



Amendment 11 Scoping Hearing Summary
Rutgers Extension Office - Cape May Court House, NJ
February 21, 2006

About 120 individuals signed in for the scoping meeting in Cape May Court House, NJ, and probably closer to 150 people were there. Michelle Peabody, a Mid-Atlantic Council member and Scallop Committee member welcomed the large crowd and Council staff (Deirdre Boelke) reviewed recent trends in the general category fishery and summarized the scoping document the Council approved for Amendment 11. About 25 individuals gave oral comments during the meeting and two written comments were submitted. The meeting began at approximately 7:15 PM and adjourned around 9:30 PM. The majority of comments were very focused to the seven issues summarized in the scoping document. This meeting summary will first describe a few overall statements about the meeting and then summarize the comments by issue. See the scoping document for a detailed description of each of the scoping issues.

Overall, very thoughtful comments were made from all sectors of the scallop industry that were present at the scoping hearing. Limited access owners and captains were present, as well as general category permit owners from Georgia to Massachusetts. Some of the individuals present have been involved in the general category scallop fishery for many years, while others are more recent entrants that have been fishing for scallops under general category rules since implementation of the control date (November 1, 2004). There was general consensus that the Council needs to control effort in the general category fishery and limited entry is probably the way to go. Most speakers supported the use of the control date within reason, meaning some exceptions may need to be considered. Some individuals supported the need for additional qualification criteria such as minimum landings during a specified time period. In terms of allocation between the limited access and general category fleet, most commenters supported the use of an historical average of landings.

ISSUE #1 LIMITED ENTRY

Many individuals voiced support of the control date with additional qualifications identified that would identify a group of vessels that could remain in the general category fishery and actually stay in business. There was concern that too many permits would be allocated, and the general category vessels that have always made a living fishing for scallops would not receive enough allocation to make a living. However, there were a handful of individuals who strongly opposed the use of the control date. "NMFS gave me a permit, I invested a lot of money to go scallop fishing and now they are going to take it away?" "Why should 300 people get all the scallops, it's not right." A few individuals suggested that the Council should consider allowing vessels an opportunity to fish for scallops when conditions are good like they are now. It was said that the intent of this permit was to provide opportunity for vessels, and this permit helps new fishermen get into the business, "fishing is a family tradition and a general category scallop permit helps to maintain a way for guys to save money and start fishing."

Several individuals in the audience explained that they had a boat and applied for a general category permit before the control date, but due to paperwork delays, they did not receive their

permit until after the control date; it was suggested that a clause should be considered for those types of vessels and a very specific appeals process should be defined during the development of this action. Furthermore, it was suggested that a re-rigging clause should be included, similar to what was used in the monkfish plan. In addition, one individual suggested that rather than the control date, a more suitable date to use is the date vessels were required to use VMS in the general category fishery; in his opinion that would qualify a smaller, more appropriate number of vessels that intend to fish for scallops (around 800). Lastly, one commenter suggested that it may be appropriate to use a ten year time period for qualification criteria (1994-2004); a long time period is the fairest way to do it.

ISSUE #2 ALLOCATION

Several commenters suggested that Amendment 4 already allocated the resource between the limited access and general category fleet. It never specified a number, but one speaker commented that there is language in Amendment 4 that says all directed effort should be for the limited access fleet and general category landings are small enough that they are insignificant to fishing mortality. Furthermore, the amendment states that if the general category fishery grows, the possession limit should be reduced, rather than “allocating” more resource to the general category sector. Therefore, he stated that it was not appropriate to allocate more than the historical average to the general category fleet (average from 1994-2004 is 3.5% based on data in scoping document). One general category fisherman honestly commented that he would like the Council to allocate a high percent to the general category fishery, but it is probably fair to consider the historical average. Another commenter suggested that if the control date is used, it makes sense to base the allocation on a historical average before the control date, since that date landings have gotten out of control and effort is not consistent with past activity. One commenter suggested that the Council specify the allocation in pounds rather than as a percentage of total landings, because the condition of the resource has changed over time and 5% today is very different in actual pounds landed compared to 5% in 1994. The Council must consider the pounds needed to sustain the general category sector, not the percentage of the total because that fluctuates.

Several commenters warned that they believe this resource is on the decline and there is not going to be fishing like this again for sometime. “This fishery is not sustainable at 60 million pounds so we should not base allocations on that number, I do not expect to see this level of landings for long.” Another commenter voiced that this action is pushing small boats against big boats, and that was unfortunate, he added, “It is supposed to be us against the government.” On that note, several commenters did voice that it was critical for the general category boats to work together to devise a limited entry program that worked for their fishery, and they needed to keep in mind that the big boats do not have the ability to diversify; “they are the directed scallop fishery and they do not have other options.”

