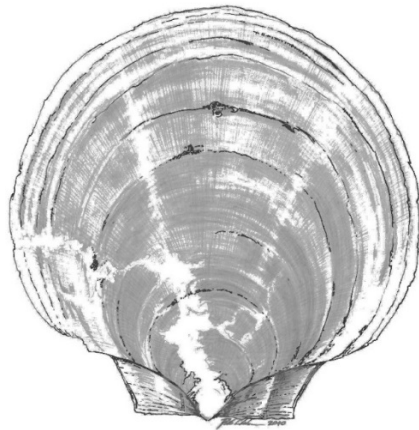


Atlantic Sea Scallop Fishery Management Plan

SCOPING DOCUMENT **for** **Limited Access Leasing**



Prepared by the
New England Fishery Management Council

Schedule of Atlantic Sea Scallop Limited Access Leasing Scoping Meetings

The Council is considering hosting 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: [\[insert link here\]](#)

Gloucester, MA
New Bedford, MA
Manahawkin, NJ
Cape May, NJ
Hampton, VA
New Bern, NC
Webinars

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.”



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.

This scoping document is to inform you of the Council's intent to gather information necessary to inform this decision. Specifically, your input is needed to identify concerns, potential impacts, and relevant effects of past actions related to the changes being considered by the Council, as well as the range of measures that should be considered in such an action.

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

The Council is interested in 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 a Council action to address these issues. This scoping process is in response to a request by industry members to consider leasing in the Limited Access component.

***Limited Access
Background
Information***

The Atlantic Sea scallop fishery occurs along the east coast from Maine to Virginia, although most fishing activity takes place between Massachusetts and New Jersey. Management measures were first adopted in 1982 but there have been several major revisions to the management program over the following decades.

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.

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

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 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 implement 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 and scallop landings are attributed to Massachusetts and New Jersey (Table 1).

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

Homeport State	No. of LA Vessels	Scallop Landings (lbs)
MA		150
NJ		98
VA		52
NC		38
CT		4
FL		3
RI		2
PA		2
ME		1

Other topics to cover under background information:

- Permit activity
- Landings
- Information on ownership entities
- Vessel age
- Number of vessels per captain/crew (could look at the number of distinct

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.)***

- operator permits in landings data)
- Vessel replacement information
- DAS and access area performance (see ERM report)

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. Though originally selected as preferred, both stacking and leasing alternatives were not chosen during final action for measures to address excess capacity in the limited access scallop fishery. At that time, 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. [text directly from A15]

Quota Transfers in the Limited Access General Category Fishery

Current regulations allow the Limited Access General Category component to either permanently or temporarily transfer quota. Temporary transfers are usually referred to as “leases”, while the permanent transfers are commonly described as the “sale” of quota from one permit to another.

Vessel Replacements

Describe the issues raised in the April 15, 2019 letter from GARFO to the Council regarding the vessel replacement policy and the background on this issues (letter included in the appendix of this document).

AP and Committee feedback needed in this section.

***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, vessel power adjustments.

AP and Committee feedback needed in this section.

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 regarding 1) the need for a Limited Access leasing program, and 2) what should a leasing program consider. While your comments may address any aspect of the specific issues identified during scoping, the Council is seeking your input on the following:

- If the Council were to recommend initiating an amendment, what should the goals and objectives of the action be? What problem(s) could the action address? Why is an action needed?
- What do you perceive the impacts of leasing to be? For example, how might leasing allocations impact the scallop resource, the environment, vessel owners, captains and crews, shoreside operations, etc.?
- What specific issues are most important when evaluating the tradeoffs of developing a DAS and access area leasing program for the Limited Access component?
- If the Council were to recommend initiating an amendment, what types of measures should a leasing program include? Should leasing rules be the same for open area DAS and access area trips? Should there be limits on the amount of DAS or access area allocations that can be leased? Should transfers of DAS or access area allocations be temporary and/or permanent?
- 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.?
- **AP and Committee feedback needed in this section.**

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 goals/objectives and a range of alternatives by the Scallop Committee, with input from the 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.

Appendix

1. NMFS to Council re: vessel replacement policy (April 15, 2019)
2. Scallop Amendment 21 Scoping Document
3. Skate Amendment 5 Supplemental Scoping Document



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

APR 15 2019

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

Dear Tom:

In recent years we have received several permit applications to replace a limited access scallop vessel with another limited access scallop vessel after at least one of the vessels has already fished some or all of its scallop fishery allocation for that year. This has required us to take a hard look at our vessel replacement policy in light of the Atlantic Sea Scallop Fishery Management Plan's (FMP) prohibition on combining or consolidating permits, days-at-sea (DAS), and trip allocations. This is something we are seeing mostly with scallop permits, but it can also be an issue for Northeast multispecies and monkfish permits because those fishery management plans have the same prohibition. I would like the Council to be aware of this activity and how we are handling it.

The prohibitions on consolidating or combining limited access permits and DAS allocations on a single vessel were part of the implementing regulations for Amendment 4 to the Atlantic Sea Scallop FMP and Amendment 5 to the Northeast Multispecies FMP. See 50 CFR 648.4(a)(2)(i)(G), and cross-references to the Northeast multispecies regulations at § 648.4(a)(1)(i)(G). The same prohibition exists for monkfish permits at § 648.4(a)(9)(i)(G) with the same cross-reference to the Northeast multispecies regulations. These prohibitions arose out of our attempt to uphold the Council's intent in these amendments 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 amendments. For example, to allow fishing activities that were historically done by two vessels to now be done by one vessel would undermine this intent by increasing the effective fishing power of the remaining fishing vessels.

Upon implementation of the limited access programs for the Atlantic sea scallop and Northeast multispecies fisheries, several vessel owners asked whether a limited access vessel that has used some or all of its DAS in a given fishing year could replace another limited access vessel that has not used all of its DAS. They asked whether the replacement vessel may then fish additional DAS based on the allocation of DAS to which the vessel being replaced was entitled, all in the same fishing year. In other words, owners were asking if there was any way, under the current regulations, for one vessel to fish two allocations of DAS in one fishing year.

To address this question, in 1994 we developed, in consultation with the NOAA Office of General Counsel, an application processing policy for this issue to prevent combining or



consolidating effort allocations that would be inconsistent with the scallop and multispecies amendments. In developing this policy, it was understood that the prohibitions on combining or consolidating these effort allocations were not intended to, and did not, prevent one-time vessel replacements that were allowed by the fishery to address legitimate needs to replace inoperable or unseaworthy vessels arising in the normal course of fishing during a fishing year. Thus, the policy recognized that an owner with a legitimate need may replace an inoperable vessel with another vessel that had fished for scallops or groundfish earlier in the same year because the replacement would not undermine the intent of the FMPs to maintain historic levels of fishing effort. The policy extends to monkfish limited access permits which were implemented after the policy was completed. My staff have strived to adhere to this policy since its development in 1994.

In these fisheries, the policy recommends disapproving the replacement of a vessel that has not fished all of its allocation during a fishing year by another vessel that has fished in the same fishing year, if the same owner owns both vessels; or the vessel owner entities have common ownership or a common interest in the vessels involved. To disapprove these types of replacements involving overlapping ownership interests helps assure that vessel owners do not consolidate fishing activities that were previously conducted on multiple vessels onto one vessel; thereby undermining the purpose of the prohibitions on consolidating or combining fishing allocations. Determining which applications involve these types of vessel replacements, however, is challenging and often involves complicated situations with multiple vessels and owners. Our decision to deny or discourage these types of applications can be confusing to, and very contentious with, the owners involved.¹ For this reason, we have decided to clarify our policy so that we can help ensure that our decisions are consistent and understandable. To that end, we will allow vessel replacements of scallop, multispecies, and monkfish vessels, resulting in the combining or consolidating of fishing allocations of two or more vessels onto one vessel in a fishing year, if we can make the following findings:

- 1) That the vessel being replaced is not operable due to unforeseen circumstances at the time of the replacement request and cannot be fished the remainder of the current fishing year. This includes vessels whose allocations have been put into Confirmation of Permit History due to documented inoperability for the rest of the fishing year;
- 2) That the purchase and sale of the vessel to be used as a replacement (new vessel) is an arm's length transaction at fair market value; and
- 3) That the two business entities involved in the purchase and sale have no common owners or directors and have no mutually beneficial financial interests arising out of the transfer of fishing allocations to the replacement vessel.

