

**AMENDMENT #3 TO THE  
FISHERY MANAGEMENT PLAN  
FOR  
ATLANTIC SEA SCALLOPS**

**INCORPORATING AN  
ENVIRONMENTAL ASSESSMENT  
AND  
REGULATORY IMPACT REVIEW/  
INITIAL REGULATORY FLEXIBILITY ANALYSIS**

**Prepared by the  
New England Fishery Management Council**

**March 1989  
Resubmitted August 1989**

## I. INTRODUCTION

By this Amendment to the Fishery Management Plan (FMP) for Atlantic Sea Scallops (Placopecten magellanicus), the New England Fishery Management Council and the Assistant Administrator for Fisheries (NOAA) establish a twelve hour offloading window. Amendment #3 is for the purpose of improving enforcement of the meat count/shell height management standards. The window covers different periods in different states where Atlantic sea scallops are offloaded, to accommodate industry practices which vary by state. The window reduces by half the time when enforcement agents must sample/weigh scallops in order to establish whether there is a violation of the standards. Offloading outside the window constitutes a violation regardless of the meat count/shell height measurements of the scallops being offloaded.

Amendment #3 initially specifies the following daily, offloading periods:

<u>STATE</u>	<u>PERIOD</u>
ME & NH	7 a.m. to 7 p.m.
MA, RI & CT	5 a.m. to 5 p.m.
NY, NJ, PA, DE, MD & VA	6 a.m. to 6 p.m.
NC, SC, GA & FL	7 a.m. to 7 p.m.

These offloading time windows are intended to remain in effect until a change may be determined necessary and appropriate by the Regional Director, at the Regional Director's discretion or at the recommendation of the Council, in consideration of the management intent of the Council. When implemented, Amendment #3 will have the effect of enhancing compliance with the management standards and promoting the achievement of the objective of the FMP.

## II. PURPOSE AND NEED FOR ACTION

The Council believes that it is necessary to increase the level of compliance with the meat count/shell height measures, to achieve the biological objectives of the FMP. The establishment of a system for a mandatory call-in prior to landing sea scallops (call-in) and a twelve hour daily time window within which scallops may be offloaded (window) was proposed by representatives of the sea scallop industry from New England and the Mid-Atlantic area.

Additional FMP measures such as the call-in and window are necessary to curb the widespread and increasing practice of landing undersize scallops. This practice not only jeopardizes the biological integrity of the meat count measure but undermines the conservation efforts of those in the industry who struggle and forego revenues to comply with the meat count. Documentation from Council & Committee meetings, public hearings, and during meetings with scallop fishermen and industry organizations attests to the fact that extensive landings of undersize scallops occur at night and in places not normally covered by NMFS enforcement officials. A report presented to the Council (Sutinen, Rieser, & Gauvin, July 1989) indicated that 38-62% of the scallop dredge vessels were frequent violators.

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There is a strong desire and a sense of urgency within the Council and the scallop industry that all participants be effectively held to the same standard. It is clear that honest scallopers are at a great disadvantage to those who do not abide by the meat count standard. It is alleged that this has led to an increase in the level of non-compliance. There should be little doubt that future financial difficulties will exacerbate the problem and lead to an even lower level of compliance with the regulations if timely action is not forthcoming. Failure to take action will also disparage management and enforcement credibility and further compound the problem of compliance.

Amendment #3 will lead to a reduction in the number of illegal scallops landed. This amendment should have two immediate and directly beneficial biological results: the number of scallops surviving to sexual maturity may be expected to increase, thus augmenting the spawning stock biomass, and the yield per recruit of the incoming year class will rise to the benefit of the fishermen. Scallop abundances are high and the Northeast Fisheries Center predicts continuing high harvest levels in all areas in 1989. It is essential that immediate steps be taken to avoid excessive harvest of immature scallops and to maintain the current high level of spawning biomass.

### III. ALTERNATIVES: DESCRIPTION AND ANALYSIS

#### Alternative A: No Action to amend the FMP

Description: The no action alternative represents a continuation of the current regulatory regime without either the mandatory call-in program or the twelve hour offloading window.

Benefit: There are no discernable benefits associated with this alternative.

Costs: Small scallops will continue to be landed illegally in large numbers. The level of non-compliance has increased to where the effectiveness of the current management measures is in question as described above. This impacts on the credibility of management and enforcement.

#### Alternative B: Mandatory Call-in Program

Description: All vessels landing more than a minimal bycatch of scallops (200 pounds) must call in 24 hours before they intend to land, and provide vessel name & number, caller name, estimated time of arrival and offloading (date & time), and port and tie-up location of landing. Phones, with answering machines, will be installed at six separate locations along the Atlantic coast.

There is no expected change in legal landings or revenues, in the short-run or the long-run, associated with this program.

Benefit: The advanced landing call-in system will increase the sampling frame from which enforcement agents may select daily vessel intercepts. Further, the proposed system would force those who attempt to land small, illegal scallops either to report when and where they will land them and risk sampling, or to forego calling and risk detection. Failure to call-in prior

to landing will constitute a violation and be punishable by a fine, in and of itself. The purpose of this alternative is to increase the effectiveness of enforcement, thereby decreasing the landing of small, illegal scallops. As such, benefits would accrue in terms of increases in yield-per-recruit and in the spawning stock biomass. NMFS Enforcement, however, has publically questioned the benefit of this measure on the effectiveness of enforcement.

