops than a form of seafood that is two weeks old by the time it gets to market. It makes me wonder what the bacteria count would be on these old products, if tested. I know how important age and temperature are when dealing with the shipping of seafood. I am vastly experienced when it comes to shipping soft-shell clams to the New England area. I can not understand why the New England Fishery Management Council would want to shut someone out of catching a fresher product for the consumer.

There are many things about the situation that do not make sense to me. Why would the National Marine Fisheries Services (NMFS) have issued a permit that I would not be able to renew? Why would they allow a Commercial Waterman to spend so much money in

order to scallop that he will not be able to make back without that renewed permit. How can the Council say that the miniscule number of scallop caught by day scallopers (compared to those caught on Limited Access vessels) is causing these environmental issues? How can the Council support trip boats if their best interests are in the preservation of natural resources and the seafood industry? The answer seems to be greed. It seems that the Council is hanging ethics in order to support trip boats which are quickly beginning to monopolize this industry by shoving out every little-man trying to make a living and delivering a older and inferior product at the same time. It can not be that with all the technology available and information available to the Fisheries that they truly believe denying hardworking family men the right to work as day scallopers can be the answer to saving the ocean's resources and preserving her natural gifts.

Thank you for your valuable time. Please also read the attached addendum concerning the public hearing I attended for Scallop Fisheries Management.

Sincerely,

David Tedford

June 4, 2007

David Tedford
104 Bentons Pleasure Road
Chester, Md 21619
410-310-8767

Addendum

On Tuesday, May 29, 2007 at 6:00 pm, I had the privilege of going to a public hearing for the Scallop Fisheries Management Plan in Newport News, Virginia. While a lot of things were discussed there, the main topic was the Scallop Fisheries Management Plan. I heard a lot of different opinions; but I was mostly appalled by the constituents of the management plan and the way in which the NMFS is handling its concerns.

National Marine Fisheries Services claimed to be concerned about the fishing mortality, but they have already implemented a plan to slow and stop the rate at which scallops are harvested. A major part of the East Coast's Ocean bottom has been closed up and deemed illegal ground for scallopers. From New Jersey to Ocean City Maryland, there is only a small strip of 8-10 miles that we are allowed to work in. From the 38'10 line south all the way to about the Chesapeake Bay the bottom is closed for scalloping- the NMFS has closed it; I can't see how something can be over fished if it's closed up-not even if there are 10,000 boats out there. Over fishing something is impossible if the bottom is closed. Certainly this is a good way of keeping over fishing from happening. Even rotating the bottom to give things a chance to reproduce and come back would be a legitimate way to regulate and reduce fishing mortality and over fishing.

When it comes to protecting our resources, the Council has not taken these bottom closures into consideration. Amendment 11 express the need to honor a General Category Permit control date of 2004 in order to further the protection of scallops. While denying anyone who obtained a day permit later than 2004 will undoubtedly cut down on the number of boats in the water, it will not create a drastic difference in the number of scallops being harvested, nor will it be a fair way to conduct business-especially from a government run agency such as NMFS. No such action needs to be taken.

The Council intends to deny the renewal of a General Category Permit to anyone who has not obtained their permit prior to 2004. At this meeting my friends and I spoke out against this unethical injustice. I expressed my concerns about my freedom as an American Citizen and my rights being taken away by these restrictions that seem to be undoubtedly going into affect. I even made a statement concerning the shamefulness of our men fighting for our freedoms in Iraq, and my freedoms being taken away right here in our own country.

Let me reiterate to you what statements I made during this meeting, and by doing so, further explain the consequences of the "implementations," the restrictions on the scallop fisheries concerning the General Category Permits:

What is going to happen to my colleagues and me if our permits are taken away because we came into the scallop fisheries after the control date in 2004?

I knew nothing about this control date when I applied for my permit. Of course, I was never told anything about it until I *after* I bought my boat, invested hundreds of thousands of dollars in the vessel itself and the equipment necessary to get my boat ready to go scalloping.

The National Marine Fisheries *FAILED* to protect American citizens by informing everyone about this control date prior to the date itself and by the issuing of permits post-2004. The Fisheries should have made everyone sign a statement to the effect that their permit "could be revoked" due to this control date. I live 100 miles away from the ocean, and am learning as I go as far as the ways of the wide waters. It was dishonest of the Fisheries when they chose not to alert me and others like me about this possibility when I filed for my permit. As I have previously stated in my first memo, I'm a 30 year fisherman, a *Commercial* Fisherman. I am not a wealthy entrepreneur who enjoys fishing while vacationing all summer with my buddies. I am devoted to the water business and I have been for my entire life.

I ask again: What is going to happen to me if my permit is revoked-after I have spent so much money to prepare to scallop? Who will pay off the boat? Who will pay off my mortgage, for that matter! I can guarantee it will not be NMFS!

What we have here, it seems, is a systematic extermination of the Commercial Waterman. It's just one more way to push Commercial Fisherman off the face of the earth. This is parallel to Ocean City, MD where the laws were recently legislated to stop hard shell clamming in the Coastal Bays. I used to do that. Clamming is only part of my livelihood that has been taken away. Parts of my rights are gone. Where I live, on Kent Island, and in the surrounding areas, our government has not controlled the sewer systems. Nothing grows in our waters anymore. Out oysters and clams! Out soft shell clams! They won't grow there anymore, or at least they won't grow enough to sustain a living on the water. It's a shame. And it was for this reason that I ventured into the scalloping world. And now- What happens? Thanks to government controlled changes and regulations, my livelihood is suffering permanently again.

NMFS claims to be an equal opportunity employer. That statement is on all NMFS letters. It needs to be removed. The little-man is being discriminated against. Marine Fisheries will not just be revoking my right to scallop, but my right to make a living to survive. And it seems to be for two reasons: I do not own a trip boat, nor do I know anyone on the National Marine Fisheries Council personally.

Certainly by knocking many of the General Category scallopers out of business, trip boaters will be able to monopolize the scalloping industry. But what does this have to do with the Council's bias? At the meeting last week, I asked the Council how many of them owned, or knew personally individuals who owned trip boats. The Council chose not to honor my request for information. Their silence leads me to believe that if they had

answered truthfully, many of them would have in fact, been owners of trip boats or friends of trip boat owners. I stated that if they were owners or supporters, this conflict of interest could not possibly be legal. It is discriminatory to have these individuals sitting on the board and making decisions that cause self-employed day scallopers like me to lose their jobs and therefore their sole form of income. Even though I wasn't scallop fishing before 2004, I was a waterman just like all the owners of these trip boats. But once again, the little guy suffers.

No action in the General Category Fisheries should be taken. Allow any permitted fisher to renew their permit. How dare the Fisheries give out permits to scallop fishers and allow Commercial Fisherman to spend two or three hundred thousands dollars- only to revoke this permit in the future. This is despicable and unacceptable from our government- and especially from the NMFS- a group of individuals with enough data to know that the few hundred General Permit Scallopers with permits issued since 2004 are not the cause of fishery mortality. We submit hundreds of reports; there is no lack of information.

With all of the records that the NMFS has at hand, they have definitely failed when it comes to giving out permits after their control date. The least they can do now is to honor these permits. **Leave any man licensed who is already licensed**, and simply give out no more permits at this time. The Fisheries should have done this whenever this concern first came about. If there was a problem long ago, NMFS should have known it, and it should have been taken care of before present times. Many of us would not be in this position right now if it was done years ago. And the Council would not be to blame for the devastating decisions that are getting ready to be made.

As for the description of the Council's preferred actions, it is to allocate 2.5 to 11% annual projected catch. General Permit scallopers can not be causing more than 5-10% of the damage of fishing mortality out there. The other 95% goes to the trip boats or Limited Access Permit holders. There are countless trip boat and Limited Access fishers that are pulling two dredges, two 15 footers, working around the clock, seven days a week. It doesn't take a rock scientist to figure out who is doing the most damage out there. The General Category fishery is doing considerably less damage compared to trip boats and Limited Access fishers making up nearly 95%.

Why now are we trying to squeeze out the little guy with such a high percentage due to fishing mortality? There doesn't seem to be a reason, other than greed. There is no logical reason to deny me, or any other General Category Permit Holder, a renewal of permit when we are only responsible for a miniscule amount of damage in comparison to trip boats. With such an insignificant annual projected catch and an insignificant amount of damage being caused by day boats, who can justify taking away a hard-working American citizen's livelihood? The answer is as simple as this: No one can.

Please consider carefully the things I have written, as it is my career and way of life, along with my family's survival, that is now in your hands.

Comment # 11

Ms. Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
1 Blackburn Drive
Gloucester, MA 01930

5/30/06

Re: "Comments on Scallop Amendment 11"

I appreciate the opportunity to submit these comments on General Category Amendment 11. My name is James Gutowski and I am a Full time limited access permit holder who has participated in both the General Category and Limited Access Sea Scallop Fisheries.

In line with Amendment 11's vision statement I support a historical inshore General category fleet, with a limited access management plan set at no more than 400 pounds per day for a reasonable amount of days for those who qualify.

Overall Allocation

In the preferred alternative's qualifying period 1994-2004; General Category landings were 1.96% of the overall catch. In 2004 (control date year) the General Category landings were 5% of the overall catch. The Council's Preferred Alternative of 5% should be an upper end percentage.

Limited access vessels should be allowed to fish under the General Category if they meet the qualifying criteria. During the qualifying period (1994-2004) limited access vessels fishing under the General Category landed an average of 1.12% of the overall catch. This same percentage should carry through to Amendment 11

Reallocation

Since the implementation of Amendment 4 Full time limited access participants have made conservation sacrifices, engaged in cooperative research and participated in the management process. It would be fundamentally wrong to reallocate the scallop fishery based on post control date landings when the scallop resource was at very high levels.

Qualification Criteria

The November 1, 2004 control date should be used. I understand the council's preference to include a wide range of participants however; this choice will qualify to large number of participants.

Alternative 3.1.2.4.2 would be a good option providing lower landing limits for a tier of qualifiers between 1,000 and 5,000 pounds. This option can work well with allocations based on trips as well as pounds.

Any vessel qualifying for limited access under Amendment 11 with a dredge should only be able to fish under Amendment 11 with a dredge. In line with Amendment 10 to increase yield per recruit the council should set a lower possession limit for vessels not fishing with a dredge to protect juvenile scallops. Unrecorded or illegal landings should not count toward qualifying.

Stacking and Consolidating

Again in keeping with Amendment 11's vision statement "projecting a fleet of relatively small vessels" it should not allow, stacking or other forms of consolidation for the purpose of grouping poundage on to larger vessels planning to fish offshore.

Northern Gulf of Maine Exemption Area

I support the creation of an NGOM exemption area north of 40'20 to accommodate certain historical interest. The mortality from this NGOM exemption area should not count against limits set in this FMP.

Yellowtail Access Allocation

The General Category should receive a dedicated allocation of yellowtail for their access trips. This allocation should match the scallop allocation for each access area. This should not be based on the overall allocation of the scallop resource fishery wide.

Interim Period

Amendment 11 should not take years to complete. During this transition period General Category effort needs to be capped. Participants with no long term interest could cause considerable damage to the resource during this period. A 10% cap is too high for this interim period and will lead to more effort in the short term.

Amendment 11 should maintain current access area caps during this transition period.

Fishing Year

The fishing year should not be changed. Business plans and operations have been based on this schedule for years. The current fishing year matches the best scallop yields thus maximizing yield per scallop recruit.

Thank you
James M Gutowski
F/V Elizabeth
F/V Kathy Ann



comment
#12

TEL. (609) 884-3000

P.O. BOX 555
985 OCEAN DRIVE
CAPE MAY, NEW JERSEY 08204

FAX (609) 884-3261

Ms. Patricia Kurkul, Regional Administrator
National Marine Fisheries Service

June 5, 2007

RE: Comments on Scallop Amendment 11
Via e-mail to: Scallop.eleven@noaa.gov

Dear Ms. Kurkul and NEFMC Members,

Whereas the NEFMC has chosen to utilize limited entry as a keystone of management to control mortality from General Category fishing effort, the single most important decision the NEFMC must make in Amendment 11 is the percentage of landings to allocate to the new General Category Limited Access qualifiers.

The NEFMC and NMFS should allocate no more than 2.5% of the total scallop landings to General Category effort and 0.5% to Limited Access Vessels while General Category Scalping for a total allocation of 3%.

The NEFMC initiated Amendment 11 due to the 'Gold Rush' mentality of 'bubble' entrants that began in 2003 and peaked in 2005 (General Category effort is on the decline now due to their over harvests of the Open Area Beds). The NEFMC has already appropriately decided to utilize the November 2004 control date and to limit qualifiers to those vessels with sufficient landings before the control date.

With this in mind, it would be inappropriate to allocate to these qualifying 'historical' General Category participants more than had 'historically' harvested, especially in light of the fact that any allocation to these General Category participants in excess of their 'historical' catches must by definition 'reduce' the historical landings of the Limited Access Scallop vessels who have been the backbone of the scallop fishery. The existing Limited Access Scallop Vessel Owners' cooperative conservation efforts husbanded and rebuilt the Scallop resource to the point where catches were sufficiently good to attract opportunistic entrants by General Category fishermen. The NEFMC should not reward the General Category fishermen by taking from Limited Access Fishermen.

Referring to Table 1 in the Public Hearing Document – *Summary of scallop landings by general category vessels, limited access vessels under DAS and limited access effort for trips under 400 pounds* (copied on the next page) – the following analysis can easily be confirmed:

- The Average of General Category landings from 1994 to 2004 was 1.96%
- The Average of Limited Access effort under 400 pounds from 1994 to 2004 was 1.12%
- The sum of these (total General Category and Limited Access below 400 pounds historical landings 1994 to 2004) is 3.08% (3%).

The NEFMC current preferred alternatives for General Category effort is 5% and the NEFMC preferred alternative for Limited Access Scallop vessels when General Category fishing is 0.5%. This would total combined 5.5% for General Category effort if approved by the NEFMC. There is no logic or policy basis for these levels of allocation:

- None have articulated a credible, legitimate argument for why General Category should be allocated more than its historical average of 2%.
- None have articulated a credible policy basis should General Category landings be allowed to go up by 255% (from 1.96% to 5%)?

The historical average of both General Category and Limited Access landings combined was 3%. If Limited Access were allocated 0.5% of landings (a reduction of 64% of their historical landings) that would leave 2.5% for General Category landings (an increase of 27% of their historical landings).

Table 1 – Summary of scallop landings by general category vessels, limited access vessels under DAS and limited access effort for trips under 400 pounds.

| Fish Year | Total scallop landings (LA and GC) | Total scallop landings by General Category vessels only | | Total scallop landing by Limited Access vessels under DAS | | Total scallop landings by limited access vessels outside DAS (on 400 lb trips) | |
|-----------|------------------------------------|---|--------|---|--------|--|-------|
| | | LBS | % | LBS | % | LBS | % |
| 1994 | 14,907,265 | 95,268 | 0.64% | 14,713,046 | 98.70% | 98,951 | 0.66% |
| 1995 | 15,807,941 | 123,967 | 0.78% | 15,603,104 | 98.70% | 80,870 | 0.51% |
| 1996 | 16,447,682 | 204,635 | 1.24% | 16,175,248 | 98.34% | 67,799 | 0.41% |
| 1997 | 12,619,221 | 310,049 | 2.46% | 12,122,375 | 96.06% | 186,797 | 1.48% |
| 1998 | 11,186,468 | 164,435 | 1.47% | 10,528,707 | 94.12% | 493,326 | 4.41% |
| 1999 | 21,286,244 | 150,482 | 0.71% | 20,713,733 | 97.31% | 422,029 | 1.98% |
| 2000 | 32,929,475 | 357,691 | 1.09% | 32,259,404 | 97.97% | 312,380 | 0.95% |
| 2001 | 45,164,706 | 1,216,947 | 2.69% | 43,659,686 | 96.67% | 288,073 | 0.64% |
| 2002 | 49,808,416 | 983,775 | 1.98% | 48,641,573 | 97.66% | 183,068 | 0.37% |
| 2003 | 54,778,793 | 1,809,071 | 3.30% | 52,781,614 | 96.35% | 188,108 | 0.34% |
| 2004 | 61,714,971 | 3,245,661 | 5.26% | 58,106,020 | 94.15% | 363,290 | 0.59% |
| 2005 | 53,214,097 | 7,495,884 | 14.09% | 44,917,224 | 84.41% | 800,989 | 1.51% |
| 2006 | 56,149,105 | 6,838,083 | 12.18% | 48,886,653 | 87.07% | 424,369 | 0.76% |

I urge the NEFMC Scallop Committee and the full Council to fully look at the policy basis and implications of the allocation to the General Category fishery and to change their preferred alternative. I urge the NEFMC Scallop Committee and the full Council to adopt the following allocation of Scallop landings:

- 2.5% for General Category new limited access qualifiers
- 0.5% for Limited Access vessel which will qualify
- 3.0% total for the entire General Category fishery

Thank you for considering these comments.
Daniel Cohen, President

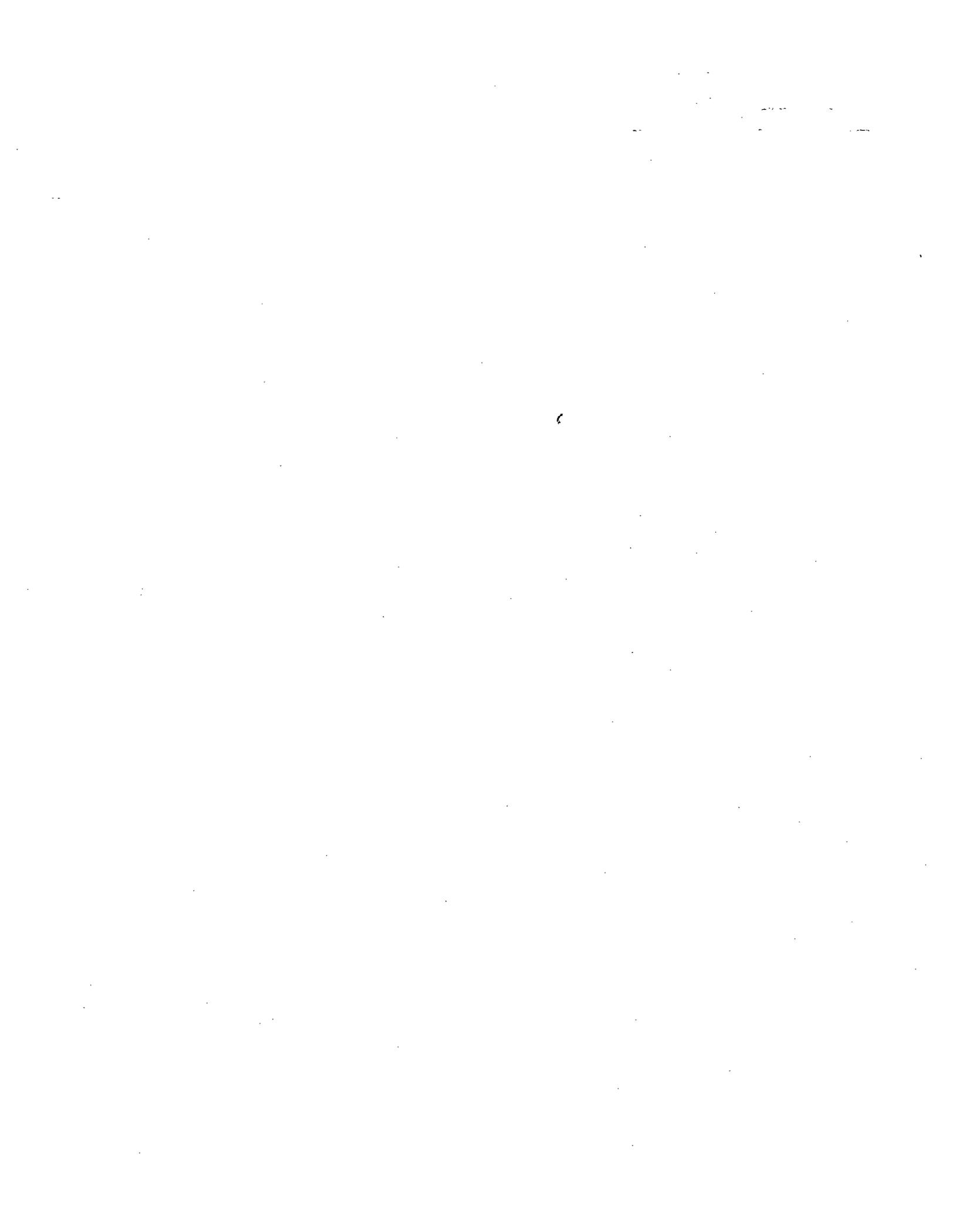
Subject: Amendment 11
From: BaileysOystersCo@aol.com
Date: Tue, 05 Jun 2007 14:36:22 -0400 (EDT)
To: Scallop.Eleven@noaa.gov

In reference to Amendment 11, Section 3.1.2.1.3, for the years 2000 – 2004, I support this proposal for a five year – five thousand pound minimum in order to qualify for permits. This would create a smaller number of permits with a more viable fishery for the participants who qualify. Giving a longer time frame for qualification means more permits with fewer trips per boats not making it feasible to maintain boat and make a living. General category should be set at 5% of the total quota of scallop stock and leave a quota cap at 10% for the interim in implementing limited entry. I also support possible future poundage limit as opposed to trip limits and support possible future permit stacking in order to remain active and economically feasible to remain in the fishery since it costs too much to maintain a boat if there is only 25 – 30 trips per permit.

As in this scenario of 3.1.2.1.3, I myself will forfeit a permit in order to maintain one permit of viable economic value and fishing days.

Thank you,
Scott R. Bailey
Bailey's Oysters, Crabs & Soft Crabs LLC

See what's free at AOL.com.



Nordic Fisheries, Inc
14 Hervey Tichon Ave.
New Bedford, MA 02740
508-993-6730

June 1, 2007

National Marine Fisheries Service
Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930

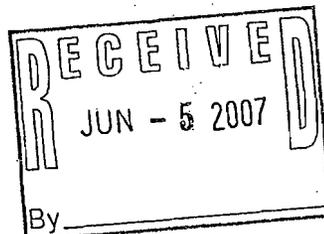
Attention: Patricia Kurkul, Regional Administrator
Comments on Scallop Amendment 11

I would like to make a few comments on Amendment 11. First when the scallop management plan was formed to have limited access there was no thought of a general category fishery. The 400 lbs. was for by-catch thinking about draggers making a trip and getting a few scallops in their nets just the same as scallopers are allowed a little fish for by-catch. There is no legitimate reason to allocate more than 2 or 3 percent to general category. Historically they have only had very high landing the last couple of years. The limited access scallopers have developed this fishery and paid their dues over many years and deserve to have their fishery. It also seems to me that to allow general category 10% during the appeal process when the preferred alternative from the council is a very generous 5%, 10% makes no sense at all.

Sincerely yours,



Roy Enoksen
President





Patricia Kurkul, Regional Administrator
NMFS
N.E. Regional Office
1 Blackburn Drive
Gloucester, MA 01930

Dear Ms. Kurkul,

These are my personal comments on the proposed Amendment 11. Regarding the DRAFT LIST OF MANAGEMENT ALTERNATIVES for Amendment 11 as provided through NEFMC website, I wish you to consider the following thoughts.

Under the qualification criteria I believe anyone who possessed a General Scallop Permit before the CONTROL DATE should retain access to the proposed new General Scallop Permit (limited access) and should not be exposed to losing it due to limited participation. Everyone who has made a financial commitment to pursue scalloping, should be able to continue to do so.

Throughout the literature provided over NEFMC website for the past three years a recurrent theme persisted to justify curtailing the General Scallop Permit allocation. This theme purported that the category was initiated to be used as a part time limited basis fishery to fill gaps in fishing seasons for smaller vessels and not to be used as full time. However, under the alternatives presented, if one used the permit on a limited basis part time as intended, one would now be penalized for not abusing the original purpose of the category by working fulltime. Those who did work full time and abused the original intended concept of the general category are now to be rewarded with higher allocations than those who did not. This is oxymoronic logic.

To reward those who abused the original intention of the category and punish those of us who abided by the original concept seems less than fair. Everyone who had a license before the control date should be granted a limited access General Category Permit and should receive an equal allocation. Equal allocation is the only way to be fair among permit holders.

A low allocation to general category vessels would prove to be uneconomical for the fisherman. The cost of the ever rising three dollar per gallon diesel necessary to make a trip in the Mid-Atlantic to the scallops grounds fifty miles off shore preclude a profit to be made without generous poundage allotment. If any action should be taken to adjust poundage per trip it should be to up the poundage to six hundred pounds per trip or more to make it more economical for fishermen to make a living and not starve themselves burning diesel.

In addition, since this is a Federal resource all states having waters adjacent to the scallop grounds should have a minimum number of participants to promote parity among those states with active fisheries. My state, Delaware, would be extremely restricted in eligible participants while other states would field ten times our number of participants.

The last item I wish you to consider is the apparent lack of concern for the misappropriation of a Federal natural resource. When day boat General Category Scallopers are paid two dollars per pound more for their natural, fresh, sweet product than their ten day at sea, preservative washing, bitter tasting, limited access vessel product,

monetary waste becomes apparent. Why wouldn't the Federal Government want to allocate more scallops to those who bring the highest value for the resource and discourage those who command less money for an altered product?

Please increase the General Category allocation to an acceptable percentage between ten to fifteen percent. There are plenty of scallops for everyone. It seems economical nonsense to curtail the General category allocation when they maximize the revenue generated for the same natural resource and present it in a fresher condition to market.

Let's be fair and honest in distributing this federal resource between all participants and give the smaller boats a larger piece of the pie.

Thank you for considering my thoughts,

Ray G. Trout Jr. / Scalloper
President, Cape Henlopen Shellfish Inc.
F/V Emily Jayne
General Category Scallop Permit Holder

P.O. Box 637
Lewes, De 19958

Phone/Fax
(302)645-2318

Stanley(Buddy)Pritchett
100 Radcliffe Drive
Cambridge,MD. 21613
410-228-4725

Comments on Amendment 11 to the Scallop Fishery Management Plan

I attended the public meeting on May 29 at Newport News,VA. I listened to all the proposals being made and am very concerned because it sounds as though my livelihood as well as my sons is in grave danger. These proposals will surely end our scalloping careers.

I am a third generation commercial fisherman who has worked the last 40 years doing the job I love and my son has followed in my footsteps.I've worked the Chesapeake Bay and the Coastal Bays of Ocean City, but with the depletion of oysters, soft shell clams and the closure of the Coastal Bays in 2008, it led us to general catagory scalloping in the Atlantic.

I guess my main question is why did you keep issuing permits if there was already a control date on the table? We were issued permits and invested an extremely large amount of money, in excess of \$250,000. I guess to some that may not seem like a lot , but to us that is a huge investment.

As of 2004, only 19 boats held day scallop permits in the state of MD.How much harm can they do to the vast Atlantic Ocean?The bulk of the permit holders are from New Jersey northward. Don't take away permits just don't issue anymore, and let the fisheries continue for the current General Catagory Scallopers.

The smaller day scallop boats are ^{controlled} ~~controlled~~ more by the weather than the larger limited access boats. That in itself helps control the fishery. They have already closed a large area almost to the Chesapeake Bay Bridge Tunnel leaving only a very small area off the MD.and DE. Coast.This closure along with the opening and closing of areas such as the Elephant Trunk were implemented to solve the over fishing and fishing mortality problems.

Why allow the limited access vessels to have their trip permits plus the general catagory scallop permits? They get both and just because I didn't have my permit in 2004 mine will not be reissued.Is it so easy for you to deny us the right to use these permits to make a living? We are honest, hardworking watermen who value our resources as much as you do, but we don't want to be kicked out of an industry in which we have invested so much while others can continue to work. How much influence have the limited access permit owners had over these proposals? Sounds like they are in a win win position, losing nothing and gaining almost exclusive rights to the Atlantic Scallop Industry.According to Table1 the day boats caught 12.18% while the trip boats caught more than 87% and according to your records the day boats are responsible for all the problems with the fishery.

It would be a travesty if the NMFS allows this to happen. Continue to monitor, and the

opening and closures of access areas, and allow the day scallopers with permits currently to stay in the fishery. This fishery should stay open for all of us.

If I am shut out of this industry I feel I should be reimbursed by the government for my investments. The government should buy out all of the day scallopers who will no longer be able to count on making a living in this fishery. Hopefully, day scalloping will remain open to all permit holders but, if not I think this would be the only fair alternative.

For one minute put yourselves in our place and consider the investments and possible loss of income and let your conscience be your guide and let things remain the same.

Stanley Pritchett



NMFS
One Blackburn drive
Gloucester MA 01930

Scallop Amendment 11 Comments

Dear Sir,

Draft Amendment 11 Scallop Fishery Management Plan. DO NOT CHANGE FISHING YEAR!

Yamaha Fishery Journal No. 34 October 1990 is scientific information presented to the Council first in 1995. Journal 34 was resubmitted in 2006 as management information. Scallops: Biology, Ecology and Aquaculture (Elsevier edited by S.E. Shumway) another scientific source of information have been ignored by the scallop Management PDT, along with the council. Amendment 11 does not protect small scallops. Since 1987 scallop production has increased in most producing nations by resource management & genetic selection. Amendment 4 to the present resource management has not occurred. Instead fishermen activities have been curtailed and ring size increased and closed areas randomly selected due to natural scallop settlement. Basically ring size increase results in target the fastest growing scallops of the year class thus creating reverse genetic selection over the long term.

Ring size increase created a market share for small imported scallops, eventually this will create market prices controlled by imports!

No effort was exerted to encourage aquaculture by the scallop industry, Sea Grant refused grants for scallop grant meetings with coast wide industry.

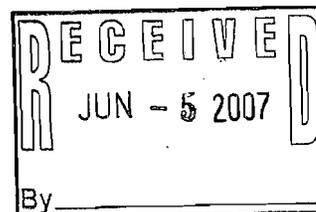
Scallops are not being managed by proposed amendment 11, (BEST SCIENCE,) Shumway page 864 references cyclicity in production associated with periodic tide phenomena. Journal 34 references a ten year cycle of production (solar cycles). Current utilized BEST SCIENCE; of amendment 11 does not mention cycles.

Predation from starfish referenced Shumway page 639 and Journal 34 has not been addressed in any scallop management. Scallop managers have not investigated how other countries have tripled scallop production. SCALLOP AQUACULTURE BEGAN AT THE MILFORD LAB, THE TECHLOGY WAS NOT UTILIZED IN MANAGEMENT ACTION! Science gained was not applied to sea scallops.

Amendment 4 should allow the day fishery to remain with the same number of current vessels as of the moratorium date Nov. 04.

BY REQUIREING GENERAL SCALLOP VESSELS TO LAND starfish as a portion of the 400# catch effort on small scallops can be eliminated (J34.) (In theory the number of small scallops consumed by starfish SHOULD be off set by the harvest by general scallop vessels. Moving day scallop vessels to Aquaculture would allow an increase in scallop production. Amendment 11 does not address any method to increase survival of small scallops except effort reduction.

The systematic rotation of harvest areas are supported in (Shumway) (journal34) but ignored in amendment 11. Science utilized by council in amendment 11 fails to address any method that allows for increased production or the harvest of smaller scallops to meet market demand.



OVERFISHED AND OVERFISHING ARE A RESULT of MANAGEMENT AND GEAR SELECTION WITHOUT REGARD TO KNOWN CYCLES.

AMENDMENT 11 REWARDS THOSE FISHERMEN THAT CREATED THE PROBLEM, (Made general category a sole source of income not a by-catch associated with other fisheries,) INCREASED DISCARDING OF SCALLOPS IN FLOUNDER AND RELATED FISHERIES, DOES NOT ADDRESS MORTALITY ON SMALL SCALLOPS FROM PREDATION OF STAR FISH.

Amendment 11 is not based on scientific information that can be replicated. The basis of Amendment 11, does not comply with the Manguson Fishery act. 101-627, 104-297 purpose (3) to assure that the national fishery conservation and management program utilizes, and is based upon, *the best scientific information available; involves and is responsive to the needs of, interested and affected States and CITIZENS; CONSIDERS EFFICENCY;* draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effect of fishing on immature fish and encourages development of practical measures that minimize by-catch and avoid unnecessary waste of fish; and is workable and effective;

The primary goal is to control capacity and mortality in the general category scallop fishery, The secondary goal is to allow for better and more timely integration of sea scallop assessment results in the management process.

Capacity control would not be necessary *IF* STARFISH WERE LANDES IN AN AMOUNT NECESSARY TO OFF SET HARVEST MORTALITY! Council need only implement requirements for starfish landing requirements for vessels targeting general category scallops as a sole source of income. Other General Category vessels would have a percentage of other catch plus additional pounds of star fish.

Assessment results not considering the above mention scientific cycles are not valid yearly, thus managing yearly can not be justified as best science. Current management by ring size **GIVES AN IMPORT ADVANTAGE TO SMALLER SCALLOPS, THUS UNDERMINDING** future price of the scallop industry.

Amendment 11 should be scraped in favor of landing limits on general category vessels requiring a portion of starfish. The council could have implemented yearly landing limits.

Amendment 11 will forever eliminate the ability of Citizens who shuck shell stock scallops to have employment, in the four boom years of the 10-11 year cycles. This for North Carolina will have economic effect in the lowest per capita Counties.

The assessment results must include the cycles that are known to affect scallop production. **NO NEED FOR TIMELY INTERGRATION OF SEA SCALLOP ASSESSMENT IF THE LONG TERM BEST SCIENTIFIC CYCLES ARE NOT**

UNDERSTOOD OR ignored! SCIENTIFIC IGNORANCE CONNOT JUSTIFY AMENDMENT 11 not including starfish management to reduce mortality.

Answers to focus comments on amendment 11 public comment!

1. Capacity should be limited to the Nov. 04 control date or VMS.
2. Require landing starfish as portion of GC targeting scallops with no other landings.
3. Having a permit prior to 04 all should be in
4. all qualifiers must have same access to resource. Why reward the cause of the perceived problem, with low prices and fewer scallops the GC fleet has decreased in 07.
5. no sectors should be allowed!
6. NO! The gulf of Maine should be the first introduced to aquaculture of scallops.
7. NO! limited access built the GC landings No vessel should be removed from GC fishing.
8. NO!
9. NO! ALL YELLOW TAIL CATCH SHOULD BE LANDED AND SOLD THUS AN ACCURATE AND HONEST BY-CATCH RECORD WOULD EXIST AND CATCH WOULD NOT BE WASTED! *(HOW DOES ESTIMATED BY-CATCH REDUCE BY CATCH? CONVERT YELLOW TAILS TO LANDINGS!*
10. INCENDITAL CATCH MUST BE LANDED WITH APPROPATE AMOUNT OF TARGETED SPECIES OR STARFISH!
11. NO! the data is flawed; an example graphs showing scalloping activity are not to scale giving a non-realistic impression of area scalloped; scientist have continued to distort the area scalloped by general category with charts that are not to scale. Showing the public and managers a distorted impression of area fished.
12. No to trawl sweep less than 144 ft, increased scallop possession east of line if forced out of closed area by yellow tail closure; load the vessel & leave attempting to reach 18000 #
13. Yes the GC fleet by landing starfish can be forced to eliminate the mortality GC vessels have on scallops. Limited Access vessels could increase production by landing starfish or installing dehydration equipment utilizing heat from engine, (GOOD SCIENCE)
 Amendment 11 fails to mention the effects even in the open ocean of PESTICIDES, PHARMACEUTICALS, PERSONAL CARE PRODUCTS, THUS IGNORING CHEMICAL AFFECTING REPRODUCTION OF SCALLOPS. (ST. LAWRENCE SEA WAY)
14. Amendment 11 should only put the control date number of vessels in the general category; close the open access permit. Match the number of starfish landed; to a number necessary so scallop landing mortality is less than the harvest mortality.

Sincerely, James Fletcher. 05-29 2007 123 Apple Rd Manns Harbor NC 27953



Developments in Aquaculture and Fisheries Science, 21

SCALLOPS: BIOLOGY, ECOLOGY AND AQUACULTURE

Edited by

SANDRA. E. SHUMWAY

*Department of Marine Resources and Bigelow Laboratory for Ocean Sciences,
West Boothbay Harbor, ME 04575 (U.S.A.)*



ELSEVIER Amsterdam — Oxford — New York — Tokyo 1991

SEA SCALLOP, *PLACOPECTEN MAGELLANICUS*

K. S. NAIDU

Science Branch, Department of Fisheries and Oceans, P. O. Box 5667, St. John's, Newfoundland A1C 5X1 Canada

FISHERIES

From an economic viewpoint, the sea scallop, *Placopecten magellanicus* (also called giant scallop, smooth scallop, ocean scallop or Atlantic deep sea scallop) is by far the most important pectinid species in the world. Between 1976 and 1987, it alone accounted for some 30% of the mean annual global production of all scallop species combined (Table 1). In some years it contributed to more than half of global scallop production. Sporadic booms in natural production associated with temporal fluctuations in abundance in some species (e.g. calico scallop) and manipulated production through enhancement in some others, particularly the Japanese scallop, *Patinopecten yessoensis*, have in recent years relegated sea scallop landings to a seemingly secondary role. In 1986, for example, up to 60% (163,601 t out of 276,596 t. whole weight) of *Patinopecten* production was culture based, spuriously depressing the sea scallop contribution to world tonnage.

The Atlantic sea scallop is a relatively large mollusc commonly reaching sizes between 10–15 cm and frequently beyond. While large as contrasted with several other scallop species, the implied gigantism is not always characterized by unusual or disproportionate shell size. The largest sea scallop ever recorded measured 211 mm (shell height, tangential dorso-ventral measurement), a size a little larger than the previous recorded of 208 mm (Norton 1931) and had an adductor muscle (meat) weight of 231 g (0.51 lb.) (Naidu, unpubl.) Rock scallops, for example, are better endowed with shell heights approaching 250 mm (Hennick, cited in Kaiser 1986). Maximum age recorded for sea scallops is 29 years (Naidu, unpubl.). The shell of the sea scallop is almost circular in outline with symmetrical wings at the hinge (p. 875). Whereas the lower right valve is white, flat and smooth, the left valve is usually light to pale brown, convex and delicately ribbed. Occasionally, both shell valves are white. Concentric rings on the delicately ribbed surface of the left valve have been verified to be annual (Stevenson and Dickie, 1954; Posgay 1962; Naidu 1969) and are commonly used for age determinations. Oxygen isotope records have also confirmed that growth lines are in fact annual events, consistent with biological interpretation (Tan *et al.* 1988). Hurley *et al.* (1987) have shown that the number of growth lines in laboratory reared post-larval shells is related to the actual age in days. Growth rings are especially pronounced in northern shallow-water populations (Naidu 1975). Repeated encounters with fishing gear in heavily fished aggregations and the haphazard deposition of shock rings makes interpretation of annual growth rings sometimes difficult and frequently impossible. Under these circumstances it may be necessary to utilize growth bands on the resilium (Merrill *et al.* 1966).

Sea scallop beds of sufficient extent and density to support commercial fisheries occur from Virginia Capes (latitude 36°50'N) to Port au Port Bay, Newfoundland, Canada (latitude 48°40'N). Offshore, sea scallops have been exploited commercially on Georges Bank, the Mid-Atlantic Shelf, Browns Bank, German Bank, Larcher Shoals, Grand Manan, around Sable Island, Middle Ground, Banquereau Bank, and on St. Pierre Bank (Fig. 2). The Bay of Fundy (especially off Digby) and Gulf of Maine also have had a long history of production. A full 44 percent of the Canadian catch in 1989 (4,600 t meats), approximately equivalent to the total Canadian removals from Georges Bank in that year, came from the Bay of Fundy (Table 2). In the center of its range (Georges Bank and Middle Atlantic Shelf), scallops have been quite successful and have withstood moderate to heavy exploitation. The Mid-Atlantic area off Long Island and New Jersey (New York Bight) and Delmarva and Virginia-North Carolina regions has become more important in recent years, sometimes contributing to more than half of the USA total scallop production (Table 2). In the Gulf of Maine, the majority of catches come from inshore U.S. territorial waters. Georges Bank, where most of the offshore effort is directed, constitutes the world's largest, single natural scallop resource (Caddy 1989). Scallop production on Georges Bank has been attributed to the presence of a large gyre which forms during the summer and later helps to retain planktonic scallop larvae within the area until they are ready to metamorphose and settle to the sea bottom (Larsen and Lee 1978). Towards the extremes of their range, sea scallops generally have been less successful and have not withstood continued, heavy exploitation (Dickie and Medcof 1963). Fisheries in fringe areas such as the northeast coast of the United States (Serchuck *et al.* 1979) and St. Pierre Bank (Naidu *et al.* 1983b) typically are characterized by a disproportionate dependence on sporadic recruitment of a single or a few intermittent and, sometimes, well-spaced year-classes. Consequently, in fringe areas, fisheries must cope with wide and, sometimes, catastrophic temporal fluctuations. As in most scallop fisheries, sea scallop recruitment, even in the center of its range frequently is irregular and poses undue problems to an industry that is typically overcapitalized. In some other areas such as the Bay of Fundy (Caddy 1979; Dadswell *et al.* 1984; Robert *et al.* 1984) there is evidence of cyclicity in production which appears to be associated with periodic tidal phenomena. These departures from 'steady-state' have wide-ranging implications for the orderly development and judicious management of scallop fisheries.

NOTE

Table
produ

United

Geor
Mid
Gulf

Canac

Geo
Sabl
St. I
Mid
Bro
Ger
Bay

Hisc

State

fish

1882

Prer

twec

recc

1921

Eng

offs

emc

193

mo

(Ar

wh

the

19:

ate

pr:

sh:

ue

not fully understood, but may include shading of *Zostera* beds (that might inhibit their growth), an incomplete food supply, or liberation of toxic metabolites.

Predation. The most widespread scallop predators are perhaps starfishes, as documented for *Pecten maximus* (Lecomte, 1952), *P. fumata* (Olsen, 1955), *Argopecten irradians* (Belding, 1910; Marshall, 1960), *A. gibbus* (Schwartz and Porter, 1977), *Placopecten magellanicus* (Dickie and Medcof, 1963; Medcof and Bourne, 1964; Caddy, 1968, 1973), *Patinopecten yessoensis* (Imai, 1971; Golikov and Scarlato, 1970), *Chlamys islandica* (Brun, 1968), *C. tehuelcha* (Orensanz, 1986), etc. Other invertebrate predators include sea anemones (den Hartog, 1986), gastropods (Belding, 1910; Davis, 1981; Dickie and Medcof, 1963; Marshall, 1960; Olsen, 1955; Orensanz, 1986), octopi (Orensanz, 1986), and crabs and lobsters (Elner and Jamieson, 1979; Jamieson *et al.*, 1982; Marshall, 1960; Pollack, 1988; Tettelbach, 1985). Populations inhabiting continental shelf areas are exposed to heavy fish predation (Caddy, 1968, 1973; Medcof and Bourne, 1964; Naidu and Meron, 1986; Posgay, 1953; Schwartz and Porter, 1977).

There are some known cases of scallop mass mortalities caused by starfish population outbreaks. Decline of *Argopecten irradians* in Buzzards Bay (Massachusetts) at the beginning of the century has been attributed to a starfish population outbreak (Belding, 1910: p. 68). Brun (1968) documented the complete kill of a *Chlamys islandica* bed by *Asterias rubens*.

Mortality due to predation is likely to be size dependent in most cases. Jamieson *et al.* (1982) found that the rate of predation of sea scallops by crabs and lobsters was significantly higher on small size categories than on large ones; size preferences were found to depend on the size of the predators (Elner and Jamieson, 1979).

Epibionts. Scallop shells are often colonized by a variety of epibionts, including algae, barnacles, tubicolous polychaetes, sponges, hydrozoans, bryozoans, other molluscs, etc. It has been postulated that epibiotic suspension feeders (frequently constituting a large fraction of the epibiotic load) compete with the colonized scallops for food resources (Belding, 1910: p. 71; Broom, 1976: p. 14, 16; Motet, 1979: p. 27; Sinderman, 1971; Allen and Costello, 1972; Wells *et al.*, 1964; Yamamoto in Imai, 1971: p. 320). This has never been experimentally demonstrated. Indeed, demonstrated effects of epibionts are in some cases advantageous to scallops, as discussed below. Demonstrated deleterious effects of fouling include entrapment (Leibovitz *et al.*, 1984), increased exposure to stranding (Orensanz, 1986), and deterioration of the shell and meats.

Shell borers. Spionid polychaetes of the genus *Polydora*, which are common borers of scallop shells (Blake and Evans, 1973), have been reported as causing the death of *Argopecten irradians* in Massachusetts (Turner and Hanks, 1959) and of *Patinopecten yessoensis* in Japan (Imai, 1971).

Stranding, usually caused by strong winds or storms, has been reported for *Argopecten irradians* (Belding, 1910), *Patinopecten yessoensis* (Kalashnikov, 1984) and *Chlamys tehuelcha* (Orensanz, 1986). The action of waves has been considered a main source of mortality of *Pecten maximus* in some areas of the Bay of Saint-Brieuc (Thouzeau and Lehay, 1988).

B. *CPUE as an Index of Abundance.* CPUE has been used to assess trends in population size in long-term ("between fishing seasons") and short-term studies, including seasonal trends (del Norte *et al.*, 1988) and within-season declines (see Section 1.1.2.C, below). The data needed are generally obtained through a "log program" (Fairbridge, 1953).

CPUE has severe limitations as an abundance index of scallop and other shellfish stocks. Bivalves and other shellfish—unlike fish—are sedentary. Individuals do not mix after each fishing operation (Baird, 1966: p. 43). The spatial structure of a shellfish stock is persistent, and fishermen do not fish at random over the fishing ground. Rather, once they locate a patch they fish it until density drops to some threshold level, and then move to another patch (Section 1.4.3:B). Given this sequential pattern of patch depletion, stock size is not reflected by CPUE.

C. *Fishing Success Methods.* Catch and effort data can be utilized to estimate initial abundance (ie, at the beginning of the fishing season or removal experiment), provided that the quantity of animals removed over the season (or experiment) is large enough to produce a detectable decline in abundance. CPUE is used as an index of abundance. An estimate of catchability, a coefficient that relates the CPUE index to actual abundance (see Section 1.4.3:B, below) is also obtained. These methods, known as "fishing success methods," are treated in detail by Ricker (1975: chapter 6) and Seber (1982: chapters 7 and 8). Two main families are of common use in fishery research: regression of CPUE on cumulative catch ("Leslie method") and of $\log(\text{CPUE})$ on cumulative effort ("DeLury method"). Dickie (1955), in the best known scallop application, obtained yearly estimates of the size of the Digby stock of *Placopecten magellanicus* over 10 years (1941–1951), using a modified version of the Leslie method. The DeLury method has been utilized to estimate stock size at the beginning of the season in several grounds of *Patinopecten* along the Japanese coast of the Okhotsk Sea (Ito, 1964).

Standard fishing success methods assume closed populations (no migration, recruitment or natural mortality), no competition between effort units, and constant catchability (q). Models, however, can be modified in a number of ways for specific purposes, as is well illustrated by Dickie's (1955) pioneering study. The basic Leslie model was modified to: (1) incorporate an independent estimate of natural mortality, (2) utilize only catch data from days defined as "fine" from meteorological records in order to satisfy the assumption of constant catchability, and (3) use effort information decomposed by segments of the fishing fleet (Ricker, 1975: p. 159–161). Natural mortality was incorporated by assuming that the ratio of catches and natural deaths remained constant over the whole experiment, and that effort level was known. Other, more flexible approaches exist that allow for variable fishing intensity (see Seber, 1982; Coomb, 1979; Sanders, 1988), and may or may not require effort information. Wolff (1987a,b) also modified the Leslie technique in an attempt to incorporate an independent estimate of natural mortality. He applied his method to estimate catchability and virgin biomass of the Peruvian scallop, *Argopecten purpuratus*. He assumed that total cumulative catch taken prior to each unit time period t was all taken at the middle of the time interval $[0,t]$. Wolff (1987b) contrasted the population trajectories predicted by his model against those obtained using the (better) approximation of Pope (1972), and found that errors introduced by his approximation

Comment #18

W. William Anderson

702 Dixie Road
 Moose River Cove
 Trescott, Maine 04652
 United States of America
 207-733-2179

June 01, 2007

Patricia A. Kurkul
 Regional Administrator
 United States Department of Commerce
 National Marine Fisheries Service
 Northeast Region
 One Blackburn Drive
 Gloucester, MA 01930-2298

Dear Pat:

I attended your public hearing on Amendment 11 to the Scallop Fisheries Management Plan. I hold a General Category Scallop Permit and I have a VMS on my boat. I would like to provide further comment on Amendment 11.

The focus of my attention has been lobsters in recent years though I have fished for Scallops in the winter and early spring in the distant past. I still own all my equipment and I could easily move into the scallop fishery. The reason I have an interest in scallops is if the lobster resource should fail to provide me with an income I would have something else to turn to.

I was informed that by a certain date I had to install a VMS on my vessel in order to maintain my ability to land 400# of scallops per trip. Those who met your demands by the given dates should be in the General Category 400# permit class whether they have landings or not.

I do agree that you have to manage the effort in all fisheries or we will have no fish, scallops, lobsters, etc.

One of my biggest concerns is the consolidation or ownership of permits you are allowing in the permits that hold significant ability to land product (limited access permits). In scallops you have a little over 300 permits with rights to land the majority of the resource. Then if you start to look at actual ownership of permits the number of persons who actually own or control these permits. Your numbers will shrink to a smaller number of people holding most of the landings rights to this resource. Then if you were to look at this and then who own groundfish permits with any landings ability and herring I wonder what the picture would look like. I believe from what I have read consolidation has been occurring and it will continue. My concern is that in time you could end up with a few or one large corporation holding all the limited access permits. I believe in the latest authorization of Magnuson-Stevens Fishery Conservation and Management Act, National Standard 4 of Magnuson-Stevens states that if it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, it should be carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges. While it does not actually spell out what an excessive share is it does address the consolidation and indicates that we should be sharing rights to our publicly managed marine resources.

With the conflict of interest laws in this country and other anti trust laws and I wonder whether people or corporations who hold such a majority share of the permit should be allowed to hold a voting seat on the New England Fisheries Management Council because of possible conflict of interest issues. While it would be all right for one of these large corporations to hold a voting seat if you have several of these large corporations on the council this could possibly represent some conflict of interest problems.

It is the shaping of and distribution of effort and landing abilities that makes me wonder about conflict of interest at the council level in the past. It is what was done in the past that has gotten us to where we are today.

I was appalled to learn that when a limited access vessel had used up his days as a limited access vessel he can then join the general category fleet and fish the rest of the year as a general category vessel. This allows even further consolidation of landings ability by multiple permit holders. This is one of the areas where I start to think about possible conflict of interest in past council decisions. There are other areas in fishers issues where I wonder

about conflict of interest and if it played a role. Conflict of interest may be or have been helping shape fisheries management decisions and be aiding the depletion and hindering the rebuilding of our nation valuable marine resources. I raise these issues because I see the general direction of management measures in place and new measures being proposed and it all leads to further consolidation for the big players while making it more difficult for others to continue to hold the right to fish.

General category was set up for the small boat fleet like myself who needs to have access to other fisheries to make it through the year. Weather alone will limit our days at sea. While most of those holding limited access have vessels that can stay at sea and fish in most any weather. It is my opinion that if you already have a limited access permit you should not be allowed to also hold a general category permit. Pick one not both. This should especially be the case if your corporation hold 7 limited access permits. If you hold one limited access permit and no groundfish or other limited access permits then this indicated that scallops are your business and you own one boat and you possibly could be allowed to participate in general category under general category rules but your participation could be limited in some way different than a person holding only a general category permit. You could give these boats a General Category C class permit to separate them from the rest so you know how many there are and what their landings are.

When I learned of the limited access boats using general category as well it has occurred to me that this could have a significant impact on the increased landings/effort by general category permits. This should be separated out and then we could be talking about the small boat general category fleet for New England using a 10 foot dredge or smaller and allowed to land 400# per day, which should be separate from the Mid Atlantic.

When you have addressed the issues listed above then I suggest you look at what is needed to manage effort in the General Category Scallop Fishery for New England.

I will make no further comments on Amendment 11 until these issues are addressed. When these issues are addressed then I think it could be appropriate to develop a new amendment to deal with effort in the General Category Fishery. You could look at separating A and B permit holders and closing access to the B category of the General Category permits after you have separated out those who also hold Limited Access Permits. Then The B category would represent what General Category was created for. The small boat fleet with 10ft. dredges. Possibly creating a C category permit with limited days, 400#s per day, etc. For single boat owners with single limited access permits.

There were many others at the hearing I attended in Ellsworth, Maine who said take no action and raised some of my concerns. I have gone further after listening to testimony.

Effort in the Lobster fishery has been growing and landings have been declining. This is not a good situation and there has been talk of the need to reduce effort in the lobster fishery though no action has been taken. Some of the growth in effort in the lobster fishery has come from effort reductions in other fisheries as they are being rebuilt. These fishermen have moved into the lobster fishery but they are going to be locked out of what was their primary fishery, after it is rebuilt. This is why I am bringing up this consolidation issue and the importance that resources be shared after they are rebuilt while realizing that effort needs to be managed to keep a fishery sustainable. Effort also needs to be shared in a fair and reasonable way.

Sincerely,



W. William Anderson

Subject: Scallop FMP comments
From: mwelch@jerseyshoreclammingcorp.com
Date: Wed, 30 May 2007 21:31:49 -0400
To: Scallop.Eleven@noaa.gov

My name is Michael Welch. I have been a commercial fisherman since shortly after I graduated high school in 1973. It was always my dream to own my own boat and fish for scallops. Even though I was aware of the talk of the Amendment 11 changes, I decided to take the only opportunity I could ever afford and purchased my own boat a couple of months ago. I realize that I will be out of business once the decisions are passed; however, I would like to say that I wish NMFS would have limited the access to boats from this area and not allowed boats from the south to come here to New Jersey and fish our waters. I presently am docked in Point Pleasant and it amazes me that in a situation where NMFS is realizing our waters are being over-fished that over 50% of the boats tied up at the dock are from the south -- the Carolina's to Alabama. I feel that if NMFS would not have allowed these boats to come into our waters, since they had over-fished the shrimp in their area, a person like myself may have stood a chance to continue to fish for scallops in the general category. I realize that it is probably too late after attending the meeting this evening in Manahawkin, but I wish to express my hopes that NMFS would look at removing these boats from our waters and allowing the local boats to retain their permits and continue fishing.

Thank you for your time and courtesies.

Michael D. Welch, President
Jersey Shore Clamming Corp.
F/V Annie Wilder

Deirdre Boelke

From: Scallop Comments [Scallop.Eleven@noaa.gov]
Sent: Thursday, June 07, 2007 11:24 AM
To: Deirdre Boelke
Subject: [Fwd: Super Ridiculous Bureaucracy]

----- Original Message -----
Subject: Super Ridiculous Bureaucracy
Date: Wed, 06 Jun 2007 19:46:41 -0400 (EDT)
From: CLevites@aol.com
To: Scallop.Eleven@noaa.gov

To amendment 11 council members,

I just downloaded 42 pages of unbelievable nonsense that somebody paid a lot of people to compile, complete with charts and diagrams, (Luckily no pictures) aimed solely at forcing small fishermen out of business and ending a traditional way of life for anyone who would hope to live life with a little bit more freedom than Manhattan stock broker. I mean really, were talking about a industry of General category fishermen with TAC of less than \$5 on average during a control period of technological miracles. Why should big corporate boats that can fish in almost any weather condition be allowed to force people to alter their life styles and lead less romantic lives so that they can have all the catch. GREED! It's the only answer that makes sense to me. Should I, as a person that was born in one of Maine poorest regions, not be allowed to make in a year what those boats make in a trip? They should be giving some of their allotment to potential young fishermen who are from rural coastal areas that would like to follow traditional pursuits. I for one believe there should be no changes in the general category permits.

Ralph Dennison

See what's free at AOL.com <<http://www.aol.com?ncid=AOLAOF00020000000503>>.

Comment
#21

Michael Skarimbas
145 Ames Avenue
Leonia, NJ 07605

May 31, 2007

Patricia Kurkul
Regional Administrator
NMFS
1 Blackburn Drive
Gloucester, MA 01930

Dear Ms. Kurkul,

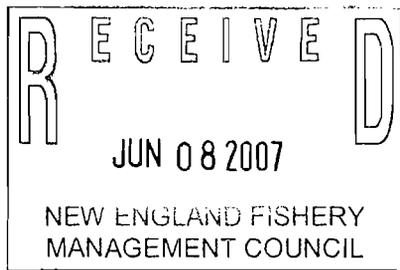
I would like to give my comments concerning Section 6.0 "Questions to help focus public comment on Amendment 11".

1. YES I believe capacity and mortality should be controlled.
2. I am in favor of limited entry.
3. I do not support the preferred alternatives. 1,000 lbs. over eleven years will water down the pool of permit holders so that vessels that are making 100% of their living in the general category TODAY and qualify for a permit will NOT be able to survive. 5,000 lbs over 11 years is ok, but over 5 years is more realistic.
4. A tier system is the only equitable solution.
5. Dredge only 10.6 for everyone everywhere.
6. Undecided.
7. Limited access boats fishing under a general day should come out of the limited access TAC.
8. 5% of the TAC is an unreasonably small amount. We are people with mortgages and families to feed. If a limited access fishery is to be created at the expense of many, it should be a viable one, not one that leaves us unable to sustain our families and with worthless boats and equipment.
9. See answer #8.
10. 40 lbs.
11. We all have V.M.S. Let's use them.
12. No.
13. No comment.
14. Additional comments: Speaking for myself and my crew I would like to say that the notion that this is some sort of "fill-in" or part time fishery is totally incorrect. Since giving up my groundfish permit, my vessel has made 100% of its income scalloping for the last seven years. You have the power to create a viable category with a healthy future and your abilities should not be swayed by owners of fleets of limited access vessels counting up small percentages of increase (due to our impending demise) that translates to big money for them.

Sincerely,

Capt. Mike Skarimbas
F/V Endangered Species
Montauk, NY





DENIS LOVOKEN
306 SUDBURY RD.
PT. PLEASANT, N.J.
08742
F.V. KAILEY ANN

* COMMENT # 22 *

DEAR MS. KURKUL,

I AM A THIRD GENERATION COMMERCIAL FISHERMEN WHO HAS FISHED OUT OF PT. PLEASANT, N.J. FOR 35 YEARS. I HAD A 70 FT WOOD VESSEL (F.V. LEAH) THAT I UPGRADED TO A 78 FT STEEL VESSEL IN 2006.

I WOULD LIKE TO COMMENT ON SOME OF THE PROPOSALS ON ADDMENTMENT II. I AM IN FAVOR OF LIMITED ENTRY TO CONTROL CAPACITY. I THINK THE ALLOCATION FOR THE GENERAL CATEGORY SHOULD BE 7-10 PERCENT WHEN LIMITED ACCESS WAS IMPLEMENTED IN 1994 ONLY 2 YRS 1988-9 WERE USED AS BASE YEARS LEAVING ALOT OF PEOPLE OUT OF THE FISHERY. I THOUGHT AT THAT TIME THE GENERAL CATEGORY FISHERY WOULD BASICALLY BE A PART TIME AND BYCATCH FISHERY WHICH I STILL THINK IT SHOULD BE.

WITH THAT IN MIND I THINK BOATS THAT HAD LANDING OF 100lbs OR MORE BEFORE THE CONTROL DATE SHOULD QUALIFY. I ALSO FEEL THAT A

FLEETWIDE HARD TAC BY QUARTER, WOULD WORK BEST. THE HARD TACS WHETHER QUARTERLY OR TRIMESTER HAVE WORKED VERY WELL IN MID-ATLANTIC FISHERIES SUCH AS FLUKE, SCUP, SQUID AND OTHERS.

WHEN I BOUGHT MY NEW BOAT REPLACING MY OLD ONE I ALSO INVESTED IN DREDGES TO GO SCALLOPING PART TIME, FIGURING MY PERMIT WOULD STILL QUALIFY, BUT NOW I AM CONCERNED ABOUT HOW THIS PLAN ENDS UP.

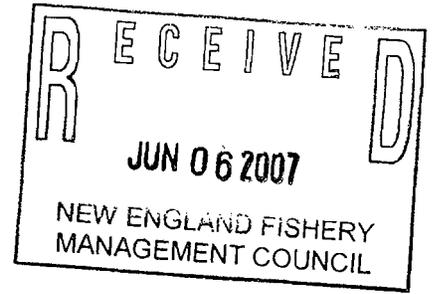
THANK YOU FOR YOUR TIME AND CONSIDERATIONS.

DENIS LOVGREN

Comment #23

Woneta M. Cloutier

From: Peter Christopher [Peter.Christopher@noaa.gov]
Sent: Monday, June 11, 2007 9:35 AM
To: Deirdre Boelke; Chris Kellogg; Woneta M. Cloutier
Subject: [Fwd: [Fwd: [Fwd: [GEN. CAT. SCALLOPERS]]]]



Comment on Amendment 11

----- Original Message -----

Subject: [Fwd: [Fwd: [GEN. CAT. SCALLOPERS]]]
Date: Mon, 11 Jun 2007 09:31:54 -0400
From: George Darcy <George.Darcy@noaa.gov>
Organization: NOAA NMFS
To: Hannah F. Goodale <Hannah.F.Goodale@noaa.gov>, Peter Christopher <Peter.Christopher@noaa.gov>

----- Original Message -----

Subject: [Fwd: [GEN. CAT. SCALLOPERS]]
Date: Wed, 06 Jun 2007 16:47:00 -0400 (EDT)
From: pirate@midmaine.com
To: Pat.Kurkul@noaa.gov
CC: George.Darcy@noaa.gov

TO WHOM IT MAY CONCERN,

AS A SCALLOPER MY WHOLE LIFE, WE'VE GONE THROUGH THE UPS AND DOWNS OF ALL THE RULES AND REGULATIONS THEY'VE THROWN AT US. WE ARE GENERAL CATEGORY, WHICH WE ACCEPTED 13 YEARS AGO INSTEAD OF GETTING THE BLACK BOX (WHICH LIMITED ACCESS LICENSES ARE WORTH UP TO \$1,000,000.) LAST YEAR THEY MADE US GET THE BLACK BOX ANYWAY, ALONG WITH A PERMANENT MONTHLY BILL TO PAY FOR BIG BROTHER TO TRACK OUR EVERY MOVE. AT THAT TIME, THEY CUT THE GEN. CAT. BOATS IN HALF, BECAUSE SOME BOATS JUST DIDN'T WANT THE AGGRAVATION.

NOW WE SMALL BOATS ONLY DRAG 5-8% OF ALL TOTAL LANDINGS AND THEY ARE TRYING TO KNOCK US OUT THE REST OF THE WAY. THE TRIP BOAT (LIMITED ACCESS FISHING GEN CAT PERMIT ARE FIGURED INTO THIS NUMBER)

MY STAND IS, IF YOU GOT THE BLACK BOX, THAT'S IT. YOU SHOULD BE IN THE FISHERY THAT YOU COMMITTED TO. THERE'S PLENTY OF ROOM TO DROP LANDINGS OTHER WAYS. LIKE STOPPING THE TRIP BOATS FROM FISHING GEN. CAT. (THEY PURPOSELY USED UP THE TRIPS IN THE ELEPHANT TRUNK THIS SPRING TO KNOCK US OUT OF THE BUSINESS, OVER 1/2 THE TRIPS ALLOCATED). THE BIG TRIP BOATS ARE RUN BY PEOPLE WHO COULD CARE LESS ABOUT THE RESOURCE. OWNERS ARE NEVER ON BOARD. CREWS ARE OFTEN ILLEGAL ALIENS WHO PAY NO TAXES, OR JUNKIES. FOR THEM TO BE PICKING ON THE MINORITY FOR THEIR REDUCTIONS IS

ABSURD. WE USUALLY DON'T EVEN FISH WHERE THE BIG BOATS DO. THEY CAN'T MAKE MONEY FISHING 400# IN 24 HOURS...

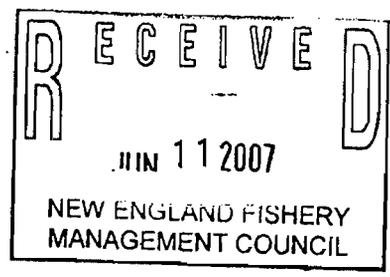
ONE MORE
THING I'D LIKE TO SAY IS I HOPE EVERYONE WHO LIKES SCALLOPS IS LUCKY ENOUGH TO EAT THE ONES CAUGHT ON THE LAST COUPLE DAYS ON THESE TRIP BOATS BECAUSE THE REST OF THEM SIT ON ICE FOR 8-10 DAYS BEFORE THEY EVEN HIT THE MARKET. ALL THE RESTAURANT SCALLOPS COME FROM DAY BOATS. I HOPE YOU CAN HELP US SINCERELY, JOHN, MARY & AJ
PS IF THIS GOES THROUGH OUR BOAT WILL BE USELESS EXCEPT FOR A CABIN CRUISER.

Comment #24

F/V RAYNA & KERSTIN

INSHORE & OFFSHORE CHARTERS, INC.

400 Wood St.
Little Egg Harbor
New Jersey, 08087
Capt.lars@verizon.net



June 8, 2007

Ms. Patricia Kurkel, Regional Administrator
National Marine Fisheries Service
1 Blackburn Drive
Gloucester, MA 01930

"COMMENTS ON SCALLOP AMENDMENT 11"

Dear Ms. Kurkel,

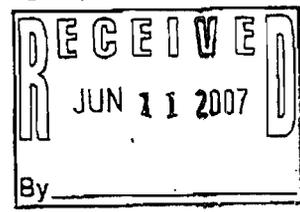
My name is Eric L. Lundvall owner/operator of the F/V Rayna & Kerstin, Barnegat Light New Jersey. My vessel is a current participant in the general category fishery and has history of participation in that fishery since 1994.

