

fueled vehicle; under section 32901(a)(1)(K) a mix of gasoline or diesel fuel and another substance may be an alternative fuel if it is not substantially petroleum and yields substantial environmental and energy benefits.

NBB's petition also requests that NHTSA determine that a vehicle operating on a mix of biodiesel and diesel fuel be deemed to have met the minimum driving range requirement of 200 miles if the biodiesel fuel portion of the mixture in the vehicle's fuel tank would propel the vehicle that distance. As noted above, the agency concludes that Congress did not intend that vehicles operating on a mixture of alternative and petroleum fuel be eligible as alternative fuel vehicles under Chapter 329's incentive program unless that mix is itself an alternative fuel. NBB contends that the energy content of the alternative fuel is the relevant criteria for determining range and further argues that there is no practical difference between a vehicle operating on a 30 percent biodiesel mix and one with two separate fuel systems where the biodiesel tank holds 30 percent of the total fuel capacity. In the latter case, NBB submits, the vehicle would clearly meet the range requirement if the biodiesel propelled it 200 miles. If, according to NBB, the vehicle that mixes the two fuels in one tank cannot be deemed to meet the range requirement, the purposes of the incentive program will be frustrated and lead to an unequitable result. However, NBB's argument fails in that a vehicle operating on a mixture of 30 percent biodiesel and 70 percent diesel is not using an alternative fuel. In the absence of data demonstrating otherwise, such a fuel is substantially petroleum and therefore not an alternative fuel under section 32901(a)(1). The passenger automobile operating with a dual fuel system would, however, qualify as a dual fueled passenger automobile if it could reach 200 miles on 100 percent biodiesel because such a fuel is an alternative fuel.

In response to the petition, the agency has reconsidered its decision to set a 200 mile minimum driving range for non-electric dual fueled passenger automobiles when operating on an alternative fuel. As explained below, the agency is, on reconsideration, reaffirming that decision.

The petition raises points that are beyond the scope of the final rule establishing the 200 mile minimum driving range. The agency has nonetheless examined the merits of the petitioner's requests and concludes that the relief requested would have been

denied even if it had been within the scope of the final rule. NHTSA concludes that the existing text of part 538 and the statutory definitions incorporated therein by reference include neat biodiesel as an alternative fuel. The agency also concludes that vehicles operating simultaneously on a mixture of an alternative fuel and gasoline or diesel fuel are not dual fueled vehicles for the purposes of Chapter 329's incentive program unless that mixture qualifies as an alternative fuel under section 32901(a)(1)(K). Similarly, NHTSA also concludes that a dual fueled passenger automobile may not meet the range requirements simply by virtue of having a percentage of alternative fuel that may propel it 200 miles. The range requirement may only be met by passenger automobiles that may travel the required distance while being propelled by a fuel or a fuel mixture that is, by itself, an alternative fuel as defined by Congress or by NHTSA regulation. Accordingly, the agency is denying the petition.

Issued on: March 26, 1998.

**L. Robert Shelton,**

*Associate Administrator for Safety Performance Standards.*

[FR Doc. 98-8364 Filed 3-30-98; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 300

[Docket No. 980225048-8059-02; I.D. 030698A]

RIN 0648-AK58

#### Pacific Halibut Fisheries; Catch Sharing Plans; Correction

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

**ACTION:** Correction to final rule.

**SUMMARY:** This document contains a correction to the final rule pertaining to Pacific Halibut Fisheries published in the **Federal Register** on March 17, 1998.

**DATES:** This action becomes effective March 31, 1998.

**FOR FURTHER INFORMATION CONTACT:** Joe Scordino, 206-526-6143.

**SUPPLEMENTARY INFORMATION:**

#### Background

A final rule was published in the **Federal Register** on March 17, 1998,

that published annual management measures for Pacific halibut fisheries and approval of catch sharing plans (63 FR 13000). That document contained two typographical errors.

#### Corrections

As published, an incorrect date was listed twice in the March 17, 1998, edition of the **Federal Register**. On page 13002, in the first column, under "Comment:," the season start date should read "May 21."

