

## **NEW ENGLAND FISHERY MANAGEMENT COUNCIL**

### **Scallops**

#### **I. STATUS**

Both Framework 20 and Amendment 11 have been submitted to NMFS and they are currently being reviewed. Framework 20 is expected to be implemented in the near future and a proposed rule for Amendment 11 is expected later this fall.

#### **II. MEETINGS**

- The Scallop PDT met on June 27
- A joint Scallop PDT and Advisory Panel meeting was held on July 26
- The Scallop Committee met on August 16
- The Scallop PDT met on August 23

#### **III. COUNCIL ACTION**

1. Presentation on recent scallop assessment (See SARC 45 Summary Report under Tab1)
2. The Council will review progress to date on Framework 19 and may consider adjustments to the range of alternatives under consideration

#### **IV. INFORMATION**

1. Framework 19 timeline
2. Joint Scallop PDT and Advisory Panel meeting summary (July 26)
3. Scallop Committee meeting summary (August 16)
4. Draft Framework 19
5. Memo from Scallop PDT regarding FW19 alternatives
6. Correspondence

# 1

**FRAMEWORK 19 DELAY OF FINAL ACTION****TIMELINE**

		Framework 19	Framework 19 DELAYED
2006	Nov	Council initiates action	Council initiates action
	Dec	PDT begins working on info for FW and SAFE, One Committee meeting in Jan to identify range of alternatives	PDT begins working on info for FW and SAFE, One Committee meeting in Jan to identify range of alternatives
2007	Jan	Several Committee, PDT and AP meetings to develop measures and complete analyses.	Several Committee, PDT and AP meetings to develop measures and complete analyses.
	Feb		
	Mar		
	Apr		
	May		
	Jun		
	Jul		
	Aug		
	Sep		
	Oct	Staff submits FW19 mid october	Council selects final measures (10/25)
	Nov	NMFS Review	Staff submits FW19 first week of November
	Dec		
2008	Jan	Target Implementation March 1	Target Implementation March 1 But may be several weeks after start of fishing year since submission date is several weeks later
	Feb		
	Mar		

+ 2



## Joint Scallop PDT and Advisory Panels Meeting Summary

Thursday, July 26, 2007 – Biltmore Hotel – Providence, RI

The meeting began around 8:45 AM and the majority of both advisory panels (Scallop and General Category) and PDT members were present. Roughly 30 individuals were in the audience. After introductions, Deirdre Boelke summarized the goal of the meeting and went through each of the meeting materials. She explained that the main goal of the meeting was to provide input to the Scallop Committee regarding three main topics for Framework 19 development. First, what should be considered for future management of the Hudson Canyon Access Area. Second, consider several small adjustments to rotational area management to make the program more effective. And third, discuss possible alternatives to improve the observer set-aside program. The Scallop Committee is scheduled to review this input on August 16 in Mansfield, MA. Before the group addressed these issues there were several presentations related to current scallop surveys and preliminary projections.

### Scallop surveys

The first agenda item was a review of recent scallop survey information from three different scallop surveys in the region: the NMFS federal dredge survey, the SMAST video survey, and a cooperative research dredge survey conducted by VIMS. Dr. Dvora Hart from NEFSC summarized advancements in the recent stock assessment conducted this summer. She also reviewed preliminary results from the 2006 assessment, namely overfishing is not occurring and the stock is not overfished. Lastly, she explained that there are three legs of the survey; the first leg of the 2007 survey was completed (Virginia to New Jersey), and the other two legs are expected to be completed by mid-August. Dr. Hart was on the first leg of the survey and while the results from the survey are not fully audited, she explained some personal observations from the first leg. The Elephant Trunk area looked very good, Hudson Canyon was below average with some small scallops caught in the northern area as well as other stations to the north and east. In terms of data that will be available for Framework 19, Dr. Hart explained that the primary data from the federal survey that will be used is data through 2006. Data from the 2007 survey will only be used to assist in identifying potential new areas for closure; the entire 2007 dataset will not be available for overall biomass estimates in Framework 19. Lastly, she summarized the bottom line for the total projected catch for the next two fishing years at about 50-60 million pounds. In general, preliminary forecasts suggest one access area trip on Georges Bank for 2008 and 2009, 3-4 trips per year in Elephant Trunk, possible moderate reductions in open area DAS for both years, a possible re-opening of Delmarva in 2009 (1 trip) and possible new closure in the Hudson Canyon area.

Many questions followed Dr. Hart's presentation. In terms of the models used, it was requested if Framework 19 could include results from both models for comparison. In addition, there was a lot of discussion related to the Hudson Canyon Area. Several speakers suggested that the area should always be treated as an access area and if the boundaries are going to be changed the advisors should have input on the final boundaries. Related to Closed Area I, there was strong dissatisfaction with the fact that the Council is not planning to revisit the habitat closed areas in Closed Area I until Phase II of the EFH Amendment. Since both A10 and A13 habitat closed

areas are closed to the scallop fishery this area cannot be included in the rotational area management program. Another speaker requested that the PDT summarize how close the fishery has come to projected catch levels in recent years.

Next, Dr. Stokesbury gave a presentation on the SMAST video survey design, analysis and outputs. He explained that they should have final data available from their 2007 survey by the end of August for the PDT to incorporate in Framework 19 analysis. This data will be useful as another source of data for the overall estimate of biomass for the access areas. Dr. William DuPaul then summarized the final estimates of biomass in Closed Area II from their 2007 dredge survey conducted in May. He reported that the area can probably only support one trip in 2008 or 2009. In addition, their survey caught a large number of small scallops in the SE part of the access area in Closed Area II. He did report that a large number of sand dollars were caught throughout the area, and the number of starfish was less than in years past. VIMS may also be able to provide an estimate of scallop and YT catch rates for this area for Framework 19 analyses. Dr. DuPaul explained that their team was currently in Closed Area I and the condition of scallops in the southern portion of that area was poor. Both researchers emphasized the importance of the research set-aside program for supporting this type of research that is incorporated directly into the management process.

### **Hudson Canyon**

After a mid-morning break the group then discussed the status of the resource in Hudson Canyon and what should be done with un-used trips in that area. Peter Christopher from NMFS summarized a report of the number of trips left to be used in that area. In summary, as of June 26 about 5.8 million pounds (or the equivalent of 320 trips) are left to be caught in that area (combination of allocated limited access trips and compensation trips). It was noted that more trips have been taken in July and are expected to be taken later this summer and fall before the meat weights decline. The group discussed the Hudson Canyon Area at length until the meeting broke for lunch. In summary, all participants agreed that the area has not produced what was expected. Original estimates may have been too high, but overall allocating that number of trips was a mistake. The group was also in agreement that the area is important for scallop production and should always be part of a controlled access program, not an open area.

One speaker stated that since small seed is showing up in the area history tells us that we should act quickly and close it. Some speakers supported a "use-it-or-lose-it" approach. They argued that Framework 18 tried to resolve the original over allocation by allowing an extension of unused trips for two more fishing years - a deal was made and if vessels did not use their trips by the end of 2007 it would be unfair to the vessels that did when catch rates were lower. Another stated that most trips in Hudson Canyon will slow down in the fall anyway, and since final decision on Framework 19 will not be until late September, most people that were planning to use these trips will have taken them by then. Others argued that effort should be removed from that area at all costs to protect small scallops. One speaker opposed the use it or lose it approach, stating that 300 unused trips could seriously damage the resource that is there. He believes that the resource in Hudson Canyon will be vital to the future, and these unused trips could have detrimental effects. Another argued that if vessels with unused trips were not given the ability to use them later or in a different area, then they would be forced to use them, having large impacts on the small scallops in that area. One PDT member also stated that the economic impacts of the

unused trips would be substantial; some vessels have multiple trips left and that will have economic impacts on those vessels. One speaker suggested that there are fairness issues on both sides, but the Committee should be focused on what is best for the resource in that area. The group was not in agreement about how best to resolve the issue so agreed to submit several alternatives for consideration in Framework 19.

***By consensus: The joint advisors and PDT recommend that the Committee include 4 alternatives for the Hudson Canyon Access Area for Framework 19. First, the No Action alternative – all allocated trips will expire on February 28, 2008 and the area will revert back to an open area. Second, an alternative where all allocated trips would expire on February 28, 2008 and a new area (or the original area) would close to protect small scallops. Third, an alternative where all vessels with unused trips would be given an opportunity to use those trips in either open areas or in the Elephant Trunk Area. A compensation amount would be applied to either option (open area DAS or ET); understood that it would not be an equivalent amount to the original Hudson Canyon trip allocation. A fourth alternative was suggested that would allow vessels with unused trips to use them until June 1, 2008. An extension of three months was suggested so vessels can fish in the area when meat weights are higher to reduce mortality. After June 1, 2008 any unused trips would expire.***

***By consensus: The joint advisors and PDT also recommend that the Hudson Canyon Area (in its current configuration or new boundaries) should always be a special access area and should never be treated as an open area. It is a nursery for the southern area and effort in that area should always be controlled.***

#### **Adjustments to the access area program**

Another topic the Committee requested this group to discuss was related to relatively small adjustments to the access area program to improve effectiveness. The group discussed five topics related to the access area program (derby fishing, general category allocation for access areas, revisit elimination of crew size restriction in access areas, prohibition on deckloading on access area trips, and elimination of the single dredge restriction for part-time vessels in access areas).

#### **Issue #4 - derby fishing in access areas**

The PDT recommended that FW19 include some measures to reduce derby fishing in the access areas for the general category fishery. Most advisors argued that once this fishery is an IFQ fishery there will be fewer derby effects. One argued that the Committee should wait to see what happens in 2009 under the IFQ program and then implement measures if necessary. Two strategies were discussed if the Committee wants to consider measures to reduce derby effects: a monthly fleetwide TAC to spread effort out throughout the year, and a maximum number of trips a vessel could take per month. A representative from the Coast Guard explained that a monthly hard-TAC would cause small derbies all year and would be more difficult to enforce compared to a maximum per vessel per month for example. Several speakers did raise concern about general category derby fishing in access areas having impacts on limited access vessels in terms of areas closing early due to the YT bycatch TAC. Several speakers spoke in favor of a separate YT TAC per fishery, but staff reminded the group that NMFS had serious concerns about monitoring a small YT TAC per fishery.

Several commenters did suggest that measures could be considered for the limited access fishery in Elephant Trunk to spread effort out. But ultimately most advisors felt that the pulse of fishing effort in that area in March 2007 will be less in future years, so the group did not recommend measures to reduce derby fishing effects for limited access vessels.

***By consensus: The joint advisors and PDT recommend that the Committee include 2 alternatives for measures to reduce derby fishing in the general category fishery in access areas. First, the No action alternative – no specific measures to reduce derby fishing in access areas. Second, an alternative that would consider a maximum number of trips per month on an individual vessel basis.***

***In addition, some speakers on the subject requested that staff confirm if individual allocation of access area trips for general category vessels could be considered in Framework 19. Specifically, it was recommended that the percent contribution that each vessel will receive under the IFQ program should translate into each access area, and vessels should be able to trade allocations if they do not want to fish in a particular access area program.***

#### **Issue #5 – Percent of access areas for the general category fishery**

In general the group discussed that the 5% decision made by the Council for the general category fishery overall should apply to all areas. Most argued that 5% of each access area should be considered in Framework 19, except for areas like Closed Area II that are not realistic for most general category vessels to participate in for 400 pounds a trip. One speaker suggested that the 5% that would have been allocated to Closed Area II should be allocated to a different area at a reduced rate. One speaker commented that a small percent should be reserved for Closed Area II so groundfish vessels that are participating in SAP programs in that area can land up to 400 pounds a trip if they qualify for a limited entry general category permit. Another argued that if he was allocated a certain amount in each access area he would trade them all because he does not participate in access areas. Another commented that determining how this could work on an individual basis for general category vessels may be a worthy exercise, but he argued there may not be time in this action. Overall, the group felt that the document only needed to consider 5%, since that is the value the Council selected for overall allocation.

***By Consensus: The joint advisors and PDT recommend that the Committee include 4 alternatives for the percent of access areas for the general category fishery. First, an alternative that would allocate 5% of all access areas to the general category fishery. Second, an alternative that would allocate 5% for all access areas except Closed Area II (zero allocation). Third, an alternative that would allocate 5% to all areas, but the 5% from Closed Area II would be converted into either a different access area (Option A) or open areas (Option B) at a reduced level (apply a conversion tax). Fourth, 5% for all access areas and a much smaller amount for Closed Area II (to allow for SAP programs).***

#### **Issue #6 – Revisit the measure to eliminate crew size restriction for access areas**

The panel was in general agreement that there is a need to provide a way for vessels to train new crew. It was explained that was one reason this measure was originally adopted in Framework 18 to provide a way for vessels to carry an extra man or two on access area trips for training

purposes. One speaker explained that some limited access vessels used to fish under general category when taking on new crew, but that option is no longer available, so having some flexibility to carry new crew is important for training and safety of future crew. Several other speakers argued that eliminating the crew limit was excessive, and a one or two additional crew allowance was sufficient. One advisor added that the additional costs of carrying more crew were prohibitive (i.e. insurance costs). Some argued that while vessels may not be taking extra crew to shuck smaller scallops now, the potential is there for abuse, so why go backwards. Another speaker added that overall effectiveness of area rotation management is a mixture of several measures such as gear restrictions, effort limits, and crew restrictions; the measures need to be in place together in order to be effective. On the other hand, one speaker argued that more men should be permitted on vessels to make time at sea as efficient as possible. Staff explained that the PDT is currently investigating whether vessels have carried more crew under Framework 18, and if there is any evidence that average meat weights have been lower on trips with higher crews (higher mortality).

***By Consensus: The joint advisors and PDT recommend that the Committee include 2 alternatives for crew size restrictions in access areas. First, the No Action alternative (elimination of the crew size restriction). Second, an alternative that would restrict the number of crew for access areas trips to 8 (Option A) or 9 (Option B).***

#### **Issue #9 – Prohibition on deckloading when vessels leave an access area**

Staff explained that this measure was included in the Elephant Trunk interim action to reduce mortality on scallops. If a vessel leaves an access area and plans to shuck the remainder of their trip on the way home, the vessel may have an excess of scallops and will discard them in an area that may not be suitable for scallops. The industry was supportive of this measure for Elephant Trunk and actually requested that it carry over to other access areas as well. The group discussed this issue and agreed that any measures to reduce mortality on scallops should be included. One speaker explained that there was a high level of deckloading in Hudson Canyon in 2004 during the summer, and that may have been a reason why the resource was not there in 2005. Several speakers agreed that the level of mortality from deckloading is probably higher than people realize. Peter Christopher from NMFS requested that the group be specific about two aspects of this rule because they were not clear under the interim rule. First, are general category vessels with an observer also restricted to the 50 bu. limit? Second, if a vessel has to break a trip due to a safety concern is that vessel restricted to 50 bu.? The group supported the language Mr. Christopher used for the safety issue related to transiting an area and suggested the Committee consider the same language for leaving an access area with more than 50 bu. if there is a safety reason. As for the general category issue the group did not make a final recommendation, but one speaker argued that deckloading may not be as large of an issue for general category vessels because it is relatively easy to estimate 800 pounds of meat. It was discussed that it would be possible to consider an exception that would allow a general category with an observer to leave an access area with more than 50 bu. (could develop a maximum), but the Council should make that specific recommendation.

***By Consensus: The joint advisors and PDT recommend that the Committee include 2 alternatives for prohibition on deckloading when leaving an access area. First, No Action that***

*would allow a vessel to leave an access area with their deck loaded (no maximum). Second, an alternative that would prohibit deckloading (up to 50 bu. allowance) leaving an access area from all areas.*

*There was not consensus on the two possible exceptions for safety and general category vessels with an observer, but the group supports further consideration of these issues.*

#### **Issue # 13 – Elimination of the single dredge restriction in access areas for part-time permits**

Staff explained that there was a request from the public to consider this issue in Framework 19. She explained that the PDT is not supportive of this alternative at this time; primarily, because tradeoffs were made when vessels were permitted to upgrade, so making further adjustments would change the tradeoffs that were made. In general, most speakers supported the PDT and agree that tradeoffs were made and a permit should be treated the same in all areas. Another argued that if part-time vessels were supposed to get a 40% allocation of a full-time permit, then if those vessels want to carry two dredges they should get a 40% allocation. He asked why that allocation is the same in access areas, and suggested that the Committee review the basic precepts of upgrading and what each permit is supposed to be allocated (40% for part-time permits and 8.33% for occasional permits). Another speaker voiced that the trade-off of efficiency for additional DAS for part-time vessels is not as direct anymore in access areas. On the other hand, several advisors supported consideration of this alternative. One argued that with the current cost of fuel, a vessel should not have additional restrictions if there is an overall possession limit per trip. If it is more economical for a vessel to pull two dredges then one in an access area, management should support economic efficiency. In addition, one reason upgrades were approved was to reduce the number of net boats in the fishery. Most of these vessels are now part-time and occasional vessels.

