

FRAMEWORK 19

APPENDIX I

**Executive Summary of Amendment 11 FSEIS –
submitted July 31, 2007**

SCALLOP AMENDMENT 11 EXECUTIVE SUMMARY

This amendment document and final supplemental environmental impact statement (FSEIS) presents and evaluates management measures and alternatives to achieve specific goals and objectives for the Atlantic sea scallop fishery. This document was prepared by the New England Fishery Management Council and its Scallop Plan Development Team (PDT), in consultation with the National Marine Fisheries Service (NMFS, NOAA Fisheries) and the Mid-Atlantic Fishery Management Council (MAFMC). This amendment was developed in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSFCMA, M-S Act) and the National Environmental Policy Act (NEPA), the former being the primary domestic legislation governing fisheries management in the U.S. Exclusive Economic Zone (EEZ). This document also addresses the requirements of other applicable laws.

In addition to the no action alternative, the Council considered limited entry and hard-TAC alternatives to control capacity and mortality in the general category fishery. Within the limited entry alternatives there are numerous qualification alternatives for a limited access program, including different qualification time periods and past landings criteria. There are also various alternatives for how qualifying vessels would receive access to the scallop resource. Specifically, some alternatives are an individual allocation in pounds, or number of trips, and other alternatives consider a hard total allowable catch (hard-TAC) for qualified vessels.

The proposed action includes a limited entry program to control capacity and mortality in the general category fishery. The Council recommends that the 1,000 pound qualification criteria be used during the time period of March 1, 2000 through November 1, 2004. Furthermore, the proposed action includes individual allocation in pounds up to 400 pounds per trip for qualifying vessels. The proposed action also includes specific limited entry permit provisions such as no vessel upgrade restrictions, vessel replacement provisions, and several permit stacking provisions that include permanent and temporary stacking of allocation on one vessel up to 2% of the total general category scallop allocation. The proposed action also includes a mechanism to allow voluntary sectors in the general category fishery. In addition, there are interim measures proposed for the transition period to limited entry. Specifically, a quarterly hard-TAC equal to 10% of the total projected scallop catch for qualifying general category vessels and vessels under appeal.

The proposed action also includes measures that will affect existing limited access scallop vessels (full-time, part-time and occasional permits). The proposed action includes a provision that would prohibit all limited access vessels from fishing under general category unless they qualify under the same 1,000 pound landings criteria during the same qualification time period. Limited access vessels that do qualify would be allocated an individual amount of scallops up to a total of 0.5% of the total projected scallop catch for this component of the fishery. In addition, the proposed action recommends that the general category fishery be allocated 5% of the total projected scallop catch after the interim period. Furthermore, the document considered alternatives to change the scallop fishing year to allow better and more timely integration of recent data, but these alternatives were rejected and the proposed action includes issuing the general category permit in March rather than May to improve integration of fishery data. Lastly, the proposed action includes several other measures related to a current trawl gear restriction and a higher possession limit of scallops seaward of the VMS demarcation line to improve compliance with the possession limit restriction.

Summary of alternatives considered and the Council's rationale for the proposed action

- **Implementation of a limited entry program for the general category fishery. (Section 3.1.2)**

Only vessels that qualify for a limited entry general category permit would be permitted to land scallops under general category rules after this action is adopted. The current general category permits (1A-nonVMS and 1B-VMS permits) will be replaced with limited entry general category permits. The document also considered No Action as well as a fleet-wide annual TAC to control capacity and mortality in the general category fishery. The main rationale for the Council selecting limited entry as preferred is that limited entry is expected to have positive impacts overall on aspects of both the biological and economic environments. In addition, limited entry was the preferred strategy to control capacity and mortality in the general category fishery by both the Scallop Oversight Committee and advisory panels.

- **A vessel would qualify if it had a permit before the control date (November 1, 2004), landings of 1,000 pounds in any fishing year during March 1, 2000 through November 1, 2004. (Section 3.1.2.1 and 3.1.2.2)**

Based on available data, approximately 369 general category vessels would qualify under these qualification alternatives. The document also considered two other qualification time periods, and two other poundage criteria. The main rationale for identifying the 1,000 pound landing criteria is that it reflects a poundage level that is not too restrictive but demonstrates dependence on the scallop resource. This level of landings should allow for a diverse group of qualifiers, some that only scallop seasonally, some as a component of other catch, as well as more dependent vessels. The 2000-2004 time period was selected in response to public comment that the 1994-2004 alternative would permit too many vessels and would have negative impacts on vessels that are currently more dependent on the resource. Overall, the Council intent of the proposed action for qualification is to balance the number of vessels that qualify so that more than just directed general category vessels receive a limited access permit, but not too many vessels so that the TAC is divided among too many participants. In order to be consistent with the vision statement for this action, these preferred alternatives for qualification would ideally identify a number of diverse vessels that could participate in the general category fishery at different levels and provide flexibility for qualifying vessels.

- **Individual allocation would be based on a vessels best year indexed by number of years active in the fishery. (Section 3.1.2.3)**

Each qualifying vessel would receive a percent of the available TAC for general category. A vessels best year of landings during the qualification time period would be taken and that amount would then be multiplied by an index of years active in the scallop fishery. The Council identified Option B as preferred, an index of 25% to be used to scale a vessels contribution factor by the number of years that vessel has been active in the fishery. The main rationale for the preferred alternative is to provide some weight in allocation for vessels that have been participating in the general category fishery for a longer period of time.

