

DRAFT

Framework 26 to the Scallop FMP

Including a Draft Environmental Assessment (EA), an Initial Regulatory Flexibility Analysis and Stock Assessment and Fishery Evaluation (SAFE Report)

**PDT strawman alternatives
Not approved by Scallop Committee yet**

Prepared by the New England Fishery Management Council, in consultation with the National Marine Fisheries Service and the Mid-Atlantic Fishery Management Council

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Table of Contents

1.0	Background and purpose.....	7
1.1	Background.....	7
1.2	Purpose and need	8
1.3	Summary of Scallop Fishery management plan	8
1.3.1	Summary of past actions.....	8
1.3.2	Summary of the scallop area rotation program.....	12
1.3.2.1	Guidelines for fully adaptive area rotation scheme	13
1.4	Summary of scallop fishery specifications and various annual catch limits	15
1.4.1	Default measures for FY2015 approved in previous scallop action (Framework 25) 17	
2.0	Management Alternatives Under Consideration.....	20
2.1	Overfishing limit and annual biological catch.....	20
2.1.1	Alternative 1 - No Action for OFL and ABC	20
2.1.2	Alternative 2 - Updated OFL and ABC for FY2015 and FY2016 (default).....	20
2.2	fishery specifications	21
2.3	Measures to allow fishing in state waters after federal ngom tac is reached.....	21
2.3.1	No Action.....	21
2.3.2	All vessels with both a state scallop permit and federal NGOM permit allowed to fish in state waters after the federal TAC is reached	21
2.3.3	Revise the state water exemption program provisions to allow a state to request a specific exemption related to fishing in state waters after the NGOM TAC is reached.....	21
2.4	measures to make turtle regulations consistent.....	22
2.4.1	No Action.....	22
2.4.2	Revise season and area for turtle chain mat and turtle deflector dredge to be consistent (waters west of 71W and during the months of May through November)	23
2.5	measures to develop New Accountability measures for northern windowpane flounder and modify existing accountability measures for gb and sne/ma yellowtail flounder.....	24
2.5.1	AM for northern windowpane flounder.....	24
2.5.1.1	No Action.....	24
2.5.1.2	Reactive AM for northern WP – Seasonal gear restricted area	24
2.5.1.3	Proactive AM for northern WP – Modify the restriction on the number of rings in apron of dredge	27
2.5.2	Modify GB and SNE/MA yellowtail flounder AMs.....	29
2.5.2.1	No Action.....	29
2.5.2.2	Reactive AM for GB YT – Seasonal gear restricted area.....	31
2.5.2.3	Proactive AM for GB YT – Modify the restriction on the number of rings in apron of dredge	32
2.5.2.4	Reactive AM for SNE/MA yellowtail flounder – Seasonal gear restricted area 32	
2.5.2.5	Proactive AM for SNE/MA YT – Modify the restriction on the number of rings in apron of dredge	33
2.6	measures to allow a limited access vessel to declare out of fishery on return to homeport.....	35
2.6.1	No Action.....	35
2.6.2	Implement an inshore transit corridor.....	35

2.6.2.1	Corridor area	36
2.6.3	Implement a separate VMS declaration code for steaming back to port	37
2.7	Increased observer compensatoin for LAGC IFQ trips that are more than 24 hours ...	38
2.8	modify regulations related to flaring bar provision for turtle deflector dredge	38
2.9	considered and rejected alternatives	39
3.0	reference information related to fishery specifications (council action and analyses not required).....	40
3.1	update reference points based on recent benchmark assessment results	40
3.2	Specifications for LAGC Incidental catch vessels.....	41
3.3	TAC set-asides for observer and research programs	41
3.3.1	Research Priorities for 2015.....	42
3.4	Updated projections of flatfish bycatch (YT and WP)	45
4.0	AFFECTED ENVIRONMENT	45
4.1	ATLANTIC SEA SCALLOP RESOURCE	45
4.2	Physical Environment and Essential Fish Habitat	45
4.3	Protected Resources	45
4.4	ECONOMIC AND SOCIAL TRENDS IN THE SEA SCALLOP FISHERY.....	45
4.5	Non-Target Species.....	45
5.0	IMPACTS OF ALTERNATIVES UNDER CONSIDERATION	45
6.0	COMPLIANCE WITH APPLICABLE LAW	45
7.0	Glossary	45
8.0	Literature cited	45
9.0	Index	45

Appendices

Table of Tables

Table 1 – Summary of the purpose and need for measures developed in Framework 26 including section number with specific alternatives 8

Table 2- General management structure for area rotation management as implemented by Amendment 10..... 13

Table 3 - ACL related values and allocations for 2015 (default measures approved in FW25)... 19

Table 4 – Summary of FY2015 default allocations for LA vessels (approved in FW25) 19

Table 5 – Summary of OFL and ABC FY2014 (default) values approved by the SSC in Framework 24 (in metric tons) 20

Table 6 – Proposed OFL and ABC for FY2015 and 2016 (default) approved by the SSC (in mt) 21

Table 7 - Estimate of WP reduction from Gear Modification AM by month within the AM area (% reduction compared to projected WP catch with no AM and applying ??% reduction from the gear modification in the AM area)..... 27

Table 8 – YT AM seasons for LA fishery 30

Table 9 – YT AM season for LAGC IFQ dredge fishery 30

Table 20 – Summary of 2014 observer set-aside by area – will update after final areas are known 42

Table of Figures

Figure 1 – Scallop management areas (past and present) 11

Figure 2 – Example of how catch limits are set in the Scallop FMP using FY2015, with updated reference points from the recent benchmark assessment (SARC59)..... 17

Figure 3 – Images of turtle chain mat (left) and turtle deflector dredge (right)..... 22

Figure 4 – Management areas for TDD (beige) and chain mat (hatched) regulations in the scallop fishery 23

Figure 5 – Typical Scallop dredge gear (topside of gear on top and underside on bottom) Gear requirements for gear restricted AM alternative highlighted in margin 26

Figure 6 – Northern WP seasonal gear restricted AM area under consideration..... 27

Figure 7 – AM seasonal closed areas for SNE/MA and GB YT for limited access fishery (SNE/MA AM area is the same for LAGC IFQ dredge fishery) 29

Figure 8 – No Action SNE/MA YT AM seasonal closed area and season for LAGC IFQ trawl fishery 31

Figure 9 Stock boundaries for windowpane and yellowtail flounder stocks 34

Figure 10 – Potential VMS corridor boundary (2 nautical miles east of VMS demarcation line from Montauk, NY to Cape Henry, VA) 36

Figure 11 – VMS demarcation line..... 37

Figure 12 – Example of a “flaring u” bar 39

LIST OF ACRONYMS

1.0 BACKGROUND AND PURPOSE

1.1 BACKGROUND

This framework to the Scallop Fishery Management Plan (FMP) sets fishery specifications for fishing year (FY) 2015 and default measures for FY 2016. The New England Fishery Management (Council) decided to develop a one-year action only, including default measures for Year 2 only (FY2016). This decision was made to set specifications for one year only since another action, the EFH Omnibus Amendment, is considering changes to closed areas that may or may not have impacts on scallop fishery specifications in the future.

A benchmark assessment for the scallop resource was recently conducted in July 2014. The status of the stock was reviewed and new models and reference points were considered and approved. The final report from that assessment is expected to be available in September, and any updates will be included in this action.

The list of measures required to be in a framework has increased over the years to include overall annual catch limits, specific allocations for both limited access (LA) and limited access general category (LAGC) vessels. Below is a list of the measures required as part of the scallop fishery specifications:

- Overfishing Limit (OFL) and Acceptable Biological Catch (ABC), which is approved by the SSC;
- Annual Catch Limits (ACL) (for both the limited access and limited access general category fisheries, and Annual Catch Target (ACT) for the LA fishery;
- Allocations for limited access vessels include DAS allocations, access area allocations with associated possession limits;
- Allocations for limited access general category vessels include an overall IFQ for both permit types, as well as a fleetwide, area-specific maximum number of access area trips available for the general category fishery;
- NGOM hard-TAC;
- Incidental catch target-TAC; and
- Set-aside of scallop catch for the industry funded observer program and research set-aside program.

In addition to specifications, the Council included four additional issues to consider in this action. First, measures to allow fishing in state waters after the federal NGOM hard TAC is reached for vessels that hold a federal NGOM permit only. Second, measures to make the turtle chain mat and turtle deflector dredge requirements consistent in terms of season and area. Third, measures to develop accountability measures for northern windowpane flounder, as well as measures to modify the existing seasonal area closures accountability measures for GB and SNE/MA YT flounder sub-ACLs. Finally, measures to allow a limited access vessel to steam back to port and not be charged DAS.

The PDT met in August to begin developing alternatives and two additional issues were discussed that could potentially be included in this action. First, increase observer compensation

for LAGC IFQ trips over 24 hours. Second, modify the regulations related to the flaring bar provision of the turtle deflector dredge. These issues have not formally been considered or included in Framework 26 by the Council yet. The PDT also discussed that updated reference points from the recent scallop benchmark assessment should be included in this action. Finally, there are large sets of small scallops that were observed in the 2014 scallop surveys and measures should be considered in this action to protect those areas under area rotation provisions (i.e. modify access areas to include new recruitment and reduce impacts on smaller scallops within existing access areas).

Framework 53 to the Multispecies FMP the Council allocated a sub-ACL of SNE/MA windowpane flounder to the scallop fishery. Since, all sub-ACLs require accountability measures (AMs) if exceeded, those measures will also be developed in this action. The sub-ACL for SNE/MA windowpane flounder was set at 36% of the total ABC for that stock. This percentage of the ABC would be used to determine the scallop fishery sub-ABC, and then this would be adjusted for management uncertainty to get the scallop fishery sub-ACL. This allocation is based on the 90th percentile of the scallop fishery catches from 2001-2010. For 2014 and 2015 the scallop fishery sub-ACL is 186 mt.

1.2 PURPOSE AND NEED

The primary need of this action is to achieve the objectives of the Atlantic Sea Scallop FMP to prevent overfishing and improve yield-per-recruit from the fishery. The primary purpose for this action is to set specifications including: OFL, ABC, scallop fishery ACLs and ACTs including associated set-asides, day-at-sea (DAS) allocations, general category fishery allocations, and area rotation schedule and allocations for the 2015 fishing year, as well as default measures for FY2016 that are expected to be replaced by a subsequent action.

Will fill in the rest of the purpose and needs after final measures are defined at September Council meeting.

Table 1 – Summary of the purpose and need for measures developed in Framework 26 including section number with specific alternatives

1.3 SUMMARY OF SCALLOP FISHERY MANAGEMENT PLAN

1.3.1 Summary of past actions

The Atlantic Sea Scallop FMP management unit consists of the sea scallop *Placopecten magellanicus* (Gmelin) resource throughout its range in waters under the jurisdiction of the United States. This includes all populations of sea scallops from the shoreline to the outer boundary of the Exclusive Economic Zone (EEZ). While fishing for sea scallops within state waters is not subject to regulation under the FMP except for vessels that hold a federal permit when fishing in state waters, the scallops in state waters are included in the overall management unit. The principal resource areas are the Northeast Peak of Georges Bank, westward to the Great South Channel, and southward along the continental shelf of the Mid-Atlantic.

The Council established the Scallop FMP in 1982. A number of Amendments and Framework Adjustments have been implemented since that time to adjust the original plan, and some Amendments and Framework Adjustments in other plans have impacted the fishery. This section will briefly summarize the major actions that have been taken to shape the current scallop resource and fishery, but a complete list of the measures as well as the actions themselves are available on the NEFMC website (<http://www.nefmc.org/scallops/index.html>).

Amendment 4 was implemented in 1994 and introduced major changes in scallop management, including a limited access program to stop the influx of new vessels. Qualifying vessels were assigned different day-at-sea (DAS) limits according to which permit category they qualified for: full-time, part-time or occasional. Some of the more notable measures included new gear regulations to improve size selection and reduce bycatch, a vessel monitoring system to track a vessel's fishing effort, and an open access general category scallop permit was created for vessels that did not qualify for a limited access permit. Also in 1994, Amendment 5 to the Northeast Multispecies FMP closed large areas on Georges Bank to scallop fishing over concerns of finfish bycatch and disruption of spawning aggregations (Closed Area I, Closed Area II, and the Nantucket Lightship Area - See Figure 1).

In 1998, the Council developed Amendment 7 to the Scallop FMP, which was needed to change the overfishing definition, the day-at-sea schedule, and measures to meet new lower mortality targets to comply with new requirement under the Magnuson-Stevens Act. In addition, Amendment 7 established two new scallop closed areas (Hudson Canyon and VA/NC Areas) in the Mid-Atlantic to protect concentrations of small scallops until they reached a larger size.

In 1999, Framework Adjustment 11 to the Scallop FMP allowed the first scallop fishing within portions of the Georges Bank groundfish closed areas since 1994 after resource surveys and experimental fishing activities had identified areas where scallop biomass was very high due to no fishing in the intervening years. This successful "experiment" with closing an area and reopening it for controlled scallop fishing further motivated the Council to shift overall scallop management to an area rotational system that would close areas and reopen them several years later to prevent overfishing and optimize yield.