***By Consensus: The joint advisors and PDT did not have a final recommendation for this issue. From a previous meeting the PDT recommends that the Committee reject this alternative for inclusion in Framework 19. As for the advisors there was some support for including this alternative and some opposition.***

#### **Observer set-aside program**

There has been dissatisfaction with the current observer set-aside program voiced from the industry, NMFS Observer Office and the Council. Several alternatives were discussed during the Amendment 13 process, but none were feasible for implementation in that action, so an alternative was approved to make changes to the observer set-aside program by framework. A sub-group of PDT members and Observer Office staff met to summarize the different issues raised and suggest potential solutions on July 12, 2007 (see separate handout).

The group reviewed the five problems identified by the PDT and summarized some of the current problems with the set-aside program. Ultimately, the group supported inclusion of alternatives that would address the first three issues in the separate memo (higher compensation rate for vessels with lower fishing power, higher compensation rate for trips in areas with lower catch rates, and several small adjustments to the program as recommended by the NMFS



Observer Office). Any other ideas discussed were considered to be too complicated for this action or could not be implemented by framework. There was general support for keeping the overall allocation at 1%; that set-aside amount has not been reached in previous years and should provide adequate compensation for recommended levels of observer coverage.

One speaker requested that the Council should justify why the scallop fishery is the only fishery that is required to pay for observers in this region. Another requested that the industry should have a better idea of how many trips are projected to have observers at the start of a fishing year. Another explained that while the government is not able to collect a fee in this fishery for observer coverage, if an individual fish house knew in the beginning of the year how many observer trips its vessels may be required to carry, it could set up a volunteer system at the dock to collect funds to cover the cost of an observer. There was general agreement that the cost of an observer is too high.

***By Consensus: The joint advisors and PDT support inclusion of 3 alternatives for potential improvements to the observer set-aside program. First, a higher compensation rate could be determined for smaller permit categories and general category vessels. Second, a higher compensation rate could be determined for areas with lower catch rates (i.e. open area trips). Third, the Committee should consider the list of small adjustments the Observer Office recommends for improved administration of the program.***

The meeting adjourned at 5:00.

#3



## Scallop Oversight Committee Meeting Summary

Thursday, August 16, 2007 – Holiday Inn – Mansfield, MA

### Attendance:

**Committee Members:** David Simpson (Chair), Dennis Spitsbergen (vice-Chair), Rip Cunningham, Hannah Goodale (designee for Pat Kurkul), Rodney Avila, Dana Rice, and Jim Salisbury.

**Absent:** Terry Stockwell

**Council Staff:** Deirdre Boelke and Demet Haksever

**NMFS Staff:** Peter Christopher (NERO) and Amy Van Atten (Northeast Observer Program)

**There were about 25 members of the public present at the meeting.**

The meeting began around 8:45 AM and ended at 5:00 PM. The main purpose of the meeting was to review input from the Scallop PDT and advisory panels on development of alternatives for Framework 19. Framework 19 is the biennial action for FY2008 and 2009. In general the Committee reviewed input topic by topic, and by consensus recommended that most alternatives be included for further consideration. The Committee did spend some time discussing additional alternatives as well as moving some to the considered but rejected section of Framework 19. The summary below provides some background discussion by topic with the relevant consensus statements and motions.

### Hudson Canyon

The Hudson Canyon Area was first closed in 1998 to protect a strong year class of young scallops. The area re-opened as a controlled access area in 2001. In 2006, the area was scheduled to revert back to an open area after several years of fishing effort as a controlled access area. However, survey data from 2005 indicated that the biomass was not as high as predicted and the TACs and allocations for 2004 and 2005 were too high. Framework 18 ultimately extended the duration of the Hudson Canyon access program implemented under Amendment 10 until February 28, 2008 to give vessels more time to take un-used trips when conditions improved. The catch rates in Hudson Canyon are still sub-optimal, and some vessels have not used their 2005 trips, so this action is considering measures to address this issue. Ms. Deirdre Boelke reviewed input from the PDT and advisors including an expiration of the program, an extension of the program three more months, and an alternative that would provide vessels with unused trips some sort of compensation in another area.

The Committee discussed this issue for sometime and heard public testimony from all sides. The Committee also discussed if an overall policy should be crafted to address what should be done when an access area program is not as effective as projected, to avoid this issue in the future. Ultimately the Committee did not develop a policy statement about unused trips and discussed that Amendment 10 has an implied policy that the Council should maintain. Specifically, Amendment 10 states that trips are not supposed to carry over, and effort should be taken at a specific rate from certain areas to meet specific fishing mortality rates. If that effort is shifted around it complicates the entire program. While extending Hudson Canyon trips two additional years may have sent a mixed message to the industry that allocated trips are guaranteed, they are not. In general, under area rotation set up under Amendment 10 trips expire at the end of the year unless a subsequent action is initiated to change that. The Committee discussed that there were equity issues involved and the document should probably include a variety of alternatives to assess the impacts of the different scenarios.

**By consensus – Leave all four recommended Hudson Canyon alternatives in Draft FW19 for now. After more PDT analyses are available some alternatives may need to be revised (i.e. Alt. 2.3.2.2 may be redundant).**

#### **Improvements to the Observer set-aside Program**

Ms. Boelke then reviewed a memo from the PDT with background information on the problems and potential solutions for issues raised during development of Amendment 13 related to the observer set-aside program. The advisors recommended that the Committee include three alternatives for this section, but the PDT was not in favor of the first suggestion based on the amount of time that would be needed to develop and analyze the alternative (a higher compensation rate for vessels with lower fishing power). The second option discussed was an alternative that would allocate a higher compensation rate for vessels fishing in open areas compared to access areas. Vessels have complained that the program does not work in areas with lower catch rates, so a higher compensation for open areas may address this problem to some degree. The third alternative is based on a long list of small improvements that could be made to the program to make it more effective. Ms. Amy Van Atten from the Northeast Observer Program described a draft memo that describes the potential adjustments that could be made to make the program more effective. Some topics include clarifications for observer service provider responsibilities, clarifications about the call-in requirements for vessels, and general issues related to observer work load and working conditions. Most recommendations are administrative in nature and the Committee requested that NMFS identify which ones could be addressed administratively, and which ones should be included in Framework 19. NMFS agreed to provide this detailed list as soon as possible for the PDT and Committee to further review.

**By consensus – Scallop Committee requests that NMFS report back to the Committee about which regulations can be changed administratively and which should be added to FW19.**

#### **Motion 1: Avila/Cunningham**

**Approve alternative 2.8.2 and 2.8.3 for consideration and delete Alternative 2.8.1 (higher compensation rates for vessels with lower fishing power)**

**Vote: 6:0, motion passed**

#### **Improvements to the area rotation program**

The Committee spent the rest of the meeting discussing specific alternatives related to various aspects of the area rotation program. In addition, this action will have to include several new measures as a result of Amendment 11. The sections below summarize the discussion about each of the topics discussed.

##### *Elimination of crew size restriction for access areas*

The Committee agreed with the advisors and PDT that the elimination of the crew size restriction (from Framework 18) should be revisited. Framework 18 lifted the 7-person crew size restriction on access area trips to provide a way for vessels to train new crew and potentially improve safety. However, input from both the PDT and advisors suggest that the elimination of the crew size restriction was excessive and added more risk that vessels could target smaller scallops and increasing mortality. The Committee agreed that an alternative should be considered that would restrict the crew to 8 or 9 for access area trips to provide some opportunity for vessels to take additional crew for safety and training purposes.

**By consensus - Leave two alternatives in FW19 for crew size restrictions.**

### *Prohibition on deckloading*

The Committee agreed with the advisors and PDT that FW19 should consider an alternative that would prohibit all vessels from leaving an access area with more than 50 bu. of in-shell scallops. The Committee also discussed two potential exceptions (general category vessels carrying an observer and vessels that have to leave an area due to safety). The Committee agreed to consider an alternative with the exceptions and one without them.

**By consensus - Leave two alternatives for deckloading in FW19 with Option A - with 2 exceptions and another alternative with Option B - without 2 exceptions.**

### *General Category measures*

- *Derby fishing*

The Committee discussed whether specific measures should be considered to reduce derby fishing in the general category fishery. First they discussed potential alternatives for the interim period. A motion was made to have a maximum number of trips per month to help the quarterly TAC last longer, but it was discussed that would have negative impacts on vessels that are most dependent on scallops. A second motion was made on a quarterly basis that would give vessels more flexibility, but that motion was ultimately withdrawn for the same reason. The second motion tried to identify a cap that would be closer to a monthly total for a “highliner” vessel, but even that approach was viewed as restrictive for the most dependent vessels, and would impact vessels that fish for scallops more seasonally. Overall it was discussed that the negative impacts on the most dependent general category vessels would outweigh the benefits of slowing a derby fishery during the transition period.

#### **Motion 2: Spitsbergen/Cunningham:**

**For the transition period to limited entry for general category vessels the document should consider an alternative to reduce derby fishing for that time period. Specifically, an alternative that would have a maximum number of trips per vessel per month.**

**Motion withdrawn.**

#### **Motion 3: Salisbury/Spitsbergen**

**Cap number of trips at 20 per quarter for transition period (not area specific) in order to prevent derby fishing during the transition period.**

**Motion withdrawn**

The Committee then discussed other ways to reduce derby fishing without restricting a vessel to a specific number of trips per month or quarter. Several members in the audience suggested that if the Committee decided to recommend a 5% allocation to general category vessels in each area to the general category fishery that would have greater derby effects in those areas. Instead it was suggested that a 2% allocation per area for the transition period would help reduce derby fishing in the access areas and provide more access in open areas for vessels that fish for scallops in other more traditional areas. One Committee member suggested that the incentive for derby fishing is reduced if effort is capped in high catch areas, so a lower percentage during the transition period would help reduce derby fishing in access areas.

#### **Motion 4: Salisbury/Avila**

**Add an alternative to Section 2.4.1.**

**For the transition period (assumed to be FY2008) allocate 2% (in fleetwide maximum number of trips) to the general category fishery in each access area and the remainder of the overall 10% TAC would come from the open areas. This alternative is intended to reduce derby fishing during the transition period. Vote 6:0, motion passed**

The Committee then discussed alternatives for reducing derby fishing in the access areas (during the transition period and beyond). They discussed the same concerns about impacts on the most dependent vessels, and by consensus the Committee decided not to include the recommendation of the PDT and advisors to consider a maximum number of trips per month per vessel per access area. Some monitoring concerns were briefly mentioned as well.

**By Consensus - Remove Section 2.4.6.1 (measures to reduce derby fishing in access areas for general category vessels). This section will be moved to considered but rejected.**

- *IFQ program for 2009*

Staff explained that there are some requirements of an IFQ program that need to be addressed in this framework based on decisions made in Amendment 11. Specifically, NMFS is required to have a cost recovery program for IFQ managed fisheries to recovery costs directly related to enforcement and management of an IFQ program. The fee shall not exceed 3% of ex-vessel value of fish harvested under the program, but the details of the program and the estimate of various costs needs to be included in Framework 19. Staff briefly explained the cost recovery program used for the Alaskan Sablefish and Halibut IFQ program as well as recent developments in the Mid-Atlantic for the Tilefish FMP. The Committee agreed to include an alternative similar to these programs and requested that the PDT further discuss some of the details. In addition, NMFS agreed to bring specific cost recovery estimates for this program to the next Committee meeting (or prior to the PDT for review). Using a total scallop catch of 50 million pounds as an example, if the general category fishery is allocated 5% of that in FY2009 (2.5 million pounds) and the average price per pound is \$6, an estimate of total revenue for this cost recovery program would be \$290,418 at 2% ex-vessel value, or \$435,627 at 3% ex-vessel value.

**By consensus – Request that NMFS bring specific cost recovery estimates for the general category IFQ program before the next Committee meeting and staff will further develop an alternative based on the Alaska Halibut program.**

- *Georges Bank access areas*

In terms of allocation of access into the access areas the Committee agrees with the recommendation of the PDT and advisors that 5% of each area should be allocated to the general category fishery to be consistent with the overall allocation decision made in Amendment 11. The Committee agrees with including various alternatives with less than 5% for Closed Area II, but decided to reject the alternative that converts that access into another area at a reduced level. The Committee believes that shifting effort around complicates the program and goes against the policy of area rotation that specific amounts of effort should be removed from specific areas to reach specific mortality goals. A motion was made to remove that alternative to the considered and rejected section. Based on earlier decisions about the transition period, the 5% allocation per area would only apply to FY2009 not FY2008. The Committee recommends 2% for FY2008 to reduce derby fishing during the transition period.

**Motion 5: Cunningham/Salisbury**

**Eliminate 2.4.3.1.2.3 (5% of all access areas, but the 5% from Closed Area II converted to another area at a reduced rate)**

**Vote: 6:0, motion passed**

The Committee then discussed whether the alternative that considers allocating an individual amount of scallops per area to general category vessels, rather than a maximum fleetwide allocation of trips, should be included in Framework 19. Amendment 11 includes an IFQ program and each vessel will receive an individual allocation of scallop pounds (if approved). Those vessels will be

permitted to catch those scallops from any area that is open (open areas or access areas before the maximum number of trips is taken). The alternative recommended from some advisors was to actually allocate a specific poundage per area per vessel; so if a general category vessel qualified for 1% of the general category allocation the vessel would be allocated 1% of pounds from open areas and 1% from each access area open that year. The PDT is not supportive of including this alternative in Framework 19 due to the amount of analyses that would be required in the short time frame available. Some Committee members voiced concern about implementing and monitoring this type of program, especially since many vessels would potentially receive a very small allocation per area (less than 100 pounds in some cases). A motion was made to eliminate this alternative based on concerns raised by the PDT and adding complexity in this framework for FY2009 only, but the motion was ultimately withdrawn. Several Committee members were supportive of including it for consideration because it follows the policy that a vessel should fish in specific areas to meet the mortality objectives. One Committee member voiced that vessels could then trade their area specific allocations to have the ability to fish in areas they want to.

**Motion 6: Cunningham/Rice**

**Eliminate 2.4.3.1.3 (Allocate an individual poundage per area to individual general category vessels equal to their individual contribution factor)**

**Motion withdrawn**

- *Hudson Canyon*

The Committee agrees with the PDT that whatever is decided about Hudson Canyon in Framework 19 should apply to the general category fishery as well. For example, if the area is closed to protect small scallops it should be closed to all scallop vessels, or if the area is open only for vessels with unused trips the area should close to general category vessels.

**By consensus – Add alternative that general category fishery should be restricted to whatever is decided for Hudson Canyon.**

- *Overfishing definition*

Staff briefly explained that the scallop stock assessment was reviewed this summer. The assessment reviewed two models; a size-structured forward projecting assessment model (CASA) and the rescaled F approach that has been used in previous assessments. Overall results from the two models were similar, but the analysis indicated that the CASA model results were generally more accurate. The CASA model produces different biological reference points. For example, the biomass target estimated using CASA is in absolute pounds of scallop meat, whereas before the biomass target reference point was a weight per tow from the NEFSC dredge survey (5.6 kg/tow). If this framework is going to incorporate results from the recent assessment (CASA model) then the framework will have to consider adjusting the overfishing definition to incorporate different parameters (i.e. replace kg/tow reference point with the absolute scallop pound value produced by CASA). The Committee agreed that Framework 19 should include the new parameters and results from the recent assessment. In terms of adjusting the target, the Committee decided to wait until the new stock assessment report could be summarized in more detail and the issues could be more fully described by the PDT.

**Motion 7: Avila/Rice**

**Include new reference points from the recent assessment into the Scallop FMP (through FW19). Vote: 6:0, motion passed**

**By Consensus - Wait to make decision about revising the target F until more information is provided.**

### **Other measures**

The Committee agrees that an alternative should be considered that would allow a vessel to power down their VMS unit for a minimum of 30 days if the vessel is not going to fish. Members of the audience explained that there are costs associated with running a VMS unit when a vessel is in port, but the real complaint is the general annoyance and worry that comes with having the system on when the vessel is not fishing for long periods of time. Some explained that running a generator is a fire hazard and keeping the systems going when the vessel is not scheduled to fish is a waste of resources.

**By Consensus - Include the 30-day power down alternative.**

Another topic the Committee considered was eliminating the single dredge restriction for part-time vessels that upgraded to full-time single dredge vessels in access areas. The PDT is not supportive of eliminating this restriction because when it was adopted the single dredge restriction was implemented to reduce fishing power of these vessels; it was intended to be a tradeoff for a higher allocation. Some advisors supported this alternative and some did not. Ultimately the Committee recommended that the alternative be moved to the considered but rejected section of Framework 19 based on input from the PDT and advisors. In addition, there are many more permits in this category than in the past. A member of the audience explained that elimination would only be necessary in access areas like Hudson Canyon that are sub-optimal. He argued that it would not be a problem for these permits to fish in an access area with a single dredge if the access area was managed correctly and catch rates were high enough for a vessel to fish with a single dredge. Another argued that while some of the regulations are inefficient, the combination of rules in place helps the fishery stay in balance with the resource; it would not be appropriate to change the playing field now.