On page 13007, under instruction number 23 in the second column, under (4)(b)(i)(A) the fishing season start date should read "May 21." NMFS is correcting these errors and is making no substantive change to the document in this action.

Dated: March 25, 1998.

**Gary C. Matlock,**

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

[FR Doc. 98-8430 Filed 3-30-98; 8:45 am]

BILLING CODE 3510-22-F

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 980318065-8065-01; I.D. 030698B]

RIN 0648-AK68

#### Atlantic Sea Scallop Fishery; Area Closures

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

**ACTION:** Interim final rule.

**SUMMARY:** NMFS amends the regulations implementing the Atlantic Sea Scallop Fishery Management Plan (FMP). This rule closes two areas to scallop fishing to protect concentrations of juvenile scallops, to reduce fishing mortality, and to increase yield per recruit (YPR). The intended effect of this action is to improve the condition of the resource.

**DATES:** Effective April 3, 1998 through September 27, 1998. Comments must be received on or before April 30, 1998.

**ADDRESSES:** Comments on the rule should be sent to Andrew A. Rosenberg, Ph.D., Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930-2298. ATTN: Paul Jones. Copies of the documents supporting this action may also be obtained from the Northeast Regional Office.

**FOR FURTHER INFORMATION CONTACT:** Paul H. Jones, 978-281-9273.

**SUPPLEMENTARY INFORMATION:**

**Background**

Atlantic sea scallops are overfished. The scallop advisory report issued from the 23rd Stock Assessment Workshop (SAW) in March 1997 stated that the current spawning stock biomass (SSB) is at a low level and catches are driven primarily by variations in the number of recruits entering the fishery. On Georges Bank, abundance and fishing mortality are at moderate levels, but this results from approximately half of the region currently being closed to fishing. Stock rebuilding is occurring in those closed areas, but elsewhere on Georges Bank fishing mortality is greater than the overfishing threshold. The report further states that scallops in the Mid-Atlantic region are at a low level of abundance, are being overexploited, and are declining. The large 1990 and 1991 year classes have been overfished and incoming recruitment is among the lowest on record. Based on high fishing mortality rates, low stock size, and lack of significant recruitment, the management advice is that fishing effort should be reduced immediately and significantly in the Mid-Atlantic region to preserve SSB and to improve YPR. Recent results of the 1997 survey confirm that trends in abundance and biomass in both the Mid-Atlantic and Georges Bank regions are decreasing.

The scallop regulations require the Scallop Plan Development Team (PDT) to assess the scallop resource to determine the adequacy of the total allowable days-at-sea (DAS) reduction schedule to achieve the target fishing mortality rate. The PDT completed its 1997 review of scallop management measures in May 1997 and concluded that larger reductions in DAS would be necessary to eliminate overfishing. It concluded that the DAS for full-time scallop vessels should be reduced from 142 to 108 DAS for the March 1, 1998, through February 28, 1999, fishing year.

Overfishing for Atlantic sea scallops is defined as the fishing mortality rate greater than the rate that would maintain a SSB, that is 5 percent of the level that occurs without fishing.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires that overfishing be examined on the basis of the ability of the stock to produce maximum sustainable yield on a continuing basis. This overfishing threshold is expected to be one-third of the current overfishing definition. Therefore, major action will be necessary to comply with the new

Magnuson-Stevens Act requirements through the submission of an amendment to the FMP (Amendment 7) later this year. Action to slow the fishing mortality rate in the interim will ameliorate the measures necessary in Amendment 7.

In light of the management advice from the PDT, the SAW report, and of the requirements of the Magnuson-Stevens Act, the New England and Mid-Atlantic Fishery Management Councils requested interim action to close an area south of Hudson Canyon and a specific area off Virginia Beach to scallop fishing.