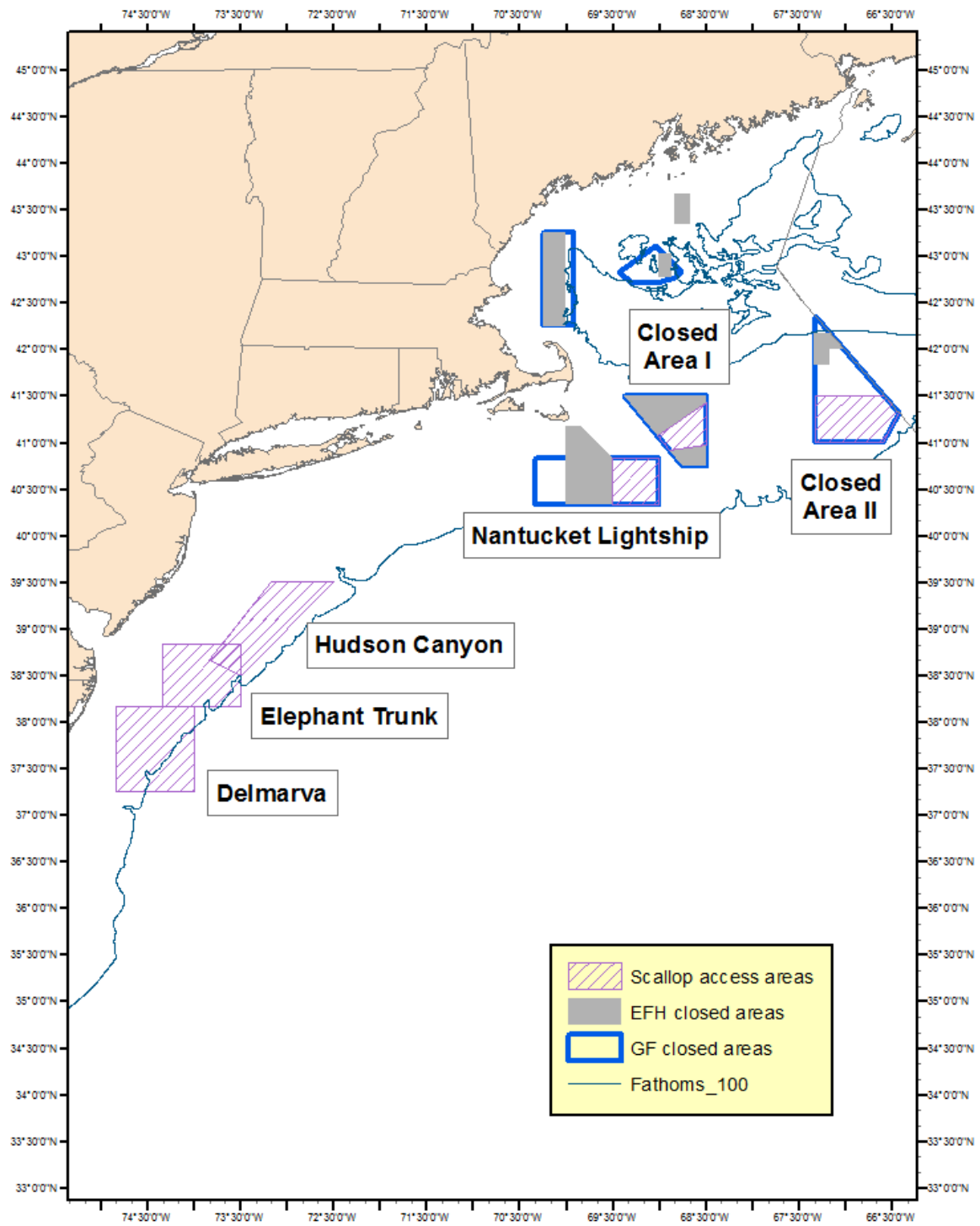
In 2004, Amendment 10 to the Scallop FMP formally introduced rotational area management and changed the way that the FMP allocates fishing effort for limited access scallop vessels. Instead of allocating an annual pool of DAS for limited vessels to fish in any area, vessels had to use a portion of their total DAS allocation in the controlled access areas defined by the plan, or exchange them with another vessel to fish in a different controlled access area. The amendment also adopted several alternatives to minimize impacts on EFH, including designating EFH closed areas, which included portions of the groundfish mortality closed areas. See Section 1.3.2 below for a more detailed description of the rotational area management program implemented by Amendment 10.

As the scallop resource rebuilt under area rotation biomass increased inshore and fishing pressure increased by open access general category vessels starting in 2001. Landings went from an average of about 200,000 pounds from 1994-2000 to over one million pounds consistently from 2001-2003 and 3-7 million pounds each year from 2004-2006 (NEFMC, 2007). In June

2007 the Council approved Amendment 11 to the Scallop FMP and it was effective on June 1, 2008. The main objective of the action was to control capacity and mortality in the general category scallop fishery. Amendment 11 implemented a limited entry program for the general category fishery where each qualifying vessel received an individual allocation in pounds of scallop meat with a possession limit of 400 pounds. The fleet of qualifying vessels receives a total allocation of 5% of the total projected scallop catch each fishing year. This action also established separate limited entry programs for general category fishing in the Northern Gulf of Maine and an incidental catch permit category (up to 40 pounds of scallop meat per trip while fishing for other species).

More recently Amendment 15 to the Scallop FMP was implemented in 2011. This action brought the FMP in compliance with new requirements of the re-authorized MSA (namely ACLs and AMs) as well as a handful of other measures to improve the overall effectiveness of the FMP. A more detailed summary of the various annual catch limits and how fishery specifications are set in this fishery are described in Section 1.4.

Figure 1 – Scallop management areas (past and present)



1.3.2 Summary of the scallop area rotation program

Rotational area management is the cornerstone of scallop fisheries management. There are four types of areas in this system: 1) “open areas” where scallop fishing can occur using DAS or IFQ; 2) areas completely closed to scallop fishing year-round to reduce impacts on EFH and/or groundfish mortality; 3) areas temporarily closed to scallop vessels to protect small scallops until a future date; and 4) areas open to very restricted levels of scallop fishing called “access areas”. When scallop vessels are fishing in these areas they are limited in terms of total removal and sometimes season.

Amendment 10 introduced area rotation: areas that contain beds of small scallops are closed before the scallops experience fishing mortality, then the areas re-open when scallops are larger, producing more yield-per-recruit. The details of which areas should close, for how long and at what level they should be fished were described and analyzed in Amendment 10. Except for the access areas within the groundfish closed areas on Georges Bank, all other scallop rotational areas should have flexible boundaries. Amendment 10 included a detailed set of criteria or guidelines that would be applied for closing and re-opening areas. Framework adjustments would then be used to actually implement the closures and allocate access in re-opened areas.

The general management structure for area rotation management is described in Table 2. An area would close when the expected increase in exploitable biomass in the absence of fishing mortality exceeds 30% per year, and re-open to fishing when the annual increase in the absence of fishing mortality is less than 15% per year. Area rotation allows for differences in fishing mortality targets to catch scallops at higher than normal rates by using a time averaged fishing mortality so the average for an area since the beginning of the last closure is equal to the resource-wide fishing mortality target.

Figure 1 shows the boundaries of current and past scallop access areas (green shaded) on Georges Bank and in the Mid-Atlantic. Areas that are closed to the scallop fishery are indicated as well: groundfish mortality closed areas (hollow) and EFH closed areas (hatched). For the most part some of these areas are closed to the fishery if small scallops are present, some areas are open as access areas with a controlled level of fishing, and some may be “open areas” that may be fished using DAS, not access area trips. Each year limited access vessels are allocated a set number of trips with possession limits to fish in specific access areas. And general category vessels are awarded a fleetwide maximum of trips that can be taken per area.

The NEFMC is currently reviewing the EFH and groundfish mortality closed areas in this region in the EFH Omnibus Amendment. Based on the outcome of that action the current boundaries of these closed areas may change. Therefore, future scallop access areas may also be different, and current restrictions to fish in EFH closed areas may be different as well. Since this action is primarily limited to FY2015, and any of these potential changes from the EFH action will only be effective during the latter part of FY2015 or the 2016 fishing year (under the current schedule); Framework 26 will only address specifications based on the current areas available to the scallop fishery – areas outside of EFH closed areas and areas within CA1, CA2, and NL that have been available to the scallop fishery in the past.

Table 2- General management structure for area rotation management as implemented by Amendment 10

Area type	Criteria for rotation area management consideration	General management rules	Who may fish
Closed rotation	Rate of biomass growth exceeds 30% per year if closed.	No scallop fishing allowed Scallop limited access and general category vessels may transit closed rotation areas provided fishing gear is properly stowed. Scallop bycatch must be returned intact to the water in the general location of capture.	Any vessel may fish with gear other than a scallop dredge or scallop trawl Zero scallop possession limit
Re-opened controlled access	A previously closed rotation area where the rate of biomass growth is less than 15% per year if closure continues. Status expires when time averaged mortality increases to average the resource-wide target, i.e. as defined by the Council by setting the annual mortality targets for a re-opened area.	Fishing mortality target set by framework adjustment subject to guidelines determined by time averaging since the beginning of the most recent closure. Maximum number of limited access trips will be determined from permit activity, scallop possession limits, and TACs associated with the time-average annual fishing mortality target. Transfers of scallops at sea would be prohibited	Limited access vessels may fish for scallops only on authorized trips. Vessels with general category permits will be allowed to target scallops or retain scallop incidental catch, with a 400 pounds scallop possession limit in accordance with general category rules.
Open	Scallop resource does not meet criteria to be classified as a closed rotation or re-opened controlled access area	Limited access vessels may target scallops on an open area day-at-sea General category vessels may target sea scallops with dredges or trawls under existing rules. Transfers of scallops at sea would be prohibited	All vessels may fish for scallops and other species under applicable rules.

1.3.2.1 Guidelines for fully adaptive area rotation scheme

The Council considered various approaches to area rotation in Amendment 10 and ultimately adopted an approach that provides flexibility to define future rotational areas. The final rule implemented a “fully adaptive area rotation scheme,” which allows more specific area definitions and management controls compared to the fixed-boundary alternatives considered. While the fully adaptive approach is more complicated and probably more costly to administer, it is expected to produce higher benefits by protecting small scallops during their highest growth rates. Adaptive boundaries and frequent surveys will be able to earlier and better identify concentrations of small scallops.

The fully adaptive area rotation scheme in Amendment 10 established no pre-defined conditions for area closures and reopenings, except that areas will close when the expected annual increase in exploitable biomass in an area exceeds 30 percent, and areas will re-open when the expected annual increase in exploitable biomass in an area is less than 15 percent. There are no standard closure area boundaries, dimensions, or durations. The fully adaptive area rotation scheme includes guidelines as part of the biennial framework process that should be used to establish the rotational areas, but they are not requirements for the program. The guidelines are described below for reference, but they are not binding in any way. The Council and NMFS may deviate from these guidelines to achieve optimum yield or achieve other plan objectives.

- ***Boundaries and distribution of rotational closures***

Amendment 10 set up the area rotation program to be as flexible as possible, and allow boundaries to be established in future frameworks, rather than prescribed fixed boundaries and schedules. Amendment 10 guidelines describe that the size of areas should be large enough in shape to be effective, while allowing flexibility. Amendment 10 considered five scallop management regions, each approximately 75 square nautical miles in area. The five “regions” are: Gulf of Maine, Georges Bank, South Channel, Hudson Canyon, and Southern. The boundaries are described below and in Figure ??? (*need to make a chart of these subregions*).

- Gulf of Maine – [all blocks north of 42°20’N].
- Georges Bank – [all blocks south of 42°20’N and east of 68°30’W].
- South Channel – [all blocks south of 42°20’N, west of 68°30’W and east of 72°30’W].
- Hudson Canyon – [all blocks west of 72°30’W and north of 38°30’N].
- Southern – [all blocks south of 38°30’N]

Overall the guidance recommends no more than one scallop rotational closure in each region at any time, except the Gulf of Maine. In that region there may be zero or one at any time. Areas indefinitely closed to scalloping are not considered rotational closures, but areas temporarily closed to scalloping by measures outside of the scallop rotational system may be considered for this purpose. Specific size minimums were described in Amendment 10 as well, suggesting that new areas should be at least six or nine contiguous ten-minute squares depending on the region.

Amendment 10 guidance also suggests maximum closure guidance. First, all closures combined should not close more than 25% of the total exploitable biomass for the entire resource when a new closure is considered. Second, new closures should not result in total area closed to scalloping (including all closed areas, not just scallop rotational areas) to exceed more than 50% of the productive blocks in a particular region, or 75% of more of the scallop biomass in a sub-region. Guidelines are included for incorporating seasonally closed areas as well.

Amendment 10 guidelines suggests that straight lines form all boundaries, and the internal angles between lines should not exceed 180 degrees. And when possible, the boundaries should follow edges of ten minute square blocks.

- ***Guidance for closures***

Rotational area closures will be implemented by ad hoc or standard framework adjustments. Identification of appropriate areas should be based on either a combination of NMFS survey and industry based surveys, or industry based surveys alone. When possible closures should be selected to include as many blocks with annual potential growth increase has been estimated to be above 30% in the absence of fishing, plus as many as possible of blocks closed in the previous year with annual potential growth of 15% or more, while incorporating as few other blocks as possible. When it is not possible to include all of the blocks with high annual potential growth, preference should be given to closing those with higher values.

Blocks abutting a block in either the Georges Bank or South Channel regions that itself meets the annual potential increase requirements of the basic rule may be included in a closure if the directions of water movement are such that dispersal of scallops into the additional block from a

closure is probable. Other blocks will only be added to closures when essential to meet the requirements of the invariable rules.