Costs: Costs of phones and answering machines at each of the six locations plus one backup station in Gloucester, @ \$73 per phone and \$200 per machine, is \$1,911. Per month costs are estimated at approximately \$15/phone. This is an additional \$1260 per year.

Cost of phone calls depends on the number of trips with a scallop catch above the bycatch allowance (200 lbs.). Based on 1987 information, about 4500 trips meet this criterion. If, for example, the 50¢ charge for 900 number calls is used with the 4500 trips, then the total cost for phone calls is \$2250. The 50¢ cost per call is a relatively small part of the value of scallop landings in excess of 200 pounds, or nearly \$1000.

Costs per scallop vessel for one single side-band radio is \$1000. In 1987 there were 233 scallop dredges above 5 GRT's, but only about 12-20 Mid-Atlantic trawlers catching more than the bycatch allowance (out of a total 213 trawlers landing some scallops), from Maine to Virginia. The number of vessels under 5 GRT's is unknown, but it is safe to assume that all of them land less than the bycatch allowance (average trip catch of scallops by this group was 83 lbs. in 1987). There were also approximately 50 dredges and trawls operating out of North Carolina. It is likely that the total number of vessels requiring radios has risen from the 303 in 1987 to about 400 in 1989, resulting in a total cost not exceeding \$400,000. However, most vessels already have single side-band, as well as ship-to-shore telephone, on board and would not incur this additional cost.

Total, one-time cost of the call-in program, \$1,911 to the government and \$400,000 to the industry, would not exceed \$401,911. Annual costs would be about \$1260 to the government and \$2250 for phone call charges.

#### Alternative C: PREFERRED ALTERNATIVE- Twelve Hour Daily Offloading Window

Description: All vessels using sea scallop dredge gear and all vessels landing sea scallops in the shell must offload any fish within a twelve hour time window each day. Further, sea scallops landed in amounts more than 40 pounds (or more than 5 bushels in the shell) must be offloaded within a twelve hour window each day. Finally, there is a presumption that vessels with sea scallops on board at the close of an offloading window, and not on board at the beginning of the following offloading window, were offloaded illegally outside the window.

The time window will vary by state. The following daily, offloading periods are specified:

<u>STATE</u>	<u>PERIOD</u>
ME & NH	7 a.m. to 7 p.m.
MA, RI & CT	5 a.m. to 5 p.m.
NY, NJ, PA, DE, MD & VA	6 a.m. to 6 p.m.
NC, SC, GA & FL	7 a.m. to 7 p.m.

These offloading time windows are intended to remain in effect until a change may be determined necessary and appropriate by the Regional Director, at the Regional Director's discretion or at the recommendation of the Council, in consideration of the management intent of the Council.

**Benefit:** The twelve hour landing window will increase enforcement effectiveness by allowing more focused inspections. With the small number of agents available to inspect scallop catches this measure is intended to increase the efficiency of enforcement activities by restricting vessel offloading time and by making it a violation for a vessel to offload outside of the time windows. Scallops that are left in the population will have an extended opportunity to spawn and be available for subsequent capture at larger sizes, increasing yield-per-recruit, both of which correspond with the objectives of the FMP. There is no expected change in legal landings or revenues, in the short-run or the long-run, associated with this program.

**Costs:** The twelve hour offloading window does not impose any direct costs, such as equipment. However, there maybe unquantifiable costs associated with the window. Of some concern is the possibility that the window will create queues of vessels waiting to unload at the various ports. New Bedford has the largest number of vessels landing scallops of any east coast port. In 1988, there were 137 scallopers landing in New Bedford, compared to 55 in the Norfolk area and 31 in Cape May. Additionally, there were 23 trawlers landing scallops primarily in New Bedford, 62 in the Norfolk area and 12 in Cape May. Nevertheless, during 1988 the average number of vessels landing scallops in New Bedford, based on the weigh-out data for that port, was about 8-9 and the greatest number on any single day was 30 vessels. [There are also over 10, on average, other vessels attempting to land in New Bedford.] With nine vessels landing on the same day, there are 80 minutes available for unloading each vessel, one behind the other. There are several dealers and 10 points of offloading available in New Bedford.

There could also be some decline in product quality, especially for vessels just missing the window, for instance, due to storms. This problem is exacerbated for shellstockers, because shellstock cannot be effectively packed in ice on the vessel like shucked scallops. It is incumbent on the vessels to make sure that they will be able to offload within the window. Employment impacts may occur in shucking houses, as evidenced in a letter from the North Carolina Fisheries Association, because scallops are usually processed along with crabs and shrimp as they are landed.

There may also be effects on other vessels trying to offload during the window. Trawlers with a bycatch of shucked sea scallops must either land fish outside the window and scallops during the window, or land all their catch during the window. The latter may cause crowding in some ports.

**Cost-Benefit Conclusion:** Alternative C (twelve hour window) is the preferred alternative because:

- 1) it helps to achieve the objectives of the FMP by enhancing enforcement of the management measures. Enforcement is enhanced because the time during which complicated sampling/weighing of scallops must be done is cut by half, and scallop vessels must only be observed offloading outside the window to establish a violation. Because no scale is required, this rule can be enforced by all twenty-two NMFS agents (rather than only seven who can take and weigh scallop samples with the seven available scales), as well as any state or Coast Guard enforcement official;

- 2) neither the government nor the industry must purchase any special equipment to implement the window program;
- 3) legal landings and revenues will not be affected;
- 4) it will result in greater compliance, which results in small scallops being preserved. The Council believes that better compliance with the regulations, hence expected benefits, will be more readily achieved with the Alternative C (window) and net benefits to society will be maximized;
- 5) barring unforeseen circumstances, such as storms, it is expected that the industry can adjust its practices to mitigate any burden resulting from this rule;
- 6) the amendment has no impact on vessel safety in the Atlantic sea scallop fishery consistent with the intent of §303(a)(6) of the Magnuson Act, as amended by Pub. L. 99-659 (1986).

