

Regional Administrator, NMFS, Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Peter W. Christopher, Fishery Policy Analyst, 978-281-9288; fax 78-281-9135; e-mail *peter.christopher@noaa.gov*.

SUPPLEMENTARY INFORMATION: On September 12, 2002, the Council adopted Framework 15 to the FMP, which includes annual management measures for the 2003 fishing year (March 1, 2003, through February 29, 2004). On January 16, 2003, NMFS published a proposed rule for Framework 15 (68 FR 2303). Framework 15 increases the annual DAS allocation and extends the Area Access Program in the Hudson Canyon and Virginia Beach Access Areas (Access Areas) for 2003. The only modification to the measures that have been in effect for the 2002 fishing year is an increase in the possession limit allowed to vessels participating in the Area Access Program. Framework 15 was developed during the latter stages of development of Amendment 10 to the FMP (Amendment 10) because it was clear that Amendment 10 would not be implemented by the start of the 2003 fishing year and, therefore, Framework 15 is considered to be an action of limited scope, which is intended to be a stop-gap measure until Amendment 10 is implemented. Additional details concerning the justification for and development of Framework 15 and the implementing regulations were provided in the preamble to the proposed rule and are not repeated here.

Framework 15 increases the annual DAS allocation from the DAS allocations scheduled to take effect in 2003 under Amendment 7 to the FMP. Framework 15 implements 120 full-time, 48 part-time, and 10 occasional DAS, which is an increase from the scheduled DAS of 45, 18, and 4 DAS allocations for full-time, part-time, and occasional vessels, respectively. These DAS allocations in Framework 15 are the same as the DAS that have been implemented since 1999. Framework 15 also extends the Area Access Program in the Access Areas for 2003.

The DAS allocations in Framework 15 are intended to achieve a fishing mortality rate (F) that is consistent with the F target in the FMP. The DAS allocations in Framework 15 are expected to achieve an F of approximately 0.155 for the resource overall. Although this F is still well below the F target, it reduces the potential for more damaging effects on the scallop resource and for impacts on

the physical environment that may be associated with higher DAS allocations.

The increase in the Area Access Program possession limit is intended to create an incentive for vessels to fish within the Area Access Program and is consistent with increasing catch rates in the areas. Due to stock abundance in the Areas, a higher level of F can occur in the Areas. This higher F allows for more trips and a higher trip limit, thereby creating more opportunity for vessels to fish in the Areas. The increased opportunity to fish in the Areas should create an incentive for vessels to utilize the Area Access Program where the scallop resource can be harvested at higher rates, thereby removing fishing pressure from other areas that may be more sensitive to fishing pressure.

Approved Measures

This action implements an annual DAS allocation of 120, 48, and 10 DAS for full-time, part-time, and occasional scallop vessels, respectively, for the 2003 fishing year. This represents an increase over the DAS allocations that would otherwise have become effective March 1, 2003, under Amendment 7 to the FMP (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.

This final rule continues the Area Access Program that was implemented in the 2001 and 2002 fishing years. The Area Access Program allows controlled scallop fishing in the Hudson Canyon and Virginia Beach Sea Scallop Access Areas. Vessels are 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 prevent the uncontrolled harvest of a sensitive portion of the scallop resource while increasing the social benefits by allowing all limited access vessels the opportunity to fish in the Areas without creating a derby fishery, thereby increasing economic benefits by promoting an orderly fishery.

The 2003 Area Access Program begins on March 1, 2003. The 2003 Area Access Program will 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 includes 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 are expected to 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 the Mid-Atlantic stock. Rather, it is anticipated that the higher F for the Access Areas will allow greater levels of effort and catch within the Access Areas, thereby reducing effort and catch in other areas of the Mid-Atlantic. Therefore, overall F for sea scallops in the 2003 fishing year is expected to be 0.155. This anticipated impact on the distribution of fishing effort is expected to continue to provide for rebuilding of the Mid-Atlantic scallop stock and the scallop resource as a whole.

All limited access scallop vessels, including vessels that replace vessels that hold a scallop Confirmation of Permit History, are eligible to fish for the sea scallop TAC under the Area Access Program. Full-time and part-time scallop vessels are restricted to a total of three annual trips into the Hudson Canyon and Virginia Beach Sea Scallop Access Areas. A trip into either of the Areas will count as one of the allowed trips. Vessels participating in the Area Access Program are allowed to take only one of the three allocated trips before May 1, and only two of the three allocated trips before June 1. This measure is meant to prevent a derby style fishery from occurring and may reduce the potential for bycatch by limiting trips in late spring when bycatch, particularly of summer flounder, could be problematic. Vessels in the occasional permit category are allowed to conduct only one trip into the Area of their choice. Participating scallop vessels are allowed to possess and land from the Areas up to 21,000 lb (9,525.4 kg) of scallop meats per trip.

After taking into account data on the number of eligible vessels participating, and on the total number of trips taken, the Regional Administrator will consider adjusting the sea scallop possession limit for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas any time during the season and, on or after October 1, 2003, will consider allocating one or more additional trips for full-time and part-time vessels. In order for additional trips to be allocated, a sufficient amount of the sea scallop TAC must remain to warrant such an adjustment or allocation. In order for a vessel to participate in any additional Area Access Program trips that may be allocated on or after October 1, 2003, that vessel must have started at least one Area Access Program trip prior to September 1, 2003. Vessels with