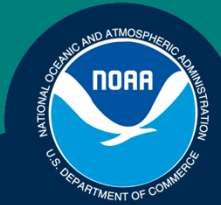


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Proposed Scallop Framework 23 Regulatory Changes

November 16, 2011



Emily Gilbert
Scallop Policy Analyst
Sustainable Fisheries Division



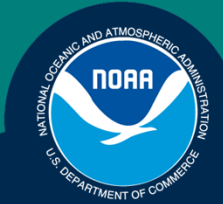
The New England Fishery Management Council's (Council) Deeming Process

- Section 303(c) of Magnuson-Stevens Fishery Conservation and Management Act (MSA) requires that the Council deem draft regulations before they are implemented.
- Due primarily to timing constraints and availability of draft regulations, the Council has typically deemed regulations as follows:
- We (NMFS) send the Council's Chair and Executive Director a letter with the drafted regulations,
- The Executive Director reviews them and make a recommendation to the Council Chair.
- The Council Chair, on behalf of full Council, makes determination to deem the draft regulations.
- If draft regulations approved, the Executive Director sends "deeming letter" to us.



The Council's Deeming Process

- The review timeline for Framework 23 falls between Council meetings and the draft regulations are available for full Council review and deem at this meeting
- Framework 23 is relatively limited in scope, and has fairly limited regulatory revisions. Larger, more complex actions may be difficult to review during a Council meeting.



Presentation Outline: Drafted Framework 23 Regulations

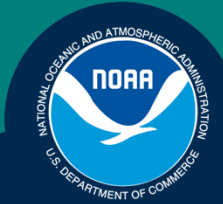
Refer to the Companion Guide (CG) for drafted
regulatory changes.

- Yellowtail Flounder (YTF) Accountability Measure (AM) Regulations
- Northern Gulf of Maine (NGOM) Regulations
- Vessel Monitoring System (VMS) Regulations
- Turtle Deflector Dredge (TDD) Regulations
- Other Proposed Regulatory Changes (305(d) of the MSA)



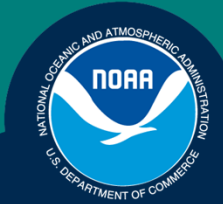
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- **YTF AM Regulations**
- TDD Regulations
- NGOM Regulations
- VMS Regulations
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Framework 23 YTF AM Updates (50 CFR Section 648.64)

- Would replace Amendment 15 YTF AM closure schedules with Framework 23 proposed schedules for Georges Bank (CG: pg 34-35) and Southern New England/Mid-Atlantic (CG: pg 37)
- Would add flexibility for Regional Administrator to re-evaluate any AM overage decision, based on proposed closure schedule (CG: pg 38).
- If updates to the January 15th projection indicate that the amount of estimated YTF catch in the scallop fishery for a given year is higher or lower than initially estimated, appropriate adjustment could be made mid-year.



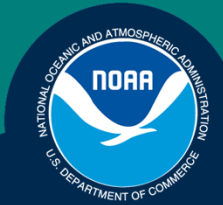
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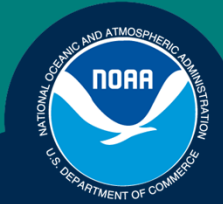
Framework 23 NGOM Updates

- Framework 23 proposes to allow NGOM-permitted vessels to fish exclusively in state waters of the NGOM and have those landings not applied to the Federal NGOM total allowable catch (TAC).
- Examples:
 - § 648.10 [VMS] (f)(2): “A NGOM scallop vessel is deemed to be fishing in Federal waters of the NGOM management area and will have its landings applied against the NGOM management area TAC, unless...The vessel has specifically declared into the state-only NGOM fishery, thus is fishing exclusively in the state waters portion of the NGOM management area.” (CG: pg 5)
 - § 648.62 [NGOM Management Program] (c): “...If a NGOM vessel intends to fish any part of a NGOM trip in Federal NGOM waters, it may not declare into the state water NGOM fishery.” (CG: pg 31)
- Other examples in CG: pg 14, 20, 23, and 30-31



Framework 23 NGOM Updates

- Framework 23 states that NGOM-permitted vessels can not declare and fish a state-only trip in NGOM waters after the Federal NGOM TAC has been fully harvested.
- Example: § 648.62 [NGOM Management Program] (b)(2): “...Once the NGOM hard TAC is reached, a vessel issued a NGOM permit may no longer declare a state-only NGOM scallop trip and fish for scallops exclusively in state waters within the NGOM...” (Pg 31 of CG)
- Other examples: § 648.14 [Prohibitions] - pg 20-21 (**Note Addendum – Change to pg. 20 of CG**), and 23.



