

CORRESPONDENCE



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Mr. Tom Nies
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2 Newburyport, MA 01950

April 1, 2020

Dear Mr. Nies,

I am writing to inform you that I will be resigning from the Scallop Plan Development Team (PDT) effective immediately. I am leaving the University of Massachusetts Dartmouth School of Marine Science (SMAST) on May 1st to become the executive director of the Commercial Fisheries Research Foundation. Over the next month, I must focus on ensuring my work at SMAST is left in a manner so that it can be completed with the excellence associated with the school. Once I leave SMAST, my duties as executive director will be too diverse to dedicate the time needed to be an effective PDT member.

Thank you for the opportunity to serve on the Scallop PDT. Serving on the Scallop PDT, since March of 2017, has allowed me to form lasting relationships with your staff, other scientists, fishermen and a variety of other stakeholders. Further, I gained significant experience in stock assessment and fisheries management while strengthening my professional reputation. I hope that I gave the Scallop PDT as much as it gave me.

I also want to complement and thank your staff Jonathon Peros and Sam Asci. They are both extremely professional, organized, and thoughtful. Jonathon has the ability to communicate and organize the copious amount of information that is often shared with him shortly before meetings and to keep the PDT focused on the tasks at hand. It has been rewarding to see Sam grow from a student at SMAST to the insightful professional he is today.

Since 2004, the Commercial Fisheries Research Foundation has successfully executed a variety of major research and education programs to improve the management and sustainability of fisheries. As the executive director of this organization, I hope to increase my collaborations with the New England Fisheries Management Council by aligning the research we conduct with the council's research priorities. Specifically, I plan to grow the organization's contributions to Atlantic sea scallop and Atlantic herring research, my species of focus while at SMAST. I would be happy to have a conversation about this subject.

Sincerely,

A handwritten signature in black ink, appearing to read 'N. David Bethoney'.

N. David Bethoney, PhD
Research Assistant Professor
University of Massachusetts Dartmouth
School for Marine Science and Technology



March 25, 2020

Chris Oliver, Assistant Administrator
NOAA Fisheries
1315 East-West Highway
Silver Spring, MD 20910

Dear Administrator Oliver:

I am contacting you on behalf of the members of the American Scallop Association (“ASA”) regarding the request for emergency action under the Magnuson-Stevens Fishery Conservation and Management Act made by the Fisheries Survival Fund (“FSF”).

The members of the ASA support the FSF’s request for emergency action that the Nantucket Lightship-West (“NLS-W”) access area trip be extended an additional 60 days, for a total of 120 days, beyond the March 31st deadline, which would result in closure of the NLS-W on July 31, 2020. The ASA also supports measures that do not put additional pressure on harvesters or jeopardize the safety of the crews and the economics of scalloping.

The emergency action being sought is justified under the authority of the Magnuson-Stevens Fishery Conservation and Management Act in direct response to the global COVID-19 pandemic. Further, NMFS guidelines specifically list the following situations as justification for emergency action: (i) Economic - to prevent significant direct economic loss or to preserve a significant economic opportunity that otherwise might be foregone; or (ii) Social - to prevent significant community impacts; or (iii) Public health - to prevent significant adverse effects to health of participants in a fishery. (62 Fed. Reg. 44422 (August 21, 1997)).

The ASA respectfully requests that the above requested emergency action be taken and announced immediately to provide all those affected sufficient time to plan accordingly.

The ASA appreciates the opportunity to provide these comments and your consideration of the gravity of the situation in the face of the current unprecedented global pandemic. Please contact us if we may be of assistance.

Respectfully submitted,

John F. Whiteside, Jr.
General Counsel
American Scallop Association

Cc: Michael Pentony, Regional Administrator of GARFO
Thomas Nies, Executive Director of NEFMC
John Quinn, Chair of NEFMC

American Scallop Association, Inc.
678 State Road
Dartmouth, MA 02747
(508)991-3333

From: Michael Marchetti <fvmisterg@gmail.com>
Sent: Monday, March 23, 2020 3:02 PM
To: Jonathon Peros <jperos@nefmc.org>
Cc: Michael Marchetti <fvmisterg@gmail.com>; Fvcapt <fvcaptainrobert@aol.com>
Subject: Re: IFQ scallop

Hello Jon, that is fine with me, Mike is ok as well. There's a big issue I think that a push back on the calendar might help in this instance, but it would need to move fast. There's still a fair bit of quota out there, not a super lot, but some people stand to take a beating on this in the ifq end. As everyone should be aware, there's considerable money invested in quota to keep small boats fishing under this management style. Maybe allow this once a rollover provision of whatever you have. I know of dealers and boat owners sitting on ifq that cannot be used now due to complete market collapse.

Also there's several trip boats fishing to try catch up RSA, and use days, in particular the ones that were Carlos' boats that had not been fishing this year yet. Just making light of it, not sure if they have a concern., But some in lagc ifq maybe stuck with quota that would otherwise have been caught by March 31 that a rollover modification will help.

Thanks for your consideration.

M

On Mon, Mar 23, 2020, 2:51 PM Jonathon Peros <jperos@nefmc.org> wrote:

Mike- this could be correspondence to the Council if Mike Theiler is OK with that. It would go to our AP and CTE, then full Council. Could you LMK, deadline is tomorrow at 8am.

Thanks for sending.

