

DRAFT Scallop Framework 26 Action Plan

Council: New England Fishery Management Council

Fishery: Atlantic Sea Scallop FMP

Title of Action: Framework 26

Problem Statement/Objective of Action:

To set specifications for 2015 and default measures for 2016. Specifications include: ABC/ACLs, DAS, access area allocations for LA and LAGC, hard-TAC for NGOM management area, target-TAC for LAGC incidental catch and set-asides for the observer and research programs.

In addition to the specifications that are typically developed in a scallop framework described above, this action may also include modifications to existing scallop access areas on Georges Bank, or create new scallop access areas, as a result of the Omnibus Habitat Amendment under development. The Council is scheduled to take final action on the Omnibus Habitat Amendment in November 2014, the same meeting the Council is scheduled to take final action on Scallop FW26. Best case scenario for implementation of the EFH action is August 2015. This timing makes it very difficult for the Scallop PDT/AP/Committee to develop modified and/or new access areas as a result of potential modifications to current EFH and/or groundfish mortality closed areas. If there is a clear preferred alternative after public hearings this summer it may be possible, otherwise this action should *not* include modifications to any GB scallop access areas, and a future scallop action would have to be initiated to address those potential measures. For example, a trailing scallop framework could be initiated in November 2014 with final action in April 2015 and potential implementation in October 2015 or later (Timeline Option 2), or new access areas should be considered in the action that sets specifications for FY2016 (Timeline Option 3).

The Council is also considering the addition of one other measure not directly related to specifications that will be addressed in this action: develop accountability measures for the northern windowpane flounder sub-ACL under consideration in Framework 53 to the Groundfish FMP.

Finally, the Council requested NMFS consider modifying the boundary of the turtle chain mat restriction implemented under the Endangered Species Act to be consistent with the turtle deflector dredge (TDD) boundary. GARFO has reviewed this request with the NEFSC and suggests there may be an option to align the boundaries and seasons to maintain conservation benefit for turtles and reduce regulatory complexity. It may be possible to consider this suggestion in FW26. (NMFS has mentioned another very small issue that may need to be modified if this is added to FW26 related to the flaring bar of TDD regulations – this issue could potentially be modified as well).

Any others?

The Council will also need to identify research priorities for the Scallop RSA program. This is now done outside of the framework document to help prevent delays in awarding research grants. The Council is scheduled to approve research priorities for 2015 and 2016 at the June 2014 Council meeting. These priorities are then forwarded to NMFS by letter and used in the federal funding announcement that is expected to be published in summer 2014.

Range of Alternatives that May be Considered:

Scallop Fishery Specifications:

Range of measures will likely include: an overall ABC, set-asides for observer and research programs, estimate of catch from incidental scallop permits, DAS allocations, access area trip allocations, overall quotas for the LAGC IFQ fishery and a hard TAC for the NGOM management program. All specifications and set-asides will likely be similar to levels from recent years.

Development and analysis of these specifications will require significant involvement of many members of the Scallop PDT. The SSC will need to review the ABCs and the Committee and Advisory Panel will need to provide input on the range of specifications considered.

Additional measures related to specifications:

If the Council decides to include measures to adjust scallop access areas in this action the range of alternatives could be modified areas in and around NL, CA1 and CA2 scallop access areas. For example, CA1 access area may be expanded to the north, and NL access area may be expanded to include areas with recent recruitment to the east and west of the current access area. A new access area may also be designed on the northern edge of GB depending on what measure is selected in the Omnibus Habitat Amendment. These areas would likely be fished as access areas in terms of limited access and periods of when the area is completely closed to scallop fishing. There may even be seasonal restrictions to address potential bycatch and/or gear conflict issues.

Updated estimated of GF bycatch:

Updated estimates of GB YT, SNE/MA YT, SNE/MA windowpane flounder catch, and Northern windowpane flounder for 2015-2016 for sub-ACL allocations in GF action – The scallop fishery is currently allocated three sub-ACLs under the Multispecies FMP: GB YT, SNE/MA YT, and SNE/MA windowpane flounder. GF FW53 is also considering a sub-ACL for northern windowpane flounder.

