

Framework Adjustment 17 to the Atlantic Sea Scallop FMP

Environmental Assessment, Regulatory Impact Review, And Regulatory
Flexibility Analysis

Proposing VMS Implementation For Vessels With General Category Permits

Prepared by the New England Fishery Management Council, in Consultation with the National
Marine Fisheries Service and the Mid-Atlantic Fishery Management Council

First framework meeting: November 16, 2004

Second framework meeting: February 1, 2005

Date Submitted: March 11, 2005

Cover Sheet

Abstract

Scallop management – Framework Adjustment 17

Framework Adjustment 17 was developed as an addition to Amendment 10 to improve the enforceability of the present 400 lb. scallop possession limit for general category scallop fishing and to improve safety by removing the automatic charge on Sea Scallop Access Area trips associated with the existing broken trip program. Also, the alternatives would improve collection of data that the Council needs to manage the fishery.

This document amends the Atlantic Sea Scallop FMP via Framework Adjustment 17. Alternatives associated with Framework Adjustment 17 focus on the VMS implementation for the general category scallop fishery and broken trip program for the limited access scallop fishery. Because the alternatives and effects are intertwined, the document and analysis of impacts (Environmental Assessment) have been combined into a single document that describes and analyzes the proposed alternatives.

1 EXECUTIVE SUMMARY

This framework adjustment was prepared by the New England Fishery Management Council (NEFMC), in consultation with the Mid-Atlantic Fishery Management Council (MAFMC) and the National Marine Fisheries Service (NMFS). Two MAFMC members sit on the NEFMC's Scallop Oversight Committee and vote on the alternatives that are recommended to the NEFMC for approval. In addition, the NEFMC uses a Plan Development Team (PDT) of scientists and an Advisory Committee of fishery experts. Four of seven PDT members are employed by the NMFS, either at the Regional Office in Gloucester, MA or the Northeast Fisheries Science Center in Woods Hole, MA. Five of the fifteen Advisory Committee members are from the Mid-Atlantic region.

1.1 Summary of Purpose, Need for Action, and Major Issues

The purpose of this framework action is to increase the enforcement's effectiveness in monitoring the present 400 lb. scallop possession limit for general category scallop fishing and to improve safety by removing the automatic charge on Sea Scallop Access Area trips associated with the existing broken trip program.

The vessels with general category scallop permits must abide by a 400 lb. possession limit for scallops. Many vessels that have general category permits and target sea scallops land in various ports, large and small, which makes it difficult to observe fishing activity and ensure that vessels comply with the possession limit. VMS is a tool that will help enforcement to locate general category vessels participating in the scallop fishery. As a result, VMS will improve enforcement's ability to deploy personnel and other assets in monitoring vessel offloads, thus will increase effectiveness in monitoring the possession limit. Moreover, the VMS is expected to act as a deterrent to illegal scallop landings because fishermen using VMS equipment will know that the fishing activity is being monitored and potentially chosen to monitor compliance. VMS could also have other benefits for the scallop management, in terms of better monitoring of the rotation management closed area boundaries. Data from VMS equipment has been extremely useful for evaluating the impact of the fishery on the scallop resource, and evaluating the effects of the fishery on sensitive fish habitat, finfish resources that are vulnerable to capture in the scallop fishery, and on sea turtle interactions. VMS could also provide additional safety features for vessels in case of an emergency.

This action is needed to ensure that the open-access general category scallop fishery does not grow out of proportion with historic amounts due to illegal landings in excess of 400 lb. possession limit. If the possession limit cannot be effectively enforced, fishing for scallops with a general category permit could become more attractive to fishermen that usually target other species. If there is no action, that is, there are no new regulations to prevent such an increase in fishing effort, scallop mortality could increase beyond the sustainable levels reducing the stock biomass for the scallop resource. As a result, the future yield and revenues from the scallop resource could decline, negatively affecting the vessels both with general category and/or limited access scallop permits. Alternatively, such an increase in fishing effort could cause the Council to adopt stricter regulations for vessels with general category and/or limited access scallop permits.

The purpose for elimination of broken trip charge is to improve safety at sea. The current broken trip provision allows a vessel to return early from a controlled access trip and have a large part of its automatic DAS charge and potential scallop landings applied to a future replacement trip. This rebate depended on the portion the 18,000 lb. scallop possession limit that was actually landed on the broken trip. For the broken trip, the vessel's annual allocation for a controlled access area was charged one DAS for each 10% of the scallop possession limit actually landed, plus two DAS.

