

Addendum
to
Framework Adjustment 44
to the
Northeast Multispecies Fishery Management Plan
and its
Environmental Assessment

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1.0 Introduction

Framework Adjustment 44 (FW 44) to the Northeast Multispecies Fishery Management Plan (FMP) was adopted by the New England Fishery Management Council (NEFMC) on November 18, 2009. The final document was submitted to the National Marine Fisheries Service for review on January 15, 2010. The Proposed Action addressed two needs: to set specifications for ACLs in Fishing Years 2010-2012, and to modify management measures in order to ensure that overfishing does not occur. One **purpose** of the framework adjustment was to establish specifications for the Northeast multispecies fishery during the 2010-2012 fishing years. As part of the Proposed Action to address this purpose, Annual Catch Limits (ACLs) were specified for all groundfish stocks in the management unit. In some cases, these ACLs were distributed to different components of the fishery such as catches from state waters, recreational and commercial catch, or catches from various fisheries.

In the case of two stocks – Georges Bank and Southern New England/Mid-Atlantic yellowtail flounder – FW 44 made an allocation between the groundfish and scallop fisheries. These allocations were based on the amount of yellowtail flounder the scallop fishery was expected to harvest under a management program that targeted a specific fishing mortality ($F=0.20$) that was adopted in Scallop Framework Adjustment 21. On January 27, 2010, the NEFMC revisited its earlier scallop decision and chose a scallop management program based on a higher fishing mortality rate ($F=0.24$). As a result of this decision, the Council also increased the amount of yellowtail flounder allocated to the scallop fishery and decreased the amount of yellowtail flounder allocated to the groundfish fishery. This addendum modifies the FW 44 Proposed Action and adds the analyses needed to support these changes. Only information specific to the allocation of these two stocks to the two fisheries is included in this addendum to the FW 44 Environmental Assessment.

Unless otherwise noted, the initial FW 44 Environmental Assessment prepared for this action and attached to this addendum remains applicable, including the purpose and need for this framework. Sections addressed in this addendum should be considered within the context of the full FW 44 Environmental Assessment.

2.0 Proposed Action

2.1 Yellowtail Flounder Allocations for the Scallop Fishery

Amendment 16 adopts ACLs for groundfish stocks. Some of these ACLs are divided into either sub-ACLs that are subject to accountability measures (AMs), or other sub-components that are not subject to AMs. The amendment proposes that a portion of yellowtail flounder will be allocated to the scallop fishery. In FY 2010, the allocation is considered a sub-component, while in FY 2011 and beyond it will be considered a sub-

ACL subject to AMs that will be adopted in Scallop Amendment 15. The values for FY 2011 and FY 2012 may be revised in the future based on updated scallop and yellowtail flounder stock information, TMGC recommendations, and on future scallop fishery access area measures.

An estimate of the yellowtail flounder that will be caught by the scallop fishery in FY 2010 – FY 2012 if it harvests its projected yield was developed for four scallop management scenarios. In FY 2010, the scallop fishery will be assumed to catch 100 percent of the GB and SNE/MA yellowtail flounder projected to be caught if the scallop yield is harvested. In FY 2011 and FY 2012, the GB and SNE/MA yellowtail flounder that will be allocated to the fishery in those years is 90 percent of this amount. For CC/GOM yellowtail flounder, scallop fishery incidental catches are low enough that they will be considered part of the “other sub-component”. These catches will be monitored but a specific allocation will not be made in this action. An allocation may be made in the future.

Allocations are adjusted for management uncertainty when the allocation becomes a sub-ACL (in FY 2011 and beyond). As explained in Appendix III, for GB and CC/GOM yellowtail flounder (if/when specified) the sub-ACL will be set at 97 percent of the allocation, while for SNE/MA yellowtail flounder it will be set at 93 percent of the allocation.

The resulting values are shown in Table 1 for the scallop management scenario proposed in Scallop Framework Adjustment 21. Table 2 summarizes GB and SNE/MA yellowtail flounder specifications and reflects the changes to the amount of GB and SNE/MA yellowtail flounder allocated to the groundfish fishery. Table 3 reflects modified incidental catch TACs for special management programs.

Rationale: This alternative recognizes the importance of yellowtail flounder to the prosecution of the scallop fishery and allocates most of the yellowtail flounder that the fishery is expected to catch if it harvests the available scallop yield. It also creates an incentive for scallop fishermen to reduce bycatch of yellowtail flounder in order to maximize scallop yield. With respect to Cape Cod/Gulf of Maine yellowtail flounder, no allocation is made since the incidental catch is a low percentage of the available catch and can be accommodated by the “other sub-components” category. An allocation of this stock may be made in the future.

Table 1 – Proposed allocation of yellowtail flounder to the scallop fishery. Values are metric tons, live weight, rounded to the nearest metric ton.
 (1) This value is considered an “other sub-component in FY 2010 and is not a sub-ACL.

No Closure F = 0.24	Total Expected to be Caught, YTF Stock Area			Scallop Fishery ABC			Sub-ACL			
	Year	CC	GB	SNEMA	CC	GB	SNEMA	CC	GB	SNEMA
	2010	39	146	135		146	135		146 ⁽¹⁾	135 ⁽¹⁾
	2011	26	230	98		207	89		201	82
	2012	32	352	151		317	136		307	127

Table 2 – Northeast Multispecies OFLs, ABCs, revised ACLs, and other ACL sub-components for FY 2010 – FY 2012 (metric tons, live weight) for GB and SNE/MA yellowtail flounder. Values are rounded to the nearest metric ton. Updated values are underlined in bold, italic type. Sector values are based on the September 1, 2009 sector rosters and will change when final sector rosters are determined.

- (1) YTF allocations for scallops are an other sub-component in FY 2010, but are expected to be sub-ACLs in FY 2011- 2012.
- (2) Grayed out values may be adjusted as a result of future recommendations of the TMGC.