The intent of this action is to afford immediate protection to the resource by protecting high concentrations of juvenile scallops. Although permanent measures by the New England Fishery Management Council (Council) are being developed, it will likely take several months to complete and to implement these measures, if they are approved. Due to the relatively low stock condition in the Mid-Atlantic and the time needed for the Council to develop measures to address this problem, NMFS believes that this interim action is warranted. Interim actions are authorized by section 305(c) of the Magnuson-Stevens Act. Interim actions may remain in effect for 180 days and, subject to certain conditions, may be extended by publication in the **Federal Register** for one additional 180-day period. This interim action will remain in effect for 180 days and is subject to extension. The benefits of the interim action will be evident through a more balanced age structure of the scallop stock. Also, significant reductions in fishing mortality and increases in YPR are possible from the relatively small closures.

If closed areas in the Mid-Atlantic are not established as soon as possible, SSB will continue to decline, increasing the possibility of recruitment failure.

Analyses indicate that implementation of these measures may impose a short-term cost on some harvesters, but they will be able to harvest scallops from the remaining open areas. Fishers pursuing species other than scallops will not be excluded from the closed areas; therefore, there is no economic impact beyond that on the scallop industry. When these areas are reopened, average revenue per DAS should increase because of increased stock abundance and higher prices paid for larger meat counts. The benefits of implementing this action on both the stock, with respect to protecting high concentrations of juvenile scallops, and on the return to the industry, with respect to increased yields, far outweigh

these temporary costs. Thus, the biological, economic, and social impacts of implementing these regulations are positive.

**Classification**

NMFS has determined that this rule is necessary to reduce overfishing of sea scallops and is consistent with the Magnuson-Stevens Act and with other applicable laws. The public is aware that the New England and Mid-Atlantic Fishery Management Councils have requested this action and had an opportunity to comment on it at Council meetings. However, at that time, the coordinates of the Hudson Canyon South area closure were not developed and, therefore, not available for public comment.

A delay in action to reduce overfishing increases the likelihood of a loss of long-term productivity of the sea scallop resource and increases the probable need for more severe restrictions in the future. Accordingly, pursuant to the authority set forth at 5 U.S.C. 553(b)(B), the Assistant Administrator finds that these reasons constitute good cause to waive the requirement to provide prior notice and the opportunity for public comment because such procedures would be contrary to the public interest. Similarly, the need to implement these measures in a timely manner to address overfishing of sea scallops constitutes good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness. However, to provide sufficient notification of the closed areas, particularly to vessels that may be at sea, NMFS makes this rule effective April 3, 1998 through September 27, 1998.

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

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

**List of Subjects in 50 CFR Part 648**

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 25, 1998.

**Gary C. Matlock,**

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

For the reasons set out in the preamble, 50 CFR part 648 is 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 § 648.14, paragraphs (a)(104) through (a)(109) are added and reserved, and paragraphs (a)(110) and (a)(111) are added to read as follows:

### § 648.14 Prohibitions.

(a) \* \* \*

(104) through (109) [Reserved].

(110) Fish for, possess or retain sea scallops in or from the areas described in § 648.57.

(111) Transit or be in the areas described in § 648.57 with scallop gear that is not properly stowed as required in § 648.57.

\* \* \* \* \*

3. Section 648.57 is added to subpart D to read as follows:

### § 648.57 Closed areas.

(a) *Hudson Canyon South Closed Area.* No vessel may fish for, possess, or retain sea scallops in or from the area known as the Hudson Canyon South Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request) unless all gear on board is properly stowed and not available for immediate use in accordance with the provisions of § 648.23(b) and § 648.81(e). Further, vessels not fishing in the scallop DAS program and fishing for species other than scallops or not in possession of scallops in this area must stow scallop dredge gear in accordance with the provisions of §§ 648.23(b) and 648.81(e). The Hudson Canyon South Closed Area is defined by straight lines connecting the following points in the order stated:

| Point    | Latitude  | Longitude |
|----------|-----------|-----------|
| H1 ..... | 39°30' N. | 73°10' W. |
| H2 ..... | 39°30' N. | 72°30' W. |
| H3 ..... | 38°30' N. | 73°30' W. |
| H4 ..... | 38°40' N. | 73°50' W. |