Jonathon

Sent from my iPhone

On Mar 23, 2020, at 2:28 PM, Michael Marchetti <fvmisterg@gmail.com> wrote:

----- Forwarded message -----

From: **fvcaptainrobert** <fvcaptainrobert@aol.com>

Date: Mon, Mar 23, 2020, 2:26 PM

Subject: Fwd: IFQ scallop

To: <fvmisterg@gmail.com>

Sent from my Verizon Smartphone

----- Forwarded message -----

From: Michael Theiler <lobster.mike@yahoo.com>

Date: Mar 23, 2020 11:42 AM

Subject: IFQ scallop

To: Fvcaptainrobert <fvcaptainrobert@aol.com>

Cc:

Mike

After a conversation with one of my state senators (who incidentally owns a fish market)

I would like to look into the possibility of an extension of the scallop season to allow both general category and limited access vessels more time to fish out their quotas. Here in CT our local markets and regional buyers shut down or started the process last week and are no longer accepting product. This has put the fishermen in a very tough spot. Unless they've got a federal seafood dealers license, dock sales are discouraged. Furthermore more states including NY, CT, and more recently MA are putting forth shelter-in-place programs for residents.

Any assistance would be greatly appreciated

Mike Theiler

F/V Emma & Maria

New London, CT

[Sent from Yahoo Mail for iPhone](#)

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AFFILIATE OFFICE
MUMBAI, INDIA

March 20, 2020

Chris Oliver, Assistant Administrator
NOAA Fisheries
1315 East-West Highway
Silver Spring, MD 20910

Re: Superseding Revised FSF Letter on Request for Emergency Action to Alleviate Impacts of COVID-19 on the Atlantic Sea Scallop Fishing Industry

Dear Administrator Oliver:

As you know, we represent the Fisheries Survival Fund ("FSF"). On March 19, 2020, we submitted a request for emergency action under the Magnuson-Stevens Fishery Conservation and Management Act on FSF's behalf. On further consideration, FSF would respectfully ask to amend and narrow its prior request for emergency action. Specifically, we would request that only the Nantucket Lightship-West ("NLS-W") access area trip be extended an additional 60 days, for a total of 120 days, which would result in closure of the NLS-W on July 31, 2020. FSF's amended request for emergency action thus does not extend to the end date for fishing year 2019 days-at-sea allocations and access area trips in areas other than NLS-W.

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Thank you for the opportunity to submit this letter and for your consideration of these critical issues. Please do not hesitate to contact us if you need any additional information.

KELLEY DRYE & WARREN LLP

Chris Oliver, Assistant Administrator
March 20, 2020
Page Two

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'D. Frulla', with a long horizontal line extending to the right.

David E. Frulla
Andrew E. Minkiewicz
Bret A. Sparks
Counsel for Fisheries Survival Fund

cc: Michael Pentony, Regional Administrator of GARFO
Thomas Nies, Executive Director of NEFMC
John Quinn, Chair of NEFMC

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March 19, 2020

Chris Oliver, Assistant Administrator
NOAA Fisheries
1315 East-West Highway
Silver Spring, MD 20910

Re: Impacts of COVID-19 on the Atlantic Sea Scallop Fishing Industry:

Dear Administrator Oliver:

On behalf of the Fisheries Survival Fund (“FSF”), we write to inform you of our growing concerns regarding current and future potential impacts of the COVID-19 novel coronavirus on the Atlantic sea scallop fishing industry. As you know, FSF represents the significant majority of full-time Limited Access permit holders in the Atlantic scallop fishery. Our members are homeported along the Atlantic coast from North Carolina to Maine.

First off, we understand that the impacts of this new virus affect nearly every facet of day-to-day life. The most important concern for our members is the continued health and safety of our crews, their family members, and the surrounding communities. With that said, we must also consider the economic significance of the scallop fishery for these same individuals and communities that depend on our operations.

Based on current existing knowledge related to COVID-19, most FSF members with outstanding access area trips and days-at-sea (“DAS”) are seeking to continue fishing operations while taking all necessary precautions to limit transmission of the virus. However, given the uncertainty surrounding the virus and its impacts on other daily activities, these same members are having difficulty conducting predictable fishing trips. Grocery shortages, crewmember quarantines, and other complications are leaving these trips unfilled; meanwhile, the March 31st season closure is quickly approaching.

Chris Oliver, Assistant Administrator

March 19, 2020

Page Two

Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (“MSA”) authorizes the Secretary of Commerce to implement emergency regulations to address fishery emergencies.¹ NMFS policy guidelines define the criteria for determining whether “an emergency exists involving any fishery” under section 305(c).² An emergency is deemed to exist if it: “(i) results from recent unforeseen events or recently discovered circumstances; (ii) presents serious conservation or management problems in the fishery; and (iii) can be addressed through emergency regulations for which the immediate benefits outweigh the value for advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process.”³ Such is the case here given the extreme, unforeseen circumstances surrounding the COVID-19 pandemic. Indeed, it is difficult to conceive another scenario that would be better suited for treatment as a regulatory emergency.

Emergency actions are justified when “the time it would take to complete notice-and-comment rulemaking would result in substantial damage or loss to a living marine resource, habitat, fishery, individual participants or communities, or substantial adverse effect to the public health.”⁴ There are three enumerated situations where NMFS is authorized to utilize emergency actions: (i) ecological; (ii) economic; or (iii) social.⁵ Emergency action is justified in an economic situation “to prevent significant direct economic loss or to preserve a significant economic opportunity that otherwise might be foregone.”⁶ Here, the economic emergency is that scallop fishermen would be unable to utilize access area trips and DAS that have already been set aside for the fishing year and that would otherwise have been taken were it not for COVID-19. Failure to utilize these trips would have significant detrimental impacts to our fishery, our crewmembers, their families, local communities, and the thousands of Americans that depend on our operations.

