



## New England Fishery Management Council

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C. M. "Rip" Cunningham, Jr., *Chairman* | Paul J. Howard, *Executive Director*

## MEMORANDUM

**DATE:** October 3, 2011  
**TO:** Groundfish Oversight Committee  
**FROM:** Groundfish Plan Development Team (PDT)  
**SUBJECT:** FW 47 Development; PDT Conference Call, September 29, 2011

1. The PDT held a conference call to continue development of FW 47. PDT members discussed AMs for windowpane flounder, ocean pout, wolffish, and halibut, issues related to the AMs for scallop fishery catches of yellowtail flounder, and a sub-ACL for scallop fishery catches of SNE/MA windowpane flounder. Participants included Tom Nies and Anne Hawkins (NEFMC), Doug Christel, Tom Warren, Sarah Heil, and Melissa Vasquez, and Dan Caless (NMFS NERO), Kohl Kanwit (Maine DMR), Steve Correia (Massachusetts DMF), Paul Nitschke (NMFS NEFSC), and Sally Roman (UMASS Dartmouth).

### Accountability Measures

2. The Committee reviewed preliminary information on AM development at its August, 2011 meeting. The Committee asked the PDT to continue working on the AMs and specifically to consider if there were seasonal changes in catch rates that could be used in the design of the AMs.

- a. The PDT examined discard rates of windowpane flounder, ocean pout, wolffish, and halibut by calendar year quarter. There was little indication that rates for GOM/GB windowpane flounder differed seasonally on GB. In the GOM the ratios seemed higher in the first quarter in the inshore area. For SNE/MAB windowpane flounder, the limited observations make it difficult to draw conclusions but there is a suggestion that rates may be higher in the second quarter.
- b. For ocean pout, discard rates on GB appear higher in the second and possibly the third quarter, while in the inshore GOM the pattern seems to be the opposite (higher in the first and fourth quarters).
- c. Wolffish discards are lowest in the first quarter (and are not observed). This seems consistent with wolffish life history. Discards are similar in the second through fourth quarter – perhaps marginally higher in the third quarter.
- d. Given the few observations it is difficult to detect seasonal trends in halibut discards. Rates appear similar over the course of the year.

3. When the idea to adopt an in-season measure to control windowpane flounder catches was first raised it was thought the GOM/GB windowpane flounder catch in FY 2010 was 122 pct

of the ACL. The estimate has been reduced so it does not appear necessary to adopt a proactive measure at this time. Based on these observations, the PDT believes the only seasonal approach that makes sense for AMs is to not impose an AM for wolffish in the first quarter of the year. Such an AM would likely be ineffective since wolffish discards are not typically observed during that period. Due to inconclusive seasonal patterns of catch for windowpane flounder, ocean pout, and halibut, AMs for these stocks should be implemented year-round.

4. The PDT extended its examination to two additional stocks (wolffish and halibut) and an sink gillnet gear. Both species are primarily located in the GOM and GB. With respect to halibut, the PDT notes that the distribution of fishing effort (including observed trips) may not reflect actual halibut distributions. There are areas where halibut are known to be found that are not represented by either observed tow locations or reported trip locations. The effectiveness of an AM for halibut will need to be monitored if shifts in fishing effort are observed. With respect to sink gillnet gear, in some areas the observed tow locations do not match well with reported fishing. Fortunately these differences are more prevalent in the SNE area and as a result are not likely important in the design of AMs for wolffish and halibut.

5. The PDT developed draft measure language for the AMs (enclosure 1). Preliminary areas are shown as well, but these are intended as examples only and further work is needed to refine the boundaries. There are several issues to note in the measures.