- ***Monitoring and Re-opening***

1. All closed blocks will be surveyed annually by a commercial scallop vessel with a NMFS survey dredge to determine current biomass, size composition and growth rates. These surveys will also extend over all blocks immediately adjacent to a closed one. They will also cover all blocks currently subject to re-opening TACs.
2. NMFS receives the data and calculates the “annual potential increase” of the scallops in each closed rotation area.
3. Block closures re-open on when appropriate and defined by framework adjustment or whenever the Council sets as a default opening date when the area closes, unless:
 - a: The discovery of additional seed of younger year-classes, during the period of a closure, requires extension of that closure,
 - b: The shaping of new closures requires re-opening in advance of the expected year, or
 - c: An early re-opening is made under an Emergency Action (e.g. if mass mortality of scallops in closure is suspected).No other alterations to the timing of re-opening may be made without a Plan Amendment.
4. For each re-opening, a TAC will be set, based on survey estimates (corrected for catchability) of harvestable biomass and, for most blocks, a target fishing mortality rate calculated by applying time averaged mortality calculations. The biomass estimates will include scallops in all blocks immediately adjacent to the re-opening, provided that they will be open in the coming year. Such blocks will then be subject to the same TAC control as those in the re-opened area.
5. Based on the annual fishing mortality target for a re-opened area, a TAC will be calculated and the number of trips to allocate will be determined using a scallop possession limit which the Council will determine. Controlled access day-at-sea allocations will be calculated using a DAS/possession limit tradeoff that the Council establishes.

1.4 SUMMARY OF SCALLOP FISHERY SPECIFICATIONS AND VARIOUS ANNUAL CATCH LIMITS

Amendment 15 established a method for accounting for all catch in the scallop fishery and included designations of Overfishing Limit (OFL), ABC, ACLs, and Annual Catch Targets (ACT) for the scallop fishery, as well as scallop catch for the Northern Gulf of Maine (NGOM), incidental, and state waters catch components of the scallop fishery. The scallop fishery assessment will determine the exploitable biomass, including an assessment of discard and incidental mortality (mortality of scallops resulting from interaction, but not capture, in the scallop fishery).

Based on the assessment, OFL is specified as the level of landings, and associated F that, above which, overfishing is occurring. OFL will account for landings of scallops in state waters by

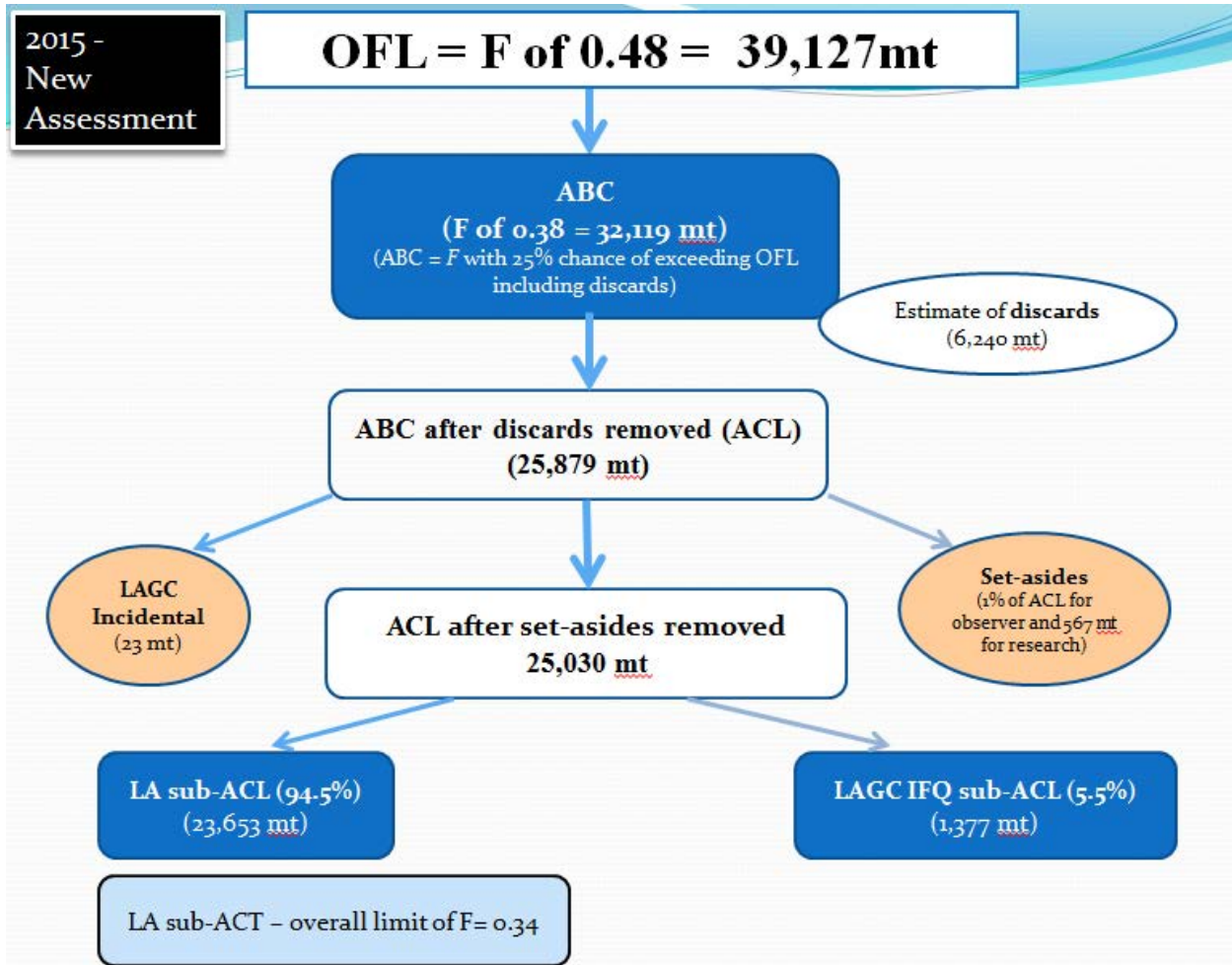
vessels without Federal scallop permits. The current assessment of the scallop fishery (SAW 50, 2010) determined that the F associated with the OFL is 0.38. The updated assessment, SARC59, approved a higher OFL equivalent to 0.48. To account for scientific uncertainty, ABC is set at a level with an associated F that has a 25-percent probability of exceeding F associated with OFL (i.e., a 75-percent probability of being below the F associated with OFL).

In the Scallop FMP ACL is equal to ABC. SAW 50 determined that the F associated with the ABC/ACL is 0.32. The updated assessment, SARC 59, approved a higher OFL; therefore, the F associated with ABC/ACL is higher as well, F = 0.38. Set-asides for observer and RSA are removed from the ABC (1 percent of the ABC/ACL and 1.25 M lb (567 mt) respectively). After those set-asides are removed, the remaining available catch is divided between the LA and LAGC fisheries into two sub-ACLs; 94.5% for the LA fishery sub-ACL, and 5.5% for the LAGC fishery sub-ACL. Figure 2 summarizes how the various ACL terms are related in the Scallop FMP.

To account for management uncertainty, Amendment 15 established ACTs for each fleet. For the LA fleet, the ACT will have an associated F that has a 25-percent chance of exceeding ABC. The major sources of management uncertainty in the LA fishery are carryover provisions including the 10 DAS carryover provision, and the ability to fish unused access area allocation within the first 60 days of the following fishing year. The F associated with this ACT for the LA fishery is currently estimated to be 0.28. The fishery specifications allocated to the fishery may be set at an F rate lower than this level based on available resource, but fishery specifications may not exceed this level. For example, in FY2014 several specification alternatives were considered that had various estimated of overall F ranging from 0.10 to 0.21. Again, because the updated assessment, SARC59 approved a higher OFL, the F associated with ACT is higher as well. The new ACT will be based on applying an overall fishing mortality of 0.34. For the LAGC fleet, the ACT will be set equal to the LAGC fleet's sub-ACL, since that fishery is quota managed and has less management uncertainty.

Finally, catch from the NGOM is established at the ABC/ACL level, but is not subtracted from ABC/ACL. Since the NGOM portion of the scallop fishery is not part of the scallop assessment, the catch will be added and specified as a separate Total Allowable Catch (TAC), in addition to ABC/ACL.

Figure 2 – Example of how catch limits are set in the Scallop FMP using FY2015, with updated reference points from the recent benchmark assessment (SARC59)



1.4.1 Default measures for FY2015 approved in previous scallop action (Framework 25)

The Council routinely sets default measures for the fishing year following the intended length of an action in the event that subsequent actions are not in place at the start of the following fishing year. For example, the scallop fishing year starts on March 1, but complete management measures are not usually in place until May. This lag is primarily due to the fact that scallop specifications are set using the most up to date survey data collected the summer before the start of the fishing year. The results are typically available in August, a new ABC is reviewed by the SSC in September, and the PDT develops and analyzes specification alternatives in early fall before final Council action at the November meeting. Staff generally completes the submission package by the end of the year and the action is reviewed and implemented by NMFS typically in May.

In the past, measures have been in place on March 1 that are inferior to measures proposed for implementation in a subsequent action using more updated information. Ultimate catch levels

may be higher or lower depending on updated survey results, some areas with access area trips assigned may not be able to support that level of effort, or small scallops may show up in a new survey suggesting the area should be closed to protect new recruitment. In order to minimize the potentially negative impacts of having measures in place on March 1 that ultimately need to be changed, the Council only allocated DAS to the limited access fishery as default measures for FY2015; no access area trips were assigned to limited access vessels or general category vessels.

Therefore, if Framework 26 is delayed past March 1, 2015, scallop vessels would be restricted to fishing their FY2015 default allocations in open areas until final FY 2015 specifications are implemented. However, vessels would be able to fish FY 2014 compensation trips in the access areas that were open in FY 2014 (e.g., DMV, NLS, and CA2) for the first 60 days of FY2015 (i.e., March 1 through April 29, 2015). In addition, the default DAS allocations were set at 75% of the projection to be precautionary. Therefore, vessels will receive a set number of DAS on March 1, 2015, and that may be different than the ultimate number of DAS awarded under FW26.

The default measures for 2015 also included the required ABC and ACL values, but they will likely be replaced by this action. The table below summarizes the default values that will be effective on March 1, 2015 until FW26 is implemented to replace them. Vessels with a LAGC IFQ permit will receive an allocation based on the contribution factor assuming the total LAGC IFQ is 2.5 million pounds. Their allocations for FY2015 may ultimately change based on the final sub-ACL approved in FW26. LAGC IFQ vessels are responsible to payback any overage the following year if the ultimate IFQ for FY2015 is lower than the allocation under the default sub-ACL.

If FW26 is not adopted these allocations would remain in place for all of FY2015 and beyond until replaced by a subsequent action.

Table 3 - ACL related values and allocations for 2015 (default measures approved in FW25)

	2015*
OFL	34,247 mt (75,501,724 lb)
ABC	23,982 mt (52,871,269 lb)
incidental	22.7 mt (50,000 lb)
RSA	567 mt (1,250,000 lb)
OBS	240 mt (529,110 lb)
ACL after set-asides/incidental removed (= ABC-(incidental + RSA +OBS))	23,152 mt (51,042,084 lb)
LA sub-ACL (94.5% of ACL)	21,879 mt (48,234,778 lb)
IFQ-only (5% of ACL)= sub-ACL = ACT	1,158 mt (2,552,105 lb)
IFQ + LA (0.5% of ACL)=sub-ACL=ACT	116 mt (255,210 lb)

* 2015 measures are default and expected to be adjusted based on FW26

Table 4 – Summary of FY2015 default allocations for LA vessels (approved in FW25)

	LA FT	LA PT	LA Occasional
2015	17	7	1

* Default DAS is 75% of the total DAS projected for FY2015 (23DAS)

2.0 MANAGEMENT ALTERNATIVES UNDER CONSIDERATION

2.1 OVERFISHING LIMIT AND ANNUAL BIOLOGICAL CATCH

The MSA was reauthorized in 2007. Section 104(a) (10) of the Act established new requirements to end and prevent overfishing, including annual catch limits (ACLs) and accountability measures (AMs). Section 303(a)(15) was added to the MSA to read as follows: “establish a mechanism for specifying annual catch limits in the plan (including a multiyear plan), implementing regulations, or annual specifications, at a level such that overfishing does not occur in the fishery, including measures to ensure accountability.” ACLs and AMs are required by fishing year 2010 if overfishing is occurring in a fishery, and they are required for all other fisheries by fishing year 2011. The Council initiated Scallop Amendment 15 to comply with these new ACL requirements, and that action was implemented in 2011.

Acceptable Biological Catch (ABC) is defined as the maximum catch that is recommended for harvest, consistent with meeting the biological objectives of the management plan. The determination of ABC will consider scientific uncertainty and the Council may not exceed the fishing level recommendations of its Science and Statistical Committee (SSC) in setting ACLs (Section 302(h)(6)). The MSA enhanced the role of the SSCs, mandating that they shall provide ongoing scientific advice for fishery management decisions, including recommendations for acceptable biological catch (MSA 302(g)(1)(B)). This requirement for an SSC recommendation for ABC was effective in January 2007.

2.1.1 Alternative 1 - No Action for OFL and ABC

Under “No Action”, the overall OFL and ABC would be equivalent to default 2015 values adopted in Framework 25 (Table 5). These would remain in place until a subsequent action replaced them. These values were selected based on the same control rules: 1) OFL is equivalent to the catch associated with an overall fishing mortality rate equivalent to F_{msy} ; and 2) ABC is set at the fishing mortality rate with a 25% chance of exceeding OFL where risk is evaluated in terms of the probability of overfishing compared to the fraction loss to yield. These values include estimated discard mortality. Therefore, when the fishery specifications are set based on these limits, the estimate of discard mortality is removed first and allocations are based on the remaining ABC available (Table 5, column to the far right).

Table 5 – Summary of OFL and ABC FY2014 (default) values approved by the SSC in Framework 24 (in metric tons)

	OFL (including discards at OFL)	ABC (including discards)	Discards (at ABC)	ABC available to fishery (after discards removed)
2015 (default)	34,247	29,683	5,701	23,982

2.1.2 Alternative 2 - Updated OFL and ABC for FY2015 and FY2016 (default)

The SSC first met on September 15, 2014 to review updated estimates of OFL and ABC for Framework 26. The PDT presented an update of stock status for 2014 as well as updated estimates of OFL and ABC for FY2015 and FY2016.