**Motion 8: Cunningham/Rice**

**Move Alternative 2.10.2 to the considered but rejected section in FW19.**

**Vote: 6:0, motion passes**

The Committee added an alternative to the document that would clarify when a vessel can leave for an access area trip. Mr. Peter Christopher from NMFS explained that there is confusion about when a vessel can leave port on an access area trip. He noted that the scallop regulations are inconsistent with the multispecies regulations. In the scallop FMP a vessel can leave for an access area trip before the area opens. The Committee discussed this difference and maintains that the scallop regulations should remain the same. Specifically, scallop vessels are not allowed to fish until they are in the area and there is a possession limit. Furthermore, many vessels travel a great distance to an access area and it would be a disadvantage for vessels that are homeported farther away if the regulations were changed. Several members of the audience expressed confusion about when a trip technically starts in terms of crossing the demarcation line and then going back inside the line. One suggested that NMFS send a clarification through the VMS system if they have not already because there is confusion among the fleet about how vessels are charged DAS and when a trip technically starts.

**Motion 9: Avila/Spitsbergen**

**Clarify that a vessel is permitted to leave on an access area trip prior to the opening date of the area, but cannot enter the area to fish until the access area opens. (No Action – keep regulations the same).**

**Vote: 6:0, motion passed**

#4

**DRAFT**

## **Framework 19 to the Atlantic Sea Scallop FMP**

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

**(This draft includes alternatives recommended by the  
Scallop Committee on August 16)**

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: December 2006*  
*Final Council Meeting: October 25, 2007*  
*Final Submission to NMFS:*



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## **1.0 BACKGROUND AND PURPOSE**

### **1.1 BACKGROUND**

In 2004 Amendment 10 introduced rotational area management and changed the way that the Scallop FMP allocates fishing effort for limited access scallop vessels. Instead of allocating an annual pool of DAS for limited access vessels to fish in any area, vessels now have to use a portion of their total DAS allocation in controlled access areas defined by the plan, or exchange them with another vessel to fish in a different controlled access area. Vessels can fish their open area DAS in any area that is not designated a controlled access area. Amendment 10 set up this program with a biennial framework process, which means an action is required every two years to allocate fishing effort in both open and access areas. This framework action will set specifications for the next two fishing years, 2008 and 2009. The scallop fishing year begins on March 1. The Scallop Plan Development Team (PDT) reviews available scallop abundance data and recommends which areas and what level of fishing effort is appropriate to allocate in order to achieve optimum yield.

In addition, the Council recently approved Amendment 11 to the Scallop FMP, which recommends a limited entry program for the general category fishery as well as other measures. This is the first biennial action since that amendment, thus it will also have to include specific measures to address new requirements of the FMP if Amendment 11, if approved by NMFS and the Secretary of Commerce. Specifically, this framework will consider a temporary hard-TAC by quarter for the general category fishery for the transition period to limited entry. For the second fishing year, this action will consider the specifics of the individual fishing quota program recommended by the Council in Amendment 11, including the specifics of a required cost recovery program. In addition, specific allocations for the general category fishery for the access areas will be considered as well. A separate hard-TAC and limited entry program for the Northern Gulf of Maine is also considered. Lastly, a consideration of mortality from incidental catch will be included as well, as recommended by Amendment 11.

There are also several other issues that have been included for consideration in this framework that are not directly related to fishery specifications for the next two fishing years or new requirements under the FMP pending approval of Amendment 11, but are relatively small adjustments. For example, this framework is also considering measure to improve the industry funded observer set-aside program in terms of compensation for vessels carrying an observer as well as small administrative adjustments to the program. In addition, a measures to include a 30-day VMS power down provision for scallop vessels to reduce cost and burden of running a VMS unit when a vessel is not scheduled to fish for an extended period of time.

In summary, this framework adjustment will address several primary management issues:

1. Fishery specifications for FY2008 and 2009
2. Area rotation adjustments (if necessary)
3. New requirements for the general category fishery as a result of Amendment 11
4. Other measures including adjustments to the observer set-aside program (compensation rates and administrative adjustments) and a 30-day VMS power down provision

## **1.2 PURPOSE AND NEED**

The purpose of this action is to achieve the objectives of the Atlantic Sea Scallop Fishery Management Plan (FMP) to prevent overfishing and improve yield-per-recruit from the fishery. The primary need for this action is to set specifications to adjust the day-at-sea (DAS) allocations and area rotation schedule for the 2008 and 2009 fishing years.

## **1.3 SCALLOP MANAGEMENT BACKGROUND**

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. 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, a day-at-sea (DAS) reduction plan to reduce mortality and prevent recruitment overfishing, new gear regulations to improve size selection and reduce bycatch, a vessel monitoring system to track a vessel's fishing effort, and an annual framework adjustment process to allow certain measures to be modified in response to changes in the fishery including scallop abundance. Limited access vessels were assigned different DAS limits according to which permit category they qualified for: full-time, part-time or occasional. Amendment 4 also established a planned reduction in the annual day-at-sea allocations for vessels with limited access scallop permits. Amendment 4 also created the general category scallop permit for vessels that did not qualify for a limited access permit. Although originally created for an incidental catch of scallops in other fisheries, and for small-scale directed fisheries, the general category fishery and fleet has evolved since its creation in 1994. The changes in the general category fishery are demonstrated in Section 4.4.

Also in 1994 Amendment 5 to the Northeast Multispecies FMP closed Closed Area I, Closed Area II, and the Nantucket Lightship Area to scallop fishing, because of concerns over finfish bycatch and disruption of spawning aggregations (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 also 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. Amendment 7 further reduced the DAS allocations under a 10-year 'rebuilding' period. Framework Adjustments 12, 14 and 15 to the Scallop FMP later adjusted the DAS allocations upward to meet the Amendment 7 fishing mortality targets.

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. Scallop resource surveys and experimental fishing activities had identified areas where scallop biomass was very high due to no fishing in the intervening years. These surveys and experimental fisheries provided more precise estimates of total biomass as well as the distribution and amount of finfish bycatch and allowed the Council to open the southern part of Closed Area II.

In 2000 Framework Adjustment 13 to the Scallop FMP authorized full-time and part-time limited access vessels to take three trips in the southern part of Closed Area II during June 15 to August 14, 2000; one trip in the northeast corner of the Nantucket Lightship Area during August 15 to September 30, 2000; and two trips in the central part of Closed Area I from October 1, 2000 to January 31, 2001.

In 2001 Framework Adjustment 14 to the Scallop FMP implemented a new area access program to the Hudson Canyon and VA/NC Areas since scallop biomass had rapidly increased due to the enhanced survival of the strong 1997 and 1998 year classes, especially in the Hudson Canyon Area. Following the structure of the highly successful area access program for the Georges Bank closed areas in 2000; the framework adjustment allocated trips to limited access vessels and applied a scallop possession limit and a day-at-sea tradeoff. Unlike the Georges Bank closed area access program, however, Framework Adjustment 14 allowed vessels with general category scallop permits to land 100 lbs. of scallop meats from the Hudson Canyon and VA/NC Areas.

Framework Adjustment 15 (2003) to the Scallop FMP continued the measures implemented in Framework Adjustment 14, but increased the Hudson Canyon and VA/NC Area scallop possession limit from 18,000 to 21,000 lbs. per trip. This action was needed to achieve the objectives and fishing mortality target specified in Amendment 7, while the Council developed Amendment 10.

In 2004 Amendment 10 to the Scallop FMP introduced rotation 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. Vessels could fish their open area DAS in any area that was not designated a 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 for a more detailed description of the rotational area management program implemented by Amendment 10.

Framework 16 to the Scallop FMP, implemented in November 2004, adjusted DAS allocations and defined the area rotation schedule for part of the 2004 fishing year and the 2005 fishing year. It also included: a) an access program for vessels with general category scallop permits with enhanced reporting requirements and a two-percent TAC set-aside; b) yellowtail flounder TACs and provisions to minimize bycatch; c) changes in finfish possession limits to minimize bycatch and bycatch mortality; d) seasons when scallop fishing would be allowed to minimize bycatch and bycatch mortality; e) enhanced sea sampling to improve precision of bycatch estimates; f)



provisions to enhance enforcement monitoring and compliance; and g) a dredge-only restriction for fishing in the access areas to minimize bycatch and bycatch mortality.

Framework 16 also attempted to make the habitat closed area boundaries implemented under Amendment 10 consistent with the areas later implemented under Amendment 13 to the Northeast Multispecies FMP. However, in August 2005, the Court, in *Oceana v. Evans*, ruled that any revisions to the boundaries under the Scallop FMP must be implemented under a full rule making process via an FMP amendment rather than through the abbreviated rule-making process used in a framework adjustment, and reinstated the EFH closed areas implemented under Amendment 10 to the Scallop FMP. Thus, the habitat closed area boundaries implemented under Amendment 10 are currently in effect. As a result, the remaining areas accessible to scallop vessels under the rotational area management program are substantially smaller in Closed Area I and the Nantucket Lightship Closed Area than anticipated until the court ruling.

Framework 17 to the Scallop FMP was implemented in the fall of 2005. The purpose of the action was to provide more complete monitoring of the general category scallop fleet by requiring that vessels landing more than 40 pounds of scallop meats use monitoring systems (VMS). It revised the broken trip adjustment provision for limited access scallop vessels fishing in the Sea Scallop Area Access Program, by eliminating the broken trip “penalty”, which may have had a negative influence on vessel operator decisions and safety at sea.

Framework 18 was implemented on June 15, 2006, which set management measures for fishing years 2006 and 2007. Limited access vessels were allocated a specific number of open area DAS for each fishing year, as well as a maximum number of trips for different access areas depending on their permit category. Specifically, Closed Area II and Nantucket Lightship were open in 2006 under restricted access, and Nantucket Lightship and Closed Area I are open in 2007. General category vessels are also permitted to fish in these access areas with a 400 pound possession limit up to a total number of trips for that component of the fleet. Both areas are subject to a bycatch TAC of yellowtail flounder, and when that bycatch TAC is projected to be caught the area closes to all scallop fishing. The Elephant Trunk area also opens as a result of this action with specific allocation of trips, opening dates, and seasonal closures to reduce potential interactions with sea turtles. An area called Delmarva was closed under this action to protect small scallops found in that area; the area is projected to open in 2010. Other measures were included in the action such as measures related to unused 2005 Hudson Canyon trips, transfer of access area trips to open areas if access areas close early if the YT bycatch TAC is attained, elimination of crew size restrictions in access areas, access area trips exchange program changes, broken trip program changes, and allocations for set-aside programs (1% for observer program and 2% for research).

The Council recently approved Amendment 11 to the Scallop FMP (June 2007) and it is expected to be implemented in late 2007 or early 2008. The main objective of the action was to control capacity and mortality in the general category scallop fishery. Since 1999, there has been considerable growth in fishing effort and landings by vessels with general category permits, primarily as a result of resource recovery and higher scallop prices. This additional effort is likely a contributing factor to why the FMP has been exceeding the fishing mortality targets. Without additional controls on the general category fishery, there is a great deal of uncertainty

with respect to potential fishing mortality from this component of the scallop fishery, thus the potential for overfishing is increased.

If approved by NMFS, the proposed action includes a limited entry program for the general category fishery. Each qualifying vessel would receive an individual allocation in pounds of scallop meat with a possession limit of 400 pounds. Qualifying vessels would receive a total allocation of 5% of the total projected scallop catch. The proposed action also includes a separate limited entry program for general category fishing in the Northern Gulf of Maine. In addition, Amendment 11 includes adjustments to limited access scallop fishing under general category rules. Another separate limited entry program for that activity is proposed with the same qualification criteria as the limited entry general category permit. Qualifying vessels will also receive an individual allocation in pounds, and the entire category will receive 0.5% of the total projected scallop catch. In addition, a separate limited entry incidental catch permit is proposed as well that will permit vessels to land and sell up to 40 pounds of scallop meat per trip while fishing for other species. Other measures are recommended as well.

The Council also recently approved Amendment 12 to the Scallop FMP (June 2007). This action is an omnibus amendment to all FMPs in the region and focuses on defining a standardized bycatch reporting methodology (SBRM Amendment). Section 303(a) (11) of the Magnuson-Stevens Fishery Conservation and Management Act requires that all FMPs include “a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery.” The SBRM Omnibus Amendment will ensure that all FMPs fully comply with the act. Amendment 10 and Framework 16 to the Scallop FMP were submitted to NMFS several years ago, and in 2004 Oceana, an environmental organization filed suit in the U.S. District Court challenging the SBRM elements of the FMP. The Court found the actions did not fully evaluate reporting methodologies, did not sufficiently address potentially important scientific evidence, and did not mandate a methodology for bycatch monitoring. Therefore, the Court remanded that the Secretary of Commerce take further action on the SBRM aspects of the Scallop FMP. SBRM is the combination of sampling design, data collection procedures, and analyses used to estimate bycatch and to determine the most appropriate allocation of observers across the relevant fishery modes. The Council has worked with NMFS in development of the SBRM Omnibus Amendment since 2005 and final measures were selected in June 2007. The proposed rule was published on August 21, 2007 (72 FR 46588) and public comments on the DSEIS are due on September 20, 2007. NMFS is expected to implement this action later this fall. See Section 2.7 for a summary of what the SBRM Amendment proposes.

Scallop Amendment 13 was also approved by both the Council and NMFS in 2007 and it re-activated the industry funded observer program. Since 1999, vessels required to carry an observer are authorized to land more than the possession limit from trips in access areas, and in open areas vessels are charged a reduced amount to help compensate for the cost of an observer. Observers were deployed through a contractual arrangement between National Marine Fisheries Service (NMFS) and an observer provider until June 2004. This arrangement was not renewed because of unresolved legal issues concerning the use of a contract to administer the industry funded observer program. For sometime NMFS funded observers while a solution to this issue was investigated. As funding became insufficient, an interim rule went into effect that approved a new mechanism to use the observer set-aside funds through a non-contracted vendor.

Amendment 13 was necessary to make this temporary mechanism part of the regulations. The Council selected final measures for that action at the February 2007 Council meeting and was implemented on June 12, 2007. Amendment 13 also includes a provision to make changes to the observer set-aside program by framework action, and the Council decided to address some issues raised with the current program in this framework action (See Section 2.8).

The Council initiated Phase 1 of the Essential Fish Habitat Omnibus Amendment in 2004. The primary purpose of Phase 1 is to review EFH designations, consider HAPC alternatives, describe prey species, and evaluate non-fishing impacts. This action is an amendment to all FMPs in this region, and is Amendment 14 to the Scallop FMP. The Council approved the DSEIS for Phase 1 at the February 2007 Council meeting and the document was submitted to NMFS in March 2007. The Council made final decisions on Phase 1 topics at their June 2007 meeting. Phase 2 of the EFH Amendment will begin in September 2007 and will consider the effects of fishing gear on EFH and move to minimize, mitigate or avoid those impacts that are more than minimal and temporary in nature. The entire Amendment (Phase 1 and Phase 2) will be completed, combined and submitted in 2008 with implementation scheduled for some time in 2009. Phase 2 will reconsider measures in place to protect EFH in the Northeast region.

Lastly, the Council approved Framework 20 to the Scallop FMP at the June 2007 Council meeting as well, and NMFS is expected to implement that action in the near term. Framework 20 considered measures to reduce overfishing for FY2007 through measures that were implemented by interim action earlier this year. At the November 2007 Council meeting the Scallop PDT informed the Council that overfishing was likely to occur in 2007 under status quo measures implemented under Framework 18. The PDT presented several alternatives to reduce fishing mortality and ultimately the Council recommended that NMFS reduce the allocated number of trips for all scallop permit categories in the Elephant Trunk Access Area (ETA), delay the opening of the ETA, and prohibit vessels from possessing more than 50 bushels of in-shell scallops when leaving any controlled access area. NMFS agreed with the Council that the ETA has an unprecedented high abundance of scallops, which needs to be husbanded with precaution to effectively preserve the long term health of the scallop resource and fishery and implemented these measure by interim action.<sup>1</sup> This interim action became effective on December 22, 2006 and will remain effective until June 20, 2007 (180 days). This interim action was extended for an additional 180 days, but will expire on December 26, 2007. Therefore, for the last two months of the 2007 fishing year (January-February 2008) management would revert back to status quo measures under FW18. Specifically higher trips allocations would be granted in the Elephant Trunk Area for both limited access and general category fisheries. Therefore, the Council approved Framework 20 to extend the reduced fishing effort measures implemented by interim action through the end of the 2007 fishing year. If approved, the action would expire on March 1, 2008, when Framework 19 is scheduled to be in place.

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<sup>1</sup> The interim rule published by NMFS on December 22, 2006 (71 FR 76945) included all measures recommended by the Council, except the prohibition on a vessel leaving an access area with more than 50 bu. of in-shell scallop was limited to the ETA only, not all access areas as recommended by the Council.

## 1.4 DETAILED BACKGROUND ON ROTATIONAL AREA MANAGEMENT

Amendment 10 introduced area rotation; areas that contain beds of small scallops close 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 1. 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  $F=0.20$ ).