I support limited entry for the general category scallop fishery using the control date of November 1, 2004. Allocation for the general category fishery should be implemented. I support an allocation of the projected TAC at a minimum of 5%, to a more appropriate 11% of the TAC. Even with the higher general category landings of 14.09% and 12.18% in 2005 and 2006, the limited access fleet continues to prosper in the Mid-Atlantic.

Please also note that the same open bottom area off of New Jersey that some limited access scallop vessel owners say are being depleted by the general category fleet is the same open bottom area where they have produced some of their biggest trips in years. I would question who is doing the damage.

Landing criteria for qualification for limited entry should be 5,000 pounds between March 1, 2000 and the control date of November 1, 2004. This is the only alternative that would keep the pool of vessels receiving permits to a lower level to sustain a viable fishery with a TAC of 5%. The 1,000 pound, 10 year criteria would work, if there was a higher TAC in the range of 10%-11%.

After reviewing the amendment 11 scoping hearing summary for Manahawkin, NJ, I believe I was not clear or misquoted at what I stated at that hearing. I stated that I have two vessel permits that have general category history that would qualify under the preferred 1,000 pound, 10 year criteria, but only one would qualify under the 5,000 pound criteria. I then stated that I would rather see the 5,000 pound criteria used for qualification and in turn qualify for only one of my vessels. I was trying to point out how



too many qualifying participants would dissolve a fishery into a few days or pounds to make the fishery economically feasible.

I believe there should be absolutely no re-rigging clause in this amendment to qualify vessels for a permit.

The access to qualifying vessels should be allocated on a tiered system, possibly part-time and full-time. ITQ's are very complicated and would further extend the transition period. If an ITQ alternative was chosen, I believe leasing and permit stacking should go along with that alternative.

I believe limited entry provisions should include preferred alternative: 3.1.2.5.1.2. One vessel potentially qualifying more than one permit.

An interim measure of a hard 10% TAC during the implementation period would be acceptable. A TAC lower than this would hurt legitimate qualifying vessels due to boats trying to buy time through an appeal and limited access vessels that might choose to "help burn up" a interim TAC in lieu of using their DAS at the beginning of the fishing year.

I agree that a separate limited entry program for the NGOM, with an allocation derived from the overall total allowable catch.

Limited access fishing vessels meeting the same qualifying criteria as general category vessels should receive a permit to land scallops under the general category. Landings outside their DAS should come from the overall TAC.

Table 19, impacts of the general category TAC on limited access vessels (Sec. 5.4.17.4 of the DSEIS) clearly shows that if Amendment 11 allocated an 11% TAC to the general category there would be a 0% change in limited access net boat share in the full range of scallop TAC scenarios from 40 million through 70 million. In other words, the limited access fleet is doing just fine at status quo.

Unfortunately, there is a fair percentage of limited access participants who have chosen to wage a war against the general category, in an effort to eliminate it as any form of a directed fishery. They appear to have an upper hand in trying to influence this management decision; they are highly organized and have plenty of money for attorneys, lobbyists and scientists. I keep hearing the same general statement from them: "the sacrifices that we endured through the 1990's to rebuild the depleted scallop stocks and now that we rebuilt the stocks, the general category wants to reap

the benefits of our suffering." I believe good fisheries management should be credited for rebuilding the scallop stocks to what they are today not the limited access vessels that depleted the stocks in the first place.

I believe strongly, that qualifying general category vessels should be permitted to continue a full time directed general category fishery. There is now a strong seafood consumer demand for "day boat" or "sushi grade" scallops that has developed with the general category fishery. Consumers have come to know the difference between trip boat scallops and day boat scallops. There needs to be a consistent supply of these high quality day boat scallops that for the most part, the general category scallopers have been supplying.

Thank you for reviewing my comments.

Sincerely,



Eric L. Lundvall, President



Amendment 11 Scoping Hearing Summary
 Holiday Inn – Manahawkin, NJ
 May 30, 2007

Almost 30 individuals attended the public hearing in Manahawkin, NJ, and about a dozen gave oral comment. David Simpson, Chair of the Scallop Committee welcomed the audience and gave an overview of the process and purpose of the meeting. Deirdre Boelke, NEFMC staff then reviewed the public hearing document and explained the preferred alternatives the Council has identified for Amendment 11. The meeting was held from about 6:00-7:45 PM.

Overall the majority of comments at this meeting were about the allocation decision for the general category fishery. Unique to this meeting compared to other public hearings, there was general consensus and support of the preferred alternative of 5%. Several speakers argued that 5% is too high, and it is inappropriate for the Council to support an allocation that is above the historical average of this fishery, especially when limited access effort was reduced during the same time period. One general category vessel owner added that 5% is reasonable, but is only workable if the qualification criteria are more restrictive; he argued that the 1,000 pound and 11-year criteria would qualify too many vessels and no one would be able to make a living.

Measures to control capacity and mortality in the general category fishery

Very few speakers addressed this issue directly, but most that did supported limited entry alternatives. One argued that unless controls are put in place some general category vessels will just move to areas of concentrated scallops and fish them out. He explained that some of the general category vessels that used to land in Cape May, NJ have moved north to Point Pleasant because the inshore areas around Cape May have been fished out. Another explained that the limited access boats did the same thing when the resource was in bad shape – they fished out areas until there was nothing left because they did not have incentive to move. He argued that without constraints on the general category fishery aside from a possession limit, they too have little incentive to move out of less productive areas. One individual said that he is happy the Council is finally addressing the general category fishery and wished it could have been done sooner. Another added that he was around in 1994 and we should do everything we can to avoid getting in that situation again. One commenter added that this fishery as a whole has to do everything it can to prevent overfishing. He added that if this resource approaches overfishing all the “eco-friendly” markets will disappear and the price will drop having negative impacts on both fisheries. No one voiced support for the No Action alternative or a hard-TAC as a preferred strategy for controlling capacity and mortality in the general category fishery.

Qualification for limited entry

Several speakers supported more restrictive qualification criteria, specifically 5,000 pounds and the five-year timeframe of 2000-2004. They argued that the preferred alternatives for qualification would create too many permits and no one would be able to make a living, particularly if the Council was serious about the 5% allocation. One limited access vessel owner added that the preferred alternative may estimate 459 vessels now, but when it is all said and done that number is bound to go up. *One speaker added that he has two vessels that will only qualify under the 1,000 pound alternative but he supports the 5,000 pound alternative because

* my comment that I referred to, is

~~1,000 qualifies too many and there is not enough to go around for 500 vessels.~~ Another argued that the 11-year time period is just too long and another commented that he understands why the Council wants to be inclusive, but in his opinion the preferred alternatives would qualify too many. Furthermore, he supports the alternative that would index a vessels contribution based on the number of years active in the fishery.

Several commented on the access strategy for qualifying vessels. Some supported an individual allocation in trips or pounds. However, several supported a tier system arguing that an individual allocation would be overboard for this fishery. Another voiced support for a tier system if it was easier to implement, but suggested that an additional tier should be considered above the 20,000 pound tier in the document for more directed vessels (i.e. a fourth tier at 40,000 pounds and above).

Allocation of scallop TAC to the general category fishery

Several speakers noted that the general category fishery has increased as a result of controls and innovative changes in the limited access fishery such as crew limits, minimum ring size, and DAS effort controls. One argued that the limited access fishery has made sacrifices and it would be fundamentally wrong to base this allocation decision on post control date landings data. Another argued that it would be a mistake to allocate more than historical contributions; he added that the general category has experienced a bubble in the last few years and it should not be rewarded. Another added that if the Council wants the general category fishery to be more of a mom and pop operation then 2.5% is more reasonable. One speaker voiced support for 5% because that is about the level of total general category landings when the control date was put in place; he argued that would be consistent with the qualification alternatives that are through the control date.

Limited access fishing under general category

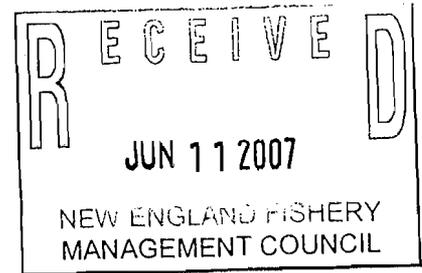
Not many speakers spoke to this issue, but most that did agree with the preferred alternative. One speaker noted that the Council is considering an allocation to the general category that is over 200% of the historical average but the 0.5% allocation for limited access vessels under general category would be over a 50% reduction, based on historical landings. Several speakers voiced that the allocation should be in line with each other, and be based on historical averages.

Interim measures for transition to limited entry

The majority of commenters spoke to this issue in disbelief that an 18-24 month transition period would be necessary; they did not understand how it would take so long or why the Council and NMFS would support continued overfishing of inshore areas. Several suggested that NMFS and the Council should be more creative about measures that can control capacity until Amendment 11 can be fully implemented. For example, it was suggested that NMFS can send out letters now requesting individuals to get their landings history in order. In addition, NMFS could identify the potential qualifiers and allocate an interim individual access (in number of trips or pounds) until the final universe of vessels is known. He added that NMFS could allocate one amount the first year, and then a higher or lower amount the following year after the final pool of qualifying vessels is known. Several argued that a derby for two years would have negative impacts, and several commented that 10% is way too high. Another suggested that based on the analysis in the document, NMFS must have a pretty good idea of who is going to qualify and it should not take 18 months. Another voiced support for the interim alternatives, but wished Amendment 11 could be implemented faster. Lastly, another commented that for the interim period the percent of access general category vessels are allocated in access areas should remain at 2%.

Comment #25

Walter Jessiman, Captain
F/V Dreamcatcher
P.O. Box 273
Cutler, Maine 04626
(207) 259-3640



April 11, 2007

National Marine Fisheries Service

Subject: Comments on Scallop Amendment 11

To Whom It May Concern,

I, Walter Jessiman, would like to register my adamant disagreement with any changes with/in the General Catch permit being currently considered.

I have attended meetings/forums at which these proposed changes were discussed and to my knowledge every local (Maine) fisherman registered strong objections to changes. Changes, as presented, would discriminate against Maine scallop fisherman and favor those from the southern region of the district.

Let me briefly present my personal issues. My lifetime dream (adult) has been the ownership of a scallop dragger. To accomplish that goal it became necessary for me to temporarily relocate to Connecticut. In 2001 I laid the keel for the vessel of my dreams. At that time I was notified that there was open access and did not need to acquire a license. As soon as the status changed I did apply and acquire necessary licensure.

Every aspect of the construction has been documented by photos and material receipts. I personally laid every weld and did the entire construction. After the boat was launched I did all of the electrical, hydraulic, and mechanical work on it.

As soon as the construction was completed I steamed the vessel to its' home port in Cutler, the place that has been home for me all during my adulthood. Since last December I have fished the boat every day the waters permitted for safe passage.

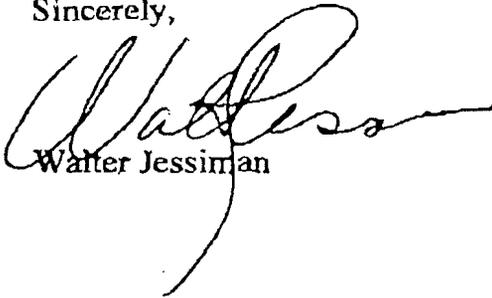
On several occasions the US Coast Guard has boarded the vessel for safety checks. On every boarding comments were made on the excellent craftsmanship and it being "state of the art" in safety and technology.

Several times during construction, and since, I asked advice regarding permit issues and was consistently informed that the construction time counted as landings and not to worry. This vessel was constructed as a scallop dragger and very impractical for any other purpose. It would be highly unfair for the rules to change after I have invested my life and resources into the boat understanding that I would be able to fish with it.

Please allow me to express another concern. Under proposed changes the fishermen of Maine would lose further control over their livelihoods. I, like most or all Maine fishermen, want to be good stewards of the marine resources.

Thank you for accepting my written comments.

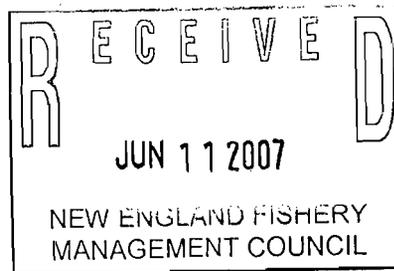
Sincerely,

A handwritten signature in cursive script, appearing to read "Walter Jessiman". The signature is written in black ink and is positioned above the printed name.

Walter Jessiman

Comment #26

F A X



1862 cutler rd
cutler, maine 04626

To: NEFMC
 Fax number: 1 978 281-9135

From: Troy Ramsdell
 Fax number:
 Business phone:
 Home phone: 207-259-7748

Date & Time: 6/9/2007 9:34:03 AM
 Pages: 1
 Re: Scallop License

Hi,

My name is Troy Ramsdell of Cutler, Me. I'm writing in response of the Amendment 11. Me and my dad had a boat in 2004 with the scallop license. The boat burt off the Cape in 2005. All doc's were on the boat so they didn't get sent in. I also had another boat that I had the license on but didn't show any landings because their were no scallops off Cutler to get. I bought a new boat to go scalloping in state and federal waters , but i was just told I would loose my license if I got it. I didn't get it because of the required VMS. I was afraid of buying it and not able to get my license and be out of \$1500. All I want to do is day trips out off Cutier Harbor. I believe something has to be done but not to keep out the people that that are still willing to work for a living.

I think for the gulf of Maine region licenses should given to people who held a license up until the upcoming decision regardless of what they had for landings or ever if they had none. It's not fair to people that gave up everything and invest all they have into scalloping to have it taken away for a few greedy fisherman. Even if you issue a 150 -200 lb day license would all we ever need. I'm not asking for the 400 lb. I think they should be some compromise for us. The 1994-2004 is rediculous. What about recent fisherman, do they sell or try sell their boat just because you wont let them work.

I've recencently heard from fisherman in other towns talking of a class action lawsuit if they don't get their license. I'm not part off this. I just want to work and pay my bills with out worrying of my license being takend away. Please make an exemption for people like us. 1. Have the license so it can't be sold. 2. Have the license whom it is given to, be on the boat that's registred to the license. So they can only have one license not multiple. Thanks for your time and efforts.

Troy Ramsdell

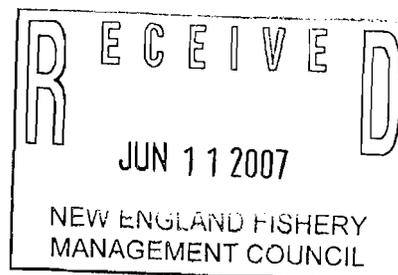
comment #27

Woneta M. Cloutier

From: Robert Maxwell
Sent: Monday, June 11, 2007 3:38 PM
To: Scallop.Eleven@noaa.gov
Subject: Comments on Scallop Amendment 11

Patricia Kurkul, Regional Administrator
 NMFS
 One Blackburn Dr.
 Gloucester, MA 01930

6/10/07



Re: Comments on Scallop Amendment 11

Thank you for the opportunity to comment on the General Category Amendment 11. My name is Robert Maxwell and I am a day scalloper and have been day scalloping full time since 2001 to date. Unfortunately the General Category is over fishing open bottom inshore beds – for this reason the control date of November 1, 2004 was implemented and should be used as it states, “control date”. It is important that Amendment 11 be completed as soon as possible and not take 2 years longer or the entire scallop fishery will suffer.

Overall Allocation & Qualification Criteria:

The control date should be mandatory! I support the allocation of **5.5% to 7%** for the time period of **2000-2004 with a qualification criteria of 5000 pounds..** Should the time period of 1994-2004 be used, the allocation should be increased to 11%. According to the DSEIS, the number of qualifying boats for the 2000-2004 time period would be 188, the lower allocations would be acceptable, however if the preferred alternative is used (1994-2004/ 1000 pounds) the number of qualifying boats would increase to 459 this would be unacceptable, as of 2004 the limited access fleet total was **323 vessels landing (59,494,630) pounds ! this is 94.5% why would we give 459 vessels only (3,272,204) pounds 5.5%** We cannot allow this to happen, please think of the fishery as a whole and what you are doing to the new participants. Do not over qualify and under allocate. !

Stacking & Consolidating:

I support stacking and consolidating of permits to the 60,000 pounds or 150 trips to be adjusted annually and be consistent with the total TAC as of 2004. This will allow flexibility in the GC fishery for those participants that do not have enough allocation to make a living. This will also allow other participants to lease and purchase as necessary. This will also make for a more efficient access fishery.

Individual Allocation

I support individual allocation based on your best year from 2000-2004, this would be the fairest way to allocate to all qualifiers (your effort would equal your history in the fishery)

Vessel upgrades

I support no upgrade restriction, if stacking and leasing is acceptable vessel upgrades etc, would not be necessary.

Interim measures

I do not support the 10% tac or it extended for 18-24 mon, 2010-FY this will make a derby style fishery.

Appeals

06/12/2007

I do not support appeals but if you have history on or before the control date **nov,1 2004** this would activate an appeal –with a 90 day qualifier window
NGOM

I support the Gulf of Main Exemption area 43 degree N.

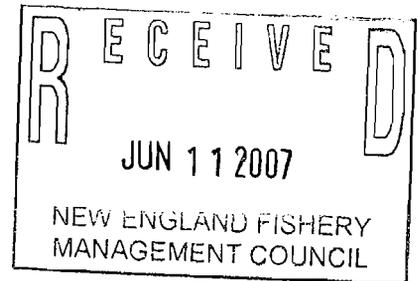
Thank you,

Robert W. Maxwell
Miss Halie LLC
Debbie Sue LLC
Robert Christian LLC

Comment 28

OUELLETTE & SMITH
ATTORNEYS AT LAW AND PROCTORS IN ADMIRALTY
A Professional Association

127 EASTERN AVENUE
SUITE 1
GLOUCESTER, MASSACHUSETTS 01930



Stephen M. Ouellette*
David S. Smith*

*Also Admitted in Maine

Telephone: (978) 281-7788
Facsimile: (978) 281-4411
E-mail: fishlaw@aol.com
<http://www.fishlaw.com>
<http://www.maritimelawusa.com>

June 11, 2007

Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
Northeast Regional Office
One Blackburn Drive
Gloucester, MA 01930

BY HAND AND BY EMAIL

Re: Comments on Scallop Amendment 11

Dear Ms. Kurkul:

I am submitting comments on the proposed Scallop Amendment 11 on behalf of general category vessels fishing from the Barnegat Light, New Jersey area. My clients are supportive of the proposed Amendment and options implementing a limited access program with individual allocation, in trips or pounds, based on a vessel's landings in its best year from 2000 to 2004. We encourage adoption of such a plan as soon as possible, and make suggestions to streamline the process.

Recent growth in the General Category Scallop Fishery has obviously placed new stresses on the scallop stocks, particularly within inshore areas, and my clients recognize the need for implementation of new conservation measures, including limited access to slow growth in the fishery and protection of the resource. At the same time, measures should be designed to protect the nature of the General Category fishery, taking into account developments leading up to the control date. Entrants into the general category fishery prior to the 2004 control date did so with the expectation they could continue to fish in an open access fishery. As such, we believe that the best approach to the issue is to start with an assessment of the fishery as it existed leading up to the control date of November 2004, and to establish an allocation and rules that essentially allow fishermen participating at that time the opportunity to continue fishing. Some consideration should be given to the potential for reductions in effort based on stock considerations, particularly if measures are implemented in inshore areas to protect local concentrations of scallops.

Vision of General Category Fleet

The General Category encompasses a wide variety of vessels, fishing at greatly differing levels depending on their participation in other fisheries. Most General Category participants are

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator
June 11, 2007

--2-

smaller vessels, and are thus able to operate profitably on as little as 400 pounds per day, as a primary species, or as a supplemental seasonal component of their overall fishing activity. My clients seek preservation of this diverse fleet and this level of fishing, through adoption of a plan based on individual fishing history as the best means of preserving the fleet as close to its present form as possible. This also includes allowance for vessels with a history of landing scallops as a bycatch to continue to do so. My clients are not supportive of a plan that simply results in another small sub-category of the limited access fleet by limiting entry to very few vessels through initial allocation or eventual consolidation.

Limited Access Vessels Outside of Scallop DAS

Limited Access vessels fishing with a fishing history outside of their scallop DAS should also be given individual allocations to do so. A number of vessels, particularly occasional and part-time vessels, rely on the open access days as an important component of their income. Some full-time boats use this open access as a means of maintaining crews, by affording some fishing opportunity when limited access vessels would otherwise be tied up. These vessels should be permitted to continue these practices in accordance with their individual history. As noted below, landings for the limited access vessels should be charged against the limited access vessels' allocation of the total TAC.

Limited Entry

There is no question that the general category fleet needs to be governed by a limited entry strategy. Continued growth after the control date has placed an extreme burden on the stock, and traditional general category fishermen are now faced with declining catch rates, making profitability elusive. Leaving the sector open will force either more restrictive trip limits, thereby eliminating profitability, or require hard TAC's, with resulting derby style fishing. Neither option is acceptable. We recommend adoption of a limited access system based on individual vessel's participation in the fishery in the years leading up to the control date.

The issue of minimum qualification criteria depends on the manner in which allocations to vessels are made. We strongly urge individual allocation based on the best year between 2000 and 2004, while granting some additional weight for vessels that have more time in the fishery. If trips are to be allocated on an individual basis, then there needs to be no threshold qualification-any vessel with landings prior to the control date will qualify, however its allocation will be based on its activity. By adopting a "best year" strategy in the 2000-2004 time frame, vessels will be able to participate in the fishery at the highest level they had achieved prior to the control date, with the General Category using about 5% of the total scallop TAC.

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator
June 11, 2007

--3-

-

Percentage of TAC to Allocate to the General Category

We urge the adoption of then allocating 5-7% of the total scallop allocation for the general category. The intent of the allocation is to allow vessels to continue at the level they achieved in their highest year from 2000 to 2004. Since it is generally assumed that most vessels had their best year in 2004, and the General Category landed approximately 5% of the total TAC in 2004, this percentage should allow the general category to achieve this level in years when the TAC is also at that level. Any extension of the qualifying period, however, without an increase in allocation for the overall General Category would most likely result in a downward adjustment for all individual allocations, and as such would require a larger General Category allocation to sustain vessels at that level they had reached prior to the control date. As such, if the Council extends the qualification period to a period earlier than 2000, more of the quota should be allocated to the General Category to account for the additional vessels that will qualify.

The TAC attributable to Limited Access vessels fishing outside of their scallop DAS allocation, and any bycatch, should be charged to the limited access TAC, or should be an additional quota that does not diminish the allocation of TAC to the General Category.

Qualifying Period

My clients support implementation of the limited access program for General Category vessels based on a vessel's fishing activity prior to the control date. The period of 2000-2004 reflects recent history and identifies those currently invested and participating in the fishery. Since activity in those years was increasing, it is difficult to imagine vessels that would benefit more from earlier years, but the potential exists to activate effort that is truly dormant. Activation of this latent effort, again, would either reduce opportunity for current participants, or require a higher allocation of quota to the General Category. For these reasons, we recommend limitation of the qualification period to the 2000-2004 time frame.

Minimum Qualification Criteria

We urge the adoption of a minimum qualification criterion of 2500 pounds, in conjunction with an individual allocation strategy. Vessels that fish only a few trips per year, based on seasonal access and rely on participation in other fisheries should be allowed to continue to do so. Thus, vessels that have only a few hundred pounds landed should qualify for a permit, and should be able to lease or acquire access if abundances in their region support limited

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator

June 11, 2007

--4-

-

participation in the fishery at another time. If the Council adopts a tiered system, or a means of allocation access other than individual allocation based on individual fishing history, then a minimum qualification of 5,000 pounds should be used to limit entry.

Best Year and Individual Allocation Strategy

Since my clients desire to preserve the General category as it had come to exist through 2004, we recommend adoption of individual allocations based on individual fishing activity. This best allows vessels to continue to fish at levels they have become accustomed to. The concepts of tiered allocations present significant problems for full-time participants, who would most likely see their effort reduced to a mean or average. Vessels with more history would see a reduction in opportunity, while vessels with less history would receive a windfall at the expense of those with a longer participation in the fishery. My clients strongly believe allocations should be reflective of individual fishing activity, and that this best preserves the nature of the General Category fishery and avoids the potential for negative impact on larger producers. Individual allocation offers the best chance of each vessel's survival under the new Amendment, as if 5% or more of the quota is allocated to the General Category, these vessels will most likely continue to have the access they have become accustomed to, at least through the control date. If additional effort reductions are required, leasing or transfer of access offers vessels the opportunity to remain viable.

Because of the broad variations in fishing activity among the diverse sectors of the general category, we strongly urge adoption of an individual allocation system, based on pounds or trips landed, so that vessels' allocation will reflect their activity.

Extension of Qualifying Period

My clients oppose extending the qualification period to the pre-2000 fishing years. Most vessels dependent on the fishery would have had sufficient activity in the 2000 to 2004 time frame to qualify to fish at a sustainable level. A longer qualification period creates the danger that dormant permits may be resurrected and result in an increase in potential permits. This will effectively dilute any allocation of TAC to the point that vessels dependent on the fishery for some or all of their income, can no longer survive without buying out the latent effort.

If the qualification period is extended, the TAC allocated to the General Category should be increased to account for the additional qualifying vessel. Additionally, a recent history requirement should be added, so that individuals who sold vessels and who did not replace them,

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator

June 11, 2007

--5-

-

can not now seek to speculatively activate latent effort, to the detriment of active participants in the General Category fishery.

Effort Control

Landings in the new limited access category should still be controlled through the same 400 pound landing limit, with no additional limits on gear, vessel size, etc. With an individual allocation in pounds or trips, the manner in or speed at which scallops are harvested or shucked is inconsequential. Vessels engaged in multiple fisheries will remain bound by any upgrade restrictions on their other permits. We discourage developments that will allow landings of multiple trip limits, as this essentially changes the character of the fishery.

We are aware that a small number of General Category vessels target scallops using trawl gear, either as a directed fishery, or as a bycatch fishery, while using multispecies DAS. This activity is already limited by the use of DAS, and we see no reason why it cannot continue.

Vessels should be afforded some time to determine whether they can safely complete a trip, and should be allowed to terminate a trip, before crossing back over the demarcation line, without any scallops on board. In such event, the vessel should not be charged for that trip.

Transferability

Since there will likely be some reduction in each vessel's fishing activity based on the proposed allocation, and future TACs, vessels should be permitted to consolidate their DAS and to lease them to account for reductions based on stock fluctuations, but not to create a new, lesser, category of limited access vessels. Vessels should be governed by daily limits of 400 pounds, subject to possible adjustment when the TAC increases.

Gulf of Maine Exemption

My clients do not oppose the effort to maintain open access in the Gulf of Maine. If this can be accomplished, however, the rationale for extending qualification to the early 1990's disappears. If the Gulf of Maine exemption is approved, the qualification period for General Category vessels should be limited to the 2000-2004 time frame.

Effect of Retention of Permit History

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator

June 11, 2007

--6-

-

We support the proposed measures that allow vessel owners who retain and utilize fishing history, even where they have transferred their vessels with other limited access permits-a position directly contrary to the limitations in the recently amended herring FMP. Contrary to statements in the herring FMP documents, vessel owners have never been advised that open access history remained inextricably attached to limited access fishing and permit history. NMFS regulations expressly provide that only "limited access" permits may not be split, and NMFS vessel replacement forms only provide for transfer of limited access permit history. Vessel owners have long believed that they could retain open access history upon sale of a vessel to apply for any future limited access permit. As such, we urge adoption of an explicit provision that sellers of vessel who retained their history be allowed to qualify a replacement vessel. If a Seller did not acquire a replacement vessel, then he should be given a confirmation of permit history. Retention of such history should be limited to history accrued in the years 2000-2004.

Implementation should be accelerated

We were disappointed to hear that NMFS believes implementation of a limited access plan for the General Category may take as long as two years following adoption of the Amendment. We strongly urge NMFS to impose the plan as soon as possible. Current permit holders should be advised to review their NMFS landings history to determine if they will pre-qualify for a limited access general category permit, and begin to gather their own records and confirm that their landings were properly reported by dealers. Vessels that do not pre-qualify, or contest an individual allocation, should be denied permits, or limited to landings based on NMFS' records, unless and until permit holders present actual landings records to NMFS, along with a verification that the information is accurate to the best of their knowledge and belief. Such vessels should then be given a Letter of Authorization to fish to the level justified by the proffered materials. This will prevent vessels from fishing based on a groundless appeal.

Conclusion

We thank the Council, Council staff, PDT, NMFS, advisors and industry participants for the hard work in putting together the proposed Amendment. We believe that through adoption of a limited access program, based on individual allocation, with sufficient quota, the General Category can remain a viable fishery, both for its full time participants, and for those who rely on it as a component of their fishing effort, with adequate protection of the resource, and without unfairly impacting the current limited access participants. We thank you for the opportunity to comment on the proposed Amendment.

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator
June 11, 2007

--7-

-

Very truly yours,

/s/ Stephen M. Ouellette
Stephen M. Ouellette

Comments submitted on behalf of:

Rebait Commercial Fishing, Inc.
Miss Halie, LLC
F/V SNOOPY II
Sea Dog Commercial Fishing, Inc.
Salty Knight
Brewster Fishing
F/V RESOLUTE, Inc.
F/V RETRIEVER
Coppa-Setic, LLC
H&H Fisheries-Blair Hansen
Native Sun
F/V CASSIAR
F/V PRETTY LLADY
Gipper Seafood
Island Blue, Inc.
Inshore and Offshore Charters, Inc.
Fishing Vessel Vivian, III, Inc.
Rebait Commercial Fishing, Inc.
Mandy Ness, LLC
Robert Christian, LLC
KJK Fishing, LLC

Comment # 29

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

3050 K. STREET, N.W.

SUITE 400

WASHINGTON, D.C. 20007

(202) 342-8400

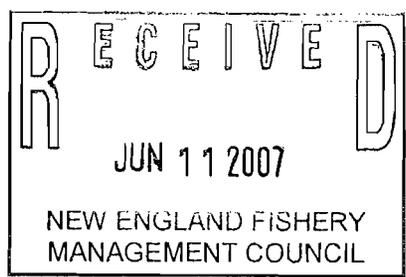
NEW YORK, NY
TYSONS CORNER, VA
CHICAGO, IL
STAMFORD, CT
PARSIPPANY, NJ
BRUSSELS, BELGIUM

FACSIMILE
(202) 342-8451
www.kelleydrye.com

DIRECT LINE: (202) 342-8848
EMAIL: dfrulla@kelleydrye.com

AFFILIATE OFFICES
MUMBAI, INDIA

June 11, 2007



VIA ELECTRONIC MAIL

Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930

Re: Comments on Scallop Amendment 11

Dear Regional Administrator Kurkul:

We represent the Fisheries Survival Fund ("FSF"), which is comprised of the bulk of the limited access full time scallop fleet. The FSF has a critical interest in Amendment 11 and we appreciate the opportunity to provide public comment.

Consistent with Amendment 11's Vision Statement, the Fisheries Survival Fund has always recognized a discrete, historical, in-shore, small vessel, day-boat fishery along the New England coast, as well as that scallops were caught incidentally in other fisheries. The fishery was prosecuted from existing vessels and generally seasonally.

FSF continues to support the Amendment 11 Vision Statement, and the alternatives for Amendment 11 that promote the Vision Statement. Almost all of the preferred alternatives the Council has selected for Amendment 11 support the Vision Statement.

Executive Summary

The Public Hearing Document ("PHD") Amendment 11 Vision Statement summary states, among others, "Amendment 11's overall intent is to ... maintain the diverse nature and flexibility within this component of the scallop fleet, and preserve the ability for vessels to participate at various levels. The Councils' vision for the general category fishery ... is a fleet made up of relatively small vessels, with possession limits to maintain the historical character of

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Two

this fleet and provide opportunities to various participants including vessels from smaller coastal communities.” PHD, at 1.

The Vision Statement can best be realized with a five percent allocation, and other long-term problems with creating a limited access sector (such as latent effort and disproportionate shares) can be avoided. Such a five percent share may be most effectively divided among General Category qualifiers under the Vision Statement if: (1) the control date is maintained; (2) directed day boat scallopers landing over 5,000 pounds in their best year are provided with allocations limiting them to 400-pound trips; (3) a “contribution factor” should be used to recognize multi-year participation during the qualifying period (Alternative 3.1.2.3.2); (4) General Category fishery qualifiers landing between 1,000-4,999 pounds in their best year (most likely these are incidental catches) are limited to 200-pound trips under Alternative 3.1.2.4.2; (5) General Category qualifiers directing on scallops with a net should have a reduced possession limit of 250 or 300 pounds so as to equalize mortality in recognition that scallop trawls demonstrably catch smaller scallops (Alternatives 3.1.2.6.3.1; 3.1.2.6.3.2); (6) provision of “dredge-only” permits for vessels qualifying and fishing with dredges during the qualifying period (Alternative 3.1.2.6.2); (7) the Consistency Amendment should be maintained and only one permit should qualify per vessel (Alternative 3.1.2.5.1.1); (8) illegal and unrecorded landings should not count toward qualifications or allocations; and (9) a Northern Gulf of Maine exemption area makes far more sense for that very episodic fishery than an additional overall allocation of scallops, especially in terms of not creating latent effort.

Responses to Questions in Public Hearing Document

Do you agree that capacity and mortality in the general category fishery should be controlled?

Yes. FSF supports a General Category limited access regime, but not one that is set up to favor new entrants to the fishery who have turned to directed scalloping in recent years as a full-time pursuit, often because of conservation problems in their main fisheries. Accordingly, the Council should create a new limited access dayboat permit that would be allowed to prosecute the in-shore scallop fishery at no more than 400 pounds per day. The 400-pound limit should apply whether allocations are made in trips or pounds.

If limited entry is adopted, which qualification alternatives would you support and why? Do you support the preferred alternatives for qualification: 1,000 pounds and 11-year time period for qualification?

First, the Council should apply the November 1, 2004, control date.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Three

Second, FSF understands the Council's preference, so far, to include a wide range of participants via the 1994-2004 qualifying period and the 1,000 pound catch standard. That choice is consistent with the Vision Statement's goal to maintain a diverse fishery, but it would qualify a relatively large number of vessels (459). It is important to recognize that increasing the landing criterion to 5,000 pounds could substantially reduce the number of qualifiers (from 459 to 203). (Public Hearing Document ("PHD") Table 11.) However, increasing the poundage threshold would narrow the types of General Category participants post-Amendment 11 to directed dayboat operators, many of whom are late entrants into the fishery.

FSF notes two two important issues with such a large qualifying pool of 11 years and 1000 pounds. First, in general, allocations to individual qualifiers will be somewhat reduced. That said, the Council's preferred alternatives, including individual allocations, will mitigate the impact of these reductions considerably for "highliners." Indeed, Table 17 of the Public Hearing Document explains that, with a 50 million pound overall total allowable catch and the preferred 5% allocation, the average "highliner" (that is, a vessel landing over 20,000 pounds in any year¹), would be allocated approximately 20,500 pounds or 51 400-pound trips. Significantly, moreover, this figure represents an average, which will increase for both: (1) above-average qualifiers in the 20,000 pound-plus segment; and (2) those who had these levels of landings in several years. Under the Council's preferred alternative, vessels with scallop landings in four or more years during the qualifying period will see their individual allocation increased using a "contribution factor" (Alternative 3.1.2.3.2). Further, on June 6, the Scallop Committee opted to allocate opportunity in pounds (subject to a 400-pound per day cap), rather than trips, which will further ensure that complete allocations are available to qualifiers.² Finally, Amendment 11

¹ This contingent of "highliners" has been, understandably, well-represented in the Amendment 11 development process (including among the General Category Advisors), but they are not a large group. Only 37 General Category participants landed over 20,000 pounds of scallops in the control date year of 2004. This number of "highliners" was 23 in 2003, only 9 in 2002; and 19 in 2001. (PHD Table 7.) Certain of them were present, in particular, at the Hyannis public hearing.

² FSF had advocated for Alternative 3.1.2.4.2, which would provide for a lower landing limit (perhaps a 200-pound trip limit) for a tier of qualifiers between 1,000 and 5,000 pounds. In any year, the General Category fishery is about evenly split between those landing over and under 5,000 pounds. In 2004, 114 vessels landed over 5,000 pounds, and 109 vessels landed between 1,000 and 4,999 pounds. In 2003, 71 vessels landed over 5,000 pounds, while 58 landed between 1,000 and 4,999 pounds. In 2002, 55 vessels landed over 5,000 pounds, while 72 landed between 1,000 and 4,999 pounds. In 2001, 60 vessels landed over 5,000 pounds, while 45 landed between 1,000 and 4,999 pounds. (PHD Table 7.) As would a poundage-based allocation system, a tiered system would help these lower level qualifiers better utilize their allocation. More specifically, most such lower-level participants likely landed scallops incidental to other directed fishing operations. A lower daily limit would allow them to spread out their individual allocations over more trips, particularly if the Council selects allocations in trips,

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Four

would improve the prospects for any directed Cape-based General Category participants by allocating most of the General Category permits to New England, although the large majority of recent landings are from the Mid-Atlantic. *See* footnote 3, within.

Second, and perhaps more importantly, coupling a large group of qualifiers with individual allocations presents the risk of creating significant latent effort. The Public Hearing Document shows the General Category to include many very episodic participants. In fact, of the 459 estimated qualifiers under the 1994-2004/1,000-pound option, only 234 (or roughly half) of the qualifiers had any recorded scallop landings at all in 2005, the year after the control date. (PHD Table 11.) If the preferred alternative of individual allocations is chosen, then there is a strong likelihood that up to half of the General Category quota could go unused by these episodic participants. This would be a huge loss of sustainable scallop yield—yield that the Limited Access fleet would fish each year, because scallops are their fishery, and dependently so, ever since Amendment 4.

In fact, the Scallop Committee and Council will need to be careful not to end up creating the same kind of latent effort that plagues the groundfish fishery, via significant, permanent, individualized allocations of scallops to vessels that will not regularly harvest them. Thus, if the Council does opt for individual allocations, it should not allocate a disproportionate share of the overall resource (that is, any more than 5% to the General Category).

The potential for such latent effort from a disproportionate overall allocation is even more evident when potential Maine qualifiers are considered. According to the Public Hearing Document, 130 Maine vessels would qualify under 11-year timeframe, but only about half that number, or 70, would qualify under a 5-year period. Put differently, 60 projected Maine qualifiers under the preferred alternatives have not landed even 1,000 pounds of scallops in any qualifying year since 1999, but they would get a dedicated, individual allocation of scallops under the Council's preferred alternatives. (PHD Table 13.)³

("continued")

rather than pounds. Such an approach could also work well with poundage-based allocations, to help ensure that incidental scallop fishing permits are not used for directed activity, for instance, if stacking and leasing is ultimately allowed. Further, such a tiered approach is consistent with Amendment 4. That amendment specifically stated that, if the General Category grew, the Council should reduce the General Category trip limit, as opposed to re-doing the allocation of the fishery established in Amendment 4. *See* Amendment 4, at 30.

³ To provide some scale, the Public Hearing Document projects that 310 of 459 qualifiers (or about 32% overall), under the preferred approach will be from New England. (PHD Table 13.) By contrast, in recent years, about 70% of General Category landings have come from the Mid-Atlantic. (PHD Table 10.) Of the 310 projected New England qualifiers, 130 are from Maine, 168 are from Massachusetts and New Hampshire, but only 12 are from Connecticut and

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Five

In order to maintain a reasonable number of qualifiers, the Council may wish to reconsider its preferred alternative of allowing landings from one vessel to qualify for more than one permit (Alternative 3.1.2.5.1.1).

Finally, FSF strongly believes that unrecorded landings should not be permitted to count towards qualifying. Nor should illegal landings be permitted to count towards qualifying.

**How should access be allocated to qualifying vessels if limited entry is adopted?
Do you support the preferred alternative for individual allocation in number of trips?**

FSF has supported allocations based in trips, as opposed to pounds. As explained above, the Scallop Committee voted on June 6 to change its recommendation to a poundage-based allocation system to ensure maximum flexibility for vessels to catch their respective allocations, without recourse to broken trip provisions or tiering of trip limits. FSF participants, like Council members themselves, have mixed views about ITQs.

However, FSF's participants all agree that, if the Council does opt to allocate the fishery by pounds, then it must also maintain the 400-pound trip limit. The Council staff's summaries of the public hearings reveal that many General Category participants favored maintaining the 400-pound daily limit even if allocations are in pounds. The 400-pound limit's maintenance will help ensure that individual General Category allocations are not consolidated onto a new group of directed off-shore trip boats—a result that FSF strongly opposes. The Amendment 11 Vision Statement likewise states that, "The Councils' vision . . . is a fleet made up of small vessels, with possession limits to maintain the historical character of this fleet and provide opportunities to various participants including vessels from smaller coastal communities." (PHD at 1.)

Do you believe any of the additional permit provisions or additional alternatives under a limited entry program should be adopted?

For the reasons set forth directly above, Amendment 11 should not allow, through stacking, the creation of sectors or other forms of consolidation, for the grouping of poundage onto larger vessels capable of and planning to fish offshore. Maintaining a maximum trip limit of 400 pounds per day should ensure that the character of the fleet is not changed.

("continued")

Rhode Island. And, regarding the Mid-Atlantic's 149 qualifiers, 88 are from New York and New Jersey, and 61 are from other Mid-Atlantic states. (PHD Table 13.)

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Six

FSF understands that certain directed General Category fishermen would like to stack trips on their vessels to seek to reasonably maintain their operations. In support of these wishes, the preferred alternatives in the Public Hearing Document allow for a substantial amount of consolidation of individual allocations. The Public Hearing Document sets a range of 1-5% of the overall allocation as a cap on the amount of total permits that one vessel could own. While the percentage chosen may depend on the number of permits that ultimately qualify, a cap at 5% would allow for a fairly significant concentration of ownership, especially in light of the Amendment 11 Vision Statement to maintain a diverse General Category fleet.

Do you agree that a separate system should be adopted to manage the general category fishery in the Northern Gulf of Maine (NGOM)?

Yes, to the extent that the NGOM exemption area program would create a partially separate system. (However, under the preferred alternative, landings limits are somewhat integrated for those who might participate inside and outside an NGOM program.) As explained above, the fishery in Maine is very episodic. Individual allocations to vessels that have not landed over 1,000 pounds of scallops during the 1999-2004 period (that is, 60 of the 130 Maine qualifiers), will create significant latent effort. The potential for such latent effort is especially high in the NGOM, where the scallop abundance is very uneven from year to year. Moreover, many of the participants in the Ellsworth public hearing wanted to remain in the scallop fishery but had not had 1,000 pounds of landings in any year, even during the 11-year qualifying period, with some claiming an interest in the fishery, but stating they had not landed scallops since the 1980's.

Do you support the preferred alternative to implement a separate limited entry for general category fishing in the NGOM?

FSF supports the creation of an NGOM exempted area north of 42° 20'. Creation of such an exempted area should accommodate concerns expressed by vessels fishing in the Gulf of Maine about being excluded from fishing for scallops because of the episodic nature of Gulf of Maine scallop abundance. FSF is not particularly troubled if the NGOM allows qualification at 100 pounds of landings in that area, provided that: (1) such low level qualifiers are not permitted to fish outside the NGOM area unless they meet the general 1,000 (or 5,000) pound qualification criterion for the Amendment 11 fishery as a whole; (2) this NGOM exempted area is and should be confined to an area outside the surveyed area for the Atlantic scallop resource currently managed under the FMP, so that mortality from the NGOM area can be accounted for separately; and (3) landings from the NGOM are not counted in a way that would require a change in the overall allocation of the coast-wide resource from the Council's preferred 5% allocation to the Amendment 11 General Category fishery. Creation of an NGOM exempted area would better accommodate certain professed historic (but clearly episodic) fishing interests than a disproportionate allocation of the overall total allowable catch.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Seven

Finally, in this regard, FSF is troubled by the comments from the Regional Administrator regarding the proposed NGOM management area. Contrary to the assertions of NMFS, the NGOM management area is consistent with the conservation of the scallop resource. The scallops in the NGOM are considered a separate stock from the scallops managed under Amendment 11. Under the NGOM exemption area approach, this separate stock would be managed under a separate regime with a hard TAC and limited entry. The NGOM would be analogous to a special access area, which is commonplace in current scallop management. The State of Maine has stated that it will continue its effort to survey the scallop resource in the NGOM, and this survey can be used to set TAC levels consistent with conservation standards.

Should the current privilege for limited access vessels to fish under general category rules change as a result of Amendment 11?

Do you support the preferred alternative to allow limited access vessels to fish under general category only if they qualify under the same criteria?

Yes, to both questions. FSF believes Limited Access vessels should be able to participate in the post-Amendment 11 General Category fishery to the extent that they qualify to do so. Their allocation should be limited to their historical share as well.

Do you support an allocation of a percentage of the total projected annual scallop catch to the general category fishery?

Yes.

Do you support the preferred alternative to allocate 5% of the total projected annual scallop catch to the general category fishery?

Yes, Amendment 11 should not fundamentally reallocate the scallop fishery. The new General Category limited access program (not including current Limited Access vessels that might qualify or incidental landings) should be allocated no more than 5%. In 2004, the year of the Amendment 11 control date, these landings were 5.26%. In 2004, scallops were abundant and General Category effort wide-spread.

An allocation above five percent would represent a windfall and would credit overfishing by the post-control date fleet to the historical General Category fleet. Such a result is not only unjustifiable as a matter of policy, but defeats the purpose of establishing the control date in the first place. Notably, many General Category participants at the public hearings, especially the directed New Jersey fleet that participated at the Manahawkin public hearing, support the 5% overall allocation.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Eight

Certain participants in the modestly-sized (*see* comments at page 3, above) directed day boat fishery contingent from New England have been steering the Amendment 11 process toward individual allocations so they can maximize their personal shares.⁴ Significantly, however, especially if the Council chooses to accede to the requests for individual allocations, the overall General Category allocation should not exceed 5%. As explained above, an allocation of greater than 5%, when coupled with an individual allocation system, would create significant amounts of latent effort and unused optimal yield. (According to PHD Table 11, of the 459 estimated qualifiers, only 234 had any recorded scallop landings in 2005, the year of the General Category fishery explosion and the year after the control date.)

Further, the General Category should maintain its historical character and share of the fishery, as the Amendment 11 Vision Statement prescribes. From 1994-2004, the eleven-year qualifying period selected by the Council as a preferred alternative, General Category landings by non-Limited Access vessels averaged 1.96%. For instance, in 1999, landings by non-Limited Access vessels were 0.71%, and in 2001, they were 2.69%. The 1994-2004 time period includes periods of high and low scallop abundance, as well as different points in the abundance cycle for a range of other New England and Mid-Atlantic fisheries. (Even adding in 2005 and 2006, General Category landings by non-Limited Access vessels averaged 3.68%.) The Council's preferred 5% allocation alternative thus represents a 255% increase over average 1994-2004 landings.

Finally, reallocation of the fishery via a disproportionate allocation would not be consistent with Amendment 4. Amendment 4's primary purpose was to include essentially the entire scallop fishery so that it would be easier to control fishing mortality. Amendment 4, at 13. The Council created the General Category in Amendment 4 as a compromise to allow some modest scallop landings for those vessels which could not meet these limited standards, did not or could not document their landings history, or otherwise decided not to accept the burdens of a scallop limited access permit, including limited opportunities to participate in other fisheries.

⁴ Some in their number have been claiming, in the public hearings and at the Scallop Committee, that the General Category needs an average of 4.0 million pounds to be "satisfied." An allocation at that level would provide every qualifier with virtually his or her best year as a dedicated allocation, notwithstanding the episodic nature of most of the General Category fishery. (*See* PHD Table 11, which reports "total best year landings" for preferred option qualifiers as 4,187,916 pounds.) It is worth noting in this regard that individual allocations will ensure they maximize their shares (*see* PHD Table 17, and FSF's discussion of this table, above) and that Amendment 11 will allocate 70% of the permits to New England, even though its participants have only amounted to 30% of the fishery in recent years.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Nine

For its part, the Limited Access fishery provides thousands of jobs at sea, as well as many more in processing, marketing, and other shore-side businesses in communities from New Hampshire to North Carolina. These businesses chose to invest in and rely on the scallop fishery during lean times. Those who opted to participate in the Limited Access fishery have made conservation sacrifices, invested in organized activity and cooperative research, participated constructively in the management process, and advocated for new and creative regulatory approaches, such as area management, that have rebuilt and helped sustain the scallop resource. All scallop fishermen, including those in the General Category, have benefited.⁵

It would be bad resource management, horrible precedent for the Council, and unfair to fundamentally reallocate the scallop fishery based on post-control date landings from a time when the scallop resource was at its high point. Moreover, in recent years, Limited Access effort has been substantially cut back by regulation, but the General Category effort has increased in the absence of regulation.

Do you support an allocation of a percentage of the available yellowtail flounder bycatch TAC for access areas to the general category fishery equivalent to the percentage of scallop catch that may be allocated to the general category fishery?

FSF agrees that the General Category should receive a dedicated allocation of yellowtail flounder for their access area trips. Any yellowtail access area allocation for the General Category should match the allocation of scallops that the General Category receives for each such access area, rather than being based on the overall allocation of the scallop resource fishery-wide. Amendment 11 does not set an overall scallop allocation to the General Category for every subsequent access area program. Thus, it is not appropriate to set a one-size-fits-all yellowtail flounder access area allocation for each access area program. Instead, the yellowtail access area allocation and scallop access areas allocations should match.

⁵ Further, the full-time Limited Access fleet has grown by over fifty permits since the late 1990's. Opportunity has been expanded in two ways. First, latent permits have been activated. Second, part-time vessels using a single 10-1/2 foot dredge have been able to upgrade to full-time. With high levels of scallop abundance, and in trip limit-based access areas, these upgraded permits are very valuable. Notably, moreover, Amendment 4 created this upgrade provision for "Gulf of Maine fishermen [who] commented that their historical practice of scalloping in state waters and occasionally at Fippennies Ledge and Georges Bank with smaller dredges was not taken into account." Amendment 4, at 4. This is yet another way Gulf of Maine fishermen have already been accommodated through the existing program.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Ten

How should incidental catch be addressed in Amendment 11?

FSF does not, in theory, oppose allowing vessels landing scallops during 1994-2004, but not meeting the landing criteria, to be allowed 40 pounds of scallops for sale, to accommodate historical fishing patterns and prevent discarding of scallops in directed fishing for other species. However, the Scallop Committee did correctly recognize that such a result would create a new permit regime for only a small amount of scallops per vessel.

Do you support any of the alternatives in Amendment 11 related to better and more timely integrations of recent data into the management process?

FSF reiterates its participants' long-standing opposition to changing the long-standing fishing year, upon which they have based their business plans and operations. The current fishing year matches well with the best scallop yields, with fishing commencing in the spring. Amendment 10 likewise seeks to maximize yield per scallop recruit. In addition, scallop inventory management and marketing have been set up over the past fifteen years to have fishing concentrate in the spring and summer when the season starts, and weather and yields are good. These successful business models should not lightly be discarded.

Significantly, moreover, new surveys are being designed for the scallop fishery that might better match the current fishing year, to the extent that there is a concern by managers. The Council should not change the fishing year, only to have to change it back (or again) to accommodate the new survey.

Do you support any of the "other measures" included in Amendment 11 (i.e. trawl sweep alternative and increased possession limit seaward of the demarcation line)?

In line with Amendment 10, the Council should factor in gear selectivity in setting qualification and participation standards under Amendment 11. Scallop netting is demonstrably less selective than scallop dredging. Further, increased possession limits present the opportunity for deck-loading and discard mortality if too many scallops are deck-loaded.

Do you have any other comments for the Council to be aware of when considering final action for Amendment 11?

NMFS should work quickly to implement Amendment 11. It should not take two years to implement a limited access regime. It only took months for Amendment 4, and the records were far less systematically maintained in 1993-1994 when that amendment was implemented for several hundred qualifiers. FSF thus supports the Scallop Committee's motion to limit the application period for Amendment 11 permits to 90 days after the start of the 2008 fishing year.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Eleven

Further, notifications of this application period can be made, via NMFS Notices to Permit Holders, even as Amendment 11 is being finalized.

Amendment 11 will need to cap General Category effort during this transition period. It would be terrible management to allow many General Category vessels, with no long term interest in the fishery, to file baseless appeals and then get to keep fishing for up to two years (or even up to one year). Such participants with no long term interest in the fishery could inflict considerable damage to the resource.

That said, a 10% cap is too high for this interim period. NMFS should be able to sort through frivolous appeals quickly enough that a cap more consistent with a long-term allocation and historic landings levels should be able to be selected.⁶ In fact, as non-qualifiers are sorted out, a 10% cap might end up allowing the remaining General Category qualifiers to inappropriately increase their individual (and perhaps overall) landings from current levels. It is worth noting that overall General Category landings decreased from 14% in 2005 to 12% in 2006.

Amendment 11 should also confirm that existing access area caps will be maintained during any transition period. The Elephant Trunk General Category derby shows how intensely General Category access area effort can ramp up. By contrast, the Limited Access fishery has sought to conserve this extremely important access area by calling for an emergency cut-back in trips for 2007.

* * *

FSF appreciates this opportunity to comment on Amendment 11. Please do not hesitate to contact us if you have any additional questions about our comments.

⁶ Moreover, of four alternatives in Amendment 4 to control fishing effort and create a tiered permit system, three had no allocation for General Category landings. Alternative 3, the only alternative mentioning such landings, stated there should be "a 5% reserve for appeals and boats landing under the 400-pound trip limit." Amendment 4, at 5. That less than-five percent reserve for appeals applied to the entire Amendment 4 scallop fishery rationalization program, so it would not be consistent to reserve what would amount to a full five percent just for General Category appeals in Amendment 11.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Twelve

Sincerely,

A handwritten signature in black ink, appearing to read "David E. Frulla", with a long horizontal line extending to the right.

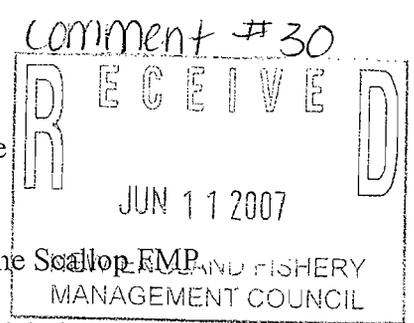
David E. Frulla
Shaun M. Gehan
Andrew E. Minkiewicz

Counsel for Fisheries Survival Fund

DATE: 10 June 2007

TO: Pat Kurkul, Regional Administrator, NMFS Northeast Regional Office

FROM: Richard Taylor, Box 7002, Gloucester, Mass 01930



RE: Comments regarding public hearing document for Amendment 11 to the Scallop FMP.

While the increase in General Category fishing in the Mid-Atlantic was widely known as early as 2002, the options presented in the public hearing document for Amendment 11 are significantly off target as potential solutions. Overall my recommendations are to select the NO ACTION alternatives for all but one of the options in the document as presented as the remainder ignore the basic reasons for the progress made during the last twelve years of management changes to the scallop FMP, particularly those of Amendment 10. The presented options also do not develop the effective tools that avoid a repetition of the earlier influx of General Category vessels off New Jersey (see attached graphics of VTR reports), a recurrence of which is in progress at this time in the Hudson Canyon scallop access area. We have not learned that lesson and are concentrating on solutions that do not enable us to effectively and rapidly address this and other problems. For example we do not require the Scallop PDT, Advisors, and Committee to monitor General Category (or Limited Access) fishery in a more real time manner or provide the tools for rapid meaningful action, leaving only those available to the Regional Administrator.

The single option that seems worthy of development, though not entirely fleshed out, is presented in section 3.1.4, establishing a Gulf of Maine management area, that might, in final form, be structured to preserve distributed access to the scallop fishery by this and succeeding generations of General Category participants. This approach is the only one that is in line with the principles developed over 3 years of work in Amendment 10 to the scallop FMP, which focused on area management with rotational fishing opportunities based on stock assessment in the area, with area TACs, and trip limits to hold catch to ~25%. This option should have been developed and presented for all of the more inshore areas along the entire coast in order to prevent the type of unmonitored General Category fishery that occurred off New Jersey.

Background

The adoption of the US Exclusive Economic Zone 1976 and MSFCMA had central goals of removing the foreign fleets, promoting development the US fisheries, and establishment the Fishery Councils with the structure, methods, and processes that would be used to administer the fisheries. However by 1980, just 4 years later, it was clear that the massive investment in the larger offshore capable vessels in the hands of experienced skippers along the US east coast was leading to further rapid depletion of the remaining stocks. In the scallop fishery this situation was brought to an end in late 1994 with the implementation of Limited Access permits and DAS allocations with the vessel history qualification period retroactively fixed to the years 1985-1990, a mere 9 to 14 years after implementation of the MSFCMA.

In 1995 and 1996 approximately 12 million pounds of scallops were landed by the Limited Access fleet working 204 DAS (total ~50,000 DAS). In the last 12 years we have made great strides at turning things around. Sweeping changes have been instituted including an increase in ring size, limits on crew size, closed areas for growout of smaller scallop identified in the annual NOAA survey, and area management. In each of the fishing years of 2005 and 2006 over 50 million pounds were landed with the fleet fishing less than 100 DAS (~25,000 DAS total) implying an increase in daily production of 800%. Best estimates of fishing mortality are in the 25 to 30% range, implying that 2 to 3 times the amount landed remained on the bottom each year (100 to 150 million pounds) or that total biomass on the grounds was 150 to 200 million pounds. The overall implications are that the scallop population is at least an order of magnitude larger than it was in 1994, and that the overall biomass is significantly larger than it has ever been since

the scallop fishery began. Significant secondary benefits have realized in the areas of bycatch reduction and gear effects with a 50-75% a reduction of bottom time and swept area by the gears, along with corollary fuel savings.

Careful analysis of the contribution of the various management changes to the rebound in scallop biomass and landings suggests that maintaining large spawning stocks and increasing the yield per recruit have had the greatest impacts. For many years meat counts were mandated at 33-36 and routinely exceeded. In the open area portion of the fishery 4 inch rings alone bring the meat count to the mid to low 20s, an increase in yield per recruit in the 50-100% range. Average landings from the closed areas have averaged near 15 count, an increase of well over 200% of pre-1994 average size, and well beyond the growth allowed by 4" rings, suggesting that the rotationally fished areas have been the greatest source of the landings increases.

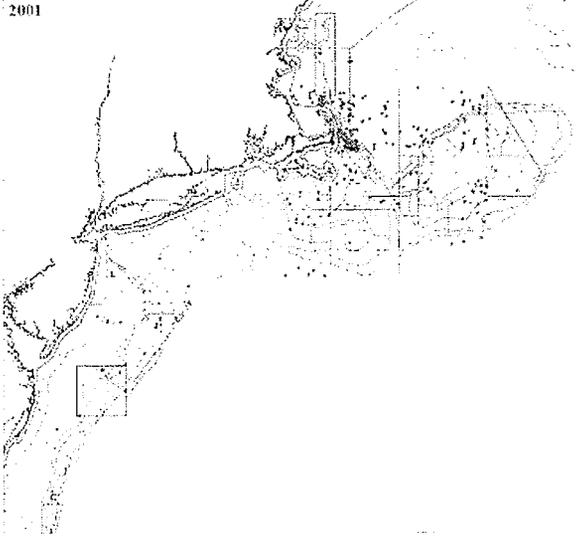
It is against this background that the options presented for Amendment 11 have been developed.

Overall the options presented do not include further development of the methods that have helped to increase the overall scallop biomass which in turn have led to a stable, profitable, and "sustainable" offshore scallop fishery. This oversight is especially troubling in light of the progress exhibited to date where increasing the biomass and landings has been significantly more beneficial to both the fishing communities and the overall economy than limitation of the number of participants. While no absolute linkage between the large spawning biomasses in the mid-Atlantic closed areas and new recruits appearing down current has been proven, it is certainly evident that area closures are a significant improvement over previous management methods, and should be not only continued but expanded. Transfer of the most successful techniques, specifically by widening the scope of area management to include the more inshore areas within the more limited range of smaller vessels, stock assessment, and limited removal offers the only clear path to continue the increase in biomass. The option establishing an inshore management area along the Gulf of Maine coast is the only one that might move us in that direction.

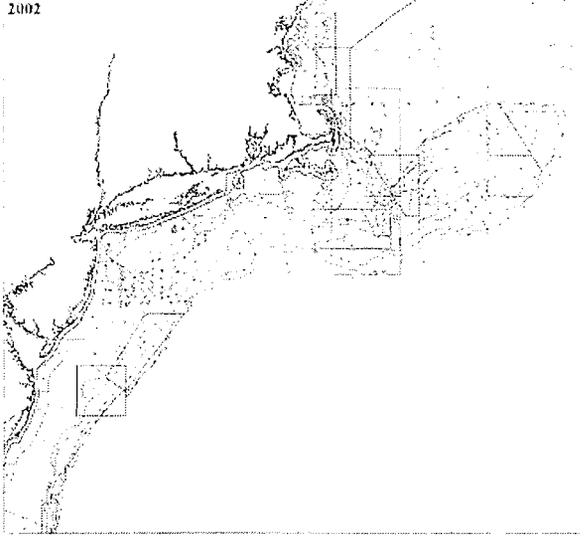
NO ACTION is preferable to assigning a fixed percentage of landings. Nowhere in the original or successive iterations of the MSFCMA does it specify that the Limited Access participants identified in the first 9 to 14 years of the regulations should have perpetual rights to a large fixed share of the clearly renewable and, more importantly, expandable scallop resource. Attempting to further solidify the situation that we found ourselves in in 1994 by fixing the share of all further entrants to the fishery, at least for the limited 2 to 11% options presented here, is confiscatory to both existing and future participants. While it is clear that measures including Limited Access were required to develop effective management, it is not at all clear that the benefits of the considerable investment of public funds expended in stock assessment and management of the scallop resource over the last 30 years should perpetually accrue to a small number of citizens. Put another way, granting of perpetual rights to enhanced future scallop populations to a select few that happened to be fishing from 1985 to 1990, or in the present case of the current General Category participants, will not survive thoughtful scrutiny over time.

Below are plots of General Category Vessel Trip Reports for the years 2001 through June 2005, though containing significant errors and omissions were the best data available at the time. The expansion of effort to the west of Hudson Canyon scallop growout area was quite evident by 2002, yet these reports were not a part of the management discussion until June 2005. The last image at lower right is a plot of all NMFS scallop survey tows for the years 1982 to 2005, and gives indication of how lightly sampled the area of greatest General Category impact has been over time. It seems likely that the large biomass in the Hudson Canyon Access Area had a successful spawning event and that we missed it in the surveys. We need both access to data and the tools to be able to rapidly react to this type of situation. Without them we will fail.

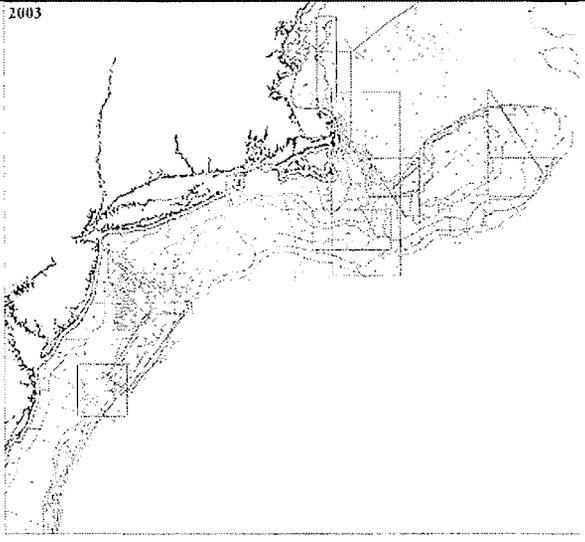
2001



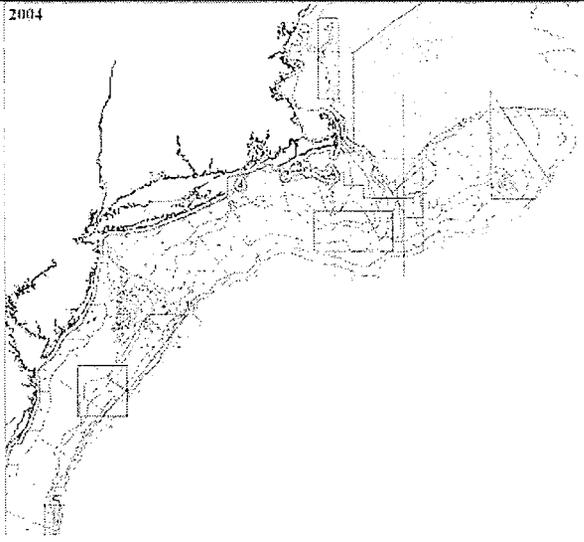
2002



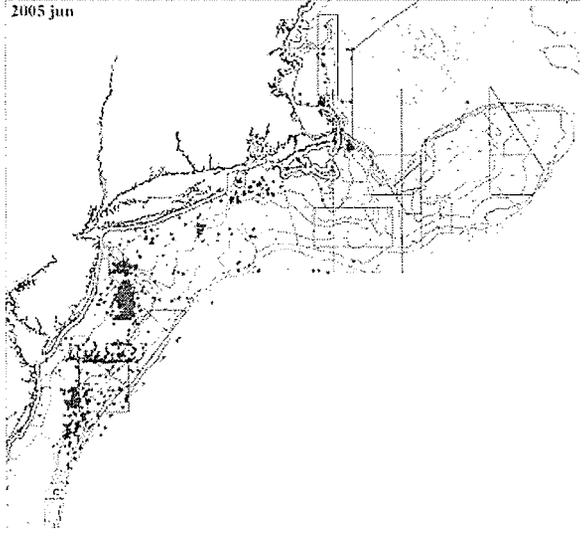
2003



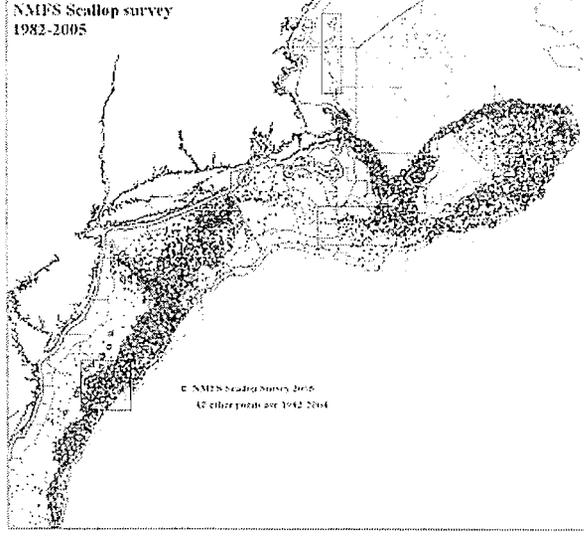
2004



2005 jun



NMFS Scallop survey
1982-2005



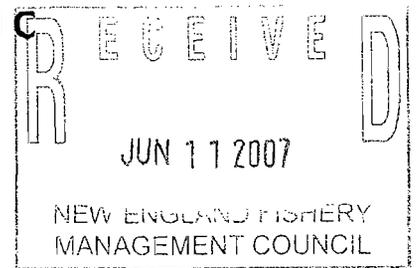
© NMFS Scallop Survey 2005
© chart data for 1982-2004

Comment #31

FUTURE FISHERIES, INC

June 6, 2007

Patricia Kurkul, Regional Administrator
NMFS – Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930



SUBJECT: "COMMENTS ON SCALLOP AMENDMENT 11"

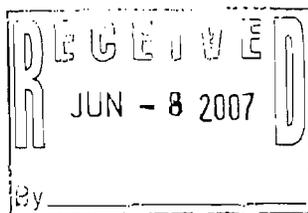
Dear Ms Kurkul:

I would like to express my thoughts on the Public Document for Amendment 11 of the Scallop FMP.

