

**Updated Section of A15 DEIS for Scallop Committee Meeting on September 23, 2010**  
**With additional updates based on comments from Groundfish PDT memo, 09/22/10**

**3.2.3.11.2 Yellowtail flounder**

As proposed in Amendment 16 to the Multispecies FMP, yellowtail flounder caught in the scallop fishery will be initially treated as an “other sub-component” of the ACL for all three yellowtail flounder stocks (Figure 1). Scallop Amendment 15 (this action) will identify AMs for the catch of yellowtail flounder in the scallop fishery. Once these AMs are specified, yellowtail flounder caught in the scallop fishery will be considered a sub-ACL controlled by an AM. It is expected that the first groundfish fishing year that this will occur is FY 2011, after implementation of Scallop Amendment 15. If scallop Amendment 15 adopts an in-season AM, then these AMs might be triggered in groundfish fishing year 2011; if in-season AMs are not adopted, then any overage of the FY 2011 ACL would be addressed by AMs implemented in scallop FY 2012 or later.

The specific value for a yellowtail flounder ACL is not specified in either Multispecies Amendment 16 or Scallop Amendment 15 because this will be determined as part of the adjustment process under the Multispecies plan. Catches of regulated groundfish in the scallop fisheries depend on a wide range of factors including scallop and groundfish abundance, the scallop rotational management program, etc. These factors are variable and cannot be predicted with certainty until closer to the start of both the scallop and multispecies fishing years. The amount of yellowtail flounder allowed for the scallop dredge fishery will, at a minimum, be consistent with the incidental catch amounts for the closed area access programs (ten percent of the GB yellowtail flounder and SNE/MA yellowtail flounder ACL when CAI, CAII, or the NLCA access programs are in effect).

Nothing in Amendment 16 changes the current regulations that limit scallop catch to 10% of the total YT TAC (or in the future ACL). So unless something is changed the scallop fishery will still be limited to 10% in access areas, regardless if more of the total ACL is allocated to the scallop fishery. The Scallop Committee passed a motion on September 1, 2009 to “recommend that the Council consider addressing the 10% limit on YT bycatch in access areas in FW21 or FW22, depending on staff resources.” At the January 2010 meeting the Council decided to form a Groundfish/Scallop Committee with the expressed purpose of dealing with allocation of yellowtail flounder to the scallop fishery. It is not yet clear which types of measures will be considered in this joint action. [update with more text after Council discussion of the status of this Committee and potential action after the September 2010 Council meeting].

Amendment 16 to the Multispecies FMP was implemented in May 2010. Since Amendment 16 identifies the scallop fishery as an “other sub-component” of the YT ACL, YT catch in the scallop fishery will need to be factored in when setting the YT ACL for the multispecies fishery. The amount of YT allocated to the scallop sub-component will not officially be an ACL until 2011 after Amendment 15 is implemented, but it is still necessary to identify how much YT catch is expected in the scallop fishery in 2010, so an allocation decision can be made in the specifications package for the Multispecies FMP. The multispecies specifications package includes measures for 2010 and 2011, as well as 2012. Therefore, the Scallop PDT worked with

the Groundfish PDT to assess expected YT catch in the scallop fishery for the next few fishing years. Then the Council identified how much YT (for all three stocks) should be allocated to the scallop fishery as an “other-sub-component” of the overall YT ACL. They chose to allocate 100% of yellowtail ‘needed’ in 2010, and 90% in 2011 and 2012, and these allocations are included in the multispecies specification package in Multispecies Framework 44. These values recognize the importance of yellowtail flounder to the scallop fishery and provide an incentive for scallop fishermen to reduce their YT bycatch in order to maximize scallop yield. The values for 2011 and 2012 can be adjusted if there is new information regarding scallop and yellowtail stocks, or based on access area measures in the scallop fishery for those years. Framework 44 also requires all legal-sized yellowtail flounder caught in the scallop fishery to be landed. Framework 45 will review these allocations, and based on changes in projected scallop catch considered for fishing years 2011 and 2012 (Framework 22) and updated yellowtail flounder biomass values, the YT sub component allocation to the scallop fishery may be revised.

Framework 21 to the Scallop FMP sets scallop specifications for 2010, and the YT-related decisions described in this section affected the alternatives that were under consideration in Framework 21 as well. The YT allocations for the scallop fishery in 2010, 2011, and 2012 are given in Table 1. The Council decided not to have a separate allocation for the CC/GOM YT stock for the scallop fishery because estimated levels of catch from that stock are relatively low. This may be changed in the future if it is deemed necessary to include CC/GOM YT as part of the sub-ACL. It should be noted that 2010 is a complex year because the scallop fishery will be treated as a sub-component and will receive an allocation of YT, but it is not an ACL, and therefore does not trigger the requirement to have specific AMs. Without specific measures to address an overage of the subcomponent allocation, if the total YT ACL is exceeded (e.g., due to over-harvest relative to the subcomponent YT allocation), AMs would be triggered under the NE Multispecies FMP for the Groundfish fishery since AMs are not in place for the scallop fishery. To address this issue, the Council decided at its November 2009 Council meeting to direct the Scallop Committee to develop a measure in Amendment 15 that would specify how overages of 2010 YT subcomponent catch could be addressed under the Scallop FMP. Specifically, if the 2010 total ACL is exceeded because the scallop fishery exceeded their sub-component allocation, AMs would be implemented under A15 that would reach back to address the overage, rather than reduce catch for the multispecies fishery.

