



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116  
John Pappalardo, *Chairman* | Paul J. Howard, *Executive Director*

**MEMORANDUM**

**DATE:** September 22, 2010  
**TO:** Groundfish Oversight Committee  
**FROM:** Groundfish Plan Development Team (PDT)  
**SUBJECT:** **Scallop Amendment 15 Yellowtail Flounder Accountability Measures**

1. As requested by the Committee, the PDT reviewed the scallop fishery yellowtail flounder AM alternatives that are being considered in Scallop Amendment 15. This review focuses solely on the ability of the alternatives to prevent overfishing of yellowtail flounder and does not address any of the impacts of the alternatives on the scallop fishery. All of the alternatives have the potential to control yellowtail flounder catches by the scallop fishery but there are issues that can be addressed to improve their effectiveness.

2. There are four AM alternatives under consideration that are briefly summarized below. Full details can be found on the draft Amendment 15 document.

- Seasonal closure of portion of stock area pre-identified with high bycatch
  - Option A: In-season
  - Option B: Effective in year 3 after an overage in year 1
- In –season closure of entire stock area
- Fleet-wide maximum of DAS and percent of IFQ that can be used in a stock area
- Individual maximum of DAS and percent of IFQ that can be used in a stock area

**Seasonal closure of portion of stock area pre-identified with high bycatch**

3. Amendment 15 identifies three statistical areas in the SNE/MA yellowtail flounder stock area that will be closed if incidental catches of SNE/MA yellowtail flounder reach a trigger (which is not specified in the draft). According to the amendment these areas account for 26.7 percent of the yellowtail catch from the area. They are three of the areas that have the highest bycatch rates of yellowtail flounder.

5. Sub-option A is an in-season closure. The effectiveness of the in-season closure on limiting catches of yellowtail flounder in the stock area depends on timing. As an example, if the SNE/MA area is closed for the entire year then at best the yellowtail catch would be reduced by about 30 percent – and this assumes that scallop effort is not redirected into the open areas where catches will continue. If the overage is expected to be more than 30 percent this AM is unlikely to be effective. The proposal suggests that the closure will be triggered when the catch of yellowtail flounder reaches a certain percentage. A lower trigger percentage (such as 60 percent rather than 90 percent) would result in less risk that the ACL will be exceeded than a higher

percentage, but a better approach would be to trigger the timing of the closure based on catch projections and the amount of benefit expected from the timing of the closure. With adequate catch monitoring, it may be possible for an in-season forecast to predict the annual yellowtail catch and time the closure to reduce the probability that the yellowtail ACL will be exceeded.

Redirection of scallop fishing effort as a result of an in-season closure complicates analyzing this measure and determining when it should be triggered. At present, the scallop fishery yellowtail flounder sub-ACL is based on the ratio of catches of yellowtail flounder to the kept catch of scallops, multiplied by the expected scallop catch. If scallop effort shifts into another area as a result of a closure, and as a result the scallop catch in that area increases beyond what was expected when the sub-ACL was determined, yellowtail catches will also increase from that area. If the area has a higher bycatch rate than the area that was closed then the in-season closure could paradoxically lead to increased yellowtail flounder catches by the scallop fishery. This is not only problematic if effort stays within the same yellowtail flounder stock area, it is problematic if effort shifts into another stock area.

With respect to the area on Georges Bank, it is not clear that this can be an effective in-season AM because of the CAII access area. The PDT is uncertain whether the Amendment 15 determination that this area is a high yellowtail catch area is independent of whether the access area is open or closed. During years the access area is closed, much of the area available to the fishery is inaccessible even before an AM is triggered, so it is unclear what effect triggering the AM will have. In years when the access area is open, catch rates in the area are likely to be higher than outside the area; once the access area closes, it is not clear whether the AM, if triggered, will affect catches enough to work.

6. Sub-option B closes the appropriate area in year 3 after a year 1 overage. The PDT is concerned about the delay between an overage and implementation of the AM. It is not clear why the amendment considers an in-season area closure possible (Sub-Option A and the stock area closure alternative) but does not consider a closure possible in year 2 for this sub-option. The amendment indicates the closure may not be for a full year if the overage is small. It is unclear how this will control yellowtail flounder catches. The operating assumption is the catch of yellowtail flounder is proportional to the catch of scallops. Since the AM does not change either limited access DAS or General Category IFQ, the PDT is uncertain whether the proposed closure can be expected to reduce scallop catches and thus reduce yellowtail bycatch. Similar to the in-season measure, effort shifts into areas with higher bycatch rates could reduce the effectiveness of this AM. For limited access vessels, effort shifts might move DAS into areas with high scallop LPUE, resulting in increases in scallop landings that might lead to increased yellowtail flounder bycatch even if the rate of yellowtail flounder caught to scallops kept is lower in the area. Since the area on GB overlaps the access area, it is also possible the area might not be open to scallop fishing in a year that the AM is supposed to be in place, further reducing its effectiveness.