**Table 1- General management structure for area rotation management as implemented by Amendment 10**

Area type	Criteria for rotation area management consideration	General management rules	Who may fish
Closed rotation	Rate of biomass growth exceeds 30% per year if closed.	<ul style="list-style-type: none"> <li>No scallop fishing allowed</li> <li>Scallop limited access and general category vessels may transit closed rotation areas provided fishing gear is properly stowed.</li> <li>Scallop bycatch must be returned intact to the water in the general location of capture.</li> </ul>	<ul style="list-style-type: none"> <li>Any vessel may fish with gear other than a scallop dredge or scallop trawl</li> <li>Zero scallop possession limit</li> </ul>
Re-opened controlled access	<p>A previously closed rotation area where the rate of biomass growth is less than 15% per year if closure continues.</p> <p>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.</p>	<ul style="list-style-type: none"> <li>Fishing mortality target set by framework adjustment subject to guidelines determined by time averaging since the beginning of the most recent closure.</li> <li>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.</li> <li>Transfers of scallops at sea would be prohibited</li> </ul>	<ul style="list-style-type: none"> <li>Limited access vessels may fish for scallops only on authorized trips.</li> <li>Vessels with general category permits will be allowed to target scallops or retain scallop incidental catch, with a 400 lb. scallop possession limit in accordance with general category rules.</li> </ul>
Open	Scallop resource does not meet criteria to be classified as a closed rotation or re-opened controlled access area	<ul style="list-style-type: none"> <li>Limited access vessels may target scallops on an open area day-at-sea</li> <li>General category vessels may target sea scallops with dredges or trawls under existing rules.</li> <li>Transfers of scallops at sea would be prohibited</li> </ul>	All vessels may fish for scallops and other species under applicable rules.

## **2.0 MANAGEMENT ALTERNATIVES UNDER CONSIDERATION**

### **2.1 SUMMARY OF THE PROPOSED ACTION**

*[To be completed after Council selects final measures]*

### **2.2 NO ACTION AND STATUS QUO**

In many cases, No Action and Status Quo alternatives are the same, i.e. a continuation of current management regulations. In Framework 19, however, there is a distinction between No Action and Status Quo alternatives in some sections of the alternatives described below. This distinction applies to the scallop area rotation management and open area DAS allocations.

#### **2.2.1 No Action**

In the alternatives for area rotation management and for open area DAS allocations, “No Action” is exactly what it implies; the measures and allocations that are specified in the present regulations (CFR §648, Sub-part D). If the Council took no action, full-time limited access scallop vessels would receive the same allocation as FY2007 - an allocation of 51 open area DAS in both 2008 and 2009. Part-time and occasional vessels would receive a pro-rata share of 40% and 1/12<sup>th</sup>, respectively. In addition, full-time limited access vessels would receive one trip in Nantucket Lightship and one trip in Closed Area I, same areas and allocations available in FY2007. Note that No Action (rolling over of measures and allocations from current fishing year) conflicts with the three-year rotational schedule established under Amendment 10 for Georges Bank access areas; each area closes for one year followed by two years of fishing as an open access area.

The TACs for all areas would remain as estimated in Amendment 10 and Framework 18. When Georges Bank access areas close due to yellowtail flounder catches, vessels would receive compensation for each access area trip not taken due to the closure. And in 2009, the allocations from the most recent fishing year (i.e. 2008) would continue if the Council and NMFS failed to undertake and approve a biennial framework adjustment. Consistent with “No Action”, the Hudson Canyon Area would re-open, the Delmarva area would remain closed, and the Elephant Trunk Area would be managed as it was in 2007 (three trips for full-time vessels). General category vessels would receive the same number of fleetwide access area trips per area open.

#### **2.2.2 No Action for Amendment 11**

If Amendment 11 is not implemented then the general category scallop fishery will remain an open access fishery; any individual may obtain a permit for a vessel. Vessels would be limited to the 400 pound possession limit if they have a 1B permit, and vessels with a 1A permit would be restricted to a 40 pound possession limit. Limited access vessels would be permitted to fish under general category rules when not on a DAS. General category vessels are permitted to fish in access areas up to a maximum number of trips that is assigned in biennial frameworks. General category vessels are subject to other gear, VMS requirements, and other measures under the No Action alternative. The total level of catch from this component of the fishery would not be restricted.

### 2.2.3 Status Quo

The “Status Quo” alternative is a set of measures that achieve the prescribed fishing mortality targets in Amendment 10; they are not a rollover of current measures and allocations like the No Action alternative. Status quo allows for a change in specifications to achieve the stated plan objectives under Amendment 10, consistent with achieving optimum yield. The PDT has interpreted this to mean the existing area rotation schedule for 2008 and 2009 to achieve the target mortality ( $F=0.20$ ). Like No Action, described above, the regulations under the status quo would allow vessels to receive compensation for trips not used before a Georges Bank area closes due to yellowtail flounder catches.

*[The PDT is still developing what those calculations would be for open area and access area allocations based on 2007 data]*

In addition, the status quo would treat the Elephant Trunk Area as a re-opened controlled access area, consistent with the area rotation policy that the Council approved and adopted in Amendment 10. Framework 18 implemented a five year rotation plan for the Elephant Trunk Area. Specifically, the area would remain open to fishing in both 2008 and 2009, with a TAC consistent with time-averaged fishing mortality for a five year rotation plan (i.e. 0.16, 0.24, 0.32, 0.40, 0.48). Projections of scallop biomass based on the 2007 survey data show that the TAC would be sufficient to allocate ??? full-time trips for the Elephant Trunk Area, with a pro-rata share going to part-time and occasional vessels. Under the status quo for general category fishing in Elephant Trunk, allocations would be set at 2% of the five-year ramped fishing mortality target for each year. For example in FY2008 under status quo, the general category would be allocated a specific number of trips equal to 2% of the TAC that would result from a fishing mortality of  $F=0.24$ . The three percent set-aside would apply for funding scallop related research and observers for all access areas and open areas.

### 2.2.4 Measures that will be in effect March 1, 2008 until Framework 19 is implemented

If Framework 19 is not implemented by March 1, 2008, several measures implemented by Amendment 10 and Framework 18 will carry-over. For example, open area DAS allocations for limited access vessels would be the same as in FY2007 (51 DAS for full-time, 20 for part-time and 4 for occasional vessels), and the Elephant Trunk Area would be managed under the same regulations in place in 2007 (three trips for full-time vessels). In addition, under No Action the Georges Bank access area allocations would rollover. The Hudson Canyon area would revert to an open area and the Delmarva area would remain closed. Because final decision on Framework 19 has been moved back to October, the action may not be implemented before the start of FY2008; therefore this action will have assess impacts of the potential delay and consider measures to compensate.

*[See PDT memo for background and explanation of specific measures that could be considered].*

### **2.3 MEASURES FOR LIMITED ACCESS VESSELS**

Under current regulations (CFR §648.60), limited access vessels are authorized to take a certain amount of trips to each controlled access area during a fishing year. Each full-time vessel has been authorized to land 18,000 pounds of scallop meat per trip (40% of that for part-time vessels, and 8.33% for occasional vessels). Fishing in controlled access areas may be subject to other limits such as seasons or potential closures due to TACs for yellowtail flounder. The maximum number of trips per area will be considered in this action for FY2008 and FY2009 to prevent overfishing and optimize yield. Access areas include areas within the Multispecies closed areas (Closed Area I, Closed Area II and Nantucket Lightship) as well as areas specifically closed as scallop rotational closed areas (Hudson Canyon, Elephant Trunk and Delmarva) (See Figure 1 and Figure 2).

Limited access vessels are also allocated a specific number of open area DAS in biennial frameworks to achieve optimum yield at the target fishing mortality of  $F=0.2$  for the total scallop resource. The open area DAS allocations depend on what controlled access areas are available and the number of trips the Council recommends to allocate per area, as well as allocations made to the general category fishery. The open area allocations are also based on the assumption that a part-time vessel receives 40% of a full-time allocation, and an occasional vessel receives 8.33% of a full-time vessel.

Figure 1 – Boundaries of scallop access areas within Multispecies closed areas on Georges Bank

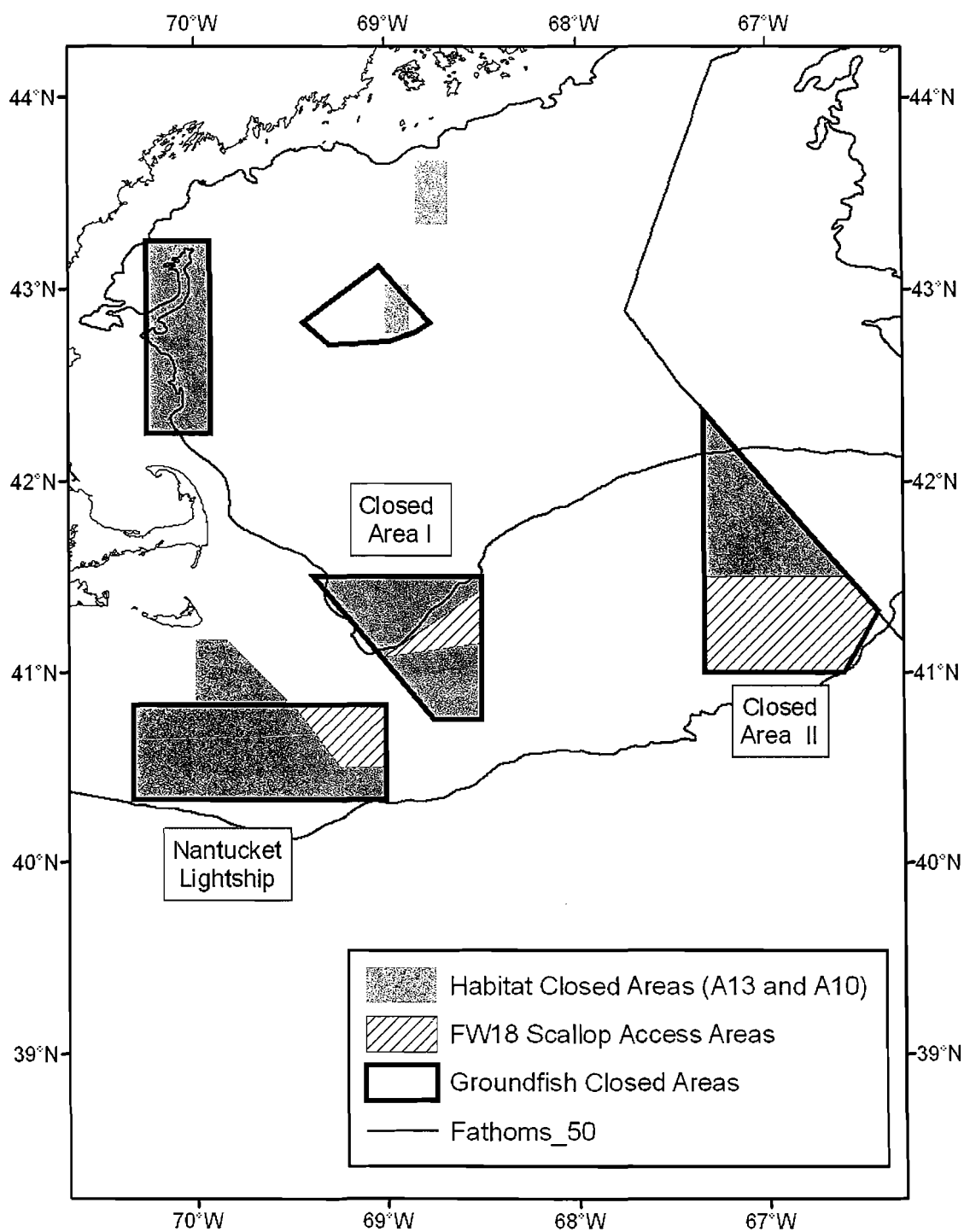
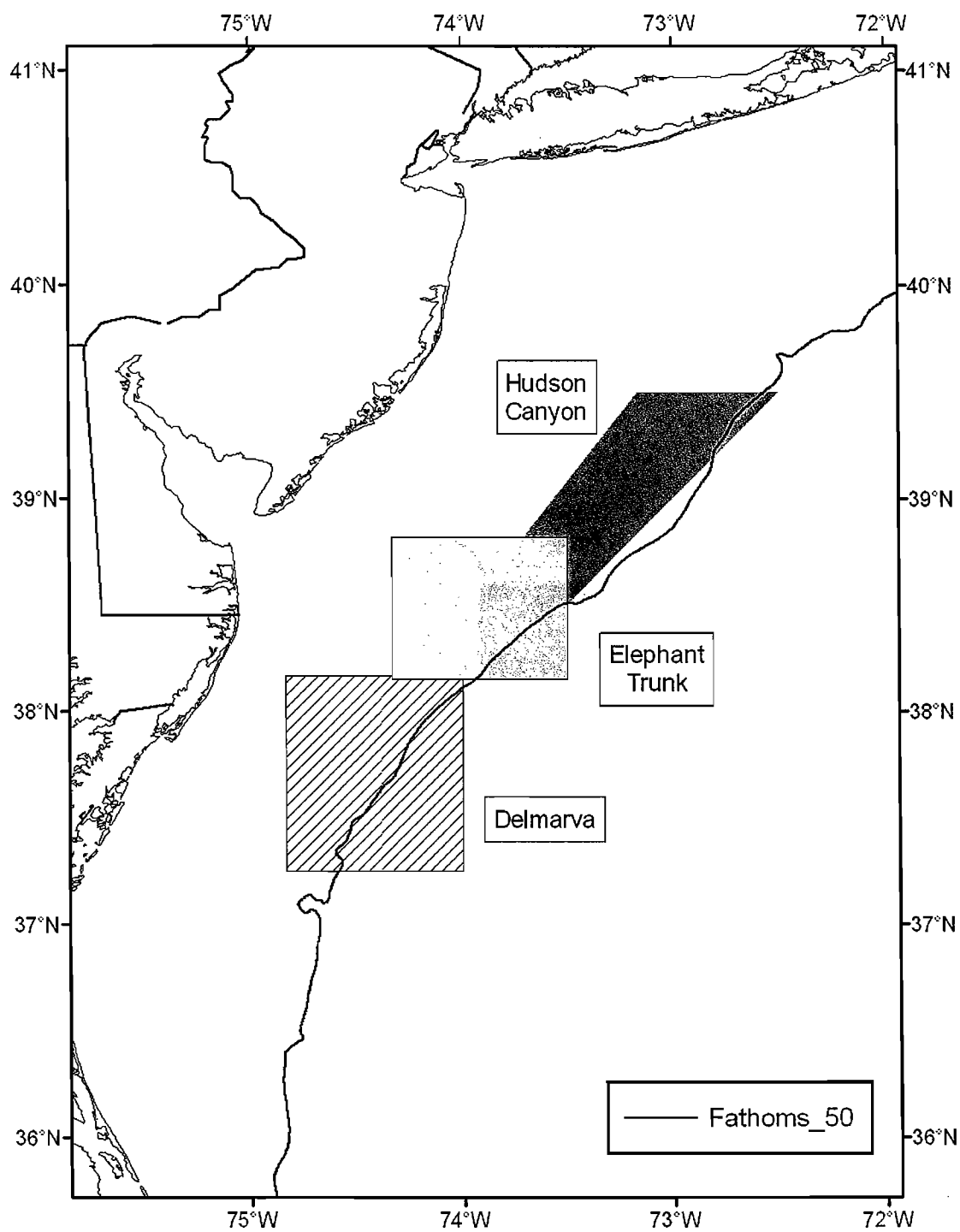




Figure 2 – Boundaries of scallop access areas in the Mid-Atlantic



### **2.3.1 Access area management measures on Georges Bank**

The following alternatives are related to management measures for the Georges Bank Access Areas. These access areas are within the boundaries of the Multipspecies closed areas, which have been closed since 1994 to all fishing gear capable of catching groundfish. Under special circumstances, certain fisheries are authorized to operate in portions of the closed areas on species whose stocks are in relatively healthy conditions, in ways that reduce or minimize impacts on other regulated species.

Access by the scallop fishery in portions of the Multispecies closed areas on Georges Bank have been approved for 1999, 2000, 2004, 2005, 2006, and 2007. The boundaries have been relatively the same since the first access area program in 1999. Since then the boundaries in Closed Area I have been adjusted to be consistent with habitat closed areas in both the Scallop and Multispecies FMPs. As a result of the court's decision in *Oceana v. Evans et al* (8/2/05) both habitat areas under the FMPs are closed to scallop gear only. Effort has been controlled in these access areas and overall the program has been successful with abundant scallop catches and relatively low impacts on regulated groundfish species. Furthermore, catch rates have been relatively high in access areas with reduced bottom contact time, which helps minimize overall impacts on the environment, including EFH and non-target species.

This framework includes alternatives for access area management measures on Georges Bank for fishing years 2008 and 2009. Based on the most recent data available the alternatives under consideration are described in the section below (Section 2.3.1.1)

#### **2.3.1.1 Allocations**

Three scallop surveys are available for management to use for decision making. The federal scallop dredge survey conducted by the Northeast Fisheries Science Center (NEFSC) has been conducted in a consistent manner since 1979. An 8-foot modified scallop dredge is used with a 2" rings and a 1.5" liner. Tows are 15 minutes in length at a speed of 3.8 knots, and stations are identified using a random-stratified design. About 500 stations are completed each year on Georges Bank and the Mid-Atlantic. Currently there is a Scallop Survey Advisory Panel (SSAP) reviewing the scallop survey and making recommendations about how future surveys should be conducted, since the vessel platform currently being used (R/V Albatross IV) is going out of service. The panel is considering all types of modifications to the scallop survey program and recommendations will be made through the Council in the near future.