The allocation for GB YT is based on a set percentage of the total ABC. Starting in 2014 the scallop fishery sub-ABC will be set at 16% of the US ABC, and that value would be adjusted to account for management uncertainty to determine the scallop fishery sub-ACL. Since this is a transboundary stock, the ABC is set annually after updated survey and catch information is reviewed from the previous year. Therefore, the sub-ACL for 2015 is not set yet, but estimated values will likely be available in early fall.

For SNE/MA YT there is no set method for allocating the sub-ACL to the scallop fishery. In years past the Council has reviewed updated projections of catch and set allocations based on those estimates as well other factors. GF FW50 set the 2014 SNE/MA YT allocation at 66 mt,

about 10% of the total ACL, and 64 mt for 2015, also about 10% of the total ACL. These values could be modified by a future GF action, but are set through 2015.

For SNE/MA windowpane flounder the Council approved a set allocation of 36% of the total ABC. This percentage of the ABC would be used to determine the scallop fishery sub-ABC, and then this would be adjusted for management uncertainty to get the scallop fishery sub-ACL. This allocation is based on the 90th percentile of the scallop fishery catches from 2001-2010. For 2014 and 2015 the scallop fishery sub-ACL is 186 mt.

FW53 to the Groundfish FMP is considering sub-ACL allocations for northern windowpane flounder. A range of options have not been developed yet. But this action will consider AMs for the sub-ACL that is ultimately selected for the scallop fishery.

Even though the sub-ACL allocation for two stocks is a set amount, the Scallop PDT will still update the projected catch of all four groundfish stocks during development of this action. It is still useful to have the updated estimates to evaluate potential bycatch levels under scallop specifications considered in this action. These estimates will be forwarded to the GF Committee, and if changes are potentially necessary they can be considered in a future GF action.

Other Measures

Accountability measures for northern windowpane flounder sub-ACL – This action will explore a range of options for measures that will be implemented if the scallop fishery exceeds the sub-ACL for southern windowpane flounder and AMs are triggered. At this time the sub-ACL is a fishery wide allocation, LA and LAGC catch is combined under one sub-ACL. AMs may be the same for both fisheries, or they may be different. The PDT will likely analyze observer and fishery data to develop potential measures that would reduce the catch of windowpane flounder if an AM is triggered (i.e. seasonal closures, effort reductions, gear modifications, etc).

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

This action is expected to require an Environmental Assessment and this determination would be re-evaluated once we know more about the preferred alternatives and the timing of the omnibus habitat amendment.

Applicable laws/issues:

Magnuson-Stevens Act: Typical issues and analyses expected
Administrative Procedure Act: Typical issues and analyses expected
National Environmental Policy Act: Typical issues and analyses expected
Regulatory Flexibility Act: Typical issues and analyses expected
Paperwork Reduction Act: Typical issues and analyses expected
Coastal Zone Management Act: Typical issues and analyses expected
Endangered Species Act: Typical issues and analyses expected.
Marine Mammal Protection Act: Typical issues and analyses expected
E.O. 12866 (Regulatory Planning and Review): Typical issues and analyses expected
E.O. 13132 (Federalism): Typical issues and analyses expected
Essential Fish Habitat: Typical issues and analyses expected
Information Quality Act: Typical issues and analyses expected

E.O. 13158 on Marine Protected Areas
E.O. 12898 on Environmental Justice

Plan Development Team and Other Individuals:

