

3. Are there methods to increase efficiency?
4. Will there be sufficient funding for enforcement and prosecution?

C. Method and Means of Hunting

1. Will illegal takings be counted against the two-strike Native harvest limitation?
2. Will NMFS be able to stop Native harvest of Cook Inlet beluga whales under emergency circumstances by rule making? Will there be a legal mechanism to stop Native harvest of Cook Inlet beluga whales in the event of unrelated mortality that would affect the population recovery?
3. Should juvenile whales be taken instead of mature adults if it is shown to enhance chances of population recovery?
4. Should the proposed July 15 annual commencement date for Native harvest of beluga whales be moved forward to July 1 in view of deteriorating weather conditions?

D. Sale of Cook Inlet Beluga Whale Products

1. Whether the term "sale" should include barter and other types of quasi-commercial transactions?
2. Should attempts to sell Cook Inlet beluga whale products and/or foodstuff be deemed a violation? Should the purchase and attempts to purchase Cook Inlet beluga whale products or foodstuff be deemed a violation?
3. For enforcement purposes, should the restriction on the sale of Cook Inlet beluga whale products and/or foodstuff be expanded to prohibit the sale of products and/or foodstuff from other beluga whale stock?
4. Should restrictions be in place for all Cook Inlet beluga whale products, or just edible portions?

E. Cultural Interests

1. Are there ways to encourage full utilization of those belugas taken pursuant to the proposed regulations?
 2. Is there sufficient emphasis on the importance of Native subsistence harvest in terms of balancing in favor of permitting the proposed harvest?
- These issues are subject to change as a result of stipulations of the participants. NMFS and all parties have submitted various documents and written testimony that bears on these issues.

During the hearing, the NOAA Counsel will present his witnesses and documentary evidence first, and the participants will be given an opportunity to cross-examine the witnesses. The other parties listed above will also be given an opportunity to

present witnesses and introduce documentary evidence in the order in which they are listed in this Notice of Final Agenda. Witnesses in the hearing include the following:

- (1) For NMFS, Douglas P. DeMaster, Ph.D., Director, National Marine Mammal Laboratory, NMFS; P. Michael Payne, Assistant Regional Administrator for Protected Resources, NMFS;
- (2) For Joel and Debra Blatchford: These participants will testify on their own behalf;
- (3) For the Municipality of Anchorage, the Matanuska-Susitna Borough, and the Kenai Peninsula Borough: George Weurch, Mayor, Municipality of Anchorage; John Duffy, Acting Manager, Matanuska-Susitna Borough; and Dale Bagley, Mayor, Kenai Peninsula Borough;
- (4) For Alaska Oil and Gas Association (AOGA): Judith M. Brady, Executive Director, AOGA;
- (5) For the Marine Mammal Commission: Daniel Goodman, Ph.D., Professor, Montana State University;
- (6) For the village of Tyonek: Peter Merryman, Chief, Village of Tyonek;
- (7) For the Trustees for Alaska: Not yet identified; and
- (8) For Cook Inlet Treaty Tribes: Delice calcote, Secretary, Cook Inlet Marine Mammal Council.

Dated: November 27, 2000.

Don Knowles,

Director, Office of Protected Resources,
National Marine Fisheries Service.

[FR Doc. 00-30677 Filed 11-30-00; 8:45 am]

BILLING CODE 3510-22-S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 001120324-0324-01; I.D. 110700D]

RIN 0648-AO71

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Extension of Closed Areas

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would extend the closure of the Hudson Canyon South and Virginia Beach Sea Scallop Closed Areas for 180 days or until such time that a controlled area

access program for these two areas can be implemented through Framework 14 to the Atlantic Sea Scallop Fishery Management Plan (FMP), whichever is sooner. This action, which is necessary to reduce overfishing, would help ensure that fishing mortality rates do not exceed the target thresholds established in the FMP.

DATES: Comments must be received no later than 5 p.m., eastern daylight time, January 2, 2001.

