

section 103 during any transition period. The Commission strongly encouraged commenters to provide it with information as detailed and specific as possible, including in particular:

detailed comment regarding the costs of adding a feature to a telecommunications carrier's network and on what, if any, impact of such costs will have on residential ratepayers. Commenters should consider the costs to manufacturers in developing the equipment or software needed to implement the technical requirement, as well as the cost to carriers to install and deploy such equipment. Commenters should be specific as to which entities would incur the cost of adding particular features; e.g., manufacturers, local exchange carriers (LECs), interexchange carriers (IXCs), or commercial mobile radio service (CMRS) providers, etc. Commenters should also be specific as to what costs would be incurred for hardware, as opposed to software upgrades to carriers' networks, and whether some of these upgrades would have other uses in the networks. If costs are likely to be passed on to residential ratepayers, those costs should be identified, as well as specific mechanisms that could be used to minimize such costs.

4. In response to the *Further NPRM*, on December 14, 1998, Alcatel, Lucent, Motorola, Nortel Networks, and Siemens filed specific cost data with a request that the data be treated as confidential material pursuant to section 0.459 of the Rules. Additionally, in response to a request of January 26, 1999, from the Commission's staff, on January 29, 1999, Alcatel filed additional cost data with a request that the data be treated as confidential material pursuant to section 0.459 of the Rules. Based on our review, we find that the requestors have complied with the provisions of section 0.459(a) that a copy of the request shall be attached to and cover all of the materials to which it applies and all copies of those materials, and with the provisions of section 0.459(b) that each request shall contain a statement of the reasons for withholding the materials from inspection and of the facts upon which those records are based. We further find that the material for which confidential treatment is sought contains detailed proprietary pricing estimates that, pursuant to section 0.457(d) of the Commission's Rules, constitute "trade secrets and commercial or financial information . . . and privileged or confidential categories of materials not routinely available for public inspection, 5 U.S.C. 552(b)(4) and 18 U.S.C. 1905." Therefore, we grant the requests to the extent they seek confidential treatment pursuant to the Commission's rules.

5. Finally, we recognize that while the Commission generally has not afforded confidential treatment to material submitted in rulemakings, granting confidential treatment under these unique circumstances will not deprive other interested parties of a meaningful opportunity to review and comment on the material. Specifically, we intend to aggregate the data, if possible, in a manner that does not reveal the confidential information so that we may release the aggregated data for public inspection and comment. In this respect, on January 26, 1999, the staff requested that each manufacturer supply clarifying information that will better enable us to aggregate the data supplied by them. The responses to the staff's request will also be accorded confidential treatment. In rendering our final decision, we intend to consider only the aggregated data and not the individual data provided by the manufacturers.

6. Accordingly, pursuant to section 0.459(d)(2) of the Commission's Rules, 47 CFR 0.459(d)(2) (1998), *it is ordered* that the requests for confidential treatment filed in this proceeding on December 14, 1998 by Alcatel Network Systems; Lucent Technologies Inc.; Motorola, Inc.; Northern Telecom Inc.; and Siemens Information and Communication Networks; and the request for confidential treatment filed in this proceeding on January 29, 1999 by Alcatel Network Systems *are granted* to the extent indicated.

7. A copy of the *Order* will be placed in the public file in lieu of the materials withheld from public inspection. Another copy will be forwarded to the General Counsel of the Commission.

List of Subjects in 47 CFR Part 0

Classified information, Reporting and recordkeeping requirements.

Federal Communications Commission.

Bruce A. Franca,

Deputy, Office of Engineering and Technology.