Regulatory Analysis- Other E.O. 12291 Requirements: E.O. 12291 requires that the following three issues be considered:

- a. Will the Amendment have an annual effect on the economy of \$100 million or more?
- b. Will the Amendment lead to an increase in the costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions?
- c. Will the Amendment have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of US based enterprises to compete with foreign based enterprises in domestic or export markets?

As indicated in the Costs section above, the proposed action will result in no change in legal landings, prices, costs, or revenues. Administrative, enforcement, and paperwork & recordkeeping requirements will remain unchanged, thus there are no impacts on Federal, State, or local government agencies. Employment impacts may occur in shucking houses, as evidenced in a letter from the North Carolina Fisheries Association, because scallops are usually processed along with crabs and shrimp as they are landed. The twelve hour offloading window should have no effect on competition, investment, productivity or innovation in the fishery. The import market for Canadian landed sea scallops, many of which are seasonally sold in the U.S., should not be affected in any way. As a consequence, the foregoing analysis results in a finding that the proposed action does not constitute a "major rule" that would require a regulatory impact analysis under E.O. 12291.

Regulatory Analysis- RFA and PRA Requirements: The twelve hour offloading window is not expected to have a significant effect on small entities in relation to the Regulatory Flexibility Act. About 480 vessels landed sea scallops in 1988 (267 of them were scallop dredges), and all are considered small entities. No differential effects should occur relative to competitive position, cash flow and liquidity, or ability to remain in the market. There will be no change in paperwork and reporting requirements.

Relationship to the National Standards and Other Applicable Law

National Standards: Section 301 of the Magnuson Act establishes seven National Standards for fishery conservation and management with which all fishery management plans (FMP) and amendments to such plans must be consistent. The consistency of the Preferred Alternative with the National Standard is the same as the consistency of the original measures explained in Section 920 of the FMP and need not be reiterated here.

National Standard No. 4, which states that management measures shall not discriminate between residents of different states, is with regards to allocation of fishing privileges. The twelve hour offloading window has been purposefully set at different periods along the east coast, in order to account for regional differences in industry practice. The exact timing of the window is based on public hearing comments.

Coastal Zone Management Act: The Council has determined that the Preferred Alternative is consistent to the maximum extent practicable with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Maryland, Pennsylvania, Delaware, Virginia, North and South Carolina, Georgia, and Florida. This determination has been submitted for review by the responsible state agencies under Section 307 of the Coastal Zone Management Act.

Finding of No Significant Environmental Impact

In view of the analysis presented above, it is hereby determined that the proposed action in this amendment to the Sea Scallop FMP would not significantly affect the quality of the human environment with specific reference to the criteria contained in NDM 02-10 implementing the National Environmental Policy Act. Accordingly, the preparation of a supplemental EIS on this proposed action is not necessary.

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Assistant Administrator  
for Fisheries, NOAA

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Date

## IV. AMENDATORY LANGUAGE

## A. Changes as Consequence of the Proposed Action

Section 822 of the FMP is amended by adding:

All vessels using sea scallop dredge gear and all vessels landing sea scallops in the shell must offload any fish within a twelve hour offloading window each day. Further, sea scallops landed in amounts more than 40 pounds (or more than 5 bushels in the shell) must be offloaded within a twelve hour offloading window each day.

The time window will vary by state. The following daily, offloading periods are specified:

<u>STATE</u>	<u>PERIOD</u>
ME & NH	7 a.m. to 7 p.m.
MA, RI & CT	5 a.m. to 5 p.m.
NY, NJ, PA, DE, MD & VA	6 a.m. to 6 p.m.
NC, SC, GA & FL	7 a.m. to 7 p.m.

There is a presumption that vessels with sea scallops on board at the close of an offloading window, and not on board at the beginning of the following offloading window, were offloaded illegally outside the window.

Changes to Twelve Hour Offloading Windows

These offloading time windows are intended to remain in effect until a change may be determined necessary and appropriate by the Regional Director, in consideration of the management intent of the Council. The Regional Director will review the status of the fishery and the industry on a continuing basis. If, upon reviewing the aforementioned status, the Regional Director determines that a change in the timing of the twelve hour offloading window in any region is necessary and appropriate, he may prepare a recommendation for action. The Council may, at any time, by majority vote, request a review and recommendation from the Regional Director.

The Regional Director will advise the Council of his completion of a report and recommendation. The Council may, at its option, request an opportunity to review and comment on the report or recommendation prior to any notice of public hearing.

A public hearing on the recommendation will be held in conjunction with the Council meeting at which it will be discussed. The Regional Director will assure that adequate notice of the public hearing is given to all interested parties. The Regional Director may modify his recommendation as a result of the public hearing.

The Secretary will publish notice in the Federal Register of any finding by the Regional Director to alter the timing of a twelve hour offloading window, along with a date for implementation.