In late December 2004, the F/V Northern Edge, a full-time scallop vessel taking a replacement trip sank while fishing in the Nantucket Lightship Area. At the present time it is unclear what factors contributed to the accident, although the decision to continue fishing despite poor weather may or may not have been influenced by the broken trip provision. While the facts are gathered, the proposed action in this framework adjustment would remove the standard two DAS charge on re-initiated trips and will provide a rebate to vessels that terminated an access area trip during the 2005 fishing year before implementation of Framework 17. This action is needed to improve safety at sea and to reduce the actual or alleged safety risks associated with broken trip exemption program.

The major issues addressed by the proposed action include the following:

- Improving law enforcement capabilities in monitoring the possession limit.
- Improving safety by removing the disincentive for vessel to use the broken trip exemption program.
- Preventing the general category scallop fishing from increasing the scallop mortality beyond sustainable levels because illegal landings.
- Minimizing the costs of VMS implementation on vessels with General category permits with incidental catches of scallops.
- Reducing the compliance costs for vessels while are in port.

1.2 Summary of Proposed Action

Section 4.0 of this document provides a description of the proposed action with the rationale for each measure included in this action. The direct and indirect impacts of the proposed action are analyzed in Section 6.0, and the cumulative effects, including the effects of past, present and reasonably foreseeable future actions are analyzed in Section 6.5. The proposed action and the impacts associated with each measure could be summarized as follows:

1. **VMS requirement:** Any General category vessel that has in possession or land more than an incidental amount of scallops, i.e., over 40 lb. scallop meats for commercial sale, in any trip will be required to have a VMS onboard (Section 4.1.1.1).
2. **Power-down while in port:** General category vessels with VMS will be allowed to log into and out of the fishery via VMS after offloading and after the vessel is secured to a fixed dock or mooring, unless required to keep VMS in operation by their permit in another fishery (Section 4.1.1.2).
3. **Elimination of automatic charge on broken trips:** Any limited access scallop vessel that is authorized to take a replacement trip for a Scallop Access are trip terminated early will be allowed to land the difference between the possession limit and the number of pounds landed on the broken trip for which the additional trip replaces (Section 4.2.1.1).
4. **Rebate of charges against replacement trips during the 2005 fishing year and prior to implementation of Framework Adjustment 17:** Access Area trips in the 2005 fishing year that are terminated early will continue to have the broken trip charge applied until Framework Adjustment 17 is implemented. Once Framework Adjustment 17 is implemented, vessels that terminated an access area trip before implementation will be able to take a second replacement trip to catch the amount of scallops lost as a result of the broken trip charge. (Section 4.2.1.2)

1.3 Summary of Alternatives to Proposed Action

Alternatives to the proposed action are described in subsections of Section 4 and a comparative analysis of the direct and indirect impacts of the alternatives is presented in Section 6. Rationale for each of the alternative is also provided with the description of the alternative. In addition, five alternatives that the Council considered and rejected are outlined in Section 4.1.4 without further analysis. The alternatives to the proposed VMS implementation include:

1. Alternative 1 that would require VMS on all vessels with general category permits. There were 2,554 permits issued and 210 of these are presently required to operate VMS due to participation in other fisheries (Section 4.1.3.1).
2. Alternatives 3a to 3c that would require any General category vessel that has in possession or land over a specific amount of scallops per trip, ranging from 100lb, 200 lb, and 300 lb (Section 4.1.3.2).
3. A no action alternative that would not require vessels with general category permits have a VMS onboard with the exception of those that choose the fish in Georges Bank access areas. No action alternative is equivalent to the status quo regulations for the general category scallop fishery (Section 4.1.2)
4. An alternative that provides power-down option via a letter of exemption while a vessel is in port. This alternative would be consistent with the power-down exemption as specified in VMS regulations in §648.9(c)(2) that apply to all vessels that are required to operate VMS equipment, including limited access scallop vessels (Section 4.1.3.3).

No action is the only alternative to the proposed modifications to the broken trip program. No action would retain the conditions and requirements of the existing broken trip program which includes an automatic charge on replacement trips. Similarly, no action for the proposed rebate would continue the existing broken trip program until Framework 17 is implemented (Section 4.2.2).

1.4 Summary of Environmental Consequences

Direct and indirect impacts of the proposed action are analyzed and discussed in Sections 6.1 to 6.4, and the cumulative effects are analyzed in Section 6.5. The analysis indicates that the impacts of the proposed action are not significant and a “Finding of No Significant Impact” is justified based on these analyses in the Environmental Assessment.

The VMS implementation proposed by this action is expected to improve effectiveness in monitoring the possession limit, to increase compliance due to the electronic monitoring presence of VMS, and discourage violations. This in turn will reduce the risks of overfishing of the scallop resource due to violations. VMS implementation will also carry several other important secondary benefits. The requirement to obtain a VMS unit to participate under general category permit will enhance enforcement's ability to ensure area rotation compliance and ensure the integrity of the scallop closed areas. VMS on the most active scallop vessels will provide better data for fishery management, particularly for areas that are more frequently targeted by small vessels fishing inshore of the typical scallop fishing areas. Transmission of location information through VMS will also improve safety by automatic tracking of the vessel's last known position.