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Framework 23 VMS Adjustments

- Would allow scallop vessels (LA, IFQ, NGOM) to declare scallop trips from outside of a designated port, but prior to crossing the VMS Demarcation Line
- Would still require a scallop vessel to declare an “initial trip” from port (i.e., declare out of the fishery (DOF))
- Distinction between DOF to target other species and DOF to steam closer to scallop fishing grounds, with intent to declare into the scallop fishery prior to crossing the Demarcation Line.
- Proposed VMS regulations are found in the CG on pages 3-5, 7, 17, 20, and 22.



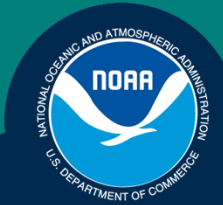
Framework 23 VMS Adjustments: Example (CG: pg 4)

§ 648.10(f) *Atlantic sea scallop vessel VMS notification requirements.* Less than 1 hr prior to leaving port, the owner...of a scallop vessel...must notify the Regional Administrator by transmitting the appropriate VMS code that the vessel will be participating in the scallop DAS program, Area Access Program, or LAGC scallop fishery, **or will be fishing outside of the scallop fishery under the requirements of its other Federal permits, or that the vessel will be steaming to another location prior to commencing its fishing trip by transmitting a “declared out of fishery” VMS code.** If the owner...of a scallop vessel declares out of the fishery for the steaming portion of the trip, the vessel cannot possess, retain, or land scallops, or fish for any other fish. Prior to commencing the fishing trip following a “declared out of fishery” trip, the owner...must notify the Regional Administrator by transmitting the appropriate VMS code, before first crossing the VMS Demarcation Line, that the vessel will be participating in the scallop DAS program, Area Access Program, or LAGC scallop fishery



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Framework 23 TDD Regulations: When, Where, and Which Vessels...

Gear Description added to § 648.51 (CG: pg 23-24)

(b)(5) Restrictions applicable to sea scallop dredges in the mid-Atlantic.

(i) Requirement to use chain mats. See § 223.206(d)(11) for chain mat requirements for scallop dredges.

(ii) Requirement to use a turtle deflector dredge (TDD) frame —
(A) From May 1 through October 31, any limited access scallop vessel using a dredge, regardless of dredge size or vessel permit category, or any LAGC IFQ scallop vessel fishing with a dredge with a width of 10.5 ft (3.2 m) or greater, that is fishing for scallops in waters west of 71° W longitude, from the shoreline to the outer boundary of the Exclusive Economic Zone, must use a TDD...



Framework 23 TDD Regulations: Description of Gear Modifications

(b)(5)(ii)...The TDD requires five modifications to the dredge frame, as specified in paragraphs (ii)(A)(1) through (ii)(A)(5) of this section...

- (1) The cutting bar must be located in front of the depressor plate.
- (2) The angle between the front edge of the cutting bar and the top of the dredge frame (i.e., the posterior point of the depressor plate) must be less than or equal to 45 degrees.
- (3) All bale bars must be removed, except the outer bale (single or double) bars and the center support beam, leaving an otherwise unobstructed space between the cutting bar and forward bale wheels, if present. The center support beam must be less than 6 in (15.24 cm) wide.