We would therefore request that NMFS work with the Greater Atlantic Regional Fisheries Office (“GARFO”) to take immediate emergency action to allow a carryover of 24 DAS for 120 days and a carryover of access area trips for an additional 60 days, for a total of 120 days, beyond the March 31st deadline. We are also coordinating with the New England Fishery Management

¹ 16 U.S.C. §1855(c).

² 62 Fed. Reg. 44421 (August 21, 1997).

³ *Id.* at 44422.

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

KELLEY DRYE & WARREN LLP

Chris Oliver, Assistant Administrator

March 19, 2020

Page Three

Council as well as the Scallop Committee and Advisory Panel to ensure that there are no undue delays in this process.

Notably, there would be no negative conservation impacts by taking such action. Both the DAS and access area trips were allocated based on the 2019-2020 framework for the scallop fishery, and delaying harvest would only allow for further incremental growth of scallops and an increase in yields, especially as the spring continues.

Additionally, we are concerned with the increasing number of federal and state government travel and transshipment restrictions. To-date, no limitations have been implemented that directly impact the scallop fishing industry, but we are concerned that future constraints could have extremely detrimental impacts on our fishery. We are working with state and local governments to ensure that the fishing industry is considered essential food service providers for purposes of allowing crews and products to continue crossing state borders. We would request that NMFS continue to monitor and recognize any potential restraints that may be implemented and take such appropriate actions as necessary to limit those effects on the Atlantic sea scallop fishery.

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Thank you for the opportunity to submit this letter and for your consideration of these critical issues. Please do not hesitate to contact us if you need any additional information.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'D. Frulla', with a long horizontal line extending to the right.

David E. Frulla

Andrew E. Minkiewicz

Bret A. Sparks

Counsel for Fisheries Survival Fund

cc: Michael Pentony, Regional Administrator of GARFO
Thomas Nies, Executive Director of NEFMC
John Quinn, Chair of NEFMC



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

March 12, 2020

Mr. Edward Welch
450 Ocean Drive, Apt 606
Juno Beach FL, 33408

Dear Eddie:

This letter is to acknowledge receipt of correspondence to our office that you will be resigning from the Scallop Advisory Panel.

On behalf of the Council, I would like to thank you for over 15 years of service to the management process as a member of the Scallop Advisory Panel. As an active fisherman and single vessel owner you brought first-hand insight to Advisory Panel discussions and provided guidance on several major scallop actions. Your tenure spanned the development of key actions, including Amendment 11 and Amendment 15, and more recently Amendment 21. My staff appreciated your willingness to work with scientists and managers, and your candor during difficult discussions.

We wish you the best in your future endeavors.

Sincerely,

Thomas A. Nies
Executive Director



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

MAR - 4 2020



RE: Comments on Framework Adjustment 32 to the Atlantic Sea Scallop Fishery Management Plan

Dear Tom:

The Council submitted a preliminary draft of Framework 32 on February 7, 2020. We completed a review of the draft document and found the document to be very well written. There are some issues that must be addressed to ensure the document is consistent with applicable law, which we have outlined below:

1. During our review of Framework 32, we reinitiated formal consultation under the Endangered Species Act on the operation of the scallop fishery. My staff will work directly with your staff to include updated language throughout Framework 32 to address the reinitiation, specifically in Sections 5.4, 5.4.1, 5.4.2, 5.4.2.1, 6.4.1.1, 7.2.2, and 7.4.
2. Please revise Table 1, Table 11, Section 4.3.1.4, and Section 6.2.4 to clarify that Status Quo is not an alternative for Council decision.
3. My staff originally drafted the protected species section of the affected environment (Section 5.4). We will provide additional updates to this section based on the most recent information.
4. In Section 6.2.1, please describe that both alternatives would have a low positive impact on scallop biomass and that Alternative 2 would have a low positive impact to scallop biomass compared to Alternative 1.
5. In Section 6.2.5.1, please clarify that harvesting the full limited access general category individual fishing quota allocation from the open area would likely have a negligible impact on the scallop resource at the stock level.
6. My staff will provide updated references for the Northeast Fisheries Observer Program's Incidental Take Reports and the Sea Turtle Disentanglement Network's Summary of Entanglement/Disentanglement Data from 2002-2018. Please include these updated references in Sections 6.4.2.2 and 6.4.3.1.1.
7. In Section 6.6.1, please clarify that in regards to the analysis of the economic impacts of Framework 32, the No Action alternative refers to the most likely future scenario absent any action.
8. In Section 6.7.2, please further develop the Energy Exploration sub-section and include similar details that were provided in Framework 30.

JP 3/9/20

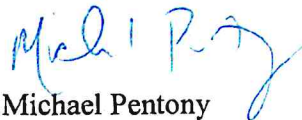


9. Please update or remove text from the following sections to clarify that the scallop fishery does not affect marine mammals:

- a. In Section 6.7.5, under the protected resources sub-heading, please remove the paragraph discussing marine mammals.
- b. In Section 7.2.2 question 11, please remove the sentence that states that "*Overall, none of the proposed measures are expected to have a significant impact on these species as fishing behavior is not expected to change in any substantial way.*"
- c. Please update Section 7.3 with text that determines that this action is not likely to affect any species of marine mammals as they are not known to overlap with the scallop fishery and/or there have never been documented interactions between the species and the scallop fishery.

My staff will be discussing these revisions with your staff this week. If you have questions on the comments provided, or on the review of Framework 32, please contact Travis Ford at (978) 281-9233. We appreciate your quick turnaround of this document, given the compressed timeline for this action.

