

5.1.13.4 Yellowtail flounder bycatch set-aside

One percent of any yellowtail flounder bycatch TAC would be set-aside to account for bycatch taken in the course of an approved research trip or trip approved to collect scallops to generate research funds in the closed areas. Yellowtail flounder bycatch on approved research and compensation trips would be monitored directly and reported by the research entity on research trips and extrapolated on compensation trips at the rate established for the commercial fishery through the observer program. Compensation trips could take place at any time during the approved scallop season so long as the yellowtail flounder bycatch TAC set-aside for research had not been exceeded.

Rationale: Yellowtail flounder bycatch on research trips would be counted against this set-aside if the overall yellowtail TAC has been reached and the closed area is no longer open to scallop fishing. This ensures that research and compensation trips could continue under their own specific limitations, thereby maximizing opportunities to conduct research.

5.2 Alternatives Considered and Rejected

The Council is proposing to change the regulations governing the Sea Scallop and Multispecies FMPs to allow restricted access for scallop fishing vessels to parts of the Nantucket Lightship Area (NLSA), Closed Area I, and Closed Area II. First established to implement seasonal closures to protect spawning cod and haddock, these areas were closed year around to groundfish, scallop, and other **fishing** gear by Emergency Action in December 1994 to promote rapid rebuilding of depleted groundfish stocks. While the groundfish stocks are still recovering, the Council is proposing to allow limited scallop fishing in parts of these areas to take advantage of the high scallop biomass.

The following sub-sections outline the options to continue and expand the successful management strategies for Closed Area II (NEFMC 1999a). The potential impacts are described, to the extent possible. The measures contained in the alternatives would apply to one or both of the proposed framework actions: Framework 13 to the Atlantic Sea Scallop FMP and Framework 34 to the Multispecies FMP. Multispecies management measures that apply to closed area access (i.e. exemptions to the closed areas, groundfish trip limits, etc.) will be included in the annual framework adjustment for the Multispecies FMP. **This means that access to the groundfish closed areas cannot occur any earlier than May 1, 2000 at the beginning of the multispecies FMP fishing year.** Section 6.2.6 describes the expected impacts of the alternatives based on quantitative estimates or qualitative evaluation where quantitative data are absent.

These framework adjustments will allow access to the groundfish closed area(s) during the times specified in this framework action, and will not continue beyond February 29, 2001, the end of the next fishing year. The Council's intends to develop an amendment to the Sea Scallop FMP that will include a more structured approach to rotational area management. The Council schedule calls for implementation of the amendment by the beginning of the fishing year beginning March 1, 2001. This future plan amendment will replace this proposed framework action with a management system that includes periodic access to closed areas for catching larger scallops and increasing yield. Access to the groundfish closed areas may or may not continue beyond the 2000 fishing year under a future rotational area management system.

This action is intended to provide short-term economic relief to the scallop industry as it faces low day-at-sea allocations during the Amendment 7 rebuilding schedule. At the present time, there are few large scallops in the Mid-Atlantic and in the open areas of Georges Bank. Any fishing effort in those areas will therefore concentrate on small scallops that have been recruiting to the fishery, reducing any

gains that might occur if these small scallops would be allowed to grow. Access to the groundfish closed areas could reduce fishing effort in the Mid-Atlantic and other portions of Georges Bank, since it would often be less profitable than fishing in the areas with higher catches of scallops.

There is an abundant year-class of scallops, first observable in the 1998 research survey, that is expected to promote rebuilding in the open areas. These scallops are recruiting to the fishery during 1999 (catches have increased significantly during the year, to over 1,000 lbs. per day) and will be fully vulnerable to fishing in 2000. If exploitation in the open scallop areas remains high, these fast-growing, young scallops will be harvested and optimum yield will not be achieved.

Shifting some fishing effort from the open scallop areas to target large scallops in the groundfish closed areas will 1) boost yield in 2000 by about 13 to 18 percent relative to status quo and 2) promote rebuilding in open areas thereby booting yield from the resource in 2001 and subsequent years. Overall, the shift of fishing effort from fast-growing, small scallops in the open scallop areas to slower-growing, large scallops in the groundfish closed areas will enhance biomass rebuilding for the resource as a whole. Conversely if the groundfish areas remain closed, biomass in these areas will grow very little while biomass in the open scallop areas will be depleted due to high exploitation rates observed under 142 day-at-sea allocation in 1998 (NEFSC 1999) and projected under a 120 day-at-sea allocation in 1999 (NEFMC 1999b).

5.2.1 Area access (Frameworks 13 and 33)

Considering the potential for impacts on habitat, on species that could be to be caught as bycatch, potential for gear conflict, and the effects on scallop yield and value, the PDT identified the following recommendations for accessing closed areas. Other important considerations were maximizing flexibility for fishermen to determine where/when to fish, safety, potential impact on scallop prices, and the potential for derby fishing behavior.

5.2.1.1 Nantucket Lightship Area

Although the Council considered other options for access in Nantucket Lightship Area, there was only one alternative that was fully analyzed in the draft framework documents. This was the only alternative recommended by the Scallop PDT and arose from evaluation of other options during the development of Framework Adjustment 11. The majority of scallops biomass was in the northeast portion of the Nantucket Lightship Area and samples in the 1999 experimental fishery had higher bycatch amounts of monkfish, barndoor skates, and other species.

