



## New England Fishery Management Council

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Eric Reid, *Chair* | Cate O'Keefe, PhD, *Executive Director*

## MEETING SUMMARY

### Scallop Advisory Panel

Providence, RI

March 26, 2024

The Scallop Advisory Panel (Scallop AP) met on March 26, 2024, to discuss: 1) overview of pre-trip notification system; 2) the Northern Edge Habitat-Scallop Framework; and 3) other business.

The meeting began at approximately 9:05 AM

**MEETING ATTENDANCE:** James Gutowski (AP Chair), Wesley Brighton, Cassie Canastra, Thomas Coley, Derek Eilertsen, Jay Elsner, Brent Fulcher, Kirk Larson, Brady Lybarger, Michael Marchetti, Ben Martens, Robert Maxwell, Chris Merl, Ed Mullis, Charles M. Quinn, Jr., Paul Vafides. **NEFMC staff:** Jonathon Peros, Connor Buckley, Jenny Couture, Michelle Bachman, Angela Forristall, Cate O'Keefe, Janice Plante; **Scallop Committee:** Mark Alexander, Togue Brawn, Matt Gates, Melanie Griffin (Committee Chair), Emily Gilbert, Eric Hansen, Peter Hughes, Michelle Duval, Renee Zobel; **Additional Council members:** Rick Bellavance, Jackie Odell, Eric Reid.

About 7 members of the public attended in person and 16 members of the public attended via webinar.

*Note: Melanie Griffin served as the Scallop AP Chair.*

#### **KEY OUTCOMES:**

- The Scallop AP made three motions, recommending that the Scallop Committee develop alternatives in the Northern Edge action using all four Concept areas as the spatial extent for a scallop access area. The Scallop AP also recommended modifying the southern boundary of Concept area 2 to the south, closer to the northern boundary of the High Complexity Area to capture high densities of scallops and increase the size of the concept area.

#### **AGENDA ITEM #1: PRE-TRIP NOTIFICATION SYSTEM**

Mr. Ford from GARFO provided an overview of the Observer program change to the web-based Pre-Trip Notification System (PTNS) requirements for Fishing Year 2024, which will be in effect April 1. The Observer Program notification requirement will be decreased from 72 to 48 hours (and up to 10 days) ahead of the anticipated sail time and will offer trips to providers

automatically. For Limited Access General Category (LAGC) vessels, notifications will still be submitted in batches but will be assigned an observer on a per-trip basis rather than weekly. Mr. Ford also noted that the increase in Vessel Monitoring System (VMS) is increasing the ping rate from 30 minutes to a 5-minute ping rate, which goes into effect on April 22.

### ***Discussion***

An advisor asked what the difference was between IVR and PTNS and timing of when leaving the dock. Mr. Ford responded that if sailing before April 1, vessels should continue to use the IVR system, and if sailing after April 1, vessels should use PTNS.

An advisor asked if law enforcement would confirm that VMS is being used as intended given the perceived additional burden on the scallop industry. Mr. Ford replied that VMS data is a piece of evidence, and the combination of increased ping rates and the prohibition of entering/transiting scallop rotational areas (except for Area I, including the Area I - Quad) should allow for strong cases if a vessel goes into rotational areas and will help prevent incursions.

Another advisor noted that many small-boat scallop fishermen were disgruntled about the increased 5 minute ping rate and how it would be applied to the entire fleet and noted that he had heard of vessels already paying for the increased rate for several months. The advisor also commented that the switch to PTNS was developed outside of the Scallop AP without Scallop AP input. Mr. Ford replied that if anyone is on 5 minute pings already, then it is in error and should contact the [GARFO VMS team](#). Measures shouldn't go into effect until April 22<sup>nd</sup> and will be consistent across whole fleet for everyone on a declared federal scallop trip. PTNS notification has an option for LAGC vessels to notify once a week.

An advisor asked if it was possible to use the NOAA app to log into PTNS. Mr. Ford replied that it is accessed via a web browser, and will use the same FishOnline username and password, similar to viewing permit or days-at-sea data. There is no separate PTNS application, it is currently only available through a web browser (eg., Google Chrome, Internet Explorer, Safari). Mr. Ford also explained that there are two types of trips within PTNS, flexible and fixed trips. Fixed trips can't have the dates adjusted, while flexible trips can accommodate delays (i.e. due to poor weather) or date adjustments and are likely best used for multi-day trips.