(b) *Virginia Beach Closed Area.* No vessel may fish for, possess, or retain sea scallops in or from the area known as the Virginia Beach Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request) unless all gear on board is properly stowed and not available for immediate use in accordance with the provisions of § 648.23(b) and § 648.81(e). Further, vessels not fishing in the scallop DAS program and fishing for species other than scallops or not in possession of scallops in this area must stow scallop

dredge gear in accordance with the provisions of §§ 648.23(b) and 648.81(e). The Virginia Beach Closed Area is defined by straight lines connecting the following points in the order stated:

| Point    | Latitude  | Longitude |
|----------|-----------|-----------|
| V1 ..... | 37°00' N. | 74°55' W. |
| V2 ..... | 37°00' N. | 74°35' W. |
| V3 ..... | 36°25' N. | 74°45' W. |
| V4 ..... | 36°25' N. | 74°55' W. |

[FR Doc. 98-8287 Filed 3-25-98; 4:43 pm]

BILLING CODE 3510-22-P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 980318066-8066-01; I.D. 022698A]

RIN 0648-AK77

### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 25

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

**ACTION:** Final rule and 1998 target total allowable catch (TAC) levels.

**SUMMARY:** NMFS issues this final rule to implement measures contained in Framework 25 to the Northeast Multispecies Fishery Management Plan (FMP). The primary purpose of this action is to significantly reduce fishing effort on Gulf of Maine (GOM) cod through a combination of direct and indirect measures. Direct measures include area closures and trip limits, and indirect measures include an incentive to shift effort from the GOM to Georges Bank with an increased haddock trip limit. This final rule implements management measures that include: 1-month sequential closures for each of four GOM inshore areas starting in Massachusetts Bay and extending to Penobscot Bay and for an offshore area comprising Cashes Ledge; a year-round closure encompassing parts of Stellwagen Bank, Jeffreys Ledge, and Wildcat Knoll; a reduction in the GOM cod landing limit from 1,000 lb/day (453.6 kg/day) to 700 lb/day (317.5 kg/day); an extension of the current 1,000 lb/day (453.6 kg/day) haddock landing limit, with a 10,000 lb (4,536 kg/day) landing cap per trip, for the period May 1 through August 31, and an increase to 3,000 lb/day (1,360.8 kg/day), with a 30,000 lb (13,608 kg/day) cap per trip,

beginning September 1; a requirement to use a raised footrope trawl in Small Mesh Area 1 and Small Mesh Area 2; and a 1-year postponement of the Vessel Tracking System (VTS) for multispecies vessels. The intent of this action is to implement measures to achieve the rebuilding goals of Amendment 7 to the FMP for the 1998 multispecies fishing year.

**DATES:** This final rule and the target total allowable catch levels are effective May 1, 1998.

**ADDRESSES:** Copies of Amendment 7 to the FMP (Amendment 7), its regulatory impact review (RIR), and the final regulatory flexibility analysis contained with the RIR, its final supplemental environmental impact statement, and Framework Adjustment 25 documents are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

#### FOR FURTHER INFORMATION CONTACT:

Susan A. Murphy, Fishery Policy Analyst, 978-281-9252.

#### SUPPLEMENTARY INFORMATION:

Amendment 7, which became effective on July 1, 1996, established a procedure for setting annual TACs for the five primary stocks of cod, haddock, and yellowtail flounder (Georges Bank cod, haddock, and yellowtail flounder, Southern New England yellowtail flounder, and GOM cod), and an aggregate TAC for the combined stocks of the remaining regulated multispecies. Adjustment of target TACs, which are calculated based on the biological reference points of  $F_{max}$  for GOM cod and  $F_{0.1}$  for the remaining stocks of cod, haddock, and yellowtail flounder, is necessary to attain a fishing mortality rate that would allow cod, haddock, and yellowtail stocks to rebuild over time, and maintain current potential yield for the seven remaining multispecies. Adjustment of annual target TACs provides a measure by which to evaluate the effectiveness of the management program and to make determinations on the need for annual adjustments to this program.

Under Amendment 7, the Multispecies Monitoring Committee (MSMC) was established to review the