

For Scallop AP, Committee, and Council

There are 15 separate decisions that need to be made in FW24/49.  
They are denoted with a green box in the left margin.  
New input to consider by the PDT is in yellow.

# **DRAFT**

## **Framework 24 to the Scallop FMP and Framework 49 to the Multispecies FMP**

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

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

*Initial Council Meeting: January 31, 2012*  
*Final Council Meeting: November 13-15, 2012*  
*Submission of Final EA:*

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## Executive Summary - To be completed later

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## **1.0 BACKGROUND AND PURPOSE**

### **1.1 BACKGROUND**

This is a biennial framework to the Scallop FMP that sets fishery specifications for the following fishing years. This particular framework proposes measures for fishing years 2013 and 2014 and default measures for 2015. The measures required to be in a biennial framework has increased over the years to include specific allocations for the general category fishery since that fishery became limited access under Amendment 11 in 2008. In addition, specification packages now need to include specific catch restrictions including an acceptable biological catch (ABC) and annual catch limits (ACL) as a result of new requirements since 2007, when the Magnuson Stevens Act was reauthorized. The overall structure for annual catch limits in the scallop fishery was established by Amendment 15 in 2011.

Overall specifications include: a total allowable biological catch and annual catch limits, day-at-sea allocations, access area allocations, total IFQ for the LAGC fishery, a hard-TAC for the Northern Gulf of Maine scallop fishery, a target TAC for vessels with an incidental catch permit, and allocations for the Research Set-aside program and Observer Set-aside program.

In addition to the standard measures that are included in a specification package described above the Council identified three specific issues to consider as well when priorities were set for 2012 at the November 2011 Council meeting. In priority order, this action will also consider measures to: 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.

In January 2012 the Council formally initiated Framework 24 and included two additional topics for consideration based on input from the Scallop Plan Development Team (PDT) and Scallop Committee. First, yellowtail flounder accountability measures (AMs) should trigger in Year 3 following an overage, compared to the subsequent year (Year 2), if reliable data is not available to make a Year 2 determination. Second, this action will consider an alternative that would expand the current observer set-aside program to include LAGC vessels in open areas. The Council is scheduled to take final action on this this framework in November 2012, with potential implementation in May 2013.

### **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 to adjust the day-at-sea (DAS) allocations, general category fishery allocations, and area rotation schedule and allocations for the 2013 and 2014 fishing years, as well as default measures for FY2015 that are expected to be replaced by a subsequent action. The secondary need of this action is to address five very specific issues identified by the Council to improve the overall effectiveness of the Scallop FMP. The purpose is to develop measures to refine the management of the YT flounder sub-ACL allocated to the scallop fishery by developing measures to further reduce yellowtail flounder bycatch and optimize scallop yield, and improve accountability of bycatch across the fishery. Another purpose for this action is to develop measures to improve the flexibility and efficient use of LAGC IFQ by allowing leasing

mid-year. Finally, another purpose is to expand the current observer set-aside program to include LAGC vessels in open areas in order to more accurately determine bycatch from this sector of the fishery.

**Table 1 – Summary of the purpose and need for measures developed in Framework 24 including section number with specific alternatives**

<b>Need</b>	<b>Purpose</b>	<b>Section # with specific alternatives to address corresponding purpose and need</b>
To achieve the objectives of the Atlantic Sea Scallop FMP to prevent overfishing and improve yield-per-recruit from the fishery	1. To set specifications to adjust the DAS, general category allocations, and area rotation schedule and allocations for 2013, 2014, and 2015 default measures	1. Section 2.1
To improve the overall effectiveness of the Scallop FMP related to several specific aspects of the plan	<ol style="list-style-type: none"> <li>1. To refine the management of the YT flounder sub-ACL allocated to the scallop fishery by developing measures to further reduce yellowtail flounder bycatch and optimize scallop yield, and improve accountability of bycatch across the fishery</li> <li>2. To improve the flexibility and efficient use of LAGC IFQ by allowing leasing during the year</li> <li>3. To expand the current observer set-aside program to include LAGC vessels in open areas in order to more accurately determine bycatch from this sector of the fishery.</li> </ol>	<ol style="list-style-type: none"> <li>1. Modify GB access area seasonal closures – Section 2.2.1 Measures to address YT bycatch in the LAGC trawl fishery – Section 2.2.2 Timing of AMs for the YT flounder sub-ACL – Section 2.2.3</li> <li>2. Section 2.3</li> <li>3. Section 2.4</li> </ol>

### 1.3 SUMMARY OF SCALLOP FISHERY MANAGEMENT PLAN

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.

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 1.4 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 (LA and LAGC) scallop catch each fishing year. This action also established separate limited entry programs for general category fishing in the

Northern Gulf of Maine, limited access scallop fleet fishing under general category rules, and an incidental catch permit category that permits vessels to land and sell 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 was developed to bring the FMP in compliance with new requirements of the re-authorized MSA (namely ACLs and AMs). The action also considered measures to allow limited access vessels to voluntarily stack or combine permits on one vessel, or lease DAS or trips from each other, but these measures were primarily rejected due to concerns about the potential negative impacts on vessels that do not stack or lease.

**Table 2 – Summary of past scallop actions**

Action	Implementation date	Brief description of action
FMP	8/13/1982	Created a management program that restricted scallop minimum size, required vessels to have a permit, and implemented a voluntary reporting system.
A1	12/30/1986	Developed a minimum size meat count but was superseded by secretarial amendment to maintain original FMP measures instead.
A2	7/22/1988	Provided 10% increase in meat count standard during Oct-Jan.
A3	2/5/1990	Established regional 12-hour time periods for offloading to improve compliance with meat count standards.
A4	3/1/1994	Implemented a limited access program and replaced meat count system with DAS effort limits.
FW1	8/17/1994	Temporary adjustment to max crew limit, adjust start of fishing year to March 1, refined gear requirements.
FW2	11/16/1994	Exemption from federal gear requirements when fishing in state waters.
FW4	5/1/1995	Temporary adjustment to max crew limit on certain vessels from 9 to 7.
FW5	7/31/1995	Restricted the use of trawl nets to catch scallops and the use of twine tops in dredges.
FW6	8/9/1995	Enhance enforcement by modifying the demarcation line – same action for GF FMP as well.
FW3	12/4/1995	Eliminated requirement that permit applicants own title to fishing vessel at time they initially apply for LA permit – same as other FMPs in region.
FW7	3/11/1996	Permanently reduced the max crew size from 9 to 7.
FW8	7/19/1996	Allowed some vessels to use trawls than cannot practically use a dredge.
A6	2/10/1997	Address gear conflicts in the GOM, GB, and SNE.
A5	2/13/1997	Temporarily closed an area southwest of Martha's Vineyard for 18 months to conduct aquaculture research project.
FW9	8/13/1997	Exempt LA and GC vessels that fish in the state water exemption program from the 400 pound trip limit.
FW10	8/28/1998 - 02/28/2000	Extended a temporary closure in an area southwest of Martha's Vineyard for 18 months to conduct aquaculture research project.
A9	3/3/1999	Implemented measures to designate Essential Fish Habitat for all FMPs in New England.
A8	3/22/1999	Implemented consistent vessel permitting regulations across all FMPs in the Northeast.
A7	4/28/1999	Prevent overfishing by reducing DAS effort allocations substantially and continued closures of MA access areas.
FW11	6/15/1999	Temporarily reopened portions of GF closed areas on GB to the scallop fishery with restrictions. Required 8-inch twine top in open areas.

FW12	3/1/2000	Adjusted DAS allocations for FY2000 and corrected several aspects of the Monkfish FMP.
FW13	6/15/2000	Temporarily reopened portions of GF closed areas on GB to the scallop fishery.
FW14	5/1/2001	Adjusted DAS allocations for FY2001 and 2002 and allowed controlled access in HC and VB access areas.
FW15	3/1/2003	Temporarily adjust DAS for FY2003 and access area schedule for HC and VB access areas.
A10	6/23/2004	Implemented area rotational program to prevent overfishing and optimize scallop yield, as well as implementation of measures to reduce impacts on EFH and bycatch as well as other measures.
FW16	11/2/2004	Fishery specifications for FY2004 and 2005 including access area schedules for GB access areas. Measures for research and observer set-asides developed as well and monitoring and other provisions.
FW17	10/21/2005	Vessels with general category permit that intend to land more than 40 pounds must install and operate VMS. Power down provisions included. Broken trip provision revised for LA vessels.
FW18	6/15/2006	Fishery specifications for FY2006 and 2007 including seasonal closure of ETA to reduce impacts on turtles.
A13	6/12/2007	Permanently reactivated the industry funded observer set-aside program that uses a portion of available catch to help defray the cost of carrying an observer.
FW20	12/24/2007	Maintains the trip allocations established by the interim measures enacted by NMFS on June 21, 2007. Reduced the number of trips in ETA to prevent overfishing and other measures.
A12	2/27/2008	Implemented a Standardized Bycatch Reporting Methodology for all FMPs in the Northeast.
A11	6/1/2008	Limited access for general category vessels with three permit types: IFQ, NGOM and incidental catch. The general category fishery is allocated 5% of projected catch as well as other measures.
FW19	6/1/2008	Fishery specifications for FY2008 and 2009. Specific measures for general category vessels pending approval of a limited access program approved in A11 for general category vessels. LAGC vessels would be allocated 10% of the total catch in quarterly TACs until a full IFQ program could be implemented (in 2010).
FW21	6/28/2010	Fishery specifications for FY2010 based on new assessment results. Action also included specific measures to comply with reasonable and prudent measures required by ESA to reduce impacts on loggerhead sea turtles.
A15	7/22/2011	Implement measures to comply with new MSA requirements for ABCs and ACLs in the scallop fishery. Modify EFH closed areas to be consistent with areas closed for EFH in the Groundfish FMP as well as other measures.
FW22	8/1/2011	Fishery specifications for FY2011 and 2012 including ABCs and ACLs required by MSA.
FW23	5/7/2012 (5/2013 for TDD)	Require the use of a turtle deflector dredge (TDD) for all vessels except LAGC vessels that use a dredge less than 10.5 feet when fishing in the Mid-Atlantic in May-October.
A14	Under Development	Update EFH designations and measures to minimize the impacts of fishing on EFH for all FMPs in New England. Implement specific measures to protect deep-sea corals.

## 1.4 DETAILED BACKGROUND ON ROTATIONAL AREA MANAGEMENT

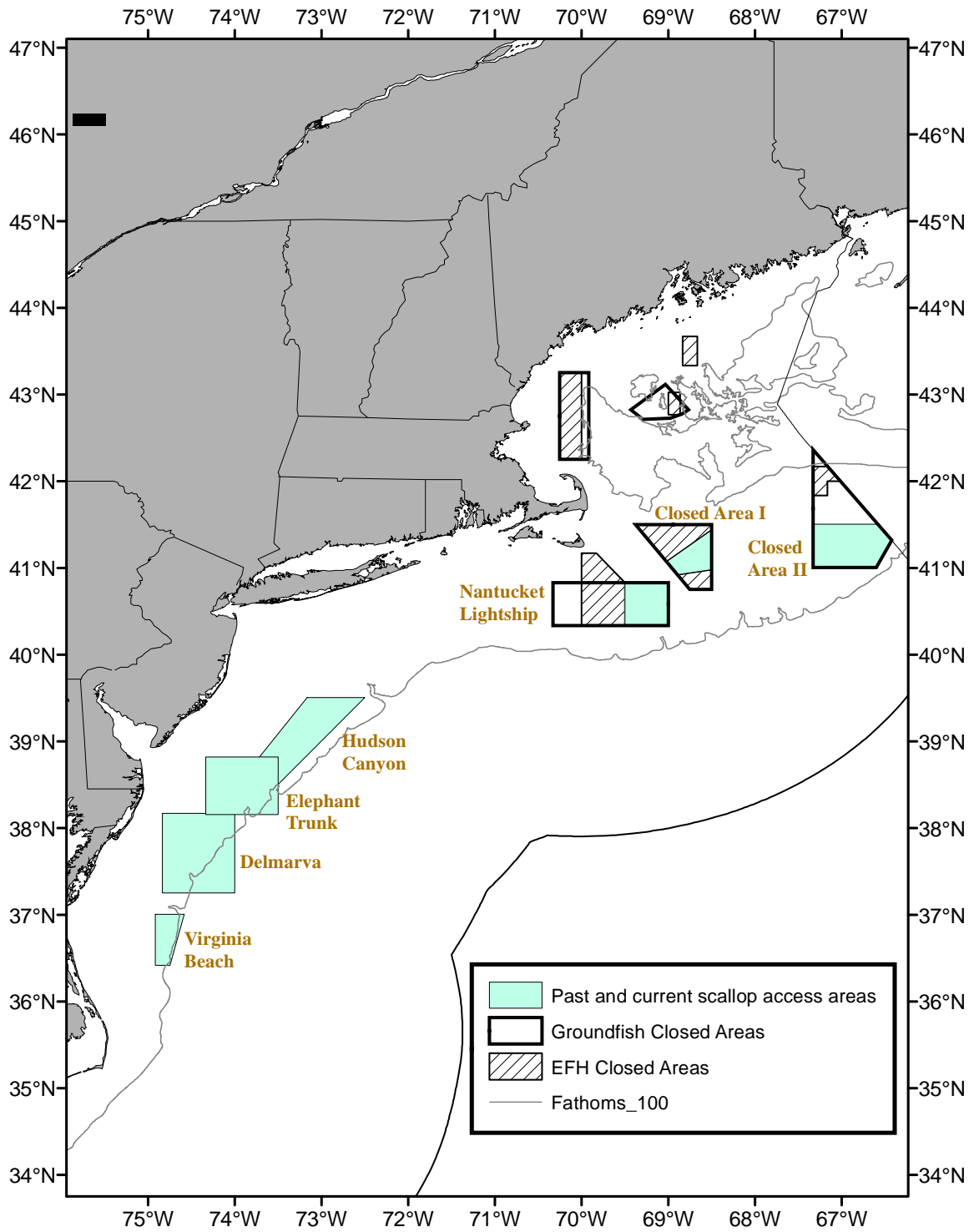
Amendment 10 introduced area rotation: areas that contain beds of small scallops are closed before the scallops experience fishing mortality, then the areas re-open when scallops are larger, producing more yield-per-recruit. The details of which areas should close, for how long and at what level they 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 3. 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 (80% of  $F_{max}$ , estimated to be  $F = 0.23$ ).

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 (hallow) and EFH closed areas (hatched).

**Table 3- General management structure for area rotation management as implemented by Amendment 10**

<b>Area type</b>	<b>Criteria for rotation area management consideration</b>	<b>General management rules</b>	<b>Who may fish</b>
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.

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



**1.5 SUMMARY OF FY2013 DEFAULT MEASURES APPROVED IN FRAMEWORK 22**

In Amendment 15 a modification was made to add a third year to each specification package as a default year that would be in place before a subsequent action rather than rollover measures from the year before. The intent is that default measures will ultimately be replaced by a subsequent action, but are likely superior in terms of potential impacts on the resource and administrative burdens associated with late implementation of frameworks compared to simply rolling over from the previous year.