Stock	Year	OFL	U.S. ABC	State Waters Sub-component	Other Sub-Components	Scallops (1)	Groundfish Sub-ACL	Comm Groundfish Sub-ACL	Rec Groundfish Sub-ACL	Preliminary Sectors Sub-ACL	Preliminary Non_Sector Groundfish Sub-ACL	MWT Sub_ACL	Total ACL
GB Yellowtail Flounder ⁽²⁾	2010	5,148	1,200	0	60	<u>146</u>	<u>964</u>		0	902	63	0	1,170
	2011	6,083	1,081	0	54	<u>201</u>	<u>795</u>		0	744	52	0	1,050
	2012	7,094	1,226	0	61	<u>307</u>	<u>823</u>		0	769	53	0	1,191
SNE/MA Yellowtail Flounder	2010	1,553	493	5	20	<u>135</u>	<u>310</u>		0	225	85	0	470
	2011	2,174	687	7	27	<u>82</u>	<u>524</u>		0	381	143	0	641
	2012	3,166	1,003	10	40	<u>127</u>	<u>759</u>		0	552	208	0	936

Table 3 – Preliminary incidental catch TACs for Special Management Programs (metric tons, live weight). These values may change as a result of changes in sector membership.

Stock	Cat B (regular) DAS Program			CAI Hook Gear Haddock SAP			EUS/CA Haddock SAP		
	2010	2011	2012	2010	2011	2012	2010	2011	2012
GB cod	1.7	2.6	2.8	0.6	0.8	0.9	1.2	1.7	1.9
GOM cod	3.4	3.6	3.6						
GB Yellowtail	0.6	0.5	0.5				0.6	0.5	0.5
CC/GOM yellowtail	0.5	0.6	0.7						
SNE/MA Yellowtail	0.8	1.4	2.1						
Plaice	9.2	10.0	10.6						
Witch Flounder	2.1	3.1	3.7						
White Hake	5.2	7.3	9.7						
SNE/MA Winter Flounder	1.1	1.2	1.4						
GB Winter Flounder	1.2	1.4	1.6				1.2	1.4	1.6
Pollock	1.2	1.2	1.2	0.4	0.4	0.4	0.8	0.8	0.8

3.0 Analysis of Impacts – Environmental Consequences

This section identifies the impacts of that part of the Proposed Action that allocates portions of two stocks of yellowtail flounder to the groundfish and scallop fisheries. It augments analyses in the FW 44 EA, but does not replace nor repeat the analyses of the No Action alternative or other measures.

3.1 Biological Impacts of the Proposed Action

3.1.1 Yellowtail Flounder Allocation to the Scallop Fishery

This measure allocates a portion of the yellowtail flounder ACL to the scallop fishery to account for incidental catches in that fishery. In FY 2010, the allocations to the scallop fishery are considered an “other sub-component” and are not subject to specific scallop fishery AMs. In subsequent years the allocation is considered a sub-ACL and the scallop FMP, through Amendment 15 (to be implemented in 2011) will adopt AMs to control these catches.

Allocations are proposed for two stocks - GB yellowtail flounder and SNE/MA yellowtail flounder. In FY 2010 the allocation is considered an “other sub-component” and as such is not subject to AMs. The allocation is 100 percent of the amount the scallop fishery is expected to harvest. This value was calculated by taking into account recent discard rates in the scallop fishery and projected changes in scallop and yellowtail flounder stock sizes. In FY 2011 and FY 2012, the allocations are sub-ACLs and are 90 percent of the amount the scallop fishery is expected to catch if they harvest the projected scallop yield. These amounts of yellowtail flounder were estimated by comparing recent discard rates, projected increases in scallop and yellowtail flounder abundance, and future scallop yields. The scallop fishery catch of CC/GOM yellowtail flounder is estimated to be a small amount and so a specific allocation is not made; catches are considered part of the “other sub-components.”

In FY 2010, as mentioned, the yellowtail flounder allocations do not have specific AMs that control the overall yellowtail flounder catch. If the scallop fishery fishes in CAI, CAII, or the NLCA, it is limited to harvesting 10 percent of the ACL from within those areas, but there are no controls on the catch outside those areas. The Council discussed including measures in Amendment 5 to the Scallop Fishery that will “reach back” and adjust measures for the scallop fishery should it exceed its yellowtail flounder allocation, but measures have not been designed yet. Should the scallop fishery exceed the amount of yellowtail flounder that is allocated, then if the groundfish fishery harvests its allocation the total catch of yellowtail flounder could exceed the ACL. While the ACL is set well below the overfishing level (OFL) for both stocks and it is unlikely that total catches will approach this amount, rebuilding fishing mortality targets may not be met since the ACL is set closer to the ABC.

This result is less likely in subsequent years. While the exact scallop fishery AMs are still being developed, these AMs will create an incentive for scallop fishermen to control yellowtail flounder catches to avoid triggering the AMs. The result may be reduced catches of yellowtail flounder by the scallop fishery. Under No Action, there are no limits on the overall catch of GB and SNE/MA yellowtail flounder by the scallop fishery, increasing the risk total catches will exceed the overall ACL, particularly after FY 2010.

With respect to CC/GOM yellowtail flounder, this measure does not identify a specific allocation for the scallop fishery. The measure proposes that scallop fishery catches of this stock be considered part of the “other sub-components” part of the overall ACL. Scallop dredge discards as a percentage of the total catch from this stock have fluctuated during the period 2003 – 2007, in recent years, ranging from 0.6% to 5.6% percent (see Table 4). The amounts expected to be harvested by the scallop fishery are within this range. Other fisheries that may take small amounts of CC/GOM yellowtail flounder include state waters fisheries, the whiting fisheries, and the northern shrimp fishery. If scallop fishery catches remain low, then considering this catch part of an other sub-component does not risk mortality targets. As the scallop fishery catch increases, however, it becomes more likely that the total catch by these other fisheries may exceed the amount allocated to the other sub-component category. The likelihood of this occurring can be partially controlled by the selection of scallop management alternatives that minimize yellowtail flounder catches.