Sincerely,



Michael Pentony
Regional Administrator



New England Fishery Management Council

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John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

March 6, 2020

Mr. Michael Pentony
Regional Administrator
National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

Dear Mike:

Today, my staff electronically sent the final submission of Framework 32 to the Scallop Fishery Management Plan (FMP), including the Environmental Assessment (EA), and associated appendices to your staff in the Sustainable Fisheries Division at the Greater Atlantic Regional Fisheries Office. Earlier versions of this document were also sent to your staff, including a decision draft on December 24, 2019 and a pre-submission draft on February 7, 2020.

We received your letter dated March 4, 2020 with several issues identified for us to address to ensure the document is consistent with applicable law. My staff completed analyses for this action consistent with previous guidance and prior scallop actions. We have revised this final document to reflect your requested revisions.

The measures proposed in Framework 32 adjust 2020 and 2021 (default) scallop fishery specifications, adjust the TAC and management measures in the Northern Gulf of Maine, and establish standard default measures. This action also includes measures that are designed to mitigate impacts on Georges Bank yellowtail flounder and Northern windowpane flounder.

Please contact me directly if you have any questions. Since the 2020 scallop fishing year begins April 1, 2020, the Council requests the measures proposed in this framework adjustment be implemented as soon as possible.

Sincerely,

Thomas A. Nies
Executive Director

notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

These final results are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(5).

Dated: March 6, 2020.

Christian Marsh,

Deputy Assistant Secretary for Enforcement and Compliance.

Appendix

Issues and Decision Memorandum

- I. Summary
- II. List of Issues
- III. Background
- IV. Changes Since the Preliminary Results and Post-Preliminary Results
- V. Scope of the Order
- VI. Period of Review
- VII. Subsidies Valuation Information
- VIII. Use of Facts Otherwise Available and Adverse Inferences
- IX. Analysis of Programs
- X. Final Results of Review
- XI. Analysis of Comments
 - Comment 1: Whether Commerce properly determined the appropriate denominator for Jindal Poly Films Limited (Jindal) for all export subsidies.
 - Comment 2: Whether Commerce properly relied on facts available and an adverse inference to find the Section 32 Capital Investment Deductions of the Income Tax Act, 1961—Subsection 32AC(1A) program is a countervailable subsidy.
 - Comment 3: Whether Commerce properly found the State Government of Maharashtra (SGOM) Package Scheme of Incentives (PSI) 2007—Industrial Promotion Subsidy (IPS) to be a countervailable subsidy.
 - Comment 4: Whether Commerce should revise all allocations for all non-recurring subsidies based on Jindal's revised company-specific average useful life (AUL).
 - Comment 5: Whether Commerce should not countervail export promotion capital goods scheme (EPCGS) Licenses for Jindal's Global Non-Wovens (GNL) division for non-subject merchandise.
 - Comment 6: Whether Commerce should deduct Jindal's application fees it paid for its EPCGS licenses from the calculated benefit amounts.
 - Comment 7: Whether Commerce made a calculation error related to the services export from India/services from India (SEIS/SFIS) schemes.
 - Comment 8: Whether Commerce failed to explain the source for the interest rate used in the allocation of the status holder incentive scheme (SHIS).
- XII. Recommendation

[FR Doc. 2020-05064 Filed 3-11-20; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free Trade Agreement (NAFTA), Article 1904 Binational Panel Review: Notice of Request for Panel Review

AGENCY: United States Section, NAFTA Secretariat, International Trade Administration, Department of Commerce.

ACTION: Notice of NAFTA Requests for Panel Review in the matter of Certain Fabricated Structural Steel from Canada; Final Results of Antidumping Duty Administrative Review (Secretariat File Number: USA-CDA-2020-1904-02).

SUMMARY: Requests for Panel Review were filed on behalf of Canatol Inc. (Industries Canatol) and Les Constructions Beauce-Atlas Inc. ("CBA") with the United States Section of the NAFTA Secretariat on February 28, 2020, pursuant to NAFTA Article 1904. Panel Reviews were requested of the Department of Commerce's final antidumping duty determination regarding Certain Fabricated Structural Steel from Canada. The final determination was published in the **Federal Register** on January 30, 2020. The NAFTA Secretariat has assigned case number USA-CDA-2020-1904-02 to this request.

FOR FURTHER INFORMATION CONTACT: Paul E. Morris, United States Secretary, NAFTA Secretariat, Room 2061, 1401 Constitution Avenue NW, Washington, DC 20230, 202-482-5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of Article 1904 of NAFTA provides a dispute settlement mechanism involving trade remedy determinations issued by the Government of the United States, the Government of Canada, and the Government of Mexico. Following a Request for Panel Review, a Binational Panel is composed to review the trade remedy determination being challenged and issue a binding Panel Decision. There are established NAFTA *Rules of Procedure for Article 1904 Binational Panel Reviews*, which were adopted by the three governments for panels requested pursuant to Article 1904(2) of NAFTA which requires Requests for Panel Review to be published in accordance with Rule 35. For the complete Rules, please see <https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/Rules-of-Procedure/Article-1904>.

The Rules provide that:

(a) A Party or interested person may challenge the final determination in whole or in part by filing a Complaint

in accordance with Rule 39 within 30 days after the filing of the first Request for Panel Review (the deadline for filing a Complaint is March 30, 2020);

(b) A Party, investigating authority or interested person that does not file a Complaint but that intends to appear in support of any reviewable portion of the final determination may participate in the panel review by filing a Notice of Appearance in accordance with Rule 40 within 45 days after the filing of the first Request for Panel Review (the deadline for filing a Notice of Appearance is April 13, 2020); and

(c) The panel review shall be limited to the allegations of error of fact or law, including challenges to the jurisdiction of the investigating authority, that are set out in the Complaints filed in the panel review and to the procedural and substantive defenses raised in the panel review.