In addition, any time we allow a vessel replacement based on these findings, we will send a letter with the issued permit stating that the permit transfer is null and void if the seller or buyer disagree with our findings or they conclude that our findings are not true and correct. We will also inform the vessel owner that if the ownership of the replacement vessel reverts to its original owner, we may not issue a scallop permit to such vessel in the fishing year after the replacement

¹ Indeed, a lawsuit against NMFS was recently filed challenging our denial of a scallop vessel replacement based on this policy.

if such vessel has already fished in such year (other than carryover allocations from the previous fishing year) under a different scallop permit.

These clarifications help preserve the intent of the permit consolidation prohibition and provide more objective guidance to vessel owners who, due to unforeseen operational circumstances of their vessel, may have to replace that vessel with a vessel that has already fished a limited access scallop, multispecies or monkfish permit within the same fishing year.

My staff is available should follow-up information be requested by you or your staff. If you have any questions, please contact me or David Gouveia at (978) 281-9280 or David.Gouveia@noaa.gov.

Sincerely,



Michael Pentony
Regional Administrator

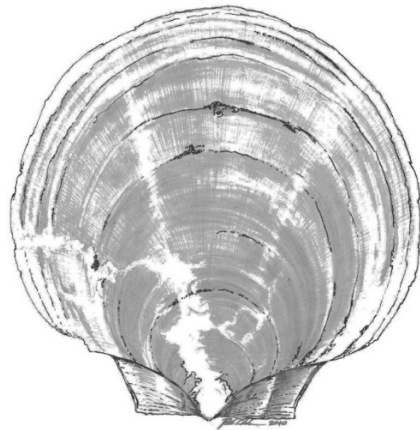
cc: Christopher Moore, PhD

Atlantic Sea Scallop Fishery Management Plan

SCOPING DOCUMENT

for

Amendment 21



(Northern Gulf of Maine and Limited Access General Category Amendment)

Prepared by the

New England Fishery Management Council

Schedule of Atlantic Sea Scallop Amendment 21 Scoping Meetings

The Council has scheduled the following scoping meetings, including one webinar, for this amendment.

Rockland, ME Thursday, February 28, 2019 1:00 p.m. – 3:00 p.m.	Samoset Resort, 220 Warrenton Street, Rockport, ME 04856 Telephone: (207) 594-2511
Riverhead, NY Thursday, March 7, 2019 6:00 p.m. – 7:30 p.m.	Hotel Indigo, 1830 West Main Street, Route 25, Riverhead, NY 11901 Telephone: (631) 369-2200
Narragansett, RI Friday, March 8, 2019 3 p.m. – 4:30 p.m.	Corless Auditorium, University of Rhode Island, Graduate School of Oceanography, 215 South Ferry Road, Narragansett, RI 02882 Telephone: (401) 874-6222
New Bedford, MA Wednesday, March 20, 2019 6 p.m. – 8 p.m.	Waypoint Event Center, 185 MacArthur Drive, New Bedford, MA 02740 Telephone: (774) 634-2099
Chatham, MA Thursday, March 21, 2019 6 p.m. – 8 p.m.	Chatham Community Center, 702 Main Street, Chatham, MA 02633 Telephone: (508) 945-5175
Webinar Friday, March 22, 2019 10am - noon	https://attendee.gotowebinar.com/register/8181759988548273922 After registering, you will receive a confirmation email containing information about joining the webinar.
Hampton, VA Monday, March 25, 2019 6:00pm – 7:30pm	Embassy Suites, 1700 Coliseum Drive, Hampton, VA, 23666 Telephone: (757) 827-8200
Cape May, NJ Tuesday, March 26, 2019 6:00pm – 7:30pm	Grand Hotel of Cape May, 1045 Beach Avenue, Cape May, NJ 08204 Telephone: (609) 884-5611
Manahawkin, NJ Wednesday, March 27, 2019 10 a.m. – 11:30 a.m.	Holiday Inn, 151 Route 72 West, Manahawkin, NJ 08050 Telephone: (609) 481-6100
Gloucester, MA Wednesday, April 3, 2019, 6:00p.m. – 8:00 p.m.	Massachusetts Division of Marine Fisheries, 30 Emerson Ave., Gloucester, MA 01930 Telephone: (978) 282-0308

You may attend any of the above scoping meetings to provide oral comments, or you may submit written comments on Amendment 21 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 5 p.m. EST on April 15, 2019.

The Council, in coordination with NMFS, plans to publish a Notice of Intent (NOI) in the Federal Register (FR) to prepare an environmental impact statement (EIS) for Amendment 21. The deadline for scoping comments may be extended if the deadline associated with the NOI that publishes in the FR is later than April 15, 2019.

Please note on your correspondence; “Atlantic Sea Scallop Amendment 21 Scoping Comments.”



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 initiating the development of an amendment (Amendment 21) to the Atlantic Sea Scallop Fishery Management Plan (FMP) under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

In accordance with the National Environmental Policy Act (NEPA), the Council will prepare an Environmental Assessment (EA), and may prepare an Environmental Impact Statement (EIS), that will analyze the impacts of this amendment on the affected biological, physical, and human environment.

This scoping document is to inform you of the Council's intent to gather information necessary for the preparation of an EA or EIS. Specifically, your input is needed to identify concerns, potential impacts, and relevant effects of past actions related to the changes being considered by the Council in this action, as well as a range of alternatives that should be considered in Amendment 21.

***Why is the
Council
proposing to
take action?***

The Council has identified three specific issues to address in this action: 1) measures related to the Northern Gulf of Maine (NGOM) Management Area, 2) Limited Access General Category (LAGC) individual fishing quota (IFQ) possession limits, and 3) ability of Limited Access vessels with LAGC IFQ to transfer quota to LAGC IFQ only vessels.

Northern Gulf of Maine Management Area:

The Council is planning to develop measures that will support a growing directed scallop fishery in federal waters in the NGOM. To do so, the action will consider measures that would prevent unrestrained removals from the NGOM management area and allow for orderly access to the scallop resource in this area by the LAGC and LA components. This includes establishing mechanisms to set allowable catches and accurately monitor catch and bycatch.

LAGC IFQ Possession Limits and LA Quota Transfers to LAGC IFQ vessels:

The Council is planning to develop measures that will increase the LAGC IFQ possession limit and allow LA vessels to transfer IFQ to LAGC IFQ vessels to improve overall economic performance of the LAGC IFQ component. The Council is taking action to ensure that the LAGC IFQ component remains profitable, and that there is continued participation in the General Category fishery at varying levels. To do so, the action will consider approaches that aim to reduce the impacts of decreases in ex-vessel price and increases to fixed costs (e.g. maintenance and repairs) and variable costs (e.g. trip expenses including fuel, food, oil, ice, and water), on vessels and crews.

**General
Category and
Northern Gulf
of Maine
Background
Information**

The Atlantic sea scallop fishery is prosecuted along the east coast from Maine to Virginia, although most fishing activity takes place between Massachusetts and New Jersey. Management measures were first adopted in 1982 but there have been several major revisions to the management program over the following decades.