[FR Doc. 99-7631 Filed 3-26-99; 8:45 am]

BILLING CODE 6712-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 981202293-9075-02; I.D. 110998F]

RIN 0648-AJ33

Fisheries of the Northeastern United States; Amendment 7 to the Atlantic Sea Scallop Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues final regulations to implement Amendment 7 to the Fishery Management Plan (FMP) for the Atlantic Sea Scallop Fishery. Amendment 7 and these final regulations reduce the fishing mortality rate in the Atlantic sea scallop fishery to eliminate overfishing and to rebuild the biomass in accordance with the requirements of the Sustainable Fisheries Act. Amendment 7 and these final regulations will reduce substantially the level of fishing for Atlantic sea scallops in the exclusive economic zone (EEZ) through fishing year 2008 by revising the current fishing effort reduction schedule. The allowable days-at-sea (DAS) for Atlantic sea scallop vessels will be reduced significantly starting with fishing year 2000. A less severe reduction is proposed for fishing year 1999. In addition, Amendment 7 and these final regulations further modify the annual monitoring process, increase the types of management measures that would be put into effect through framework adjustments, and continue two Mid-Atlantic closed areas until March 1, 2001. The intent of Amendment 7 and these final regulations is to eliminate overfishing and to rebuild the stocks.

DATES: Effective April 28, 1999, except that amendments to § 648.14(a)(110) and (a)(111) and § 648.57 are effective March 27, 1999, through March 1, 2001.

ADDRESSES: Copies of Amendment 7, its regulatory impact review (RIR), final regulatory flexibility analysis (FRFA), the final supplemental environmental impact statement (FSEIS), and the supporting documents for Amendment 7 are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1036.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978-281-9273.

SUPPLEMENTARY INFORMATION:

Amendment 7 to the FMP was prepared by the New England Fishery Management Council (Council) in consultation with the Mid-Atlantic Fishery Management Council. A notice of availability for the proposed amendment was published on November 18, 1998 (63 FR 64032). The comment period on the amendment ended January 19, 1999. A proposed rule, requesting public comment, was published on December 18, 1998 (63 FR 70093) with a comment period ending date of January 29, 1999. A complete discussion of the measures appears in the proposed rule and is not repeated here.

Approved Management Measures

This amendment does the following: (1) Redefines overfishing; (2) revises the existing fishing mortality reduction schedule through fishing year 2008 to reduce the allowable DAS for Atlantic sea scallop vessels in order to rebuild the scallop stock within 10 years; (3) establishes an annual monitoring and review process to adjust management measures to meet the stock rebuilding objectives; (4) continues the Mid-Atlantic closed areas in order to protect high concentrations of juvenile scallops; and (5) adds the following management measures to be implemented and adjusted through framework adjustment: Closed areas, changes in the overfishing definition, size restrictions, aquaculture projects, and four DAS management options, including leasing DAS. The stock rebuilding schedule will set the allocation for fishing year 1999 at 120 DAS for full-time vessels. The allocation for fishing year 2000 is reduced to 51 DAS for full-time vessels and will remain low for the remainder of the 10-year rebuilding period. The intent of Amendment 7 is to eliminate overfishing and to rebuild the stock consistent with new requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Closed Areas

Under Amendment 7 and its implementing regulations, the two Mid-Atlantic area closures, which are currently in effect, will remain closed until March 1, 2001. These closures were implemented by interim rules (March 31, 1998, 63 FR 15324, and September 29, 1998, 63 FR 51862) to protect high concentrations of juvenile scallops, and are continued by this action. Fishers catching species other

than scallops will not be excluded from the closed areas.

Comments and Responses

Eleven comments were received on Amendment 7 and its proposed regulations. Specific comments and responses on Amendment 7 and its proposed regulations are provided here.

Comment: Several commenters supported implementation of Amendment 7.

Response: The comments have been noted, and the amendment is approved.

Comment: Enforcing closed areas without the requirement of a vessel monitoring system (VMS) is problematic.

Response: Except for vessels that have declared out of the scallop fishery for repair or maintenance, all limited access full-time and part-time scallop vessels are required to install a VMS. The VMS units must be fully operational at all times and must transmit a signal indicating a vessel's accurate position at least every hour, 24 hours a day, without interruption, throughout the year. NMFS agrees that the requirement of VMS is needed for effective enforcement of closed areas.