#### **3.2.3.11.2.2 Process for setting YT sub-ACLs**

In general, once Amendment 15 is implemented and the YT sub-component becomes a sub-ACL, the process for setting this sub-ACL will be as follows. For SNE/MA YT the total YT ACL will be identified by the Groundfish PDT the summer before the ACL is to be in place. The Scallop PDT will provide expected DAS allocations and access area schedules for several years out. The PDTs will provide a recommendation to the Groundfish Committee and the percent allocated to the scallop sub-ACL will be considered in the multispecies specifications package for those fishing years, usually two or three years at a time. The scallop specification packages will identify scallop management measures around these decisions in the case that scallop measures have to be modified based on the amount of YT allocated to the scallop fishery.

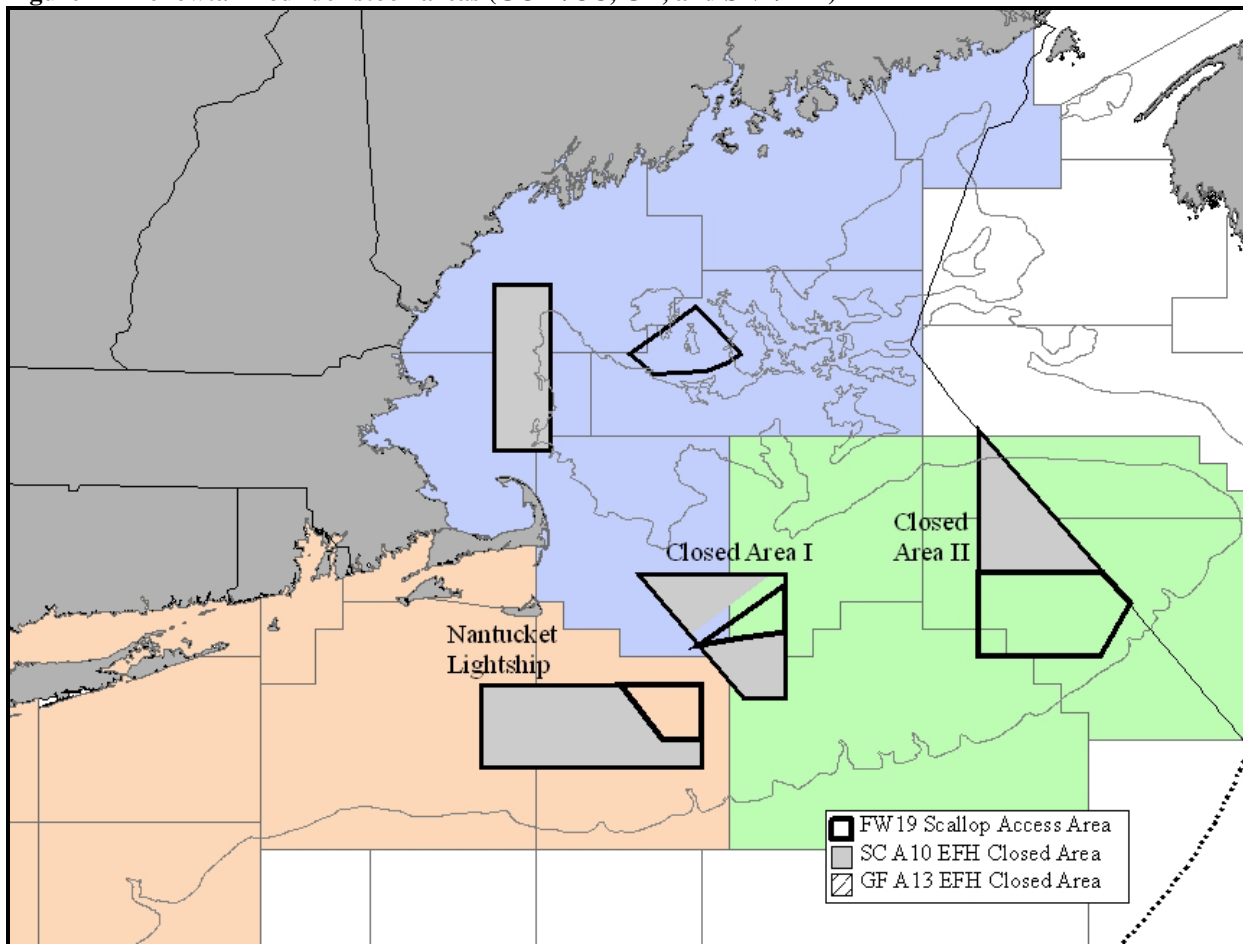
For GB YT the process is more complex because that resource is in both US and Canadian waters and a sharing agreement has been established between the two countries that sets a total

combined TAC for GB YT and identifies how much each country can harvest. The Transboundary Resources Assessment Committee (TRAC) holds annual meetings (typically in June) to review updated science and make a recommendation about an appropriate TAC for YT. Results are available by July 1, and the Transboundary Management Guidance Committee (TMGC, a policy group made up of representatives from Canada and the US) decides what the total TAC will be and what share each country will receive. The TMGC generally meets in September each year. After the TMGC decision the Council will know how much GB YT is available for the following fishing year. These results are then available for the Council to use in relative multispecies and scallop actions.