The Regional Director will provide notice of the change by mail to every holder of a sea scallop permit.

**V. LIST OF AGENCIES AND PERSON CONSULTED IN FORMULATING THE PROPOSED ACTION****A. Federal Agencies:**

U.S. Environmental Protection Agency (Regions I, II, III)  
Mid-Atlantic Fishery Management Council  
South Atlantic Fishery Management Council

**B. State Agencies:**

Maine State Planning Office  
New Hampshire Office of State Planning  
Massachusetts Executive Office of Environmental Affairs  
Rhode Island Coastal Resources Management Council  
Connecticut Coastal Zone Management Program  
New York Division of Local Government & Community Services  
New Jersey Division of Coastal Resources  
Pennsylvania Fish Commission  
Maryland Coastal Resources Division  
Virginia Council on the Environment  
Delaware Department of Natural Resource & Environmental Control  
North Carolina Office of Coastal Management  
South Carolina Coastal Council  
Georgia Coastal Resources Division  
Florida Office of Coastal Management Regulations

**C. Individuals:****Scallop Advisory Subpanel:**

Robert Brieze  
Alan Cass  
Harriet Didriksen  
Roy Enoksen  
Lawrence Greenlaw  
Alan Guimond  
Marc Lareau  
Martin Manley  
Brian I. Mardero  
Harvey Mickelson  
Gilbert Rogers  
Ellen Skaar  
Thomas Wilson

**Mid-Atlantic Representatives:**

Harry Keene  
Richard Stotz  
Benny Rose  
Brad Brauer

**South Atlantic Representatives:**

Bob Mahood  
William Smith  
Ken Daniels

**NMFS/RO FMP Coordinator:**

Patricia Kurkul

Special Advisors:

Bruce Gibbs  
Allison Maynard  
Howard Nickerson  
Jerry Schill  
Raymond Starvish

VI. LIST OF PREPARERS FOR ENVIRONMENTAL ASSESSMENT AND PLAN AMENDMENT

This Amendment to the Atlantic Sea Scallop Fishery Management Plan (FMP) was prepared by a team of fishery managers and scientists with special expertise in the sea scallop resource.

Scallop Oversight Committee

Edward Spurr, Chairman  
James Costakes  
Patrick Carroll  
Gail Johnson  
Thomas McVey  
Dennis Spitzbergen  
Anthony Verga  
William Wells, III

Assisting the Committee

Patricia Fiorelli, NEFMC Staff  
Louis Goodreau, NEFMC Staff  
Richard Ruais, NEFMC Staff  
Howard Russell, NEFMC Staff

**VII. RESPONSE TO PUBLIC COMMENTS**

Public hearings were held on Amendment #3 to the Sea Scallop Fishery Management Plan in the following locations: February 13, Ellsworth, Maine; February 14, Fairhaven, Massachusetts; February 16, Cape May, New Jersey; February 17, Norfolk, Virginia; and March 16, New Bern, North Carolina. Summaries of comments received at these hearings are appended. Three written comments were received on Amendment #3. The following is the Council's response to those and other comments gathered at the public hearings.

**Written Comments:**

Comment from the fishing vessel Mary Ellen opposed the call-in and the landing window proposals. A comment from the Mid-Atlantic Fisheries, Inc. opposed the landing window proposal. North Carolina Fisheries Association requested an exemption from the landing window.

**Mandatory call-in program:**

Comments received on the proposal to institute a mandatory call-in program were generally in opposition, except at the hearing held in Norfolk, and to a lesser extent, Fairhaven. The state of Maine requested that the Gulf of Maine fishery be exempt from any call-in program.

After consideration of all comments received on the call-in program, the Council has decided not to go forward with the proposal, but reserves the right to continue consideration of this measure as an alternative to support enforcement efforts. A critical factor in the decision on the call-in was the lack of support for the measure from NMFS's Office of Law Enforcement.

**Twelve hour landing window:**

Comments received at the Ellsworth public hearing focused primarily on the call-in program. The state of Maine, however, requested that the Gulf of Maine fishery be exempt from the call-in window because of the relatively short duration of fishing trips in this resource area. Comments at the Cape May and New Bern hearings were also in opposition to the proposal. Many comments in support of the proposal were received at the Fairhaven, Cape May and Norfolk hearings.

The Council has decided to proceed with a landing window provision. It believes that a landing window is necessary to improve the level of compliance with the primary conservation measure of the Sea Scallop FMP. The landing window is a tool to improve the efficiency of enforcement efforts and instill a measure of deterrence from rampant violations of the meat count.

The Council also believes that it is not appropriate to exempt any area from the landing window in the interest of treating all sea scallop fishermen equitably. Any inconvenience caused to regional fishermen is outweighed by the benefits that the Council believes will accrue to the resource and fishery with the imposition of a landing window.

The Council anticipates that specific operational details of the window proposal that were unavailable during the public review will be presented in the proposed rulemaking developed to implement this amendment. A comment period on the proposed rulemaking will be scheduled.

**NEW ENGLAND FISHERY MANAGEMENT COUNCIL**

**PUBLIC HEARING  
ON PROPOSED CHANGES TO THE SEA SCALLOP FMP  
Ellsworth, ME  
February 13, 1989**

**SUMMARY MINUTES**

The New England Fishery Management Council conducted a public hearing at the Holiday Inn in Ellsworth, ME on February 13, 1989 for the purpose of receiving comment on two proposed changes to the Sea Scallop FMP. The hearing, chaired by Ted Spurr, was opened at 7:00 PM. In attendance were Council members, Gail Johnson and William Brennan, Council staff, Louis Goodreau and Howard Russell, and Pat Kurkul, NMFS. Approximately 70 members of the public attended the hearing.