Comment: NMFS should refrain from implementing further DAS reductions for one or two seasons and allow scallopers to continue at 142 DAS while plans for a vessel buyout are finalized.

Response: Under the baseline or status quo alternative, the DAS for full-time vessels would have been reduced from 142 to 80 for fishing year 1999-2000 in accordance with the fishing mortality reduction program established under Amendment 4 in 1994. To minimize the economic impacts of reduced DAS and still comply with the statutory requirements of the Magnuson-Stevens Act (rebuilding period be as short as possible), Amendment 7 contains an intermediate schedule in the first year of the rebuilding schedule that provides full-time scallop vessels with 120 DAS, a measure that would reduce the first year impacts on small entities compared to any of the other alternatives considered. This intermediate DAS allotment during the first year is designed to allow the Council to develop rotational scallop closed areas and the industry to develop a vessel buyback program while assuring that the overfished scallop stocks are rebuilt within 10 years. If scallopers were allowed to continue at 142 DAS for one or two additional fishing seasons as suggested by the commenter, overfishing of the resource would continue and the statutory requirements of the Magnuson-Stevens

Act to rebuild the stock in as short a period as possible would not be met.

Comment: (1) Amendment 7 is illegally driven by economic and social factors, and (2) the commenter is opposed to reopening multispecies Closed Area I and Closed Area II because of the impact scallop dredges will have on the habitat and on displaced hook fishers.

Response: Amendment 7 is not illegally driven by economic and social factors. National standard 8 requires consideration of the needs of fishing communities in order to provide for sustained participation of such communities, and to the extent practicable, minimize adverse economic impacts on such communities when considering conservation and management measures. This Amendment does not propose reopening the groundfish closed areas to scallop fishing, but merely provides a mechanism to do so via framework action.

Comment: Amendment 7 allows overfishing to continue for the first several years and assumes that multispecies Closed Area II will reopen without analyzing its impacts on the environment and essential fish habitat and by minimizing bycatch.

Response: Amendment 7 is consistent with Magnuson-Stevens Act and complies with the National Standard Guidelines (63 FR 24212, May 1, 1998) that allows consideration of the needs of fishing communities when adjusting the rebuilding period up to 10 years. Although the fishing mortality rate (F) reduction schedule specifies rates that exceed the recommended proxy reference point for a maximum mortality rate threshold of 0.24 for years 1999 to 2001, the F reduction schedule meets the 10-year stock rebuilding objective. The reductions in F under this amendment's rebuilding schedule are more pronounced than the status quo rebuilding schedule in all years except 1999.

This rule implements the basic elements of a system for opening and closing geographic areas that could be accomplished as part of the annual FMP monitoring and adjustment process. Amendment 7 does not assume that reopening of closed areas to scallop fishing will occur, but recognizes that such an action could occur. Amendment 7 does not specify specific openings or closures. Such openings and closures will need to be consistent with the F reduction schedule of this amendment, the national standards, including those regarding essential fish habitat and bycatch and the National Environmental Policy Act.

Comment: Amendment 7 focuses on depleted scallop beds and not on the Georges Bank closed areas. The commenter asserts the scallop fishery is not overfished.

Response: The management unit of the Atlantic Sea Scallop FMP consists of all populations of sea scallops throughout its range, including the area from the shoreline to the Northeast Peak of Georges Bank. Recent estimates of biomass on Georges Bank and in the Mid-Atlantic indicate that biomass is 17 and 11 percent of B_{max} values for those areas, respectively. The B_{max} values are proxies for B_{msy} . Minimally, $\frac{1}{4} B_{max}$ (i.e., 25 percent B_{max}) needs to be reached before an overfished condition for sea scallops is eliminated in these resource management areas. The intent of Amendment 7 is to eliminate overfishing and to rebuild the stock for the overall scallop resource consistent with new requirements of the Magnuson-Stevens Act. The current F is 1.05 in the Mid-Atlantic, 0.51 on Georges Bank, and 0.94 for the overall scallop resource. The F to reduce overfishing and rebuild biomass in accordance with the Magnuson-Stevens Act requirements is currently estimated at 0.24 for the overall scallop resource.