- a. The AMs are triggered only if the overall ACL is exceeded. Since these AMs are intended to address all components it seems logical to trigger their implementation only if the overall ACL is exceeded. This is different than the way most other AMs are implemented. The AMs as drafted apply only to groundfish fishing activity. This will reduce the effectiveness of the AMs for SNE/MAB windowpane flounder if the scallop fishery continues to catch a large amount of SNE/MAB windowpane flounder without any controls. As a result, the AM areas may need to be much larger and if scallop fishery catches remain as large as in FY 2010 it may not be possible for a groundfish fishery AM to account for all overages.
- b. The AMs are based on an estimate of catch that is made before the end of the fishing year. As a result, the ability to estimate some of the sub-component catches may be limited by a lack of data. For example, state waters catches may not be complete. NERO will have to develop methods to estimate these catches.
- c. The eastern AM area outlined in enclosure 1 overlaps with the Eastern U.S./Canada Area. Given the intent of this AM is to reduce bycatch of windowpane flounder and ocean pout through the use of selective fishing gear, it may complicate management of the U.S./Canada Management Area by reducing the potential management options available to the Regional Administrator to achieve, but not exceed, the U.S. portion of the TACs for transboundary stocks.
- d. Because the AMs are designed based on all groundfish fishing activity, it would not be appropriate to allow sectors to request an exemption from the AMs.
- e. The areas were designed based on the current closed area scheme. If closed areas are revised in the future the AM areas may need to be revisited.

6. Current measures for the common pool vessels include large restricted gear areas in SNE and on GB. Given the change in FY 2012 to hard TACs and area closures as an in-season AM for the common pool AM, coupled with the likely adoption of new AMs for the four stocks discussed in this memo that may adopt areas that overlap the existing restricted gear areas, these areas seem unnecessary. The PDT recommends they be deleted as part of the changes to the AMs. This will simplify the regulations and may provide a small improvement in fishing opportunities for common pool vessels without compromising efforts to achieve the conservation objectives of the FMP.

7. The development of restricted gear areas as an AM layers effort controls over the sector program. Designing these areas is proving complicated. The PDT notes that allocating these stocks to sectors (i.e., area closures once a sector allocation is caught) and treating them the same way as other stocks might be preferable to the approach of specifying restricted gear areas for sectors outlined in this memo.

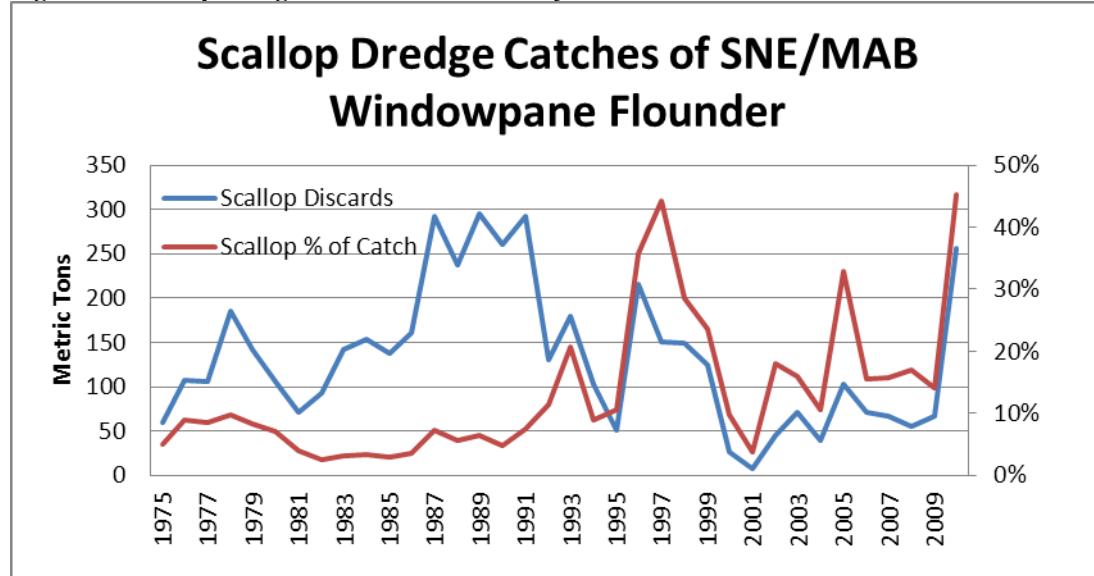
### **Scallop Fishery ACL/AM Issues**

8. In FY 2010 the catch of SNE/MAB windowpane flounder by the scallop fishery was 259 mt, exceeding the ABC for this stock. The Committee asked the PDT to recommend a sub-ACL for the scallop fishery catches of SNE/MAB windowpane flounder. The PDT examined the catches of the stock, focusing on the amounts caught by scallop dredge vessels; there are also some catches by scallop trawls, but we do not have a time series of these catches. Table 1 and Figure 1 summarize the catches over different time periods.

