

4 MANAGEMENT ALTERNATIVES

4.1 VMS Implementation for the General Category Scallop Fishery

4.1.1 Proposed Action

4.1.1.1 VMS implementation (Alternative 2)

Any vessel with a general category permit that possesses or lands more than 40 lb. scallop meats (or 5 US bushels of in-shell scallops) for commercial sale in any trip will be required to operate a Vessel Monitoring System (VMS). VMS regulations and procedures that pertain to the scallop limited access fishery would also apply to general category vessels if required to operate VMS except for power-down exemption described in Section 4.1.1.2.

Rationale: 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. It is also expected 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. This alternative will also reduce the incentive to obtain a general category permit or increase scallop fishing effort by inactive vessels. VMS implementation will 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 could also improve safety by automatic tracking of the vessel's last known position.

Requiring the general category vessels that have in possession or land more than an incidental amount scallops (over 40 lb. per trip) to have a VMS onboard will improve monitoring of possession limits and will prevent imposition of a cost burden the rest of the vessels. Although, for enforcement purposes it would be preferable to include all vessels with general category permits in VMS implementation, such an action would increase the compliance costs for over 2,200 vessels that had either no scallops landings or landed only an incidental amount (see Section 6.4 for more discussion on enforcement benefits and trade-offs). In addition, if every general category vessel was required to operate a VMS, there would be an increase in the enforcement costs due to an increased need for personnel to monitor VMS usage by a large number of general category vessels. Requiring only those general category vessels that land over 40 lb. of scallop per trip is also consistent with the underlying principle of the present regulations, which allows any vessel without a scallop permit to retain and land up to 40 pounds of scallop meats for personal use without requiring a VMS onboard. Only 276 out of 2,554 vessels with general category permits landed scallops more than 40 lb. on at least one trip during the 2003 fishing year. Given that 53 of these vessels already have a VMS, only 223 vessels will be affected by this alternative. Therefore, this alternative would substantially lower the costs of compliance for the general category fleet. As discussed in Section 6.2.1.1.3, the costs of VMS implementation would range from \$8.3 to \$12.1 million during the first year of implementation if all the vessels with general category permits installed and operated a VMS. Under the proposed action the VMS costs are estimated to range from \$0.8 million to \$1.3 million.

4.1.1.2 Power Down Exemption

General category vessels with VMS will be able to use a VMS macro code to log into and out of fishing while the vessel is in port. The VMS may only be powered down after offloading and after vessel is

secured to a fixed dock or mooring, unless required to keep VMS in operation by other regulations. VMS must be re-powered and logged in before getting underway on any fishing trip from a fixed dock or mooring and whenever outside the VMS demarcation line (see Figure 9-1 and Figure 9-2 in Appendix A for VMS demarcation lines).

For example, a vessel with 386 lbs. of scallops aboard while returning from a fishing trip must operate VMS equipment. The vessel lands its catch at a seafood dealer, takes on fuel at a local dock, and then ties up to a mooring in a port. After that point in time, the vessel may designate by sending a VMS macro code that it is “in port” and may power down the VMS. The next day, the weather is bad and the captain decides to take the vessel over to the wharf where he can put different gear on the boat. The VMS does not need to be re-powered at this time, as long as the vessel remains shoreward of the VMS demarcation line. On the third day, the weather is nice enough to go fishing and the vessel is ready to go. The VMS must be re-powered and entered back into the monitoring system, before it can get underway from the mooring. The VMS must be re-powered and operating even if the vessel is fishing for species other than scallops. VMS must continue operating on a vessel that holds some of the scallops onboard after unloading part of the catch. VMS must also be in operation if the vessel is seaward of the VMS demarcation line, even if it is not fishing (such as transiting to another port).

