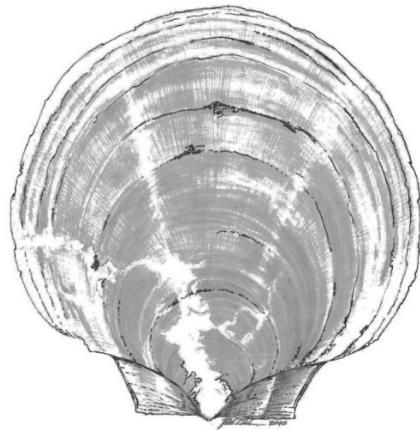


Atlantic Sea Scallop Fishery Management Plan

SCOPING DOCUMENT

for

Limited Access Leasing



Prepared by the

New England Fishery Management Council

Version 2 – March 15, 2022

Schedule of Atlantic Sea Scallop Limited Access Leasing Scoping Meetings

The Council plans to host scoping meetings in the following locations. Meeting dates and locations will be announced in the Federal Register and on the Council's website at this link:
[insert link here]

The Council is planning scoping meetings in the following areas: New Bedford, MA; Point Judith, RI; Mannahawkin, NJ; Hampton, VA; New Bern, NC; Gloucester (or other location on North Shore of MA); webinars

Final Locations and Dates TBD

DRAFT

You may attend any of the scoping meetings to provide oral comments, or you may submit written comments on the topic of Limited Access leasing by:

- Fax: (978) 465-3116;
- Email: comments@nefmc.org
- Mail at the address below.

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

The deadline for written comments is 8 a.m. EST on July 5, 2022.

Please note on your correspondence; “Atlantic Sea Scallop Limited Access Leasing Scoping Comments.”

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NEW ENGLAND FISHERY MANAGEMENT COUNCIL
SEEKS YOUR COMMENTS ON THE MANAGEMENT OF THE
ATLANTIC SEA SCALLOP FISHERY

***Your
comments
are invited***

The New England Fishery Management Council (Council) is conducting scoping for a scallop fishery Limited Access days-at-sea (DAS) and access area leasing program to assess: 1) the need for a leasing program, and 2) what elements the leasing program should consider. In September of 2022, the Council will decide whether to initiate an amendment to the Atlantic Sea Scallop Fishery Management Plan (FMP) that may allow the leasing of access area allocations and DAS in the Limited Access component of the fishery.

***Why is the
Council
conducting
scoping?***

The Council is gathering input from the public on the topic of days-at-sea and access area leasing for the Limited Access component before committing to initiating an action that would develop a leasing program. This scoping process is being conducted by the Council in response to a request by industry members to consider leasing in the Limited Access component of the fishery. If an amendment moves forward, the Council will use the information gathered in this scoping process to inform the scope of the action and range of alternatives that are developed.

The Atlantic Sea scallop fishery occurs along the east coast from Maine to Virginia. Management measures were first adopted in 1982 but there have been several major revisions to the management program over the following decades.

***Limited
Access
Background
Information***

Development of the Limited Access Fishery:

The Council established the Limited Access component of the scallop fishery through Amendment 4 (1994) to the Scallop FMP as part of an effort control program designed to reduce fishing mortality and rebuild the scallop resource in what was, at that time, an overfished stock. The moratorium on new entrants to the scallop fishery was implemented with other effort controls, such as limiting fishing time through days-at-sea management, crew restrictions, gear restrictions, reporting requirements, and vessel upgrade restrictions. These supplementary measures were designed to limit increases in a vessel's fishing power, to reduce pressure on small scallops and to control the amount of fishing pressure associated with a day-at-sea. Vessels qualifying for the Limited Access component¹ were issued either full-time, part-time, or occasional permits based on the historic performance of the qualifying vessel. All vessels within a permit category were annually allocated the same number of days-at-sea. Amendment 4 prohibited combining permits or transferring day-at-sea allocations from several vessels onto a single vessel and also established an ownership cap of no more than 5% of the total number of Limited Access permits issued. Limited

¹ To qualify for a Limited Access scallop permit, vessels needed to prove that they held a federal scallop permit and landed more than 400 pounds of scallops on a recorded trip between January 1, 1988 and December 31, 1989. Vessels that could prove change in ownership between March 2, 1989 and November 28, 1990 and landed one or more trips with 400 pounds of scallops in that time period also qualified.