**Table 1 - YT sub-components (2010) and ACLs (2011 and 2012) allocated to the scallop fishery 2010-2012 (in mt) as specified in Multispecies Framework 44 and Scallop Framework 21. The Council decided not to include an allocation in the CC/GOM stock area.**

	2010	2011	2012
<b>GB</b>	146	201	307
<b>SNEMA</b>	135	82	127

**Figure 1 – Yellowtail flounder stock areas (GOM/CC, GB, and SNE/MA)**



### 3.2.3.11.2.2 Accountability measures (AMs) in the scallop fishery for YT sub-ACL

The AMs considered in this section for YT will go into effect when A15 is implemented, but it should be noted that AMs are already in place for the groundfish fishery if the yellowtail flounder ACL is exceeded in 2010. Framework 44 to the NE Multispecies FMP implemented ACLs for 2010, 2011, and 2012. The scallop fishery was allocated 100% of the amount of YT catch that was projected to be needed in the scallop fishery as bycatch in 2010, and 90% of the projected amount needed for 2011 and 2012. Accountability measures for the groundfish fishery were also implemented, but because the YT allocation to the scallop fishery is treated as a sub-component, and not an ACL, no AMs were required under the Scallop FMP. Therefore, if there is an overage of the total YT ACL in 2010 the only AMs in place are for groundfish fishery. When the Council discussed this at the November 2009 Council meeting it passed a motion that Amendment 15 should consider an AM that would hold the scallop fishery accountable if the overage of the total YT ACL for a YT stock in 2010 was caused by the scallop fishery exceeding their sub-component allocation. The Council passed the motion below, but since this Council motion was made after Amendment 15 draft was adopted by the Council, no specific measures have been included in Amendment 15 yet. Before final action on Amendment 15 the Scallop Committee and Council will develop alternatives to address the Council's motion.

Council Motion: "That the Council initiate an action to adjust the rebuilding strategy for Georges Bank yellowtail flounder. Also, that **the Council consider including in Amendment 15 measures to allow an adjustment in 2011 for any overages in the yellowtail flounder subcomponent in 2010 if the overall annual catch limit for yellowtail flounder is exceeded in 2010.**

The motion, as amended, **carried** on a show of hands (11/6/0)."

The Scallop Committee discussed this Council motion at their meeting on September 7, 2010. It was discussed that whatever AM alternative is ultimately proposed for future YT overages should also apply for any overage in 2010. Therefore, if the scallop fishery exceeds their sub-component allocation in 2010, and that causes the entire YT ACL to be exceeded (groundfish fisheries stay below their sub-ACLs) the scallop fishery will be subject to an AM that will be implemented in 2011 after Amendment 15 is approved. The Committee motion is below:

**Motion 1 (Avila/Cunningham):** the Committee include an alternative in A15 to allow an adjustment in 2011 for any overages in the scallop YT flounder subcomponent in 2010 if the overall annual catch limit for YT flounder is exceeded in 2010. The specific measure will be the same measure adopted as the YT AM in A15 for future years.

**Vote: 7:0:2, motion carries.**

The PDT developed several alternative below for the Scallop Committee to consider. Ultimately, the PDT recommends that the stock-wide ACL for each YT species be applied to the full stock area, and it would be more advantageous to have AMs applied to open areas rather than access areas. Specifically, the PDT recommends that access area programs within YT stock areas should proceed as allocated and no vessel should be shut out of access areas if a sub-ACL for YT is reached during the year. One goal of the Scallop FMP is to keep scallop fishing in

areas with high catch per unit of effort, so if the total YT sub-ACL is exceeded, open area DAS in that stock area should be limited or reduced to account for any overages. Overages should not be accounted for in access areas and AMs that affect access area fishing are not preferred. While these are the overall recommendations from the PDT in terms of alternatives that would have the least impact on scallop yield, these concepts are not consistent with many of the options developed since preventing impacts on access area effort is unavoidable in some cases.

The PDT discussed that with current monitoring systems, a YT sub-ACL AM may need to be in subsequent fishing years, not in-season. However, both types of AMs are considered in the following pages. Currently this sub-ACL is for the entire scallop fishery – both LA and LAGC -- there are no alternatives that would further divide the sub-ACL allocated to the scallop fishery. This was not explored because there were concerns raised that monitoring such as small TAC with accuracy could be problematic, since the general category allocation would be 5% of a relatively small allocation.

#### **3.2.3.11.2.1.4 Seasonal closure of a portion of the stock area pre-identified as having high bycatch**

Under this alternative, the PDT would pre-identify areas that have higher bycatch rates within a YT stock area and only those areas would close. The areas would close to both limited access and limited access general category vessels.