Rationale: This alternative would allow the VMS program to track vessel activity while at sea and reduce compliance costs to vessels. The rationale for this alternative is that it is impractical and unnecessary to operate VMS when vessels are in port and not fishing. Although a twenty-four/seven hour VMS coverage on general category scallop vessels would be preferable from enforcement perspective to prevent some vessels illegally powering down while they are fishing, such continuous coverage would impose hardships on many vessels that comply with the regulations. Since no landings of scallops will be possible while the vessel in dock, the power down alternative is not expected reduce the enforcement benefits from VMS as long as the proposed procedures for power-down exemption could be strictly enforced. With the proposed action, the vessels would not have to rely on shore power or continuous battery power while in port, which may under some circumstances be unavailable. It could also reduce polling costs while vessels are in port. The proposed alternative also allows vessels to operate without turning on VMS when they are inside of the VMS demarcation line. The Council proposed this option to provide flexibility to vessels, for example, when they travel from mooring to fuel and ice docks when they do not have a catch aboard. The enforcement concerns regarding this alternative were discussed in Section 6.3 (Enforcement Benefits and Trade-offs). This alternative would have less administrative costs and would provide more flexibility to vessels compared to the non-preferred power-down via a letter of exemption described in Section 0.

4.1.2 No Action

The vessels with general category permits will not be required to have a VMS onboard other than 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. Because vessels will not be required to have a VMS, they will not be provided a power-down exemption.

Rationale: VMS implementation will require a monetary investment by many general category vessels that do not presently operate a VMS unit. Although for many general category vessels the earnings from scallops significantly exceed VMS costs, for some other vessels, VMS requirement could be a financial burden. Even though current enforcement of the possession limits relies on dockside monitoring, and is less efficient than a system based on VMS implementation, it minimizes the costs of compliance for vessels with general category permits. Furthermore, the present system of monitoring of the possession limits could be improved by addition of more law enforcement personnel and resources. No action alternative is required for consideration by the National Environmental Policy Act (NEPA) to provide an

benchmark in order to compare the magnitude of the environmental impacts of other alternatives under consideration.

4.1.3 Alternatives to the Proposed VMS implementation

In addition to the proposed action, Alternative 2, the Council considered two alternatives for requiring VMS for vessels with general category scallop permits and an alternative regarding operating requirements for the VMS units. Alternative 1 would require all vessels with general category permits to operate a VMS, while Alternative 3 would include a smaller subset of vessels in VMS requirement according to the scallop pounds ranging from 100 lb. (Alternative 3a) to 300 lb. (Alternative 3c) per trip. Management alternatives also included the no action alternative discussed in Section 4.1.2. An overview of the costs and benefits of these alternatives is provided in Section 6.2.1.3.

4.1.3.1 VMS Alternative 1: All General Category Permits

Every vessel with a General category permit is required to have a VMS on board regardless of their participation in the scallop fishery and the area they choose to fish. 2,554 general category permits were issued during the 2003 fishing year (Table 36). Of these, only 210 already had a VMS during 2003. VMS regulations and procedures that pertain to the scallop limited access fishery would also apply to general category vessels if required to operate VMS unless revised by the power-down exemption alternative described in Section 4.1.1.2 is implemented.

Rationale: 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. It is also expected to provide an increased level of compliance due to the electronic monitoring presence of VMS, thus to discourage violations by general category vessels. As a result, the risks of overfishing of the scallop resource due to the violations of the possession limits will be reduced. This alternative will also reduce the incentive to obtain a general category permit by inactive vessels, thus it could reduce the number of inactive permits and potential entry to the fishery. VMS implementation will 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. 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 add another layer of safety in the event of an emergency. On the other hand, there will be an increase in the enforcement costs due to an increased need for personnel to monitor VMS usage by a large number of general category vessels included in alternative 1.

4.1.3.2 VMS Alternative 3: 100 lb., 200 lb., and 300 lb. per Trip

Any General category vessel that has in possession or land over a specific amount of scallops per trip, as specified in alternatives 3a, 3b, and 3c below, are required to install and operate a VMS:

- **Alternative 3a:** Any General category vessel that has in possession or land over 100 pounds of scallops per trip are required to install and operate a VMS.
- **Alternative 3b.** Any General category vessel that has in possession or land over 200 pounds of scallops per trip are required to install and operate a VMS.
- **Alternative 3c.** Any General category vessel that has in possession or land over 300 pounds of scallops per trip are required to install and operate a VMS.

VMS regulations and procedures that pertain to the scallop limited access fishery would also apply to general category vessels if required to operate VMS unless revised by the power-down exemption alternative described in Section 4.1.1.2 is implemented.