The SSC reviewed the estimates and ??? The final values approved by the SSC are summarized in Table 6.

Table 6 – Proposed OFL and ABC for FY2015 and 2016 (default) approved by the SSC (in mt)

Year	OFL (including discards)	ABC (including discards)	Discards at ABC	ABC available to fishery = ACL (after discards removed)
2015	39,127	32,119	6,240	25,879
2016	48,489	39,836	5,964	33,872

After final SSC report is available will include any special comments from their report to the Council on September 30.

2.2 FISHERY SPECIFICATIONS

SEE SPEARATE DOCUMENT FOR INITIAL ALTERNATIVES DRAFTED BY THE PDT FOR DISCUSSION – DOCUMENT #3

2.3 MEASURES TO ALLOW FISHING IN STATE WATERS AFTER FEDERAL NGOM TAC IS REACHED

2.3.1 No Action

Once the federal NGOM hard TAC is reached, all vessels with a federal scallop permit are prohibited from fishing for scallops in the NGOM, INCLUDING state waters.

2.3.2 All vessels with both a state scallop permit and federal NGOM permit allowed to fish in state waters after the federal TAC is reached

If the federal NGOM hard TAC is reached and the area is closed, but a vessel has both a federal NGOM permit and a state water scallop permit, that vessel would be permitted to fish exclusively in state waters for scallops under state water rules. All other vessels with federal scallop permits would be prohibited to fish for scallops in state waters in the NGOM management area after the TAC is reached (LA, LAGC IFQ, and LAGC Incidental).

2.3.3 Revise the state water exemption program provisions to allow a state to request a specific exemption related to fishing in state waters after the NGOM TAC is reached

No changes would be made to the regulations prohibiting all vessels with a federal scallop permit to fish for scallops in state waters after the NGOM hard TAC is reached (§648.62). Instead, the regulations related to state water exemptions would be revised to allow an individual state to request a specific exemption related to fishing in state waters after the NGOM TAC is reached. Section 648.54 of the regulations specify the eligibility, requirements and exemptions vessels are subject to. If adopted, this alternative would allow a state to apply for an exemption from the prohibition to fish in state waters if the federal NGOM hard TAC is reached. To date, this alternative is not specific to permit type; a state could specify which federal scallop permit types could potentially be exempt from this prohibition.

2.4 MEASURES TO MAKE TURTLE REGULATIONS CONSISTENT

2.4.1 No Action

There are two specific measures in place in the Scallop FMP that are designed specifically to reduce mortality on sea turtles; the turtle chain mat requirement and the turtle deflector dredge requirement (Figure 3).

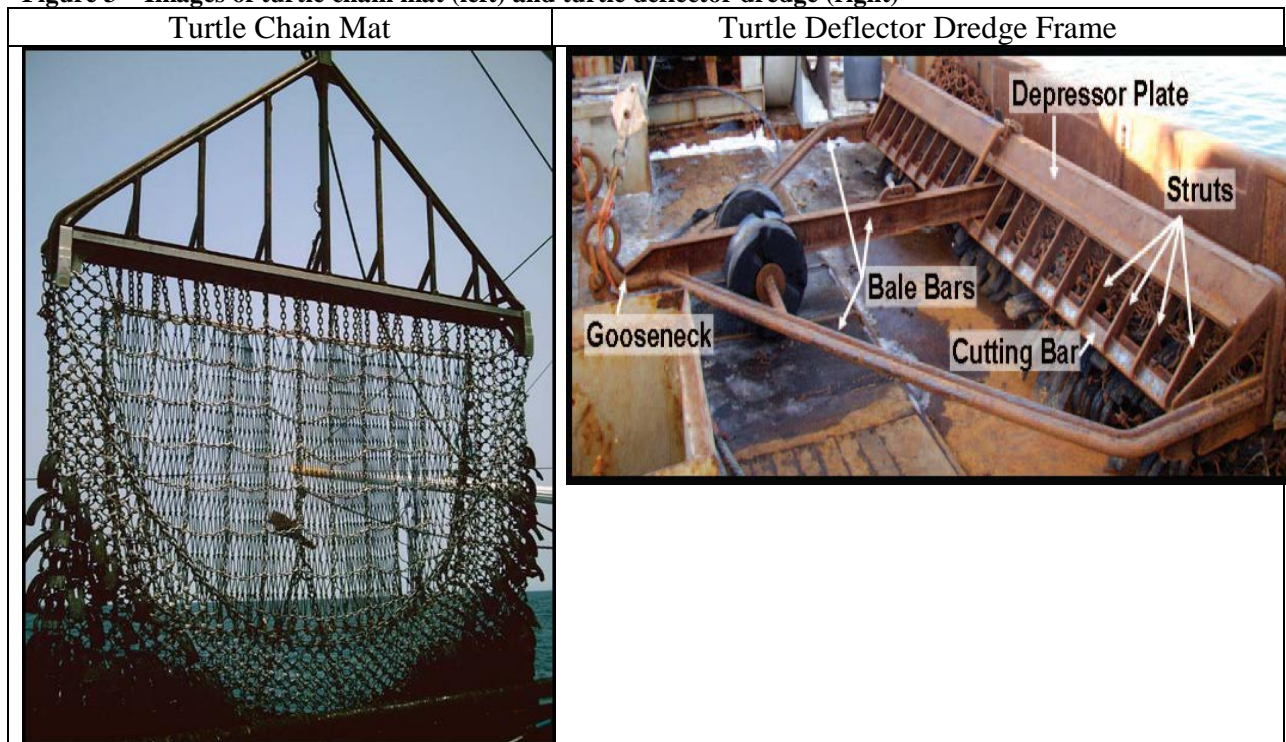
- *Turtle chain mat requirement:*

During the time period of May 1 through November 30, any vessel with a sea scallop dredge and required to have a Federal Atlantic sea scallop fishery permit, regardless of dredge size or vessel permit category, that enters waters south of 41°9.0' N. latitude, from the shoreline to the outer boundary of the Exclusive Economic Zone must have on each dredge a chain mat as described in Section 223.206(d)(11) of the regulations.

- *Turtle deflector dredge:*

From May 1 through October 31, any limited access scallop vessel using a dredge, regardless of dredge size or vessel permit category, or any LAGC IFQ scallop vessel fishing with a dredge with a width of 10.5 ft (3.2 m) or greater, that is fishing for scallops in waters west of 71° W long., from the shoreline to the outer boundary of the EEZ, must use a turtle deflector dredge (5 elements of the dredge). A limited access scallop vessel that uses a dredge with a width less than 10.5 ft (3.2 m) is required to use a TDD, except that such a vessel is exempt from the “bump out” requirement. LAGC vessels with dredges less than 10.5 ft are exempted from the requirement all together.

Figure 3 – Images of turtle chain mat (left) and turtle deflector dredge (right)

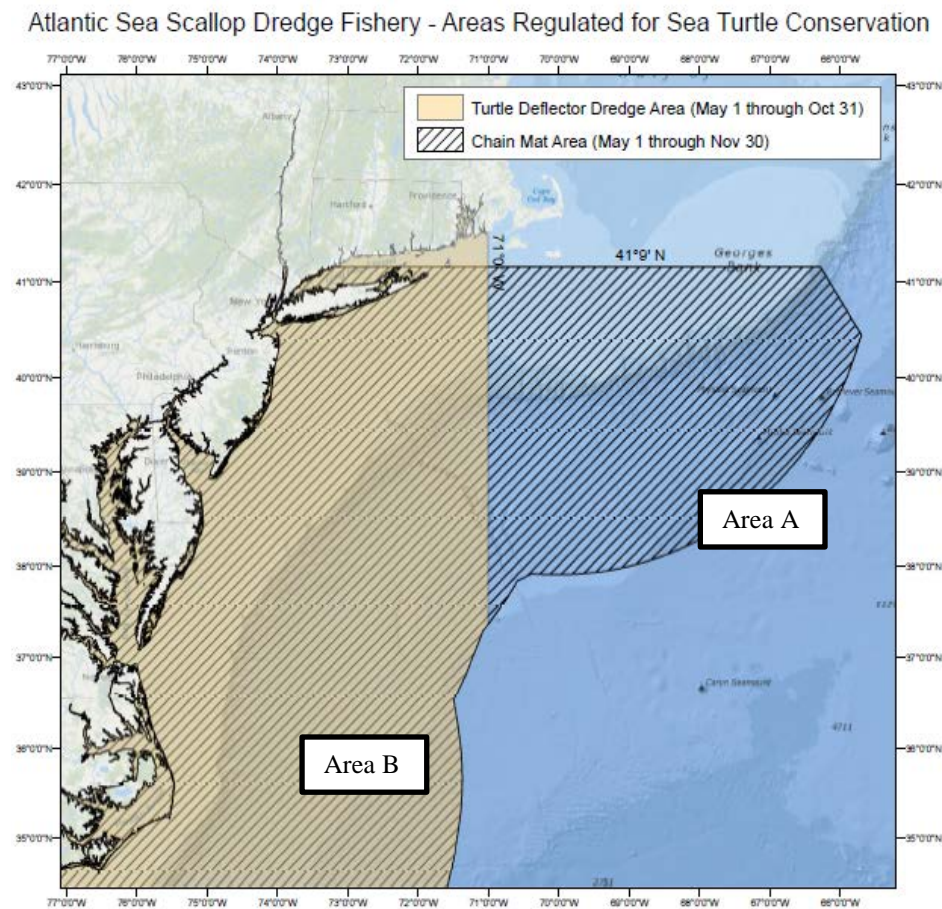


2.4.2 Revise season and area for turtle chain mat and turtle deflector dredge to be consistent (waters west of 71W and during the months of May through November)

Revise the turtle chain mat regulations to have a consistent boundary with the TDD requirement. And revise the TDD regulations to have a consistent season with the chin mat regulations. If approved, both gear elements would be required for the same area (waters west of 71W) and during the same season (May-November).

The PDT discussed that the current chain mat requirement is required for all dredges, regardless of size of vessel permit category. However, the turtle deflector dredge requirement is limited to all LA vessels and only LAGC IFQ vessels that fish with a dredge greater than 10.5 ft. LAGC IFQ vessels that fish with smaller dredges are exempt from the turtle deflector dredge requirement. The PDT recommends that this measure should maintain those permit type differences. Specifically, if approved this alternative would require all scallop dredge vessels to fish with a chain mat, regardless of dredge size or permit category. And all LA vessels and all LAGC IFQ vessels greater than 10.5 feet would need to fish with a TDD.

Figure 4 – Management areas for TDD (beige) and chain mat (hatched) regulations in the scallop fishery “Area A” and “Area B” have been superimposed. They delineate subsections of the chain mat area but east and west of the TDD boundary. These areas are reference areas used in the analyses for FW26.



2.5 MEASURES TO DEVELOP NEW ACCOUNTABILITY MEASURES FOR NORTHERN WINDOWPANE FLOUNDER AND MODIFY EXISTING ACCOUNTABILITY MEASURES FOR GB AND SNE/MA YELLOWTAIL FLOUNDER

2.5.1 AM for northern windowpane flounder

2.5.1.1 No Action

Under No Action, the sub-ACL for northern windowpane flounder would not have accountability measures specific to the scallop fishery. If the scallop fishery exceeds their sub-ACL, no measures would be triggered to limit or reduce future windowpane catch in the scallop fishery. This is not in compliance with NMFS regulation and guidance on ACL management, which requires an AM for every ACL and sub-ACL.

In terms of when AMs trigger in general, under No Action, if the scallop fishery is below their sub-ACL, and the GF fishery is over their sub-ACL, but the sum of all catch is below the total ACL, then no AMs would trigger in the groundfish fishery. In the reverse, if the scallop fishery exceeds their sub-ACL, but the total ACL is not exceeded because other components of the fishery were under their sub-ACLs, then AMs would NOT trigger for the scallop fishery (unless they exceed their sub-ACL by more than 50%). The program for northern windowpane flounder was designed so that each component of the fishery is accountable, but the trigger to implement AMs only occurs if the total ACL is exceeded, not just one particular sub-ACL.

However, under No Action, if the overage by the scallop fishery is substantial causing the overall ACL to be exceeded, AMs would trigger for the groundfish fishery because there are currently no AMs specific to the scallop fishery. If No Action is adopted in Scallop Framework 26, it would be likely that the next groundfish action would consider an AM for the scallop fishery to address this issue. The sub-ACL management strategy used by the Council for other species is that each fishery is accountable, and an overage that causes the total ACL to be exceeded should not impact a fishery that did not cause the overage.

2.5.1.2 Reactive AM for northern WP – Seasonal gear restricted area

This alternative would implement a gear restricted area for a specified period of time with higher bycatch rates of northern windowpane flounder. This is the same gear modification as the AM for southern windowpane flounder implemented under Framework 25. The specific gear modification has two elements: 1) shorter apron in the dredge bag; and 2) reduced twine top hanging ratio. Figure 5 is a drawing of typical scallop dredge gear. The two gear elements involved with this gear modified area are highlighted in the margin of the figure.

THE PTD IS STILL DEVELOPING POTENTIAL AM AREAS AND SEASONS

The AM area is ??? (Figure 6). ONE AREA OR MORE?

If the AM is triggered and the overage by the scallop fishery is estimated to be >0 and $<20\%$, the AM would be in effect for ???. If the AM is triggered and the overage by the scallop fishery is over 20% the AM would be in effect for ???.