Table 4 – Recent scallop dredge catch of CC/GOM yellowtail flounder (Source: GARM III)

Year	Scallop Dredge Catch	Total Catch	Dredge Discards as Percentage of Total Catch
2003	25	1970	1.3%
2004	18	1186	1.5%
2005	6	997	0.6%
2006	11	620	1.8%
2007	35	627	5.6%

This option does not modify the amount of yellowtail flounder than can be taken inside the Georges Bank access areas. That amount is still limited to 10 percent of the ACL. The distribution proposed in this action will not have any impact on the amount of yellowtail flounder that can be taken by the scallop fishery within the CAI, CAII, and NLCA access areas. In this respect this Proposed Action does not differ from No Action. But where it differs from No Action is that it explicitly allows for yellowtail flounder catches in the scallop fishery when setting ACLs in all years, and in FY 2011 and beyond treats those catches as a sub-ACL subject to AMs. This increases that likelihood that yellowtail flounder catches will remain below levels required for ending overfishing and rebuilding overfished stocks when compared to No Action. While when compared to the action originally proposed in FW 44 this measure increases the amount of yellowtail flounder allocated to the scallop fishery and reduces the amount allocated to the groundfish

fishery, the change in the overall ACL is only slightly different and there is no change in the risk of overfishing as a result.

Impacts on Non-Groundfish Stocks

The allocation of yellowtail flounder to the scallop fishery will have the most direct impacts on scallop stocks. If scallop fishermen cannot control the rate of incidental catches to the amount of yellowtail that is allocated, some scallop yield will be foregone. This could reduce fishing mortality on sea scallops. The extent that this occurs will depend not only on actual discard rates, but on what AMs are in place for the scallop fishery in future years. Estimates are that the scallop fishery will forego approximately 2,200 mt of scallop yield (meat weight) in FY 2011 and 2,220 mt of scallop yield in FY 2012 when compared to No Action (since under No Action there are no overall limits on the yellowtail flounder that can be caught by this fishery). It is expected these reductions will likely occur in open areas rather than access areas.

There may also be impacts on other stocks caught in the sea scallop and groundfish fisheries. For example, if sea scallop fishing activity is reduced because of yellowtail flounder incidental catches, catches of skates, monkfish, and other species caught by scallop fishermen may be reduced. Similar effects on a wider range of species may occur if the groundfish fishery loses effort as a result of allocating yellowtail flounder to the scallop fishery. Catches could be reduced of monkfish, skates, lobster, fluke, and other species caught by trawl fishermen. Since limits on GB and SNE/MA yellowtail flounder catch would not be in place under No Action, catches of other species could be higher.

3.2 Impacts to EFH of the Proposed Action

3.2.1 Yellowtail Flounder Allocation to the Scallop Fishery

The Proposed Action adopts a specific allocation of yellowtail flounder for the scallop and groundfish fisheries. For FY 2010 there is a negligible difference between this option and No Action when considering the scallop fleet. The allocation is 100 percent of the amount they are expected to harvest, so there are not likely to be any differences in the amount of scallop fishing effort in this year under either the No Action or Proposed Action alternatives. In FY 2011 and FY 2012, however, the allocation may reduce scallop effort if the scallop fleet is unable to reduce incidental catches and loses access as a result. Such differences are likely to be minor, and if the scallop fishery further reduces incidental catch rates they may not occur. It is also possible that the fishery may be forced to reduce effort in one area but will respond by redirecting that effort to other areas. When compared to No Action, this option may indirectly reduce scallop fishing effort in FY 2011 and beyond by a small amount and as a result slightly reduce the interaction of scallop dredge gear with EFH.

The same changes may take place in the groundfish fishery. For sector vessels, reduced access to yellowtail flounder may immediately constrain fishing activity and reduce

fishing effort, while for common pool vessels the impacts may be delayed until an AM is triggered. In both cases the indirect impacts for EFH are likely to be positive but minor. This provision only the portion of the groundfish fleet that fishes for GB or SNE/MA yellowtail flounder and such fishing usually does not occur on complex, sensitive habitats.

3.3 Impacts on Endangered and Other Protected Species of the Proposed Action

The Proposed Action adopts a specific allocation of yellowtail flounder for the scallop and groundfish fisheries. For FY 2010 there is a negligible difference between this option and No Action when considering the scallop fleet. The allocation is 100 percent of the amount they are expected to harvest, so there are not likely to be any differences in the amount of scallop fishing effort in this year. This would likely mean that the impact to protected species would be negligible. In FY 2011 and FY 2012, however, the allocation may reduce scallop effort if the scallop fleet is unable to reduce incidental catches and loses access as a result. Such differences are likely to be minor, and if the scallop fishery further reduces incidental catch rates they may not occur. It is also possible that the fishery may be forced to reduce effort in one area but will respond by redirecting that effort to other areas. When compared to No Action, this option may indirectly reduce scallop fishing effort by a small amount and as a result slightly reduce the interaction of scallop dredge gear with protected species. More specifically, scallop dredges have been known to interact largely with sea turtles, therefore sea turtles are most likely to benefit from this action.

The same changes may take place in the groundfish fishery. For sector vessels, reduced access to yellowtail flounder may immediately constrain fishing activity and reduce fishing effort, while for common pool vessels the impacts may be delayed until an AM is triggered. In both cases the indirect impacts for protected species are likely to be positive but minor, as the possibility of interaction with the fishery decreases. This provision only affects a small portion of the groundfish fleet however the benefits have the possibility of being felt by a range of protected species.

3.4 Economic Impacts of the Proposed Action

3.4.1 Proposed Action – Yellowtail Flounder Allocation to Scallop Fishery

The allocation of yellowtail flounder between the scallop and groundfish fisheries may affect the fishing opportunities of the respective fleets. Determining the exact impact of the allocations is difficult because of the different management measures between the two fisheries. In particular, the AMs that apply to the fisheries shape the extent of the impacts. The Proposed Action bases the allocation to the scallop fleet of GB and SNE/MA yellowtail flounder on an estimate of the amount the fishery is expected to catch if it harvests its entire scallop yield. In FY 2010, the scallop fishery is assumed to harvest 100

percent of this estimated amount. In FY 2011 and FY 2012 the fishery is allocated 90 percent of this amount. No specific allocation is made for CC/GOM yellowtail flounder as the estimated scallop fishery catches are small enough to be included as part of the “other sub-component” allowance.

