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## New England Fishery Management Council Scallop Advisory Panel Meeting

March 26, 2013  
Boston, MA

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*AP members in attendance:* James Fletcher, Ed Welch, James Gutowski (vice-Chair), Robert Maxwell, Kirk Larson, Scott Bailey, Michael Marchetti, Peter Hughes (Chair), Ron Enoksen, Bob Keese, Eric Hansen, and Paul Parker

*NEFMC Staff present:* Deirdre Boelke and Demet Haksever

*There were about 10 members of the audience present for the meeting*

The newly appointed Chair of the Advisory Panel began the meeting at noon with introductions, including the announcement of two new advisors: Eric Hansen and Charlie Quinn. The primary objectives of this meeting is to make recommendations for measures to be considered in Framework 25, provide input on research priorities, review progress on IFQ performance report, and discuss several issues under other business.

### **FRAMEWORK 25**

Staff gave a presentation on the outline of measures being considered in Framework 25. The primary measures are specifications for FY2014 and default measures for FY2015 as well as accountability measures for southern windowpane flounder. Staff reviewed a handful of measures the PDT identified for possible inclusion as well and the advisors passed several motions for the Committee to consider related to the range of alternatives for Framework 25.

#### **1. Gutowski/Enoksen**

**AP supports the PDT recommendation to include options in FW25 to modify FY2013 CA1 trips (already allocated in FW24).**

**Vote: 8:0:3, carries**

The advisors had a full discussion of this issue. There are concerns about catch rates in Closed Area I and the disproportional impacts this will have on a portion of limited access scallop vessels that were allocated trips in this area in 2013. Staff reviewed that about 800,000 pounds of catch allocated in CA1 from FY2012 was not harvested by the end of the year. Therefore, it will likely be carried over into the first 60 days the area is open in FY2013. In addition, an additional 1.5 million pounds was allocated to 118 vessels under the lottery system for FY2013. There are concerns that the projected catch for that area will not be realized in FY2013 without negative environmental and economic impacts, possibly due to higher mortality rates from discarding due to quality issues (grey meats).

The advisors discussed that extending the deadline for when 2013 trips need to be fished may be the most effective way to address this. The PDT discussed this issue as well and agrees that FW25 should consider measures to address this, but it should be limited and shifting this effort to a different area will cause other problems and is not advisable. The industry advisors stressed that it is important to provide flexibility for vessels that received these trips, but there are concerns about possible repercussions of shifting effort to

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future years and areas. Overall, the advisors voiced that measures should be considered to help preserve the fairness and effectiveness of the lottery system. If trips allocated by lottery are very uneven in terms of catch rates that could impact the overall effectiveness of this system, thus the advisors believe the Council should at least explore several alternatives.

## 2. Larson/Bailey

**AP supports modifying the regulation that requires a vessel to break a trip within 60 days before the end of the year and looking into replacing it with a call-in system and VMS declaration to let NMFS know that the vessel wants to carry the trip forward.**

**Vote: 0:10:1, fails**

This was discussed in great detail and ultimately the advisors believe that if the process to carry trips forward is made more flexible by eliminating the requirement to break a trip in the last 60 days the area is open, it could lead to unintended consequences if fishing behavior changes as a result and more trips are carried forward. The speakers discussed that actual impacts on the resource could be positive or negative if catch is shifted from one year to another, but there are ACL constraints to think about with added flexibility. Advisors felt strongly that in some cases flexibility is needed for legitimate reasons such as break downs; however, there could be consequences if the flexibility is abused. It was recognized that the current system allows for a substantial portion of catch to be moved to the following fishing year and eliminating the requirement to break the trip in the last 60 days will not address that uncertainty, it may actually exacerbate it. If the broken trip provision is changed to a simple call in action rather than physically steaming past the VMS demarcation line there were concerns that more uncertainty could be introduced and this may just be opening a can of worms.

To the point of eliminating this requirement to address issues raised by the Observer Program, some speakers felt that this only becomes an issue when catch rates fall to levels low enough that it is no longer economic with an observer onboard. This expanded into a larger discussion about how some vessels try to avoid carrying an observer, especially when catch rates are lower. One advisor had an idea that catch rates could be monitored in-season and if catch rates fell below a certain level vessels could be exempt from carrying an observer because in some cases the expense of the observer is the sole reason a vessel breaks a trip when catch rates are lower.

Ultimately the advisors discussed that there may be ways to change the broken trip provision to make it less of a burden, but the unintended consequences may outweigh the benefits. For example, it could introduce bias in how observers are assigned and it could increase uncertainty in setting ACLs. There may be added risks if the system is too flexible. This topic led into a larger discussion of potentially reducing DAS carryover and/or caps on access area catch to reduce uncertainty. The advisors were curious to know how much of the final catch above the ACT, otherwise known as the management buffer, came from DAS carryover, catch from access areas from broken trips, higher catch from open areas than projected, etc. One PDT member present at the meeting suggested that the PDT could investigate the effects of shifting effort in future years, is it generally positive or negative; what are the risks on the resource and fishery.

