

Framework 28 to the Scallop Fishery Management Plan

Draft Action Plan

Council: New England Fishery Management Council

Fishery: Atlantic Sea Scallop Fishery Management Plan (FMP)

Title of Action: Framework 28

Scope: Consider measures for fishery specifications for fishing year 2017, default measures for fishing year 2018, as well as a suite of other management measures.

Problem Statement/Objective of Action:

Several issues are being considered for this action. The following section describes the range of measures being considered by this action in rank order by Council staff (also see table in next section):

Scallop fishery specifications may be adjusted through a specifications package (pending the approval of Amendment 19) or a framework action. Given the scope of management measures being considered by the Council, it may be advisable for specifications to be set through this framework action (Framework 28). The action will include: ABC/ACLs, DAS, access area allocations for LA and LAGC, hard-TAC for NGOM management area, target-TAC for LAGC incidental catch and set-asides for the observer and research programs.

Following direction provided at the April 2016 Council meeting, this action may also include provisions which prohibit the possession of more than 50 bushels of in-shell scallop product inside the VMS demarcation line north of 42° 20' N to mirror regulations currently in place south of 42° 20' N and to address concerns of Limited Access (LA) vessels circumventing days-at-sea regulations by shucking in excess of 50 bushels of scallops while off the DAS clock.

This action may include measures which modify the process for setting scallop fishery ACLs. The current ACL structure and fishery allocations in the Scallop FMP are not spatially explicit, such that ACLs in the scallop fishery are based on scallop biomass in all areas, including areas that are closed to the fishery. Projected landings, which are used to develop specifications, are limited to areas that are open to the fishery in a given year. Similarly, measures adopted during and since Amendment 15 have introduced the potential for management uncertainty. For example, the LAGC IFQ component is now allowed to carryover up to 15% of allocated quota from one fishing year to the next. This action could include measures to consider adjustments to the overall ACL structure and/or use of annual catch targets set below annual catch limits to account for management uncertainty.

This action may also include measures to modify scallop access areas to be consistent with some Habitat Omnibus Amendment 2 decisions. The Council selected preferred alternatives in April and June of 2015, and a preliminary rule is expected in the summer of 2016. Based on this timing, staff expects a final rule to be effective around January 1, 2017. It may be possible to

modify some GB scallop access areas through this action in time for FY2017. However, it may become problematic to consider possible modifications to GB scallop access areas in this action if this timeline changes or modifications/openings of some areas are not approved. Because of the uncertainty and relatively large amount of development and analyses needed to consider possible modifications to all the current GB access areas, staff recommends that this action be more limited in scope. It may be more realistic to only consider modifications to Closed Area I at this time – specifically the “sliver” – just north of the current CAI access area. The area overall is less controversial, and there are unused CA1 trips that need to be allocated first, before fleetwide allocations are potentially considered for other areas (i.e. access within currently closed EFH areas in CA2 and NL).

If other modifications are considered this issue may get more complicated and increase the risk of delaying implementation of 2017 specifications. Therefore, the Council may want to wait to consider modifications to other areas until a subsequent action after the EFH action is fully implemented and the timeline is not tied to specifications. Due to the overall resources needed to develop and analyze these measures, staff has prioritized this issue below the prohibition of in-shell scallops and ACL measures. The timeline and potential changes based on the proposed rule need to be seriously considered as the Council further develops this action.

During the priorities discussion in the fall of 2015 the Council also identified development of an action in 2016 that would consider gear modifications to reduce impacts on small scallops. The specific gear modification discussed is the gear currently used as an accountability measure for southern windowpane flounder, reduced apron of five rows or less and a reduced hanging ratio for the twine top of 1.5 meshes per 1 dredge ring. Preliminary results suggested lower catches of small scallops. There may be more data available to support implementation of this gear in areas with small scallops. There may be other gear modifications that reduce small scallop mortality as well, such as extended links, which vessels could use voluntarily, but there may not yet be sufficient data to prove the effectiveness of this gear modification. Overall, this measure has been listed lower on the priority list because there may not be enough data available yet to warrant consideration of these modifications at this time. If that is the case, this item should probably be considered in a future action when more data are available.

The Council (through the Groundfish Committee) is also considering the development of a scallop sub-ACL for northern windowpane flounder. If a northern windowpane flounder sub-ACL is implemented, an accountability measure for northern windowpane would need to be developed through the scallop FMP.

The Council will also need to identify research priorities for the Scallop RSA program. This is now done outside of the framework document to help prevent delays in awarding research grants. The Council is scheduled to approve research priorities for 2017 and 2018 at the June 2016 Council meeting. These priorities are then forwarded to NMFS by letter and used in the federal funding announcement that is expected to be published in summer 2016.

Finally, the Scallop PDT and Committee will also be working on a required five year review of the LAGC IFQ program this year. This is not part of Framework 28, but is mentioned here since

staff and Committee resources will need to be set aside to complete that required review. The scheduled timeline for that review is March –November 2016.