Development of the Limited Access General Category (LAGC) Fishery:

The Council established the General Category component as an open access permit category in 1994 while developing a limited access program for qualifying vessels (now Limited Access component). Through Amendment 11 to the Scallop FMP, the Council transitioned the General Category component from open access to limited access to limit fishing mortality and control fleet capacity. The Council's vision for the LAGC component was "a fleet made up of relatively small vessels, with possession limits to maintain the historical character of this fleet and provide opportunities to various participants including vessels from smaller coastal communities." Amendment 11 established three LAGC permit categories which allowed for continued participation in the General Category fishery at varying levels. Vessels that met a qualifying criteria were issued an LAGC IFQ permit and allocated quota based on the 'contribution factor' (i.e. if you fished longer and landed more during the qualification period, you received a higher allocation). General Category permit holders that did not meet the qualifying criteria for an LAGC IFQ permit were eligible to receive either an LAGC NGOM permit or LAGC Incidental permit. Limited access vessels that fished under general category rules and qualified under the same IFQ qualification criteria were issued LAGC IFQ permits and allocated a portion of (0.5%) of the total scallop allocation. Unlike vessels with only LAGC IFQ permits, limited access vessels that also qualified for an LAGC IFQ permit were not allowed to transfer quota in or out.

Table 1 - Number of General Category permits before and after the implementation of Amendment 11 to the Scallop FMP. Source: Scallop FW 29 <https://www.nefmc.org/library/framework-29-1>

YEAR	General category permits (open access)	Number of permits qualify under Amendment 11 program			Total
		IFQ (incl. LA permits)	NGOM	Incidental	
		(A)	(B)	(C)	
2007	2,493				2,493
2008		342	99	277	718
2009		344	127	301	772
2010		333	122	285	740
2011		288	103	279	670
2012		290	110	280	680
2013		278	97	282	657
2014		260	103	260	623
2015		242	90	242	574
2016		273	104	255	632
2017		250	97	242	589

**General
Category and
Northern Gulf
of Maine
Background
Information
(cont.)**

Table 2 – The number of active, inactive (including those in confirmation of permit history (CPH)), and total LAGC IFQ permits in fishing year (FY) 2010 to 2017.

FY	Active LAGC IFQ Permits	Inactive/CPH LAGC IFQ Permits	Total LAGC IFQ Permits
2010	151	179	330
2011	138	192	330
2012	123	195	318
2013	118	198	316
2014	131	185	316
2015	128	185	313
2016	141	173	314
2017	137	178	315

Northern Gulf of Maine Management Area:

The Council also established the Northern Gulf of Maine Management Area and permit category through Amendment 11. The area was developed to enable continued fishing and address concerns related to conservation, administrative burden, and enforceability of scallop fishing within the Gulf of Maine. The initial measures were intended to allow directed scallop fishing in the NGOM, and the Council envisioned that management of this area would be reconsidered if the scallop population and fishery in the NGOM grew in the future.

During development of Amendment 11 the Council did not recommend restrictions on LA vessels fishing in the NGOM because “the improved management and abundance of scallops in the major resource areas on Georges Bank and in the Mid-Atlantic region has made access to GOM scallops less important for the limited access boats and general category boats from other regions. As a result, a separate management program for scallops in the NGOM is unlikely to have any impact on these vessels” (see Amendment 11 Executive Summary NEFMC, 2007 page ix). At this time, limited access vessels were able to operate in the NGOM management area under days-at-sea (DAS) management as long as the LAGC TAC had not been caught.

Vessels receiving NGOM permits are authorized to fish within the Northern Gulf of Maine (NGOM) Management Area with a 200-pound-per-day trip limit until the annual total allowable catch (TAC) for the area is caught.

General Category and Northern Gulf of Maine Background Information (cont.)

Figure 1 - The extent of the Northern Gulf of Maine Management Area relative to groundfish closed areas, habitat management areas, dedicated habitat research areas, and boundaries for state waters and the days-at-sea vessel monitoring system (VMS) demarcation line.

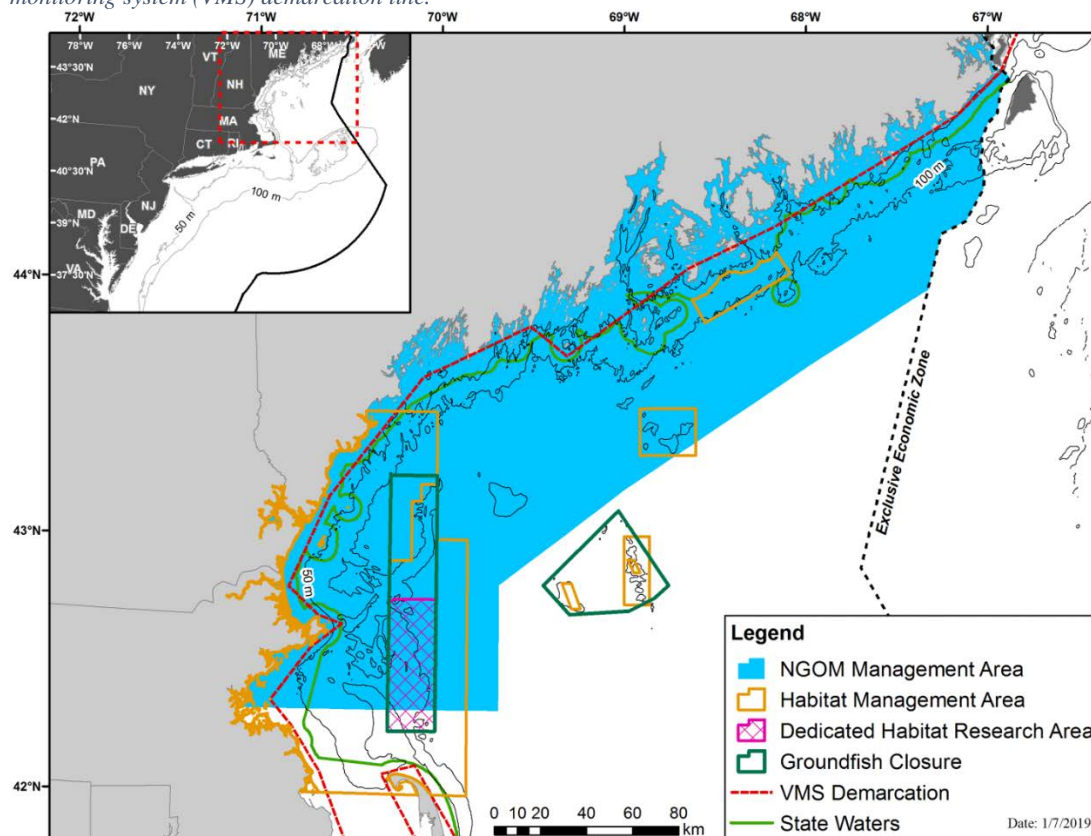
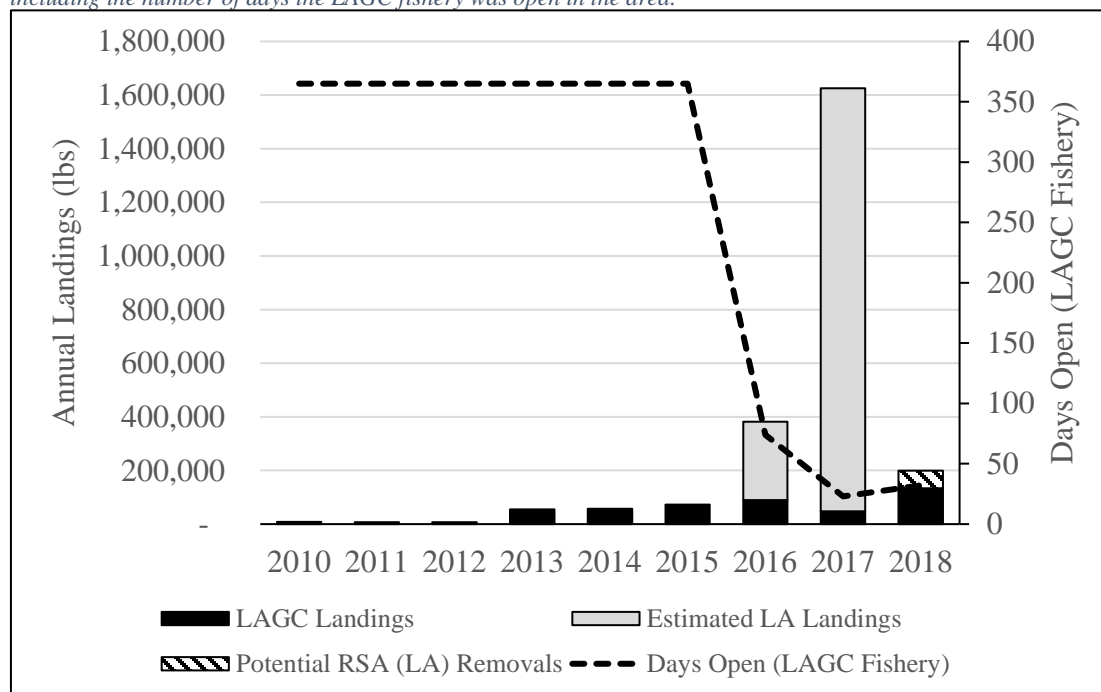


Figure 2 - Estimated Landings(lbs) from the Northern Gulf of Maine Management Area from 2010 - 2018, including the number of days the LAGC fishery was open in the area.