Elements of the groundfish fishery actively target yellowtail flounder, particularly in the GB stock area. The species is also caught while fishing for other stocks, particularly other flatfish. Under sector provisions, sector vessels can only fish in a stock area with gear that catches yellowtail flounder if they have Annual Catch Entitlement (ACE) remaining. Since sectors are subject to hard TACs, reducing the amount of yellowtail flounder available to the sectors may limit their opportunities to fish for other species. For vessels in the common pool the issue is more complex. Because common pool vessels are governed by effort controls and a differential DAS AM in FY 2010 and FY 2011, a reduction in yellowtail flounder available to this component does not necessarily result in an immediate loss of opportunities; but exceeding an ACL in the first year triggers the AM in the second year, so ultimately fishing opportunities are affected. In the U.S./Canada area the impacts are more immediate since the catch of GB yellowtail flounder is controlled by a hard TAC and by in-season AMs such as changes in trip limits, gear requirements, and the loss of access to the Eastern U.S./Canada area. Beginning in FY 2012 with the adoption of the hard TAC AM for common pool vessels, any change in yellowtail flounder allocations has immediate impacts on the common pool fleet.

For the scallop fishery, yellowtail flounder is an important incidental catch species. Since 2004, scallop fishery catches of yellowtail flounder have not showed clear trends even while yellowtail stocks rebuild (Table 5). As a portion of the total catch, their percentage has increased as the restrictions on the groundfish fleet reduced overall harvest. To date, the only limits on yellowtail flounder catch applicable to this fishery have been on the amount that can be harvested from within the CAI, CAII, and NLCA closed area access programs. Regulatory requirements establish this limit as 10 percent of the target TAC/ACL for the GB or SNE/MA stocks. The scallop management measures, however, compensate scallop vessel with trips in open areas if an access area is closed due to yellowtail flounder catches. With the adoption of an allocation and AMs applicable to the scallop fishery the possibility exists that the amount of yellowtail flounder available to this fishery could limit access to scallops in all areas. In FY 2010, this allocation is treated as an “other sub-component” of the yellowtail flounder ACL and there are no scallop fishery AMs should it be exceeded. In FY 2011 and beyond, there will be AMs for the scallop fishery (adopted through Amendment 15). The exact nature of those AMs is still under development and it is not clear how they will impact scallop vessels.

The relative value of yellowtail flounder to the two fisheries was calculated, but the characterization of this value as a loss or gain to either fishery is complicated by the different management measures just described. For the scallop fishery, future discard rates were calculated based on past observed discard rates in open and access areas and

future changes in yellowtail flounder and scallop biomass. These rates were applied to the expected scallop yield under four different scallop management scenarios to estimate the yellowtail flounder the fishery would be expected to harvest absent other limits. This “expected” or “needed” yellowtail flounder was then reduced by ten percent in FY 2011 and FY 2012 as proposed by this action. The entire reduction was assumed to be taken from open areas, and open area catch was reduced accordingly. The differences in revenues were then calculated between the expected yellowtail flounder catch and the reduced yellowtail flounder catch. While initially the calculations were done for four different scallop management scenarios, the results shown here apply to the scallop management scenario adopted by the Council in January, 2010, and are based on a the targeted scallop fishing mortality of 0.24.

The results of these calculations are shown in Table 8 through Table 9. Each metric ton of yellowtail flounder is more valuable to the scallop fishery in areas with lower discard rates because more scallops are landed for each metric ton allocated. Because of higher discard rates on GB – particularly in the CAII access area – the lowest values of yellowtail flounder are in this area. Overall, allocating 90 percent of the expected yellowtail flounder catch in GB and SNE/MA may reduce scallop vessels revenues by about \$35 million in FY 2011 – FY 2012 when compared to No Action (where revenues are not limited by an overall yellowtail flounder cap). This ranges from 6% to 7% of forecast scallop revenues. In FY 2010 there aren’t expected to be any revenue changes realized by the scallop fishery since there is no specific allocation and no specific measures that limit overall scallop fishing if the yellowtail flounder allocation is exceeded. The Council may consider a measure in Scallop Amendment 15 that adjusts FY 2011 or FY 2012 allocations if the scallop fishery exceeds the amount estimated for FY 2010, but that measure has not yet been designed.

A similar analysis was performed for the groundfish fishery for the GB and SNE/MA yellowtail flounder stocks. In both stocks areas two calculations were developed. The first is a straightforward estimate of the value of each metric ton of yellowtail flounder based on 2007 and 2008 data. The second calculation determined the total value of all species landed on groundfish trips in the area, and then determined the value of this total per metric ton of yellowtail flounder landed. This high value is most appropriate for those vessels in sectors or for FY 2012 when the hard TAC AM affects common pool vessels, since it shows the loss of all revenue if yellowtail flounder leads to a complete loss of access to a stock area. On Georges Bank this was further refined for common pool vessels by taking into account discard rates and the different management measures in the Eastern and Western U.S./Canada areas. Since the Eastern Area closes if the yellowtail flounder TAC is exceeded, all revenues were sacrificed from this area, while fishing continues in the Western Area. This provides a third, or expected, value per metric ton. In the SNE/MA area, only trips that landed yellowtail flounder were considered in the analysis. These values were multiplied by the allocations under consideration to determine the revenue reductions for the groundfish fishery under the proposed allocation and the three scallop management scenarios under consideration.

Results are summarized in Table 11 and Table 11. The value of each metric ton of yellowtail flounder to the groundfish fishery ranges from a low of \$3,296 to a high of \$41,176. GB yellowtail flounder is more valuable than SNE/MA yellowtail flounder because of the increased groundfish fishing opportunities on GB. The estimated losses to the fishery range from a low of \$481,216 to a high of \$13 million over the next three years. To put these values in context, FY 2005 to FY 2007 groundfish revenues averaged \$101 million and total revenues on groundfish trips averaged \$158 million (see NEFMC 2009), but Amendment 16 may reduce groundfish revenues by 15% and total revenues by 18%. The changes estimated here thus fall in the range of less than one percent to 15.3% of groundfish revenues, and less than one percent to 10% of total revenues on groundfish trips.

All of these estimates assume no changes in fishing behavior by either fishery. In both cases changes in fishing practices could mitigate potential revenue losses. For example, if the ratio of yellowtail flounder caught to scallops landed can be decreased through either gear modifications or fishing practices, then the scallop fishery will harvest more of its available yield prior to triggering any AMs that may be adopted for FY 2011 and beyond. If the groundfish fishery can do the same – reducing the yellowtail flounder caught while fishing for other species – the same result can be expected and revenue losses would not be as large as estimated here. There is evidence in observed groundfish fishing trips that this may be possible, at least for roundfish species.