- **Allocation of access for qualifying vessels would be an individual allocation in pounds, maintaining the 400 pound possession limit. (Section 3.1.2.4)**

All vessels that qualify for a limited entry general category permit would be allocated an individual amount of scallop in pounds (Option A) based on their historical contribution to the fishery. The allocation would be a percentage of the total general category allocation and based on an individual vessel's contribution to landings during the qualification time period. The document considered numerous other allocation alternatives including the same individual allocation alternative but in number of trips rather than pounds, other individual allocation alternatives with two permit types or equal allocations in three tiers, a stand alone individual transferable quota system, a stand-alone hard-TAC option, and several other hard-TAC alternatives combined with limited entry. The main rationale for the

preferred alternative is that individual allocation is the most fair strategy, and qualifying vessels would be allocated an amount that best reflects their contribution to general category landings. After the public comment period the Council changed their preferred alternative from allocation in trips to allocation in pounds based on concerns about allocating 400 pound trip increments. Members of the public raised concerns about safety and changes in fishing behavior as a result of allocating access in number of trips. At the final Council meeting it was discussed that the mandate to collect up to 3% of ex-vessel value of landed product to cover actual costs directly related to enforcement and management of an individual fishing quota program may outweigh the costs of allocation in trips. The Council approved the concept of including a cost recovery program with this individual fishing quota program, but the details of the program will have to be specified in a future action after cost estimates are available. Furthermore, related to the proposed action to allocate individual fishing quotas, the Council recommends that NMFS round individual allocations to the nearest ten pound unit if that would improve compliance and monitoring.

- **Allocation of 5% of the total annual projected scallop catch to the general category fishery (Section 3.1.7)**

Under the proposed action, a portion of the total projected annual scallop catch would be allocated to vessels with a general category permit. The document considered a range of 2.5 – 11% of the total projected annual scallop catch as well as no action for allocation. The Council identified 5% as the preferred allocation value, as was recommended by the Scallop Oversight Committee. The main rationale for identifying this alternative as preferred was that 5% reflects a percentage similar to the long-term average, but is higher to recognize more recent growth and participation in the general category fishery. Furthermore, in 2004, the fishing year the control date was implemented, the general category fishery was landings about 5% of total scallop landings. The Council believes it is a level of catch that would ideally provide enough landings to be spread among various general category vessels that participate in this fishery at a variety of levels without substantial impacts on the existing limited access fishery.

- **Specific permit provisions for limited entry general category permits (Section 3.1.2.5)**

This section includes several alternatives about specific permit provisions; most are consistent with the standardized permit provisions established by the Consistency Amendment (1999) and several alternatives consider provisions that are different. First, the alternative that would allow more than one permit to be issued from one hull number was identified as preferred (provided that all previous owners of that hull retained the general category history of the vessel when it was sold, and all owners had a general category permit and qualifying landings during the qualification time period). Second, the Council recommends that limited access general category vessels should be permitted to stack allocations on a permanent or temporary basis (up to 2% of total general category allocation on one vessel). Lastly, the Council selected a third permit provision alternative as preferred; a measure to prevent excess consolidation. An individual or corporation could not have ownership interest in more than 5% of the total general category allocation. The Council also recommends that NMFS consider a 90-day requirement for vessels to apply for a general category limited entry permit once Amendment 11 is effective, rather than the one-year time frame that is typically used. This shorter timeframe is suggested to reduce the transition time to limited entry.

In general, these alternatives were identified as preferred to respond to comments made during the scoping process for Amendment 11. If an individual can prove that he/she held their general category scallop history when a vessel was sold, it should be entitled to qualify for a limited entry permit. Furthermore, one way to minimize potential revenue loss for qualifying vessels and increase flexibility would be to enable a vessel to stack access on one vessel. Lastly, the Council supports some level of consolidation, but supports alternatives that prevent excess consolidation (2% max per vessel and 5% max per individual/corporation). The other permit provision alternatives that are part of the proposed action are no vessel upgrade restrictions, a vessel replacement provision, voluntary relinquishment of eligibility,

prohibition on permit splitting, permit renewal and confirmation of permit history provision, and allowing a limited entry general category vessel to have other limited entry permits.

- **Mechanism to allow voluntary sectors in the general category fishery (Section 3.1.2.7)**

The final proposed action includes a mechanism to allow voluntary sectors in the general category fishery. This action does not approve a specific sector, but if a group of general category vessels want to form a sector in the future this action would allow them to apply. The Council also recommends that there be a 20% maximum for allocation to a sector, and the 400 pound possession limit should be maintained for vessels in a sector. The main rationale for these recommendations for sectors is to allow greater opportunities for fishery participants to proactively engage in resource governance, to provide greater flexibility for participants, to guide the appropriate development of capacity, and, last, to create outcomes that are more socially and economically relevant for fishing groups within the biological limitations of the fishery (TACs). The 20% maximum was included to prevent one sector from controlling an excessive percentage of the general category allocation.

- **Interim measures for transition period to limited entry (Section 3.1.2.8)**

Since it is expected to take at least 12 months to implement a limited entry program the Council proposes that interim measures be considered for the transition period. The proposed measures include a quarterly hard-TAC equal to 10% of the total projected scallop catch for vessels that qualify for a general category permit and vessels under appeal. The hard-TAC alternative for the interim period that went out for public comment was an annual TAC. Based on comments related to derby fishing and safety concerns the Council decided to recommend a quarterly hard-TAC to reduce derby effects. The Council selected 10% because that is the value that has been used in recent projections for scallop mortality from the general category fishery and has not had substantial impacts on the limited access fleet. Furthermore, the Council selected a higher value than the long-term allocation of 5% to reduce short-term impacts on vessels that will ultimately qualify for limited entry from additional effort expected under the appeals process.