The default specifications for 2013 were set by Framework 22 and the projections at that time supported 4 access area trips and 35 open area DAS for 2013 (Table 4). ACL related values for this fishing year are presented in Table 5, but are expected to change in future actions when final specifications are set for FY2013 and 2014.

When the Committee reviewed the default allocations for 2013, they suggested that DAS should be 75% of the projection to be precautionary, and the Council agreed. Estimates are less certain the further out they are and it is easier to allocate more DAS in the subsequent framework that will be implemented after the fishing year starts, compared to taking DAS away. Therefore, in the event that Framework 24 is delayed and measures are not in place at the beginning of FY2013, these measures will serve as a default. If FW24 was not adopted these allocations would remain in place for all of FY2013 and beyond until replaced by a subsequent action.

**Table 4 – Summary of 2013 allocations approved as default measures in Framework 22**

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

*\* 26 DAS is 75% of the total DAS projected for FY2013 (35 DAS)*



**Table 5 - ACL related values and allocations for 2013**

	<b>2013*</b>
OFL	75,136,308
ABC	63,272,680
incidental	50,000
RSA	1,250,000
OBS	632,727
ACL after set-asides/incidental removed (= ABC-(incidental + RSA +OBS))	61,339,953
LA sub-ACL (94.5% of ACL)	57,966,256
LA sub-ACT	43,403,576
IFQ-only (5% of ACL)= sub-ACL = ACT	3,066,998
IFQ + LA (0.5% of ACL)=sub-ACL=ACT	306,700

\* 2013 measures are default and expected to be adjusted in future action

## **2.0 MANAGEMENT ALTERNATIVES UNDER CONSIDERATION**

### **2.1 FISHERY SPECIFICATIONS**

#### **2.1.1 Acceptable 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.

Framework 21 implemented an ABC for 2010; the value was 29,578 mt (65.2 million pounds) for the overall fishery, including an estimated 3,363 mt (7.4 million pounds) for non-yield

fishing mortality (discards and incidental mortality). Therefore, the overall ABC for the fishery, excluding discards and incidental mortality was 26,219 mt (57.8 million pounds).

In FW22 the SSC’s catch recommendations included mortality from discards and incidental catch. About nine million pounds of scallops are estimated to be killed each year due to discard and incidental catch mortality. After this source of mortality is removed, the ABC available to the fishery is 60.1 million pounds (27,269 mt) for 2011 and 63.8 million pounds (28,961 mt) for 2012 and 63.3 million pounds (28,700 mt) for 2013. The value after discards mortality is removed is the value that will be used as the ABC for the fishery, equivalent to ACL.

**Table 6 – Summary of ABC approved by the SSC and Council for FW22 (shaded). ABC value used in the regulations and amount available to fishery after discards removed in BOLD**

Year	ABC available to fishery after discards removed	Discards (lbs)	ABC including discards
2011	<b>27,269 (60,117,237 lbs)</b>	8,838,241	31,279 (68,957,683 lbs)
2012	<b>28,961 (63,847,421 lbs)</b>	9,420,256	33,234 (73,267,676 lbs)
2013	<b>28,700 (63,272,680 lbs)</b>	9,335,456	32,935 (72,608,136 lbs)

**2.1.1.1 No Action ABC**

Under “No Action” for FY 2013 and FY 2014, the overall ABC for each year would be identical to that of the default FY 2013 ABC for the fishery of 63.3 million pounds (28,700 mt), after accounting for discards. In addition, a default ABC for 2015 would also be 63.3 million pounds (28,700 mt).

**2.1.1.2 ABC for 2013 and 2014 and default for 2015**

The SSC met on September 13, 2012 and reviewed OFL and ABC recommendations prepared by the Scallop PDT. The same control rules were used: 1) OFL is equivalent to the catch associated with an overall fishing mortality rate of 0.38; and 2) ABC is set 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. The overall fishing mortality rate used for setting ABC is 0.32.

**The SSC recommends the use of the previously accepted control rule for sea scallops to set the FY 2013-2015 OFL and ABC as follows in metric tons of meats:**

	2013	2014	2015
<b>OFL</b>	<b>31,555</b>	<b>35,110</b>	<b>38,074</b>
<b>ABC</b>	<b>27,370</b>	<b>30,353</b>	<b>34,395</b>

These values do 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 7, column to the far right).

**Table 7 – Summary of OFL and ABC values approved by the SSC for Framework 24 (in metric tons)**

	OFL (including discards at OFL)	ABC (including discards)	Discards (at ABC)	ABC available to fishery (after discards removed)
2013	31,555	27,370	6,366	21,004
2014	35,110	30,353	6,656	23,697
2015	38,074	34,395	7,210	27,185

**2.1.2 Specifications for limited access vessels**

DECISION 1

*Include the DAS, access area allocations and sub-ACL*

*Include final ACL flowchart for 2013 and 2014 for proposed action scenario*

**Overall PDT input on specification scenarios under consideration:** Overall, the PDT discussed that their preferred alternative for FW24 specifications is Alternative 2. Alternative 2 and 4 have slightly higher total revenues in the long term, but Alternative 2 minimizes losses in the short term, particularly 2013. However, due to the very low GB YT available in 2013 (215 mt for the US share), the PDT supports that Alternative 4 may be the most realistic alternative when other issues are taken into consideration like YT bycatch.

**2.1.2.1 No Action specifications for LA vessels**

Under No Action, the sub-ACL for the LA fishery would be 58 million pounds (Table 11). DAS and area allocations are described in Table 4 – four access area trips and 26 DAS for full-time vessels. These would be the annual allocations until replaced by a subsequent action.

**2.1.2.2 Alternative 1**

Alternative 1 allocates the maximum amount of effort possible in each access area in 2013 and 2014 and sets open area DAS at the maximum level under the current overfishing definition (F in open areas = 0.38). When open area fishing mortality is set to the maximum level that equates to 33 DAS per full-time vessel in 2013 and 31 DAS in 2014. This alternative closes Elephant Trunk and Delmarva access areas in 2013 to protect the high levels of recruitment in those areas, as well as Hudson Canyon in 2014. Hudson Canyon is fished relatively high in 2013 to harvest as much as possible before that area closes for two or three years.

None of the access areas in 2013 or 2014 can support full 18,000 pound trips. Therefore, this alternative reduces the possession limits to 13,000 in 2013 and 15,000 in 2014. Each full-time vessel would receive two trips in each year in two of the areas available for fishing. A lottery process will be set up to allocate the trips, and it will be constrained so that one full-time vessel cannot receive more than one trip per area. Vessels will still be permitted to trade trips.

Under Alternative 1 the areas open are: CA1, CA2, and HC in 2013 and CA2, NL, and DEL in 2014.

The specific number of trips available in each area for this alternative is described in Table 9.

The total catch from access areas in 2013 equals 7.8 million pounds (26,000 pounds per full-time vessel) and 9.8 million pounds in 2014 (30,000 pounds per full-time vessel).

Part-time vessels would be allocated one trip allocation in 2013 equivalent to 10,400 pounds, rather than two trips at 5,200 pounds (40% of the full-time allocation of 26,000 pounds). Similarly, vessels with a limited access occasional permit would be allocated one 2,080 pound trip (8% of a FT allocation). And for 2014 the same conversion would be applied: part-time allocation would be one 12,000 pound trip and for occasional vessels one 2,400 pound trip.

Default measures for 2015 do not include access area allocations. Default measures for 2015 would only be open area DAS for LA vessels. For 2015 the default DAS for FT vessels would be 24 DAS (75% of 32 DAS).

### 2.1.2.3 Alternative 2

Alternative 2 is an alternative that was recommended by the Scallop Advisory Panel. The premise of the alternative is to allocate the same amount of effort as Alternative 1, but to spread the 2013 effort out across more access areas. This modification would reduce the number of trips allocated to Hudson Canyon, which should help protect the strong recruitment in that area. In addition, fewer CA2 trips would be allocated under this alternative, reducing YT bycatch compared to Alternative 1. Instead, these 2013 trips would be available from Nantucket Lightship. The industry believes that NL is a more resilient area and moving some trips to NL would help reduce incidental mortality on small scallops in HC and have less YT bycatch compared to Alternative 1.

The PDT reviewed this alternative and is supportive of spreading access area effort out since none of the areas are very productive right now, but concerns were raised about the potential for additional fishing mortality from RSA compensation trips. The RSA program sets aside 1.25 million pounds of scallops annually to fund research projects. Vessels that receive an RSA award are allowed to fish compensation pounds in any area open to the fishery. Therefore, this alternative would allow RSA compensation fishing in NL, and Alternative 1 would not because the area would be closed.

In 2011 most RSA compensation was from HC, and in 2012 to date, most has been fished from NL and open areas (Table 8). The PDT expects that NL will continue to be an attractive option for RSA compensation fishing because it is close to shore, many of the access areas in the Mid-Atlantic will be closed, and open areas in the MA are not as abundant as they have been. Therefore, the PDT recommends that the Committee consider including an option that would prohibit 2013 RSA compensation fishing in Nantucket Lightship in 2013.

**Table 8 – Summary of scallop RSA catch (lbs) by area**

Area	FY2011	FY2012
CA1	366,210	N/A
HC	770,619	N/A
NLS	0	259,737
OPEN	N/A	121,554

DECISION 2

#### **2.1.2.3.1 Option 1 – No restriction on RSA catch from NL**

#### **2.1.2.3.2 Option 2 – Prohibit RSA compensation fishing in NL in 2013**

Under Alternative 2 the areas open are: CA1, CA2, HC, and Nantucket Lightship in 2013 and CA2, NL, and DEL in 2014.

The specific number of trips available in each area for this alternative is described in Table 9. The total catch from access areas in 2013 equals 7.8 million pounds (26,000 pounds per full-time vessel) and 9.8 million pounds in 2014 (30,000 pounds per full-time vessel).

Part-time vessels would be allocated one trip allocation in 2013 equivalent to 10,400 pounds, rather than two trips at 5,200 pounds (40% of the full-time allocation of 26,000 pounds). Similarly, vessels with a limited access occasional permit would be allocated one 2,080 pound trip (8% of a FT allocation). And for 2014 the same conversion would be applied: part-time allocation would be one 12,000 pound trip and for occasional vessels one 2,400 pound trip.

Default measures for 2015 do not include access area allocations. Default measures for 2015 would only be open area DAS for LA vessels. For 2015 the default DAS for FT vessels would be 24 DAS (75% of 32 DAS).

#### **2.1.2.4 Alternative 3**

Alternative 3 was developed by the PDT in the event that industry was not supportive of modifying the possession limit as in Alternative 1 and 2. This alternative maintains the possession limits where they have been, i.e. 18,000 pounds per full-time LA trip allocation. Over time crew have become very familiar with what 18,000 pounds is, and since enforcement penalties are very severe for exceeding the possession limit, there are potential risks associated with modifying limits the industry has become accustomed to.

Under Alternative 3 the areas open are: CA2 and HC in 2013 and CA2, NL, and DEL in 2014. This alternative does not have any access in CA1 for either fishing year. The PDT does have concerns about the quality of scallops in this area and believes that some amount of highgrading has occurred in this area in recent years, having greater impacts on fishing mortality than assumed.

The specific number of trips available in each area for this alternative is described in Table 9. The total catch from access areas in 2013 equals 6.0 million pounds (18,000 pounds per full-time vessel) and 9.8 million pounds in 2014 (30,000 pounds per full-time vessel).

Part-time vessels would be allocated one trip allocation in 2013 equivalent to 10,400 pounds, rather than two trips at 5,200 pounds (40% of the full-time allocation of 26,000 pounds). Similarly, vessels with a limited access occasional permit would be allocated one 2,080 pound trip (8% of a FT allocation). And for 2014 the same conversion would be applied: part-time allocation would be one 12,000 pound trip and for occasional vessels one 2,400 pound trip.

Default measures for 2015 do not include access area allocations. Default measures for 2015 would only be open area DAS for LA vessels. For 2015 the default DAS for FT vessels would be 24 DAS (75% of 32 DAS).

### 2.1.2.5 Alternative 4

This alternative was developed by the PDT to further reduce GB YT catch in the scallop fishery in 2013 in light of the very low ABC under consideration for this stock in GF FW48. This alternative reduces CA2 access, directly reducing the projected catch of GB YT in the scallop fishery. This alternative also has a lower possession limit in 2014 compared to the other alternatives. This is due to the fact that some areas would need to be fished harder in 2013 in order to reduce effort in CA2, thus less catch available in 2014.

Under Alternative 4 the areas open are: CA1, CA2, HC and NL in 2013 and CA2, NL, and DEL in 2014.

The specific number of trips available in each area for this alternative is described in Table 9. The total catch from access areas in 2013 equals 6.0 million pounds (18,000 pounds per full-time vessel) and 8.8 million pounds in 2014 (27,000 pounds per full-time vessel).

Part-time vessels would be allocated one trip allocation in 2013 equivalent to 10,400 pounds, rather than two trips at 5,200 pounds (40% of the full-time allocation of 26,000 pounds). Similarly, vessels with a limited access occasional permit would be allocated one 2,080 pound trip (8% of a FT allocation). And for 2014 the same conversion would be applied: part-time allocation would be one 12,000 pound trip and for occasional vessels one 2,400 pound trip.

Default measures for 2015 do not include access area allocations. Default measures for 2015 would only be open area DAS for LA vessels. For 2015 the default DAS for FT vessels would be 24 DAS (75% of 32 DAS).

#### 2.1.2.5.1 Option 1 – No restriction on RSA catch from NL

#### 2.1.2.5.2 Option 2 – Prohibit RSA compensation fishing in NL in 2013

**Table 9 – Summary of LA access area allocation alternatives under consideration in FW24 (number of trips and associated possession limits)**

		HC	Del	CA1	CA2	NL	Total # LA trips	Total # FT AA trips	FT vessel PossLimit	AA Allocation per FT vessel	Total AA allocation (mil lbs.)
<b>No Action</b>	2013	469	157	0	313	313	1252	4	18,000	72,000	23.3
	2014	469	157	0	313	313	1252	4	18,000	72,000	23.3
<b>Alt 1</b>	2013	245	0	119	262	0	626	2	13,000	26,000	7.8
	2014	0	278	0	64	284	626	2	15,000	30,000	9.8
<b>Alt 2</b>	2013	210	0	118	182	116	626	2	13,000	26,000	7.8
	2014	0	277	0	109	240	626	2	15,000	30,000	9.8

<b>Alt 3</b>	2013	177	0	0	136	0	313	1	18,000	18,000	6.0
	2014	0	277	0	65	284	626	2	15,000	30,000	9.8
<b>Alt 4</b>	2013	130	0	57	50	76	313	1	18,000	18,000	6.0
	2014	0	291	0	56	279	626	2	13,500	27,000	8.8

**Table 10 – Summary of LA open area DAS allocation alternatives under consideration in FW24**

	2013			2014			2015		
	FT DAS	PT DAS	Occ DAS	FT DAS	PT DAS	Occ DAS	FT DAS	PT DAS	Occ DAS
No Action	26	10	2	26	10	2	26	10	2
Alt 1	33	13	3	31	12	2	24	10	2
Alt 2	33	13	3	31	12	2	24	10	2
Alt 3	33	13	3	31	12	2	24	10	2
Alt 4	33	13	3	31	12	2	24	10	2

### **2.1.3 Lottery mechanism for allocating access area trips for limited access vessels**

The Committee included a provision in this action, based on input from the Advisory Panel, to allocate trips randomly by lottery similar to how trips were allocated under FW22, but to restrict the number of trips per area to one trip. This provision would prevent one vessel from getting more than one trip per area. Since the biomass varies per area, this method was viewed as the fairest way to allocated trips so that one vessel is not disadvantaged, or advantaged by getting two trips from one particular area. Vessels will still be permitted to trade trips and the lottery for the first year of the framework will be included in the framework submission document so that vessels have more time to plan their business for FY2013.