Gear conflict considerations furthermore were evident and could be minimized by adjusting the boundaries of the access area. In Framework Adjustment 11, one alternative was a boundary that was a slightly west of the line adopted by the Council in this framework adjustment. This area is commonly used by lobster fishermen and a slight eastward adjustment of the boundary, which became the proposed action, will avoid gear conflicts.

5.2.1.2 Closed Area I

5.2.1.2.1 Alternative 1 – Access to areas surveyed by the 1999 experimental fishery where scallops are most abundant and bycatch rates have been measured.

Scallop vessels that are eligible to fish in the closed area(s) would be able to fish in Closed Area I within the boundaries described in Table 10. This area is shown as the central part of Closed Area I, labeled “Scallop Access” in Figure 22. Vessels with scallop permits (Section 5.2.10) would be eligible to fish a certain number of trips (Section 5.2.6) in Closed Area I from June 1, 2000 to November 30, 2000, or whenever the catch exceeds either the scallop or yellowtail flounder TAC, whichever comes first.

Table 10. Alternative 1: Proposed boundary of the portion of Closed Area I for scallop fishing.

| Point label ¹⁵ | North latitude | West longitude |
|---------------------------|----------------|-------------------------|
| SC3 | 41°08' | Western boundary of CA1 |
| SC4 | 41°00' | Western boundary of CA1 |
| SC5 | 41°00' | 68°45' |
| SC6 | 41°08' | 68°30' |
| CI4 | 41°30' | 68°30' |
| SC7 | 41°30' | 68°35' |
| SC3 | 41°08' | Western boundary of CA1 |

Rationale: Considering the potential for impacts on habitat, on species that could be to be caught as bycatch, potential for gear conflict, and the effects on scallop yield and value, the PDT identified a season from June 1 to November 30 and the boundary shown in the table and figure shown below. Important considerations for the seasonal recommendation included the less critical status of Georges Bank yellowtail, the more critical status of and spawning activity by Georges Bank cod and Georges Bank haddock, and the stock boundaries of Cape Cod and Southern New England yellowtail flounder.

The proposed area overlaps the one surveyed by the CMAST photographic survey in 1999 (Figure 26) and avoids areas of winter flounder and barndoor skates (Appendix II). About 80 percent of the scallop biomass within the surveyed portions of Closed Area I during 1999 was within the proposed area (Table 21). Thus access to the proposed area is expected to produce the highest yield to the nation, while minimizing the area impacted by dredging. This area overlaps a small part of the Right Whale Critical Habitat to the north (Section 0) and a small part of important fish habitat to the south (Section 6.2.6.2).

This alternative differs from Alternative 1 in that the southern boundary of the area where scallop fishing would be allowed is moved northward to avoid an area that has been in USGS side-scan survey data as having hard bottom and complex habitat. The southern boundary, instead of going as far south as 41° N latitude, would lie along a straight east-west line along 41°07' N latitude, avoiding nearly all of the identified area.

¹⁵ Only points SC3 to SC7 are new. Other points are labeled to correspond to points of reference in existing regulations describing the boundaries of Closed Area I.

