

7.0 GLOSSARY

Amendment - a change to a fishery management plan (see FMP). The Council prepares amendments and submits them to the Secretary of Commerce for review and approval. The Council also may make limited changes to FMPs through a "framework adjustment procedure" (see below).

Compensation trip – A trip in a closed area to harvest scallops for the purposes of funding research.

Days absent – an estimate by port agents of trip length. This data was collected as part of the NMFS weigh-out system prior to May 1, 1994.

Days-at-sea (DAS) - the total days, including steaming time that a boat spends at sea to fish.

DAS Permit - Vessels qualified to be in the limited access sea scallop fishery are required to apply for a DAS permit each year to use their annual DAS allocation.

Full-Use - Refers to a vessel with a limited access permit and which used all of its DAS, not counting the 10 DAS that it may carry-over into the next fishing year.

Zero-Use - Refers to a vessel with a limited access permit that did not report using any DAS.

Partial-Use - reported using fewer than 10 DAS less than its annual allocation. For example, a vessel which had 165 DAS in the 1997-98 fishing year but used less than 155 DAS is referred to as a partial use vessel.

History Permit - A history permit is issued to qualified fishermen who apply in writing to retain their eligibility for the limited access fishery in the future. History permits are associated with vessels that sank, were destroyed, or were sold. They may be converted into a DAS permit any time during a fishing year. (This definition is repeated below.)

Environmental Impact Statement (EIS) - an analysis of the expected impacts of a fisheries management plan (or some other proposed action) on the environment and on people, initially prepared as a "Draft" (DSEIS) for public comment. After an initial EIS is prepared for a plan, subsequent analyses are called "Supplemental".

Exempt fisheries - Any fishery determined by the NMFS Regional Administrator to have less than 5 percent regulated multispecies as a bycatch, by weight, of total catch according to 50 CFR 648.80(a)(7).

Exploitation rate - the percentage of catchable fish killed by fishing every year. If a fish stock has 1,000,000 fish groundfish large enough to be caught by fishing gear and 550,000 are killed by fishing during the year, the annual exploitation rate is 55%.

Fishermen - the term traditionally used in New England to refer to fishers of both genders.

Fishing effort - the amount of time and fishing power used to harvest fish. Fishing power includes gear size, boat size and horsepower.

Fishing mortality (F) - (also see *exploitation rate*) a measurement of the rate of removal of fish from a population by fishing. Fishing mortality (F) is the rate at which fish are harvested at any given point in time. ("Exploitation rate" is an annual rate of removal, "F" is an instantaneous rate).

FMP - Fishery management plan. Documents describing a fishery and the rules that govern it. These documents form the basis for federal regulations for fisheries under management authority of the regional management councils. These councils are authorized to manage fisheries and are required to prepare fishery management plans by the Magnuson-Stevens Fishery Conservation and Management Act. The New England Fishery Management Council prepares FMPs and submits them to the Secretary of Commerce for approval and implementation.

Framework adjustments - adjustments within a range of measures previously specified in a fishery management plan (FMP). A change usually can be made more quickly and easily by a framework adjustment than through an amendment. For plans developed by the New England Council, the procedure requires at least two Council meetings including at least one public hearing and an evaluation of environmental impacts not already analyzed as part of the FMP.

General Category permit – an open access permit that is available to any fishing vessel for the purposes of landing up to 400 pounds of scallop meats or 50 U.S. bushels per trip allowable in a calendar day, either as an incidental catch while targeting other species or on trips that target sea scallops.

Limited-access permits - permits issued to vessels that met certain qualification criteria by a specified date.

F_{0.1} - a conservative target fishing mortality rate used to determine allowable fishing levels.

History permit - A History Permit is issued to qualified fishermen who apply in writing to retain their eligibility for the limited access fishery in the future. History Permits are associated with vessels that sank, were destroyed, or were sold. They may be converted into a DAS permit any time during a fishing year.

Natural mortality - a measurement of the rate of fish deaths from all causes other than fishing such as predation, disease, starvation and pollution. The rate of natural mortality may vary from species to species.