- *Option A - in-season*

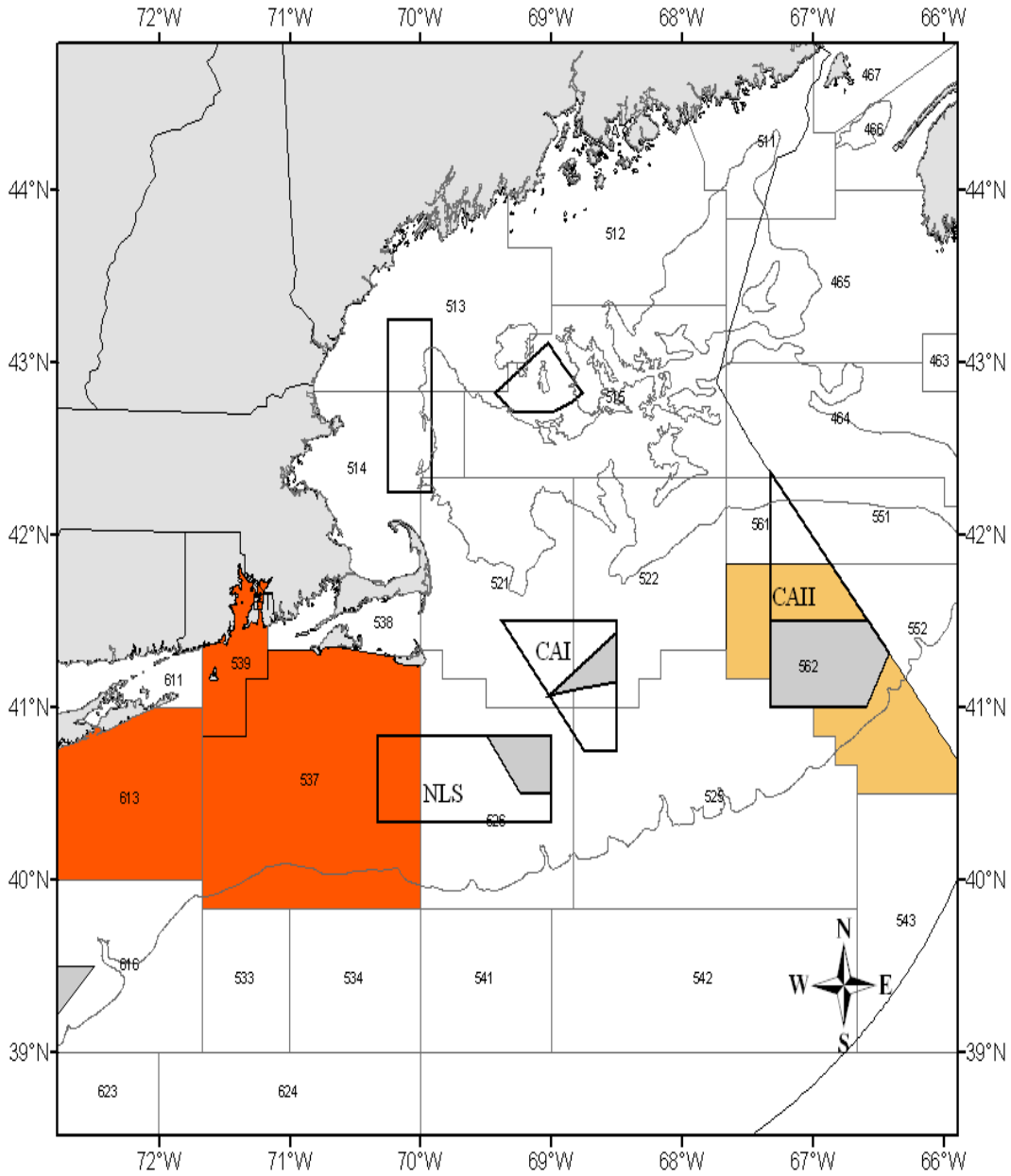
During the year, YT bycatch would be monitored by stock area, including projected catch in both open and access areas. When the agency projects that 95% (or whatever is decided based on desired precaution level) of the total YT sub-ACL has been harvested, specific pre-identified areas within that stock area would close to the scallop fishery to reduce YT catch. *(Note that the Council still needs to identify what percentage will trigger the closure if this alternative is selected)*

In order to identify which specific areas within the yellowtail stocks should close as a result of the AM, data from the Northeast Fisheries Observer Program was used. Using scallop and yellowtail catch from 2006-2008 for all gear types and both LA and LAGC fisheries separated by statistical area, the average annual catch of scallops in pounds was multiplied by the average annual discard rate (discarded yellowtail flounder/kept scallops). This method links back how much is gained by closing an area in terms of scallop catch. The statistical areas with the highest bycatch rates in the SNE/MA area are 539, 537, and 613, which comprise 26.7% of the yellowtail bycatch from the stock area, but only 6.7% of the scallop catch. On Georges Bank, the statistical area with the highest yellowtail catch (39.1%) is also a productive scallop area (36.8%)(Table 2). Closing the next statistical area with the highest discard rate in GB, area 525, would include over 80% of YT catch, but 66.7% of scallop catch. The statistical areas to be closed for both yellowtail stock areas are highlighted in Figure 2.