Dated: March 9, 2020.

Paul E. Morris,

U.S. Secretary, NAFTA Secretariat.

[FR Doc. 2020-05058 Filed 3-11-20; 8:45 am]

BILLING CODE 3510-GT-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[RTID 0648-XX045]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Application for Exempted Fishing Permits

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; request for comments.

SUMMARY: The Assistant Regional Administrator for Sustainable Fisheries, Greater Atlantic Region, NMFS, has made a preliminary determination that an Exempted Fishing Permit application contains all of the required information and warrants further consideration. This Exempted Fishing Permit would exempt five commercial fishing vessels from limited access sea scallop regulations in support of a study examining the feasibility of transplanting scallops from high density areas to areas of lower density using bottom trawls. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act require publication of this notification to provide interested parties the opportunity to comment on applications for proposed Exempted Fishing Permits.

DATES: Comments must be received on or before March 27, 2020.

ADDRESSES: You may submit written comments by any of the following methods:

- *Email:* nmfs.gar.efp@noaa.gov.

Include in the subject line "DA19-109 Nordic Fisheries Transplanting EFP."

- *Mail:* Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope "DA19-109 Nordic Fisheries Transplanting EFP."

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fishery Management Specialist, 978-282-8456.

SUPPLEMENTARY INFORMATION: Nordic Fisheries submitted an initial Exempted Fishing Permit (EFP) application on November 21, 2019, in collaboration with Empire Fisheries, Quinn Fisheries, Fulcher Trawling, and the Coonamessett Farm Foundation (CFF). The application was considered complete on January 23, 2020. The applicant's overarching research objective is to determine the operational and economic feasibility of using bottom trawls to transfer scallops short distances underwater and transplant them from areas of high scallop densities to lower density areas. This is in response to a large cohort of scallops in the Nantucket Lightship South Rotational Area that is currently in deeper water and has shown significantly slower growth compared to similar cohorts in less-dense, shallower areas. The applicant wants to determine if, by moving scallops to areas of lower scallop density, those scallops grow larger due to less competition over food resources. The applicant would research the optimal bottom trawl gear specifications (e.g., sweep length, mesh size, need for chafing gear, etc.) for transporting scallops, as well as determine the optimal quantity of scallops to transfer and associated operational costs.

To enable this research, Nordic Fisheries is requesting exemptions for five commercial fishing vessels from: The Atlantic sea scallop crew size restrictions at § 648.60(c); observer program requirements at § 648.11(g); restrictions on the use of trawl nets at § 648.51(f); maximum sweep, minimum mesh size, chafing gear, and other gear obstructions at § 648.51(a)(1), (2)(ii), (3)(i), and (3)(ii), respectively; Georges Bank regulated mesh area minimum mesh size and gear restrictions at § 648.80(a)(4)(i); Nantucket Lightship South Rotational Areas at § 648.60(e); and access area program requirements at § 648.59(a)(1)-(3), (b)(2), (b)(4). The EFP

would also grant vessels a temporary exemption from possession limits and minimum size requirements specified in part 648, subsections B and D through O, and § 697.20 for sampling purposes. The applicants need these exemptions to deploy bottom trawl gear in areas where the gear is not allowed. Participating vessels need crew size waivers to accommodate researchers and possession waivers for sampling purposes. The project would be exempt from the sea scallop observer program requirements because activities conducted on the trip are not consistent with normal fishing operations. Researchers from CFF would accompany each trip taken under the EFP.

This project would conduct up to five trips using five different vessels. The length of each trip would be approximately 3 days-at-sea (DAS), for an estimated 15 DAS. Transplanting would occur from April-June 2020. The applicant intends to catch and transplant 10,000,000 scallops.

All tows to harvest scallops for transplanting would be conducted with one trawl for a duration of approximately 10 minutes using an average tow speed of 2.5 knots for an estimated 150 tows. Each codend and extension would be calibrated volumetrically using colored ropes woven in the meshes on top to estimate catch. In addition to the colored ropes, some vessels will use net sensors to indicate net fullness. Meshes on the trawl codend would range between 4 and 5.5 inches (10.2 and 14 cm) and net liners would be no smaller than 1.9 inches (50 mm). The trawl sweep length would vary but would not exceed 150 feet (45.7 m). The scallops would be harvested from the large cohort of slow growing scallops in the deep water portion of the Nantucket Lightship South Rotational Area and transplanted to an area that Atlantic Sea Scallop Framework Adjustment 32 (85 FR 9705; February 20, 2020) is proposing to close to support projects of this nature.

The first tow of each trip would be brought on deck to check the trawl volume calibration, measure and take biological samples of the scallops, and count and measure the bycatch. All remaining tows for the trip would be brought directly to the transplant site. Once there, the nets would be brought to the surface to estimate volume and then the scallops would be released into the water through the codend. With the exception of samples retained for further processing for scientific purposes, no catch would be retained for longer than needed to conduct sampling, and no catch would be landed

for sale. All catch estimates for the project are listed in the table below. Bycatch estimates are derived from dredge work in the area, but based on interviews with scallop trawl captains, the bycatch rates are anticipated to be close to zero due to high densities of scallops and short tow duration. All fishing activity would be limited to catching and transplanting scallops.