Minimum spawning stock threshold - the minimum spawning stock size (or biomass) below which there is a significantly lower chance that the stock will produce enough new fish to sustain itself over the long term.

Multispecies - the group of species managed under the Northeast Multispecies Fishery Management Plan. This group includes whiting, red hake and ocean pout plus the regulated species (cod, haddock, pollock, yellowtail flounder, winter flounder, witch flounder, American plaice, windowpane flounder, white hake and redfish).

Open access - describes a fishery or permit for which there is no qualification criteria to participate. Open-access permits may be issued with restrictions on fishing (for example, the type of gear that may be used or the amount of fish that may be caught).

Overfished - A measure of stock biomass that is below a threshold level that would provide adequate spawning activity, ie. the stock's productive capacity.

Overfishing - A level or rate of fishing mortality that jeopardizes the long-term capacity of a stock or stock complex to produce MSY on a continuing basis.

Possession-limit-only permit - an open-access permit (see above) that restricts the amount of multispecies a vessel may retain (currently 500 pounds of "regulated species").

Proposed rule - a federal regulation is usually published in the *Federal Register* as a proposed rule with a time period for public comment. After the comment period closes, the proposed regulation may be changed or withdrawn before it is published as a final rule, along with its date of implementation and response to comments.

Recruitment - the amount of fish added to the fishery each year due to growth and/or migration into the fishing area. For example, the number of fish that grow to become vulnerable to fishing gear in one year would be the recruitment to the fishery.

Regulated groundfish species - cod, haddock, pollock, yellowtail flounder, winter flounder, witch flounder, American plaice, windowpane flounder, white hake and redfish. (These species are usually caught with large-mesh net gear.)

Secretarial review process - a process, which normally takes 140 days from the time the Council, submits a plan or amendment to the Secretary of Commerce until its implementation. The Secretary of Commerce reviews and possibly approves the plan or amendment, which must meet the National Standards, of the Magnuson Fishery Management and Conservation Act and other federal laws. The other laws include the National Environmental Policy Act, the Marine Mammal Protection Act, the Endangered Species Act, the Regulatory Flexibility Act, etc.

Spawning stock biomass (SSB) - the total weight of fish in a stock that are old enough to reproduce.

Stock - a grouping of fish usually based on genetic relationship, geographic distribution and movement patterns. A region may have more than one stock of a species (for example, Gulf of Maine cod and Georges Bank cod).

Subsistence fishing – The act of catching fish, invertebrates, or other sea life for personal consumption. The landings may be shared with other kinfolk, but not sold for profit or income.

TAC - Total allowable catch including all sources of fishing mortality such as discards, bycatch of the species in question in other fisheries and recreational landings.

VTS - an electronic vessel tracking system, often used to record the time a vessel is at sea on a fishing trip or to enforce closed areas.

8.0 LITERATURE CITED

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10.0 COMMENTS

10.1 Council Meetings Where Framework Adjustment 15 Was The Primary Focus

<u>Date & Location</u>	<u>Type and focus of meeting</u>
June 25, 2002 at Rockland, ME	Scoping meeting to initiate Framework Adjustment 15 and determine the scope of the issues that the framework would consider
July 8, 2002 at Warwick, RI	Advisory Committee meeting to discuss and recommend management alternatives that should be considered in the annual framework adjustment
July 9, 2002 at Warwick, RI	Oversight Committee meeting to identify and recommend management alternatives that should be included in the annual framework adjustment and analyzed in the EA
July 23, 2002 at Portland, ME	Initial framework meeting; Selection of management measures to be considered and analyzed
August 16, 2002 at Plymouth, MA	Plan Development Team meeting to review and analyze the analysis of management alternatives in the annual framework adjustment
September 9, 2002	Oversight Committee meeting to review the analysis of alternatives and recommend a preferred alternative
September 12, 2002	Second and final framework meeting to choose and approve the proposed action for the annual framework adjustment

10.2 Oral Comments on the Environmental Assessment and Response to Oral and Written Comments

Most oral comments at the initial and final framework meetings were given by representatives of organizations that also submitted written comments, included in Section 10.3. The summary of comments below came from both the written and oral comments during the first and second framework meeting (see above).