*Insert results of actual lottery after the November Council meeting*

### **2.1.4 Specifications for limited access general category (LAGC) IFQ vessels**

#### **2.1.4.1 No Action specifications for LAGC IFQ vessels**

Under No Action, the allocations for the LAGC vessels are described Table 11. The TAC for IFQ-only vessels would be about 3.2 million pounds and the TAC for full-time, part-time, and occasional vessels with LAGC IFQ permits would be about 170,000 pounds. LAGC IFQ vessels would be allocated 893 trips in HC, 298 in Delmarva and 595 in Nantucket Lightship. These would be the annual fleetwide allocations for general category vessels until they are replaced by a subsequent action.

**Table 11 – Summary of LAGC IFQ allocations under the default 2013 measures adopted in Framework 22**

2013	LAGC ACL	%
Total	3,373,697	5.5%
	<b>LAGC TAC in AA</b>	<b>GC AA trips**</b>
HC	535,794	893
DMV	178,598	298
CAI	N/A	N/A
CAII	0	0
NLS	357,196	595
Total AA	1,071,589	1,786

**\*\*Allocated as a fleetwide number of trips based on 600 pound trips**

**2.1.4.2 FW24 specification alternatives for LAGC vessels**

The total sub-ACL for the LAGC fishery is the same regardless of the allocation scenario selected (Alternative 1-4). The LAGC IFQ fishery is allocated 5.5% of the total ACL for the fishery. A portion of LAGC IFQ is reserved for LA vessels with LAGC IFQ permits (0.5%) and the remaining catch is available for vessels with LAGC IFQ permits (Table 12). For FY2013 the total LAGC IFQ is equivalent to about 2.4 million pounds, and 2.8 for 2014. The default 2015 IFQ allocation is about 3.2 million pounds.

*??Does the Cmte want to specify a default for the LAGC IFQ fishery? Maybe 75% of the 2014, or 2015 total IFQ? Would help prevent situation we are in this year in terms of the default allocation being higher than the following framework.*

**Table 12 – Summary of LAGC IFQ allocations under consideration in FW24 (same for all allocation scenarios)**

LAGC Allocations	2013	2014	2015
IFQ-only (5% of ACL)= sub-ACL = ACT	2,227,083 (1010 mt)	2,520,963 (1,143 mt)	2,901,601 (1316 mt)
IFQ + LA (0.5% of ACL)=sub-ACL=ACT	222,708 (101 mt)	252,096 (114 mt)	290,160 (131 mt)

This action is considering two options for allocating fleetwide trips to the LAGC IFQ fishery. No Action is to allocate 5.5% of the total access area TAC for every area open in a particular year. And a second option would be to take the 5.5% from CA2 and prorate those trips proportionally among the remaining areas open in a particular year.



**2.1.4.2.1 Allocate 5.5% of each access area TAC to the LAGC IFQ fishery**

This alternative would allocate 5.5% of the access area TAC per area to the LAGC fishery in the form of fleetwide trips. Vessels would still be restricted to the possession limit of 600 pounds. Once the fleetwide max is projected to be fished, NMFS would close that access area to LAGC IFQ vessels for the remainder of the fishing year. See Table ??? for a summary of the trips that would be available to the LAGC fishery.

**2.1.4.2.2 Allocate 5.5% of the total access area TAC available and prorate LAGC IFQ trips proportionally in all areas open that year excluding CA2**

This alternative would allocate 5.5% of the access area TAC per area to the LAGC fishery in the form of fleetwide trips. However, the trips available from CA2 would be shifted to other access areas closer to shore. All CA2 trips would be divided equally among the other areas open that year. For example, under Alternative 2 the LAGC fishery would be allocated 217 trips in CA2 in 2013. Under this alternative those trips would be shifted to Husdon Canyon, CA1, and NL proportionally, adding about 72 additional trips per area. This alternative would provide 5.5% of total access area effort to the LAGC fishery, regardless of which areas are open.

Vessels would still be restricted to the possession limit of 600 pounds. Once the fleetwide max is projected to be fished, NMFS would close that access area to LAGC IFQ vessels for the remainder of the fishing year. See Table 13 for a summary of the trips that would be available to the LAGC fishery.

**Table 13 – Summary of alternatives for LAGC fleetwide trips per access area for FY2013**

2013		HC	Del	CA1	CA2	NL	Total TAC and # trips
No Action	AA TAC	4,419	1,473	0	2,777	2,946	11,615

DECISION 4

	LAGC TAC	243	81	0	0	162	486
	# LAGC trips (CA2)	893	298	0	0	595	1786
	# LAGC trips (no CA2)	893	298	0	0	595	1786
Alt 1	AA TAC	1445	0	704	1523	0	3672
	LAGC TAC	79	0	39	84	0	202
	# LAGC trips (CA2)	292	0	142	308	0	742
	# LAGC trips (no CA2)	446	0	296	0	0	742
Alt 2	AA TAC	1212	0	692	1072	662	3638
	LAGC TAC	67	0	38	59	36	200
	# LAGC trips (CA2)	245	0	140	217	134	735
	# LAGC trips (no CA2)	317	0	212	0	206	735
Alt 3	AA TAC	1446	0	0	1213	0	2659

	LAGC TAC	80	0	0	67	0	146
	# LAGC trips (CA2)	292	0	0	245	0	537
	# LAGC trips (no CA2)	537	0	0	0	0	537
Alt 4	AA TAC	1060	0	623	405	621	2709
	LAGC TAC	58	0	34	22	34	149
	# LAGC trips (CA2)	214	0	126	82	125	547
	# LAGC trips (no CA2)	241	0	153	0	153	547

### 2.1.5 Measures to address delayed implementation of Framework 24

The Council decided to move final action for this framework until the November 2012 Council meeting so that the results from the most recent scallop resource surveys could be used. When final action is in November the earliest the action could be implemented is May 2013, two months after the start of the fishing year on March 1. While this adds complexity to the management program, the Council supports that using recent survey information outweighs the benefits of having the framework in place on March 1.

#### 2.1.5.1 No Action – No specific payback measures to address negative impacts of delayed implementation of FW24

#### 2.1.5.2 Payback measures for limited access vessels

Come March 1, 2013 default measures implemented under FW22 will be in place. Default measures are described in the No Action section of this framework (Section ???). Total DAS are 26 DAS, which is less than the alternatives under consideration in this framework. Therefore, come March 1, 2013 all full-time vessels will be allocated 26 DAS, and after implementation of FW28 they will be allocated an additional number of DAS (7 DAS for FT vessels).

Default 2013 access area allocations are a different story. The allocations that will be in effect on March 1, 2013 are very different than the alternatives under consideration in this action. The primary area of concern is Hudson Canyon. Under default 2013 allocations all FT LA vessels will be allocated two 18,000 pound trips, total of just under 12 million pounds. Under most alternatives in this action only a portion of the fleet will be allocated a trip in Hudson Canyon, a total of 2.3 to 3.2 million pounds depending on the scenario. This is a dramatic difference, and has the potential to have negative impacts on the resource particularly because there is very strong recruitment in that area, so fishing should be limited to reduce incidental mortality of small scallops.

For this reason the Advisory Panel developed a “payback” measure for vessels that fish default 2013 allocations before FW24 is implemented to replace those measures. Specifically, if a vessel takes 2013 access area trips authorized by FW22, it will have to give up all 2013 access area trips authorized to that vessel under FW24, plus ten 2013 open area DAS.

Vessels that take trips into HC (at reduced possession limit) that are ultimately authorized by FW24 and allocated to that vessel will not be penalized if the trips are made before

implementation of FW24. This does not apply to carryover HC trips from FY 2012. The rationale for this payback is to protect the recruitment in HC as much as possible by providing a strong disincentive for vessels to overfish the area due to the delay in FW24 implementation and the 2013 default measures.

For example, under allocation alternatives 1 and 2 (2 trips at 13,000 lb/trip), Vessel A and Vessel B are both allocated 2 HC trips (18,000 lb/trip), in addition to a CA2 and NLS trip, at the start of FY 2013. Under FW24 measures, Vessel A is allocated one trip in CA2 and one trip in CA1, and Vessel B is allocated one trip in HC and one trip in CA2 (13,000 lb/trip). Between March 1, 2013, and FW24's implementation, Vessel A takes an HC trip and lands 18,000 lb while Vessel B takes an HC trip and lands 13,000 lb. Under this scenario, once FW24 is implemented, because Vessel A took an HC trip, its 2013 allocation would be reduced to 23 DAS (33 DAS- 10 DAS) and it would lose all of its 2013 access area trips. In this example, by taking one (or part of one) 18,000 lb trip, the vessel loses approximately 26,000 lb in DAS, assuming an LPUE of 2,600 lb/DAS, and loses its other 13,000 lb access area trip. By landing 18,000 lb, the vessel takes a net loss of 34,000 lb. If Vessel A took 2 HC trips (36,000 lb), it would incur a net loss of 16,000 lb. Because Vessel B is allocated an HC trip at 13,000 lb under FW24, that vessel would not have to payback any pounds for fishing that trip prior to FW24's implementation.

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For Alternatives 3 and 4 (1 trip at 18,000 lb/trip), if Vessel A took one (or part of one) HC trip at 18,000 lb/trip, the vessel would lose 10 DAS once FW24 was implemented, resulting in a net loss of 26,000 lb. If the vessel took 2 HC trips (36,000 lb total), the vessel would incur a net loss of 8,000 lb once FW24 was implemented.

*The PDT discussed this recommendation and supports implementation of a payback measure to reduce incentive to fish in HC at FW22 levels. The PDT adds that vessels with small dredge vessels may even have more incentive to fish in HC. Since the average LPUE for these vessels is lower than LA vessels it may even be necessary to increase the payback to 11 OR 12 DAS.*

Data Sources: VMS Activity and VT Databases – Landings are from VTR and DAS is from VMS

DAS shows the values for small dredge after adjusting with the LPUE ratios (corresponding to 10 open area DAS for FT vessels).

**Table 14 - LPUE by dredge size in the open areas (excluding trips with LPUE>10000lb.)**

Year landed	LA Plan	Number of trips	Scallop Landings	Total DAS	LPUE	Ratio SMD/FD	DAS adj.
2010	FT	672	15753977	6321	2492		10
	FTSD	149	2841679	1300	2186	88%	11.4
<b>2010 Total</b>		<b>821</b>	<b>18595656</b>	<b>7621</b>	2440		
2011	FT	627	16028896	5540	2893		10
	FTSD	116	2607774	979	2664	92%	10.8
<b>2011 Total</b>		<b>743</b>	<b>18636670</b>	<b>6519</b>	2859		

**Table 15 - LPUE by dredge size in the open areas (excluding trips with LPUE <=600lb. or >6000lb.)**

Year landed	LA Plan	Number of trips	Scallop Landings	Total DAS	LPUE	Ratio SMD/FD	DAS adj.
2010	FT	593	14,350,709	5,685	2,524		10
	FTSD	137	2,624,928	1,192	2,202	87%	11.5
2010 Total		730	16,975,637	6,877	2,468		
2011	FT	558	14,290,295	5,004	2,856		10
	FTSD	97	2,207,864	815	2,709	95%	10.5
2011 Total		655	16,498,159	5,819	2,835		
Grand Total		1385	33,473,796	12,696	2,637		

### 2.1.5.3 Payback measures for LAGC IFQ vessels

The situation is different for LAGC vessels with IFQ. Under the default 2013 measures, the total LAGC sub-ACL is higher than the sub-ACL being proposed by FW24. Therefore, on March 1, 2013 each vessel will be awarded more quota than they ultimately will receive once FW24 is implemented.

Therefore, the proposed payback (to be accounted for in 2013 following FW24 implementation) is:

If a vessel transfers (lease or permanent) all of its allocation to other vessels prior to FW24's implementation (transfers more than it ends up being allocated), the vessel(s) that transferred in the pounds will receive a pound-for-pound deduction in FY 2013 (not the vessel that leased out the IFQ). If more than one vessel leased in pounds from a single IFQ allocation/vessel, the overage will be distributed proportionally across all of those vessels. The onus is on the vessel owners to have a business plan to account for the mid-year adjustments in lieu of these payback measures. Vessel owners can calculate their FW24 allocations (NMFS can provide this information as well) and know how much they can lease to avoid any overages incurred through leasing full allocations prior to the implementation of FW24.

For example, Vessel A is allocated 5,000 lb at the start of FY 2013, but would receive 3,500 lb once FW24 is implemented. If Vessel A transfers 5,000 lb to Vessel B prior to FW24's implementation, Vessel B would lose 1,500 lb of that transfer once FW24 is implemented.

NOTE: There is already an AM for IFQ overages and that will apply to this as well: If a vessel fished more than its FW24 IFQ allocation between March 1 and when Framework 24 is implemented, it will receive a pound-for-pound deduction in FY 2014, along with any other incurred overages.

IFQ AA trips – At the start of FY 2013, IFQ vessels will have fleetwide trip allocations into NLS (595 trips), HC (893 trips), and DMV (296 trips; likely closed through mid-May under emergency extension). Under proposed measures, they’d have trips (undefined number at this point) in CAI and HC (NLS?). Any trips taken prior to the implementation of FW24 in excess of the FW24 fleetwide allocations could be taken off the area’s IFQ trip allocation in FY 2014, however, a payback may not be appropriate through FW24: We won’t know the exact areas since we’ll be developing FW25 so maybe we just address any overages in FW25, if necessary, and clarify in FW24 that this is our intent.

### **2.1.6 Automatic Adjustments to Year 2 access area specifications**

\*\*\*The PDT did not spend time developing these options further once the Committee and Council passed motions supporting that FW24 be a one-year action. If the Council decides in November to make FW22 a two-year package, the PDT will develop the specific triggers for these automatic adjustments before FW24 is submitted.

Scallop specifications are generally set every two years in a biennial framework action. In many cases, the original projections of biomass for the second year are not realized for all areas. For example more recently, FW22 set specifications for 2011 and 2012. The original projections estimated that biomass in the Delmarva access area would be 10,873 mt, or about 24 million pounds at the start of the 2012 fishing year. The PDT met in early 2012 before the fishing year began and reviewed survey results from three separate surveys of the Delmarva area from 2011: the federal dredge survey, a paired tow dredge survey by VIMS, and the SMAST photo survey.