**Limited
Access
Background
Information
(cont.)**

Access vessels were allowed a onetime upgrade that was restricted to less than a 10% increase in length and gross tonnage, and less than a 20% increase in horsepower. While the scallop fishery has evolved since the establishment of the Limited Access component, the key elements of the effort reduction program implemented through Amendment 4 have remained in place and continue to be the foundation of management today.

Limited Access vessels are allocated 94.5% of annual projected landings (APL), with the remainder of the APL allocated to the limited access general category individual fishing quota (LAGC IFQ) component (5% of APL) and Limited Access vessels that also hold LAGC IFQ permits (0.5% of APL). Limited Access vessels are homeported throughout the range of the resource, though most vessels operate out of Massachusetts and New Jersey (Table 1).

Table 1 – The distribution of Limited Access vessels principal port and homeport state (source: 2021 GARFO permit data).

State	Principal Port State	Homeport State
MA	154	150
NJ	104	98
VA	55	52
NC	30	38
CT	4	4
RI	2	2
ME	1	1
FL	0	3
PA	0	2

Fishery Performance

Table 6 includes as summary of Limited Access scallop landings, scallop value, and active vessels between fishing year 2010 and 2020. Scallop prices have trended higher recently, with the average price of scallops reaching approximately \$14.81 per pound in 2021². Figure 1 shows landings in pounds across ports by access area and open area from 2014 to 2020³. The majority of landings during this time period were attributed to ports in Massachusetts and New Jersey, with higher overall landings in the New England region, driven by landings in the port of New Bedford, MA.

² Based on fishery data from April – August 2021.

³ From the Evaluation of Rotational Management final report. The full report can be accessed [here](#).

**Limited
Access
Background
Information
(cont.)**

Figure 2 – Scallop landings (pounds) by port from access areas (red bars) and open areas (blue bars) from 2014 to 2020 (source: [Evaluation of Rotational Management Final Report, 2022](#)).



Crew Survey Information

Limited data are available on captains and crew that participate in fisheries managed by the Council; however, the Northeast Fisheries Science Center (NEFSC) Social Sciences Branch (SSB) has conducted two surveys focused on collecting information from captains and crew members in the northeast region. The goal of these surveys was to document basic demographic data, job characteristics, job satisfaction and well-being. Findings from the 2012/2013 and 2018/2019 intercept surveys can be found at:

<https://repository.library.noaa.gov/view/noaa/33460>

While this report details survey responses from all commercial fishermen, the following summary focuses on responses received from scallop captains and crews during the 2018/2019 survey. Note that the survey did not differentiate which part of the fishery a respondent participated in (i.e., LA or LAGC IFQ). Of scallop crew interviewed, 78% reported working on a vessel with a hired captain compared to 22% that reported working on an owner-operated vessel. Almost all scallop fishermen interviewed reported starting out working as a deckhand, and the majority of crew reported working more than 15 hours per day while fishing. The majority of crew interviewed were satisfied by their earning scallop fishing and were satisfied by the predictability of earnings. Almost all of respondents (i.e., 95%) reported that paying for quota or days-at-sea was not part of their settlements. The

majority of scallop crew were satisfied with job safety and the majority were satisfied with or did not have an opinion on physical fatigue of the job.

