



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
NATIONAL MARINE FISHERIES SERVICE  
GREATER ATLANTIC REGIONAL FISHERIES OFFICE  
55 Great Republic Drive  
Gloucester, MA 01930

July 23, 2021

Dr. Robert Scarborough  
Delaware Coastal Programs  
Dept of Natural Resources and Environmental Control  
100 W. Water St, Suite 7B  
Dover, DE 19901

RE: Federal Consistency Determination for Amendment 21 to the Atlantic Sea Scallop Fishery Management Plan

Dear Dr. Scarborough:

We wish to advise the State of Delaware of a Federal action and the determination of NOAA's National Marine Fisheries Service (NMFS) regarding the consistency of this action with the enforceable policies of the Delaware Coastal Zone Management Plan (CZMP).

The purpose of Amendment 21 to the Atlantic Sea Scallop Fishery Management Plan (FMP) is to allow for more controlled access to the scallop resource by the limited access and limited access general category (LAGC) fleets and increase monitoring in ways that support a growing directed scallop fishery in Federal waters, including the Northern Gulf of Maine (NGOM). Another purpose is to consider adjusting the LAGC individual fishing quota (IFQ) program to support overall economic performance while allowing for continued participation in the LAGC fishery at varying levels.

This action would:

- Change the Annual Catch Limit flow chart to account for biomass in NGOM as part of the Overfishing Limit and the Acceptable Biological Catch to be consistent with other portions of scallop resource management;
- Develop landings limits for all permit categories in NGOM and establish an 800,000-lb NGOM Set-Aside trigger for the NGOM directed fishery with a sharing agreement for access by all permit categories for allocation above the trigger. Pounds above the trigger would be split 5 percent for the NGOM fleet and 95 percent for limited access and LAGC IFQ fleets;
- Expand the Scallop Industry Funded Observer program to monitor directed scallop fishing in the NGOM by using a portion of the NGOM allocation to off-set monitoring costs;
- Allocate 25,000 lb of the NGOM allocation to increase the overall Scallop Research Set-Aside (RSA) and support Scallop RSA compensation fishing;
- Increase the LAGC IFQ possession limit to 800 lb per trip only for access area trips;
- Prorate the daily observer compensation rate in 12-hour increments for observed LAGC IFQ trips longer than 1 day; and
- Allow for temporary transfers of IFQ from limited access vessels with IFQ to LAGC IFQ-only vessels.



A general consistency determination was submitted on April 16, 2014, for review by the responsible state agencies under section 307 of the CZMA. The State of Delaware has concurred with this determination. Any future action carried out in accordance with the Atlantic Sea Scallop FMP and associated provisions, including routine updates to management measures, are also hereby determined to be consistent with the policies of the Delaware CZMP. We intend to reconsider this consistency determination and consult with your agency for any future amendments or other substantial modification actions to the Atlantic Sea Scallop FMP, whether through subsequent individual or omnibus actions.

Pursuant to provisions of 15 CFR 930 *et seq.* and section 307 of the Coastal Zone Management Act of 1972, as amended, I have preliminarily determined that Amendment 21 is authorized by the Magnuson-Stevens Fishery and Conservation Act, and is consistent to the maximum extent practicable with the enforceable policies of your state's CZMP. In accordance with the provisions of 15 CFR 930.41, I request that you advise me of your concurrence with, or objection to, my determination within 60 days of your receipt of this letter and supporting information described below. If I do not receive a letter of concurrence or objection within this time frame, consistent with § 930.41(a), I will presume that you concur with my preliminary consistency determination.

Thank you for your assistance and cooperation with this matter. For copies of the Environmental Assessment (EA) for Amendment 21 please visit the New England Fishery Management Council's website at:

<https://www.nefmc.org/library/amendment-21>

The EA describes the action in detail, the alternatives, and the impacts of the proposed and alternative measures. We expect to publish a rule proposing to implement Amendment 21 regulations in the *Federal Register* during summer 2021. If you have any questions regarding this action, please contact Travis Ford in the Greater Atlantic Regional Fisheries Office, Sustainable Fisheries Division, at 978-281-9233 or [travis.ford@noaa.gov](mailto:travis.ford@noaa.gov).

Sincerely,



Michael Pentony  
Regional Administrator

Cc: Ms. Laura Mensch, Principal Planner