ADDRESSES: Comments on this proposed rule should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, 1 Blackburn Drive, Gloucester, MA 01930-2298. Please mark the envelope "Comments - Extension of Mid-Atlantic Scallop Closed Areas." Comments also may be sent via facsimile (fax) to 978-281-9135. Comments will not be accepted if submitted via e-mail or Internet. Comments regarding any ambiguity or unnecessary complexity arising from the language used in this rule should also be sent to Patricia Kurkul. Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and any other documents supporting this action are available from the Regional Office at the address specified here.

FOR FURTHER INFORMATION CONTACT:

Peter W. Christopher, Fishery Policy Analyst, 978-281-9288, fax 978-281-9135, e-mail peter.christopher@noaa.gov.

SUPPLEMENTARY INFORMATION: The 23rd Northeast Regional Stock Assessment Workshop (SAW 23), in March 1997, identified high fishing mortality rates, low stock size, and lack of significant recruitment in the Atlantic sea scallop (scallop) fishery. Based on this finding, scientists involved with SAW 23 determined that fishing effort should be reduced immediately and significantly in the Mid-Atlantic region to preserve spawning stock biomass and improve the yield per recruit. To achieve this, NMFS implemented an interim final rule on April 3, 1998 (63 FR 15324), that established two areas in the Mid-Atlantic region that were closed to all scallop fishing. The closure of these two areas, the Hudson Canyon South and Virginia Beach Closed Areas, was based on a finding that the areas contained large concentrations of small and juvenile scallops that could provide for future recruitment. The interim final rule was subsequently extended for 180 days (63 FR 51862, September 29, 1998) and on March 29, 1999, Amendment 7 to the Atlantic Sea Scallop Fishery Management Plan (FMP) (64 FR 14835)

extended the effective date of the closures through March 1, 2001.

While there are still concentrations of small scallops in the Hudson Canyon South and Virginia Beach Closed Areas, recent surveys by the NMFS Northeast Fisheries Science Center and Virginia Institute of Marine Science indicate that a large portion of the protected scallops have grown and could be of considerable value to the fishing industry. Because of the vulnerability of these scallops to fishing upon the re-opening of the closed areas on March 1, 2001, concern was expressed by scientists in the recent Sea Scallop Stock Assessment and Fishery Evaluation report that a high amount of fishing effort in these areas would increase fishing mortality rates beyond management thresholds, would contribute to overfishing, and would compromise future recruitment of scallops. To address this concern, the New England Fishery Management Council (Council) is currently developing Framework 14 to the FMP, the annual framework adjustment, with the intention of including an area access program for the Mid-Atlantic closed areas. This program would restrict scallop vessels when fishing in the re-opened Mid-Atlantic closed areas to a scallop possession limit and a limited amount of trips, among other measures. Because the Council is preparing a Supplemental Environmental Impact Statement for Framework 14 to assess the impacts of the fishery on the human environment, it is highly unlikely that the framework can be implemented by March 1, 2001, the date that the Mid-Atlantic closed areas are scheduled to re-open. An extension of the closures is therefore necessary to ensure that the areas do not open prior to protective measures being in place. Without such action, overfishing would likely occur before Framework 14 can be implemented, and the ability to maximize scallop yields from the areas and ensure that recruitment potential is maintained could be compromised. If that were to occur, long-term benefits to the scallop fishery could be significantly reduced.

Proposed Action

The proposed rule would delay the re-opening of the Hudson Canyon South and Virginia Beach scallop closed areas for 180 days or until such time that new measures to prevent overfishing in the areas are implemented, whichever is sooner. This action is authorized by section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act and may be extended for an additional 180-day period.

Classification

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

NMFS prepared an IRFA as part of an RIR that describes the economic impact this action, if adopted, would have on small entities. A copy of the IRFA is available from NMFS (see **ADDRESSES**). A summary of the analysis follows:

The IRFA describes this action, sets forth why it is being taken, and the legal basis for it. A description of the action, why it is being considered, and the legal basis for this action appear in the beginning of this section in the preamble and in the **SUMMARY** section and is not repeated here.

