

6.2.11 Recreational Catch and Release

“Assess the type and amount of fish caught and released alive during recreational fishing under catch and release fishery management programs and the mortality of such fish, and include conservation and management measures that, to the extent practicable, minimize mortality and ensure the extended survival of such fish.”

Recreational fishing for sea scallops is rare and immaterial to the success of the FMP.

6.2.12 Description of Fisheries

“Include a description of the commercial, recreational, and charter fishing sectors which participate in the fishery and, to the extent practicable, quantify trends in landings of the managed fishery resource by the commercial, recreational, and charter fishing sectors.”

A description of the fishery and a summary of trends in landings by the commercial fishery is given in Section 7.1. Recreational fishing for sea scallops is rare and there is no charter fishing for sea scallops.

6.2.13 Fair and Equitable Distribution Amongst Fishery Sectors

“To the extent that rebuilding plans or other conservation and management measures which reduce the overall harvest in a fishery are necessary, allocate any harvest restrictions or recovery benefits fairly and equitably among the commercial, recreational, and charter fishing sectors in the fishery.”

The proposed action does not affect recreational fishing for sea scallops (should it occur), there is no charter fishing for sea scallops, and the commercial fisheries will benefit from any short-term reduction in harvest. The allocations amongst these fishing sectors is therefore fair and equitable.

6.3 DISCRETIONARY PROVISIONS

6.3.1 Permits

Require a permit to be obtained from, and fees to be paid to, the Secretary, with respect to--

- (A) Any fishing vessel of the United States fishing, or wishing to fish, in the exclusive economic zone [or special areas,]* or for anadromous species or Continental Shelf fishery resources beyond such zone [or areas]*;*
- (B) The operator of any such vessel; or*
- (C) Any United States fish processor who first receives fish that are subject to the plan.”*

The FMP requires dealer and vessel permits for participants in the scallop fishery. Any vessel landing more than 40 lbs. of scallop meats must obtain a general category permit from the NE Regional Office and any vessel landing more than 400 lbs. of scallop meats must obtain a limited access scallop permit.

6.3.2 Management Zones

“Designate zones where, and periods when, fishing shall be limited, or shall not be permitted, or shall be permitted only by specified types of fishing vessels or with specified types and quantities of fishing gear.”

The FMP introduces rotation area management which implicitly means that defined areas will have specific limits on the vessel that may fish and the types and quantities of fishing gear that may be used. Future framework adjustments may change the boundaries of areas or designate new areas that apply according to rotation area management guidelines (Section 5.1.3.2).

The amendment also proposes habitat closures (Section 5.1.6.2) that where fishing with certain gears would be prohibited to protect and allow recovery of complex and sensitive habitats. Under Amendment 10, these areas would be closed to fishing with scallop dredges and trawls, but could also apply to other bottom-tending mobile fishing gear through developing or planned Council actions in other plan amendments.

A proactive protected species framework adjustment (Section 5.1.7) could also invoke new management zones to reduce interactions with sea turtles and/or other protected species. When unacceptable sea turtle interactions are observed, the Council would initiate a framework adjustment to proactively respond to the problem. These management zones may seasonally prohibit the use of certain gear types or require certain gear modifications in specified areas.

6.3.3 Catch Limits

“Establish specified limitations which are necessary and appropriate for the conservation and management of the fishery on the--

- (A) Catch of fish (based on area, species, size, number, weight, sex, bycatch, total biomass, or other factors);*
- (B) Sale of fish caught during commercial, recreational, or charter fishing,*
- (C) Consistent with any applicable Federal and State safety and quality requirements; and*
- (D) Transshipment or transportation of fish or fish products under permits issued pursuant to section 204.”*

Controlled access areas will have a TAC target that is used to allocate trips and area-specific DAS to limited access scallop vessels. Scallops landed in the shell have a minimum size under existing regulations. Existing regulations specify how scallops may be transported at sea, but do not regulate scallop transshipments once landed at a dealer.