Comment: Amendment 7 invokes a policy that has takings implications as set out in Executive Order (E.O.) 12630 and does not compensate for the takings.

Response: The Magnuson-Stevens Act at section 303(d) clearly provides that a limited access system shall not confer any right of compensation to the holder of such individual fishing quota or other such limited access system authorization if it is revoked or limited, and shall not create, or be construed to create, any right, title, or interest in or to any fish before the fish is harvested." Amendment 4 changed the primary management strategy from a meat count (size) control management system to a DAS effort control program for all resource areas. It neither assigns any right of compensation, nor creates any right or title to or interest in the scallop resource. Amendment 7 adjusts the DAS reductions schedule to be consistent with new requirements of the Magnuson-Stevens Act. Therefore, the measures in Amendment 7 do not constitute takings for which compensation may be sought.

Comment: Amendment 7 does not comply with E.O. 12866 to maximize net benefits.

Response: E.O. 12866 states that agencies should assess all costs and benefits of available regulatory alternatives. Further, in choosing among regulatory alternatives, E.O. 12866

directs agencies to select the regulatory approach that maximizes net-benefits, including economic and environmental advantages, unless a statute requires another approach.

Amendment 7 is expected to produce a discounted net benefit of \$53 million over the next 20 years. The net benefits are higher under Amendment 7 and the 7-year rebuilding period, compared to those under the 10-year rebuilding period. The 7-year option rebuilds stocks faster because it results in higher landings and landings per DAS in a shorter period compared to the 10-year option. However, the gradual reduction in effort under Amendment 7 from 142 DAS in 1998 to 120 DAS in 1999 for full-time vessels was adopted to mitigate the near-term social and economic costs for the scallop industry. Fleet revenues would decline by 61 percent in 1999 if the 7-year rebuilding schedule were adopted, compared to the 45 percent under Amendment 7 (Table 8.3.2 to Amendment 7, Vol I, sec. 8.3). Such a sharp reduction in annual fleet revenues would increase unemployment and the likelihood of vessel bankruptcies. Nevertheless, higher economic benefits from an accelerated fishing reduction program will occur during the latter stages of the 10-year rebuilding period.

Comment: Amendment 7 does not impose the least burden on society.

Response: To minimize the economic impacts of reduced DAS and still comply with the statutory requirements of national standard 1 (rebuilding period be as short as possible), Amendment 7 contains an intermediate schedule in year one of the rebuilding schedule that provides full-time scallop vessels with 120 DAS. This measure will reduce the first year impacts on small entities compared to any of the other alternatives considered. This intermediate DAS allotment in year one of the rebuilding schedule is designed to allow further consideration of measures by the Council to develop rotational fishing in areas closed to scallop fishing and provide time for the industry to develop a vessel buyback program, while assuring that the overfished scallop stocks are rebuilt within 10 years.

Comment: Amendment 7 has no RIR that describes the impact of management measures on small entities.

Response: Supplement 1 to the Amendment 7 FMP contains the RIR, including Initial Regulatory Flexibility Analysis (IRFA). The IRFA discusses the impact for small businesses in the scallop fishery of both the proposed action and alternative management options.

Comment: NMFS may not have fulfilled its obligations under the Regulatory Flexibility Act to consider significant alternatives to the proposed rule.