Likely Range of Alternatives:

The following table describes the likely range of alternatives in FW28:

Priority	Priority Rank	Measure in Action
Regulatory Requirement	1	Scallop Fishery Specifications
Council Priority (new, April 2016)	2	Restrict possession of shell stock inshore of the Day-At-Sea Demarcation Line north of 42° 20' N
2016 Council Priority	3	Modifications to the process for setting scallop fishery ACLs
2016 Council Priority	4	Measures to provide access to the northern portion of CA I, currently closed to the scallop fishery
2016 Council Priority	5	Dredge modifications to protect small scallops in particular areas
<p>A following Framework action (Framework 29?) may serve as the most appropriate vehicle to adjust scallop fishery access in response to any area openings through OHA2 (if applicable), and develop any necessary accountability measures for northern windowpane flounder for FY2018. In addition, if any of the items listed above (#2-#5) take longer to develop or analyze, or run the risk of delaying FY2017 specifications, they should be moved to a future action as well.</p>		

Range of measures will likely include: an overall ABC, set-asides for observer and research programs, estimate of catch from incidental scallop permits, DAS allocations, access area trip allocations, overall quotas for the LAGC IFQ fishery and a hard TAC for the NGOM management program. All specifications and set-asides will likely be similar to levels from recent years.

The Council identified several additional measures for development in 2016, which are listed in the above table.

Development and analysis of these specifications will require significant involvement of many members of the Scallop PDT. The SSC will need to review the ABCs and the Committee and Advisory Panel will need to provide input on the range of specifications considered. Analyses will include estimates of projected catch for several bycatch species, and some involvement of the Groundfish PDT may be necessary to consider the potential impacts of scallop fishery specifications on non-target species. There is also a Council work priority to potentially consider measures to address bycatch of northern windowpane flounder in the scallop fishery, so this action will also estimate projected catches of that stock as well.

Type of NEPA Analysis Expected (CE/EA/EIS):

This action is expected to require an Environmental Assessment and this determination would be re-evaluated once we know more about the preferred alternatives.

Applicable laws/issues:

Magnuson-Stevens Fishery Conservation and Management Act:

Typical issues and analyses expected at this time

Administrative Procedure Act:

Typical issues and analyses expected at this time

National Environmental Policy Act:

Typical issues and analyses expected at this time

Regulatory Flexibility Act:

Typical issues and analyses expected at this time

Paperwork Reduction Act:

Typical issues and analyses expected at this time

Coastal Zone Management Act:

Typical issues and analyses expected at this time

Endangered Species Act:

Typical issues and analyses expected at this time

Marine Mammal Protection Act:

Typical issues and analyses expected at this time

E.O. 12866 (Regulatory Planning and Review)

Typical issues and analyses expected at this time

E.O. 13132 (Federalism):

Typical issues and analyses expected at this time

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Plan Development Team Membership and Other Individuals: (All assignments are TBD pending approval by supervisors)

NEFMC Project Manager: Jonathon Peros

GARFO Project Manager: Travis Ford

Organization	PDT Members	Responsibility
NEFMC	Jonathon Peros	Chair of Scallop PDT. Primary author of all FW28 related documents and meeting materials.
NEFMC	Deirdre Boelke	Scallop Plan Coordinator. Support with all FW28 documents and meeting materials.
NEFMC	Dr. Demet Haksever	Economic Impact Analyses
NMFS GARFO Sustainable Fisheries	Travis Ford	Chair of Implementation Team, primary point of contact at GARFO for FW27. Identify potential policy, regulatory, and administrative issues during development and review. Support with data needs and development of document.
NMFS GARFO APS	Benjamin Galuardi	Complete data requests for the PDT. Identify potential monitoring issues during development and review.
NMFS GARFO NEPA	Katherine Richardson	Review document for completeness in terms of NEPA requirements during development and review.
NMFS GARFO Protected Resources	Danielle Palmer	Consultation on development of measures and impacts on protected resources.
NMFS NEFSC Population Dynamics	Dr. Dvora Hart	Technical work associated with scallop resource. Consultation on development of measures and biological impact analyses.
NMFS NEFSC Social Science Branch	???	Complete data requests for the PDT. Social Impact Analyses.
NMFS NEFSC Fisheries Sampling	Chad Keith	Complete observer program data requests for the PDT. Identify potential monitoring/observer program issues during development and review.
MA Division of Marine Resources	Dr. Cate O'Keefe	Provide state fishery and survey information. Consultation on development of measures and impacts on the resource and fishery.
Maine Department of Marine Resources	Kevin Kelly	Consultation on development of measures and impacts on GOM. Provide state and NGOM survey data.
Maine Department of Marine Resources	Trisha Cheney	Provide state fishery and survey information. Consultation on development of measures and impacts on NGOM vessels.
Virginia Institute of Marine Science (VIMS) (retired)	Dr. William DuPaul	Consultation on development of measures and impacts on the resource and fishery.
Virginia Institute of Marine Science (VIMS)	Dr. David Rudders	Provide data from available scallop surveys. Consultation on development of measures and impacts on the resource and fishery.
UMASS Dartmouth (SMAST)	Emily Keiley	Provide data from available scallop surveys. Consultation on development of measures and impacts on the resource and fishery.

