

address." A sample form and directions will be sent in reply.

21. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW-A325, Washington, D.C. 20554.

22. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Terry Johnson, Office of Managing Director, Federal Communications Commission, 445 12th St., SW, Room 1-C807, Washington, D.C. 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labelled with the commenter's name, proceeding (including the lead docket number in this case MD Docket No. 98-200, type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy—Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW, Washington, DC 20037.

23. Documents filed in this proceeding will be available for public inspection during regular business hours in the FCC Reference Center, of the Federal Communications Commission, Room 239, 1919 M Street, NW, Washington, D C 20554, and will be placed on the Commission's Internet site.

#### b. *Ex Parte* Rules

24. This is an *NOI* which is exempt from the *ex parte* rules, and presentations to or from Commission decision making personnel are permissible and need not be disclosed.<sup>26</sup>

#### c. Authority and Further Information

25. Authority for this proceeding is contained in sections 4(i) and (j), 9, and 303(r) of the Communications Act of

1934, as amended, 47 U.S.C. 154(i)—(j), 159, and 303(r). It is ordered that this *NOI* is adopted.

26. Further information about this proceeding may be obtained by contacting the Fees Hotline at (202) 418-0192, or you may e-mail your questions to mcontee@fcc.gov.

Federal Communications Commission.

**Magalie Roman Salas,**

*Secretary.*

[FR Doc. 98-33564 Filed 12-17-98; 8:45 am]

BILLING CODE 6712-01-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

[I.D. 120998C]

RIN 0648-AK31

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 16A

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

**ACTION:** Notice of availability of an amendment to a fishery management plan; request for comments.

**SUMMARY:** NMFS announces that the Gulf of Mexico Fishery Management Council (Council) has submitted Amendment 16A to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) for review, approval, and implementation by NMFS. Written comments are requested from the public.

**DATES:** Written comments must be received on or before February 16, 1999. **ADDRESSES:** Comments must be mailed to the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Requests for copies of Amendment 16A, which includes an environmental assessment, a regulatory impact review, and an initial regulatory flexibility analysis, should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619-2266, Phone: 813-228-2815; Fax: 813-225-7015.

**FOR FURTHER INFORMATION CONTACT:** Robert Sadler, 727-570-5305.

**SUPPLEMENTARY INFORMATION:** The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was

prepared by the Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Amendment 16A would prohibit the use of fish traps in the exclusive economic zone of the Gulf of Mexico south of 25°03' N. lat. after February 7, 2001; prohibit possession of reef fish exhibiting trap rash on board a vessel that does not have a valid fish trap endorsement; and require fish trap vessel owners or operators to provide trip initiation and trip termination reports and to comply with a vessel/gear inspection requirement. In addition, Amendment 16A proposes that NMFS develop a system design, protocol, and implementation schedule for a fish trap vessel monitoring system.

#### Availability of and Comments on Amendment 16A

NMFS has prepared a proposed rule to implement Amendment 16A. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule and may publish it in the **Federal Register** for public review and comment.

Comments received by February 16, 1999, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 16A. Comments received after that date will not be considered in the approval/disapproval decision. All comments received on Amendment 16A or on the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: December 15, 1998.

**Gary C. Matlock,**

*Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

[FR Doc. 98-33603 Filed 12-17-98; 8:45 am]

BILLING CODE 3510-22-F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. ; 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

<sup>26</sup> 47 CFR 1.204(b)(1).

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed rule, request for comments.

**SUMMARY:** NMFS proposes regulations to implement proposed Amendment 7 to the Fishery Management Plan (FMP) for the Atlantic Sea Scallop Fishery. Amendment 7 and these proposed regulations would reduce the fishing mortality rate in the Atlantic sea scallop fishery to eliminate overfishing and rebuild the biomass in accordance with the requirements of the Sustainable Fisheries Act (SFA). Amendment 7 and these proposed regulations would substantially reduce the level of fishing for Atlantic sea scallops in the exclusive economic zone (EEZ) through fishing year 2008 by revising the fishing effort reduction schedule presently in effect by significantly reducing the allowable days-at-sea (DAS) for Atlantic sea scallop vessels starting with fishing year 2000. A less severe reduction is proposed for fishing year 1999. In addition, Amendment 7 and these proposed regulations would implement an 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 proposed regulations is to eliminate overfishing and rebuild the stocks.