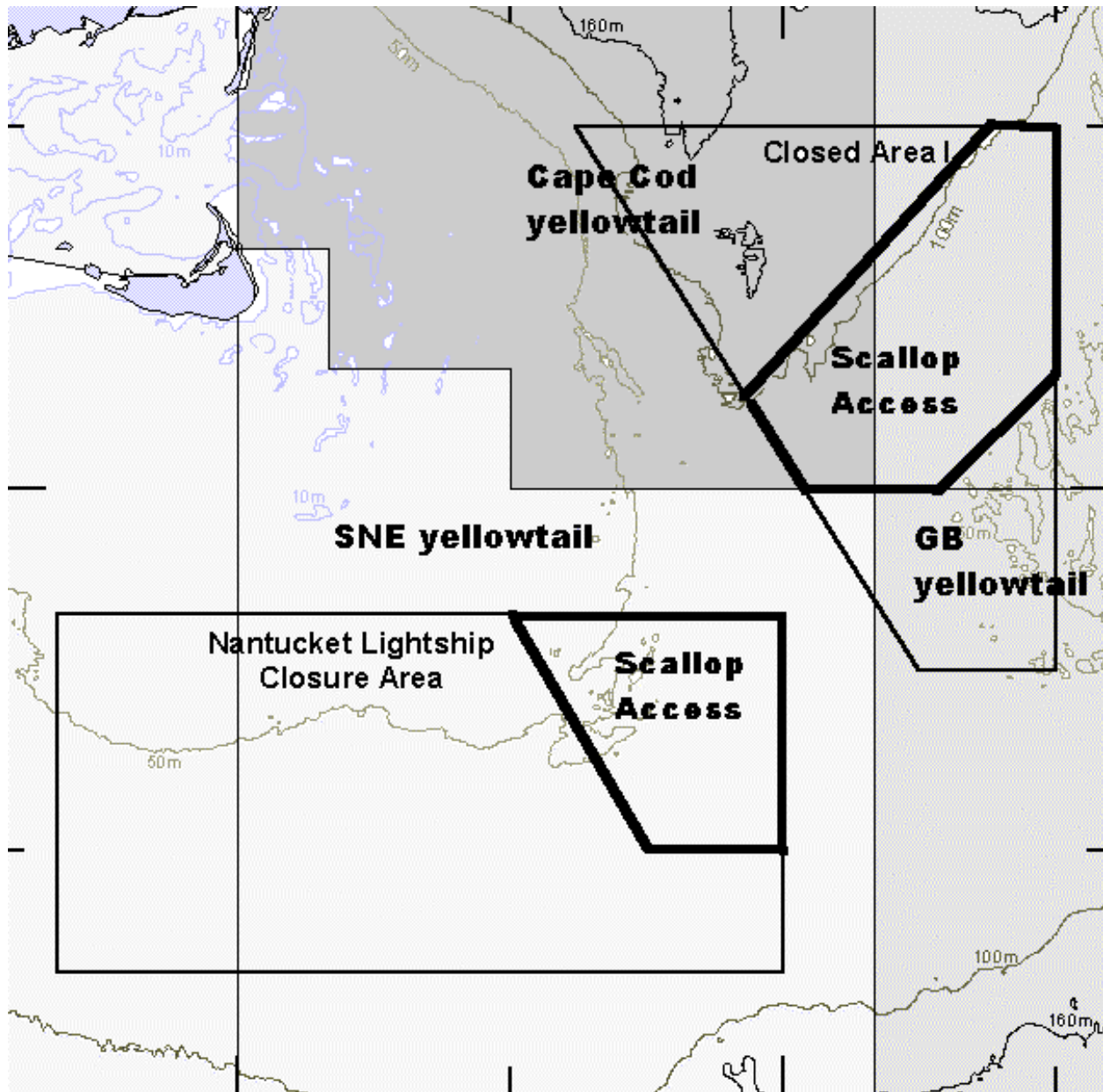


Figure 22. Alternative 1: Proposed scallop access areas for Closed Area I and the Nantucket Lightship Area, showing the boundaries of the groundfish closed areas and yellowtail flounder stock boundaries (denoted by different shaded backgrounds).

5.2.1.2.2 Alternative 2 – Access to areas surveyed by the 1999 experimental fishery where scallops are most abundant and bycatch rates have been measured, avoiding areas identified as having hard bottom and complex habitat.

Scallop vessels that are eligible to fish in the closed area(s) would be able to fish in Closed Area I within the boundaries described in Table 10. This area is shown as the central part of Closed Area I, labeled “Scallop Access” in Figure 22. Vessels with scallop permits (Section 5.2.10) would be eligible to

fish a certain number of trips (Section 5.2.6) in Closed Area I from (dates to be determined) or whenever the catch exceeds either the scallop or yellowtail flounder TAC, whichever comes first.

Table 11. Alternative 2: Proposed boundary of the portion of Closed Area I for scallop fishing.

| Point label ¹⁶ | North latitude | West longitude |
|---------------------------|----------------|-------------------------|
| SC3 | 41°08' | Western boundary of CA1 |
| SC4 | 41°07' | Western boundary of CA1 |
| SC5 | 41°07' | 68°30' |
| Cl4 | 41°30' | 68°30' |
| SC6 | 41°30' | 68°35' |
| SC3 | 41°08' | Western boundary of CA1 |

Rationale: This alternative is similar to Alternative 1 (Figure 22), but fishing for scallops would be prohibited from an area that is identified as hard and complex bottom in recent USGS side-scan survey charts. The southern boundary falls in the middle of the 43660 loran line (Figure 23), identified by the Habitat Committee as a line separating areas of primarily smooth sand habitat from areas of hard bottom and complex habitat. An east-west line along 41°07' N latitude would avoid nearly all the areas classified as hard and complex bottom by the survey. A straight, east-west boundary along 41°07' N latitude would be easier to understand, improving compliance and easing enforcement.

The northern boundary in Alternative 1 would remain, prohibiting scallop fishing in unsurveyed areas where the scallop biomass and size is unknown and where the vulnerability of finfish bycatch has not been determined. Alternative 2 would also prevent scallop fishing along the western side of the channel, closer to Cape Cod and areas where Cape Cod yellowtail flounder are more abundant.

Although scallops are abundant in some places with this bottom type, the Council considers hard and complex bottom as having more value for fish habitat than adjacent sandy bottom where scallops are located. Hard and complex bottom is vulnerable to damage by heavy scallop dredges and other towed fishing gear. It is therefore attractive to delay fishing for scallops in this area until additional and more detailed data can be collected.

5.2.1.2.3 Alternative 3 – Allow scallop fishing in all parts of Closed Area I, north of the 43660 loran line.

This alternative differs from Alternative 2 in that the southern boundary of the area where scallop fishing would be allowed is a straight line that approximates the 43660 loran line, a boundary that the Habitat Committee identified as separating areas with primarily smooth sand bottom from areas with hard bottom and complex habitat. In addition, scallop fishing would be allowed in all parts of Closed Area I above this line. The northern boundary would therefore be the same as the boundary of Closed Area I (Figure 24).

¹⁶ Only points SC3 to SC6 are new. Other points are labeled to correspond to points of reference in existing regulations describing the boundaries of Closed Area I.