## 3. Gutowski/Enoksen

**AP agrees with the PDT that the issue of observer non-payment not be included in FW25.**

**Vote: 11:0:0, carries**

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The AP did not discuss this issue very long; their thoughts on this subject were very clear. The Council should under no circumstance get involved in payment issues between two businesses. They did not feel this is a management issue.

#### 4. Parker/Welch

**Recommend the Committee have the Council and NMFS remove the obstacles preventing specifications from being implemented for the start of the current fishing year.**

**Vote: 11:0:0, carries**

This was raised under the FW25 discussion even though it is not directly related to that action. Overall the AP hopes the Committee and Council can identify why measures are not in place on March 1, and the best ways to address them. Not having measures in place at the start of the year is problematic.

### **RESEARCH PRIORITIES**

The AP reviewed the draft list of priorities developed by the PDT and had several suggestions for modifications. It was discussed that the current survey related priorities are limited to existing and candidate access areas only. One advisor explained that having a less intensive survey of the entire resource is important as well, especially since SMAST is not conducting their broadscale survey in 2013. The advisors voiced that the industry does not want to pay for all scallop resource monitoring since in their view that that is the responsibility of NEFSC, but they are concerned that this will be the first year without an industry based broadscale survey. Some commented that there may be additional constraints on the federal budget for fisheries research in the future and one advisor added that the federal optical survey is relatively new and less tested than other methods. Finally, a few speakers commented that the combined federal/industry scallop survey is probably the most integrated, well surveyed resource in the world, but it could be more transparent.

#### 5. Hansen/Larson

**Add a new research bullet under the high research priorities that would be a broad, resource wide survey of the entire scallop resource.**

**Vote: 11:0:0, carries**

The AP added two additional suggestions related to research. One modification to make the research priority related to predation more specific by adding examples of the sources this panel is most interested in investigating. Finally, the AP supports inclusion of a research priority that is focused on overall impacts of environmental stressors on the scallop resource. Specifically, several examples were cited that may be having a very negative impact on scallop reproduction and growth; jet fuel, pesticides, and ocean acidification. Some added that it is likely these stressors have negative impacts, but are they quantifiable. This led to a broader discussion that it may be appropriate to set aside a small amount of funding each year to support research focused on "lower" priority issues that do not always get funded since they have to compete for funding. For example, maybe 50,000 pounds of scallop catch could be dedicated to smaller issues; the AP does not want the RSA process to overlook subjects like this because they need research support as well.

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### 6. Gutowski/Fletcher

**AP supports PDT recommendations to modify research priorities (i.e. addition of predation and research on processes that affect scallop product quality under medium priority). Modify bullet to include examples of predation – starfish, dogfish, etc.**

**Vote: 11:0:0, carries**

### 7. Fletcher/Marchetti

**Add a bullet under medium priority - Research aimed at the effects of chemicals and water quality on reproduction and growth of scallops (i.e. jet fuel, pesticides, etc).**

**Vote: 8:0:3, carries**

## **IFQ PERFORMANCE REPORT**

Staff reviewed the draft outline for the IFQ Performance Report. The PDT plans to complete the analyses and present results to the full Council in June 2013. The AP had a general discussion about the IFQ Report and several general category members shared their personal experiences since adoption of the IFQ program in 2010. The AP did not pass any motions related to the report but had a handful of general suggestions and comments about the process. These were not consensus statements of the PDT, just comments from individual members for the PDT and Committee to take under consideration as the report is completed.

1. The report should try to include some discussion and analysis of the level of debt individuals have taken to remain in the fishery. One commented that the Council tends to ignore the large role banking and lending issues have on fishery businesses and impacts of management programs.
2. Participants in the fishery at the table summarized how leasing and transfer costs have changed since adoption of the program. In summary, it has increased dramatically in recent years. The general lease price was under \$1 in 2010 when the program started and now lease prices are about \$3-\$4 per pound. The cost to permanently transfer or buy quota was under \$4 per pound when the program first started and now it is over \$30 per pound. The AP suggested that staff contact permit brokers in the region to validate these prices for the report. Several commented that the higher prices are also based on the overall value of scallops and reflect that the average price of scallops has increased as well.
3. Several commented that there are winners and losers in this program and some of the outcomes may not have been what the Council intended.
4. If time permits, staff should interview fishermen to see what they think of the program and ask them how they are doing and what can be improved.
5. Several commented about the level of absentee ownership and concerns that the number of owner operators is declining.