### ***AGENDA ITEM #2: NORTHERN EDGE HABITAT AND SCALLOP FRAMEWORK***

The Council initiated the joint framework at its April meeting and adopted goals and objectives. Both the Scallop and Habitat Plan development teams have been working to assemble data and information to address Council tasking from the September 2023 Council meeting. The Council requested estimates of scallop biomass in four concept areas (Scallop PDT), estimates of percent disturbance from the fishing effects model (Habitat PDT). The tasking also requested that the PDT's consider impacts to other fisheries resources, in accordance with the objectives for the action.

The Habitat PDT met on February 21, 2024, and March 6, 2024, to discuss results of the fishing effects model for the four concept areas. The Scallop PDT met on February 28 and March 14, 2024, to discuss estimated biomass in each of the concept areas. To begin the meeting, habitat and scallop staff presented a detailed overview of the scallop and habitat analyses to date.

Note that the ASMFC's Lobster Technical Committee met on December 8, 2023, and March 12, 2024, to discuss information requested by the Lobster Board. Information from the Lobster Technical Team is expected to be forthcoming prior to the April Council meeting.

### ***Discussion***

An advisor asked what the depths within the high complexity area were and noted that Concept Areas 2 and 4 were not viable due to minimal scallop biomass. Staff replied that the high complexity area was 30-40 fathoms in depth. Another advisor asked for clarification as to the northern boundary of the Concept Areas and how they were defined and noted that if there were scallops present in deeper water to the north, they would like to have access to them (note: the boundary of Concept Areas 1, 2 and 4 extends into sufficiently deep water such that any scallops on the edge of the bank would be included in the areas).

An advisor commented that Concept Area 1 would likely disperse fishing effort across a wider area than in the other Concept Areas. They then asked if the fishing effects model showed a similar pattern to Closed Area II South in 2011 and considering the density and spatial distribution of fishing impacts, if the area would recover faster if the area was only minimally disturbed over a wider area as opposed to heavily disturbed in a much smaller area. Staff replied that there were tradeoffs of high intensity versus moderate intensity fishing activity related to the spatial patchiness of fishing and the ability of unfished areas (i.e., the high complexity area) to support recruitment and recovery. Staff also noted that there was a level of nuance in how the different areas would be fished and their patterns of recovery; for Concept Area 1 and Concept Area 2 this trade-off is likely very meaningful, because of the large difference in size and overlap with scallops between the two concepts. The advisor followed up by asking if staff thought it worthwhile for an RSA-funded project to study the relationship between swept area and bottom recovery time, to which staff replied that while it could be useful it might prove difficult to inform real-time management. Given the upcoming implementation of 5-minute VMS ping rates, there will be better spatial resolution in fishing effort data to inform this discussion in the future.

An advisor commented that it would be helpful to overlay the Concept Areas and the high complexity area on top of fishing effects model grids, noting that where the grids overlapped with these areas, maybe only half of the grid was able to be fished. They also noted that in the southern portion of the Concept Areas that was south of the high complexity area, their previous experience fishing in the area suggested there were shallow ridges of sand approximately 10-30 fathoms running north to south through this area. They noted that you could not tow across those ridges, and that these areas should be removed from the swept area estimates as it would change the way that southern area was fished. Staff noted that they could resolve sand features better with smaller grid sizes and agreed that the sand shoals likely have lower numbers of scallops.

An advisor asked what level of fishing intensity was used in the fishing effects model, for example, an 18,000 lb trip would have a large difference in bottom time compared to a 9,000 lb trip. They also noted that differences in scallop density in different areas would lead to large differences in tow times, and asked how these variables were accounted for in the model. Staff replied that all model runs used total annual area swept from a previous fishery with a 9,000 lb trip for every vessel. Staff noted that moving forward, they wanted to validate many of these inputs with the Scallop and Habitat PDTs, but many of the nuances would unlikely be captured

in the model due to data limitations, for example uncertainties in the spatial distribution and density of scallops along with precisely defined catch rates.