**General
Category and
Northern Gulf
of Maine
Background
Information
(cont.)**

From 2009 – 2015 the NGOM TAC of 70,000 lbs was not caught, and the fishery remained open for the entire year. In FY2016 there was a notable increase in effort in the NGOM management area by both LAGC and LA vessels fishing the large year class of scallops on Stellwagen Bank. In-season monitoring estimated that the NGOM TAC was caught by the LAGC roughly 11 weeks after the start of the fishing year, and the area closed to all federally permitted vessels for the remainder of the year. Monitoring removals by the LA component in the NGOM was challenging because vessels could fish both inside and outside NGOM management area while fishing DAS on the same trip. Effort increased again in FY2017, with estimated removals topping 1.6 million pounds from a total of 105 vessels. The NGOM area closed 23 days into the fishing year once the LAGC was projected to catch their TAC.

In response to the increase in effort and landings in the NGOM area in 2016 and 2017, the Council developed a problem statement in Framework 29 for the federal scallop fishery in the NGOM management area:

Recent high landings and unknown biomass in the Northern Gulf of Maine Scallop Management Area underscore the critical need to initiate surveys and develop additional tools to better manage the area and fully understand total removals.

The scallop resource in the Gulf of Maine (including the resource in federal waters of the NGOM management area) is outside of the area considered in periodic stock assessments; however, the most recent benchmark assessment (SARC 65, 2018) did discuss the Gulf of Maine resource. The benchmark did not change how GOM scallops are considered in the overall stock assessment, but it did summarize existing data from the region and put forth recommendations regarding how catch advice might be developed in the future.

Management of the scallop fishery is aided by two key data streams: 1) annual broad scale surveys of the resource, and 2) fishery data collected by at-sea observers. These data are used to assess the condition of the scallop resource and to measure the impact of the fishery on the scallop resource, fish habitat, and non-target species caught as bycatch. While these data are available for Georges Bank and the Mid-Atlantic, the Gulf of Maine is considered a data poor region due to sporadic survey efforts and limited at-sea monitoring. The frequency of surveys in the GOM historically has followed the boom-and-bust nature of the scallop resource. The Council recommended that industry-based surveys in the Gulf of Maine be a high priority through the Scallop RSA program beginning in 2017.

Limited Access General Category IFQ Possession Limits:

The initial General Category possession limit was set at 400 pounds per trip through Amendment 4 (1994). Amendment 11 maintained the General Category possession limit of 400 pounds for qualifying IFQ vessels (2007). Amendment 15 (2011) increased the LAGC IFQ possession limit to 600 pounds following concerns from industry members that the 400-pound possession limit was not economically feasible due to increased operating costs. The 200-pound trip limit increase was not expected

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to change the nature of the “dayboat” fishery and would keep the LAGC IFQ component consistent with the vision statement laid out by the Council in Amendment 11.

Amendment 15 also increased the maximum quota a vessel could hold from 2% to 2.5% of the overall LAGC IFQ allocation, and allowed permit holders to permanently transfer some or all their quota allocation to another permit holder while retaining the permit itself. The Councils’ initial vision statement of the limited access general category fishery was that possession limits to maintain the historical character of this fleet and provide opportunities to various participants including vessels from smaller coastal communities.

LAGC IFQ transfer from LA to LAGC IFQ:

Amendment 11 also allocated IFQ to limited access vessels that held a general category permit and met the same qualification criteria selected for the LAGC program. The LAGC IFQ share available to the Limited Access qualifiers was up to a total of 0.5% of the annual projected landings for the fishery and each qualifying vessel received an individual share based on their historical contribution to general category landings. These vessels with both LA and LAGC IFQ permits were allowed participate in the general category fishery (i.e. outside of a scallop DAS/access area trip), under the same management measures that apply to the LAGC IFQ fishery (i.e. trip limits, gear restrictions). A key difference between LA/LAGC IFQ vessels and the LAGC IFQ-only fleet is that LA/LAGC IFQ vessels were prohibited from transferring quota in or out. The Council’s rationale for this approach was that limited access vessels that had enough general category landings to qualify for quota should be permitted to fish under general category rules because these limited access vessels depended on revenue generated through general category fishing. The Council identified 0.5% as the allocation for the LA component with LAGC IFQ history because that value was close to what historical landings had been by LA vessels in years preceding Amendment 11 and did not represent a large amount of the total catch. Furthermore, the Council felt that an allocation of 0.5% to these vessels would not have substantial impacts on other limited access and general category vessels. The number of permits and recent allocations to LA/LAGC IFQ permits are shown in Table 3.

Amendment 15 allowed LAGC IFQ permit holders to permanently transfer some or all of their quota allocation to another LAGC IFQ permit holder while retaining the permit itself. During development of Amendment 15, the Council considered an option that would have included LA/LAGC IFQ permit holders in this allowance; however, the Council opted against this option because it would change the overall 5% and 0.5% allocations specified in Amendment 11. For example, the 5% allocation would be expected to increase if an LA/LAGC IFQ vessel permanently transferred quota to an LAGC IFQ-only vessel. An increase in the 5% allocation would have implications on quota accumulation caps that apply to LAGC IFQ-only permit holders (i.e. 5% maximum for owners, 2.5% maximum for individual vessels).

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Table 3 – The number of LA/LAGC IFQ permits and quota allocations (alloc.) to LA/LAGC IFQ permits (i.e. 0.5% of APL) relative to the total IFQ allocations (i.e. 5.5% of APL), from fishing year 2013 to 2018.

FY	LA/LAGC IFQ permits	LA/LAGC IFQ alloc. (lbs)	Total IFQ alloc. (lbs)
2013	38	222,714	2,449,856
2014	40	220,286	2,423,145
2015	40	271,168	2,971,831
2016	40	405,650	4,473,179
2017	40	227,076	2,489,019
2018	40	279,987	3,086,472

What actions have already been taken?

Northern Gulf of Maine

Framework Adjustment 29 (FW 29) developed measures to address the Council's problem statement of high landings and unknown biomass for fishing year 2018. Newly developed measures provided managers with the tools to track fishing effort and landings by all components from the NGOM management area. This action also updated the overall NGOM TAC based on recent survey information and established separate TACs for the LA and LAGC components. The LAGC share was calculated by applying the first 70,000 lbs to LAGC TAC, and then splitting the remaining pounds 50/50 between the LAGC and LA component. The rationale for this approach was that the NGOM TAC for the LAGC component was set at 70,000 pounds from 2008 – 2016. This TAC split approach was intended to be a short-term solution to allow controlled fishing in the NGOM management area until a future action (this action) could be developed to address NGOM issues more holistically.

The NGOM fishery opened on April 1, 2018 with new regulations in place. The LAGC share of the TAC was caught in less than six weeks. The LA share of the TAC was made available for research set-aside (RSA) compensation fishing only. Framework 29 also required any vessels fishing in the NGOM to declare into the area and to fish exclusively within NGOM boundary.

The Council has recommended alternatives in Framework 30 for the 2019 and 2020 fishing seasons that are consistent with the problem statement and temporary approaches that the Council developed in Framework 29.