- 1. The aim of the framework adjustment is simply to maintain status quo, with very discrete constructive adjustments to promote use of the area-access program, until the implementation of Amendment 10.**

Actually, the aim of the framework adjustment is to meet the FMPs mortality objectives, taking advantage of the benefits of a controlled access program in the Hudson Canyon and VA/NC Areas while the Council continues development of Amendment 10. The Council therefore considered and analyzed a range of alternatives related to these objectives.

- 2. Scallop Framework 15 contains no direct measures to protect sensitive groundfish EFH.**

The Magnuson-Stevens Act (MSA) requires FMPs to “minimize to the extent practicable adverse effects on such habitat caused by fishing, and identify other actions to encourage the conservation and enhancement of such habitat” [§303(a)(7)]. The regulations that implement the essential fish habitat (EFH) provisions of the MSA furthermore stipulate that, “Councils and NMFS should periodically review the EFH provisions of FMPs and revise or amend EFH provisions as warranted based on available information.” [§600.815(a)(10), 50 CFR Part 600].

The Council has met these requirements for the Sea Scallop FMP in its EFH Omnibus Amendment #9 which identified EFH and considered fishery conservation measures that minimized adverse impacts on EFH. The Council is furthermore meeting this requirement with Amendment 10 to the Sea Scallop FMP that will update these analyses and re-consider fishery management alternatives that could minimize adverse effects on EFH to the extent practical.

The proposed action in Framework Adjustment 15, while it is not a comprehensive review of new alternatives to minimize impacts on EFH, does continue and include direct fishery conservation measures that minimize to the extent currently practicable adverse impacts on EFH. These include very restrictive day-at-sea allocations and limited access that have caused the amount of fishing activity to be cut in half, crew limits that have further cut the amount of total bottom contact by the fishing fleet, closed areas which encompass over 5,800 nm² of productive scallop beds to reduce impacts on groundfish habitat, and gear restrictions that have reduced dredge weight and improved its efficiency for catching larger scallops.

Day-at-sea allocations and limited access are important for minimizing adverse impacts on EFH because they control the total amount of fishing activity and therefore the amount of impacts on the scallop and other seabed resources. Crew limits are important because it limits the amount of fishing time per day-at-sea and has been especially effective at reducing bottom contact time when the catch exceeds the vessel's (crew-limited) shucking capacity, in the Hudson Canyon Area and in some parts of the open fishing areas for example. Framework Adjustment 15 would capitalize on this effect by encouraging more fishing in the Hudson Canyon Area, where the projected catches will exceed the shucking capacity, thereby reducing bottom contact time elsewhere where it takes longer to catch the same amount of scallops. An additional conservation measure that directly minimizes impacts on EFH is the associated day-at-sea tradeoff. The day-at-sea tradeoff, for trips taking less than 10 days in the Hudson Canyon and VA/NC Areas, reduces allocated fishing time that could be used elsewhere, thereby reducing the total day-at-sea allocations and also minimizing EFH impacts.

Finally, the proposed action also continues the current gear regulations that have reduced the amount of chafing gear, links, cookies, and rings, while increasing the size of the rings. While improving size selectivity of the gear, these measures also decrease the ability for scallop fishermen to fish in more rugged areas, often considered to be more valuable and sensitive habitat. The proposed action furthermore continues the status quo scallop access to the groundfish closed areas, until an area rotation system and other habitat conservation measures are considered in Amendment 10. As pointed out by the Omnibus EFH Amendment 9, these areas were closed to gear capable of catching groundfish to reduce groundfish mortality and to reduce impacts on cod spawning activity. Since these areas contain EFH for many groundfish species, the closures also have the potential for minimizing impacts on groundfish EFH.