Number of Vessels Per Captain/Crew

Limited data are available on captains and crews that participate in the Limited Access scallop fishery; however, captains that operate limited access scallop vessels are required to hold an operator permit, and information on active operators is documented through vessel trip reports (VTRs). Table 3 summarizes the number of operator permits reported by the number of distinct Limited Access vessels that those operators were active on by fishing year. This summary illustrates the trend in the number of vessels run by individual captains in the Limited Access fishery over the last ten years. In most years, just over 50% of operators were active on only one Limited Access vessel each year, except for FY2020, when the number of operators active on two Limited Access vessels was slightly greater.

Table 4 summarizes the number of unique operators that captained trips on the same Limited Access vessel by fishing year. For example, in fishing year 2019, there were 219 Limited Access vessels that were captained by one unique operator for all trips, while 93 Limited Access vessels had two unique operators that captained trips.

Table 3 – Count of distinct operators in the Limited Access fishery by the number of vessels that they were active on in fishing years 2010 through 2020 (source: dealer reports and VTRs).

FY	count of distinct operators by the number of vessels they fished per year				
	1	2	3	4+	Total
2010	179	122	17	4	322
2011	205	106	16	4	331
2012	188	105	23	3	319
2013	153	102	17	6	278
2014	139	96	20	6	261
2015	140	106	18	7	271
2016	164	113	21	8	306
2017	160	114	26	7	307
2018	170	119	20	8	317
2019	170	105	32	10	317
2020	124	131	25	6	286

Table 4 – The number of vessels that landed trips by different operators, fishing years 2010 through 2020 (source: dealer reports/VTRs).

FY	number of distinct operators per vessel			
	1	2	3	4+
2010	231	84	31	6
2011	230	82	32	8
2012	245	84	27	<3
2013	272	58	15	<3
2014	286	55	6	<3
2015	275	57	15	<3
2016	235	85	19	6
2017	233	81	25	7
2018	218	98	24	4
2019	219	93	23	12
2020	231	89	23	3

Limited Access Permit Holdings and Participation in Other Fisheries

The majority of Limited Access vessels are issued permits that would allow them to participate in other fisheries. There were 350 limited access scallop permits issued in 2021. Table 5 shows the distribution of scallop limited access vessels that also held permits for other managed species. In many cases, permit holdings include incidental and(or) open access permits for other species (Table 5, second column); however, many limited access permit suites include a diverse range of managed species in addition to scallops, such as summer flounder, herring, lobster, monkfish, groundfish, and squid/mackerel/butterfish (Table 5, third column).

Table 6 shows landings, revenue, days fished, and the number of active LA vessels from directed scallop trips compared to trips in other fisheries (i.e., not targeting scallops). The majority of landings, revenue, and time spent fishing by Limited Access vessels were from directed scallop trips in FY2010 to FY2020; however, 21% to 32% of LA vessels were active in other fisheries during this time period, with the level of participation in other fisheries decreasing over time. As shown in Table 7, the top ranking species in terms of value landed by Limited Access scallop vessels participating in other fisheries include summer flounder, black sea bass, longfin squid, and illex squid.

Table 5 – The number of limited access scallop vessels that also held permits for other fisheries in 2021. Permit holdings are shown for all permit types (open and limited access, second column), limited access only (third column), and notes describing permit types (fourth column) (data source: 2021 GARFO permit data).

Permit type	LA scallop vessel permit holdings (all permits)	LA scallop vessel permit holdings (limited access only)	notes
Bluefish	336	n/a	there is no limited access bluefish permit
Black Sea Bass	150	148	two LA scallop vessels hold BSB charter/party open access permits, remainder are LA BSB moratorium
Spiny Dogfish	344	n/a	there is no limited access dogfish permit
Summer Flounder	302	302	all commercial summer flounder permits are limited access
Incidental HMS Squid Trawl	31	n/a	there is no limited access incidental HMS squid trawl permit
Herring	315	18*	*includes 11 limited access herring incidental permits, 7 all area LA permits (Cat A)
Lobster	226	226*	*220 commercial non-trap permits, 6 commercial trap permits
Monkfish	345	186	159 LA scallop vessels with open access incidental monkfish permits
NE Multispecies	345	57*	*includes 10 individual DAS groundfish permits, 47 combo vessel permits
Ocean Quahog	304	1	1 mahogany quahog limited access permit, remainder open access ocean quahog
Red Crab	307	0	all permits held by LA scallop vessels are open access incidental red crab
Scup	141	139	2 vessels with open access charter/party scup, 139 with limited access scup moratorium
Surfclam	303	n/a	there is no limited access surfclam permit
Skate	330	n/a	there is no limited access skate permit
Squid Mackerel Butterfish	341	97	open access SMB permits include incidental, charter/party, and Atlantic mackerel
Tilefish	326	n/a	there is no limited access tilefish permit