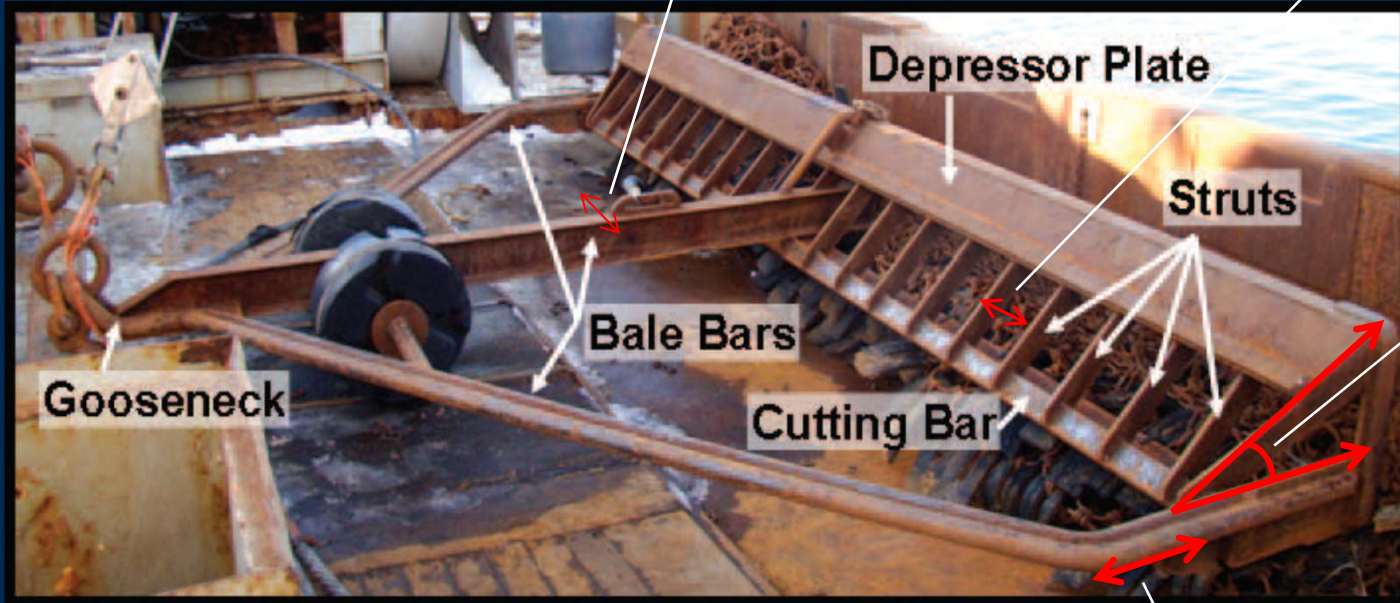
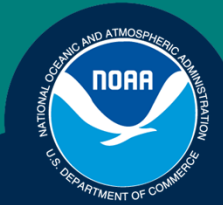
Framework 23 TDD Regulations: Description of Gear Modifications (Continued)

(4) Struts must be spaced 12 in (30.5 cm) apart or less from each other.

(5) Unless exempted, as specified in paragraph (b)(5)(ii)(B) of this section, the TDD must include a straight extension (“bump out”) connecting the outer bale bars to the dredge frame. This “bump out” must exceed 12 in (30.5 cm) in length.

(B) A limited access scallop vessel that uses a dredge with a width less than 10.5 ft (3.2 m) is required to have a TDD except that such a vessel is exempt from the “bump out” requirement specified in paragraph (b)(5)(ii)(A)(5) of this section. This exemption does not apply to LAGC vessels that use dredges with a width of less than 10.5 ft (3.2 m) because such vessels are exempted from the requirement to use a TDD, as specified in paragraph (b)(5)(ii) of this section.

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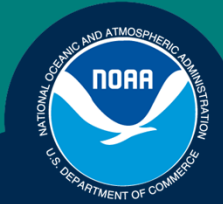


< 6" wide

≤ 12"

≤ 45°

> 12" bump out



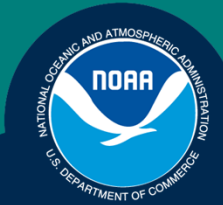
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What is NMFS Authority under 305(d) of the MSA?

- MSA § 305(d) gives NMFS the authority to adjust/clarify regulations through rulemaking to carry out any approved measures in a fishery management plan or amendment.
- NMFS has included proposed regulatory adjustments to remove/update outdated terminology, cross-references, and regulations; as well as update regulations to clarify the intent of the regulations. These changes would be described in the preamble of the proposed rule.

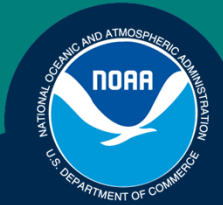


Changes to Terminology

- “TAC” → “ABC/ACL” (See CG pages 22, 26, and 31-32)
- Other similar examples: See CG pages 14, 17, 20, and 26

Changes to References

- “...as specified in paragraph ~~(b)~~ (a) of this section...”
- See CG pages 10, 23, 25-28, and 32

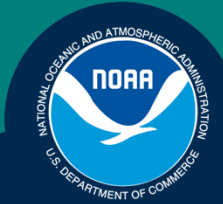


Proposing to Remove Unclear or Unnecessary Text

- Prohibitions that referenced NGOM and incidental permits being able to possess more than their limits if assigned an industry-funded observer. See page 13 of CG.