There is also a dredge survey conducted by the Virginia Institute of Marine Science (VIMS) that has been funded through the Cooperative Research Program and the scallop research se-aside program. This survey has provided biomass estimates for several access areas in the past and results from the 2007 survey season have been incorporated into Framework 19 estimates. In addition, the University of Massachusetts (SMASST) has been conducting a video survey of the scallop fishing grounds through direct industry funding, the Cooperative Research Program and the scallop research set-aside program. Results from the 2007 video survey have also been included in biomass estimates used for Framework 19.

All these surveys are used by the Scallop Plan Development Team (PDT) to estimate exploitable scallop biomass. The PDT met on August 23 to review estimates and recommend final alternatives for consideration. *[To be updated with results of September 17 PDT meeting]*.

#### 2.3.1.1.1 Status quo allocations and order of openings

This alternative would continue the FW16/39 rotation order and adjust allocations to be consistent with updated biomass estimates. According to current regulations, the three Georges Bank access areas would open to controlled scallop fishing by limited access vessels on a three-year rotation cycle. Each year two of the three areas would be open for scallop fishing as a controlled access area. During 2008, Closed Area I and Nantucket Lightship would be open, followed by Closed Area II and Closed Area I in FY2009. TACs and number of trips would be set to achieve an  $F=0.2$  fishing mortality target. Trips would be rounded up or down to the nearest integer, so the total authorized landings could exceed or fall short of the projected TAC.

Based on the most recent survey information available the estimated exploitable biomass for Closed Area II is ??? (Table 2). That translates into an allocation of ??? trips at ??? pounds per trip for full-time vessels, ??? trips for part-time vessels with a possession limit of ???, and ??? trips for occasional vessels with a possession limit of ???. As for Closed Area II, total exploitable biomass for that area is estimated to be ??? (Table 3), which translates into ??? trips for full time vessel (??? possession limit), ??? trips for part-time vessels (??? possession limit), and ??? trips for occasional vessels (??? possession limit). Lastly, estimated exploitable biomass in the Nantucket Lightship access area is ??? (Table 4), which translates into ??? trips for full time vessel (??? possession limit), ??? trips for part-time vessels (??? possession limit), and ??? trips for occasional vessels (??? possession limit).

**Table 2 – Specifications for Closed Area II under status quo**

Estimate of total exploitable biomass (2006 survey)	??? mt (??? million lbs.)	
<b>Fishing Year</b>	<b>2008</b>	<b>2009</b>
Projected total allowable catch		
Fishing mortality		
2% set-aside for research		
1% set-aside for observers		
2% allocation for general category effort		
Max. # of general category trips authorized		
Max. # of limited access trips per vessel		
Percent of TAC allocated		

**Table 3 – Specifications for Closed Area I under status quo**

Estimate of total exploitable biomass (2006 survey)	??? mt (??? million lbs.)	
<b>Fishing Year</b>	<b>2008</b>	<b>2009</b>
Projected total allowable catch		
Fishing mortality		

2% set-aside for research		
1% set-aside for observers		
2% allocation for general category effort		
Max. # of general category trips authorized		
Max. # of limited access trips per vessel		
Percent of TAC allocated		

**Table 4 – Specifications for Nantucket Lightship under status quo**

Estimate of total exploitable biomass (2006 survey)	??? mt (??? million lbs.)	
<b>Fishing Year</b>	<b>2008</b>	<b>2009</b>
Projected total allowable catch		
Fishing mortality		
2% set-aside for research		
1% set-aside for observers		
2% allocation for general category effort		
Max. # of general category trips authorized		
Max. # of limited access trips per vessel		
Percent of TAC allocated		

#### **2.3.1.1.2 Alternative 1 – Revise order of Georges Bank Access Area openings**

Preliminary results indicate that only one access area trip on Georges Bank should be allocated each year to meet overall mortality objectives and optimize yield. Compared to the status quo alternative that would allocate trips into at least two access areas per year, this alternative would only allocate trips into one access area per year and would change the rotation order. For example, one trip in Nantucket Lightship in FY2008 and one trip in Closed Area II in FY2009. The PDT does not recommend that access area trips be taken in Closed Area I for the time being. The exploitable biomass in that area is not expected to support an allocation of even one trip, especially since the boundaries have been reduced as a result of the Court order from the Oceana v. Evans lawsuit (08/02/05).

Based on the most recent survey information available the estimated exploitable biomass for Closed Area II is ??? (Table 5). That translates into an allocation of ??? trips at ??? pounds per trip for full-time vessels, ??? trips for part-time vessels with a possession limit of ???, and ??? trips for occasional vessels with a possession limit of ???. As for Closed Area II, total exploitable biomass for that area is estimated to be ??? (Table 6), which translates into ??? trips for full time vessel (??? possession limit), ??? trips for part-time vessels (??? possession limit), and ??? trips for occasional vessels (??? possession limit). Lastly, estimated exploitable biomass in the Nantucket Lightship access area is ??? (Table 7), which translates into ??? trips for full time vessel (??? possession limit), ??? trips for part-time vessels (??? possession limit), and ??? trips for occasional vessels (??? possession limit). A comparison of the maximum number of trips per

area on Georges Bank between the status quo alternative and Alternative 1 is described in Table 8.

**Table 5 – Specifications for Closed Area II**

Estimate of total exploitable biomass (2006 survey)	??? mt (??? million lbs.)	
<b>Fishing Year</b>	<b>2008</b>	<b>2009</b>
Projected total allowable catch		
Fishing mortality		
2% set-aside for research		
1% set-aside for observers		
5% allocation for general category effort		
Max. # of general category trips authorized		
Max. # of limited access trips per vessel		
Percent of TAC allocated		

**Table 6 – Specifications for Closed Area I**

Estimate of total exploitable biomass (2006 survey)	??? mt (??? million lbs.)	
<b>Fishing Year</b>	<b>2008</b>	<b>2009</b>
Projected total allowable catch		
Fishing mortality		
2% set-aside for research		
1% set-aside for observers		
5% allocation for general category effort		
Max. # of general category trips authorized		
Max. # of limited access trips per vessel		
Percent of TAC allocated		

**Table 7 – Specifications for Nantucket Lightship**

Estimate of total exploitable biomass (2006 survey)	??? mt (??? million lbs.)	
<b>Fishing Year</b>	<b>2008</b>	<b>2009</b>
Projected total allowable catch		
Fishing mortality		
2% set-aside for research		
1% set-aside for observers		
5% allocation for general category effort		
Max. # of general category trips authorized		
Max. # of limited access trips per vessel		
Percent of TAC allocated		

**Table 8 – Comparison of estimated maximum number of trips in Georges Bank access areas for full-time limited access vessels**

	Status quo		Alternative 1	
	2008	2009	2008	2009
Closed Area II	0		0	1
Closed Area I			0	0
Nantkt Lightship		0	1	0
<b>Total for GB</b>			<b>1</b>	<b>1</b>

### 2.3.1.2 Adjustments when yellowtail flounder catches reach 10% TAC limit

Under current regulations, if the 10% yellowtail flounder bycatch TAC is reached and the Georges Bank access areas close, limited access vessels that have not taken trips are authorized to take up to two unused trips in open areas. This action is considering an alternative that would allocate additional open area DAS for each trip not taken before the area closes, but at a prorated value of DAS. The prorated amount is calculated to achieve an equal amount of scallop mortality per DAS. This calculation takes into account the expected average landings per DAS based on relative biomass and scallop size in the open areas, compared to the GB access areas.

*[Insert a paragraph and some tables with examples of compensation DAS based on updated biomass information.] For example, in Framework 18, the Council selected 5.5 for Closed Area I, 5.4 for Closed Area II, and 4.9 for Nantucket Lightship.*

*[Have PDT/Committee discuss if a similar alternative is now needed for the general category fishery if individual allocations are given to general category vessels rather than a fleetwide allocation of trips]*

*Preliminary YT estimates for 2008 and 2009 - these numbers are NOT final. GB values dependent on US/Canada process – final decision may be at Sept Council meeting. For comparison the 2006 TAC was 31,544 lb. for NL and 447,230 lb. for CA11. In 2007 the TAC for NL was 21.3 mt. (46,958 lb.) and 90 mt. (198,416 lb.) for CAI.*

**Table 9 – Preliminary estimates of YT TAC available for scallop access area program**

	2008	2009
<b>SNE/MA YT</b>	312 mt	272 mt **
10% for scallop access program	31.2 mt (68,784 lb.)	27.2 mt (59,966 lb.)
<b>GB YT</b>	1,560-2,730 mt*	1,560-2,730 mt**
10% for scallop access program	156-273 mt	156-273 mt

\* This is the range of GB YT TAC currently being considered in the US/Canada Agreement. The US would be allocated an amount within this range, which is equal to 78% of the total TAC for US and Canada. Council is expected to make final recommendation for the GB YT TAC at the September Council meeting.

\*\* The GB YT TAC is determined on an annual basis so there is no way to estimate the TAC for 2009 at this time. For the purposes of Framework 19 the same TAC from 2008 will be used as a placeholder for analysis. The YT TAC could be higher or lower than this value based on updated information that will be discussed in 2008. The SNE/MA TAC will also be re-estimated in 2008 so this value could be adjusted later as well.

### **2.3.2 Hudson Canyon Access Area**

The Hudson Canyon Area was first closed in 1998 to protect a strong year class of young scallops. The area re-opened as a controlled access area in 2001. Amendment 10 truncated the area because small scallops appeared in what is now known as the Elephant Trunk Area (Figure 2). Fishing effort was supposed to increase in Hudson Canyon each year until a point when scallop biomass was near the levels in surrounding open areas, or unless substantial quantities of young scallops appeared in the area again. In 2006, the area was scheduled to re-open after several years of fishing effort as a controlled access area. However, survey data from 2005 used in Framework 18 indicated that the biomass was not as high as predicted by Amendment 10 and the TACs for 2004 and 2005 were too high. As a result, the scallop biomass was fished down faster than anticipated and many vessels took sub-optimal trips, or chose to delay trips all together.

Framework 18 ultimately extended the duration of the Hudson Canyon access program implemented under Amendment 10 until February 28, 2008 to give vessels more time to take unused trips when conditions improved. For 2006 and 2007 the area remained closed to all vessels except vessels with unused 2005 trips. Vessels with un-used trips (or broken trips) were permitted to use those trips until the end of the 2007 fishing year. The area has remained open to general category vessels with a 400 lb. possession limit.

The Council is considering measures for this area because catch rates in Hudson Canyon are still sub-optimal, and some vessels have not used their 2005 trips. In addition, Section 2.9 is also considering alternatives to close this area in 2008, or a similar area to protect small scallops that have been observed in recent surveys.

*[Insert level of unused effort left for Hudson Canyon – results from Sept. 17 PDT meeting].*

#### **2.3.2.1 No Action**

Under No Action, after February 28, 2008 all unused 2005 Hudson Canyon trips would expire and the area would revert back to an open area, and the boundaries would dissolve. Starting on March 1, 2008 limited access vessels would be permitted to fish in that area with open area DAS. General category vessels would still be permitted to fish in that area as they are now.

#### **2.3.2.2 Unused 2005 Hudson Canyon trips could be used at a reduced level in another area**

After February 28, 2008 any unused 2005 Hudson Canyon trips could be used at a reduced level in another area. Two options are being considered: the open areas (Option A) or the Elephant Trunk Area (Option B). The PDT will determine a conversion rate for unused trips in either area. Vessels would be permitted to fish their unused Hudson Canyon trips in a different area at a reduced level before ???. *[Did not discuss a date – end of 2008 fishing year, end of 2009 fishing year?]*

#### **2.3.2.3 Extend the duration of the Hudson Canyon Area program until May 31, 2008**

This alternative would authorize vessels with unused 2005 Hudson Canyon trips to use those trips until May 31, 2008, three month extension to the current extension of February 28, 2008. Extending the date could allow some vessels to take advantage of these trips later in the year when yields are higher in the area and weather is better.

### **2.3.3 Elephant Trunk Access Area**

The Elephant Trunk Access Area was closed in 2004 to protect two very strong year classes until they reach a size that will produce high yield per recruit and optimum yield. The area opened in 2007 under Framework 18 with an initial allocation of five trips for full-time limited access vessels. An interim action was implemented to reduce the number of trips in that area from five to three for full-time vessels to prevent overfishing of the scallop resource overall. This action will consider measures for this access area for both 2008 and 2009.

#### **2.3.3.1 Allocations**

Based on the most recent projections available the PDT will recommend the number of trips that should be allocated to this area.

#### **2.3.3.2 Re-opening date**

The PDT and advisors did not discuss this issue specifically, but in light of the recent interim action to delay the re-opening date from January to March it is probably not necessary to consider other opening dates at this time.

#### **2.3.3.3 Seasonal closure to minimize interactions with sea turtles and reduce scallop and finfish discard mortality**

The PDT does not recommend that the Committee consider adjustments to this provision at this time. The seasonal closure has only been in place one year and it is too early to determine if adjustments are necessary. In addition, with the requirement of turtle chain gear, interactions with sea turtles are expected to be very low if at all.

#### **2.3.3.4 Procedures to adjust ETA allocations by Notice Action to account for uncertainty**

The PDT will develop a notice action procedure similar to the one in Framework 18 that will enable the Regional Administrator to reduce effort in the Elephant Trunk Area if updated biomass information suggests that fishing mortality was too high.

### **2.3.4 Delmarva Access Area**

This area was closed under Framework 18 on January 1, 2007 to protect a high number of young scallops from the strong 2003 year class. The area was expected to remain closed until 2010 under the area rotation schedule established under Amendment 10. However, based on new survey data and new information about growth rates in the Mid-Atlantic the area could open in 2009 at a reduced level.

#### **2.3.4.1 No Action**

The Delmarva Access Area closed in 2007 will remain closed for both fishing years under this framework. Framework 18 projected that the area would be scheduled to reopen in 2010.

#### **2.3.4.2 Alternative 1 for Delmarva Area allocations**

Based on new survey data and new information about growth rates in the Mid-Atlantic this alternative would consider opening the Delmarva area in 2009 at a reduced level.



### **2.3.5 Other restrictions for limited access vessels in access areas**

This framework is considering several other measures that are intended to improve the effectiveness of the overall area rotation program.

#### **2.3.5.1 Restriction on the number of crew on limited access vessels on access area trips**

##### **2.3.5.1.1 No Action**

Vessels with limited access permits may carry no more than 7 persons on a DAS trip in open areas. This measure was implemented to control fishing power of a vessel on a DAS. Under Framework 18, the Council recommended that the maximum crew restriction be lifted for access area trips since there is a possession limit. NMFS implemented Framework 18 with no maximum crew limit for access area trips. This alternative would not restrict the number of crew a vessel could take on an access area trip – elimination of maximum crew size restriction.

*Rationale:* Allowing a vessel to carry more crew on an access area trip may reduce fishing costs by potentially reducing the time a vessel is at sea. No crew limit would give vessels the most flexibility, potentially reducing total fishing costs, increasing total benefits for crew and vessel owners, but reducing income per crew member. Increasing crew limits could improve safety and provide more opportunity for training new crew members.

##### **2.3.5.1.2 Reduce maximum crew size on limited access vessels on access area trips**

This alternative would include a maximum crew size restriction for limited access vessels in access areas to either: **Option A** with a maximum of eight crew members, or nine crew members under **Option B**.

*Rationale:* Framework 18 acknowledges that as long as the size of scallops in the access areas remains constant, the number of crew will have no effects on the weight of scallops that are cut and landed. However, vessels with no crew limit could target smaller scallops in access areas as catches of larger scallops decline. Larger crews also have an effect on cull size, which may cause the number of shucked scallops to increase. This alternative would provide some opportunity for vessels to take additional crew for safety and training purposes, but would have reduced risks of vessels targeting smaller scallops and increasing mortality.

##### **2.3.5.2 Prohibition on deckloading**

A prohibition on deckloading in this case refers to a vessel being prohibited from leaving an access area with more than 50 bushels of in-shell scallops. The Council decided to consider this topic in Framework 19 in light of a recent interim action for the Elephant Trunk Access Area that included a prohibition on deckloading to reduce non-harvest scallop mortality. In November 2006 the Council recommended that interim action be taken to reduce the potential for overfishing in FY2007. Interim measures included a reduction of fishing effort in the Elephant Trunk Access Area as well as a prohibition on deckloading from that area. At the time the industry requested that NMFS prohibit deckloading in all access areas, but the interim action was limited to the ETA.

#### **2.3.5.2.1 No Action**

A vessel would not be restricted on the amount of in-shell scallop it has onboard when leaving an access area, except for the Elephant Trunk Area. That area is already restricted to a 50 bu. restriction of in-shell scallop on deck when leaving that area based on Framework 20.

*Rationale:* No Action would allow a vessel to leave an access area with a deckload of scallops (except for the Elephant Trunk Area). This would enable a vessel to shuck scallop meat on their return to port, potentially reducing fishing costs by reducing the time the vessel is at sea. If bad weather is a factor, a vessel can leave an access area with a full deckload of scallops and shuck the scallop meat on their return to port.

