

**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.