Mr. Spurr opened the meeting with introductory comments explaining the purpose of the hearing. Mr. Goodreau then outlined the proposed changes to the sea scallop management program. Mr. Spurr emphasized that the proposals had originated from industry groups and that the Council was seeking input from the public to determine whether it should proceed with development of an amendment to the FMP.

**Comments on Proposed Mandatory Call-In System and Twelve-Hour Daily Landing Period.**

Mr. William Brennan, in his capacity as the Commissioner of Marine Resources, stated that the state of Maine is opposed to the mandatory call-in and daily landing window since the proposals fail to recognize the special nature of the Maine scallop fishery. He stated that the Maine scallop fleet is composed of small, day boats, operating under severe weather constraints and to impose a requirement for boats to call-in the day prior to the date of expected offloading is extremely impractical. He also stated that he expected to recommend to the Council that the proposal be amended to exempt the state of Maine.

Approximately 15-20 fishermen expressed their support of Commissioner Brennan's comments, reiterating his objections to the proposals and pointing out practical limitations.

Paul Vennum stated that the proposal would be alright for boats making 5-10 day trips, but the bulk of Maine boats are out for less than 1 day. He suggested that if anyone fishes outside of 12 miles, they should have the call-in.

John Jones indicated that there are two types of scallop boats, those that go on 10-day trips out of New Bedford and the day trippers which comprise most of the Maine fishermen. He suggested that day boats and boats landing less than 1,000 pounds be exempted.

In summary, there were no comments favorable to the proposals, all comments expressed were in opposition.

Mr. Spurr closed the hearing at approximately 8:00 PM.

## **New England Fishery Management Council**

### **Public Hearing on an Amendment to the Atlantic Sea Scallop Fishery Management Plan Skipper Inn, Fairhaven, MA, February 14, 1989**

The Scallop Oversight Committee held a public hearing to solicit comments on a proposal to amend the Sea Scallop Fishery Management Plan with measures that would require all vessels landing more than a minimal bycatch of scallops to report by radio their place of landing, estimated arrival time and the quantity of scallops on board. The proposed amendment would also require all scallops to be landed in a twelve hour time window which could vary by port or area. Approximately 75 members of the public attended (attached). Scallop Committee Chairman Spurr convened the meeting at 7:10 p.m. and introduced other Council members present. They were Council Chairman David Borden, Patrick Carroll, Tony Verga, Jim Costakes, and Dick Allen. Staff members included Executive Director Douglas Marshall, Louis Goodreau and Patricia Fiorelli. NMFS Plan Coordinator Patricia Kurkel also attended the meeting. The measures contained in the amendment were reviewed by Mr Goodreau.

Alfred McMullen voiced concern that a call-in system would be a problem for day boats since they would not be able to notify enforcement agents a day prior to landing. He maintained that the measure was unenforceable and suggested a closure instead.

Harvey Mickelson of New Bedford suggested that at the end of the twelve hour window, all scallops landed should be considered legal and no further enforcement action taken on anyone in possession of landed scallops.

Roy Enoksen of Eastern Fisheries questioned whether any bycatch could be offloaded outside the time window. Mr. Spurr indicated that the question had not arisen before and would be addressed by the Council and NMFS.

Frank Weckesser wondered if processors could handle each boat waiting to unload in New Bedford within a twelve hour period. A processor present (Harvey Mickelson) indicated that in most cases, there would be no problem. Fishermen, however continued to voice concerns.

Marty Manley of Offshore Mariner's suggested that abolishing the meat count would remedy the problem.

Bruce Gibbs expressed support for the proposals.

After several questions on the subject, Chairman Spurr noted that the call-in system itself has not yet been designed nor has the minimum bycatch level been defined. He further stated, in response to a question over the need for the measure, that a twelve hour landing window would enhance and simplify enforcement. He also outlined the timetable for Council consideration of the measures.

Chris Wright cited the instance of 30 vessels coming in to port because of bad weather last November. He wondered how the offloading logistics would work and how unscheduled landings would be viewed by enforcement agents. Mr. Spurr stated that the fishermen would not be able to unload their catch until the day after notification is made, as the measures now indicate. He also said that the measures would be effective along the entire east coast in response to a question from Bruce Gibbs.

Mark Bruce again brought up the unloading problem with a comment that crew may leave and not return to unload a vessel if there is a lengthy waiting period between landing and unloading.

Norval Stanley spoke for buyers and said that the measures closing off half the day would not help the industry or the quality of the scallops. Another fisherman noted that if he could not unload on Friday, all work would then be shifted to Monday, creating further work problems.

Herman Bruce suggested a call-in only and no time window for landing. He further endorsed Harvey Mickelson's suggestion that after a vessel's call-in period had ended, its scallops would be considered legal.

Eric Forman asked who would monitor the unloading of small scallops during hours outside the twelve hour window. Mr. Goodreau said that a boat that has not called in needs only to be observed ashore unloading scallops without calling in to be considered in violation of the regulations.

Melvin — commented that it was unfair for a vessel owner to be liable when a skipper does not call in before landing his scallops. He thought that responsibility should rest only with the captain (to safeguard against a skipper disagreeing with an owner and deliberately violating the regulations).