- **A separate Northern Gulf of Maine (NGOM) limited entry general category program would be adopted. Vessels could qualify for this permit if they had a general category permit at the time the control date was implemented (November 1, 2004). Access to fish in this area would be at a reduced level (200 pounds per trip) with specific gear restrictions and the entire fishery would be under a hard-TAC. The NGOM area would close to all scallop fishing after the TAC was reached. (Section 3.1.4)**

The Council considered several alternatives for management of the scallop resource in the Northern Gulf of Maine. There are several reasons why the Council decided that this area should be managed separately and a separate management system was supported by strong public input. First, most of the landings from the NGOM area designated by the Council were from Maine state waters so management in the EEZ component of the fishery needs to be as compatible with state management regulations as possible. Second, this fishery was traditionally fished, to a very large extent, by small boats that were engaged in other fisheries such as the lobster or groundfish fisheries during different seasons and that fish only seasonally for scallops. As a result, the Council considered local access to the scallop resource by small vessels important to the continuation of fishing communities in Maine New Hampshire and Massachusetts. Although, the Council decided that limited access was necessary to manage scallops in this area, it has developed rules that are more compatible with the needs of local fishermen. Also, the scallop resource increases sporadically with the result that scallops were not available in abundant quantities during the qualification time period. As a result, the Council decided that the limited access criteria to the NGOM should be based on whether or not a vessel had a permit on the control date (November 1, 2004) rather than on the amount of scallops a vessel had landed. Additionally, because vessels catch fewer scallops in the NGOM, the Council decided that a 200-pound trip limit would be more appropriate and reduce incentive to increase effort in that area. In order to control the amount of scallops landed from the area overall, a hard-TAC will be implemented for the federal portion of the NGOM.

Furthermore, it is not clear how the scallop resource in the Gulf of Maine interacts with the scallop resource to the south. It is much smaller in size and has not been included in the scallop surveys or stock assessments to date and therefore has never been a factor in setting target effort or removal rates under the Scallop FMP. Finally, boats from outside the GOM historically fished in this area only when scallops were depleted in other areas and abundant in the GOM. More recently, 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 from Scallop in the NGOM is unlikely to have any impact on these vessels.

The final proposed action is slightly different than the alternatives considered in the DSEIS, but it is a combination of the alternatives previously considered. The ultimate recommendation is intended to provide a separate limited entry program for this area with a reduced access level and no landings criteria. It was designed to meet the same needs of the original NGOM limited entry alternative, but address the specific concerns raised by the Regional Administrator about that alternative. Specifically, the proposed action is expected to address the issues raised related to conservation, administrative burden and enforceability of a separate limited entry program for the NGOM. The Council designed this alternative in an attempt to address these concerns and allow for a placeholder for future management of scallops in the NGOM if and when they return.

- **Monitoring**

The document included several alternatives for monitoring: No Action, reporting through vessel monitoring systems (VMS), or interactive voice reporting (IVR). While monitoring this fishery through VMS may be burdensome because of the relatively large number of permits and number of trips taken per year, the Council recommends that vessels be required to declare they are going on a general category trip and report scallop landings through VMS. This provision would improve monitoring of an individual quota program, especially if vessels are required to report hailweight before crossing the VMS demarcation line. Enforcement would then know approximately when, where and how much a vessel should have onboard. In addition, if vessels are required to report VTR number through VMS that would improve the ability for NMFS to link this data with other databases, enabling NMFS to monitor the TAC on a more real-time basis.

- **Limited access vessels would be prohibited from fishing under general category unless they qualify under the same qualification criteria selected for the limited entry general category permit. Catch from that component of the fishery would be limited to 0.5% of the total scallop TAC. Qualifying vessels would also receive an individual allocation of pounds based on their best year indexed by years active in the fishery. (Section 3.1.6)**

This section includes several alternatives for limited access privileges under general category. The Council identified one alternative as preferred: if a limited access vessels qualifies for a general category permit under the same qualification criteria selected for the limited entry general category program then that vessel would be permitted to fish under general category outside a scallop DAS/access area trip. All vessels that qualify would be allocated access to the scallop resource in the same method as general category vessels. Each vessel would receive an individual share based on their historical contribution to general category landings up to a total of 0.5% of the total projected annual scallop catch for the entire component of the fishery. All limited access vessels that do not qualify to fish under general category would no longer be permitted to fish under general category rules. The main rationale for this preferred alternative is that limited access vessels that have general category landings and qualify under the same criteria should be permitted to fish under general category. Some limited access vessels depend on this privilege as a component of overall revenue. The Council identified 0.5% as the maximum projected annual scallop catch that should be allocated to this component of the overall scallop fishery because that

value is close to what historical landings have been in recent years and does not represent a large amount of the total catch. Furthermore, an allocation of 0.5% to these vessels is not projected to have substantial impacts on other limited access and general category vessels.

- **Change issuance date of general category permit**

The Council recommends that the issuance date of general category permits be changed from May 1 to March 1 to be consistent with the scallop fishing year. This alternative was selected to improve integration of scallop fishery data and to make this permit consistent with the limited access scallop permit issuance date. The document also considered other alternatives to better integrate recent data in a more timely way, namely changing the scallop fishing year, but those measures were not adopted. During the public comment period the industry provided reasons why not changing the fishing year outweighed the benefits of improving the timing and integration of survey and fishery data.