Organization	Name	Responsibility
NEFMC	Deirdre Boelke	Chair of Scallop PDT and Scallop Plan Coordinator. Primary author of all FW25 related documents and meeting materials.
NEFMC	Demet Haksever	Economic Impact Analyses
NMFS NERO Sustainable Fisheries	Emily Gilbert	Chair of Implementation Team, primary point of contact at GARFO for FW26. Identify potential policy, regulatory, and administrative issues during development and review. Support with data needs.
NMFS NERO Sustainable Fisheries	Travis Ford	Identify potential policy, regulatory, and administrative issues during development and review. Support with data needs.
NMFS NERO APS	Rob Vincent	Complete data requests for the PDT. Identify potential monitoring issues during development and review.
NMFS NERO NEPA	Brian Hooper	Review document for completeness in terms of NEPA requirements during development and review.
NMFS NEFSC Population Dynamics Branch	Dvora Hart	Run SAMS model for specifications and biological projections. Consultation on development of measures and biological impact analyses.
NMFS NEFSC Social Science Branch	Julia Olsen	Complete data requests for the PDT. Social Impact Analyses
NMFS NEFSC Protected Species Branch	Kimberly Murray	Consultation on development of measures and impacts on protected resources.
NMFS NEFSC Fisheries Sampling Branch	Chad Keith	Complete observer program data requests for the PDT. Identify potential monitoring/observer program issues during development and review.
US Coast Guard	Lt. Josh O'Boyle	Identify potential enforcement issues during development and review.
MA Division of Marine Resources	Matthew Camisa	Consultation on development of measures and impacts on the resource and fishery.
Maine Department of Marine Resources	Kevin Kelly	Provide data for NGOM TAC alternatives. Consultation on development of measures and impacts on GOM.
Maine Department of Marine Resources	Trisha DeGraaf	Consultation on development of measures and impacts on GOM.
Virginia Institute of Marine Science (VIMS)	William DuPaul	Consultation on development of measures and impacts on the resource and fishery.
Virginia Institute of Marine Science (VIMS)	David Rudders	Provide data from available scallop surveys. Consultation on development of measures and impacts on the resource and fishery.
UMASS Dartmouth (SMAST)	Emily Keiley	Provide data from available scallop surveys. Consultation on development of measures and impacts on the resource and fishery.

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

- NEFMC Council Staff: Michelle Bachman, Responsible for EFH Impact Analyses
- NEFMC Council Staff: Jamie Courname, Support with potential impacts of WP AM alternatives on groundfish resource and fishery
- NMFS GARFO Habitat Conservation: David Stevenson, Consultation on EFH Impact Analyses
- NMFS GARFO Protected Resources: Bill Barnhill, Consultation on development of turtle related measures and impact analyses
- NMFS GARFO Analysis and Program Support Division: *TBD, if necessary*
- NMFS Enforcement: Sean Eusebio, Don Frei; Bill Semrau (VMS measures)
- GCNE: Gene Martin, Consultation on potential legal issues and questions

NMFS GARFO SF Staff will identify list of individuals for “Implementation Team” after this action is formally initiated by the Council.

Timeline for Development/Review/Implementation:

2014	
May	Develop Action Plan with Committee
June	Council initiate FW
July - Sept	PDT/AP/Cmte develop measures
Sept.	SSC develop ABC recommendation
Sept.	Council approve ABC
Oct.	Finalize analyses
Nov.	Council final action
Dec.	Submit EA to NMFS for preliminary review
2015	
Jan/Feb	Formal submission of EA to NMFS
May	Implementation

Other Issues:

- Enforcement: TBD
- Statistics: TBD
- Observer Coverage: TBD
- Administrative issues/costs: TBD
- Regulatory clarification/simplification: TBD

Versions of the Action Plan:

Version 1 – Current draft used for initiation of action

Potential Timeline Options

We have long recognized that the OHA2 amendment may have implications for the design of access areas for the scallop fishery. If year-round area closures are changed, then the scallop access areas may need to be redesigned to take advantage of the new closure program. Coordinating the two actions has been complicated by the shifting OHA2 timeline. At one time we hoped that the Council's final decision on OHA2 would be made early enough so that any changes to the scallop access areas could be designed and implemented through the annual framework that will be approved in November 2014. As the OHA2 timeline slid, this became less and less likely. Staff pointed out in February, for example, that the addition of two more alternatives could have impacts on the access areas because it would delay the OHA2 decision.

It now appears likely that the Council's final decision on OHA2 will occur in November 2014; we do not know how long it will take NOAA/NMFS to approve and implement the action. Staff has been examining how this delay could affect changes to the scallop access areas, and has created three possible timelines that are outlined below.