Rationale: The objective of this alternative is to require only a subset of general category vessels that target scallops to have a VMS onboard and prevent imposition of a cost burden on vessels that consistently land below the 400 limit. As a result, this alternative will result in a lower costs for the general category fleet as compared to both the proposed action and alternative 1. VMS implementation will have similar benefits described for alternative 1 above, except that it will include a smaller subset of vessels. The alternatives 3a to 3b will create, however, another subset of vessels for enforcement to monitor through dockside inspection by exempting a part of the general category vessels from VMS requirement. As a result, the enforcement benefits from VMS implementation will be lower for each successive alternative that requires to smaller subset of vessels to have a VMS.

144 vessels with general category permits landed scallops more than 300 lb. in at least one trip during the 2003 fishing year. Of these, 12 vessels already have a VMS onboard. Therefore, 132 vessels would be affected under alternative 3c. If 200 lb. limit is used as a criteria 156 would be required to install VMS, and if 100 lb. limit is applied 192 vessels would be included in VMS implementation (Table 36). The costs and benefits of these alternatives are fully discussed in Section 6.1.4.

4.1.3.3 Power Down via Letter of Exemption (Alternative 1):

The following power down exemption applies to all vessels that are required to operate VMS equipment, including limited access scallop vessels. The general category vessels that would be required to operate VMS (see Section 4.1.1) will be allowed to “power down” and be exempt from the requirements of transmitting a signal at least every hour, 24 hours a day, throughout the year, when they are in port. The vessel must be continuously out of the water for more than 72 consecutive hours to benefit from this exemption. The application for the exemption must provide required information, including the location of the vessel while exempt, the time period for the exemption, and sufficient information to determine that the vessel will be out of the water for 72 consecutive hours. If the vessel has a NE Multispecies limited access permit, the VMS sign out may be for no less than one calendar month. The letter of exemption must be on board the vessel at all times, and the vessel may not turn off the VMS signal until the letter of exemption has been received. These requirements are the same as the limited access scallop permits VMS regulations in §648.9(c)(2).

Rationale: The rationale for this alternative that is impractical and is unnecessary to operate VMS when vessels are not fishing. Since no landings of scallops will be possible while the vessel in dock, the power down option will not reduce the enforcement benefits from VMS implementation. It could also be costly for vessels to operate VMS when they are in port, while they are not engaged in any fishing activity. This alternative will allow vessels to be stored without continuously supplying electricity. It will also allow vessels that fish seasonally to discontinue VMS operation. Therefore, power-down exemption is expected to reduce compliance costs (See Table 37 for monthly service charge for VMS units). As compared to the proposed power-down alternative, this option would reduce the incentive for some vessels to illegally turn off the VMS in order to circumvent inspection due to the stricter requirements for power-down. These include the requirement for the vessels to be out of water for 72 consecutive hours, and having a letter of exemption on board specifying the location of the vessel while exempt, the time period for the exemption.

4.1.4 Considered and Rejected Alternatives for VMS Implementation

4.1.4.1 Alternative 4

All active general category permits, i.e., all general category vessels that have in possession of any amount of scallops from any trip, should have a VMS on board. There were 337 vessels that landed some amount of scallops in 2003 fishing year. This alternative is rejected by Council because it would include all vessels, even if they landed one pound of scallops from each trip, to have a VMS onboard. Many of these boats landed incidental amount of scallops, 40 pounds or less of per trip, which is already allowed

for personal use for any vessel even for vessels that do not have a general category permit. Alternative 2 provides a better cut-off point for VMS implementation by excluding these vessels with incidental catches of scallops from VMS requirement.

4.1.4.2 Alternative 5

VMS requirements will apply to active trawl vessels with general category permits and all vessels that have a dredge (including surf-clam dredge) onboard capable of catching scallops. Since all active 337 general category vessels used either trawl or dredge gear, this alternative would encompass same number of vessels included in alternative 4. Therefore, this alternative is very similar to alternative 4, and therefore, was rejected for the same reasons discussed above.