The list of reasons given include: 1) there is always a boom in fishing effort when a fishing year begins and that should be when yield is high. In the case of scallops, yield is highest in late spring so a March 1 start date is somewhat favorable to reduce mortality; 2) spring and summer are good weather months so more effort during that time of year is beneficial for safety; 3) scallop yield falls off in the fall when scallops spawn, so an August 1 start date would increase mortality; 4) the processing industry has developed over the last decade based on a March 1 start date, and there would be inventory management issues if the year changed. For example, since most scallops are caught in the spring and summer some are frozen and sold off during the winter when supply is lower. It is true business models could be changed if the fishing year changes, but that would come at a cost to the industry; 6) the market is better in spring and summer when demand for fresh scallops is higher, so it makes sense to keep the start of fishing year when demand is highest; 7) since the entire scallop survey program is in flux and we are not sure what vessel or vessels are going to be used, when the survey is going to take place, and how the scallop resource is going to be assessed in the future why change the fishing year now when everything could be different next year; 8) survey technology is improving and information is becoming available much sooner; and 9) from a port and fishing pier perspective it helps that the scallop and groundfish fishing years are staggered. Vessels are usually worked on right before the opening of a fishing year, so the scallop vessels are worked on first, and then the groundfish vessels. In a port like New Bedford, it would be very difficult for all the vessels to get worked on at the same time if the fishing years were both May 1.

- **Other measures**

The Council proposes two actions under other measures. First, the proposed action includes a clarification of the 144 ft. net sweep restriction. During scoping for Amendment 11 it was discussed that the net sweep restriction should not apply for vessels not targeting scallops. The proposed action would clarify that vessels that are not directing on scallops (fishing under a multispecies or monkfish DAS) should not be restricted to the 144ft. net sweep restriction. Second, during scoping it was discussed that it takes more than 50 bu. to cut out 400 lb. of scallops, so the possession limit should be increased for vessels while fishing so that they are not in violation of the 50 bu. possession limit while shucking scallops. The proposed action would allow a general category vessel to be in possession of up to 100 bushels seaward of the demarcation line only. Once shoreward of the line a vessel can only be in possession of 50 bushels.

Table 1 is a summary of all the alternatives in Amendment 11; the proposed action is shaded.

Table 1 – Summary of alternatives for Amendment 11 (proposed action is shaded)

SECTION	ALTERNATIVE NAME	DESCRIPTION OF ALTERNATIVE
3.1	MEASURES TO CONTROL CAPACITY AND MORTALITY IN THE GENERAL CATEGORY FISHERY	
3.1.1	No Action	
3.1.2	Limited Entry	
3.1.2.1	Qualification criteria alternatives	
3.1.2.1.1	Permit before control date and 100 pound trip	In order to qualify must have permit before control date and at least one trip of 100 lbs or more during qualification time period
3.1.2.1.2	Permit before control date and 1,000 annual pounds	In order to qualify must have permit before control date and at least 1,000 pounds of scallops in one year during the qualification time period
3.1.2.1.3	Permit before control date and 5,000 annual pounds	In order to qualify must have permit before control date and at least 5,000 pounds of scallops in one year during the qualification time period
3.1.2.2	Qualification time period alternatives	
3.1.2.2.1	March 1, 2003-November 1, 2004	Qualification would have to be during these five fishing years, note last fishing year only eight months long (Mar.1,04 - Nov.1,04)
3.1.2.2.2	March 1, 2000-November 1, 2004	Qualification would have to be during these two fishing years, note last fishing year only eight months long (Mar.1,04 - Nov.1,04)
3.1.2.2.3	March 1, 1994-November 1, 2004	Qualification would have to be during these eleven fishing years, note last fishing year only eight months long (Mar.1 94 - Nov.1 04)
3.1.2.3	Determination of qualification amount	
3.1.2.3.1	Best year	A vessels best year would be taken from the qualification time period selected as their contribution to the general category fishery. That value would then be scaled based on projected TAC and percent given to the general category fishery.
3.1.2.3.2	Best year indexed by number of years active in the scallop fishery	A vessels best year would be taken from the qualification time period selected as their contribution to the general category fishery. That amount would then be multiplied by an index of years active in the scallop fishery. Option A is a range of index values from 0.9 to 1.1 for one to >5 years respectively. Option B is 0.75 to 1.25 for one to >5 years respectively (preferred). The final value would then be scaled based on projected TAC and percent given to the general category fishery.
3.1.2.3.3	Cap of 50,000 pounds for a vessels individual contribution factor	The contribution factor calculated by any of the methods above (3.1.2.3.1 – 3.1.2.3.5) could not exceed 50,000 pounds per vessel.
3.1.2.4	Allocation of access for qualifiers	
3.1.2.4.1	Individual allocation	Every vessel that qualifies would be allocated an individual amount of quota in pounds (Option A) or number of trips (Option B). Option A is preferred . Once their allocation is caught they can't land scallops under general category permit. Would be subject to cost recovery requirements.
3.1.2.4.1.1	Modify the 400 pounds possession limit to 2,000 pounds per trip only with individual allocation alternative	A vessel that qualifies for a limited entry permit would be permitted to land up to 2,000 pounds of scallop meat per trip regardless of the length of a trip.
3.1.2.4.2	Individual allocation with two permit types	Every vessel that qualifies would be allocated an individual amount of quota in pounds (Option A) or number of trips (Option B) but there would be two permit types. Part time permit restricted to 200 pounds per trip and Full time permit restricted to 400 pounds per trip. Once their allocation is caught they can't land scallops under general category permit.