Consistent with the EFH and NEPA requirements, the proposed action and non-preferred alternatives are analyzed for their impacts on EFH and on the environment (see Section 6.3.4.2).

- 3. The Council's Executive Director counseled that complicating the 2003 annual adjustment could delay completion of Amendment 10, which must and should fully address not only access to the groundfish closed areas, but also minimization to the extent practicable of bycatch and adverse impacts on EFH. For these reasons, attempts to cut DAS allocations specifically in order to reduce swept area are inappropriate for this Framework.**

The Council included in the framework adjustment document and analyzed a range of day-at-sea allocation alternatives, including a full analysis of their potential impacts. As required by law, these analyses were not limited to the effects on landings, scallop biomass, and net benefits, but also included the estimated effects on bycatch, habitat, communities, and safety. The Council and NMFS must be

aware of the complete environmental effects of the proposed actions, as well as those for other reasonable alternatives. It is therefore appropriate, and even legally required, to consider and choose a proposed action based on all the potential ramifications of this decision, including the effects on bycatch and EFH.

4. There is no justification to delay habitat protections to future regulatory actions.

The Omnibus EFH Amendment #9 expanded the scope of the framework adjustment process so that the Council could use it to consider framework alternatives that could minimize the effects of fishing on EFH. It included the list of measures that would be considered for fishery conservation to meet mortality, biomass, and other FMP objectives, and a measure to consider “changes to the boundaries of the EFH / HAPC designations”. Thus the Council could decide to consider alternatives that minimize impacts on EFH, but like new measures to minimize bycatch, it is not obligated to do so with every framework adjustment.

In accordance with the MSA requirement and the EFH guidelines referenced above, the Council is updating and considering new measures to minimize the impacts on EFH as part of draft Amendment 10 to the Sea Scallop FMP and draft Amendment 13 to the NE Multispecies FMP. These draft amendments contain a broad range of conservation alternatives to reduce and minimize impacts on habitat, but the analysis of these alternatives is currently incomplete. The Council has therefore decided that it would be inappropriate to hastily consider additional management alternatives to minimize EFH impacts, without the complete analysis to be completed in Amendment 10.

5. Framework 15 alternatives allow unsustainable fishing of the scallops stocks in the Mid-Atlantic and on Georges Bank outside the closed areas

The Atlantic Sea Scallop FMP manages the scallop stocks throughout their range, including the scallops in temporary or indefinite closures, like the groundfish closed areas and the Hudson Canyon and VA/NC Areas. As such, the proposed action is highly unlikely to exceed the annual mortality target for Amendment 7 ($F=0.22$), much less the overfishing threshold ($F=0.24$). The total exploitable biomass in all areas is expected to increase by 6% for the proposed action vs. a 12 percent increase for no action. Thus, there is little jeopardy that the proposed action will cause a decline in spawning capacity from already historically high levels since 1982.

Most of the allocated effort is expected to occur in the Mid-Atlantic region, partly because the catch per day is highest in the Mid-Atlantic and partly due to the higher TAC for the Hudson Canyon and VA/NC Areas. For the Mid-Atlantic region alone, the fishing mortality rate for the proposed action is expected to be 0.38 vs. 0.27 for no action. Exploitable biomass is estimated to decline (2003 to 2004) by 9 percent for the proposed action vs. a 1 percent decline for the No Action alternative. The lower 100 day-at-sea allocation for a non-preferred alternative is projected to cause biomass to decline by 7 percent, nearly the same and almost immeasurably different from the proposed action. Over the longer term through 2007, Mid-Atlantic biomass is projected to decline by 49 percent for the proposed action vs. an increase in biomass of 20 percent for the No Action alternative. If recruitment declines to the time-series average level, it will be necessary for the Council to make future adjustments to the day-at-sea allocations, develop new management strategies like area rotation with an appropriate level of day-at-sea allocations or quota, and/or for the fleet's effort to shift to high biomass areas elsewhere.