LAGC IFQ Possession Limits

The Council has not modified LAGC IFQ trip limit since Amendment 15 (2011). However, the Council has recently devoted resources to several bodies of work that focused on the LAGC IFQ fishery, which remain germane to the possession limit issues under consideration in Amendment 21. The first body of work is a comprehensive program review of the IFQ fishery and is described below.

***General
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2017 IFQ program review

The Magnuson-Stevens Act (MSA) § 303A (c)(1)(G) requires a detailed review 5 years after the implementation of limited access privilege programs (LAPP) for “determining progress in meeting the goals of the program and this Act, and any necessary modification of the program to meet those goals.” On June 15, 2017 the Council reviewed and approved the Limited Access General Category IFQ Fishery Program Review (2010 – 2015) in compliance with MSA requirements. The IFQ review addressed both the goals of the program as specified in Amendment 11, as well as the general goals of the MSA including those related to limited access privileges. The program review addressed four key questions and the high-level findings that were presented to the Council are summarized below:

Has the IFQ program:

1. Resulted in benefits to the Nation, including the evaluation of biological, economic and social criteria in such decision making?

The program review found that the IFQ program had resulted in increased net revenues and producer surplus during the program period, though estimates of crew incomes depended upon whether or not lease costs came from crew shares.

2. Preserved the ability for vessels to participate in the general category fishery at different levels and/or prevented excessive shares?

The review found that LAGC IFQ vessels continued to participate in the fishery at different levels throughout the range of the fishery. The quota leasing market had increased in the number of participants over time with increasing cohesion among participants. Over the evaluation period quota holdings became more equally distributed across fishery participants. At a 5% share cap the smallest possible number of affiliates would be 20, but in 2015 there were 192 affiliates.

3. Controlled capacity, controlled mortality, and promoted fishery conservation and management?

Overall the report found that the IFQ program had been effective at controlling mortality and preventing overfishing. The IFQ component had not exceeded its sub-ACL during the program period. The number of the active vessels in the fishery pre-A11 declined sharply as a result of the limited access program, and dropped 15% from 2010 – 2015. There was an increase in the number of boats smaller than 50 feet from 2010 – 2015, while the number of active vessels greater than 50 feet declined.

4. Promoted fishing safety, compliance, and enforcement?

The program review found that the average age of LAGC IFQ vessels had decreased, and that the oldest vessels in the fleet (pre-1940 builds) had become inactive. Overall VMS reporting compliance had improved over the review period, but was still low for non-IFQ trips catching scallops. The size and frequency of quota overages also

declined over the program period, suggesting that compliance had improved.

The full program review is available on the Council's website at this link:

<https://www.nefmc.org/library/ifq-report-information>.

2018 Discussion Document on IFQ Trip Limits

In 2018, the Council's Scallop Committee directed work to analyze the impacts of modifying the possession limit in 200-lb increments from 400-lbs to 1,200-lbs.

Along with assessing economic impacts of changing the possession limit, supporting information and additional analyses were gathered to fully describe the LAGC IFQ fishery between 2010 and 2017. While a full accounting of analyses was provided to the Council in September 2018 (see Doc.4a-b at this link:

<https://www.nefmc.org/library/september-2018-scallop-report>), the key are:

- The number of active LAGC IFQ permits has declined over time.
- Overall participation (i.e. number of active vessels, annual landings, annual allocation) in the LAGC IFQ fishery has remained diverse in terms of vessel size.
- Vessel length and horsepower baseline restrictions do not apply to LAGC IFQ permits, unless part of a permit suite subject to restrictions from a permit in another fishery. In 2017, roughly 45% of LAGC IFQ permits were not subject to baseline restrictions.
- At higher trip limits, fewer days at sea would be needed to fish the same amount of quota. Therefore, benefits would be seen due to a reduction in annual maintenance and repair costs as well as annual trip costs.
- Lease prices are expected to increase at higher trip limits, meaning:
 - Vessels that do not rely heavily on the lease market will benefit (i.e. the less you lease in, the more you make).
 - Net revenue is expected to decrease at higher trip limits for vessels that lease in half or more of their total landings (i.e. ~40% of the active fleet in FY2017).
- At higher possession limits, trip length would be expected to exceed the current average (i.e. at a 600-pound limit), which is estimated to be approximately one (1) day. Note that the current reimbursement for carrying an observer is limited to one (1) day. If vessels carrying an observer were to change their fishing behavior to keep trip length within the one-day reimbursement window, it would introduce an observer bias.
- Vessel owners with little to no lease cost or vessel owners that do lease but have lease costs paid for by the crew would be expected to see an increase in profits. On the other hand, vessel owners that lease and split lease costs with the crew would likely see no change or a decline in profits relative to what is estimated at the 600-pound limit.
- At higher trip limits for crews that pay lease costs, crew shares could stay the same or improve for vessels with little or no lease costs, while vessels that lease half or more of their total landings could expect to see a decline in crew shares. For crews that split lease costs with the vessel owner, crew shares at higher trip limits would be expected to remain constant or slightly improve.

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- Overall, owners that lease out only and active vessels/crews that do not rely on leased quota would benefit the most from a higher trip limit.

At the request of the Council, the NMFS proposed in November 2018 to expand the area in which the LAGC IFQ component may operate to include all of Georges Bank. Previously, the LAGC IFQ component was allowed to fish open trips within four designated Scallop Dredge Exemption Areas (i.e. Gulf of Maine, Great South Channel, Southern New England, and Mid-Atlantic). This change is expected to increase the range that LAGC IFQ vessels can prosecute the fishery and increase opportunities to target high concentrations of scallops further offshore. One impact of LAGC IFQ vessels fishing further offshore is that trip length could increase (i.e. beyond the current average trip length of 1 day). As noted above, the current reimbursement for observers is limited to one day. If vessels change their behavior when carrying an observer because they would not be compensated for longer trips, it would introduce observer bias.

What action is the Council considering?

The Council will consider changes to the to the Northern Gulf of Maine (NGOM) Management Area, LAGC IFQ possession limits, and the one-way transfer of quota from LA/LAGC IFQ to LAGC IFQ-only vessels. The Council has devoted considerable resources toward the development of temporary NGOM management measures and the evaluation of the LAGC IFQ fishery in recent years. When developing this amendment, the Council will draw upon a substantial body of existing work such as the LAGC IFQ Program Review (2017), and Framework Adjustment 29 to the FMP.

Northern Gulf of Maine

Amendment 21 could include a range of alternatives focusing on the Northern Gulf of Maine management area. These changes may include but are not limited to: developing set-asides to support research and fishery monitoring in the NGOM management area, an allocation split between the Limited Access and Limited Access General Category components for the NGOM management unit, changes to the boundary of the NGOM management area, measures for managing the area at different levels of exploitable biomass, effort controls, consistent gear restrictions, or possession limits. The action may include measures that would change the ability of LAGC permits to move between permit categories. Alternatives that would spread the availability of the total allowable catch in this area across the full fishing year (e.g. trimesters), change the opening date of the fishery, and(or) allocate portions of the allowable catch across sub-regions of the NGOM, could also be considered in this action. The action may change how landings by IFQ vessels in the NGOM are accounted for. This action may consider the development of an at-sea monitoring program that could include human observers and(or) using cameras to monitor fishing activity, which is usually referred to as Electronic Monitoring, or EM.

Limited Access General Category Possession Limits and Quota Transfers from LA to LAGC

The Council may also consider changes to LAGC IFQ possession limits. This may include changes to open and access area trip limits, or aggregate landings limits (e.g. weekly limit). Amendment 21 may also include measures that would allow Limited Access vessels that qualified for LAGC IFQ to permanently or temporarily transfer quota to LAGC IFQ vessels only. The Council may also consider accompanying measures that aim to achieve its vision for the LAGC component.

Why should I comment?

The scoping process is an important part of amendment development, and 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 raise issues and concerns for the Council to consider during the development of Amendment 21 to the Atlantic Sea Scallop FMP. Your comments early in the amendment development process will help the Council address your concerns more thoroughly and ensure that an adequate range of alternatives is considered to address this important issue.