**Table 1 – Scallop dredge catches of SNE/MAN windowpane flounder**

CY Time Series	Scallop Fishery Removals					
	Amount (mt)		Percent			
	Average	Median	Average	Median	Remarks	
All	132	115	0.134	0.134	Includes hindcast discard estimates	
1989-2010	125	103	0.182	0.157	Discards estimated with NEFOP data	
2001-2010	78	67	0.189	0.159	Scallop dredge twine top increase	
1996-2010	97	71	0.221	0.170	Committee request	

**Figure 1 – Scallop dredge catches of SNE/MAB yellowtail flounder**



9. The 2010 catch represents a large increase from catches in recent years, which have generally been less than 100 mt since 2000 and have dipped as low as 7 mt. Scallop PDT and industry members identified a few possible reasons for the increase: increased scallop fishing effort in the SNE/MAB area and a possible shift of effort into more shallow areas where windowpane flounder are encountered. Catches might decline in 2011 and 2012 given changes in the scallop management program.

10. The PDT discussed whether a sub-ACL for this stock is needed. If this is a one-time event, adopting a sub-ACL might unnecessarily complicate the management program. If this is an episodic event that will be repeated when the scallop fishing effort shifts into the SNE/MAB area then a sub-ACL might be needed, at least in some years. The sense of the PDT is that a sub-ACL may be necessary so that there is a link between the fishery component responsible for an overage and the AM that is adopted. If a sub-ACL is adopted, a default AM should be defined that would be effective until the scallop FMP can adopt an AM that is tailored for the fishery.

11. At the September Council meeting the Council discussed the GB yellowtail flounder sub-ACL for the scallop fishery. Based on this discussion, the PDT offers the following comments.

- a. The PDT worked with the scallop PDT to update estimates of the amount of yellowtail flounder the scallop fishery is expected to catch. These estimates are provided in Table 2. The updated projections are the result of three changes to the estimate: (1) updated bycatch rates used from FY 2010 rather than FY 2009; (2) bycatch rate stratified for each scallop fleet and gear type; (3) updated projected SSB for yellowtail flounder stocks. In the case of GB yellowtail flounder, the SSB estimates decreased, while they increased for SNE/MA yellowtail flounder.
- b. A change the Committee might want to consider would be to modify the way the scallop fishery sub-ACL and AMs for GB yellowtail flounder are applied to match the proposal for ocean pout, etc. The sub-ACL could be modified so that the scallop fishery AM is only triggered if the overall ACL is exceeded. This would give a small amount of flexibility so that an AM is not triggered if the

scallop fishery sub-ACL is exceeded but the overall ACL is not exceeded. One disadvantage of such an approach is that it may be viewed as a precedent for other sub-ACLs such as the haddock sub-ACL allocated to the herring fishery. It might also increase the risk of overfishing in years following such an occurrence: if the scallop fishery has an overage of its sub-ACL and no adjustment is made because the groundfish fishery under-harvested its ACL, then if the groundfish fishery catches its full allocation in a subsequent year there is more of a risk the overall ALC will be exceeded.

- c. A companion measure to (b) would be to transfer unused scallop fishery YTF sub-ACL to the groundfish fishery late in the fishing year. For example, the scallop fishery is usually finished fishing on Georges Bank by January. A projection of their yellowtail flounder catch could be made, and if the sub-ACL is likely to be under-harvested the remainder could be re-allocated to the groundfish fishery.