The largest annual effects are predicted to occur on open portions the Georges Bank stock, where fishing mortality is projected to be 0.45 for the proposed action vs. 0.11 for the No Action alternative. Exploitable biomass is estimated to decline by 12 percent for the proposed action vs. an increase of 27% for the No Action alternative. Biomass would decline by only 6 percent for a non-preferred alternative that would have a 100 day-at-sea allocation.

Although exploitable biomass would decline in the open areas of the Georges Bank and Mid-Atlantic resource, these annual declines are modest given that the current biomass is at historically high levels for the time series since 1982 and will not jeopardize spawning capacity, since overall exploitable biomass is expected to increase by 6 percent. The proposed action is furthermore a one-year adjustment and unless recruitment remains above average, future action will be needed to ensure that biomass remains near the target and/or the stock does not approach an overfished condition (i.e. near the minimum biomass threshold).

The 35-41 percent and 16-18 percent biomass declines quoted by the persons making this comment were for a four-year period through 2007, if the proposed action remained in place with the current configuration of closed management areas and controlled access to the Hudson Canyon and VA/NC Areas. These estimates simply do not apply to the proposed action, since it is a one-year adjustment. The longer-term estimates were useful for comparing the options to guide management decisions about the longer-term ramifications if the proposed action were continued and for calculating discounted net benefits.

- 6. Relatively higher DAS allocations can provide additional short-run net benefits, but need to be weighted against the long-term costs associated with potential depletion of resource biomass. Furthermore, the draft analyses supporting the Framework show the highest short-run net benefits to the nation with an allocation of 140 DAS. Unfortunately, the long-term projections in the draft Framework Adjustment 15 document are not very informative, having been prepared using an assumption that whatever DAS allocation is selected for the annual adjustment for 2003 will then be maintained indefinitely, whereas Framework Adjustment 15 is to be a one-year measure.**

The analyses in the EA were performed for a five-year period, to assess the short-term and longer-term implications of the Framework Adjustment 14 alternatives, even though the proposed action is only for the 2003 fishing year, or until Amendment 10 is approved and implemented, whichever is less. The analyses therefore advise managers of the potential impacts in 2003 and the trajectory of the stock projections when Amendment 10 might be approved. This information is therefore highly informative, projecting the probable stock conditions at this time and their possible ramifications for rotational management and Amendment 10 management measures.

The 2003 projection results are promising (i.e. can produce higher landings and benefits without exceeding the Amendment 7 mortality target) largely because of several recent years of above-average recruitment. In the short-term, a 120 day-at-sea allocation does not appear to do substantial harm to the scallop resource (i.e. cause a meaningful decline in 2004 biomass). The projections, however, show that continuation of a 120 day-at-sea allocation beyond 2003 may not be sustainable without access to the groundfish closed areas, especially if recruitment declines to the long-term average (or worse – preliminary data from the 2002 survey shows below average abundance of pre-recruit scallops in most areas). Scallop biomass is projected (with average recruitment and the existing groundfish closed areas) to decline below the target if the proposed action were to continue beyond 2003. Future landings would likewise suffer. A lower day-at-sea allocation in 2003 would postpone mortality on above average year classes to sustain higher day-at-sea levels (and landings) beyond 2003. This is true with or without rotational area management.

- 7. Scallop Framework 15 fails to take any direct action to reduce reoccurring high levels of bycatch of fish and marine life, including high levels of sea turtle takes in the Mid-Atlantic.**

The comment points out that during the 2001 controlled access program, 11 sea turtles were captured on trips in the Hudson Canyon Area, that a re-occurrence is highly probable, and the document fails to analyze the effects of this action on threatened or endangered sea turtles. We believe that only three of the encounters resulted in lethal or potentially lethal injuries.

The NMFS has initiated a Biological Opinion under the procedures set out by the Endangered Species Act, partly as a result of the 2001 sea turtle interactions. These and other data are currently being analyzed to determine the extent of the problem, the cause of the encounters while scallop fishing, and identify possible solutions as alternatives to reduce or eliminate these interactions. As a result, it would be inappropriate to recommend management alternatives to remedy the problem when a) the problem might not be significant, b) the cause of the interactions is unknown, and c) the remedies may be ineffective or even worse, increase the potential for interactions. The location of the turtles in 2001 and/or the cause of the interactions may even be an anomalous condition that was unique to the conditions in 2001. The sea turtles may have been responding to anomalous water temperatures or food concentrations which may or may not repeat themselves in the future.