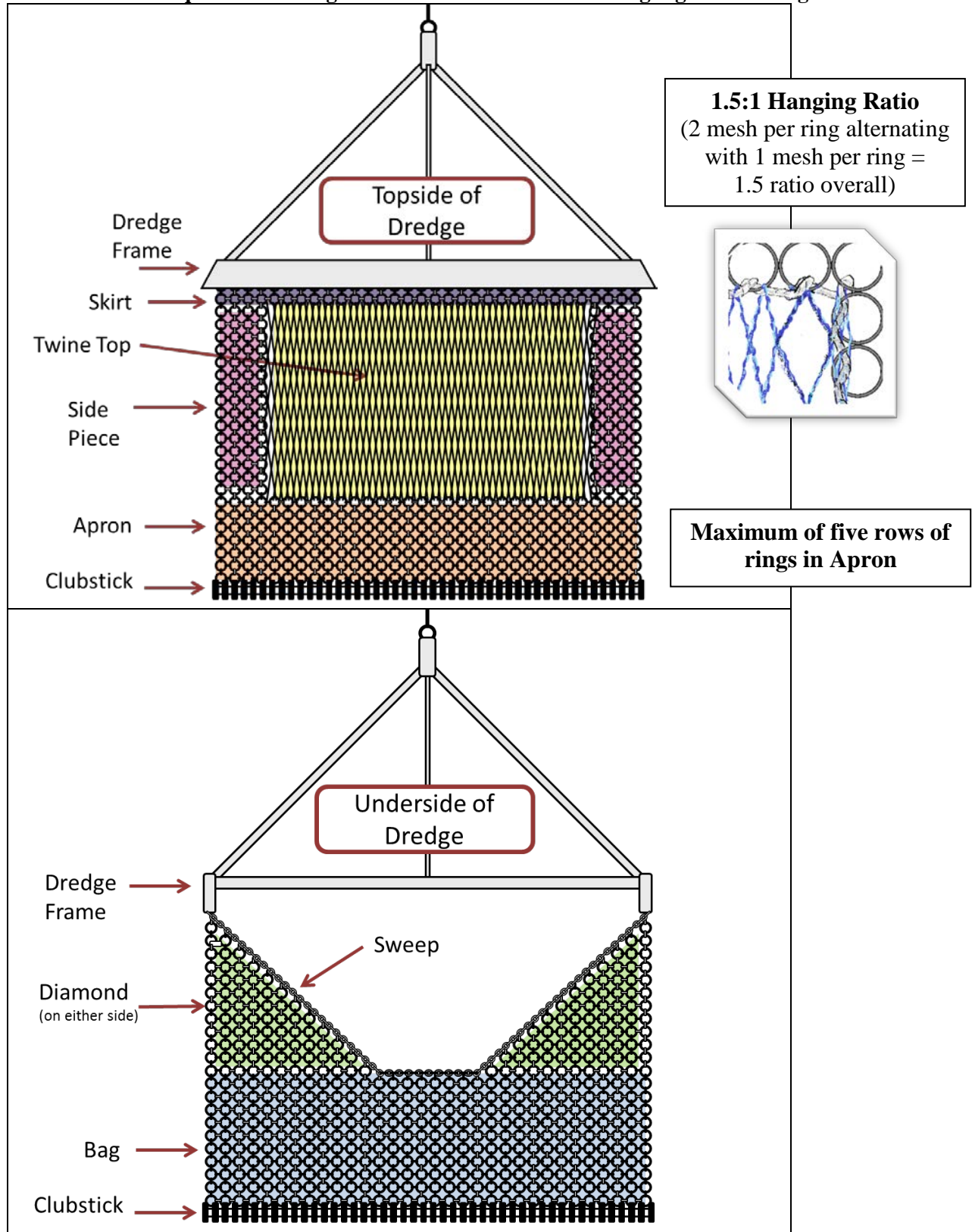
The Scallop PDT has estimated the amount of “WP savings”, or reduced WP catch associated with this AM alternative in Table 7. This is calculated by estimating the WP and scallop catch from this area based on observer and VMS data and applying a ??% reduction for WP catch based on results from gear tests of the modified dredge gear. See Appendix 1 for a summary of the research used by the PDT to complete analyses related to this gear modification alternative.

First, the maximum number of rows allowed in the apron of the topside of the dredge would be five rows. A vessel could fish with fewer rows of rings, but the maximum number of rows would be restricted to five. Second, the maximum hanging ratio for the dredge would be 1.5:1 overall; that is an average of 1.5 meshes per ring for the width of the twine top. The twine top is usually connected to the topside of the dredge frame by several rows of rings called the skirt. Individual meshes of the twine top are connected to each ring across the skirt of the dredge. Some vessels use a hanging ratio of 2:1, which means 2 meshes per ring. Some vessels fish with a lower hanging ratio, and some with a greater ratio of 3:1 or even 5:1. An overall hanging ratio of 1.5:1 means that the twine top is hung alternating 2 meshes per ring and 1 mesh per ring, for an overall average of 1.5 meshes per ring for the entire width of the twine top.

A dredge would be in compliance if the ratio did not exceed 1.5 based on the total number meshes in the twine top (counted at the bottom where the twine top connects to the apron) divided by the total number of rings that the twine top is connected to in the apron. For example, an apron that is 40 rings wide subtracting 5 rings on each side of the side pieces, yielding 30 rings would only be able to use a twine top with 45 or fewer meshes so that the overall ratio of meshes to rings did not exceed 1.5 (45 meshes/30 rings = 1.5). The regulation would not be based on the number of meshes across the top of the twine top connected to the skirt of the dredge, because some vessels connect the twine top to the frame with chain instead of rings.

This AM would apply to all scallop vessels, LA and LAGC IFQ vessels. The Council clarified that since this AM would impact all vessels on a scallop trip it would apply to vessels that fish for scallops with trawl gear as well. Specifically, if this AM were triggered a vessel fishing for scallops with trawl gear would be prohibited from fishing for scallops within the gear restricted area while the AM is effective. However, if a vessel with trawl gear wants to fish in the AM area and season if it were implemented, it would be permitted to switch to the modified dredge gear. Otherwise, vessels fishing for scallops with trawl gear would be prohibited in the AM area and season if AMs are triggered.

**Figure 5 – Typical Scallop dredge gear (topside of gear on top and underside on bottom)
 Gear requirements for gear restricted AM alternative highlighted in margin**



Source: Goff, K. D. 2002. Ring diameter and closed area scallop fisheries. Masters thesis, Virginia Institute of Marine Science, College of William and Mary. (Note: labels and colors added to original figure).
 Insert figure of hanging ratio courtesy of Coonamessett Farm Foundation.

Table 7 - Estimate of WP reduction from Gear Modification AM by month within the AM area (% reduction compared to projected WP catch with no AM and applying ??% reduction from the gear modification in the AM area)

EVENTUALLY THE PDT NEEDS TO IDENTIFY WHAT % REDUCTION VALUE TO USE. LAST YEAR WE USED 45%, BUT NEW ANALYSES SUGGESTS THE PERCENT REDUCTION COMPARED TO GEAR TYPES USED IN THE FISHERY IS QUITE VARIABLE. MAYBE A RANGE IS MORE APPROPRIATE.

2.5.1.2.1 Northern WP AM Area

- **Entire northern windowpane stock area**
- **Subset of northern windowpane stock area (south of ??? N)**

Figure 6 – Northern WP seasonal gear restricted AM area under consideration

ONE AREA OR MORE AREAS UNDER CONSIDERATION?

2.5.1.2.2 Northern WP AM Season

If AMs trigger for the scallop fishery and the sub-ACL exceeded by more than 0% and less than 20%, the AM season would be ???.

If AMs trigger for the scallop fishery and the sub-ACL exceeded by more than 20% the AM season would be ??.

Could use a different approach – this is what is in place for southern WP.

2.5.1.3 Proactive AM for northern WP – Modify the restriction on the number of rings in apron of dredge

Currently there is a requirement that all scallop dredges have a MINIMUM of seven rows of rings in the apron of the dredge in all areas east of 71 W. Framework 25 modified this outdated regulation for all waters west of 71W excluding Mid-Atlantic access areas already as a proactive AM for southern windowpane flounder, but the requirement to have a minimum 7-ring apron still exists for all other areas.

This alternative would modify the current requirement to have at least a seven row apron, and instead require all vessels to have a MAXIMUM of seven rows. This would apply to all open areas and access areas, all year long.

Background

Within the current twine top restrictions in Section 648.51 of the scallop regulations it states that a dredge greater than 8 feet in width, must have at least seven rows of rings between the terminus

of the dredge (clubstick) and the twine top. Framework 5 implemented this regulation in 1995 to protect against the overharvest of small scallops. At that time some vessels were running twine top along the topside of the dredge all the way down to the clubstick. Since the mesh used for twine top was much smaller than it is today this practice essentially turned the dredge bag into a net, which has higher mortality on small scallops.

Now that twine top mesh is required to be a minimum of 10 inches there is less incentive to run it back to the terminus of the dredge. However, recent gear research has shown that a shorter apron, for example 5 rows of rings from the clubstick, may reduce flatfish bycatch. This action is considering a seasonal gear restriction AM that would require vessels to use a shorter apron, but that will only be implemented if an AM is triggered, and would only be required in the specified AM area and season. In contrast, this measure would modify the current requirement to have at least a seven row apron, and instead require vessels to have a maximum of seven rows. This measure may reduce flatfish bycatch by requiring vessels that fish in the AM area all year to use a maximum of seven rows, and enable vessels to voluntarily fish with an even shorter apron, less than seven rings, to proactively reduce flatfish bycatch in any area or season. This measure would apply to all scallop dredge vessels (LA and LAGC IFQ).

The current gear restriction is outdated and is no longer necessary with larger mesh size restrictions. In addition, it is counter to innovations that could help reduce flatfish bycatch. Therefore, modifying this dated regulation is a proactive AM, not only for SNE/MA WP but all flatfish bycatch that overlap with this AM area. The combination of a shorter apron and lower hanging ratio has been shown to be more selective for larger scallops.

2.5.2 Modify GB and SNE/MA yellowtail flounder AMs

2.5.2.1 No Action

If AMs trigger for the scallop fishery a series of seasonal closure alternatives are potentially implemented based on which component of the scallop fishery caused the overage. There are three different YT AMs in the scallop fishery:

- 1) one for the LA fleet;
- 2) one for LAGC IFQ dredge fishery; and
- 3) one for LAGC IFQ trawl fishery.

The LA fishery has AMs for both GB and SNE/MA YT, but the LAGC IFQ fisheries only have AMs for SNE/MA YT since their catch of GB YT is minimal.

- **When do YT AMs trigger?**

For LA fishery AMs trigger if the total YT ACL is exceeded and the scallop fishery sub-ACL was exceeded by any amount; or the total YT ACL was *not* exceeded, but the scallop fishery exceeded its sub-ACL by 50% or more. The LAGC fleet has two other caveats for SNE/MA YT AM. AMs for LAGC dredge vessels only trigger if YT catch from that segment is greater than 3% of sub-ACL. AMs for LAGC trawl vessels only trigger if YT catch from that segment is greater than 10% of sub-ACL. In addition, if the LAGC trawl catch is more than 10% of the total sub-ACL, AMs for this segment trigger regardless of whether the total ACL or total sub-ACL are exceeded. In this case the maximum closure season is implemented (7 months)

Figure 7 – AM seasonal closed areas for SNE/MA and GB YT for limited access fishery (SNE/MA AM area is the same for LAGC IFQ dredge fishery)