**Table 2 – Cumulative % of YT and scallop catch per stock area by statistical area**

	Stat area	Avg D/K rate	Cum %YT	Cum % Scallop
GB	562	0.29598	39.10%	36.79%
	525	0.06980	80.13%	66.76%
	561	0.02356	85.61%	78.67%
	522	0.01874	100.00%	100.00%
SNEMA	539	0.05669	5.31%	0.58%
	537	0.02820	9.56%	1.51%
	613	0.02032	26.66%	6.69%
	526	0.01449	83.10%	30.72%
	612	0.00714	89.47%	36.22%
	615	0.00292	96.50%	51.07%
	616	0.00237	99.56%	59.04%
	622	0.00013	99.86%	73.55%
	621	0.00004	100.00%	96.65%
	614	0.00000	100.00%	96.99%
	623	0.00000	100.00%	97.13%
	625	0.00000	100.00%	97.22%
	626	0.00000	100.00%	99.39%
	627	0.00000	100.00%	99.47%
	632	0.00000	100.00%	99.83%
	633	0.00000	100.00%	100.00%

**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.**



In terms of monitoring for this AM, trip by trip declarations would be necessary using expansion of VMS declaration codes and flexibility to switch areas while at sea. This is an important issue for vessels that want more flexibility to move away from high concentrations of yellowtail without having to come back to port. The Council could set the AM trigger monitoring level at 100% in order to maximize fishing time. However, closure at 100% means that we are projecting to 100% and that the closure stops all fishing at the projected date, and projections may not be this certain. The RA has the authority to modify the provisions for a specific TAC if it is progressing too rapidly, and FSO adapts their monitoring and projection scheme to address the specific fishery provisions. As it stands, NMFS will monitor the fishery and project when 100% would be caught (when the fishery would close or other action depending on what the Amendment 15 alternative chosen is). The Council could recommend a more precautionary trigger (i.e. 80%, 90%, etc.) to ensure that the TAC is not exceeded.

- Or the trigger could be based on the expected amount of YT that would not be caught as a result of a closure. For example, if the closure area in SNE/MA is expected to comprise of 26.7% of the total YT bycatch for that stock area, if that area is closed when 70% of the total YT sub-ACL is caught, it could be assumed that catches of YT in surrounding statistical areas will be lower, based on lower d/k ratios in previous years, so exceeding the full sub-ACL would be reduced if the high d/k ratio areas are closed.
- Or the trigger could be similar to how the US/Canada area is managed for groundfish. When NMFS projects that the TAC will be reached the area closes – not after a certain percent is caught (*specific GF regs below*).

50 CFR 648.85: (E) Closure of Eastern U.S./Canada Area. Based upon available information, when the Regional Administrator projects that any individual TAC allocation specified in paragraph (a)(2)(iii) of this section will be caught, NMFS shall close, in a manner consistent with the Administrative Procedure Act, the Eastern U.S./Canada Area to all vessels subject to that particular TAC allocation, unless otherwise allowed under this paragraph (a)(3)(iv)(E).

Currently, the entire statistical area would close upon trigger of the AM on Georges Bank, which includes the access area of Closed Area II. If the Southern New England AM were triggered, the NLCA access area would not close because it is not in the statistical area that has been identified as having highest bycatch with low scallop catch as noted above.

- *Option B – AM effective in year 3*

During the year, YT bycatch would be monitored by stock area, including projected catch in both open and access areas. At the end of the fishing year NMFS will determine the total YT caught in each stock area. If a YT sub-ACL is exceeded, pre-identified areas within that stock area would close to the scallop fishery in Year 3, not the subsequent fishing year because data will not be available in time to have measures in place by the start of the scallop fishing year.

It may be possible that those areas within the stock area could re-open later in the subsequent fishing year if the ACL was not exceeded by a large amount; it may not be necessary to keep



the areas closed for the full fishing year. This AM would also require trip by trip declarations for monitoring purposes.

- How would the timing of these closures work in Year 3? Would it be closed at the start of the FY – or would it be timed to maximize benefit for YT, or to minimize impacts on scallop yield? How will the length of time be determined? (See Timing Section on page 16)

#### **3.2.3.11.2.1.4 In-season closure of entire YT stock area**

This alternative would close an entire YT stock area to both LA and GC vessels when the YT sub-ACL has been reached. LAGC vessels would only be permitted to harvest their IFQ in other YT stock areas, and if the fleet had trips left in an access area, those trips would be moved to a different access area in a different YT stock area, if available. This AM would also require trip by trip declarations for monitoring purposes.

During the year, YT bycatch would be monitored by stock area, including projected catch in both open and access areas. When the agency projects that a sub-ACL has been exceeded, the scallop fishery will no longer be permitted to use open area DAS or IFQ in that stock area and any access area trips left in that stock area will have to be used in access areas in other YT stock areas (if any are available). The PDT will have to identify in advance what access areas would be available if trips have to be shifted and how many trips may be available in different areas.

#### **3.2.3.11.2.1.4 Fleet-wide maximum of DAS and percent of IFQ that can be used in a stock area**

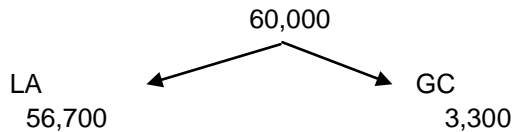
This alternative would institute a fleet maximum DAS that can be used in a stock area for year three to account for an overage of the YTF sub-ACL in year one. The PDT would determine how much the fishery exceeded the YT sub-ACL, then that would be removed from the YT sub-ACL for year 3. An estimate would be made in terms of how many DAS would be expected to catch the total YT remaining, and a fleet max would be implemented for that stock area for year 3. Similarly, a fleet-wide maximum percentage of LAGC IFQ would be implemented for year 3. This AM would also require trip by trip declarations for monitoring purposes. Once NMFS determines that the fleetwide DAS limit has been reached the area would close to all limited access scallop vessels. Once NMFS determines that the general category scallop IFQ limit in a particular stock area has been reached, that entire stock area would close to all general category fishing.