**Public Comments:**

- **Ron Smolowitz (Fisheries Survival Fund)** asked why the Concept areas did not include the full Habitat Area of Particular Concern (HAPC) area (also a Habitat Management Area). Staff responded that the Scallop Committee, and subsequently the Council, had previously discussed and agreed to evaluate these areas that did not include the southern portion of the HAPC. Mr. Smolowitz followed up asking whether a preliminary, ‘strawman’ TAC had been developed for the four Concept areas. Staff replied that TACs for the areas had not been developed, but that the PDT had touched on this subject at an earlier meeting. Mr. Smolowitz also asked whether the NEFSC HabCam survey in 2022, which resulted in much lower standard errors than the 2023 estimates from S Mast and VIMS, had used a single transect or a much tighter grid when sampling the area. Staff replied that that survey had used a tighter grid, but that the estimates from the HabCam survey are known to underestimate standard error (note lower standard errors in memo Table 1).
- **Dave Frulla (Fisheries Survival Fund)** asked how the PDT has characterized disturbance levels in the fishing effects analysis, noting that to fish within an HAPC the fishing impacts need to be not more than minimal and not more than temporary. Regarding the memo from the Scallop and Habitat PDTs, he said there were already value judgements about whether impacts met these criteria, leaving only Concept Area 2 to consider, and that it was premature for the Habitat PDT to make this decision. Staff replied that they had tried not to be definitive and would be clearer moving forward that the Council has not set targets for minimal and temporary.
- **Ron Smolowitz (Fisheries Survival Fund)** asked whether the HAPC has demonstrably aided in the recovery of cod by protecting juvenile cod habitat? Staff answered that, with such a reduced abundance of Georges Bank cod, it was difficult to answer whether the stock condition would be better or worse without the HAPC. He followed up by noting that changing environmental conditions could be driving cod stock status and asked whether this had been considered by the Habitat PDT. Staff replied that it had not been discussed at length yet. Lastly, he commented that the Habitat PDT assumed the disturbance was always adverse, but moderately impacted habitat can be more productive, and asked whether this had been discussed. Staff replied that the area was dynamic and raised the idea of the difference in the quality of natural disturbance versus fishing disturbance, noting that previous studies note that some types of organisms move into an area after fishing with some species of fish feeding on those organisms. Staff also noted that certain longer-lived structure forming features that are broken or damaged by fishing would take much longer to recover as opposed to mobile organisms, and that there was less literature available looking into the long term recovery of habitat after fishing disturbance (however, the recent Before-After-Control-Impact study by Dr. Gallagher and coauthors is a good example of a study that considered recovery at multiple time intervals following impact).

## 1. MOTION: LYBARGER/FULCHER

The AP recommends that the Scallop Committee develop an alternative in the Northern Edge action using Concept 1 as the spatial extent for a scallop access area.

**Rationale:** This boundary encompasses the highest total scallop biomass, is the largest concept area, and provides that most operational flexibility for the industry while giving the most potential to spread effort out. There is uncertainty with the estimates, and given those uncertainties, a larger area is preferable. Concept 1 gives the opportunity to spread the effort out that may occur in smaller, more dense areas. Concept 1 is preferable from a safety perspective. Impacts of fishing in the area should be studied through RSA.

### **Discussion on the motion:**

An advisor noted that the areas being considered would be the smallest scallop access area to date, and that there was still a lot of uncertainty around the biomass estimates. The advisor suggested focusing on RSA research to better understand the High Complexity Area as well as higher resolution surveys to better estimate the available scallop resource. They also noted that a larger area would give the fleet greater flexibility and allow for better regeneration of the scallop resource after fishing. One advisor spoke to their concern about opening up an area this large and was against the motion.

The AP also discussed setting an RSA priority to study the impact of fishing in the area to better understand the recovery period, with several advisors noting that the area has long been closed to protect juvenile cod habitat with little improvement in the Georges Bank cod stock. Several advisors expressed concern that the Concept Areas 2, 3, and 4 were not economically viable or operationally safe given their size, leaving Concept Area 1 as the only feasible option. The need for additional area to fish in the area was an important point of the discussion, along with the general concern that concentrating fishing impacts into a smaller space would do more harm than good.

**Public Comment:** None

## MOTION #1 CARRIED 13-1-0

## 2. MOTION: LYBARGER/MULLIS

The AP recommends that the Scallop Committee develop an alternative in the Northern Edge action using Concept 4 as the spatial extent for a scallop access area.

**Rationale:** This boundary encompasses substantial scallop biomass, is a large concept area, and provides operational flexibility for the industry while giving the potential to spread effort out. There is uncertainty with the estimates, and given those uncertainties, a larger area is preferable. Concept 4 gives the opportunity to spread the effort out that may occur in smaller, more dense areas. Impacts of

fishing in the area should be studied through RSA. Concept Area 1 is preferable to Concept Area 4 from an AP perspective for vessel safety concerns.

