

review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2001. Given the imminence of the effective date, seeking prior public comment on this temporary stay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. The imminence of the effective date is also good cause for making this action effective February 5, 2001.

Issued on: January 31, 2001.

**Hiram J. Walker,**

*Acting Deputy Administrator.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 001120324-1030-02; 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:** Interim final rule.

**SUMMARY:** This interim final rule extends the closure of the Hudson Canyon South and Virginia Beach Sea Scallop Closed Areas on an interim basis 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, will help ensure that fishing mortality rates do not exceed the target thresholds established in the FMP.

**DATES:** Effective March 2, 2001, through August 8, 2001.

**ADDRESSES:** Copies of the Environmental Assessment/Regulatory Impact Review/Final Regulatory Flexibility Analysis (EA/RIR/FRFA) and any other documents supporting this action are available from Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, 1 Blackburn Drive, Gloucester, MA

01930-2298. The EA/RIR/FRFA is accessible via the Internet at <http://www.nero.gov/ro/doc/nr.htm>.

#### FOR FURTHER INFORMATION CONTACT:

Peter W. Christopher, Fishery Policy Analyst, 978-281-9288, fax 978-281-9135, e-mail [peter.christopher@noaa.gov](mailto:peter.christopher@noaa.gov).

Send comments on any ambiguity or unnecessary complexity arising from the language used in this interim final rule to the Regional Administrator at the same address.

**SUPPLEMENTARY INFORMATION:** 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. This interim final rule was subsequently extended for 180 days (63 FR 51862, September 29, 1998) and on March 29, 1999, Amendment 7 to the 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. To address the concern that these scallops will be vulnerable to high fishing pressure upon the re-opening of the closed areas on March 1, 2001, the New England Fishery Management Council (Council) is currently developing Framework Adjustment 14 to the FMP, which includes 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. NMFS published a proposed rule for this action on December 1, 2000 (65 FR 75232) and no comments were received in response to the request for comments. Further details concerning the justification for this interim final rule were provided in the preamble to

the proposed rule and are not repeated here.

This interim final rule will 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 (Magnuson-Stevens Act) and may be extended for an additional 180-day period.

#### Classification

The need to implement these measures in a timely manner to prevent overfishing and reduce the likelihood of long-term productivity losses and more severe restrictions in the future, constitutes good cause under 5 U.S.C. 553(d)(3) to delay for 15 days, rather than 30 days, the effectiveness of this interim final rule.

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

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

A description of the reasons why action by the agency is being taken and the objectives of this interim final rule are explained in the preamble to the proposed rule and are not repeated here. This action does not contain any collection-of-information, reporting, recordkeeping or other compliance requirements. This action is taken under authority of the Magnuson-Stevens Fishery Act and regulations at 50 CFR part 648.

There were no public comments submitted in response to the initial regulatory flexibility analysis (IRFA). No changes were made from the proposed rule.

The FRFA considers 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. In addition, 2,095 permits were issued to vessels in the open access General Category.

The alternative implemented by this interim final rule is expected to minimize negative economic impacts on

small entities, particularly in the long term, while achieving the conservation goals and overall objectives of the FMP.

NMFS considered 3 alternatives for action with respect to the Hudson Canyon South and Virginia Beach Closed Areas. The alternative to implement a controlled access program for the two closed areas was rejected because NMFS determined that it is not feasible to implement an area access program by March 1, 2001, due to the time constraints of developing such an action. Analysis of the action was, therefore, not completed. Two other alternatives were analyzed: Re-opening the areas on March 1, 2001, without control (no action); and extending the closures through the interim final rule for a period of 180 days or until a controlled access program is implemented (proposed action). NMFS selected the proposed action for 180 days from March 1, 2001, or until Framework 14 can be implemented (currently estimated to be May 2001), whichever is sooner, because it would prevent overfishing and would be more likely to achieve the goals of the FMP to maximize, over time, the joint social and economic benefits from harvesting and use of the sea scallop resource. 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 and NMFS. Vessels will be able to fish their days-at-sea (DAS) allocation outside of the closed areas. 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 through Framework 14 for the remainder of 2001 and by future recruitment of scallops. Without the proposed action, the most likely outcome would be that Framework 14 would need to implement measures that would prevent further access to these closed areas during 2001 because vessels would have exceeded the target fishing mortalities and total allowable catch by the time Framework 14 becomes effective. Therefore, the no-action alternative would likely reduce long-term economic benefits. Under this alternative, overfishing may 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 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 interim final 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: February 5, 2001.

William T. Hogarth,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth 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. Section 648.57 is added 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. No vessel may 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). Vessels fishing in this closed area for species other than scallops must stow scallop dredge gear in accordance with the provisions of § 648.23(b). 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. No vessel may 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). Vessels fishing in the closed area for species other than scallops must stow scallop dredge gear in accordance with the provisions of § 648.23(b). 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.

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#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 679

[Docket No. 010112013-1301-01; I.D. 012901A]

##### Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska

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

**ACTION:** Closure.

**SUMMARY:** NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the pollock total allowable catch (TAC) for Statistical Area 610 of the GOA.

**DATES:** Effective 1200 hrs, Alaska local time (A.l.t.), February 6, 2001, until 1200 hrs, A.l.t., March 15, 2001.

**FOR FURTHER INFORMATION CONTACT:** Andrew Smoker, 907-586-7228.

**SUPPLEMENTARY INFORMATION:** NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the pollock TAC in Statistical Area 610 of the GOA is 7,707 metric tons (mt) as established by the Final 2001 Harvest