The proposed action will provide VMS monitoring for the vessels that usually land scallops in excess of incidental amount (40 lb. per trip) allowed for personal use, while exempting a large number of vessels that are less likely to land scallop or to exceed the possession limit. It will affect about 223 vessels that do not already have a VMS out of a total 276 vessels in this category. These 276 landed over 99.9% of the general category scallop landings in 2003. Therefore, the proposed action will provide VMS coverage for

the majority of general category scallop fishing activity while limiting the economic impact to those who are actually prosecuting the fishery on a regular basis, reducing the total compliance costs for the general category fleet (Section 6.2.1, Economic Impacts). The power-down exemption proposed by this framework action will allow vessels to turn the VMS off while in port and will help to reduce compliance costs from VMS implementation.

The removal of broken trip charge is expected to improve safety at sea by reducing some of the alleged risks associated with the broken trip charge. This is because vessels facing unsafe conditions can return to port without the threat of losing a portion of their authorized scallop landings. The proposed action will also have positive economic impacts on the limited access vessels by allowing every vessel to harvest the full amount of the possession limit through replacement trips and the rebates (Section 6.2.2, Economic Impacts). Rebate of charges against replacement trips during the 2005 fishing year and prior to implementation of Framework Adjustment 17 will address any actual or implied safety concerns with the broken trip charge as quickly as possible.

1.5 Summary of Cumulative Effects

A cumulative effects analysis for past, present, and reasonably foreseeable future actions is provided in Section 6.5. These analyses were performed with respect to their effect with respect to the following Valued Ecosystem Components (VECs):

- Scallop resource
- Non-target species
- Habitat (EFH)
- Protected species
- Communities

The cumulative effects of this action are not likely to have a substantial impact on any of the VECs associated with the sea scallop fishery. The VMS implementation for the general category fishery will have positive indirect impacts on the sea scallop stock, although these impacts are expected to be small. VMS implementation and the modification of the broken trip program will not have substantial impacts on non-target species, habitat and protected species. The proposed action is expected have positive cumulative impacts on the communities by improving safety, by reducing losses from broken trips and by better monitoring of the possession limit, benefiting both limited access and general category vessels participating in the scallop fishery.

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2.3 List Of Acronyms

A10 – Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan

A13 – Amendment 13 to the Northeast Multispecies Fishery Management Plan

BMSY – Biomass Maximum Sustainable Yield
 BO – Biological opinion
 CEQ – Council on Environmental Quality
 CA1 – Closed Area I
 CA2 – Closed Area II
 CV – Coefficient of variation, a standard statistical measure of variation, expressed as a percentage of the mean. Lower CVs indicate more accuracy in the estimates and less variation in data.
 DAS – Day-at-sea
 EA – Environmental Assessment
 ESA – Endangered Species Act
 EFH – Essential Fish Habitat
 EFH designation life stages
 A – Adult life stage
 J – Juvenile life stage
 E – Egg life stage
 FMP – Fishery Management Plan
 FR – Federal Register
 FSEIS – Final supplemental environmental impact statement
 FW13 – Framework Adjustment 13 to the Atlantic Sea Scallop Fishery Management Plan, which allowed access for scallop fishing in parts of Closed Area I, Closed Area II, and the Nantucket Lightship Area
 GB – Georges Bank
 HAPC – Habitat Area of Particular Concern
 LPUE – Landings per unit effort, usually a DAS in this document
 IRFA – Initial Regulatory Flexibility Analysis
 MAFMC – Mid-Atlantic Fishery Management Council
 NAAA – Northwest Atlantic Analysis Area
 NEFMC – New England Fishery Management Council
 NEFMC – New England Fishery Management Council
 NEFSC – Northeast Fisheries Science Center
 NEPA – National Environmental Policy Act
 NLSA – Nantucket Lightship Area
 NMFS – National Marine Fisheries Service
 PSP – Paralytic Shellfish Poisoning
 RIR – Regulatory Impact Review
 SAP – Special access program – a provision in the Multispecies FMP that may allow special fisheries in closed groundfish areas under special rules to limit the impact on overfished species.
 SARC – Stock Assessment Review Committee
 SAW – Stock assessment workshop
 SBNMS – Stellwagen Bank Marine Sanctuary
 SEIS – Supplemental Environmental Impact Statement
 SMAST – University of Massachusetts Dartmouth School of Marine Science and Technology
 VMS – Vessel Monitoring System
 TAC – Total Allowable Catch. This includes discards for finfish species, but not for scallops which have a much lower discard mortality rate.
 U10 – A classification of large scallops, less than 10 meats per pound.
 USGS – United States Geological Survey