Table 6 – Scallop landings (lbs)/value (unadjusted USD\$), days fished, and active limited access vessels on directed scallop trips compared to non-scallop landings/value and days fished by limited access vessels active in other fisheries.

FY	scallop landings/value on directed scallop trips				non-scallop landings/value on non-scallop trips			
	scallop landings (lbs)	scallop value	days fished	active LA vessels	other landings (lbs)	other value	days fished	active LA vessels
2010	54,441,351	\$423,097,936	44,403	352	28,042,801	\$14,798,265	19,352	113
2011	55,932,795	\$541,993,807	37,320	355	33,156,127	\$18,079,919	23,261	106
2012	53,632,889	\$515,138,597	39,756	356	37,245,501	\$17,644,559	19,227	95
2013	37,360,091	\$423,379,154	28,812	348	22,876,141	\$34,383,046	22,134	82
2014	29,767,984	\$367,565,700	26,120	349	21,209,164	\$19,613,914	23,673	90
2015	33,261,328	\$403,166,433	27,124	349	14,641,913	\$21,867,009	23,761	98
2016	37,416,817	\$443,400,786	33,380	345	25,501,749	\$18,808,828	19,263	95
2017	50,445,495	\$483,480,334	31,091	346	39,333,702	\$28,395,453	19,395	87
2018	56,842,405	\$519,855,392	32,568	344	22,555,213	\$24,201,921	14,155	82
2019	57,289,023	\$520,850,717	31,401	347	21,812,032	\$15,598,374	11,350	74
2020	43,194,915	\$438,079,861	29,227	346	17,494,503	\$9,516,489	10,312	72

Table 7 – Value of the top four species landed by Limited Access scallop vessels on non-scallop trips in fishing years 2018 through 2020.

species	2018	2019	2020
summer flounder	\$5,060,262	\$4,543,922	\$3,326,328
black sea bass	\$3,431,004	\$2,861,826	\$2,037,791
longfin squid	\$5,395,903	\$4,194,535	\$1,534,668
illex squid	\$1,702,514	\$1,593,162	\$ 891,675

Limited Access Vessel Ownership

Understanding ownership interest by entities in the scallop fishery is nuanced; however, the spread of ownership interest in terms of the number of single or multiple vessel owners is diverse (see Table 8). In FY2021, there were 118 individuals that had ownership interest in one Limited Access vessel, representing 49% of all individuals with ownership interest in the Limited Access scallop fishery. There were 31 individuals with ownership interest in two vessels (13%) and the remaining 38% of individuals had ownership interest in three or more vessels.

Table 8 – The number of people with an ownership interest in limited access scallop vessels by the number of vessels owned (source: GARFO APSD, 4/5/2021).