In order to calculate the DAS limit, updated yellowtail bycatch data will be used to calculate the effort estimated that equates to the new year 3 sub-ACL. For example, if the new yellowtail sub-ACL minus the overage was 60,000 pounds, and the bycatch estimate was three pounds of yellowtail for every 100 pounds of scallops caught, we would expect the ACL to be reached at 2 million pounds of scallops. Using an example LPUE value of 1,700 lbs/day, this scallop poundage equates to 1,176 DAS. Therefore for this example, the fleet would be limited to 1,176 DAS in a particular YT stock area, and once those DAS are used the area would close to all scallop fishing for the remainder of the fishing year.

**Table 3 – Example of how fleetwide and individual DAS/quota YT AMs would work**

	YT sub-ACL	Actual catch
Year 1	70,000	80,000
Year 2	70,000	70,000
Year 3	70,000	60,000
Total	21,000	21,000

**AM in Year 3**



1,890,000	Total scallop	110,000	Total scallop
1,700	LPUE	362	# gen cat permits
1,112	DAS limit	303.9	By individual permit
327	# vessels		
3.40	Individual DAS		

**3.2.3.11.2.1.4 Individual maximum of DAS and percent of IFQ that can be used in a stock area**

This alternative would institute an individual maximum number of DAS that can be used in a stock area for year three to account for an overage of the YTF sub-ACL in year one. The PDT would determine how much the fishery exceeded the YT sub-ACL, then that would be removed from the YT sub-ACL for year 3. An estimate would be made in terms of how many DAS would be expected to catch the total YT remaining and an individual maximum number of DAS would be instituted per vessel for that stock area for year 3. Similarly, an individual maximum percent (or poundage?) of IFQ that can be used in that stock area will be instituted in year 3. This AM would also require trip by trip declarations for monitoring purposes.

In order to calculate the DAS limit, updated yellowtail bycatch data will be used to calculate the effort estimated that equates to the new year 3 sub-ACL. For example, if the new yellowtail sub-ACL minus the overage was 60,000 pounds, and the bycatch estimate was three pounds of yellowtail for every 100 pounds of scallops caught, we would expect the ACL to be reached at 2 million pounds of scallops. Using an example LPUE value of 1700 lbs/day, this scallop poundage equates to 1176 DAS. This number would then be divided by the number of LA vessels in the fleet (i.e. 340) to determine the DAS limit in that stock area per vessel (in this example, 3.5 DAS). See the example above. Specifically, under the same conditions about, a 60,000 pound limit on YT catch in Year 3, each limited access vessel would be limited to 3.4 DAS in that stock area, and each general category vessel would be limited to 303.9 pounds.

Since these would be on an individual basis the Council may want to consider allowing vessels to trade area-specific DAS to reduce distributional impacts. This will have to be developed in much more detail if the Council selects this alternative. Currently DAS are not area specific and

if trading of DAS is included as an AM the Council will have to specify if all DAS are area specific etc.

### 3.2.3.13 Administrative process for setting ACLs in the Scallop FMP

This section describes the administrative process for setting ACLs for Atlantic sea scallops. The ACL process will become an element of the existing periodic adjustment process. The Scallop FMP is on a biennial adjustment process and management measures are generally set two years at a time. Biennially, the PDT evaluates whether management measures need to be revised in order to meet mortality objectives. The PDT should submit suggested measures to the Council by September 1 (or November 1 if the fishing year is changed in this action) if revisions are necessary. Because complete data is not available at the end of each fishing year, AMs may not be in place at the start of a specific fishing year. If not the Agency will notify vessels after the fishing year starts what the final measures are for that year, as adjusted by any necessary AMs.

During this same process, the PDT will develop recommendations for Acceptable Biological Catch (ABC) for the scallop stock based on mortality objectives ( $F_{max}$ ,  $F_{threshold}$ ,  $F_{target}$ ). These recommendations form the basis for setting ACLs. The PDT recommendations will include the following elements:

- OFL estimate for the next two fishing years. While it is expected that the OFL will be determined every two years, the PDT will recommend it for three years in case there is a delay in implementation of a subsequent action.
- ABC recommendation for the length of time the action is in place. The PDT recommendation should report the catch that results from the ABC control rule recommended by the SSC (See Section **Error! Reference source not found.**). The PDT will present updated ABC recommendations to the SSC before final approval by the Council. The PDT may recommend a change to the ABC control rule or ultimate buffer between OFL and ABC, but it must be approved by the SSC. If a change in the distance of the buffer is recommended, the recommendation should include an explicit discussion of the scientific uncertainties that are taken into account in developing the recommendation. In order to evaluate these uncertainties, the PDT will develop an informal document that describes the issues that will be considered. This information will be provided for the consideration of the SSC and the Council. It is not intended to be binding on either body. The ABC control rule and the buffer between OFL and ABC can be modified by framework action or in a specification process; they do not need to be considered in a full Amendment process. While it is expected that ABCs will be determined every two years, the PDT will recommend them for three years in case of a delay in implementation of a subsequent action.
- An evaluation of whether the ABCs have been exceeded in earlier years.
- As part of the biennial adjustment process, the PDT should evaluate whether rebuilding is needed and adjust as necessary to account for exceeding the OFL, should that occur. In that instance,  $F_{rebuild}$  will be used instead of  $F_{target}$ .