3.1.2.4.3	Individual allocation with three tiers	Every vessel that qualifies would fall into one of three tiers based on annual landings. Each vessel within a tier would get an equal allocation. Allocation of quota would be in pounds (Option A) or number of trips (Option B). Once their allocation is caught they can't land scallops under general category permit.
3.1.2.4.4	Stand alone ITQ alternative	This alternative would qualify all vessels that had a permit in any year from 2000 through the control date. However, only vessels with landings would be allocated access to the fishery. Vessels would be able to lease/buy quota from other qualifiers up to 1-5% of total general category quota.
3.1.2.4.5	Stand alone quarterly hard TAC alternative with limited entry	This alternative would include a limited entry program for vessels with a permit before the control date and some level of landings. A vessel would qualify for a 200 pound permit if they landed 1-5,000 pounds in any FY from March 1, 1994 – Nov 1, 2004. A vessel would qualify for a 400 pound permit if they landed over 5,000 pounds in any one FY from 1994-2004. Qualifying vessels could possess up to 400 pounds per trip and fish under a quarterly hard TAC.
3.1.2.4.6	Fleetwide Hard TAC with limited entry	A vessel would have to qualify for a limited access general category permit. All vessels that qualify would be allocated a fleetwide hard TAC. When the TAC is projected to be caught vessels would not be permitted to land scallops outside of incidental catch rules.
3.1.2.4.7	Fleetwide Hard TAC by quarter or trimester with limited entry	A quarterly (Option A) or trimester (Option B) TAC would be set using data from FY2000-FY2005 to identify the appropriate percentage that should be allocated for each quarter. Only vessels that qualify for a limited access general category permit would be permitted to fish for scallops up to 400 pounds per trip.
3.1.2.5	Limited Entry Permit Provisions – these alternatives only relative if limited entry adopted in this action	
3.1.2.5.1	Fishing history and permit transfers	
3.1.2.5.1.1	No Action (One vessel can only qualify one permit)	Fishing history for an open access permit remains with the vessel. Even if the purchase and sales agreement specifies that the general category history remains with the seller, NMFS does not recognize history for an open access permit and the buyer would be the only person eligible for qualification.
3.1.2.5.1.2	One vessel potentially qualifying more than one permit	If a vessel owner sells his permits to another vessel, but retains the general category scallop history on the purchase and sales agreement, the seller should be able to qualify for a permit. The buyer cannot qualify under that history; however, if the buyer qualifies under its own landings after the sale, but during the qualification period, the buyer could be granted a permit as well.
3.1.2.5.2	Vessel upgrades	
3.1.2.5.2.1	No upgrade restriction	A vessel that qualifies can replace their vessel, or refit it without any restrictions.
3.1.2.5.2.2	10:10:20 upgrade restriction	A vessel may be upgraded, but HP can only increase 20% once, length, GRT and NT can only increase 10% once.
3.1.2.5.2.2.1	Vessel baselines	If an upgrade restriction is adopted, establishing a baseline is necessary. A vessels baseline would be the specifications when a vessel qualifies for a limited access permit.
3.1.2.5.3	Vessel replacements	
3.1.2.5.4	Permit stacking	
3.1.2.5.4.1	No Action	No permit stacking
3.1.2.5.4.2	Allow stacking up to two permits	A vessel that qualifies for more than one limited access permit, or leases/purchases additional quota (if permitted) would be allowed to stack their allocation onto one vessel-limited to two

		permits.
3.1.2.5.4.3	Allow stacking up to 60,000 pounds or 150 trips	A vessel that qualifies could stack up to 60,000 pounds or 150 trips onto one vessel.
3.1.2.5.4.4	Allow stacking up to 2% of general category allocation per vessel	A vessel that qualifies could stack up to 2% of the total general category allocation on one vessel.
3.1.2.5.5	Voluntary Relinquishment of Eligibility	A vessel that qualifies can voluntarily exit the fishery. If relinquished, no limited access permit can be reissued to another vessel.
3.1.2.5.6	Permit splitting	If limited entry is approved in this action, that permit would have to be sold as a package, like all other limited access permits.
3.1.2.5.7	Permit renewals and CPH	A vessel owner must maintain the limited access permit status by renewing permits on an annual basis or applying for issuance of a CPH.
3.1.2.5.8	Percentage ownership restriction	
3.1.2.5.8.1	Maximum of 1-5% of total general category allocation	An individual or corporation would be restricted to having more than 1-5% ownership interest of the total general category allocation (5% ownership restriction is preferred). If an individual owns more than the maximum when the plan is implemented, they would be grandfathered in.
3.1.2.5.9	Multispecies permit restrictions would not apply for limited entry general category qualifiers	In terms of not being permitted to have a limited entry scallop permit on a limited entry multispecies vessel, if limited entry is adopted for the general category fishery this alternative clarifies that one vessel would be permitted to have both a limited entry multispecies permit and a limited entry general category permit
3.1.2.6	Measures to reduce incentive for limited entry qualifiers to fish for scallops with trawl gear	
3.1.2.6.1	No Action	If a vessel qualifies for a permit using a trawl they would be permitted to land scallops up to 400 pounds per trip
3.1.2.6.2	Prohibit a vessel from switching to trawl gear if it qualified under dredge gear	If a vessel qualifies using dredge gear at all during qualification they would get a dredge only permit, it would not be permitted to switch to trawl gear to fish for scallops under general category.
3.1.2.6.3	Lower possession limit for vessels that qualify for a limited entry general category permit and fish with trawl gear	Two alternatives under considerations (300 pounds and 250 pounds)
3.1.2.6.4	If a vessel is fishing with a net and has a general category scallop permit, scallops can only be up to 5% of total regulated species onboard (maintaining the 400 pound possession limit)	This alternative would allow vessels to land up to 400 pounds of scallops with a net, but scallops can only be up to 5% of total product onboard. This would reduce incentive to fish for scallops with a net since a vessel would have to have 95% of another species onboard.
3.1.2.7	Sectors and Harvesting Cooperatives	Consider a process for creation of voluntary sectors in the general category fishery.
3.1.2.7.1	No Action	Sectors would not be permitted in the general category scallop fishery
3.1.2.7.2	Allow a mechanism for sectors	A group of permit owners could form voluntary sectors and apply to the Council and NMFS for approval. Sector participants would be restricted to the 400 pounds possession limit. The Council added that the possession limit for sectors could be revised in a future framework.
3.1.2.7.2.9.1	20% maximum allocation per sector	One sector could not be allocated more than 20% of the total general category allocation. The maximum percent value could be changed in a future framework, perhaps after the Council considers an overall sector policy.
3.1.2.8	Interim measures for transition period to limited entry	