TABLE 1—ESTIMATED CATCH, BY SPECIES, FOR CFF EFP REQUEST

Common name	Estimated weight (lb)	Estimated weight (kg)
Sea Scallop	12,000	5,443
Yellowtail Flounder	20	9
Winter Flounder	20	9
Windowpane		
Flounder	60	27
Monkfish	100	45
Other Fish	120	54
Barndoor Skates ...	20	9
Northeast Skate		
Complex	500	227

The applicants would work with other research groups funded through the Scallop Research Set-Aside Program and use data collected from both the harvest and transplant sites during routine surveys in May-July 2020 and 2021 to compare growth and abundance.

If approved, the applicant may request minor modifications and extensions to the EFP throughout the year. EFP modifications and extensions may be granted without further notice if they are deemed essential to facilitate completion of the proposed research and have minimal impacts that do not change the scope or impact of the initially approved EFP request. Any fishing activity conducted outside the scope of the exempted fishing activity would be prohibited.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: March 9, 2020.

Karyl K. Brewster-Geisz,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2020-05048 Filed 3-11-20; 8:45 am]

BILLING CODE 3510-22-P

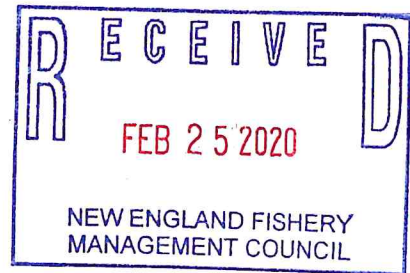
DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Supersession of Vertical Datum for Surveying and Mapping Activities for the Island of Tutuila, American Samoa

AGENCY: The Office of the National Geodetic Survey (NGS), National Ocean Service (NOS), National Oceanic and

Dockside Management Inc



2/25/2020

Jonathan Peros

Fishery Analyst Atlantic Sea Scallops

New England Fishery Management Council Staff

50 Water Street, Mill 2

Newburyport, MA 01950

Dear Mr. Peros,

As a scallop limited access permit holder of 6 vessels, I felt highly compelled to reach out to you in hopes that the New England Fishery Management Council would look into the severely low catch rate in the Nantucket Light Ship West access area. When the catch rate started to fall last year because of yields we made a conscious effort to wait until the yield had returned, but it has not as of yet. The current catch rates are only between 700-1,100 pounds per day. Therefore, this draws my concern due to my vessels still having approximately 200,000 pounds remaining in the Nantucket Light Ship West area. However, my company is not the only one at risk for a significant loss but the captains and crew as well.

Please take my request into consideration. I hope that the council can find a solution regarding this matter.

If you have any questions, concerns or would like to discuss this any further please don't hesitate to reach out to me. I can be reached on my personal cell at 757-870-9473 or by email at fulcherboats@gmail.com.

Sincerely,



Gregory Fulcher

List of vessels on following attachment.

Vessels Managed by Dockside Management Inc

F/V Cove

Carolina Pride Inc

Permit 310941

F/V Ocean Lady

ACM Scallop Corp

Permit 330629

F/V Capt Jeff

BHG Scallop LLC

Permit 320857

F/V Jeffrey Scott

Trawler Jeffrey Scott Inc

Permit 310927

F/V Sassy Girl

Mistress Fishing Inc

Permit 330687

F/V Elizabeth Amber

Venture Fishing LLC

Permit 410592



New England Fishery Management Council

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

John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

February 25, 2020

Dr. Cate O'Keefe
Marine Science and Policy Analyst
Massachusetts Division of Marine Fisheries
836 South Rodney French Blvd.
New Bedford, MA 02744

Dear Cate:

This letter is to acknowledge receipt of correspondence to our office that you will be resigning from our Scallop Plan Development Team. On behalf of the Council, I would like to thank you for your nine years of service to the management process as a key member of the Scallop PDT.

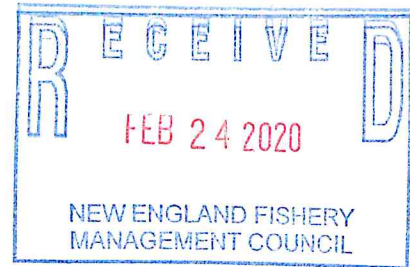
Your scientific knowledge and expertise in fisheries policy supported the Council's decision-making process over your two terms on the PDT. I'd like to acknowledge your contributions to the development of major actions that have shaped the scallop fishery, particularly Amendment 11 and Amendment 15. More recently, you've helped to advance Amendment 21, and provided substantial assistance on flatfish bycatch issues and the development of fishery specifications. My staff appreciated your preparation, institutional knowledge, patience, attention to detail, and willingness to contribute on every issue tasked by the Council.

We wish you the best in your future endeavors and look forward to working with you as a member of our SSC.

Sincerely,

Thomas A. Nies
Executive Director

cc: Dan McKiernan, MA DMF



February 24, 2020

Council Chairman Dr. John Quinn
comments@nefmc.org

Dear Chairman Quinn:

I am writing to provide comments on the "Affected Environment" section of this document. I recognize this document is in draft stage, so the Council may already be planning on including this information. But because of the importance of this issue, I am submitting these comments.

Since the NGOM fishery represents a small portion of the US Atlantic Sea Scallop fishery overall, I would not expect it to feature prominently in an overview of the entire fishery. But since Amendment 21 is specifically intended to address Northern Gulf Maine Management, I believe it important that information relevant to the Northern Gulf of Maine be added to the "Affected Environment" section of the document.