I do agree that the capacity and mortality in the General Category fishery should be controlled. Allocating number of trips (whether it is one or two tiers) per qualified vessel should control it. It allows opportunities for the vessel owners to use them at will, without encouraging derby style fishing which is not safe. As for those vessels that do not qualify, I would continue the current regulations regarding to the incidental catch of scallops for all vessels. The two issues that I disagree with which are the allocation percentage and the transition period.

First, I am not comfortable with the recent New England Fishery Management Council's (NEFMC) position on the preferred alternative for the allocation for the General Category, which is proposed to be 5%. Historically it has been a lot less than 5%. The public hearing document even states that the average is just below 3%. The allocation percentage should not be on the recent "best" years. It is just last few years that at the expense of the conservation measures applied on the limited access vessels since 1994, the scallop biomass rebounded. The limited access scallopers have their overall fishing days reduced more than 50%. It is down to about 50 open days and several access area trips subjected to by-catch Total Allowable Catch (TAC), gear restrictions and a reduction in size of crew. Most of the limited access scallopers (especially in New Bedford/Fairhaven area) do have extra fishing permits but it is primarily for incidental catches which makes us depending on revenue from scallops close to 100%. During the last few years the General Category vessels who have been part of the explosion in fishing are being displaced from their traditional directed fishery at the expense of the gains on reductions and cut backs on the limited access scallopers. I would like the Council to consider using the historical percent, if not then stop at no more than 5%.

Second issue is the allocation percentage (10%) hard TAC to use during the two year transition period. This increased percentage and longer length of transition period to cover the appeal process is beyond in scope of what NMFS and Council has done in all previous implemented FMPs whether it's scallops, groundfish, or monkfish etc. The appeal process will determine the qualifying vessels rapidly, that could translate into substantially larger landings by the smaller pool of qualified vessels. If a hard TAC is needed during transition then use the final percentage selected before allocating fishing opportunities per qualified vessel.



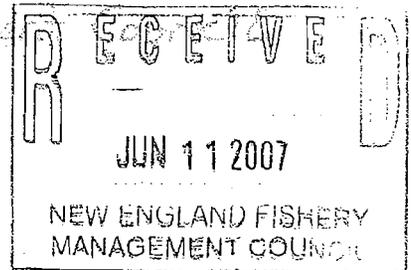
Respectfully,


Ronald Enoksen

Phillip Michaud Jr.
 Scout Fisheries
 Wellfleet Mass

Comment #32

John Pappalardo, chair man
 New England Fishery Management



Re: Scallop Amendment 11

Dear Council members the traditional dayboat scalloper, dependent on the resource will suffer the greatest with the preferred alternatives, 11 year, 1000 lb, 5% TAC.

I refer to table 17 included with letter
 Best year landings per vessel

| | | |
|-----------------------|--------|---------------|
| 20,000 lbs or greater | 41.36% | cut in effort |
| 5,000 lb to 19,999 | 37.63% | cut in effort |
| under 5,000 lb | 17.17% | cut in effort |

To determine my percentage cut I used
 Best year landings per vessel 20,000 lb or greater. The Average allocation in pounds per vessel is 20,522 lbs. Divide this number by Average pounds of scallops per vessel 35,000 lbs (history) $20,522 \div 35,000 = 58.63\%$ minus 100 equals 41.36% cut

Our advisory panel recommended
 5 yr 5000 lb resulting in a 29% cut.

Increasing percentage TAC to 7%
 with 11 year 1000 lb represents a 17.9%

cut. Include best year indexed (option B) there will be no cut back for boats that have depended on this fishery for 5 years or more.

Allocating in 400 lb trips only can be a serious problem. Many vessels in my area do not land the maximum possession limit day fishing, bad weather and breakdowns are a factor also. Perhaps a cost recovery program. Perhaps allocate in units of 100 lbs, allowing up to 4 units per trip declaring how many units through VMS before crossing demarcation line (100, 200, 300 or 400) This would provide flexibility and can be monitored and enforced.

Sincerely

Phillip R Michaud
F/V Susan C III
508 776 8569

Table 17 - Distributional impacts of qualification criteria and time period alternatives combined with % TAC, assuming 50 mil. total scallop catch.

| Best year landings per vessel (lb) | 11 Year period | | | 5 year period | | | | 2 year period | | | |
|--|------------------|---|-------------------|-----------------|------------------|-------------------|-------------------|------------------|-------------------|-------------------|----------|
| | 100 lb. Criteria | 1000 lb. Criteria | 5000 lb. Criteria | Stand alone-ITQ | 100 lb. criteria | 1000 lb. Criteria | 5000 lb. Criteria | 100 lb. Criteria | 1000 lb. Criteria | 5000 lb. Criteria | |
| >=20,000 lb. (average pounds of scallops per vessel were about 35,000 lb.) | | | | | | | | | | | |
| Number of vessels | 62 | 62 | 62 | 62 | 62 | 62 | 62 | 44 | 44 | 44 | |
| % share of TAC | 49.7% | 50.9% | 59.1% | 53.6% | 53.8% | 54.9% | 61.4% | 51.1% | 52.0% | 58.1% | |
| % TAC | GC TAC (Mil.lb.) | Average allocation (pounds) per general category vessel at 50 million lb. scallop harvest | | | | | | | | | |
| 2.50% | 1.3 | 10,419 | 10,871 | 12,398 | 11,241 | 11,276 | 11,508 | 12,867 | 15,084 | 15,376 | 17,170 |
| 5% | 2.5 | 20,037 | 20,522 | 23,842 | 21,617 | 21,685 | 22,131 | 24,744 | 29,008 | 29,569 | 33,019 |
| 7% | 3.5 | 28,052 | 28,730 | 33,379 | 30,264 | 30,360 | 30,983 | 34,641 | 40,612 | 41,396 | 48,226 |
| 10% | 5.0 | 40,074 | 41,043 | 47,684 | 43,235 | 43,371 | 44,262 | 49,488 | 58,017 | 59,137 | 66,038 |
| 11% | 5.5 | 44,081 | 45,147 | 52,452 | 47,558 | 47,708 | 48,688 | 54,436 | 63,918 | 65,051 | 72,642 |
| 5000 lb. to 19,999 lb. (average pounds of scallops per vessel were over 10,000 lb.) | | | | | | | | | | | |
| Number of vessels | 141 | 141 | 141 | 126 | 126 | 126 | 126 | 99 | 99 | 99 | |
| % share of TAC | 34.3% | 35.2% | 40.9% | 33.8% | 33.9% | 34.6% | 38.6% | 36.8% | 37.5% | 41.9% | |
| % TAC | GC TAC (Mil.lb.) | Average allocation (pounds) per general category vessel at 50 million lb. scallop harvest | | | | | | | | | |
| 2.50% | 1.3 | 3,167 | 3,243 | 3,768 | 3,482 | 3,493 | 3,565 | 3,966 | 4,832 | 4,925 | 5,500 |
| 5% | 2.5 | 6,090 | 6,237 | 7,246 | 6,597 | 6,718 | 6,856 | 7,666 | 9,292 | 9,471 | 10,577 |
| 7% | 3.5 | 8,526 | 8,732 | 10,145 | 9,376 | 9,405 | 9,599 | 10,732 | 13,009 | 13,260 | 14,807 |
| 10% | 5.0 | 12,179 | 12,474 | 14,492 | 13,394 | 13,436 | 13,712 | 15,331 | 18,584 | 18,943 | 21,153 |
| 11% | 5.5 | 13,397 | 13,721 | 15,942 | 14,733 | 14,780 | 15,084 | 16,864 | 20,442 | 20,837 | 23,269 |
| <5000 lb. (average pounds of scallops per vessel ranged between 1,300 lb. with 100 lb. criteria to 2,300 lb. with 1000 lb. criteria) | | | | | | | | | | | |
| Number of vessels | 502 | 256 | None | 489 | 360 | 181 | None | 256 | 134 | None | |
| % share of TAC | 16.0% | 13.9% | 0.0% | 12.6% | 12.4% | 10.6% | 0.0% | 12.2% | 10.5% | 0.0% | |
| % TAC | GC TAC (Mil.lb.) | Average allocation (pounds) per general category vessel at 50 million lb. scallop harvest | | | | | | | | | |
| 2.50% | 1.3 | 572 | 980 | No allo. | 465 | 618 | 1,049 | No allo. | 855 | 1,404 | No allo. |
| 5% | 2.5 | 1,113 | 1,905 | No allo. | 904 | 1,202 | 2,041 | No allo. | 1,662 | 2,731 | No allo. |
| 7% | 3.5 | 1,558 | 2,667 | No allo. | 1,266 | 1,683 | 2,657 | No allo. | 2,326 | 3,823 | No allo. |
| 10% | 5.0 | 2,226 | 3,809 | No allo. | 1,809 | 2,404 | 4,081 | No allo. | 3,324 | 5,461 | No allo. |
| 11% | 5.5 | 2,449 | 4,190 | No allo. | 1,990 | 2,644 | 4,488 | No allo. | 3,656 | 6,007 | No allo. |

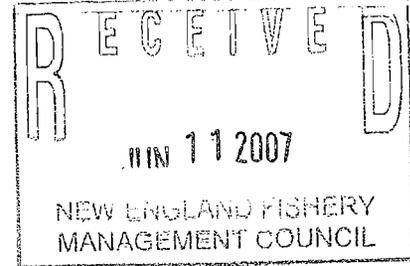
Preferred alternative for allocation and qualification shaded, assuming total scallop catch of 50 million pounds



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SF
comment # 33

June 11, 2007



Patricia A. Kurkul
Regional Administrator
Northeast Region
NMFS, NOAA
One Blackburn Drive
Gloucester, MA 01930-2298

RE: Draft Supplemental Environmental Impact Statement (DEIS) for Amendment 11
to the Atlantic Sea Scallop Fishery Management Plan CEQ No. 20070160

Dear Ms. Kurkul:

EPA is providing the comments to the National Oceanic and Atmospheric Administration (NOAA), the National Marine Fisheries Service (NMFS), and the New England Fishery Management Council (Council) on the referenced document. These comments are offered in accordance with EPA's responsibilities under Section 309 of the Clean Air Act, Section 102(D)(2)(C) of the National Environmental Policy Act (NEPA), and the Council on Environmental Quality's regulations for implementing NEPA.

The DEIS was prepared to explore strategies needed to control scallop fishing capacity and curb mortality resulting from fishermen who presently have open access to the scallop fishery. "Open access" means that any boat owner that wants his vessel permitted for scallop fishing may do so; there are no specific qualifications needed to receive a general category permit. While allowed under Amendment 4 to the Atlantic Sea Scallop Fishery Management Plan, open access has probably contributed greatly to exceeding current scallop fishery mortality objectives.

The document evaluated a series of "valued ecosystem components" (VECs) which represent both the scallop resources and human communities that will be affected by proposed management actions. Various VECs were assessed to determine the direct/indirect effects and cumulative impacts that resulted from past regulatory actions and their impacts on the basic sea scallop resource, their physical environment, fishing impacts on protected species, and fishery-related businesses and communities. New management options being considered include: limiting entry for general category fishing permits; a hard total allowable catch limit for the general category fishery; the establishment of a separate limited entry program in the Northern Gulf of Maine; incidental catch (meaning scallops taken while targeting other species) provisions; and

JUN 11 2007

other measures to more quickly integrate recent scallop harvest data in the management process.

The document was well-written, rationally organized, and had clearly summarized past management actions that had, according to the DEIS, contributed to excessive scallop mortality in the fishery today. We have commented on two preferred alternatives that were discussed in the Management Plan.

1) Catch Limits - The proposed management plan recommends limiting scallop harvesting by general category fishery boats to 5% of total annual catch permitted to the fishery as a whole. While the DEIS acknowledges that limited access, by itself, will not entirely eliminate unsustainable scallop mortality, it will help reduce the risk of overfishing by preventing new entry to the general category fishery.

2) Limited Entry - The proposed Management Plan recommends limiting entry to the general category fishery, with entry qualifications based upon a license-holder's past years landing activity in the scallop fishery. The number of fishery participants would be selected based upon previous years scallop landing qualification criteria data within the qualification time period.

While EPA defers to NOAA/NMFS to determine the best management techniques that will achieve fishery objectives, we suggest that for the health and safety of fishermen, the Council select strategies that avoid "derby" type fishing. Derby fishing occurs when an annual total allowable catch (TAC) is established without daily catch limitations. Unrestricted TACs encourage risk-taking behavior such as going out in bad weather and working excessively long hours which increases the risk of accidents from operator fatigue.

Fishermen in local hearings (see Scoping Comments, Written Comments Received) suggested that scallop catch limits be assigned to vessels without regard to their size or capacity. EPA notes that this would place smaller-sized boats at a disadvantage because larger boats can generally travel faster and work during more dangerous weather thereby harvesting a greater percentage of TAC. Assigning future daily catch limits to individual vessels based upon their past history of scallop landings seems to be an equitable management plan.

Others suggested assigning catch limits to individual fishermen, rather than the boat, which is now the current practice. There is some risk, however, that assigning pound allotments or catch limits to individuals would create a "harvesting right" which itself could become a commodity to be sold or traded. We can easily envision an individual fisherman who, rather than going fishing, sells or trades his harvesting rights onshore, an undesirable outcome in our view. It is unlikely that creating a secondary paper market in un-harvested scallop meats would achieve fishery resource management objectives.

It is possible, however, that assigning catch limits to an individual (creating harvest rights described above) might be effective if fishing "sectors" and harvesting cooperatives were created, and TAC shares were awarded to each sector within the fishery. Groups would be formed around common fishing practices, common homeport, and common marketing arrangements. Eligibility criteria, operational plans, monitoring, enforcement of TAC, and allocation rules would be controlled by the fishermen themselves. According to previous EISs on the lobster fishery in the northeastern U.S., Maine lobster fishermen heavily depend upon mutual cooperation and self-governance in the management of local lobster resources.

Editorial Comments-

Pg 164, end of first paragraph - The Error note should be deleted and reference source included.

Pg 165, last paragraph, line 5 - The draft EIS states that... "The alternatives under consideration would reduce the potential pool of participants from 143 to around 705..." perhaps was intended to read... "The alternatives under consideration would reduce the potential pool of participants from 705 to 143..."

EPA rates this action as "LO" that is, lack of objections. The alternatives that were examined, impacts on threatened and endangered species, bycatch issues, and public participation processes were satisfactorily addressed in this document. For more information, please contact John Hamilton at (404) 562-9617.

Sincerely,



Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

WILLIAM D. DELAHUNT
TENTH DISTRICT, MASSACHUSETTS

2454 Rayburn House Office Building
Washington, DC 20515
(202) 225-3111
www.house.gov/delahunt

SOUTH SHORE
1-800-794-9511

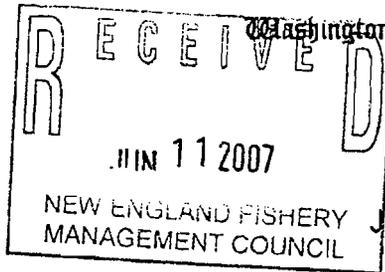
1250 Hancock Street
Suite 802 N
Quincy, MA 02189

CAPE COD & ISLANDS
1-800-870-2638

140 Main Street
Hyannis, MA 02601

Congress of the United States
House of Representatives

Washington, DC 20515-2110



June 7, 2007

Comment #34

COMMITTEE ON FOREIGN AFFAIRS

SUBCOMMITTEES ON:
INTERNATIONAL ORGANIZATIONS, HUMAN
RIGHTS AND OVERSIGHT
CHAIRMAN
WESTERN HEMISPHERE

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEES ON:
CRIME, TERRORISM AND HOMELAND SECURITY
IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER
SECURITY, AND INTERNATIONAL LAW
COMMERCIAL AND ADMINISTRATIVE LAW

CO-CHAIR:
CONGRESSIONAL COAST GUARD CAUCUS
OLDER AMERICANS CAUCUS

Dear Administrator Kurkul:

I am writing regarding Amendment 11 and the proposed changes to the Atlantic Sea Scallop Fishery Management Plan which seeks to control capacity and mortality in the general category scallop fishery.

I have been contacted by Bob Keese who is a third generation fisherman from Chatham. He is concerned with how the recommendations of the New England Fishery Management Council will impact the general category scallop fishery and their livelihood. I have attached a copy of a guest column that Mr. Keese wrote in the May 2007 edition of *Commercial Fisheries News*.

I would appreciate your taking into account his concerns as you reach a final decision.

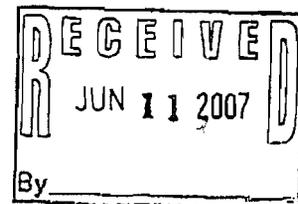
With kind regards.

Sincerely,

A handwritten signature in cursive script that reads "Bill Delahunt".

William D. Delahunt

Administrator Patricia Kurkul
Regional Administrator
National Marine Fisheries Service
Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930



Gen Cat scallopers deserve larger quota share

In an attempt to control fishing mortality, the New England Fishery Management Council is developing Amendment 11 to change the general category (Gen Cat) scallop fleet into a limited-access fishery.

Qualification criteria, coupled with a November 2004 control date, will be used to identify future participants in this Gen Cat fleet and a portion of the total allowable catch (TAC) for scallops will be allocated to the general category.

It is this portion of the scallop TAC that has caused much controversy throughout Amendment 11. The limited-access fleet believes the allocation should be 2%-3%. This basically would leave the remaining 97%-98% of the TAC for the limited-access fleet. The rationale behind this logic is that the Gen Cat was never meant to be anything more than a bycatch fishery.

For the past seven years, the scallop resource has been at levels higher than anyone ever imagined. Consequently, landings by both the limited-access fleet and the general category fleet have grown significantly.

While the growth of the limited-access fleet has been heralded as the greatest success story in fishery management history, the growth within the Gen Cat has been perceived as nothing more than a threat to the success of the limited-access fleet.

It has been argued that if the Gen Cat is left unchecked, it could lead to the downfall of the limited-access fleet. While there is merit to this concern, general category landings have not even come close to undermining the success of the limited-access fleet.

Equity issue

In 2005, when the general category harvested an all-time-high 14% of the scallop TAC, the limited-access fleet managed to land 45 million pounds of scallops valued at about \$360 million.

It is true that for every scallop that the Gen Cat lands there is one less scallop that the limited-access fleet can land. Each fleet needs to be assured a certain percentage of the harvest. The need to divide the resource between the two fleets has become the focal point of Amendment 11.

The legislation that directs NMFS on how to manage the nation's fisheries is the Magnuson-Stevens Fishery Conservation and Management Act (MSA). National Standard 4 of the MSA states that if it becomes necessary to allocate or assign fishing privileges among various US fishermen, it should be carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

Although the argument could definitely be made for a much higher allocation, the Gen Cat fleet needs only enough to satisfy those who have an investment and/or history in the fishery before the control date.

Instead of adopting this allocation, which would be no higher than 15%, the council has chosen 5% as its preferred alternative. This would leave 95% of the scallop resource to approximately 351 limited-access vessels.

Although there are 351 limited-access vessels, a much smaller group of individuals own these vessels. In fact, some limited-owners legally own 5% of the entire scallop harvest by themselves. Setting the maximum allotment for the

entire Gen Cat fleet to the same level as that of one person from the limited-access fleet raises some serious questions about fairness and equity.

GUEST COLUMN

by Bob Keese

Bycatch fishery?

The limited-access fleet is one of the most lucrative and politically powerful fishing organizations in the world and they have spent much of their effort in the last few years justifying giving the general category the smallest allocation possible. The limited-access fleet's lawyers,

lobbyists, and consultants have come up with the notion that the general category was established as a "bycatch" fishery only and should never have been allowed to be a successful, directed fishery for scallops. Therefore, their argument goes, an allocation should be chosen to keep the general category from ever becoming more than a part-time income source. This is the rationale behind the motion to allocate 95% to the limited-access fleet.

Furthermore, they contend that anyone who used this fishery for anything other

General category landings have not even come close to undermining the success of the limited-access fleet.

—Bob Keese

than a bycatch or "supplemental income" fishery was abusing a loophole in the system and so no consideration should be given to this group of fishermen in Amendment 11.

See GUEST COLUMN, page 21A

catch-share systems.

New sector allocation proposals (i.e. fishing cooperatives) using sector guidance that hopefully will be updated through Amendment 16 are an important means for the groundfish complex to get back on the road to biological recovery while retaining important social and economic components of the fishery.

Also, the Northeast Seafood Coalition point system proposal includes some of the valuable components of catch-share systems, including important accountability measures, incentives to target healthy stocks and avoid depleted stocks, as well as flexibility for the industry to improve economic returns.

Catch-share systems are the ultimate win-win-win situation providing conservation, economic, and regulatory benefits. The New England council will do well to consider these approaches in this latest groundfish amendment.

Sally McGee

Sally McGee is a marine conservation advocate for Environmental Defense and a member of the New England Fishery Management Council, Environmental Defense's report, "Sustaining America's Fisheries and Fishing Communities," is available online at www.sustainingfisheries.com.



Guest Column

Continued from page 7A

After hearing this for several years, many council and advisory panel members have adopted this belief that the general category was never meant as anything but a "bycatch fishery" and the council should keep the general category at this bycatch level forever.

Amendment 4

Since the general category was established in Amendment 4, we should all look to this document if we want to know the truth about the origins of this fishery.

After reading Amendment 4, you will see that the general category was clearly made for two reasons. It was made to provide for a bycatch fishery and it was made to accommodate a directed fishery for scallops with a 400-pound daily trip limit.

Amendment 4 reads as follows: General permit vessels may fish for scallops or potces and land them as bycatch if the meat weight does not exceed 400 pounds or the amount of shell stock does not exceed 50 US bushels.

People involved with Amendment 4 assure us that the general category was made, at least in part, to accommodate a directed fishery for scallops. They recall that, in the early stages, two scallop management areas were proposed to be used exclusively for a directed, day-boat fishery on scallops. One area was the

The Gen Cat fleet needs only enough to satisfy those who have an investment and/or history in the fishery before the control date.

—Bob Keese

Gulf of Maine Exemption Area and the other was off the North Carolina coast.

These areas were never adopted due to enforcement issues. Instead, the all-encompassing general category was developed.

High landings

The scallop resource has changed significantly since 1994 and both the general category and the limited-access fleets have evolved accordingly. In 1994 the total scallop catch was 15 million pounds. In 1994, NMFS believed that the highest long-term sustainable yield would be 29 million pounds.

In the last six years, total scallop landings ranged from 45 million to 61.7

million. This rapid growth in the scallop biomass is the result of the new rotational management measures in use today.

Instead of allocating according to current resource conditions and the guidelines set forth in the MSA, we are using a false interpretation of a previous amendment to steer this decision.

We need to put aside the myth that the Gen Cat was never meant to be anything but a bycatch fishery. Once this is done, we can allocate in a manner consistent with the MSA and allow a small-boat fishery to continue to benefit from this enormous public resource.

The 5% that the council is currently considering will make the Gen Cat into a part-time income fishery for a group of fishermen. Currently, there are 459 vessels that will meet the proposed preferred qualification criteria.

This small allocation will not even allow the qualifying fishermen the opportunity to make a living from this fishery. Amendment 11 is out for public comment. The final vote for the amendment will be in June. Hopefully, enough comments will be sent to the council to convince its members of the need for a more fair allocation scheme.

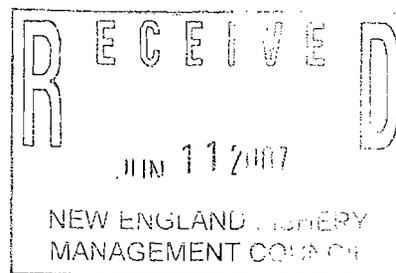
Bob Keese



Bob Keese fishes the Beggar's Banquet out of Chatham. He can be reached at (774) 263-8702.

June 6, 2007

Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930



Dear Patricia Kurkul, Regional Administrator,

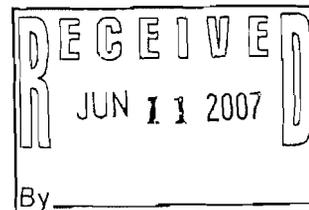
SUBJECT: COMMENTS ON SCALLOP AMENDMENT 11

Attached are my comments concerning the Scallop Amendment 11, Scallop Fishery Management Plan. If additional information or explanation is needed, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Stanley C. Sargent".

Stanley C. Sargent
207-546-7100



- 3.1 Measured to control capacity and mortality in general category fishery.**
Limited Entry.
- 3.2 Allocation between limited access and general category fisheries.**
Allocation for General Category Scallop boats is 50,000 pounds per boat a year.
Non-transferable.
- 3.2.1 Allocation of 5% of the total annual projected scallop catch to the general category fishery.**
Allocation of 5% over the long term of general category may be an average. But compared to the limited access boats the average of poundage per boat, per trip, has gone up a lot more than 5% since 1994.
- 3.3 Additional alternatives related to a limited entry program for the General Category fishery.**
1. Vessel with a permit from 1994 – 2004.
 2. By poundage per year; 50,000 pounds.
 3. Owner, Operator only.
 4. Yes
 5. Probably Not
 6. No
- 3.3.2.1 Allocation of access for qualifying vessels would be an individual allocation in trips maintaining the 400 pound possession limit.**
Allocation of Scallops should be X number of pounds, not trips.
Example: 50,000 pounds and additional 3% for the cost of enforcement and monitoring.
- 3.3.3 Should additional limited entry permits be included?**
Only if they were between 1997–2004 with landings.
General Category permits shouldn't be allowed to be stacked. The total number of poundage per permit is 50,000 pounds. One General Category permit per boat only. In addition to that, General Category should be owner, operator only.
- 3.3.3.1 Specific permit provisions for limited entry general category permits.**
No stacking of permits.
- 3.3.4 Should measures to reduce incentive for qualifiers to use trawl gear be included?**
Yes, 40 pounds maximum per trip.

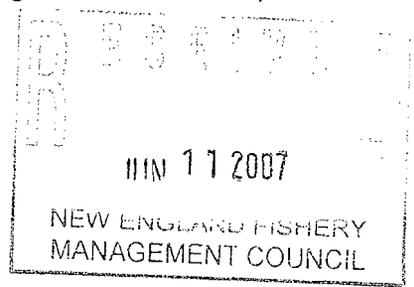
- 3.3.5 Should qualifying vessels be permitted to form voluntary sectors?**
No action.
- 3.3.6 Interim measures for transition period to limited entry.**
No action.
- 3.4 Establish a northern gulf of Maine scallop management area.**
Yes.
Northern gulf of Maine should be a separate permit and a separate quota per boat. A hard tact will lead to derby style fishing and the smaller boats will be put to a disproportionate disadvantage.
- 3.6 Limited access fishing under General Category.**
Prohibit all Limited access boats from fishing with General Category.
The word Limited only seems to apply to the vessels that have the smallest access to the fishery.
- 3.7 Allocation of Yellowtail Flounder bycatch in access areas.**
General Category can't have any bycatch.
- 3.8 Incidental Catch**
40 pounds per trip. With one trip equaling 24 hours.
- 3.9 Better and More timely integration of recent data.**
Change the fishing year.

Comments:

General Category was made up for small boats, about 75 boats total, half were from Maine that were actually scalloping at the time. Since then, General Category has been exploited beyond anyone's ideas at the time of the making. Now we have the task to decide who has the right to fish and who does not. Those who qualify must have been there in the beginning. There can only be one set of rules for General Category: Owner, operator; One dredge, 10' 6" maximum; No targeting scallops with trawl nets; Fishing season April 1st – November 1st. ect.. This also has to apply to Northern Gulf of Maine. Northern Gulf of Maine tac is broken down per boat, per season, not per trip.

Comment #30

Subject: Comments on Scallop Amendment 11 (Attn. Patricia Kurkul Regional Administrator)
From: my gray <rose_bud83@yahoo.com>
Date: Wed, 30 May 2007 07:39:06 -0700 (PDT)
To: Scallop.Eleven@noaa.gov



1. Yes, I believe capacity and morality should be controlled in the general category fishery.
2. I am in favor of limited entry.
3. I feel that 5,000 lbs must be used. In reality 5,000 lbs is only a little over 12 days fishing. That should cover even the fishermen who only fish part time. As far as years, 5 or 11 year plan wouldn't make much difference.
4. I believe a tier system would work the best, possibly a 3 year tier.
5. Should be dredge only. 10'6" for everyone.
6. Undecided on a Northern Gulf of ME. fishing area.
7. Limited access vessels should be allowed to fish under general category rules as long as what they catch comes out their tac.
- 8+9. I conciser this is a very important issue. 5% has been thrown out of many meetings. I believe it must be at the 10-11% level. Many reasons drew me to this conclusion. One is we don't know the average size of vessels that is going make up the general category fleet. If it ends up being more smaller vessels, we will be at a disadvantage trying to get all closes area trips in before they get closed for by catch. For one example: plus, it is not set in stone. How many vessels are going to be in the fishery. Referring to table 19 at 11% limited access vessels would stay at present levels, which is stated in your document at an average of 1 million dollars a vessel. I believe a 10-11% Limited Access vessels would stay at present levels, which is stated in your document at an average of 1 million dollare a vessel. I believe a 10-11% TAC at this point of forming the criteria of the Gen. Cat. fleet is necessary to ensure you have enough resource to work with to let us have a viable chance of staying in business. I believe if we don't get this much of a percentage you'll have succeeded in putting a lot of us out of the fishery completely. I seriously believe that it is on the minds of most people in the Limited Access fleet. I hope it is not the councils view.
10. Leave it at 40 lbs..
11. Let us as a fisheries use our VMS' to do the trip reports. It would be easier for us and let you receive our data quicker.
12. No
13. Mostly
Comments
14. We must have the option to stack permits in this Amendment. I have fears that we will not get a large

enough TAC to go around. We will need this option. I believe there is enough resources to support a healthy Limited Access fleet plus a Gen. Cat. fleet. I have been a Captain in the Limited Access fleet and I presently own my own General Category vessel. I believe we could be an asset to each other. For example: My son has fished and trained under me for 3 years and now is a deckhand on a Limited Access vessel. I think in the future you will see a lot of deckhands on Limited Access vessels will be getting to an age they won't be able to or want to still do their jobs on a Limited Access vessel. It would be nice that they still could fish the Gen. Cat. fleet could be the answer. I hope the council thinks long and hard before any decisions are made that will affect so many people. Please, note that this is not just numbers or fishing vessels, peoples lives are going to be affected by your decisions forever!!

Sincerely,

Wallace A. Gray
F/V Foxy Lady II
Stonington, Me.
04681

Comment # 37

Woneta M. Cloutier

From: jack stormy [stormyseasllc@yahoo.com]
Sent: Tuesday, June 05, 2007 8:20 AM
To: stormyseasllc@yahoo.com
Subject: Re: Fwd: comments on amendment 11

Hahn <hammersportfishing@yahoo.com> wrote:

Note: forwarded message attached.

The fish are biting.

Get more visitors on your site using Yahoo! Search Marketing. Date: Mon, 4 Jun 2007 21:33:03 - 0700 (PDT)

From: jack stormy <stormyseasllc@yahoo.com>
Subject: comments on amendment 11
To: hammersportfishing@yahoo.com

Dear Council:

MY QUESTION TO THE COUNCIL IS? If the general category was deleted from the fishery would the mortality rate decrease? If the answer is anything but yes the vision statement is false and this amendment 11 should be thrown away written to be fair to the general category not the limited access boat that catch 89% of the quota and want 95% of the quota.

My name is Jimmy Hahn I am a owner of 2 general category boats out of Ocean City Maryland. One has no history before the con troll date. Then I purchased another boat that has little history because I was told by NMFS and North England council that as long as I had landing before the control date I would not be out of business. In all of my phone calls and the scoping meeting I was never told about qualification requirements. I would not have bought this boat if I had known. I do not consider getting 10 to 20 trip a year being in business. No where in the proposals for the control date did it say any thing about IFQ or days at sea. I only fish for scallops I do not have any other Limited access permits to fish.

I know the council want to control capacity and mortality. With using the control date it should control capacity but instead of using the preferred option of 1000lb since 1994 it should be more current like 1000lb since 2003. If you did not fish when the scallops were at highest population level and highest price, why would you fish for them in the next couple of years when they are in the down side of there cycle. All a individual quota is going to do is let the people that hold a meet the criteria weather they fish or not make a profit off a permit. The quota should go to real fishermen. What happens to the quota that is given to people that do not use it? Is it saved for the next year or lost?

After listening to the amendment hearing I did not hear many people in support of the preferred

06/13/2007

actions of the council. Most people wanted the opposite, the only people in support preferred action were limited access boat owners. Was amendment 11 written to control capacity and control mortality or to push the little fisherman out of business and give the quota to the limited access boats.

The council should give the general category at least 10% hard tac fleet wide. The preferred 5% is to little. With only 5% the preferred option for allocation would be exceed. How is this make good sense! If we are only allowed to catch 20% of the biomass how can giving us extra 5% increase mortality. With all of the closed areas along the coast how can the fishery be over fished? If the scallop are over fished why did the Elephant Trunk area even open. When it did open why didn't you use the science to catch the least amount scallops possible. You open the season right when they were about to spawn. Three more weeks and they would have all spawned at least once. The distance the spat could a floated would have repopulated some of the Delmarva area. Also the number of bushels to catch 400lb was around 50 one month later it only took 35 bushel for 400lb that's 15 bushels less. In the general category alone that's 12000 bushels less and about 1,620,000 scallops less. With the limited access boats catching 18000lb per trip in 300 trips it would have saved 202500 bushels and over 27,337,500 scallops. Who decided to open the season a month to early. Instead you didn't use the science to protect mortality. Now who to blame for the extra mortality? Not the general category! The general category didn't deplete the scallop in the 1990s it was the limited access boats. They didn't bring the fishery back. More laws and rules were put in place to keep the mortality at a controlled level. The scallops that we are allowed to fish on now were not put there by limited access boats, mother nature put them there. They are on federal bottom that is owned by the citizens of the United States. My tax money is used to study, protect and regulate, why shouldn't I be allowed a percentage of that resource. I have learned that 5 boat owners, currently own 118 limit access boats, that over 27% of the quota. How is that fair, that 5 people own more of the quota then the whole general category can catch in two years at 10%. I really feel the fishery's people should wake up.

My comments to the Questions?

1. IF THE GENERAL CATEGORY WAS DELETED WOULD SCALLOP MORTALITY CHANGE? The answer is NO so how could regulating the general category change mortality. Mortality can not be controlled on the 10% level it must be controlled on the 90% level!

2 and 3 . Capacity is going to be controlled by the control date. I think people currently in the fishery should be allowed to continue to fish. I think the option 1994 and 1000lb is to general, it should be given to fishermen who are currently fishing 2003 to 2004 with a 1000 lb is much better. What about a rigging up clause? We were told by NMFS that if you had a permit before control date with landing you would qualify.

I think consideration should be given to people who fish only for scallops. Those that are after the control date should not be complete pushed out of this fishery. For example if you fished over 200 days since the control date, it your primary fishery and you should be given something.

Mortality should not be blamed on the general category. We are only catching 11%. If you want to control mortality it should be done on the 89% the limited access catch. If you completely deleted the general category the limited access boat would catch 100% instead of 89% so whats the different? I think the limited access boat can afford to give 10%. I think it

would be fair to give the general category a 10% hard tac fleet wide.

4. I think that it should be a hard tac of 10% fleet wide. Let the fishermen who fish get the quota. Why should somebody who fished 10 years ago and is not fishing now get a quota to sell or lease and make money without fishing. What happens if you give out trips and the trip don't get taken?

5. I think we should be able to continue and a 10% hard tac until the in term measures are straightened out.

7. Limited access boat should not be able to fish under general category quota. In 2005 they landed 1.5% 800000 lb and in 2006 they landed .76% 424000 lb after landing there quota of 87% and 89%. How much extra mortality is that. It should be one category or the other not both. Many limited access boat fished the elephant trunk opening under general category first then started the limited access trips. Double dipping.

8. yes Why can't we have at least 10%? That's what the average has been over the last couple of years without being over fished.

9. yes. we should get a 10 % of the total quota.

10. I think there should be another permit for incidental catch, you should be able to sell the catch.

11. I think we should use more science and less political power to regulate and control.

12. increase limit to 100 bushels. Also increase the trip limit to 800lb for a 48 hour period to save fuel. Use vms to regulate hours and trips

13. yes i believe the whole impact to the environment section was written by the limited access boats for the limited access boats. Nowhere does it have a negative statement about limited access boats. How can that be, when they catch 89% of the quota.

14. I think I have made my feeling very clear general category is not the problem for mortality.

3.1.2.1.

Agree with control date and 1000 lb

3.1.2.2

agree with march 1 2000 - 2004 Quota should go to boat currently in scallop fishery. If you did not work in the best years you never will.

3.1.2.3

none Should be a hard tac fleet wide. Not to somebody who does not even own a boat any more just holds a permit. Quota should be given to people who want and only fish for scallops not draggers who only fish for scallop occasional. 2000 - 2004 allows only 369 boats.

3.1.2.4

agree with 3.1.2.4.6

3.1.2.4.1

is not what NMFS told everybody would happen. Some of us bought boat with little history because Pete Christor told us not to worry as long as it is before the control date and has landing before control date nothing would change.

3.1.2.5

agree with 3.1.2.5.1.1 One vessel one permit. Many boat owner sold the boat to family members to be able to get 2 quota out same vessel and permit.

3.1.2.5.4.3

not sure

3.1.2.5.8.1

A limit on the number of permits and boat you can own.

3.1.2.6

No trawl gear

3.1.2.8

agree with 3.1.2.8.1

3.1.4.3.

not sure

3.1.6.1.

disagree with 3.1.6.1.1 Limited access vessels should not be able to fish under general category. They already get 89% how much more do they need. Double Dipping

3.1.7.3

not sure

3.1.8

agree with 3.1.8.2

3.2

agree with 3.2.1.1

3.3

agree with 3.3.2.2.

If the vision statement is false for amendment 11 then how can the council use it to regulate the fishery. The council and NMFS needs to take a better look at the overall status of the fishery, use better science and more common sense. How can controlling 5% - 10% of a fishery reduce mortality. Amendment 11 was written to put the small boat owner out business and increase control and profit for the limited access boats with no regard for the mortality levels of the scallops. The scallop quota should not be owned by 334 limited access boats but shared by all the citizens of the United States.

If you have any comments or questions please feel free to contact me at 410 310 4296

Thanks

Jimmy Hahn

Take the Internet to Go: Yahoo!Go puts the Internet in your pocket: mail, news, photos & more.

The fish are biting.

Get more visitors on your site using Yahoo! Search Marketing.

Appendix II
For Amendment 11 to the
Atlantic Sea Scallop Fishery Management Plan

Written public comments on the Amendment 11 DSEIS

WRITTEN COMMENTS ON AMENDMENT 11 DSEIS

(Deadline for comments June 11, 2007)

| Comment # | Date Received | Name | City, ST |
|------------------|---|--------------------------------|-----------------------|
| BATCH 1 | COMMENTS RECEIVED BEFORE COUNCIL MAIL DATE (FRIDAY, JUNE, 8) | | |
| 1 | 4/30/07 | B. Sachau | Florham Park, NJ |
| 2 | 5/18/07 | Donald A. Williams III | Owls Head. ME |
| 3 | 5/21/07 | Patricia Kurkul, NMFS | Gloucester, MA |
| 4 | 5/26/07 | Kenneth Ochse | |
| 5 | 5/28/07 | Maggie Raymond, AFM | S.Berwick, ME |
| 6 | 5/30/07 | G.C. Dean | Ocean City, MD |
| 7 | 5/30/07 | Edmund Blane | Seaville, NJ |
| 8 | 6/3/07 | Maine DMR public hearing notes | Portland, ME |
| 9 | 6/3/07 | Fisheries Survival Fund | Washington, DC |
| 10 | 6/4/07 | David Tedford | Chester, MD |
| 11 | 6/4/07 | James Gutowski | |
| 12 | 6/5/07 | Atlantic Capes Fisheries Inc. | Cape May, NJ |
| 13 | 6/6/07 | Scott Bailey | |
| 14 | 6/6/07 | Nordic Fisheries, Inc. | New Bedford, MA |
| 15 | 6/6/07 | Ray Trout | Lewes, DE |
| 16 | 6/6/07 | Stanley Pritchett | Cambridge, MD |
| 17 | 6/6/07 | James Fletcher | Manns Harbor, NC |
| 18 | 6/6/07 | William Anderson | Trescott, ME |
| 19 | 6/6/07 | Michael Welch | |
| 20 | 6/7/07 | Ralph Dennison | |
| 21 | 6/7/07 | Capt. Mike Skarimbas | Montauk, NY |
| 22 | 6/8/07 | Denis Lovgren | Point Pleasant, NJ |
| 23 | 6/6/07 | John, Mary and AJ | |
| 24 | 6/8/07 | Eric L Lundvall | Little Egg Harbor, NJ |
| 25 | 6/11/07 | Walter Jessiman | Cutler, ME |
| 26 | 6/11/07 | Troy Ramsdell | Cutler, ME |
| 27 | 6/11/07 | Robert W. Maxwell | |
| 28 | 6/11/07 | Stephen M. Ouellette | Gloucester, MA |
| 29 | 6/11/07 | David E. Frulla | Washington, DC |
| 30 | 6/11/07 | Richard Taylor | Gloucester, MA |
| 31 | 6/11/07 | Ronald Enoksen | New Bedford, MA |
| 32 | 6/11/07 | Phillip Michaud | Wellfleet, MA |
| 33 | 6/11/07 | Heinz J. Mueller | Atlanta, GA |
| 34 | 6/11/07 | William D. Delahunt | Washington, DC |
| 35 | 6/11/07 | Stanley C. Sargent | Milbridge, ME |
| 36 | 5/30/07 | Wallace A. Gray | Stonington, ME |
| 37 | 6/5/07 | Jimmy Hahn | Ocean City, MD |

Woneta M. Cloutier

|

From: Deirdre Boelke
Sent: Thursday, May 24, 2007 10:09 AM
To: Woneta M. Cloutier
Subject: [Fwd: ublic comment on federal register of 4/30/07 vol 72 #82 pg 21226]

----- Original Message -----

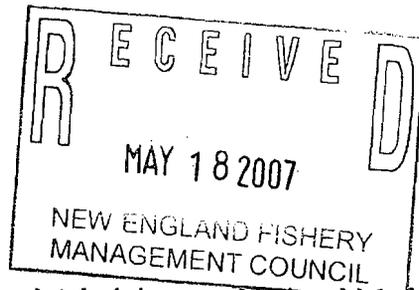
Subject: ublic comment on federal register of 4/30/07 vol 72 #82 pg 21226
Date: Mon, 30 Apr 2007 07:46:16 -0400 (EDT)
From: Bk1492@aol.com
To: Scallop.Eleven@noaa.gov, americanvoices@mail.house.gov,
comments@whitehouse.gov, vicepresident@whitehouse.gov

doc noaa id 042507A - new england fishery mgt council

cut all quotas by 50% this year. cut them each year thereafter by 10%.
stop catering on ly to commercial fish profiteers, and relying on the fake information they provide to you (it is
only done so they can continue raping the ocean).

the interests of our children are being severely compromised.
b. sachau
15 elm st
florham park nj 07932

See what's free at <http://www.aol.com>.



#2

Donald A. Williams III
58 Granite Point Drive
Owls Head, ME 04854

Patricia Kurkul, Regional Administrator, National Marine Fisheries Service
Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930

cc Maine Senator Olympia Snowe
cc Maine Senator Susan Collins
cc Maine Congressman Tom Allen
cc Maine Congressman Mike Michaud
cc Terry Stockwell, Maine Department of Marine Resources

Tuesday, May 15, 2007

Comments on Scallop Amendment 11

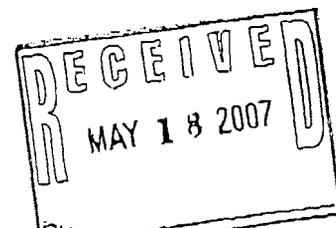
Dear Ms. Kurkul,

I am writing in response to pending action on the New England Fishery Management Council (NEFMC) concerning Scallop Amendment 11, specifically pending changes to the allocation of the General Category fishery.

I am a commercial fisherman from a small town in Maine. I have a state lobster license as well as a Federal Area 1 lobster permit and currently I also have a General Category 1B, 400lb VMS scallop permit. After fishing through high school in a small skiff, I went to college and after graduation, I financed my first full-time fishing boat to go lobstering. After three years, I was able to pay this boat off, and last spring I had a new boat built. My intent was to fish for lobsters, both inshore and offshore, and to go scalloping in the winter/spring. To this end, when I financed my new boat, I also included equipment to go scalloping- dredge, winches, etc. I applied for a 400lb permit and also invested in a Boatracs VMS unit. Since this time, I have not yet been scalloping with the permit, due to the uncertainty of its future. I have however, complied with all reporting requirements and have kept my VMS active while awaiting final ruling on the General Category issue. Recently I was just re-issued my permits for 2007.

My concerns currently are that implementation of new rules for the General Category fishery within Amendment 11 will shut me out of the fishery. I do not qualify under any of the proposals the council has put forth in the final draft, other than the no action alternative; I was issued a license after the control date of November 1, 2004. Therefore, depending on when the rules are finally enacted, a license I already possess will be taken from me due to an arbitrary date established by NEFMC.

I believe that this is completely unfair and these are my reasons. The scallop fishery has a long



history of small boats from Maine. Before there was ever limited access and general category fishing, boats and men from Maine sailed all over the East Coast in search of scallops to feed their families. My father did so when he was my age, and his father before him lost his life on a scallop boat when they towed up a mine from World War II and it exploded, killing nearly all on board. Regulations have changed the industry. It no longer is the traditional small boat fishery of my father's time. What has not changed however is the need for people such as me to have alternatives in the fishing industry. As more and more species come under federal regulation, it is nearly impossible to diversify and participate in other fisheries. It is hard for self-employed fisherman such as myself to not feel like the deck is stacked against us. We do not work for corporations or have multiple vessels to supplement our income. I have one boat and one very large payment that requires me to fish year round. I need this license to supplement the down time between lobstering seasons. My whole livelihood has been invested in the hopes of using this license, and now I am in fear of losing it.

I also take issue with some other comments and proposals being presented. There has been uproar within the limited access fishery over the total share that the general category fishery will receive each year. Proposals have ranged from 2-11% of the total allowable catch for a given year. Firstly, the amount of scallops that I am going to catch using this permit in a year will not even be close to what one boat on one trip in the limited access fishery can catch. They have a year-round focused effort in very large boats. I am trying to use this permit to scallop when I cannot go lobstering. These are two examples of completely different effort, and I believe this should be considered.

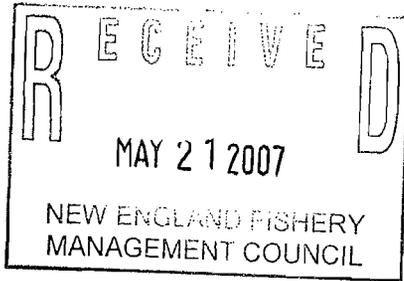
Secondly, in section 3.1.6 of Amendment 11 there are proposals to allow limited access boats to continue fishing under the general category license. It is unbelievable to me that the council is proposing to take my license and continue to allow boats who have already been issued limited access to also fish within the general category fishery. Once again, it seems on the surface that the council is more concerned with allowing limited access boat owners all they want at the expense of traditional small boat fisherman. How can the council take from the small boat fisherman and give to large boat limited access companies? Is there not a conflict if these boats can fish in the limited access fishery and as soon as their days are used up, switch to the 400lb general category fishery? Is this not an issue of allocation not conservation?

In conclusion, what I am asking of you is to allow me to keep a license that I already have. I am asking the New England Fishery Management Council to reconsider the criteria for eligibility. I am asking you to help preserve this traditional small boat fishery for me and others in my situation. While to the large scallop fleet owner in New Bedford, my wish to be included in this fishery may not seem important or even relevant, it is important to me. I have invested time, money, and my future in the hopes of participating in this fishery. I hope that this chance will not be taken from me. Thank you for your time.

Sincerely Yours,



Donald A. Williams III



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

#3

MAY 21 2007

John Pappalardo, Chairman
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Dear John:

Staff in the Regional Office and Northeast Fishery Science Center (NEFSC) have completed their review of Draft Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan (Amendment 11) and the Draft Environmental Impact Statement (DSEIS). Amendment 11 is a challenging undertaking to control capacity and mortality in the general category scallop fishery. Reviewers commended the New England Fishery Management Council (Council) and its staff for completing a very complex document that provides a comprehensive overview of the issues and impacts of Amendment 11.

I urge the Council, as it selects measures to be adopted for inclusion in Amendment 11, to make efforts to minimize the complexity of the amendment and to keep in mind that implementation of Amendment 11 will require effective and efficient monitoring and compliance measures. Also, as with any allocation, the Council must clearly articulate the rationale for its allocation decisions.

Limited access criteria

I urge the Council to consider the implications of adopting limited access qualification criteria that are overly liberal in qualifying vessels. There would be allocation implications of allowing a relatively large number of vessels to be active in the general category fishery. Liberal qualifications criteria penalize legitimate participants with a current dependence on the fishery. Historically, they have also led to the Council needing to take additional and often, more painful action in the future.

Accounting for incidental catch

Amendment 11 includes incidental catch alternatives allowing vessels to fish for scallops without qualifying for a scallop permit or allocation, or without any federal scallop permit (the "No Action" alternative). In addition, TAC alternatives allow vessels to continue to fish "under incidental rules" (i.e., for 40 lb of scallops) after the TAC is attained. However, there is no discussion in Amendment 11 of a mechanism to account for scallops that may be caught by such vessels. The Council must provide a description of how it will account for all scallop catch, and cannot leave any harvest unaccounted for in mortality estimates. Amendment 11 should specify that the Scallop Plan



cc: DB Council (5/23)

Development Team (PDT) would need to provide an estimate of incidental catch and resulting fishing mortality based on available information.

Gulf of Maine Management Area (GOM Area) Alternatives

The Council has chosen the GOM Area Limited Entry Program as a preferred alternative. As I noted during the Council discussion of Amendment 11 on April 12, 2007, the GOM Area alternatives are not sufficiently justified on the basis of conservation. The justification is largely based on the fact that the scallop resource in the area has been sporadic over time. However, one of the reasons that it has been sporadic is that it has been consistently overharvested. The proposed program essentially recommends perpetuating that trend by liberalizing the limited access qualification criteria and allowing a large number of vessels to fish on a small portion of the resource. Without the ability to monitor state waters fishing activity, the effectiveness of the federal management program in the Northern Gulf of Maine would be severely compromised. As my staff and I have repeated at numerous meetings, this measure must be consistent with conservation of the scallop resource. Currently, I do not believe that the justification and analysis of the measure support its inclusion in Amendment 11.

Measures to allow better and more timely integration of recent data

I strongly urge the Council to adopt a change in the fishing year for the scallop fishery. Without a change in the fishing year, the Council will need to continue to make decisions based on survey data that is not current. Moving the fishing year to May or August would provide timely scientific information for use in the Council's framework management process. The arguments against changing the fishing year have not been sufficiently articulated, even though the problem associated with the current fishing year and availability of survey information is clear. If the fishing year is not changed, the Council may have to use more caution than would otherwise be necessary in establishing management measures. It could also encourage complex and rigid adjustment mechanisms in frameworks (like the Elephant Trunk Access Area trip adjustment procedure included in Framework 18). Without a change in the fishing year, the Council and NOAA Fisheries Service can also expect repeated requests to modify measures every year. This fishery cannot be managed in a way that precludes deliberative consideration of annual measures and requires the Council and NOAA Fisheries Service to react to "urgent" situations.

Allocation in trips

Although the alternatives that allocate harvest in trips currently do not include broken trip provisions, I suspect that there will be support during public hearings for including a broken trip provision. A broken trip provision identical to that established for limited access vessels in access areas would result in a significant administration burden, and would be ineffective. As an example, the limited access broken trip provision occupies the majority of a full-time staff's time. In the 2007 fishing year alone, we have had 132 broken trip requests for the Elephant Trunk Access Area and 22 requests for the Hudson Canyon Access Area. The volume of broken trips increases substantially with bad weather. Each request requires verification of landings and manual entry of trip information. The volume of broken trips with general category trip allocations will be higher than access areas. While incentives for broken trips may be higher with the larger possession limits for limited access vessels in access

areas, we have been surprised that owners file broken trip forms for compensation trips that would allow less than 100 lb of scallops.

The Council could consider putting limitations on a general category broken trip provision. For example, under trip allocation alternatives, vessel owners could elect to fish under a 200-lb or 400-lb possession limit each fishing year, with the trip allocation specified accordingly.

Monitoring provisions

If the preferred alternative is adopted for allocating a portion of the overall scallop catch to the general category fleet, the general category fleet will only represent five percent of the total scallop fishery. A hard TAC may therefore be the best alternative in terms of ability to monitor and enforce the program. However, I recognize that an overall TAC presents management challenges including the potential for a derby fishery. This TAC could be divided by trimester to minimize the incentive to derby fish.

After further consideration of monitoring requirements, we do not believe that trip-by-trip reporting through the vessel monitoring system or interactive voice response system is necessary. NOAA Fisheries Service would be able to monitor the status of overall TACs using weekly dealer reports. Vessel owners and/or operators would be responsible for staying within their allocation under IFQ alternatives and would be subject to enforcement action if independent weekly dealer data showed that they landed more than their allocation.

Allocation of yellowtail flounder bycatch TAC in access areas

NOAA Fisheries Service cannot effectively monitor a yellowtail bycatch TAC specifically for the general category fleet because the yellowtail bycatch TAC for that portion of the fleet could be extremely small. For example, if the general category fleet is allocated 5 percent of the SNE yellowtail bycatch TAC, using 2007 TAC figures, it would be allocated roughly 2,300 lb of yellowtail (5 percent of the 20.8 mt yellowtail bycatch TAC). We could not administer such a TAC effectively. I therefore urge the Council to adopt 3.1.7.3.1 "No Action" for yellowtail flounder bycatch TACs.

Sectors and harvesting cooperatives

I urge the Council to adopt the sector and harvesting cooperatives alternative. It would enable industry groups to develop future proposals. This program is proving effective in the Northeast Multispecies FMP and adds a management mechanism to the Scallop FMP that could be very effective in the future.

Stacking of permits

The permit stacking discussion implies that only stacking of full permits is authorized, and only if the stacked permits will result in a total allocation less than the cap (i.e., 60,000 lb or 150 trips). The intent seems to be that stacking is permanent. The Council should clarify if this is their intent. If the Council intends to allow permanent stacking, it must specify whether or not limited access permit splitting rules apply to current limited access vessels that also qualify for a limited access general category scallop

permit.

Ownership Cap

The Council needs to specify how the 5 percent ownership cap is calculated. Is it the Council's intent that an individual can have an ownership interest in no more than 5 percent of permits or 5 percent of the allocation?

Measures to reduce incentive for limited entry qualifiers to fish for scallops with trawl gear

Alternative 3.1.2.6.4, which states "A limited access general category qualifier can fish with trawl gear, but scallops cannot be more than 5% of total regulated species onboard" is not enforceable. It is very difficult to assess the amount of fish and scallops as a percentage for at-sea or dock-side monitoring. The Office for Law Enforcement also noted that while it could enforce different possession limits (as proposed under Section 3.1.2.6.3) if vessels are issued a permit that specifies their allowance, different possession limits for different vessels would add to the enforcement burden. General category vessels that qualify to use trawl gear should be issued a permit for trawl gear, as is done for current limited access trawl vessels.

Also regarding qualifying to fish with trawl gear (Alternative 3.1.2.6.1), can a current owner who fishes with a trawl qualify for this permit if the scallop landings used for eligibility were harvested with a dredge by a prior owner? This needs to be clear.

Fleetwide Hard TACs

I am concerned about the proposal in several alternatives to use a five-year rolling average to calculate allocations for quarterly hard TACs given the nature of the fishery. It seems that unusual weather or other influences could affect landings (and therefore allocations) in subsequent years.

I hope that the Scallop Committee and Council will consider these comments at their meetings. Please do not hesitate to call me if you have any questions or concerns that you would like to discuss prior to further Committee and/or Council discussion on Amendment 11.

Sincerely,



Patricia A. Kurkul
Regional Administrator

cc: Paul Howard

Comments
#4

Deirdre Boelke

From: Scallop Comments [Scallop.Eleven@noaa.gov]
Sent: Tuesday, May 29, 2007 8:08 AM
To: Deirdre Boelke
Subject: [Fwd: "comments on scallop amendment 11"]

----- Original Message -----
Subject: "comments on scallop amendment 11"
Date: Sat, 26 May 2007 00:14:01 -0400 (EDT)
From: VOICOMOXY22@aol.com
To: Scallop.Eleven@noaa.gov

My name is Kenneth Ochse I own and operate the Christian and Alexa. The official number is 937930. The Christian and Alexa has a fulltime limited access scallop permit. I own the vessel with my brother Arthur Ochse and it is the only vessel we own. We have both been scalloping fulltime since 1976. I have a few comments on amendment 11.

The question of should the general category be a limited entry? Yes it should ,because it has worked in the fulltime limited access fishery. Without all the regulations that came with limited access we would not be having this discussion because the scallop resource would not would have recovered where it could take the amount of effort we have seen in the past few years. The general category allocation should be set at the lowest possible percentage to insure that overfishing does not occur and the fishery becomes sustainable again. With reduced effort the resource would be rebuilt as it was before the big influx of boats. 2.5% of the tac would be a low enough number to achieve this.

To qualify for a general category permit the boats would have had to participate in the fishery before the control date and to have fished for scallops from March 1, 2003 to November 1, 2004 with at least 5000lbs of reported catch. These are the most restrictive dates and pounds but are needed to reduce effort and not greatly impact the boats that have historically targeted scallops in the general category. Also allocation should be kept to a maximum of 400 pounds per trip so as not to increase effort. By allowing more pounds this would keep the vessels on the grounds for longer periods of time which the fishery does not need..

Stacking of days or pounds on to one vessel would also increase effort and should never be allowed. One boat,one permit. It has worked for the limited access boats.

To answer the question of should the limited access vessels be allowed to possess a general category permit I will say without hesitation that they should as long as they meet the qualifications. I don't agree with the preferred alternative to qualify. I think the most restrictive measure would have the most positive effect on the overall fishery by greatly limiting the effort and insuring that the fishery remains sustainable for all that participate.

See what's free at AOL.com <<http://www.aol.com?ncid=AOLAOF00020000000503>>.



Comment
#5

ASSOCIATED FISHERIES OF MAINE

PO Box 287, South Berwick, ME 03908

207-384-4854

May 28, 2007

Ms. Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
One Blackburn Drive
Gloucester, MA 01930

Comments on Scallop Amendment 11

Dear Pat:

Members of Associated Fisheries of Maine (AFM) participate in the general category scallop fishery in three distinct ways: 1) a directed fishery that comprises 100% of vessel income, 2) seasonal directed fishery as an adjunct to other limited access fisheries, and 3) bycatch in the limited access groundfish fishery

3.1.7 - Allocation between limited access and general category fisheries

For the purposes of comment, AFM takes decision 3.1.7 "out of order" (in terms of its position in the SEIS) because this allocation decision is critically linked to so many other Amendment 11 decisions.

The public hearing document describes the importance of the allocation decision in this way: "Ideally this percentage would provide enough landings to be spread among various general category vessels that participate in this fishery at a variety of levels without having substantial impacts on the existing limited access fishery."

However, that "ideal" outcome is linked to several subsequent decisions, including:

- Whether or not current limited access permit holders may qualify for a new limited access general category scallop permit (3.1.6.1), and whether or not this allocation will include the future landings by these "dual" permit holders
- Whether or not this allocation will include future landings by vessels that qualify for a new limited access incidental catch permits (3.1.8)
- Number of vessels that ultimately qualify for a new general category limited access scallop permits (3.1.2.1)

If the percentage of harvest allocation includes all future landings in the general category scallop fishery by limited access general category permit holders (as defined by the Committee's preferred alternative), landings by current limited access permit holders who become dual permit holders, and landings from incidental catch permit holders, then 5% will undoubtedly be less than "ideal", and the percentage allocation should be increased to accommodate those decisions.

3.1.2.1 Qualification criteria alternatives (for limited access general category permit)

The preferred alternative results in an estimated 459 initial qualifiers (Table 2, public hearing document), and history of limited access programs in New England suggests that this estimate will ultimately equal or exceed 500 actual qualifiers after all appeals have been exhausted.

It is clear from debate on this decision to date, that the eleven year qualifying time frame and the 1000 lb landings criteria are each supported by separate rationale, and further, the supporters of each will not be swayed, even though the combination of these two components will likely result in more qualifiers than can be ideally supported by a harvest allocation of 5%. *Therefore, if the preferred alternative is adopted, it is essential to increase the percentage of allocation harvest for qualifiers beyond the proposed 5%, so that those qualifiers most dependent on the resource are able to remain economically viable.*

3.1.2.4 Allocation of access for general category limited access qualifiers

AFM supports 3.1.2.4.1 Individual allocation for all qualifiers (Option A) – allocation in pounds.

AFM concurs with the statement in the public hearing document (page 9) that “individual allocation is the fairest strategy”. AFM, however, supports allocation in pounds, rather than trips. Allocation in pounds will allow each permit holder to manage his allocation in the safest and most economical manner. Allocation in trips raises significant safety considerations. Allocation in trips, as will be explained later, also creates a dilemma for vessels that may qualify for a limited access incidental catch permit.

AFM strongly supports allocations made on an individual basis, as opposed to “equal” basis, whether in pounds or trips.

3.1.2.4.5 and 3.1.2.4.6

AFM strongly opposes a quarterly or fleet wide hard TAC for the general category harvest, without individual allocations or other restrictions to control the hard TAC.

3.1.2.5.4 Stacking of Permits

AFM supports 3.1.2.5.4.3 Allow stacking up to 60,000 pounds or 150 trips per vessel.

If, for whatever reason, none of the “permit stacking options” are forwarded with this Amendment, AFM requests that options to allow vessels to consolidate or lease allocations of pounds or trips be added to the list of items suitable for future framework action.

Comments on scallop amendment 11
May 28, 2007

3.1.2.7 Sectors and Harvesting Cooperatives

AFM supports establishment of a process, in Amendment 11, to allow general category limited access permit holders to form sectors and/or harvesting cooperatives.

AFM does NOT support 3.1.2.7.2.9.1 - 20% maximum allocation per sector. A 20% limitation on allocation has no useful purpose and simply restricts the number of members within a sector.

Further the regulations that govern the formation of sectors in the multispecies plan, now allow for the Council to approve allocations in excess of 20% (see 648.87 (b)(ii) "A Sector shall be allocated no more than 20 percent of a stock's TAC, unless otherwise authorized by the Council.")

3.1.2.8 Interim measures for transition period to limited entry

*AFM supports 3.1.2.8.2 Transition to limited entry alternative **without** a hard-TAC.*

Imposition of a hard TAC on the general category fleet, without measures to control the harvest, will result in a derby-style fishery with consequent negative results in terms of safety and economic return.

3.1.3 - Establish a Northern Gulf of Maine Scallop Management Area (NGOM)

AFM supports 3.1.4.2, Option A- Amendment 11 would not apply to the Northern Gulf of Maine (the GOM exemption area north of 42°20N). Of the two options, option A more closely corresponds with the "historic" general category exemption area established in multispecies framework adjustment #21.

