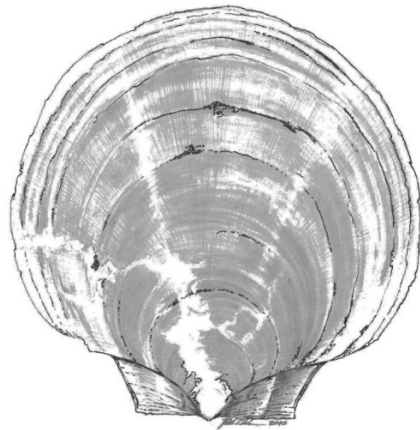


**SCOPING DOCUMENT**  
**for**  
**Amendment 21**  
**to the**  
**Atlantic Sea Scallop**  
**Fishery Management Plan**



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

Prepared by the  
New England Fishery Management Council

## **DRAFT Schedule of Atlantic Sea Scallop Amendment 21 Scoping Meetings**

The Council is scheduling scoping meetings, including one webinar, for this amendment (see below). **THIS LIST IS SUBJECT TO CHANGE. FOR DISCUSSION PURPOSES ONLY.**

<b><u>Date and Time</u></b>	<b><u>Location</u></b>
<b>Rockport, ME Thursday, February 28, 2019</b>	Maine Fishermen's Forum Samoset Resort Hotel 220 Warrenton Street Rockport, ME 04856 (207) 594-2511
<b>TBD, March , 2019</b>	New Hampshire (TBD)
<b>TBD, March , 2019</b>	Virginia Beach or Seaford, VA
<b>Monday, March 18, 2019</b>	Cape May, NJ
<b>Monday, March 18, 2019</b>	Mannahawkin, NJ
<b>Tuesday, March 19, 2019</b>	Riverhead, NY
<b>Tuesday, March 19, 2019</b>	Narragansett, RI
<b>Wednesday, March 20, 2019</b>	New Bedford, MA Waypoint Event Center
<b>Wednesday, March 20, 2019</b>	Hyannis or Harwich, MA (lower Cape)
<b>TBD, March, 2019</b>	WEBINAR
<b>Wednesday, April 3, 2019</b>	Gloucester, MA MA DMF – Annisquam? Maritime Gloucester?

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](mailto: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 p.m. EST, Friday, April 5, 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 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 may prepare an Environmental Impact Statement (EIS) or an Environmental Assessment (EA) that will analyze the impacts of this amendment (Amendment 21) 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 this action, as well as a range of alternatives that should be considered in Amendment 21 to the Atlantic Sea Scallop FMP.

---

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

Through the 2019 priority setting, the Council has identified two specific issues to address in this action: 1) measures related to the Northern Gulf of Maine (NGOM) Management Area, and 2) Limited Access General Category (LAGC) individual fishing quota (IFQ) possession limits.

***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:***

The Council is planning to develop measures that will increase the LAGC IFQ possession limit as a way 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 and Northern Gulf of Maine Management Area:***

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. The action also created a new management area in the Gulf of Maine. 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.

*Table 1 – 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.*

<b>FY</b>	<b>Active LAGC IFQ Permits</b>	<b>Inactive/CPH LAGC IFQ Permits</b>	<b>Total LAGC IFQ Permits</b>
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

---

---

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

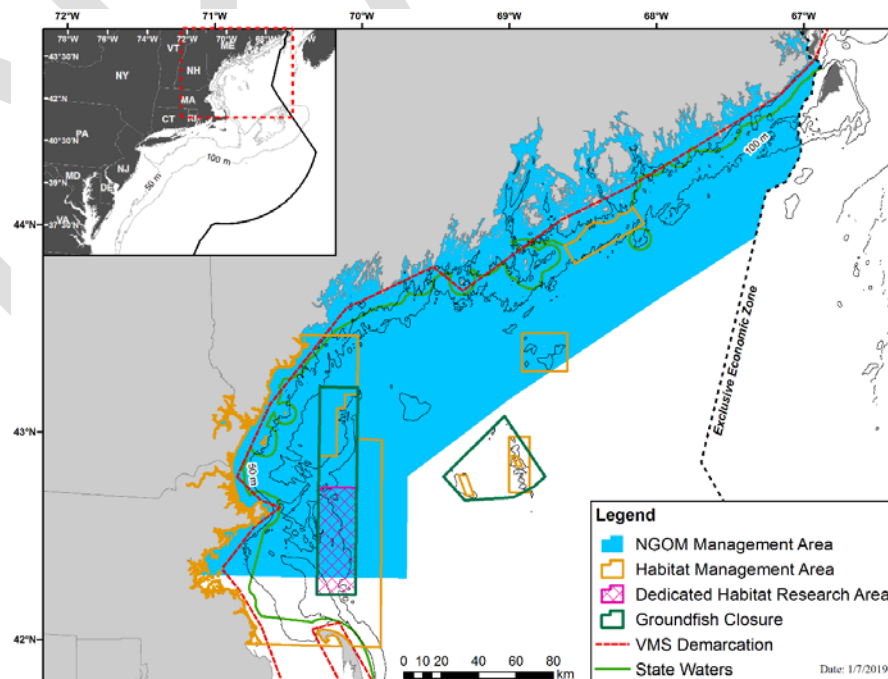
***Northern Gulf of Maine Management Area:***

The Council 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 fishing for all scallop vessels 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 additional restrictions on LA vessels fishing in 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).

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

*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.*



---

---

**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 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. At this time, limited access vessels were able to operate in the NGOM management area under days-at-sea (DAS) management and were not constrained by the bounds of the NGOM as long as the LAGC TAC had not been caught. This made monitoring removals by the LA component in the NGOM challenging because vessels could fish both inside and outside NGOM management area in 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 just 23 days into the fishing year.

In response to the increase in effort and landings in the NGOM area in 2016 and 2017, the Council developed a problem statement 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) falls outside of the area considered in periodic stock assessments; however, the most recent benchmark assessment (SARC 65) discussed 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

---

---

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

(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 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.

***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 2018 LAGC TAC was caught by the GC component 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. 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  
Category and  
Northern Gulf  
of Maine  
Background  
Information  
(cont.)***

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, which is 9.6 times that of the level the share cap would allow.

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 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, which 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

---

---

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

inactive. Overall VMS reporting compliance had improved over the program 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>.

The second body of work relevant to the LAGC IFQ trip limit issues in this action was completed in 2018, when 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 findings presented to the Council are summarized in the following points:

- 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.

---

---

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

- 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.
- 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, and LAGC IFQ possession limits that address the purpose and need of Amendment 21. 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, effort controls, consistent gear restrictions, or possession limits. 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, or allocate portions of the allowable catch across sub-regions of the NGOM, could also be considered in this action. 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***

The Council may also consider changes to LAGC IFQ possession limits. This may include changes to trip limits in open area and access areas, or aggregate landings limits (e.g. weekly limit). 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 extremely important part of the amendment development process. 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 purpose and need 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 areas 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***

- 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 (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?

---

---

***What is the process?***

The Council, its Scallop Committee, and Scallop Advisory Panel have held preliminary public discussions on the purpose and need for 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. Several 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, Scallop 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), 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. If no further delays are encountered, Amendment 21 would become effective by the 2021 fishing year.

---

---

***How do I  
comment?***

The Council is scheduling six 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](mailto:comments@nefmc.org), or written comments by 5 p.m. EST, Friday, April 5, 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.

---

---