All three surveys saw a clear decline in biomass compared to 2010 surveys. The SMAST survey reported total biomass in that area to be 5,939 mt or about 13 million pounds, of which 10 million pounds were exploitable size. This survey was conducted in May when some 2011 fishing had already occurred, but more was expected during the remainder of the year. In June, the federal dredge surveyed the area with a total biomass estimate of 7.2 million pounds. Finally, the VIMS dredge surveyed the area in October, after the vast majority of 2011 trips were taken and their estimate was 3.7 to 4.2 million pounds of exploitable biomass, depending on which survey dredge and SH:MW conversion is used. All three estimates were a substantial reduction from the original estimate of 24 million pounds in FW22.

Since a mechanism was not in place to automatically reduce allocations in Delmarva those trips would be allocated and vessels would likely take trips in the area having increased impacts since catch rates would be much lower than anticipated. The Council requested Emergency Action to shift those trips to Closed Area I instead to avoid unforeseen consequences. To potentially avoid similar situations in the future, this action is going to consider ways to automatically adjust allocations in year 2 that would not require a subsequent action by the Council or NMFS.

Several times in the past the FMP has developed measures that would reduce trips automatically in Year 2 based on updated projections. This process was not developed in FW22 for FY2012 because none of the access areas had more than one trip allocated per area, and in some cases only a split trip allocation. In order for this adjustment to be automatic the PDT needs to develop specific thresholds upfront that trigger a reduction. The PDT generally completes an update of biomass estimates in August or September each year after survey results are available.

#### **2.1.6.1 No Action – no automatic adjustment for Year 2 specifications**

Year 2 allocations would remain in place unless replaced by a subsequent action (framework action or Emergency/Interim Action by NMFS). The PDT would not be required to update area specific biomass and overall fishing mortality prior to the start of the second fishing year.

#### **2.1.6.2 Automatic adjustment to Year 2 access area specifications based on updated biomass estimates**

In the event that updated estimates of biomass in access areas for year 2 are not sufficient to support the allocations set for year 2, automatic measures will be implemented to reduce allocations for the second year of this specification package. A framework adjustment cannot be developed in time to implement adjusted specifications at the start of Year 2 since many of the surveys are conducted during the late spring and summer. Therefore, updated results are not available in time to prepare the necessary analyses in a framework adjustment that would be implemented before the start of the next fishing year. Therefore, this option sets up a rulemaking procedure that would authorize NMFS to adjust access area allocations if necessary based on available survey data.

This procedure would make use of a more rapid, event-triggered rulemaking to correct allocations, ensuring that optimum yield is achievable even if there is insufficient time to develop a framework adjustment when new biomass data become available. The Regional Administrator shall reduce the number of trips or shift those trips to a different access area using the specifications described below provided that an updated biomass estimate is available with sufficient time to announce such an adjustment through publication of a final rule in the Federal Register, pursuant to the Administrative Procedure Act. This process is designed to address Year 2 allocations that are more uncertain; and will not include automatic measures for all access areas. For example, there may be only one or possibly two areas that have projected biomass levels near the margin for a full trip allocation. The PDT will not develop a system that includes automatic triggers and contingent allocations for all areas.

If information is not available in time for NMFS to publish a final rule, no adjustment may be made. The adjustment of year 2 allocations shall be based on all available scientific scallop surveys and survey data must be available with sufficient time for review and incorporation in the biomass estimate. If no other surveys are available, the annual NOAA scallop resource survey shall be used alone to estimate exploitable scallop biomass.

The Scallop PDT is responsible for reviewing available scallop survey data and completing an updated biomass estimate. The PDT will complete this update before the start of the second fishing year, and will forward the estimate to NMFS by letter from the Council. If there is a meeting already scheduled the Scallop PDT will present this information to the Scallop

Committee or Council, and if no meeting is scheduled the Executive Director or Chairman will forward the updated estimate to NMFS on behalf of the Council. If the PDT is unavailable to update the biomass or fishery information in time for this adjustment for whatever reason, allocations for year 2 will not be adjusted.

If the updated biomass is higher than projected, no upward adjustments in trip allocations will be made. If biomass is *somewhat* less than projected then the initial allocations would not need adjustment. However, if biomass is *considerably* less than projected then the regulatory action would reduce allocations based on the specifications below.

The table below shows the thresholds and adjustments to be made with available survey data. If an access area has a one-trip allocation per full-time vessel and the updated biomass estimate suggests that biomass is considerably less than projected, all vessels will receive one less trip overall; the trip will not shift to another area. Part-time and occasional vessels would not be permitted to take a trip in that area either, and would have one less trip as well. This maintains equal allocations among the fleet and prevents excess fishing in an area with lower biomass.

However, if an area has a split trip allocation, half the full-time fleet has been allocated a trip in an area, and the updated biomass for that area is considerably lower than projected, those trips will be shifted to another predefined area. This maintains equal allocations among the fleet and prevents excess fishing in an area with lower biomass. Part-time and occasional vessels would not be permitted to take a trip in that area as well, and could decide to take their original number of trips in any area open to scallop fishing that year up to the maximum number of trips allowed after allocations are adjusted.

*PDT would need to insert specific biomass thresholds for each area.*

*The PDT recommends that this process be developed for the 2014 allocations in Delmarva as well as Closed Area 2. Allocations for those areas are potentially “near the margin” and warrant re-evaluation in 2013.*

*If updated biomass estimates are lower than expected for these two areas based on 2013 surveys, the allocated effort in those areas in 2014 would reduce to zero. There is no other access area that can take that effort in 2014 so trips would not convert to another area.*

**\*\*\*\*\*EXAMPLE FOR FW24\*\*\*\*\***

**Table 16 – Example of Summary of 2013 allocations approved as default measures in Framework 22**

	Original FW24 Allocation	Updated Biomass Trigger	Adjusted number of Access Area Trips		Number of General Category Trips
CA2	0.5 trip	If biomass less than ???	0.5 trip	Trips are not shifted – all vessels lose a trip	??? trips in CA2 revert to zero
Del	0.5 trip	If biomass less than ???	0.5 trip	Trips are not shifted – all vessels lose a trip	??? trips in Del revert to zero?

**2.1.6.3 Automatic adjustment to Year 2 access area specifications based on updated biomass and/or catch per unit of effort estimates**

In the event that updated estimates of biomass in access areas for year 2 are not sufficient to support the allocations set for year 2, or if estimates of catch per unit of effort (CPUE) from year one are substantially lower than projected, automatic measures will be implemented to reduce allocations for the second year of this specification package. Similar to the option above, this option sets up a rulemaking procedure that would authorize NMFS to adjust access area allocations if necessary based on available survey and/or fishery data.

This procedure would make use of a more rapid, event-triggered rulemaking to correct allocations, ensuring that optimum yield is achievable even if there is insufficient time to develop a framework adjustment when new biomass data become available. The Regional Administrator shall reduce the number of trips or shift those trips to a different access area using the specifications described below provided that an updated biomass estimate or estimate of CPUE is available with sufficient time to announce such an adjustment through publication of a final rule in the Federal Register, pursuant to the Administrative Procedure Act. If information is not available in time for NMFS to publish a final rule, no adjustment may be made.

The adjustment of year 2 allocations shall be based on all available scientific scallop surveys and updated estimates of CPUE. Survey and fishery data must be available with sufficient time for review and incorporation in the biomass estimate. If no other surveys are available, the annual NOAA scallop resource survey shall be used alone to estimate exploitable scallop biomass. In terms of fishery data the PDT will likely use all landings data available from year 1 (March through about October) to assess catch rates.

The Scallop PDT is responsible for reviewing available scallop survey data and completing an updated biomass estimate. In addition, the PDT is responsible for estimating CPUE for access areas scheduled to open in year two that were identified as part of the automatic adjustment process. The PDT will complete this update before the start of the second fishing year, and will forward the estimate to NMFS by letter from the Council. For example, if the PDT is able to provide these analyses by October it is possible that information could be presented first to the Scallop Committee and/or Council before the analyses are forward to NMFS. If no meeting is



scheduled the Executive Director or Chairman will forward the updated estimate to NMFS on behalf of the Council. If the PDT is unavailable to update the biomass or fishery information in time for this adjustment for whatever reason, allocations for year 2 will not be adjusted.

If the updated biomass or CPUE is higher than projected, no upward adjustments in trip allocations will be made. If biomass or CPUE is *somewhat* less than projected then the initial allocations would not need adjustment. However, if biomass and/or CPUE is *considerably* less than projected then the regulatory action would reduce allocations based on the specifications below.

The table below shows the thresholds and adjustments to be made with available survey and fishery data. If an access area has a one-trip allocation per full-time vessel and the updated biomass or CPUE estimate suggests that biomass is considerably less than projected, all vessels will receive one less trip overall; the trip will not shift to another area. Part-time and occasional vessels would not be permitted to take a trip in that area either, and would have one less trip as well. This maintains equal allocations among the fleet and prevents excess fishing in an area with lower biomass.

However, if an area has a split trip allocation, half the full-time fleet has been allocated a trip in an area, and the updated biomass or CPUE for that area is considerably lower than projected, those trips will be shifted to another predefined area. This maintains equal allocations among the fleet and prevents excess fishing in an area with lower biomass. Part-time and occasional vessels would not be permitted to take a trip in that area as well, and could decide to take their original number of trips in any area open to scallop fishing that year up to the maximum number of trips allowed after allocations are adjusted.

*PDT would need to insert specific biomass and CPUE thresholds for each area.*

In order to update a CPUE estimate using the most real time information possible, scallop vessels would be required to continue to report daily scallop catch in all access areas. All limited access scallop vessels are already required to report daily scallop and YT catch in all areas, this requirement was expanded to all areas under Amendment 15 in order to monitor YTF sub-ACLs. Daily reports must be reported for every day fished by 9am the following day. Reports include: VTR serial number, date fish caught, total pounds of scallop meats kept, total pounds of YT flounder kept and discarded, and total pounds of all other species kept.

*Do we want to consider any additional reporting requirements like area, number of tows, number of crew, number of dredges, dredge width, horsepower, etc.?*

*What will the likely formula be that the PDT can easily calculate in September?*

*Would decision be based on data from March – June? Maybe it does not need to be based on just that fishing year – maybe the full calendar year before the estimate is done – say July 2013 – June 2014?*

*What should the CPUE trigger be based on? We discussed asking the Scallop AP for a value that is based on an economic breakpoint. Since this will vary based on the vessel, distance from access area, etc. how will the PDT use this information?*

**2.1.6.4 Automatic closure of access area in Year 2 based on high level of scallop recruitment from new survey results**

PDT Advice: The PDT recommended that the Committee consider development of an additional automatic adjustment measure that would be based on high levels of recruitment. If updated biomass surveys from a particular area have high concentrations of small scallops but that area is scheduled to be open in Year 2, this alternative would automatically close the area to scallop fishing. The PDT will have to predefine possible areas for closure perhaps based on survey results from the previous year. If a certain percent of biomass in a particular access area is above the stated threshold the area will automatically close.

If an access area has a one-trip allocation per full-time vessel for Year 2 and the new survey data finds high levels of recruitment, all vessels will receive one less trip overall; the trip will not shift to another area. Part-time and occasional vessels would not be permitted to take a trip in that area either, and would have one less trip as well. This maintains equal allocations among the fleet and prevents excess fishing in an area with lower biomass.

However, if an area has a split trip allocation, half the full-time fleet has been allocated a trip in an area, and the updated survey data for that area finds high levels of recruitment, those trips will be shifted to another predefined area. This maintains equal allocations among the fleet and prevents excess fishing in an area with lower biomass. Part-time and occasional vessels would not be permitted to take a trip in that area as well, and could decide to take their original number of trips in any area open to scallop fishing that year up to the maximum number of trips allowed after allocations are adjusted.

**Table 17 – Example automatic adjustment alternative based on high levels of recruitment found in an area**

	Original FW24 Allocation	Updated Biomass Trigger	Adjusted number of Access Area Trips		Number of General Category Trips
CAI	1 trip	If high levels of recruitment (??% of total biomass)	0 trips	Trips are not shifted – all vessels lose trips	??? trips in CA1 convert to zero
HC	0.5 trip	If high levels of recruitment (??% of total biomass)	0.5 trip	Trips shift to ??? access area	??? trips in HC convert to ??? or they just revert to zero?

**2.1.7 Northern Gulf of Maine hard-TAC**

The Council approved a separate limited entry program for the NGOM with a hard-TAC. Framework 24 will need to consider a separate hard TAC for this area for 2013 and 2014, and a default allocation for 2015. Individuals qualified for a permit if their vessel had a general category permit when the control date was implemented (November 1, 2004). There is no landings qualification for this permit. Vessels would be restricted to fish in this area under a 200

pound possession limit until the overall hard-TAC was reached. In 2011, 110 vessels were issued a LAGC NGOM scallop permit during all of or part of the year and 164 other vessels were issued a LAGC permit in CPH. The majority of the 110 NGOM permits in 2011 were from MA (53 vessels) and 35 from Maine. Ten vessels homeported in NH, and the rest from NC, NJ, RI and NY.

Amendment 11 specifies that the Scallop PDT will recommend a hard-TAC for the federal portion of the scallop resource in the NGOM. The amendment recommends that the hard-TAC be determined using historical landings until funding is secured to undertake a NGOM stock assessment. The hard TAC for 2010 was 70,000 pounds. The Council considered the TAC in FW23 for 2012 again because that action also considered allowing NGOM vessels to declare state only trips, and that catch would not count against the federal TAC. While that measure was approved, the Council decided not to lower the NGOM TAC because catch from LAGC IFQ vessels that fish in the NGOM will still count against the TAC. Therefore, the TAC was set at 70,000 pounds for 2012 as well.

#### **2.1.7.1 No Action NGOM TAC – 70,000 pounds**

The NGOM hard TAC would remain at 70,000 pounds until changed by a future scallop action.

#### **2.1.7.2 FW24 NGOM TAC alternative based on new survey results**

A scallop resource survey was conducted in 2012 to estimate the scallop biomass in the federal portion of the NGOM management area. This project was funded by a 2011 RSA award, and updated the first survey of this area that was conducted in 2009. About 200 stations were completed in the 2012 survey in five overall survey areas. Overall the biomass was very patchy and some areas had poor meat conditions (smaller meats on Platt's and Fippennies Banks compared to shell heights) (Figure 8 - Figure 10). Most biomass found in SE part of NGOM management area (offshore from northeastern MA in survey areas 4 and 5) with some recruitment observed in that area as well.

The PDT reviewed the results of this survey and recommend that the TAC for Framework 24 be set using the same assumptions developed in Framework 22. See Section 2.6.3.2.1 of Framework 22 for more information about survey methods and biomass estimate analyses. The PDT recommends using the lower 25<sup>th</sup> percentile because there is substantial variability in the federal water biomass estimate in this region and it is a generally accepted principle that data poor/high uncertainty stocks require more precaution. Therefore, the PDT the TAC be set at the 25<sup>th</sup> percentile at an exploitation rate of 0.25 and dredge efficiency of 0.50.

#### **Using updated values, that equals a hard TAC of 58,000 pounds.**

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Since FW23 vessels with a NGOM permit, as well as a state scallop permit, can declare before leaving on a trip whether they will be fishing in state or federal waters. If a vessel is going to fish exclusively in state waters catch will not apply to the NGOM hard TAC. However, if a vessel is going to fish at all in federal waters, the entire catch from the trip is applied against the NGOM hard TAC. Catches in the NGOM have been well below the recent hard TAC of 70,000 pounds. Catch in 2011 was about 8,000 pounds and about 4,000 pounds in 2012 to date.