4.1.4.3 Alternative 6

Any vessel with a general category permit that landed pounds of scallop meats within a range of 1200 lb. to 4,800 lb. during the last fishing year would be required to have a VMS onboard. Vessels with a new general category scallop permit, issued for the first time to a vessel or owner after the date of the final rule on Framework Adjustment 17 (or March 1, 2005) would also be required to install a VMS. Similarly any vessels intends to land of scallop meats within a range of 1200 lb. to 4,800 lb during the current year will be required to have a VMS. This alternative was rejected because of the difficulties in implementation. First, data imperfections and unreported landings make it very difficult to identify the vessels that landed the specified amount. Furthermore, in addition to monitoring the trips to make sure the 400 lb. possession limit is not exceeded, it will also be necessary to track the total amount of scallop landed for each vessel just to ensure there is compliance with the VMS requirements. On the other hand, some vessels may not report all of their scallop landings in order not to reach the threshold level for VMS requirement, and therefore, would be still subject to the dockside enforcement without a VMS unit onboard. As compared to this alternative, the proposed alternatives 2 and 3 will be easier to implement, since they will only require monitoring of the landings per trip whether or not the total amount of scallops landed by a vessel exceeded a threshold during a given fishing year.

4.1.4.4 Alternative 7

Any vessel with a general category scallop permit is required to continuously operate a VMS, if the vessel has onboard a scallop dredge or if the vessel landed more than (1,000 to 20,000, range) lb. of scallop meats in the previous scallop fishing year (also applies to successive future calendar years). Vessels with a new general category scallop permit, issued for the first time to a vessel or owner after the date of the final rule on Framework Adjustment 17 (or March 1, 2005) would also be required to install a VMS. This alternative is very similar to alternative 6, except for different thresholds for scallop landings and an additional requirement for vessels with scallop dredges to install a VMS regardless of their total landings. The Council rejected this alternative for the same reasons explained for alternative 6. In addition, requiring VMS only for scallop dredges could encourage fishing for scallops by trawls by vessels that land below the threshold amount for VMS requirement.

4.1.4.5 Alternative 8 - Area-exemptions

This alternative would provide exemptions from VMS requirement for some general category vessels fishing in certain areas, such as the waters of Gulf of Maine. This alternative was rejected for the following reasons: Fishing area could not be used as criteria for VMS requirement because the location of fishing activity can change according to the resource conditions. In addition, a VMS requirement based on area fished, except for the access areas with area-specific DAS, TAC and trip controls, could lead to a shift of effort to areas exempted from the VMS requirement. In addition, it was not possible to distinguish vessels with incidental catches from others that target scallops and land the possession limit on basis on

the state of landing or area fished. Such action would also be discriminatory towards some states and would therefore violate National Standard 4.

4.2 Broken Trip Exemption Program

4.2.1 Proposed Action

4.2.1.1 Removal of Broken Trip Disincentive

The proposed action will eliminate the two DAS/3,000 lb. disincentive and retain the broken trip reporting requirements. Paragraph §648.60(c)(5)(i) and (ii) would be replaced by a more liberal procedure where the authorized landings of the broken and replacement trips would total to the amount authorized on the original trip. Doing so would allow vessels to submit an application to take a replacement trip for the amount of scallops equal to the uncaught possession limit. Under the existing broken trip exemption program, vessels do not have to justify (but are required to report) the reason for the early trip termination. All reporting requirements would continue and vessels would not have to justify the need for early trip termination.

The proposed action will be modify the regulations that pertain to broken trip reporting requirements. Paragraph §648.60(c)(5)(i) will be removed because it would no longer be necessary to allocate and track DAS on replacement trips. Paragraph (ii) will be revised as follows:

(ii)The amount of scallops that can be landed on an authorized additional Sea Scallop Access Area trip shall equal the difference between the scallop possession limit that applies to the vessel fishing in the controlled access area and the number of pounds landed on the broken trip for which the additional trip replaces.

Paragraph three (Section 1.2) would remain unchanged because it specifies that replacement trips have the same provisions as do the original controlled access trip allocations and it allows a vessel to combine replacement trips as long as the combined trip does not exceed the scallop possession limit for the access area.