AFM strongly opposes Option B -the area north of 43° does not correspond well with the exemption area established in multispecies framework adjustment #21, nor does it correspond well with the historic availability of the scallop resource in the Gulf of Maine. Therefore, Option B is not worth efforts required to implement and monitor a separate management area.

3.1.6 Limited access fishing under general category rules

AFM supports 3.1.6.1.2 Permit limited access vessels that qualify under general category rules.

AFM supports 3.1.6.2.2 Landings from this component of the fishery would be deducted from a separate allocation added onto the general category allocation.

Comments on scallop amendment 11
May 28, 2007

3.1.8 Incidental catch

AFM supports 3.1.8.2 - Establish a new permit category for incidental catch.

This option will minimize discards by allowing a small amount of incidental catch in other fisheries to continue.

However, this section does not adequately address historic incidental catch in excess of 40 lbs/trip.

For example, some groundfish permit holders have historic incidental catch and landings of scallops in excess of 40 lbs, as current regulations allow up to 400 lbs per trip. Many of these permit holders will meet both the qualification time period and landings qualification defined by the Committee as preferred. However, they will not be able to continue landing in excess of 40 lbs/trip if the Council chooses 3.1.2.4.1, option B - allocation in trips, because these are groundfish vessels that would not be declaring scallop trips.

3.3.1 Trawl gear restriction

AFM supports option 3.3.1.2 Clarification of trawl gear restriction for vessels fishing under a multispecies or monkfish DAS.

3.3.2 Possession limit of 50 bushels

AFM supports 3.3.2.2 Possession limit of 50 bushels shoreward of the VMS demarcation line and up to 100 bushels seaward of that line.

AFM suggests that the possession limit for bushels would be easiest to enforce if the possession limit in all areas were made consistent. By way of example, limited access and general category permit holders that today fish south of 42°20'N are restricted to the 50-bushel cap when the vessel is **shoreward** of the demarcation line [648.52 (d)]. Removing the reference to 42°20'N, would make this restriction consistent for all areas, and solve the problem identified, which is that 50 bushels of in-shell scallops is not always equivalent to 400 pounds of scallop meat.

As always, we appreciate your consideration of our views.

Sincerely,

M. Raymond

Maggie Raymond
Associated Fisheries of Maine

Deirdre Boelke

From: GilbertGCDEAN@aol.com
Sent: Wednesday, May 30, 2007 8:55 AM
To: Scallop.Eleven@noaa.gov
Cc: Deirdre Boelke
Subject: Comments on Scallop Amendment 11

My name is Gilbert C. Dean. I own and operate a general category scallop vessel "Gold Digger", federal permit #150158 out of Ocean City, MD. I fully understand what you are trying to do and why with Amendment 11. Believe me that "most all" of us want to protect the fishery and do the right things to preserve it for years to come. However, some of the things that are recommended within Amendment 11 are unnecessary, unfair and possibly illegal. Here are a couple of reasons why.

1. Control date of November 2006. In Feb/March of 2006, I wanted to get into the scallop business. Having heard all of the "rumors" about the possibility of the fishery being closed, I personally called the NMF with my concerns. I wanted to be assured that before I invested in excess of \$350,000 for a new boat and gear that I was not going to be closed out anytime soon. I was given that assurance and told that they knew of nothing being considered that I should worry about and issued me a permit in May 2006.

I should have at least been advised of the proposals included in Amendment 11 and really should not have been issued a permit without such a warning to the effect. To my knowledge, you are still issuing permits to anyone who applies.

According to your records, there were 699 permits issued after the proposed control date. Out of the 699, only 119 are actually being used. Those 119 should be included into your proposed limited entry fishery. Those 119 general category boats are not going to have hardly any effect on the overall catch or adversely effect your overall plan.

This would satisfy all current permit holders with history and avoid any possible lawsuits that may arise based on this particular issue.

2. Proposed 5% share for general category vessels. The general category vessels caught between 12 and 14% in 2005 and 2006. That level should at least be maintained for the general category vessels in the future to be fair to all user groups.

3. Current Limited Entry Vessels should not be allowed to fish on general category permits. You have already proposed giving them 95% which is not only unfair but ridicules.

4. Board Members. If there are any members on the board from any one user group, there should be and equal number of board members from the other user group providing equal representation. If this cannot be done, then no one on the board should have any affiliation to any particular user group.

As stated above, I have invested in excess of \$350,000 getting into this fishery not even 13 months ago based the information provided by you and the issuing of the permit. Scallop fishing is my sole source of income. How am I supposed to make a living now? How am I supposed to pay off the balance owed on the loans secured to get into this fishery? What am I supposed to do with a scallop boat will definitely decrease in value should Amendment 11 go through as proposed?

You should change it to a limited entry, protect the ones that you have already issued permits, base your TAC on those numbers, move your control date to say June 1, 2006 and stop issuing additional permits immediately.

Regards,

Captain G.C. Dean

6/4/2007

6311 Suicide Bridge Road
Hurlock, MD 21643
410-943-1707
410-463-0049

See what's free at AOL.com.

Comment #7



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

MAY 18 2006

- handed out at public hearing 5/30/07 -

Edmund Blaine
30 Foxborough Rd
Seaville, NJ 08230

Dear Mr. Blaine:

This letter is in response to the concerns you expressed in your letter regarding the requirements that are associated with the November 1, 2004, control date for the general category scallop permit. Currently the New England Fishery Management Council (Council) is working on Amendment 11 to Scallop Fishery Management Plan which proposes to make the open access general category fishery a limited access fishery. The proposed criteria to be used to qualify vessels for the limited access permit are still being developed by the Scallop Committee and the Council. I suggest you inform the Council of your special circumstances, as it further develops Amendment 11. It is important that the Council be aware of special circumstances as it develops new programs, so that there can be discussion and consideration of how they should be handled.

Sincerely,

George H. Darcy
Assistant Regional Administrator
for Sustainable Fisheries



July 31, 2006

To: New England Fishery Management Council
50 Water Street
Newburyport, Massachusetts 01950

Edmund Blaine
30 Foxborough Road
Seaville, NJ 08230

Re: General Category Scallop Permit/ Special Circumstance

Before Amendment 11 is finalized, I would like to address the council with my special circumstances as follows: I began searching for a bigger and safer vessel in June, 2004 in Nova Scotia. This vessel was specifically purchased for scalloping. On Sept 14, 2004, I spoke with Peter Christopher regarding a general category scallop permit for this new boat. He told me there was no control date as of that date and there was no projected date in the near future. He sent me an application and advised me to send it in when I obtain all needed documentation after settlement on my new boat. It took a substantial amount of time to get the paper work from Canada. The sequence of events happened as follows:

PURCHASE DATE OF VESSEL---9/20/04

DATE OF ENTRY INTO THE U.S.---9/24/04

CERTIFICATE OF TITLE ISSUE DATE---10/22/04

FEDERAL FISHERIES PERMIT ISSUED GENERAL CATEGORY SCALLOP PERMIT---
12/03/04

ALL DOCUMENTATION IS AVAILABLE IF NECESSARY.

Enclosed, you will find a copy of a letter I received from George Darcy. He is an Assistant Regional Administrator for Sustainable Fisheries and has advised me to provide you this information so you can act accordingly when working on Amendment 11. I have invested a significant amount of money in the vessel, the gear and the Vessel Monitoring System and hope that you will take my situation into consideration when implementing the regulations of this fishery. Thank you very much for your time.

Sincerely,

Edmund Blaine
F/V Laura Marie

**Draft Amendment 11
to the Scallop Fishery Management Plan
DMR Public Hearing
May 22, 2007
Casco Bay Lines
Portland, Me**

Public Attendees: Rick Cullow, Bob Tetrault, Donald Williams and Gary Hatch. Terry Stockwell, Kohl Kanwit and Donna Hall from the Department of Marine Resources.

Terry Stockwell presented the Amendment 11 Public Hearing PowerPoint prepared by the NEFMC and explained the proposed measures that concern Maine General Category scallopers which include:

- a limited entry program with specific qualification criteria (permit in at least one year from March 1, 1994 – November 1, 2004 and at least 1000 pounds of scallop landings in any one of those years)
- individual allocation of access for qualifying vessels in number of trips with a maximum of 400 pounds per trip
- a separate limited entry program for vessels to fish at a reduced level in the Northern Gulf of Maine
- an overall allocation of 5 % of the total projected annual scallop catch for the general category fishery

Public Comments:

R. Cullow – I think anyone who had landings and had a permit should be able to have one, anyone with idle permits should not. I don't have a permit anymore, the boat is still there but I don't have the permit. Somehow there needs to be a way to be grandfathered if you were issued permit in 2007 they should be able to get a permit.

B. Tetrault – I never had bi-catch of 1000 lbs, it was always under, but I have landings but I cannot show 1000 lbs.

G. Hatch – We are not going to get any qualifying criteria, if we were not going to look at the way the fishery should be managed. We are only left with being hard-nosed. We'll manage this but like a small boat fishery, we'll say no the big boats, they are not going to come back like they did 20 years ago and wipe this out. We're just taking the history and throwing it out.

B. Tetrault - This State had an active fishery and was managing it; this sounds like protection for certain group.

R. Cullow - Why are you still issuing licenses, the control date should be out the window, it should go on if you were issued a 2007 license you should be allowed to continue being issued a license, this doesn't add up, if you give the license, land the scallops, they shouldn't be allowed to take away.

D. Williams - Where did that date come from? What are the other alternatives? I built boat, invested all this money and I've asked questions for 2 years and no one could give me any answers. Some people say there is nothing we can do, where do I stand on this matter? They just issued me a federal permit, I can't believe they can just take it away, just because of a date, how can they do this? Have they worked out transfer of permits? This is part of my families' heritage, it's unbelievable that the feds can come in and take it all away. What I want is to have my 400 lb permit and not lose it, have they thought about the impact of what can happen down the road?

B. Tetrault - Why are they differentiating, don't the habitat people get to chime in on that? Why should you shut the door on certain people?

R. Cullow -- We're losing out on every permit that we've ever had, your taking that much away and it will keep another 100 families out, the big boats are not up around here anymore.

D. Williams - It doesn't look like conservation, it looks like allocation instead, what I'm going to catch in a year is a drop in the bucket as to what the big boats are catching. You have to know I have an interest in this, but what am I going to do, the State has to take in to consideration there are going to be more people, have they figured out the transfer or the buy out.

B. Tetrault - We need to add unique history to this document, I'm trying to help you at being successful at getting this thing. This looks like a political solution, didn't we just get rid of this small mesh line, we spent years getting rid of it, why do we want it back, why are we inviting it back?

G. Hatch - We have to fight for Gulf of Maine, this is like trying to outrun a steamroller- think about the majority voters on this council, this is no more than a majority of big fisherman that want to buy permits up...this is perfect of our government at it's best, every time it gets more and more, they are managing 5% of the industry, it's got so thick we can't manage it, we have to say NO, this has nothing to do about managing the fishery it's all about money.

D. Williams - It's hard not to see it that way, they just want to take away from the little guy, this is important to me, and this is nothing that I would prefer.

R. Cullow - I just invested 50K in a boat, there has to be something for people who had a 2007 permit.

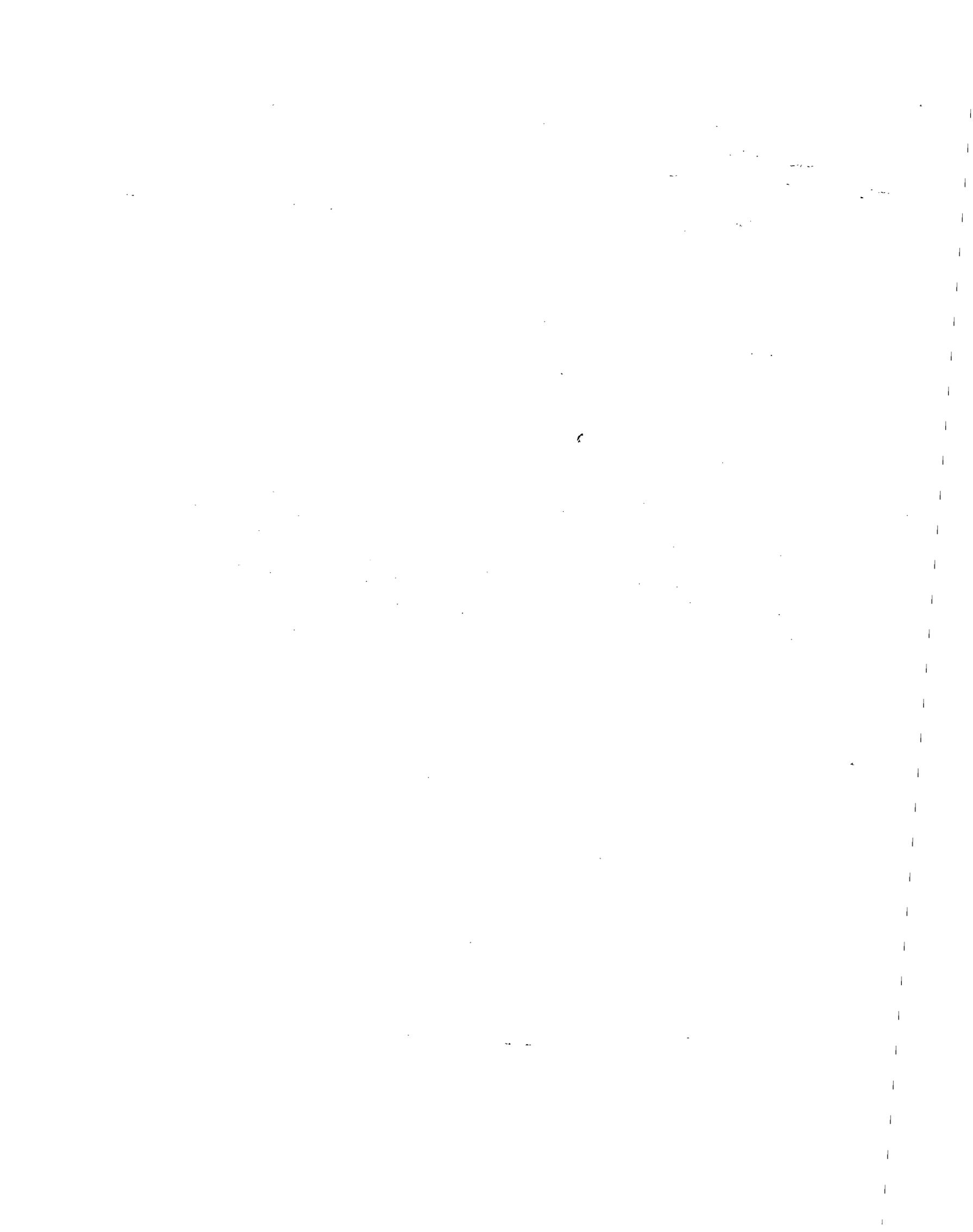
B. Tetrault -I would work on that 1994 thing, we can't just walk in to the wall, and I have records that go back to 1983. Do you want us at the next meeting? There is too many Mainers' that will be eliminated and it shouldn't be that way. We're just looking for a bi-catch. 1994 cuts off too many people, it won't add anything to landings.

G. Hatch -That's what got the limited access guys going.

D. Williams – When you think of all other factors, the number of people that actually have permits to those that used them, if they are allocating 5% to general category or even a smaller amount going to the small guy, why is it us that has to take the sacrifice, there needs to be more enforcement out there.

B. Tetrault – If you go back to 1975 the boats came up for New Bedford to fish here. We are humble and weak.

G. Hatch -We are setting ourselves up the same way as the quahogs if you look at this chart. Gov. Brennan got it back for the downeast guys. The driving force to this is money; limited access is worth 2.5 million and they are saying they will spend the money to get what they want. This is the end of us, this is completely bull and we need to be brave or stupid. We publicly need to go and change the process, this is total failure of the process, what are you going to qualify, 14-15 people in this State, those are the real numbers. We need to get as many signatures as we can get.

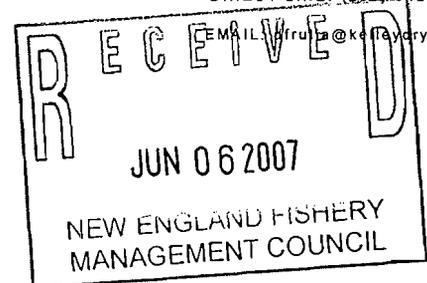


comment
#9

KELLEY DRYE
COLLIER SHANNON

DIRECT LINE: (202) 342-8648

EMAIL: fruba@kelleydrye.com



June 4, 2007

VIA ELECTRONIC MAIL

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

Re: Amendment 11 to the Sea Scallop Fishery Management Plan

Dear Mr. Simpson:

As you know, we represent the Fisheries Survival Fund ("FSF"). FSF's participants include the bulk of the full-time, Limited Access scallop fleet. FSF's participants have been involved in Amendment 11's development, while recognizing that General Category participants also have an interest in designing a limited access scheme that matches their diverse fishery.

FSF submits this letter for the Scallop Committee's consideration in advance of its June 6 meeting to select final Amendment 11 alternatives for the Council's consideration. FSF will also provide a fuller set of comments by the June 11 deadline. Now that the public hearing process is over, many of the issues confronting the Committee have come into better focus, based on the public hearings and the analyses in the Public Hearing Document ("PHD").

FSF participants attended four of the public hearings (Hyannis, Fairhaven, Newport News, and Manahawkin), and their attendance exceeded that of the General Category participants, at all but perhaps the Hyannis hearing (where the respective contingents were relatively equal). In summary, and as explained below, FSF submits that the Council should allocate no more than five percent of the overall resource to the General Category (a point with which certain General Category participants agreed), but the Scallop Committee and Council should take steps to more effectively distribute that share using Amendment 11 options. The episodic nature of the General Category also argues against a 10% allocation during the transition to the Amendment 11 limited access program, though some lower cap is necessary.

Executive Summary

The PHD Amendment 11 Vision Statement summary states, among others, "Amendment 11's overall intent is to ... maintain the diverse nature and flexibility within this component of the scallop fleet, and preserve the ability for vessels to participate at various levels. The Councils' vision for the general category fishery ... is a fleet made up of relatively small vessels, with possession limits to maintain the historical character of this fleet and provide opportunities to various participants including vessels from smaller coastal communities." PHD, at 1.

As is explained herein, the Vision Statement can be realized with a five percent allocation, and other long-term problems (such as latent effort and disproportionate shares) can be avoided. Such a five percent share may be most effectively divided among General Category qualifiers under the Vision Statement if: (1) the control date is maintained; (2) directed day boat scallopers landing over 5,000 pounds in their best year are provided with allocations of 400-pound trips; (3) a "contribution factor" should be used to recognize multi-year participation during the qualifying period (Alternative 3.1.2.3); (4) General Category fishery qualifiers landing between 1,000-4,999 pounds in their best year (most likely these are incidental catches) are provided with 200-pound trips under Alternative 3.1.2.4.2; (5) General Category qualifiers directing on scallops with a net should have a reduced possession limit of 250 or 300 pounds so as to equalize mortality in recognition that scallop trawls demonstrably catch smaller scallops (Alternatives 3.1.2.6.3.1; 3.1.2.6.3.2); (6) General Category dredge qualifiers should only be able to scallop with a dredge (Alternative 3.1.2.6.2); (7) the Consistency Amendment should be maintained and only one permit should qualify per vessel (Alternative 3.1.2.5.1.1); (8) illegal and unrecorded landings should not count toward qualifications or allocations; and (9) a Northern Gulf of Maine exemption area makes far more sense for that very episodic fishery than an additional overall allocation of scallops, especially in terms of not creating latent effort.

The Public Hearings

One surprising result was that many of the public hearings were lightly attended by General Category participants. In fact, at Durham, there were no General Category participants in the audience. In Newport News, about ten General Category fishermen attended, but their landings history uniformly post-dated the control date, and they argued for a forward extension of the qualifying period. By contrast, in Ellsworth, the large majority (if not virtually all) of the public hearing participants had not landed scallops during the qualifying period, but prior to it.

For its part, the final public hearing in Manahawkin was attended by over twenty participants of the FSF and only a few members of the General Category fishery. Notably, all the General Category fishermen who testified declared that a five percent allocation was sufficient. In general, the General Category fishermen at the Manahawkin hearing were more concerned with creating stricter qualification criteria for the Limited Access fleet.

The public hearings did reveal that there are some essentially full-time General Category participants from New England. About a dozen of them attended the Hyannis public hearing, and some of those present at Hyannis (along with a few others) also participated at Fairhaven. This contingent has been very active in Amendment 11's development.

An Episodic Fishery Should Not Receive a Disproportionate Overall Allocation

The public hearing materials show that the Scallop Committee and Council will need to be careful about acceding to a vocal minority's demand for individual allocations, coupled with an historically disproportionate share of the overall resource. FSF considers any more than the 5% share that the non-Limited Access General Category landed in the control date year of 2004, *see* PHD Table 1, to be disproportionate.¹

As explained above, a handful of day boat scallopers that claim to operate essentially full-time were present at the Hyannis and Fairhaven public hearings. Notably, this contingent is not a large group overall: according to the Public Hearing Document, only 37 General Category participants landed over 20,000 pounds of scallops in 2004, the year of the control date. This number of "high liners" was 23 in 2003, only 9 in 2002, and 19 in 2001. (PHD Table 7.)

Nonetheless, certain participants in this modestly-sized directed day boat fishery contingent from New England have been steering the Amendment 11 process toward individual allocations, apparently so that they can maximize their personal shares.² These fishermen have made it clear they do not want to get grouped into tiers where their relative shares might be averaged with others having less history. Their approach may be understandable from their perspective (although some of their personal attacks on the Limited Access fleet aren't).

¹ An allocation of even seven percent bears no relation whatsoever to the historic General Category fishery, and would be fundamentally unfair and wasteful (as the allocation would go unharvested in this demonstrably episodic fishery). Indeed, even a five percent allocation is generous. During the Council's preferred qualifying period, 1994-2004, General Category landings (by Amendment 11 qualifiers and non-qualifiers alike) averaged under two percent of overall harvest. (PHD Table 1.) The Council's preferred alternative of five percent thus represents a 255% increase over average landings in the qualifying period. An allocation above five percent represents an even greater windfall and would credit overfishing by the post-control date fleet to the historical General Category fleet. Such a result is not only unjustifiable as a matter of policy, but defeats the purpose of establishing the control date in the first place.

² In that vein, claims were made at the public hearing in Fairhaven that the General Category needs an average of 4.0 million pounds to be "satisfied." An allocation at that level would provide every qualifier with virtually his or her best year as a dedicated allocation, notwithstanding the episodic nature of most of the General Category fishery. (*See* PHD Table 11, which reports "total best year landings" for preferred option qualifiers as 4,187,916 pounds.)

In contrast to this handful of “full-time” day boat scallopers, the Public Hearing Document demonstrates that most General Category participants fish only episodically. In fact, of the 459 estimated qualifiers, only 234 (or roughly half) of the qualifiers had any recorded scallop landings at all in 2005, the year after the control date. (PHD Table 11.)

If the preferred alternative of individual allocations is chosen, then there is a strong likelihood that up to half of the general category quota could go unused. This would be a huge loss of sustainable scallop yield—yield that the Limited Access fleet would fish each year, because scallops are their fishery, and dependently so, ever since Amendment 4. In fact, the Scallop Committee and Council will need to be careful not to end up creating the same kind of latent effort that plagues the groundfish fishery, via significant, permanent, individualized allocations of scallops to vessels that will not regularly harvest them.

The potential for such latent effort from a disproportionate overall allocation is even more manifest when potential Maine qualifiers are considered. According to the Public Hearing Document, 130 Maine vessels would qualify under 11-year timeframe, but only about half that number, or 70, would qualify under a 5-year period. Put differently, 60 projected Maine qualifiers under the preferred alternatives have not landed even 1,000 pounds of scallops in any qualifying year since 1999, but they would get a dedicated, individual allocation of scallops under the Council’s preferred alternatives. (PHD Table 13.)

In addition, Amendment 11 would already fundamentally reallocate the General Category fishery back to New England, to the benefit of these participants on the Cape and in Maine seeking a disproportionate overall allocation. In recent years, about 70% of General Category landings have come from the Mid-Atlantic (PHD Table 10), but only 149 of the estimated 459 qualifying permits (or about 32% overall) under the Council’s preferred alternatives are from the Mid-Atlantic.³ (PHD Table 13.) It is not clear whether Amendment 11 will result in a major increase in effort in inshore New England fishing grounds or a cash transfer program as/if allocations are sold or leased.

Gulf of Maine

The Ellsworth public hearing showed just how real that Amendment 11’s potential to create latent effort really is. There, most attendees were self-described lobstermen who advocated for the no-action alternative. The rationale was that none would qualify under even the most lenient criteria because most (if not all) had not landed any scallops since the 1980s. However, they wished to retain an option to re-enter the fishery in the future, via a large dedicated allocation of scallops to the General Category. They did not (and cannot) explain why the Council’s preferred alternative to create a Northern Gulf of Maine exemption area would not

³ Of this number, 88 are from New York and New Jersey, and 61 are from other Mid-Atlantic states. (PHD Table 13.) Of the 310 projected New England qualifiers, 130 are from Maine, 168 are from Massachusetts and New Hampshire, and only 12 are from Connecticut and Rhode Island. (PHD Table 13.)

suit their episodic fishery better than their receipt, via Amendment 11, of a large dedicated allocation of the overall scallop harvest they would rarely take (but might sell or lease as a windfall).

Recognizing Incidental Catch By Qualifiers

Another contingent of General Category participants largely went unrepresented at the public hearings. According to the Public Hearing Document, about half of those recording General Category landings in the years when the statistics were available landed between 1,000 and 4,999 pounds of scallops in their best year. Indeed, a full 256 of the 459 projected qualifiers landed between 1,000 and 4,999 pounds of scallops in their best year. (PHD Table 2, derived by subtracting the number of 5,000 pound qualifiers from the number of 1,000 pound qualifiers). This proportion applies year over year, as well.⁴ It appears that many of these General Category participants landed scallops incidentally, in other directed fishing operations. A non-transferable allocation, in line with Option 3.1.2.4.2, that enabled them to land 200 pounds of scallops per trip as incidental landings would make a better use of these qualifiers' allocable shares under Amendment 11 than directed 400 pound day boat trip allocations. Such an approach is also more in line with the Vision Statement.

* * *

We appreciate your taking the time to review our comments. FSF believes the Committee has the ability to lead the scallop fishery towards a successful future with Amendment 11.

Sincerely,



David E. Frulla
Shaun M. Gehan
Andrew Minkiewicz

Counsel for Fisheries Survival Fund

⁴ In 2004, 114 vessels landed over 5,000 pounds, and 109 vessels landed between 1,000 and 4,999 pounds. In 2003, 71 vessels landed over 5,000 pounds, while 58 landed between 1,000 and 4,999 pounds. In 2002, 55 vessels landed over 5,000 pounds, while 72 landed between 1,000 and 4,999 pounds. In 2001, 60 vessels landed over 5,000 pounds, while 45 landed between 1,000 and 4,999 pounds. (PHD Table 7.)



Comment
#10

June 4, 2007

David Tedford
104 Bentons Pleasure Road
Chester, Md 21619
410-310-8767

U.S. Congressman Wayne Gilchrest

Dear Sir:

My name is David Tedford and I am 49 years old. For the last 30 years, I have worked on the water commercial fishing, oystering, crabbing, clamming, hard shell clamming, soft shell clamming, patent tonging for oysters, diving for oysters, and hand tonging for oysters. I am a fourth generation waterman; my great great grandfather worked on the water, my grandfather, my father, and now myself. I have primarily worked in the Chesapeake Bay and its surrounding waters, but due to the digression of the shellfish business and harsh restriction laws for Commercial Waterman in the Bay, I have recently begun to work in the Atlantic Ocean. Presently, and since November of 2005, I am catching scallops in the Atlantic. I have a General Category Permit granting me the right to catch 400 pounds of scallops per trip. I like this job, it's a lot of fun, and it is still a viable way of making a living working on the water, which I have always enjoyed.

It seems to be that my rights as far as working the water have been taken away. I used to hard shell clam in the Coastal Bays off the shores of Ocean City, and in the last year, a law to stop clamming in 2008 was legislated. My right as a permitted Commercial Clammer has been taken away with the inability to hard shell clam in the back bays, in Chincoteague Bay, and Isle of Right. This is just one way that our government has taken away my right to make an honest living. And as if this law was not enough, the New England Fisheries Management Council has now proposed Amendment 11 to the Scallop Fishery Management Plan (FMP) that, if passed, will refuse me the right to scallop simply because I was licensed after 2004- the "control date" for scalloping licensure. The Council may be denying me the right to renew my permit when it expires in March of 2008. The elementary fact that I have been working the water for my whole life is not considered relevant simply because I attained my scalloping license in 2005, not 2004.

What is being proposed is quite unfathomable. I will be able to work one day, and denied that function of survival the next. After having commercial fished for the last 30 years, not just as a job, but as a traditional way of life, it is an abomination that this governmental agency in this Land of Freedom and Opportunity is denying my family's income! I have income tax records to prove the fact that I have been in this profession for 30 years. I have been paying taxes on commercial fishing for the duration of that time and this law will restrict me from my family's way of life. The most ironic and disheartening fact about this bill, is that if some person who had never worked a day on the water in his life, bought a boat, obtained a permit, and went scalloping before the year

2004, worked for a couple of years, and left the industry would be eligible to reinstate their scalloping license because of their history- but not me, a life-long Commercial Waterman. When I obtained my permit from the National Marine Fisheries, no one from this department notified me in writing, or even verbally, that I may not be able to renew the permit. In order to continue my career, I bought an ocean boat and built a scallop rig. To obtain the equipment to scallop in the ocean, I invested over two hundred thousand dollars. Now Marine Fisheries is telling me I may not be able to continue the endeavors in which I spent so much time and money to begin, due to problems with the fisheries. I obviously would not have started in this business and invested such a magnificent amount of time, energy, effort, and money to stick my neck out in this way had I known my permit was not to be renewed. It seems it would have saved, not just me, but many hardworking Commercial Fishermen a great amount of stress and anguish had Marine Fisheries denied permit requests after their proposed "control date" in the first place.

From day to day experience, there does not seem to be a lack of scallops. However, Marine Fisheries believes, due to statistics, that day boats are the prime cause of scallop numbers deteriorating in the Ocean and that day boats are responsible for immense disturbances of the ocean's floor. In actuality, Marine Fisheries should know (with all the information on which we file reports, such as: when we leave port, when we come in, how many each boat has caught, in what area they were caught, in what depth of water, etc.) that day boats are much less responsible for these disruptions than the trip boats their Council seems to be endorsing. It takes only a matter of simple logic to figure out that the small percentage of day scallopers is not damaging the ocean the way trip boats are. Day scallopers dredge for a few hours each day. Trip boats are continuously dredging for eight to ten days. These boats catch 18,000 pounds of scallops- obviously a multitude compared to a day scalloper's 400 pounds. According to Amendment 11 Draft Environmental Impact Statement (DSEIS) to the Scallop Fishery Management Plan "prepared by the New England Fishery Management Council" states in table 1 that General Category vessels only landed 12.18% of the scallops caught in 2006. A few General Category vessels are not even putting a dent into what is being caught. There must be an obvious correlation between those catching the scallops and those causing fishing mortalities. If General Category vessels are catching less, we are causing less fishing mortalities.

Our product is certainly worlds fresher and therefore healthier. It seems consumers should much rather want to buy fresh day scallops than a form of seafood that is two weeks old by the time it gets to market. It makes me wonder what the bacteria count would be on these old products, if tested. I know how important age and temperature are when dealing with the shipping of seafood. I am vastly experienced when it comes to shipping soft-shell clams to the New England area. I can not understand why the New England Fishery Management Council would want to shut someone out of catching a fresher product for the consumer.

There are many things about the situation that do not make sense to me. Why would the National Marine Fisheries Services (NMFS) have issued a permit that I would not be able to renew? Why would they allow a Commercial Waterman to spend so much money in

order to scallop that he will not be able to make back without that renewed permit. How can the Council say that the miniscule number of scallop caught by day scallopers (compared to those caught on Limited Access vessels) is causing these environmental issues? How can the Council support trip boats if their best interests are in the preservation of natural resources and the seafood industry? The answer seems to be greed. It seems that the Council is hanging ethics in order to support trip boats which are quickly beginning to monopolize this industry by shoving out every little-man trying to make a living and delivering a older and inferior product at the same time. It can not be that with all the technology available and information available to the Fisheries that they truly believe denying hardworking family men the right to work as day scallopers can be the answer to saving the ocean's resources and preserving her natural gifts.

Thank you for your valuable time. Please also read the attached addendum concerning the public hearing I attended for Scallop Fisheries Management.

Sincerely,

David Tedford

June 4, 2007

David Tedford
104 Bentons Pleasure Road
Chester, Md 21619
410-310-8767

Addendum

On Tuesday, May 29, 2007 at 6:00 pm, I had the privilege of going to a public hearing for the Scallop Fisheries Management Plan in Newport News, Virginia. While a lot of things were discussed there, the main topic was the Scallop Fisheries Management Plan. I heard a lot of different opinions; but I was mostly appalled by the constituents of the management plan and the way in which the NMFS is handling its concerns.

National Marine Fisheries Services claimed to be concerned about the fishing mortality, but they have already implemented a plan to slow and stop the rate at which scallops are harvested. A major part of the East Coast's Ocean bottom has been closed up and deemed illegal ground for scallopers. From New Jersey to Ocean City Maryland, there is only a small strip of 8-10 miles that we are allowed to work in. From the 38'10 line south all the way to about the Chesapeake Bay the bottom is closed for scalloping- the NMFS has closed it; I can't see how something can be over fished if it's closed up-not even if there are 10,000 boats out there. Over fishing something is impossible if the bottom is closed. Certainly this is a good way of keeping over fishing from happening. Even rotating the bottom to give things a chance to reproduce and come back would be a legitimate way to regulate and reduce fishing mortality and over fishing.

When it comes to protecting our resources, the Council has not taken these bottom closures into consideration. Amendment 11 express the need to honor a General Category Permit control date of 2004 in order to further the protection of scallops. While denying anyone who obtained a day permit later than 2004 will undoubtedly cut down on the number of boats in the water, it will not create a drastic difference in the number of scallops being harvested, nor will it be a fair way to conduct business-especially from a government run agency such as NMFS. No such action needs to be taken.

The Council intends to deny the renewal of a General Category Permit to anyone who has not obtained their permit prior to 2004. At this meeting my friends and I spoke out against this unethical injustice. I expressed my concerns about my freedom as an American Citizen and my rights being taken away by these restrictions that seem to be undoubtedly going into affect. I even made a statement concerning the shamefulness of our men fighting for our freedoms in Iraq, and my freedoms being taken away right here in our own country.

Let me reiterate to you what statements I made during this meeting, and by doing so, further explain the consequences of the "implementations," the restrictions on the scallop fisheries concerning the General Category Permits:

What is going to happen to my colleagues and me if our permits are taken away because we came into the scallop fisheries after the control date in 2004?

I knew nothing about this control date when I applied for my permit. Of course, I was never told anything about it until I *after* I bought my boat, invested hundreds of thousands of dollars in the vessel itself and the equipment necessary to get my boat ready to go scalloping.

The National Marine Fisheries *FAILED* to protect American citizens by informing everyone about this control date prior to the date itself and by the issuing of permits post-2004. The Fisheries should have made everyone sign a statement to the effect that their permit "could be revoked" due to this control date. I live 100 miles away from the ocean, and am learning as I go as far as the ways of the wide waters. It was dishonest of the Fisheries when they chose not to alert me and others like me about this possibility when I filed for my permit. As I have previously stated in my first memo, I'm a 30 year fisherman, a *Commercial* Fisherman. I am not a wealthy entrepreneur who enjoys fishing while vacationing all summer with my buddies. I am devoted to the water business and I have been for my entire life.

I ask again: What is going to happen to me if my permit is revoked-after I have spent so much money to prepare to scallop? Who will pay off the boat? Who will pay off my mortgage, for that matter! I can guarantee it will not be NMFS!

What we have here, it seems, is a systematic extermination of the Commercial Waterman. It's just one more way to push Commercial Fisherman off the face of the earth. This is parallel to Ocean City, MD where the laws were recently legislated to stop hard shell clamming in the Coastal Bays. I used to do that. Clamming is only part of my livelihood that has been taken away. Parts of my rights are gone. Where I live, on Kent Island, and in the surrounding areas, our government has not controlled the sewer systems. Nothing grows in our waters anymore. Out oysters and clams! Out soft shell clams! They won't grow there anymore, or at least they won't grow enough to sustain a living on the water. It's a shame. And it was for this reason that I ventured into the scalloping world. And now- What happens? Thanks to government controlled changes and regulations, my livelihood is suffering permanently again.

NMFS claims to be an equal opportunity employer. That statement is on all NMFS letters. It needs to be removed. The little-man is being discriminated against. Marine Fisheries will not just be revoking my right to scallop, but my right to make a living to survive. And it seems to be for two reasons: I do not own a trip boat, nor do I know anyone on the National Marine Fisheries Council personally.

Certainly by knocking many of the General Category scallopers out of business, trip boaters will be able to monopolize the scalloping industry. But what does this have to do with the Council's bias? At the meeting last week, I asked the Council how many of them owned, or knew personally individuals who owned trip boats. The Council chose not to honor my request for information. Their silence leads me to believe that if they had

answered truthfully, many of them would have in fact, been owners of trip boats or friends of trip boat owners. I stated that if they were owners or supporters, this conflict of interest could not possibly be legal. It is discriminatory to have these individuals sitting on the board and making decisions that cause self-employed day scallopers like me to lose their jobs and therefore their sole form of income. Even though I wasn't scallop fishing before 2004, I was a waterman just like all the owners of these trip boats. But once again, the little guy suffers.

No action in the General Category Fisheries should be taken. Allow any permitted fisher to renew their permit. How dare the Fisheries give out permits to scallop fishers and allow Commercial Fisherman to spend two or three hundred thousands dollars- only to revoke this permit in the future. This is despicable and unacceptable from our government- and especially from the NMFS- a group of individuals with enough data to know that the few hundred General Permit Scallopers with permits issued since 2004 are not the cause of fishery mortality. We submit hundreds of reports; there is no lack of information.

With all of the records that the NMFS has at hand, they have definitely failed when it comes to giving out permits after their control date. The least they can do now is to honor these permits. **Leave any man licensed who is already licensed**, and simply give out no more permits at this time. The Fisheries should have done this whenever this concern first came about. If there was a problem long ago, NMFS should have known it, and it should have been taken care of before present times. Many of us would not be in this position right now if it was done years ago. And the Council would not be to blame for the devastating decisions that are getting ready to be made.

As for the description of the Council's preferred actions, it is to allocate 2.5 to 11% annual projected catch. General Permit scallopers can not be causing more than 5-10% of the damage of fishing mortality out there. The other 95% goes to the trip boats or Limited Access Permit holders. There are countless trip boat and Limited Access fishers that are pulling two dredges, two 15 footers, working around the clock, seven days a week. It doesn't take a rock scientist to figure out who is doing the most damage out there. The General Category fishery is doing considerably less damage compared to trip boats and Limited Access fishers making up nearly 95%.

Why now are we trying to squeeze out the little guy with such a high percentage due to fishing mortality? There doesn't seem to be a reason, other than greed. There is no logical reason to deny me, or any other General Category Permit Holder, a renewal of permit when we are only responsible for a miniscule amount of damage in comparison to trip boats. With such an insignificant annual projected catch and an insignificant amount of damage being caused by day boats, who can justify taking away a hard-working American citizen's livelihood? The answer is as simple as this: No one can.

Please consider carefully the things I have written, as it is my career and way of life, along with my family's survival, that is now in your hands.

Comment # 11

Ms. Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
1 Blackburn Drive
Gloucester, MA 01930

5/30/06

Re: "Comments on Scallop Amendment 11"

I appreciate the opportunity to submit these comments on General Category Amendment 11. My name is James Gutowski and I am a Full time limited access permit holder who has participated in both the General Category and Limited Access Sea Scallop Fisheries.

In line with Amendment 11's vision statement I support a historical inshore General category fleet, with a limited access management plan set at no more than 400 pounds per day for a reasonable amount of days for those who qualify.

Overall Allocation

In the preferred alternative's qualifying period 1994-2004; General Category landings were 1.96% of the overall catch. In 2004 (control date year) the General Category landings were 5% of the overall catch. The Council's Preferred Alternative of 5% should be an upper end percentage.

Limited access vessels should be allowed to fish under the General Category if they meet the qualifying criteria. During the qualifying period (1994-2004) limited access vessels fishing under the General Category landed an average of 1.12% of the overall catch. This same percentage should carry through to Amendment 11

Reallocation

Since the implementation of Amendment 4 Full time limited access participants have made conservation sacrifices, engaged in cooperative research and participated in the management process. It would be fundamentally wrong to reallocate the scallop fishery based on post control date landings when the scallop resource was at very high levels.

Qualification Criteria

The November 1, 2004 control date should be used. I understand the council's preference to include a wide range of participants however; this choice will qualify to large number of participants.

Alternative 3.1.2.4.2 would be a good option providing lower landing limits for a tier of qualifiers between 1,000 and 5,000 pounds. This option can work well with allocations based on trips as well as pounds.

Any vessel qualifying for limited access under Amendment 11 with a dredge should only be able to fish under Amendment 11 with a dredge. In line with Amendment 10 to increase yield per recruit the council should set a lower possession limit for vessels not fishing with a dredge to protect juvenile scallops. Unrecorded or illegal landings should not count toward qualifying.

Stacking and Consolidating

Again in keeping with Amendment 11's vision statement "projecting a fleet of relatively small vessels" it should not allow, stacking or other forms of consolidation for the purpose of grouping poundage on to larger vessels planning to fish offshore.

Northern Gulf of Maine Exemption Area

I support the creation of an NGOM exemption area north of 40'20 to accommodate certain historical interest. The mortality from this NGOM exemption area should not count against limits set in this FMP.

Yellowtail Access Allocation

The General Category should receive a dedicated allocation of yellowtail for their access trips. This allocation should match the scallop allocation for each access area. This should not be based on the overall allocation of the scallop resource fishery wide.

Interim Period

Amendment 11 should not take years to complete. During this transition period General Category effort needs to be capped. Participants with no long term interest could cause considerable damage to the resource during this period. A 10% cap is too high for this interim period and will lead to more effort in the short term.

Amendment 11 should maintain current access area caps during this transition period.

Fishing Year

The fishing year should not be changed. Business plans and operations have been based on this schedule for years. The current fishing year matches the best scallop yields thus maximizing yield per scallop recruit.

Thank you
James M Gutowski
F/V Elizabeth
F/V Kathy Ann



comment
#12

TEL. (609) 884-3000

P.O. BOX 555
985 OCEAN DRIVE
CAPE MAY, NEW JERSEY 08204

FAX (609) 884-3261

Ms. Patricia Kurkul, Regional Administrator
National Marine Fisheries Service

June 5, 2007

RE: Comments on Scallop Amendment 11
Via e-mail to: Scallop.eleven@noaa.gov

Dear Ms. Kurkul and NEFMC Members,

Whereas the NEFMC has chosen to utilize limited entry as a keystone of management to control mortality from General Category fishing effort, the single most important decision the NEFMC must make in Amendment 11 is the percentage of landings to allocate to the new General Category Limited Access qualifiers.

The NEFMC and NMFS should allocate no more than 2.5% of the total scallop landings to General Category effort and 0.5% to Limited Access Vessels while General Category Scalping for a total allocation of 3%.

The NEFMC initiated Amendment 11 due to the 'Gold Rush' mentality of 'bubble' entrants that began in 2003 and peaked in 2005 (General Category effort is on the decline now due to their over harvests of the Open Area Beds). The NEFMC has already appropriately decided to utilize the November 2004 control date and to limit qualifiers to those vessels with sufficient landings before the control date.

With this in mind, it would be inappropriate to allocate to these qualifying 'historical' General Category participants more than had 'historically' harvested, especially in light of the fact that any allocation to these General Category participants in excess of their 'historical' catches must by definition 'reduce' the historical landings of the Limited Access Scallop vessels who have been the backbone of the scallop fishery. The existing Limited Access Scallop Vessel Owners' cooperative conservation efforts husbanded and rebuilt the Scallop resource to the point where catches were sufficiently good to attract opportunistic entrants by General Category fishermen. The NEFMC should not reward the General Category fishermen by taking from Limited Access Fishermen.

Referring to Table 1 in the Public Hearing Document – *Summary of scallop landings by general category vessels, limited access vessels under DAS and limited access effort for trips under 400 pounds* (copied on the next page) – the following analysis can easily be confirmed:

- The Average of General Category landings from 1994 to 2004 was 1.96%
- The Average of Limited Access effort under 400 pounds from 1994 to 2004 was 1.12%
- The sum of these (total General Category and Limited Access below 400 pounds historical landings 1994 to 2004) is 3.08% (3%).

The NEFMC current preferred alternatives for General Category effort is 5% and the NEFMC preferred alternative for Limited Access Scallop vessels when General Category fishing is 0.5%. This would total combined 5.5% for General Category effort if approved by the NEFMC. There is no logic or policy basis for these levels of allocation:

- None have articulated a credible, legitimate argument for why General Category should be allocated more than its historical average of 2%.
- None have articulated a credible policy basis should General Category landings be allowed to go up by 255% (from 1.96% to 5%)?

The historical average of both General Category and Limited Access landings combined was 3%. If Limited Access were allocated 0.5% of landings (a reduction of 64% of their historical landings) that would leave 2.5% for General Category landings (an increase of 27% of their historical landings).

Table 1 – Summary of scallop landings by general category vessels, limited access vessels under DAS and limited access effort for trips under 400 pounds.

| Fish Year | Total scallop landings (LA and GC) | Total scallop landings by General Category vessels only | | Total scallop landing by Limited Access vessels under DAS | | Total scallop landings by limited access vessels outside DAS (on 400 lb trips) | |
|-----------|------------------------------------|---|--------|---|--------|--|-------|
| | | LBS | % | LBS | % | LBS | % |
| 1994 | 14,907,265 | 95,268 | 0.64% | 14,713,046 | 98.70% | 98,951 | 0.66% |
| 1995 | 15,807,941 | 123,967 | 0.78% | 15,603,104 | 98.70% | 80,870 | 0.51% |
| 1996 | 16,447,682 | 204,635 | 1.24% | 16,175,248 | 98.34% | 67,799 | 0.41% |
| 1997 | 12,619,221 | 310,049 | 2.46% | 12,122,375 | 96.06% | 186,797 | 1.48% |
| 1998 | 11,186,468 | 164,435 | 1.47% | 10,528,707 | 94.12% | 493,326 | 4.41% |
| 1999 | 21,286,244 | 150,482 | 0.71% | 20,713,733 | 97.31% | 422,029 | 1.98% |
| 2000 | 32,929,475 | 357,691 | 1.09% | 32,259,404 | 97.97% | 312,380 | 0.95% |
| 2001 | 45,164,706 | 1,216,947 | 2.69% | 43,659,686 | 96.67% | 288,073 | 0.64% |
| 2002 | 49,808,416 | 983,775 | 1.98% | 48,641,573 | 97.66% | 183,068 | 0.37% |
| 2003 | 54,778,793 | 1,809,071 | 3.30% | 52,781,614 | 96.35% | 188,108 | 0.34% |
| 2004 | 61,714,971 | 3,245,661 | 5.26% | 58,106,020 | 94.15% | 363,290 | 0.59% |
| 2005 | 53,214,097 | 7,495,884 | 14.09% | 44,917,224 | 84.41% | 800,989 | 1.51% |
| 2006 | 56,149,105 | 6,838,083 | 12.18% | 48,886,653 | 87.07% | 424,369 | 0.76% |

I urge the NEFMC Scallop Committee and the full Council to fully look at the policy basis and implications of the allocation to the General Category fishery and to change their preferred alternative. I urge the NEFMC Scallop Committee and the full Council to adopt the following allocation of Scallop landings:

- 2.5% for General Category new limited access qualifiers
- 0.5% for Limited Access vessel which will qualify
- 3.0% total for the entire General Category fishery

Thank you for considering these comments.
Daniel Cohen, President

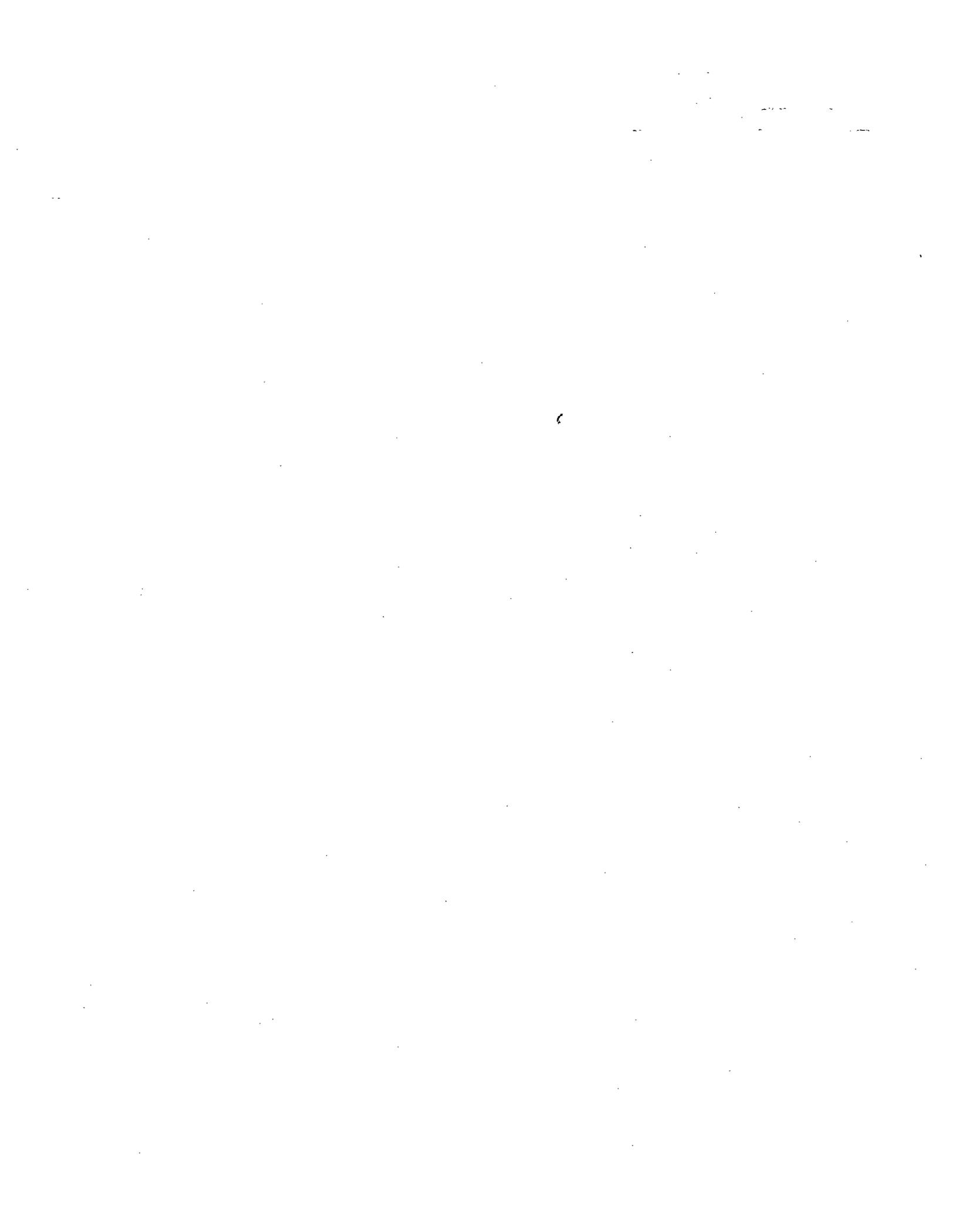
Subject: Amendment 11
From: BaileysOystersCo@aol.com
Date: Tue, 05 Jun 2007 14:36:22 -0400 (EDT)
To: Scallop.Eleven@noaa.gov

In reference to Amendment 11, Section 3.1.2.1.3, for the years 2000 – 2004, I support this proposal for a five year – five thousand pound minimum in order to qualify for permits. This would create a smaller number of permits with a more viable fishery for the participants who qualify. Giving a longer time frame for qualification means more permits with fewer trips per boats not making it feasible to maintain boat and make a living. General category should be set at 5% of the total quota of scallop stock and leave a quota cap at 10% for the interim in implementing limited entry. I also support possible future poundage limit as opposed to trip limits and support possible future permit stacking in order to remain active and economically feasible to remain in the fishery since it costs too much to maintain a boat if there is only 25 – 30 trips per permit.

As in this scenario of 3.1.2.1.3, I myself will forfeit a permit in order to maintain one permit of viable economic value and fishing days.

Thank you,
Scott R. Bailey
Bailey's Oysters, Crabs & Soft Crabs LLC

See what's free at AOL.com.



Nordic Fisheries, Inc
14 Hervey Tichon Ave.
New Bedford, MA 02740
508-993-6730

June 1, 2007

National Marine Fisheries Service
Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930

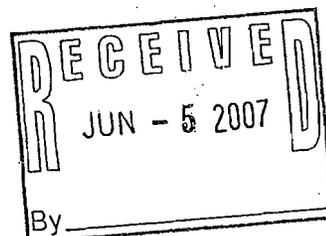
Attention: Patricia Kurkul, Regional Administrator
Comments on Scallop Amendment 11

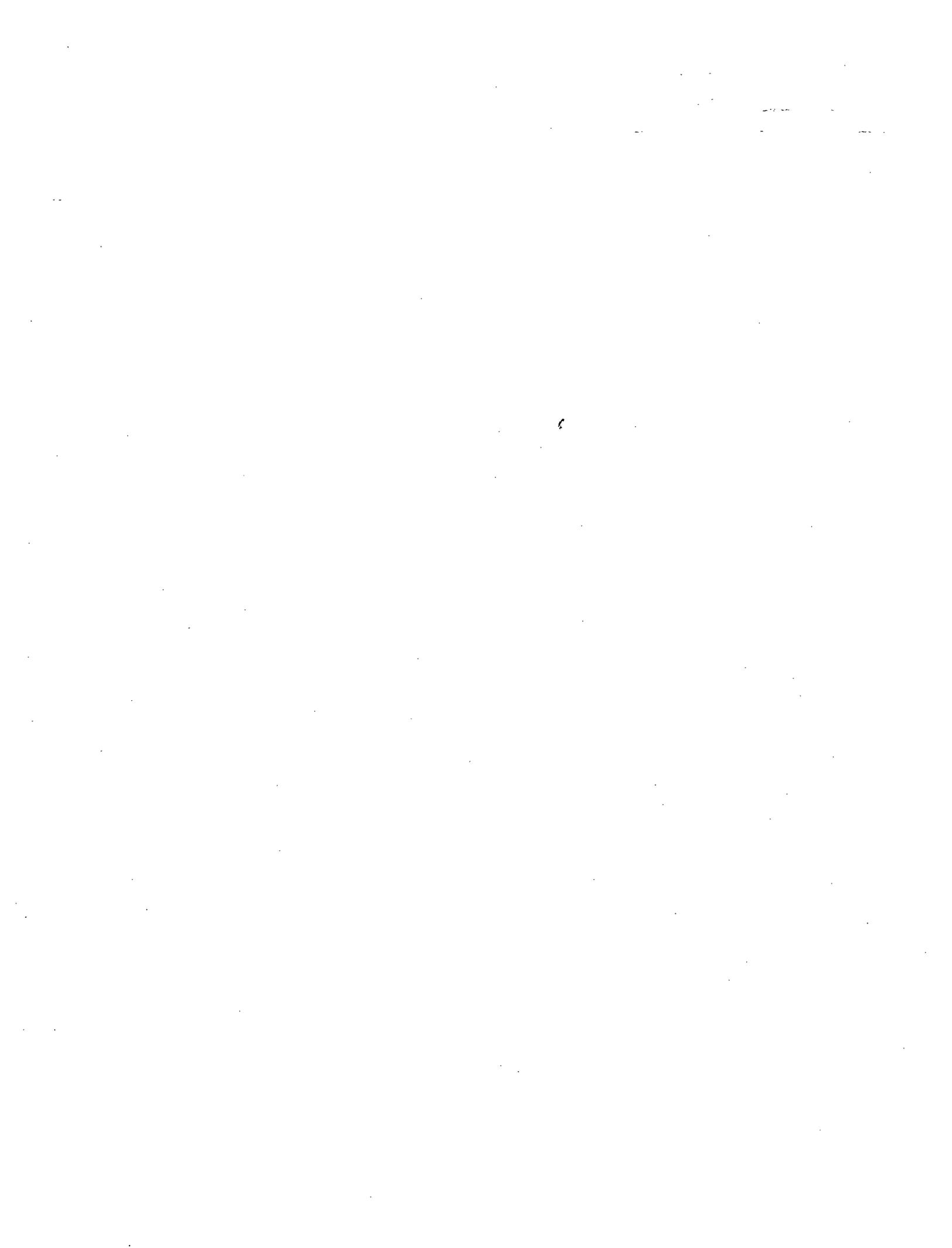
I would like to make a few comments on Amendment 11. First when the scallop management plan was formed to have limited access there was no thought of a general category fishery. The 400 lbs. was for by-catch thinking about draggers making a trip and getting a few scallops in their nets just the same as scallopers are allowed a little fish for by-catch. There is no legitimate reason to allocate more than 2 or 3 percent to general category. Historically they have only had very high landing the last couple of years. The limited access scallopers have developed this fishery and paid their dues over many years and deserve to have their fishery. It also seems to me that to allow general category 10% during the appeal process when the preferred alternative from the council is a very generous 5%, 10% makes no sense at all.

Sincerely yours,



Roy Enoksen
President





Patricia Kurkul, Regional Administrator
NMFS
N.E. Regional Office
1 Blackburn Drive
Gloucester, MA 01930

Dear Ms. Kurkul,

These are my personal comments on the proposed Amendment 11. Regarding the DRAFT LIST OF MANAGEMENT ALTERNATIVES for Amendment 11 as provided through NEFMC website, I wish you to consider the following thoughts.

Under the qualification criteria I believe anyone who possessed a General Scallop Permit before the CONTROL DATE should retain access to the proposed new General Scallop Permit (limited access) and should not be exposed to losing it due to limited participation. Everyone who has made a financial commitment to pursue scalloping, should be able to continue to do so.

Throughout the literature provided over NEFMC website for the past three years a recurrent theme persisted to justify curtailing the General Scallop Permit allocation. This theme purported that the category was initiated to be used as a part time limited basis fishery to fill gaps in fishing seasons for smaller vessels and not to be used as full time. However, under the alternatives presented, if one used the permit on a limited basis part time as intended, one would now be penalized for not abusing the original purpose of the category by working fulltime. Those who did work full time and abused the original intended concept of the general category are now to be rewarded with higher allocations than those who did not. This is oxymoronic logic.

To reward those who abused the original intention of the category and punish those of us who abided by the original concept seems less than fair. Everyone who had a license before the control date should be granted a limited access General Category Permit and should receive an equal allocation. Equal allocation is the only way to be fair among permit holders.

A low allocation to general category vessels would prove to be uneconomical for the fisherman. The cost of the ever rising three dollar per gallon diesel necessary to make a trip in the Mid-Atlantic to the scallops grounds fifty miles off shore preclude a profit to be made without generous poundage allotment. If any action should be taken to adjust poundage per trip it should be to up the poundage to six hundred pounds per trip or more to make it more economical for fishermen to make a living and not starve themselves burning diesel.

In addition, since this is a Federal resource all states having waters adjacent to the scallop grounds should have a minimum number of participants to promote parity among those states with active fisheries. My state, Delaware, would be extremely restricted in eligible participants while other states would field ten times our number of participants.

The last item I wish you to consider is the apparent lack of concern for the misappropriation of a Federal natural resource. When day boat General Category Scallopers are paid two dollars per pound more for their natural, fresh, sweet product than their ten day at sea, preservative washing, bitter tasting, limited access vessel product,

monetary waste becomes apparent. Why wouldn't the Federal Government want to allocate more scallops to those who bring the highest value for the resource and discourage those who command less money for an altered product?

Please increase the General Category allocation to an acceptable percentage between ten to fifteen percent. There are plenty of scallops for everyone. It seems economical nonsense to curtail the General category allocation when they maximize the revenue generated for the same natural resource and present it in a fresher condition to market.

Let's be fair and honest in distributing this federal resource between all participants and give the smaller boats a larger piece of the pie.

Thank you for considering my thoughts,

Ray G. Trout Jr. / Scallop
President, Cape Henlopen Shellfish Inc.
F/V Emily Jayne
General Category Scallop Permit Holder

P.O. Box 637
Lewes, De 19958

Phone/Fax
(302)645-2318

Stanley(Buddy)Pritchett
100 Radcliffe Drive
Cambridge,MD. 21613
410-228-4725

Comments on Amendment 11 to the Scallop Fishery Management Plan

I attended the public meeting on May 29 at Newport News,VA. I listened to all the proposals being made and am very concerned because it sounds as though my livelihood as well as my sons is in grave danger. These proposals will surely end our scalloping careers.

I am a third generation commercial fisherman who has worked the last 40 years doing the job I love and my son has followed in my footsteps.I've worked the Chesapeake Bay and the Coastal Bays of Ocean City, but with the depletion of oysters, soft shell clams and the closure of the Coastal Bays in 2008, it led us to general catagory scalloping in the Atlantic.

I guess my main question is why did you keep issuing permits if there was already a control date on the table? We were issued permits and invested an extremely large amount of money, in excess of \$250,000. I guess to some that may not seem like a lot , but to us that is a huge investment.

As of 2004, only 19 boats held day scallop permits in the state of MD.How much harm can they do to the vast Atlantic Ocean?The bulk of the permit holders are from New Jersey northward. Don't take away permits just don't issue anymore, and let the fisheries continue for the current General Catagory Scallopers.

The smaller day scallop boats are ^{controlled} ~~controlled~~ more by the weather than the larger limited access boats. That in itself helps control the fishery. They have already closed a large area almost to the Chesapeake Bay Bridge Tunnel leaving only a very small area off the MD.and DE. Coast.This closure along with the opening and closing of areas such as the Elephant Trunk were implemented to solve the over fishing and fishing mortality problems.

Why allow the limited access vessels to have their trip permits plus the general catagory scallop permits? They get both and just because I didn't have my permit in 2004 mine will not be reissued.Is it so easy for you to deny us the right to use these permits to make a living? We are honest, hardworking watermen who value our resources as much as you do, but we don't want to be kicked out of an industry in which we have invested so much while others can continue to work. How much influence have the limited access permit owners had over these proposals? Sounds like they are in a win win position, losing nothing and gaining almost exclusive rights to the Atlantic Scallop Industry.According to Table1 the day boats caught 12.18% while the trip boats caught more than 87% and according to your records the day boats are responsible for all the problems with the fishery.

It would be a travesty if the NMFS allows this to happen. Continue to monitor, and the

opening and closures of access areas, and allow the day scallopers with permits currently to stay in the fishery. This fishery should stay open for all of us.

If I am shut out of this industry I feel I should be reimbursed by the government for my investments. The government should buy out all of the day scallopers who will no longer be able to count on making a living in this fishery. Hopefully, day scalloping will remain open to all permit holders but, if not I think this would be the only fair alternative.

For one minute put yourselves in our place and consider the investments and possible loss of income and let your conscience be your guide and let things remain the same.

Stanley Pritchett



NMFS
One Blackburn drive
Gloucester MA 01930

Scallop Amendment 11 Comments

Dear Sir,

Draft Amendment 11 Scallop Fishery Management Plan. DO NOT CHANGE FISHING YEAR!

Yamaha Fishery Journal No. 34 October 1990 is scientific information presented to the Council first in 1995. Journal 34 was resubmitted in 2006 as management information. Scallops: Biology, Ecology and Aquaculture (Elsevier edited by S.E. Shumway) another scientific source of information have been ignored by the scallop Management PDT, along with the council. Amendment 11 does not protect small scallops. Since 1987 scallop production has increased in most producing nations by resource management & genetic selection. Amendment 4 to the present resource management has not occurred. Instead fishermen activities have been curtailed and ring size increased and closed areas randomly selected due to natural scallop settlement. Basically ring size increase results in target the fastest growing scallops of the year class thus creating reverse genetic selection over the long term.

Ring size increase created a market share for small imported scallops, eventually this will create market prices controlled by imports!

No effort was exerted to encourage aquaculture by the scallop industry, Sea Grant refused grants for scallop grant meetings with coast wide industry.

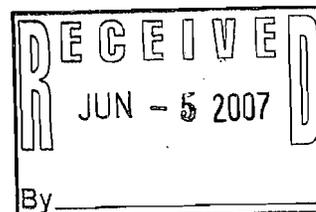
Scallops are not being managed by proposed amendment 11, (BEST SCIENCE,) Shumway page 864 references cyclicity in production associated with periodic tide phenomena. Journal 34 references a ten year cycle of production (solar cycles). Current utilized BEST SCIENCE; of amendment 11 does not mention cycles.

Predation from starfish referenced Shumway page 639 and Journal 34 has not been addressed in any scallop management. Scallop managers have not investigated how other countries have tripled scallop production. SCALLOP AQUACULTURE BEGAN AT THE MILFORD LAB, THE TECHLOGY WAS NOT UTILIZED IN MANAGEMENT ACTION! Science gained was not applied to sea scallops.

Amendment 4 should allow the day fishery to remain with the same number of current vessels as of the moratorium date Nov. 04.

BY REQUIREING GENERAL SCALLOP VESSELS TO LAND starfish as a portion of the 400# catch effort on small scallops can be eliminated (J34.) (In theory the number of small scallops consumed by starfish SHOULD be off set by the harvest by general scallop vessels. Moving day scallop vessels to Aquaculture would allow an increase in scallop production. Amendment 11 does not address any method to increase survival of small scallops except effort reduction.