**DATES:** Comments must be received on or before January 29, 1999.

**ADDRESSES:** Comments on this proposed rule should be sent to Jon C. Ratters, Acting Regional Administrator, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Proposed Rule for Amendment 7."

Copies of Amendment 7, its regulatory impact review (RIR), initial regulatory flexibility analysis (IRFA), 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, Sausalito, MA 01906-1036.

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

**SUPPLEMENTARY INFORMATION:**

**Proposed Management Measures**

Amendment 7 to the FMP was prepared by the New England Fishery Management Council (Council). A notice of availability for the proposed amendment was published in the

**Federal Register** on November 18, 1998 (63 FR 64032). The amendment would: (1) Redefine overfishing; (2) revise 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) establish an annual monitoring and review process to adjust management measures to meet the stock rebuilding objectives; (4) continue the Mid-Atlantic closed areas in order to protect high concentrations of juvenile scallops; and (5) allow 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 most contentious feature of Amendment 7 is the proposed stock rebuilding schedule that would set the allocation for fishing year 1999 at 120 DAS. Under the existing schedule, DAS would be 108 days for fishing year 1999. The allocation for fishing year 2000 would be reduced to 51 DAS and would remain low for the remainder of the 10-year rebuilding period. The intent of Amendment 7 is to eliminate overfishing and rebuild the stock consistent with new requirements of the Magnuson-Stevens Act. Amendment 4 was implemented in 1994 and included restrictions on DAS that were to be phased in over a 7-year rebuilding period as the primary means of achieving fishing mortality reductions. In 1997, the Council's Plan Development Team (PDT) evaluated the current FMP's effectiveness in achieving the target fishing mortality rate. The PDT concluded that further reductions in DAS (to 80 DAS) than originally scheduled (to 108 days) would be necessary for the 1998 - 1999 fishing years. The Council voted against the PDT recommendation to reduce DAS and proposed an interim action to close two Mid-Atlantic areas until March 26, 1999. These closures serve to protect concentrations of juvenile scallops in order to achieve spawning stock biomass targets.

The current fishing mortality rate is 1.05 in the Mid-Atlantic, 0.51 on Georges Bank, and 0.94 for the overall scallop resource. The recommended fishing mortality rate to reduce overfishing and rebuild biomass in accordance with the SFA requirements is currently estimated at 0.24 for the resource.

To achieve the necessary mortality rate reductions, proposed Amendment 7 would continue reduction of fishing effort through significant reductions in

DAS. For fishing year 1999 (which begins on March 1, 1999), DAS would be set at 120 for full-time, 48 for part-time, and 10 for occasional vessels.

The 120 DAS for fishing year 1999 is greater than the PDT's 1997 estimation of the DAS that would be needed to achieve the target mortality rate levels previously set by Amendment 4 (80 DAS). The Council decided to propose an intermediate level of 120 DAS for fishing year 1999 in order to minimize adverse social and economic impacts on the scallop fleet during the first year of the revised schedule, to allow the Council to further develop and consider rotational scallop closed areas, and to allow industry and the Council time to develop a vessel buyback program. Setting the DAS level at an intermediate level in the first year, means greater reductions in DAS during years 2-10. In year two, beginning on March 1, 2000, DAS would be reduced to 51 for full-time vessels and proportionately for the other categories. DAS are projected to remain below this level until year 10 of the program (2008). Annual monitoring and adjustment would allow increases in the DAS allocated if mortality and biomass levels needed to achieve a 10-year rebuilding schedule were attained.

