

(i) Until the fishing year quota specified in § 646.24(c) is reached, 5,000 lb (2,268 kg).

(ii) After the fishing year quota specified in § 646.24(c) is reached, 300 lb (136 kg).

(b) *Reduction of trip limits.* When a commercial quota specified in § 646.24(b) or (c) is reached, or is projected to be reached, the Assistant Administrator will file a notification to that effect with the Office of the Federal Register. On and after the effective date of such notification, for the remainder of the fishing year, the appropriate trip limit applies.

(c) *Combination of trip limits.* A person who fishes in the EEZ may not combine a trip limit under this section with any trip or possession limit applicable to state waters.

(d) *Transfer at sea.* A snowy grouper or golden tilefish taken in the EEZ may not be transferred at sea, regardless of where such transfer takes place; a snowy grouper or golden tilefish may not be transferred at sea in the EEZ, regardless of where such snowy grouper or golden tilefish was taken.

(e) *Sale/purchase of excess fish.* Snowy grouper or golden tilefish in excess of an applicable trip limit specified in paragraph (a) of this section may not be sold, purchased, traded, or bartered, or attempted to be sold, purchased, traded, or bartered.

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50 CFR Part 650

[Docket No. 950118017-5017-01; I.D. 122994A]

RIN 0648-AH82

Atlantic Sea Scallop Fishery; Temporary Reduction in Crew-Size Limit

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS issues this proposed rule to implement measures contained in Framework Adjustment 4 to the Atlantic Sea Scallop Fishery Management Plan (FMP). The intent of this proposed framework is to reduce the maximum crew-size limit on Atlantic sea scallop vessels from nine to seven through February 29, 1996, to preserve small scallops.

DATES: Comments on the proposed rule must be received on or before February 27, 1995.

ADDRESSES: Comments on the proposed rule, Framework Adjustment 4, or supporting documents should be sent to Jon Rittgers, Acting Regional Director, National Marine Fisheries Service, Northeast Regional Office, 1 Blackburn Street, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Sea Scallop Framework 4."

Copies of Amendment 4, its regulatory impact review and the initial regulatory flexibility analysis, the final supplemental environmental impact statement, and the supporting documents for Framework Adjustment 4 are available from Douglas Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, Saugus, MA 01906-1097.

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, NMFS, Fishery Policy Analyst, 508-281-9273.

SUPPLEMENTARY INFORMATION:

Background

The final rule for Amendment 4 to the FMP was published on January 19, 1994 (59 FR 2757), with implementation for most measures on March 1, 1994. The amendment retained the FMP's objectives to: (1) Restore adult stock abundance and age distribution; (2) increase yield per recruit for each stock; (3) evaluate plan research, development and enforcement costs; and (4) minimize adverse environmental impacts on sea scallops.

Amendment 4 changed the primary management strategy from a meat count (size) control to effort control. The amendment controls total fishing effort through limited access permits and a schedule of reductions in allowable days-at-sea (DAS). Supplemental measures include limits on increases in vessel fishing power to control the amount of fishing pressure and to help control the size of scallops landed, gear restrictions, and limits on the number of crew members. Additionally, the amendment includes a framework procedure for adjusting the management measures in the FMP. Initially, the maximum crew size was set at nine.

In response to very high levels of recruitment documented in the Mid-Atlantic resource area (Regional Director's Status Report, January 1994) the New England Fishery Management Council (Council) recommended lowering the maximum crew-size limit from nine to seven until December 31, 1994. NMFS concurred and through Framework Adjustment 1, which was published on July 19, 1994 (59 FR 36720), with an effective date of August 17, 1994, lowered the maximum crew

size from nine to seven until December 31, 1994.

Because the conditions that justified lowering the maximum crew-size limit to seven still exist, the Council recommended extending the maximum crew-size limit of seven through the end of the 1995-96 scallop fishing year.

This framework action proposes to lower the maximum crew size from nine to seven through February 29, 1996, the end of the 1995-96 scallop fishing year.