3.1.2.8.1	Transition to limited entry with hard-TAC	General category qualifiers (and vessels under appeal) will be limited to a 10% of total projected annual scallop catch. Option A is preferred – quarterly hard-TAC.
3.1.2.8.2	Transition to limited entry without hard-TAC	General category qualifiers (and vessels under appeal) will be permitted to fish under current restrictions – not hard TAC for the component of the fishery overall
3.1.3	Hard TAC	
3.1.3.1	Fleet-wide Hard TAC	A hard TAC would be defined for the entire general category fishery and when that amount was projected to be caught the fishery would close.
3.1.4	Establish a NGOM Scallop Management Area	
3.1.4.1	No Action	No additional measures would be considered for the NGOM
3.1.4.2	Amendment 11 would not apply to waters in the NGOM	If this alternative is selected by the Council then any measures adopted in Amendment 11 pertaining to controlling capacity and mortality in the general category fishery would not apply to waters in either Option A (the GOM exemption area north of 42°20N) or Option B (EEZ north of 43N). The open access 1B permit to fish for scallops under general category would remain for this area, and a vessel could possess up to 400 pounds until a hard TAC is reached. Once the hard TAC is reached all vessels only permitted to possess up to 40 pounds
3.1.4.3	Establish a limited entry program for the NGOM	This alternative would develop a separate limited entry general category program in either Option A (the GOM exemption area north of 42°20N) or Option B (EEZ north of 43N). The area would have a separate hard TAC. Separate qualification criteria are being considered as well as different trip and gear restrictions from the general category limited entry program.
3.1.4.4	Establish a limited entry program for the NGOM without landings criteria	This alternative would develop a separate limited entry general category program in the GOM exemption area north of 42°20N. The area would have a separate hard TAC. A vessel would have to have a permit at the time of the control date to qualify. A lower possession limit of 200 pounds is recommended as well as specific gear restrictions.
3.1.5	Monitoring provisions	
3.1.5.1	No Action	Vessels would be required to report landings through VTR.
3.1.5.2	Require landings and declaration of scallop trip through VMS	Require vessels to declare they are going on a general category trip and report scallop landings through VMS.
3.1.5.3	Require vessels to report landings through IVR	Vessels would be required to report landings weekly through IVR in addition to VTR
3.1.6	Limited access fishing under general category rules	
3.1.6.1	Permit or prohibit limited access fishing under general category rules	
3.1.6.1.1	Permit limited access vessels that qualify	Any full-time, part-time, or occasional vessel that qualifies to fish under the same criteria selected for the general category fishery would receive a permit to land scallops under general category while not on a scallop DAS.
3.1.6.1.2	Permit occasional or part-time limited access vessels that qualify	Same as above but full-time permits would not be considered.
3.1.6.1.3	Prohibit all limited access vessels from fishing under general category rules	All limited access permits would be prohibited from landings scallops under general category rules.
3.1.6.2	Allocation of quota to limited access vessels under general category rules	
3.1.6.2.1	Landings deducted from general category TAC	The landings from limited access qualifiers under general category would be deducted as part of the general category TAC
3.1.6.2.2	Landings deducted from separate allocation – 0.5% of total projected	The landings from limited access qualifiers under general category would be deducted from a separate TAC just for limited access fishing under general category rules- 0.5%.

annual scallop catch		
3.1.7	Allocation between limited access and general category fisheries	
3.1.7.1	No Action	A specific allocation would not be implemented.
3.1.7.2	Allocation for general category fishery of 2.5-11% of projected TAC	The general category fishery would be implemented a specific percent of the total scallop catch. It is understood that the amount will change based on estimated yield, but the percent would remain the same. The range being considered in 2.5 to 11% of the total. Preferred allocation value is 5.0%.
3.1.7.3	Allocation of yellowtail flounder bycatch TAC in access areas	
3.1.7.3.1	No Action	The yellowtail flounder bycatch TAC is for both components of the scallop fishery. When the TAC is projected to be caught, the area closes to both fisheries.
3.1.7.3.2	Allocate a proportional allocation of the 10% to the general category fishery	Currently the 10% YT bycatch TAC is for both fisheries combined. This alternative would allocate the same percent of the YT bycatch TAC as the Council selects for the scallop catch (2.5-11%).
3.1.8	Incidental Catch	
3.1.8.1	No Action	No change to incidental rules, 40 lb. possession limit not for resale. No permit needed – any vessel in the region is permitted to possess/land (but not sell) up to 40 lb.
3.1.8.2	New Incidental Catch Permit	A vessel that qualifies under the general category qualification time period alternative selected but not the landings criteria would qualify for this permit and could possess and sell up to 40 lb. of scallop meat per trip. A vessel that qualifies for a limited entry general category permit could opt for this permit instead. If this alternative is selected the current privilege for any vessel to possess (for personal use – cannot be sold) up to 40 lb. scallop meat would be eliminated.
3.2	MEASURES TO ALLOW BETTER AND MORE TIMELY INTEGRATION OF RECENT DATA	
3.2.1	No Action	No additional measures to allow better and more timely integration of recent data
3.2.1.1	Change issuance date of permit	Change the issuance date of general category permit from May 1 to March 1
3.2.2	Change start of FY to May 1	Change scallop fishing year for general category and limited access from March 1 to May 1
3.2.3	Change start of FY to August 1	Change scallop fishing year for general category and limited access from March 1 to August 1
3.3	OTHER MEASURES	
3.3.1.1	No action	Current trawl sweep restriction would apply
3.3.1.2	Clarification of trawl gear restriction	This alternative would clarify that the 144 ft. net sweep restriction is intended for vessels in the scallop fishery only, and does not apply to vessels participating on other trawl fisheries that catch scallops as bycatch. Specifically, if a vessel is fishing under a multispecies or monkfish DAS, and have a general category 1B permit, or a limited entry general category permit if one is adopted in this action, would be permitted to possess up to 400 pounds of scallops and would not be restricted by the 144 net sweep restriction.
3.3.2.1	No Action	Current possession limit would apply in all areas
3.3.2.2	Possession limit of 50 bu. Shoreward of the VMS demarcation line and up to 100 bushels east of the line	This modification would allow a general category vessel to be in possession of up to 100 bushels east of the demarcation line only. Once shoreward of the line a vessel can only be in possession of 50 bushels.