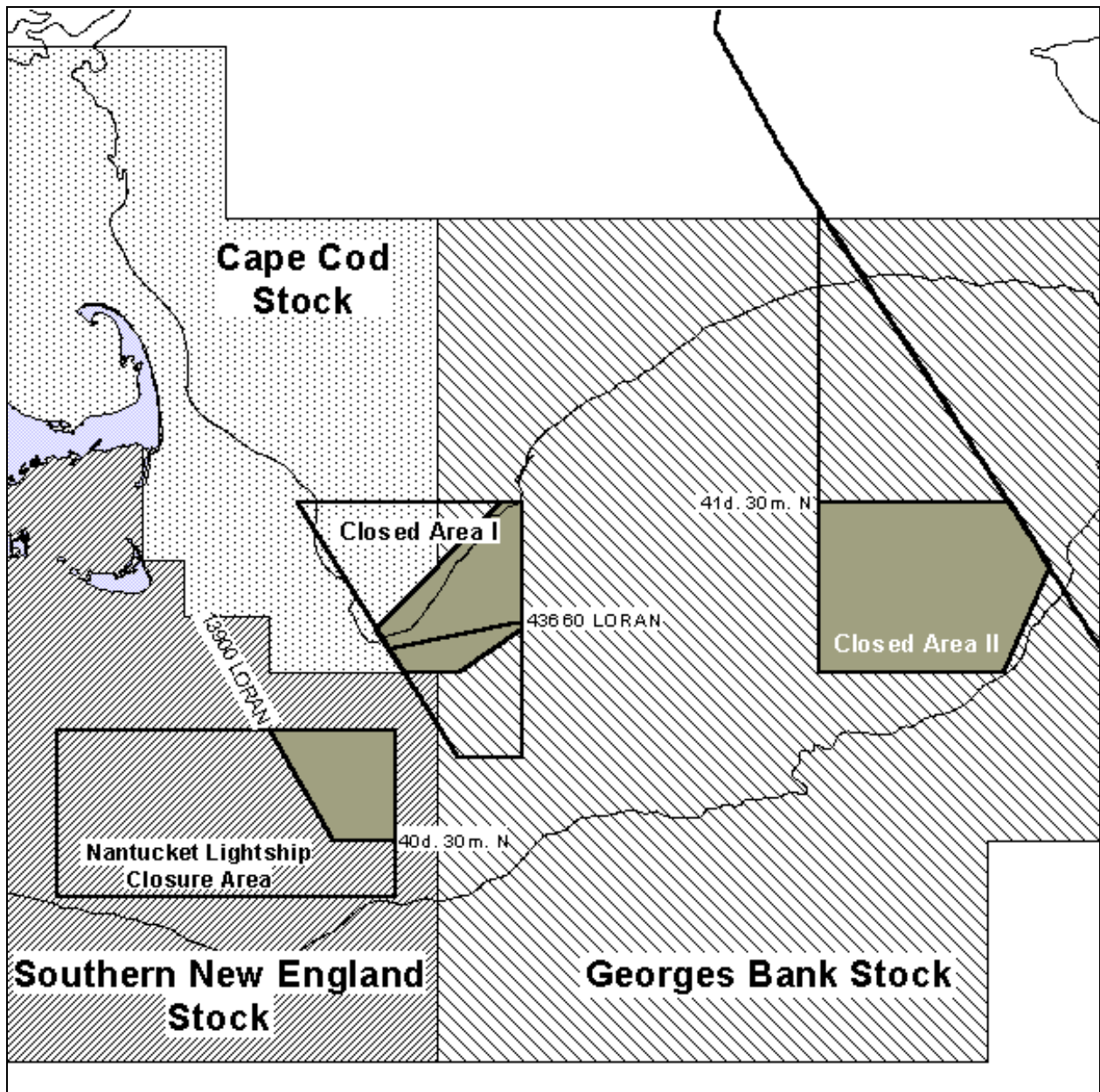


Figure 23. Boundaries of areas considered by the Groundfish Oversight Committee for scallop fishing in 2000, showing the relationship to yellowtail flounder stock areas. In Closed Area I, the 43660 loran line is the southern boundary of the Habitat Committee’s recommendations for the area to be considered. The shaded area, south of the 43660 line is the southern boundary for Alternative 1. The southern boundary for Alternative 2 is an east-west line at 41°07’ N latitude, approximately at the same latitude as the middle of the 43660 loran line.

Scallop vessels that are eligible to fish in the closed area(s) would be able to fish in Closed Area I within the boundaries described in Table 10. This area is shown as the central part of Closed Area I, labeled “Scallop Access” in Figure 22. Vessels with scallop permits (Section 5.2.10) would be eligible to fish a certain number of trips (Section 5.2.6) in Closed Area I from (dates to be determined) or whenever the catch exceeds either the scallop or yellowtail flounder TAC, whichever comes first.

Table 12. Alternative 3: Proposed boundary of the portion of Closed Area I for scallop fishing.

| Point label ¹⁷ | North latitude | West longitude |
|---------------------------|----------------|-------------------------|
| SC3 | 41°04'30" | Western boundary of CA1 |
| SC4 | 41°09' | 68°30' |
| CI4 | 41°30' | 68°30' |
| CI1 | 41°30' | 69°23' |
| SC3 | 41°04'30" | Western boundary of CA1 |

Rationale: This alternative is similar to Alternative 1 (Figure 22), but fishing for scallops would be prohibited from an area that is identified as hard and complex bottom in recent USGS side-scan survey charts. It also includes, however, the western edge of the Great South Channel and an area in the northern part of Closed Area I that was not included in the 1999 experimental fishery survey.