Proposing to Remove Outdated Text:

- References to the LAGC quarterly TACs, which no longer existed after the IFQ Program was implemented in FY 2010. (See pages 20 and 21 of CG)

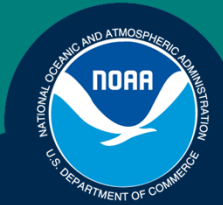


MSA 305(d) Examples (Continued)

Clarifying the Intent of Current Regulations

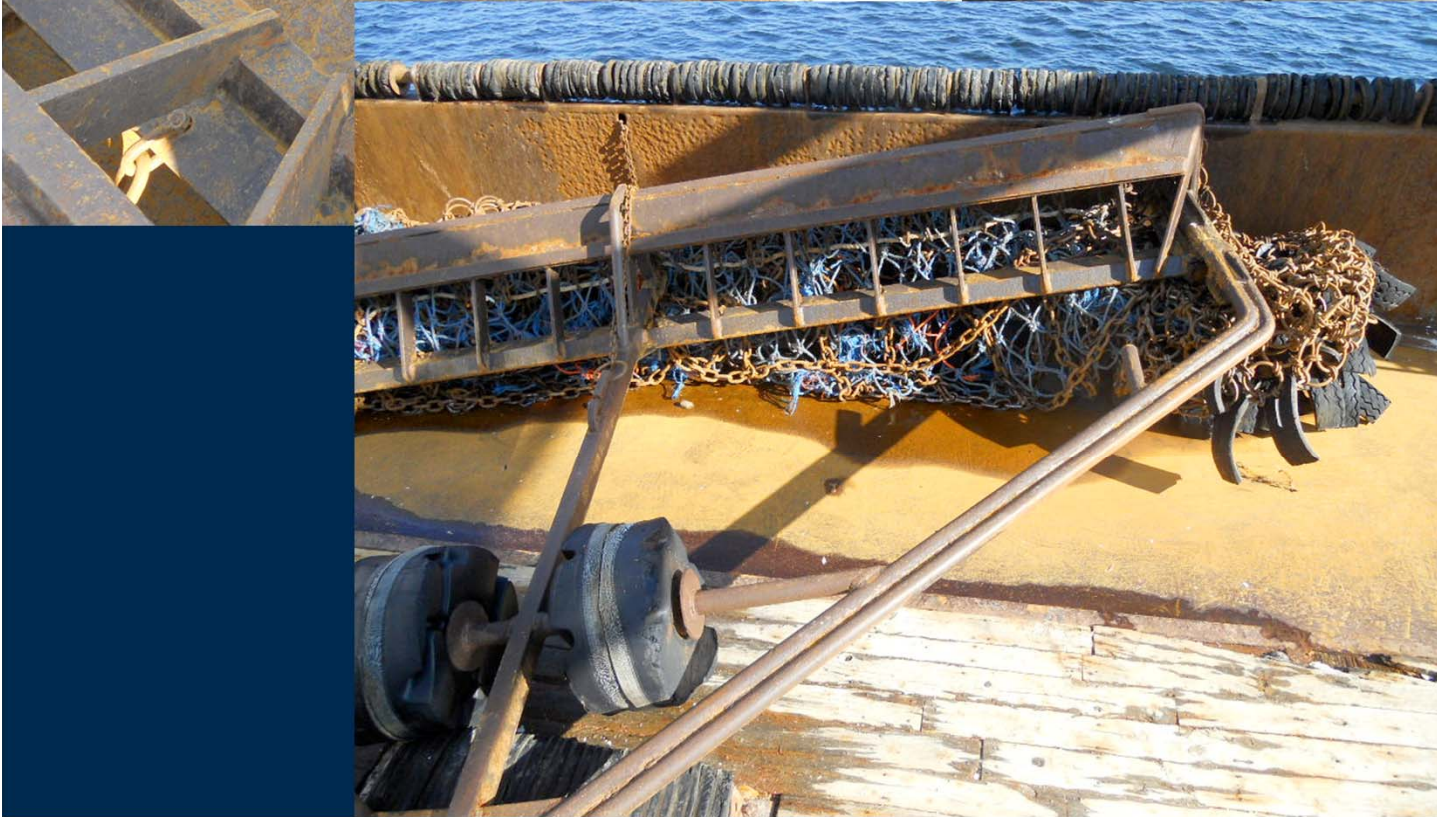
- Observer regulations clarified to demonstrate how observer providers should charge LAGC vessels fishing in access areas when observer compensation is and is not available (Process only outlined for LA vessels). See page 11 of CG.
- Other examples: See pages 3, 6, 8, 9, 26, and 29 of CG

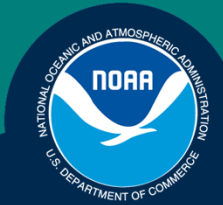
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Questions?

Comments?





Framework 23 TDD Regulations: Definitions

(D) *TDD-related definitions.*

- (1) The cutting bar refers to the lowermost horizontal bar connecting the outer bails at the dredge frame.
- (2) The depressor plate, also known as the pressure plate, is the angled piece of steel welded along the length of the top of the dredge frame.
- (3) The top of the dredge frame refers to the posterior point of the depressor plate.
- (4) The struts are the metal bars connecting the cutting bar and the depressor plate.