Summary of Impact Analysis

Analyses of the proposed action as well as all management alternatives considered during the development of this amendment are provided in this document across a series of valued ecosystem components, or VECs. VECs represent the resources, areas, and human communities that may be affected by a proposed management action or alternatives, and by other actions that have occurred or will occur outside the Proposed Action. VECs are the focus of an EIS since they are the “place” where the impacts of management actions are exhibited. An analysis of impacts is performed on each VEC to assess whether the direct/indirect effects of an alternative adds to or subtracts from the effects that are already affecting the VEC from past, present and future actions outside the Proposed Action (i.e., cumulative effects). The VECs identified for Amendment 11 include: Atlantic sea scallop resource, physical environment and EFH, protected species, fishery-related businesses and communities, and other impacts. Please refer to Section 5.7 for a summary of cumulative impacts of the alternatives on each of the identified VECs.

The descriptive and analytic components of this document are constructed in a consistent manner. The Affected Environment section of this document traces the history of each VEC and consequently addresses the impacts of past actions. The Affected Environment section (Section 4.0) is designed to enhance the readers’ understanding of the historical, current, and near-future conditions (baselines and trends) in order to fully understand the anticipated environmental impacts of the management alternatives under consideration in this amendment.

Impacts on Atlantic Sea Scallop Resource (Section 5.1)

Overall the impact of No Action is negative for the scallop resource. Open access may increase the risk that estimates could be inaccurate and fishing mortality exceeded. The No Action would not help reduce fishing pressure in near shore waters which are below average in terms of abundance. Since the No Action does not address potential growth of the general category fishery there is a greater chance that overfishing could result if projections do not accurately predict mortality from the general category sector. Limited entry is expected to have positive impacts on the scallop resource. While the specific qualification alternatives have neutral impacts in terms of cumulative effects, overall limiting the number of vessels that can harvest scallop under general category helps prevent overfishing. In general, how access is allocated has neutral impacts, but the hard TAC options may have negative impacts on the scallop resource depending on how it is implemented and how vessels respond to a hard TAC. In general, the other alternatives under limited entry such as permit provisions, fishing with trawl gear and sectors have neutral or potentially positive effects.

In terms of limited access fishing under general category the impacts on the scallop resource are neutral. Allocating a portion of the total scallop TAC to the general category fishery would help prevent the fishery from exceeding fishing mortality rates, but there are some concerns with near shore areas and vessel behavior in terms of scallop mortality. The cumulative impacts of the NGOM alternatives are neutral provided the TAC is set at an appropriate level to prevent overfishing. Lastly, positive cumulative impacts are expected from the measures to improve integration of scallop data so that management measures can be developed using the most recent data available.

The specific impacts on the scallop resource from each of the proposed measures are described within Section 5.1. Overall the cumulative effects on the scallop resource as a result of the proposed action are neutral to positive.

Impacts on Physical Environment / Essential Fish Habitat (Section 5.2)

In general, most alternatives in the proposed action have neutral to slightly positive cumulative impacts on EFH when compared to the No Action. Similar to the scallop resource, negative cumulative impacts are expected under No Action and positive impacts under limited entry. Limited entry will have long-term positive impacts on EFH by reducing the number of potential participants and controlling effort as compared to the No Action open access fishery. The specific qualification alternatives and permit provisions do not have expected impacts on EFH. Permitting the formation of sectors may have positive impacts on EFH if vessels can fish more efficiently and reduce bottom contact time. Positive impacts may result from the additional monitoring requirements with better information about the general category fishery. Overall, because the general category fishery is allocated a portion of the scallop TAC there could be positive impacts on EFH because the potential expansion of general category effort would be limited.

The specific impacts on EFH from each of the proposed measures are described within Section 5.2. Overall the cumulative effects on EFH are neutral to positive with some negative cumulative impacts from non-fishing activities.

Impacts on Protected Resources (Section 5.3)

In general, most alternatives under consideration have neutral cumulative impacts on protected resources when compared to the No Action. Similar to the scallop resource, negative cumulative impacts are expected under No Action and positive impacts under limited entry. The specific qualification alternatives and permit provisions do not have expected impacts on protected resources. Permitting the formation of sectors may have potential positive impacts on protected resources if vessels can fish more efficiently and reduce bottom contact time. Potentially negative impacts could occur if a change in the fishing year results in an increase in effort or derby effects that overlap with periods when turtles are most abundant. And if additional monitoring requirements are selected potential positive impacts on protected resources may result with better information about the general category fishery. Overall if the general category fishery is allocated a portion of the scallop TAC there could be potential positive impacts on protected resources because the potential expansion of general category effort would be limited, thus potential impacts to protected resources reduced.

The specific impacts on protected resources from each of the proposed measures are described within Section 5.3. Overall the cumulative effects on protected resource are neutral to potentially positive.

Impacts on Fishery Related Businesses and Communities (Sections 5.4, 5.5 and 5.6.3)

The direct and indirect impacts of the alternatives included in Amendment 11 on fishery related businesses and communities were analyzed in Section 5.4 (Economic Impacts) and Section 5.5 (Social Impacts) of this document. The cumulative impacts of the limited access, TAC, and other alternatives included in Amendment 11 are summarized in Section 5.7. Overall, these impacts are expected to be positive on fishery related businesses and communities.