The southern boundary is a straight line, defined by latitude and longitude, that approximates the 43660 loran line (Figure 23), identified by the Habitat Committee as a line separating areas of primarily smooth sand habitat from areas of hard bottom and complex habitat. Although enforcement of the boundary would be somewhat more complicated and difficult to document, compliance would be relatively easy for fishermen that use loran C, because the boundary approximates the 43660 loran line. Due to the curvilinear nature of loran lines, very minor differences between the 43660 loran line and a straight line defined by latitude and longitude are unavoidable. Compliance by fishermen that navigate solely GPS, may however be a little more difficult than for Alternative 2.

Although scallops are abundant in some places with this bottom type, the Council considers hard and complex bottom as having more value for fish habitat than adjacent sandy bottom where scallops are located. Hard and complex bottom is vulnerable to damage by heavy scallop dredges and other towed fishing gear. It is therefore attractive to delay fishing for scallops in this area until additional and more detailed data can be collected.

Unlike Alternatives 1 and 2, however, scallop fishing would be allowed in deep water in the NW corner of Closed Area I and along the western edge of the Great South Channel. The former was not included in the 1999 experimental fishing survey and is generally not included in the annual R/V Albatross scallop survey either. The reason for the omission is that scallop biomass in this deep water is generally low, except for pockets known by some fishermen.

As for the western edge of the channel, the 1999 experimental fishery (Appendix II) found less scallop biomass than in other portions of Closed Area I. Although the yellowtail flounder bycatch was low in the August and September experimental fishery, the western side of the channel is closer to the center of abundance for the Cape Cod yellowtail flounder stock. This flounder stock is presently overfished and mortality is too high. Although the deep water was unsampled in the experimental fishery, other significant bycatch would be American Plaice, gray sole, and monkfish, all stocks that are overfished.

On the other hand, allowing scallop fishing in the NW corner of Closed Area I and along the western side of the channel would help to distribute fishing effort more widely, possibly avoiding an intensified scallop fishery in the smaller area created by moving the southern boundary of Alternative 1 to

¹⁷ Only points SC3 and SC4 are new. Other points are labeled to correspond to points of reference in existing regulations describing the boundaries of Closed Area I.

the north. This action would otherwise squeeze roughly 400 scallop trips into a smaller area, depleting the resource in the accessible portion of Closed Area I and possibly preventing the fishery from catching the optimum yield for Closed Area I.

Allowing scallop fishing in the NW corner of Closed Area I could reduce intensive fishing in the shallower areas of Georges Bank, reduce the incentive for a derby-style fishery, and improve safety. These benefits could be greater than the potential cost of allowing fishing in an unsurveyed area and in an area with lower scallop biomass that is closer to the center of abundance for the Cape Cod yellowtail flounder stock.

