

March 29, 1999) redefined overfishing and revised the annual fishing mortality rate (F) reduction schedule through fishing year 2008. The FMP currently specifies that the DAS allocated for the 2003 fishing year will be 45, 18, and 4 DAS for full-time, part-time, and occasional scallop vessels, respectively. Amendment 7 included the annual DAS allocations projected to be necessary to rebuild the stock within 10 years. DAS for the 2003 fishery were intended to achieve an F target of $F=0.22$. The reductions in F and associated sea scallop DAS schedule were intended to rebuild the sea scallop stock within 10 years. Amendment 7 also established an annual monitoring and review process to adjust management measures to meet the stock rebuilding objectives as conditions in the resource change. Finally, Amendment 7 established two closed areas, the Hudson Canyon and Virginia Beach Closed Areas, in the Mid-Atlantic to protect large concentrations of small scallops. In May of 2001, the Hudson Canyon and Virginia Beach Closed Areas were re-opened to controlled scallop fishing under Framework 14 to the FMP (66 FR 21639, May 1, 2001; 66 FR 24052, May 11, 2001 (republishing); and 66 FR 457784, August 30, 2001 (correction)) because the scallops in the areas had increased in size and the resource abundance had improved. Framework 14 established measures to control fishing in the areas through February, 2003.

Since the implementation of Amendment 7 in 1998, scallop biomass has increased by nearly five times, and the stock as a whole is at or near the biomass target. The most recent stock assessment was completed in April 2001 through the 32nd Northeast Regional Stock Assessment Workshop (SAW 32). SAW 32 found that neither stock area (Georges Bank and Mid-Atlantic) was overfished, with biomass in both areas above or near the biomass targets. SAW 32 found F on Georges Bank to be 0.14 in 1999, well below the overfishing threshold of $F=0.24$, so overfishing was not occurring. In the Mid-Atlantic, SAW 32 found that F was 0.43 in 1999, so overfishing was still occurring in that stock area. Although no formal updates of the status of the scallop resource have been completed, projections completed for Framework 15 indicate that the resource will continue to exceed biomass targets.

Under the existing regulations, the Area Access Program will expire on February 28, 2003. These areas were initially closed in 1998 to protect concentrations of juvenile scallops, which have since grown to harvestable

size. For the past 2 fishing years, fishing has been allowed within those areas under the Area Access Program established by Framework 14. If the Area Access Program expires, there would be uncontrolled fishing within those areas. This rule proposes to maintain controls on effort and catch that would prevent scallops in the areas from being overfished while at the same time creating a sufficient incentive to fish in these areas in order to alleviate effort on other scallop areas.

Because of the increases in stock biomass, Framework 15 estimates that the number of DAS currently specified for fishing year 2003 (i.e., 45, 18, and 4 DAS for full-time, part-time, and occasional vessels, respectively) would result in an F of 0.091, which is significantly lower than the FMP's target F. Fishing at this level would not achieve optimum yield and would result in negative economic impacts on the industry. The proposed DAS allocation under Framework 15 is more consistent with the F target, and would prevent economic losses for some vessels that would result from lower DAS allocations. The F is projected to be approximately 0.155 for the resource overall under the proposed action. While projections indicate that the proposed DAS allocations would allow overexploitation of scallops in the open portions of the Mid-Atlantic and Georges Bank to continue ($F=0.35$ to 0.39), they also show that the fishery overall would not exceed its F target of $F=0.22$, due in part to continued large concentrations of scallops in the Georges Bank groundfish closed areas.

Proposed Measures

This action would implement an annual DAS allocation of 120, 48, and 10 DAS for full-time, part-time, and occasional vessels, respectively, for the 2003 fishing year. This would represent an increase over the DAS allocations that would otherwise become effective March 1, 2003 (i.e., 45 full-time, 18 part-time, and 4 occasional). The 120, 48, and 10 DAS allocations have been in place each year since 1999, due to better conditions in the scallop resource than were anticipated in Amendment 7.

Framework 15 would continue the Area Access Program that was implemented under Framework 14 while leaving in place extensive closures under the Northeast Multispecies FMP in other highly abundant scallop grounds. The continued Area Access Program would allow controlled scallop fishing in the Hudson Canyon and Virginia Beach Sea Scallop Access Areas. Vessels would be prohibited from fishing for scallops in

the Sea Scallop Access Areas unless they are fishing under the Area Access Program. The intent of the Area Access Program is to derive biological, social, and economic benefits from fishing in the areas.

Finally, this proposed rule includes regulatory text that would codify a scallop dredge gear stowage provision that was established by the Regional Administrator in 2001. The new provision would eliminate the need for vessel operators to disconnect towing wires and reel them fully onto the winch in order for the gear to be considered stowed properly. Reconnecting the wires at sea was determined to be dangerous, particularly in rough seas. The Regional Administrator has the authority to establish new gear stowage provisions through notification through a permit holder letter. Subsequent codification of the provision would ensure proper implementation of the requirement.

Interactions with Endangered and Threatened Species

NMFS is currently considering and evaluating the effects of the scallop fishery on threatened and endangered species, including sea turtles. The scallop fishery as a whole and the management measures proposed in Framework 15 are being considered in a formal consultation that is currently being conducted under Section 7 of the Endangered Species Act. Although the biological opinion (BO) has not been completed as of the publication of this proposed rule, the final rule or subsequent actions will address the findings of the BO, if appropriate.

Sea Scallop Area Access Program Measures

The 2003 Area Access Program would begin on March 1, 2003, unless the fishery is closed prior to February 28, 2003, in which case it would begin on April 1, 2003. The 2003 Area Access Program would end when the total allowable catch (TAC) allocated to the Area Access Program is caught, or when vessels have used up their allocated number of trips.

The Area Access Program would include a TAC of 17.06 million lb (7,740 mt) and 0.23 million lb (105 mt) for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively. These TACs include set-asides of 2 percent and 1 percent to defray the costs of observers and research, respectively. The TACs would achieve an F of 0.32 in each of the two areas. Although this F exceeds the target F of 0.22 for the scallop fishery, it is not expected to jeopardize the rebuilding potential for