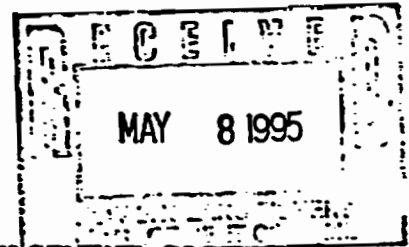


3. Groundfish, May 1995 (Framework Adj #11)
4. Scallops , May 1995 (Framework Adj # 6)



FRAMEWORK ADJUSTMENT #11 TO THE FISHERY MANAGEMENT PLAN
FOR THE NORTHEAST MULTISPECIES FISHERY
AND
FRAMEWORK ADJUSTMENT #6 TO THE FISHERY MANAGEMENT PLAN
FOR ATLANTIC SEA SCALLOPS

MAY 1995

Prepared by the
National Marine Fisheries Service

Initial Framework Meeting: March 28, 1995

Final Framework Meeting:

Adopted by NEFMC:

Final approved by NMFS:

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APPENDIX 1. VESSEL TRACKING SYSTEM DEMARCATION LINE

APPENDIX 2. PUBLIC COMMENT

FIGURE 1. THE VESSEL TRACKING SYSTEM DEMARCATION LINE -
NORTHERN SECTION

FIGURE 2. THE VESSEL TRACKING SYSTEM DEMARCATION LINE -
SOUTHERN SECTION

1.0 INTRODUCTION

Final regulations implementing Amendment 5 to the Fishery Management Plan for Northeast Multispecies (Multispecies FMP) and Amendment 4 to the Fishery Management Plan for Atlantic Sea Scallops (Scallop FMP) were published on January 19, 1994 (59 FR 2757) and March 1, 1994 (59 FR 9872), respectively. These amendments established effort control programs that allocated a certain number of days during which a vessel may fish for regulated multispecies or scallops. This program is referred to as the days-at-sea (DAS) program. This document, which incorporates Framework Adjustment 11 to the Multispecies FMP and Framework Adjustment 6 to the Scallop FMP, makes a minor technical modification to the rules governing the DAS program.

2.0 PURPOSE AND NEED

The National Marine Fisheries Service (NMFS) Office of Enforcement in the Northeast Region has the responsibility for implementing, monitoring, and enforcing the DAS program and has developed an electronic vessel tracking system (VTS) for this purpose. During the development of the VTS, NMFS enforcement discovered that the collision regulations (COLREGS) demarcation line specified in the regulations for multispecies and scallops would not be functional in the electronic system because the line is discontinuous and often described only in narrative terms. To be functional for the computerized VTS, the line would have to be defined in terms of latitude/longitude coordinates.

As a replacement for the COLREGS demarcation line, NMFS enforcement developed the Vessel Tracking System Demarcation Line (VTSDL) which is a continuous line formed by connecting fifty coordinates that parallel the east coast of the United States from the Canadian border to South Carolina. The line represents a slight modification to the COLREGS line.

This technical modification is implemented to enhance the ability of NMFS to administer the DAS programs. Since this framework addresses an administrative problem and does not amend the fisheries management measures implemented for either FMP, NMFS has agreed to authorize these framework adjustments subject to adoption of the actions by the New England Fishery Management Council (Council) and in consultation with the Mid-Atlantic Fishery Management Council.

2.1 Need for Framework Adjustment

The DAS effort control program is administered through the categories of permits introduced by Amendment 5 to the

Multispecies FMP and Amendment 4 to the Scallop FMP. Three of the eight permit categories of the Multispecies FMP (Individual DAS, Fleet DAS, and Combination DAS) constrain the number of days each vessel would be allowed to fish for regulated species. Vessels fishing under an Individual or Combination multispecies permit are required to purchase and use a VTS (§§ 651.28(a) and 651.29(a)). Vessels fishing under a Fleet DAS permit may choose to utilize a VTS in lieu of other reporting requirements (§§ 651.28(b) and 651.29(b)).

Similarly, the Scallop FMP specifies three categories of DAS permits; Full-time, Part-time, and Occasional. Full-time and part-time vessels must fish under a VTS monitoring system (§ 650.26(a)), and the occasional vessels have the option of using VTS or a call-in system (§ 650.26(b)).

To compute when a DAS actually begins, the VTS monitoring system requires a demarcation line. The line should form a seaward boundary that when crossed by a vessel, would cause the vessel to be credited with commencing or ending a DAS. The line should also be set sufficiently from shore to prevent a DAS from being counted when a vessel departs the dock to obtain fuel, ice, etc., and sufficiently near shore to necessitate crossing it to reach the fishing grounds.