Past and present actions had positive cumulative impacts on the communities by increasing the scallop landings and revenues for both limited access and general category vessels, and by giving relatively smaller general category vessels an option to fish on a rebuild resource. The proposed action will continue providing this opportunity to a subset of vessels that had a general category permit and participated in the general category fishery in at least one fishing year between March 1, 2000 and November 1, 2004. Although the limited entry alternatives will have negative distributional impacts on the groups of general category vessels excluded from limited access, the overall cumulative impacts of the proposed action are expected to be positive compared to taking

no action. The proposed action is also expected have positive economic impacts on the limited access vessels by preventing fishing mortality to exceed sustainable levels due to an uncontrolled expansion of general category fishery. Since with no action there are no limits on the number of trips a general category vessel could take and no limits on the number of vessels able to participate in the general category fishery, total fishing effort in this fishery could increase in response to higher scallop prices, to an increase in resource productivity, or to changes in fishing opportunities in other fisheries. As a result, scallop mortality could exceed sustainable levels, reducing the stock biomass, the future yield, scallop revenues and income for the participants of both the limited access and general category scallop fisheries. Limited access, by itself, will not entirely eliminate these possible effects, but it will reduce the risks of overfishing of the scallop resource by preventing new entry to the general category fishery and by restricting the number of participants in this fishery to vessels that meet the poundage qualification criteria within a qualification time period. It will also prevent the profits of the qualifiers and limited access vessels from dissipating due to an increase in capacity.

Amendment 11 also includes alternatives that would control scallop fishing mortality in the general category fishery by allocating a separate TAC for this sector. In general, the cumulative impacts of the TAC alternatives are expected to be positive on fishery related businesses and communities compared to taking no action for the following reasons:

- Even with limited access and in the absence of measures that control overall scallop landings by general category vessels, it is possible for the fishing mortality to increase beyond the target levels if the qualified vessels increase the number of trips targeting scallops. This could have negative impacts on both the limited access and the general category vessels as scallop catch per day-at-sea declines and fishing costs per pound of scallops increase.
- Since any increase in overfishing of the scallop resource will need to be corrected through framework action according to the Sea Scallop FMP, the Council could reduce the DAS allocations for limited access vessels, negatively impacting these vessels and their communities. The Council could also reduce the possession limit for all general category vessels, affecting negatively most of the general category vessels that participate in the fishery and depend on scallops as a significant source of income.

If the general category fishery is managed by hard TAC, however, without limited access and/or without allocation of quota to individual vessels (either an individual quota or allocations to tiers), it could lead to a race to fish and market gluts, which could have negative economic impacts especially on smaller vessels that fish seasonally and cannot access all areas due to the constraints on their capacity. Fleet-wide hard TAC by trimester or by quarter will spread out the fishing season and reduce negative impacts from derby fishing and market gluts to some extent. TAC management combined with limited entry and allocation for vessels (in terms of IQ in pounds or trips, in terms of individual allocation or equal allocation for tiers) will prevent derby-style fishing and the negative impacts associated with it.

The impacts of the other alternatives regarding permit and monitoring provisions, NGOM area management alternatives, limited access fishing under general category rules, allocation between general category and limited access vessels, incidental catch, more timely integration of data and other measures were analyzed in Section 5.4 (Economic Impacts) and Section 5.5 (Social Impacts) and summarized in Table 5. Since the overall impacts of these alternatives are, in general, expected to be positive for the participants in the sea scallop fishery (for the reasons provided in Section 5.4 and 5.5), the cumulative impacts of the Amendment 11 alternatives including the past actions are also expected to be positive compared to taking no action.

In terms of enforceability, all the measures under consideration are enforceable according to the NMFS Office of Law Enforcement. There are several alternatives that may be more enforceable than others, but there are no cumulative effects of this action on enforcement. Several specific comments from an enforcement perspective have been included when applicable.

The specific impacts on the fishery related businesses and communities of the proposed measures are described within Sections 5.4 (Economic Impacts), 5.5 (Social Impacts) and 5.6.3 (Enforcement Impacts). Overall the cumulative effects on the fishery related businesses and communities are neutral/uncertain to positive.

Impacts on Other Fisheries (Section 5.6.1)

In general, most alternatives under consideration have neutral cumulative impacts on other fisheries when compared to the No Action. Some of the hard- TAC alternatives have potential negative impacts on other fisheries because if a hard TAC leads to vessels changing behavior impacts could increase. Specifically, if vessels end up fishing for scallops on a more direct basis until the TAC is caught and then fish for other species, then effort could shift into other fisheries after the general category TAC is caught.

The specific impacts on other fisheries from each of the proposed measures are described within Section 5.6.1. Overall the cumulative effects on other fisheries are neutral.

Cumulative Effects (Section 5.7)

A summary of the cumulative effects of past, present and reasonably foreseeable actions on all the VECs in this document are assessed in Section 5.6. In addition the direct and indirect effects on each VEC from the proposed action and other alternatives considered are summarized in this section. These impacts are combined with the impacts of non-fishing activities to illustrate the cumulative effects of the proposed action under Amendment 11. Overall, the cumulative effects of the proposed action are neutral to low positive on all the VECs considered.

This DSEIS for Amendment 11 was available for 45 days for public comment. The Council had six public hearings on this action in May 2007 (see Appendix III for the public hearing meeting summaries). The DSEIS was available for written comments on April 18, 2007 until June 11, 2007. The written comments on the DSEIS are included in Appendix II and the written comments received during the scoping period are included in Appendix I.