**Table 18 – Biomass estimates for NGOM survey for a range of dredge efficiency assumptions**

ExRate	0.25						
DREDGE.EFF	Biomass percentile	q0.05	q0.25	q0.5	MEAN	q0.75	q0.95
0.40	Biomass Estimate (MT)	84.91	132.55	183.60	188.70	236.40	321.06
	TAC(MT)	21.23	33.14	45.90	47.18	59.10	80.27
	TAC(lbs)	46,799.82	73,054.64	101,191.21	104,004.90	130,290.38	176,955.81
0.50	Biomass Estimate (MT)	67.93	106.04	146.88	150.96	189.12	256.85
	TAC(MT)	16.98	26.51	36.72	37.74	47.28	64.21
	TAC(lbs)	37,439.86	58,443.71	80,952.96	83,203.92	104,232.31	141,564.64
0.54	Biomass Estimate (MT)	62.90	98.18	136.00	139.78	175.11	237.82
	TAC(MT)	15.72	24.55	34.00	34.95	43.78	59.46
	TAC(lbs)	34,666.53	54,114.55	74,956.45	77,040.67	96,511.40	131,078.37

**2.1.8 Target TAC for incidental catch permits**

Amendment 11 includes 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. 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.

**2.1.8.1 No Action Incidental catch TAC– 50,000 pounds**

TAC would remain at 50,000 pounds until modified by a future action. This catch is removed before ACLs are allocated to the limited access and limited access general category vessels.

**2.1.8.2 FW24 Incidental catch TAC based on new data**

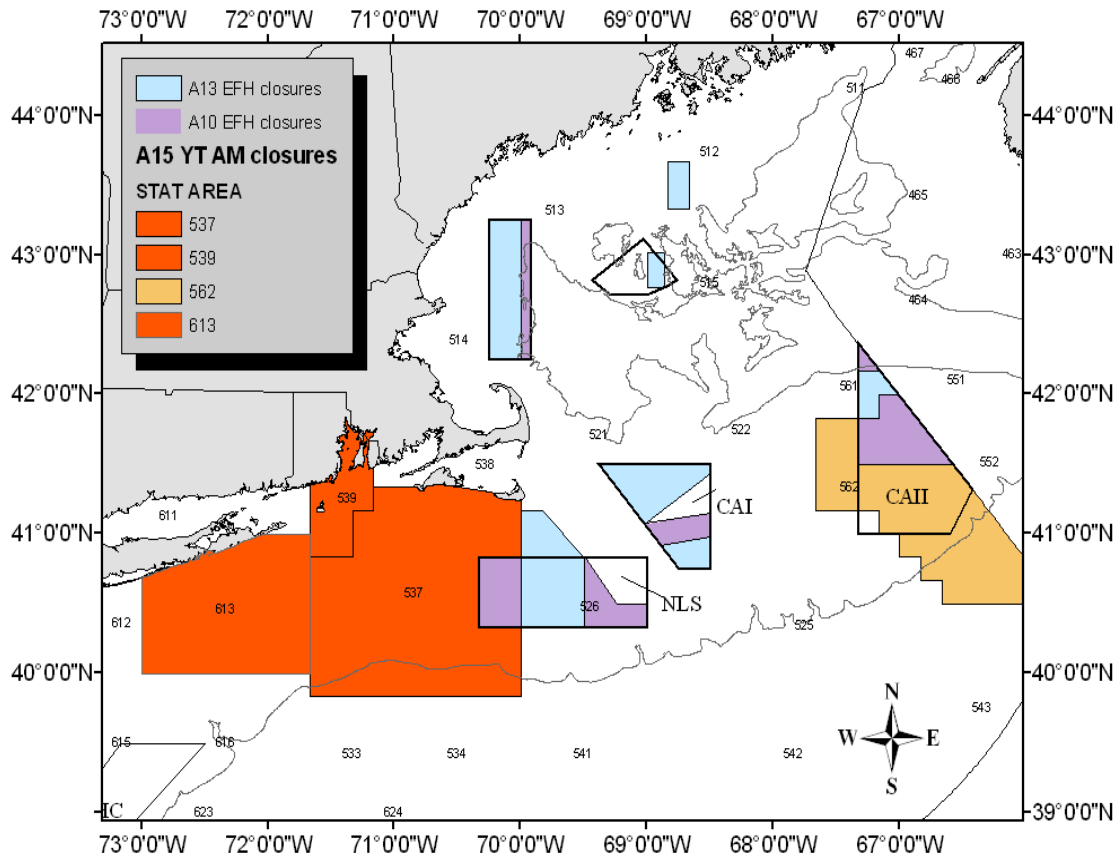
*PDT will do an update analysis of catch from this permit category through 2011 and develop an alternative TAC if needed*

**2.2 MEASURES TO REFINE THE MANAGEMENT OF THE YT FLOUNDER BYCATCH IN THE SCALLOP FISHERY**

Amendment 16 to the Multispecies FMP established a YT sub-ACL for the scallop fishery. For the first year (2010) the groundfish fishery was held accountable if the total ACL was exceeded while the Council developed specific accountability measures for the scallop fishery through the Scallop FMP. By 2011, Amendment 15 to the Scallop FMP was implemented which included a specific AM for the YT sub-ACLs (GB and SNE/MA stocks) for the scallop fishery. If a sub-ACL is exceeded, starting March 1 the following fishing year a pre-identified area (Figure 2) would close to all limited access scallop vessels for a specified period of time. Because the area

for the Southern New England/Mid-Atlantic spans a large amount of the LAGC fishing grounds in that area and bycatch by the fleet was believed to be relatively low, since the fleet is only allocated 5.5% of the projected scallop catch, the Council decided that the LAGC fleet should be exempt from this AM in areas where they are allowed to fish under NE Multispecies FMP exempted fisheries.

**Figure 2 - Map showing statistical areas subject to closure under Option A of this alternative (Orange is SNE/MA stock area, and yellow is GB, Note that GB AM area includes the entire access area in CA2).**



Following Amendment 16 to the Multispecies FMP and Amendment 15 to the Scallop FMP the Council has made several modifications to the overall YT sub-ACL structure to improve effectiveness and optimize yield. Scallop Framework 23 included measures to improve the effectiveness of the YT AMs by refining AM closure schedules to better reflect bycatch rates. Rather than the closures starting on March 1 and remaining closed for successive months based on the percent overage, the areas now close starting with months with the highest bycatch rates first. In addition, Framework 23 also included a measure that would improve the flexibility and effectiveness of YT AMs by authorizing the Regional Administrator to revise decisions regarding implementation of approved AMs based on final estimates of bycatch, if they differ

from preliminary estimates. Finally, Framework 23 also considered specific AMs for the LAGC fishery, but those measures were rejected so they could be addressed in this action instead.

The Council decided to remove the issue of AMs for the LAGC fishery from consideration in Framework 23 for two primary reasons. First, new information became available at the final Council meeting that impacted the type of alternatives developed in this action, as well as the analyses of the alternatives. Second, the Council also discussed work priorities for 2012 at this final meeting and had already discussed that there may be superior solutions to managing bycatch sub-ACLs and AMs that are not currently frameworkable.

In addition to measures taken in the Scallop FMP, there have also been modifications under the Multispecies FMP to improve the effectiveness and management of the YT ACL. The Council recently approved Framework 47 and it included several proposed modifications to improve the administration of the YT sub-ACL. First, if approved, the existing cap that limits the catches of yellowtail flounder in the Georges Bank access areas to 10 percent of the ACL would be eliminated. This measure has had negative impacts on the scallop fishery by causing derby fishing. Because ACLs limit the overall amount of scallops and yellowtail that can be caught, restricting the amount that can be caught in the access areas is seen to be a redundant rule that is no longer necessary to meet mortality objectives.

Two additional measures were adopted by the Council in Framework 47 to change the administration of the sub-ACL. The first would implement AMs for the scallop fishery only if the overall ACLs for either Georges Bank or SNE/MA are exceeded or, if the total ACL for a given broad stock area is not exceeded but the scallop fishery exceeds its sub-ACL for that area by 50 percent or more. The second would use in-season data, when possible, to recalculate the amount of yellowtail flounder in the scallop fishery sub-ACL (Georges Bank only). Both of these measures are expected to still prevent overfishing of YT flounder by keeping total catch under the overall ACL, but provide flexibility to help optimize yield of both scallops and YT flounder under the constraints of the total ACL.

This action is considering three measures that are designed to further refine the management of the YT flounder sub-ACL allocated to the scallop fishery. The first one, modify the GB access area seasonal restrictions, is designed to further reduce yellowtail flounder bycatch and optimize scallop yield by providing limited access in portions of GB closed areas during the time of year with the lowest YT bycatch rate. The second alternative, accountability measures for the LAGC trawl fishery, is designed to improve accountability of bycatch across the fishery since currently only the limited access fishery is subject to AMs if the fishery wide sub-ACL is exceeded. Finally, this action is going to consider modifying when AMs trigger if a YT sub-ACL is exceeded. This alternative is developed to improve the administration of the YT sub-ACL by basing the trigger on a complete dataset from a particular fishing year, rather than the trigger being based on a forecast of catch with an incomplete dataset. Since there is already flexibility to change AMs based on final data, per Framework 23, this would eliminate the need to complete a forecast and potentially impose (or not impose) measures that may have to later be corrected. It has become apparent that under the current data constraints it is not practical to make a forecast of YT catch mid-year for a fishery varies spatially so much from year to year.

DECISION 9

## 2.2.1 Modification of Georges Bank access area seasonal restrictions

### 2.2.1.1 No Action GB access area seasonal restrictions – closure from Feb. 1 – June 14

The access areas in Closed Area I, Closed Area II, and Nantucket Lightship would remain closed to scallop fishing from February 1 through June 14. Any access area trips in those three areas would be restricted to take place between June 15 and January 31.

### 2.2.1.2 Modify GB access area seasonal restrictions

Two primary sources of analysis helped develop the options in this section. The first source of information is an analysis the Scallop PDT completed using observer data in and around access areas on GB. A generalized linear model (GLM) was developed to estimate bycatch rates by month using observer data from months the access areas have been open and modeling the bycatch rates for months the areas have been closed using data observer data from surrounding open areas.

The second source of information is based on results from a 2011 RSA project titled, “*Optimizing the Georges Bank Scallop Fishery by Maximizing Meat Yield and Minimizing Bycatch.*” Fourteen research trips were conducted in both Closed Area I and II from October 2010 through April 2012. Seasonal variations in scallop meat weights and YT flounder bycatch rates were evaluated. The Research Steering Committee reviewed the methods and results for this final report submitted in June 2012 and deemed it sufficient for the PDTs to use in developing management measures, even though additional data will be collected over the next year.

The PDT discussed whether the GB YT AM schedule would need to be revised if the GB AA seasonal restrictions were modified in this action. The PDT believes that modifying the season to better overlap with higher YT catch months is another proactive measure to help reduce YT bycatch overall. Therefore, at this time the PDT did not develop modifications to the GB YT AM schedule based on potential modifications to the GB access area seasons. As it is currently implemented, the CA2 access area would be closed to the scallop fishery starting in October-November if an AM were triggered (Table 19). If this action modifies the seasonal closures it is possible the AM area (CA2) could be closed during the fall already, regardless of whether an AM is triggered or not. Therefore, for lower overage amounts (less than 14%) the current AM schedule for GB YT will only restrict fishing in the open areas within the AM area (stat area 562) (Figure 2). If there is a substantial overage, CA2 would be closed in December (if over 14%), as well as August (if over 16%), as well as July (if over 39%), and all year if the overage if over 56%. Therefore, the PDT believes the current AM schedule would still be effective in combination with the modified seasonal openings for the GB access areas.

**Table 19 – Current GB YT AM schedule for years when CA2 is open**

GB YT AM Schedule (FW23)	
Overage	LA Closure
3% or less	Oct-Nov
3.1-14%	Sept-Nov
14.1-16%	Sept-Jan
16.1-39%	Aug-Jan
39.1-56%	Jul-Jan
Greater than 56%	All year, Mar-Feb

**2.2.1.2.1 Option 1 - Closure period would be modified to provide access during months with highest scallop meat weights to reduce fishing time and scallop fishing mortality**

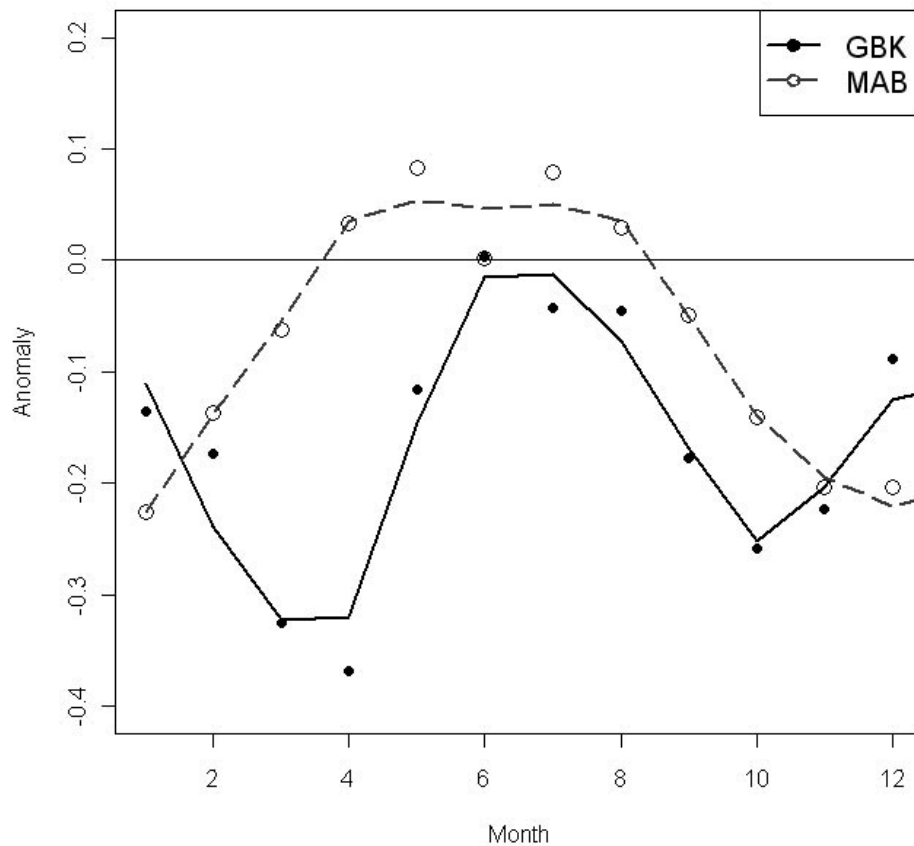
The Scallop PDT reviewed the observer and RSA monthly bycatch data and recommends that one alternative be considered that is primarily based on scallop meat weight variations. The month with the highest meat weights on GB is typically June, and the lowest is October (Figure 3). The average meat weights are about 20% greater in June than in October (See Section ??? for more information about scallop meat weight variation by season).