The PDT will also develop a recommendation to the Council for setting ACLs. This action proposes that  $ACL = ABC$ , but the PDT can recommend an ACL lower than ABC if it is sufficiently justified. The overall ACL will be broken into two sub-ACLs, one each for the LA

and LAGC fisheries. The PDT will then re-evaluate management uncertainty for each fishery and recommend ACTs for each sub-ACL. The ACTs will be set at a certain percent of the fisheries' ACLs (LA and LAGC). If a change in the distance of the buffer is recommended, the recommendation should include an explicit discussion of the management uncertainties that are taken into account in developing the recommendation. In order to evaluate these uncertainties, the PDT will develop an informal document that describes the issues that will be considered. The buffer between sub-ACL and ACT can be modified by framework or in the specification process; it does not need to be considered in a full Amendment process. The Council may ask the SSC to comment on the PDT recommendations on ACLs and ACTs, but that is not required. Should the SSC recommend an ACL that differs from that originally recommended by the PDT, the PDT will revise its ACL recommendations if necessary. The PDT's ACL recommendations will include:

- A summary indicating whether ACLs have been exceeded in recent years. For the first action implementing ACLs, a summary of whether the allocations were exceeded for the prior 2 years will be included, but will not reference the term "ACL."
- A recommendation for setting ACLs for the next two years. The PDT will describe the uncertainties and risks considered when developing these recommendations. While it is expected that ACLs will be determined every two years, the PDT will recommend them for three years in case of a delay in implementation of a subsequent action.

The PDT recommendations for setting ABC will be provided to the SSC prior to the September Council meeting (or November Council meeting if the fishing year is changed). Guided by terms of reference prepared by the Council, the SSC will review the PDT recommendations and will either approve those recommendations or will provide alternative recommendations. In either case, the SSC will explicitly describe the elements of scientific uncertainty that were considered in developing its recommendation. If the SSC recommends an ABC that differs from the PDT recommendation, the PDT will revise its recommendations using the new ABCs. If requested by the Council, the SSC may comment on the uncertainty and risk that should be considered by the Council when setting ACLs and ACTs and whether the PDT has identified those elements sufficiently for Council consideration.

The Council will consider the ABC recommendations of the SSC and the ACL recommendations of the PDT and will make a decision on those recommendations prior to October 1 (or December 1 if the fishing year is changed in this action). If the Council questions the SSC recommendation, it can ask for a more detailed explanation from the SSC, but the Council must establish an ACL that is equal to or lower than the ABC recommended by the SSC. When setting ACLs, the Council will consider the advice of the SSC and the PDT and will provide the rationale used for setting the ACLs.

Once the Council has approved ACLs, they will be submitted to NMFS prior to November 1 (or January 1 if the fishing year is changed in this action) for approval and implementation. ACLs can be implemented in several ways. If the Council is submitting a management action as part of the periodic adjustment process, the ACLs can be included in that document. Alternatively, the ACLs can be submitted as part of a specification package supported by the appropriate NEPA

document. It should be noted that in many instances, ACLs merely reflect the catch associated with the mortality targets determined by the management plan and therefore the impacts are consistent with those evaluated when the mortality targets were adopted. For this reason, in those instances that an ACL is not revised, it is anticipated that there will not be a need for a new supporting NEPA document.

After receipt of the Council decision for ACLs – either as part of a new management action or as part of a specification package – NMFS will review the Council’s decision and, if consistent with applicable law, will implement the ACL consistent with the Administrative Procedures Act (APA).

### **3.2.3.13 Monitoring ACLs**

Current monitoring techniques already used in the sea scallop fishery will be used to monitor ACLs. These include daily monitoring of catch in the access areas and yearly estimates of catch in the open areas. This could also include the quarterly monitoring that is currently ongoing in the general category fishery while they convert to the limited access general category IFQ fishery.

Monitoring the YT sub-ACLs may necessitate new monitoring requirements.

On September 23, 2010 the Committee discussed that their preferred alternative for YT AMs would require additional reporting requirements. NMFS is going to discuss with FSO and report back to the Council what the specific monitoring and reporting requirements should be at the September Council meeting. In general, it was discussed that vessels will have to report YT catch, scallop catch, and maybe even all species kept per YT stock area. Vessels will be allowed to fish in more than one YT stock area per trip, but they will have to report catches per stock area if they fish in more than one per trip. VMS will likely need to be expanded to include new fields.

Informal advice: Any of the YT AMs that have real-time monitoring or have area-specific DAS allocations (fleetwide or individual) would require stock area VMS trip declaration. Real time catch-based AMs (i.e., close when the sub-ACL is achieved) would require VMS catch reports, like those required in access areas.

If a vessel switches areas during a trip, separate VMS reports would be necessary.

The catch reports need to be expanded to include all species kept -- in other words, they should include yellowtail kept and discarded, scallops kept, and all other species kept. This provides the information to complete the "cumulative kept-all" monitoring methodology adopted by the Center, and peer reviewed.

### **3.2.3.13 Timing of ACL monitoring and triggering AMs**

Once this action is implemented, if an ACL (LA sub-ACL, LAGC sub-ACL, or the YT sub-ACLs allocated to the scallop fishery) is exceeded AMs are triggered. The question is when they will be triggered. Due to time lags in monitoring of some aspects of the ACL program and scheduling of Council meetings it may not be feasible that AMs are effective right at the start of a subsequent fishing year.