Thus a vessel that landed 6,000 lbs. of scallops on a broken trip would be authorized to take a replacement trip with a 12,000 lb. scallop possession limit. Broken trip applications from part-time and occasional vessels that sometimes have different scallop possession limits would be treated in the same fashion. A vessel that had a 16,000 lb. scallop possession limit on a broken trip and landed 6,000 lbs. would be authorized to take a replacement trip with a 10,000 lb. scallop possession limit. The following table gives some examples, showing the pounds of scallop landings that would be authorized on replacement trips:

Table 1. Pounds landed on broken trips and pounds allowed for the replacement trips

	DAS per trip	12	11.2	7
	Possession limit	18,000	16,800	10,500
	Allocation type	Full-time	Part-time	Occasional
Pounds landed on broken trip	0	18,000	16,800	10,500
	2,500	15,500	14,300	8,000
	9,442	8,558	7,358	1,058
	15,000	3,000	1,800	N/A
	17,500	500	N/A	N/A

Rationale: Eliminating the automatic charge on replacement trips eliminates any potential disincentive to use the broken trip program and reduces cost to the limited access scallop vessels that fish in controlled access areas. It may reduce some of the alleged risks associated with the broken trip charge because vessels facing unsafe conditions can return to port without the threat of losing a portion of their authorized scallop landings. These trips are monitored closely with VMS equipment and may be more likely to have an observer on board. As such, compliance with the scallop possession limit is sufficiently monitored and ensures that the total catch does not exceed the TAC. There are no biological impacts as long as the catch is monitored effectively and does not exceed the TACs.

4.2.1.2 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. Vessels that do not take a replacement trip prior to the implementation of Framework Adjustment 17 will be authorized to take a replacement trip with a possession limit that is equal to the difference between the scallop possession limit on the initial broken trip and the amount landed on the initial broken trip (as described in Section 4.2.2.1).

Rebates of authorized scallop landings for broken trips within an access area may be combined as long as the total amount does not exceed the scallop possession limit that applies to the permit category and area. Rebates from different access areas may not be combined with each other on a single replacement trip.

Rebates of authorized scallop landings may not be taken in a different controlled access area than the one that the broken trip was taken. Replacement trips using the rebated scallop landing authorization must be initiated before March 1, 2006, or completed prior to the end of the access season, so that the amounts landed count against the correct TAC.

All trips that begin on or after March 1, 2005 and are terminated early as a broken trip are eligible for the rebate. Trips that begin before March 1, 2005 are charged against the 2004 TAC and are therefore ineligible for the rebate.

NMFS will monitor and log broken trip activity prior to the implementation of Framework Adjustment 17 and will automatically authorize the rebate once Framework 17 is implemented.

For example, a vessel beginning a trip to the Hudson Canyon Area after March 1, 2005 and which lands 6,000 lbs. of scallops for that trip would be eligible under existing rules to take a replacement trip of 6 DAS and a scallop possession limit of 9,000 lbs. If the vessel takes the replacement trip, it would be eligible to take an additional trip with a 3,000 lb. scallop possession limit (i.e. the remainder of the original 18,000 lb. scallop trip allocation). It could also combine the 3,000 lb. rebate with rebates or authorized landing amounts from other broken trips within the Hudson Canyon Area. If the vessel did not take the authorized replacement trip before the framework action becomes effective, it would be allowed to take a replacement trip with a 15,000 lb. scallop possession limit. The same rules would also apply to controlled access trips taken to other areas during the 2005 fishing year.

Rationale: This measure will provide vessel operators more flexibility for all trips in the 2005 fishing year, even if they occur prior to the implementation of Framework Adjustment 17. Vessel owners will be able to harvest the full amount of the possession limit through replacement trips and the rebates. This may reduce some of the alleged risks associated with the broken trip charge because vessels facing unsafe conditions can return to port without the threat of losing a portion of their authorized scallop landings.

Taking this action will address any actual or implied safety concerns with the broken trip charge as quickly as possible, because it will apply to all trips taken in the 2005 fishing year. Rebates for broken trip charges before the beginning of the 2005 fishing year (i.e. any trip leaving before March 1, 2005) cannot be made because the amounts landed would count against the wrong TAC, raising the risk of potential overfishing. Replacement trips must be taken in and authorized landings must count against the areas where the broken trip was taken to ensure that total landings in each area do not exceed the applicable TAC.

4.2.2 No Action

4.2.2.1 Broken Trip Exemption – Continuation of Status Quo Regulations

No Action will retain the existing broken trip exemption program specified in paragraph §648.60(c) of the regulations as follows:

(i)The number of DAS a vessel will be charged for an additional trip in the Sea Scallop Access Area shall be calculated as the difference between the scallop possession limit for the area and the amount of scallops actually landed on the broken trip, divided by 1,500 lbs. The replacement trip may have a fractional number of DAS associated with it.