Response: The Council considered three alternatives that would meet the objectives to end overfishing and to rebuild the stock within a 10-year period. In response to comments, the Council chose an intermediate option that blended an ambitious rebuilding schedule in years 2 through 10 of the plan with a less onerous first-year implementation. A 10-year maximum rebuilding time frame mandated by the Magnuson-Stevens Act, as well as the low abundance of sea scallops, limits the number and range of possible rebuilding schedules and the resultant management measures that can be considered. The current suite of management measures in place for scallops relies on limitations of DAS to reduce fishing mortality. Proposed management alternatives, therefore, were limited to various schedules of DAS reductions to fishing mortality reductions. The status quo, a 10-year rebuilding schedule, and a 7-year rebuilding schedule are the alternatives considered to rebuild the stock.

Comment: Choosing an alternative that will reduce the DAS from 120 to 51 will be detrimental to small fishing businesses such as those in New Bedford, Massachusetts and might violate national standard 8 of the Magnuson-Stevens Act. NMFS should address an alternative to reopen the closed areas of Georges Bank.

Response: In approving Amendment 7, NMFS determined the amendment complied with each of the national standards. In making this determination, NMFS must take into account, among other things, the importance of fishery resources to affected fishing communities while at the same time ensuring that the conservation requirements and goals of the FMP are not compromised. The primary conservation goal of Amendment 7 is to rebuild the overfished stock of sea scallops within a 10-year rebuilding period, as required by the Magnuson-Stevens Act. Nevertheless the Council adopted and NMFS approved a rebuilding plan that only reduces the available DAS for vessels by a small amount in the first year, in the hope that a buyback program may be implemented soon and some reopening of portions of closed areas occur after sufficient analysis of effects of such an action are known. By reducing available DAS in the first year by a small amount and allowing for the possibility of a buyback program or area reopening to scallop

vessels, Amendment 7 seeks to meet the conservation goal in a way that reduces the impact on fishing communities. To include a specific reopening of portions of closed areas in Amendment 7 would have required the Council to consider the effects that these openings would have on scallop fishing mortality rates, bycatch of juvenile groundfish, effects on bottom habitat, and possible gear conflicts between mobile and fixed gear. During the development of Amendment 7, there was not enough data available to support the reopening of the closed areas, and the Council was working under a statutory requirement of the Magnuson-Stevens Act to submit a rebuilding plan for sea scallops by September 30, 1997. Subsequently, any reopening of closed areas would have been contrary to national standards 1 and 9.

NMFS worked with researchers from the Center for Marine Science and Technology of the University of Massachusetts Dartmouth and the Virginia Institute of Marine Science on a collaborative experimental fishery in Closed Area II of Georges Bank. The experimental fishery evaluates, on a limited basis, areas of abundance of sea scallops (in number and size), rates of bycatch of groundfish, and habitat considerations. The experimental fishery was conducted from August 28, 1998, through October 5, 1998. Therefore, the results were not available to the Council to consider as an alternative in Amendment 7. However, Amendment 7 contains a framework measure that would expedite future action by the Council to open the closed areas and establish new closed areas once the experimental fishery results are analyzed. To gain access to closed areas as soon as possible, the Council is now considering options for framework actions (for both the Atlantic Sea Scallop and Northeast Multispecies FMPs) to reopen to scallop fishing portions of some areas closed to fishing for groundfish protection. If approved, such framework actions might become effective as early as mid-1999. These framework actions would be followed by a more comprehensive FMP amendment to fully employ a rotational harvest strategy.

Comment: DAS reductions scheduled for year 2000 and thereafter should not be implemented but be replaced by an area management system.

Response: Replacing the DAS reductions scheduled for year 2000 and thereafter with an area management system goes beyond the scope of the management measures analyzed in Amendment 7. The Magnuson-Stevens Act requires that amendments or

proposed rules specify a time period for ending overfishing that shall be as short as possible and not exceed 10 years, except in cases where the biology of the stock of fish, other environmental conditions, or international management measures dictate otherwise. Furthermore, the low abundance of sea scallops limits the range of management measures. DAS is a useful management tool to control overall effort on the sea scallops stock, whereas, area openings and closures would assist in attaining B_{max} goals for the two different important management areas: Georges Bank and the Mid-Atlantic. The status quo, a 10-year rebuilding schedule, and a 7-year rebuilding schedule were the alternatives considered to rebuild the stock using an annual DAS schedule and an annual F schedule for the entire stock. As explained in the previous response to a comment, the Council is considering framework action to allow access to portions of Closed Area II (through both the Atlantic Sea Scallop and Northeast Multispecies Fishery Management Plans). If approved, these framework actions are likely to be in effect sometime this summer, followed by amendments to both FMPs to address a rotational harvest strategy for scallops and protection for groundfish and habitat.