Since there is a possession limit for access area trips vessels are limited to a specific poundage per trip. Therefore, the greater the meat weight per animal the fewer scallops will be harvested and reduce fishing time compared to fishing when scallop meats weights are less. This translates into less potential bycatch and lower scallop fishing mortality compared to months with lower scallop meat weights in the fall and winter and higher YT bycatch rates in the fall.

The PDT recommends this alternative close all three access areas from September 1 – April 30. The areas would be closed for 8 and open for 4. All three access areas would have the same schedule.



Figure 3 – Scallop shell height: meat weight anomaly for GB and MA (Hennen and Hart, *In press*)



**2.2.1.2.2 Option 2 - Closure period would be modified to only the months with highest yellowtail flounder bycatch**

The Scallop PDT reviewed the observer and RSA monthly bycatch data and recommends that one alternative be considered that would only close the areas during the time of year with highest YT bycatch rates and presence of YT. Looking at both sources of data, the months when YT bycatch rates are highest are September – December (See section ??? for a summary of the monthly bycatch rate information).

The PDT recommends this alternative close all three access areas from Sept. 1 – Dec. 31.

**2.2.1.2.3 Option 3a - Closure period would take into account scallop meat weights, YT bycatch, and traditional fishing trends**

The Scallop PDT also discussed that it could be beneficial to consider an alternative that is based on the months when meat weights are poor, YT bycatch is high, and also takes into account traditional fishing trends. Specifically, this alternative would close the areas consistent with Option 2 when YT bycatch rates are highest, but it would be more restrictive to also limit fishing when scallop meats are poor to reduce scallop fishing mortality. Finally, this alternative would

also provide for a very limited amount of fishing in the winter when some vessels traditionally take a “Christmas trip”.

The Scallop PDT considered GF PDT input on this issue when designing this option. Specifically, the GF PDT commented that for CA2 the months of May, June and July appear to be the months most likely to minimize catches of YT and WP. For YTF, the months of August – November should be avoided to reduce catches of YTF. For WINP, the months of March and April should be avoided. In terms of YT spawning, the months of May and June should be avoided; but to date there has been no research on the impacts of fishing activity on YT spawning and no research available that identifies specific spawning locations.

The PDT recommends that this alternative close all three access areas from March 1-April 30, September 1-November 30, and again from January 1-February 28/29. That would leave the areas open from May 1 – August 31 and again for the month of December. Overall the areas would be closed for 7 months and open for 5.

#### **2.2.1.2.4 Option 3b – Advisory Panel recommendation**

Based on an AP recommendation, the Committee revised one of the GB seasonal closure alternatives so that only CA2 would be closed from Aug15-Nov15 and no closures for CA1 and NL. The main rationale provided from the AP meeting was that overall bycatch is low in CA1 and there does not seem to be a strong seasonal difference. For NL the bycatch rates of SNE/MA YT are not as high in the access area compared to other areas farther west (south of Long Island). Therefore, imposing a seasonal restriction may not do much and could actually shift effort into higher bycatch areas if vessels fish in open areas when NL is closed. Based on input from the monthly bycatch program in CA2 it was explained that there are areas outside of CA2 (to the south and west) that have high bycatch of YT in June and July, but then fish seem to move on the bank in late summer and fall (in Closed Area 2). It should be noted that WP flounder bycatch is highest in CA2 between Jan-March. Therefore, overall for CA2, the Aug15-Nov15 season is a combination of the lowest meat weights and highest YT bycatch.

This option would only have a seasonal restriction for Closed Area II from August 15-November 15; the other two access areas on GB would be open year round.

#### **2.2.1.3 Eliminate GB access area seasonal restrictions**

This alternative would remove any seasonal restriction for scallop fishing in portions of the existing GF closed areas. This alternative may be selected if it is found that limited scallop fishing in portions of the GF closed areas year round would not have substantial negative impacts on groundfish mortality and spawning.

The current seasonal closures have been in place since 1999, the first year the scallop fishery was granted access into Closed Area II. Framework 11 ultimately prohibited scallop fishing from February 1 through June 14 to avoid disrupting spawning aggregations of overfished groundfish stocks that spawn primarily during the spring and early summer months.

**Table 20 – Summary of GB Access Area seasonal restriction alternatives under consideration in FW24**

Access Area	No Action	Modify Season				Eliminate Season	
		Option 1	Option 2	Option 3A**	Option 3B		
	All areas	All areas	All areas	All areas	CA2	CA1/NL	All Areas
Mar	C	C	O	C	O	O	O
Apr	C	C	O	C	O	O	O
May	C	O	O	O	O	O	O
Jun	O (6/15)	O	O	O	O	O	O
Jul	O	O	O	O	O	O	O
Aug	O	O	O	O	C (Aug 15)	O	O
Sep	O	C	C	C	C	O	O
Oct	O	C	C	C	C	O	O
Nov	O	C	C	C	C (Nov 15)	O	O
Dec	O	C	O	O	O	O	O
Jan	O	C	O	C	O	O	O
Feb	C	C	O	C	O	O	O
<b>Total Months Closed</b>	<b>4.5</b>	<b>8</b>	<b>3</b>	<b>7</b>	<b>3</b>	<b>0</b>	<b>0</b>

\*\* Scallop Cmte replaced Option 3A with 3B, but Scallop PDT wants Committee to reconsider or develop a different alternative that is similar

### 2.2.2 Measures to address YT flounder bycatch in the LAGC fishery

At the very end of the process for Framework 23 the Council learned that the YT bycatch rate for the LAGC trawl fishery is substantially higher than the LA and LAGC dredge fisheries. The Council wanted to take more time to develop specific accountability measures for this segment of the fleet since the measures in FW23 were for the LAGC fishery combined. As the process developed the Committee decided to expand the range of alternatives to include possible subdivisions of the scallop fishery sub-ACL of YT, thus specific AMs have been developed for LAGC vessels that use dredge as well as trawl gear.

The LAGC fishery does catch YT in some areas and fisheries. However, it is limited to the SNE/MA YT stock and CC/GOM YT by dredge vessels only. In 2011 and 2012, the LAGC trawl fishery has caught a substantial percent of the total SNE/MA YT catch by the scallop fishery; about 17% of the catch in 2011 and over 23% of the catch in FY2012 to date (Table 21). The LAGC dredge fishery has caught between 1-2% of the total SNE/MA YT catch. Therefore, the following AMs have been developed focusing on LAGC trawl vessels fishing in SNE/MA and LAGC dredge vessels if their total catch exceeds a specific threshold only.

**Table 21 – Estimate of YT catch by the scallop fishery by permit type for FY 2011 and FY2012 to date (March-October 10, 2012). Source: NOAA Fisheries Sea Scallop Fishery Monitoring website (<http://www.nero.noaa.gov/ro/fso/scal.htm>)**

**2011**

	Limited Access Vessels				LAGC Vessels				Total		
	Kept	Discards	Catch	% of ACL	Dredge	Trawl	Dredge (%Total)	Trawl (%Total Catch)	Total catch	sub-ACL	% of ACL
<b>GB</b>	22399	162489	184888	41.8% (99.9% catch)	80	19	0.0%	0.0%	184987	442688	41.8
<b>SNE/MA</b>	2105	198705	200810	111% (82.2% catch)	2707	40958	1.5% (1.1% catch)	22.5% (16.8% catch)	244275	180779	135.2

**2012 (March-Oct 24)**

	LA Vessels		LAGC Vessels				Total		
	Catch	% of ACL	Dredge	Trawl	Dredge %ACL	Trawl %ACL	Total catch	sub-ACL	% of subACL
<b>GB</b>	340529	98.40% (99.9% catch)	73	0	0.02%	0.00%	340602	345905	98.50%
<b>SNE/MA</b>	89751	32.00% (75% catch)	2323	28061	0.80% (1.9% catch)	10.00% (23.4% catch)	120136	279987	42.90%

**2.2.2.1 No Action YT bycatch in the LAGC fishery – catch under the scallop fishery sub-ACL with no AMs**

Under No Action, the only fleet subject to the YT AMs is the limited access scallop fishery. Vessels with a LAGC permit (dredge and trawl) would not be subject to potential closures. YT catch by LAGC vessels will still count against the scallop fishery YT sub-ACLs (GB and SNE), but if an AM is triggered, LAGC vessels are exempt.

**2.2.2.2 YT AMs for LAGC vessels using trawl gear**

LAGC vessels may only use trawl gear on declared scallop trips in the MA. East of 72°30', LAGC vessels on a declared IFQ trip must fish in the scallop dredge exemption areas, requiring the use of dredges. If fishing on a declared groundfish trip (targeting groundfish and using trawl gear), an LAGC vessel may land up to 600 lb of their scallop IFQ, but any YT catch would go against the vessel sector ACE or common pool sub-ACL. Therefore, the amount of trawl effort on scallop trips is limited to the MA west of 72°30'.

Since there is no trawl fishing on GB it is not necessary to have an AM for this segment of the fishery. This action does not consider an AM for LAGC trawl vessels for GB YT.

**2.2.2.2.1 Southern New England / Mid-Atlantic YT AM**

The only YT stock area that LAGC trawl vessels fish in is the SNE/MA YT stock area. For the last two years this component of the scallop fishery has caught a substantial percentage of the total YT catch.

**2.2.2.2.1.1 LAGC trawl AM for SNE/MA YT – Option 1 – area restriction**

If the overall SNE sub-ACL for the scallop fishery is exceeded the AM for LAGC vessels with trawl gear would be a prohibition on the use of trawl gear in statistical areas 612 and 613 for a specified period of time to account for the overage. Vessels with trawl gear will NOT be permitted to switch to dredge gear and fish in areas closed by this AM.

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The AM schedule will be the same as the LA AM schedule, except the closure will only apply to LAGC vessels up to a 15% overage. If the scallop fishery catch exceeds 15% the area would only remain closed to LA vessels. This modification was developed to recognize that these vessels are more limited in terms of areas they can fish. The AM area would be closed during the spring and winter when bycatch rates are typically higher, and the area would remain open for LAGC trawl vessels during part of the year they historically fish in this area to minimize impacts. Overall, the AM would be effective compared to No Action because it would eliminate LAGC trawl fishing during months with higher bycatch of YT. No matter what the overage is, LAGC trawl vessels would be allowed to fish in the AM area during the months of July – October.

**Table 22 – SNE/MA YT AM schedule based on overage of sub-ACL. After 15% overage LAGC vessels with trawl gear would be permitted to fish in the AM area.**

Overage	AM Closure
2% or less	Mar-Apr
2.1-3%	Mar-Apr, and Feb
3.1-7%	Mar-May, and Feb
7.1-9%	Mar-May, and Jan-Feb
9.1-12%	Mar-May, and Dec-Feb
12.1-15%	Mar-June, and Dec-Feb
15.1-16%	Mar-June, and Nov-Feb
16.1-18%	Mar-July, and Nov-Feb
18.1-19%	Mar-Aug, and Oct-Feb
19.1% or more	Mar-Feb

**2.2.2.2.1.2 LAGC trawl AM for SNE/MA YT – Option 2 – gear restriction in 613 and 612**

If the overall SNE sub-ACL for the scallop fishery is exceeded the AM for LAGC vessels with trawl gear would be a prohibition on the use of trawl gear in statistical areas 612 and 613 for a specified period of time to account for the overage. Vessels with trawl gear WOULD be permitted to switch to dredge gear and fish in areas closed by this AM. Vessels would be permitted to switch back to trawl gear later in the year or when fishing in areas outside of the AM closure.

The AM schedule will be the same described above for Option 1 – same as the LA AM schedule, except the closure will only apply to LAGC vessels up to a 15% overage.

### 2.2.2.2.1.3 LAGC trawl AM for SNE/MA YT – Option 3 – gear restriction

If the overall SNE sub-ACL for the scallop fishery is exceeded the AM for LAGC vessels with trawl gear would be a prohibition on the use of trawl gear in any part of that YT stock area for the following fishing year. A vessel would be permitted to convert to dredge gear for the following fishing year. If a vessel does convert to dredge gear it would be subject to any AMs the LAGC dredge vessels are subject to. A vessel could revert to a trawl vessel after the year an AM is effective or stay as a dredge vessel.

### 2.2.2.3 YT AMs for LAGC vessels using dredge gear

Recent catches of GB YT by the LAGC dredge fishery are relatively minor, 1-2% of the total SNE/MA sub-ACL. Therefore, the PDT recommends that AMs be considered for the LAGC dredge fishery, but only if that segment of the fishery catches more than a specified percentage of total catch.

#### 2.2.2.3.1 Southern New England / Mid-Atlantic YT AM

If the total sub-ACL is exceeded and an AM is triggered for the scallop fishery, the LAGC dredge fishery would not have a specific AM unless their estimated catch was more than 3% of the total catch by the scallop fishery. If their catch is more than 3% of the SNE/MA YT sub-ACL the same LA AM area would close to LAGC vessels, but under a different schedule. The LA AM schedule was modified to recognize that LAGC dredge vessels are not as mobile and there are some vessels that would be disproportionately impacted by these measures. Therefore, a schedule was developed that leaves some of the AM area open for parts of the year when traditional fishing has occurred, but closes the areas during higher YT bycatch months. Specifically, area 539 could close all year if the overage is over 16% because that area has the highest bycatch rates historically. Area 537 would never close to LAGC dredge vessels between July-October regardless of the overage, and area 613 would never close June – January. These modifications to the schedule were designed to minimize impacts on smaller dredge vessels, but close the areas during higher YT bycatch months.

DECISION 11

The 3% overage exemption was included to recognize that bycatch from this segment of the fishery is typically very small and these closures could impact some vessels disproportionately. However, 3% was viewed as a level that would still keep this segment of the fishery accountable for YT bycatch and provide incentive to reduce YT bycatch.

**Table 23 – SNE/MA YT AM schedule for LAGC dredge vessels if scallop fishery AM is triggered and ALGC dredge catch is more than 3% of total catch**

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

### 2.2.2.3.2 Georges Bank YT AM

There is very little LAGC dredge effort in the GB YT stock area, mostly confined to CA1 access area trips. There is essentially no YT bycatch from this segment of the fleet, but if the Council wants to have an AM in place the measure should be the same as the LA fishery. If an AM is triggered, statistical area 562, including all of the access area within CA2, would close to LAGC dredge vessels under the same AM schedule already in place for LA vessels. See Figure 2 and Table 24.