Bruce Gibbs noted the speed with which illegal scallops can be unloaded and the associated enforcement problem.

Mark Bruce stated that the presence of enforcement agents does deter the landing of illegal scallops.

Mr. Spurr closed the public hearing and informed the audience that the date for submission of written comments was February 28, 1989.

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

PUBLIC HEARING  
ON AN AMENDMENT TO THE SEA SCALLOP FMP  
Grand Hotel, Cape May, NJ  
February 16, 1989

SUMMARY MINUTES

The New England Fishery Management Council conducted a public hearing at the Grand Hotel in Cape May, NJ on February 16, 1989 for the purpose of receiving comment on two proposed changes to the Sea Scallop FMP. The hearing, chaired by Ted Spurr, was opened at 7:00 PM. In attendance were Council members, James Costakes and Thomas McVey, Council staff, Louis Goodreau, and Pat Kurkul, NMFS. Approximately 20 members of the public attended the hearing.

Mr. Spurr opened the meeting with introductory comments explaining the purpose of the hearing. Mr. Goodreau then outlined the proposed changes to the sea scallop management program.

Comments on Proposed Call-In System and Twelve-Hour Daily Landing Period.

David Wiscott wanted to know what would happen if you had a breakdown. Mr. Goodreau explained that this issue had been discussed with NMFS and GCNE and that fishermen would have to provide receipts for repair work or towing as proof of such breakdowns, and would then not receive a violation.

Tim Acheson thought that the call in program was unnecessary and that the current system of using informants was sufficient.

Button Matthews questioned that vessels would receive violations if they were blown in by a storm.

Several fishermen said that they play the market for the best price, and that requiring them to call in twelve hours ahead of landing would eliminate this ability. They were also concerned that there would be public access to the phone recordings. Ms. Kurkul said that such recordings would be available only to enforcement agents. Nevertheless, these fishermen stated that in the process of calling or radioing in from at sea, information on landing and offloading plans would be publically available over the airwaves, and that this would hamper both their ability to play the market and their competitive edge.

Kirk Larson indicated that steam time from fishing grounds can range from two to sixteen hours. Mr. Spurr replied that fishermen could land outside the window, but that they had to offload within the twelve hours.

Someone commented that it was ridiculous to lose a trip that was legal, because you hadn't called in to the enforcement agents.

Richard Stotz declared support for the twelve hour window, but not for the call-in program. Several other fishermen expressed the same.

In summary, there were no comments favorable to the call-in proposal but there was support for the landing window. Mr. Spurr closed the public hearing at about 7:45 p.m.

NEW ENGLAND FISHERY MANAGEMENT COUNCIL

PUBLIC HEARING  
ON AN AMENDMENT TO THE SEA SCALLOP FMP  
Norfolk International Airport, VA  
February 17, 1989

SUMMARY MINUTES

The New England Fishery Management Council conducted a public hearing at the Norfolk International Airport, VA on February 17, 1989 for the purpose of receiving comment on two proposed changes to the Sea Scallop FMP. The hearing, chaired by Ted Spurr, was opened at 7:00 PM. In attendance were Council members, James Costakes and William Wells, Council staff, Louis Goodreau, and Pat Kurkul, NMFS. Approximately 40 members of the public attended the hearing.

Mr. Spurr opened the meeting with introductory comments explaining the purpose of the hearing. Mr. Goodreau then outlined the proposed changes to the sea scallop management program.

Comments on Proposed Call-In System and Twelve-Hour Daily Landing Period.

Frank Brnick wanted to know how either measure would make it easier to enforce the meat count standard. Mr. Goodreau said that simply being observed offloading without having called in or outside of the window would be a violation in itself.

Mr. Trujillo of T & S Trawlers wanted to know if you had to call in if you had a break down. Mr. Spurr indicated that you would have to call in and might have to wait as much as 24 hours to land within the window.

Bill Wells asked what would stop someone from offloading small scallops at night. Mr. Goodreau replied that 1) enforcement agents would be looking for vessels that had not called in, and 2) the number of agents available would increase from seven to the full complement (currently 22) because the seven scales are not required to establish a violation of the two proposed measures.

Frank Brnick stated that the first time penalty for violation of either the call-in or landing window requirements should be more severe. He recommended 1) loss of license for one full year, and 2) both vessel and packer/processor should receive the penalty.

Danny Arne... approved of both the call-in and landing window, but felt that it was currently too difficult to make the count. He recommended an added tolerance.

Len Boyd of Atlantic .. Group questioned why these new burdens were necessary. Mr. Spurr replied that they were for ease of enforcement.

Mike Loland, F/V Lorraine Carol, felt that small scallops were landed because there was a market for them, and that enforcement efforts should be directed at processors/buyers who demand such small scallops.

In summary, there was support for the call-in program and landing window. Mr. Spurr closed the public hearing at about 7:45 p.m.

**NEW ENGLAND FISHERY MANAGEMENT COUNCIL**

**PUBLIC HEARING  
ON PROPOSED CHANGES TO THE SEA SCALLOP FMP  
Craven County Courthouse, New Bern, NC  
March 16, 1989**

**SUMMARY MINUTES**

The New England Fishery Management Council conducted a public hearing at the Craven County Courthouse in New Bern, NC on March 16, 1989 for the purpose of receiving comment on two proposed changes to the Sea Scallop FMP. The hearing, chaired by Ted Spurr, was opened at 7:15 PM. In attendance were Council member Dennis Spitzbergen and Louis Goodreau of the Council staff. Nine members of the public attended the hearing.

