

Other measures, such as increasing the ring size to 4-inches, may also improve efficiency thereby reducing fishing time and possibly bycatch and habitat impacts¹⁵.

The spatial effort (area specific) allocations require some compromises, however. Previously, the FMP's conservation measures were designed to achieve conservation objectives, but also maintain flexibility in the historically mobile fishery. The ability for fishermen to decide where and when to fish has been one of the hallmarks of independence that fishermen value. Amendment 10 would limit, yet preserve this flexibility by allocating fishing rights by area and possibly allow fishermen to trade area-specific allocations among themselves on a one-for-one basis.

Amendment 10 is needed because new science indicates that higher scallop yield can be achieved with less impact on the marine environment. Administrative and enforcement costs may increase, but this increase could be more than offset by the tangible and intangible benefits accruing from a healthier marine environment and scallop resource. The Magnuson Act requires the Council to amend its FMPs from time to time, when the best available science indicates that the FMP is not achieving its objectives.

In the 1996 reauthorization of the Magnuson-Stevens Act, Congress recognized that one of the greatest long-term threats to the viability of commercial and recreational fisheries is the continuing loss of marine, estuarine, and other aquatic habitats. To ensure habitat considerations receive increased attention for the conservation and management of fishery resources, the amended Magnuson-Stevens Act included new EFH requirements, and each fishery management plan must now include specific EFH provisions. Section 303(a)(7) of the Magnuson-Stevens Act requires that each FMP describe and identify EFH for the fishery based on the guidelines established by the Secretary (50 CFR part 600, Subpart J), minimize to the extent practicable adverse effects on EFH caused by fishing, and identify other actions to encourage the conservation and enhancement of EFH. The description and identification of EFH is applied as included in Amendment 9 to the Scallop FMP of 1998.

4.1 Goals of Amendment 10

The Council adopted the following three goals to be the focus of efforts to revise the FMP and improve scallop management.

A. To revise the FMP and improve the management of the resource

The Magnuson Act requires the Council to review its plans from time to time and to amend them if new regulations might improve the plan's ability to meet its objectives.

B. To update the analysis of cumulative impacts of the FMP on the human environment

NEPA requires the NMFS to review its fishery management plans and prepare a Supplemental Environmental Impact Statement on the cumulative impacts of the FMP, considering a broad range of reasonable alternatives that could reduce adverse impacts.

¹⁵ The impacts will also depend on the redistribution of fishing effort which may have positive or negative bycatch and habitat implications. These effects are analyzed more thoroughly in Sections 8.3 and 8.5.

C. To re-evaluate the Essential Fish Habitat (EFH) components of the Atlantic Sea Scallop FMP and minimize adverse effects on EFH

In compliance with a recent court order, the Council is considering new alternatives to minimize adverse effects on essential fish habitat (EFH). New evaluations of how scallop EFH is defined is being considered separately from Amendment 10.

4.2 Objectives of Amendment 10

The Council also identified 12 management problems that should be addressed, either directly or indirectly by measures proposed in the amendment. These scallop management problems were:

1. The scallop yield is below its maximum potential. Reasons for this include small scallops being vulnerable to fishing and non-catch mortality, large scallops being inaccessible to the fishery, and scallops being harvested during less favorable times of year.
2. Full-time scallop vessels are underutilized because they are limited to fishing 120 out of 365 days per year. Although this is presently sufficient for most vessels to be profitable, it potentially raises problems for retaining qualified crew, efficient use of capital, and effects on other fisheries from scallop vessels fishing for scallops and other species while not on a day-at-sea.
3. Unused fishing effort that is allocated to permit-holders is a potential threat to scallop management and other fishery resources
4. Scallop vessels using trawls target and catch smaller scallops than vessels using dredges.
5. Vessels with general category scallop permits have been prevented from fishing within closed areas that re-open to scallop fishing and may not benefit from area closures or other management that improves yield.
6. Finfish bycatch can be too high, relative to the objectives for other FMPs, preventing the scallop fishery from achieving optimum yield.
7. Sensitive habitat in some areas is adversely affected by scallop fishing
8. The fishing year and the management process is out of sync with annual surveys that produce data for stock assessment
9. Present scallop management is complicated by the mixture of scallop sizes in previously closed areas and the variability of the resource. Other factors need to be considered anew for each framework, increasing the complexity and effort needed to alter fishery regulations. The current framework adjustment process is time-consuming and prevents the Council from making progress on amendments
10. The impacts of scallop fishing and methods to reduce these impacts on Essential Fish Habitat need more consideration and analysis
11. Obtaining an Experimental Fishing Permits for scallop research is complicated and should be streamlined.
12. Data collection and research is inadequate to monitor the effects of management actions on the fishery and the resource. Sea sampling on scallop vessels in unrestricted areas is too spotty to provide adequate statistics.

4.2.1 Primary objectives

Focusing on the amendment goals and the above problems, the Council identified nine primary objectives in January 2001. These primary objectives were intended to be addressed directly by one or more sets of management alternatives which would be identified in the draft amendment (see Section