The description of and rationale for the broken trip exemption program in Amendment 10 is provided below for reference:

Vessels returning from a controlled access area trip with less than the scallop possession limit, due to an emergency, poor weather, or any other reason deemed appropriate by the captain will have the automatic DAS charge reduced, based on the amount of scallops landed. To terminate a trip and have a reduced day-at-sea charge, the Captain must notify NMFS of his intent to terminate the trip before landing; and report the reason for the termination, the hail weight of the scallop catch onboard the vessel, and the intended time and location of offloading and landing. In addition, vessel owners or captains must submit an application to receive credit for a broken trip adjustment, showing the actual amount of scallops landed, the date sailed, and the date when the vessel returned to a port (i.e. no longer on a DAS). The vessel owner must receive written confirmation of the broken trip from the Regional Administrator, authorizing a replacement trip. Since controlled access DAS and trips cannot be carried over to the next fishing year, all broken trip applications expire at the end of the fishing year.

Vessels returning from a controlled access area trip and having no scallops onboard to land will be charged two days-at-sea. Otherwise the vessel meeting the above conditions would be charged a minimum of 2 days-at-sea plus one day-at-sea for each 10 percent of the scallop possession limit onboard the vessel (i.e. landed).

Vessels that qualify for a broken trip day-at-sea adjustment will also be allowed to resume the trip later within the fishing year, the replacement trip having a possession limit that is reduced to account for remaining time from the original trip. The day-at-sea charge for this trip will be the remaining days-at-sea for that trip and the possession limit will be prorated at a 1,500 per day-at-sea equivalent. For example, a vessel charged two days for a broken trip could continue the trip later in the fishing year, but would be able to land 15,000 lbs. and would be charged 10 DAS. A vessel charged four days for a broken trip could continue that trip later in the fishing year, but would be able to land 12,000 lbs. of scallops (see Table 2 below). Adjustments for two or more broken trips from the same area may be combined in a “make-up” trip, provided that the scallop possession limit does not exceed 18,000 lbs.

After adjustments, more than one broken trip may be combined into one controlled access trip, as long as the total does not exceed the maximum scallop possession limit for controlled access trips for the area being fished, presently 18,000 lbs. of scallop meats for all controlled access areas.

Table 2. Schedule of day-at-sea charges for trips terminated early by limited access scallop making controlled access trips. (This is an example day-at-sea charge schedule if the scallop possession limit is 18,000 pounds and the re-opened area day-at-sea tradeoff is 12 days.)

<i>Proportion of scallop landings to the scallop possession limit</i>	<i>Example hail weight of sea scallops (meat weight, pounds)</i>	<i>Minimum day-at-sea charge</i>	<i>Trip continuation</i>
	18,000 pound possession limit	12 day-at-sea tradeoff	
0 percent	Zero	2 days-at-sea	10 days; 15,000 lbs.
More than 0 to 10 percent	1 to 1,800	3 days-at-sea	9 days; 13,500 lbs.
More than 10 percent to 20 percent	1,801 to 3,600	4 days-at-sea	8 days; 12,000 lbs.
More than 20 percent to 30 percent	3,601 to 5,400	5 days-at-sea	7 days; 10,500 lbs.
More than 30 percent to 40 percent	5,401 to 7,200	6 days-at-sea	6 days; 9,000 lbs.
More than 40 percent to 50 percent	7,201 to 9,000	7 days-at-sea	5 days; 7,500 lbs.
More than 50 percent to 60 percent	9,001 to 10,800	8 days-at-sea	4 days; 6,000 lbs.
More than 60 percent to 70 percent	10,801 to 12,600	9 days-at-sea	3 days; 4,500 lbs.
More than 70 percent to 80 percent	12,601 to 14,400	10 days-at-sea	2 days; 3,000 lbs.
More than 80 percent	Over 14,400	11 days-at-sea	1 day; 1,500 lbs.