Number of People (individuals)	That Own This Many Vessels	% That Own This Many Vessels
118	1	49%
31	2	13%
13	3	5%
16	4	7%
5	5	2%
7	6	3%
3	7	1%
1	8	0%
31	11	13%
2	12	1%
4	14	2%
8	17	3%

Vessel Replacements and Vessel Characteristics

Vessel replacements are allowed in the LA scallop fishery to address legitimate needs to replace inoperable or unseaworthy vessels arising in the normal course of fishing during a fishing year. The vessel replacement policy was part of the implementing regulations of Amendment 4 (i.e., the action that established the LA scallop fishery), and includes strict criteria to prevent vessels from circumventing effort limitations that were designed to maintain the level of effective fishing power of vessels that existed prior to the establishment of the Limited Access fishery. Specifically, the policy was designed to allow necessary vessel replacements but to prevent combining or consolidating effort allocations that would be inconsistent with the “one-vessel-one-permit” approach established through Amendment 4. In other words, a single vessel is not allowed to fish multiple vessels’ worth of day-at-sea and access area allocation in the same fishing year. In its April 15, 2019 letter (see [here](#)) to the Council, NMFS clarified the vessel replacement policy and the criteria that must be met in order for a vessel replacement to be approved. In short, those criteria include: 1) the vessel being replaced is not operable due to unforeseen circumstances and cannot be fished during the remainder of the fishing year, 2) the purchase and sale of the replacement vessel is an arm’s length transaction at fair market value, and 3) the two business entities involved in the purchase of the replacement vessel have no common owners and no mutually beneficial financial interests arising from the transfer of fishing allocations to the replacement vessel.

Vessel characteristics in terms of average length, average horsepower, and average gross tons by Limited Access permit type are described in Table 9. Figure 2 shows the distribution of limited access scallop vessels by length, horsepower, gross tons and vessel age. The distribution of all Limited Access vessels by year built are shown in Figure 3.

Table 9 – The number of vessels, average length, gross tons, and horsepower, by Limited Access permit type (source: GARFO, 2021 permit data)

Limited Access Permit Type	number of vessels	average length (ft)	average gross tons	average horsepower
Full-time	252	83	158	863
Full-time small dredge	54	73	108	526
Part-time small dredge	33	66	89	460
Full-time trawl	11	81	135	507

Figure 2 – The distribution of Limited Access scallop vessels (full-time, n = 263; full-time small dredge, n = 54; part-time small dredge, n = 33) in terms of vessel characteristics (length, horsepower, gross tons). The distribution of vessels by year built is shown in the bottom right pane (data source: GARFO, 2021 permit data).

