

## Framework 24 Action Plan

**Council:** New England Fishery Management Council

**Fishery:** Scallop FMP

**Title of Action:** Framework 24

**Problem Statement/Objective of Action:**

To set specifications for 2013 and 2014 and default measures for 2015. Specifications include: ABC/ACLs, DAS, access area allocations for LA and LAGC, NGOM TAC based on new survey results. Specification frameworks also include specific RPMs for sea turtles required under biological opinion and updated estimates of YT catch for 2013-2015 for sub-ACL allocations in GF action.

The Council added three other measures not directly related to specifications that will be addressed in this action (in priority order): 1) Consider modification of Georges Bank access area opening dates; 2) Address sub-ACL of yellowtail flounder for the LAGC trawl fishery; and 3) Leasing LAGC IFQ mid-year.

The Council will also need to identify research priorities for the Scallop RSA program. This can be done outside of the framework document. Most likely the Council would approve the research priorities for 2013 and 2014 in April and submit them to NMFS by letter for a Federal Funding Opportunity notice that would come out in mid-2012.

**Range of Alternatives Expected to be Considered:**

Scallop Fishery Specifications:

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 NGOM TAC is more uncertain since new survey results will be used (if available).

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.

Additional measures related to specifications:

- *Specific RPMs for sea turtles required under biological opinion* – In the past, RPMs have included seasonal restrictions in access areas in the Mid-Atlantic as well as limits on the number of access area trips that can be taken during the turtle season. Range of measure likely to be similar since the current term and condition for the

- reasonable and prudent measure specifies that there needs to be a limit on effort in the Mid-Atlantic during the season when turtles and the fishery are likely to overlap. Substantial level of analysis required to develop these measures and assess whether they would have “a more than minor impact” on the fishery. In the past the PDT has evaluated potential effort shifts caused by RPMs by analyzing past effort patterns and changes in scallop meat weight by month.
- *Updated estimates of YT catch for 2013-2015 for sub-ACL allocations in GF action –*  
The scallop fishery is allocated a specific amount of YT bycatch as a sub-ACL in the GF FMP. Those allocations are based on a projection of YT catch in the scallop fishery. GF FW46 set the YT allocations for 2012 and 2013, but Scallop FW24 will likely change the default scallop specifications for 2013 and more information is available. This action will update the estimate of YT catch for the range of scallop allocations considered in this action using updated scallop and YT catch and biomass information. These estimates will be forwarded to the GF Committee for consideration in the next appropriate GF action for fishing years 2013 and 2014.

#### Other Measure #1: Consider modification of GB access area opening dates

The Council added this as a consideration in this action. For several years members of the public have argued that the June 15 opening date of scallop access areas on GB is not the most effective date because bycatch rates are lower other times of the year. Based on analyses of YT accountability measures (AMs) in A15 and FW23 it may be useful to evaluate if there is a more effective opening date. In addition, in 2011 a Scallop RSA project evaluated seasonal bycatch rates in GB access areas and those data may be available as well to evaluate if other dates would be more effective. This modification would require a change in the GF regulations, so this action would likely become a joint framework action. Once a range of opening dates are identified coordination with the GF PDT, AP and Committee would be needed to gather input on the potential impacts of changing the opening date on groundfish stocks.

It is worth noting that GF FW47 (if approved) proposes to eliminate the YT bycatch cap in access areas. Therefore, the opening date may not be as critical as it used to be since areas will no longer close during the fishing year due to a YT hard-TAC in access areas. As a result scallop trips may be more spread out during the year with less derby effects. However, it still may be important to identify if there is a more optimal opening date by evaluating new information (if available).

#### Other Measures #2: Address sub-ACL of yellowtail flounder for the LAGC trawl fishery

The Council added this issue to this action because it was premature to identify an AM in FW22. During FW22 the Council learned that a substantial portion of the total YT sub-ACL for the scallop fishery was being caught by LAGC IFQ vessels that use trawl gear, a very small portion of the overall fleet (less than a dozen vessels). This action will consider whether the sub-ACL should be divided further, and/or if specific AMs should be adopted for the LAGC IFQ trawl fishery. The range of possible measures could include dividing the sub-ACL further, which could have issues for monitoring small quantities. Possible AMs could include area/seasonal restrictions, gear restricted areas, bycatch hard-TACs, etc.