7. In summary, questions that need to be answered for this AM to be effective include:

- If an in-season closure is the AM, how will timing of the closure be determined?
- What scallop fishery effort shifts are likely and how do they affect timing of the AM?
- Will the GB area be an effective AM in years when the CAII access area is not open?
- Magnuson-Stevens Act guidance suggests that an AM should be revised if the ACL is exceeded more than once in a four-year period. If overharvest of the sub-ACL occurs in year 2, is the process the same (i.e., deduct from year 4)?

- What is the justification for implementing the AM in year 3 instead of in-season or year 2? An in-season AM seems to provide a higher level of accountability than a year 3 AM because the measure is implemented more swiftly. A year 3 AM may result in a higher level of management uncertainty for yellowtail flounder. Depending upon the level of overall yellowtail flounder catch by all fisheries (in relation to the total ACL), and the status of the fishing mortality rate in year 2, implementation of the AM in year 3 may increase the risk of overfishing in year 2.

### **In-season closure of entire yellowtail flounder stock area**

8. From a yellowtail flounder mortality perspective, this AM is likely to reduce the risk of exceeding the sub-ACL for the stock area that is closed. It is possible that effort may be redirected into other stock areas. If redirected into either the GB or SNE/MA stock areas, the same AM should control yellowtail catches in that areas. If redirected into the CC/GOM yellowtail flounder stock area it could lead to overfishing as scallop catches of this stock are currently considered part of an “other subcomponent” and are not controlled by an AM.

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

9. For this AM, total scallop fishing effort in a particular yellowtail flounder stock is adjusted in year 3 based on an overage in year 1. Because these AMs involving DAS and IFQ measures would not be effective until year 3, the PDT has similar concerns as those expressed for the year 3 AMs described above. The adjustment is calculated based on observed catch rates, estimated yellowtail flounder stock size, and expected scallop LPUE. This does not reduce the amount of effort available overall and there could be redirection of the effort into other stock areas. It is not clear how the timing for these adjustments interfaces with the setting of sub-ACLs. At present, the PDT expects that scallop fishery sub-ACLs will be updated every two years when scallop management measures are determined. These sub-ACLs are based on observed catch rates. As a result, if a sub-ACL is exceeded, one reason could be that observed catch rates were higher than expected, leading to a higher allocation in the future.

10. Since limited access vessels are not charged DAS for access area trips, this measure has no effect on yellowtail flounder bycatch in access areas. This may be an issue in the GB yellowtail flounder stock area where the areas of highest yellowtail flounder catches straddle the CAII access area. If the access area is open in year 3, the extent to which the open areas can address an overage in year 1 is not clear. While not a groundfish issue, the PDT also notes that if there are lower yellowtail flounder catch rates in the open areas the scallop fishery must forego a larger amount of scallop yield for a given overage than would be the case for areas with higher rates (such as within access areas).

11. Amendment 15 considers another version of this AM that reduces DAS or IFQ at the individual vessel level. From a yellowtail flounder perspective, this AM raises concerns similar to the fleet-wide approach discussed above. In addition, the amendment suggest that if the individual approach is adopted the Council may consider allowing scallop permit holders to trade area-specific DAS or IFQ. It is not clear how such trading would affect the AMs if discard rates differ among the various fleet components.

## **US/CA Area Issues**

12. All of the AMs with implementation delayed until year 3 raise an issue with respect to the US/CA Resource Sharing Understanding. Under the terms of the understanding, if the U.S. exceeds its GB yellowtail flounder TAC in year 1 the TAC for year 2 is reduced by the same poundage as any overage. Current regulations say that the overage will be paid back by the component responsible for the overage – either common pool, sector, or scallop vessels. In the case of common pool and sector vessels, catches can be controlled to the reduced TAC through in-season measures. There might not be similar provisions for the scallop fishery. If the TAC is exceeded by the scallop fishery, the TAC adjustment in the subsequent year is essentially a paper exercise unless additional measures will restrict scallop fishery catch until year 3.

## **Other Issues**

13. Changes in catch monitoring are mentioned in Amendment 15, but the document should clarify the relationship between monitoring and reporting methods and the proposed AMs. Are there limitations to monitoring that are pertinent to the alternatives? For example, is it just as feasible to monitor in-season catch to support an in-season AM as it is to implement a year 2 or year 3 AM? Are there monitoring differences between the open areas and access areas that are pertinent to the discussion of AM alternatives?