Nonetheless, it would be appropriate to increase observer coverage, as recommended by the persons commenting on this issue. Fortunately, this does not require an action by the Council, because NMFS can and has raised the proportion of observed trips in all areas of the sea scallop fishery. During 2001, only four scallop trips were observed outside of the Hudson Canyon and VA/NC Areas. So far in 2002, 12 trips have been observed on vessels using scallop dredges. The target number of observed trips is several times higher for 2002 and 2003 than actually sampled previously. In addition, the proposed action also establishes a 2% set aside from the Hudson Canyon and VA/NC Area TACs to be used to fund observers on controlled area access trips. We estimate that this will be sufficient to fund sampling on 10% of trips in the Hudson Canyon Area and 20% of trips in the VA/NC Area, or a total of 85 trips.

8. Scallop dredges in the Mid-Atlantic also catch and kill significant amounts of threatened and endangered sea turtles, including loggerhead and green sea turtles. This comment was included in the letters that the Council received by FAX.

During the 2001 fishing year, sea samplers observed 11 encounters between scallop dredge gear and sea turtles in the Hudson Canyon Area. Three of the 11 encounters resulted in lethal or potentially lethal sea turtle injuries. Presently, it is not known whether these observations, when appropriately extrapolated to all scallop fishing is significant, or whether management measures will be effective in reducing encounters. In a Biological Opinion under development, the NMFS is presently analyzing the extent and source of the encounters, as well as evaluating the effectiveness of proposed and potential solutions. It is therefore impractical at this time to take actions that may decrease (or may even increase) the probability of encounters with sea turtles.

9. The Council should take action to stop all bycatch of threatened and endangered sea turtles and other overfished and at-risk species (e.g. barndoor skate, monkfish, other skates)

The Council will consider actions to minimize bycatch of threatened and endangered sea turtles when the relevant data are analyzed and a Biological Opinion is available. Although the scallop fishery has a bycatch of barndoor skate, monkfish, and other skates, there is no requirement to stop all bycatch nor is there an official designation of an "at-risk" species. Some skate species are in fact not even in an overfished species.

On the other hand, the Magnuson-Stevens Act requires in National Standard 9 that the FMP minimized bycatch and bycatch mortality to the extent practicable. The potential for bycatch from the proposed action has been analyzed in Section 6.3.4.1.6 and the effects are minimized through reducing

total bottom contact time and requiring a 10" (rather than 8') mesh in the twine top to improve finfish escapement.

10. Scallop dredging results in significant amounts of bycatch of fish, skates and other seafloor life, most of which is returned to the sea dead or dying. This comment was included in the letters that the Council received by FAX.

The amounts of bycatch were analyzed in the SEIS for Framework Adjustment 14, which included measures (reduced bottom contact time and larger twine top mesh) to minimize impacts on fish, skates, and other sea floor life. These analyses were included in the EA for Framework Adjustment 15, because the action is substantially similar to the proposed action for Framework Adjustment 14 and because resource conditions have not materially changed since that analysis.

The proposed action continues these measures for the 2003 fishing year. Moreover, the amount of bycatch for trips in the Hudson Canyon and VA/NC Areas during 2001 and in the groundfish closed areas during 2000 has been estimated in the EA for Framework Adjustment 15 (Section 6.3.3.2). Except for monkfish (12% of scallop meat weight) and little skate (7% of scallop meat weight), the catches in the Hudson Canyon Area (where the substantial majority of trips will occur) are minimal. Including all observed finfish and crustacean species, the total bycatch (including kept and discarded species) was only 30% of scallop meat weights and 9% of scallop meat weights in the VA/NC Area. This is in stark contrast with many other fisheries like the shrimp trawl fishery that discard several times the weight of the target species.