#### **2.3.5.2.2 Prohibit all vessels from leaving any access area with more than 50 bushels of in-shell scallops (prohibition on deckloading)**

This alternative would prohibit a vessel from leaving any access area with more than 50 bushels of in-shell scallop. The Committee recommends two options for this alternative.

**Option A:** no exceptions, all vessels restricted to 50 bu. limit under all circumstances

**Option B:** A vessel would be permitted to leave an access area with more than 50 bu. of in-shell scallop on deck if one of the two exceptions listed below apply;

1. A general category vessel is carrying an observer; or
2. A vessel has to break a trip due to a safety concern that can be documented as in other regulations

*Rationale:* If a vessel leaves an access area and plans to shuck the remainder of their trip on the way home, the vessel may have an excess of scallops above the possession limit and will discard them in an area that may not be suitable for scallops, or the scallops may be dead before they are discarded. This alternative is intended to reduce non-harvest mortality by restricting the amount of in-shell scallop a vessel is permitted to leave an access area with (up to 50 bu.).

#### **2.3.5.3 TAC set-asides for observers (1%) and research (2%)**

One-percent of the estimated TAC for each access area would be set-aside to help fund observers. In addition, 2% of the estimated TAC for each access area would be set-aside to fund scallop-related research in the access areas. The percent of TAC for observers and research would be removed before allocations are set for limited access and general category fisheries.

In terms of the Georges Banks Access Areas, see Table 2 through Table 7 for a breakdown of the expected TAC that would be assigned for observers and research under both status quo and Alternative 1. As for Hudson Canyon, ??? is expected to be available for observer and research. For Elephant Trunk ??? is expected to be available for observers and research. And ??? is expected to be available for Delmarva in 2009 if that area re-opens.

*Insert table with set-asides available per area for each year once estimated TACs per area available.*

### 2.3.6 Open area allocations

After controlled access area allocations are determined, as well as allocations for the general category fishery, the open area DAS are set at a level that equals a value such that the resource-wide average fishing mortality is expected to be 80% of  $F_{max}$ , estimated to be a fishing mortality of  $F=0.2$ . In special circumstances overall  $F$  may be reduced to achieve optimum yield; for example, if a large fraction of the scallop biomass is in closed areas it will take more DAS in open areas to achieve an overall  $F=0.2$ .

#### 2.3.6.1 Allocations

Pursuant to CFR §648.55, the Scallop PDT has made a recommendation below concerning the number of open area DAS that should be allocated in 2008 and 2009 to achieve optimum yield.

(d) In order to assure that OY is achieved and overfishing is prevented, on a continuing basis, the PDT shall recommend management measures necessary to achieve optimum yield-per-recruit from the exploitable components of the resource (e.g., those components available for harvest in the upcoming fishing years), taking into account at least the following factors:

- (1) Differential fishing mortality rates for the various spatial components of the resource;
- (2) Overall yields from the portions of the scallop resource available to the fishery;
- (3) Outlook for phasing in and out closed or controlled access areas under the Area Rotation Program; and
- (4) Potential adverse impacts on EFH.

*[Insert a paragraph with updated info on % of resource in GB, MA and in closed areas based on new survey data etc.].*

*[Insert PDT recommendation based on results of September 17 PDT meeting]*

*Open Area DAS will depend on what is decided about HC, how many trips in ET, what happens with Delmarva in 2009, and how many GB trips are allocated.*

#### 2.3.6.2 DAS set asides for observers (1%) and research (2%)

This action continues the set-aside program that deducts one-percent of the allocated DAS to help fund observers on scallop vessels and two-percent to fund scallop related research with compensation trips taken in open scallop fishing areas.

*[Insert table of 1% and 2% based on PDT recommendations for total open area DAS]*

## **2.4 MEASURES FOR GENERAL CATEGORY VESSELS**

### **2.4.1 No Action**

The No Action for this fishery would assume that Amendment 11 is approved as the Council recommended it. Specifically, a quarterly hard-TAC would be implemented for general category qualifiers (and vessels under appeal) while the fishery is in a transition to limited entry (12-18 months). Ten percent of the total projected scallop catch would be allocated to the general category fishery (open and access area fishing) and would be divided into quarters based on historical trends in landings.

Qualifying vessels would then be allocated an individual fishing quota after the transition period expires. This framework assumes that the transition period will expire at the end of the 2008 fishing year (February 28, 2009), but it is possible it may expire sooner. In which case, vessels could receive an individual allocation of fishing quota for part of the 2008 fishing year and all of FY2009. For the details of the limited entry and individual fishing quota program recommended by the Council under Amendment 11 see Appendix I, the Executive Summary of Amendment 11 FSEIS.

Amendment 11 also includes a separate limited entry program for general category vessels to fish in the Northern Gulf of Maine (NGOM). If a vessel had a permit before the control date and does not qualify for the limited entry general category permit, it would be permitted to fish for scallops at a reduced level in the NGOM. Vessels would be permitted to land up to 200 pounds of scallops until an overall TAC is reached for the scallop resource in federal waters. If this measure is approved, Framework 19 could potentially include a hard-TAC for both 2008 and 2009.

#### **2.4.1.1 Quarterly hard-TAC for transition period to limited entry (FY2008)**

*[insert PDT analysis of what quarterly hard-TAC will be – 10% of what etc.]*

*[PDT needs to consider openings of access areas and historical catch percentages per quarter]*

##### **2.4.1.1.1 Measures to reduce derby fishing during the transition period to limited entry (FY2008)**

The Committee recommends that the general category fishery be allocated 2% of each access area, rather than the recommended 5% for FY2009 to reduce derby fishing in those areas during the transition period to limited entry. More vessels are expected to fish during the interim period then will ultimately qualify for the limited entry general category program. If a lower allocation is given to areas with higher scallop catch, the derby effects are expected to be reduced compared to allocating 5% of the access areas to the general category fishery during the transition period. The remainder of the overall 10% TAC will be allocated to the general category fishery for open areas and the limited access fishery would be allocated more scallops from the access areas during this period.

##### **2.4.1.2 IFQ program for general category fishery**

*[Insert summary of what A11 proposes and some examples of overall allocation and individual allocations]*

#### **2.4.1.2.1 Cost recovery program**

Under both the SFA and reauthorized Magnuson Act of 2007 the agency is mandated to collect up to 3% of ex-vessel value of landed product to cover actual costs directly related to enforcement and management of an individual fishing quota program (Section 304 (d)(2) of the Magnuson-Stevens Act). Since Amendment 11 proposes to include an allocation of individual quota (based on a percent of total general category catch), the Secretary is authorized and shall collect a fee to recover the actual costs directly related to the management and enforcement of any individual fishing quota program. The fee shall not exceed 3% of the ex-vessel value of fish harvested under such program. During development of Amendment 11 the Council learned that the preliminary estimates of the cost recovery program for the surf clam quota program, which is also subject to this requirement, were about \$50,000 to monitor and manage that quota program.

The amendment did not have to specify the details of the cost recovery program, but it was discussed that a future framework or other appropriate vehicle would specify how the Secretary will collect a cost recovery fee for this individual fishing quota program. This action will consider the specific cost recovery program that should be developed, and NMFS will provide the cost estimates.

*[Committee agreed to include an alternative like the Halibut and/or Tilefish program, but requested the PDT to further refine it if needed for this fishery. The PDT will bring a more detailed alternative for the Committee to consider at the October 11 Committee meeting.]*

#### **2.4.1.3 Northern Gulf of Maine (NGOM) Hard-TAC**

The Council approved a separate limited entry program for the NGOM with a hard-TAC. If this provision is approved by NMFS Framework 19 will need to consider a separate hard TAC for this area for both 2008 and 2009. Individuals would qualify 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.

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 PDT is developing recommendations for the hard-TAC for the Committee to consider at the October 11 Committee meeting].*

#### **2.4.2 No Action under Amendment 11**

This framework action must include an alternative that considers and analyzes the impacts if NMFS does not approve Amendment 11. If the general category fishery remains an open access fishery, certain assumptions will have to be made concerning the expected impacts on the scallop resource and fishery overall. See Section 2.2.2.

*[insert paragraph of what the PDT will assess if No Action for A11].*

## **2.4.3 Georges Bank access area management**

### **2.4.3.1 Allocations**

It is understood that what ever areas are deemed available for 2008 and 2009 based on decisions made in Section 2.3.1.1, the same areas would be available to the general category fishery. This section is considering the percent of each access area that should be allocated to the general category fishery. In the past two-percent has been allocated to the general category in a fleetwide allocation of trips. Once the maximum number of trips has been taken the area closes to all general category vessels.

#### **2.4.3.1.1 Status quo allocations**

The general category fishery would be allocated two-percent of the access area projected TACs in a fleetwide number of trips. See Table 2 through Table 4 for the projected number of fleetwide trips per area for 2008 and 2009.

*[If the % is not in the regs then maybe status quo not necessary for this alternative]*

#### **2.4.3.1.2 Adjust the percent allocation for general category vessels based on allocation decision made in Amendment 11**

This alternative would use the overall 5% allocation decision made in Amendment 11 and apply it to all areas. There are several different iterations of this alternative described below.

##### **2.4.3.1.2.1 Five-percent for all areas**

The general category fishery would be allocated a fleetwide allocation of trips equal to 5% of each area open in FY2008 and FY2009.

##### **2.4.3.1.2.2 Five-percent for all access areas but zero-percent for Closed Area II**

The general category fishery would be allocated a fleetwide allocation of trips equal to 5% of each area open in FY2008 and FY2009, but zero allocation for Closed Area II.

##### **2.4.3.1.2.3 Five-percent for all areas except Closed Area II would have a smaller allocation to account for SAP programs and some general category effort**

The general category fishery would be allocated a fleetwide allocation of trips equal to 5% of each area open in FY2008 and FY2009, but a smaller allocation would be given for Closed Area II to account for some scallop landings on multispecies vessels participating in SAP programs.

##### **2.4.3.1.3 Allocate an individual poundage per area to individual general category vessels equal to their individual contribution factor**

This alternative would allocate an individual poundage amount to each general category vessel per area equal to their individual contribution factor. For example, if a general category vessel qualified for 1% of the general category allocation that vessel would be allocated 1% of general category pounds available from open areas and 1% from each access area open that year. That vessel would be permitted to (?trade or buy or lease?) that area specific allocation with another general category vessel.

*[See memo from PDT – how does the Council want this to work with ITQ program under Amendment 11?]*

Table 10 and Table 11 are examples of potential allocations for qualifying vessels if the total projected scallop catch is 50 million pounds. The average general category qualifier can expect an allocation of about 6,550 under this scenario, with a minimum allocation of 500 pounds and a maximum closer to 32,500 pounds. If these allocations are then broken down by area amounts similar to the values in the following tables can be expected. These will change based on final biomass estimates for the various areas and the final number of qualifiers will not be known until sometime in 2008. If this alternative applies to the limited access vessels that qualify for a limited entry general category permit expected allocations for this component of the fishery is described in Table 11.

**Table 10 – Example of potential allocations for general category limited access qualifiers in 2009 under a total scallop catch of 50 million pounds**

<b>GENERAL CATEGORY EXAMPLES</b>			<b>(general category limited access permits only)</b>		
	<b>Allocation</b>	<b>% Share</b>	<b>Open Area</b>	<b>NL</b>	<b>ET</b>
MAX.	32500	1.34%	16,758	5,126	10,616
MIN.	500	0.02%	258	79	163
AVG.	6550	0.27%	3,377	1,033	2,140
MEDIAN	3197	0.13%	1,648	504	1,044

**Table 11 – Example of potential allocations for limited access vessels that will also qualify for a limited access general category permit in 2009 under a total scallop catch of 50 million pounds**

<b>LIMITED ACCESS with general category permits</b>					
	<b>Allocation</b>	<b>% Share</b>	<b>Open Area</b>	<b>NL</b>	<b>ET</b>
MAX	20,000	8.26%	10,313	3,154	6,533
MIN	500	0.21%	258	79	163

#### **2.4.3.2 Yellowtail flounder bycatch TAC**

Under current regulations, if the 10% yellowtail flounder bycatch TAC is reached and the Georges Bank access areas close general category vessels are not permitted to fish in the area. Furthermore, since it is a fleetwide allocation there is no compensation for vessels on an individual basis if the area closes before the total number of general category trips have been taken. The yellowtail flounder bycatch TAC is shared between the two fisheries; therefore, once the TAC is reached the area closes for both fleets. See Section 2.3.1.2.

*[If general category vessels are given an individual allocation in pounds per access area on Georges Bank will this action also have to develop a compensation for vessels if the TAC is reached before they have caught their allocation.]*

#### **2.4.4 Hudson Canyon**

The Committee supports that whatever is done in Framework 19 for the Hudson Canyon area should also apply to the general category fishery. So if the area (or one with similar boundaries) is closed under this action, then it would close to general category vessels as well. (See Section 2.9).

### **2.4.5 Elephant Trunk**

The general category fishery will be allocated a maximum fleetwide allocation of trips in this area for both 2008 and 2009, or an individual allocation in pounds if Alternative 2.4.3.1.3 is selected. The total amount of access in the area will vary per year based on decisions in Section 2.4.1.1.1 (2% or 5% of the available TAC for the area).

#### **2.4.5.1 Allocations**

#### **2.4.5.2 Seasonal closure to potentially reduce sea turtle interactions**

#### **2.4.5.3 Procedures to adjust ETA allocations for uncertainty**

### **2.4.6 Other restrictions for general category vessels in access areas**

#### **2.4.6.1 Prohibition on deckloading**

See Section 2.3.5.2 – same measures would apply to the general category fishery.

## **2.5 ESTIMATE OF MORTALITY FROM INCIDENTAL CATCH**

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. If approved, 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. If this provision is not approved in Amendment 11 then this amount of scallop would not (?) be allocated back to the scallop fishery. It is a source of non-harvest mortality.

*[Insert with PDT analysis]*

## **2.6 OVERFISHING DEFINITION**

SARC 45 reviewed and updated the stock assessment of the sea scallop resource. The assessment summary report is now available and during 2006 scallops were not overfished and overfishing was not occurring. The assessment process used two assessment models; a size-structured forward projecting assessment model (CASA) and the rescaled F approach that has been used in previous assessments. Overall results from the two models were similar, but the analysis indicated that the CASA model results were generally more accurate and the review panel recommended that these results be used for assessing the scallop resource. In general, the results were more precise and less bias.

The CASA model incorporates more sources of data including the NEFSC dredge survey, the winter bottom trawl and SMAST small camera video surveys, commercial landings, shell height measurements for landed scallops from port and sea sampling, commercial landings per unit of effort, and growth increment data from growth rings on scallop shells. In addition, this



assessment used new growth data for the first time, which indicate that Mid-Atlantic sea scallops do not grow as large but reach their maximum size faster than previously assumed. Lastly, new shell height/meat weight relationships for survey and commercial catches were used. The shell height-meat weight relationships for catches were adjusted to account for shucking practices, water absorption and transport, as well as seasonal patterns in meat weights during each year.

The CASA model produces biomass reference points in a different unit – metric tons of scallop meat compared to the current reference point that is a weight per tow value from the NEFSC dredge survey (5.6 kg/tow). The recent assessment evaluated results from both models, but if this framework is going to incorporate the results from the preferred CASA model then this framework will have to consider adjusting the overfishing definition to incorporate different parameters. Table 12 summarizes the biomass and fishing mortality reference points for 2006 using both models (rescaled F and CASA results). Note that the results from these models cannot be compared because the CASA model is for fully recruited scallops (>100 mm). The rescaled F model represents an average fishing mortality for scallops greater than 80-90 mm. Since fishing mortality is lower on 80-100 mm scallops, the rescaled F estimate would be somewhat less than the CASA estimate.

**Table 12 – Summary of biomass and fishing mortality reference points from recent scallop stock assessment using both rescaled F and CASA models (results not comparable)**

	Target	Threshold	2005	2006
<b>BIOMASS</b>				
<b>Survey Index</b> (kg/tow, adjusted) (No Action)	5.6	2.8	7.8	7.3
<b>CASA</b> (Proposed)	108,600 mt (239 million lb.)	54,300 mt (120 million lb.)	N/A	166,000 mt (366 million lb.)
<b>FISHING MORTALITY</b>				
<b>Rescaled F</b> (No Action)	0.20	0.24	0.22	0.20
<b>CASA</b> (Proposed)	Council must decide (See Alt. 2.6.3)	0.29	N/A	0.23

### 2.6.1 No Action

The current overfishing definition would remain in effect and the units for the biomass reference points would remain as a relative index of biomass from the NEFSC survey in weight per tow. The biomass reference point for 2006 would be in kg/tow (7.3) and the fishing mortality reference point for 2006 would be 0.20, based on the rescaled F approach. For 2006, the stock is not overfished and overfishing is not occurring (Table 12).