The Committee passed several motions at the January 19, 2011 meeting to further clarify the range of AM options that should be considered including: 1) no continued use of trawl gear, or 2)

areas in which trawl gear would be prohibited. In addition, the Committee passed a motion to develop an alternative to prohibit all LAGC IFQ vessels from targeting scallops with trawl gear.

Other Measure #3: Leasing LAGC IFQ mid-year

This is a straight forward alternative. Currently LAGC IFQ vessels are not permitted to lease IFQ mid-year. This was done to reduce administrative burden and help prevent speculative purchase and re-sale of quota for profit. The action would consider the No Action (no leasing mid-year), allow leasing up until a certain date, or potentially another option with additional restrictions to address the original concerns with leasing mid-year.

Potential Additions based on Committee Motions [Council will need to include]:

**Motion 4: Dempsey/Avila**

**Recommend that the Council consider including the following topics in FW24. First, YT AMs should trigger in Year 2 following an overage compared to the subsequent year.**

**Second, the observer set-aside program be expanded to cover LAGC vessels in open areas.**

**Vote: 8:0:1, passes**

*These two additions were recommendations from the PDT, January 5, 2011.*

**Motion 1: Preble/Avila**

**Committee requests the Agency REQUIRE than an observer provide a copy of raw data to the Captain before leaving the vessel.**

**Vote: 7:0:2, motion passes**

*(Not clear if this has to be added to Framework or just done administratively and change observer protocols)*

**Fishery Management Action Team or Plan Development Team:**

Below is a table with PDT member affiliations and responsibilities. There are a handful of additional NEFMC and NMFS staff listed on the following page that are identified as individuals that need to be consulted at some point during development and approval of this action, but they are not members of the PDT.

<b>Organization</b>	<b>Name</b>	<b>Responsibility</b>
NEFMC	Deirdre Boelke	Chair of Scallop PDT and Scallop Plan Coordinator Primary author of all FW24 related documents and meeting materials.
NEFMC	Demet Haksever	Economic Impact Analyses and SAFE Report
NMFS NERO Sustainable Fisheries	Emily Gilbert	Primary point of contact in NMFS for FW24. Identify potential policy, regulatory, and administrative issues during development and review.
NMFS NERO Protected Resources	Carrie Upite	Consultation on development of specific measures related to protected resources (RPMs) and impacts of all measures on protected resources.
NMFS NERO APS	Charles Adams	Complete data requests for the PDT. Identify potential monitoring issues during development and review.
NMFS NERO NEPA	Brian Hooper	Review document for completeness in terms of NEPA requirements during development and review.
NMFS NEFSC Population Dynamics Branch	Dvora Hart	Run SAMS model for specifications and biological projections. Consultation on development of measures and biological impact analyses.
NMFS NEFSC Social Science Branch	Evan Bing-Sawyer	Complete data requests for the PDT. Social Impact Analyses and assistance with SAFE Report.
NMFS NEFSC Protected Species Branch	Kimberly Murray	Consultation on development of specific measures related to protected resources (RPMs) and impacts of all measures on protected resources.
NMFS NEFSC Fisheries Sampling Branch	Erin Kupcha	Complete observer program data requests for the PDT. Identify potential monitoring/observer program issues during development and review.
US Coast Guard	Lt. Lyle Kessler	Identify enforcement issues during development and review.
Maine Department of Marine Resources	Kevin Kelly	Provide data for NGOM TAC alternatives. Consultation on development of measures and impacts on GOM.
Virginia Institute of Marine Science (VIMS)	William DuPaul	Consultation on development of measures and impacts on the resource and fishery.
Virginia Institute of Marine Science (VIMS)	David Rudders	Provide data from available scallop surveys. Consultation on development of measures and impacts on the resource and fishery.
UMASS Dartmouth (SMASST)	Cate O'Keefe	Provide data from available scallop surveys. Consultation on development of measures and impacts on the resource and fishery.