The systematic rotation of harvest areas are supported in (Shumway) (journal34) but ignored in amendment 11. Science utilized by council in amendment 11 fails to address any method that allows for increased production or the harvest of smaller scallops to meet market demand.



OVERFISHED AND OVERFISHING ARE A RESULT of MANAGEMENT AND GEAR SELECTION WITHOUT REGARD TO KNOWN CYCLES.

AMENDMENT 11 REWARDS THOSE FISHERMEN THAT CREATED THE PROBLEM, (Made general category a sole source of income not a by-catch associated with other fisheries,) INCREASED DISCARDING OF SCALLOPS IN FLOUNDER AND RELATED FISHERIES, DOES NOT ADDRESS MORTALITY ON SMALL SCALLOPS FROM PREDATION OF STAR FISH.

Amendment 11 is not based on scientific information that can be replicated. The basis of Amendment 11, does not comply with the Manguson Fishery act. 101-627, 104-297 purpose (3) to assure that the national fishery conservation and management program utilizes, and is based upon, *the best scientific information available; involves and is responsive to the needs of, interested and affected States and CITIZENS; CONSIDERS EFFICENCY;* draws upon Federal, State, and academic capabilities in carrying out research, administration, management, and enforcement; considers the effect of fishing on immature fish and encourages development of practical measures that minimize by-catch and avoid unnecessary waste of fish; and is workable and effective;

The primary goal is to control capacity and mortality in the general category scallop fishery, The secondary goal is to allow for better and more timely integration of sea scallop assessment results in the management process.

Capacity control would not be necessary *IF* STARFISH WERE LANDES IN AN AMOUNT NECESSARY TO OFF SET HARVEST MORTALITY! Council need only implement requirements for starfish landing requirements for vessels targeting general category scallops as a sole source of income. Other General Category vessels would have a percentage of other catch plus additional pounds of star fish.

Assessment results not considering the above mention scientific cycles are not valid yearly, thus managing yearly can not be justified as best science. Current management by ring size **GIVES AN IMPORT ADVANTAGE TO SMALLER SCALLOPS, THUS UNDERMINDING** future price of the scallop industry.

Amendment 11 should be scraped in favor of landing limits on general category vessels requiring a portion of starfish. The council could have implemented yearly landing limits.

Amendment 11 will forever eliminate the ability of Citizens who shuck shell stock scallops to have employment, in the four boom years of the 10-11 year cycles. This for North Carolina will have economic effect in the lowest per capita Counties.

The assessment results must include the cycles that are known to affect scallop production. **NO NEED FOR TIMELY INTERGRATION OF SEA SCALLOP ASSESSMENT IF THE LONG TERM BEST SCIENTIFIC CYCLES ARE NOT**

UNDERSTOOD OR ignored! SCIENTIFIC IGNORANCE CONNOT JUSTIFY AMENDMENT 11 not including starfish management to reduce mortality.

Answers to focus comments on amendment 11 public comment!

1. Capacity should be limited to the Nov. 04 control date or VMS.
2. Require landing starfish as portion of GC targeting scallops with no other landings.
3. Having a permit prior to 04 all should be in
4. all qualifiers must have same access to resource. Why reward the cause of the perceived problem, with low prices and fewer scallops the GC fleet has decreased in 07.
5. no sectors should be allowed!
6. NO! The gulf of Maine should be the first introduced to aquaculture of scallops.
7. NO! limited access built the GC landings No vessel should be removed from GC fishing.
8. NO!
9. NO! ALL YELLOW TAIL CATCH SHOULD BE LANDED AND SOLD THUS AN ACCURATE AND HONEST BY-CATCH RECORD WOULD EXIST AND CATCH WOULD NOT BE WASTED! *(HOW DOES ESTIMATED BY-CATCH REDUCE BY CATCH? CONVERT YELLOW TAILS TO LANDINGS!*
10. INCENDITAL CATCH MUST BE LANDED WITH APPROPATE AMOUNT OF TARGETED SPECIES OR STARFISH!
11. NO! the data is flawed; an example graphs showing scalloping activity are not to scale giving a non-realistic impression of area scalloped; scientist have continued to distort the area scalloped by general category with charts that are not to scale. Showing the public and managers a distorted impression of area fished.
12. No to trawl sweep less than 144 ft, increased scallop possession east of line if forced out of closed area by yellow tail closure; load the vessel & leave attempting to reach 18000 #
13. Yes the GC fleet by landing starfish can be forced to eliminate the mortality GC vessels have on scallops. Limited Access vessels could increase production by landing starfish or installing dehydration equipment utilizing heat from engine, (GOOD SCIENCE)
Amendment 11 fails to mention the effects even in the open ocean of PESTICIDES, PHARMACEUTICALS, PERSONAL CARE PRODUCTS, THUS IGNORING CHEMICAL AFFECTING REPRODUCTION OF SCALLOPS. (ST. LAWRENCE SEA WAY)
14. Amendment 11 should only put the control date number of vessels in the general category; close the open access permit. Match the number of starfish landed; to a number necessary so scallop landing mortality is less than the harvest mortality.

Sincerely, James Fletcher. 05-29 2007 123 Apple Rd Manns Harbor NC 27953



Developments in Aquaculture and Fisheries Science, 21

SCALLOPS: BIOLOGY, ECOLOGY AND AQUACULTURE

Edited by

SANDRA. E. SHUMWAY

*Department of Marine Resources and Bigelow Laboratory for Ocean Sciences,
West Boothbay Harbor, ME 04575 (U.S.A.)*



ELSEVIER Amsterdam — Oxford — New York — Tokyo 1991

SEA SCALLOP, *PLACOPECTEN MAGELLANICUS*

K. S. NAIDU

Science Branch, Department of Fisheries and Oceans, P. O. Box 5667, St. John's, Newfoundland A1C 5X1 Canada

FISHERIES

From an economic viewpoint, the sea scallop, *Placopecten magellanicus* (also called giant scallop, smooth scallop, ocean scallop or Atlantic deep sea scallop) is by far the most important pectinid species in the world. Between 1976 and 1987, it alone accounted for some 30% of the mean annual global production of all scallop species combined (Table 1). In some years it contributed to more than half of global scallop production. Sporadic booms in natural production associated with temporal fluctuations in abundance in some species (e.g. calico scallop) and manipulated production through enhancement in some others, particularly the Japanese scallop, *Patinopecten yessoensis*, have in recent years relegated sea scallop landings to a seemingly secondary role. In 1986, for example, up to 60% (163,601 t out of 276,596 t. whole weight) of *Patinopecten* production was culture based, spuriously depressing the sea scallop contribution to world tonnage.

The Atlantic sea scallop is a relatively large mollusc commonly reaching sizes between 10–15 cm and frequently beyond. While large as contrasted with several other scallop species, the implied gigantism is not always characterized by unusual or disproportionate shell size. The largest sea scallop ever recorded measured 211 mm (shell height, tangential dorso-ventral measurement), a size a little larger than the previous recorded of 208 mm (Norton 1931) and had an adductor muscle (meat) weight of 231 g (0.51 lb.) (Naidu, unpubl.) Rock scallops, for example, are better endowed with shell heights approaching 250 mm (Hennick, cited in Kaiser 1986). Maximum age recorded for sea scallops is 29 years (Naidu, unpubl.). The shell of the sea scallop is almost circular in outline with symmetrical wings at the hinge (p. 875). Whereas the lower right valve is white, flat and smooth, the left valve is usually light to pale brown, convex and delicately ribbed. Occasionally, both shell valves are white. Concentric rings on the delicately ribbed surface of the left valve have been verified to be annual (Stevenson and Dickie, 1954; Posgay 1962; Naidu 1969) and are commonly used for age determinations. Oxygen isotope records have also confirmed that growth lines are in fact annual events, consistent with biological interpretation (Tan *et al.* 1988). Hurley *et al.* (1987) have shown that the number of growth lines in laboratory reared post-larval shells is related to the actual age in days. Growth rings are especially pronounced in northern shallow-water populations (Naidu 1975). Repeated encounters with fishing gear in heavily fished aggregations and the haphazard deposition of shock rings makes interpretation of annual growth rings sometimes difficult and frequently impossible. Under these circumstances it may be necessary to utilize growth bands on the resillium (Merrill *et al.* 1966).

Sea scallop beds of sufficient extent and density to support commercial fisheries occur from Virginia Capes (latitude 36°50'N) to Port au Port Bay, Newfoundland, Canada (latitude 48°40'N). Offshore, sea scallops have been exploited commercially on Georges Bank, the Mid-Atlantic Shelf, Browns Bank, German Bank, Larcher Shoals, Grand Manan, around Sable Island, Middle Ground, Banquereau Bank, and on St. Pierre Bank (Fig. 2). The Bay of Fundy (especially off Digby) and Gulf of Maine also have had a long history of production. A full 44 percent of the Canadian catch in 1989 (4,600 t meats), approximately equivalent to the total Canadian removals from Georges Bank in that year, came from the Bay of Fundy (Table 2). In the center of its range (Georges Bank and Middle Atlantic Shelf), scallops have been quite successful and have withstood moderate to heavy exploitation. The Mid-Atlantic area off Long Island and New Jersey (New York Bight) and Delmarva and Virginia-North Carolina regions has become more important in recent years, sometimes contributing to more than half of the USA total scallop production (Table 2). In the Gulf of Maine, the majority of catches come from inshore U.S. territorial waters. Georges Bank, where most of the offshore effort is directed, constitutes the world's largest, single natural scallop resource (Caddy 1989). Scallop production on Georges Bank has been attributed to the presence of a large gyre which forms during the summer and later helps to retain planktonic scallop larvae within the area until they are ready to metamorphose and settle to the sea bottom (Larsen and Lee 1978). Towards the extremes of their range, sea scallops generally have been less successful and have not withstood continued, heavy exploitation (Dickie and Medcof 1963). Fisheries in fringe areas such as the northeast coast of the United States (Serchuck *et al.* 1979) and St. Pierre Bank (Naidu *et al.* 1983b) typically are characterized by a disproportionate dependence on sporadic recruitment of a single or a few intermittent and, sometimes, well-spaced year-classes. Consequently, in fringe areas, fisheries must cope with wide and, sometimes, catastrophic temporal fluctuations. As in most scallop fisheries, sea scallop recruitment, even in the center of its range frequently is irregular and poses undue problems to an industry that is typically overcapitalized. In some other areas such as the Bay of Fundy (Caddy 1979; Dadswell *et al.* 1984; Robert *et al.* 1984) there is evidence of cyclicity in production which appears to be associated with periodic tidal phenomena. These departures from 'steady-state' have wide-ranging implications for the orderly development and judicious management of scallop fisheries.

NOTE

Table
produ

United

Geor
Mid
Gulf

Canac

Geo
Sabl
St. I
Mid
Bro
Ger
Bay

Hisc

State

fishe

1882

Prer

twec

recc

1921

Eng

offs

emc

193

mo

(Ar

wh

the

19:

ate

pr:

sh:

ue

not fully understood, but may include shading of *Zostera* beds (that might inhibit their growth), an incomplete food supply, or liberation of toxic metabolites.

Predation. The most widespread scallop predators are perhaps starfishes, as documented for *Pecten maximus* (Lecomte, 1952), *P. fumata* (Olsen, 1955), *Argopecten irradians* (Belding, 1910; Marshall, 1960), *A. gibbus* (Schwartz and Porter, 1977), *Placopecten magellanicus* (Dickie and Medcof, 1963; Medcof and Bourne, 1964; Caddy, 1968, 1973), *Patinopecten yessoensis* (Imai, 1971; Golikov and Scarlato, 1970), *Chlamys islandica* (Brun, 1968), *C. tehuelcha* (Orensanz, 1986), etc. Other invertebrate predators include sea anemones (den Hartog, 1986), gastropods (Belding, 1910; Davis, 1981; Dickie and Medcof, 1963; Marshall, 1960; Olsen, 1955; Orensanz, 1986), octopi (Orensanz, 1986), and crabs and lobsters (Elner and Jamieson, 1979; Jamieson *et al.*, 1982; Marshall, 1960; Pollack, 1988; Tettelbach, 1985). Populations inhabiting continental shelf areas are exposed to heavy fish predation (Caddy, 1968, 1973; Medcof and Bourne, 1964; Naidu and Meron, 1986; Posgay, 1953; Schwartz and Porter, 1977).

There are some known cases of scallop mass mortalities caused by starfish population outbreaks. Decline of *Argopecten irradians* in Buzzards Bay (Massachusetts) at the beginning of the century has been attributed to a starfish population outbreak (Belding, 1910: p. 68). Brun (1968) documented the complete kill of a *Chlamys islandica* bed by *Asterias rubens*.

Mortality due to predation is likely to be size dependent in most cases. Jamieson *et al.* (1982) found that the rate of predation of sea scallops by crabs and lobsters was significantly higher on small size categories than on large ones; size preferences were found to depend on the size of the predators (Elner and Jamieson, 1979).

Epibionts. Scallop shells are often colonized by a variety of epibionts, including algae, barnacles, tubicolous polychaetes, sponges, hydrozoans, bryozoans, other molluscs, etc. It has been postulated that epibiotic suspension feeders (frequently constituting a large fraction of the epibiotic load) compete with the colonized scallops for food resources (Belding, 1910: p. 71; Broom, 1976: p. 14, 16; Motet, 1979: p. 27; Sinderman, 1971; Allen and Costello, 1972; Wells *et al.*, 1964; Yamamoto in Imai, 1971: p. 320). This has never been experimentally demonstrated. Indeed, demonstrated effects of epibionts are in some cases advantageous to scallops, as discussed below. Demonstrated deleterious effects of fouling include entrapment (Leibovitz *et al.*, 1984), increased exposure to stranding (Orensanz, 1986), and deterioration of the shell and meats.

Shell borers. Spionid polychaetes of the genus *Polydora*, which are common borers of scallop shells (Blake and Evans, 1973), have been reported as causing the death of *Argopecten irradians* in Massachusetts (Turner and Hanks, 1959) and of *Patinopecten yessoensis* in Japan (Imai, 1971).

Stranding, usually caused by strong winds or storms, has been reported for *Argopecten irradians* (Belding, 1910), *Patinopecten yessoensis* (Kalashnikov, 1984) and *Chlamys tehuelcha* (Orensanz, 1986). The action of waves has been considered a main source of mortality of *Pecten maximus* in some areas of the Bay of Saint-Brieuc (Thouzeau and Lehay, 1988).

B. *CPUE as an Index of Abundance.* CPUE has been used to assess trends in population size in long-term ("between fishing seasons") and short-term studies, including seasonal trends (del Norte *et al.*, 1988) and within-season declines (see Section 1.1.2.C, below). The data needed are generally obtained through a "log program" (Fairbridge, 1953).

CPUE has severe limitations as an abundance index of scallop and other shellfish stocks. Bivalves and other shellfish—unlike fish—are sedentary. Individuals do not mix after each fishing operation (Baird, 1966: p. 43). The spatial structure of a shellfish stock is persistent, and fishermen do not fish at random over the fishing ground. Rather, once they locate a patch they fish it until density drops to some threshold level, and then move to another patch (Section 1.4.3:B). Given this sequential pattern of patch depletion, stock size is not reflected by CPUE.

C. *Fishing Success Methods.* Catch and effort data can be utilized to estimate initial abundance (ie, at the beginning of the fishing season or removal experiment), provided that the quantity of animals removed over the season (or experiment) is large enough to produce a detectable decline in abundance. CPUE is used as an index of abundance. An estimate of catchability, a coefficient that relates the CPUE index to actual abundance (see Section 1.4.3:B, below) is also obtained. These methods, known as "fishing success methods," are treated in detail by Ricker (1975: chapter 6) and Seber (1982: chapters 7 and 8). Two main families are of common use in fishery research: regression of CPUE on cumulative catch ("Leslie method") and of $\log(\text{CPUE})$ on cumulative effort ("DeLury method"). Dickie (1955), in the best known scallop application, obtained yearly estimates of the size of the Digby stock of *Placopecten magellanicus* over 10 years (1941–1951), using a modified version of the Leslie method. The DeLury method has been utilized to estimate stock size at the beginning of the season in several grounds of *Patinopecten* along the Japanese coast of the Okhotsk Sea (Ito, 1964).

Standard fishing success methods assume closed populations (no migration, recruitment or natural mortality), no competition between effort units, and constant catchability (q). Models, however, can be modified in a number of ways for specific purposes, as is well illustrated by Dickie's (1955) pioneering study. The basic Leslie model was modified to: (1) incorporate an independent estimate of natural mortality, (2) utilize only catch data from days defined as "fine" from meteorological records in order to satisfy the assumption of constant catchability, and (3) use effort information decomposed by segments of the fishing fleet (Ricker, 1975: p. 159–161). Natural mortality was incorporated by assuming that the ratio of catches and natural deaths remained constant over the whole experiment, and that effort level was known. Other, more flexible approaches exist that allow for variable fishing intensity (see Seber, 1982; Coomb, 1979; Sanders, 1988), and may or may not require effort information. Wolff (1987a,b) also modified the Leslie technique in an attempt to incorporate an independent estimate of natural mortality. He applied his method to estimate catchability and virgin biomass of the Peruvian scallop, *Argopecten purpuratus*. He assumed that total cumulative catch taken prior to each unit time period t was all taken at the middle of the time interval $[0,t]$. Wolff (1987b) contrasted the population trajectories predicted by his model against those obtained using the (better) approximation of Pope (1972), and found that errors introduced by his approximation

Comment #18

W. William Anderson

702 Dixie Road
 Moose River Cove
 Trescott, Maine 04652
 United States of America
 207-733-2179

June 01, 2007

Patricia A. Kurkul
 Regional Administrator
 United States Department of Commerce
 National Marine Fisheries Service
 Northeast Region
 One Blackburn Drive
 Gloucester, MA 01930-2298

Dear Pat:

I attended your public hearing on Amendment 11 to the Scallop Fisheries Management Plan. I hold a General Category Scallop Permit and I have a VMS on my boat. I would like to provide further comment on Amendment 11.

The focus of my attention has been lobsters in recent years though I have fished for Scallops in the winter and early spring in the distant past. I still own all my equipment and I could easily move into the scallop fishery. The reason I have an interest in scallops is if the lobster resource should fail to provide me with an income I would have something else to turn to.

I was informed that by a certain date I had to install a VMS on my vessel in order to maintain my ability to land 400# of scallops per trip. Those who met your demands by the given dates should be in the General Category 400# permit class whether they have landings or not.

I do agree that you have to manage the effort in all fisheries or we will have no fish, scallops, lobsters, etc.

One of my biggest concerns is the consolidation or ownership of permits you are allowing in the permits that hold significant ability to land product (limited access permits). In scallops you have a little over 300 permits with rights to land the majority of the resource. Then if you start to look at actual ownership of permits the number of persons who actually own or control these permits. Your numbers will shrink to a smaller number of people holding most of the landings rights to this resource. Then if you were to look at this and then who own groundfish permits with any landings ability and herring I wonder what the picture would look like. I believe from what I have read consolidation has been occurring and it will continue. My concern is that in time you could end up with a few or one large corporation holding all the limited access permits. I believe in the latest authorization of Magnuson-Stevens Fishery Conservation and Management Act, National Standard 4 of Magnuson-Stevens states that if it becomes necessary to allocate or assign fishing privileges among various U.S. fishermen, it should be carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges. While it does not actually spell out what an excessive share is it does address the consolidation and indicates that we should be sharing rights to our publicly managed marine resources.

With the conflict of interest laws in this country and other anti trust laws and I wonder whether people or corporations who hold such a majority share of the permit should be allowed to hold a voting seat on the New England Fisheries Management Council because of possible conflict of interest issues. While it would be all right for one of these large corporations to hold a voting seat if you have several of these large corporations on the council this could possibly represent some conflict of interest problems.

It is the shaping of and distribution of effort and landing abilities that makes me wonder about conflict of interest at the council level in the past. It is what was done in the past that has gotten us to where we are today.

I was appalled to learn that when a limited access vessel had used up his days as a limited access vessel he can then join the general category fleet and fish the rest of the year as a general category vessel. This allows even further consolidation of landings ability by multiple permit holders. This is one of the areas where I start to think about possible conflict of interest in past council decisions. There are other areas in fishers issues where I wonder

about conflict of interest and if it played a role. Conflict of interest may be or have been helping shape fisheries management decisions and be aiding the depletion and hindering the rebuilding of our nation valuable marine resources. I raise these issues because I see the general direction of management measures in place and new measures being proposed and it all leads to further consolidation for the big players while making it more difficult for others to continue to hold the right to fish.

General category was set up for the small boat fleet like myself who needs to have access to other fisheries to make it through the year. Weather alone will limit our days at sea. While most of those holding limited access have vessels that can stay at sea and fish in most any weather. It is my opinion that if you already have a limited access permit you should not be allowed to also hold a general category permit. Pick one not both. This should especially be the case if your corporation hold 7 limited access permits. If you hold one limited access permit and no groundfish or other limited access permits then this indicated that scallops are your business and you own one boat and you possibly could be allowed to participate in general category under general category rules but your participation could be limited in some way different than a person holding only a general category permit. You could give these boats a General Category C class permit to separate them from the rest so you know how many there are and what their landings are.

When I learned of the limited access boats using general category as well it has occurred to me that this could have a significant impact on the increased landings/effort by general category permits. This should be separated out and then we could be talking about the small boat general category fleet for New England using a 10 foot dredge or smaller and allowed to land 400# per day, which should be separate from the Mid Atlantic.

When you have addressed the issues listed above then I suggest you look at what is needed to manage effort in the General Category Scallop Fishery for New England.

I will make no further comments on Amendment 11 until these issues are addressed. When these issues are addressed then I think it could be appropriate to develop a new amendment to deal with effort in the General Category Fishery. You could look at separating A and B permit holders and closing access to the B category of the General Category permits after you have separated out those who also hold Limited Access Permits. Then The B category would represent what General Category was created for. The small boat fleet with 10ft. dredges. Possibly creating a C category permit with limited days, 400#s per day, etc. For single boat owners with single limited access permits.

There were many others at the hearing I attended in Ellsworth, Maine who said take no action and raised some of my concerns. I have gone further after listening to testimony.

Effort in the Lobster fishery has been growing and landings have been declining. This is not a good situation and there has been talk of the need to reduce effort in the lobster fishery though no action has been taken. Some of the growth in effort in the lobster fishery has come from effort reductions in other fisheries as they are being rebuilt. These fishermen have moved into the lobster fishery but they are going to be locked out of what was their primary fishery, after it is rebuilt. This is why I am bringing up this consolidation issue and the importance that resources be shared after they are rebuilt while realizing that effort needs to be managed to keep a fishery sustainable. Effort also needs to be shared in a fair and reasonable way.

Sincerely,



W. William Anderson

Subject: Scallop FMP comments
From: mwelch@jerseyshoreclammingcorp.com
Date: Wed, 30 May 2007 21:31:49 -0400
To: Scallop.Eleven@noaa.gov

My name is Michael Welch. I have been a commercial fisherman since shortly after I graduated high school in 1973. It was always my dream to own my own boat and fish for scallops. Even though I was aware of the talk of the Amendment 11 changes, I decided to take the only opportunity I could ever afford and purchased my own boat a couple of months ago. I realize that I will be out of business once the decisions are passed; however, I would like to say that I wish NMFS would have limited the access to boats from this area and not allowed boats from the south to come here to New Jersey and fish our waters. I presently am docked in Point Pleasant and it amazes me that in a situation where NMFS is realizing our waters are being over-fished that over 50% of the boats tied up at the dock are from the south -- the Carolina's to Alabama. I feel that if NMFS would not have allowed these boats to come into our waters, since they had over-fished the shrimp in their area, a person like myself may have stood a chance to continue to fish for scallops in the general category. I realize that it is probably too late after attending the meeting this evening in Manahawkin, but I wish to express my hopes that NMFS would look at removing these boats from our waters and allowing the local boats to retain their permits and continue fishing.

Thank you for your time and courtesies.

Michael D. Welch, President
Jersey Shore Clamming Corp.
F/V Annie Wilder

Deirdre Boelke

From: Scallop Comments [Scallop.Eleven@noaa.gov]
Sent: Thursday, June 07, 2007 11:24 AM
To: Deirdre Boelke
Subject: [Fwd: Super Ridiculous Bureaucracy]

----- Original Message -----
Subject: Super Ridiculous Bureaucracy
Date: Wed, 06 Jun 2007 19:46:41 -0400 (EDT)
From: CLevites@aol.com
To: Scallop.Eleven@noaa.gov

To amendment 11 council members,

I just downloaded 42 pages of unbelievable nonsense that somebody paid a lot of people to compile, complete with charts and diagrams, (Luckily no pictures) aimed solely at forcing small fishermen out of business and ending a traditional way of life for anyone who would hope to live life with a little bit more freedom than Manhattan stock broker. I mean really, were talking about a industry of General category fishermen with TAC of less than \$5 on average during a control period of technological miracles. Why should big corporate boats that can fish in almost any weather condition be allowed to force people to alter their life styles and lead less romantic lives so that they can have all the catch. GREED! It's the only answer that makes sense to me. Should I, as a person that was born in one of Maine poorest regions, not be allowed to make in a year what those boats make in a trip? They should be giving some of their allotment to potential young fishermen who are from rural coastal areas that would like to follow traditional pursuits. I for one believe there should be no changes in the general category permits.

Ralph Dennison

See what's free at AOL.com <<http://www.aol.com?ncid=AOLAOF00020000000503>>.

Comment
#21

Michael Skarimbos
145 Ames Avenue
Leonia, NJ 07605

May 31, 2007

Patricia Kurkul
Regional Administrator
NMFS
1 Blackburn Drive
Gloucester, MA 01930

Dear Ms. Kurkul,

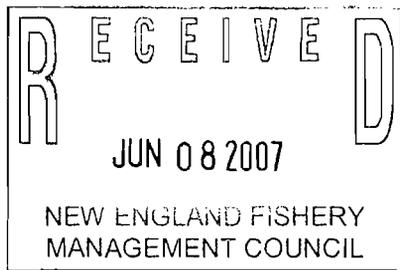
I would like to give my comments concerning Section 6.0 "Questions to help focus public comment on Amendment 11".

1. YES I believe capacity and mortality should be controlled.
2. I am in favor of limited entry.
3. I do not support the preferred alternatives. 1,000 lbs. over eleven years will water down the pool of permit holders so that vessels that are making 100% of their living in the general category TODAY and qualify for a permit will NOT be able to survive. 5,000 lbs over 11 years is ok, but over 5 years is more realistic.
4. A tier system is the only equitable solution.
5. Dredge only 10.6 for everyone everywhere.
6. Undecided.
7. Limited access boats fishing under a general day should come out of the limited access TAC.
8. 5% of the TAC is an unreasonably small amount. We are people with mortgages and families to feed. If a limited access fishery is to be created at the expense of many, it should be a viable one, not one that leaves us unable to sustain our families and with worthless boats and equipment.
9. See answer #8.
10. 40 lbs.
11. We all have V.M.S. Let's use them.
12. No.
13. No comment.
14. Additional comments: Speaking for myself and my crew I would like to say that the notion that this is some sort of "fill-in" or part time fishery is totally incorrect. Since giving up my groundfish permit, my vessel has made 100% of its income scalloping for the last seven years. You have the power to create a viable category with a healthy future and your abilities should not be swayed by owners of fleets of limited access vessels counting up small percentages of increase (due to our impending demise) that translates to big money for them.

Sincerely,

Capt. Mike Skarimbos
F/V Endangered Species
Montauk, NY





DENIS LOVOKEN
306 SUDBURY RD.
PT. PLEASANT, N.J.
08742
F.V. KAILEY ANN

* COMMENT # 22 *

DEAR MS. KURKUL,

I AM A THIRD GENERATION COMMERCIAL FISHERMEN WHO HAS FISHED OUT OF PT. PLEASANT, N.J. FOR 35 YEARS. I HAD A 70 FT WOOD VESSEL (F.V. LEAH) THAT I UPGRADED TO A 78 FT STEEL VESSEL IN 2006.

I WOULD LIKE TO COMMENT ON SOME OF THE PROPOSALS ON ADDMENTMENT II. I AM IN FAVOR OF LIMITED ENTRY TO CONTROL CAPACITY. I THINK THE ALLOCATION FOR THE GENERAL CATEGORY SHOULD BE 7-10 PERCENT WHEN LIMITED ACCESS WAS IMPLEMENTED IN 1994 ONLY 2 YRS 1988-9 WERE USED AS BASE YEARS LEAVING ALOT OF PEOPLE OUT OF THE FISHERY. I THOUGHT AT THAT TIME THE GENERAL CATEGORY FISHERY WOULD BASICALLY BE A PART TIME AND BYCATCH FISHERY WHICH I STILL THINK IT SHOULD BE.

WITH THAT IN MIND I THINK BOATS THAT HAD LANDING OF 100lbs OR MORE BEFORE THE CONTROL DATE SHOULD QUALIFY. I ALSO FEEL THAT A

FLEETWIDE HARD TAC BY QUARTER, WOULD WORK BEST. THE HARD TACS WHETHER QUARTERLY OR TRIMESTER HAVE WORKED VERY WELL IN MID-ATLANTIC FISHERIES SUCH AS FLUKE, SCUP, SQUID AND OTHERS.

WHEN I BOUGHT MY NEW BOAT REPLACING MY OLD ONE I ALSO INVESTED IN DREDGES TO GO SCALLOPING PART TIME, FIGURING MY PERMIT WOULD STILL QUALIFY, BUT NOW I AM CONCERNED ABOUT HOW THIS PLAN ENDS UP.

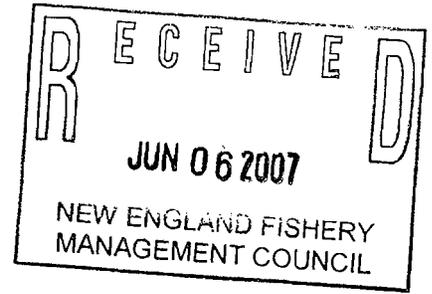
THANK YOU FOR YOUR TIME AND CONSIDERATIONS.

DENIS LOVGREN

Comment #23

Woneta M. Cloutier

From: Peter Christopher [Peter.Christopher@noaa.gov]
Sent: Monday, June 11, 2007 9:35 AM
To: Deirdre Boelke; Chris Kellogg; Woneta M. Cloutier
Subject: [Fwd: [Fwd: [Fwd: [GEN. CAT. SCALLOPERS]]]]



Comment on Amendment 11

----- Original Message -----

Subject: [Fwd: [Fwd: [GEN. CAT. SCALLOPERS]]]
Date: Mon, 11 Jun 2007 09:31:54 -0400
From: George Darcy <George.Darcy@noaa.gov>
Organization: NOAA NMFS
To: Hannah F. Goodale <Hannah.F.Goodale@noaa.gov>, Peter Christopher <Peter.Christopher@noaa.gov>

----- Original Message -----

Subject: [Fwd: [GEN. CAT. SCALLOPERS]]
Date: Wed, 06 Jun 2007 16:47:00 -0400 (EDT)
From: pirate@midmaine.com
To: Pat.Kurkul@noaa.gov
CC: George.Darcy@noaa.gov

TO WHOM IT MAY CONCERN,

AS A SCALLOPER MY WHOLE LIFE, WE'VE GONE THROUGH THE UPS AND DOWNS OF ALL THE RULES AND REGULATIONS THEY'VE THROWN AT US. WE ARE GENERAL CATEGORY, WHICH WE ACCEPTED 13 YEARS AGO INSTEAD OF GETTING THE BLACK BOX (WHICH LIMITED ACCESS LICENSES ARE WORTH UP TO \$1,000,000.) LAST YEAR THEY MADE US GET THE BLACK BOX ANYWAY, ALONG WITH A PERMANENT MONTHLY BILL TO PAY FOR BIG BROTHER TO TRACK OUR EVERY MOVE. AT THAT TIME, THEY CUT THE GEN. CAT. BOATS IN HALF, BECAUSE SOME BOATS JUST DIDN'T WANT THE AGGRAVATION. NOW WE SMALL BOATS ONLY DRAG 5-8% OF ALL TOTAL LANDINGS AND THEY ARE TRYING TO KNOCK US OUT THE REST OF THE WAY. THE TRIP BOAT (LIMITED ACCESS FISHING GEN CAT PERMIT ARE FIGURED INTO THIS NUMBER)

MY STAND IS, IF YOU GOT THE BLACK BOX, THAT'S IT. YOU SHOULD BE IN THE FISHERY THAT YOU COMMITTED TO. THERE'S PLENTY OF ROOM TO DROP LANDINGS OTHER WAYS. LIKE STOPPING THE TRIP BOATS FROM FISHING GEN. CAT. (THEY PURPOSELY USED UP THE TRIPS IN THE ELEPHANT TRUNK THIS SPRING TO KNOCK US OUT OF THE BUSINESS, OVER 1/2 THE TRIPS ALLOCATED). THE BIG TRIP BOATS ARE RUN BY PEOPLE WHO COULD CARE LESS ABOUT THE RESOURCE. OWNERS ARE NEVER ON BOARD. CREWS ARE OFTEN ILLEGAL ALIENS WHO PAY NO TAXES, OR JUNKIES. FOR THEM TO BE PICKING ON THE MINORITY FOR THEIR REDUCTIONS IS

ABSURD. WE USUALLY DON'T EVEN FISH WHERE THE BIG BOATS DO. THEY CAN'T MAKE MONEY FISHING 400# IN 24 HOURS...

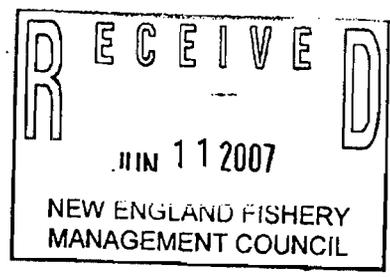
ONE MORE
THING I'D LIKE TO SAY IS I HOPE EVERYONE WHO LIKES SCALLOPS IS LUCKY ENOUGH TO EAT THE ONES CAUGHT ON THE LAST COUPLE DAYS ON THESE TRIP BOATS BECAUSE THE REST OF THEM SIT ON ICE FOR 8-10 DAYS BEFORE THEY EVEN HIT THE MARKET. ALL THE RESTAURANT SCALLOPS COME FROM DAY BOATS. I HOPE YOU CAN HELP US SINCERELY, JOHN, MARY & AJ
PS IF THIS GOES THROUGH OUR BOAT WILL BE USELESS EXCEPT FOR A CABIN CRUISER.

Comment #24

F/V RAYNA & KERSTIN

INSHORE & OFFSHORE CHARTERS, INC.

400 Wood St.
Little Egg Harbor
New Jersey, 08087
Capt.lars@verizon.net



June 8, 2007

Ms. Patricia Kurkel, Regional Administrator
National Marine Fisheries Service
1 Blackburn Drive
Gloucester, MA 01930

"COMMENTS ON SCALLOP AMENDMENT 11"

Dear Ms. Kurkel,

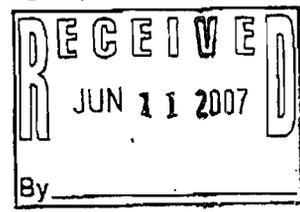
My name is Eric L. Lundvall owner/operator of the F/V Rayna & Kerstin, Barnegat Light New Jersey. My vessel is a current participant in the general category fishery and has history of participation in that fishery since 1994.

I support limited entry for the general category scallop fishery using the control date of November 1, 2004. Allocation for the general category fishery should be implemented. I support an allocation of the projected TAC at a minimum of 5%, to a more appropriate 11% of the TAC. Even with the higher general category landings of 14.09% and 12.18% in 2005 and 2006, the limited access fleet continues to prosper in the Mid-Atlantic.

Please also note that the same open bottom area off of New Jersey that some limited access scallop vessel owners say are being depleted by the general category fleet is the same open bottom area where they have produced some of their biggest trips in years. I would question who is doing the damage.

Landing criteria for qualification for limited entry should be 5,000 pounds between March 1, 2000 and the control date of November 1, 2004. This is the only alternative that would keep the pool of vessels receiving permits to a lower level to sustain a viable fishery with a TAC of 5%. The 1,000 pound, 10 year criteria would work, if there was a higher TAC in the range of 10%-11%.

After reviewing the amendment 11 scoping hearing summary for Manahawkin, NJ, I believe I was not clear or misquoted at what I stated at that hearing. I stated that I have two vessel permits that have general category history that would qualify under the preferred 1,000 pound, 10 year criteria, but only one would qualify under the 5,000 pound criteria. I then stated that I would rather see the 5,000 pound criteria used for qualification and in turn qualify for only one of my vessels. I was trying to point out how



too many qualifying participants would dissolve a fishery into a few days or pounds to make the fishery economically feasible.

I believe there should be absolutely no re-rigging clause in this amendment to qualify vessels for a permit.

The access to qualifying vessels should be allocated on a tiered system, possibly part-time and full-time. ITQ's are very complicated and would further extend the transition period. If an ITQ alternative was chosen, I believe leasing and permit stacking should go along with that alternative.

I believe limited entry provisions should include preferred alternative: 3.1.2.5.1.2. One vessel potentially qualifying more than one permit.

An interim measure of a hard 10% TAC during the implementation period would be acceptable. A TAC lower than this would hurt legitimate qualifying vessels due to boats trying to buy time through an appeal and limited access vessels that might choose to "help burn up" a interim TAC in lieu of using their DAS at the beginning of the fishing year.

I agree that a separate limited entry program for the NGOM, with an allocation derived from the overall total allowable catch.

Limited access fishing vessels meeting the same qualifying criteria as general category vessels should receive a permit to land scallops under the general category. Landings outside their DAS should come from the overall TAC.

Table 19, impacts of the general category TAC on limited access vessels (Sec. 5.4.17.4 of the DSEIS) clearly shows that if Amendment 11 allocated an 11% TAC to the general category there would be a 0% change in limited access net boat share in the full range of scallop TAC scenarios from 40 million through 70 million. In other words, the limited access fleet is doing just fine at status quo.

Unfortunately, there is a fair percentage of limited access participants who have chosen to wage a war against the general category, in an effort to eliminate it as any form of a directed fishery. They appear to have an upper hand in trying to influence this management decision; they are highly organized and have plenty of money for attorneys, lobbyists and scientists. I keep hearing the same general statement from them: "the sacrifices that we endured through the 1990's to rebuild the depleted scallop stocks and now that we rebuilt the stocks, the general category wants to reap

the benefits of our suffering." I believe good fisheries management should be credited for rebuilding the scallop stocks to what they are today not the limited access vessels that depleted the stocks in the first place.

I believe strongly, that qualifying general category vessels should be permitted to continue a full time directed general category fishery. There is now a strong seafood consumer demand for "day boat" or "sushi grade" scallops that has developed with the general category fishery. Consumers have come to know the difference between trip boat scallops and day boat scallops. There needs to be a consistent supply of these high quality day boat scallops that for the most part, the general category scallopers have been supplying.

Thank you for reviewing my comments.

Sincerely,



Eric L. Lundvall, President



Amendment 11 Scoping Hearing Summary
 Holiday Inn – Manahawkin, NJ
 May 30, 2007

Almost 30 individuals attended the public hearing in Manahawkin, NJ, and about a dozen gave oral comment. David Simpson, Chair of the Scallop Committee welcomed the audience and gave an overview of the process and purpose of the meeting. Deirdre Boelke, NEFMC staff then reviewed the public hearing document and explained the preferred alternatives the Council has identified for Amendment 11. The meeting was held from about 6:00-7:45 PM.

Overall the majority of comments at this meeting were about the allocation decision for the general category fishery. Unique to this meeting compared to other public hearings, there was general consensus and support of the preferred alternative of 5%. Several speakers argued that 5% is too high, and it is inappropriate for the Council to support an allocation that is above the historical average of this fishery, especially when limited access effort was reduced during the same time period. One general category vessel owner added that 5% is reasonable, but is only workable if the qualification criteria are more restrictive; he argued that the 1,000 pound and 11-year criteria would qualify too many vessels and no one would be able to make a living.

Measures to control capacity and mortality in the general category fishery

Very few speakers addressed this issue directly, but most that did supported limited entry alternatives. One argued that unless controls are put in place some general category vessels will just move to areas of concentrated scallops and fish them out. He explained that some of the general category vessels that used to land in Cape May, NJ have moved north to Point Pleasant because the inshore areas around Cape May have been fished out. Another explained that the limited access boats did the same thing when the resource was in bad shape – they fished out areas until there was nothing left because they did not have incentive to move. He argued that without constraints on the general category fishery aside from a possession limit, they too have little incentive to move out of less productive areas. One individual said that he is happy the Council is finally addressing the general category fishery and wished it could have been done sooner. Another added that he was around in 1994 and we should do everything we can to avoid getting in that situation again. One commenter added that this fishery as a whole has to do everything it can to prevent overfishing. He added that if this resource approaches overfishing all the “eco-friendly” markets will disappear and the price will drop having negative impacts on both fisheries. No one voiced support for the No Action alternative or a hard-TAC as a preferred strategy for controlling capacity and mortality in the general category fishery.

Qualification for limited entry

Several speakers supported more restrictive qualification criteria, specifically 5,000 pounds and the five-year timeframe of 2000-2004. They argued that the preferred alternatives for qualification would create too many permits and no one would be able to make a living, particularly if the Council was serious about the 5% allocation. One limited access vessel owner added that the preferred alternative may estimate 459 vessels now, but when it is all said and done that number is bound to go up. *One speaker added that he has two vessels that will only qualify under the 1,000 pound alternative but he supports the 5,000 pound alternative because

* my comment that I referred to, is

~~1,000 qualifies too many and there is not enough to go around for 500 vessels.~~ Another argued that the 11-year time period is just too long and another commented that he understands why the Council wants to be inclusive, but in his opinion the preferred alternatives would qualify too many. Furthermore, he supports the alternative that would index a vessels contribution based on the number of years active in the fishery.

Several commented on the access strategy for qualifying vessels. Some supported an individual allocation in trips or pounds. However, several supported a tier system arguing that an individual allocation would be overboard for this fishery. Another voiced support for a tier system if it was easier to implement, but suggested that an additional tier should be considered above the 20,000 pound tier in the document for more directed vessels (i.e. a fourth tier at 40,000 pounds and above).

Allocation of scallop TAC to the general category fishery

Several speakers noted that the general category fishery has increased as a result of controls and innovative changes in the limited access fishery such as crew limits, minimum ring size, and DAS effort controls. One argued that the limited access fishery has made sacrifices and it would be fundamentally wrong to base this allocation decision on post control date landings data. Another argued that it would be a mistake to allocate more than historical contributions; he added that the general category has experienced a bubble in the last few years and it should not be rewarded. Another added that if the Council wants the general category fishery to be more of a mom and pop operation then 2.5% is more reasonable. One speaker voiced support for 5% because that is about the level of total general category landings when the control date was put in place; he argued that would be consistent with the qualification alternatives that are through the control date.

Limited access fishing under general category

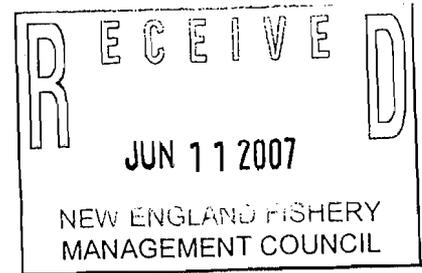
Not many speakers spoke to this issue, but most that did agree with the preferred alternative. One speaker noted that the Council is considering an allocation to the general category that is over 200% of the historical average but the 0.5% allocation for limited access vessels under general category would be over a 50% reduction, based on historical landings. Several speakers voiced that the allocation should be in line with each other, and be based on historical averages.

Interim measures for transition to limited entry

The majority of commenters spoke to this issue in disbelief that an 18-24 month transition period would be necessary; they did not understand how it would take so long or why the Council and NMFS would support continued overfishing of inshore areas. Several suggested that NMFS and the Council should be more creative about measures that can control capacity until Amendment 11 can be fully implemented. For example, it was suggested that NMFS can send out letters now requesting individuals to get their landings history in order. In addition, NMFS could identify the potential qualifiers and allocate an interim individual access (in number of trips or pounds) until the final universe of vessels is known. He added that NMFS could allocate one amount the first year, and then a higher or lower amount the following year after the final pool of qualifying vessels is known. Several argued that a derby for two years would have negative impacts, and several commented that 10% is way too high. Another suggested that based on the analysis in the document, NMFS must have a pretty good idea of who is going to qualify and it should not take 18 months. Another voiced support for the interim alternatives, but wished Amendment 11 could be implemented faster. Lastly, another commented that for the interim period the percent of access general category vessels are allocated in access areas should remain at 2%.

Comment #25

Walter Jessiman, Captain
F/V Dreamcatcher
P.O. Box 273
Cutler, Maine 04626
(207) 259-3640



April 11, 2007

National Marine Fisheries Service

Subject: Comments on Scallop Amendment 11

To Whom It May Concern,

I, Walter Jessiman, would like to register my adamant disagreement with any changes with/in the General Catch permit being currently considered.

I have attended meetings/forums at which these proposed changes were discussed and to my knowledge every local (Maine) fisherman registered strong objections to changes. Changes, as presented, would discriminate against Maine scallop fisherman and favor those from the southern region of the district.

Let me briefly present my personal issues. My lifetime dream (adult) has been the ownership of a scallop dragger. To accomplish that goal it became necessary for me to temporarily relocate to Connecticut. In 2001 I laid the keel for the vessel of my dreams. At that time I was notified that there was open access and did not need to acquire a license. As soon as the status changed I did apply and acquire necessary licensure.

Every aspect of the construction has been documented by photos and material receipts. I personally laid every weld and did the entire construction. After the boat was launched I did all of the electrical, hydraulic, and mechanical work on it.

As soon as the construction was completed I steamed the vessel to its' home port in Cutler, the place that has been home for me all during my adulthood. Since last December I have fished the boat every day the waters permitted for safe passage.

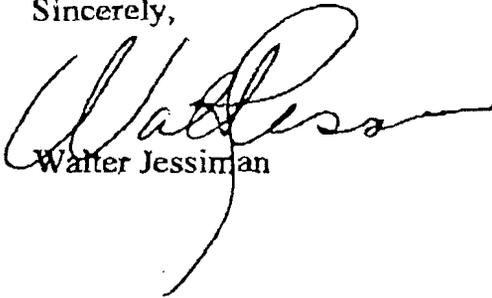
On several occasions the US Coast Guard has boarded the vessel for safety checks. On every boarding comments were made on the excellent craftsmanship and it being "state of the art" in safety and technology.

Several times during construction, and since, I asked advice regarding permit issues and was consistently informed that the construction time counted as landings and not to worry. This vessel was constructed as a scallop dragger and very impractical for any other purpose. It would be highly unfair for the rules to change after I have invested my life and resources into the boat understanding that I would be able to fish with it.

Please allow me to express another concern. Under proposed changes the fishermen of Maine would lose further control over their livelihoods. I, like most or all Maine fishermen, want to be good stewards of the marine resources.

Thank you for accepting my written comments.

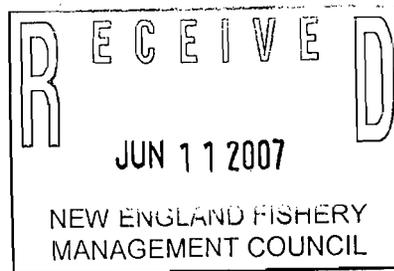
Sincerely,

A handwritten signature in cursive script, appearing to read "Walter Jessiman". The signature is written in black ink and is positioned above the printed name.

Walter Jessiman

Comment #26

F A X



1862 cutler rd
cutler, maine 04626

To: NEFMC
 Fax number: 1 978 281-9135

From: Troy Ramsdell
 Fax number:
 Business phone:
 Home phone: 207-259-7748

Date & Time: 6/9/2007 9:34:03 AM
 Pages: 1
 Re: Scallop License

Hi,

My name is Troy Ramsdell of Cutler, Me. I'm writing in response of the Amendment 11. Me and my dad had a boat in 2004 with the scallop license. The boat burt off the Cape in 2005. All doc's were on the boat so they didn't get sent in. I also had another boat that I had the license on but didn't show any landings because their were no scallops off Cutler to get. I bought a new boat to go scalloping in state and federal waters , but i was just told I would loose my license if I got it. I didn't get it because of the required VMS. I was afraid of buying it and not able to get my license and be out of \$1500. All I want to do is day trips out off Cutier Harbor. I believe something has to be done but not to keep out the people that that are still willing to work for a living.

I think for the gulf of Maine region licenses should given to people who held a license up until the upcoming decision regardless of what they had for landings or ever if they had none. It's not fair to people that gave up everything and invest all they have into scalloping to have it taken away for a few greedy fisherman. Even if you issue a 150 -200 lb day license would all we ever need. I'm not asking for the 400 lb. I think they should be some compromise for us. The 1994-2004 is rediculous. What about recent fisherman, do they sell or try sell their boat just because you wont let them work.

I've recencently heard from fisherman in other towns talking of a class action lawsuit if they don't get their license. I'm not part off this. I just want to work and pay my bills with out worrying of my license being takend away. Please make an exemption for people like us. 1. Have the license so it can't be sold. 2. Have the license whom it is given to, be on the boat that's registred to the license. So they can only have one license not multiple. Thanks for your time and efforts.

Troy Ramsdell

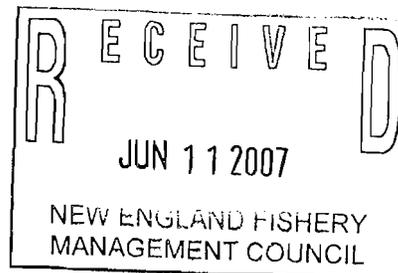
comment #27

Woneta M. Cloutier

From: Robert Maxwell
Sent: Monday, June 11, 2007 3:38 PM
To: Scallop.Eleven@noaa.gov
Subject: Comments on Scallop Amendment 11

Patricia Kurkul, Regional Administrator
 NMFS
 One Blackburn Dr.
 Gloucester, MA 01930

6/10/07



Re: Comments on Scallop Amendment 11

Thank you for the opportunity to comment on the General Category Amendment 11. My name is Robert Maxwell and I am a day scalloper and have been day scalloping full time since 2001 to date. Unfortunately the General Category is over fishing open bottom inshore beds – for this reason the control date of November 1, 2004 was implemented and should be used as it states, “control date”. It is important that Amendment 11 be completed as soon as possible and not take 2 years longer or the entire scallop fishery will suffer.

Overall Allocation & Qualification Criteria:

The control date should be mandatory! I support the allocation of **5.5% to 7%** for the time period of **2000-2004 with a qualification criteria of 5000 pounds..** Should the time period of 1994-2004 be used, the allocation should be increased to 11%. According to the DSEIS, the number of qualifying boats for the 2000-2004 time period would be 188, the lower allocations would be acceptable, however if the preferred alternative is used (1994-2004/ 1000 pounds) the number of qualifying boats would increase to 459 this would be unacceptable, as of 2004 the limited access fleet total was **323 vessels landing (59,494,630) pounds ! this is 94.5% why would we give 459 vessels only (3,272,204) pounds 5.5%** We cannot allow this to happen, please think of the fishery as a whole and what you are doing to the new participants. Do not over qualify and under allocate. !

Stacking & Consolidating:

I support stacking and consolidating of permits to the 60,000 pounds or 150 trips to be adjusted annually and be consistent with the total TAC as of 2004. This will allow flexibility in the GC fishery for those participants that do not have enough allocation to make a living. This will also allow other participants to lease and purchase as necessary. This will also make for a more efficient access fishery.

Individual Allocation

I support individual allocation based on your best year from 2000-2004, this would be the fairest way to allocate to all qualifiers (your effort would equal your history in the fishery)

Vessel upgrades

I support no upgrade restriction, if stacking and leasing is acceptable vessel upgrades etc, would not be necessary.

Interim measures

I do not support the 10% tac or it extended for 18-24 mon, 2010-FY this will make a derby style fishery.

Appeals

06/12/2007

I do not support appeals but if you have history on or before the control date **nov,1 2004** this would activate an appeal –with a 90 day qualifier window
NGOM

I support the Gulf of Main Exemption area 43 degree N.

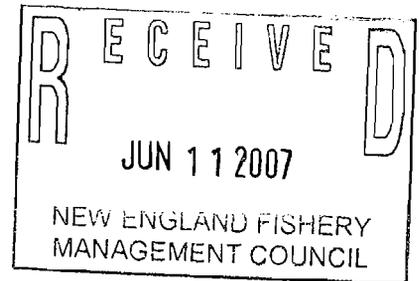
Thank you,

Robert W. Maxwell
Miss Halie LLC
Debbie Sue LLC
Robert Christian LLC

Comment 28

OUELLETTE & SMITH
ATTORNEYS AT LAW AND PROCTORS IN ADMIRALTY
A Professional Association

127 EASTERN AVENUE
SUITE 1
GLOUCESTER, MASSACHUSETTS 01930



Stephen M. Ouellette*
David S. Smith*

*Also Admitted in Maine

Telephone: (978) 281-7788
Facsimile: (978) 281-4411
E-mail: fishlaw@aol.com
<http://www.fishlaw.com>
<http://www.maritimelawusa.com>

June 11, 2007

Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
Northeast Regional Office
One Blackburn Drive
Gloucester, MA 01930

BY HAND AND BY EMAIL

Re: Comments on Scallop Amendment 11

Dear Ms. Kurkul:

I am submitting comments on the proposed Scallop Amendment 11 on behalf of general category vessels fishing from the Barnegat Light, New Jersey area. My clients are supportive of the proposed Amendment and options implementing a limited access program with individual allocation, in trips or pounds, based on a vessel's landings in its best year from 2000 to 2004. We encourage adoption of such a plan as soon as possible, and make suggestions to streamline the process.

Recent growth in the General Category Scallop Fishery has obviously placed new stresses on the scallop stocks, particularly within inshore areas, and my clients recognize the need for implementation of new conservation measures, including limited access to slow growth in the fishery and protection of the resource. At the same time, measures should be designed to protect the nature of the General Category fishery, taking into account developments leading up to the control date. Entrants into the general category fishery prior to the 2004 control date did so with the expectation they could continue to fish in an open access fishery. As such, we believe that the best approach to the issue is to start with an assessment of the fishery as it existed leading up to the control date of November 2004, and to establish an allocation and rules that essentially allow fishermen participating at that time the opportunity to continue fishing. Some consideration should be given to the potential for reductions in effort based on stock considerations, particularly if measures are implemented in inshore areas to protect local concentrations of scallops.

Vision of General Category Fleet

The General Category encompasses a wide variety of vessels, fishing at greatly differing levels depending on their participation in other fisheries. Most General Category participants are

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator
June 11, 2007

--2-

smaller vessels, and are thus able to operate profitably on as little as 400 pounds per day, as a primary species, or as a supplemental seasonal component of their overall fishing activity. My clients seek preservation of this diverse fleet and this level of fishing, through adoption of a plan based on individual fishing history as the best means of preserving the fleet as close to its present form as possible. This also includes allowance for vessels with a history of landing scallops as a bycatch to continue to do so. My clients are not supportive of a plan that simply results in another small sub-category of the limited access fleet by limiting entry to very few vessels through initial allocation or eventual consolidation.

Limited Access Vessels Outside of Scallop DAS

Limited Access vessels fishing with a fishing history outside of their scallop DAS should also be given individual allocations to do so. A number of vessels, particularly occasional and part-time vessels, rely on the open access days as an important component of their income. Some full-time boats use this open access as a means of maintaining crews, by affording some fishing opportunity when limited access vessels would otherwise be tied up. These vessels should be permitted to continue these practices in accordance with their individual history. As noted below, landings for the limited access vessels should be charged against the limited access vessels' allocation of the total TAC.

Limited Entry

There is no question that the general category fleet needs to be governed by a limited entry strategy. Continued growth after the control date has placed an extreme burden on the stock, and traditional general category fishermen are now faced with declining catch rates, making profitability elusive. Leaving the sector open will force either more restrictive trip limits, thereby eliminating profitability, or require hard TAC's, with resulting derby style fishing. Neither option is acceptable. We recommend adoption of a limited access system based on individual vessel's participation in the fishery in the years leading up to the control date.

The issue of minimum qualification criteria depends on the manner in which allocations to vessels are made. We strongly urge individual allocation based on the best year between 2000 and 2004, while granting some additional weight for vessels that have more time in the fishery. If trips are to be allocated on an individual basis, then there needs to be no threshold qualification-any vessel with landings prior to the control date will qualify, however its allocation will be based on its activity. By adopting a "best year" strategy in the 2000-2004 time frame, vessels will be able to participate in the fishery at the highest level they had achieved prior to the control date, with the General Category using about 5% of the total scallop TAC.

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator
June 11, 2007

--3-

-

Percentage of TAC to Allocate to the General Category

We urge the adoption of then allocating 5-7% of the total scallop allocation for the general category. The intent of the allocation is to allow vessels to continue at the level they achieved in their highest year from 2000 to 2004. Since it is generally assumed that most vessels had their best year in 2004, and the General Category landed approximately 5% of the total TAC in 2004, this percentage should allow the general category to achieve this level in years when the TAC is also at that level. Any extension of the qualifying period, however, without an increase in allocation for the overall General Category would most likely result in a downward adjustment for all individual allocations, and as such would require a larger General Category allocation to sustain vessels at that level they had reached prior to the control date. As such, if the Council extends the qualification period to a period earlier than 2000, more of the quota should be allocated to the General Category to account for the additional vessels that will qualify.

The TAC attributable to Limited Access vessels fishing outside of their scallop DAS allocation, and any bycatch, should be charged to the limited access TAC, or should be an additional quota that does not diminish the allocation of TAC to the General Category.

Qualifying Period

My clients support implementation of the limited access program for General Category vessels based on a vessel's fishing activity prior to the control date. The period of 2000-2004 reflects recent history and identifies those currently invested and participating in the fishery. Since activity in those years was increasing, it is difficult to imagine vessels that would benefit more from earlier years, but the potential exists to activate effort that is truly dormant. Activation of this latent effort, again, would either reduce opportunity for current participants, or require a higher allocation of quota to the General Category. For these reasons, we recommend limitation of the qualification period to the 2000-2004 time frame.

Minimum Qualification Criteria

We urge the adoption of a minimum qualification criterion of 2500 pounds, in conjunction with an individual allocation strategy. Vessels that fish only a few trips per year, based on seasonal access and rely on participation in other fisheries should be allowed to continue to do so. Thus, vessels that have only a few hundred pounds landed should qualify for a permit, and should be able to lease or acquire access if abundances in their region support limited

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator

June 11, 2007

--4-

-

participation in the fishery at another time. If the Council adopts a tiered system, or a means of allocation access other than individual allocation based on individual fishing history, then a minimum qualification of 5,000 pounds should be used to limit entry.

Best Year and Individual Allocation Strategy

Since my clients desire to preserve the General category as it had come to exist through 2004, we recommend adoption of individual allocations based on individual fishing activity. This best allows vessels to continue to fish at levels they have become accustomed to. The concepts of tiered allocations present significant problems for full-time participants, who would most likely see their effort reduced to a mean or average. Vessels with more history would see a reduction in opportunity, while vessels with less history would receive a windfall at the expense of those with a longer participation in the fishery. My clients strongly believe allocations should be reflective of individual fishing activity, and that this best preserves the nature of the General Category fishery and avoids the potential for negative impact on larger producers. Individual allocation offers the best chance of each vessel's survival under the new Amendment, as if 5% or more of the quota is allocated to the General Category, these vessels will most likely continue to have the access they have become accustomed to, at least through the control date. If additional effort reductions are required, leasing or transfer of access offers vessels the opportunity to remain viable.

Because of the broad variations in fishing activity among the diverse sectors of the general category, we strongly urge adoption of an individual allocation system, based on pounds or trips landed, so that vessels' allocation will reflect their activity.

Extension of Qualifying Period

My clients oppose extending the qualification period to the pre-2000 fishing years. Most vessels dependent on the fishery would have had sufficient activity in the 2000 to 2004 time frame to qualify to fish at a sustainable level. A longer qualification period creates the danger that dormant permits may be resurrected and result in an increase in potential permits. This will effectively dilute any allocation of TAC to the point that vessels dependent on the fishery for some or all of their income, can no longer survive without buying out the latent effort.

If the qualification period is extended, the TAC allocated to the General Category should be increased to account for the additional qualifying vessel. Additionally, a recent history requirement should be added, so that individuals who sold vessels and who did not replace them,

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator

June 11, 2007

--5-

-

can not now seek to speculatively activate latent effort, to the detriment of active participants in the General Category fishery.

Effort Control

Landings in the new limited access category should still be controlled through the same 400 pound landing limit, with no additional limits on gear, vessel size, etc. With an individual allocation in pounds or trips, the manner in or speed at which scallops are harvested or shucked is inconsequential. Vessels engaged in multiple fisheries will remain bound by any upgrade restrictions on their other permits. We discourage developments that will allow landings of multiple trip limits, as this essentially changes the character of the fishery.

We are aware that a small number of General Category vessels target scallops using trawl gear, either as a directed fishery, or as a bycatch fishery, while using multispecies DAS. This activity is already limited by the use of DAS, and we see no reason why it cannot continue.

Vessels should be afforded some time to determine whether they can safely complete a trip, and should be allowed to terminate a trip, before crossing back over the demarcation line, without any scallops on board. In such event, the vessel should not be charged for that trip.

Transferability

Since there will likely be some reduction in each vessel's fishing activity based on the proposed allocation, and future TACs, vessels should be permitted to consolidate their DAS and to lease them to account for reductions based on stock fluctuations, but not to create a new, lesser, category of limited access vessels. Vessels should be governed by daily limits of 400 pounds, subject to possible adjustment when the TAC increases.

Gulf of Maine Exemption

My clients do not oppose the effort to maintain open access in the Gulf of Maine. If this can be accomplished, however, the rationale for extending qualification to the early 1990's disappears. If the Gulf of Maine exemption is approved, the qualification period for General Category vessels should be limited to the 2000-2004 time frame.

Effect of Retention of Permit History

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator

June 11, 2007

--6-

-

We support the proposed measures that allow vessel owners who retain and utilize fishing history, even where they have transferred their vessels with other limited access permits-a position directly contrary to the limitations in the recently amended herring FMP. Contrary to statements in the herring FMP documents, vessel owners have never been advised that open access history remained inextricably attached to limited access fishing and permit history. NMFS regulations expressly provide that only "limited access" permits may not be split, and NMFS vessel replacement forms only provide for transfer of limited access permit history. Vessel owners have long believed that they could retain open access history upon sale of a vessel to apply for any future limited access permit. As such, we urge adoption of an explicit provision that sellers of vessel who retained their history be allowed to qualify a replacement vessel. If a Seller did not acquire a replacement vessel, then he should be given a confirmation of permit history. Retention of such history should be limited to history accrued in the years 2000-2004.

Implementation should be accelerated

We were disappointed to hear that NMFS believes implementation of a limited access plan for the General Category may take as long as two years following adoption of the Amendment. We strongly urge NMFS to impose the plan as soon as possible. Current permit holders should be advised to review their NMFS landings history to determine if they will pre-qualify for a limited access general category permit, and begin to gather their own records and confirm that their landings were properly reported by dealers. Vessels that do not pre-qualify, or contest an individual allocation, should be denied permits, or limited to landings based on NMFS' records, unless and until permit holders present actual landings records to NMFS, along with a verification that the information is accurate to the best of their knowledge and belief. Such vessels should then be given a Letter of Authorization to fish to the level justified by the proffered materials. This will prevent vessels from fishing based on a groundless appeal.

Conclusion

We thank the Council, Council staff, PDT, NMFS, advisors and industry participants for the hard work in putting together the proposed Amendment. We believe that through adoption of a limited access program, based on individual allocation, with sufficient quota, the General Category can remain a viable fishery, both for its full time participants, and for those who rely on it as a component of their fishing effort, with adequate protection of the resource, and without unfairly impacting the current limited access participants. We thank you for the opportunity to comment on the proposed Amendment.

OUELLETTE & SMITH

Patricia Kurkul, Regional Administrator
June 11, 2007

--7-

-

Very truly yours,

/s/ Stephen M. Ouellette
Stephen M. Ouellette

Comments submitted on behalf of:

Rebait Commercial Fishing, Inc.
Miss Halie, LLC
F/V SNOOPY II
Sea Dog Commercial Fishing, Inc.
Salty Knight
Brewster Fishing
F/V RESOLUTE, Inc.
F/V RETRIEVER
Coppa-Setic, LLC
H&H Fisheries-Blair Hansen
Native Sun
F/V CASSIAR
F/V PRETTY LLADY
Gipper Seafood
Island Blue, Inc.
Inshore and Offshore Charters, Inc.
Fishing Vessel Vivian, III, Inc.
Rebait Commercial Fishing, Inc.
Mandy Ness, LLC
Robert Christian, LLC
KJK Fishing, LLC

Comment # 29

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

3050 K. STREET, N.W.

SUITE 400

WASHINGTON, D.C. 20007

(202) 342-8400

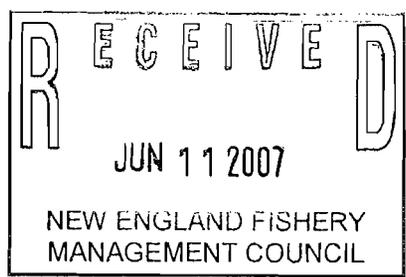
NEW YORK, NY
TYSONS CORNER, VA
CHICAGO, IL
STAMFORD, CT
PARSIPPANY, NJ
BRUSSELS, BELGIUM

FACSIMILE
(202) 342-8451
www.kelleydrye.com

DIRECT LINE: (202) 342-8848
EMAIL: dfrulla@kelleydrye.com

AFFILIATE OFFICES
MUMBAI, INDIA

June 11, 2007



VIA ELECTRONIC MAIL

Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930

Re: Comments on Scallop Amendment 11

Dear Regional Administrator Kurkul:

We represent the Fisheries Survival Fund ("FSF"), which is comprised of the bulk of the limited access full time scallop fleet. The FSF has a critical interest in Amendment 11 and we appreciate the opportunity to provide public comment.