What should my comments address?

Management measures developed by the Council and implemented by NMFS must comply with all applicable Federal laws and Executive Orders. In particular, management measures must comply with ten National Standards specified in the MSA. During this scoping process, the Council is particularly seeking comments regarding how to develop alternatives for changing how the Northern Gulf of Maine area is managed, and possession limits for the LAGC IFQ component. While your comments may address any aspect of the specific issues identified for this action, the Council is seeking your input on the following:

Northern Gulf of Maine

- What alternatives should the Council consider in Amendment 21 to change how the Limited Access and Limited Access General Category components operate in the federal scallop fishery in the Northern Gulf of Maine management area? Should the Council consider different approaches to managing this area at different levels of scallop biomass? What do you perceive the impacts of these changes would be?
- What specific issues are most important when evaluating the tradeoffs of developing additional measures in the Northern Gulf of Maine Management Area?
- Should the Council consider establishing a separate research set-asides from the NGOM TAC to support research and monitoring in the management area?

Limited Access General Category Possession Limits and LA quota transfers

- If the Council modifies the LAGC IFQ trip limit, what should it change to? Should the trip limit be the same for open area and access area trips? Are there other approaches that the Council should consider, such as a weekly landings limit?
- What specific issues are most important when evaluating the tradeoffs of increasing the LAGC IFQ trip limit from 600 pounds?

***Limited Access General Category Possession Limits and LA quota transfers
(cont.)***

- Preliminary analysis suggests that increasing the trip limit could lead to greater lease prices. How might higher lease prices impact the LAGC IFQ fishery?
- The proposed expansion of the dredge exemption areas and higher trip limits may lead to fishing further offshore by LAGC IFQ vessels, and longer trips dock to dock. Should the Council consider increasing the amount the amount of compensation pounds that LAGC IFQ vessels can receive to offset the cost of multi-day trips that carry an observer?
- Should the Council allow Limited Access vessels that qualified for LAGC IFQ to transfer quota to LAGC IFQ only vessels. Should the Council consider permanent and temporary transfers? How might this change impact the LAGC IFQ fishery? What specific issues are most important when evaluating the tradeoffs of allowing LA to transfer IFQ to LAGC IFQ only vessels?

***What is the
process?***

The Council, its Scallop Committee, and Scallop Advisory Panel have held preliminary public discussions on Amendment 21 to the Atlantic Sea Scallop FMP and the range of alternatives that may be considered/analyzed. The publication of this scoping document and an announcement in the *Federal Register* of the Council's intent to consider management measures for the Atlantic Sea Scallop fishery is the first part of the formal Amendment 21 process. Public comment will be accepted starting in February and continue into April 2019. Ten scoping hearings for Amendment 21 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 Amendment 21 scoping process, goals/objectives and a range of alternatives will be developed by the Scallop Committee, with input from the Scallop Advisory Panel and the Scallop Plan Development Team (PDT), through a series of public meetings during 2019. The Council's Scientific and Statistical Committee may also review scientific aspects of the action after goals, objectives, and alternatives are developed, if needed.

Once all input and guidance has been considered and a range of alternatives has been developed by the Council for further consideration (late 2019 expected), the impacts of the alternatives will be analyzed by the Scallop PDT, and a Draft EA or EIS for Amendment 21 may be published and sent out for public review and comment. At that time (early-2020), the public will have more specific alternatives and analyses on which to comment. Following a review of comments received on the Amendment 21 Draft EIS or EA, the Council will choose final management measures to submit to the Secretary of Commerce for implementation.

***How do I
comment?***

The Council is scheduling ten scoping meetings, including one webinar, for this amendment (see location and dates of meetings on the back of the cover page). You may attend any of the Amendment 21 scoping meetings to provide oral comments, or you may submit comments by email to comments@nefmc.org. The deadline for written comments is 5 p.m. EST on April 15, 2019.

The Council, in coordination with NMFS, plans to publish a Notice of Intent (NOI) in the Federal Register (FR) to prepare an environmental impact statement (EIS) for Amendment 21. The deadline for scoping comments may be extended if the deadline associated with the NOI that publishes in the FR is later than April 15, 2019.

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 Amendment 21 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.

Supplemental Scoping Document
for
Amendment 5
to the
Northeast Skate Complex
Fishery Management Plan



Prepared by the
New England Fishery Management Council
December 7, 2020

Amendment 5 Supplemental Scoping Meeting Schedule

The New England Fishery Management Council (NEFMC) is conducting two scoping meetings via webinar, to solicit comments on Amendment 5 to the Northeast Skate Complex Fishery Management Plan (FMP).

<u>Date and Time</u>	<u>Location</u>
Via Webinar Thursday January 21, 2021 3:30 – 5:30 pm	Webinar Hearing Register to participate: https://attendee.gotowebinar.com/register/3036577748943629579 Call in info: (631) 992-3221 Access Code: 331-326-701
Via Webinar Monday February 8, 2021 4 – 6 pm	Webinar Hearing Register to participate: https://attendee.gotowebinar.com/register/6858166806279145739 Call in info: (401) 655-0052 Access Code: 987-552-568

You may attend the above scoping meetings to provide oral comments, or you may submit written comments on the Amendment 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 comment deadline is 5:00 p.m. EST, Friday, February 12, 2021.

Please note on your correspondence: “Northeast Skate Complex Amendment 5 Scoping Comments.”