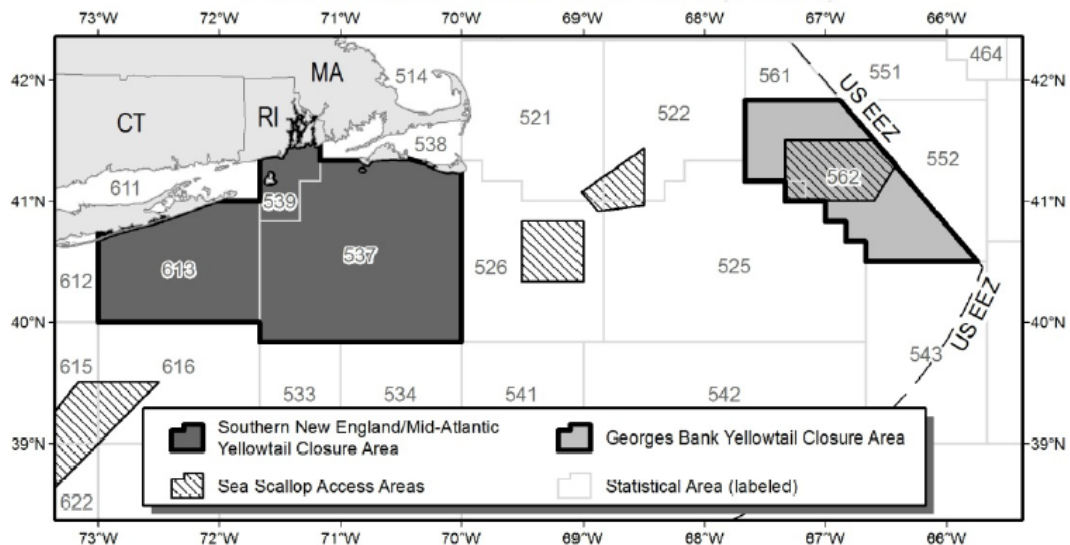


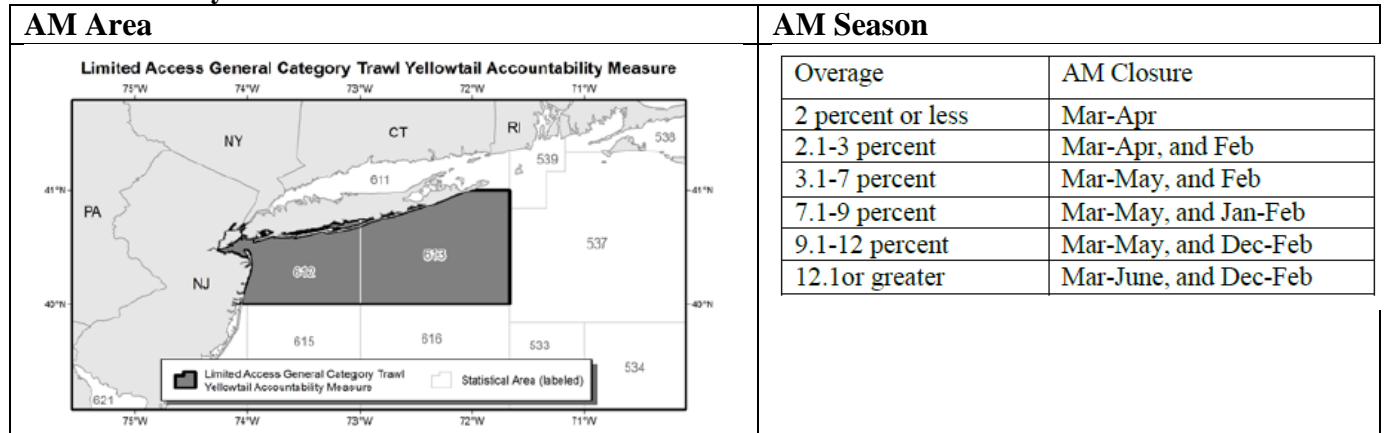
Table 8 – YT AM seasons for LA fishery

SNE/MA		GB	
Percent overage of YTF sub-ACL	Length of closure	For Years CA2 AA Open	
2 or less	Mar-Apr	Percent overage of YTF sub-ACL	Length of closure
2.1-3	Mar-Apr , Feb	3 or less	Oct-Nov
3.1-7	Mar-May, Feb	3.1-14	Sep-Nov
7.1-9	Mar-May, Jan-Feb	14.1-16	Sep-Jan
9.1-12	Mar-May, Dec-Feb	16.1-39	Aug-Jan
12.1-15	Mar-Jun, Dec-Feb	39.1-56	Jul-Jan
15.1-16	Mar-Jun, Nov-Feb	Greater than 56	Mar-Feb (All year)
16.1-18	Mar-Jul, Nov-Feb	For Years CA2 AA Closed	
18.1-19	Mar-Aug, Oct-Feb	Percent overage of YTF sub-ACL	Length of closure
19.1 or more	Mar-Feb (All year)	1.9 or less	Sep-Nov
		2.0 -2.9	Aug-Jan
		3.0 -3.9	Mar-Aug, Feb
		4.0 - 4.9	Mar, Jul-Feb
		5.0 -5.9	Mar-May, Jul-Feb
		6.0 or greater	Mar-Feb (All year)

Table 9 – YT AM season for LAGC IFQ dredge fishery

	AM closure area and duration		
	539	537	613
Overage	539	537	613
2 percent or less	Mar-Apr	Mar-Apr	Mar-Apr
2.1 - 7 percent	Mar-May, Feb	Mar-May, Feb	Mar-May, Feb
7.1 - 12 percent	Mar-May, Dec-Feb	Mar-May, Dec-Feb	Mar-May, Feb
12.1 - 16 percent	Mar-Jun, Nov-Feb	Mar-Jun, Nov-Feb	Mar-May, Feb
16.1 percent or greater	Mar-Feb (All year)	Mar-Jun, Nov-Feb	Mar-May, Feb

Figure 8 – No Action SNE/MA YT AM seasonal closed area and season for LAGC IFQ trawl fishery



Under No Action, if the scallop fishery is below their sub-ACL, and the GF fishery is over their sub-ACL, but the sum of all catch is below the total ACL, then no AMs would trigger in either fishery. In the reverse, if the scallop fishery exceeds their sub-ACL, but the total ACL is not exceeded because other components of the fishery were under their sub-ACLs, then AMs would NOT trigger for the scallop fishery (unless they exceed their sub-ACL by more than 50%). The program for northern windowpane flounder was designed so that each component of the fishery is accountable, but the trigger to implement AMs only occurs if the total ACL is exceeded, not just one particular sub-ACL.

2.5.2.2 Reactive AM for GB YT – Seasonal gear restricted area

If selected, this would replace the seasonal area closure AMs currently in effect for GB YT. Instead, if AMs are triggered in the scallop fishery a seasonal gear modification area will be implemented for a specified amount of time with higher bycatch rates of GB YT. This is the same gear modification as the AM for southern windowpane flounder implemented under Framework 25. The specific gear modification has two elements: 1) shorter apron in the dredge bag; and 2) reduced twine top hanging ratio. Figure 5 is a drawing of typical scallop dredge gear. The two gear elements involved with this gear modified area are highlighted in the margin of the figure. More details of the specific gear restrictions are described in Section 2.5.1.2.

THE PTD IS STILL DEVELOPING POTENTIAL AM AREAS AND SEASONS

2.5.2.2.1 GB YT AM Area

Entire GB YT stock area

Subset of GB YT stock area (south of ??? N or east of ??W)

Current AM area – stat area 562

CA2 scallop access area only

2.5.2.2.2 GB YT AM Season

If AMs trigger for the scallop fishery and the sub-ACL exceeded by more than 0% and less than 20%, the AM season would be ???.

If AMs trigger for the scallop fishery and the sub-ACL exceeded by more than 20% the AM season would be ??.

Could use a different approach – this is what is in place for southern WP.

2.5.2.3 Proactive AM for GB YT – Modify the restriction on the number of rings in apron of dredge

Currently there is a requirement that all scallop dredges have a MINIMUM of seven rows of rings in the apron of the dredge in all areas east of 71 W. Framework 25 modified this outdated regulation for all waters west of 71W excluding Mid-Atlantic access areas already as a proactive AM for southern windowpane flounder, but the requirement to have a minimum 7-ring apron still exists for all other areas.

This alternative would modify the current requirement to have at least a seven row apron, and instead require all vessels to have a MAXIMUM of seven rows. This would apply to all open areas and access areas, all year long. This is the same alternative as Alternative 2.5.1.3 for windowpane, it is repeated here to highlight that this proactive measure is expected to reduce yt bycatch as well.

2.5.2.4 Reactive AM for SNE/MA yellowtail flounder – Seasonal gear restricted area

If selected, this would replace the seasonal area closure AMs currently in effect for SNE/MA YT. Instead, if AMs are triggered in the scallop fishery a seasonal gear modification area will be implemented for a specified amount of time with higher bycatch rates of SNE/MA YT. This is the same gear modification as the AM for southern windowpane flounder implemented under Framework 25. The specific gear modification has two elements: 1) shorter apron in the dredge bag; and 2) reduced twine top hanging ratio. Figure 5 is a drawing of typical scallop dredge gear. The two gear elements involved with this gear modified area are highlighted in the margin of the figure. More details of the specific gear restrictions are described in Section 2.5.1.2.

2.5.2.4.1 SNE/MA YT AM Area

Entire SNE/MA YT stock area

Subset of SNE/MA YT stock area (west of 71W) excluding access areas

YT stock area does not go as far south as southern WP – should this alternative be the same as southern WP to keep things simple – or should southern boundary match up with southern boundary of YT stock area (i.e. north of 39 N).

Current AM area (stat areas 613, 537 and 539)

Those 2 stat areas are the current AM area for LA vessels and LAGC IFQ dredge vessels. LAGC IFQ trawl vessels ave AM area of 612 and 613 only. Gear modification is limited to dredge vessels – what should be done with trawl vessels?

2.5.2.4.2 SNE/MA YT AM Season

If AMs trigger for the scallop fishery and the sub-ACL exceeded by more than 0% and less than 20%, the AM season would be ???.

If AMs trigger for the scallop fishery and the sub-ACL exceeded by more than 20% the AM season would be ??.

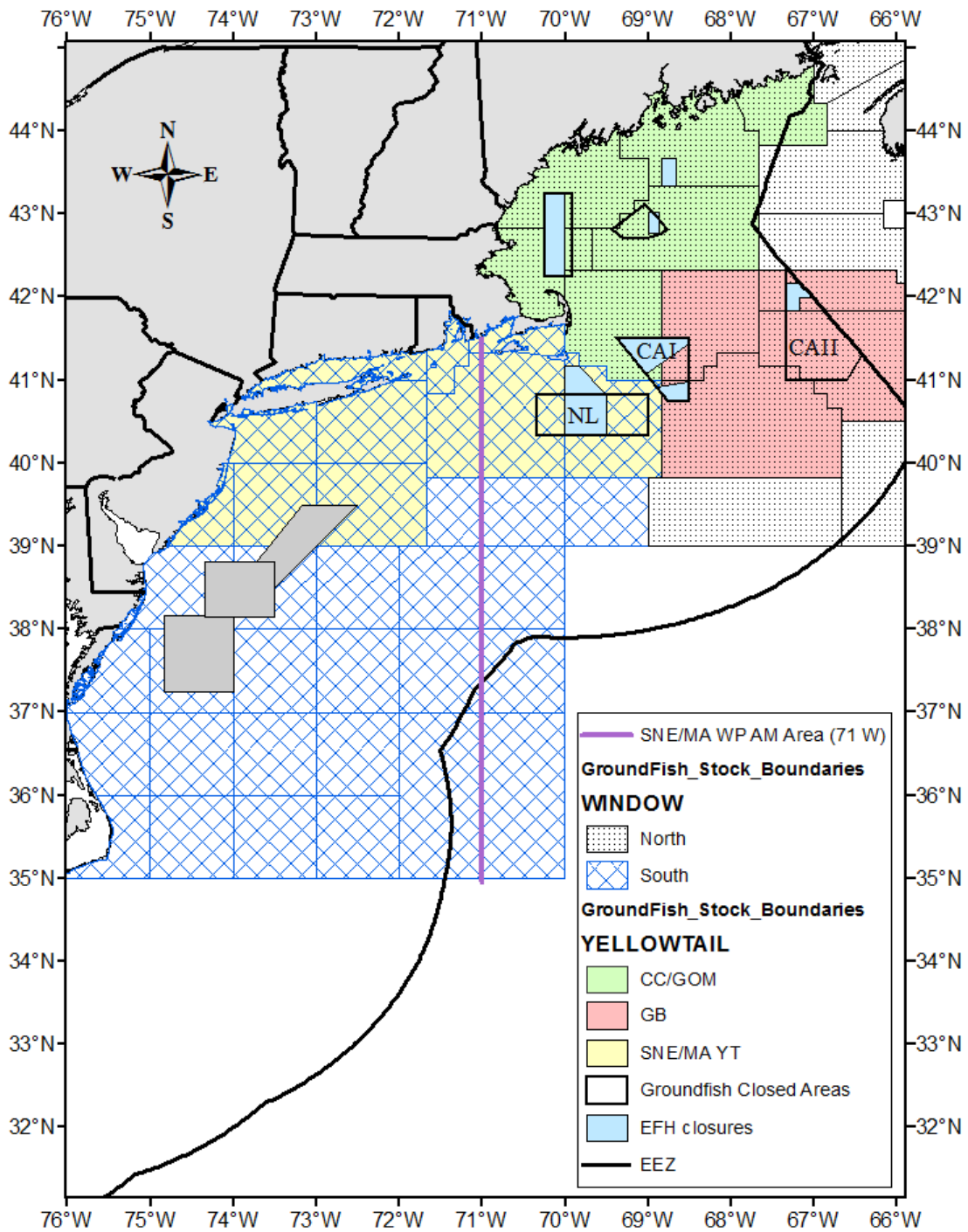
Could use a different approach – this is what is in place for southern WP.

2.5.2.5 Proactive AM for SNE/MA YT – Modify the restriction on the number of rings in apron of dredge

Currently there is a requirement that all scallop dredges have a MINIMUM of seven rows of rings in the apron of the dredge in all areas east of 71 W. Framework 25 modified this outdated regulation for all waters west of 71W excluding Mid-Atlantic access areas already as a proactive AM for southern windowpane flounder, but the requirement to have a minimum 7-ring apron still exists for all other areas.

This alternative would modify the current requirement to have at least a seven row apron, and instead require all vessels to have a MAXIMUM of seven rows. This would apply to all open areas and access areas, all year long. This is the same alternative as Alternative 2.5.1.3 for windowpane, it is repeated here to highlight that this proactive measure is expected to reduce yt bycatch as well.

Figure 9 Stock boundaries for windowpane and yellowtail flounder stocks



2.6 MEASURES TO ALLOW A LIMITED ACCESS VESSEL TO DECLARE OUT OF FISHERY ON RETURN TO HOMEPORT

2.6.1 No Action

Limited access scallop vessels on an open area DAS trip are charged DAS from the time a vessel positions seaward of the VMS demarcation line until it once again positions shoreward of the demarcation line. There is some flexibility built into the program already. First, a trip no longer has to be declared from a port, but it must be declared from inside of the demarcation line. Meaning, a vessel can steam inside or outside of the demarcation line under a DOF-TST code, which stands for declared out of fishery and transiting. Under that code a vessel can steam closer to shore it wants to fish, pull in shoreward of the demarcation line, and declare into the scallop fishery from there. The scallop portion of the trip/DAS charge will still begin on the vessels first VMS position report seaward of the demarcation under the code for open area fishing (SES-SCA-OPSxxx).