Compared to the No Action alternative, the Proposed Action is likely to reduce scallop fishery revenues. Under No Action, no specific allocation is made to the scallop fishery and thus the scallop yield should approach that estimated for the adopted scallop management scenario. For the groundfish fishery the differences between this option and No Action are less certain. If an allocation is not made to the scallop fishery, then the overall yellowtail ACL would serve as the trigger for groundfish AMs. Since the scallop fishery presumably would still catch yellowtail flounder without any limit, it is possible that excessive yellowtail flounder catches would result in groundfish AMs and lost fishing opportunities for this fleet. But when compared to No Action when any losses are not realized until an AM is triggered, under the Proposed Action there is an immediate loss of groundfish revenues as a result of allocating yellowtail flounder to the scallop fishery.

Table 5 – Scallop fishery yellowtail flounder catches, CY 2004-2008

Fishing Year		2004	2005	2006	2007	2008
CC/GOM	Total TAC	881	1233	650	1078	1406
	Total TAC for scallop fishery*	86.3	120.8	63.7	105.	137.
	Scallop AA open or closed	N/A	N/A	N/A	N/A	N/A
	Total YT catch by dredge gear (landings and discards)	18	6	12	35	5
	Total YT Catch (all gear)	1186	997	620	627	727
	Scallop catch as percent of total catch	1.5%	0.6%	1.9%	5.6%	0.7%
	SNE	Total TAC	707	1982	146	213
Total TAC for scallop fishery*		69	194	14	21	31
Scallop AA open or closed		open	closed	open	open	open
Total YT catch by dredge gear (landings and discards)		125	130	168	188	151
Total YT Catch (all gear)		614	367	369	396	504
Scallop catch as percent of total catch		20.3%	35.4%	45.5%	47.5%	29.9%
GB		Total TAC	6000	4260	2070	900
	Total TAC for scallop fishery*	588	417	203	88	183
	Scallop AA open or closed	open	open	open	open	ed
	Total YT catch by dredge gear (landings and discards)	84	194	254	122	134
	Total YT Catch (all gear, U.S. only)	6386	3637	1573	1564	1118
	Scallop catch as percent of total catch	1.3%	5.3%	16.1%	7.8%	12.0%

Table 6 – Summary of YT needed by scallop fishery in 2010-2012 in MT and % of total YTF ABC

No Closure - F=0.24	total YT needed (mt)			% YT needed		
	2010	2011	2012	2010	2011	2012
CC	39	26	32	4.5%	2.5%	6.5%
GB	146	230	352	12.2%	21.3%	28.7%
SNE	135	99	152	11.6%	8.1%	15.2%

Table 7 – Yellowtail flounder allocated to the scallop fishery under the Proposed Action. Not reduced for management uncertainty. Note the action does not make a specific allocation for CC/GOM yellowtail flounder. Not reduced for management uncertainty.

	YTF Allocated, By Stock Area and Scallop Management Scenario		
	CC	GB	SNEMA
NC, F=0.24			
2010	39	146	135
2011	23.4	207	89
2012	28.8	317	136

Table 8 – Change in scallop fishery revenues per mt of yellowtail flounder allocated, by year, YTF stock area and scallop management scenarios. Assumes allocation is 90 percent of expected harvest.

Year/ Scenario	Change in Revenue/mt YTF, Dollars			Change as Percent of Revenues from YTF Stock Area		
	CC	GB	SNE/MA	CC	GB	SNEMA
NC, F=0.24						
2010						
2011	\$3,317,598	\$109,586	\$3,297,153	3.8%	0.2%	1.2%
2012	\$3,535,475	\$252,160	\$1,727,238	3.1%	0.3%	0.7%

Table 9 – Change in scallop revenues if YTF allocation is 90 percent of amount expected to be harvested for GB and SNE/MA stocks, and no specific allocation for CC/GOM YTF stock

Scallop Scenario	Year		
	2010	2011	2012
NCF=.24		\$35,030,399	\$35,043,322
	As Percent of Total Scallop Revenues		
NCF=.24		7%	6%

Table 10 – Change in revenues on groundfish trips per mt of YTF; average of 2007 and 2008. For GB, expected revenues consider difference in management measures for common pool vessels between EGB and WGB.

	GB	SNE/MA
YTF Revenues/mt	\$3,296	\$3,895
Total Revenues/mt	\$41,176	\$28,708
Expected Revenues/mt	\$12,674	

Table 11 – Reduction in groundfish revenues from GB and SNE/MA YTF stock areas Proposed Action allocation of yellowtail flounder to the scallop fishery. These values represent the difference between potential groundfish revenues if there is no scallop fishery catch of yellowtail flounder and the proposed allocation. Based on 2007/2008 revenues.

	Georges Bank			SNE/MA	
	Low	High	Expected	Low	High
NC, F=0.24					
2010	\$481,216	\$6,011,696	\$1,850,404	\$525,825	\$3,875,580
2011	\$682,272	\$8,523,432	\$2,623,518	\$343,539	\$2,532,046
2012	\$1,044,173	\$13,044,557	\$4,015,123	\$529,331	\$3,901,417

3.5 Social Impacts of the Proposed Action

3.5.1 Proposed Action - Yellowtail Flounder Allocation to the Scallop Fishery

This measure allocates a portion of the yellowtail flounder ACL to the scallop fishery to account for incidental catches in that fishery. In FY 2010, the allocations to the scallop fishery are considered an “other sub-component” and are not subject to specific scallop fishery AMs. In subsequent years the allocation is considered a sub-ACL and the scallop FMP will adopt AMs to control these catches. Also, scallop vessels are required to land all yellowtail flounder that is caught. The measure may distribute the catches differently than has been done in the past, which may have some social impacts on both fleets.

Allocations are proposed for two stocks - GB yellowtail flounder and SNE/MA yellowtail flounder – and are based on 100 percent of the amount the scallop fishery is expected to catch if they harvest the projected scallop yield in FY 2010, and 90 percent of the amount in FY 2011 and FY 2012. These amounts of yellowtail flounder were estimated by comparing recent discard rates, projected increases in scallop and yellowtail flounder abundance, and future scallop yields. The scallop fishery catch of CC/GOM yellowtail flounder is estimated to be less than five percent of the ABC and so a specific allocation is not made; catches are considered part of the “other sub-components.”