The Scallop Committee should provide input on the timeline for the full Council to consider in June when FW26 is scheduled to be initiated.

1. Option 1: Continue to include revised scallop access areas in the framework action that will be voted in November. Analyze a wide range of possible access areas due to uncertainty over the final OHA2 decision and the date that any changes will be implemented. Vote in November with the goal of implementing the new areas concurrently (or shortly after) the implementation of OHA2. This option does not appear feasible, particularly since we do not have a preferred alternative for the Georges Bank area and the range of options that would need to be considered would be daunting.
2. Option 2: Do not address the scallop access areas in the scallop framework action that will be voted in November. Immediately after the Council's OHA2 decision, initiate a framework action to modify the scallop access areas. Vote on this action in early summer 2015 and implement as soon as possible after the OHA2 implementation (likely no earlier than October 2015). While this option would modify the areas more quickly than Option 3, it would substantially complicate the specifications process since a mid-year implementation could affect all specs.
3. Option 3: Do not address modifications to GB scallop access areas in the scallop framework action that will be voted in November. Begin work on revised access areas and incorporate them into a framework action that will be voted in November 2015. Implement the new access areas early in FY 2016. This option would be the most holistic approach, and would streamline the changes to the access areas and setting of annual specifications. The tradeoff is it delays changes until May 2016 (or thereabouts).

Other issues that indirectly affect the timing include the scallop assessment that is planned for this year (which will occupy key PDT members), and the review of the scallop survey methods that is planned for spring 2015 (again, limiting the availability of some PDT members to work on access area design). In addition, the PDT will be coordinating with the GF PDT on FW52 related to sub-ACLs for Northern WP flounder.

			Consider GB access areas now Earliest access Aug2015	Trailing Scallop Action for GB access areas Earliest Access October 2015	GB access areas in next spec package Earliest Access May 2016
		EFH Omnibus	Option 1	Option 2	Option 3
2014	June		FW25 implemented Council initiate FW26 (FY2015 specs, GB access area modifications based on EFH action, and WP AM)	FW25 implemented Council initiate FW26 (FY2015 specs, and WP AM)	FW25 implemented Council initiate FW26 (FY2015 specs, and WP AM)
	July				
	Aug				
	Sept		Council approve ABC and review range of alternatives for FW26 (FY2015-16 default)	Council approve ABC and review range of alternatives for FW26 (FY2015-16 default)	Council approve ABC and review range of alternatives for FW26 (FY2015-16 default)
	Oct				
	Nov	Council Final Action Expected	Council Final Action - FW26 Action would need to include various EFH scenarios	Council Final Action - FW26 Council initiate trailing scallop action to address GB access areas and higher ACT (FW27)	Council Final Action - FW26
	Dec				
2015	Jan				Council initiate regular spec package for FY2015/2016 and modifications to GB access areas (FW27)
	Feb				
	Mar		FY2015 begins (default FW25)	FY2015 begins (default FW25)	FY2015 begins (default FW25)
	April		Initiate FW27 (specs for 2016 and 2017)	Possible final action on FW27 (June may be more realistic)	
	May		FW26 implemented, however access to areas not in EFH closures not be effective until Aug 2015	FW26 implemented	FW26 implemented
	June			Council initiate FW28 (specs for 2016 and 2017)	
	July				
	Aug	Implementation	Earliest access in EFH closures that may reopen		
	Sept				
	Oct			FW27 implemented (modification of GB access areas)	
Nov		Council Final Action on FW27 (specs for FY2016 and 2017)	Council Final Action on FW28 (specs for FY2016 and 2017)	Council Final Action on FW27 (specs for FY2016 and 2017 and GB access area measures)	
Dec					
2016	Jan				
	Feb				
	Mar		FY2016 begins (default FW26)	FY2016 begins (default FW26)	
	April				
	May		FW27 Effective (FY16/17 specs)	FW28 Effective (FY16/17 specs)	FW27 Effective (FY16/17 specs)

Key	Initiate Action	Final Action	Implementation