The status quo overfishing definition, as revised by Amendment 10 reads:

*“If stock biomass is equal or greater than  $B_{max}$  as measured by the resource survey weight per tow index (currently estimated at 5.60 kg/tow for scallops in the Georges Bank and Mid-Atlantic resource areas), overfishing occurs when fishing mortality exceeds  $F_{max}$ , currently estimated as 0.24. If the total stock biomass is below  $B_{max}$ , overfishing occurs when fishing mortality exceeds the level that has a*

*50 percent probability to rebuild stock biomass to  $B_{max}$  in 10 years. A scallop stock is in an overfished condition when stock biomass is below  $\frac{1}{2}B_{max}$  and in that case overfishing occurs when fishing mortality is above a level expected to rebuild in five years, or above zero when the stock is below  $\frac{1}{4}B_{max}$ ”*

### **2.6.2 Adjust the unit used for the biomass reference point in the overfishing definition**

The Council may adjust the values of the biomass and fishing mortality targets and thresholds by framework or amendment, based on updated analysis or upon recommendation of the Stock Assessment Workshop. Based on the final report from SAW 45 the Council agrees that the biomass and fishing mortality targets should be adjusted based on the results using the CASA model. These results are more accurate based on the reasons explained in Section 2.6. If this alternative is selected then the biomass and fishing mortality targets will adjust based on the recent stock assessment and the value used for the biomass reference point will change from a weight per tow unit to an absolute value of scallop meats in metric tons. For 2006 the biomass reference point would be 166,000 mt. and the fishing mortality target would be 0.23, so the stock is not overfished and overfishing is not occurring (Table 12).

The overfishing definition, would be revised to read:

*“If stock biomass is equal or greater than  $B_{max}$  as measured by **an absolute value of scallop meat (mt) (currently estimated at 108,600 mt. for scallops in the Georges Bank and Mid-Atlantic resource areas)**, overfishing occurs when fishing mortality exceeds  $F_{max}$ , currently estimated as **0.29**. If the total stock biomass is below  $B_{max}$ , overfishing occurs when fishing mortality exceeds the level that has a 50 percent probability to rebuild stock biomass to  $B_{max}$  in 10 years. A scallop stock is in an overfished condition when stock biomass is below  $\frac{1}{2}B_{max}$  and in that case overfishing occurs when fishing mortality is above a level expected to rebuild in five years, or above zero when the stock is below  $\frac{1}{4}B_{max}$ ”*

### **2.6.3 Target overfishing value**

The Council may adjust the values of the biomass and fishing mortality targets and thresholds by framework or amendment, based on updated analysis or upon recommendation of the Stock Assessment Workshop. SAW 45 recommends that the reference points be adjusted based on results from the CASA model (Alternative 2.6.2). But the Council can decide to leave the target fishing mortality at 0.20 to be more precautionary.

A biomass target is not a scientifically driven estimate, it is a policy decision. The Committee briefly discussed adjusting the fishing mortality target for overfishing in light of the new assessment. In terms of a recommendation, the Committee decided to wait until the new stock assessment report could be summarized in more detail and the issues could be more fully described by the PDT. The PDT recommends that the fishing mortality target remain at 0.20 due to all the uncertainties in the estimates and in order to help prevent localized overfishing. The Council should clarify in this action if the fishing mortality target is going to remain at 0.20 or if the value is going to be adjusted.

## **2.7 STANDARDIZED BYCATCH REPORTING METHODOLOGY**

The Council recently approved Amendment 12 to the Scallop FMP (June 2007). This action is an omnibus amendment to all FMPs in the region and focuses on defining a standardized bycatch reporting methodology (SBRM Amendment). Section 303(a) (11) of the Magnuson-Stevens Fishery Conservation and Management Act requires that all FMPs include “a standardized reporting methodology to assess the amount and type of bycatch occurring in the fishery.” SBRM is the combination of sampling design, data collection procedures, and analyses used to estimate bycatch and to determine the most appropriate allocation of observers across the relevant fishery modes. The Council has worked with NMFS in development of the SBRM Omnibus Amendment since 2005 and final measures were selected in June 2007. NMFS is expected to implement the action in Fall 2007.

The proposed measures include: 1) bycatch reporting and monitoring mechanisms; 2) analytical techniques and allocation of at-sea fisheries observers; 3) an SBRM performance standard; 4) a review and reporting process; 5) framework adjustment and annual specifications provisions; 6) a prioritization process; and 7) provisions for industry funded observers and observer set-aside programs. In terms of the first element, the status quo would remain for the methods by which data and information on discards would be collected and obtained. The Northeast Fisheries Observer Program would remain the primary mechanism to obtain data on discards in the Northeast Region and vessels would continue to be required to carry an at-sea observer upon request. In the case of the scallop fishery, data would also be collected by approved observer service providers through the industry funded observer set-aside program. Currently, one-percent of the total projected scallop catch is set-aside to compensate vessels that are requested to carry an observer.

The second element of the SBRM Amendment is the analytical techniques and allocation of at-sea fisheries observers. The proposed action is an expanded version of the status quo, which would fully incorporate all managed species and relevant gear types. At-sea observers would be allocated and assigned to vessels based on various fishing modes and filters. For example, for the scallop fishery the SBRM Amendment includes ten fishing modes (out of a total of 39). The modes are defined by area (Georges Bank or Mid-Atlantic), gear type (dredge or trawl), permit type (limited access or general category), and whether a vessel is fishing in a controlled access area or an open area. For each of the ten modes importance filters are applied to remove events that are very unlikely, and for the scallop dredge fishery interactions with sea turtles are removed since implementation of turtle chain gear, which prevents sea turtles from being caught as bycatch. Table 13 summarizes the at-sea observer days needed for the scallop fishery for each mode after applying the proposed importance filters using 2004 observer data. These values are likely to change based on incorporation of new observer data.

**Table 13 – Summary of at-sea observer days needed in the scallop fishery after applying the proposed importance filters (based on observer data from 2004)**

<b>Fishing mode</b>	<b># observer sea days (95% of discards and 98% of mortality)</b>
NE scallop dredge – LA – open	320
MA scallop dredge – LA – open	114
NE scallop dredge – LA – access area	145
MA scallop dredge – LA – access area	108
NE scallop dredge – GC – open	92
MA scallop dredge – GC – open	17
NE scallop dredge – GC – access area	24
MA scallop dredge – GC – access area	21
MA scallop trawl – LA – open	95
MA scallop trawl – GC – open	51
<b>TOTAL</b>	<b>987</b>

The third element of the SBRM Amendment is a performance standard, to ensure that the data collected are sufficient to produce a coefficient of variation (CV) of the discard estimate of no more than 30 percent. CV is a measure of variation in data; if the variance is high the precision is reduced. The 30% value is a generally accepted value worldwide for these types of programs and analyses. There is ample literature to support the use of a 30% CV for a sampling program of this nature. The estimated number of sea days needed per mode for the scallop fishery is based on the highest projected number of sea days needed to achieve a 30%CV for each species after the application of the importance filter. If approved, NMFS will allocate at-sea observer coverage levels on an annual basis for each fishing mode after consultation with the Council. Table 44 in the SBRM Amendment includes the CVs for each fishing mode for all species based on 2004 observer data. Approximately 280 scallop trips were observed in 2004 (2,226 sea days). Even with this relatively high coverage level, a 30% CV was not attained for every species for the scallop fishery. For background, Table 14 below summarizes the observer coverage level by fishing mode for the last several fishing years.

**Table 14 – Summary of observed trips and number of at-sea observer days in the scallop fishery by mode and year**

<b>Fishing mode</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007 (to date)</b>
NE scallop dredge – LA – open	26 (344 days)			
MA scallop dredge – LA – open	69 (591 days)			
NE scallop dredge – LA – access area	9 (11 days)			
MA scallop dredge – LA – access area	22 (33 days)			
NE scallop dredge – GC – open	86 (805 days)			
MA scallop dredge – GC – open	35 (373 days)			
NE scallop dredge – GC – access area	0 (0 days)			
MA scallop dredge – GC – access area	1 (2 days)			

MA scallop trawl – LA – open	1 (11 days)			
MA scallop trawl – GC – open	31 (56 days)			
<b>TOTAL</b>	<b>280 (2,226 days)</b>			

The forth element of the SBRM Amendment is a review and reporting process. The amendment proposes to require an annual report on discards as well as a report every three years that evaluates the effectiveness of the Northeast SBRM. The fifth element is to enable the Councils to make changes to certain elements of the SBRM through framework adjustments and/or annual specification packages. The sixth element is a process to provide Councils and the public with an opportunity to provide input on the prioritization of at-sea observer coverage allocations. NMFS will provide the at-sea observer coverage levels required to attain the SBRM performance standard (30% CV) in each fishery, the coverage levels that would be available if there is a budget/resource shortfall, the coverage levels that incorporate the recommended prioritization, and the rationale for the recommended prioritization. If the SBRM Amendment is approved, the Council expects NMFS to provide the first annual prioritization report at the ??? Council meeting, which will include the prioritized observer coverage levels for 2008. Lastly, the seventh element is to allow any FMP in this region to consider industry funded observers and/or an observer set-aside program in a framework action rather than an amendment.

The scallop fishery is the only fishery in the Northeast that already has an industry funded observer program in place. Since 1999 the majority of observer coverage in the scallop fishery has been funded through the scallop set-aside program. A percentage of the total allowable catch (TAC) in access areas has been deducted before allocations are made to generate funding for vessels required to carry an observer. Amendment 10 extended that requirement to open areas as well, so a percent of potential allocated effort in DAS from open areas is set-aside to help fund the program as well. Observer coverage is necessary in the scallop fishery to monitor bycatch of finfish and to monitor interactions with endangered and threatened species. Vessels required to carry an observer are authorized to land more than the possession limit from trips in access areas, and in open areas vessels are charged a reduced amount to help compensate for the cost of an observer.

This framework includes the 1% set-aside for observer coverage. So if the total projected catch for 2008 is 55 million pounds, approximately 550,000 pounds (1%) would be set-aside to defray the cost of carrying an observer. Based on an estimated value of \$6.00 a pound this set-aside is expected to generate approximately 3.3 million dollars. At that rate, approximately 4,230 sea-days could be covered under the current set-aside program, assuming a \$780 per day cost to carry an observer. This value far exceeds the number of sea days needed to achieve a 30% CV based on 2004 data for the scallop fishery (980 sea days). Therefore, if the needed observer coverage levels for 2008 and 2009 are similar to the values generated with the 2004 data, the 1% set-aside is expected to provide adequate funding to attain a 30%CV for each fishing mode. If additional days are needed beyond the 1% set-aside, they would have to be funded directly by the industry from vessels that are required to carry an observer after the set-aside has been exhausted, or funded by the federal government under the regular observer program budget.

## **2.8 IMPROVEMENTS TO THE OBSERVER SET-ASIDE PROGRAM**

The Council recently approved an action to implement a mechanism to re-activate the industry-funded observer program for the scallop fishery. During the process several issues were identified with the observer set-aside program, but due to timing constraints the Council did not develop alternatives to address those issues. Instead the Council approved an alternative that would allow adjustments to the observer set-aside program to be considered in a framework action. This is the first action since implementation of Amendment 13 that could include consideration of these issues.

Overall, five main problems were identified during development of Amendment 13: 1) vessels with lower fishing power are at a disadvantage in terms of the compensation given for carrying an observer (i.e. small dredge vessels); 2) the program does not work well in areas with lower catch rates (i.e. Hudson Canyon and some open areas); 3) small adjustments are needed to improve overall administration of program (i.e. standard operating procedures the Observer Program is using already but not regulation like a vessel can't call in more than ten days in advance, require providers to get back to vessels in a timely way, data quality controls, the timeliness of Obscon reporting etc.; 4) there is no mechanism for funding open area trips on general category vessels; and 5) observer coverage is too expensive. The PDT, advisors and Committee have discussed these issues and recommend the following alternatives be considered to address some of these issues. The others are either too complex to consider in this action or are not as necessary to address at this time.

### **2.8.1 Assign a higher compensation rate for vessels fishing in open areas compared to access area trips**

Currently a vessel that is required to carry an observer in an access area receives a 400 pound per day compensation, and ??? additional DAS for a future trip per day carrying an observer. This alternative would still give a vessel a specific compensation rate based on whether the trip was in an access area or not, but the rate would be higher for open area trips than access area trips. NMFS would still ultimately assign the rates after consideration of available data, but this alternative would recommend that a higher rate be used for open area trips. For example, using the rates this year as an example, rather than ?? DAS per day with an observer, a vessel may receive ?? per day. In order to prevent the total observer set-aside from being used faster as a result, the compensation rate for access area trips should decline (i.e. 350 pounds per day). This adjustment would respond to public comment that the program does not work in areas with lower catch rates; a higher compensation rate for open area trips may address this problem to some degree.

### **2.8.2 Consider small adjustments to the current program to improve overall administration**

*[NMFS Observer Office provided a list of these specific recommendations at the August 16 Committee meeting. However, NMFS is going to further identify which ones can be handled administratively and which adjustments should be considered in the framework]*

## **2.9 AREA CLOSURE TO PROTECT YOUNG SCALLOPS**

Amendment 10 defines the criteria for closing an area to protect young scallops. Under adaptive area rotation, 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. Identification of areas would be based on a combination of the NEFSC dredge survey and available industry-based surveys. The boundaries are to be based on the distribution and abundance of scallops at size and ten-minute squares are the basis for evaluating continuous blocks that may be closed. The guidelines are intended to keep the size of the areas large enough and regular in shape to be effective, while allow a degree of flexibility. The Council and NMFS are not bound to closing an area that meets the criteria, and the Council and NMFS may deviate from the guidelines to achieve optimum yield.

If any areas qualify the area would close to all scallop vessels, and vessels would not be permitted in that area until a later date when biomass estimates project higher yields. Preliminary results from the 2007 survey suggest that small scallops have settled in parts of the Hudson Canyon Access Area as well as areas to the north and east of the current access area. The advisors are supportive of managing the Hudson Canyon area as a special access area indefinitely since it has historically been an important area for the scallop resource in the Mid-Atlantic.

*[insert results from new survey related to potential new boundaries – PDT will present results from 2007 survey at the October 11 Committee meeting].*

## **2.10 OTHER MEASURES**

### **2.10.1 Allow a 30-day VMS power down provision**

This alternative would allow a vessel to power down their VMS unit for a minimum of 30 days similar to the provision for multispecies permits. CFR §648.9 VMS requirements, includes a provision for multispecies limited access vessels that allows a vessel to power down their VMS unit so long as the vessel does not engage in any fisheries until the unit is turned back on.

(C)(2)(i)(B) For vessels fishing with a valid NE multispecies limited access permit, the vessel owner signs out of the VMS program for a minimum period of 30 consecutive days by obtaining a valid letter of exemption pursuant to paragraph (c)(2)(ii) of this section, the vessel does not engage in any fisheries until the VMS unit is turned back on, and the vessel complies with all conditions and requirements of said letter.

### **2.10.2 Clarification on when a vessel can leave for an access area trip (No Action)**

This alternative would clarify when a vessel can leave for an access area trip. Currently there is confusion about when a vessel can leave port on an access area trip. A scallop vessel can leave for an access area trip before the area opens. The Committee supports that this ability should continue (No Action). Since scallop vessels are not allowed to fish until they are in an access

area and there is a possession limit, prohibiting a vessel from leaving port before the area opens would only disadvantage vessels that are homeported farther away.

### **3.0 CONSIDERED AND REJECTED ALTERNATIVES**

#### **3.1.1 Measures to reduce derby fishing in access areas for the general category fishery**

In recent years the general category fishery has fished the maximum number of general category trips in access areas relatively quickly. All trips have been fished in a matter of weeks for the last few access area openings. While the number of potential participants may be lower in the future as a result of Amendment 11, if the overall allocation in access areas increases from 2% to 5% in this action, then the need to consider measures to reduce derby fishing may be more evident.

This alternative would restrict a general category vessel to take a maximum number of trips per month in an access area. This alternative is intended to slow fishing effort in access areas by general category vessels to reduce negative consequences of derby fishing. The area would still close to all general category vessels when the maximum number of trips allocated were expected to be taken.

***Rationale for rejection:*** The Committee decided to move this alternative to the considered but rejected section because it is expected to have negative impacts on the most dependent general category vessels. These negative impacts are expected to outweigh the benefits of slowing a derby fishery in access areas. Furthermore, there are many different fishing practices among general category vessels in terms of access areas, and this restriction would reduce flexibility. In addition, derby effects are expected to be reduced under a limited entry program compared to recent years with open access.

#### **3.1.2 Adjust the observer set-aside program by assigning a higher compensation rate for vessels with lower fishing power**

This alternative would determine a vessels fishing power and the compensation rate for carrying an observer would be determined by that vessels fishing power. Vessels with lower fishing power would receive a higher compensation to cover the cost of carrying an observer.

***Rationale for rejection:*** The PDT recommended this alternative be rejected because it is very time consuming and complex to calculate individual fishing power.

#### **3.1.3 Eliminate the single dredge restriction in access areas for vessels that were part-time and upgraded to full-time single dredge permits**

The Committee added this issue to the list of items to consider in Framework 19 as a result of a request from the public to promote efficiency on access area trips that are managed by an output control (possession limit). This alternative would eliminate the single dredge restriction in access areas for vessels that were part-time and upgraded to a full-time single dredge permit. Currently these vessels are restricted to use a single dredge in access areas to catch their possession limit.