In addition to specific concerns about catch levels and rebuilding timelines, when compared to No Action any measure that shifts allocation from one fishery to another may have impacts on some of the other social impact categories. *Changes in occupational opportunities* could occur if the allocation provides more opportunities in either fleet: if the scallop fishery is seen as advantaged from the allocation, then effort could shift into that fishery. *Formation of attitudes* could clearly be affected if constituents of either fishery feel disadvantaged by the measure with respect to the other fishery.

3.6 Impacts on Other Fisheries

The primary other fishery affected by this measure is the scallop fishery. This fishery is directly affected by the amount of yellowtail flounder that is allocated to it. These impacts are described in the above sections.

3.7 Cumulative Effects Analysis

The cumulative effects of all measures in FW 44, including this allocation, are described in section 7.7 of the framework document.

4.0 Applicable Law

Minor modifications to the Applicable Law Section are necessary as a result of a change in the scallop management action.

4.1 Regulatory Impact Review

The portions of the Regulatory Impact Review that are related to the allocation of yellowtail flounder to the scallop fishery are updated in the following sections. For additional information, see the FW 44 document.

4.1.1 Executive Order 12866

The purpose of E.O 12866 is to enhance planning and coordination with respect to new and existing regulations. This E.O. requires the Office of Management and Budget (OMB) to review regulatory programs that are considered to be “significant.” See FW 44 for a further description of this review. Only the portions of that review that change as a result of the new scallop management action are discussed in the following sections.

4.1.1.1 Summary of Impacts on Fishing Revenue

Yellowtail Flounder Allocation to the Scallop Fishery – This action will allocate SNE/MA and GB yellowtail flounder to the scallop fishery. In FY 2010, this is an other sub-component and is not subject to scallop fishery AMs. It is set at 100 percent of the expected yellowtail flounder catch in the scallop fishery. In FY 2011 and beyond, this allocation is a sub-ACL. The sub-ACL would be set at 90% of the expected yellowtail flounder bycatch in the scallop fishery. Creating the sub-ACL creates an opportunity to assert management control over more sources of yellowtail flounder fishing mortality, but in order to do so must reduce the ACL allocated to the commercial groundfish fishery. Furthermore, allocating only 90% of the expected catch to the scallop fishery creates the possibility that an accountability measure will be triggered that could result in revenue losses in the scallop fishery. The economic impacts of this action are uncertain (see Section 7.4.1.1.1.1) since the accountability measure for the scallop fishery has yet to be decided, and given lower ACLs may provide incentives to change fishing practices in

both the scallop and groundfish fisheries that would reduce yellowtail flounder catch rates mitigating the effects of lowering the ACL. However, assuming an in-season AM is selected for the scallop fishery and no change in fishing practices the potential loss in scallop revenue could be \$35 million during 2011 and 2012. Since the scallop fishery sub-ACL would require a deduction in the commercial groundfish ACL there would be potential revenue losses in the groundfish fishery as well. These revenue losses were estimated to be between \$3 million and \$5.1 million during 2011 and between \$4.5 million and \$7.9 million during 2012 (see Table 11).

Combined Economic Impacts – The FW 44 document includes a summary of the combined economic impacts of all proposed measures, including the allocation of yellowtail flounder between the scallop and groundfish fisheries. That discussion remains applicable, as the differences between the two scallop management actions does not change the impacts enough to require revising the ranges shown in that section.

4.1.1.2 Determination of Significance

The Proposed Action would have an adverse impact on fishing vessels, purchasers of seafood products, ports, recreational anglers, and operators of party/charter businesses. The total quantified impact on the National or regional economy was not expected to exceed \$55.8 million on an annual basis. This impact may be offset by adaptations to the Proposed Action or by increased sector membership. Further, economic impacts are expected to be lessened over time with increasing ACLs as groundfish stocks rebuild. The estimated economic impacts will not exceed the \$100 million threshold and thus the Proposed Action is not determined to be significant under the Executive Order.

4.1.2 Regulatory Flexibility Act

The purpose of the RFA is to reduce the impacts of burdensome regulations and recordkeeping requirements on small businesses. To achieve this goal, the RFA requires Federal agencies to describe and analyze the effects of proposed regulations, and possible alternatives, on small business entities. To this end, as a result of the change in the scallop management action, this document adds additional information to the IRFA in FW 44.

4.1.2.1 Economic Impacts of the Proposed Action

The economic impact of the yellowtail flounder sub-ACL that will become effective in 2011 is uncertain. This sub-ACL would have a potential impact on both groundfish and scallop vessels. However, as was the case for the setting groundfish ACLs the impact is indeterminate on any given vessel since the AM for the scallop fleet has yet to be determined and setting an ACL may engender changes in fishing strategies to avoid foregone revenues that may be associated with exceeding the ACL. Assuming an in-season AM is selected and no change in fishing patterns by either groundfish or scallop vessels, an upper bound estimate is a loss of \$35 million and \$5.1 million in scallop and

groundfish revenue respectively during 2011 and \$35 million and \$7.0 million during 2012. These values represent about 6% of the likely scallop revenues that will be set for 2011 and 2012 and about 5-7% or less of groundfish revenue depending on factors noted above affecting realized groundfish revenue.

5.0 Appendix III Revisions

Appendix III documents the calculation of OFLs, ABCs, ACLs, and other sub-components. Included in the appendix are two tables that document the distribution of ABCs. These tables are reproduced here with the changes to GB yellowtail flounder and SNE/MA yellowtail flounder (highlighted in underlined, italic, bold type) that result from the change in the scallop management program. No other changes have been made. Sector values in this table are based on September 1, 2009 sector rosters and will change when final sector rosters are determined.