**Table 2 – Summary of estimates of yellowtail flounder catches by the scallop fishery**

Year	Total YT ACL	GB AA YT TAC (10%)*	Scallop YT sub-ACL	ORIGINAL projection	Final <u>estimated</u> catch	UPDATED *** projection	Difference
2010	470 SNE/MA	47 SNE/MA	135 SNE/MA  146 GB	111 SNE/MA*  110 GB*	113 SNE/MA (84% of sub-ACL)  17.6 GB (12% of sub-ACL)	138.3 SNE/MA  27.6 GB	+27.3 SNE/MA  -82.4 GB
2011	641 SNE/MA	64.1 SNE/MA	82 SNE/MA  201 GB	57.6 SNE/MA  175.3 GB		85.9 SNE/MA  48.6 GB	+28.3 SNE/MA  -126.7 GB
2012	936 SNE/MA	93.6 SNE/MA	127 SNE/MA  307 GB	83.7 SNE/MA  341.8 GB		108.9 SNE/MA  68.0 GB	+25.2 SNE/MA  -273.8 GB

**Enclosure (1)**

**Draft Accountability Measures for Ocean pout, GOM/GB and SNE/MAB Windowpane flounder, Atlantic halibut, and Atlantic Wolffish**

If the ACL for ocean pout, a windowpane flounder stock, Atlantic halibut, or Atlantic wolffish is exceeded, gear restrictions or area closures would be implemented in defined areas in the following year to prevent overfishing. The restrictions or closures would apply to specific gear and areas as described below.

These AMs are designed to apply to groundfish fishing activity, by both common pool and sector vessels. Since the design of these AMs is based on constraining all fishing activity, sectors will not be able to request and exemption from the AM provisions.

**Windowpane Flounder and Ocean Pout:**

The groundfish fishery AM for ocean pout would be implemented if the total ACL (as opposed to the groundfish sub-ACL) is projected to be exceeded. Should a sub-ACL be allocated to other fisheries and AMs developed for those fisheries, the AMs for either (or both) fisheries will be implemented only if the total ACL for the stock is exceeded. If only one fishery exceeds its sub-ACL the AM will be implemented only for that fishery.

In order to implement this AM by the start of the fishing year, NMFS may have to make assumptions on the catch of ACL sub-components because of a lack of data. When final results are available, changes to the AM may be announced if the final estimates differ from the original estimate.

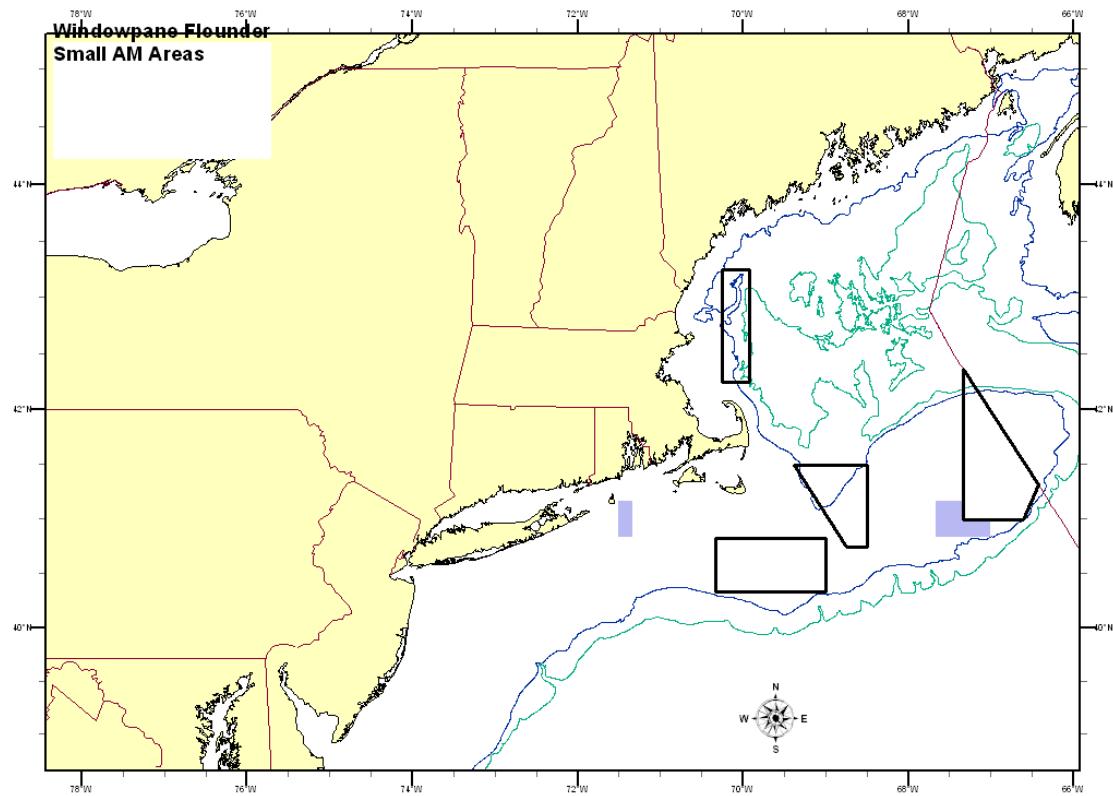
The groundfish fishery AM for windowpane flounder will be implemented if the total ACL (as opposed to the groundfish sub-ACL) is exceeded. Should a sub-ACL be allocated to another fishery and AMs developed for that fishery, the AMs for both fisheries will be implemented only if the total ACL for the stock is exceeded.