ISSUE #3 LIMITED ACCESS UNDER GENERAL CATEGORY

Many commenters were against preventing the limited access fleet from landing under general category rules when not fishing on a DAS. It was further suggested that limited access vessels with a history of landings under general category rules should definitely not be prevented from continuing that activity. Furthermore, it was pointed out that not all limited access permits are part of a huge, fully integrated corporation. There are a number of full-time limited access boats that are owner-operated, and there are part-time and occasional limited access vessels that are not given many scallop DAS that should be able to fish under general category rules. One

commenter suggested that it would be appropriate to allocate the percent of total landings caught by the limited access fleet while fishing under general category rules to the limited access fleet. For example, an average of 0.5% of the total was landed by these vessels from 1994 to 2004; therefore, that allocation could be reserved for limited access vessels fishing under general category rules. Several people suggested that gear requirements for the limited access and general category fleets should be consistent, especially if limited access vessels are permitted to fish under general category rules.

ISSUE #4 **HARD TAC'S**

Overall there was support for the idea of a hard TAC to control effort in the general category fishery, but it was pointed out by many individuals that it would have to be designed very carefully to prevent negative, unintended consequences. There was general consensus that a hard TAC alone was not the answer, and we need to be careful to design a plan that does not promote a derby fishery. Furthermore, some speakers were in favor of TACs by area, TACs by community, individual TACs and seasonal TACs; the pros and cons of each approach were briefly discussed. For example, one speaker suggested that a community TAC could work better than an area TAC because an area TAC would just make vessels move to different areas once a TAC was reached. He pointed out that not all vessels can move to different areas, so that would be unfair, and potentially unsafe. It was suggested that a hard TAC used over time might work. Another individual suggested that an individual TAC would prevent derby fishing and unsafe situations. "If a hard TAC is used, we need to pick the right number of vessels because if the pie is cut between us too small this will be a big waste of time because none of us will be able to stay in business." It was suggested that the Council needs to identify the number of general category boats that can make a living or create a few different permit categories potentially with different possession limits, so that this action protects the vessels that directly fish for scallops under general category. One individual suggested that there could be different rules for different areas; for example, trawls could be prevented in areas east of 73° 30.

ISSUE #5 **SECTORS AND HARVESTING COOPS**

Not many commenters focused on this issue. One person suggested that if an individual owns several general category boats, stacking should not be allowed, similar to the current restrictions on the limited access fleet. It would not be fair to allow general category boats to stack permits or quota on one vessel if the limited access fleet is not allowed to do the same.

ISSUE #6 **INCIDENTAL SCALLOP CATCH**

Most individuals that commented on this issue agreed that scallop bycatch should not be zero. If a limited entry program is established, or if a hard TAC is reached during the fishing year, vessels should be allowed to land an incidental level of scallops. "We do not want to support any measures that increase scallop bycatch." One commenter suggested that the current incidental catch limit of 40 pounds is still appropriate and should not be changed up or down.

ISSUE #7 **CHANGE OF SCALLOP FISHING YEAR**

None of the individuals that commented on this issue supported changing the fishing year. "Industry has said time and time again that this should not be considered, how does this issue keep coming up?" Most suggested that the Council remove this issue from consideration in this

amendment. They stated that the scallop survey program is currently being reconsidered, so it would make more sense to see what comes of that process and then adjust the scallop fishing year if necessary. Several went on to explain that the range last considered in Amendment 10 was inappropriate anyway. One individual said that the range of July through September is too late because restaurants need the product sooner, and another suggested that January 1 is the only other date that might make sense.

OTHER

There were a variety of comments about other measures that could be considered in this action to control effort in the general category fishery. For example, it was suggested that some requirements for the limited access fishery could be applied to the general category fishery and that would help reduce fishing mortality like restrictions on trawl nets and a prohibition on shell stocking. However, several general category fishermen replied to these ideas negatively, and explained that they would not work for their businesses. For example, one individual lands scallops under his general category permit when fishing on a multispecies DAS and he uses a net, and another individual supplies a small market that demands live scallops so he needs to land his product in the shell.

Overall there was confusion about why an increase in general category landings is a bad thing. It was voiced that the small day-boat fishery is not the main culprit in scallop mortality and if the Council is serious about addressing overfishing in the scallop fishery they should focus on the real problem, the limited access fishery that lands the vast majority of scallops. It was said that the new effort in the general category fishery has helped some boats operating on the margin to stay in business. Because of major restrictions implemented in other fisheries, this opportunity has allowed more fishermen to keep fishing, and it was stated that the Council should be supportive of maintaining opportunities for fishermen to remain in business. One individual suggested that this “problem” will fix itself; once the price of scallop drops; “you will see a lot of this effort disappear when the price drops as we expect it to do relatively soon.” As mentioned earlier, there were several comments about the future health of this resource, and it was stated that the Council never should have let 60 million pounds get caught, that is too high for this resource. On a different note, one commenter voiced that this is a serious issue and the timeline for this action is still too long even though it is relatively short compared to other amendments recently developed by the Council.