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## OTHER BUSINESS

An advisor emailed staff with several questions related to scallop exemption areas implemented under the GF FMP to address bycatch. Because other advisors have had other questions related to these areas in the past, staff from the Regional office (NMFS) came to review the current regulations about the scallop exemption areas. See Figure 1 and Table 1 for a summary of the regulations related to these areas.

Overall, three major issues were discussed. First, an industry member from the south explained that it is currently not possible to fish for fluke east of the Mid-Atlantic scallop exemption area, and fish for scallops on a LAGC IFQ permit on the same trip. This is not economical for vessels to make separate trips for these targeted species. Second, concerns were raised that if EFH areas change in the future that open areas not within current scallop exemption areas (i.e. north of CA1 access area) vessels with LAGC IFQ permits will not be permitted to fish in those areas. Current restrictions in the GF FMP restrict where LAGC scallop vessels can fish, limited to scallop exemption areas and within scallop access areas only. Finally, one advisor explained that adoption of these exemption areas limited what LAGC vessels could fish for and some vessels from SNE did not qualify for GF permits because of where these boundaries were drawn. It could be possible to convert some of the GF bycatch on LAGC vessels in these areas if LAGC vessels could land GF on the same trip.

The AP passed one motion related to this topic. It does not address all of the concerns raised about these areas, but requests that the Committee and Council review the need for scallop exemption areas at all. It was argued that they are outdated restrictions from when the general category fishery was an open access fishery. Now that the fishery is limited entry and vessels have individual quotas, and there is a fishery wide sub-ACL for critical GF species, bycatch in the scallop fishery should no longer be managed under the GF FMP. Several commented that vessels need to be efficient, and restrictions in the GF FMP preclude that. Several speakers did raise concerns about raising this issue, describing it as a Pandora Box of issues. But others expressed it may be time to address these concerns even if the issues are complex and involve the GF FMP. At a minimum it seems it would require a framework action to the GF FMP, maybe even an Amendment. It was noted that not all the exemption areas allow trawl gear, only the area in the Mid-Atlantic, so gear issues would need to be considered.

### **8. Parker/Keese**

**Now that sub-ACLs are allocated to the scallop fishery and AMs are developed under the Scallop FMP, the bycatch measures should also be under the Scallop FMP. Therefore, the AP recommends that the LAGC scallop fishery should no longer be required to fish in current scallop dredge exemption areas.**

**Vote: 10:0:1, carries**

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Figure 1 – Summary of scallop exemption areas (highlighted in orange)