Mr. Spurr opened the meeting with introductory comments explaining the purpose of the hearing. Mr. Goodreau then outlined the proposed changes to the sea scallop management program.

**Comments on Proposed Call-In System and Twelve-Hour Daily Landing Period.**

William Smith said that the call-in program presented a problem because the steaming time to North Carolina is too long; from 35 to 40 hours. It would be difficult to accurately gauge when the vessel would actually arrive at port over that long a period. He went on to say that, with respect to the twelve hour window, North Carolina processors are usually packing crabs and shrimp as well as scallops, and offloading scallops within the window would make it difficult to schedule labor in the houses. Finally, shellstock is generally offloaded at night, and the proposed window is for 5 a.m. to 5 p.m.

Carlton Muse gave the example of beginning to offload at 4 p.m., and having to stop at 5 p.m. before the job was complete. Thus, he did not support the window. Mr. Spurr asked what other hours would be preferred.

William Smith said that there are no phone towers for ship-to-shore south of Virginia, referring to the call-in program.

Carroll Yeomans indicated that it is impossible to talk to the shore during bad weather, except with single side-band radios which cost \$1000.00.

Gerry Smith was concerned that shellstock that was landed after the window closed would remain onboard overnight, and would deteriorate.

Virgil Potter said that in Pamlico it would take two days to transport illegal scallops to the shucking houses with the window. He supported the 5 a.m. to 5 p.m. window, but indicated that no-one else in North Carolina could.

Jerry Schill thought that it might be possible to shuck at the dock under the twelve hour window, because the scallops would not be offloaded. He felt that holding shellstock overnight would present a public health hazard. Mr. Spurr indicated that the practice of shucking at the dock in Maine, for public health reasons, was because of PSP and not the natural deterioration of the product.

Mr. Spurr closed the public hearing at about 7:45 p.m.

Rec'd 2/28/89

**MID-ATLANTIC FISHERIES, INC.**

F/V Allegiance  
15 SOUTH CHESTER ROAD  
P.O. BOX 32  
SWARTHMORE, PA. 19081  
(215) 543-4243

February 25, 1989

Mr. Douglas Marshall  
New England Fishery Management Council  
5 Broadway  
Saugus, MA 01906

re: Sea scallop drafts - Mandatory Call-in System  
- Twelve Hour window

Dear Mr. Marshall,

Although I support the general intentions of these proposals, please consider these specific concerns:

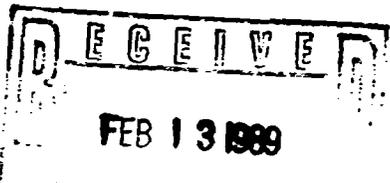
**Mandatory Call-in system and offloading window.**

- Six hours seems a reasonable call-in notice. Many of my trips have been within 6-10 hours of a port. This time frame would allow for unforeseen situations, i.e., weather, injuries, mechanical problems, and allow immediate offloading rather than waiting through the remainder of a 12-hour window.
- Call-in should be permitted from a land base; i.e., office, home, etc. complying with the time requirement.
- The quantity of scallops on board need not be reported over the radio, since this may infringe on the privacy of the harvest and location.
- Offloading must be permitted anytime, but with the only restriction of a call-in notice, viz., 6 hours. Fishing is a 24 hour business with market conditions and weather considerations determining optimal off-loading times.
- The penalty schedule is excessive on permit suspensions. Violations should be removed from the records after one year.

Although increased enforcement methods are favored; I hope any additional measures do not ignore the inherent unpredictability of the vessel's comings and goings. Thank you.

Sincerely,

*Patrick Flanigan*  
Patrick Flanigan



FEB 10, 1989

F/V MARY ELLEN - 70 FT STEEL STEK  
CUNOY'S HARBOR, MAINE TRAWLER

DEAR SIR.

THE REGULATIONS ABOUT TO BE IMPOSED UPON THE VESSELS INVOLVED IN THE SCALLOP FISHERY ON THE COAST OF MAINE ARE GOING TO CAUSE UNNECESSARY UPSET. GIVEN THE SMALL AND VARIED FISHERY THAT I FOLLOW I WILL TRY TO GET INTO SCALLOPS WHEN IT IS NO LONGER PROFITABLE TO GO SHRIMPING. I TAKE OUT AT AN OUTLYING PORT - SEBASCO VILLAGE - HUNT'S WHARF. I OPERATE WITH A CREW OF 3, MYSELF INCLUDED. I HAVE CAUGHT SCALLOPS IN THE PAST WITH CHAIN NETS ON THE SOFTER BOTTOM AND HOPE TO IN THE FUTURE. IF WE GET MORE SCALLOPS THAN WE CAN HANDLE THEY ARE KEPT ABOARD & PEOPLE ARE HIRED TO COME ABOARD AFTER 2 DAYS FISHING TO CUT THE SCALLOPS WITH THE VESSEL LYING AT ITS MOORING IN CUNOY'S HARBOR. TO BE ABLE TO PREDICT THE TIME SCHEDULE DAYS IN ADVANCE IS ALMOST IMPOSSIBLE. THE UNLOADING PERIODS ARE USUALLY FROM 6 AM TO 8 AM OR 4:30 P.M. → 8 P.M. DEPENDING UPON WHAT SPECIES ARE BEING FISHED FOR AND THE RELATIVE SUCCESS OF A TRIP.