Comment: The 1-year 120 DAS transitional period contained in Amendment 7 should be implemented before the Amendment's rebuilding provisions are fully implemented. The framework adjustment authority to develop rotational area management for the scallop fishery is a good management approach.

Response: The comments have been noted, and the 1-year 120 DAS transitional period and authority to reopen closed areas under frameworking are approved.

Classification

The Regional Administrator, Northeast Region, NMFS, determined that the amendment is necessary for the conservation and management of the Atlantic sea scallop fishery and that it is consistent with the Magnuson-Stevens Act and other applicable laws.

The two Mid-Atlantic area closures expire on March 26, 1999. Uninterrupted protection of sea scallops in these areas is essential for replenishment of a large number of sea scallops in the Mid-Atlantic with a high reproductive potential in the near future. Hence, it is not practical to delay the effectiveness beyond March 26, 1999. Accordingly, the Assistant Administrator for Fisheries, NOAA,

under 5 U.S.C. 553(d)(3), finds good cause to waive part of the 30-day delayed effectiveness period with respect to these closed areas so that they remain closed after March 26, 1999, without interruption. This waiver of the delayed effectiveness period does not apply to the additional measures under Amendment 7, which are effective April 28, 1999.

The Council prepared an FSEIS for this action; a notice of availability for the FSEIS was published on December 24, 1998 (63 FR 71285). The action will substantially reduce the level of fishing in the Atlantic sea scallop fishery in the EEZ.

This final rule has been determined to be significant for purposes of E.O. 12866.

To comply with the requirements of the RFA, the Council prepared an IRFA that describes the impact this proposed rule, if adopted, would have on small entities. The Council initially considered three alternatives: (1) A baseline or status quo alternative based upon management measures implemented under Amendment 4 to the FMP, (2) a 7-year rebuilding plan, and (3) a 10-year rebuilding plan. After receiving comments on the Draft Environmental Impact Statement for Amendment 7, the Council decided to add a new option as its preferred alternative that would still have an ambitious rebuilding schedule in years 2 through 10 of the plan but not in year one compared to the 7 and 10-year rebuilding plan. Under the baseline or status quo alternative, the DAS for full-time vessels would have been reduced from 142 in this current fishing year to 80 in year one of the plan to comply with Amendment 4. Instead, under the preferred alternative, the DAS for full-time vessels would be 120 in year one, a measure that would reduce the first year impacts on small entities compared to any of the other alternatives considered. The Council hopes that this will allow enough time for a buyout plan to be implemented for some vessels wishing to leave the sea scallop fishery (i.e., the total DAS available to the fishery would be divided among fewer vessels beginning in March 2000). Also, during the first year of effectiveness of the preferred alternative, enough data might be collected in areas currently closed to harvest of groundfish and sea scallops to allow for some rotational, seasonal openings of these areas to harvest scallops. This approach is designed to minimize economic impacts on small entities, especially in the first year that the Amendment is effective. Recognizing the limitations on implementing the Council's

recommendations under the Magnuson-Stevens Act, NMFS sought comments on these alternatives and on any others that may achieve the objectives of the rulemaking while minimizing its economic impact on small entities.

The proposed action would reduce the overall scallop revenues of the fleet by approximately 38 percent in the year 2000 (compared to the baseline) and by approximately 10 percent in the year 2007. A change in DAS is assumed to reduce a vessel's landings almost in the same proportion. Ex-vessel prices may increase to some extent as landings decrease. Of the full-time vessels, 184 of the 197 vessels derived more than 60 percent of their income from scallops in 1997. Of the 31 part-time vessels, 23 derived at least 31 percent of their income from scallops in 1997.