The Council initially believed that the COLREGS demarcation line would be an optimal boundary for this purpose because it was preexisting and appeared to be a reasonable distance from shore. However, the COLREGS demarcation line is actually a series of disjointed lines. This line is used to delineate the waters upon which mariners must comply with the International Regulations for Preventing Collisions at Sea (33 CFR part 80), and those waters upon which mariners shall comply with the Inland Navigation Rules. As noted earlier, the line is not continuous, and many of the coordinates are described only in narrative terms. Therefore, a vessel could breach the COLREGS line undetected. The VTSDL forms a continuous line allowing NMFS enforcement to monitor the entire coastline from Maine to South Carolina. Therefore, a vessel embarking to or returning from a fishing trip must cross the VTSDL, thus, triggering or ceasing a day at sea.

2.2 Justification for Final Rule

The final rule implementing this framework is promulgated in compliance with all procedural requirements established by the Administrative Procedure Act. The Council requests publication of the management measures as a final rule after considering the required factors stipulated under the Framework Measures in the final rule for Amendment 5 to the Multispecies FMP and Amendment 4 to the Scallop FMP. These factors are : (1) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule,

and whether regulations have to be in place for an entire harvest/fishing season; (2) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the Council's recommended management measures; (3) Whether there is an immediate need to protect the resource; and, (4) Whether there will be a continuing evaluation of management measures adopted following their promulgation as a final rule.

Sections 650.25 and 651.28 of the regulations implementing the FMPs for scallops and multispecies, respectively, require a continuous monitoring effort for vessels utilizing a VTS under the DAS program. The replacement of the COLREGS line with the VTSDL will enhance the ability to monitor and enforce the DAS programs, thus, providing immediate and increased protection for the scallop and multispecies resources.

Public meetings held by the Council to discuss the management measures implemented by this rule provided adequate opportunity for public comment to be considered. Thus, there is good cause to waive prior notice under 5 U.S.C. 553(b)(B) and publish these framework adjustments as a final rule.

3.0 APPLICABLE LAW

3.1 MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT (MAGNUSON ACT)

This action does not significantly change the DAS regulations implemented under Amendment 5 to the Multispecies FMP or Amendment 4 to the Scallop FMP. It was previously determined these amendments are consistent with the national standards and other provisions of the Magnuson Act and other applicable law.

3.2 REGULATORY FLEXIBILITY ACT

The framework adjustments to be implemented by this action do not result in any additive effect on small entities not already analyzed, discussed and described in Amendment 5 to the Multispecies FMP and Amendment 4 to the Scallop FMP. Therefore, an initial regulatory flexibility analysis was not required under the Regulatory Flexibility Act.

3.3 COASTAL ZONE MANAGEMENT ACT

This action will be implemented in a manner that is consistent to

the maximum extent practicable with the approved coastal zone management programs of the affected states.

3.4 PAPERWORK REDUCTION ACT

This action contains no new collection-of-information requirements nor revises existing requirements subject to the Paperwork Reduction Act.

3.5 ENDANGERED SPECIES ACT

A biological opinion was prepared for a formal section 7 consultation for Amendment 5 to the Multispecies FMP and Amendment 4 to the Scallop FMP that determined fishing activities conducted under these amendments and their implementing regulations are not likely to jeopardize the continued existence of any endangered or threatened species under the jurisdiction of NMFS or result in the destruction or adverse modification of critical habitat. This action does not change that conclusion.

3.6 MARINE MAMMAL PROTECTION ACT

The framework adjustments implemented by this action will have no adverse impacts on marine mammals.

3.7 EXECUTIVE ORDER 12612

This action does not contain policies with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

3.9 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

This action is categorically excluded by NOAA 216-6 from the requirement to prepare an environmental assessment. The action does not result in a significant change from the FEIS prepared for Amendment 5 to the FMP regarding implementation of the days-at-sea program.