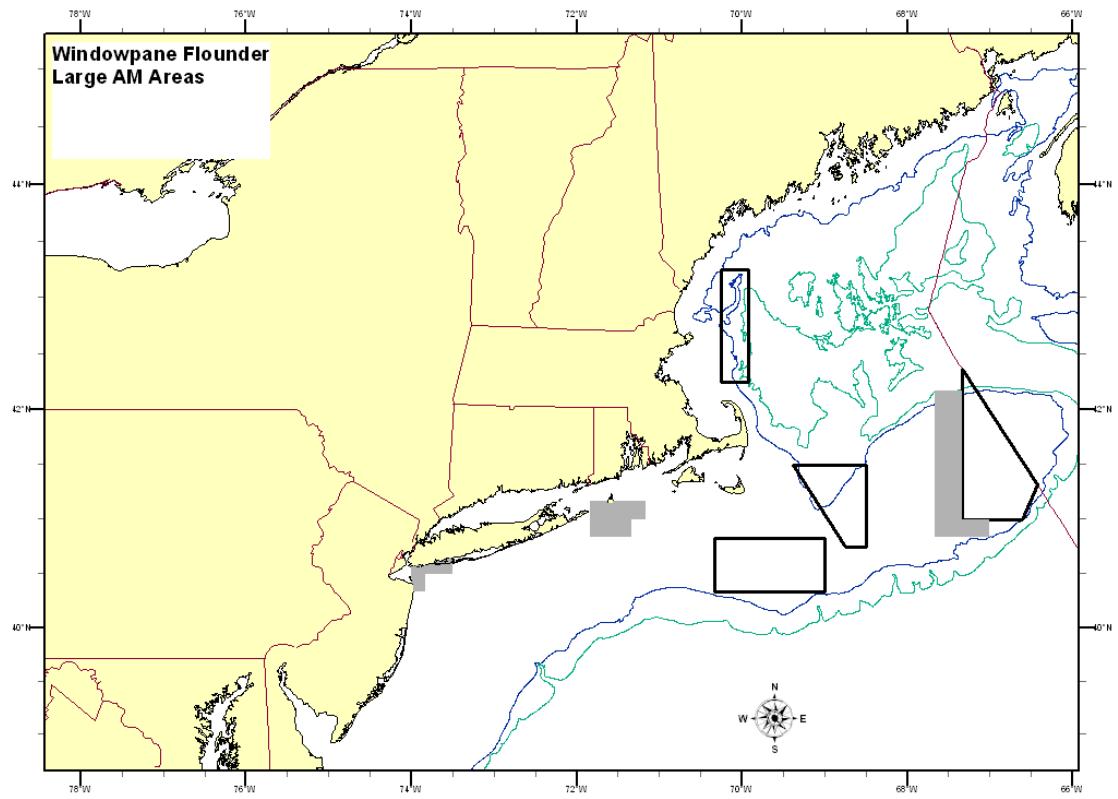
If the AM is implemented trawl vessels would be required to use approved selective trawl gear that reduces the catch of demersal species. Approved gears include the separator trawl, Ruhle trawl, mini-Ruhle trawl, rope trawl, and other gear authorized by the Council in a management action or approved for use consistent with the process defined in 50 CFR 648.85 (b)(6). There would be no restrictions on longline or gillnet gear.