Other individuals from NEFMC and NMFS that are not formally on the Scallop PDT but will be involved with this action:

NEFMC Council Staff: Michelle Bachman, Responsible for EFH Impact Analyses

NMFS NERO Habitat Conservation: David Stevenson, Consultation on EFH Impact Analyses

NMFS NERO FDS: *TBD, if necessary*

NMFS Enforcement: , Pat Flanagan and Troy Audyatis; Bill Semrau (VMS measures)

GCNE: Gene Martin, Consultation on potential legal issues and questions

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

At initiation this action is expected to require an Environmental Assessment only. One measure under consideration is adjusting the opening date of scallop access areas on Georges Bank. If that measure remains in this action it will require changes to the GF regulations; therefore, this action would need to be a joint action in the Groundfish FMP as well (Framework 48).

**Applicable laws/issues:** [*Briefly identify significant issues or analyses that are expected to be required for this action, as appropriate.*]

Magnuson-Stevens Act: Typical issues and analyses expected

Administrative Procedure Act: Typical issues and analyses expected

National Environmental Policy Act: Typical issues and analyses expected

Regulatory Flexibility Act: Typical issues and analyses expected

Paperwork Reduction Act: Typical issues and analyses expected

Coastal Zone Management Act: Typical issues and analyses expected

Endangered Species Act: Typical issues and analyses expected.

This action will include specific reasonable and prudent measures per the biological opinion for this fishery related to impacts on sea turtles.

Marine Mammal Protection Act: Typical issues and analyses expected

E.O. 12866 (Regulatory Planning and Review): Typical issues and analyses expected

E.O. 13132 (Federalism): Typical issues and analyses expected

Essential Fish Habitat: Typical issues and analyses expected

Information Quality Act: Typical issues and analyses expected

Other:

E.O. 13158 Marine Protected Areas

E.O. 12898 - Environmental Justice

**Other Issues:** [*Describe other issues and/or needs that must be considered in the development and implementation of this action.*]

Enforcement: TBD

Statistics: TBD

Observer Coverage: TBD

Administrative issues/costs: TBD

Regulatory clarification/simplification: TBD

*[Are there aspects of this action that could be used to simplify or improve existing regulations for this fishery? Simplification should be a strong consideration in the development of alternatives.]*

**Timeline for Development/Review/Implementation:**

The timeline on the next page details how and when this action will be completed and identifies several other issues the Scallop PDT, AP, and Committee will be working on in 2012. The precise timing of the items outside of the Scallop FMP are not known at this time, but are listed since these issues will require some level of Scallop PDT and Committee resources and could impact the overall timeline of FW24.

This timeline will need to be adjusted if the Council decides to recommend that Emergency Action be taken to address 2012 Delmarva trips. Several members of the PDT would likely be very involved in the preparation of that action; therefore development on FW24 could be delayed.

If this process stays on track, FW24 could be implemented by May 2013 if FW23 is formally submitted to NMFS by December 31, 2012. Since this action will likely be implemented after the start of the fishing year default measures would be in place until FW24 is implemented (Table 1).

**Table 1 – Summary of 2013 allocations suggested by the Committee for Alternative 1. The original projection included 35 open area DAS but default allocations would be 75% of that to be precautionary (26 DAS).**

	CA1	CA2	NL	HC	DMV	ET	Total	Channel	OA DAS
<b>2013</b>	-	1	1	1.5	0.5	-	4	open	26

Timeline for Scallop Work in 2012 (below) and 2013 (next page) (Version 1 January 2012)