Table 12 – Distribution of ABC to fishery components.
(1) Includes commercial ABC in state waters and other subcomponents

Stock	Year	ABC	Canadian Share/ Allowance	US ABC	State Waters	Other Sub-Components	Scallops	Groundfish	Comm Groundfish	Rec Groundfish	Sector PSC	MWT
GB Cod	2010	4,812	1,012	3,800	0.01	0.04		0.95	0.95		0.949389974	
	2011	5,616	0	5,616	0.01	0.04		0.95	0.95		0.949389974	
	2012	6,214	0	6,214	0.01	0.04		0.95	0.95		0.949389974	
GOM Cod	2010	8,530	0	8,530	0.10	0.05		na	0.663	0.337	0.926205087	
	2011	9,012	0	9,012	0.10	0.05		na	0.663	0.337	0.926205087	
	2012	9,018	0	9,018	0.10	0.05		na	0.663	0.337	0.926205087	
GB Haddock	2010	62,515	17,612	44,903	0.01	0.04		0.95	0.95		0.972129238	0.002
	2011	46,784	0	46,784	0.01	0.04		0.95	0.95		0.972129238	0.002
	2012	39,846	0	39,846	0.01	0.04		0.95	0.95		0.972129238	0.002
GOM Haddock	2010	1,265		1,265	0.01	0.04		na	0.725	0.275	0.952531093	0.002
	2011	1,206		1,206	0.01	0.04		na	0.725	0.275	0.952531093	0.002
	2012	1,013		1,013	0.01	0.04		na	0.725	0.275	0.952531093	0.002
GB Yellowtail Flounder	2010	1,500	300	1,200	0.00	0.05	<u>0.122</u>	<u>0.828</u>	<u>0.828</u>		0.93516549	
	2011	1,689	608	1,081	0.00	0.05	<u>0.191</u>	<u>0.759</u>	<u>0.759</u>		0.93516549	
	2012	1,916	690	1,226	0.00	0.05	<u>0.258</u>	<u>0.692</u>	<u>0.692</u>		0.93516549	
SNE/MA Yellowtail Flounder	2010	493		493	0.01	0.04	<u>0.274</u>	<u>0.676</u>	<u>0.676</u>		0.726460172	
	2011	687		687	0.01	0.04	<u>0.129</u>	<u>0.821</u>	<u>0.821</u>		0.726460172	
	2012	1,003		1,003	0.01	0.04	<u>0.136</u>	<u>0.814</u>	<u>0.814</u>		0.726460172	
CC/GOM Yellowtail Flounder	2010	863		863	0.01	0.04		0.95	0.95		0.932830303	
	2011	1,041		1,041	0.01	0.04		0.95	0.95		0.932830303	
	2012	1,159		1,159	0.01	0.04		0.95	0.95		0.932830303	
Plaice	2010	3,156		3,156	0.01	0.04		0.95	0.95		0.935528195	
	2011	3,444		3,444	0.01	0.04		0.95	0.95		0.935528195	
	2012	3,632		3,632	0.01	0.04		0.95	0.95		0.935528195	
Witch Flounder	2010	944		944	0.01	0.04		0.95	0.95		0.950533446	
	2011	1,369		1,369	0.01	0.04		0.95	0.95		0.950533446	
	2012	1,639		1,639	0.01	0.04		0.95	0.95		0.950533446	

Appendix III Revisions

Stock	Year	ABC	Canadian Share/ Allowance	US ABC	State Waters	Other Sub-Components	Scallops	Ground-fish	Comm Groundfish	Rec Groundfish	Sector PSC	MWT
GB Winter Flounder	2010	2,052		2,052	0.00	0.05		0.95	0.95		0.970333537	
	2011	2,224		2,224	0.00	0.05		0.95	0.95		0.970333537	
	2012	2,543		2,543	0.00	0.05		0.95	0.95		0.970333537	
GOM Winter Flounder	2010	238		238	0.25	0.05		0.70	0.70		0.835133988	
	2011	238		238	0.25	0.05		0.70	0.70		0.835133988	
	2012	238		238	0.25	0.05		0.70	0.70		0.835133988	
SNE/MA Winter Flounder	2010	644		644	0.08	0.05		0.87	0.87			
	2011	897		897	0.08	0.05		0.87	0.87			
	2012	1,198		1,198	0.08	0.05		0.87	0.87			
Redfish	2010	7,586		7,586	0.01	0.04		0.95	0.95		0.965879893	
	2011	8,356		8,356	0.01	0.04		0.95	0.95		0.965879893	
	2012	9,224		9,224	0.01	0.04		0.95	0.95		0.965879893	
White Hake	2010	2,832		2,832	0.01	0.04		0.95	0.95		0.952587679	
	2011	3,295		3,295	0.01	0.04		0.95	0.95		0.952587679	
	2012	3,638		3,638	0.01	0.04		0.95	0.95		0.952587679	
Pollock	2010	3,813	520	3,293	0.06	0.06		0.88	0.88		0.956936325	
	2011	3,813	520	3,293	0.06	0.06		0.88	0.88		0.956936325	
	2012	3,813	520	3,293	0.06	0.06		0.88	0.88		0.956936325	
N. Window-pane Flounder	2010	169		169	0.01	0.29		0.70	0.70			
	2011	169		169	0.01	0.29		0.70	0.70			
	2012	169		169	0.01	0.29		0.70	0.70			
S. Window-pane Flounder	2010	237		237	0.01	0.29		0.70	0.70			
	2011	237		237	0.01	0.29		0.70	0.70			
	2012	237		237	0.01	0.29		0.70	0.70			
Ocean Pout	2010	271		271	0.01	0.04		0.95	0.95			
	2011	271		271	0.01	0.04		0.95	0.95			
	2012	271		271	0.01	0.04		0.95	0.95			

Appendix III Revisions

Stock	Year	ABC	Canadian Share/ Allowance	US ABC	State Waters	Other Sub-Components	Scallops	Groundfish	Comm Groundfish	Rec Groundfish	Sector PSC	MWT
Atlantic Halibut	2010	71		71	0.50	0.05		0.45	0.45			
	2011	78		78	0.50	0.05		0.45	0.45			
	2012	85		85	0.50	0.05		0.45	0.45			
	2010	83		83	0.01	0.04		0.95	0.95			
Atlantic Wolffish	2011	83		83	0.01	0.04		0.95	0.95			
	2012	83		83	0.01	0.04		0.95	0.95			

Table 13 – Distribution of ABC to fishery components
 (1) Includes commercial ABC in state waters and other sub-components