Amendment 11 acknowledged original NGOM management measures were intended as a placeholder for more appropriate measures, which would be established if and when the resource returned. It also acknowledged that the NGOM, although historically important to communities in northern New England, had not been productive for a number of years. So it would be paradoxical to allow the Human Communities section of the Amendment intended to finally establish appropriate NGOM management to omit any examination of Maine or New Hampshire ports because they haven't been active in recent years. This would be the very definition of a Catch-22.

Since the Amendment that created the NGOM specifically identifies fishing communities in Maine and New Hampshire as motivation for its creation, an examination of these communities must be included in the A21 background document.

It is not possible to accurately examine NGOM fishing communities if we begin the examination in 2010. I worked as a fisheries manager for the state of Maine from 2007 to 2011. I witnessed first-hand how Amendment 11 impacted Maine scallop fishing boats: namely, fatal flaws in original NGOM "placeholder" management resulted in many Maine fishermen who qualified for a NGOM permit to elect not to obtain one. Since the NGOM was created to allow continued access for these fishermen, this seems like a relevant "response of the fishery to past management actions". I would also hope there would be at least some mention of the cyclical and patchy nature of the GOM scallop resource, and how that influences the fishery and informs possible management.

I question the relevance of Figure 7 and Tables 22 and 23, but appreciate that they indicate recent progress toward the NGOM's achieving its stated purpose, which is to provide revenue for vessels active in other fisheries besides scallops.

JP 2/24/20

In sum, I respectfully request that the Affected Environment section of this document examine historic data extending back to 1980 in order to provide an accurate history of the Northern Gulf of Maine and more fully understand the factors important to the area.

Yours truly,

A handwritten signature in black ink, appearing to read "Togue Brawn", with a long horizontal flourish extending to the right.

Togue Brawn
Downeast Dayboat



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

John F. Quinn, PhD
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950



Dear John:

I want to bring to your attention our recent determination that the scallop fishery exceeded the incidental take statement (ITS) effort surrogate established in the 2012 Atlantic Sea Scallop Biological Opinion for the 2015-2016 and 2016-2017 periods. The Analysis and Program Support Division performs a data query annually as part of the incidental take monitoring scheme for the 2012 Biological Opinion. The most recent query, which included updates to previous years, found that from May through November 2016, the scallop fleet expended 451,741 hours of scallop dredge effort in Mid-Atlantic waters.¹ Based upon that effort total, the average dredge hours for 2015-2016 and 2016-2017 were 365,500 and 376,717 hours, respectively. The ITS trigger established in the 2012 Biological Opinion is a 2-year average of 359,797 dredge hours. The 2012 Biological Opinion states that, *"If the two-year benchmark average of 359,797 dredge hours is exceeded in the future, then we will reinitiate consultation because we assume the higher level of effort will result in a level of sea turtle take in excess of the levels exempted by the ITS."*

After investigating this further, we have concluded the circumstances surrounding the dredge hour estimate in 2016 were particularly unusual. In 2016, all scallop access area allocations and effort occurred in the Mid-Atlantic Access Area. During this time, the western portion of the Elephant Trunk Area, which contained the highest density of larger scallops in the Mid-Atlantic Access Area, was not opened for access to increase growth potential. This required vessels to fish in less dense areas on smaller scallops, which resulted in an increase in tow times/dredge hours compared to other years. Furthermore, the fleet was allocated a higher level of days-at-sea (DAS) per vessel compared to fishing years 2015 and 2017. Many of these DAS were likely fished in the Mid-Atlantic open area due to the closure of the Closed Area 2 Extension, which had been a commonly fished open area prior to 2016. We also think that the prevalence and intensity of a nematode in scallop meats, which peaked in 2016 and resulted in unmarketable scallops, may have led to additional fishing to reach vessel allocations in the Mid-Atlantic Access Area.

Based on the current condition of the scallop resource (i.e., location, density, and abundance), we do not expect the scallop fishery to exceed the Mid-Atlantic dredge hour benchmark of 359,797 hours over any 2-year period in the foreseeable future. However, moving forward, Sustainable Fisheries Division staff will work with the Northeast Fisheries Science Center and the New

¹ Mid-Atlantic waters are inclusive of NMFS statistical areas between 525 and 700, excluding areas 538, 539, 551, 561, and 562 per the 2012 Scallop Biological Opinion monitoring scheme.

JP 2/20/20

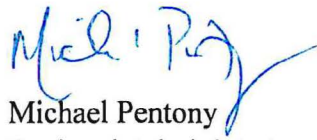


England Fishery Management Council's Plan Development Team to project dredge hours in the Mid-Atlantic using the Scallop Area Management Simulator (SAMS) model. Using the SAMS model in this context will allow the Council to consider projected dredge hours during the development of annual specification alternatives in order to avoid exceeding the dredge hour trigger in the future.

As previously noted, because the 2-year dredge hour benchmark was exceeded, we have reinitiated formal consultation under the Endangered Species Act on the operation of the scallop fishery. Staff and I will update you on the progress of this consultation at the April Council meeting.

Please contact me if you have any questions.