The IRFA considered the impacts that this action will have on small entities, which includes all holders of active scallop permits, since none have reported gross annual revenues greater than \$3 million. The 1999 fishing season, March 1, 1999, to February 28, 2000, was the last full year of scallop fishing activity available for analysis. During that season, there were 345 qualified permits in the Limited Access fishery. Two-hundred and ninety of these permits were on vessels that landed scallops. The remaining 55 Limited Access permits were in Confirmation of Permit History, a category of permit for vessels that were destroyed or that were sold and the permit eligibility retained by the seller. In addition, 2,095 permits were issued to vessels in the open access General Category, but only 190 of these vessels could be identified in the dealer reports as having landed scallops. The proposed action to extend the closures of the Hudson Canyon South and Virginia Beach Closed Areas for 180 days from March 1, 2001, or until Framework 14 can be implemented (currently estimated to be May 2001), whichever is sooner, should have a positive net impact on small business entities during the next few years and is not expected to impact segments of the fishery differentially. Without this proposed action, the most likely outcome would be that Framework 14 would have to prevent further access to these closed areas during 2001 because the vessels would have exceeded the target fishing mortalities and total allowable catch by the time Framework 14 becomes effective. One alternative considered by NMFS but rejected would have allowed the Hudson Canyon South and Virginia Beach Closed Areas to re-open, as scheduled, on March 1, 2001. Under this alternative, overfishing would likely occur in the areas, and the ability to maximize scallop yields from the

areas and ensure that recruitment potential is maintained could be compromised, thereby reducing long-term benefits to the scallop fishing industry. Depending on the amount of fishing that has occurred in the absence of this interim action, access during the 2002 season might also have to be reduced substantially in order to rebuild the stock.

The proposed action is not expected to reduce overall access to the closed areas in 2001 and will protect the growth potential of more young scallops for 2002, provided that Framework 14 is implemented in a timely fashion, as anticipated by the Council. The Scallop Plan Development Team (PDT), in preparing analyses for Framework 14, has estimated that each limited access permit holder will be allocated between three and five trips into the Mid-Atlantic areas, depending on their effort category and the fishing mortality scenario selected by the Council. Although 10 days at sea would be charged to each trip, the scallop resource density in the areas to be re-opened is high enough that trip limits that meet fishing mortality targets may be able to be taken in 3 to 5 days, as estimated by the PDT. Thus, there may still be time in the 2001 season for vessels to fish in the re-opened areas and to take their allotted limits. Moreover, vessels would be free to use their effort allocation outside the closed areas until Framework 14 goes into effect. Thus, any short-term negative impacts caused by delaying the re-opening of the two Mid-Atlantic areas to scallop fishing are expected to be offset by access to those areas in the remainder of 2001 and by future recruitment of scallops.

This proposed rule has no projected reporting, recordkeeping, or compliance requirements. Also, there are no relevant Federal rules that may duplicate, overlap, or conflict with the proposed rule.

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this proposed rule. Such comments should be sent to Patricia A. Kurkul, Regional Administrator (see **ADDRESSES**).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 27, 2000.

Penelope D. Dalton,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set forth 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. In § 648.57, the first sentence of paragraph (a) and (b) are revised to read as follows:

§ 648.57 Closed areas.

(a) * * * No vessel may fish for, possess, or retain sea scallops in or from the area known as the Hudson Canyon South Closed Area or transit this closed area unless all scallop dredge gear on board is properly stowed and not available for immediate use in

accordance with the provisions of § 648.23(b). * * *

(b) * * * No vessel may fish for, possess, or retain sea scallops in or from the area known as the Virginia Beach Closed Area or transit this closed area unless all scallop dredge gear on board is properly stowed and not available for immediate use in accordance with the provisions of § 648.23(b). * * *

[FR Doc. 00-30678 Filed 11-30-00; 8:45 am]

BILLING CODE: 3510-22 -S