If the effective date of the final rule implementing Amendment 7 falls after the start of the fishing year on March 1, 1999, fishing may continue. However, DAS used by a vessel on or after March 1, 1999, will be counted against any DAS allocation the vessel ultimately receives for the fishing year beginning March 1, 1999, through February 29, 2000.

Amendment 7 would redefine overfishing to mean:

If stock biomass is equal to or greater than MSY, as measured by the NMFS sea scallop survey weight per tow index of sea scallops age 3 and older, overfishing occurs when fishing mortality exceeds MSY, currently estimated at 0.24. If stock biomass is below MSY, overfishing occurs when fishing mortality exceeds the level that has a 50-percent probability to rebuild stock biomass to MSY in 10 years. The stock is in an overfished condition when stock biomass is below 1/4 MSY, and overfishing occurs when fishing mortality is above zero.

Amendment 7 would continue the Virginia Beach and Hudson Canyon scallop closures until March 1, 2001, originally closed on an interim basis from April 3, 1998, through September 27, 1998 (63 FR 15324, March 31, 1998), and extended again on September 28, 1998, through March 26, 1999 (63 FR 51862, September 29, 1998). The intent of this action is to afford continued protection to the resource by protecting high concentrations of 4-year-old

scallops. The benefits of these two closures will be evident through a more balanced age structure of the scallop stock. Also, significant reductions in fishing mortality and increases in yield per recruit are possible from the relatively small closures. Fishers pursuing species other than scallops will not be excluded from the closed areas.

Amendment 7 proposes an annual review by the Scallop PDT to evaluate the condition of the scallop resource and the effectiveness of the measures in achieving the stock-rebuilding objectives. The second review process scheduled for 1999 specified by Amendment 4 would be eliminated. In addition, the following framework measures are proposed: (1) Modifications to the overfishing definition; (2) leasing of DAS (provided that the Council holds a full set of public hearings); (3) scallop size restrictions; (4) approval of aquaculture projects; (4) modifications to Mid-Atlantic closed areas; (5) modifications to the demarcation line for DAS monitoring; (6) allocate DAS according to gear type; (7) implement closed areas to lessen DAS reductions; and (8) implement closed areas to increase scallop size.

#### Classification

At this time, NMFS has not determined that the amendment that this rule would implement is consistent with the Magnuson-Stevens Act and with other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared a FSEIS for the amendment; a notice of availability for the Draft EIS was published on June 26, 1998 (63 FR 34871). The proposed action will substantially reduce the level of fishing in the Atlantic sea scallop fishery in the EEZ.

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

To comply with the requirements of the Regulatory Flexibility Act (SFA), 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 DEIS 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 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 less 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 seeks comments on these alternatives and 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 about 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, the proposed regulations are not expected to significantly affect occasional scallop

permit holders. Except 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.

If the draft Monkfish FMP is approved and implemented about the same time as Amendment 7 to the Atlantic Sea Scallops 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. For scallop trawlers it is 12 percent, 2 percent for full-time vessels, 4 percent for part-time vessels and 6.1 percent for occasional vessels. A copy of this analysis is available from the Council (see ADDRESSES).

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: December 14, 1998.

**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 proposed to be 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. Section 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.

\* \* \* \* \*

3. Section 648.53 is amended by revising the last sentence and chart of paragraph (b) 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–<br>2000 | 2000–<br>2001 | 2001–<br>2002 | 2002–<br>2003 | 2003–<br>2004 | 2004–<br>2005 | 2005–<br>2006 | 2006–<br>2007 | 2007–<br>2008 | 2008–<br>+ |
|------------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------------|
| 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), redesignate paragraphs (c) through (g) as (d) through (h), add new paragraph (c), in redesignated paragraph (d), further redesignate paragraph (d)(12) as (d)(21) and 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 request from the NEFMC, the Regional Administrator will provide 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 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 revised 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 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. 98–33483 Filed 12–15–98; 10:39 am]

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