Consistent with Amendment 11's Vision Statement, the Fisheries Survival Fund has always recognized a discrete, historical, in-shore, small vessel, day-boat fishery along the New England coast, as well as that scallops were caught incidentally in other fisheries. The fishery was prosecuted from existing vessels and generally seasonally.

FSF continues to support the Amendment 11 Vision Statement, and the alternatives for Amendment 11 that promote the Vision Statement. Almost all of the preferred alternatives the Council has selected for Amendment 11 support the Vision Statement.

Executive Summary

The Public Hearing Document ("PHD") Amendment 11 Vision Statement summary states, among others, "Amendment 11's overall intent is to ... maintain the diverse nature and flexibility within this component of the scallop fleet, and preserve the ability for vessels to participate at various levels. The Councils' vision for the general category fishery ... is a fleet made up of relatively small vessels, with possession limits to maintain the historical character of

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Two

this fleet and provide opportunities to various participants including vessels from smaller coastal communities.” PHD, at 1.

The Vision Statement can best be realized with a five percent allocation, and other long-term problems with creating a limited access sector (such as latent effort and disproportionate shares) can be avoided. Such a five percent share may be most effectively divided among General Category qualifiers under the Vision Statement if: (1) the control date is maintained; (2) directed day boat scallopers landing over 5,000 pounds in their best year are provided with allocations limiting them to 400-pound trips; (3) a “contribution factor” should be used to recognize multi-year participation during the qualifying period (Alternative 3.1.2.3.2); (4) General Category fishery qualifiers landing between 1,000-4,999 pounds in their best year (most likely these are incidental catches) are limited to 200-pound trips under Alternative 3.1.2.4.2; (5) General Category qualifiers directing on scallops with a net should have a reduced possession limit of 250 or 300 pounds so as to equalize mortality in recognition that scallop trawls demonstrably catch smaller scallops (Alternatives 3.1.2.6.3.1; 3.1.2.6.3.2); (6) provision of “dredge-only” permits for vessels qualifying and fishing with dredges during the qualifying period (Alternative 3.1.2.6.2); (7) the Consistency Amendment should be maintained and only one permit should qualify per vessel (Alternative 3.1.2.5.1.1); (8) illegal and unrecorded landings should not count toward qualifications or allocations; and (9) a Northern Gulf of Maine exemption area makes far more sense for that very episodic fishery than an additional overall allocation of scallops, especially in terms of not creating latent effort.

Responses to Questions in Public Hearing Document

Do you agree that capacity and mortality in the general category fishery should be controlled?

Yes. FSF supports a General Category limited access regime, but not one that is set up to favor new entrants to the fishery who have turned to directed scalloping in recent years as a full-time pursuit, often because of conservation problems in their main fisheries. Accordingly, the Council should create a new limited access dayboat permit that would be allowed to prosecute the in-shore scallop fishery at no more than 400 pounds per day. The 400-pound limit should apply whether allocations are made in trips or pounds.

If limited entry is adopted, which qualification alternatives would you support and why? Do you support the preferred alternatives for qualification: 1,000 pounds and 11-year time period for qualification?

First, the Council should apply the November 1, 2004, control date.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Three

Second, FSF understands the Council's preference, so far, to include a wide range of participants via the 1994-2004 qualifying period and the 1,000 pound catch standard. That choice is consistent with the Vision Statement's goal to maintain a diverse fishery, but it would qualify a relatively large number of vessels (459). It is important to recognize that increasing the landing criterion to 5,000 pounds could substantially reduce the number of qualifiers (from 459 to 203). (Public Hearing Document ("PHD") Table 11.) However, increasing the poundage threshold would narrow the types of General Category participants post-Amendment 11 to directed dayboat operators, many of whom are late entrants into the fishery.

FSF notes two two important issues with such a large qualifying pool of 11 years and 1000 pounds. First, in general, allocations to individual qualifiers will be somewhat reduced. That said, the Council's preferred alternatives, including individual allocations, will mitigate the impact of these reductions considerably for "highliners." Indeed, Table 17 of the Public Hearing Document explains that, with a 50 million pound overall total allowable catch and the preferred 5% allocation, the average "highliner" (that is, a vessel landing over 20,000 pounds in any year¹), would be allocated approximately 20,500 pounds or 51 400-pound trips. Significantly, moreover, this figure represents an average, which will increase for both: (1) above-average qualifiers in the 20,000 pound-plus segment; and (2) those who had these levels of landings in several years. Under the Council's preferred alternative, vessels with scallop landings in four or more years during the qualifying period will see their individual allocation increased using a "contribution factor" (Alternative 3.1.2.3.2). Further, on June 6, the Scallop Committee opted to allocate opportunity in pounds (subject to a 400-pound per day cap), rather than trips, which will further ensure that complete allocations are available to qualifiers.² Finally, Amendment 11

¹ This contingent of "highliners" has been, understandably, well-represented in the Amendment 11 development process (including among the General Category Advisors), but they are not a large group. Only 37 General Category participants landed over 20,000 pounds of scallops in the control date year of 2004. This number of "highliners" was 23 in 2003, only 9 in 2002, and 19 in 2001. (PHD Table 7.) Certain of them were present, in particular, at the Hyannis public hearing.

² FSF had advocated for Alternative 3.1.2.4.2, which would provide for a lower landing limit (perhaps a 200-pound trip limit) for a tier of qualifiers between 1,000 and 5,000 pounds. In any year, the General Category fishery is about evenly split between those landing over and under 5,000 pounds. In 2004, 114 vessels landed over 5,000 pounds, and 109 vessels landed between 1,000 and 4,999 pounds. In 2003, 71 vessels landed over 5,000 pounds, while 58 landed between 1,000 and 4,999 pounds. In 2002, 55 vessels landed over 5,000 pounds, while 72 landed between 1,000 and 4,999 pounds. In 2001, 60 vessels landed over 5,000 pounds, while 45 landed between 1,000 and 4,999 pounds. (PHD Table 7.) As would a poundage-based allocation system, a tiered system would help these lower level qualifiers better utilize their allocation. More specifically, most such lower-level participants likely landed scallops incidental to other directed fishing operations. A lower daily limit would allow them to spread out their individual allocations over more trips, particularly if the Council selects allocations in trips,

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Four

would improve the prospects for any directed Cape-based General Category participants by allocating most of the General Category permits to New England, although the large majority of recent landings are from the Mid-Atlantic. *See* footnote 3, within.

Second, and perhaps more importantly, coupling a large group of qualifiers with individual allocations presents the risk of creating significant latent effort. The Public Hearing Document shows the General Category to include many very episodic participants. In fact, of the 459 estimated qualifiers under the 1994-2004/1,000-pound option, only 234 (or roughly half) of the qualifiers had any recorded scallop landings at all in 2005, the year after the control date. (PHD Table 11.) If the preferred alternative of individual allocations is chosen, then there is a strong likelihood that up to half of the General Category quota could go unused by these episodic participants. This would be a huge loss of sustainable scallop yield—yield that the Limited Access fleet would fish each year, because scallops are their fishery, and dependently so, ever since Amendment 4.

In fact, the Scallop Committee and Council will need to be careful not to end up creating the same kind of latent effort that plagues the groundfish fishery, via significant, permanent, individualized allocations of scallops to vessels that will not regularly harvest them. Thus, if the Council does opt for individual allocations, it should not allocate a disproportionate share of the overall resource (that is, any more than 5% to the General Category).

The potential for such latent effort from a disproportionate overall allocation is even more evident when potential Maine qualifiers are considered. According to the Public Hearing Document, 130 Maine vessels would qualify under 11-year timeframe, but only about half that number, or 70, would qualify under a 5-year period. Put differently, 60 projected Maine qualifiers under the preferred alternatives have not landed even 1,000 pounds of scallops in any qualifying year since 1999, but they would get a dedicated, individual allocation of scallops under the Council's preferred alternatives. (PHD Table 13.)³

("continued")

rather than pounds. Such an approach could also work well with poundage-based allocations, to help ensure that incidental scallop fishing permits are not used for directed activity, for instance, if stacking and leasing is ultimately allowed. Further, such a tiered approach is consistent with Amendment 4. That amendment specifically stated that, if the General Category grew, the Council should reduce the General Category trip limit, as opposed to re-doing the allocation of the fishery established in Amendment 4. *See* Amendment 4, at 30.

³ To provide some scale, the Public Hearing Document projects that 310 of 459 qualifiers (or about 32% overall), under the preferred approach will be from New England. (PHD Table 13.) By contrast, in recent years, about 70% of General Category landings have come from the Mid-Atlantic. (PHD Table 10.) Of the 310 projected New England qualifiers, 130 are from Maine, 168 are from Massachusetts and New Hampshire, but only 12 are from Connecticut and

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Five

In order to maintain a reasonable number of qualifiers, the Council may wish to reconsider its preferred alternative of allowing landings from one vessel to qualify for more than one permit (Alternative 3.1.2.5.1.1).

Finally, FSF strongly believes that unrecorded landings should not be permitted to count towards qualifying. Nor should illegal landings be permitted to count towards qualifying.

**How should access be allocated to qualifying vessels if limited entry is adopted?
Do you support the preferred alternative for individual allocation in number of trips?**

FSF has supported allocations based in trips, as opposed to pounds. As explained above, the Scallop Committee voted on June 6 to change its recommendation to a poundage-based allocation system to ensure maximum flexibility for vessels to catch their respective allocations, without recourse to broken trip provisions or tiering of trip limits. FSF participants, like Council members themselves, have mixed views about ITQs.

However, FSF's participants all agree that, if the Council does opt to allocate the fishery by pounds, then it must also maintain the 400-pound trip limit. The Council staff's summaries of the public hearings reveal that many General Category participants favored maintaining the 400-pound daily limit even if allocations are in pounds. The 400-pound limit's maintenance will help ensure that individual General Category allocations are not consolidated onto a new group of directed off-shore trip boats—a result that FSF strongly opposes. The Amendment 11 Vision Statement likewise states that, "The Councils' vision . . . is a fleet made up of small vessels, with possession limits to maintain the historical character of this fleet and provide opportunities to various participants including vessels from smaller coastal communities." (PHD at 1.)

Do you believe any of the additional permit provisions or additional alternatives under a limited entry program should be adopted?

For the reasons set forth directly above, Amendment 11 should not allow, through stacking, the creation of sectors or other forms of consolidation, for the grouping of poundage onto larger vessels capable of and planning to fish offshore. Maintaining a maximum trip limit of 400 pounds per day should ensure that the character of the fleet is not changed.

("continued")

Rhode Island. And, regarding the Mid-Atlantic's 149 qualifiers, 88 are from New York and New Jersey, and 61 are from other Mid-Atlantic states. (PHD Table 13.)

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Six

FSF understands that certain directed General Category fishermen would like to stack trips on their vessels to seek to reasonably maintain their operations. In support of these wishes, the preferred alternatives in the Public Hearing Document allow for a substantial amount of consolidation of individual allocations. The Public Hearing Document sets a range of 1-5% of the overall allocation as a cap on the amount of total permits that one vessel could own. While the percentage chosen may depend on the number of permits that ultimately qualify, a cap at 5% would allow for a fairly significant concentration of ownership, especially in light of the Amendment 11 Vision Statement to maintain a diverse General Category fleet.

Do you agree that a separate system should be adopted to manage the general category fishery in the Northern Gulf of Maine (NGOM)?

Yes, to the extent that the NGOM exemption area program would create a partially separate system. (However, under the preferred alternative, landings limits are somewhat integrated for those who might participate inside and outside an NGOM program.) As explained above, the fishery in Maine is very episodic. Individual allocations to vessels that have not landed over 1,000 pounds of scallops during the 1999-2004 period (that is, 60 of the 130 Maine qualifiers), will create significant latent effort. The potential for such latent effort is especially high in the NGOM, where the scallop abundance is very uneven from year to year. Moreover, many of the participants in the Ellsworth public hearing wanted to remain in the scallop fishery but had not had 1,000 pounds of landings in any year, even during the 11-year qualifying period, with some claiming an interest in the fishery, but stating they had not landed scallops since the 1980's.

Do you support the preferred alternative to implement a separate limited entry for general category fishing in the NGOM?

FSF supports the creation of an NGOM exempted area north of 42° 20'. Creation of such an exempted area should accommodate concerns expressed by vessels fishing in the Gulf of Maine about being excluded from fishing for scallops because of the episodic nature of Gulf of Maine scallop abundance. FSF is not particularly troubled if the NGOM allows qualification at 100 pounds of landings in that area, provided that: (1) such low level qualifiers are not permitted to fish outside the NGOM area unless they meet the general 1,000 (or 5,000) pound qualification criterion for the Amendment 11 fishery as a whole; (2) this NGOM exempted area is and should be confined to an area outside the surveyed area for the Atlantic scallop resource currently managed under the FMP, so that mortality from the NGOM area can be accounted for separately; and (3) landings from the NGOM are not counted in a way that would require a change in the overall allocation of the coast-wide resource from the Council's preferred 5% allocation to the Amendment 11 General Category fishery. Creation of an NGOM exempted area would better accommodate certain professed historic (but clearly episodic) fishing interests than a disproportionate allocation of the overall total allowable catch.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Seven

Finally, in this regard, FSF is troubled by the comments from the Regional Administrator regarding the proposed NGOM management area. Contrary to the assertions of NMFS, the NGOM management area is consistent with the conservation of the scallop resource. The scallops in the NGOM are considered a separate stock from the scallops managed under Amendment 11. Under the NGOM exemption area approach, this separate stock would be managed under a separate regime with a hard TAC and limited entry. The NGOM would be analogous to a special access area, which is commonplace in current scallop management. The State of Maine has stated that it will continue its effort to survey the scallop resource in the NGOM, and this survey can be used to set TAC levels consistent with conservation standards.

Should the current privilege for limited access vessels to fish under general category rules change as a result of Amendment 11?

Do you support the preferred alternative to allow limited access vessels to fish under general category only if they qualify under the same criteria?

Yes, to both questions. FSF believes Limited Access vessels should be able to participate in the post-Amendment 11 General Category fishery to the extent that they qualify to do so. Their allocation should be limited to their historical share as well.

Do you support an allocation of a percentage of the total projected annual scallop catch to the general category fishery?

Yes.

Do you support the preferred alternative to allocate 5% of the total projected annual scallop catch to the general category fishery?

Yes, Amendment 11 should not fundamentally reallocate the scallop fishery. The new General Category limited access program (not including current Limited Access vessels that might qualify or incidental landings) should be allocated no more than 5%. In 2004, the year of the Amendment 11 control date, these landings were 5.26%. In 2004, scallops were abundant and General Category effort wide-spread.

An allocation above five percent would represent a windfall and would credit overfishing by the post-control date fleet to the historical General Category fleet. Such a result is not only unjustifiable as a matter of policy, but defeats the purpose of establishing the control date in the first place. Notably, many General Category participants at the public hearings, especially the directed New Jersey fleet that participated at the Manahawkin public hearing, support the 5% overall allocation.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Eight

Certain participants in the modestly-sized (*see* comments at page 3, above) directed day boat fishery contingent from New England have been steering the Amendment 11 process toward individual allocations so they can maximize their personal shares.⁴ Significantly, however, especially if the Council chooses to accede to the requests for individual allocations, the overall General Category allocation should not exceed 5%. As explained above, an allocation of greater than 5%, when coupled with an individual allocation system, would create significant amounts of latent effort and unused optimal yield. (According to PHD Table 11, of the 459 estimated qualifiers, only 234 had any recorded scallop landings in 2005, the year of the General Category fishery explosion and the year after the control date.)

Further, the General Category should maintain its historical character and share of the fishery, as the Amendment 11 Vision Statement prescribes. From 1994-2004, the eleven-year qualifying period selected by the Council as a preferred alternative, General Category landings by non-Limited Access vessels averaged 1.96%. For instance, in 1999, landings by non-Limited Access vessels were 0.71%, and in 2001, they were 2.69%. The 1994-2004 time period includes periods of high and low scallop abundance, as well as different points in the abundance cycle for a range of other New England and Mid-Atlantic fisheries. (Even adding in 2005 and 2006, General Category landings by non-Limited Access vessels averaged 3.68%.) The Council's preferred 5% allocation alternative thus represents a 255% increase over average 1994-2004 landings.

Finally, reallocation of the fishery via a disproportionate allocation would not be consistent with Amendment 4. Amendment 4's primary purpose was to include essentially the entire scallop fishery so that it would be easier to control fishing mortality. Amendment 4, at 13. The Council created the General Category in Amendment 4 as a compromise to allow some modest scallop landings for those vessels which could not meet these limited standards, did not or could not document their landings history, or otherwise decided not to accept the burdens of a scallop limited access permit, including limited opportunities to participate in other fisheries.

⁴ Some in their number have been claiming, in the public hearings and at the Scallop Committee, that the General Category needs an average of 4.0 million pounds to be "satisfied." An allocation at that level would provide every qualifier with virtually his or her best year as a dedicated allocation, notwithstanding the episodic nature of most of the General Category fishery. (*See* PHD Table 11, which reports "total best year landings" for preferred option qualifiers as 4,187,916 pounds.) It is worth noting in this regard that individual allocations will ensure they maximize their shares (*see* PHD Table 17, and FSF's discussion of this table, above) and that Amendment 11 will allocate 70% of the permits to New England, even though its participants have only amounted to 30% of the fishery in recent years.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Nine

For its part, the Limited Access fishery provides thousands of jobs at sea, as well as many more in processing, marketing, and other shore-side businesses in communities from New Hampshire to North Carolina. These businesses chose to invest in and rely on the scallop fishery during lean times. Those who opted to participate in the Limited Access fishery have made conservation sacrifices, invested in organized activity and cooperative research, participated constructively in the management process, and advocated for new and creative regulatory approaches, such as area management, that have rebuilt and helped sustain the scallop resource. All scallop fishermen, including those in the General Category, have benefited.⁵

It would be bad resource management, horrible precedent for the Council, and unfair to fundamentally reallocate the scallop fishery based on post-control date landings from a time when the scallop resource was at its high point. Moreover, in recent years, Limited Access effort has been substantially cut back by regulation, but the General Category effort has increased in the absence of regulation.

Do you support an allocation of a percentage of the available yellowtail flounder bycatch TAC for access areas to the general category fishery equivalent to the percentage of scallop catch that may be allocated to the general category fishery?

FSF agrees that the General Category should receive a dedicated allocation of yellowtail flounder for their access area trips. Any yellowtail access area allocation for the General Category should match the allocation of scallops that the General Category receives for each such access area, rather than being based on the overall allocation of the scallop resource fishery-wide. Amendment 11 does not set an overall scallop allocation to the General Category for every subsequent access area program. Thus, it is not appropriate to set a one-size-fits-all yellowtail flounder access area allocation for each access area program. Instead, the yellowtail access area allocation and scallop access areas allocations should match.

⁵ Further, the full-time Limited Access fleet has grown by over fifty permits since the late 1990's. Opportunity has been expanded in two ways. First, latent permits have been activated. Second, part-time vessels using a single 10-1/2 foot dredge have been able to upgrade to full-time. With high levels of scallop abundance, and in trip limit-based access areas, these upgraded permits are very valuable. Notably, moreover, Amendment 4 created this upgrade provision for "Gulf of Maine fishermen [who] commented that their historical practice of scalloping in state waters and occasionally at Fippennies Ledge and Georges Bank with smaller dredges was not taken into account." Amendment 4, at 4. This is yet another way Gulf of Maine fishermen have already been accommodated through the existing program.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Ten

How should incidental catch be addressed in Amendment 11?

FSF does not, in theory, oppose allowing vessels landing scallops during 1994-2004, but not meeting the landing criteria, to be allowed 40 pounds of scallops for sale, to accommodate historical fishing patterns and prevent discarding of scallops in directed fishing for other species. However, the Scallop Committee did correctly recognize that such a result would create a new permit regime for only a small amount of scallops per vessel.

Do you support any of the alternatives in Amendment 11 related to better and more timely integrations of recent data into the management process?

FSF reiterates its participants' long-standing opposition to changing the long-standing fishing year, upon which they have based their business plans and operations. The current fishing year matches well with the best scallop yields, with fishing commencing in the spring. Amendment 10 likewise seeks to maximize yield per scallop recruit. In addition, scallop inventory management and marketing have been set up over the past fifteen years to have fishing concentrate in the spring and summer when the season starts, and weather and yields are good. These successful business models should not lightly be discarded.

Significantly, moreover, new surveys are being designed for the scallop fishery that might better match the current fishing year, to the extent that there is a concern by managers. The Council should not change the fishing year, only to have to change it back (or again) to accommodate the new survey.

Do you support any of the "other measures" included in Amendment 11 (i.e. trawl sweep alternative and increased possession limit seaward of the demarcation line)?

In line with Amendment 10, the Council should factor in gear selectivity in setting qualification and participation standards under Amendment 11. Scallop netting is demonstrably less selective than scallop dredging. Further, increased possession limits present the opportunity for deck-loading and discard mortality if too many scallops are deck-loaded.

Do you have any other comments for the Council to be aware of when considering final action for Amendment 11?

NMFS should work quickly to implement Amendment 11. It should not take two years to implement a limited access regime. It only took months for Amendment 4, and the records were far less systematically maintained in 1993-1994 when that amendment was implemented for several hundred qualifiers. FSF thus supports the Scallop Committee's motion to limit the application period for Amendment 11 permits to 90 days after the start of the 2008 fishing year.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Eleven

Further, notifications of this application period can be made, via NMFS Notices to Permit Holders, even as Amendment 11 is being finalized.

Amendment 11 will need to cap General Category effort during this transition period. It would be terrible management to allow many General Category vessels, with no long term interest in the fishery, to file baseless appeals and then get to keep fishing for up to two years (or even up to one year). Such participants with no long term interest in the fishery could inflict considerable damage to the resource.

That said, a 10% cap is too high for this interim period. NMFS should be able to sort through frivolous appeals quickly enough that a cap more consistent with a long-term allocation and historic landings levels should be able to be selected.⁶ In fact, as non-qualifiers are sorted out, a 10% cap might end up allowing the remaining General Category qualifiers to inappropriately increase their individual (and perhaps overall) landings from current levels. It is worth noting that overall General Category landings decreased from 14% in 2005 to 12% in 2006.

Amendment 11 should also confirm that existing access area caps will be maintained during any transition period. The Elephant Trunk General Category derby shows how intensely General Category access area effort can ramp up. By contrast, the Limited Access fishery has sought to conserve this extremely important access area by calling for an emergency cut-back in trips for 2007.

* * *

FSF appreciates this opportunity to comment on Amendment 11. Please do not hesitate to contact us if you have any additional questions about our comments.

⁶ Moreover, of four alternatives in Amendment 4 to control fishing effort and create a tiered permit system, three had no allocation for General Category landings. Alternative 3, the only alternative mentioning such landings, stated there should be "a 5% reserve for appeals and boats landing under the 400-pound trip limit." Amendment 4, at 5. That less than-five percent reserve for appeals applied to the entire Amendment 4 scallop fishery rationalization program, so it would not be consistent to reserve what would amount to a full five percent just for General Category appeals in Amendment 11.

Patricia Kurkul, Regional Administrator
June 11, 2007
Page Twelve

Sincerely,

A handwritten signature in black ink, appearing to be "David E. Frulla", with a long horizontal line extending to the right.

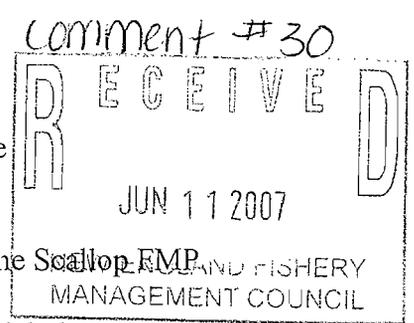
David E. Frulla
Shaun M. Gehan
Andrew E. Minkiewicz

Counsel for Fisheries Survival Fund

DATE: 10 June 2007

TO: Pat Kurkul, Regional Administrator, NMFS Northeast Regional Office

FROM: Richard Taylor, Box 7002, Gloucester, Mass 01930



RE: Comments regarding public hearing document for Amendment 11 to the Scallop FMP.

While the increase in General Category fishing in the Mid-Atlantic was widely known as early as 2002, the options presented in the public hearing document for Amendment 11 are significantly off target as potential solutions. Overall my recommendations are to select the NO ACTION alternatives for all but one of the options in the document as presented as the remainder ignore the basic reasons for the progress made during the last twelve years of management changes to the scallop FMP, particularly those of Amendment 10. The presented options also do not develop the effective tools that avoid a repetition of the earlier influx of General Category vessels off New Jersey (see attached graphics of VTR reports), a recurrence of which is in progress at this time in the Hudson Canyon scallop access area. We have not learned that lesson and are concentrating on solutions that do not enable us to effectively and rapidly address this and other problems. For example we do not require the Scallop PDT, Advisors, and Committee to monitor General Category (or Limited Access) fishery in a more real time manner or provide the tools for rapid meaningful action, leaving only those available to the Regional Administrator.

The single option that seems worthy of development, though not entirely fleshed out, is presented in section 3.1.4, establishing a Gulf of Maine management area, that might, in final form, be structured to preserve distributed access to the scallop fishery by this and succeeding generations of General Category participants. This approach is the only one that is in line with the principles developed over 3 years of work in Amendment 10 to the scallop FMP, which focused on area management with rotational fishing opportunities based on stock assessment in the area, with area TACs, and trip limits to hold catch to ~25%. This option should have been developed and presented for all of the more inshore areas along the entire coast in order to prevent the type of unmonitored General Category fishery that occurred off New Jersey.

Background

The adoption of the US Exclusive Economic Zone 1976 and MSFCMA had central goals of removing the foreign fleets, promoting development the US fisheries, and establishment the Fishery Councils with the structure, methods, and processes that would be used to administer the fisheries. However by 1980, just 4 years later, it was clear that the massive investment in the larger offshore capable vessels in the hands of experienced skippers along the US east coast was leading to further rapid depletion of the remaining stocks. In the scallop fishery this situation was brought to an end in late 1994 with the implementation of Limited Access permits and DAS allocations with the vessel history qualification period retroactively fixed to the years 1985-1990, a mere 9 to 14 years after implementation of the MSFCMA.

In 1995 and 1996 approximately 12 million pounds of scallops were landed by the Limited Access fleet working 204 DAS (total ~50,000 DAS). In the last 12 years we have made great strides at turning things around. Sweeping changes have been instituted including an increase in ring size, limits on crew size, closed areas for growout of smaller scallop identified in the annual NOAA survey, and area management. In each of the fishing years of 2005 and 2006 over 50 million pounds were landed with the fleet fishing less than 100 DAS (~25,000 DAS total) implying an increase in daily production of 800%. Best estimates of fishing mortality are in the 25 to 30% range, implying that 2 to 3 times the amount landed remained on the bottom each year (100 to 150 million pounds) or that total biomass on the grounds was 150 to 200 million pounds. The overall implications are that the scallop population is at least an order of magnitude larger than it was in 1994, and that the overall biomass is significantly larger than it has ever been since

the scallop fishery began. Significant secondary benefits have realized in the areas of bycatch reduction and gear effects with a 50-75% a reduction of bottom time and swept area by the gears, along with corollary fuel savings.

Careful analysis of the contribution of the various management changes to the rebound in scallop biomass and landings suggests that maintaining large spawning stocks and increasing the yield per recruit have had the greatest impacts. For many years meat counts were mandated at 33-36 and routinely exceeded. In the open area portion of the fishery 4 inch rings alone bring the meat count to the mid to low 20s, an increase in yield per recruit in the 50-100% range. Average landings from the closed areas have averaged near 15 count, an increase of well over 200% of pre-1994 average size, and well beyond the growth allowed by 4" rings, suggesting that the rotationally fished areas have been the greatest source of the landings increases.

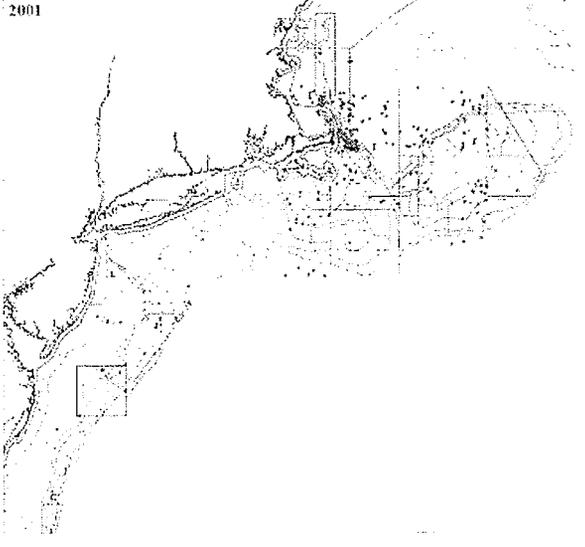
It is against this background that the options presented for Amendment 11 have been developed.

Overall the options presented do not include further development of the methods that have helped to increase the overall scallop biomass which in turn have led to a stable, profitable, and "sustainable" offshore scallop fishery. This oversight is especially troubling in light of the progress exhibited to date where increasing the biomass and landings has been significantly more beneficial to both the fishing communities and the overall economy than limitation of the number of participants. While no absolute linkage between the large spawning biomasses in the mid-Atlantic closed areas and new recruits appearing down current has been proven, it is certainly evident that area closures are a significant improvement over previous management methods, and should be not only continued but expanded. Transfer of the most successful techniques, specifically by widening the scope of area management to include the more inshore areas within the more limited range of smaller vessels, stock assessment, and limited removal offers the only clear path to continue the increase in biomass. The option establishing an inshore management area along the Gulf of Maine coast is the only one that might move us in that direction.

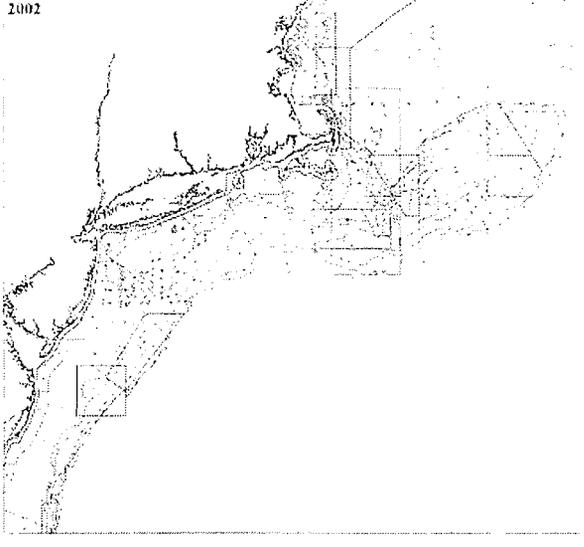
NO ACTION is preferable to assigning a fixed percentage of landings. Nowhere in the original or successive iterations of the MSFCMA does it specify that the Limited Access participants identified in the first 9 to 14 years of the regulations should have perpetual rights to a large fixed share of the clearly renewable and, more importantly, expandable scallop resource. Attempting to further solidify the situation that we found ourselves in in 1994 by fixing the share of all further entrants to the fishery, at least for the limited 2 to 11% options presented here, is confiscatory to both existing and future participants. While it is clear that measures including Limited Access were required to develop effective management, it is not at all clear that the benefits of the considerable investment of public funds expended in stock assessment and management of the scallop resource over the last 30 years should perpetually accrue to a small number of citizens. Put another way, granting of perpetual rights to enhanced future scallop populations to a select few that happened to be fishing from 1985 to 1990, or in the present case of the current General Category participants, will not survive thoughtful scrutiny over time.

Below are plots of General Category Vessel Trip Reports for the years 2001 through June 2005, though containing significant errors and omissions were the best data available at the time. The expansion of effort to the west of Hudson Canyon scallop growout area was quite evident by 2002, yet these reports were not a part of the management discussion until June 2005. The last image at lower right is a plot of all NMFS scallop survey tows for the years 1982 to 2005, and gives indication of how lightly sampled the area of greatest General Category impact has been over time. It seems likely that the large biomass in the Hudson Canyon Access Area had a successful spawning event and that we missed it in the surveys. We need both access to data and the tools to be able to rapidly react to this type of situation. Without them we will fail.

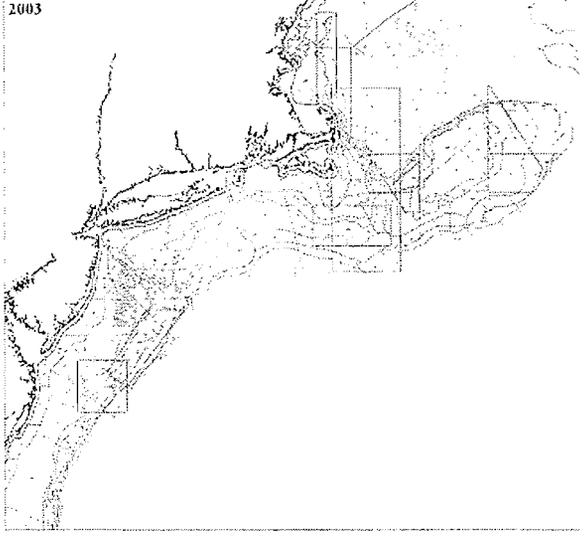
2001



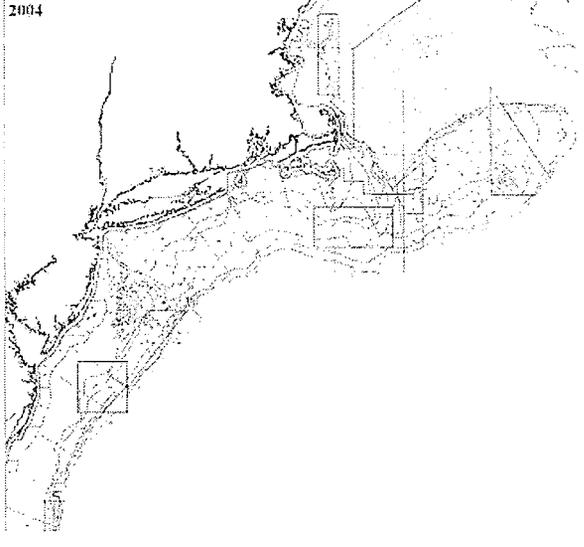
2002



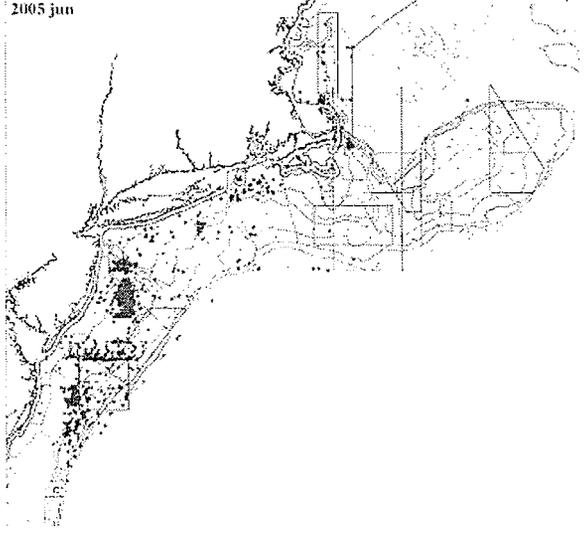
2003



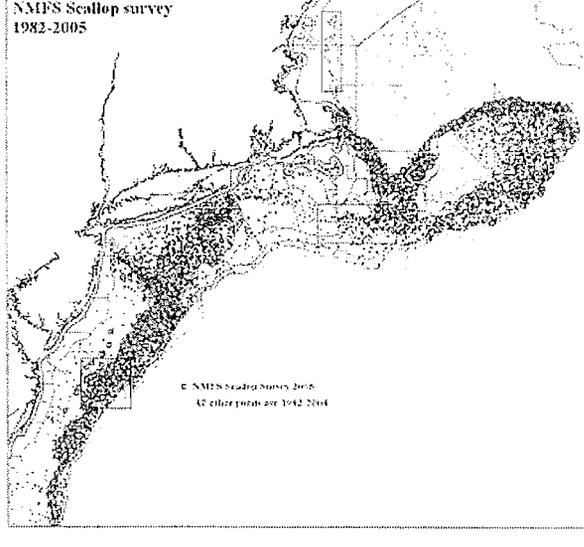
2004



2005 jun



NMFS Scallop survey
1982-2005



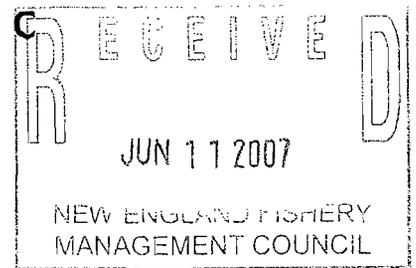
© NMFS Scallop Survey 2005
© chart data for 1982-2004

Comment #31

FUTURE FISHERIES, INC

June 6, 2007

Patricia Kurkul, Regional Administrator
NMFS – Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930



SUBJECT: "COMMENTS ON SCALLOP AMENDMENT 11"

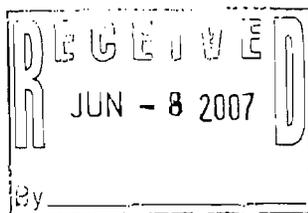
Dear Ms Kurkul:

I would like to express my thoughts on the Public Document for Amendment 11 of the Scallop FMP.

I do agree that the capacity and mortality in the General Category fishery should be controlled. Allocating number of trips (whether it is one or two tiers) per qualified vessel should control it. It allows opportunities for the vessel owners to use them at will, without encouraging derby style fishing which is not safe. As for those vessels that do not qualify, I would continue the current regulations regarding to the incidental catch of scallops for all vessels. The two issues that I disagree with which are the allocation percentage and the transition period.

First, I am not comfortable with the recent New England Fishery Management Council's (NEFMC) position on the preferred alternative for the allocation for the General Category, which is proposed to be 5%. Historically it has been a lot less than 5%. The public hearing document even states that the average is just below 3%. The allocation percentage should not be on the recent "best" years. It is just last few years that at the expense of the conservation measures applied on the limited access vessels since 1994, the scallop biomass rebounded. The limited access scallopers have their overall fishing days reduced more than 50%. It is down to about 50 open days and several access area trips subjected to by-catch Total Allowable Catch (TAC), gear restrictions and a reduction in size of crew. Most of the limited access scallopers (especially in New Bedford/Fairhaven area) do have extra fishing permits but it is primarily for incidental catches which makes us depending on revenue from scallops close to 100%. During the last few years the General Category vessels who have been part of the explosion in fishing are being displaced from their traditional directed fishery at the expense of the gains on reductions and cut backs on the limited access scallopers. I would like the Council to consider using the historical percent, if not then stop at no more than 5%.

Second issue is the allocation percentage (10%) hard TAC to use during the two year transition period. This increased percentage and longer length of transition period to cover the appeal process is beyond in scope of what NMFS and Council has done in all previous implemented FMPs whether it's scallops, groundfish, or monkfish etc. The appeal process will determine the qualifying vessels rapidly, that could translate into substantially larger landings by the smaller pool of qualified vessels. If a hard TAC is needed during transition then use the final percentage selected before allocating fishing opportunities per qualified vessel.



Respectfully,

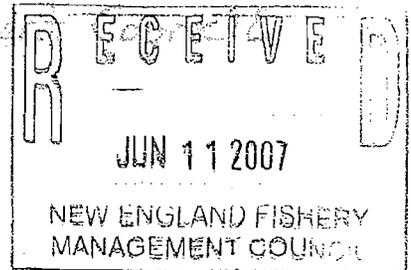
Ronald Enoksen
Ronald Enoksen

Phillip Michaud Jr.
 Scout Fisheries
 Wellfleet Mass

Comment #32

John Pappalardo, chair man
 New England Fishery Management

Re: Scallop Amendment 11



Dear Council members the traditional dayboat scalloper, dependent on the resource will suffer the greatest with the preferred alternatives, 11 year, 1000 lb, 5% TAC.

I refer to table 17 included with letter
 Best year landings per vessel

| | | |
|-----------------------|--------|---------------|
| 20,000 lbs or greater | 41.36% | cut in effort |
| 5,000 lb to 19,999 | 37.63% | cut in effort |
| under 5,000 lb | 17.17% | cut in effort |

To determine my percentage cut I used
 Best year landings per vessel 20,000 lb or greater. The Average allocation in pounds per vessel is 20,522 lbs. Divide this number by Average pounds of scallops per vessel 35,000 lbs (history) $20,522 \div 35,000 = 58.63\%$ minus 100 equals 41.36% cut

Our advisory panel recommended
 5 yr 5000 lb resulting in a 29% cut.

Increasing percentage TAC to 7%
 with 11 year 1000 lb represents a 17.9%

cut. Include best year indexed (option B) there will be no cut back for boats that have depended on this fishery for 5 years or more.

Allocating in 400 lb trips only can be a serious problem. Many vessels in my area do not land the maximum possession limit day fishing, bad weather and breakdowns are a factor also. Perhaps a cost recovery program. Perhaps allocate in units of 100 lbs, allowing up to 4 units per trip declaring how many units through VMS before crossing demarcation line (100, 200, 300 or 400) This would provide flexibility and can be monitored and enforced.

Sincerely

Phillip R Michaud
F/V Susan C III
508 776 8569

Table 17 - Distributional impacts of qualification criteria and time period alternatives combined with % TAC, assuming 50 mil. total scallop catch.

| Best year landings per vessel (lb) | 11 Year period | | | 5 year period | | | | 2 year period | | | |
|--|------------------|---|-------------------|-----------------|------------------|-------------------|-------------------|------------------|-------------------|-------------------|----------|
| | 100 lb. Criteria | 1000 lb. Criteria | 5000 lb. Criteria | Stand alone-ITQ | 100 lb. criteria | 1000 lb. Criteria | 5000 lb. Criteria | 100 lb. Criteria | 1000 lb. Criteria | 5000 lb. Criteria | |
| >=20,000 lb. (average pounds of scallops per vessel were about 35,000 lb.) | | | | | | | | | | | |
| Number of vessels | 62 | 62 | 62 | 62 | 62 | 62 | 62 | 44 | 44 | 44 | |
| % share of TAC | 49.7% | 50.9% | 59.1% | 53.6% | 53.8% | 54.9% | 61.4% | 51.1% | 52.0% | 58.1% | |
| % TAC | GC TAC (Mil.lb.) | Average allocation (pounds) per general category vessel at 50 million lb. scallop harvest | | | | | | | | | |
| 2.50% | 1.3 | 10,419 | 10,871 | 12,398 | 11,241 | 11,276 | 11,508 | 12,867 | 15,084 | 15,376 | 17,170 |
| 5% | 2.5 | 20,037 | 20,522 | 23,842 | 21,617 | 21,685 | 22,131 | 24,744 | 29,008 | 29,569 | 33,019 |
| 7% | 3.5 | 28,052 | 28,730 | 33,379 | 30,264 | 30,360 | 30,983 | 34,641 | 40,612 | 41,396 | 48,226 |
| 10% | 5.0 | 40,074 | 41,043 | 47,684 | 43,235 | 43,371 | 44,262 | 49,488 | 58,017 | 59,137 | 66,038 |
| 11% | 5.5 | 44,081 | 45,147 | 52,452 | 47,558 | 47,708 | 48,688 | 54,436 | 63,918 | 65,051 | 72,642 |
| 5000 lb. to 19,999 lb. (average pounds of scallops per vessel were over 10,000 lb.) | | | | | | | | | | | |
| Number of vessels | 141 | 141 | 141 | 126 | 126 | 126 | 126 | 99 | 99 | 99 | |
| % share of TAC | 34.3% | 35.2% | 40.9% | 33.8% | 33.9% | 34.6% | 38.6% | 36.8% | 37.5% | 41.9% | |
| % TAC | GC TAC (Mil.lb.) | Average allocation (pounds) per general category vessel at 50 million lb. scallop harvest | | | | | | | | | |
| 2.50% | 1.3 | 3,167 | 3,243 | 3,768 | 3,482 | 3,493 | 3,565 | 3,966 | 4,832 | 4,925 | 5,500 |
| 5% | 2.5 | 6,090 | 6,237 | 7,246 | 6,597 | 6,718 | 6,856 | 7,666 | 9,292 | 9,471 | 10,577 |
| 7% | 3.5 | 8,526 | 8,732 | 10,145 | 9,376 | 9,405 | 9,599 | 10,732 | 13,009 | 13,260 | 14,807 |
| 10% | 5.0 | 12,179 | 12,474 | 14,492 | 13,394 | 13,436 | 13,712 | 15,331 | 18,584 | 18,943 | 21,153 |
| 11% | 5.5 | 13,397 | 13,721 | 15,942 | 14,733 | 14,780 | 15,084 | 16,864 | 20,442 | 20,837 | 23,269 |
| <5000 lb. (average pounds of scallops per vessel ranged between 1,300 lb. with 100 lb. criteria to 2,300 lb. with 1000 lb. criteria) | | | | | | | | | | | |
| Number of vessels | 502 | 256 | None | 489 | 360 | 181 | None | 256 | 134 | None | |
| % share of TAC | 16.0% | 13.9% | 0.0% | 12.6% | 12.4% | 10.6% | 0.0% | 12.2% | 10.5% | 0.0% | |
| % TAC | GC TAC (Mil.lb.) | Average allocation (pounds) per general category vessel at 50 million lb. scallop harvest | | | | | | | | | |
| 2.50% | 1.3 | 572 | 980 | No allo. | 465 | 618 | 1,049 | No allo. | 855 | 1,404 | No allo. |
| 5% | 2.5 | 1,113 | 1,905 | No allo. | 904 | 1,202 | 2,041 | No allo. | 1,662 | 2,731 | No allo. |
| 7% | 3.5 | 1,558 | 2,667 | No allo. | 1,266 | 1,683 | 2,657 | No allo. | 2,326 | 3,823 | No allo. |
| 10% | 5.0 | 2,226 | 3,809 | No allo. | 1,809 | 2,404 | 4,081 | No allo. | 3,324 | 5,461 | No allo. |
| 11% | 5.5 | 2,449 | 4,190 | No allo. | 1,990 | 2,644 | 4,488 | No allo. | 3,656 | 6,007 | No allo. |

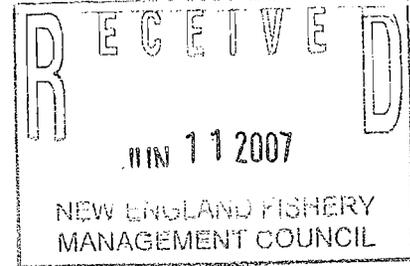
Preferred alternative for allocation and qualification shaded, assuming total scallop catch of 50 million pounds



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

SF
comment # 33

June 11, 2007



Patricia A. Kurkul
Regional Administrator
Northeast Region
NMFS, NOAA
One Blackburn Drive
Gloucester, MA 01930-2298

RE: Draft Supplemental Environmental Impact Statement (DEIS) for Amendment 11
to the Atlantic Sea Scallop Fishery Management Plan CEQ No. 20070160

Dear Ms. Kurkul:

EPA is providing the comments to the National Oceanic and Atmospheric Administration (NOAA), the National Marine Fisheries Service (NMFS), and the New England Fishery Management Council (Council) on the referenced document. These comments are offered in accordance with EPA's responsibilities under Section 309 of the Clean Air Act, Section 102(D)(2)(C) of the National Environmental Policy Act (NEPA), and the Council on Environmental Quality's regulations for implementing NEPA.

The DEIS was prepared to explore strategies needed to control scallop fishing capacity and curb mortality resulting from fishermen who presently have open access to the scallop fishery. "Open access" means that any boat owner that wants his vessel permitted for scallop fishing may do so; there are no specific qualifications needed to receive a general category permit. While allowed under Amendment 4 to the Atlantic Sea Scallop Fishery Management Plan, open access has probably contributed greatly to exceeding current scallop fishery mortality objectives.

The document evaluated a series of "valued ecosystem components" (VECs) which represent both the scallop resources and human communities that will be affected by proposed management actions. Various VECs were assessed to determine the direct/indirect effects and cumulative impacts that resulted from past regulatory actions and their impacts on the basic sea scallop resource, their physical environment, fishing impacts on protected species, and fishery-related businesses and communities. New management options being considered include: limiting entry for general category fishing permits; a hard total allowable catch limit for the general category fishery; the establishment of a separate limited entry program in the Northern Gulf of Maine; incidental catch (meaning scallops taken while targeting other species) provisions; and

JUN 11 2007

other measures to more quickly integrate recent scallop harvest data in the management process.

The document was well-written, rationally organized, and had clearly summarized past management actions that had, according to the DEIS, contributed to excessive scallop mortality in the fishery today. We have commented on two preferred alternatives that were discussed in the Management Plan.

1) Catch Limits - The proposed management plan recommends limiting scallop harvesting by general category fishery boats to 5% of total annual catch permitted to the fishery as a whole. While the DEIS acknowledges that limited access, by itself, will not entirely eliminate unsustainable scallop mortality, it will help reduce the risk of overfishing by preventing new entry to the general category fishery.

2) Limited Entry - The proposed Management Plan recommends limiting entry to the general category fishery, with entry qualifications based upon a license-holder's past years landing activity in the scallop fishery. The number of fishery participants would be selected based upon previous years scallop landing qualification criteria data within the qualification time period.

While EPA defers to NOAA/NMFS to determine the best management techniques that will achieve fishery objectives, we suggest that for the health and safety of fishermen, the Council select strategies that avoid "derby" type fishing. Derby fishing occurs when an annual total allowable catch (TAC) is established without daily catch limitations. Unrestricted TACs encourage risk-taking behavior such as going out in bad weather and working excessively long hours which increases the risk of accidents from operator fatigue.

Fishermen in local hearings (see Scoping Comments, Written Comments Received) suggested that scallop catch limits be assigned to vessels without regard to their size or capacity. EPA notes that this would place smaller-sized boats at a disadvantage because larger boats can generally travel faster and work during more dangerous weather thereby harvesting a greater percentage of TAC. Assigning future daily catch limits to individual vessels based upon their past history of scallop landings seems to be an equitable management plan.

Others suggested assigning catch limits to individual fishermen, rather than the boat, which is now the current practice. There is some risk, however, that assigning pound allotments or catch limits to individuals would create a "harvesting right" which itself could become a commodity to be sold or traded. We can easily envision an individual fisherman who, rather than going fishing, sells or trades his harvesting rights onshore, an undesirable outcome in our view. It is unlikely that creating a secondary paper market in un-harvested scallop meats would achieve fishery resource management objectives.

It is possible, however, that assigning catch limits to an individual (creating harvest rights described above) might be effective if fishing "sectors" and harvesting cooperatives were created, and TAC shares were awarded to each sector within the fishery. Groups would be formed around common fishing practices, common homeport, and common marketing arrangements. Eligibility criteria, operational plans, monitoring, enforcement of TAC, and allocation rules would be controlled by the fishermen themselves. According to previous EISs on the lobster fishery in the northeastern U.S., Maine lobster fishermen heavily depend upon mutual cooperation and self-governance in the management of local lobster resources.

Editorial Comments-

Pg 164, end of first paragraph - The Error note should be deleted and reference source included.

Pg 165, last paragraph, line 5 - The draft EIS states that... "The alternatives under consideration would reduce the potential pool of participants from 143 to around 705..." perhaps was intended to read... "The alternatives under consideration would reduce the potential pool of participants from 705 to 143..."

EPA rates this action as "LO" that is, lack of objections. The alternatives that were examined, impacts on threatened and endangered species, bycatch issues, and public participation processes were satisfactorily addressed in this document. For more information, please contact John Hamilton at (404) 562-9617.

Sincerely,



Heinz J. Mueller, Chief
NEPA Program Office
Office of Policy and Management

WILLIAM D. DELAHUNT
TENTH DISTRICT, MASSACHUSETTS

2454 Rayburn House Office Building
Washington, DC 20515
(202) 225-3111
www.house.gov/delahunt

SOUTH SHORE
1-800-794-9511

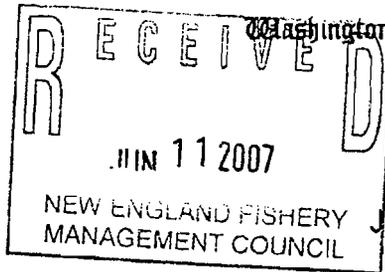
1250 Hancock Street
Suite 802 N
Quincy, MA 02189

CAPE COD & ISLANDS
1-800-870-2638

140 Main Street
Hyannis, MA 02601

Congress of the United States
House of Representatives

Washington, DC 20515-2110



June 7, 2007

Comment #34

COMMITTEE ON FOREIGN AFFAIRS

SUBCOMMITTEES ON:
INTERNATIONAL ORGANIZATIONS, HUMAN
RIGHTS AND OVERSIGHT
CHAIRMAN
WESTERN HEMISPHERE

COMMITTEE ON THE JUDICIARY

SUBCOMMITTEES ON:
CRIME, TERRORISM AND HOMELAND SECURITY
IMMIGRATION, CITIZENSHIP, REFUGEES, BORDER
SECURITY, AND INTERNATIONAL LAW
COMMERCIAL AND ADMINISTRATIVE LAW

CO-CHAIR:
CONGRESSIONAL COAST GUARD CAUCUS
OLDER AMERICANS CAUCUS

Dear Administrator Kurkul:

I am writing regarding Amendment 11 and the proposed changes to the Atlantic Sea Scallop Fishery Management Plan which seeks to control capacity and mortality in the general category scallop fishery.

I have been contacted by Bob Keese who is a third generation fisherman from Chatham. He is concerned with how the recommendations of the New England Fishery Management Council will impact the general category scallop fishery and their livelihood. I have attached a copy of a guest column that Mr. Keese wrote in the May 2007 edition of *Commercial Fisheries News*.

I would appreciate your taking into account his concerns as you reach a final decision.

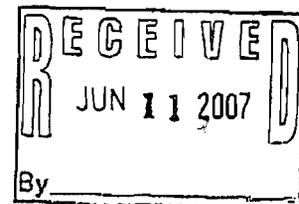
With kind regards.

Sincerely,

A handwritten signature in cursive script that reads "Bill Delahunt".

William D. Delahunt

Administrator Patricia Kurkul
Regional Administrator
National Marine Fisheries Service
Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930



Gen Cat scallopers deserve larger quota share

In an attempt to control fishing mortality, the New England Fishery Management Council is developing Amendment 11 to change the general category (Gen Cat) scallop fleet into a limited-access fishery.

Qualification criteria, coupled with a November 2004 control date, will be used to identify future participants in this Gen Cat fleet and a portion of the total allowable catch (TAC) for scallops will be allocated to the general category.

It is this portion of the scallop TAC that has caused much controversy throughout Amendment 11. The limited-access fleet believes the allocation should be 2%-3%. This basically would leave the remaining 97%-98% of the TAC for the limited-access fleet. The rationale behind this logic is that the Gen Cat was never meant to be anything more than a bycatch fishery.

For the past seven years, the scallop resource has been at levels higher than anyone ever imagined. Consequently, landings by both the limited-access fleet and the general category fleet have grown significantly.

While the growth of the limited-access fleet has been heralded as the greatest success story in fishery management history, the growth within the Gen Cat has been perceived as nothing more than a threat to the success of the limited-access fleet.

It has been argued that if the Gen Cat is left unchecked, it could lead to the downfall of the limited-access fleet. While there is merit to this concern, general category landings have not even come close to undermining the success of the limited-access fleet.

Equity issue

In 2005, when the general category harvested an all-time-high 14% of the scallop TAC, the limited-access fleet managed to land 45 million pounds of scallops valued at about \$360 million.

It is true that for every scallop that the Gen Cat lands there is one less scallop that the limited-access fleet can land. Each fleet needs to be assured a certain percentage of the harvest. The need to divide the resource between the two fleets has become the focal point of Amendment 11.

The legislation that directs NMFS on how to manage the nation's fisheries is the Magnuson-Stevens Fishery Conservation and Management Act (MSA). National Standard 4 of the MSA states that if it becomes necessary to allocate or assign fishing privileges among various US fishermen, it should be carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.

Although the argument could definitely be made for a much higher allocation, the Gen Cat fleet needs only enough to satisfy those who have an investment and/or history in the fishery before the control date.

Instead of adopting this allocation, which would be no higher than 15%, the council has chosen 5% as its preferred alternative. This would leave 95% of the scallop resource to approximately 351 limited-access vessels.

Although there are 351 limited-access vessels, a much smaller group of individuals own these vessels. In fact, some limited-owners legally own 5% of the entire scallop harvest by themselves. Setting the maximum allotment for the

entire Gen Cat fleet to the same level as that of one person from the limited-access fleet raises some serious questions about fairness and equity.

GUEST COLUMN

by Bob Keese

Bycatch fishery?

The limited-access fleet is one of the most lucrative and politically powerful fishing organizations in the world and they have spent much of their effort in the last few years justifying giving the general category the smallest allocation possible. The limited-access fleet's lawyers,

lobbyists, and consultants have come up with the notion that the general category was established as a "bycatch" fishery only and should never have been allowed to be a successful, directed fishery for scallops. Therefore, their argument goes, an allocation should be chosen to keep the general category from ever becoming more than a part-time income source. This is the rationale behind the motion to allocate 95% to the limited-access fleet.

Furthermore, they contend that anyone who used this fishery for anything other

General category landings have not even come close to undermining the success of the limited-access fleet.

—Bob Keese

than a bycatch or "supplemental income" fishery was abusing a loophole in the system and so no consideration should be given to this group of fishermen in Amendment 11.

See GUEST COLUMN, page 21A

catch-share systems.

New sector allocation proposals (i.e. fishing cooperatives) using sector guidance that hopefully will be updated through Amendment 16 are an important means for the groundfish complex to get back on the road to biological recovery while retaining important social and economic components of the fishery.

Also, the Northeast Seafood Coalition point system proposal includes some of the valuable components of catch-share systems, including important accountability measures, incentives to target healthy stocks and avoid depleted stocks, as well as flexibility for the industry to improve economic returns.

Catch-share systems are the ultimate win-win-win situation providing conservation, economic, and regulatory benefits. The New England council will do well to consider these approaches in this latest groundfish amendment.

Sally McGee

Sally McGee is a marine conservation advocate for Environmental Defense and a member of the New England Fishery Management Council, Environmental Defense's report, "Sustaining America's Fisheries and Fishing Communities," is available online at <www.sustainingfisheries.com>.



Guest Column

Continued from page 7A

After hearing this for several years, many council and advisory panel members have adopted this belief that the general category was never meant as anything but a "bycatch fishery" and the council should keep the general category at this bycatch level forever.

Amendment 4

Since the general category was established in Amendment 4, we should all look to this document if we want to know the truth about the origins of this fishery.

After reading Amendment 4, you will see that the general category was clearly made for two reasons. It was made to provide for a bycatch fishery and it was made to accommodate a directed fishery for scallops with a 400-pound daily trip limit.

Amendment 4 reads as follows: General permit vessels may fish for scallops or potces and land them as bycatch if the meat weight does not exceed 400 pounds or the amount of shell stock does not exceed 50 US bushels.

People involved with Amendment 4 assure us that the general category was made, at least in part, to accommodate a directed fishery for scallops. They recall that, in the early stages, two scallop management areas were proposed to be used exclusively for a directed, day-boat fishery on scallops. One area was the

The Gen Cat fleet needs only enough to satisfy those who have an investment and/or history in the fishery before the control date.

—Bob Keese

Gulf of Maine Exemption Area and the other was off the North Carolina coast.

These areas were never adopted due to enforcement issues. Instead, the all-encompassing general category was developed.

High landings

The scallop resource has changed significantly since 1994 and both the general category and the limited-access fleets have evolved accordingly. In 1994 the total scallop catch was 15 million pounds. In 1994, NMFS believed that the highest long-term sustainable yield would be 29 million pounds.

In the last six years, total scallop landings ranged from 45 million to 61.7

million. This rapid growth in the scallop biomass is the result of the new rotational management measures in use today.

Instead of allocating according to current resource conditions and the guidelines set forth in the MSA, we are using a false interpretation of a previous amendment to steer this decision.

We need to put aside the myth that the Gen Cat was never meant to be anything but a bycatch fishery. Once this is done, we can allocate in a manner consistent with the MSA and allow a small-boat fishery to continue to benefit from this enormous public resource.

The 5% that the council is currently considering will make the Gen Cat into a part-time income fishery for a group of fishermen. Currently, there are 459 vessels that will meet the proposed preferred qualification criteria.

This small allocation will not even allow the qualifying fishermen the opportunity to make a living from this fishery. Amendment 11 is out for public comment. The final vote for the amendment will be in June. Hopefully, enough comments will be sent to the council to convince its members of the need for a more fair allocation scheme.

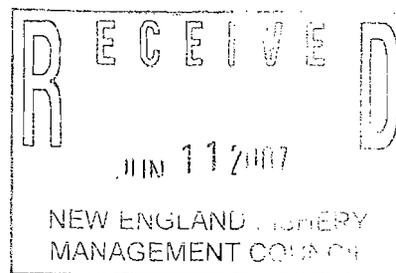
Bob Keese



Bob Keese fishes the Beggar's Banquet out of Chatham. He can be reached at (774) 263-8702.

June 6, 2007

Patricia Kurkul, Regional Administrator
National Marine Fisheries Service
Northeast Regional Office
1 Blackburn Drive
Gloucester, MA 01930



Dear Patricia Kurkul, Regional Administrator,

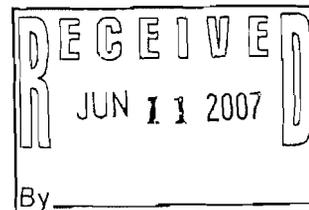
SUBJECT: COMMENTS ON SCALLOP AMENDMENT 11

Attached are my comments concerning the Scallop Amendment 11, Scallop Fishery Management Plan. If additional information or explanation is needed, please contact me.

Sincerely,

A handwritten signature in cursive script that reads "Stanley C. Sargent".

Stanley C. Sargent
207-546-7100



- 3.1 Measured to control capacity and mortality in general category fishery.**
Limited Entry.
- 3.2 Allocation between limited access and general category fisheries.**
Allocation for General Category Scallop boats is 50,000 pounds per boat a year.
Non-transferable.
- 3.2.1 Allocation of 5% of the total annual projected scallop catch to the general category fishery.**
Allocation of 5% over the long term of general category may be an average. But compared to the limited access boats the average of poundage per boat, per trip, has gone up a lot more than 5% since 1994.
- 3.3 Additional alternatives related to a limited entry program for the General Category fishery.**
1. Vessel with a permit from 1994 – 2004.
 2. By poundage per year; 50,000 pounds.
 3. Owner, Operator only.
 4. Yes
 5. Probably Not
 6. No
- 3.3.2.1 Allocation of access for qualifying vessels would be an individual allocation in trips maintaining the 400 pound possession limit.**
Allocation of Scallops should be X number of pounds, not trips.
Example: 50,000 pounds and additional 3% for the cost of enforcement and monitoring.
- 3.3.3 Should additional limited entry permits be included?**
Only if they were between 1997–2004 with landings.
General Category permits shouldn't be allowed to be stacked. The total number of poundage per permit is 50,000 pounds. One General Category permit per boat only. In addition to that, General Category should be owner, operator only.
- 3.3.3.1 Specific permit provisions for limited entry general category permits.**
No stacking of permits.
- 3.3.4 Should measures to reduce incentive for qualifiers to use trawl gear be included?**
Yes, 40 pounds maximum per trip.

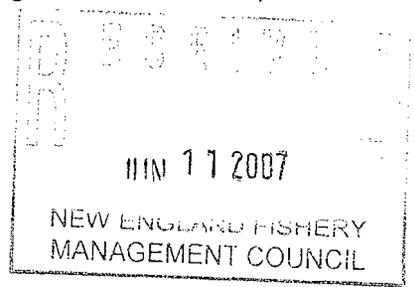
- 3.3.5 Should qualifying vessels be permitted to form voluntary sectors?**
No action.
- 3.3.6 Interim measures for transition period to limited entry.**
No action.
- 3.4 Establish a northern gulf of Maine scallop management area.**
Yes.
Northern gulf of Maine should be a separate permit and a separate quota per boat. A hard tact will lead to derby style fishing and the smaller boats will be put to a disproportionate disadvantage.
- 3.6 Limited access fishing under General Category.**
Prohibit all Limited access boats from fishing with General Category.
The word Limited only seems to apply to the vessels that have the smallest access to the fishery.
- 3.7 Allocation of Yellowtail Flounder bycatch in access areas.**
General Category can't have any bycatch.
- 3.8 Incidental Catch**
40 pounds per trip. With one trip equaling 24 hours.
- 3.9 Better and More timely integration of recent data.**
Change the fishing year.

Comments:

General Category was made up for small boats, about 75 boats total, half were from Maine that were actually scalloping at the time. Since then, General Category has been exploited beyond anyone's ideas at the time of the making. Now we have the task to decide who has the right to fish and who does not. Those who qualify must have been there in the beginning. There can only be one set of rules for General Category: Owner, operator; One dredge, 10' 6" maximum; No targeting scallops with trawl nets; Fishing season April 1st – November 1st. ect.. This also has to apply to Northern Gulf of Maine. Northern Gulf of Maine tac is broken down per boat, per season, not per trip.