In the 1997 fishing year, there were only 26 vessels with limited access occasional permits, and only 5 of these vessels landed any scallops. These vessels did not have much dependence on the scallop fishery and derived less than 5 percent of their revenues from scallops. Therefore, this final rule is not expected to significantly affect occasional scallop permit holders except that in 1999, more than 2 percent of the full-time vessels may be forced to cease operations each year from the years 2000 through 2007.

With the exception of the running clock provision, the Monkfish FMP was approved by the Secretary of Commerce

on March 3, 1999. The proposed rule to implement the Monkfish FMP was published in the **Federal Register** on February 16, 1999 (64 FR 7601). The comment period on the proposed rule ends March 26, 1999. Under the Monkfish FMP, scallop vessels will be restricted to landing their monkfish while using their scallop DAS. The percentage of total annual revenues from monkfish landed while not on scallop trips is 8.3 percent for full-time dredges, 7.9 percent for part-time dredges, and 0.2 percent for occasional dredges. The percent of total annual revenues for scallop trawlers is 12 percent for full-time vessels, 4 percent for part-time vessels and 6.1 percent for occasional vessels).

A copy of the IRFA analysis is available from the Council (see ADDRESSES). The Final Regulatory Flexibility Analysis incorporates the IRFA and its findings, and the responses to public comments that mentioned possible effects of Amendment 7 on small entities.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 24, 1999.

Andrew A. Rosenberg,
Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.14, paragraphs (a)(110) and (a)(111) are added to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(110) Fish for, possess or retain sea scallops in or from the areas described in § 648.57.

(111) Transit or be in the areas described in § 648.57 with scallop gear that is not properly stowed as required in § 648.57 or a preponderance of the evidence of record shows there was a compelling safety reason.

* * * * *

3. In § 648.53, paragraph (b) is amended by revising the last sentence and the table to read as follows:

§ 648.53 DAS allocations.

* * * * *

(b) *DAS allocations.* * * * The annual allocations of DAS for each category of vessel for the fishing years indicated are as follows:

DAS category	1999–2000	2000–2001	2001–2002	2002–2003	2003–2004	2004–2005	2005–2006	2006–2007	2007–2008	2008+
Full-time	120	51	49	46	45	34	35	38	36	60
Part-time	48	20	19	18	18	14	14	15	17	24
Occasional	10	4	4	4	4	3	3	3	4	5

* * * * *

4. In § 648.55, revise paragraph (a) and the first sentence of paragraph (b); redesignate paragraph (h) as paragraph (j) and paragraphs (c) through (g) as paragraphs (d) through (h), respectively; add new paragraph (c); redesignate newly redesignated paragraph (d)(12) as paragraph (d)(21); add new paragraphs (d)(12) through (d)(20), and add new paragraph (i) to read as follows:

§ 648.55 Framework specifications.

(a) Annually, or upon a request from the NEFMC, the Regional Administrator will provide the NEFMC with information on the status of the scallop resource.

(b) Within 60 days of receipt of that information, the NEFMC PDT shall assess the condition of the scallop resource to determine the adequacy of

the total allowable DAS reduction schedule, described in § 648.53(b), and of other management measures to achieve the stock-rebuilding objectives.

* * *

(c) Based on this review, the NEFMC PDT shall recommend total allowable DAS reduction schedules and develop options necessary to achieve the FMP goals and objectives, which may include a preferred option. The NEFMC PDT must demonstrate through analysis and documentation that the options it develops are expected to meet the Scallop FMP goals and objectives. The range of options developed by the NEFMC PDT may include any of the management measures in the Scallop FMP, including, but not limited to the categories described in § 648.53(d).

(d) * * *

(12) Modifications to the overfishing definition.