**Discussion on the motion:** The AP discussed whether Concept Area 4 was economically viable, but the group largely agreed that having a secondary option was helpful. The AP also discussed that staggered entry or a lottery system would be essential as it would not be possible to give the full fleet access to Concept Area 4. One advisor suggested retracting this motion and instead revising Concept Area 1 with additional measures to meet the actions goals and objectives.

**Public Comment:**

- **Ron Smolowitz** (Fisheries Survival Fund) noted that with the current uncertainty it would not be possible to choose between Concept Areas 3 and 4, with Concept Area 4 leaving out productive scallop grounds to the east along the Hague Line. He suggested focusing on additional research to improve Concept Area 1 to better meet the goals and objectives of the action as well as improve scallop fishing practices that might damage the area.

**MOTION #2 CARRIED 13-0-0**

**3. MOTION: FULCHER/MULLIS**

The AP recommends that the Scallop Committee develop alternatives in the Northern Edge action using Concept 2 and Concept 3 as the spatial extent for a scallop access area (two alternatives).

In advancing Concept 2, the AP recommends modifying the southern boundary south, closer to the northern boundary of the High Complexity Area to capture high densities of scallops and increase the size of the concept area.

**Rationale:** The AP ranks developing these concepts as alternatives third, behind Motion 1 (Concept 1) and Motion 2 (Concept 4) due to the present reduction in exploitable biomass and fishery outlook for the next several years. Impacts of fishing in the area should be studied through RSA.

**Discussion:** An advisor noted that there had been a previous suggestion to extend the Concept areas to the west to include open-bottom area outside of the HAPC, and also suggested considering extending the area to the southern portion of the HAPC. Staff replied that the Committee had opted not to extend the Concept areas outside of the HAPC, and for the southern portion of the HAPC, surveys do not often go there but the area does occasionally see scallops present.

The AP discussed that Concept Areas 1 through 4 rank differently in terms of safety and operational concerns, with Concept Area 1 offering the greatest flexibility. The group felt that all options were worth considering compared to having no access to the Northern Edge at all, and

that there were many measures that should be considered to manage effort in any of the Concept areas.

**Public Comment:**

- **Ron Smolowitz (Fisheries Survival Fund)** asked what the likely harvest rate would be in these areas, suggesting that it should be conservative given Georges Bank yellowtail flounder and habitat considerations. He reiterated that Concept Area 1 should be the focus, and that all other concept areas were unlikely to be successful. Staff replied that the PDT had suggested that a harvest rate of 0.4 would remove 25% of the exploitable biomass in the area

**MOTION #3 CARRIED 12-1-0**

***AGENDA ITEM #3: OTHER BUSINESS***

An advisor asked if the 8% remaining of uncaught LAGC IFQ quota was solely from 2023 or if it was partially carried over from 2022. They noted that uncaught quota with the current low quota caps makes it harder to lease quota and inflates prices. Staff noted that it would require communicating with staff at GARFO responsible for tracking that quota, and that this would be an important consideration for the upcoming LAGC IFQ Fishery Program Review.

Sean Lucey (RWE) gave a brief presentation on the four offshore wind energy projects that all at least partially overlap with the New York Bight Rotational Area (NYB) that will open for fishing on April 1. He informed the AP of the current survey activities currently being conducted in and around the NYB, including a deep geotechnical survey conducted from a stationary vessel beginning in June that will be focusing on the southernmost portion of the area. He highlighted that there is currently not a lot of survey activity currently being undertaken in the NYB by the four offshore wind energy projects, but activity could increase later in 2024 and the beginning of 2025, and that fisheries liaisons will be present to communicate with the fleet. The survey buoys do have AIS and are visible on a vessel's plotter.

An advisor asked what kind of seismic surveys were being conducted. Mr. Lucey replied that they use a towed array with an acoustic signature that gets a general layout of the seabed. He clarified that no air cannons will be used in these surveys.

Lastly, staff noted that they were looking to fill the current vacancy for an AP Vice Chair. The AP will need to nominate candidates and then vote, which could be handled either via correspondence before the next Scallop AP meeting, or at the next Scallop AP meeting in late May or early June. An advisor then nominated Cassie Canastra for the position.

The meeting adjourned at 12:25 PM.