<i>Your comments are invited</i>	The Council may amend the Fishery Management Plan (FMP) for the Northeast Skate Complex under the authority of the Magnuson-Stevens Fishery Conservation and Management Act. In accordance with the National Environmental Policy Act (NEPA), the Council is in the process of preparing an Environmental Impact Statement (EIS) for Amendment 5 to the Northeast Skate Complex FMP that will analyze the impacts of this amendment on the affected biological, physical, and human environments.
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	<p>This document announces a supplemental scoping period for Amendment 5. The Council seeks your ideas, concerns and other comments to identify management issues and develop alternatives for the wing and/or bait skate fishery. Following the supplemental scoping period, the Council, with continued public input, will develop a range of alternatives to address the problem statement and goals of this action, which could also be revised based on scoping comments.</p>
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<p><i>Why is the Council proposing to act?</i></p>	<p>The Council first conducted scoping for Amendment 5 in early 2017 to address concerns that increasingly strict regulations in other fisheries might cause fishermen to shift effort into the open access skate fishery. This could cause the fishery to use its quota quickly, trigger reduced skate possession limits, or have negative economic impacts on current participants. To prevent this, the Council has been considering implementing limited access for the skate fishery.</p> <p>In September 2020, the Council expanded the scope of Amendment 5 to consider other measures that may prevent the triggering of incidental skate possession limits, improve the precision and accuracy of fishery data, and better define skate fishery participants. Specifically, the Council approved the following problem statement:</p> <p>“There are two modes of the skate fishery, directed and non-directed fisheries. An incidental limit has been triggered five times since first implemented July 2010, and when it gets triggered, there are negative impacts on the directed skate fishery and on the other fisheries that incidentally harvest skate.</p> <p>“There is a need to improve the reliability and accountability of catch reporting in the skate fishery (and other fisheries that catch skate) to ensure there is precise and accurate representation of catch (landings and discards). Accurate catch data are necessary to ensure that catch limits are set at levels that prevent overfishing and to determine when catch limits are exceeded.</p> <p>“Current and potential access to the skate resource make it difficult to achieve long term sustainable management in the skate fishery. It is more difficult to prevent overfishing and predict outcomes of management when participants in a fishery cannot be defined.”</p> <p><i>NOTE:</i> The Council could revise the problem statement by, for example, making more linkage between the issues or identifying an overarching problem. The Council seeks comments on whether, how, and why the problem statement articulates current issues in the <u>wing and/or bait fishery</u> that should be addressed and/or if other issues should be considered.</p>
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<p><i>What are the goals of this action?</i></p>	<p>As approved by the Council in September 2020, the goals of Amendment 5 are to:</p> <ol style="list-style-type: none"> 1. Avoid tripping the skate incidental possession limit. 2. Improve skate data, leading to improved assessments (e.g., no longer be considered data-poor) and more precise and accurate understanding of the landings and discards in different segments of the fishery. 3. Minimize discards. 4. Better characterize the directed and non-directed fisheries. 5. Better understand the true potential for vessels to enter the fishery. 6. Minimize the impact on any other fisheries that have interactions with skates. 7. Preserve, to the extent possible, ongoing participation the fishery consistent with how past utilization has occurred. <p>NOTE: These goals are the outcomes the Council identified to solve the issues identified in the problem statement. The Council could revise the goals and seeks comments on whether, how, and why the goals would address the problem statement and/or if other goals should be considered for the <u>wing and/or bait fishery</u>.</p>
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<p><i>What types of measures are being considered for this action?</i></p>	<p>Also approved in September 2020, the following types of measures are being considered for achieving the goals of this action:</p> <ol style="list-style-type: none"> 1. An intermediate trigger to slow the wing and/or bait fishery. 2. Limited access for the wing and/or bait fishery, with or without tiers for different qualification criteria for permit categories. 3. Creating different TALs for the wing fishery segments (e.g., directed and non-directed TALs). 4. Monitoring requirements for the wing and/or bait fishery beyond NEFOP/SBRM requirements. 5. Restrict switching between state and federal fishing for the wing and/or bait fishery. 6. Gear modifications that could reduce bycatch for the wing and/or bait fishery (e.g., 12" mesh gillnet size). 7. Make the Federal skate permit a year-round permit for the wing and/or bait fishery. 8. Additional reporting requirements for the wing and/or bait fishery (e.g., VMS declarations, daily catch reports). <p>NOTE: The Council seeks comment on whether, how, and why these types of measures would achieve the goals identified and/or if others should be considered. Also, <u>the Council could develop measures that apply to just the wing fishery, just the bait fishery, or to both. The Council seeks comment on whether, how, and why these measures should apply to the wing and/or bait fishery.</u></p>
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<p>Background Information</p>	<p>The Northeast Skate Complex has seven species: barndoor skate, clearnose skate, little skate, rosette skate, smooth skate, thorny skate, and winter skate. The Northeast Fisheries Science Center trawl survey is used to assess the status of the seven skate species in the complex. Trawl survey abundance indices serve as a biomass proxy and stock status definitions are based on changes in these indices. Currently, only thorny skate is in an overfished condition and has a rebuilding plan, and overfishing is not occurring on any species.</p> <p>At present, there is only one type of Federal skate permit, an open-access permit (one of the few open access fisheries in New England). Anyone with a valid Federal fishing permit can obtain a Federal skate permit. Doing so allows the permitted vessel to catch skates in the EEZ and to land them as wings or bait. If fishing for skate wings with the intent to land over the 500 lb incidental limit, the vessel must also have a Federal limited access permit for either the Northeast multispecies, monkfish or scallop fishery, and must declare into and use a day-at-sea (DAS) of one of those fisheries (unless declaring out of fishery to fish in an exemption area or transiting from the NAFO Regulatory Area). To land bait using the higher bait possession limit, a vessel needs a skate permit and a Letter of Authorization for bait. Additional information on possession limits (current and historical) and the triggering of incidental limits in the skate wing and bait fisheries are included in the Amendment 5 Discussion Document (Section 5.6.1.3).</p> <p>The skate bait and wing components each have total allowable landings (TAL) divided into seasons and have distinct possession limits that have varied over time. The overall TAL is divided between the two fisheries – 33.5% is allocated to the bait fishery and 66.5% to the wing fishery. In fishing years 2020 and 2021, the bait fishery has three seasons, each with a 25,000 lb possession limit. The wing fishery has two seasons, with 3,000 lb and 5,000 lb possession limits.</p> <p>More information on skate management and the fishery is on the website of the Greater Atlantic Regional Office and in the Amendment 5 Discussion Document.</p>
<p>Some issues to consider regarding limited access</p>	<p>During the original public scoping period in 2017, Amendment 5 was focused on considering implementing limited access for the skate fishery. Although the scope of this action has broadened, the Council invites additional comment on limited access and the expanded types of measures that may be considered for the skate <u>wing and/or bait fishery</u>.</p> <p>Control date. A control date for the bait fishery was established on July 30, 2009. A control date was set for the wing (non-bait) fishery on March 31, 2014. The purpose of the control date was to provide public notice after which future participation in the fishery might not be guaranteed for new entrants if a limited entry program is implemented. Although the Council may use the control date for this purpose, it is not obligated to use limited entry to manage the fishery or to use participation before the control date as the sole basis for</p>

	<p>qualification. The Council may also choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.</p> <p>Potential qualification criteria. In developing a limited access program, the Council may establish qualification criteria for skate fishing permits and possibly different qualification criteria or catch limits for the bait and/or wing components, considering how they operate differently. Qualification criteria may include factors such as, but not limited to, the years vessels have participated in the fishery, historical levels of landings, and dependence on the fishery. For example, it may be desirable to have different tiers that distinguish between vessels that target skate and vessels that land smaller quantities of skate. Having different categories of limited access vessels may treat vessels differently based on their individual fishing history. In any qualification program, the details of the qualifying criteria are critical, and usually controversial.</p> <p><u>Questions to consider when commenting (specify if comment is applicable to <i>wing, bait, or both fisheries</i>):</u></p> <ul style="list-style-type: none"> • Should the Council consider and use limited access to manage capacity in both or one of the Northeast Skate Complex fisheries? Why or why not? • If a limited access program is established, should qualifying criteria be based on the bait and/or wing (non-bait) control dates or some other dates? Should limited access be implemented in both skate fisheries? • Should the Council consider more than one type of (or tiered) limited access permit, with allowed landings varying by permit type and/or landings history? For example, a vessel with a lower level of historical participation in the fishery could qualify for a restricted or tiered limited access permit but might be allowed to make fewer skate trips or have reduced possession limits. • Should limited access permits be based on a level of landings during specific years? What years should be considered? What other factors in a vessel's history should be considered? • If qualification criteria are established, how would limited entry change the present participation and historical fishing practices in either or both of the fisheries? • What sources of data should be used to determine limited access qualification? Should the qualification criteria be based on landings from dealer reports, Vessel Trip Reports (VTRs), and/or Interactive Voice Response (IVR) Quota Monitoring Reports? <p>Potential limited access permit characteristics and conditions. Other FMPs that have considered and/or implemented limited access have also developed permit characteristics and conditions related to issues like encouraging new entrants, accumulation limits, and permit transfers, - restrictions on how permits may be used, when they may be activated, and/or how they may be transferred, leased, or consolidated. There are also regulations in other FMPs (e.g., using a monkfish, Northeast multispecies, or scallop DAS to land skate</p>
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	<p>wings above the incidental limit) that could have bearing on how and when skate permits may be fished.</p> <p><i>Questions to consider when commenting (specify if comment is applicable to <u>wing</u>, <u>bait</u>, or <u>both fisheries</u>):</i></p> <ul style="list-style-type: none"> • Should a mechanism exist to allow a limited number of new entrants in the wing and/or bait fishery if it is not achieving Optimum Yield due to insufficient fishing effort? If so, what factors should be considered? • Should Amendment 5 develop an accumulation limit for skate fishery permits (for the wing and/or bait fishery)? • Regulations for other management plans, including those governing Northeast multispecies fishing, allow for various types of temporary or permanent transfers of harvest allocations or permits. To be consistent with other regulations that may apply to a qualifying skate vessel, should skate limited access permits and/or harvest allocations be transferable for the wing and/or bait fishery (with the sale of the vessel, by lease, or some other means)? If so, what conditions should apply to such transfers? <p>Potential permit categories and associated measures. For the wing and/or bait fishery, there could be multiple categories of limited access permits with different qualification criteria. Potentially, an open-access permit could remain for vessels that do not qualify for limited access. Each permit category may have specific landing limits or other restrictions.</p> <p><i>Questions to consider when commenting (specify if comment is applicable to <u>wing</u>, <u>bait</u>, or <u>both fisheries</u>):</i></p> <ul style="list-style-type: none"> • If multi-tiered limited access permit categories are developed, should the amount of skate fishing activity allowed under each permit category be differentiated? • Should fishing limits (e.g. trips, possession limits, total landings, etc.) be consistent with a vessel's qualification history for either/both the wing and bait fishery? If so, how? • If different limited access permits exist, should management areas also be established? If this is done, what conditions and limits should apply? • Presumably, vessels that do not qualify for limited access permits would be prohibited from portions of the skate fishery. Should such vessels be allowed to land skate (wing and/or bait), potentially under a low skate possession limit?
<p><i>Some issues to consider regarding other types of measures</i></p>	<p>In addition to limited access, the Council may consider measures such as creating an intermediate trigger for incidental limits, creating different landing limits for segments of the wing fishery, revising monitoring and reporting requirements, restricting switching between state and federal fishing for the</p>