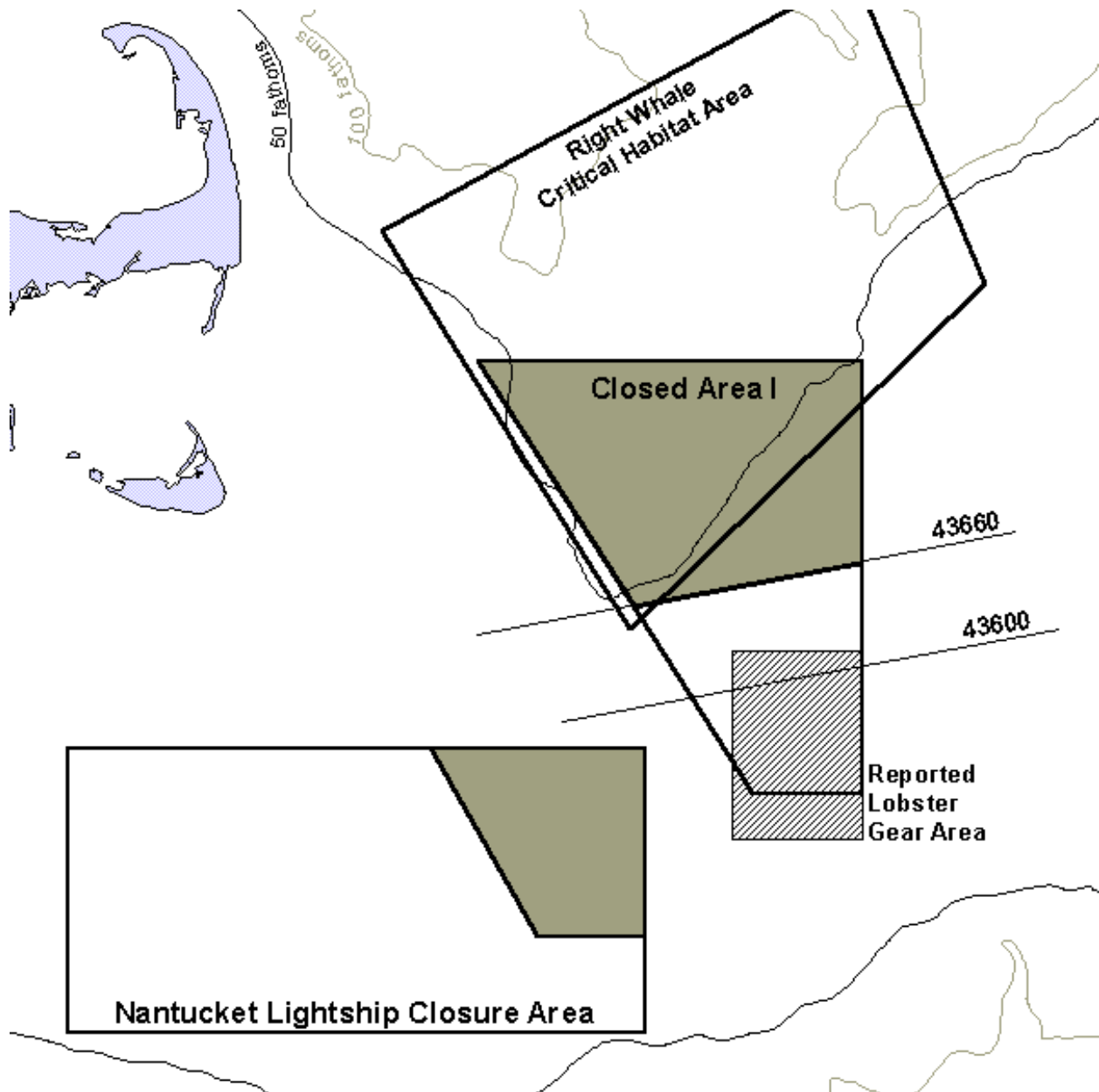


Figure 24. Boundary of area for scallop fishing in Closed Area I for Alternative 3. The southern boundary, along a straight line along the 43660 loran line corresponds to the Habitat Committee’s recommendation. The northern boundary of the area where scallop fishing would be allowed, corresponds with the boundary of Closed Area I. The chart also shows the location of the Right Whale Critical Habitat Area and the location where fishermen report prevalence of lobster gear.

5.2.1.3 Closed Area II

Two alternatives are under consideration for scallop fishing in portions of Closed Area II. Alternative 1 is a continuation of the access program during 1999 and Alternative 2 is an expansion of the portion open to scalloping. Both have the same seasons as the Council adopted during 1999. As of 1999, the area described by Alternative 1 and open to scallop fishing in 1999 contained 53 percent of the total scallop biomass in Closed Area II. Assuming that 3,678 mt of scallop catch occurs within Closed Area II during 1999, the proportion of biomass in this area is expected to decline to 40 percent of the biomass in all of Closed Area II (Table 12 in Framework Adjustment 12; NEFMC 1999c). Applying a TAC equal to 20 percent of biomass in all of Closed Area II in 2000 and assuming that it is removed from the area described by Alternative 1, the proportion of biomass will decline by the end of 2000 to 33 percent of the scallop biomass throughout Closed Area II. Eventually (possibly as early as 2000) the catch per day will decline to the point where it is not economic for many vessels to fish there compared to the profits they would realize by fishing in the open scallop areas.

5.2.1.3.1 Alternative 2 – Areas south of the HAPC boundary

Scallop vessels that are eligible to access the closed area(s) would be able to fish only south of the Juvenile Atlantic Cod Habitat Area of Particular Concern (HAPC) when they fish within Closed Area II. This area is shown as encompassing the portions of Closed Area II labeled “Alternative 1” and “Alternative 2” in Figure 13. Vessels with scallop permits (Section 5.2.10) would be eligible to fish a certain number of trips (Section 5.2.6) in Closed Area II from June 15, 2000 to December 31, 2000, or whenever the catch exceeds either the scallop or yellowtail flounder TAC, whichever comes first.

Table 13. Alternative 2: Boundary of the portion of Closed Area II for scallop fishing.

| Point label ¹⁸ | North latitude | West longitude |
|---------------------------|----------------|-------------------|
| CII1 | 41°00’ | 67°20’ |
| CII2 | 41°00’ | 66°35.8’ |
| G5 | 41°18.6’ | 66°24.8’ (US/Can) |
| H3 | 42°00’ | 67°00’ (US/Can) |
| H4 | 42°00’ | 67°10’ |
| H5 | 41°50’ | 67°10’ |
| H6 | 41°50’ | 67°20’ |
| CII1 | 41°00’ | 67°20’ |

Rationale: Alternative 2 would allow scallop vessels more flexibility to fish in Closed Area II, potentially reducing the bycatch of yellowtail flounder and other species. This alternative is also more consistent with the Council policy for setting the Closed Area II TAC. Scallop catches would not decline as rapidly and more scallops would be available in the southern part of Closed Area II next year, compared to Alternative 1. The drawback is that habitat concerns are higher in this area, specifically with

¹⁸ Only points SC1 and SC2 are new. Other points are labeled to correspond to points of reference in existing regulations.

regard to the large sand ridges that occur in the center of Closed Area II. It is not clear, however, how much the scallop dredge fishing would disturb the sand ridges or how quickly these ridges would recover in the high-energy environment found on Georges Bank.

Only about 10 to 15 percent of the scallop biomass is between the current boundary (41°30' N latitude) and the HAPC. Access to scallops north of 41°30' N latitude would reduce fishing mortality on exploitable (and available) scallops by a small fraction. The Council should consider the effect of this marginal mortality reduction on available scallops against the potential for habitat impacts, bycatch interactions, and gear conflict. Other impacts such as reducing costs and higher prices from landing larger scallops from the central part of Closed Area II cannot be quantified during the time available.