6.3.4 Gear Limits

“Prohibit, limit, condition, or require the use of specified types and quantities of fishing gear, fishing vessels, or equipment for such vessels, including devices which may be required to facilitate enforcement of the provisions of this Act.”

Gear size and amounts are regulated by permit category. In addition, most limited access vessels are required to operate VMS equipment to facilitate enforcement of closed areas, controlled access areas, and possession limits.

6.3.5 Coastal State Regulations

“Incorporate (consistent with the national standards, the other provisions of this Act, and any other applicable law) the relevant fishery conservation and management measures of the coastal States nearest to the fishery.”

Only ME, NH, and MA regulate scallop fishing in state waters and the FMP accommodates those regulations under a special state-exemption provision. Vessels fishing exclusively in state waters of ME, NH, and MA for sea scallops are not regulated by DAS restrictions or scallop possession limits under the FMP. Due to the marginal nature of these fisheries with respect to the main scallop resource, this does not present a conservation problem at this time.

6.3.6 Limited Access

“Establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account--

(A) Present participation in the fishery,

(B) Historical fishing practices in, and dependence on, the fishery,

(C) The economics of the fishery,

(D) The capability of fishing vessels used in the fishery to engage in other fisheries,

(E) The cultural and social framework relevant to the fishery and any affected fishing communities, and

(F) Any other relevant considerations.”

The FMP has had a limited access system in place since 1994, which originally took these considerations into account. Amendment 10 does not implement new limited access requirements or criteria.

6.3.7 Dealer Reports

“Require fish processors who first receive fish that are subject to the plan to submit data (other than economic data) which are necessary for the conservation and management of the fishery.”

The FMP currently requires fish dealers that land scallops or other seafood from vessels with scallop permits to submit reports describing the products landed and the amount of landings, as well as the ex-vessel price paid for the landings.

6.3.8 At-sea Observers

“Require that one or more observers be carried on board a vessel of the United States engaged in fishing for species that are subject to the plan, for the purpose of collecting data necessary for the conservation and management of the fishery; except that such a vessel shall not be required to carry an observer on board if the facilities of the vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized.”

Amendment 10 expands the amount of sampling by onboard observers and provides funding through a set-aside program. The Regional Administrator may choose vessels and trips where the vessel is required to carry an observer. Vessels making controlled access area trips are also required to notify the Regional Administrator so that an observer may be arranged for the trip. This notification includes a description of the vessel and an assessment of whether the vessel's facilities are suitable for the safe conduct of the observer.

6.3.9 Effect on Spawning Anadromous Fish

“Assess and specify the effect which the conservation and management measures of the plan will have on the stocks of naturally spawning anadromous fish in the region.”

Since the scallop fishery mainly takes place offshore, no effects on anadromous fish are anticipated.

6.3.10 Harvest Incentives to Reduce Bycatch

“Include, consistent with the other provisions of this Act, conservation and management measures that provide harvest incentives for participants within each gear group to employ fishing practices that result in lower levels of bycatch or in lower levels of the mortality of bycatch.”

Amendment 10 provides a mechanism and incentive (Section 5.1.8.3) for fishermen to engage in experimental fishery research that may result in lower levels of bycatch or bycatch mortality. If successful, these techniques or modifications may be considered in future management actions.

6.3.11 Set-aside for Scientific Research

“Reserve a portion of the allowable biological catch of the fishery for use in scientific research.”

The proposed action includes a 2% set-aside (Section 5.1.8.3) to support and help fund scientific research that among other things could reduce bycatch, enhance habitat conservation, or improve scallop yield.

6.3.12 Other Conservation Measures

“Prescribe such other measures, requirements, or conditions and restrictions as are determined to be necessary and appropriate for the conservation and management of the fishery.”

The proposed action and the FMP specify limits on the amount of time vessels may fish, on the locations where they may fish, the type and amount of gear they may use, and crew limits. Regulation of these factors control total fishing effort and the fishing power of vessels targeting sea scallops, thus preventing fishing mortality from exceeding an amount that will produce MSY.