Rationale: This broken trip procedure is needed to reduce fishing costs and encourage landings from controlled access trips where scallops are generally larger, which in turn may reduce the incentive to fish all of the open area allocated days. However, this procedure includes three provisions that will prevent abuse of the system that might occur if there are loopholes, which provide an advantage to fishermen. First is that any vessel that terminates a trip will automatically be charged two days-at-sea. Second, actual time at sea will be charged even with no scallop landings or a small amount, unless there are extenuating circumstances explained above that require the vessel to remain at sea. This would prevent vessels from catching large amounts of scallops in controlled access areas and despite a prohibition, transferring portions of the catch to other vessels. While this problem might not be a factor under normal circumstances, the broken trip procedure could open a new incentive to transfer catches to reduce the DAS charge for controlled access trips, unless the vessel would be charged for actual time at sea when landing small amounts of scallops.

In Framework Adjustment 15, the day-at-sea adjustment for broken trips became a non-preferred alternative because of law enforcement concerns. Although vessels would be required to hail the catch and report the intended time of landing, law enforcement interests thought that this program could create opportunities for abuse. A second factor in the decision was that NMFS believes that an existing program performed satisfactorily and reduced the risk vessels face when fishing in the Hudson Canyon and VA/NC Areas. Vessels could apply for an adjustment to the day-at-sea charge for broken trips. NMFS granted or denied adjustments on a case-by-case basis for vessels that claim a medical emergency, equipment failure, bad weather, or other legitimate reason to return early to port. In §6.1.10 of Amendment 10, the analysis recognized the broken trip program as “a better concept than the existing one, but from a safety perspective it is not as effective as no punitive action for valid trip terminations.”

4.2.2.2 Broken trip rebate: Status quo

Vessels with a broken trip taken before the framework adjustment becomes effective would fish under existing rules, i.e. the broken trip program disincentive would apply. Replacement trips for these broken trips would have an allocation that is based on the existing schedule where landings on replacement trips are imposed a 'charge' of up to 2 DAS and 3,000 lbs. Trips that are initiated before the framework adjustment becomes effective but are terminated after the rule becomes effective would be eligible under the new rules (see Section 4.2.1.2 for a description of the new rule).

Rationale: This measure would avoid applying a final rule retroactively to earlier fishing activities. Various vessel operators may make different decisions about terminating trips until the framework adjustment was approved, raising equity concerns.

5 DESCRIPTION OF AFFECTED ENVIRONMENT

This section includes descriptions of biological, physical, economic, and social features that are likely to be affected by the alternatives, focusing on the general category scallop fishery. Broader descriptions of these features that coincide or are correlated with scallop management were presented in the FSEIS for Amendment 10 (NEFMC 2003).

5.1 Description of the Sea Scallop Fishery and Human Environment

The scallop fishery consists of vessels with limited access scallop permits that are regulated with area specific DAS and trip allocations, and vessels with general category scallop permits that are regulated with a 400 lb. possession limit. Amendment 10 provides a thorough description of the scallop fishery, including the limited access and general category fleet, and the business infrastructure (ports and dealers) that support scallop fishing activity. The analysis describes a vibrant fishery that has benefited from the effects of management actions over the last 10 years. Over the past few years, the improving condition of the resource has encouraged more investment in the fishery.

The limited access vessels, with the exception of occasional vessels choosing to fish only in the open areas, are already required to have a VMS onboard while fishing for scallops. As a result, the proposed alternatives requiring VMS implementation for the general category fleet are not expected to have a substantial impact on the limited access vessels, except indirectly through the positive impacts of improved monitoring of the possession limit. The removal of broken trip disincentive and rebates on charges for replacement trips that take place during the 2005 fishing year will have positive impacts on the limited access vessels by improving safety and reducing the revenue losses from broken trips. However, these measures will impact only a small proportion of controlled access trips without substantial impacts for the limited access scallop fishery. This section provides a description of the general category fleet and a summary of the limited access and other sectors of the scallop fishery with updated information for the 2003 fishing year and information on the broken trips that took place during the 2004 fishing year. (See Section 7.1 of the FSEIS for Amendment 10 for a full description of the scallop fishery).

5.1.1 Limited Access Scallop Fleet:

The human environment, including the limited access vessels, dealers and processors, the scallop ports, and fishing areas were described in detail in Section 7.1 of the FSEIS for Amendment 10 (NEFMC 2003). The limited access vessels consist of full-time, part-time and occasional vessels and are regulated through area specific DAS and trip allocations as determined by Amendment 10 to the Sea Scallop Fishery and by the regulations included in Framework 16.