**Areas:** The applicable areas where gear restrictions would apply are shown in Figure 2. The areas are designed to be stock specific – the areas on GB are implemented only if the ACL for northern windowpane flounder is exceeded; the areas in SNE are implemented only if the southern windowpane flounder ACL is exceeded. Both areas would be implemented if the ACL for ocean pout is exceeded. The size of the areas for the restrictions is based on the amount of the overage. In each case the smaller area is implemented for ACL overages that are between the management uncertainty buffer and to 20 percent; both the smaller and larger areas are implemented for overages of more than 20 percent.

**Timing:** An overage in year 1 would lead to implementation of the AM in year 2.

**Figure 2 - Example AM areas for Northern and Southern Windowpane and Ocean Pout (still under development)**





## **Atlantic halibut**

The groundfish fishery AM for Atlantic halibut would be implemented if the total ACL (as opposed to the groundfish sub-ACL) is projected to be exceeded. Should a sub-ACL be allocated to other fisheries and AMs developed for those fisheries, the AMs for either (or both) fisheries will be implemented only if the total ACL for the stock is exceeded. If only one fishery exceeds its sub-ACL the AM will be implemented only for that fishery.

In order to implement this AM by the start of the fishing year, NMFS may have to make assumptions on the catch of ACL sub-components because of a lack of data. When final results are available, changes to the AM may be announced if the final estimates differ from the original estimate.

If the AM is implemented trawl vessels would be required to use approved selective trawl gear that reduces the catch of flounders and retention of Atlantic halibut would be prohibited.

Approved gears include the separator trawl, Ruhle trawl, mini-Ruhle trawl, rope trawl, and other gear authorized by the Council in a management action or approved for use consistent with the process defined in 50 CFR 648.85 (b)(6).

If the AM is implemented, sink gillnet and longline vessels would not be allowed to fish in the AM areas described below. Should selective gear be developed that reduces catches of these species then fishing would be allowed in these areas as long as the gear is used. Such gear must be approved through the process used to authorize selective trawl gear before it is authorized for use.