For example, Framework 22 is expected to implement ACLs for both 2011 and 2012. Fishing year 2011 will run from March 1, 2011 through February 28, 2012, unless the fishing year is changed and then it will run from May 1, 2011 through April 30, 2012. Final catch data for fishing year 2011 is not available until about June 1, 2012. At that time the PDT can determine if either the LA sub-ACL and/or LAGC sub-ACL have been exceeded. Leaving some time for PDT review and analysis, the PDT could notify the Council and NMFS by August 1 if AMs should be triggered. If that is the case, then the 2012 fishing year will begin on March 1 (or May 1) and DAS may need to be reduced later in the fishing year, after August. For example, if the number of open area DAS need to be reduced to account for an overage in the LA sub-ACL in 2011, vessels will be notified sometime after the start of the 2012 fishing year how many DAS they will ultimately be allocated for that year.

If the Council does not want to reduce DAS during the fishing year, another option could be that AMs are triggered not in the subsequent year, but two years out. So if an ACL is exceeded in 2011, AMs would be effective in 2013.

#### **3.2.3.11.2 Timing of YT-sub ACL monitoring**

The YT sub-ACLs the timing is a little more complex. The in-season AM options could be implemented in-season, but the ones that require review at the end of the year will likely not be able to be implemented until the start of Year 3, or potentially Year 2 (halfway through the subsequent fishing year). Below is an example of how the timing could work for in-season, subsequent year YT AMs, and AMs that are implemented in Year 3.

##### Fishing Year 2011 as an example

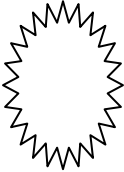
- In-season YT AMs

The scallop fishing year begins on March 1, 2011. The scallop fishery will be limited to YT sub-ACLs in GB and SNE/MA stock areas. Those allocations will be set in the GF specifications package (FW44 updated by FW45 if necessary). During the year vessels will be reporting YT and scallop catch by YT stock area through VMS. The method that will be used is the same one NMFS currently uses to monitor YT catch in scallop access areas, but it will be expanded to include all trips, not just access areas. Therefore, YT catch will be monitored “real-time” based on bycatch rates from observer data expanded out to the fishery. The sub-ACL will be monitored “real-time” and when NMFS projects that the sub-ACL will be exceeded, the predefined areas will close to all scallop fishing for the remainder of the scallop fishing year.

- Subsequent Year AMs

The scallop fishing year begins on March 1, 2011. The scallop fishery will be limited to YT sub-ACLs in GB and SNE/MA stock areas. Those allocations will be set in the GF specifications package (FW44 updated by FW45 if necessary). During the year vessels will be reporting YT and scallop catch by YT stock area through VMS. During the year NMFS will determine if the YT sub-ACL has been exceeded based on projections of total YT catch on scallop vessels. The method that will be used is the same one NMFS uses to determine if the common pool sub-ACL has been exceeded. The Council will know whether the sub-ACL will be exceeded by December 1, 2011 (?), based on a projection of total YT caught.

## OR



The scallop fishing year begins on March 1, 2011. The scallop fishery will be limited to YT sub-ACLs in GB and SNE/MA stock areas. Those allocations will be set in the GF specifications package (FW44 updated by FW45 if necessary). During the year vessels will be reporting YT and scallop catch by YT stock area through VMS. After the 2011 fishing year is over, NFMS will determine if the YT sub-ACL has been exceeded based on **final** catch values from VMS and projections of observer data. This information will be available in the summer of 2012. At that time if the scallop fishery exceeded the sub-ACL for 2011, measures will be put in place during the summer of 2012 to account for any overage. This timing alternative is considered so that accountability measures could be in place not right at the start of the fishing year, but several months later – likely in the summer of the subsequent year. This is the same timing that is being considered for scallop fishery AMs. This option may be more advantageous than the previous subsequent year alternative because corrective measures for any overage of sub-ACLs for YT could be effective at the same time as any corrective measures for scallop ACLs overages. One risk of this option if coupled with DAS reduction alternatives is that a vessel could fish all allocated DAS before AMs are implemented later that year.

Under this alternative, at some point after the subsequent year has started the Scallop PDT will work with the GF PDT to determine how long the seasonal closures should be closed in 2012 to address the projected overage from 2011. The Scallop PDT will estimate how long the area should be closed and with advice from the GF PDT the season will be selected that will have the greatest benefit for YT and least impact on scallop yield.

- Year 3 YT AMs

If it is determined that YT AMs cannot be implemented in a subsequent year and Year 3 AMs are necessary the timeline below is offered.

The scallop fishing year begins on March 1, 2011. The scallop fishery will be limited to YT sub-ACLs in GB and SNE/MA stock areas. Those allocations will be set in the GF specifications package (FW44 updated by FW45 if necessary). During the year vessels will be reporting YT and scallop catch by YT stock area through VMS. After the 2011 fishing year is over, NFMS will determine if the YT sub-ACL has been exceeded based on **final** catch values from VMS and projections of observer data for the entire fishery. This information will be available in the summer of 2012.

At that time the Scallop PDT will work with the GF PDT to determine how long the seasonal closures should be closed in 2013 to address the actual overage from 2011. The Scallop PDT will estimate how long the area should be closed and with advice from the GF PDT the season will be selected that will have the greatest benefit for YT and least impact on scallop yield.