(13) VMS Demarcation Line for DAS monitoring.

(14) DAS allocations by gear type.

(15) Temporary leasing of scallop DAS requiring full public hearings.

(16) Scallop size restrictions, except a minimum size or weight of individual scallop meats in the catch.

(17) Aquaculture enhancement measures and closures.

(18) Closed areas to lessen the amount of DAS reductions.

(19) Closed areas to increase the size of scallops caught.

(20) Modifications to the opening dates of closed areas.

* * * * *

(i) If the Regional Administrator concurs in the NEFMC's recommendation, a final rule shall be

published in the **Federal Register** on or about February 1 of each year. If the NEFMC fails to submit a recommendation to the Regional Administrator by December 1 that meets the FMP goals and objectives, the Regional Administrator may publish as a proposed rule one of the options reviewed and not rejected by the NEFMC, provided that the option meets the FMP objective and is consistent with other applicable law. If, after considering public comment, the Regional Administrator decides to approve the option published as a

proposed rule, the action will be published as a final rule in the **Federal Register**.

* * * * *

5. Section 648.57 is added to read as follows:

§ 648.57 Closed areas.

(a) *Hudson Canyon South Closed Area.* Through March 1, 2001, no vessel may fish for, possess, or retain sea scallops in or from the area known as the Hudson Canyon South Closed Area (copies of a chart depicting this area are available from the Regional

Administrator upon request) unless all gear on board is properly stowed and not available for immediate use in accordance with the provisions of §§ 648.23(b) and 648.81(e). Further, vessels not fishing in the scallop DAS program and fishing for species other than scallops or not in possession of scallops in this area must stow scallop dredge gear in accordance with the provisions of §§ 648.23(b) and 648.81(e). The Hudson Canyon South Closed Area is defined by straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
H1	39 30' N.	73 10' W.
H2	39 30' N.	72 30' W.
H3	38 30' N.	73 30' W.
H4	38 40' N.	73 50' W.

(b) *Virginia Beach Closed Area.* Through March 1, 2001, no vessel may fish for, possess, or retain sea scallops in or from the area known as the Virginia Beach Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon

request) unless all gear on board is properly stowed and not available for immediate use in accordance with the provisions of §§ 648.23(b) and 648.81(e). Further, vessels not fishing in the scallop DAS program and fishing for species other than scallops or not in

possession of scallops in this area must stow scallop dredge gear in accordance with the provisions of §§ 648.23(b) and 648.81(e). The Virginia Beach Closed Area is defined by straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
V1	37 00' N.	74 55' W.
V2	37 00' N.	74 35' W.
V3	36 25' N.	74 45' W.
V4	36 25' N.	74 55' W.

[FR Doc. 99-7624 Filed 3-24-99; 3:25 pm]
BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062-9062-01; I.D. 032399C]

Fisheries of the Economic Exclusive Zone Off Alaska; Deep-water Species Fishery by Vessels using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for species that comprise the deep-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary because the first seasonal apportionment of the

1999 Pacific halibut bycatch allowance specified to the deep-water species fishery in the GOA has been caught.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 24, 1999, until 1200 hrs, A.l.t., April 1, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907-586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) established the Pacific halibut bycatch allowance for the GOA trawl deep-water species fishery, which is defined at § 679.21(d)(3)(iii)(B), for the first season,

the period January 20, 1999, through March 31, 1999, as 100 metric tons.

In accordance with § 679.21(d)(7)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the first seasonal apportionment of the 1999 Pacific halibut bycatch allowance specified for the trawl deep-water species fishery in the GOA has been caught. Consequently, NMFS is prohibiting directed fishing for the deep-water species fishery by vessels using trawl gear in the GOA. The species and species groups that comprise the deep-water species fishery are: All rockfish of the genera *Sebastes* and *Sebastolobus*, deep-water flatfish, rex sole, arrowtooth flounder, and sablefish.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the first seasonal