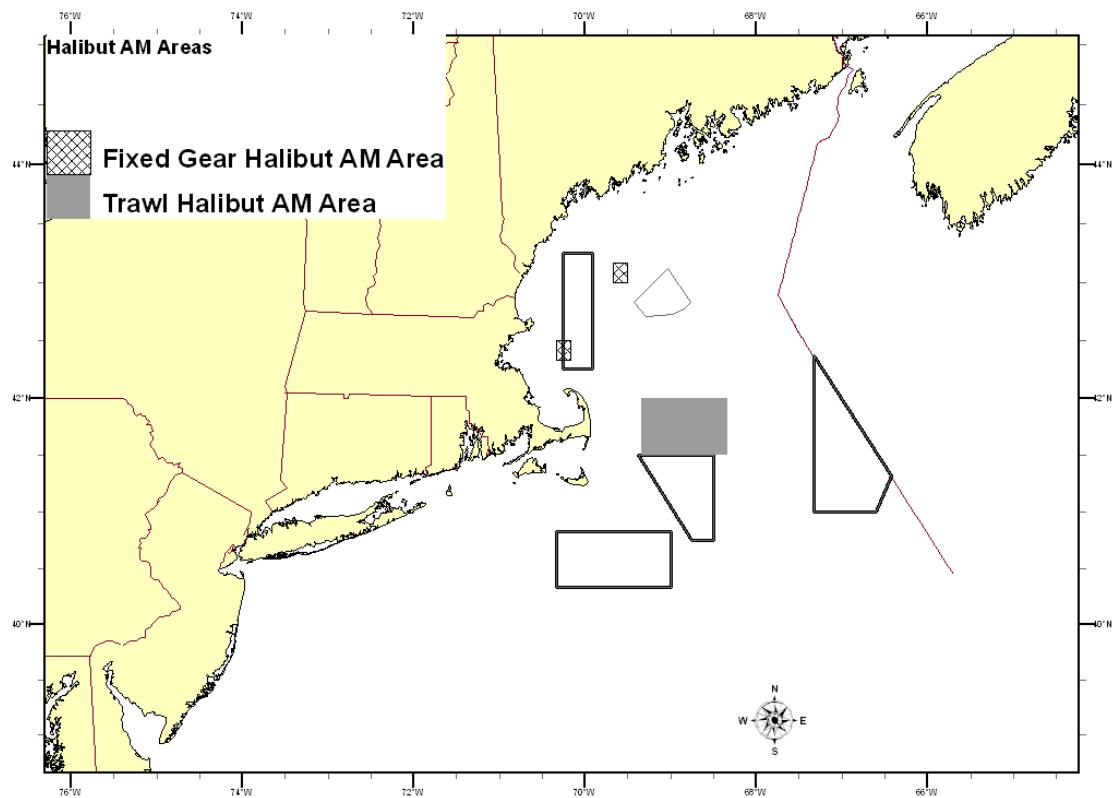
**Areas:** The areas are designed to account for an ACL overage of up to 20 percent. The areas would be implemented for ACL overages that are between the management uncertainty buffer and to 20 percent.

The applicable areas where trawl gear restrictions would apply are shown in Figure 3.

The areas where sink gillnet and longline fishing would be prohibited (or if selective gear is developed, where use of the gear would be required) are also shown in Figure 3.

**Timing:** An overage in year 1 would lead to implementation of the AM in year 2.

**Figure 3 – Proposed AM areas for fixed gear and trawl vessels for halibut.**



## **Atlantic Wolffish**

The groundfish fishery AM for Atlantic wolffish would be implemented if the total ACL (as opposed to the groundfish sub-ACL) is projected to be exceeded. Should a sub-ACL be allocated to other fisheries and AMs developed for those fisheries, the AMs for either (or both) fisheries will be implemented only if the total ACL for the stock is exceeded. If only one fishery exceeds its sub-ACL the AM will be implemented only for that fishery.

In order to implement this AM by the start of the fishing year, NMFS may have to make assumptions on the catch of ACL sub-components because of a lack of data. When final results are available, changes to the AM may be announced if the final estimates differ from the original estimate.

If the AM is implemented trawl vessels would be required to use approved selective trawl gear that reduces the catch of demersal species. Approved gears include the separator trawl, Ruhle trawl, mini-Ruhle trawl, rope trawl, and other gear authorized by the Council in a management action or approved for use consistent with the process defined in 50 CFR 648.85 (b)(6).

If the AM is implemented, sink gillnet and longline vessels would not be allowed to fish in the AM areas described below. Should selective gear be developed that reduces catches of these species then fishing would be allowed in these areas as long as the gear is used. Such gear must be approved through the process used to authorize selective trawl gear before it is authorized for use.

The AM measures would be in effect from May through December, and in April. The measures would not be in effect from January through March because the habits of wolffish make it less susceptible to fishing at that time.

**Areas:** The areas are designed to account for an AM overage of up to 20 percent. The areas would be implemented for ACL overages that are between the management uncertainty buffer and to 20 percent.

The applicable areas where trawl gear restrictions would apply are shown in Figure 4.

The areas where sink gillnet and longline fishing would be prohibited (or if selective gear is developed, where use of the gear would be required) are shown in Figure 4.

**Timing:** An overage in year 1 would lead to implementation of the AM in year 2.

**Figure 4 – Proposed AM areas for fixed gear and trawl gear for wolffish. Note the AM areas overlap on the western side of the WWGOM closed area.**

