

additional observer TAC is consistent with the Area Access Program in 2001 and 2002, as well as the Georges Bank Closed Area Exemption Program. A TAC set-aside of 1 percent to fund research is also included as part of the Area Access Program. Amounts over the trip limits for sea scallop meats to be allocated for defraying research costs are limited, by area, up to 77 mt or 1 mt for the Hudson Canyon and Virginia Beach Access Areas, respectively. This research program for the Access Areas is modeled after the research program in the 2000 Georges Bank Sea Scallop Exemption Program. A Request for Proposals notice published in the **Federal Register** on January 17, 2003 (68 FR 2527), provides information on the submission process, eligibility criteria, proposal requirements and priorities, project evaluation, application deadlines and other requirements.

Finally, this final rule codifies a scallop dredge gear stowage provision that was established by the Regional Administrator in 2001. The new provision eliminates the need for vessel operators to disconnect towing wires and reel them fully onto the winch in order for the gear to be considered properly stowed. 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 ensures proper implementation of the requirement.

A discussion of comments received in response to the proposed rule for Framework 15, and their responses, follows.

Comments and Responses

Two comments were received on the proposed rule for Framework 15. While one comment was generally in support of the action, the other opposed it. Many of the specific issues raised in each comment highlight issues that were analyzed in Framework 15. Many of the issues and analyses included in Framework 15 are summarized in the following responses and the commenters and other interested members of the public should refer to the Framework 15 document for a more detailed discussion of the analyses (See **ADDRESSES** for a copy of Framework 15).

Comment 1: The Fisheries Survival Fund (FSF) commented in support of the measures contained in Framework 15, and urged timely implementation in order to avoid "economically devastating" default DAS reductions.

The FSF urged NMFS to give more emphasis in the final rule to the habitat and bycatch benefits of the 120-DAS allocation compared to the higher DAS allocation of 140 DAS that was calculated to be more consistent with the FMP's target F.

Response: NMFS acknowledges FSF's comments in support of Framework 15. With respect to the benefits of implementing 120 full-time DAS versus other DAS alternatives, NMFS has relied on the comparisons of costs and benefits of the various alternatives included in Framework 15. The habitat and bycatch benefits cannot be precisely determined because it is not possible to predict fully the behavior of the fishing fleet in response to these regulations. The amount of habitat and bycatch impact depends not only on the total fleet activity, but also on the distribution of fishing activity relative to the distribution of vulnerable habitats and bycatch. While less fishing usually means fewer impacts, and distribution of habitat or bycatch is known at a broad scale, the response of the fleet to changes in resource distribution and different DAS allocations is not well known. If reductions in DAS allocations were to cause industry to concentrate effort in less remote but more sensitive areas with respect to habitat and bycatch, then the benefits of lower DAS would be reduced. The Council recommended, and NMFS concurs, that the 120 full-time DAS allocation (48 part-time and 10 occasional DAS), combined with the Area Access Program, as a 1-year action, complies best with the goals and objectives of the Scallop FMP. Given the uncertainties of the fleet response to this action, the action is intended to balance conservation of the scallop resource and the economic benefits derived from fishing while minimizing, to the extent practicable, the known adverse effects on the environment, including habitat and species caught as bycatch, in the scallop fishery.

Comment 2: The FSF urged NMFS to reconsider industry recommendations for measures to address the issue of trips into the Area Access Program that are terminated unexpectedly. They advocate more flexibility in determining if such "broken" trips should be charged fewer DAS than the 10 DAS that are automatically charged under the Area Access Program. The FSF believes this is required by National Standard 10 of the Magnuson-Stevens Act, concerning safety at sea.

Response: NMFS understands the problems that arise as a result of the automatic deduction of 10 DAS for Area Access trips, but the Council, working

within the short-term context of this action, was unable to develop measures necessary to address broken trips that are clearly understood and can be effectively administered. There are alternatives being developed in Amendment 10 to address this concern. In the meantime, NMFS has determined that this concern can be addressed sufficiently through ad hoc determinations for each instance of a broken trip.

Comment 3: Oceana and the Conservation Law Foundation (Oceana/CLF) commented that Framework 15 allows overfishing in the open areas on Georges Bank and in the Mid-Atlantic. Oceana/CLF contends that the DAS alternative selected (120 full-time, 48 part-time, and 10 occasional DAS) does not constitute a sustainable management strategy for the sea scallop resource and is, therefore, inconsistent with the Magnuson-Stevens Act requirements to prevent overfishing. In addition, Oceana/CLF commented that overfishing in the Mid-Atlantic continues, despite actions under previous Frameworks that were intended to redirect effort into controlled access programs, but failed to do so. Oceana/CLF asserts that NMFS should adequately justify its support of the 120 DAS ("risk-prone") alternative and better elaborate on the long-term effects of the action in the environmental analyses.

Response: The FMP and overfishing definition do not consider the open and closed areas separately (with the exception of the special program for the Area Access Program). While projections indicate that the DAS allocations, if analyzed according to discrete areas, may result in overexploitation of scallops in some areas, Framework 15 is based on analyzing fishing mortality on the resource as a whole. Under this analysis, the fishery overall would not exceed the F target of 0.22, due in part to continued large concentrations of scallops that cannot be fished in the Georges Bank and Southern New England groundfish closed areas.

The analyses in Framework 15 indicate that the 120-DAS alternative complies with the Magnuson-Stevens Act and achieves the goals and objectives of the FMP. Framework 15 clearly demonstrates that overfishing will not occur on the resource as a whole and that F will likely be less than Amendment 7 targets. The current condition of the scallop resource is rebuilt for both the Georges Bank and Mid-Atlantic stocks. To fish at the DAS level scheduled in Amendment 7 would cause the fishing level to fall