Stock	Year	ABC	Canadian Share/ Allowance	US ABC	State Waters	Other Sub-Components	Scallops	Groundfish	Comm Groundfish	Rec Groundfish	Sector PSC	Non-Sector	MWT
GB Cod	2010	4,812	1,012	3,800	38	152	0	3,610	3,610	0	3,427	183	0
	2011	5,616	0	5,616	56	225	0	5,335	5,335	0	5,065	270	0
	2012	6,214	0	6,214	62	249	0	5,903	5,903	0	5,605	299	0
GOM Cod	2010	8,530	0	8,530	566	283	0	8,530	5,655 ⁽¹⁾	2,875	4,452	355	0
	2011	9,012	0	9,012	597	299	0	9,012	5,975 ⁽¹⁾	3,037	4,704	375	0
	2012	9,018	0	9,018	598	299	0	9,018	5,979 ⁽¹⁾	3,039	4,707	375	0
GB Haddock	2010	62,515	17,612	44,903	449	1,796	0	42,568	42,568	0	41,382	1,186	90
	2011	46,784	0	46,784	468	1,871	0	44,351	44,351	0	43,115	1,236	94
	2012	39,846	0	39,846	398	1,594	0	37,774	37,774	0	36,721	1,053	80
GOM Haddock	2010	1,265		1,265	9	37	0	1,265	917 ⁽¹⁾	348	828	41	3
	2011	1,206		1,206	9	35	0	1,206	874 ⁽¹⁾	332	789	39	2
	2012	1,013		1,013	7	29	0	1,013	734 ⁽¹⁾	279	663	33	2
GB Yellowtail Flounder	2010	1,500	300	1,200	0	60	<u>146</u>	<u>994</u>	<u>994</u>	0	<u>930</u>	<u>64</u>	0
	2011	1,689	608	1,081	0	54	<u>207</u>	<u>820</u>	<u>820</u>	0	<u>767</u>	<u>53</u>	0
	2012	1,916	690	1,226	0	61	<u>317</u>	<u>848</u>	<u>848</u>	0	<u>793</u>	<u>55</u>	0
SNE/MA Yellowtail Flounder	2010	493		493	5	20	<u>135</u>	<u>333</u>	<u>333</u>	0	<u>242</u>	<u>91</u>	0
	2011	687		687	7	27	<u>89</u>	<u>564</u>	<u>564</u>	0	<u>410</u>	<u>154</u>	0
	2012	1,003		1,003	10	40	<u>136</u>	<u>816</u>	<u>816</u>	0	<u>593</u>	<u>223</u>	0
CC/GOM Yellowtail Flounder	2010	863		863	9	35	0	820	820	0	765	55	0
	2011	1,041		1,041	10	42	0	989	989	0	923	66	0
	2012	1,159		1,159	12	46	0	1,101	1,101	0	1,027	74	0
Plaice	2010	3,156		3,156	32	126	0	2,998	2,998	0	2,805	193	0
	2011	3,444		3,444	34	138	0	3,272	3,272	0	3,061	211	0
	2012	3,632		3,632	36	145	0	3,450	3,450	0	3,228	222	0

Stock	Year	ABC	Canadian Share/ Allowance	US ABC	State Waters	Other Sub-Components	Scallops	Ground-fish	Comm Ground-fish	Rec Ground-fish	Sector PSC	Non-Sector	MWT
Witch Flounder	2010	944		944	9	38	0	897	897	0	852	44	0
	2011	1,369		1,369	14	55	0	1,301	1,301	0	1,236	64	0
	2012	1,639		1,639	16	66	0	1,557	1,557	0	1,480	77	0
GB Winter Flounder	2010	2,052		2,052	0	103	0	1,949	1,949	0	1,892	58	0
	2011	2,224		2,224	0	111	0	2,113	2,113	0	2,050	63	0
	2012	2,543		2,543	0	127	0	2,416	2,416	0	2,344	72	0
GOM Winter Flounder	2010	238		238	60	12	0	166	166	0	139	27	0
	2011	238		238	60	12	0	166	166	0	139	27	0
	2012	238		238	60	12	0	166	166	0	139	27	0
SNE/MA Winter Flounder	2010	644		644	53	32	0	559	559	0	0	559	0
	2011	897		897	72	45	0	780	780	0	0	780	0
	2012	1,198		1,198	96	60	0	1,042	1,042	0	0	1,042	0
Redfish	2010	7,586		7,586	76	303	0	7,207	7,207	0	6,961	246	0
	2011	8,356		8,356	84	334	0	7,938	7,938	0	7,667	271	0
	2012	9,224		9,224	92	369	0	8,763	8,763	0	8,464	299	0
White Hake	2010	2,832		2,832	28	113	0	2,690	2,690	0	2,563	128	0
	2011	3,295		3,295	33	132	0	3,130	3,130	0	2,982	148	0
	2012	3,638		3,638	36	146	0	3,456	3,456	0	3,292	164	0
Pollock	2010	3,813	520	3,293	200	200	0	2,893	2,893	0	2,768	125	0
	2011	3,813	520	3,293	200	200	0	2,893	2,893	0	2,768	125	0
	2012	3,813	520	3,293	200	200	0	2,893	2,893	0	2,768	125	0
N. Window-pane Flounder	2010	169		169	2	49	0	118	118	0	0	118	0
	2011	169		169	2	49	0	118	118	0	0	118	0
	2012	169		169	2	49	0	118	118	0	0	118	0
S. Window-pane Flounder	2010	237		237	2	69	0	166	166	0	0	166	0
	2011	237		237	2	69	0	166	166	0	0	166	0
	2012	237		237	2	69	0	166	166	0	0	166	0

Stock	Year	ABC	Canadian Share/ Allowance	US ABC	State Waters	Other Sub-Components	Scallops	Ground-fish	Comm Ground-fish	Rec Ground-fish	Sector PSC	Non-Sector	MWT
Ocean Pout	2010	271		271	3	11	0	257	257	0	0	257	0
	2011	271		271	3	11	0	257	257	0	0	257	0
	2012	271		271	3	11	0	257	257	0	0	257	0
Atlantic Halibut	2010	71		71	36	4	0	32	32	0	0	32	0
	2011	78		78	39	4	0	35	35	0	0	35	0
	2012	85		85	43	4	0	38	38	0	0	38	0
Atlantic Wolffish	2010	83		83	1	3	0	79	79	0	0	79	0
	2011	83		83	1	3	0	79	79	0	0	79	0
	2012	83		83	1	3	0	79	79	0	0	79	0

Intentionally Blank