Sincerely,



Michael Pentony
Regional Administrator

cc: Thomas A. Nies, New England Fishery Management Council, Executive Director
Dr. Jon Hare, Northeast Fisheries Science Center, Director



Dan McKiernan
Acting Director

Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114

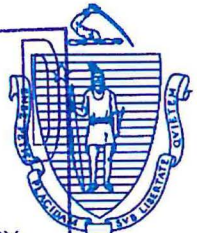
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Governor

Karyn E. Polito
Lieutenant Governor

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Secretary

Ronald S. Amidon
Commissioner

Mary-Lee King
Deputy Commissioner

February 14, 2020

Mr. Tom Nies
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950

Dear Mr. Nies,

I am writing to inform you that I will be stepping down as a member of the Scallop Plan Development Team (PDT), effective 28 February 2020, in concurrence with my departure from the Massachusetts Division of Marine Fisheries (MA DMF). I have served on the Scallop PDT during two separate terms, the first for five years (September 2007 - November 2012) and more recently as a representative of MA DMF from April 2016 - February 2020. During that time, I formed lasting professional relationships with your staff and gained excellent experience in the fields of biology, stock assessment, and fisheries policy/management.

I want to thank your staff, Jonathon Peros and Sam Asci, for their level of professionalism, attention to detail, and most importantly, ability to listen, solicit, and consider the full range of input from PDT members throughout the decision-making process. It has been a true pleasure to work these staff members, and I'm grateful for their leadership and inclusivity.

I hope to maintain collaborations with your staff, PDT members, and fishery stakeholders across management plans and issues, and I would consider reapplying to serve on the Scallop PDT in the future.

Thank you for the opportunity.

Sincerely,

Cate O'Keefe, PhD
Marine Science and Policy Analyst
Massachusetts Division of Marine Fisheries
836 South Rodney French Blvd.
New Bedford, MA 02744

Sherie Goutier

From: Jonathon Peros
Sent: Friday, January 31, 2020 2:56 PM
To: Michael Quinn
Cc: Charles Quinn; comments; Tom Nies
Subject: RE: Nantucket Light Ship West

Hi Michael,

Thank you for your letter. We'll make sure that this letter is available in correspondence for upcoming meetings.

I expect that we will discuss the cate rates in the NLS-West at our next Scallop AP meeting in February when we talk about FY 2019 fishery performance: <https://s3.amazonaws.com/nefmc.org/200226-27-Scallop-AP-cte-meeting-notice.pdf>

In the future, you can send correspondence to the Council's Executive Director Mr. Thomas Nies, or to comments@nefmc.org.

Jonathon

From: Michael Quinn <mike@standardmarineoutfitters.com>
Sent: Friday, January 31, 2020 2:46 PM
To: Jonathon Peros <jperos@nefmc.org>
Cc: Charles Quinn <charlie@quinnfisheries.com>
Subject: Nantucket Light Ship West

Dear Mr. Peros,

As a scallop limited access permit holder of 12 vessels, I believe it is imperative that the New England Fishery Management Council investigates the low catch rate in the Nantucket Light Ship West access area. The daily catch ranges from 500-900 pounds per day and our company is at risk of significant financial loss. I am also concerned for the hardworking captains and crew that we employ as they may experience financial hardships within their own families.

It is my hope that the council takes deep consideration into finding a solution regarding this unfortunate situation.

If you have any questions or would like to discuss this further, please do not hesitate to reach out to me. I would be happy to help brainstorm a solution to matter stated above.

JP 2/4/20

Sincerely,

Charles Quinn Jr

Michael Quinn

charlie@quinnfisheries.com

mike@standardmarineoutfitters.com

508-509-6620

508-525-3731

Thank you,

Michael Quinn

General Manager

Standard Marine Outfitters

137 Popes Island NB MA 02740

M:508-525-3731 O:508-990-7918

Email: mike@standardmarineoutfitters.com

<http://www.standardmarineoutfitters.com>

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

From: Brady Lybarger [<mailto:jettyhunter@icloud.com>]

Sent: Friday, January 31, 2020 6:24 PM

To: Tom Nies

Subject: NLS West 2020 Option

To Whom it may concern,

In lieu of the recent fishing activity in 2019 we have a potential problem that the NLS West pounds will not be caught by the May 31st 2020 deadline.

Im proposing that NLS West does not revert to open bottom on June 1, 2020 but remains an area closure for one more year to give the chance to catch the remaining 4.6-6,000,000 pounds that was allocated from 2019.

If the area goes to open bottom June 1, 2020 and the catch estimates are lower than 2k a day there will be almost no DAS used in the area formerly known as NLS West. Therefore having an area open with no fishing?

The sensible choice would be to keep it available to the fishermen and try to catch what was rightfully allocated.

If the pounds remaining still can't be caught in NLS West by 2021 it would be clear that NLS West was over estimated and I suggest the remaining pounds can be harvested from NLS South Deep in 2021 to make things right.

I'm not even sure that this is possible but I feel that it is most sensible and fair choice.

This has been done in the past with CA1 in 2013 over 1.6 million pounds that was held for 5 years and then moved CA1 north.

As a Scallop AP member we should be consistent with our motions.

Concerned Scallop Captain and Scallop AP Member...

Brady Lybarger

VP 2/4/20

Sherie Goutier

From: comments
Subject: FW: Nantucket West seed

From: nas3rd@aol.com <nas3rd@aol.com>
Sent: Thursday, January 30, 2020 12:18 PM
To: Jonathon Peros <jperos@nefmc.org>
Subject: Nantucket West seed

Good Day Jonathan, My name is Norval Stanley, I am an owner with Bergies Seafood Inc. and two scallopers, F/V Kathy & Jackie and F/V Sovereign Star.

I am writing in regards to the closed area known as Nantucket Lightship West. My partners and I am concerned with the harvesting of small scallops that should be left to grow into a sustainable fishing ground. We would hope you could consider moving the trips that are left to another area that would help with the long term viability of Nantucket West as a productive area for scalloping.

Thank you,
Norval (Sonny) Stanley

jp 1/31/20