		2012												
		Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	
<b>Scallop Priorities</b>														
	<b>COUNCIL</b>	<b>Initiate Action</b>			<b>Approve RSA priorities</b>		<b>Update on FW24</b>		<b>Update on FW24</b>		<b>Final Council meeting</b>	<b>Submit to NMFS</b>		
<b>FW24</b>	Fishery Specs				2012 surveys conducted		Data processed Results due Aug 1	Develop specs SSC review by late-Aug	Final analysis of spec package	Select pref alts				
	Other Spec Measures			Identify RSA priorities (not in FW)			Develop and analyze RPMs	Update YT catch estimates						
	Other #1	Develop and analyze alternatives												
	Other #2	Develop and analyze alternatives												
	Other #3	Develop and analyze alternatives												
<b>ACL monitoring</b>	YTF catch estimates (See § 648.64 (e))	On or about Jan 15, the 2011 YT catch projection will occur	AM for 2012 will be announced through <u>Federal Register</u> and PHL	Start of FY2010, if triggered, AM effective based on A15 schedule		Pending approval of FW47, scallop fishery's sub-ACL may be re-evaluated (if under 50% overage, AM not triggered)			Pending approval of FW23, NMFS would re-evaluate scallop fishery's sub-ACL with full observer data, when available					
	Scallop catch estimates (See § 648.53 (b)(4)(iv))						On or about July 1, the 2011 scallop catch estimate is provided to PDT from NMFS		On or about Sept 1, the PDT shall notify Council if the F associated with total landings by the LA fleet is less than 0.28	On or about Sept 30, the Council shall determine if LA AM exception should be evoked. NMFS will implement AM, if applicable, ASAP via <u>Federal Register</u> and PHL.				
<b>Other</b>	Evaluation of LAGC IFQ Program	Begin pulling data				Stop work - focus on FW24								
<b>Other issues the Scallop PDT/AP and Committee will be consulted on at some point in 2012 that could delay FW24</b>														
<b>GF</b>	Council address SNE/MAB windowpane flounder and SNE/MAB winter flounder sub ACLs for scallop fishery													
	Council consider the mixed stock exception for SNE/MAB windowpane flounder													
<b>EFH</b>	Development of EFH measures and analysis of potential impacts on scallop fishery													

2013

2013					
	Jan	Feb	March	April	May
<b>Council</b>	<b>Re-submit to NMFS if needed</b>		<b>Start of FY under FW22 default</b>		<b>Implement FW24</b>
<b>ACL monitoring</b>	On or about Jan 15, the 2012 YT catch projection will occur		Start of FY2013		
<b>Other</b>	Decide if workshop needed Complete draft report for Jan Council meeting or later		Finalize LAGC IFQ Report		

Strawman of specific PDT member involvement in FW24 development and analyses

	<b>Goals of Action</b>	<b>Specific needs</b>	<b>Primary PDT Participation</b>
<b>FW24</b>	Fishery Specs	Specifications (ABC, set-asides, DAS, Access area allocations, LAGC IFQ)	Dvora, Deirdre, Emily
		Specifications - NGOM TAC	Kevin Kelly
		Specifications - incidental catch target TAC	Demet Haksever
	Other Spec Related Measures	RPMs	Deirdre, Demet, Carrie, Dvora, Kimberly
		Updated estimate of YT catch (2013-2015)	Dvora, Deirdre
	Other Measure #1 - date of GB AA openings	Assess new info about seasonal bycatch rates and potential impacts	Dave, Cate, Dvora
	Other Measure #2 - YT AM for LAGC trawl vessels	Analyze observer data and fishery trends for this fleet	Deirdre, Dvora, Erin, Chuck, Demet
	Other Measures #3 - LAGC IFQ leasing mid-year	Describing leasing trends to date and describe qualitative impacts and regulatory concerns	Demet, Emily, Chuck
<b>Letter to NMFS</b>	Identification of RSA priorities for 2013 and 2014	PDT, AP, Cmte and Council will identify and approve RSA priorities for Federal Funding Opportunity announcement for 2013 and 2014 RSA funds	All members input
<b>Other</b>	Performance Evaluation of LAGC IFQ Program	Organize and summarize data about fishery and participants pre and post IFQs. Track leasing and consolidation trends. Port effects. General landings, revenue and participation information.	Demet, Evan, Deirdre, Chuck, Emily