5.2.2 Seasons

5.2.3 Alternative 1 – Continuous season when groundfish spawning is not occurring and the vulnerability of larval and juvenile groundfish is low

Scallop fishing by limited access and general category scallop vessels would be allowed during the following seasons:

| Groundfish closed area | Season when scallop fishing is allowed | Earliest in-season adjustment | Based on vessel participation by |
|-------------------------------|--|-------------------------------|----------------------------------|
| Nantucket Lightship Area | August 1, 2000 to February 28, 2001 | November 1, 2000 | October 1, 2000 |
| Closed Area I | June 1 to November 30, 2000 | September 1, 2000 | August 1, 2000 |
| Closed Area II | June 15 to December 31, 2000 | October 1, 2000 | September 1, 2000 |

The season in any area would be suspended for limited access or general category vessels when NMFS determines that either the scallop or yellowtail flounder TACs is or is projected to be exceeded. In-season adjustments to allocate more trips could be made, at the discretion of the Regional Administrator, on or after the dates given in the table above.

Rationale: Alternative 1 opens the areas to scallop fishing for the maximum amount of time without compromising spawning activity or affecting juvenile groundfish. This gives the greatest flexibility for fishermen to time the market, obtain the best price for the scallops, and avoid inclement weather. On the other hand, enforcing and monitoring the three areas simultaneously could hamper the program and increase the likelihood of non-compliance and exceeding the TACs.

5.2.4 Alternative 2 – Sequential openings of Nantucket Lightship Area, Closed Area I, and Closed Area II

Scallop fishing by limited access and general category scallop vessels would be allowed during the following seasons, but no two areas would be open at the same time:

| Groundfish closed area | Season when scallop fishing is allowed | Earliest in-season adjustment | Based on vessel participation by |
|-------------------------------|--|-------------------------------|----------------------------------|
| Nantucket Lightship Area | August 1 to September 30, 2000 | No in-season adjustment | |
| Closed Area I | September 15, 2000 to January 31, 2001 | October 1, 2000 | September 1, 2000 |
| Closed Area II | June 15, 2000 to January 31, 2001 | October 1, 2000 | September 1, 2000 |

The season in any area would be suspended for limited access or general category vessels when NMFS determines that either the scallop or yellowtail flounder TACs is or is projected to be exceeded. In-season adjustments to allocate more trips could be made, at the discretion of the Regional Administrator, on or after the dates given in the table above.

Rationale: Alternative 2 opens the areas to scallop fishing for the maximum amount of time without having two areas open at the same time. It would, as a result, increase the ability to monitor and enforce the TACs, which for yellowtail flounder in some areas could be very low. The season for Nantucket Lightship Area, where the yellowtail flounder stock is in very poor condition, is constrained to the period for the 1999 experimental fishery when the yellowtail flounder bycatch in the NE corner of the Nantucket Lightship Area was almost non-existent.

Alternative 2 reduces industry flexibility and could have negative impacts on scallop prices, thereby reducing yield. It could also induce a derby-style fishery, as scallop vessels rotate en masse between the three areas to take the maximum number of authorized trips before each area is closed due to the shorter season or due to the fishery exceeding a TAC. Safety could also be compromised if certain areas were open only during the time when hurricanes and nor'easters are more frequent events. The shorter seasons would also make it more difficult to make in-season adjustments because of the necessary lag between data collection and when an announcement could be made.

5.2.5 Alternative 3 – Sequential openings of inshore and offshore areas

Scallop fishing by limited access and general category scallop vessels would be allowed during the following seasons, but no two areas would be open at the same time:

| Groundfish closed area | Season when scallop fishing is allowed | Earliest in-season adjustment | Based on vessel participation by |
|-------------------------------|--|-------------------------------|----------------------------------|
| Nantucket Lightship Area | September 15, 2000 to January 31, 2001 | December 1, 2000 | November 1, 2000 |
| Closed Area I | September 15, 2000 to January 31, 2000 | December 1, 2000 | November 1, 2000 |
| Closed Area II | June 15 to September 14, 2000 | No in-season adjustment | |

The season in any area would be suspended for limited access or general category vessels when NMFS determines that either the scallop or yellowtail flounder TACs is or is projected to be exceeded. In-season adjustments to allocate more trips could be made, at the discretion of the Regional Administrator, on or after the dates given in the table above.

Rationale: Alternative 3 opens the areas to scallop fishing for the maximum amount of time without having an inshore area (Nantucket Lightship Area or Closed Area I) open at the same time as an offshore area (Closed Area II). It would, as a result, increase the ability to monitor and enforce the TACs, which for yellowtail flounder in some areas could be very low. It does however extend the season in the Nantucket Lightship Area until later in the year, compared with the other alternatives, and the expected bycatch rates are much more uncertain.

Alternative 3 is a compromise between the longer seasons in Alternative 1 and the short seasons in Alternative 2. It improves enforcement and monitoring because the areas that are simultaneously open are very close to each other. Also, the proposed seasons prevent a derby-style fishery from developing in Closed Area II during a time when bad weather is more prevalent. The added benefit of the proposed season is that the initial three trip allocation in Closed Area II is much more likely to take most of the scallop TAC, provided that the yellowtail flounder bycatch doesn't exceed its TAC. There is therefore

less reason to allow for an in-season adjustment for Closed Area II trips and even if the scallop TAC is not taken, this would be the second year of more intense fishing in the portion of Closed Area II that is accessible for scallop fishing¹⁹. Since the inshore/offshore characteristics dictate which vessels are likely to fish in these areas, Alternative 3 reduces the potential for a derby-style rotation as areas open and close.