Overfishing is occurring for monkfish for the southern management area, but overfishing is not occurring on little skate which is considered rebuilt. For monkfish, the bycatch is regulated by the Monkfish FMP which includes possession limits for scallop fishing vessels to prevent targeting, a management measure that will continue in the proposed action.

11. It is important to recognize that the measures contained in Amendment 7, plus management measures contained in the series of framework adjustments following Amendment 7 (e.g. increased mesh in scallop dredge twine tops and area-access scallop fishing), themselves have the effect of reducing the potential for bycatch and adverse impacts to EFH in the scallop fishery.

The Council agrees that previous and existing management actions have contributed to substantial reductions in fishing mortality, improvements in size and species selectivity, and reduced total fishing time (i.e. bottom contact). These cumulative impacts are identified in the Environmental Assessment and were analyzed in the recent SEIS, prepared for Framework Adjustment 14. Since the proposed action is very similar to the actions in Framework Adjustment 14 and the resource conditions is similar (or better), the Council had determined that it is unnecessary to update the Framework Adjustment 14 SEIS.

Nevertheless, the Council is obligated to examine and analyze the potential impacts on bycatch and EFH, including consideration of a range of reasonable alternatives to minimize the effects to the extent practical. The EA, therefore, includes an analysis of the effects of various day-at-sea allocations [ranging from no action (45 days) to 140 days] and area access program policies [ranging from an Amendment 7 target TAC (F=0.20) to treating the Hudson Canyon and VA/NC Areas no differently than other open scallop fishing areas].

12. An adequate Supplemental Environmental Impact Statement (SEIS) should be prepared. Do not approve Framework Adjustment 15 until the Council completes an adequate environmental impact statement and take steps to minimize the harmful effects of scallop

dredging on essential fish habitat and to protect the marine environment. In addition to the customary written and oral public comment, this comment was included in the letters received by FAX.

The Council has considered the impacts of the proposed action and the cumulative impacts since the most recent analysis of impacts in and SEIS. Based on the analysis in the environmental assessment (EA), the impacts are not significant and the preparation of an SEIS for this action is unnecessary. The proposed action minimizes adverse impacts on EFH to the extent practical through existing management measures and the measures in the proposed action. This action will allow the Council to continue developing Amendment 10 which is thoroughly considering and analyzing additional alternatives that may further reduce adverse impacts on EFH.

13. New England and Mid-Atlantic waters are a national public resource and must be managed accordingly, consistent with all federal environmental laws. This comment was included in the letters received by FAX.

The proposed action and Framework Adjustment 15 was prepared in accordance with all applicable laws and regulations, including the National Environmental Policy Act that allows for the preparation of an Environmental Assessment for management actions that do not have significant impacts on the environment.

14. Because Amendment 10 is not yet completed, Framework Adjustment 15 is needed to adjust the annual DAS allocation for the 2003 fishing year from the inappropriate level of 45 DAS contained in Amendment 7.

The EA (as did the SEIS for Framework Adjustment 14) shows that reducing the day-at-sea allocations to the Amendment 7 levels will not achieve the objectives of Amendment 7, mostly because the long-term closures of important scallop resources on Georges Bank was not anticipated and because the current resource condition, which has approached the Amendment 7 biomass targets, makes the existing crew limits more effective than anticipated. The framework adjustment therefore considers and analyzes a reasonable range of alternatives related to day-at-sea allocations and area access program policies to achieve the Amendment 7 objectives.

15. It is clear that, were the access program allowed to expire, the very high density of scallops there would attract too much fishing effort.