APPENDIX 1. THE VESSEL TRACKING SYSTEM DEMARCATION LINE

Description	Longitude	Latitude
1. Northern terminus point (Canada land mass)	45° 03'N	66° 47'W
2. A point east of West Quoddy Head Light	44° 48.9'N	66° 56.1'W
3. A point east of Little River Light	44° 39.0'N	67° 10.5'W
4. Whistle Buoy "8BI" (SSE of Baker Island)	44° 13.6'N	68° 10.8'W
5. Isle au Haut Light	44° 03.9'N	68° 39.1'W
6. Pemaquid Point Light	43° 50.2'N	69° 30.4'W
7. A point west of Halfway Rock	43° 38.0'N	70° 05.0'W
8. A point east of Cape Neddick Light	43° 09.9'N	70° 34.5'W
9. Merrimack River Entrance "MR" Whistle Buoy	42° 48.6'N	70° 47.1'W
10. Halibut Point Gong Buoy "LAHP"	42° 42.0'N	70° 37.5'W
11. Connecting reference point	42° 40'N	70° 30'W

12. Whistle Buoy "2" off Eastern Point	42° 34.3'N	70° 39.8'W
13. The Graves Light (Boston)	42° 21.9'N	70° 52.2'W
14. Minots Ledge Light	42° 16.2'N	70° 45.6'W
15. Farnham Rock Lighted Bell Buoy	42° 05.6'N	70° 36.5'W
16. Cape Cod Canal Bell Buoy "CC"	41° 48.9'N	70° 27.7'W
17. A point inside Cape Cod Bay	41° 48.9'N	70° 05'W
18. Race Point Lighted Bell Buoy "RP"	42° 04.9'N	70° 16.8'W
19. Peaked Hill Bar Whistle Buoy "2PH"	42° 07.0'N	70° 06.2'W
20. Connecting point, off Nauset Light	41° 50'N	69° 53'W
21. A point south of Chatham "C" Whistle Buoy	41° 38'N	69° 55.2'W
22. A point in eastern Vineyard Sound	41° 30'N	70° 33'W
23. A point east of Martha's Vineyard	41° 22.2'N	70° 24.6'W
24. A point east of Great Pt. Light, Nantucket	41° 23.4'N	69° 57'W

25. A point SE of Sankaty Head, Nantucket	41° 13'N	69° 57'W
26. A point west of Nantucket	41° 15.6'N	70° 25.2'W
27. Squibnocket Lighted Bell Buoy "1"	41° 15.7'N	70° 46.3'W
28. Wilbur Point (on Scoticut Neck)	41° 35.2'N	70° 51.2'W
29. Mishaum Point (on Smith Neck)	41° 31.0'N	70° 57.2'W
30. Sakonnet Entrance Lighted Whistle Buoy "SR"	41° 25.7'N	71° 13.4'W
31. Point Judith Lighted Whistle Buoy "2"	41° 19.3'N	71° 28.6'W
32. A point off Block Island Southeast Light	41° 08.2'N	71° 32.1'W
33. Shinnecock Inlet Lighted Whistle Buoy "SH"	40° 49.0'N	72° 28.6'W
34. Scotland Horn Buoy "S", off Sandy Hook (NJ)	40° 26.5'N	73° 55.0'W
35. Barnegat Lighted Gong Buoy "2"	39° 45.5'N	73° 59.5'W
36. A point east of Atlantic City Light	39° 21.9'N	74° 22.7'W
37. A point east of Hereford Inlet Light	39° 00.4'N	74° 46'W

38. A point east of Cape Henlopen Light	38° 47'N	75° 04'W
39. A point east of Fenwick Island Light	38° 27.1'N	75° 02'W
40. A point NE of Assateague Island (VA)	38° 00'N	75° 13'W
41. Wachapreague Inlet Lighted Whistle Buoy "A"	37° 35.0'N	75° 33.7'W
42. A point NE of Cape Henry	36° 55.6'N	75° 58.5'W
43. A point east of Currituck Beach Light	36° 22.6'N	75° 48'W
44. Oregon Inlet (NC) Whistle Buoy	35° 48.5'N	75° 30'W
45. Wimble Shoals, east of Chicamacomico	35° 36'N	75° 26'W
46. A point SE of Cape Hatteras Light	35° 12.5'N	75° 30.0'W
47. Hatteras Inlet Entrance Buoy "HI"	35° 10'N	75° 46'W
48. Ocracoke Inlet Whistle Buoy "OC"	35° 01.5'N	76° 00.5'W
49. A point east of Cape Lookout Light	34° 36.5'N	76° 30'W
50. Southern terminus point	34° 35'N	76° 41'W

APPENDIX 2. Public Comment

The framework adjustments were discussed at the March 28, 1995 meeting of the Council. All industry participants and others in attendance agreed on the need for the new VTS line. As a result of the meeting, NMFS Enforcement made two changes to the proposed line which consisted of adding one point and amending another. At its April 19-20, 1995 meeting, the Mid-Atlantic Fishery Management Council passed a motion endorsing NMFS development of VTS monitoring systems.