Comment #30

Subject: Comments on Scallop Amendment 11 (Attn. Patricia Kurkul Regional Administrator)
From: my gray <rose_bud83@yahoo.com>
Date: Wed, 30 May 2007 07:39:06 -0700 (PDT)
To: Scallop.Eleven@noaa.gov



1. Yes, I believe capacity and morality should be controlled in the general category fishery.
2. I am in favor of limited entry.
3. I feel that 5,000 lbs must be used. In reality 5,000 lbs is only a little over 12 days fishing. That should cover even the fishermen who only fish part time. As far as years, 5 or 11 year plan wouldn't make much difference.
4. I believe a tier system would work the best, possibly a 3 year tier.
5. Should be dredge only. 10'6" for everyone.
6. Undecided on a Northern Gulf of ME. fishing area.
7. Limited access vessels should be allowed to fish under general category rules as long as what they catch comes out their tac.
- 8+9. I conciser this is a very important issue. 5% has been thrown out of many meetings. I believe it must be at the 10-11% level. Many reasons drew me to this conclusion. One is we don't know the average size of vessels that is going make up the general category fleet. If it ends up being more smaller vessels, we will be at a disadvantage trying to get all closes area trips in before they get closed for by catch. For one example: plus, it is not set in stone. How many vessels are going to be in the fishery. Referring to table 19 at 11% limited access vessels would stay at present levels, which is stated in your document at an average of 1 million dollars a vessel. I believe a 10-11% Limited Access vessels would stay at present levels, which is stated in your document at an average of 1 million dollare a vessel. I believe a 10-11% TAC at this point of forming the criteria of the Gen. Cat. fleet is necessary to ensure you have enough resource to work with to let us have a viable chance of staying in business. I believe if we don't get this much of a percentage you'll have succeeded in putting a lot of us out of the fishery completely. I seriously believe that it is on the minds of most people in the Limited Access fleet. I hope it is not the councils view.
10. Leave it at 40 lbs..
11. Let us as a fisheries use our VMS' to do the trip reports. It would be easier for us and let you receive our data quicker.
12. No
13. Mostly
Comments
14. We must have the option to stack permits in this Amendment. I have fears that we will not get a large

enough TAC to go around. We will need this option. I believe there is enough resources to support a healthy Limited Access fleet plus a Gen. Cat. fleet. I have been a Captain in the Limited Access fleet and I presently own my own General Category vessel. I believe we could be an asset to each other. For example: My son has fished and trained under me for 3 years and now is a deckhand on a Limited Access vessel. I think in the future you will see a lot of deckhands on Limited Access vessels will be getting to an age they won't be able to or want to still do their jobs on a Limited Access vessel. It would be nice that they still could fish the Gen. Cat. fleet could be the answer. I hope the council thinks long and hard before any decisions are made that will affect so many people. Please, note that this is not just numbers or fishing vessels, peoples lives are going to be affected by your decisions forever!!

Sincerely,

Wallace A. Gray
F/V Foxy Lady II
Stonington, Me.
04681

Comment # 37

Woneta M. Cloutier

From: jack stormy [stormyseasllc@yahoo.com]
Sent: Tuesday, June 05, 2007 8:20 AM
To: stormyseasllc@yahoo.com
Subject: Re: Fwd: comments on amendment 11

Hahn <hammersportfishing@yahoo.com> wrote:

Note: forwarded message attached.

The fish are biting.

Get more visitors on your site using Yahoo! Search Marketing. Date: Mon, 4 Jun 2007 21:33:03 - 0700 (PDT)

From: jack stormy <stormyseasllc@yahoo.com>
Subject: comments on amendment 11
To: hammersportfishing@yahoo.com

Dear Council:

MY QUESTION TO THE COUNCIL IS? If the general category was deleted from the fishery would the mortality rate decrease? If the answer is anything but yes the vision statement is false and this amendment 11 should be thrown away written to be fair to the general category not the limited access boat that catch 89% of the quota and want 95% of the quota.

My name is Jimmy Hahn I am a owner of 2 general category boats out of Ocean City Maryland. One has no history before the con troll date. Then I purchased another boat that has little history because I was told by NMFS and North England council that as long as I had landing before the control date I would not be out of business. In all of my phone calls and the scoping meeting I was never told about qualification requirements. I would not have bought this boat if I had known. I do not consider getting 10 to 20 trip a year being in business. No where in the proposals for the control date did it say any thing about IFQ or days at sea. I only fish for scallops I do not have any other Limited access permits to fish.

I know the council want to control capacity and mortality. With using the control date it should control capacity but instead of using the preferred option of 1000lb since 1994 it should be more current like 1000lb since 2003. If you did not fish when the scallops were at highest population level and highest price, why would you fish for them in the next couple of years when they are in the down side of there cycle. All a individual quota is going to do is let the people that hold a meet the criteria weather they fish or not make a profit off a permit. The quota should go to real fishermen. What happens to the quota that is given to people that do not use it? Is it saved for the next year or lost?

After listening to the amendment hearing I did not hear many people in support of the preferred

06/13/2007

actions of the council. Most people wanted the opposite, the only people in support preferred action were limited access boat owners. Was amendment 11 written to control capacity and control mortality or to push the little fisherman out of business and give the quota to the limited access boats.

The council should give the general category at least 10% hard tac fleet wide. The preferred 5% is to little. With only 5% the preferred option for allocation would be exceed. How is this make good sense! If we are only allowed to catch 20% of the biomass how can giving us extra 5% increase mortality. With all of the closed areas along the coast how can the fishery be over fished? If the scallop are over fished why did the Elephant Trunk area even open. When it did open why didn't you use the science to catch the least amount scallops possible. You open the season right when they were about to spawn. Three more weeks and they would have all spawned at least once. The distance the spat could a floated would have repopulated some of the Delmarva area. Also the number of bushels to catch 400lb was around 50 one month later it only took 35 bushel for 400lb that's 15 bushels less. In the general category alone that's 12000 bushels less and about 1,620,000 scallops less. With the limited access boats catching 18000lb per trip in 300 trips it would have saved 202500 bushels and over 27,337,500 scallops. Who decided to open the season a month to early. Instead you didn't use the science to protect mortality. Now who to blame for the extra mortality? Not the general category! The general category didn't deplete the scallop in the 1990s it was the limited access boats. They didn't bring the fishery back. More laws and rules were put in place to keep the mortality at a controlled level. The scallops that we are allowed to fish on now were not put there by limited access boats, mother nature put them there. They are on federal bottom that is owned by the citizens of the United States. My tax money is used to study, protect and regulate, why shouldn't I be allowed a percentage of that resource. I have learned that 5 boat owners, currently own 118 limit access boats, that over 27% of the quota. How is that fair, that 5 people own more of the quota then the whole general category can catch in two years at 10%. I really feel the fishery's people should wake up.

My comments to the Questions?

1. IF THE GENERAL CATEGORY WAS DELETED WOULD SCALLOP MORTALITY CHANGE? The answer is NO so how could regulating the general category change mortality. Mortality can not be controlled on the 10% level it must be controlled on the 90% level!

2 and 3 . Capacity is going to be controlled by the control date. I think people currently in the fishery should be allowed to continue to fish. I think the option 1994 and 1000lb is to general, it should be given to fishermen who are currently fishing 2003 to 2004 with a 1000 lb is much better. What about a rigging up clause? We were told by NMFS that if you had a permit before control date with landing you would qualify.

I think consideration should be given to people who fish only for scallops. Those that are after the control date should not be complete pushed out of this fishery. For example if you fished over 200 days since the control date, it your primary fishery and you should be given something.

Mortality should not be blamed on the general category. We are only catching 11%. If you want to control mortality it should be done on the 89% the limited access catch. If you completely deleted the general category the limited access boat would catch 100% instead of 89% so whats the different? I think the limited access boat can afford to give 10%. I think it

would be fair to give the general category a 10% hard tac fleet wide.

4. I think that it should be a hard tac of 10% fleet wide. Let the fishermen who fish get the quota. Why should somebody who fished 10 years ago and is not fishing now get a quota to sell or lease and make money without fishing. What happens if you give out trips and the trip don't get taken?

5. I think we should be able to continue and a 10% hard tac until the in term measures are straightened out.

7. Limited access boat should not be able to fish under general category quota. In 2005 they landed 1.5% 800000 lb and in 2006 they landed .76% 424000 lb after landing there quota of 87% and 89%. How much extra mortality is that. It should be one category or the other not both. Many limited access boat fished the elephant trunk opening under general category first then started the limited access trips. Double dipping.

8. yes Why can't we have at least 10%? That's what the average has been over the last couple of years without being over fished.

9. yes. we should get a 10 % of the total quota.

10. I think there should be another permit for incidental catch, you should be able to sell the catch.

11. I think we should use more science and less political power to regulate and control.

12. increase limit to 100 bushels. Also increase the trip limit to 800lb for a 48 hour period to save fuel. Use vms to regulate hours and trips

13. yes i believe the whole impact to the environment section was written by the limited access boats for the limited access boats. Nowhere does it have a negative statement about limited access boats. How can that be, when they catch 89% of the quota.

14. I think I have made my feeling very clear general category is not the problem for mortality.

3.1.2.1.

Agree with control date and 1000 lb

3.1.2.2

agree with march 1 2000 - 2004 Quota should go to boat currently in scallop fishery. If you did not work in the best years you never will.

3.1.2.3

none Should be a hard tac fleet wide. Not to somebody who does not even own a boat any more just holds a permit. Quota should be given to people who want and only fish for scallops not draggers who only fish for scallop occasional. 2000 - 2004 allows only 369 boats.

3.1.2.4

agree with 3.1.2.4.6

3.1.2.4.1

is not what NMFS told everybody would happen. Some of us bought boat with little history because Pete Christor told us not to worry as long as it is before the control date and has landing before control date nothing would change.

3.1.2.5

agree with 3.1.2.5.1.1 One vessel one permit. Many boat owner sold the boat to family members to be able to get 2 quota out same vessel and permit.

3.1.2.5.4.3

not sure

3.1.2.5.8.1

A limit on the number of permits and boat you can own.

3.1.2.6

No trawl gear

3.1.2.8

agree with 3.1.2.8.1

3.1.4.3.

not sure

3.1.6.1.

disagree with 3.1.6.1.1 Limited access vessels should not be able to fish under general category. They already get 89% how much more do they need. Double Dipping

3.1.7.3

not sure

3.1.8

agree with 3.1.8.2

3.2

agree with 3.2.1.1

3.3

agree with 3.3.2.2.

If the vision statement is false for amendment 11 then how can the council use it to regulate the fishery. The council and NMFS needs to take a better look at the overall status of the fishery, use better science and more common sense. How can controlling 5% - 10% of a fishery reduce mortality. Amendment 11 was written to put the small boat owner out business and increase control and profit for the limited access boats with no regard for the mortality levels of the scallops. The scallop quota should not be owned by 334 limited access boats but shared by all the citizens of the United States.

If you have any comments or questions please feel free to contact me at 410 310 4296

Thanks

Jimmy Hahn

Take the Internet to Go: Yahoo!Go puts the Internet in your pocket: mail, news, photos & more.

The fish are biting.

Get more visitors on your site using Yahoo! Search Marketing.

Appendix III
For Amendment 11 to the
Atlantic Sea Scallop Fishery Management Plan

Meeting summaries from the Amendment 11 DSEIS Public Hearings



Amendment 11 Scoping Hearing Summary

Radisson - Hyannis, MA

May 16, 2007

About 20 individuals attended the public hearing in Hyannis, MA, and about a dozen gave oral comment. Rodney Avila, a member of the Scallop Committee welcomed the audience and gave an overview of the process and purpose of the meeting. Deirdre Boelke, NEFMC staff then reviewed the public hearing document and explained the preferred alternatives the Council identified so far in Amendment 11. The meeting was held from about 6:15-8:15 PM.

About one-third of the audience was members of the limited access scallop fishery including limited access permit owners, captains and crew. Overall many of their comments were in support of limited entry to help stabilize the scallop fishery. Most voiced that they do not have a problem with general category vessels that have been participating in the fishery traditionally, but there are too many newcomers and that is where the problem is. One stated that there are too many little boats, bottom line. The remaining two-thirds were representatives of the general category fishery. Overall most general category participants commented that the system is not broken and limited entry is not needed. The scallop fishery is cyclic in nature; more effort comes in the good times, and some vessels leave in the hard times; it fixes itself. The main issues discussed over the course of the meeting are summarized by topic below.

Measures to control capacity and mortality in the general category fishery

Several speakers were in favor of No Action. One individual commented that the general category fishery should remain open access so that when times are good vessels can benefit, and when times are harder that effort will reduce on its own. The Council should recognize that mortality and capacity in the general category fishery are going to go up and down and this action can't fix that; in his opinion that is not a problem. It was suggested that the alternatives are too complicated and reducing the possession limit annually may be a better approach to limited entry. Another commenter added that years ago NMFS asked vessels to switch off groundfish and find other opportunities, and now that some vessels have made a go at scallops they are being punished again. One speaker commented that Amendment 11 is going in the wrong direction; it is trying to solve a problem that occurred off New Jersey several years ago and apply it everywhere across the board. He has issue with limited entry in general and how that management tool gives a renewable public resource to a small number of individuals permanently.

Several others voiced support for limited entry suggesting that it will help stabilize the fishery which is important. One added that Amendment 11 will have restrictions compared to having the ability to fish 400 pounds a day for 365 days a year, but there are stacking alternatives that would allow up to 150 trips or 60,000 pounds per vessel, and at \$6 a pound that is a pretty good earning potential for a relatively small vessel.

Qualification for limited entry

One speaker suggested that the 5,000 pound alternative should be considered because it represents a serious level of general category effort. He did not support limited entry, but if it goes that way 1,000 pounds is not realistic and will qualify too many vessels, especially if the overall allocation is

5%. Based on the landings data in the document, he explained that vessels who qualify under the 5,000 pound criterion landed about 90% of total general category landings. Another commenter suggested that the costs of fishing have increase dramatically in recent years and that should be considered when selecting how many vessels should qualify. Qualifiers will need more to make a profit when costs are so high. He suggested that the Council really needs to consider the economics of this when making decisions about a limited entry program.

Allocation of scallop TAC to the general category fishery

Several speakers commented that 5% is too low, especially if the Council is going to select a qualification alternative that is less restrictive. One speaker added that the mix on paper now (5% and 1,000 pounds during the 11-year time period) does not work. He suggested that it does not add up; there would not be enough pounds to go around to that many vessels. Another speaker suggested that the rationale for 5% according to one Committee member was that it is an appropriate level for a bycatch fishery. He further commented that people forget that the general category fishery is more than a bycatch fishery, and Amendment 4 recognized that it was established for two reasons: a bycatch fishery and a directed fishery on scallops depending on resource conditions. He would agree that if it was only a bycatch fishery then 5% may be appropriate, but since it is more than that the Council should consider what level is appropriate to also support a small directed fishery. He argued that the analysis in the document shows what amount of landings is needed to satisfy the 1000 pound and 11-year time frame (4.2 million pounds). And based on a total scallop catch of 45 million, the general category fishery should be allocated closer to 10% to meet the level of landings generated by general category qualifiers during their best year.

One commenter said that the decision should not just be based on historical landings because it has taken a long time for the resource to recover in near shore areas. In addition, the general category fishery has only been granted 2% access into the access areas. For these two reasons, he argued that historical landings for the general category fishery have been lower then they could have been. He added that there is no reason the general category fishery should not benefit from this healthy resource, the fishery has reached levels that were not imagined, and this only became a problem in the last few years when more people outside the limited access fishery were benefiting from this resource. Another commenter suggested that 11% of this resource does not seem to be impacting the limited access fishery, so the Council should consider a higher value for the general category fishery. Another cited that there is no reason the general category fishery should take a 55% reduction when they have not done anything wrong (in reference to 5% allocation in Table 15 of public hearing document); he added that 10% is a more reasonable value the Council should consider.

A representative from the limited access fishery commented that the general category fishery is making a separate fishery out of the success of the limited access fishery. He agrees there are some vessels that have done it all along, but too many vessels have switched from other fisheries and have started targeting scallops. Another added that the limited access fishery made hard sacrifices for this resource and a lot of work went into bringing this resource back. Years of investment and time supporting scallop research has been spent on helping get this resource back. Another commented that a limited entry program with 5% of this resource has the potential to be a strong small scale fishery, and in his opinion would be a strong fishery for these vessels to be involved in.

Limited access fishing under general category

Many speakers did not address this topic directly. One commented that he supports part-time and occasional vessels fishing under general category but not full-time limited access vessels.

Other comments

- **Individual allocation in trips**

One speaker commented that the preferred alternative of individual allocation in trips is fine, but allocating in 400 pound trips only is a serious problem. Many vessels in this area do not land the maximum possession limit on every trip and charging a vessel 400 pounds when they leave the dock is wrong. He suggested a potential solution that would be an allocation in units of 100 pounds. So a vessel would receive a certain number of 100 pound units and it could fish up to 4 units per trip. The vessel would have to declare how many units it was landings through VMS before crossing the demarcation line (100, 200, 300 or 400). This would provide flexibility and with VMS should not be a problem to monitor and enforce.

- **Increased possession limit seaward of the demarcation line**

One speaker voiced support for this alternative to address the current situation of being in violation of the possession limit while shucking meats up to 400 pounds.

- **Enforcement**

In general, one speaker suggested that the problem is cheating and efforts should shift to increased enforcement of the measures already in place rather than kicking people out of the fishery that have not created the problems. People hoped that VMS would solve this cheating problem, but it does not seem to be doing enough. A lot of small vessels can do damage to the resource if they are bringing in more than 400 pounds per trip. Better enforcement would help reduce the incentive to cheat and exceed the possession limit.

- **Process in general**

One commenter voiced that it is difficult to participate in this process as a small general category vessel. The limited access fishery has become so powerful and they have benefited so much from this fishery that they now have the resources and ability to drive policy.

- **Possession limit in access areas**

Suggestion that the 400 pound possession limit in access areas is not an efficient use of resources, especially fuel. He steams 7 hours to the grounds and 7 hours back to land 400 pounds. Perhaps a higher possession limit should be considered in the future to make these trips more economical.

- **Rotational area management**

One commenter voiced that we have a lot to learn from the access areas offshore. Management should instead focus on surveying more areas both inshore and offshore so we can find small sets of scallops. And when they are found they should be closed for several years so they can grow. There are several inshore areas that always get seed and we should do more to protect them.

- **Reporting issues**

One speaker voiced concern about the data that is going to be used for qualification. He looked into his own history from NMFS and it is wrong. There are inaccuracies on the dealer end as well as

mistakes when the data gets to NMFS. He argued that a full appeals process should be used, which allows vessels to bring in receipts to show when data is inaccurate.



Amendment 11 Scoping Hearing Summary
Holiday Inn Express - Fairhaven, MA
May 17, 2007

About 30 individuals attended the public hearing in Fairhaven, MA, and about a dozen gave oral comment. Rodney Avila, a member of the Scallop Committee welcomed the audience and gave an overview of the process and purpose of the meeting. David Simpson, Chair of the Scallop Committee was also in attendance in the audience. Deirdre Boelke, NEFMC staff reviewed the public hearing document and explained the preferred alternatives the Council has identified so far in Amendment 11. The meeting was held from about 6:15-7:45 PM.

Overall many speakers voiced that Amendment 11 is too focused on accommodating a wide range of vessels and not addressing capacity. It was suggested that there is flexibility in the document to create a diverse general category fleet within a 5% allocation aside from the preferred alternatives selected for qualification. Another suggested that Amendment 11 has too much in it and in trying to do too much for too many it will end up hurting the ones it is trying to protect. It was suggested that there are too many unknowns in terms of loopholes lawyers are going to be able to find in this amendment, and it will come out very different than what people expect.

Several speakers voiced that this action has lost sight of what the general category permit was established for, but there was some disagreement among the speakers about what that actually was. One commented that the 400 pound permit was established in Amendment 4 to accommodate vessels that did not qualify for limited access. In their words, the State of Maine would not support the overall plan unless there was an option for reduced access for non-qualifying vessels. The commenter explained that many other compromises were made in Amendment 4; the scallopers gave 40 pounds to the groundfish fishery as bycatch and the groundfish fishery gave 3 totes of groundfish (300 pounds) between January to June. But another commenter explained that Amendment 4 states that the general category permit was established for two reasons: a bycatch fishery and a directed fishery when the resource is available. He further suggested that everything is different now and we should base decisions on current conditions because this resource has been rebuilt to a level that no one ever expected during development of Amendment 4.

One speaker added that this entire situation with the general category fishery could have been avoided. It was suggested that there have been signals and NMFS should have done something sooner. Thousands of permits should not have been given out, particularly back in the years when the fishery was under drastic reductions. More permits were given out, people made large investments, and it should have been avoided. The speaker went on to say that NMFS implements emergency action for reasons less warranted than this, and inaction has pitted two fisheries against each other and that is wrong. NMFS has mismanaged this resource and now fishermen are fighting fishermen over the same loaf of bread. This resource has been mismanaged and it is not acceptable.

Measures to control capacity and mortality in the general category fishery

Several speakers suggested that something has to be done to control capacity and mortality in the general category fishery. He said that Amendment 4 was hard, and people that were around then have suffered. It is lucrative now and it is understandable why people would want to scallop now, but he believes that the people that suffered should reap the benefits. He added that it is one thing if benefits trickle down to the little guy from resource recovery, that is what should happen and he supports the little guy, but if it impacts the directed fishery then something should be done.

Another commenter suggested that Amendment 11 is an example of why our Council is in trouble. He suggested that Amendment 11 does not address the real problems with the general category fishery. He said that we are in this mess because we are trying to make a directed fishery out a fishery that was not supposed to be one. In his opinion, this action will qualify the wrong vessels and will change the general category fishery, so he is opposed to all measures in the document. But another commenter disagreed and explained that the general category fishery was also intended to be a directed fishery for some vessels when the resource was available.

Another commenter suggested that this problem is analogous to the California gold rush. Many vessels participate when the going is good, but everything will change when the going gets tough, and he believes many of these vessels will just sell out later when scallops are not as easy to catch.

Qualification for limited entry

Several speakers discussed that there is a group of vessels that have directed on this fishery and are dependent and they should be treated differently than part-time and vessels that co-harvest scallops with other fisheries. One speaker suggested that there are alternatives in the document that could maintain a diverse general category fleet within a 5% allocation and not have large impacts on vessels that are dependent on this permit. For example, if the NGOM alternative were selected that would accommodate one component of this fishery and could leave more allocation for the dependent vessels, the No Action alternative for vessel history could reduce the pool of qualifiers, and even the tier based alternative could broaden the range of qualifiers, but leave more for vessels that are more dependent. Overall, one speaker commented that the Council has labored long and hard to do this right, and the Council does not want to take anything away from someone who perceives they should have access to the fishery. He suggested that some level of tiers or different permit levels may help address that so long as there are not too many qualifiers.

Allocation of scallop TAC to the general category fishery

Several speakers commented that the Council is being too accommodating for the general category fishery with this action and an allocation closer to 2.5 or 3% is more appropriate. One argued that 5% is the level of landings the general category fishery landed in 2004 when the control date was put in place and that is higher than any year previous to that. He suggested that basing this decision on recent years only would be a mistake. In addition, the 10% value for the interim period is far too generous especially since that will be limited to qualifying vessels only. He argued that landings in recent years have included effort from vessels that are not going to qualify so 10% is too high and not appropriate.

On the other hand, another commenter suggested that the Council should consider more recent years when making this allocation decision. In his opinion, the resource has finally recovered in

near shore areas and general category vessels have only recently benefited from this recovery. General category vessels should not pay the price of declined resources in near shore areas indefinitely in the future since that depletion was caused by a number of factors including limited access fishing effort. He argued that the Council is justified in using the more current historical landings because these landings better reflect the current situation. He argued that since this fishery is more than a bycatch fishery it should be allocated more than a bycatch level of harvest (i.e. higher than 5%). But if the Council decides to only allocate 5% then he suggests that the qualification criteria would have to be more restrictive. There was some debate about who was at fault for the depleted inshore scallop resource, but in the end one commenter voiced that this fishery as a whole needs to focus on how best to share this resource and not point fingers.

When considering the percent decision, one speaker voiced that the Council should be aware that the analyses in the document includes "best year" for landings, which is higher than the landings the general category had when it landed 5% of the total fishery.

Related to allocation to the general category fishery, one speaker suggested that the Council should keep in mind the decisions it made related to the limited access scallop fishery in Amendment 4 when making this allocation decision in Amendment 11. Typically the Council never wanted to take rights away from anyone, and in most limited entry programs in this region more permits are issued than should be and vessels were given permits for species they never caught. But in the case of the limited access scallop fishery, these vessels had history in other fisheries, but they had to give up permits in these fisheries when those same permits were being given out to other vessels with no history. He went on to say that for some reason the Council treated this fishery uniquely, and developed a fleet that is exclusively dependent on one species. He suggested that Amendment 11 should strive to allow general category vessels to continue what they are doing, but the Council needs to remember that it created a limited access fleet that is completely dependent on scallops, a highly variable resource, and that resource cannot just be given away to vessels that may or may not depend on it.

Limited access fishing under general category

One commenter suggested that most limited access scallop vessels own other limited access permits so they can participate in other fisheries. Another speaker later in the evening suggested that many of those permits are probably fluke or monkfish permits, which are technically other limited entry permits, but in reality they are not a viable alternative to scallop fishing and very few vessels have revenue from these other fisheries. In general many speakers did not comment whether limited access vessels should or should not be permitted to fish under general category.

Measures for better and more timely integration of scallop data

One commenter voiced that the fishing year should not change. It was discussed that the entire scallop survey program is up in the air and we do not even know how we are going to survey the resource in the future. In their opinion, it does not make sense to force the industry to change to accommodate the NMFS research schedule. It was suggested that the fishery has been set up with a March 1 start date for years and there has to be a better way to address this problem.

Other comments

- **Permit stacking**

One commenter voiced that stacking should not be permitted in one component of the fishery and not another. It would be going too far in this action to include stacking. Another commenter voiced opposition to stacking; it would just lead to the limited access fishery to buy up general category access.

- **Sectors**

Not appropriate to allow sectors in one component of the fishery and not the other. One suggested that it would lead to consolidation.

- **Maximum percentage ownership**

It was suggested that this provision is a hoax just so we feel good, but everyone involved in this process knows that this provision is a joke and there are ways to get around it.

- **Delayed implementation**

One commenter does not understand why implementation is going to take so long. They have implemented other things faster and reporting has improved.

- **Other management issues**

Amendment 11 has distracted the process from much larger management problems in the scallop fishery such as the Hudson Canyon area. We have been so focused on this action that larger problems for the scallop resource have been left to continue and the resource will be much worse off as a result.



Amendment 11 Scoping Hearing Summary
Holiday Inn Express – Ellsworth, ME
May 21, 2007

Over 30 individuals attended the public hearing in Ellsworth, ME, and almost 20 gave oral comment. David Simpson, the Chair of the Scallop Committee welcomed the audience and gave an overview of the process and purpose of the meeting. Dana Rice and Terry Stockwell, members of the Scallop Committee were also in attendance in the audience. Deirdre Boelke, NEFMC staff reviewed the public hearing document and explained the preferred alternatives the Council has identified so far in Amendment 11. The meeting was held from about 6:15-8:45 PM.

The overall sentiment from this hearing was that the members of the audience support No Action for Amendment 11 and the document is trying to do too much and it is too broad. Overall, many individuals that have fished for scallops for decades are not going to qualify for this fishery for a variety of reasons and that is wrong. One speaker explained that we are in this mess because of a problem going on south of Long Island, and a one-size fits all approach to this is not going to work. There was general frustration with how federal fisheries have been managed, and speakers were upset that fisheries are becoming completely corporate run at the expense of the little guy, and they are tired of having to fight for every last fishery. One speaker explained that if the general category permit been implemented as it was supposed to be under Amendment 4 – with restrictions and only in waters east of 72° 30, then we would not be in the bind that we are today because that permit was open access to all areas. Another individual that was involved in the Amendment 4 process explained that the permit was introduced to preserve access for small boat fishermen across the coast. This permit was never intended to be used for draggers or DAS boats, or a directed fishery by trawl vessels; it was set up for the traditional small scallop dredge fishery.

In general, it was suggested that Amendment 11 is not going to solve our problems and it goes against what the general category permit was established for to preserve the small boat fishery. One speaker explained that the small boat fishery needs to be diverse and the need other options to survive in case their primary fishery, lobster for most people now, takes a downturn. One speaker said that he is not scalloping now, but he has the permit and bought VMS to preserve his ability to have other options in case he can't make it lobstering for some reason, and does not believe that ability should be taken away from him. In addition, several speakers voiced that this plan will make the last generation of fishermen right now – there will be no way for young fishermen to get in the business in the future without open access permits and that is not right.

Measures to control capacity and mortality in the general category fishery

Most speakers voiced support for No Action. Several went on to explain that they support No Action, but if the Council goes with limited entry there are few alternatives in the document that would be good for Maine. One speaker explained that scalloping started in Maine but Maine got a bad deal from the limited access program established in 1994 under Amendment 4, and the Council continues to ignore the needs of Maine. Another speaker explained that the majority of general category landings used to be from New England, particularly Maine, and in recent years over 60% of total landings are now from the Mid-Atlantic (Table 10 of public hearing document). He went on to say that could switch again and that is why limited entry is not the answer for this fishery; all the permits could end up in New Jersey and when the resource recovers in the GOM the vessels in this

area will not be permitted to catch them. He compared this situation to the quahog fishery and the issue of most of the quahog quota now being in the Mid-Atlantic. Ultimately he suggested that Amendment 11 could address capacity and mortality by prohibiting limited access vessels from fishing under general category and focusing controls on waters west of 72° 30 W, leaving No Action for waters east of 72° 30 W. Scallop landings were very high in Maine in the 1980s and that could happen again, so when it does vessels from Maine should benefit in his opinion.

One commenter discussed that earlier in the process the advisors tried to develop alternatives that would divide the two areas, but it failed. He explained that the areas are totally different biologically and the fisheries and regulations are very different as well. He argued that all the gear should be the same in all areas, unless fishing under a DAS in another fishery.

Qualification for limited entry

Some voiced support for the preferred alternative because it is more inclusive. But one speaker suggested that if the preferred alternative is selected with a 5% allocation that would devastate general category vessels that depend on scallops. If the allocation is 5%, he recommends that the criteria would have to be more restrictive.

Related to individual allocation, one speaker voiced that the playing field is not level because vessels from the south are permitted to use more gear and since the rules have been different depending on where you fish, some vessels could build their history easier than other vessels. Vessels in this area are restricted to one 10.5 ft. dredge, while vessels in the south can fish up to a combined dredge width of 31 feet. Many speakers explained that they have been lobstering because that fishery has been great recently, but something could happen and they need a scallop permit to fall back on. One explained that he did not want to go to the Cape when scalloping got bad in Maine, he wanted to stay with his family and now he is never going to be able to fish for scallops again. He actually qualified for a part-time permit under Amendment 4 but he chose to keep his groundfish permit because they told him he could not have both, but he qualified for both so should have been able to keep both.

Several speakers voiced support for individual allocation if limited entry is adopted, but in pounds not trips. One suggested that allocation should be in pounds and each vessel should be permitted to catch their allocation the most profitable way they can (i.e. higher or no possession limit). Furthermore, he was in favor of individual allocation of access area trips for general category trips.

Allocation of scallop TAC to the general category fishery

None of the speakers spoke in favor of the preferred alternative of 5% allocation for the general category fishery. One speaker could not understand how 330 limited access vessels could be allocated 95% and 3,000 general category permits get 5%. Another commented that several individual limited access vessel owners control more or close to 5% of the entire scallop fishery, equal to the entire general category scallop fishery under the preferred alternative of 5%. Another voiced that 5% is an insult and unfair; it is bad enough that these small vessels have to compete with the large corporate fleets and he suggested that 50% makes more sense.

Another commenter explained that landings from the general category fishery are from areas outside the scallop survey area. So the 5% TAC is being set aside for a fishery that we do not survey and know nothing about. He argued that before a TAC is set aside for the general category fishery the area should be surveyed first.

Northern Gulf of Maine

One speaker commented that the Gulf of Maine is a different ecosystem. The waters are colder so scallops grow slower, thus recovery times are going to be longer too. One speaker was nervous about the NGOM alternative because there are aspects of it that are undefined. He felt that alternative may be a good idea, but in the end may not be a better choice for Maine and may fall apart. Another commenter supported the NGOM alternative and felt it was well thought out and would help vessels from Maine; he expressed support for Option B, 34° N as the boundary. Another speaker voiced support of the NGOM alternative because the group he represents supports measures that provide fishing access to small vessels that in turn help fishing communities in Maine. He agrees it is a distinct area with unique characteristics and should be managed separately.

One speaker said the NGOM alternative makes sense and he does not understand why someone would not support that alternative. He explained that Maine's economy is very dependent on fishing and needs these permits to sustain this way of life; a couple hundred permits for Maine is not going to support the thousands of vessels that are in Maine. But another commenter said that people should not think that the NGOM alternative is going to save Maine, because many vessels are not going to qualify for that either. In 2002 he invested a quarter of a million dollars in a vessel to scallop, but he did not land any scallops until after the control date so what is he supposed to do.

Limited access fishing under general category

Most speakers support prohibiting limited access vessels from fishing under general category. One speaker did not understand why that was allowed in the first place and did not think it was appropriate. Another voiced that the 400 pound permit could not be the problem when limited access vessels come in with 30,000 pounds of scallop meat on one trip. One speaker added that part-time and occasional limited access vessels that are more dependent on the general category fishery should be permitted to fish under general category, but full-time limited access vessels are not dependent enough. However, another speaker voiced that all limited access vessels should have privilege to fish under general category as well because they are not permitted to fish in other fisheries.

Other comments

- **Limited access effort in near shore Maine**

Several speakers discussed times in the past when larger limited access scallop vessels fished in near shore waters in Maine. It was suggested that this effort helped deplete the resource in the GOM and if anything limited access fishing effort should be eliminated in this area to save some for smaller vessels.

- **Owner operator**

It was suggested that an owner operator clause would prevent all these problems and save the general category scallop fishery. He suggested that there has never been an owner operator fishery that has been overfished. It would help keep general category scallop fishing in the hands of fishermen.

- **Yellowtail flounder bycatch**

One speaker voiced that if YT catch on general category boats counts against the total bycatch TAC, then general category vessels should be permitted to catch and land the yellowtail they catch because the fish are dead anyway.

- **Increase of possession limit seaward of VMS demarcation line**

One speaker voiced that 50 bushels or 34 orange baskets is not equal to 400 pounds of meat anywhere in the ocean at any time. Right now, he explained that it takes about 88 orange baskets to equal 400 pounds so vessels are in violation while fishing when getting closer to possession limit. On a different note, the 400 pound possession limit is a waste of fuel; it is not efficient for vessels. But another speaker voiced support for the 400 pound limit explaining that there are many instances where 400 pounds is not realistic because of weather etc. He argued that the 400 pound restriction helps to preserve the small boat fishery.

- **Fishing history alternative**

One speaker said that her husband has been fishing for scallops since 1968 and he is not going to qualify for a permit under this plan because he sold his vessel recently and that is sad. Another argued that this is socialism and people without history are going to get a permit and not the individuals that deserve one. Several people explained that they did not retain their history and NMFS told them they would not have to keep their permit because it was open access and they could always get another one. One speaker said he was told that it would be easier to just get a new permit, and while that may be true, now he is left with a new permit and his history is gone. Another individual said he took 4-5 years off the scallop fishery to help it recover, and now he is going to be pushed out of this fishery. Another speaker said he understands that it is his fault if he did not retain anything, but NMFS told him he would not have to. And since he has been in the state water exemption program fishing in state waters he has not reported those landings so that history is gone too.

- **Fisheries in Maine**

Several voiced that small inshore boats need to be able to switch fisheries or they are out of business. There are very few if any other job options aside from fishing in these small towns in Maine. If fishing does not work out you have to move, so vessels need to maintain diversity. Another commented that the state of Maine is not represented enough in the process. Maine should be looked at differently because it is different. The weather is different up here, the bottom is different up here and the vessels are smaller. The documents should have more information about the fishing communities in Maine and what they need.

No one is selling scallops in Maine any more. One buyer explained that she has not bought scallops in five years and used to be one of the larger scallop buyers in the region. Another scallop buyer explained that he used to buy scallops from 15-20 boats during the winter, but now he is down to two. We would have a fishery if the resource was here, but it is not. Another commented that, "we fish up in Maine to take care of our needs, and not our greeds." This action shows how greedy some people in this industry have gotten. My impacts on this resource are nothing compared to someone who owns twenty limited access vessels. I feel like I am being pushed out of the picture by these large vessels, and it is not right that I have to fight for a 400 pound permit; it is discrimination and unfair.

- **Fisheries management in general**

One said that whenever the federal government gets involved in fisheries management, small communities in Maine get hurt. Another commented that regulations are making fishermen crooks.



Amendment 11 Scoping Hearing Summary
New England Center at UNH – Durham, NH
May 22, 2007

Only one individual attended the public hearing in Durham, NH and since she is a staff member for NH Fish and Game no oral comments were given at the meeting.



Amendment 11 Scoping Hearing Summary
Virginia Marine Resources Commission – Newport News, VA
May 29, 2007

About 25 individuals attended the public hearing in Newport News, VA, and about a dozen gave oral comment. David Simpson, Chair of the Scallop Committee welcomed the audience and gave an overview of the process and purpose of the meeting. Deirdre Boelke, NEFMC staff then reviewed the public hearing document and explained the preferred alternatives the Council has identified for Amendment 11. The meeting was held from about 6:00-7:45 PM.

Several speakers commented that the decisions in Amendment 11 are difficult but necessary to protect both the scallop resource and fishermen. One commented that Amendment 4 left one segment of the fishery uncontrolled and action is necessary to address that. Furthermore, several suggested that since 1994 the limited access fleet has been cut back, but the general category fishery has grown unconstrained and that has led to what one described as the tragedy of the commons. On the other hand, more than a handful of speakers disagree that additional limits should be put on the general category fishery. They commented that the scallop resource is from federal fishing grounds and everyone should have an equal opportunity to catch it. Several suggested that Amendment 11 will take freedom away from people that have a right to make a living from a public resource. One suggested that if an overall limit needs to be put in place to prevent overfishing then it should be a hard-TAC with open access. In addition, several speakers commented that they were not aware of the control date and it would not be just to use it. They argued that NMFS has failed to do their job and should have specifically told vessel owners about the risks of fishing under a permit post the control date.

Measures to control capacity and mortality in the general category fishery

Most speakers agreed that controls are needed for the general category fishery; some voiced support for limited entry and others for a hard-TAC under open access. Several commented that individuals that have been watermen for decades should not be prohibited from fishing. One commented that it would not be right to give a permit to someone who never fished in the past, but gave scalloping a try for one year in 2002, and not give a permit to someone that has fished all their life in other fisheries, but only scalloped in 2005 after the control date. Several added that limited entry is not the answer because many people have invested money in vessels to scallop and if they do not qualify they will be unable to pay back their loans. One commented that at least under open access with a hard-TAC every vessel would have an opportunity to fish what they can. One speaker added that while he may qualify, the number of trips that he would likely be allocated based on the preferred qualification and allocation alternatives would make it impossible for him to make a living. Lastly, one fisherman suggested that weather limits the general category fleet, so overharvest from that sector of the fleet is not an issue because most vessels are unable to fish all year round.

Qualification for limited entry

A few speakers voiced support for the preferred alternative of 1,000 pounds and 1994-2004 for qualification criteria. However, several warned those alternatives may not be restrictive enough and too many vessels would qualify. One commented that there is only one pie to take from and

while the Council may want to let more vessels in, in his opinion serious general category fishermen would oppose the less restrictive qualification alternatives. As for the control date, the speakers were split on the issue. Some suggested that the control date has to be used; it is a fundamental part of a limited entry program. One stated that the control date was well published and was discussed for years before it was put in place. Several argued against use of the control date and suggested that at least vessels that have made scallop landings after the control date should be considered (119 vessels). He suggested that NMFS should not have given permits out after the control date, but since they did they should honor the ones that were given out. Another agreed that NMFS should have told vessels about the control date when they got a new permit after November 1, 2004; but he argued that individuals also should have done their homework about the risks involved with getting a permit after a control date has been established.

Allocation of scallop TAC to the general category fishery

One major topic discussed at this hearing was the allocation percentage for the general category fishery. About half the speakers voiced support of 2.5 to 5%, and the other half argued for a higher allocation (i.e. 15% or 50% - higher than the maximum 11% under consideration). Some argued that 5% is plenty generous; it is more than double of historic landings before the control date. One argued that using landings post the control date for this decision would not be appropriate. Another suggested there may be enough for everyone, but to give a fishery to one group of vessels when fishing is good takes it away from another group of vessels that have suffered when times were bad, and that is not right in his opinion. Another argued that the Council needs to keep in mind that the limited access scallop fishery is 100% dependent on scallops and they have very few alternatives, so a realistic decision should be made regarding allocation, and in his opinion 5% is realistic. He added that if there had been no controls on the limited access fishery the resource would not have recovered, and the general category fishery would not have benefited from this recovery.

On the other hand, several speakers did not support the preferred alternative of 5% for the general category fishery. One argued that it is not fair that the limited access fishery should get 95% of this public resource; he suggested that 15% for 600 or so vessels is more reasonable. One speaker suggested that whatever current landings are should be used as the percent because high prices attracted all the vessels in 2005, but they are gone now and the only ones left are the vessels that want to stay in this fishery. He suggested that around 12% would provide a level of landings that could support a general category fishery for the vessels that are fishing in it now. Another commented that this action is putting the two fisheries against each other and they really should not fight; he commented that the smaller vessels deserve a piece of the pie too and 5% is too small. Another suggested that there is science available that managers in this region are ignoring that would enable total scallop landings to reach 200 million pounds; he argued that if it were used then everyone could fish and this action would not be necessary, there would be plenty of scallops for everyone.

Limited access fishing under general category

Comments were split on this issue. Some voiced support for limited access vessels to fish under general category if they qualify under the same criteria, and others suggested that limited access vessels should be prohibited from fishing under general category.

Measures to better integrate scallop data

Several speakers spoke against changing the fishing year to better improve integration of scallop data in the management process. Instead, it was suggested that the general category permit

should be issued on March 1 to improve integration of fishery data. One speaker said that the science used in scallop management is not correct and is not the best available, so changing the fishing year will not address that. He argued that there is science that supports how to increase landings in the scallop fishery but our regional scientists and managers ignore it.

Other comments

- **Stacking**

Several speakers spoke against stacking because it counters the vision statement of Amendment 11. However, several speakers supported some level of stacking.

- **YT bycatch TAC**

Several speakers spoke in favor of allocating a portion of the yellowtail flounder TAC to the general category fishery.

- **Public hearing document**

One commenter suggested that the public hearing document, and Amendment 11 in general is too confusing and an average fisherman cannot understand it. He suggested that the Council should go back and improve the document so that the public can understand it and it should be based on the best available science.

- **Interim measures for transition to limited entry**

One voiced support for the hard-TAC alternative to limit the total mortality from the general category fishery as it transitions to limited entry.

- **Monitoring**

One speaker voiced support for use of the IVR system to improve monitoring in the general category fishery.

- **Owner/operator**

One speaker suggested that the fishery should be owner/operator. He added that mandatory drug testing would help clean up this fishery if people were serious about making this fishery right.

- **Conflict of interest**

One speaker noted that it is not right if a Council member has an interest in the limited access scallop fishery and they are allowed to develop and vote on Amendment 11. He suggested that if an individual has ties to the scallop fishery it should not be legal, and it is not just for them to vote on Amendment 11.



Amendment 11 Scoping Hearing Summary

Holiday Inn – Manahawkin, NJ

May 30, 2007

Almost 30 individuals attended the public hearing in Manahawkin, NJ, and about a dozen gave oral comment. David Simpson, Chair of the Scallop Committee welcomed the audience and gave an overview of the process and purpose of the meeting. Deirdre Boelke, NEFMC staff then reviewed the public hearing document and explained the preferred alternatives the Council has identified for Amendment 11. The meeting was held from about 6:00-7:45 PM.

Overall the majority of comments at this meeting were about the allocation decision for the general category fishery. Unique to this meeting compared to other public hearings, there was general consensus and support of the preferred alternative of 5%. Several speakers argued that 5% is too high, and it is inappropriate for the Council to support an allocation that is above the historical average of this fishery, especially when limited access effort was reduced during the same time period. One general category vessel owner added that 5% is reasonable, but is only workable if the qualification criteria are more restrictive; he argued that the 1,000 pound and 11-year criteria would qualify too many vessels and no one would be able to make a living.

Measures to control capacity and mortality in the general category fishery

Very few speakers addressed this issue directly, but most that did supported limited entry alternatives. One argued that unless controls are put in place some general category vessels will just move to areas of concentrated scallops and fish them out. He explained that some of the general category vessels that used to land in Cape May, NJ have moved north to Point Pleasant because the inshore areas around Cape May have been fished out. Another explained that the limited access boats did the same thing when the resource was in bad shape – they fished out areas until there was nothing left because they did not have incentive to move. He argued that without constraints on the general category fishery aside from a possession limit, they too have little incentive to move out of less productive areas. One individual said that he is happy the Council is finally addressing the general category fishery and wished it could have been done sooner. Another added that he was around in 1994 and we should do everything we can to avoid getting in that situation again. One commenter added that this fishery as a whole has to do everything it can to prevent overfishing. He added that if this resource approaches overfishing all the “eco-friendly” markets will disappear and the price will drop having negative impacts on both fisheries. No one voiced support for the No Action alternative or a hard-TAC as a preferred strategy for controlling capacity and mortality in the general category fishery.

Qualification for limited entry

Several speakers supported more restrictive qualification criteria, specifically 5,000 pounds and the five-year timeframe of 2000-2004. They argued that the preferred alternatives for qualification would create too many permits and no one would be able to make a living, particularly if the Council was serious about the 5% allocation. One limited access vessel owner added that the preferred alternative may estimate 459 vessels now, but when it is all said and done that number is bound to go up. One speaker added that he has two vessels that will only qualify under the 1,000 pound alternative and that only one of the vessels will qualify under the

5,000 pound alternative. The commenter stated that he supports the 5,000 pound alternative, which will only qualify one of his vessels, because 1,000 qualifies too many vessels, and there is not enough to go around for 500 vessels. Another argued that the 11-year time period is just too long and another commented that he understands why the Council wants to be inclusive, but in his opinion the preferred alternatives would qualify too many. Furthermore, he supports the alternative that would index a vessels contribution based on the number of years active in the fishery.

Several commented on the access strategy for qualifying vessels. Some supported an individual allocation in trips or pounds. However, several supported a tier system arguing that an individual allocation would be overboard for this fishery. Another voiced support for a tier system if it was easier to implement, but suggested that an additional tier should be considered above the 20,000 pound tier in the document for more directed vessels (i.e. a fourth tier at 40,000 pounds and above).

Allocation of scallop TAC to the general category fishery

Several speakers noted that the general category fishery has increased as a result of controls and innovative changes in the limited access fishery such as crew limits, minimum ring size, and DAS effort controls. One argued that the limited access fishery has made sacrifices and it would be fundamentally wrong to base this allocation decision on post control date landings data. Another argued that it would be a mistake to allocate more than historical contributions; he added that the general category has experienced a bubble in the last few years and it should not be rewarded. Another added that if the Council wants the general category fishery to be more of a mom and pop operation then 2.5% is more reasonable. One speaker voiced support for 5% because that is about the level of total general category landings when the control date was put in place; he argued that would be consistent with the qualification alternatives that are through the control date.

Limited access fishing under general category

Not many speakers spoke to this issue, but most that did agree with the preferred alternative. One speaker noted that the Council is considering an allocation to the general category that is over 200% of the historical average but the 0.5% allocation for limited access vessels under general category would be over a 50% reduction, based on historical landings. Several speakers voiced that the allocation should be in line with each other, and be based on historical averages.

Interim measures for transition to limited entry

The majority of commenters spoke to this issue in disbelief that an 18-24 month transition period would be necessary; they did not understand how it would take so long or why the Council and NMFS would support continued overfishing of inshore areas. Several suggested that NMFS and the Council should be more creative about measures that can control capacity until Amendment 11 can be fully implemented. For example, it was suggested that NMFS can send out letters now requesting individuals to get their landings history in order. In addition, NMFS could identify the potential qualifiers and allocate an interim individual access (in number of trips or pounds) until the final universe of vessels is known. He added that NMFS could allocate one amount the first year, and then a higher or lower amount the following year after the final pool of qualifying vessels is known. Several argued that a derby for two years would have negative impacts, and several commented that 10% is way too high. Another suggested that based on the analysis in the document, NMFS must have a pretty good idea of who is going to qualify and it should not take 18 months. Another voiced support for the interim alternatives, but wished Amendment 11

could be implemented faster. Lastly, another commented that for the interim period the percent of access general category vessels are allocated in access areas should remain at 2%.

Measures to better integrate scallop data

Several commenters suggested that the fishing year should not be changed. One added that it is important that the fishing year starts when yields are high in the spring. Another argued that the cooperative survey program is under review and is not complete yet, so changing the fishing year now when the survey timing and design may also change would be a mistake. Instead, he suggested that the Council support the alternative to change the issuance date of general category permits to help integrate fishery data more quickly.

Other comments

- **Stacking**

A handful of speakers spoke against stacking to help this fishery remain an inshore fishery and preserve the “mom and pop” nature of the general category fishery.

- **Measures to reduce incentive to scallop with trawl gear**

Several voiced support for these measures to increase yield per recruit in the scallop fishery.

- **NGOM**

A handful of speakers voiced support for the NGOM preferred alternative because mortality from that area should not affect the overall resource.

- **YT bycatch TAC**

Some voiced support for a separate allocation of yellowtail flounder bycatch for the general category fishery.

- **Permit provisions**

One speaker was surprised that the Council did not identify Alternative 3.1.2.5.9 as preferred. He suggested that the Council should not make the same mistake it did with the limited access scallop fishery; that is a qualifier should be permitted to have both a limited entry general category scallop permit and a limited entry multispecies permit. Another commented that he did not support the preferred alternative to qualify an individual that held onto their history but sold their vessel. He argued that history is history and when an individual buys a boat they expect to get all the history that comes with it.

- **Monitoring**

One speaker suggested that reporting should be required by VMS.

- **Clarify net alternative**

One commenter suggested that the alternative to clarify that monkfish and multispecies vessels are not subject to the 144 ft. sweep restriction when fishing for other species should include other fisheries in the Mid-Atlantic such as fluke, scup and squid.

- **Special circumstances**

One individual argued that the Council should consider some special circumstances during the qualification period. He explained that he had a boat built in September of 2004 to be a directed general category vessel, but by the time he got a permit and landings the control date passed so

he is not going to qualify. He believes that NMFS was not upfront about this process and he supports some sort of special circumstance clause for Amendment 11. He agrees that the re-rigging clause in the Monkfish plan was a mistake and was abused, but buying a vessel shows serious investment and is much different than buying a dredge.

Appendix IV
For Amendment 11 to the
Atlantic Sea Scallop Fishery Management Plan

Summary of Atlantic Sea Scallop Stock Assessment (2004)

**Sea Scallop
Stock Assessment Update
for 2005**

by Deborah R. Hart

September 2006

Recent Issues in This Series

- 05-19 **Seasonal Management Area to Reduce Ship Strikes of Northern Right Whales in the Gulf of Maine**, by RL Merrick. December 2005.
- 06-01 **42nd SAW Assessment Summary Report**, by the 42nd Northeast Regional Stock Assessment Workshop. January 2006.
- 06-02 **The 2005 Assessment of the Gulf of Maine Atlantic Cod Stock**, by RK Mayo and LA Col. March 2006.
- 06-03 **Summer Abundance Estimates of Cetaceans in US North Atlantic Navy Operating Areas**, by DL Palka. March 2006.
- 06-04 **Mortality and Serious Injury Determinations for Baleen Whale Stocks along the Eastern Seaboard of the United States, 2000-2004**, by TVN Cole, DL Hartley, and M Garron. April 2006.
- 06-05 **A Historical Perspective on the Abundance and Biomass of Northeast Complex Stocks from NMFS and Massachusetts Inshore Bottom Trawl Surveys, 1963-2002**, by KA Sosebee and SX Cadrin. April 2006.
- 06-06 **Report of the GoMA GOOS Workshop on Objectives of Ecosystem Based Fisheries Management in the Gulf of Maine Area, Woods Hole, Massachusetts, 11-13 May 2004**, by S Gavaris, WL Gabriel, and TT Noji, Co-Chairs. April 2006.
- 06-07 **Vida de los Pescadores Costeros del Pacífico desde México a Perú y su Dependencia de la Recolecta de Conchas (*Anadara* spp.), Almejas (*Polymesoda* spp.), Ostiones (*Crassostrea* spp., *Ostreola* spp.), Camarones (*Penaeus* spp.), Cangrejos (*Callinectes* spp.), y la Pesca de Peces de Escama en Los Manglares [The Fishermen's Lives in Pacific Coast Villages from Mexico to Peru, Supported by Landings of Mangrove Cockles (*Anadara* spp.), Clams (*Polymesoda* spp.), Oysters (*Crassostrea* spp., *Ostreola* spp.), Shrimp (*Penaeus* spp.), Crabs (*Callinectes* spp.), and Finfish]**, by CL MacKenzie Jr and RJ Buesa. April 2006.
- 06-08 **Bloom History of Picoplankter *Aureococcus anophagefferens* in the New Jersey Barnegat Bay-Little Egg Harbor System and Great Bay, 1995-1999**, by JB Mahoney, PS Olsen, and D Jeffress. May 2006.
- 06-09 **42nd Northeast Regional Stock Assessment Workshop (42nd SAW) Stock Assessment Report**, by the Northeast Fisheries Science Center. May 2006.
- 06-10 **Assessment of the Georges Bank Atlantic Cod Stock for 2005**, by L O'Brien, N Shepherd, and L Col. June 2006.
- 06-11 **Stock Assessment of Georges Bank Haddock, 1931-2004**, by J Brodziak, M Traver, L Col, and S Sutherland. June 2006.
- 06-12 **Report from the Atlantic Surfclam (*Spisula solidissima*) Aging Workshop Northeast Fisheries Science Center, Woods Hole, MA, 7-9 November 2005**, by L Jacobson, S Sutherland, J Burnett, M Davidson, J Harding, J Normant, A Picariello, and E Powell. July 2006.
- 06-13 **Estimates of Cetacean and Seal Bycatch in the 2004 Northeast Sink Gillnet and Mid-Atlantic Coastal Gillnet Fisheries**, by DL Belden, CD Orphanides, MC Rossman, and DL Palka. July 2006.
- 06-14 **43rd SAW Assessment Summary Report**, by the 43rd Northeast Regional Stock Assessment Workshop. July 2006.
- 06-15 **Documentation for the Energy Modeling and Analysis eXercise (EMAX)**, by JS Link, CA Griswold, ET Methratta, and J Gunnard, Editors. August 2006.
- 06-16 **Northeast Fisheries Science Center Publications, Reports, and Abstracts for Calendar Year 2005**, by L Garner and J Gunnard. August 2006.
- 06-17 **Stock Assessment of Summer Flounder for 2006**, by M Terceiro. August 2006.
- 06-18 **Environmental preferences of herring under changing harvest regimes**, by KD Friedland, JE O'Reilly, JA Hare, GB Wood, WJ Overholtz, and MD Cieri. August 2006.
- 06-19 **Estimated Average Annual Bycatch of Loggerhead Sea Turtles (*Caretta caretta*) in U.S. Mid-Atlantic Bottom Otter Trawl Gear, 1996-2004**, by KT Murray. September 2006.

Sea Scallop Stock Assessment Update for 2005

by Deborah R. Hart

National Marine Fisheries Service, 166 Water Street, Woods Hole MA 02543; deborah.hart@noaa.gov (email)

**U.S. DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
National Marine Fisheries Service
Northeast Fisheries Science Center
Woods Hole, Massachusetts**

September 2006

Northeast Fisheries Science Center Reference Documents

This series is a secondary scientific series designed to assure the long-term documentation and to enable the timely transmission of research results by Center and/or non-Center researchers, where such results bear upon the research mission of the Center (see the outside back cover for the mission statement). These documents receive internal scientific review but no technical or copy editing. The National Marine Fisheries Service does not endorse any proprietary material, process, or product mentioned in these documents.

All documents issued in this series since April 2001, and several documents issued prior to that date, have been copublished in both paper and electronic versions. To access the electronic version of a document in this series, go to <http://www.nefsc.noaa.gov/nefsc/publications/series/crdlist.htm>. The electronic version will be available in PDF format to permit printing of a paper copy directly from the Internet. If you do not have Internet access, or if a desired document is one of the pre-April 2001 documents available only in the paper version, you can obtain a paper copy by contacting the senior Center author of the desired document. Refer to the title page of the desired document for the senior Center author's name and mailing address. If there is no Center author, or if there is corporate (*i.e.*, non-individualized) authorship, then contact the Center's Woods Hole Laboratory Library (166 Water St., Woods Hole, MA 02543-1026).

This document's publication history is as follows: manuscript submitted for review August 24, 2006; manuscript accepted through technical review September 5, 2006; manuscript accepted through policy review September 8, 2006; and final copy submitted for publication September 8, 2006. This document may be cited as:

Hart DR. 2006. Sea scallop stock assessment update for 2005. US Dep. Commer.,
Northeast Fish. Sci. Cent. Ref. Doc. 06-20; 14 p.

Table of Contents

| | |
|-------------------------------------|---|
| Introduction | 1 |
| Life history and distribution | 1 |
| Landings | 2 |
| Surveys | 2 |
| Fishing mortality estimates | 2 |
| Status determination for 2005 | 3 |
| References | 3 |

List of Tables

| | | |
|----------|--|---|
| Table 1. | U.S. sea scallop landings, 1964-2005 | 4 |
| Table 2. | NEFSC sea scallop survey stratified means for >40 mm scallops..... | 6 |
| Table 3. | Fishing mortality estimates for Georges Bank, Mid-Atlantic, and combined | 8 |

List of Figures

| | | |
|-----------|---|----|
| Figure 1. | Sea scallop biomass distribution from the 2005 NEFSC sea scallop survey, showing closed/access area boundaries, including the Delmarva closure scheduled for 2007... 10 | |
| Figure 2. | Sea scallop landings by region, 1964-2005 | 12 |
| Figure 3. | Sea scallop landings by meat count category, 1998-2005 | 12 |
| Figure 4. | Sea scallop survey biomass and estimated fishing mortality for Georges Bank, Mid-Atlantic, and combined | 13 |

Introduction

This report is an updated assessment of U.S. sea scallops, using data through the end of the 2005 calendar year. The methodology used here is identical to that used in the last fully peer-reviewed stock assessment (NEFSC 2004), but is updated to include two more calendar years of landings and fishery-independent survey data (2004-2005).

The Atlantic sea scallop, *Placopecten magellanicus*, occurs in continental shelf waters of the Northwest Atlantic between Cape Hatteras and Newfoundland. It supports one of the most valuable fisheries in the United States, with an ex-vessel value in 2005 of over \$430 million, and is the most valuable wild scallop fishery in the world. Major commercial concentrations of sea scallops in U.S. waters occur in the Mid-Atlantic Bight (Virginia to Long Island), on Georges Bank and surrounding areas (including the Great South Channel and Nantucket Shoals), and near-shore areas in the Gulf of Maine.

The U.S. federal sea scallop fishery is managed by the New England Fishery Management Council, under Amendment 10 to the sea scallop management plan. The bulk of landings come from more than 300 vessels with limited access permits, but a growing percentage are being taken by vessels with open access general category permits. Limited access vessels are controlled by annual day at sea limits, crew size limits, and trip limits to special access areas. General category vessels are limited to 400 lbs of meats per day or trip, whichever is more restrictive. Gear restrictions (4" rings with a 10" twine top on dredges) apply to all permits.

Fishery closures have strongly influenced sea scallop population dynamics and fisheries in recent years. Three large areas on Georges Bank and Nantucket Shoals were closed to groundfish and scallop fishing in December 1994. Since then, scallop biomass in these areas has increased by about a factor of 25 (Hart and Rago 2006). Portions of these areas were reopened to limited scallop fishing from June-November 1999, June 2000-January 2001, and since November 2004, with seasonal closures during February through June 15. In the Mid-Atlantic, two areas were closed to scallop fishing for three years in April 1998, and a new rotational area (the "Elephant Trunk" closed area) was closed in July 2004. Substantial increases in biomass occurred in one of the two original rotational closures, from which considerable landings were derived after this area was reopened in May 2001. Considerable increases in biomass have also been observed in the Elephant Trunk area prior to its planned 2007 reopening.

Life History and Distribution

Sea scallops occur in the Northwest Atlantic Ocean from North Carolina to Newfoundland along the continental shelf, typically on sand and gravel bottoms (Hart and Chute 2004). In Georges Bank and the Mid-Atlantic, most are harvested at depths between 30 and 100 m, while the bulk of the landings from the Gulf of Maine are from near-shore relatively shallow waters (< 40 m). Sea scallops filter-feed on phytoplankton, microzooplankton, and detritus particles. Sexes are separate with external fertilization, and larvae are planktonic for 4-7 weeks before settling to the bottom. Scallops recruit to the NEFSC survey at about 2 years old (40-70 mm), and to the commercial fishery currently at around 4-5 years old, though historically most 3-year-olds were vulnerable to the commercial fishery.

According to Amendment 10 of the Atlantic Sea Scallop Fishery Management Plan (NEFMC 2003), all scallops in the US Exclusive Economic Zone (EEZ) belong to a single stock. The US sea scallop stock can be subdivided into Georges Bank, Mid-Atlantic, Southern New England, and Gulf of Maine regional components based on survey data, fishery patterns, and other information (NEFSC 2004). The stock is likely composed of smaller regional meta-populations with some movement of larvae from Georges Bank into Southern New England and from Southern New England to the Mid-Atlantic. The main regional components are Georges Bank (including the Great South Channel and Nantucket Shoals) and the Mid-Atlantic Region (Figure 1). However, relatively small but imprecisely known amounts of sea scallop biomass occur in areas outside regularly surveyed NEFSC shellfish strata. Landings from other regions have been comparatively minor. As in NEFSC (2004), abundance and fishing mortality estimates for Georges Bank and the Mid-Atlantic are estimated separately in this assessment and then combined to characterize the condition of the stock as a whole.

Growth in sea scallops is modeled using the von Bertalanffy growth equation $SH = L_{\infty} [1 - \exp(-K(t-t_0))]$, where SH is shell height (in mm) and t is age (in years). The parameters L_{∞} and K, based on Serchuk et al. (1979), are taken as $L_{\infty} = 152.46$, $K = 0.3374$ (Georges Bank), $L_{\infty} = 151.84$, $K = 0.2997$ (Mid-Atlantic). Since sea scallop assessments are not age-based, the value of t_0 is irrelevant for this assessment. Shell height to meat weight equations $\ln(MW) = a + b \ln(SH)$ are as given in NEFSC (2004): $a = 11.6038$, $b = 3.1221$ (Georges Bank), $a = 12.2484$, $b = 3.2641$ (Mid-Atlantic).

Landings

Total US landings of sea scallops averaged 26,639 mt meats during 2003-2005, nearly quadruple the amount typical during the mid-1990s (Table 1, Figure 2). The landings of 29,321 mt meats in 2004 was an all-time record. The recent increase in landings occurred primarily in the Mid-Atlantic area, where they were well above historical levels. Georges Bank landings remained around their long-term average from 1999-2004, but increased to a near-record 9711 mt meats in 2005, primarily due to reopening of portions of the closed area. The recent increases in landings were mainly due to increased recruitment in the Mid-Atlantic and improved management that has caused scallops to be landed at a much larger size. A majority of the landed meats from the mid-1980s through 1998 were in the smaller market categories (>30 meats per pound). Landings in more recent years have trended to much larger sizes; the mean weight of a landed scallop meat in 2005 was about twice that of a meat in the 1990s (Figure 3).

Surveys

Sea scallop surveys using a lined 8' dredge have been conducted by NEFSC since 1979, but the survey of Georges Bank was incomplete prior to 1982. Thus, survey data used for this assessment are for 1982-2005 for Georges Bank, and 1979-2005 in the Mid-Atlantic. Since 2004, rock chains have been used in four strata in the Great South Channel. In rocky areas, the rock chains increase the efficiency of the gear by about a factor of 1.56 (NEFSC 2004, Appendix 2). In order to be consistent with previous years, the catches in these four strata were reduced by a factor of 1.56 in 2004-2005. Further details regarding the surveys can be found in NEFSC (2004).

Survey biomass in both resource areas remained low through the mid-1990s (Table 2, Figure 4). The closure of three large areas on Georges Bank and Nantucket Shoals, combined with drastically reduced fishing effort (due to shifts of effort to the Mid-Atlantic and later to effort reduction measures) caused a rapid increase in biomass from 1994-2000, with biomass in this area remaining roughly stable since then. Mid-Atlantic biomass remained low until 1998, when the closure of two areas combined with effort reduction measures and very strong recruitment induced a rapid increase in biomass. The overall biomass index began increasing in the mid-1990s, and stood at 7.8 kg/tow in 2005, well above the biomass target of 5.6 kg/tow.

Fishing mortality estimates

Following NEFSC (2004), fishing mortality was estimated using the “rescaled catch-biomass” method. In summary, fishing mortality trends for Georges Bank and the Mid-Atlantic were estimated by the ratio of landings to survey biomass. These trends were scaled so that they averaged the long-term average fishing mortality estimated in each year by the “two-bin” method:

$${}^s F_t = -\ln\left(\frac{P_{t+1}}{R_t + P_t}\right) - M,$$

where R_t was the mean population number of scallops per standard survey tow in the first bin (new recruits) during survey year t , and P_t was the mean population number of scallops per standard survey tow in the second bin (plus group). Natural mortality M was estimated as 0.1 as in NEFSC 2004. The estimates from the two regions were combined using a number-weighted average. Further details on these calculations can be found in NEFSC (2004) and Hart and Rago (2006).