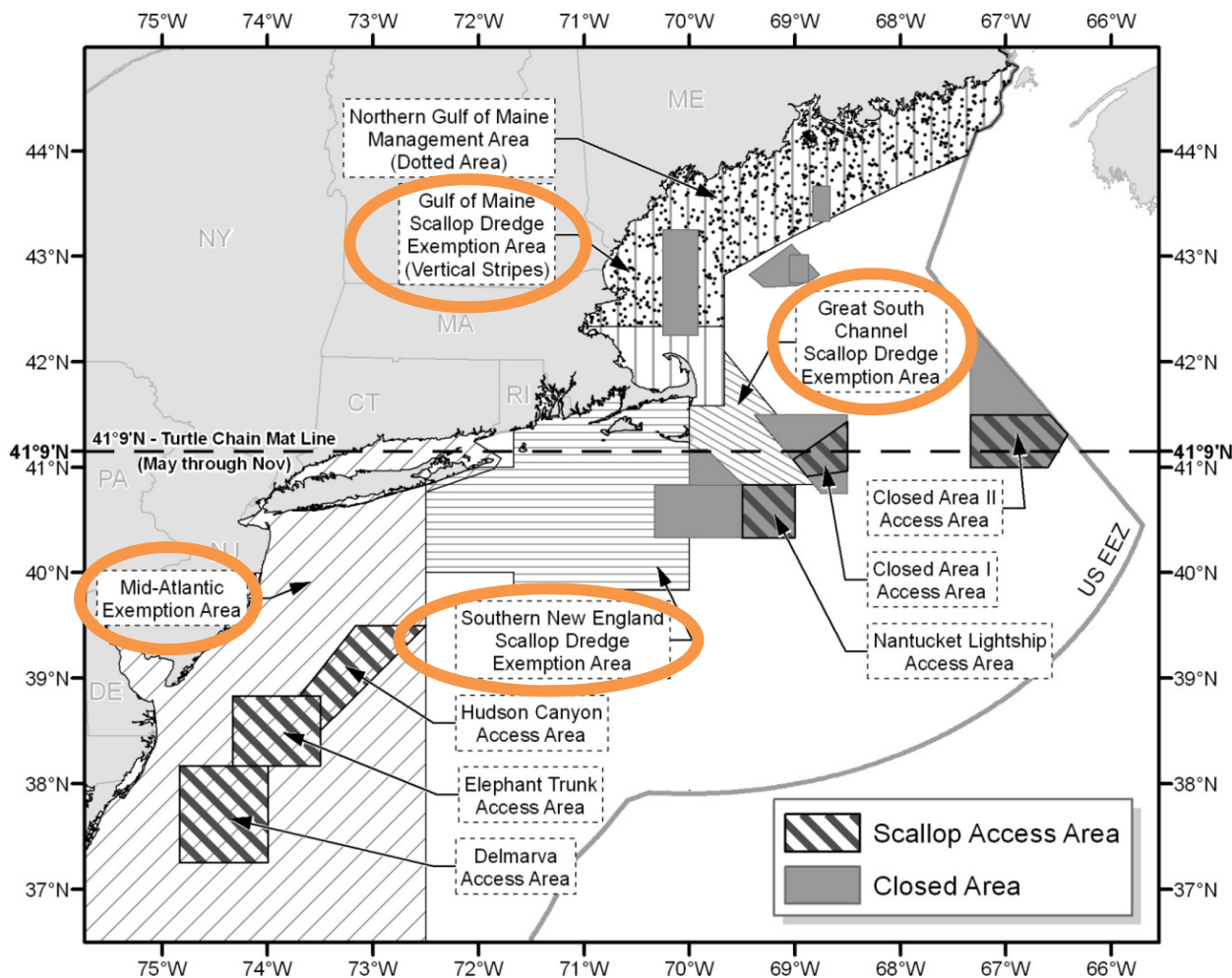


Table 1 – Summary of scallop exemption area regulations

Area	Action (year)	Description
MA Exemption Area*	GF A7 (1996)	Fisheries in MA Area exempt from needing to establish an exempted fishery. LAGC vessels can fish with a trawl and not be on DAS or sector trip. In all other areas (SNE, GB and GOM) need to be in an exempted fishery (where GF bycatch less than 5% of total catch), use exempted gear, or be on a DAS (scallop, GF, monk) or sector trip. Note that LA vessels fishing under their LA scallop permits must be permitted to use trawls regardless of where they are fishing.
GOM Dredge Exemption Area	GF FW21 (1997)	When fishing in this area (which is required for LAGC vessels not on a DAS or sector trip), must use a dredge and prohibited from retaining GF on scallop trips (to eliminate incentive to catch GF).

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SNE Dredge Exemption Area	GF A13 (2004)	When fishing in this area (which is required for LAGC vessels not on a DAS or sector trip), must use a dredge and prohibited from retaining GF on scallop trips (to eliminate incentive to catch GF).
GSC Dredge Exemption Area	RA Authority (2006)	Industry request (October 2005). When fishing in this area (which is required for LAGC vessels not on a DAS or sector trip), must use a dredge and prohibited from retaining GF on scallop trips (to eliminate incentive to catch GF).

*\* Note that the MA exemption area is the only area LAGC trawls can be used to target scallops not on a DAS or sector trip. If a vessel wants to land scallops with trawl gear in the other exemption areas it must also be on a GF DAS or on a sector trip.*

Another issue came up not related to FW25. A member from the general category fishery explained that due to vessel constraints of most general category vessels it is not feasible to fish far offshore. Therefore, in his view it would be important to identify nearshore areas exclusive to the general category fishery to preserve areas accessible to that fleet. The motion was modified to clarify that there are areas that are infrequently used by the limited access fishery that are important to the general category fishery and would not have large impacts on the LA fleet, but the motion ultimately failed.

### 9. Keese/Parker

**Recommend that the Cmte establish nearshore areas preserved exclusively for the general category fishery that are infrequently used by the limited access fishery.**

**Vote: 3:6:2, fails**

On another topic one member raised the issue that the current requirement to notify NMFS when a vessel is not fishing should not be a weekly requirement. It was explained that regulation exists because most scallop vessels also have some type of multispecies permit, and all multispecies permits are required to tell NMFS weekly if the vessel is not fishing. Since most LA scallop vessels do not fish for GF this requirement is viewed as excessive. It was explained that the requirement is not very burdensome, but does not seem necessary since most LA scallop vessels do not fish for GF.

### 10. Larson/Gutowski

**Recommend the Committee consider elimination of the weekly "Do Not Fish" reporting requirement through VTR that is required under the Multispecies FMP.**

**Vote: 11:0:0, carries**

One advisor asked at the end of the meeting if the Council ever heard back from NMFS about making the turtle chain and turtle dredge boundary and season regulations consistent. Staff will look into this issue further.