Amendment 4 to the Scallop FMP implemented a limited access program for the scallop fishery in 1994 (NEFMC 2003). The limited access vessels consist of full-time, part-time and occasional vessels with subcategories within each permit group. Depending on the type of limited access permit for which the vessel qualified, a scallop limited access vessel may have the option of fishing with any gear type (permit categories 2, 3 and 4), with a small dredge (categories 5 and 6), or with trawl nets (categories 7, 8 and 9).

Days-at-Sea and trip allocations for special access areas are similarly varied by permit category. Owners of limited access vessels assigned to either the part-time or occasional categories (permit categories 3 and 4, respectively) may opt to be placed one category higher (permit categories 5 and 6, respectively), provided they agree to comply with the small dredge program restrictions. Vessels in the small dredge program must: (1) fish exclusively with one dredge no more than 10.5 ft in width; (2) the vessel may not have more than one dredge on board or in use; and (3) the vessel may have no more than five people, including the operator, on board (NEFMC 2003).

The number of limited access vessels has increased from 291 in 1999 to 359 in 2005 (Table 15). The number of part-time vessels has declined over time, while the number of full-time small dredge has increased. In addition, the number of occasional permits has declined, while the number of part-time small dredge permits has increased.

**Table 15 - Scallop Permits by Application Year**

PERMIT CATEGORY	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006*
Full-time	229	227	217	204	203	213	220	224	234	238	242	247	249
Full-time small dredge	6	4	5	3	2	1	3	13	25	39	48	56	55
Full-time net boat	30	32	28	27	23	16	17	16	16	16	15	18	14
<b>Total full-time</b>	<b>265</b>	<b>263</b>	<b>250</b>	<b>234</b>	<b>228</b>	<b>230</b>	<b>240</b>	<b>253</b>	<b>275</b>	<b>293</b>	<b>305</b>	<b>321</b>	<b>318</b>
Part-time	27	22	19	16	11	12	16	14	14	10	4	3	2
Part-time small dredge	11	7	8	9	7	3	4	6	8	19	26	29	30
Part-time trawl	31	30	27	30	27	22	20	18	10	8	3		
<b>Total part-time</b>	<b>69</b>	<b>59</b>	<b>54</b>	<b>55</b>	<b>45</b>	<b>37</b>	<b>40</b>	<b>38</b>	<b>32</b>	<b>37</b>	<b>33</b>	<b>32</b>	<b>32</b>
Occasional	6	3	3	2	3	4	4	5	4	3	3	1	1
Occasional trawl	28	26	25	24	19	20	16	19	15	8	5	5	
<b>Total occasional</b>	<b>34</b>	<b>29</b>	<b>28</b>	<b>26</b>	<b>22</b>	<b>24</b>	<b>20</b>	<b>24</b>	<b>19</b>	<b>11</b>	<b>8</b>	<b>6</b>	<b>1</b>
<b>Total Limited access</b>	<b>368</b>	<b>351</b>	<b>332</b>	<b>315</b>	<b>295</b>	<b>291</b>	<b>300</b>	<b>315</b>	<b>326</b>	<b>342</b>	<b>346</b>	<b>359</b>	<b>351</b>

Updated in Oct.2006.

**Rationale for rejection:** The Scallop PDT is not supportive of including this alternative in Framework 19. They argue that the ability for a part-time vessel to upgrade to a full-time single dredge status was intended to be a tradeoff. These vessels were given the ability to land more scallops under a full-time permit, but were restricted to one dredge. Eliminating this restriction would not be conservation neutral. The advisors discussed this topic as well and some felt it was appropriate to consider in Framework 19, and some did not. In addition, there are many more permits in this category than in the past (Table 15). One advisor commented that the elimination of the single dredge restriction would only be necessary in access areas like Hudson Canyon that are sub-optimal. He argued that it would not be a problem for these permits to fish in an access area with a single dredge if the access area was managed correctly and catch rates were high enough for a vessel to fish with a single dredge. Another argued that while some of the

regulations are inefficient, the combination of rules in place helps the fishery stay in balance with the resource; it would not be appropriate to change the playing field now. Based on this input, the Committee recommended that the alternative be moved to the considered but rejected section of Framework 19 based on input from the PDT and advisors.

#### **4.0 DESCRIPTION OF AFFECTED ENVIRONMENT – SAFE REPORT**

*[PDT will complete for next Committee meeting]*

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

*[PDT will complete for next Committee meeting. Some preliminary information available in Document #7 – preliminary results to date]*

#### **6.0 COMPLIANCE WITH APPLICABLE LAW**

*[Staff will complete this section after the Council selects final measures]*



#5

## New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

Frank Blount, *Chairman* | Paul J. Howard, *Executive Director*

## MEMORANDUM

**DATE:** August 30, 2007  
**TO:** Council  
**FROM:** Scallop Plan Development Team (PDT)  
**SUBJECT:** Development of Framework 19 alternatives

The PDT met on August 23 in Newburyport, MA to discuss Framework 19 analyses. As the PDT reviewed the final list of alternatives approved by the Committee on August 16, several issues were identified that the Council may want to address. Since the Committee is not scheduled to meet until October 11, it may be beneficial for the full Council to consider these issues now so they can be further developed and analyzed before final action on October 25.

1. Add an alternative that would consider appropriate measures if Framework 19 is not in place at the start of the scallop fishing year (March 1, 2008). Since final action is delayed until October 25 there is a chance that Framework 19 may not be implemented by March 1. If the framework cannot be implemented by March 1, then the document needs to consider measures to compensate for the delay. Some current regulations will roll over like the allocation of open area DAS and Elephant Trunk allocations for both fleets, but many measures will not. The PDT recommends that if Framework 19 is not implemented in time:
  - Any limited access open area DAS used in 2008 above the ultimate value allocated for 2008 will be reduced the following fishing year (2009).
  - Any general category Elephant Trunk area trips taken in 2008 above the ultimate allocation for 2008 will be deducted from the following fishing year. And if the Council ultimately selects to allocate more than 2% of access in ET – then those additional trips could be allocated whenever FW19 is implemented (i.e. 5%)
  - If the general category quarterly hard TAC for Quarter 1 (March 1-May 31) is exceeded, then those pounds will be removed from Quarter 3 and/or 4.
  - Hudson Canyon would re-open as an open area – any fishing expected to take place in that area starting on March 1, 2008 will have to be considered.
2. **Section 2.3.2.3 – Unused 2005 Hudson Canyon trips could be used at a reduced level in another area**  
 There is an alternative that would allow a vessel to use un-used trips in either the open areas or the Elephant Trunk area – but the alternative does not include a deadline. For example, would vessels be permitted to use un-used trips before the end of FY2008 or FY2009?

**3. Section 2.3.4.2 – Alternative 1 for Delmarva allocations**

If the Delmarva area opens in 2009 the PDT recommends that a seasonal closure be considered for that area to reduce potential interactions with sea turtles (similar to the 2-month closure for the Elephant Trunk Area in FW18). In addition, the PDT recommends that a Notice Action procedure be included for this area to reduce access if new survey data from 2008 suggests that the biomass is not sufficient to support an opening (similar to the Notice Action procedure to reduce trips in the Elephant Trunk Area in FW18).

**4. Section 2.4.3.1.3 – Allocate an individual poundage per area to individual general category vessels equal to their individual contribution factor**

The Committee added this alternative at the August 16 Committee meeting to consider an alternative that would allocate a specific poundage per area for an individual vessel, but the PDT is not clear how this will completely work with the ITQ program approved under Amendment 11. For example, if Amendment 11 is approved a vessel will be allocated an ITQ and the vessel would be permitted to lease, sell or buy quota from another vessel. However, if this alternative is adopted would that quota be area specific for just that year? What if an individual purchased 500 pounds of Closed Area II quota in 2009, but the area is not open in 2010 – what happens to that quota? Should this alternative be restricted to an annual lease or an annual trade between areas? If that is the case then it would limit the permanent buying and selling of quota.

**5. Section 2.4.3.2 – Adjustments when Yellowtail Flounder catches reach 10% TAC limit**

If Framework 19 considers an individual allocation of IFQ per general category vessel per area for 2009 – what if the area closes early for YT and individual vessels have not had the opportunity to catch their IFQ for that area? Hopefully this is not an issue since Closed Area II is the only area expected to be open in 2009, but if individual vessels are allocated a specific poundage per area and the area closes there is no compensation program for fishing that quota in another area (similar to the DAS compensation program for the limited access fishery).

#6

**ASSOCIATED FISHERIES OF MAINE**

PO Box 287, South Berwick, ME 03908

207-384-4854

August 30, 2007

Mr. John Pappalardo, Chair  
New England Fishery Management Council  
50 Water Street  
Newburyport, MA 01950

Dear John:

I write with respect to the General Category Scallop IFQ program, and a request by our members for Council action to create what is known in other IFQ programs as a "rollover allowance". Rollover allowances permit IFQ holders to carry forward unused quota for use in the following year or to payback from the next year's allocation an overharvest of the current quota. In IFQ programs, rollover allowances of 10-20% are common while multi-year accumulations are generally not permitted. (Research has shown that carry forward allowances are used with greater frequency in existing IFQ programs than are payback allowances.)

The ability to carry forward unused quota is of particular importance to our members for the following reasons (in order of priority):

- 1) Safety – The General Category Scallop fishing year will now begin in March and end in February. Our members are concerned with the possibility that unused quota at the end of the fishing year could entice IFQ holders to race to fish during the bad weather month of February. This type of allowance is, we believe, comparable to the DAS carry-over policy for the Scallop and Multispecies fisheries developed by the Council for safety considerations.
- 2) Availability of resource – Our members are concerned that premature closure of the scallop access areas due to early harvest of the yellowtail quota might prevent full utilization of the scallop IFQ.

We hope the Council will consider developing, at the earliest opportunity, a rollover allowance for the General Category Scallop IFQ program.

Sincerely,

*M. Raymond*

Maggie Raymond

*Associated Fisheries of Maine is a trade association of fishing and fishing dependent businesses. Membership includes harvesters, processors, fuel/gear/ice dealers, marine insurers and lenders, and other public and private individuals and businesses with an interest in commercial fishing.*



# Scallop Framework 19

- Revised timeline for final action
- Update of alternatives under consideration
- Identify issues that need additional consideration

# [ Revised Timeline ]

	Framework 19	Framework 19 DELAYED
Sep 07	<b>Council selects final measures (9/19)</b>	
Oct 07	Staff submits FW19 mid October	<b>Council selects final measures (10/25)</b>
Nov 07	NMFS Review	Staff submits FW19 first week of November
Dec 07		NMFS Review
Jan 08		
Feb 08		
Mar 08	<b>Target Implementation March 1</b>	<b>Target Implementation March 1</b> <b>But may be several weeks after</b> start of fishing year since submission date is several weeks later

# [ FW19 meetings ]

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- Nov 06 – Council initiated action
- Jan 07 – PDT meeting
- Jan 07 – Committee meeting
- June 07 – PDT meeting
- July 07 – Joint PDT / Advisors meeting
- Aug 07 – Committee meeting
- Sept 07 – Council meeting
- Oct 07 – Advisors and Cmte meeting – pref. alts.
- Oct 07 – Council meeting – final action



# [ Purpose and Need (p. 1-2) ]

- **3 PRIMARY COMPONENTS**
- **Set specifications for FY2008-2009**  
(DAS and access area allocations)
- **Measures related to Amendment 11**  
(hard-TAC for transition, cost recovery program, NGOM hard-TAC, incidental catch mortality)
- **Other Issues**  
(adjustments to the industry funded observer program, 30-day VMS power down provision)

# [ No Action and Status Quo (p.8-9) ]

- **No Action** – measures in 07 would roll-over (51 open area DAS for FT, 1 trip in NL, and 1 trip in CA1, HC would re-open, 3 trips in ET, and Delmarva would remain closed)
- **No Action for Amendment 11**
- **Status Quo** – measures to achieve  $F=0.2$  (PDT would recommend measures to meet overall objective within areas scheduled to be open under program implemented by A10)

## Measures to consider if FW19 not in place by March 1, 2008 (p.9)

- Due to final action being October 25, chance FW19 may not be in place by March 1, 2008
- If that is the case there are some measures that should be considered to prevent overfishing (*See PDT memo – Issue #1*)
- 4 specific measures should be considered for inclusion if FW19 is not implemented in time for start of FY2008

# [LA Fishery – GB access areas (p.13)]

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- Allocations – SQ and Alternative 1
- YT Flounder bycatch TAC compensations

# [LA Fishery – Hudson Canyon (p.18)]

- Opened in 2001-2005
- Sub-optimal trips in 2005 – so FW18 allowed un-used trips to carry over through FY2006-2007
- Still un-used trips in that area
- Alternatives under consideration:
  - 2.3.2.1 – No Action – trips expire Feb 28, 2008
  - 2.3.2.2 – Unused trips could be used at a reduced level in open areas or Elephant Trunk Area
    - \*See *PDT memo – Issue #2 – deadline end of FY08 or FY09?*
  - 2.3.2.3 – Extend use of unused 2005 trips until 05/31/08

## [LA Fishery – Elephant Trunk Area (p.19)]

- Opened in 2007
- Allocations for 2008 and 2009
- Re-opening date on March 1
- Same seasonal closure to minimize interactions with sea turtles
- Notice Action procedure to reduce trips in future years based on new data

## [ LA fishery – Delmarva Area (p.19) ]

- Closed in 2007
- Expected re-opening in 2010, but biomass expected to support some fishing effort (1 trip in 2009)
- Potential seasonal closure for sea turtles and Notice action procedure (*See PDT memo – Issue #3*)

## [ LA fishery – Other Restrictions (p.20) ]

- **Restriction on # of crew - access areas**  
(No Action or reduce maximum to 8 or 9 crew for access area trips)
- **Prohibition on deckloading**  
(No Action or prohibit deckloading – with or without 2 exceptions)



## [ LA fishery – Open Area DAS (p.22) ]

- After controlled access area allocations are determined as well as general category allocations, open area DAS are set at a level to be 80% of  $F_{max}$  overall ( $F=0.20$ )
- DAS in 2007 were 51 for FT, 20 for PT and 4 for occasional

## [ General Category Fishery (p.23) ]

- FY2008 – 10% quarterly hard-TAC for transition period
  - Measure to reduce derby fishing – 2% in each access area only
- FY2009 – IFQ program (5% allocation)
  - cost recovery program
- NGOM hard-TAC for FY2008 and FY2009
- Estimate of mortality from incidental catch

## [ General Category Fishery – GB areas (p.25) ]

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- Allocations – 2% for all areas  
5% for all areas  
5% for all areas – 0% for CA2  
5% for all and small % for CA2
- Individual allocation of pounds per area in FY2009 rather than fleetwide allocation of trips

# [ Examples of IFQ per area ]

<b>GENERAL CATEGORY EXAMPLES</b>			(general category limited access permits only)		
	<b>Allocation</b>	<b>% Share</b>	<b>Open Area</b>	<b>NL</b>	<b>ET</b>
MAX.	32500	1.34%	16,758	5,126	10,616
MIN.	500	0.02%	258	79	163
AVG.	6550	0.27%	3,377	1,033	2,140
MEDIAN	3197	0.13%	1,648	504	1,044

<b>LIMITED ACCESS with general category permits</b>					
	<b>Allocation</b>	<b>% Share</b>	<b>Open Area</b>	<b>NL</b>	<b>ET</b>
MAX	20,000	8.26%	10,313	3,154	6,533
MIN	500	0.21%	258	79	163

## [ Issues with IFQ per area that need further development ]

- *See PDT memo – Issue #4 and #5*
- Would quota per area be limited to annual transfer only – and not sale?
- Would there be added burden for monitoring IFQ per area per vessel?
- Would allocation by area require consideration of compensation if an area closes due to YT TAC?

## [ General Category - Other access areas ]

- Hudson Canyon – whatever is decided for that area in FW19 should apply to GC
- Elephant Trunk – subject to same seasonal closure, start date and Notice Action
- Delmarva – subject to same measures

## [ Overfishing Definition (p.27) ]

- In light of results from recent SAW:
  - Consider revision of unit used for biomass reference point (kg/tow to mt. scallop meat)
  - Consider maintaining fishing mortality target for overfishing at  $F=0.20$ , rather than increasing the target based on higher fishing mortality threshold from CASA (See Table 12 )

## [ Other issues ]

- Summary of SBRM Amendment (p.30)
- Improvements to specific aspects of the observer set-aside program (p.33)
  - Consider a higher compensation rate for vessels fishing in open areas compared to access areas
  - Small administrative adjustments to the current program



## [ Other issues (p.34) ]

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- Area closures to protect small scallops
- Other measures
  - Allow a 30-day VMS power down provision
  - Clarification on when a vessels can leave on an access area trip

# [ Issues for additional consideration ]

## **Summarized in PDT memo:**

- FY19 delay
- Deadline for unused HC trips
- Delmarva measures
- IFQ per area details
- Compensation for GC vessels if allocated IFQ by area and area closes

## **Fishing mortality target**