	<p>wing and/or bait fishery, modifying gear to reduce bycatch, and making the Federal skate permit a year-round permit for the wing and/or bait fishery.</p> <p><i>Questions to consider when commenting (specify if comment is applicable to <u>wing</u>, <u>bait</u>, or <u>both fisheries</u>):</i></p> <ul style="list-style-type: none"> • Some measures may distinguish directed and non-directed fishery components. How should these components be defined for the wing and/or bait fishery? • Would an intermediate possession limit successfully prevent the triggering of incidental possession limits and exceedance of TALs? • Would different TALs for the wing and/or bait fishery segments help prevent the triggering of incidental possession limits and exceedance of TALs? • How might monitoring and reporting requirements change to improve the precision and accuracy of the landings and discards in the skate fishery? How should monitoring and reporting changes impact or interact with the requirements of other fisheries caught in conjunction with skates? • How might making state and Federal fishing more distinct and/or making the Federal skate permit year-round help improve fishery data, catch accounting, and/or better understand the true potential for vessels to enter the fishery? • Which gear modifications should be considered to reduce discards? How should gear modifications impact or interact with the requirements of other fisheries caught in conjunction with skates? • What type of bycatch reductions should be focused on (e.g., juvenile skate, other species caught in conjunction with skate)?
<p><i>What actions have already been taken?</i></p>	<p>The wing fishery is largely an incidental fishery, although several vessels target skate in some localities. Vessels tend to catch skates when targeting other species like groundfish, monkfish, and scallops and land them as wings if the price is high enough. The bait fishery is more directed, and skate bait is primarily used in the lobster fishery.</p> <p>The first stock assessment for Northeast Skate Complex was in November 1999. The assessment indicated that four of the seven species of skates were in an overfished condition: winter, barndoor, thorny, and smooth. In addition, overfishing was thought to be occurring on winter skate. The FMP initially set limits on fishing related to the amount of groundfish, scallop, and monkfish DAS and measures in these and other FMPs to control the catch of skates.</p> <p>Amendment 3 became effective on July 16, 2010, implementing a new ACL management framework that capped catches at specific levels determined from survey biomass indices and median exploitation ratios and reduced the skate wing possession limit from 20,000 lb (45,400 lb whole weight) to 5,000 lb (11,350 lb whole weight) of skate wings, established a 20,000-lb whole skate bait limit</p>

	<p>for vessels with skate bait letters of authorization, and allocated the skate bait quotas into three seasons proportionally to historic landings.</p> <p>Subsequent actions for skate have updated specifications, altered possession limits, revised discard mortality rate estimates, and modified the VTR and dealer reporting codes for the skate wing and bait fisheries. Since the original scoping for Amendment 5, there have been four framework adjustment actions (Frameworks 4-8) implemented to help avoid triggering incidental limits. Measures include making separate bait and wing incidental limits; lowering the uncertainty buffer to increase quota; and increasing trip limits.</p>
<p>How is Amendment 5 consistent with the goals and objectives of the Northeast Skate FMP?</p>	<p>The goal and objectives of the Northeast Skate Complex Fishery Management Plan are unchanged since the original FMP was adopted in 2003. Through the development of Amendment 5, the Skate Plan Development Team has brought it to the attention of the Skate Committee and Council that some of the FMP objectives are outdated. Amendment 5 should be consistent with and support the goal and objectives of the Skate FMP. However, there may be updates to the FMP objectives made through Amendment 5. Here are the FMP goal and objectives <i>[with notes]</i>:</p> <p>Skate FMP Goal: Consistent with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws, to develop a Fishery Management Plan to research and manage the Northeast Skate Complex at long-term sustainable levels.</p> <p><u>Objective 1:</u> Collect information critical for substantially improving knowledge of skate fisheries by species and for monitoring: (a) the status of skate fisheries, resources, and related markets and (b) the effectiveness of skate management approaches.</p> <p><u>Objective 2:</u> Implement measures to: protect the two currently overfished species of skates (barndoor and thorny) and increase their biomass to target levels, reduce fishing mortality on winter skate, and prevent overfishing of the other species in the Northeast skate complex – this may be accomplished through management measures in other FMPs (groundfish, monkfish, scallops), skate-specific management measures, or a combination of both as necessary <i>[note: barndoor is now rebuilt and winter is a stable stock]</i>.</p> <p><u>Objective 3:</u> Develop a skate permit system, coordinate data collection with appropriate state agencies for vessels fishing for skates or catching skates as bycatch only in state waters, and work with the fishing industry to establish a catch reporting system consistent with industry capabilities, including the use of study fleets.</p> <p><u>Objective 4:</u> Minimize the bycatch and discard mortality rates for skates caught in both directed and non-directed fisheries through the promotion and encouragement of experimentation, conservation engineering, and gear development.</p> <p><u>Objective 5:</u> Promote and encourage research for critical biological, ecological, and fishery information based on the research needs</p>

	<p>identified in the Skate SAFE Report and scoping document scoping for the original FMP, including the development and dissemination of a skate species identification guide <i>[note: updating research priorities is now a separate process from SAFE report updates; the scoping document referred to is for the original FMP, from 2001]</i>.</p> <p><u>Objective 6:</u> Minimize, to the extent possible, the impacts of skate management approaches on fisheries for other species on which New England and Mid-Atlantic fishermen depend (for example, groundfish, monkfish, scallops, and fluke), recognizing the interconnected nature of skate and other fisheries in the Northeast Region.</p> <p><u>Objective 7:</u> To the extent possible, manage clearnose and rosette skates separately from the other five species in the skate complex, recognizing that these two species are distributed primarily in the Mid-Atlantic and South Atlantic regions <i>[note: there are no measures in the FMP that accomplish this objective]</i>.</p> <p>Questions to consider when commenting:</p> <ul style="list-style-type: none"> • Should the Skate FMP goal and/or objectives be revised or updated? How? • What should the Council consider in ensuring that Amendment 5 is consistent with the FMP goal and objectives?
What is the comment process?	<p>The publication of this document and an announcement in the <i>Federal Register</i> of the expanded scope of Amendment 5 is an important step in the formal amendment process.</p> <p>The Council established this supplemental scoping period from January 11 – February 12, 2021 to provide the public an opportunity to identify issues and alternatives. After gathering information during this scoping period, the Council will determine the issues to be addressed and develop alternatives to be analyzed in a draft environmental impact statement (DEIS). The alternatives will be developed by the Council’s Skate Committee and Advisory Panel with additional public input. Once the DEIS is prepared, the Council will hold public hearings. After receiving public comment, the Council will recommend a preferred alternative to submit to the Secretary of Commerce for implementation.</p>
Questions?	<p>More information on Amendment 5 is available on the Council’s website: https://www.nefmc.org/library/amendment-5-3.</p> <p>You may also contact the Skate Plan Coordinator with any questions.</p> <p>Rachel Feeney, Skate Plan Coordinator 50 Water Street, Mill 2 Newburyport, MA 01950 (978) 465 – 0492 ext. 110 rfeeney@nefmc.org</p>