**Table 24- GB YT AM Schedule – varies depending on whether CA2 is closed or open**

GB YT AM Schedule – CA2 CLOSED		GB YT AM Schedule – CA2 OPEN	
Overage	LA Closure	Overage	LA Closure
1.9% or less	Sept-Nov	3% or less	Oct-Nov
2.0 - 2.9%	Aug-Jan	3.1-14%	Sept-Nov
3.0 – 3.9%	Mar, Aug-Feb	14.1-16%	Sept-Jan
4.0 – 4.9%	Mar, Jul-Feb	16.1-39%	Aug-Jan
5.0 – 5.9%	Mar-May, Jul-Feb	39.1-56%	Jul-Jan
6% or greater	All year	Greater than 56%	All year, Mar-Feb

## 2.2.3 Timing of AMs for the scallop fishery YT flounder sub-ACL

DECISION 12

### 2.2.3.1 No Action timing of YT AMs – AMs trigger in subsequent year (Year 2)

Under No Action, NMFS makes a determination on or about January 15 if the scallop fishery is expected to exceed the YT flounder sub-ACLs for that fishing year. This determination is based on a projection that includes assumptions of expected scallop for the remainder of the fishing year, as well as yellowtail bycatch rates from the previous year’s observer data if those data for the current FY are not available. Before the start of the next fishing year NMFS announces if AMs are triggered, based on the January projection, and predefined areas would close to the limited access scallop fishery based on the AM schedule in Framework 23 and the AM trigger thresholds outlined in FW47 to the NE Multispecies FMP. Once all the data are available for the previous year (i.e., full FY scallop landings, full FY observer data), NMFS re-estimates YTF

catch and, if the new estimate shows a different conclusion when compared to the sub-ACLs than the initial projection, could re-evaluate the decision to trigger AMs.

### **2.2.3.2 AMs trigger in Year 2 (if reliable data available mid-year) or Year 3 (after a full year of data available)**

This alternative would alleviate the need to develop a mid-year estimate to determine if AMs trigger in circumstances when reliable information is not available. If adopted, should reliable information be available that a YTF sub-ACL has been exceeded during a fishing year, the respective AM for that YTF stock area would be implemented at the start of the next fishing year (i.e., the No Action approach outlined above; “Year 2” implementation). This approach could be used in situations where the ACL for a stock is low, an overage is known early in the fishing year, and AM determinations are based on actual catch and landings rather than projections.

However, under this alternative, if reliable information is not available to make a mid-year determination of the need to implement an AM for the YTF sub-ACL, NMFS would wait until enough information is available (i.e., when the total observer and catch data is available for that FY) before making a decision to implement an AM. AMs would not be implemented mid-year so, under this scenario, the AMs would be implemented in Year 3.

Because of the complexity of administering the YTF AM in the scallop fishery, this alternative would streamline the overall process for determining if an AM in the scallop fishery should be triggered. Because FW47 to the NE Multispecies FMP requires a determination of whether or not the total YF flounder ACL has been exceeded, and because that information wouldn’t be fully available until after the April 30<sup>th</sup> end of the mults FY, this alternative reduce the administrative and industry burden of continuously re-evaluating the AM determination, depending on data variability. This alternative is also consistent with a similar alternative being considered in FW48 to the NE Multispecies FMP.

## **2.3 MEASURES TO IMPROVE THE FLEXIBILITY AND EFFICIENT USE OF LAGC IFQ BY ALLOWING TRANSFER OF QUOTA MID-YEAR**

DECISION 13

Members of the LAGC IFQ fishery requested that the Council consider this measure to improve the effectiveness of the IFQ program. Some vessels are hesitant to lease because regulations currently prevent re-leasing. Therefore, if something happens during the year that prevents a vessel from harvesting leased quota, like a failed engine or health issue, that vessel cannot release the quota to recoup the cost. In addition, if a vessel has fished any of its annual quota in a fishing year, it is not permitted to lease out during the same fishing year. These two restrictions were included in Amendment 11 due to concerns about the ability to manage all the lease transfers in this fishery in a timely way. Now that NMFS has more experience with sector management and leasing between sectors, it may be more feasible to provide more flexibility.

### **2.3.1 No Action – Sub-leasing and leasing IFQ during the year (if portion fished) is prohibited**

Currently if a vessel with a LAGC IFQ permit has landed any scallops during a fishing year, it is prohibited from leasing out quota. In addition, IFQ can only be transferred once during a given



fishing year, sub-leasing is not permitted. Applications for IFQ transfers must be submitted 30 days before the date on which the applicants desire to have the IFQ effective. These provisions do not apply to vessels that have both a LAGC IFQ and LA scallop permit. Those vessels are prohibited from leasing LAGC IFQ altogether.

### **2.3.2 Allow transfer of LAGC IFQ during the year**

This alternative would allow sub-leasing and transfer of quota after an LAGC IFQ vessel landed scallops and would allow IFQ to be transferred more than once. This alternative, if selected, is composed of two parts that would be implemented separately.

First, an LAGC vessel would be allowed to lease out the remainder of its base allocation after it has fished some of its original IFQ. For example, a vessel that has a base allocation of 10,000 lb only lands 2,000 lb before deciding to stop fishing for scallops for the remainder of the year. Under this alternative, the vessel would be able to transfer (temporarily or permanently) out its remaining 8,000 lb to other IFQ vessels during the fishing year. Because this is a relatively minor adjustment to how NMFS monitors the fishery, and does not involve extensive programming changes, NMFS would be able to implement this portion of the alternative along with other Framework 24 measures (i.e., May 2013), if approved.

The second aspect of this alternative would enable an IFQ vessel to transfer IFQ that it received through a previous transfer (i.e., a sub-lease to another vessel) to or another IFQ vessel or vessels. For example, a vessel that has a base allocation of 10,000 lb also leased in 5,000 lb from other IFQ vessels. After fishing only 2,000 lb, the vessel's engine blows. Under this alternative, the vessel would be allowed to lease (or permanently transfer) out its remaining quota to one or more vessels, including both its base allocation and the quota it has leased in. Furthermore, that quota could be fished on another vessel in the same year. This provision allows for quota to be transferred more than once during a fishing year and for that quota to be fished from multiple vessels.

Because sub-leasing will add more complexity to IFQ monitoring, and because NMFS is currently making a number of programming changes to the databases to improve monitoring in this fishery, NMFS would be able to implement this by March 2014 (i.e., following the completion of other adjustments). Waiting until the start of FY 2014 will also avoid implementing a sub-leasing alternative mid-year, which would further complicate IFQ accounting for FY 2013.

In order to process IFQ sub-leasing applications, NMFS would require that both parties involved in a sub-leasing request (i.e., the transferor and the transferee) must be up-to-date with their data reporting (i.e., all VMS catch reports, VTR, and dealer data must be up-to-date).

Because this alternative would increase the complexity of NMFS IFQ monitoring, cost recovery fees would likely increase if this alternative is selected.

This alternative does not change the carryover provision that a vessel is permitted to carryover up to 15% of its original quota allocation, including leased quota.

The deadline for leasing would remain the same, 45 days before the end of the fishing year.

These provisions do not apply to vessels that have both a LAGC IFQ and LA scallop permit. Those vessels are prohibited from leasing or permanently transferring LAGC IFQ altogether.

This alternative would also require adjustments to how NMFS applies scallop IFQ towards the ownership and vessel caps. Sub-transfers complicate the ownership/vessel cap accounting, requiring stronger controls. To ensure accurate accounting and avoid the potential for abuse of the IFQ cap restriction, all pounds that have been on a vessel during a given FY should be counted towards ownership or vessel caps, no matter how long the pounds were "on" the vessel (i.e., even if a vessel leases in 100 lb and transfers out those pounds 2 days later, those 100 lb should count towards the caps).

For example, Owner A has an IFQ permit on Vessel 1 with an allocation consisting of 2.5% of the total IFQ allocation and also has a permit on Vessel 2 with an allocation of 2.0%, for a total of 4.5% ownership of the total IFQ allocation. If Owner A leases in an addition 0.5% onto Vessel 2 and then sub-leases that 0.5% to another vessel owned by a separate entity (Owner B), because those pounds were under his ownership at one point during the given FY, he would still have reached his ownership cap, as well as the vessel caps for both vessels. As such, Owner A could continue to lease out (or permanently transfer) IFQ pounds to other owners, but could not transfer in any more IFQ until the next FY.

## **2.4 MEASURES TO EXPAND THE CURRENT OBSERVER SET-ASIDE PROGRAM TO INCLUDE LAGC VESSELS IN OPEN AREAS**

DECISION 14

This topic was first raised by the PDT. The observer coverage rate for the LAGC fishery in open areas is generally much lower than the observer coverage rate for LAGC access area fishing and LA fishing since those activities are included in the industry funded observer program. Having more precise bycatch information for all segments of the scallop fishery would be beneficial. Therefore, this section includes an alternative to expand the observer set-aside program to include LAGC vessels in open areas. This section also considers increasing the observer set-aside if it is determined that 1% is not sufficient to cover the desired coverage levels. Finally, during development of this measure it was discussed that the program could be more flexible if observer set-aside was not area specific.

The Observer set-aside program was first used when scallop vessels gained access into portions of GF closed areas under FW11/FW39. The set-aside program was expanded in Amendment 10 to include other access areas and open areas. This program has enabled higher observer rates in the scallop fishery compared to other fisheries in the region. However, there is one segment of the scallop fishery with lower bycatch rates (LAGC fishing in open areas) that could benefit from more coverage. Particularly now that the scallop fishery is subject to bycatch sub-ACLs, it would be useful to have more observer data to rely on for monitoring these ACLs more precisely.

*Older table to be replaced with more recent years*

**Table 25 – Summary of observed trips in the scallop fishery from observer set-aside program**

	2008		2009		2010* (as of 1/06/11)	
	Trips	DAS	Trips	DAS	Trips	DAS
<b>Elephant Trunk</b>	<i>4 trips allocated</i>		<i>3 trips allocated</i>		<i>2 trips allocated</i>	
Limited Access	213	1752	113	1007	49	497
General Category	150	246	116	268	0	0
<b>Delmarva</b>	<i>Closed</i>		<i>1 trip allocated</i>		<i>1 trip allocated</i>	
Limited Access	Closed		37	299	36	300
General Category	Closed		37	82	19	33
<b>Closed Area II</b>	<i>Closed</i>		<i>1 trip</i>		<i>Closed</i>	
Limited Access	Closed		23	199	NA	NA
General Category	Closed		NA		NA	
<b>Nantucket Lightship</b>	<i>1 trip allocated</i>		<i>Closed</i>		<i>1 trip allocated</i>	
Limited Access	34	244	Closed		31	221
General Category	106	193	Closed		Closed	
<b>Open Areas</b>	<i>35 DAS allocated</i>		<i>37 DAS allocated</i>		<i>29 DAS allocated</i>	
Limited Access	126	1195	135	1359	119	1200
General Category	N/A – not part of set-aside program		N/A – not part of set-aside program		N/A – not part of set-aside program	
<b>TOTAL</b>	<b>675</b>	<b>3726</b>	<b>461</b>	<b>3214</b>	<b>223</b>	<b>2030</b>
<b>Limited Access</b>	<b>373</b>	<b>3191</b>	<b>308</b>	<b>2864</b>	<b>204</b>	<b>1997</b>
<b>General Category</b>	<b>256</b>	<b>436</b>	<b>153</b>	<b>350</b>	<b>19</b>	<b>33</b>
Additional non-RSA federally funded days (GC Open Area)	46	96	41	66	84	124

*\*2010 data is incomplete and considered preliminary*

#### **2.4.1 No Action – LAGC observed trips in open areas are not under the scallop observer set-aside program – directly funded by NMFS**

Currently, if a LAGC vessel is required to carry an observer on a trip fishing in open areas, on a non-access area trip, the Northeast Fisheries Observer Program covers the cost of that observer. All other scallop trips (LAGC trips in access areas, LA trips in both open and access areas) are under the Scallop Observer Set-aside Program. If a vessel is required to carry an observer in these fisheries the vessel is responsible to pay for the observer. The vessel is compensated in either additional pounds in access areas or DAS in open areas to help defray the cost of the observer. These pounds and DAS are set-aside and equal to one-percent of the total ACL. Under No Action, LAGC trips in open areas will continue to be funded directly by the Northeast Fisheries Observer Program, and will not be under the observer set-aside program.

## **2.4.2 Include open area trips by LAGC vessels under the current observer set aside program**

All LAGC vessels would be required to call in weekly with their expected trip usage, similar to current requirements for LAGC trips in access areas. If required to carry an observer that vessel would be permitted to land an additional poundage of scallops, either on that trip above the possession limit, or on a subsequent trip that fishing year. The compensation for carrying an observer in open areas would essentially be like an additional allocation of quota, except it could not be transferred to another vessel or carried over to the following fishing year. The compensation poundage would be set by NMFS the same time other compensation rates are available. A LAGC vessel would receive compensation based on a trip level basis, not per day. The pounds would be deducted from the set-aside available for open areas, unless modified by Alternative 2.4.2.1.2.

The Agency is not responsible for regulating the price of an observer, but it is assumed that if a LAGC trip in open areas is a fraction of a day, say less than 15 hours there should be a lower charge for that observer than a trip that is 24 hours or more.

### **2.4.2.1 Modify the observer set-aside allocation**

DECISION 15

#### **2.4.2.1.1 No Action observer set aside allocation – 1% of ABC/ACL**

One-percent of the total ACL for the scallop fishery would be set-aside to compensate vessels for the cost of carrying an observer, as specified under Amendment 15 and would be divided proportionally into access areas and open areas in order to set the compensation and coverage rates and monitor this set-aside harvest by area. Under No Action, these area-specific TACs will continue to be specified in the regulations. If the set-aside for a given area is fully harvested, based on the TACs in the regulations, there would be no mechanism to transfer TAC from one area to another. As a result, any vessel with an observed trip in an area with no remaining observer set-aside would have to pay for the observer without compensation.

#### **2.4.2.1.2 Same allocation (1% of ABC/ACL) but not area specific**

One-percent of the total ACL for the scallop fishery would be set-aside to compensate vessels for the cost of carrying an observer, as specified under Amendment 15. Although the specification-setting frameworks would still have to divide up the observer set-aside proportionally by access and open areas in order to set the compensation and coverage rates and for monitoring purposes (i.e., in order to determine if fishing activity in one area is using up more of the set-aside compensation than anticipated when the compensation rate was set), these TACs would not be officially set in the regulations. Instead, set-aside could be transferred from one area to another, based on NMFS in-house area-level monitoring that determines whether one area will likely have excess set-aside while another may not. The set-aside would be considered completed harvested when the full one percent is landed, at which point there would be no more compensation for any observed scallop trip, regardless of area. NMFS would continue to proactively adjust compensation rates mid-year in order to minimize the chance that the set-aside would be harvested prior to the end of the FY.

## **2.5 ACCOUNTABILITY MEASURES FOR POTENTIAL SNE/MA WINDOWPANE FLOUNDER SUB-ACL**

The Council passed a motion in June 2012 to consider allocating a sub-ACL for SNE/MA windowpane flounder to the scallop fishery. If that action is taken in Framework 48 to the Multispecies FMP associated AMs will need to be implemented as well.

- No Action
- AMs in this action
- ***AMs in FW25 – developed and approved in 2013 – effective for March 2014***

## **3.0 OTHER MEASURES**

The following information is included in this section so that all allocations and fishery information is included in this document. These measures did not require specific Council action or analysis, as the processes that set these specific allocations have already been analyzed in previous scallop actions or they specified through other fishery actions but related to the scallop fishery.

### **3.1 AUTOMATIC MEASURES (COUNCIL ACTION AND ANALYSIS NOT REQUIRED)**

#### **3.1.1 TAC set-asides for observers and research**

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 (See Figure ???).

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 to projected catch to a set poundage of 1.25 million pounds. 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 2013 and 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 default 2013 set-aside for the scallop observer program is 632,727 pounds (1% of the ABC=ACL). This is an area specific TAC so each area has a set poundage (Table 26). These values would stay in effect until replaced by a subsequent action.