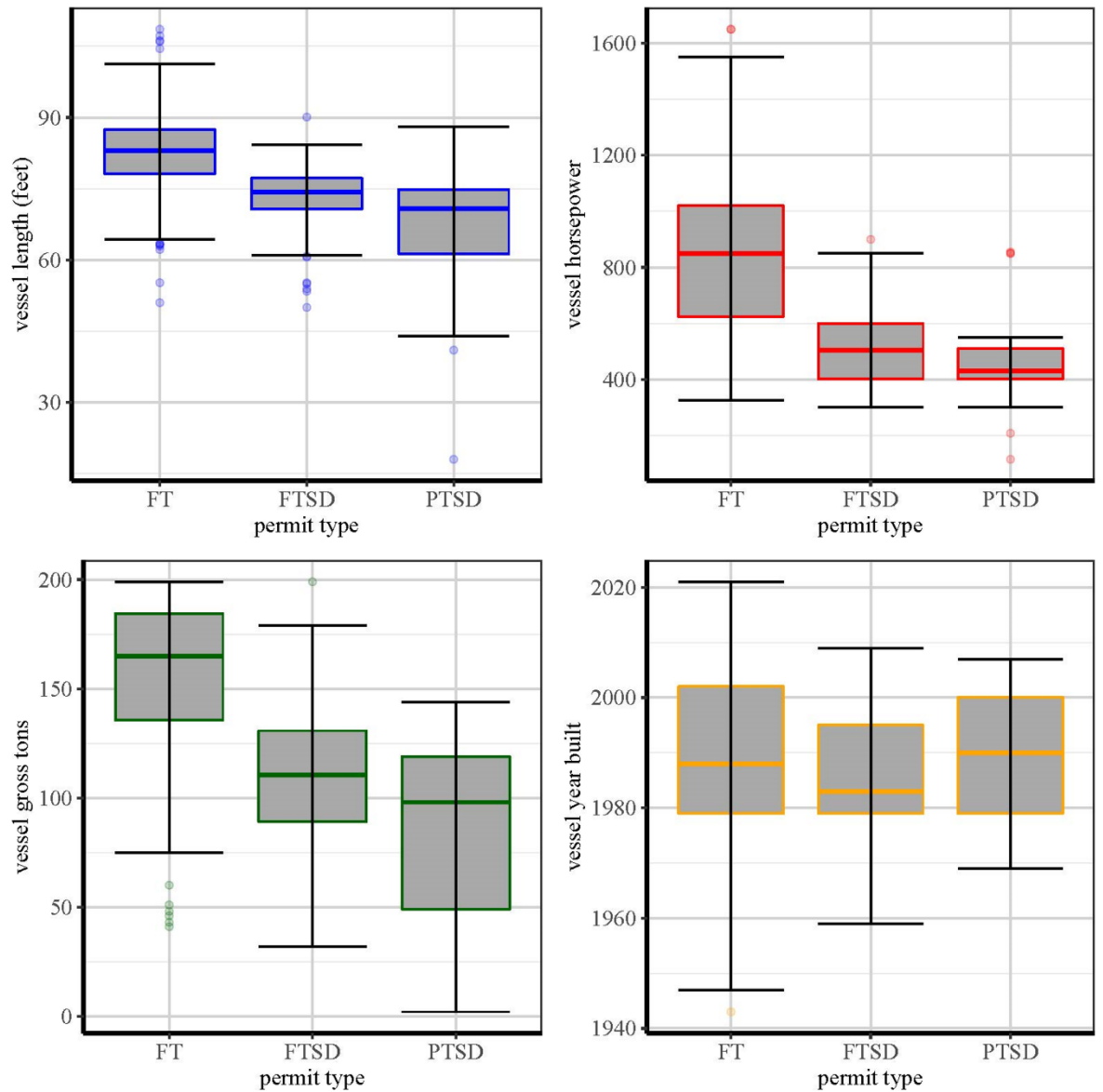
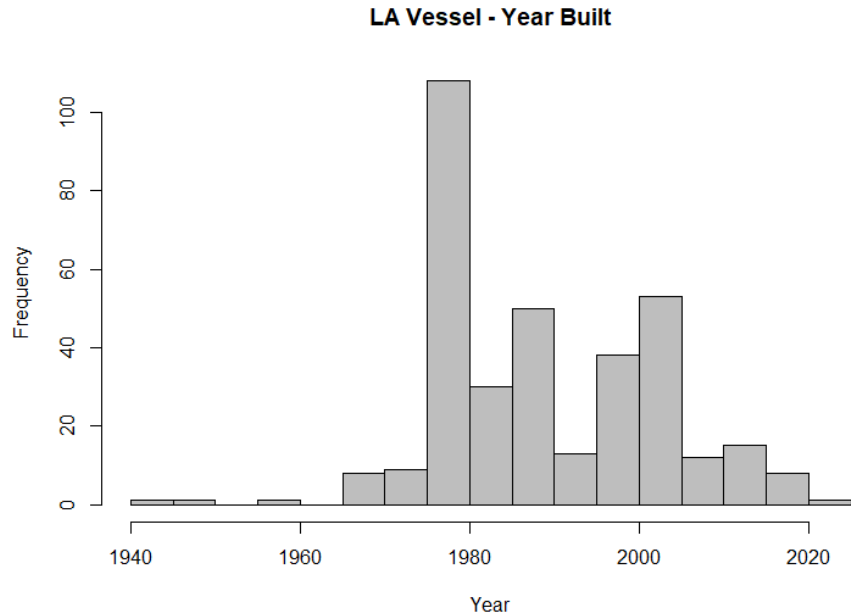


Figure 3 – Distribution of Limited Access vessels by year built.