NMFS Implementation Team Membership:

Implementation Team Chair: Travis Ford, GARFO Staff

Organization	Name	Responsibility
NMFS GARFO SFD	Travis Ford	Implementation Team Chair; primary GARFO contact
NMFS GARFO SFD	Shannah Jaburek	GARFO contact, website updates
NMFS GARFO APSD	Ben Galuardi	Update monitoring procedures
NMFS GARFO APSD	Anna Macan	Send out IFQ letters for March 1 default and FW 27 allocations. Update any changes to the transfer program
NMFS GARFO IRM	Ken Ortiz	Update databases with appropriate allocations
NMFS GARFO SHA	Greg Power	Update port agents on new regulations
NMFS OLE	Don Frei	OLE Outreach
NMFS GARFO SFD	Linda Giamanco	Send out bulletin
NMFS GARFO Comms	Allison Ferreira	Prepare email for public
NMFS GARFO IRM	Steve Cohen	Prepare address list for bulletins

Implementation Team Issues:

<i>Enforcement:</i>	TBD
<i>Information Resource Management (IRM):</i>	TBD
<i>Statistics:</i>	TBD
<i>Observer Coverage:</i>	TBD
<i>Administrative issues/costs:</i>	TBD
<i>Regulatory clarification/simplification:</i>	TBD
<i>Data Requirements:</i>	TBD
<i>VMS:</i>	TBD
<i>Protected Resources:</i>	TBD
<i>Plan for How to Measure the Effectiveness of the Action:</i>	TBD
<i>Other:</i>	TBD

Worksheet 1: Timeline for Framework 28

PROJECT PHASE	STARTING	ENDING	PROJECT PHASE	STARTING	ENDING
COUNCIL INITIATES FRAMEWORK	6.21.2016	6.22.2016	DECISION DRAFT SUBMISSION	12.2.2016	12.2.2016
DEVELOPMENT	5.1.2016	12.1.2016	PROPOSED RULE SUBMITTED TO HQ AND PUBLISHED	12.16.2016	1.6.2017
PDT MEETINGS (4)	5.1.2016	11.1.2016	PROPOSED RULE COMMENT PERIOD (15 DAYS)	1.6.2017	1.23.2017
ADVISORY PANEL/COMMITTEE MEETINGS (4)	6.7.2016	11.14.2016	FORMAL EA SUBMISSION	2.15.2017	2.15.2017
COUNCIL TAKES FINAL ACTION	11.17.2016	11.17.2016	FINAL RULE PREPARED (INCL. ADDRESSING PUBLIC COMMENTS)	2.15.2017	3.1.2017
COUNCIL STAFF DEVELOPS DECISION DRAFT	11.17.2016	12.2.2016	FINAL RULE SUBMITTED TO HQ AND PUBLISHED	3.1.2017	3.15.2017
DECISION DRAFT SUBMITTED	12.2.2016	12.2.2016	ACTION EFFECTIVE *PROVIDING RANGE IN CASE APA WAIVER NOT CLEARED AND FULL 30-DAY DELAY REQUIRED	3.15.2017	4.17.2017
REGS TO COUNCIL FOR DEEMING	12.9.2016	12.15.2016			
COUNCIL STAFF FINALIZES EA	12.7.2016	1.4.2017			
EA PRE-SUBMITTED TO NMFS	1.5.2017	1.5.2017			
EA REVIEWED BY NMFS	1.6.2017	1.27.2017			
EA COMMENTS INCORPORATED BY COUNCIL STAFF	1.28.2017	2.4.2017			

Worksheet 2: Timeline with milestones for all 2016 Scallop Work Items and estimated implementation dates in 2017

SCALLOPS	2016												2017					
	Jan	Feb	Mar	Apr	May	June	Jul	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	
FW28						initiate					final action	deem regs Dec. Draft prep	Pre-submit	submit			Implmt.	
EFH/OHA2		FEIS edits			prep for potential modification of GB AA boundaires pending EFH action approval - not sure what action would implement, Proposed Rule - June							Final Rule						
A19	submit		deem regs			Implmt.												
RSA	2016 Mngt review meeting			PDT/AP meeting to review 2014/15 results		Approve 2017 priorities and 5 year priorities						review 2017 apps	2017 Mngt review meeting				PDT/AP meeting to review 2015/16 results	

If actions expand or the workload of these concurrent items is too much for current staff resources to remain on schedule for a May implementation of FW28, some measures may need to be moved to a trailing action.

Action Plan Versions:

Version	Date	Change Description
1	May 9, 2016	Initial Action Plan prepared for Scallop PDT review on May 25, 2016 for June meetings.
2		
3		
4		
5		