



OFFICE OF ADVOCACY *FACTSHEET*

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Advocacy Pushes for Better Analysis of Small Business Impact of Scallop Regulations

On March 29, 2004, the U.S. Small Business Administration's Office of Advocacy (Advocacy) filed comments with the Department of Commerce, National Marine Fisheries Service (NMFS) on proposed regulations to implement Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan. Advocacy's comments can be found at www.sba.gov/advo/laws/comments.

- Amendment 10 is a comprehensive long-term program to manage the sea scallop fishery through an area rotation management program to maximize scallop yield. The proposed rule allows areas to be closed and reopened to fishing on a rotational basis, depending on the condition and size of the scallop resource in the areas. Amendment 10 also includes measures to minimize the adverse effects of fishing on essential fishing habitat, establishes days-at-sea allocations, introduces measures to eliminate bycatch to the extent practicable, and sets forth other measures.
- Members of the scallop industry are concerned about the provisions of the proposal that require scallop fishers to increase the diameter of the gear rings and the size of the mesh. NMFS' analysis indicates that the gear modifications could result in a loss of over a million pounds of scallops a year. Scallop fishers are also concerned that the days-at-sea set aside for observer coverage and the compensation for early trip termination may be inconsistent with the intent of the New England Fishery Management Council (Council).
- In the comment letter, Advocacy questioned the conclusion that the overall benefits will be positive for the industry, since NMFS stated that the industry could potentially lose over a million pounds a year in stock, resulting in a loss of revenue. Advocacy raised its concerns about the lack of data to support NMFS conclusion that the long-term benefits of the gear modifications outweighed the short-term costs and revenues lost. In addition, Advocacy raised concerns about the method for determining the offset for observer costs and the manner for determining compensation for trips that are terminated early.
- Advocacy encouraged NMFS to give careful consideration to the comments filed by small entities, clarify aspects of the rule that impose unnecessary burdens on small entities affected by the rule, and address the issues raised by Advocacy in the final regulatory flexibility analysis. Advocacy also recommended that the NMFS review the Council's management plan, as well as the proposed rule and the analysis to determine whether the changes are truly necessary. In addition, Advocacy suggested that NMFS make the gear modifications optional until NMFS has enough data to analyze the impact of the gear modification on small entities.

For more information, visit Advocacy's webpage at www.sba.gov/advo or contact Jennifer Smith at 202-205-6943.