The projection models indicate that most of the fishing effort with a 45 DAS allocation (i.e. no action) would occur in the Hudson Canyon Area, where scallop CPUE is the highest. The Council did not analyze allowing the access program to expire with a 120 DAS allocation, because it is patently an unreasonable alternative. Much of the scallop fleet would target scallops in the Hudson Canyon Area as quickly as possible, much like a derby fishery with all of the associated negative consequences (a spike in landings reducing ex-vessel price, poor product quality, safety concerns for the seven-man crew limit, etc.). This would continue, depleting biomass, until the CPUE in the Hudson Canyon Area dropped to a level near those for other open fishing areas, thus depleting the resource of larger scallops and causing substantially lower landings when Amendment 10 would close areas to begin an rotational management.

16. The principles of rotation management developed for Amendment 10 should be applied and a higher target mortality rate (such as the 0.32 which has been analyzed) used in determining the TAC for [the Hudson Canyon Area].

The rotation management area alternatives in Amendment 10 include appropriate area closures as an integrated part of the management strategy, providing justification for allowing temporarily higher fishing mortality in specified areas. This is not the reason why the proposed action has a higher TAC than would be suggested by the Amendment 7 target, since the proposed action closes no other areas to compensate or implement area rotation.

Instead, the sole reason to allow a higher TAC for the Hudson Canyon Area is that it provides greater long-term benefits by reducing mortality on smaller scallops found elsewhere, thus improving long-term yield. The effort shift, coupled with the day-at-sea tradeoff and the crew limits on shucking capacity, reduces overall scallop mortality and minimizes bycatch and habitat impacts. These effects will occur more for scallops and impacts for the Georges Bank stock, than for scallops in the Mid-Atlantic where the Council expects the majority of fishing effort in 2003 to occur.

17. The trip limit must be increased, reducing the number of trips within the fixed overall scallop TAC, but allowing a “richer” return on each DAS traded off.

Even though it reduced the effectiveness of the day-at-sea tradeoff by allowing vessels to fish longer and land a larger amount of scallops, raising the scallop possession limit increases the probability that vessels will take more authorized trips in the Hudson Canyon Area. Raising the possession limit to 21,000 appears to be economically sufficient for vessels to justify fishing in the Hudson Canyon Area with a 10 day-at-sea charge vs. fishing in other open areas during the same number of days-at-sea, even though the expected CPUE in open areas continues to increase. Projections indicate that the average vessel will land about 1,700 pounds per day in the open fishing areas. With the raised possession limit, vessels will be able to land up to 21,000 pounds on a trip lasting about 8.5 days. The extra 4,000 pounds of landings for 10 DAS of activity, plus the cost reductions from fishing less than 10 days are predicted to be sufficient to attract fishing activity to the Hudson Canyon Area, where scallop size is larger and fishing time (i.e. bottom contact) will be less.

18. It is necessary to reduce the major disincentive to area access caused by the imposition of a 10 DAS charge for a broken trip into a re-opened access area.

Although the Council agreed that the potential to automatically lose 10 days-at-sea for a broken trip had become a major disincentive to fishing in the area access program, a staff working group drawn from the Council, the NMFS Northeast Regional Office, and NMFS Law Enforcement were unable to develop an acceptable solution. Alternatives that allowed adjustments based on the length of the trip and/or scallop landings, such as the proposed alternative in Framework Adjustment 14, had unresolvable loopholes. Other alternatives that would have allowed scallop vessels to be eligible for case-by-case exemptions with a moderately low amount of scallop landings were unacceptable because they did not provide relief for vessels that had to return to port after a day or so of fishing.

The Council therefore chose to retain the status quo, but encouraged the Regional Administrator to consider a more lenient policy for trips with documented problems, causing an early trip termination. It also decided to continue working on the problem in Amendment 10, if the rotation management system includes a day-at-sea tradeoff mechanism.

10.3 Written Comments

The Council received the following comments through September 12, 2002, when it approved the proposed action. The Council received 568 of letters on Framework Adjustment 15 via FAX on or before Sept. 11, 2002. These letters were mainly identical to one another and urged the Council to disapprove Framework Adjustment 15. In addition, the Council received 673 written comments after September 12, 2002, but these comments were nearly identical to the comments received before this date. An example of these FAXed letters is included in the document for the record. All other copies are filed in the Council's administrative record and are available for inspection at the office.