Georges Bank fishing mortality peaked at about 1.7 in 1991, but declined drastically starting in 1994 (Table 3 and Fig. 4). In recent years (2000-2005), fishing mortality has been around 0.1; the 2005 fishing mortality was slightly higher than the recent average (0.15) primarily due to reopenings of portions of the closed areas. Mid-Atlantic fishing mortality peaked at about 1.6 in 1992. Fishing mortality declined greatly between 1996 and 1999, and since then has modestly varied without trend. Fishing mortality in 2005 was the lowest in the time series (0.3); the recent decrease is primarily due to the rotational closure of the Elephant Trunk area. Fishing mortality for the overall resource peaked at 1.55 in 1991 and then declined considerably between 1991 and 1998. Since 1998, overall fishing mortality has varied between 0.18 and 0.34; it was 0.22 in 2005, slightly under the overfishing threshold of 0.24, but just over the fishing mortality target of 0.2.

Status determination for 2005

The overall NEFSC sea scallop survey index stood at 7.8 kg/tow for 2005, above the biomass target of 5.6 kg/tow (NEFMC 2003). Sea scallops were therefore not overfished. The point estimate for fishing mortality of the overall sea scallop resource was 0.22, below the overfishing threshold of 0.24. Thus, overfishing of sea scallops was not occurring. However, there are important caveats to this conclusion. First, the confidence interval for fishing mortality contains the overfishing threshold, so it cannot be concluded with statistical certainty that overfishing was not occurring. Perhaps more importantly, the fishing mortality estimate in 2005 is a spatial average over heavily fished areas and areas that are either closed (e.g., the Elephant Trunk Closed Area and the Nantucket Lightship Closed Area) or where fishing mortality was low (e.g., Georges Bank Closed Areas I and II). Because over half the scallop biomass is contained in the closed areas, fishing mortality in the remainder of the resource must be over the fishing mortality threshold, and localized overfishing of some areas must be continuing. There is a possibility that unless fishing effort elsewhere is reduced, overfishing of the overall resource may reoccur when the Elephant Trunk area is reopened and fishing mortality there is ramped up. Finally, there has been considerable growth in general category fishing effort in the last several years which also threatens to induce overfishing unless management action is taken to contain effort in this sector.

References

- Hart DR, Chute AS. 2004. [Essential fish habitat source document: sea scallop, *Placopecten magellanicus*, life history and habitat characteristics \(2nd edition\)](#). Woods Hole MA: NOAA Tech Memo NMFS-NE-189, 21 p.
- Hart DR, Rago PJ. 2006. [Long-term dynamics of U.S. sea scallop \(*Placopecten magellanicus*\) populations](#). N Am J Fish Manage 26:490-501.
- NEFMC [New England Fishery Management Council]. 2003. [Final Amendment 10 to the Atlantic sea scallop fishery management plan with a supplemental environmental impact statement, regulatory impact review, and regulatory flexibility analysis](#). Newburyport MA: NEFMC.
- NEFSC [Northeast Fisheries Science Center]. 2004. [39th Northeast Regional Stock Assessment Workshop \(39th SAW\) assessment summary report & assessment report](#), Woods Hole MA: NEFSC Ref Doc 04-10; 211 p.
- Serchuk FM, Wood PW Jr, Posgay JA, Brown BE. 1979. Assessment and status of sea scallop (*Placopecten magellanicus*) populations off the northeast coast of the United States. In: Proc Natl Shellfish Assoc 69:161-191.

Table 1. U.S. sea scallop landings (mt meats), 1964-2005.

| Year | Gulf of Maine | | | | Georges Bank | | | | S. New England | | | | Mid Atlantic Bight | | | | Uncl. other | Total | | | | | | | |
|------|---------------|-------|-------|-------|--------------|-------|-------|-------|----------------|-------|-------|-----|--------------------|-------|-------|-------|----------------|--------|-------|--------|-----|--------|-------|-------|--------|
| | dredge | trawl | other | sum | dredge | trawl | other | sum | dredge | trawl | other | sum | dredge | trawl | other | sum | | dredge | trawl | other | sum | | | | |
| 1964 | | 0 | 208 | 208 | | | 0 | 6,241 | 6,241 | | | 52 | 3 | 55 | | | 0 | 137 | 137 | | | 52 | 6,590 | 6,642 | |
| 1965 | | 0 | 117 | 117 | | | 3 | 1,478 | 1,481 | | | 2 | 24 | 26 | | | 0 | 3,974 | 3,974 | | | 5 | 5,592 | 5,598 | |
| 1966 | | 0 | 102 | 102 | | | 0 | 883 | 884 | | | 0 | 8 | 8 | | | 0 | 4,061 | 4,061 | | | 1 | 5,055 | 5,056 | |
| 1967 | | 0 | 80 | 80 | | | 4 | 1,217 | 1,221 | | | 0 | 8 | 8 | | | 0 | 1,873 | 1,873 | | | 4 | 3,178 | 3,182 | |
| 1968 | | 0 | 113 | 113 | | | 0 | 993 | 994 | | | 0 | 56 | 56 | | | 0 | 2,437 | 2,437 | | | 0 | 3,599 | 3,599 | |
| 1969 | | 1 | 122 | 123 | | | 8 | 1,316 | 1,324 | | | 0 | 18 | 19 | | | 5 | 846 | 851 | | | 14 | 2,302 | 2,317 | |
| 1970 | | 0 | 132 | 132 | | | 5 | 1,410 | 1,415 | | | 0 | 6 | 6 | | | 14 | 459 | 473 | | | 19 | 2,006 | 2,026 | |
| 1971 | | 4 | 358 | 362 | | | 18 | 1,311 | 1,329 | | | 0 | 7 | 7 | | | 0 | 274 | 274 | | | 22 | 1,949 | 1,971 | |
| 1972 | | 1 | 524 | 525 | | | 5 | 816 | 821 | | | 0 | 2 | 2 | | | 5 | 653 | 658 | | | 11 | 1,995 | 2,006 | |
| 1973 | | 0 | 460 | 460 | | | 15 | 1,065 | 1,080 | | | 0 | 3 | 3 | | | 4 | 245 | 249 | | | 19 | 1,773 | 1,792 | |
| 1974 | | 0 | 223 | 223 | | | 15 | 911 | 926 | | | 0 | 4 | 5 | | | 0 | 937 | 938 | | | 16 | 2,076 | 2,091 | |
| 1975 | | 6 | 741 | 746 | | | 13 | 844 | 857 | | | 8 | 42 | 50 | | | 52 | 1,506 | 1,558 | | | 80 | 3,132 | 3,212 | |
| 1976 | | 3 | 364 | 366 | | | 38 | 1,723 | 1,761 | | | 4 | 3 | 7 | | | 317 | 2,972 | 3,288 | | | 361 | 5,061 | 5,422 | |
| 1977 | | 4 | 254 | 258 | | | 27 | 4,709 | 4,736 | | | 1 | 10 | 11 | | | 27 | 2,564 | 2,591 | | | 58 | 7,536 | 7,595 | |
| 1978 | 242 | 1 | 0 | 243 | 5,532 | 37 | 0 | 5,569 | | | | 25 | 2 | 0 | 27 | 4,175 | 21 | 0 | 4,196 | | | 9,974 | 61 | 0 | 10,035 |
| 1979 | 401 | 5 | 1 | 407 | 6,253 | 25 | 7 | 6,285 | | | | 61 | 5 | 0 | 66 | 2,857 | 29 | 1 | 2,888 | | | 9,572 | 64 | 9 | 9,645 |
| 1980 | 1,489 | 122 | 3 | 1,614 | 5,382 | 34 | 2 | 5,419 | | | | 130 | 3 | 0 | 133 | 1,966 | 9 | 0 | 1,975 | < 0.01 | | 8,968 | 169 | 4 | 9,142 |
| 1981 | 1,225 | 73 | 7 | 1,305 | 7,787 | 56 | 0 | 7,843 | | | | 68 | 1 | 0 | 69 | 726 | 5 | 0 | 731 | | | 9,806 | 135 | 7 | 9,948 |
| 1982 | 631 | 28 | 5 | 664 | 6,204 | 119 | 0 | 6,322 | | | | 126 | 0 | 0 | 126 | 1,602 | 6 | 2 | 1,610 | | | 8,562 | 153 | 7 | 8,723 |
| 1983 | 815 | 72 | 7 | 895 | 4,247 | 32 | 4 | 4,284 | | | | 243 | 1 | 0 | 243 | 3,081 | 18 | 10 | 3,109 | | | 8,386 | 124 | 21 | 8,530 |
| 1984 | 651 | 18 | 10 | 678 | 3,011 | 29 | 3 | 3,043 | | | | 161 | 3 | 0 | 164 | 3,647 | 26 | 2 | 3,675 | | | 7,470 | 76 | 14 | 7,560 |
| 1985 | 408 | 3 | 10 | 421 | 2,860 | 34 | 0 | 2,894 | | | | 77 | 4 | 0 | 82 | 3,227 | 47 | 1 | 3,276 | | | 6,572 | 88 | 11 | 6,672 |
| 1986 | 308 | 2 | 6 | 316 | 4,428 | 10 | 0 | 4,438 | | | | 76 | 2 | 0 | 78 | 3,257 | 101 | 0 | 3,359 | | | 8,068 | 115 | 7 | 8,190 |
| 1987 | 373 | 0 | 9 | 382 | 4,821 | 30 | 0 | 4,851 | | | | 67 | 1 | 0 | 68 | 7,488 | 315 | 1 | 7,803 | | | 12,749 | 346 | 10 | 13,104 |
| 1988 | 506 | 7 | 13 | 526 | 6,036 | 18 | 0 | 6,054 | | | | 65 | 4 | 0 | 68 | 5,774 | 402 | 2 | 6,178 | | | 12,381 | 430 | 16 | 12,826 |
| 1989 | 600 | 0 | 44 | 644 | 5,637 | 25 | 0 | 5,661 | | | | 127 | 11 | 0 | 138 | 7,549 | 422 | 2 | 7,973 | | | 13,913 | 458 | 45 | 14,416 |
| 1990 | 545 | 0 | 28 | 574 | 9,972 | 10 | 0 | 9,982 | | | | 110 | 6 | 0 | 116 | 5,954 | 476 | 4 | 6,435 | | | 16,581 | 493 | 32 | 17,107 |
| 1991 | 527 | 3 | 75 | 605 | 9,235 | 77 | 0 | 9,311 | | | | 55 | 16 | 0 | 71 | 6,195 | 808 | 9 | 7,011 | | | 16,012 | 903 | 84 | 16,999 |
| 1992 | 676 | 2 | 45 | 722 | 8,230 | 7 | 0 | 8,238 | | | | 119 | 5 | 0 | 124 | 4,386 | 563 | 5 | 4,955 | | | 13,411 | 577 | 50 | 14,039 |
| 1993 | 763 | 2 | 32 | 797 | 3,637 | 18 | 0 | 3,655 | | | | 65 | 1 | 0 | 66 | 2,382 | 392 | 3 | 2,778 | | | 6,848 | 413 | 36 | 7,296 |

Table 1 continued.

| Year | Gulf of Maine | | | | Georges Bank | | | | S. New England | | | | Mid Atlantic Bight | | | | Uncl. other | Total | | | |
|------|---------------|-------|-------|-----|--------------|-------|-------|-------|----------------|-------|-------|-----|--------------------|-------|-------|--------|----------------|--------|-------|-------|--------|
| | dredge | trawl | other | sum | dredge | trawl | other | sum | dredge | trawl | other | sum | dredge | trawl | other | sum | | dredge | trawl | other | sum |
| 1994 | 519 | 3 | 3 | 525 | 1,133 | 3 | 1 | 1,137 | 0 | 1 | 0 | 1 | 5,176 | 688 | 9 | 5,872 | | 6,827 | 693 | 13 | 7,534 |
| 1995 | 424 | 4 | 238 | 665 | 967 | 15 | 0 | 982 | 35 | 1 | 0 | 36 | 5,408 | 744 | 166 | 6,318 | | 6,799 | 762 | 404 | 7,965 |
| 1996 | 632 | 20 | 121 | 773 | 2,040 | 6 | 0 | 2,045 | 74 | 0 | 0 | 74 | 4,335 | 656 | 9 | 4,999 | | 7,006 | 682 | 130 | 7,818 |
| 1997 | 581 | 21 | 98 | 699 | 2,317 | 10 | 0 | 2,326 | 69 | 0 | 0 | 69 | 2,442 | 357 | 111 | 2,910 | | 5,339 | 387 | 209 | 5,936 |
| 1998 | 443 | 10 | 1 | 455 | 1,990 | 27 | 0 | 2,016 | 95 | 6 | 0 | 102 | 2,359 | 574 | 15 | 2,948 | 44 | 4,792 | 610 | 17 | 5,565 |
| 1999 | 277 | 3 | 0 | 280 | 5,151 | 4 | 0 | 5,155 | 46 | 5 | 3 | 54 | 3,646 | 958 | 50 | 4,653 | 4 | 9,074 | 965 | 50 | 10,146 |
| 2000 | 182 | 8 | 1 | 191 | 5,412 | 25 | 0 | 5,437 | 84 | 2 | 0 | 86 | 7,707 | 1,142 | 10 | 8,860 | 49 | 13,301 | 1,175 | 11 | 14,623 |
| 2001 | 383 | 18 | 29 | 430 | 4,941 | 11 | 0 | 4,952 | 27 | 1 | 2 | 31 | 14,161 | 1,570 | 38 | 15,768 | | 19,485 | 1,599 | 67 | 21,180 |
| 2002 | 533 | 7 | 2 | 542 | 5,653 | 40 | 0 | 5,694 | 41 | 3 | 0 | 43 | 16,016 | 1,591 | 5 | 17,612 | | 22,202 | 1,639 | 7 | 23,891 |
| 2003 | 246 | 7 | 1 | 254 | 4,908 | 14 | 0 | 4,922 | 84 | 2 | 0 | 85 | 18,189 | 1,470 | 1 | 19,660 | 187 | 23,343 | 1,491 | 1 | 25,107 |
| 2004 | 126 | 7 | 1 | 134 | 4,301 | 48 | 4 | 4,353 | 106 | 20 | 22 | 148 | 23,212 | 1,453 | 21 | 24,686 | | 27,639 | 1,508 | 26 | 29,321 |
| 2005 | 189 | 12 | 0 | 201 | 9,540 | 171 | 0 | 9,711 | 294 | 16 | 1 | 311 | 14,288 | 972 | 6 | 15,266 | | 24,017 | 1,155 | 6 | 25,489 |

Table 2. NEFSC sea scallop survey stratified means for >40 mm scallops. Biomass is in meat weight.

| Year | Num/Tow | CV | Num/tow Not Recruited | Num/Tow Fully Recruited | Biomass g/Tow | CV | Biomass Not Recruited g/Tow | Biomass Fully Recruited g/Tow | Mean Meat Weight (G) |
|---------------------------|---------|-----|-----------------------|-------------------------|---------------|-----|-----------------------------|-------------------------------|----------------------|
| Georges Bank | | | | | | | | | |
| 1982 | 133 | 37% | 100 | 33 | 869 | 18% | 304 | 565 | 6.6 |
| 1983 | 61 | 21% | 24 | 37 | 720 | 16% | 97 | 623 | 11.9 |
| 1984 | 39 | 11% | 15 | 23 | 544 | 9% | 55 | 490 | 14.0 |
| 1985 | 65 | 14% | 31 | 34 | 706 | 13% | 126 | 579 | 10.8 |
| 1986 | 116 | 13% | 79 | 37 | 917 | 9% | 269 | 648 | 7.9 |
| 1987 | 126 | 15% | 67 | 58 | 1,082 | 13% | 245 | 837 | 8.6 |
| 1988 | 104 | 15% | 56 | 48 | 904 | 12% | 216 | 688 | 8.7 |
| 1989 | 111 | 36% | 56 | 55 | 943 | 33% | 248 | 695 | 8.5 |
| 1990 | 207 | 22% | 129 | 78 | 1,340 | 20% | 475 | 865 | 6.5 |
| 1991 | 251 | 30% | 200 | 51 | 1,246 | 14% | 551 | 695 | 5.0 |
| 1992 | 264 | 38% | 185 | 79 | 1,638 | 29% | 787 | 851 | 6.2 |
| 1993 | 70 | 28% | 47 | 23 | 531 | 17% | 204 | 327 | 7.6 |
| 1994 | 45 | 16% | 20 | 25 | 457 | 13% | 69 | 388 | 10.2 |
| 1995 | 120 | 18% | 92 | 28 | 747 | 13% | 285 | 462 | 6.2 |
| 1996 | 139 | 16% | 70 | 69 | 1,332 | 14% | 256 | 1,076 | 9.6 |
| 1997 | 100 | 13% | 28 | 72 | 1,612 | 14% | 98 | 1,514 | 16.1 |
| 1998 | 317 | 31% | 145 | 172 | 4,000 | 37% | 508 | 3,492 | 12.6 |
| 1999 | 246 | 17% | 67 | 179 | 4,306 | 25% | 158 | 4,148 | 17.5 |
| 2000 | 888 | 30% | 542 | 346 | 8,131 | 21% | 2,243 | 5,888 | 9.2 |
| 2001 | 473 | 13% | 147 | 327 | 7,010 | 14% | 616 | 6,394 | 14.8 |
| 2002 | 397 | 13% | 33 | 364 | 8,051 | 13% | 174 | 7,877 | 20.3 |
| 2003 | 311 | 12% | 61 | 250 | 7,529 | 14% | 231 | 7,299 | 24.2 |
| 2004 | 350 | 11% | 43 | 307 | 9,289 | 11% | 174 | 9,116 | 26.5 |
| 2005 | 275 | 12% | 33 | 241 | 7,759 | 11% | 133 | 7,626 | 28.3 |
| Mid-Atlantic Bight | | | | | | | | | |
| 1979 | 43 | 9% | 11 | 32 | 728 | 10% | 46 | 681 | 16.9 |
| 1980 | 51 | 12% | 27 | 24 | 615 | 7% | 62 | 553 | 12.1 |
| 1981 | 40 | 17% | 18 | 22 | 488 | 11% | 64 | 423 | 12.3 |
| 1982 | 40 | 11% | 16 | 24 | 508 | 8% | 64 | 444 | 12.8 |
| 1983 | 38 | 9% | 20 | 19 | 472 | 8% | 65 | 407 | 12.3 |
| 1984 | 39 | 10% | 15 | 24 | 454 | 9% | 49 | 406 | 11.8 |
| 1985 | 93 | 13% | 58 | 35 | 734 | 9% | 207 | 528 | 7.9 |
| 1986 | 152 | 8% | 89 | 64 | 1,186 | 7% | 323 | 863 | 7.8 |
| 1987 | 152 | 8% | 94 | 58 | 1,039 | 6% | 276 | 763 | 6.9 |
| 1988 | 179 | 10% | 78 | 101 | 1,683 | 8% | 302 | 1,381 | 9.4 |
| 1989 | 216 | 9% | 129 | 87 | 1,525 | 7% | 462 | 1,063 | 7.1 |
| 1990 | 264 | 22% | 173 | 91 | 1,672 | 17% | 702 | 970 | 6.3 |
| 1991 | 103 | 10% | 48 | 55 | 963 | 10% | 196 | 767 | 9.4 |
| 1992 | 53 | 10% | 24 | 28 | 543 | 7% | 82 | 461 | 10.3 |
| 1993 | 164 | 11% | 138 | 26 | 753 | 8% | 391 | 362 | 4.6 |
| 1994 | 162 | 10% | 95 | 67 | 1,043 | 8% | 326 | 717 | 6.4 |
| 1995 | 218 | 13% | 125 | 94 | 1,547 | 11% | 567 | 980 | 7.1 |
| 1996 | 77 | 8% | 23 | 53 | 773 | 7% | 116 | 657 | 10.1 |
| 1997 | 54 | 12% | 28 | 26 | 533 | 6% | 66 | 467 | 9.8 |

Table 2 continued.

| Year | Num/Tow | CV | Num/tow Not Recruited | Num/Tow Fully Recruited | Biomass g/Tow | CV | Biomass Not Recruited g/Tow | Biomass Fully Recruited g/Tow | Mean Meat Weight (G) |
|-------------------------------------|---------|-----|-----------------------------|-------------------------------|------------------|-----|--------------------------------------|--|-------------------------------|
| Mid-Atlantic Bight continued | | | | | | | | | |
| 1998 | 195 | 17% | 145 | 50 | 1,101 | 15% | 474 | 627 | 5.7 |
| 1999 | 309 | 21% | 173 | 136 | 2,281 | 18% | 640 | 1,641 | 7.4 |
| 2000 | 389 | 14% | 131 | 257 | 4,005 | 13% | 572 | 3,434 | 10.3 |
| 2001 | 398 | 12% | 141 | 257 | 4,519 | 13% | 523 | 3,995 | 11.3 |
| 2002 | 404 | 11% | 112 | 292 | 5,122 | 12% | 399 | 4,723 | 12.7 |
| 2003 | 864 | 15% | 495 | 370 | 7,603 | 9% | 1,297 | 6,306 | 8.8 |
| 2004 | 675 | 11% | 303 | 372 | 6,700 | 7% | 1,355 | 5,345 | 9.9 |
| 2005 | 507 | 9% | 122 | 385 | 7,860 | 8% | 351 | 7,509 | 15.5 |
| Combined | | | | | | | | | |
| 1982 | 83 | 28% | 55 | 28 | 676 | 11% | 176 | 500 | 8.1 |
| 1983 | 49 | 13% | 22 | 27 | 587 | 10% | 80 | 507 | 12.1 |
| 1984 | 39 | 8% | 15 | 24 | 496 | 6% | 51 | 445 | 12.8 |
| 1985 | 80 | 9% | 46 | 35 | 721 | 8% | 169 | 552 | 9.1 |
| 1986 | 135 | 7% | 84 | 51 | 1,061 | 6% | 298 | 763 | 7.8 |
| 1987 | 140 | 8% | 82 | 58 | 1,059 | 7% | 262 | 798 | 7.6 |
| 1988 | 144 | 8% | 68 | 77 | 1,320 | 6% | 262 | 1,058 | 9.2 |
| 1989 | 167 | 13% | 95 | 72 | 1,254 | 12% | 363 | 892 | 7.5 |
| 1990 | 237 | 16% | 153 | 85 | 1,517 | 13% | 596 | 921 | 6.4 |
| 1991 | 172 | 21% | 119 | 53 | 1,095 | 9% | 361 | 734 | 6.4 |
| 1992 | 151 | 31% | 99 | 52 | 1,053 | 21% | 410 | 643 | 7.0 |
| 1993 | 120 | 11% | 96 | 24 | 650 | 8% | 304 | 346 | 5.4 |
| 1994 | 108 | 9% | 60 | 48 | 770 | 7% | 206 | 564 | 7.2 |
| 1995 | 173 | 10% | 110 | 63 | 1,175 | 9% | 436 | 739 | 6.9 |
| 1996 | 106 | 11% | 45 | 61 | 1,033 | 9% | 181 | 852 | 10.3 |
| 1997 | 76 | 9% | 28 | 48 | 1,035 | 10% | 81 | 954 | 14.9 |
| 1998 | 251 | 20% | 145 | 107 | 2,451 | 29% | 490 | 1,961 | 10.5 |
| 1999 | 268 | 14% | 124 | 144 | 1,978 | 16% | 416 | 1,562 | 11.1 |
| 2000 | 621 | 21% | 323 | 299 | 5,926 | 14% | 1,350 | 4,576 | 10.0 |
| 2001 | 433 | 9% | 144 | 290 | 5,678 | 10% | 566 | 5,112 | 13.3 |
| 2002 | 401 | 8% | 75 | 326 | 6,485 | 9% | 294 | 6,192 | 16.2 |
| 2003 | 607 | 12% | 293 | 314 | 7,569 | 8% | 801 | 6,768 | 12.5 |
| 2004 | 524 | 8% | 182 | 342 | 7,905 | 7% | 805 | 7,100 | 15.1 |
| 2005 | 399 | 7% | 81 | 318 | 7,813 | 7% | 249 | 7,564 | 19.6 |

Table 3. Fishing mortality estimates for Georges Bank, Mid-Atlantic, and combined. The best estimates are given under the "Rescaled F" column in bold. Further details can be found in NEFSC 2004.

Georges Bank

| | 80-100 | 100+ | SurveyF | CV | Landings | MinEBms | Ebms | CV | CBI | CV | RescaledF | CV | BH-F | MovAvg |
|----------|--------|-------|---------|------|----------|---------|--------|------|------|------|-------------|------|------|--------|
| 1982 | 14.8 | 11.4 | | | 6322 | 3124 | 7811 | 0.12 | 0.81 | 0.15 | 1.42 | 0.16 | 0.62 | 0.64 |
| 1983 | 22.2 | 12.0 | 0.68 | | 4284 | 3443 | 8608 | 0.10 | 0.50 | 0.14 | 0.88 | 0.15 | 0.81 | 0.66 |
| 1984 | 10.5 | 11.3 | 1.01 | | 3043 | 2707 | 6767 | 0.10 | 0.45 | 0.14 | 0.79 | 0.15 | 0.48 | 0.59 |
| 1985 | 17.1 | 12.5 | 0.46 | | 2894 | 3204 | 8011 | 0.14 | 0.36 | 0.17 | 0.64 | 0.18 | 0.70 | 0.77 |
| 1986 | 15.2 | 14.9 | 0.59 | | 4438 | 3585 | 8964 | 0.09 | 0.50 | 0.13 | 0.87 | 0.14 | 0.58 | 0.87 |
| 1987 | 35.8 | 14.8 | 0.61 | | 4851 | 4631 | 11578 | 0.13 | 0.42 | 0.16 | 0.74 | 0.17 | 1.03 | 1.14 |
| 1988 | 27.8 | 12.8 | 1.27 | | 6054 | 3806 | 9515 | 0.10 | 0.64 | 0.14 | 1.12 | 0.15 | 0.99 | 1.42 |
| 1989 | 35.6 | 10.2 | 1.28 | | 5661 | 3842 | 9605 | 0.32 | 0.59 | 0.34 | 1.04 | 0.34 | 1.38 | 1.43 |
| 1990 | 53.9 | 8.8 | 1.54 | | 9982 | 4785 | 11962 | 0.22 | 0.83 | 0.24 | 1.47 | 0.24 | 1.89 | 1.37 |
| 1991 | 26.9 | 12.0 | 1.55 | | 9311 | 3844 | 9611 | 0.09 | 0.97 | 0.14 | 1.71 | 0.14 | 1.02 | 0.98 |
| 1992 | 32.4 | 11.3 | 1.14 | | 8238 | 4708 | 11770 | 0.17 | 0.70 | 0.19 | 1.23 | 0.20 | 1.21 | 0.97 |
| 1993 | 8.7 | 7.2 | 1.71 | | 3655 | 1806 | 4514 | 0.10 | 0.81 | 0.14 | 1.43 | 0.15 | 0.72 | 0.77 |
| 1994 | 16.4 | 7.2 | 0.69 | | 1137 | 2145 | 5363 | 0.12 | 0.21 | 0.16 | 0.37 | 0.16 | 0.96 | 0.81 |
| 1995 | 10.9 | 12.1 | 0.57 | | 982 | 2554 | 6385 | 0.12 | 0.15 | 0.15 | 0.27 | 0.16 | 0.63 | 0.64 |
| 1996 | 37.9 | 23.5 | -0.12 | | 2045 | 5950 | 14874 | 0.14 | 0.14 | 0.17 | 0.24 | 0.18 | 0.83 | 0.59 |
| 1997 | 24.9 | 44.4 | 0.22 | | 2326 | 8370 | 20926 | 0.14 | 0.11 | 0.17 | 0.20 | 0.18 | 0.45 | 0.46 |
| 1998 | 66.7 | 92.0 | -0.38 | | 2016 | 19308 | 48271 | 0.39 | 0.04 | 0.40 | 0.07 | 0.41 | 0.47 | 0.51 |
| 1999 | 59.3 | 84.7 | 0.53 | | 5155 | 22937 | 57342 | 0.31 | 0.09 | 0.32 | 0.16 | 0.33 | 0.46 | 0.53 |
| 2000 | 133.5 | 135.6 | -0.04 | | 5437 | 32560 | 81401 | 0.20 | 0.07 | 0.23 | 0.12 | 0.23 | 0.58 | 0.53 |
| 2001 | 151.5 | 154.9 | 0.45 | | 4952 | 35358 | 88396 | 0.15 | 0.06 | 0.18 | 0.10 | 0.19 | 0.55 | 0.40 |
| 2002 | 145.3 | 215.1 | 0.25 | | 5694 | 43561 | 108903 | 0.13 | 0.05 | 0.17 | 0.09 | 0.17 | 0.45 | 0.32 |
| 2003 | 33.8 | 207.9 | 0.45 | | 4922 | 40360 | 100901 | 0.13 | 0.05 | 0.17 | 0.09 | 0.17 | 0.18 | 0.18 |
| 2004 | 57.4 | 236.2 | -0.08 | | 4353 | 53546 | 133865 | 0.11 | 0.03 | 0.15 | 0.06 | 0.15 | 0.18 | |
| 2005 | 44.0 | 211.8 | 0.23 | | 9711 | 45659 | 114146 | 0.11 | 0.09 | 0.15 | 0.15 | 0.16 | 0.15 | |
| Mean8205 | 45.1 | 65.2 | 0.63 | 0.04 | 4894 | | 37062 | | 0.36 | | 0.63 | | 0.72 | |
| Mean8294 | 24.4 | 11.3 | 1.02 | | 5375 | | 8775 | | 0.60 | | 1.02 | | 0.94 | |
| Mean9505 | 72.1 | 120.6 | 0.19 | | 4327 | | 70492 | | 0.08 | | 0.14 | | 0.45 | |

Mid-Atlantic

| | 80-98.5 | 98.5+ | SurveyF | CV | Landings | MinEBms | EBms | CV | CBI | CV | RescaledF | CV | BH-F | MovAvg |
|----------|---------|-------|---------|------|----------|---------|-------|------|------|------|-------------|------|------|--------|
| 1979 | 10.9 | 19.1 | | | 2888 | 4326 | 7210 | 0.10 | 0.40 | 0.14 | 0.65 | 0.15 | 0.38 | 0.39 |
| 1980 | 7.0 | 16.2 | 0.52 | | 1975 | 3512 | 5854 | 0.07 | 0.34 | 0.12 | 0.55 | 0.12 | 0.33 | 0.45 |
| 1981 | 9.0 | 10.1 | 0.73 | | 731 | 2686 | 4476 | 0.10 | 0.16 | 0.14 | 0.26 | 0.14 | 0.47 | 0.46 |
| 1982 | 11.3 | 10.6 | 0.49 | | 1610 | 2819 | 4698 | 0.08 | 0.34 | 0.13 | 0.55 | 0.13 | 0.55 | 0.55 |
| 1983 | 6.4 | 10.8 | 0.61 | | 3109 | 2582 | 4304 | 0.08 | 0.72 | 0.13 | 1.17 | 0.13 | 0.36 | 0.61 |
| 1984 | 14.8 | 8.2 | 0.64 | | 3675 | 2577 | 4295 | 0.09 | 0.86 | 0.13 | 1.38 | 0.13 | 0.73 | 0.85 |
| 1985 | 16.9 | 11.8 | 0.57 | | 3276 | 3351 | 5584 | 0.07 | 0.59 | 0.12 | 0.95 | 0.12 | 0.75 | 0.99 |
| 1986 | 40.0 | 15.9 | 0.49 | | 3359 | 5480 | 9133 | 0.07 | 0.37 | 0.12 | 0.59 | 0.12 | 1.06 | 1.10 |
| 1987 | 40.1 | 13.6 | 1.31 | | 7803 | 4842 | 8071 | 0.06 | 0.97 | 0.12 | 1.56 | 0.12 | 1.16 | 1.16 |
| 1988 | 66.4 | 24.8 | 0.67 | | 6178 | 8768 | 14613 | 0.07 | 0.42 | 0.12 | 0.68 | 0.12 | 1.10 | 1.24 |
| 1989 | 53.5 | 16.2 | 1.63 | | 7973 | 6748 | 11247 | 0.07 | 0.71 | 0.12 | 1.15 | 0.12 | 1.22 | 1.21 |
| 1990 | 49.7 | 11.7 | 1.69 | | 6435 | 6161 | 10268 | 0.10 | 0.63 | 0.14 | 1.01 | 0.14 | 1.41 | 1.05 |
| 1991 | 33.5 | 14.8 | 1.32 | | 7011 | 4872 | 8120 | 0.11 | 0.86 | 0.15 | 1.39 | 0.15 | 1.01 | 0.85 |
| 1992 | 15.3 | 10.9 | 1.39 | | 4955 | 2928 | 4880 | 0.07 | 1.02 | 0.12 | 1.64 | 0.12 | 0.73 | 1.13 |
| 1993 | 12.9 | 7.5 | 1.14 | | 2794 | 2300 | 3833 | 0.07 | 0.73 | 0.12 | 1.18 | 0.12 | 0.83 | 1.38 |
| 1994 | 44.5 | 7.6 | 0.89 | | 5872 | 4552 | 7587 | 0.08 | 0.77 | 0.13 | 1.25 | 0.13 | 1.84 | 1.58 |
| 1995 | 50.0 | 13.2 | 1.27 | | 6318 | 6224 | 10373 | 0.09 | 0.61 | 0.13 | 0.98 | 0.13 | 1.48 | 1.17 |
| 1996 | 39.5 | 10.1 | 1.73 | | 4999 | 4168 | 6947 | 0.06 | 0.72 | 0.12 | 1.16 | 0.12 | 1.43 | 1.04 |
| 1997 | 12.6 | 13.2 | 1.23 | | 2910 | 2967 | 4944 | 0.06 | 0.59 | 0.11 | 0.95 | 0.11 | 0.61 | 1.00 |
| 1998 | 28.9 | 11.0 | 0.75 | | 2948 | 3980 | 6633 | 0.14 | 0.44 | 0.17 | 0.72 | 0.17 | 1.10 | 1.16 |
| 1999 | 87.7 | 26.9 | 0.30 | | 4653 | 10418 | 17363 | 0.15 | 0.27 | 0.18 | 0.43 | 0.18 | 1.30 | 1.05 |
| 2000 | 169.9 | 69.9 | 0.39 | | 9691 | 21800 | 36334 | 0.13 | 0.27 | 0.16 | 0.43 | 0.16 | 1.09 | 0.86 |
| 2001 | 129.5 | 114.1 | 0.64 | | 15812 | 25365 | 42274 | 0.14 | 0.37 | 0.17 | 0.60 | 0.17 | 0.76 | 0.69 |
| 2002 | 147.2 | 137.2 | 0.47 | | 17233 | 29985 | 49976 | 0.12 | 0.34 | 0.16 | 0.56 | 0.16 | 0.72 | 0.66 |
| 2003 | 158.8 | 188.2 | 0.31 | | 19822 | 40033 | 66721 | 0.09 | 0.30 | 0.14 | 0.48 | 0.14 | 0.60 | 0.60 |
| 2004 | 202.4 | 118.9 | 0.97 | | 24530 | 36041 | 60068 | 0.07 | 0.41 | 0.12 | 0.66 | 0.12 | 0.85 | |
| 2005 | 150.0 | 232.5 | 0.22 | | 15562 | 50789 | 84648 | 0.08 | 0.18 | 0.13 | 0.30 | 0.13 | 0.50 | |
| Mean7905 | 59.6 | 42.4 | 0.86 | 0.02 | 7190 | | 18535 | | 0.53 | | 0.86 | | 0.92 | |
| Mean7994 | 27.0 | 13.1 | 0.94 | | 4353 | | 7136 | | 0.62 | | 1.00 | | 0.87 | |
| Mean9505 | 107.0 | 85.0 | 0.8 | | 11316 | | 35116 | | 0.41 | | 0.66 | | 1.01 | |

Table 3 continued.

| Combined (number weighted) | | | | | | | | |
|-----------------------------------|----------------|-----------------|---------------|------------|------------------|-----------|-------------|---------------|
| | SurveyF | Landings | Ebms | CBI | RescaledF | CV | BH-F | MovAvg |
| 1982 | | 7933 | 12509 | 0.63 | 1.09 | 0.08 | 0.59 | 0.62 |
| 1983 | 0.66 | 7392 | 12912 | 0.57 | 0.96 | 0.07 | 0.68 | 0.67 |
| 1984 | 0.83 | 6718 | 11062 | 0.61 | 1.07 | 0.07 | 0.60 | 0.73 |
| 1985 | 0.51 | 6170 | 13595 | 0.45 | 0.78 | 0.08 | 0.72 | 0.89 |
| 1986 | 0.53 | 7797 | 18096 | 0.43 | 0.70 | 0.07 | 0.87 | 1.01 |
| 1987 | 0.94 | 12654 | 19648 | 0.64 | 1.13 | 0.08 | 1.09 | 1.15 |
| 1988 | 0.89 | 12232 | 24127 | 0.51 | 0.84 | 0.07 | 1.06 | 1.34 |
| 1989 | 1.48 | 13634 | 20851 | 0.65 | 1.10 | 0.14 | 1.29 | 1.32 |
| 1990 | 1.61 | 16417 | 22230 | 0.74 | 1.25 | 0.11 | 1.66 | 1.26 |
| 1991 | 1.44 | 16323 | 17731 | 0.92 | 1.56 | 0.08 | 1.01 | 0.96 |
| 1992 | 1.20 | 13192 | 16650 | 0.79 | 1.32 | 0.09 | 1.10 | 1.15 |
| 1993 | 1.43 | 6449 | 8347 | 0.77 | 1.30 | 0.07 | 0.77 | 1.20 |
| 1994 | 0.83 | 7009 | 12950 | 0.54 | 0.98 | 0.08 | 1.57 | 1.30 |
| 1995 | 1.09 | 7300 | 16758 | 0.44 | 0.80 | 0.08 | 1.27 | 0.93 |
| 1996 | 0.55 | 7045 | 21820 | 0.32 | 0.58 | 0.08 | 1.05 | 0.70 |
| 1997 | 0.43 | 5236 | 25870 | 0.20 | 0.35 | 0.08 | 0.48 | 0.62 |
| 1998 | -0.20 | 4964 | 54904 | 0.09 | 0.18 | 0.17 | 0.57 | 0.72 |
| 1999 | 0.43 | 9808 | 74705 | 0.13 | 0.27 | 0.15 | 0.81 | 0.74 |
| 2000 | 0.12 | 15128 | 117735 | 0.13 | 0.23 | 0.11 | 0.77 | 0.65 |
| 2001 | 0.52 | 20764 | 130670 | 0.16 | 0.28 | 0.09 | 0.63 | 0.53 |
| 2002 | 0.34 | 22927 | 158878 | 0.14 | 0.27 | 0.09 | 0.55 | 0.49 |
| 2003 | 0.38 | 24744 | 167622 | 0.15 | 0.30 | 0.08 | 0.41 | 0.41 |
| 2004 | 0.42 | 28883 | 193933 | 0.15 | 0.34 | 0.07 | 0.50 | |
| 2005 | 0.23 | 25273 | 198794 | 0.13 | 0.22 | 0.08 | 0.32 | |
| <i>Mean8205</i> | <i>0.72</i> | | <i>57183</i> | | <i>0.75</i> | | <i>0.75</i> | |
| <i>Mean8294</i> | <i>1.03</i> | | <i>16517</i> | | <i>1.08</i> | | <i>1.04</i> | |
| <i>Mean9505</i> | <i>0.39</i> | | <i>105608</i> | | <i>0.36</i> | | <i>0.70</i> | |

Figure 1. Sea scallop biomass (g/tow, meats) distribution from the 2005 NEFSC sea scallop survey. Dotted lines show closed/access area boundaries, including the Delmarva closure scheduled for 2007.

(a) Georges Bank

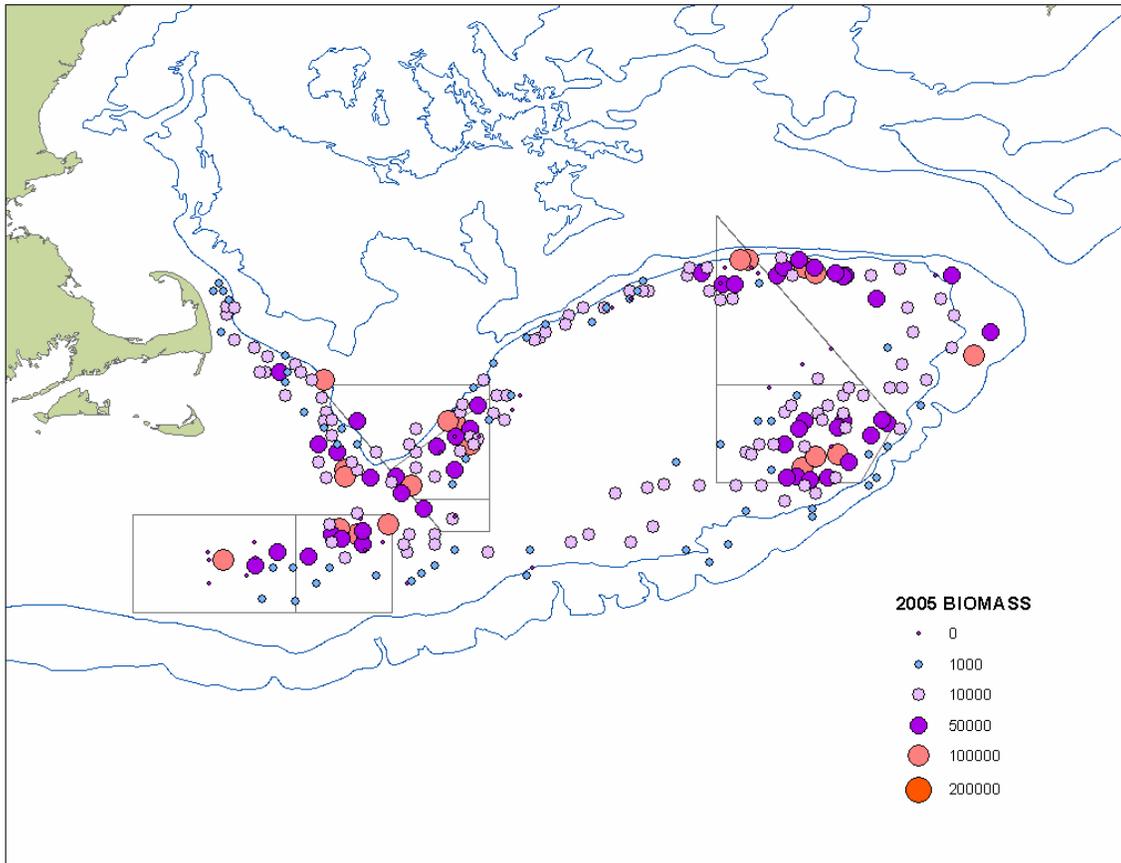


Figure 1 continued.

(b) Mid-Atlantic

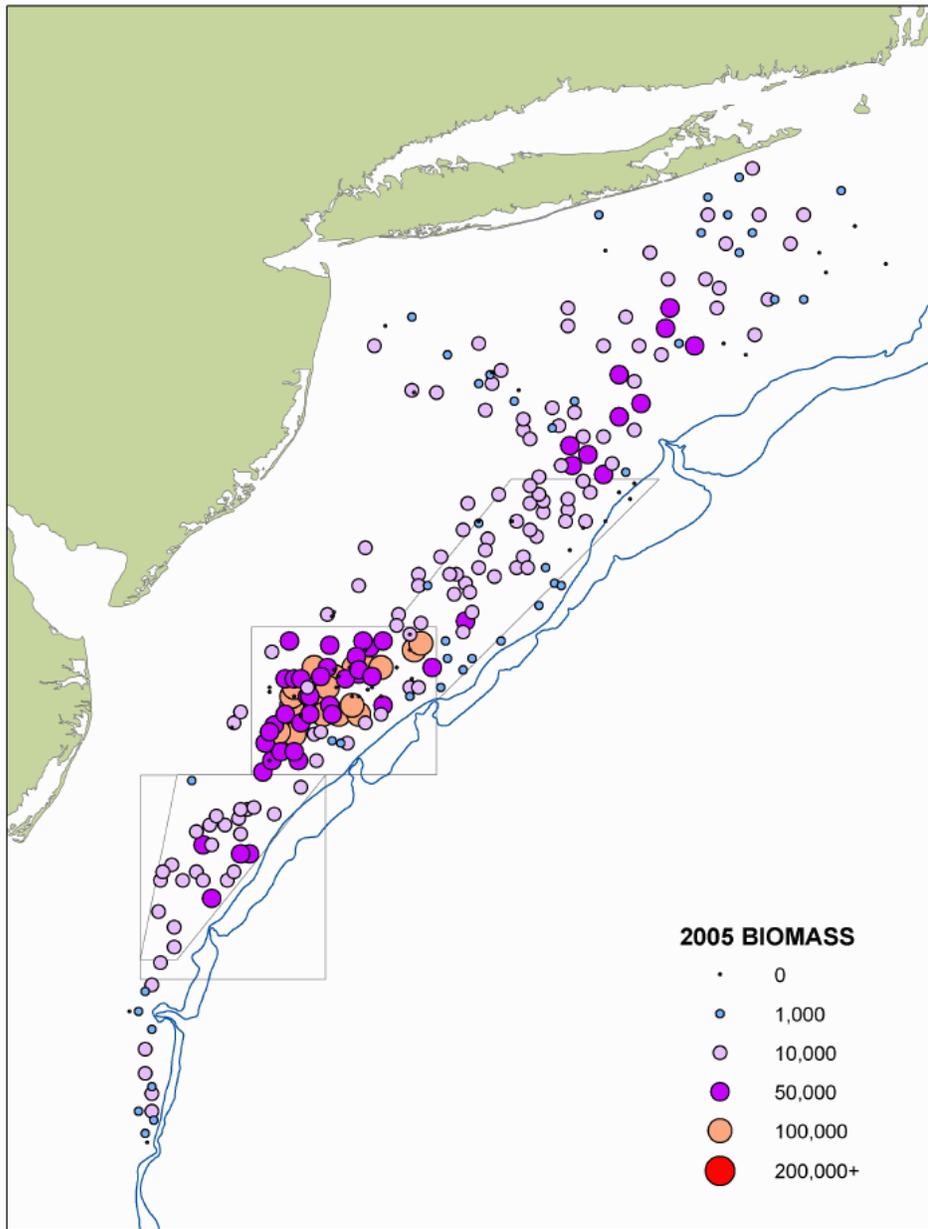


Figure 2. Sea scallop landings by region (mt meats), 1964-2005.

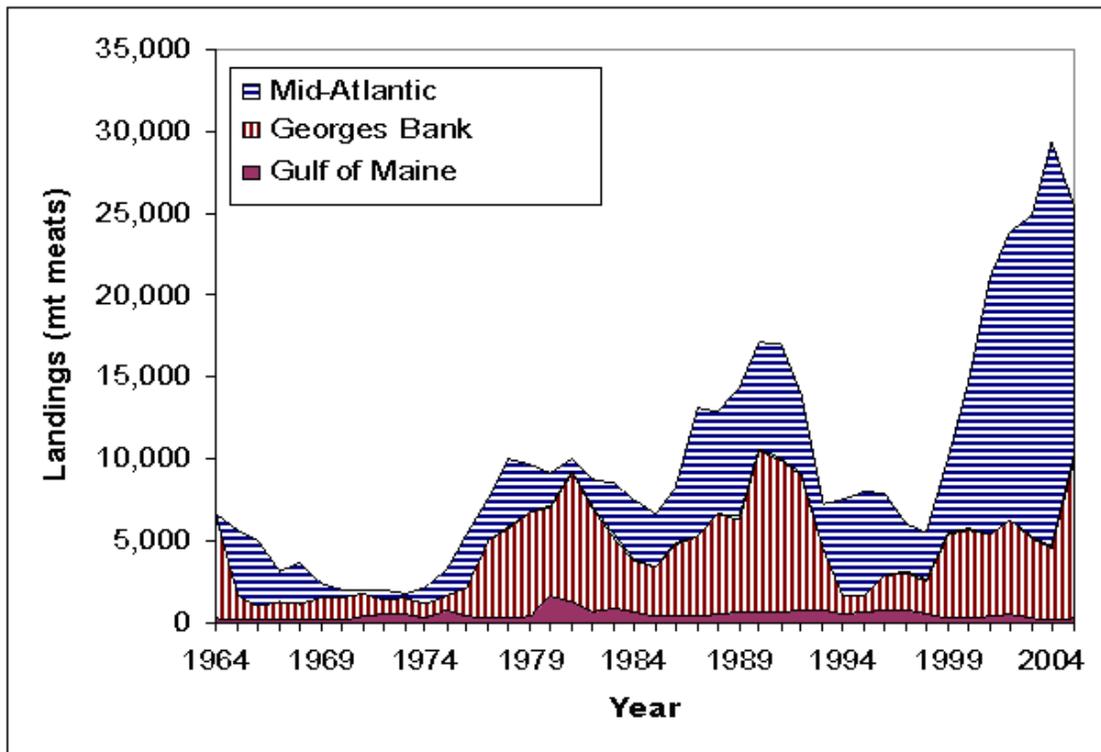


Figure 3. Sea scallop landings by meat count category, 1998-2005.

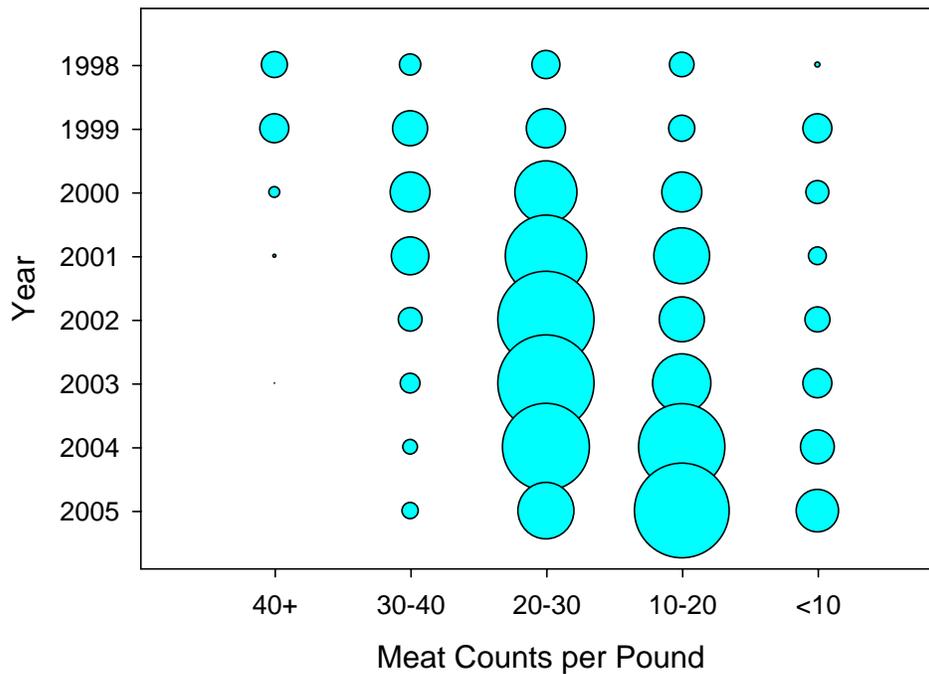
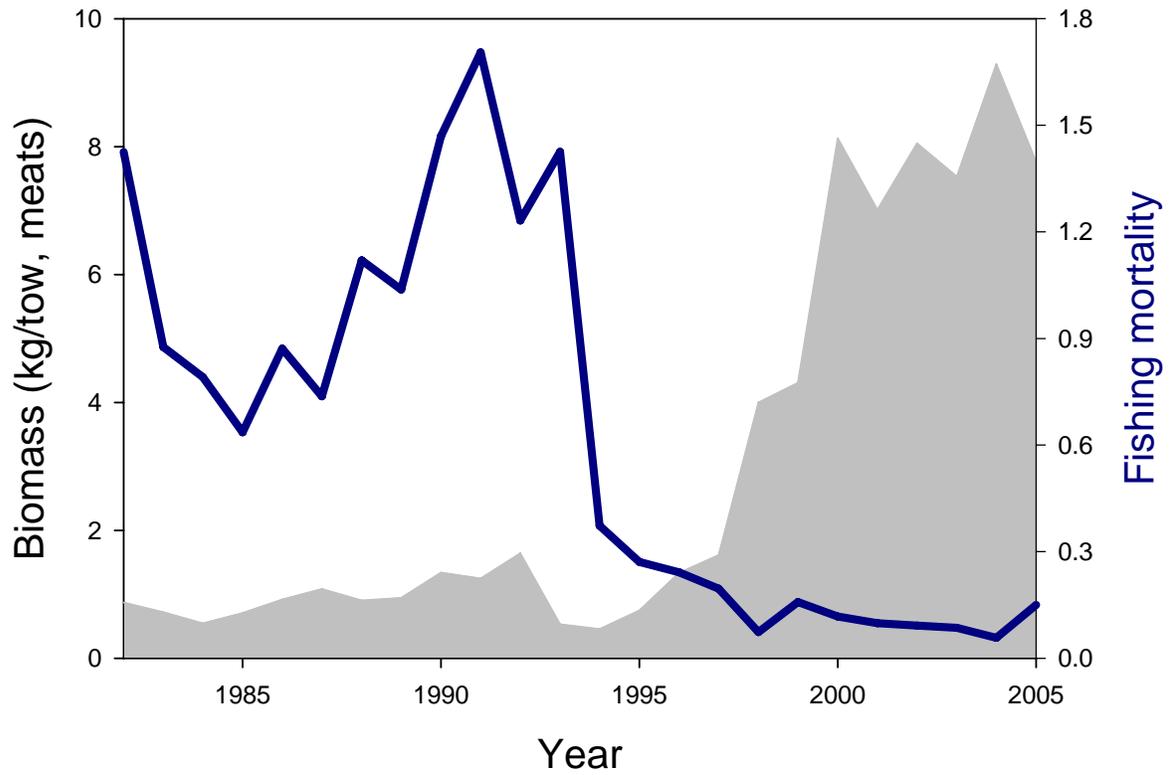
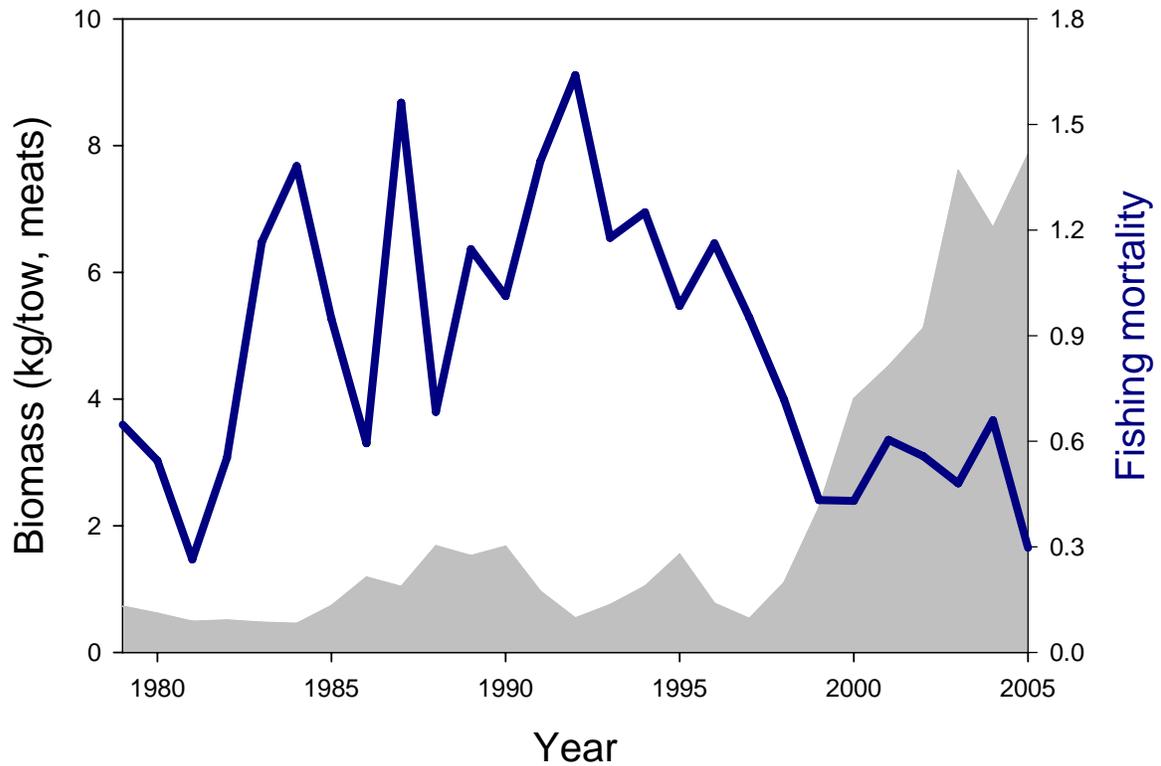


Figure 4. Sea scallop survey biomass and estimated fishing mortality for Georges Bank, Mid-Atlantic, and combined.

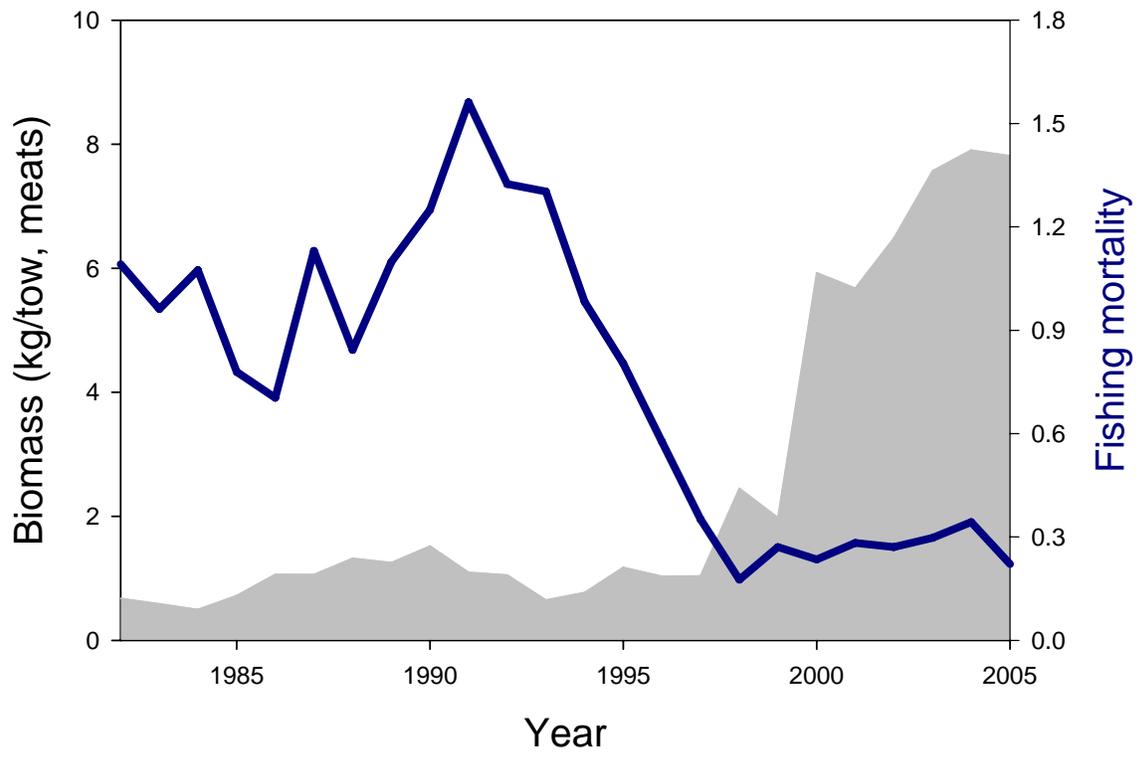
(a) Georges Bank



(b) Mid-Atlantic



(c) Overall



Procedures for Issuing Manuscripts in the *Northeast Fisheries Science Center Reference Document (CRD) Series*

Clearance: All manuscripts submitted for issuance as CRDs must have cleared the NEFSC's manuscript/abstract/web-page review process. If any author is not a federal employee, he/she will be required to sign an "NEFSC Release-of-Copyright Form." If your manuscript includes material lifted from another work which has been copyrighted, then you will need to work with the NEFSC's Editorial Office to arrange for permission to use that material by securing release signatures on the "NEFSC Use-of- Copyrighted-Work Permission Form."

Organization: Manuscripts must have an abstract and table of contents, and — if applicable — lists of figures and tables. As much as possible, use traditional scientific manuscript organization for sections: "Introduction," "Study Area"/"Experimental Apparatus," "Methods," "Results," "Discussion" and/or "Conclusions," "Acknowledgments," and "Literature/References Cited."

Style: The CRD series is obligated to conform with the style contained in the current edition of the *United States Government Printing Office Style Manual*. That style manual is silent on many aspects of scientific manuscripts. The CRD series relies more on the *CBE/CSE Style Manual*. Manuscripts should be prepared to conform with these style manuals.

The CRD series uses the American Fisheries Society's guides to names of fishes, mollusks, and decapod crustaceans, the Society for Marine Mammalogy's guide to names of marine mammals, the Biosciences Information Service's guide to serial title abbreviations, and the International Standardization Organization's guide to statistical terms.

For in-text citation, use the name-date system. A special effort should be made to ensure that all necessary bibliographic information is included in the list of cited works. Personal communications must include date, full name, and full mailing address of the contact.

Preparation: The document must be paginated continuously from beginning to end and must have a "Table of Contents." Begin the preliminary pages of the document -- always the "Table of Contents" -- with page "iii." Begin the body of the document -- normally the "Introduction" -- with page "1," and continuously paginate all pages including tables, figures, appendices, and indices. You can insert blank pages as appropriate throughout the document, but account for them in your pagination (*e.g.*, if your last figure ends on an odd-numbered/right-hand page such as "75," and if your next page is the first page of an appendix, then you would normally insert a blank page after the last figure, and paginate the first page of the appendix as "77" to make it begin on an odd-numbered/right-hand page also). Forward the final version to the Editorial Office as both a paper copy and electronically (*i.e.*, e-mail attachment, 3.5-inch floppy disk, high-density zip disk, or CD). For purposes of publishing the CRD series only, the use of Microsoft Word is preferable to the use of Corel WordPerfect.

Production and Distribution: The Editorial Office will develop the inside and outside front covers, the inside and outside back covers, and the title and bibliographic control pages (pages "i" and "ii") of the document, then combine those covers and preliminary pages with the text that you have supplied. The document will then be issued online.

Paper copies of the four covers and two preliminary pages will be sent to the sole/senior NEFSC author should he/she wish to prepare some paper copies of the overall document as well. The Editorial Office will only produce three paper copies (*i.e.*, two copies for the NEFSC's libraries and one copy for its own archives) of the overall document.

A number of organizations and individuals in the Northeast Region will be notified by e-mail of the availability of the online version of the document. The sole/senior NEFSC author of the document will receive a list of those so notified.

Research Communications Branch
Northeast Fisheries Science Center
National Marine Fisheries Service, NOAA
166 Water St.
Woods Hole, MA 02543-1026

**MEDIA
MAIL**

Publications and Reports of the Northeast Fisheries Science Center

The mission of NOAA's National Marine Fisheries Service (NMFS) is "stewardship of living marine resources for the benefit of the nation through their science-based conservation and management and promotion of the health of their environment." As the research arm of the NMFS's Northeast Region, the Northeast Fisheries Science Center (NEFSC) supports the NMFS mission by "conducting ecosystem-based research and assessments of living marine resources, with a focus on the Northeast Shelf, to promote the recovery and long-term sustainability of these resources and to generate social and economic opportunities and benefits from their use." Results of NEFSC research are largely reported in primary scientific media (*e.g.*, anonymously-peer-reviewed scientific journals). However, to assist itself in providing data, information, and advice to its constituents, the NEFSC occasionally releases its results in its own media. Currently, there are three such media:

NOAA Technical Memorandum NMFS-NE -- This series is issued irregularly. The series typically includes: data reports of long-term field or lab studies of important species or habitats; synthesis reports for important species or habitats; annual reports of overall assessment or monitoring programs; manuals describing program-wide surveying or experimental techniques; literature surveys of important species or habitat topics; proceedings and collected papers of scientific meetings; and indexed and/or annotated bibliographies. All issues receive internal scientific review and most issues receive technical and copy editing.

Northeast Fisheries Science Center Reference Document -- This series is issued irregularly. The series typically includes: data reports on field and lab studies; progress reports on experiments, monitoring, and assessments; background papers for, collected abstracts of, and/or summary reports of scientific meetings; and simple bibliographies. Issues receive internal scientific review, but no technical or copy editing.

Resource Survey Report (formerly *Fishermen's Report*) -- This information report is a quick-turnaround report on the distribution and relative abundance of selected living marine resources as derived from each of the NEFSC's periodic research vessel surveys of the Northeast's continental shelf. There is no scientific review, nor any technical or copy editing, of this report.

OBTAINING A COPY: To obtain a copy of a *NOAA Technical Memorandum NMFS-NE* or a *Northeast Fisheries Science Center Reference Document*, or to subscribe to the *Resource Survey Report*, either contact the NEFSC Editorial Office (166 Water St., Woods Hole, MA 02543-1026; 508-495-2350) or consult the NEFSC webpage on "Reports and Publications" (<http://www.nefsc.noaa.gov/nefsc/publications/>).

ANY USE OF TRADE OR BRAND NAMES IN ANY NEFSC PUBLICATION OR REPORT DOES NOT IMPLY ENDORSEMENT.