**Table 26 – Summary of observer set-asides by area for the 2013 default measures approved in Framework 22**

	2013
<b>Total ABC/ACL</b>	<b>63,272,680</b>
HC	126,672
DMV	42,224
CAI	N/A
CAII	79,616
NL	84,448
<b>Total AA</b>	<b>332,960</b>
Open areas	299,767
OA LPUE	2,676
OA DAS	112.0
All Areas	632,727

As described above, the research set-aside under FW24 will remain at 1.25 million pounds, as approved in Amendment 15. The observer set-aside will equal 1% of the ABC approved in this action (update after final ABC value is approved by SSC – August/Sept 2012).

The research priorities used for the RSA set-aside are defined by the Council. For 2013 and 2014 the Council approved research priorities at April 2012 Council meeting and these priorities were forwarded to NMFS for future funding solicitations. The priorities are summarized below.

### **3.1.1.1 Research priorities for 2013 and 2014**

HIGHEST PRIORITIES (not listed in order of importance):

- An intensive industry-based survey of each of the existing access areas (Closed Area I, Closed Area II, Nantucket Lightship, Delmarva, and Hudson Canyon). The primary deliverable of these surveys would be to estimate total allowable catches (TACs) under the rotational area management program if the data from these surveys are available by August of the prior fishing year.
- 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 distributional patterns as well as the associated discard mortality rates of yellowtail flounder, and other key bycatch species.
- 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).

MEDIUM PRIORITY (not listed in order of importance):

- Other resource surveys, to expand and/or enhance survey coverage in areas that have the potential to be important resource areas, but currently have a lack of comprehensive survey coverage.
- Research to support the investigation of the 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 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.

- Studies aimed at addressing issues that were identified as research priorities at the latest assessment: i.e. incidental gear mortality, discard mortality and seasonal growth of scallops.

OTHER PRIORITIES (not listed in order of importance):

- 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).
- 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.
- Habitat characterization research including, but not limited to: video and/or photo transects of the bottom within scallop access areas and within 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 which 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.
- Scallop and area management research, including but not limited to: evaluation of ways to control predation on scallops; 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.
- 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 “Study fleet”, electronic monitoring, dockside monitors, bag tags, etc.).

### 3.1.2 Updated YT projections for 2013 and 2014

This section includes a summary of the updated YT flounder bycatch projections based on FW24 allocations. The Groundfish FMP is the plan that sets the YT flounder sub-ACL for the scallop fishery. Framework 48 to the Multispecies FMP is considering sub-ACL alternatives for the scallop fishery. The document includes three alternatives: Option 1 - No Action (sub-ACLs based on information available and appropriate); Option 2 – for GB sub-ACL specified as 90% of estimated catch; and Option 3 – GB sub-ACL based on 8% or 16% percent of US ABC based on recent catch history. *See separate memo from PDT with catch estimates for allocation scenarios.*

*FW48 silent about allocating sub-ACLs for SNE/MA YT – Council will have to specify the sub-ACL but not based on a particular method.*

**Based on analyses in Framework 48 to the Multispecies FMP, the Council recommends ??? for 2013 and ??? for 2014.** This value was set and analyzed in a separate action (Framework 48 to the Multispecies FMP) but has been referenced here to help keep track of decisions being taken in other actions related to the scallop fishery.

For 2012 the allocations were set at 307.5 mt for GB YT and 126 mt for SNE YT. The Council later recommended that, *“NMFS utilize existing authority provided in Groundfish Framework Adjustment 47 to immediately transfer all but 156.9mt (90% of the 174.3mt) of Georges Bank Yellowtail Flounder from the scallop sub-ACL to the groundfish sub-ACL, based on the revised high projection of 2012 Georges Bank Yellowtail Flounder bycatch by the scallop fleet. Any additional unused Georges Bank Yellowtail Flounder should be transferred to the groundfish fleet by January 15th, as outlined in the existing regulations and based on actual scallop fleet Georges Bank Yellowtail Flounder catch data from FY2012.”*

If NMFS agrees with this recommendation the new sub-ACL for the scallop fishery will be 156.9mt for FY2012. However, the Council requested that NMFS also consider an Emergency Action to, *“temporarily relieve the scallop fishery from any AM triggered by catch of yellowtail flounder less than 307mt that under the current scallop regulations would be required if the sub-ACL is exceeded in 2012. Instead the pound for pound repayment provisions of the US/CA agreement could be utilized should the TAC be exceeded for FY 2012.”*

The allocations for 2013 and 2014 are expected to be updated in Framework 48 to the Multispecies FMP in November 2012. If FW24 modifies the scallop allocation specifications (access area trips and DAS allocations) for 2013 and 2014 the estimates of projected YT catch will likely be different than the estimates for the default 2013 scallop allocations. In addition, these analyses include updated biomass and fishery information for YT and scallop resources compared to the projections completed in FW22. Finally, these estimates provide a range of potential projected YT catch for both stocks based on the uncertainty in the various assumptions and constraints with the input information used in the models.

Appendix II summarizes the methods used to estimate YT catch and updated results for 2013-2015.

### **3.1.3 Potential SNE/MA windowpane sub-ACL**

The Council passed a motion in June 2012 to consider allocating a sub-ACL for SNE/MA windowpane flounder to the scallop fishery. If that action is taken in Framework 48 to the Multispecies FMP there will be a specific sub-ACL for the scallop fishery as bycatch.

The Council recommended that the sub-ACL for the scallop fishery should be based on 90<sup>th</sup> percentile of recent catches from 2001-2010 (11/2/2). **Therefore, the Council recommends ??? for 2013 and 2014.** This value was set and analyzed in a separate action (Framework 48 to



the Multispecies FMP) but has been referenced here to help keep track of decisions being taken in other actions related to the scallop fishery.

The Council also recommended that the mixed stock exemption potentially be considered for this species.

## **3.2 CONSIDERED BUT REJECTED ALTERNATIVES**

### **3.2.1 Prohibit LAGC vessels from using trawl gear**

The Scallop Committee discussed this alternative as a way to reduce YT bycatch in the scallop fishery. However it was clarified by NMFS during the process that consideration of completely prohibiting use of a gear type overall, not just as an AM, is not a frameworkable change to the FMP. Prohibition of a specific gear type can be an AM, and considered by framework, but consideration of prohibiting the gear overall is not frameworkable. Such a prohibition would need to be considered in an amendment.

### **3.2.2 Increase the observer set-aside allocation to reduce risk of set-aside being used with addition of LAGC trips in open areas**

If Alternative 2.4.2 is selected, LAGC trips in open areas under the observer set-aside program, this alternative would increase the observer set aside slightly to account for more observer coverage under this program. Including this additional coverage should only require a small increase in observer coverage (5% of total open area catch allocated to LAGC vessels); therefore a small increase in observer coverage would reduce the risk of exceeding the set-aside requiring vessels to pay for observers without compensation from the set-aside program.

The PDT did discuss that there has been excess observer coverage in recent years, so this may not be necessary. However, it was noted that this could change based on a drop in price, or a new method for estimating discards – specifically a stratified estimate. This estimate is going to be reviewed at SARC 54 and it may require additional observer coverage for all portions of the fleet. The Scallop Committee decided to reject this alternative because the current level of observer set-aside has been sufficient in recent years, especially in open areas (Table 27).

**Table 27 – Summary of observer set-aside usage and associated observer coverage rates for 2010 and 2011 (NERO scallop monitoring webpage)**

	2010		2011*	
	Usage	Coverage	Usage	Coverage
<b>Open Areas</b>	70% (95/135 DAS)	7% LA	66% (90/136 DAS)	
<b>CA1</b>	N/A	N/A	62% (69K/111K)	
<b>CA2</b>	N/A	N/A	90% (31K/35K)	
<b>NL</b>	70% (42K/59K)	LA-8% GC-5%	N/A	N/A
<b>HC</b>	N/A	N/A	74% (55K/74K)	
<b>ETA</b>	79% (90K/113K)	LA-6% GC-0%	14% (16K/113K)	
<b>DEL</b>	98% (57K/58K)	LA-8% GC-3%	73% (54K/74K)	

*\*2011 values are preliminary since final values for the fishing year are not available yet*

### 3.2.2.1 Sub-divide the SNE and GB YT flounder sub-ACLs

The current YT sub-ACL would be further sub-divided between the LA and LAGC fisheries. Every sub-ACL is required to have an associated AM.

#### **PDT Advice from May 2 – Move to consider but rejected for this action.**

Rationale: The PDT discussed that on principle it makes sense to further sub-divide the YT sub-ACL so each fleet is accountable: LA, LAGC dredge and LAGC trawl. However, it was discussed that we do not currently have a good way to estimate what that further sub-division should be based on because there is inadequate observer coverage for the LAGC fishery in open areas. The YT catch estimate for LAGC trawl vessels is very uncertain. The breakdown for catch in 2010 was different than preliminary results for 2011. For example, in 2010 the LAGC trawl fishery was estimated to catch 17% of the total SNE/MA YT, but in 2011 that dropped to 7%. Therefore, the PDT recommends that the sub-ACL should NOT be further sub-divided until there is better information to identify what the percent split should be, and how it could be monitored effectively.

#### **Committee Motion: Remove Section 2.2.2.2 (sub-divide the SNE/MA and GB YT flounder sub-ACLs) to considered and rejected section.**

**Vote: 7:0:0, carries**

#### 3.2.2.1.1 Option 1 – 5% of the YT sub-ACL for the LAGC fishery

This option would have a total of two YT sub-ACLs; one for the LA fishery and one for LAGC vessels, all gear types for both YT sub-ACLs (GB and SNE). For example, if the total GB sub-ACL was 100 mt the LA fishery would be allocated 95 mt and the LAGC fishery would be allocated 5 mt.

#### 3.2.2.1.2 Option 2 – percentage based on recent projections of YT catch

This option would have a total of two YT sub-ACLs for GB and SNE YT; one for the LA fishery and one for LAGC vessels, all gear types. The allocation would be based on the percent of YT caught in recent years, i.e. 2010 and 2011 YT catch projections.

Based on 2010 information the LAGC fishery caught essentially 0% of the GB YT catch (38 pounds of YT out of almost 39,000 pounds or 0.1%). Based on projections of catch for SNE YT, the LAGC fishery was estimated to catch about 20% of the total YT catch (49,893 pounds for LAGC dredge plus trawl vessels out of a total 249,146 pounds). Based on 2011 preliminary results that dropped to about 7%.

Taking these two years under consideration, this alternative would allocate ??% to the LAGC fishery for GB YT and ??% for SNE YT.

### **3.2.2.1.3 Option 3 – further divide the LAGC sub-ACL for YT by gear type**

This option would have a total of three YT sub-ACLs. One for the LA fishery, one for LAGC vessels with dredge gear, and one for LAGC vessels with trawl gear. In order for this alternative to be feasible a LAGC vessel would need to declare a specific gear type for the fishing year. A vessel would be allowed to change gear types each year during their permit application, but would have to declare a specific gear type for the year.

The division of YT would be: ??% of GB YT and ?? % of SNE for the LA fishery, ?? % of GB and ??% of SNE for LAGC vessels with dredge gear, and ??% for GB and ??% for SNE YT for LAGC vessels with trawl gear.

### **3.2.3 Allow transfer of IFQ for LA vessels with LAGC quota**

The Scallop AP and Committee included this alternative in FW24 during development of this action. It was raised to provide more flexibility for these vessels as well. Since these vessels are not currently permitted to lease quota at all the Council is waiting for input from NMFS to determine if this alternative is even frameworkable. Amendment 11 specifically prohibited leasing for these vessels.

*PDT Advice: Preliminary legal input is that because leasing in any form is not permitted for LA vessels and there was some discussion of this in Amendment 11 it would likely require an amendment. Council could identify this as a future priority item for a future action.*

**Committee motion: Eliminate Alternative 2.3.3 from FW24 (allow transfer of IFQ for LA vessels with LAGC quota) and consider in a future action.**  
**Vote: 7:0:0, carries**

### **3.2.4 Measure to minimize incidental take of sea turtles as per the March 14, 2008 biological opinion for the scallop fishery**

According to the most recent Biological Opinion (Opinion) issued by NMFS on July 12, 2012, the agency has determined that species not likely to be affected by the Atlantic Sea Scallop FMP or by the operation of the fishery include the shortnose sturgeon, the Gulf of Maine distinct population segment (DPS) of Atlantic salmon, hawksbill sea turtles, and the following whales: North Atlantic right, humpback, fin, sei, blue, and sperm whales, all of which are listed as endangered species under the ESA. NMFS also concluded that the continued authorization of the sea scallop fishery would not have any adverse impacts on cetacean prey, and that it would

not affect the oceanographic conditions that are conducive for calving and nursing of large cetaceans.

The previous biological opinion (2008), which required that NMFS limit effort in the Mid-Atlantic during times when sea turtle distribution is expected to overlap with fishing activity is no longer required. Since that opinion is now superseded by the 2012 opinion, it is no longer required that; the other four are related to ongoing research needs and identification of measures to reduce interactions and/or the severity of such interactions. This section was left in Framework 24 because the status of this issue was unclear when the Council initiated FW24 in January 2012. However, based on the recent findings of the recent biological opinion no specific measures are required for this action.

#### **4.0 AFFECTED ENVIRONMENT (SAFE REPORT)**

##### **4.1.1 Scallop Resource**

##### **4.1.2 Physical Environment and Essential Fish Habitat (EFH)**

##### **4.1.3 Protected Resources**

##### **4.1.4 Economic and social trends in the sea scallop fishery**

##### **4.1.5 Non-target species (bycatch)**

#### **5.0 ENVIRONMENTAL CONSEQUENCES OF ALTERNATIVES**

##### **5.1.1 Scallop Resource**

##### **5.1.2 Physical Environment and Essential Fish Habitat (EFH)**

##### **5.1.3 Protected Resources**

##### **5.1.4 Economic and social trends in the sea scallop fishery**

##### **5.1.5 Non-target species (bycatch)**

- 6.0 COMPLIANCE WITH APPLICABLE LAW**
- 6.1 MAGNUSON-STEVENS FISHERY CONSERVATION AND MANAGEMENT ACT**
  - 6.1.1 National standards**
  - 6.1.2 Other Required Provisions of the M-S Act**
- 6.2 NEPA**
- 6.3 MARINE MAMMAL PROTECTION ACT (MMPA)**
- 6.4 ENDANGERED SPECIES ACT (ESA)**
- 6.5 ADMINISTRATIVE PROCEDURE ACT (APA)**
- 6.6 PAPERWORK REDUCTION ACT (PRA)**
- 6.7 COASTAL ZONE MANAGEMENT ACT (CZMA)**
- 6.8 DATA QUALITY ACT**
- 6.9 E.O. 13132 (FEDERALISM)**
- 6.10 EXECUTIVE ORDER 12866 (REGULATORY IMPACT REVIEW)**
- 6.11 INITIAL REGULATORY FLEXIBILITY ANALYSIS**
  
- 7.0 GLOSSARY**
  
- 8.0 LITERATURE CITED**
  
- 9.0 INDEX**