MANDATORY CALL IN REQUIREMENTS  
TIME PERIODS FOR TAKE OUT TIMES  
ANNUAL DECLARATION OF INTENT.

TRIP CATCH LIMITS

LAYOVER PERIODS

MORATORIUM OF ENTERANCE

MINIMUM PARTICIPATION OF 3 MONTHS

ALL OF THE ABOVE WILL SINGLY OR AS A GROUP MAKE THE  
IN & OUT NATURE OF OUR FISHERY VERY VERY DIFFICULT.  
THESE MEASURES APPLY TO THE LARGER DIRECTED FISHERY  
EFFORTS ON GEORGES & SOUTHERN NEW ENGLAND AREAS.

TO RESTATE: I CATCH SCALLOPS DURING PARTS OF THE YEAR.  
SOME TIMES I DON'T GO SCALLOPING FOR 2 OR 3 YRS.

DEPENDING ON THE FISH THAT ARE AVAILABLE. WE USE  
CHAIN NETS ON THE SOFTER BOTTOMS. WE DON'T USE DRAGS.  
WE SHELL STOCK IF POSSIBLE, NOT ABOARD NOT ASHORE. I

WANT TO HAVE THIS FISHERY AS AN ALTERNATIVE TO GROUND-  
FISHING WHEN I AM NOT AFTER SHRIMP - DEC - MAY.

GROUND FISHING GOT SO BAD LAST FALL SEPT, OCT, NOV,  
THAT I TIED THE BOAT UP. LOW YIELD & TERRIBLE PRICE

PLEASE DON'T SLAM THE DOOR ON US. LET US TRY TO SURVIVE.

PUT THE  $5\frac{1}{2}$ " MESH THROUGH THE WHOLE NET INTO EFFECT NOW

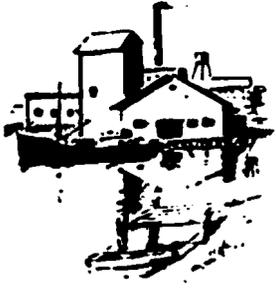
LEAVE SOME SMALL MESH POSSIBILITIES FOR WHITING & SHRIMP

WHITING - JULY, AUGUST

SHRIMP - DEC., JAN, FEB, MAR

THANK YOU

CHARLES P. SAUNDERS  
CAPT. F/V. MARY ELLE



Executive Director  
Jerry Schill

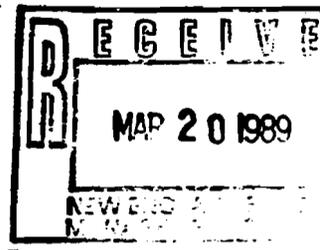
# North Carolina Fisheries Association Inc.



Second & Main Streets  
P.O. Box 490  
Boyboro, N.C. 28515

Phone: (919) 745-4985  
Messages: (919) 633-2288  
FAX: (919) 745-7313

March 17, 1989



Mr. Ted Spurr  
Mr. Lou Goodreau  
New England Fisheries Management Council  
5 Broadway  
Saugus, Ma. 01906

Gentlemen:

Thanks again for making the extra effort to reschedule the scallop hearing for last evening in New Bern.

In summary from an NCFA standpoint, I submit the following comments for your consideration.

NCFA continues to support its recommendations, known as "Proposal D", with the following exceptions:

- 1.) 5" mesh for nets should read "in cod end".
- 2.) Eliminate October-March closing for shell stocking.

As was mentioned during the hearing in New Bern last evening, the shell stocking closure was originally recommended without the knowledge of how it would affect the folks in Maine.

I would like to offer a few other comments:

**LAYOVER DAYS:** Due to the steaming time from and to NC ports, layover days would have a detrimental effect on our boats and would also be unnecessary. The approximate 4 days coming to and from the fishing grounds accomplishes the same objective as layover days.

**12 HOUR WINDOW:** Shell stockers need to be exempt from this window. As noted last evening, labor would be difficult to schedule for the shucking houses, and product quality would certainly be reduced in many cases.

**TRIP LIMITS:** If the Amendment includes 8,000 pound trip limits, that poundage must not apply to shell stockers for obvious reasons.

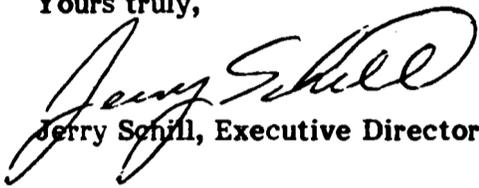
Mr. Ted Spurr  
Mr. Lou Goodreau  
page 2

**MORATORIUM:** There is some support in North Carolina for a moratorium; however, since we have been unable to meet and discuss this issue in detail, NCFA cannot endorse it. We continue to foster the idea of \$500 vessel licenses with no crew licenses, and no declaration into the fishery. Vessels would be limited by requiring the license to be obtained during January of each year.

Finally, the parochial interests come through loud and clear with most of the proposals. However, NCFA has tried to keep the best interests of all concerned without causing undue hardship on any one group, and at the same time trying to conserve the resource. (The term "any one group" should not be interpreted to include those who are interested primarily in limiting competition!)

Thanks again!

Yours truly,

  
Jerry Schill, Executive Director