In addition, there are provisions that allow a vessel to come inside demarcation for safety reasons. The trip/DAS charge begins with the first VMS position report seaward of the demarcation line and ends with the first VMS position report shoreward of the line. But if a vessel stays inside the VMS line for fewer than four hours, those separate trips codes are “stitched” together, and the vessel is charged DAS for the time spent inside demarcation, up to four hours. However, if a vessel is inside demarcation for more than four hours those trips are not automatically stitched together, and a vessel is not charged DAS for that time inside the line. While it was not the intent of this safety VMS provision that allows a vessel to come inside the line during a trip for safety, there are vessels that seem to be using this provision to move from one fishing ground to another and not be charged for that transit time, if it exceeds four hours.

On the way back to port at the end of a trip, the DAS clock ends when a vessel positions a report inside the VMS demarcation line and stays inside for more than four hours. At that point a vessel could steam back to port and not be charged DAS if it stays within the VMS demarcation line. If a vessel positions outside the line after the four hour period inside, the vessel will be charged DAS for the time spent seaward of the line and VMS would once again record it as a separate trip.

2.6.2 Implement an inshore transit corridor

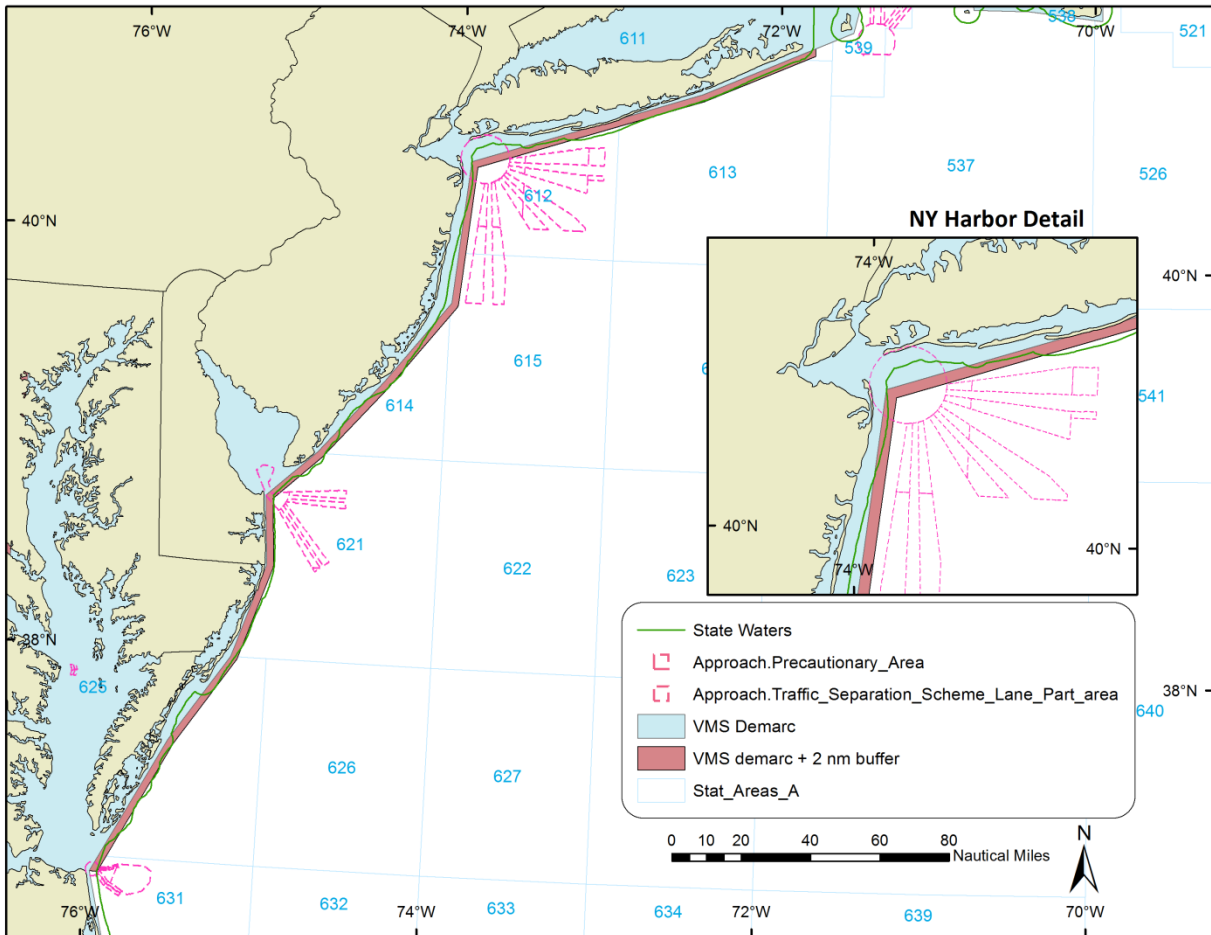
A corridor would be defined and vessels could enter this area on their return to port and not be charged DAS while in the corridor. To reduce or eliminate potential abuse of this corridor provision several requirements would apply:

- a. Vessel must return directly to port and offload scallops immediately
- b. Pre-landings notification required
- c. No in-shell product on board (or maximum of 50 bu)
- d. Gear must be stowed
- e. Increased VMS polling within corridor (suggested as potential measure at Council meeting buy initial input from NMFS OLE is that this is not feasible)
- f. Others?

2.6.2.1 Corridor area

The corridor area should be inshore of primary scallop fishing grounds as well as major shipping lanes. May be most straight forward to simply keep the area congruent with the VMS demarcation line and simply extend it farther from shore with 2 nautical miles, or 4 nautical miles.

Figure 10 – Potential VMS corridor boundary (2 nautical miles east of VMS demarcation line from Montauk, NY to Cape Henry, VA)

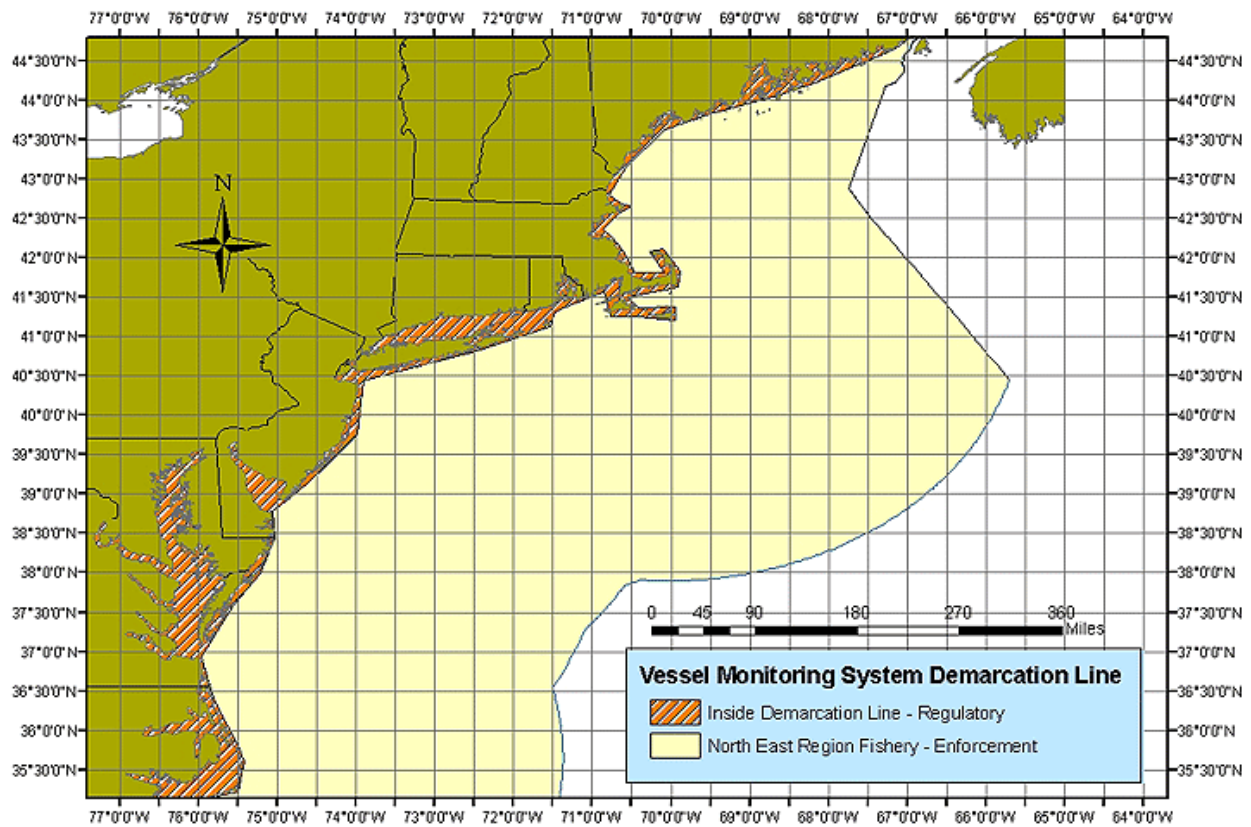


2.6.3 Implement a separate VMS declaration code for steaming back to port

Vessels could finish their scallop trip by going inside the demarcation line, ending their scallop DAS trip, and declare out of the fishery (this would require a new DOF code to identify transiting with product on board). Once this DOF trip has been declared, vessels could go outside of the demarcation line to travel back to port with the following requirements:

- a. Vessel must return directly to port and offload scallops immediately
- b. Pre-landings notification required
- c. No in-shell product on board (or maximum of 50 bu)
- d. Gear must be stowed
- e. Increased VMS polling within corridor (suggested as potential measure at Council meeting buy initial input from NMFS OLE is that this is not feasible)
- f. Others?

Figure 11 – VMS demarcation line



2.7 INCREASED OBSERVER COMPENSATION FOR LAGC IFQ TRIPS THAT ARE MORE THAN 24 HOURS

THIS IS A PDT RECOMMENDATION TO CONSIDER ONLY – THIS ALTERNATIVE IS NOT FORMALLY UNDER CONSIDERATION IN THIS ACTION.

This alternative would allow a LAGC IFQ vessel to receive additional compensation if carrying an observer on a trip that extends more than 24 hours. Currently a LAGC IFQ vessel is limited to one day of compensation, regardless of trip length, to help prevent vessels from extending trips primarily to increase observer compensation. To date the limitation on one day of compensation, currently 150 pounds, does not seem to be a major issue, but there have been some calls from the industry that catch rates inshore are lower and it can take more than 24 hours to catch 600 pounds.

The PDT discussed that having a limit on compensation could cause a vessel to change behavior and end a trip early if one day of compensation was not going to cover the costs of an observer beyond one day of fishing. Currently a LAGC vessel is awarded 150 pounds compensation per trip if required to carry an observer. Depending on the price that may not be sufficient if the trip lasts more than 24 hours and the vessel needs to pay an observer for two days. One suggestion was to consider a higher compensation rate if a trip is more than 24 hours, perhaps 75 additional pounds. The PDT discussed that any additional compensation would need to be minimal so it was not abused and bring us back to why the maximum was implemented in the first place.

2.8 MODIFY REGULATIONS RELATED TO FLARING BAR PROVISION FOR TURTLE DEFLECTOR DREDGE

THIS IS A PDT RECOMMENDATION TO CONSIDER ONLY – THIS ALTERNATIVE IS NOT FORMALLY UNDER CONSIDERATION IN THIS ACTION.

This alternative would slightly revise the description of the “flaring bar” within the turtle deflector dredge regulations. The agency has received one call about the “flaring bar”, and has expressed interest in building a dredge that would not comply with the current regulations. The regulations state that, *“for the purpose of flaring and safe handling of the dredge, a minor appendage not to exceed 12 inches (30.5 cm) in length may be attached to each of the outer bale bars. Only one side of the flaring bar may be attached to the dredge frame. The appendage should at no point be closer than 12 inches (30.5 cm) to the cutting bar.”*

The restriction to only allow the flaring bar to be attached in one place was intended to help prevent the creation of more spaces that could trap a turtle or reduce the effectiveness of the “bump out”. The Agency has been contacted by one individual that is interested in constructing a “flaring U”, rather than a single bar, and it would be attached closer to the gooseneck; not near the bump out down by the cutting bar. Currently this would be prohibited because it would be attached to the dredge frame in more than one place. There would not necessarily be concerns in terms of impacts on turtles as long as the flaring U did not create more space for a turtle to get

caught, but to change the regulations for this measure, it would need to be added to a framework action.

When the Council reviewed the proposed regulations and deemed them consistent, the Council recommended that some language be added to the regulations to allow flaring of the dredge, an aspect of the gear that was overlooked during development of the action. A flaring bar does not impact the fishing capability or the potential impact on turtles; instead it is attached to the outside of the bale bar to help prevent a dredge from flipping or twisting as the dredge is deployed. To be precautionary the Council recommended that a flaring bar be allowed, but suggested the bar not be allowed near the “bump out”. The agency revised the final regulations to clarify that a flaring bar would be allowed, but in order to help prevent obstructions in the bump out it would have to be at least 12 inches from the cutting bar and only be attached in one place. The latter part prevents a vessel from using a u shaped flaring bar. So long as the flaring bar is away from the bump out and not between any of the bale bars, there should be no different impact on turtles. An example of a flaring u is in Figure.

Figure 12 – Example of a “flaring u” bar



In addition to the flaring bar issue, another interested party has raised the issue of allowing other materials to be used for the turtle chain mat requirement. Specifically, the regulations currently require that the turtle mat be made of chain. But there is some interest to replace chain with a lighter, less expensive material like wire that would potentially be more fuel efficient.

Should this action consider modifying the turtle chain mat regulations to allow use of other materials? Or should an experimental permit be considered first to allow testing of this material?