Permanent Transfers vs. Permit Stacking

The Council is scoping for leasing in the Limited Access component of the fishery. Leasing and permit stacking are two forms of consolidation that could allow allocation from multiple permits to be fished on one vessel. In a leasing program, temporary and(or) permanent transfers could be considered. Temporary transfers (i.e., leasing) would allow allocations to be moved from one vessel to another on an annual basis, whereas permanent transfers would move allocation from one permit to another permit permanently. While permanent transfers and permit stacking may be viewed by some as interchangeable, there are distinctions between the two approaches. The Council distinguishes between the two approaches in the following ways:

Permanent Transfer	Permit Stacking
<ul style="list-style-type: none"> • Transaction that splits (“sells”) allocation off of a scallop permit. • A permit that permanently transfers its scallop allocation can still be used to participate in the fishery and access scallop allocation in the future because the scallop permit stayed with the vessel. • The permit holder retains the other non-scallop permits (e.g. monkfish). 	<ul style="list-style-type: none"> • Transaction combines scallop access privileges from several permits into one permit, on one vessel. • Multiple permits become one permit, with a larger scallop allocation. • Multiples of other permits (e.g., monkfish) are relinquished. • The total number of scallop permits is permanently reduced, meaning fewer vessels can assess scallop fishery in the future.

What actions have already been taken?

While the core management structure of the Limited Access fishery has not changed, the Council has adjusted many aspects of the Scallop FMP to improve flexibility and increase efficiency over the past several decades. Those management measures include, but are not limited to (50 CFR §648.50 through 50 CFR §648.65): allowing additional crew on access area trips, allowing “broken trips”, allowing limited access vessels to obtain groundfish permits, creating the ability for limited access vessels to exchange partial trips to facilitate fishing opportunities in access areas of preference, establishing an expedited specification implementation process, facilitating access to groundfish and former habitat closures, modifying the southern boundary of the days-at-sea (DAS) demarcation line to allow vessels in the southern extent of the fishery to better utilize open area DAS allocations, establishing an open area DAS carryover provision, allowing access area allocations to be harvested in the first 60 days of the following fishing year, establishing standard default measures, etc.

Amendment 15 (2011) to the Scallop FMP considered permit stacking and leasing measures in the limited access fishery to address excess capacity and provide more flexibility. While the Council identified stacking and leasing measures as preferred for the public hearing process, stacking and leasing alternatives were not chosen at final action. The Council’s final submission of Amendment 15 explains that the Council changed course, in part, because a large majority of public opinion was against inclusion of these alternatives based on potential loss of jobs on the waterfront that would have trickle-down impacts on other fisheries and communities, potential negative impacts on future fishing opportunities for vessels that do not stack or lease, potential negative impacts on other fisheries if scallop vessels redirect effort after leasing out scallop effort, and unintended consequences of additional consolidation in the scallop fishery.

What is the Council considering?

Based on the information gathered during the scoping efforts, the Council will consider whether to initiate an amendment that would develop measures to allow DAS and access area leasing in the LA component.

If the Council were to initiate an amendment to develop a Limited Access leasing program, the changes could include but are not limited to: allowing the temporary transfer of days-at-sea or access area allocations from one permit to another, allowing the permanent transfer of days-at-sea or access area allocations from one permit to another, limits on the amount of leased or transferred allocation that may be fished on a single vessel, efficiency adjustments, and vessel power adjustments.

Why should I comment?

The scoping process is a way for the Council to collect information from the public. Your feedback will be considered by the Council as it considers whether to move forward with the development of an amendment. If the Council decides to initiate an amendment, this scoping process is needed to comply with aspects of the National Environmental Protection Act. This is the first and best opportunity for members of the public to share their perspective on Limited Access leasing.

What should my comments address?

During this scoping process, the Council is seeking comments on leasing in the Limited Access portion of the scallop fishery. While your comments may address any aspect of the specific issues identified during scoping, the Council is seeking your input on the following questions.