The expected impact of the proposed seven-member crew limit was analyzed in Amendment 4. There are two possible ways for vessel operators to respond to reduced crew limits. They can try to fish for larger scallops, and if catches are sufficient, land as much weight of scallop meat as with a crew of nine; or they can continue catching and processing fewer small scallops; or a combination of both. Either response effectively reduces the number of scallops harvested by a vessel per DAS. For example, in the analysis done for this framework adjustment, it is estimated that a crew of seven can shuck and process 900 lb (408.2 kg) (meat weight) of scallops per DAS, at an average of 45 meats per lb (0.453 kg). A crew of nine, however, would be capable of shucking 1,500 lb (680.4 kg). Under ideal conditions, this impact would translate into a 40 percent reduction in fishing mortality of small scallops.

The small scallops are less valuable than large one, and the seven-man crew limit will encourage boats to target the larger scallops. The result will mean no reduction in revenue.

By delaying harvest of these small scallops and because of their rapid growth rate, they will be available for harvest in a larger, more valuable size within a short time.

The adjustments being made through the framework process

(§ 650.40) are within the scope of analyses contained in Amendment 4 and the final supplemental environmental impact statement. Supplemental rationale and analyses of expected biological effects, economic impacts, impacts on employment, and safety concerns are contained within the supporting documents for Framework Adjustments 1 and 4 (see **ADDRESSES**).

NMFS is proposing to adjust the scallop regulations following the procedure for framework adjustments established by Amendment 4 and codified in 50 CFR part 650, subpart C. The Council followed this procedure when making adjustments to the FMP, by developing and analyzing the actions over the span of a minimum of two Council meetings, on October 26 and

December 8, 1994. However, because the December 8, 1994, meeting was not announced as the second and final of the two required meetings, the Council recommended to the Director, Northeast Region, NMFS (Regional Director) publication of the measures contained in Framework Adjustment 4 as a proposed rule to ensure that the public has been afforded sufficient opportunity for notice and comment.

In accordance with the regulations, public comments on the framework adjustment were taken by the Council during its October 26, 1994 and December 8, 1994 meetings. One member of the industry from Virginia Beach, VA and an attorney representing 22 full-time scallop vessels from New Bedford, MA, commented at the December meeting. The comments were in support of the recommended adjustment. Written responses were received on this framework adjustment from two individuals. Those comments questioned the safety aspects of a reduction in the minimum crew size. The analysis included in the Council's framework package suggests that, based on available Coast Guard data for the scallop fishery, there is no relationship between the size of the crew and accidents aboard scallop vessels. Fishers have publicly stated that most New Bedford scallop boats carried less than seven crew members in the winter of 1993-94 simply because scallop stocks were low. Fishers also stated, and NMFS concurs, that there is nothing inherently dangerous about using a

seven-person crew and that safety ultimately depends upon onboard safety practices rather than crew size.

Classification

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Assistant General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This action, if adopted, is a 1-year reimposition of a restriction in crew limit size established by Framework #1 to the FMP, effective from August 17, 1994, through December 31, 1994. The proposed action would not have a significant economic impact on a substantial number of small entities for the following reasons: (1) It is unlikely to force vessels to cease or substantially modify operations; (2) many vessels already carried crew sizes of seven or less because of low stock abundance of sea scallops; and (3) short-term benefits of harvesting immature sea scallops in 1995 that have never produced young for future years would be greatly outweighed by longer-term benefits to small entities for the next several years. As a result, a regulatory flexibility analysis was not prepared.

List of Subjects in 50 CFR Part 650

Fisheries, Reporting and recordkeeping requirements.

Dated: February 8, 1995.

Gary Matlock,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 650 is amended as follows:

PART 650—ATLANTIC SEA SCALLOP FISHERY

1. The authority citation for part 650 continues to read as follows:

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

2. Section 650.21 is proposed to be amended by revising paragraph (c) to read as follows:

§ 650.21 Gear and crew restrictions.

* * * * *

(c) *Crew restrictions.* Limited-access vessels participating in or subject to the scallop DAS allocation program may have no more than seven people onboard when not docked or moored in port through February 29, 1996, and nine people onboard when not docked or moored in port thereafter, including the operator, unless participating in the small dredge program specified in paragraph (e) of this section, or otherwise authorized by the Regional Director.

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