2.9 CONSIDERED AND REJECTED ALTERNATIVES

3.0 REFERENCE INFORMATION RELATED TO FISHERY SPECIFICATIONS (COUNCIL ACTION AND ANALYSES NOT REQUIRED)

This section does not include any alternatives under consideration in this action. Rather, the information presented in this section only summarizes reference material related to fishery specifications or supporting analyses. For example, there was a benchmark assessment for sea scallops completed by the NEFSC in July 2014 (SARC59). The assessment panel reviewed and approved many changes to how the resource is assessed, including updated reference points for determine stock status. The overall process is the same as described in the regulations for the scallop fishery, i.e. the stock is overfished if biomass is less than $\frac{1}{2}$ Bmsy, but the values have been undated for these reference points based on updated analyses approved in SARC59. Section 3.1 summarizes the updated values that replace the reference points used in the past.

In addition, there are various set-asides that are automatically set based on overall catch limits set in this fishery (Section 3.2 and 3.3). These set-asides do not require Council action or analysis, as the processes that set these specific allocations have already been analyzed in previous scallop actions or they are specified through other fishery actions.

Similarly, the Council approves specific research priorities relative to the RSA set-aside program in the Scallop FMP, Section 3.3.1. Finally, the PDT estimates YT and WP projected catch for the various fishery specification alternatives under consideration. Even though the GF FMP now allocated a set percentage of the available ACL to the scallop fishery, these analyses are still completed to evaluate potential impacts. They have been included in a separate section primarily for future reference (Section 3.4).

3.1 UPDATE REFERENCE POINTS BASED ON RECENT BENCHMARK ASSESSMENT RESULTS

A full benchmark assessment was completed on the sea scallop resource in July 2014. Several changes were reviewed and approved during the assessment including new biological reference points. The SSC reviewed the results of the assessment on September 15 and ... (will insert more information after their final report is available)

The updated stock assessment calculated a $F_{msy}=0.48$, and the overfished threshold at 48,240 mt, equivalent to $\frac{1}{2}$ Bmsy, now calculated to be 96,480 mt. The updated model used a stock recruit relationship to calculate recruitment, which is different from the approach used in CASA (SARC50). This time the model combined per recruit analysis with stock-recruit relationship to estimate MSY and the associated biomass and fishing mortality reference points. Specific updates from SARC50 include: several changes to the dredge index; use of a separate Habcam index; splitting out GB open and GB closed subareas; several model parameter adjustments (increased estimates for natural mortality; increased natural mortality for larger scallops; and new growth estimates for three different time periods). All of these changes caused the overall F_{msy} to increase and B_{msy} to decrease. The main driver for the increase in F_{msy} is due to increases in natural mortality and weakening of MA stock recruit relationships. In general F_{msy} is uncertain because the F_{msy} curve for MA is very flat, uncertain where F_{max} is for that region.

Several important assumptions are still used in this assessment, and the review panel noted that the Fmsy estimates for the two sub-regions are quite different; 0.30 for Georges Bank and 0.74 for Mid-Atlantic. Therefore, “applying a combined estimate of 0.48 to the whole stock uniformly could imply that GB could be fished harder than biologically advisable, and the MA might be fished lighter than biologically advisable.” (SARC59, 2014).

The updated estimates for 2013 are: $F=0.32$ and $B=132K$, so the stock is not overfished and overfishing is not occurring, under both the old and new reference points.

3.2 SPECIFICATIONS FOR LAGC INCIDENTAL CATCH VESSELS

Amendment 15 included a provision that the Scallop FMP should consider the level of mortality from incidental catch and remove that from the projected total catch before allocations are made to the directed fisheries. The amendment requires the PDT to develop an estimate of mortality from incidental catch and remove that from the total. This section includes a summary of the PDT estimate and the value that was removed from the total projected catch before allocations to the limited access and general category fisheries were made.

In 2010, 294 vessels qualified for an incidental catch permit; 275 were issued on vessels and 19 in CPH. The majority of permits are on vessels homeported in Massachusetts (113 vessels) followed by New Jersey, Rhode Island, North Carolina and New York. In 2011 total catch from these vessels was 38,700 pounds, about 77% of the target TAC. Finally, in the NMFS yearend report for FY2012 the total catch from vessels was estimated at 61,869 pounds, about 24% above the 50,000 pound target TAC. **The yearend report for 2013 ...?**

The PDT has not yet discussed whether a higher value should be considered in this action or not. Overall this level of catch is very small and will not have impacts on the overall resource.

No Action – 50,000 pounds
Potentially higher target TAC?

3.3 TAC SET-ASIDES FOR OBSERVER AND RESEARCH PROGRAMS

In Amendment 15 the Council recommended that set-asides for research and observers should be removed from the overall ACL, rather than percentages of open area DAS and access area TACs. More set-aside is actually available when this change is made because it is removed before buffers for management uncertainty are factored in. Prior to Amendment 15 set-asides were taken out from the allocation level, what is now known as the ACT, whereas now set asides are removed from the total ACL level.

The ultimate values that are set-aside for the observer and research programs are not a decision the Council has to make in each Framework. Amendment 15 changed the research set-aside from a percent of projected catch to a set poundage of 1.25 million pounds, or 567 mt. Therefore, there are no alternative research set-aside allocations under consideration in this action. While modifying the amount of research set-aside is a frameworkable item, this action is not considering different values; thus the set-aside for the research program will be 1.25 million pounds in 2014, as well as 2015 unless changed in a subsequent action.

The observer set-aside is still based on a percent of catch, not a set poundage, but it is a percent of the total ACL before buffers for management uncertainty are factored in. The total set-aside for observers in FY2014 is 208 mt, and 240 mt for FY2015(default), equivalent to 1% of the ABC=ACL. Because the compensation rates are based on pounds-per-area, the observer set-aside is divided proportionally (Table 10).

NMFS could use the proportional breakdown of the total set-aside by area below to set the initial set-aside compensation rates by area (open and access) (Table 10). However, since FW24 the observer set-aside is no longer area specific. NMFS can adjust set-aside per area to provide more compensation being used in one area and less in another.

Table 10 – Summary of 2014 observer set-aside by area – will update after final areas are known

Area	% of TAC by area	OBS set-aside (mt)
NLS	3%	7
CAII	6%	13
Delmarva	12%	24
Total AA	21%	44
Open areas	79%	164
All Areas	100%	208

Note: This table presents the observer set-aside broken out by area (applied proportionally based on the total TAC by area)

3.3.1 Research Priorities for 2015

NMFS sent out an announcement for 2015/2016 Scallop RSA on September 17. Research proposals are due on November 12, 2014. The priorities are based on Council recommendations approved at the June 2014 Council meeting.

2015 and 2016 Atlantic Sea Scallop Research Priorities

The Survey Related Research priority (Highest priority, #1) applies to 2015 ONLY. NMFS intends to solicit 2016 survey proposals through the 2016/2017 Federal Funding Opportunity. All other priorities apply to both 2015 and 2016.

HIGHEST (listed in order of importance)

1. Survey Related Research (a, b, and c have equal priority)

1a. an intensive industry-based survey of each of the relevant scallop access areas (Closed Area I, Closed Area II, Nantucket Lightship, Delmarva, Elephant Trunk and Hudson Canyon). The primary objective of these surveys would be to estimate TACs under the rotational area management program if the data from these surveys are available by August of the prior fishing year. Areas scheduled to be open in the following fishing year generally have a higher priority

than other areas. For 2015 the three priority areas are: Delmarva, Elephant Trunk, and Hudson Canyon.

1b. an intensive industry-based survey of areas that may be candidate access areas in the future (*i.e.*, open areas with high scallop recruitment or closed areas that may open to fishing in the future, such as groundfish mortality closed areas or current habitat closed areas). Examples of this would include the Northern edge area in and around Closed Area II, the northern part of Closed Area I that is currently part of an EFH closed area, and east and west of the Nantucket Lightship access area where small scallops have been observed.

1c. a broad, resource wide industry-based survey of scallops within Georges Bank and/or Mid-Atlantic resource areas. The survey or surveys do not need to be carried out by a single grant recipient. The primary objective of these surveys would be to provide an additional broadscale biomass index to improve the overall precision of the scallop biomass estimate produced from the model used by the Scallop Plan Development Team. If data from these surveys are available by August of previous fishing year then these results can be used in the overall scallop biomass to evaluate the current status of the stock”.

2. Bycatch research

Identification and evaluation of methods to reduce the impact of the scallop fishery with respect to bycatch. This would include projects that determine seasonal bycatch rates, characterize spatial and temporal distribution patterns, gear modifications to reduce bycatch, as well as the associated discard mortality rates of yellowtail flounder, windowpane flounder, and other key bycatch species. Research efforts should be targeted to provide results that would help the scallop industry avoid pending or potential implementation of accountability measures.

3. Scallop and area management research

Such research would include, but would not be limited to, evaluation of ways to control predation on scallops (*i.e.*, starfish and dogfish); research to actively manage spat collection and seeding of sea scallops; social and economic impacts and consequences of closing areas to enhance productivity and improve yield of sea scallops and other species; and estimation of factors affecting fishing power for each limited access vessel.

MEDIUM (not listed in order of importance):

4. Research to support the investigation of loggerhead turtle behavior in the Mid-Atlantic (via satellite tagging or other means) to understand their seasonal movements, vertical habitat utilization, and how and where interactions with dredge gear are occurring. This priority topic also includes monitoring of scallop dredge and scallop trawl operations, and the development of further gear modifications if monitoring should indicate current designs are not eliminating the threat or harm to sea turtles or are resulting in unacceptable scallop catch loss.
5. Research aimed at describing the occurrence, as well as understanding the mechanisms, of processes that affect scallop product quality and marketability (*i.e.*, scallops with grey meats or evidence of disease). Research should also include

evaluation of the potential magnitude of impacts on scallop mortality from scallops discarded at sea and not landed due to meat quality issues.

6. Habitat characterization research including, (but not limited to,): video and/or photo transects of the bottom within scallop access areas, closed scallop areas, and in comparable fished areas that are both subject and not subject to scallop fishing before and after scallop fishing commences (BACI or before after control impact dredge impact studies); identification of nursery and over-wintering habitats of species that are vulnerable to habitat alteration by scallop fishing; and other research that relates to habitats affected by scallop fishing, including, but not limited to, long-term or chronic effects of scallop fishing on marine resource productivity, other ecosystem effects, habitat recovery potential, and fine scale fishing effort in relation to fine scale habitat distribution. In particular, projects that directly support evaluation of present and candidate EFH closures to assess whether these areas are accomplishing their stated purposes and to assist better definition of the complex ecosystem processes that occur in these areas. Finally, investigation of variability in dredging efficiency across habitats, times, areas, and gear designs to allow for more accurate quantitative estimates of scallop dredge impacts on the seabed and development of practicable methods to minimize or mitigate those impacts.
7. Seasonally monitor any large recruitment event (*i.e.*, southeast of Nantucket Lightship Access Area and south along the 40 fathom curve to Hudson Canyon).

OTHER (not listed in order of importance):

8. Longer term research projects designed to either 1) examine whether chemicals, water quality, and other environmental stressors affect reproduction and growth of scallops (*i.e.*, jet fuel, pesticides, ocean acidification, etc.); or 2) research other scallop biology projects, including studies aimed at understanding recruitment processes (reproduction, larval and early post-settlement stages), growth, and natural mortality (including predation and disease).
9. Studies aimed at addressing relevant issues that were identified as research priorities in the 2010 50th Stock Assessment Workshop, including:
 - a. Discard mortality of scallops. The current assumption used in the assessment is very uncertain. Projects that could improve the understanding and rate of discard mortality would be useful;
 - b. Seasonal growth of scallops. The model used to estimate biomass currently assumes even growth during the year, but there is some evidence available to suggest that scallops do not grow evenly during the year. Projects that could improve the understanding of seasonal cycles of scallop growth would be useful.
 - c. Incidental mortality of scallops. The current assumption used in the assessment is very uncertain. Studies could evaluate the effect of the four-inch rings on incidental mortality. Now that a larger fraction of small scallops are traveling through the mesh, examine whether incidental mortality has increased or are the

scallops relatively unaffected. This could be done by running HabCam or an Autonomous Underwater Vehicle (AUV) along dredge tracks.

- d. Continue analysis of scallop annual growth data. NEFSC has archived scallop shells from the 1980s and 1990s and additional age analyses would support information about scallop growth.
 - e. Continue to investigate patterns of seasonality in weight of the meats and gonads, and timing of scallop spawning.
10. Other resource surveys to expand and/or enhance survey coverage in areas that have the potential to be important resource areas, but which currently have a lack of comprehensive survey coverage (*i.e.*, inshore areas east of the current NEFSC survey strata or deeper than the surveyed area, NGOM resource, etc.).
 11. Develop methodologies or alternative ways for the scallop fleet to collect and analyze catch and bycatch data on a near real-time basis (*i.e.*, collection of scallop meat weight and quality data, specific bycatch information, etc. Potential ideas include, but are not limited to: concepts like a scallop “Study Fleet”, electronic monitoring, dockside monitors, bag tags, etc.).

3.4 UPDATED PROJECTIONS OF FLATFISH BYCATCH (YT AND WP)

These will be completed after final specification alternatives are identified.

4.0 AFFECTED ENVIRONMENT

4.1 ATLANTIC SEA SCALLOP RESOURCE

4.2 PHYSICAL ENVIRONMENT AND ESSENTIAL FISH HABITAT

4.3 PROTECTED RESOURCES

4.4 ECONOMIC AND SOCIAL TRENDS IN THE SEA SCALLOP FISHERY

4.5 NON-TARGET SPECIES

5.0 IMPACTS OF ALTERNATIVES UNDER CONSIDERATION

6.0 COMPLIANCE WITH APPLICABLE LAW

7.0 GLOSSARY

8.0 LITERATURE CITED

9.0 INDEX