FIGURE 1. THE VESSEL TRACKING SYSTEM DEMARCATION LINE - NORTHERN SECTION

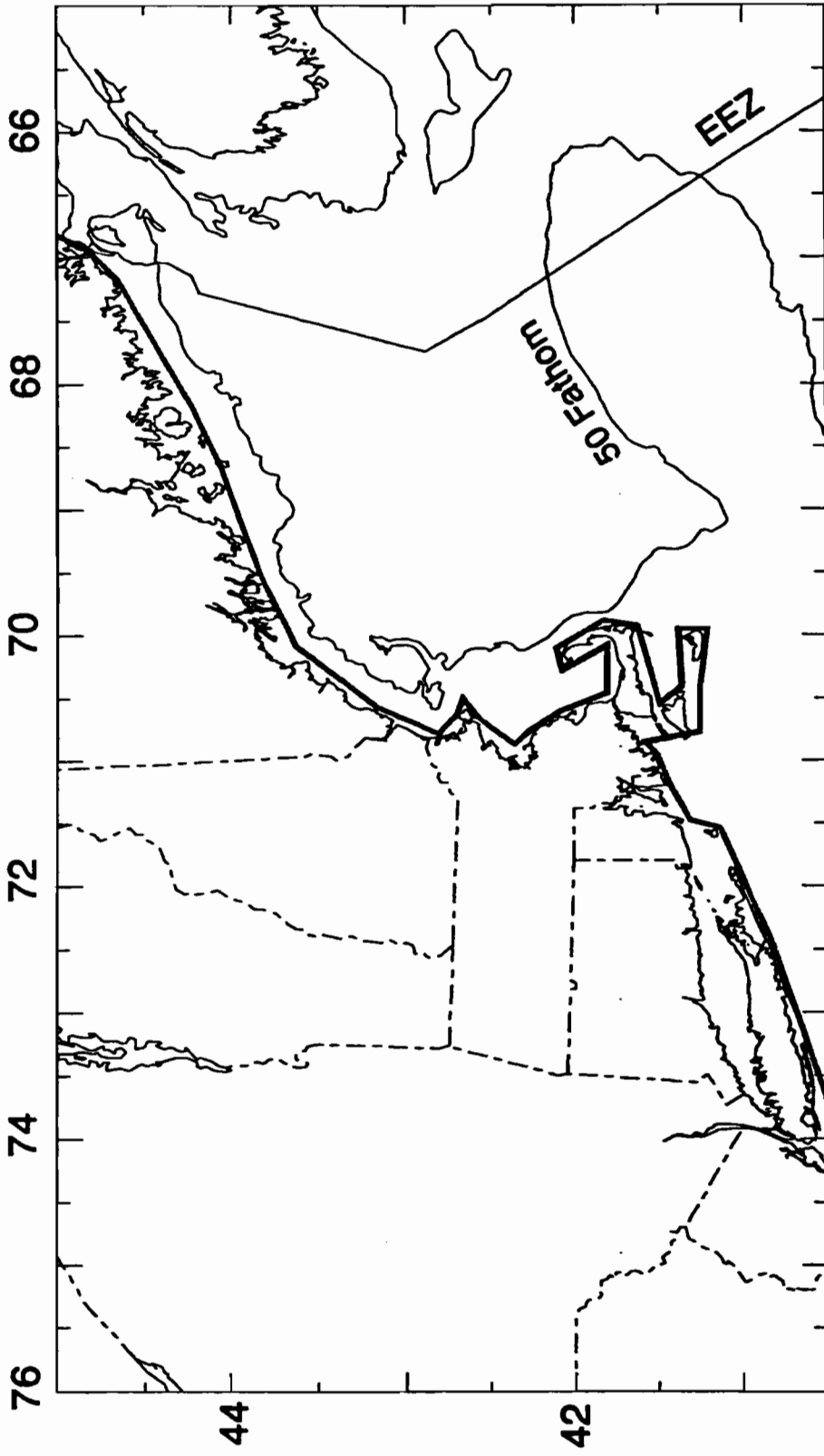


FIGURE 2. THE VESSEL TRACKING SYSTEM DEMARCATION LINE - SOUTHERN SECTION