In your opinion....:

- Is a leasing program needed in the LA fishery? Why or why not?
- What issues in the scallop fishery would a leasing program address?
- What are the benefits and(or) drawbacks of a leasing program?
- Are there other approaches or tools the Council should consider that would provide flexibility?

Who/what would be affected by a leasing program....:

- How could a leasing program affect the scallop resource?
- How could a leasing program affect permit holders?
- How could a leasing program affect shoreside businesses?
- How could a leasing program affect captains and crews?
- How could a leasing program affect the environment?
- If a leasing program is allowed, how could scallop vessels affect other fisheries?

If a leasing program were developed....:

- What should the program consider?
- What should the goals and objectives of the action be?

-
-
- Should leasing be allowed for days-at-sea and access area allocations, or limited to one or the other?
 - Should there be limits on the amount of allocation a vessel can lease in?
 - Should temporary and permanent transfers of days-at-sea and access area allocations be allowed in a leasing program?
 - Should the existing 5% ownership cap apply to allocations that are leased in by an entity? Should other caps be considered?
 - Should leasing only be allowed between vessels with similar baseline characteristics (i.e., length, horsepower, gross tons)?
 - Should vessel power adjustments be considered for days-at-sea leasing?
 - Should efficiency adjustments be considered for days-at-sea leasing?
 - Should leasing be allowed between different LA permit types (e.g., should part-time vessels be allowed to lease allocation to/from full-time vessels?)?
 - Are there other aspects of management that should be considered if a leasing program is developed? For example, vessel replacements, vessel baseline restrictions, monitoring, crew limits, access area trip limits, etc.?
 - Should a leasing program have conservation benefits?

What is the process?

The Council is considering leasing in the Limited Access component in a multi-step process. The publication of this scoping document on the Council’s website, and announcements of scoping meetings in the *Federal Register* (FR) are to notify the public that it is soliciting feedback. Public comment will be accepted until 8 a.m. on July 5, 2022. Several scoping hearings will be held to provide additional opportunity for input from the public (see meeting dates and locations on the back of the cover page).

After information is gathered through the scoping process (Step 1), the Council will decide whether to initiate an amendment to develop measures that would allow leasing in the Limited Access component of the fishery (Step 2). The Council will make this decision at the September 2022 Council meeting. If the Council votes to initiate an amendment, information gathered through this scoping process would be used in the development of a problem statement and(or) goals/objectives and a range of alternatives by the Council, with input from the Scallop Committee, Scallop Advisory Panel and the Scallop Plan Development Team (PDT). The

Council’s Scientific and Statistical Committee may also review scientific aspects of the action after goals, objectives, and alternatives are developed, if needed. The Council, in coordination with NMFS, would publish a Notice of Intent (NOI) in the Federal Register to prepare an environmental impact statement (EIS) for the amendment. The scoping comments provided through this process would be considered as scoping for the NOI under current National Environmental Policy Act (NEPA) regulations.

If an amendment is initiated, the Council will develop a range of alternatives with the impacts of those alternatives analyzed by the Scallop PDT through the development of a draft EIS. The draft EIS would then be published for public review and comment. At that time, the public will have more specific alternatives and analyses on which to comment. Following a review of comments received on the draft EIS, the Council would choose final management measures to recommend to the Secretary of Commerce for implementation.

How do I comment?

The Council is scheduling several meetings, including some by webinar, for this scoping process. You may attend any of the scoping meetings to provide oral comments, or you may submit comments by email to comments@nefmc.org. The deadline for written comments is 8 a.m. EST on July 5, 2022. Mailed comments may be sent to the following address:

Thomas A. Nies, Executive Director
New England Fishery Management Council
50 Water Street, Mill #2
Newburyport, MA 01950
Fax: (978) 465-3116

Please note on your correspondence; “Atlantic Sea Scallop Limited Access Leasing Scoping Comments.” Comments may also be accepted via fax at the above fax number.

If you wish to be on the mailing list for future meetings of the Scallop Committee, please contact the Council office at 978-465-0492.