5.2.6 Total Allowable Catch (TAC) of sea scallops (Framework 13)

No non-preferred alternatives would meet the optimum yield (OY) objective for Atlantic sea scallops. Under the current FMP, the Council defined OY as the amount of scallops that can be annually harvested while maximizing yield-per-recruit, which also serves as the overfishing definition threshold. According to Amendment 7, a lower target fishing mortality of 0.2 was chosen as a risk-averse strategy to prevent overfishing. While the overfishing definition and the mortality target apply on a stock-wide basis, the Council chose this strategy (i.e. maximum sustainable yield from the closed areas) and a TAC that is 20 percent of the expected biomass in the closed areas until an area-based management strategy is developed in Amendment 10.

5.2.7 TAC set asides (Framework 13)

5.2.7.1 One-percent set aside for funding observers

One percent of the scallop TAC for each of the groundfish closed areas would be set-aside to pay for observers as described in Section 5.2.16. NMFS may authorize vessels that carry observers to land more than 10,000 lbs. of scallop meats (i.e. more than the scallop possession limit) with the additional revenue used to pay for the observer at a rate determined by the NMFS. NMFS will monitor the landings from limited access scallop vessels that fish in the closed area and close the fishery when the landings exceed or are projected to exceed the overall scallop TAC, reduced by this and other set-asides. Accounting for all three set-asides, the TAC that will apply to landings from limited access scallop vessels would be 93 percent of the total (Table 8). The set aside to pay for observers would total 191,000 lbs. (87 mt).

Rationale: One-percent of the TAC from Closed Area II was insufficient for the additional landings on observed trips. Vessels with an observer onboard were authorized to land an amount of scallops above the 10,000 pound scallop possession limit that would provide sufficient revenue to pay the daily cost of the observer. To provide 25 percent observer coverage, the additional landings exceeded the one-percent limit chosen by the Council in Framework Adjustment 11. In that case, exceeding the TAC to fund observers had no bad effects, since the fishery concluded due to the yellowtail bycatch rather than due to the scallop landings exceeding the TAC.

5.2.7.2 TAC set-asides for scallop landings by vessels with General Category scallop permits

The Council initially considered a TAC set aside as high as 10 percent of the scallop TAC in each area to accommodate fishing by vessels with general category permits, with a mid-season re-allocation if the general category vessels were not landing the entire TAC set aside. Since this is a new provision, the

¹⁹ The scallop TAC is based on the projected biomass of scallops in each of the three groundfish closed areas. In Closed Area II, only about ½ of the scallop biomass is vulnerable to fishing since the upper half of the area will remain closed. Due to the localized overharvest and continuing survival of scallops in the northern half of Closed Area II, only about 1/3rd of the scallop biomass is estimated to be in the southern half of Closed Area II after the 2000 fishery.

Council was unable to predict how many vessels will take advantage of the opportunity or how much of the TAC should be allotted to this category of vessels.

Rationale: If the Council chose a high TAC and few vessels participate in the general category program, then it would prevent the fishery from harvesting the scallop TAC. Otherwise, the difference between the general category vessel landings and the TAC set aside would have to be re-allocated during the season. This re-allocation would require that access to the areas concluded before the end of the season in each area for general category vessels and the season for limited access vessels would be less predictable.

Comments at the framework meetings favored a lower TAC set aside for general category vessels that fish in Closed Area I and the Nantucket Lightship Area. Initially, there was support for a two-month season, even with the lower allocation. Recommendations by the Groundfish PDT and further evaluation by the Groundfish Oversight Committee showed that there was no reason to limit the season for a shorter period than the access provided for limited access vessels. The Groundfish Oversight Committee recommended that as long as the yellowtail flounder bycatch on these vessels was monitored with sufficient observer coverage and the bycatch counted against the yellowtail flounder TAC, the season could be the same for both general category and limited access scallop vessels.

To allow for more than a two-month season for access by general category vessels and not set an overly-high TAC set aside, the Council reduced the set-aside to five percent with no mid-season re-allocation.

5.2.8 Yellowtail Flounder TAC and Triggered Area Closure (Framework 34)

The yellowtail flounder TACs would be allocated on a stock-by-stock basis. Using the same formulas as approved for the proposed action, the stock-based allocations would be 50 mt for the Southern New England yellowtail flounder stock, 32 mt for the Cape Cod yellowtail flounder stock, and 693 mt for the Georges Bank yellowtail flounder stock (Table 30). The Southern New England and the Cape Cod yellowtail flounder TACs would apply to Nantucket Lightship Area and Closed Area I, respectively. The Georges Bank yellowtail flounder TAC would, on the other hand, be split between Closed Area I and Closed Area II, because the distribution of this stock overlaps both areas.

Rationale: This procedure for setting and monitoring TACs would ensure that the framework adjustment met the conservation goals for each yellowtail flounder stock individually. The Council, however, deemed that it was administratively too complex to monitor a separate TAC for Cape Cod yellowtail flounder in the western part of Closed Area I and it was not important where the scallop vessels caught Georges Bank yellowtail flounder as long as the catch did not exceed the total for the stock.

5.2.9 Effort limits (Framework 13)

5.2.9.1 Trip Allocations

Each full-time and part-time scallop vessel will be authorized to fish a certain number of trips within parts of each of the three groundfish closed areas or within an adjacent during the time each area is open for scallop fishing. The range of non-preferred options included zero to two trips in the Nantucket Lightship Area, one to two trips in Closed Area I, and two to four trips in Closed Area II. These options corresponded to scallop possession limit options ranging from 18,000 to 8,000 pounds, respectively.