

## **12.0 Executive Order 13158 (Marine Protected Areas)**

The Executive Order on Marine Protected Areas requires each federal agency whose actions affect the natural or cultural resources that are protected by an MPA to identify such actions, and, to the extent permitted by law and to the maximum extent practicable, in taking such actions, avoid harm to the natural and cultural resources that are protected by an MPA.

The E.O. directs federal agencies to refer to the MPAs identified in a list of MPAs that meet the definition of MPA for the purposes of the Order. The E.O. requires that the Departments of Commerce and the Interior jointly publish and maintain such a list of MPAs. As of the date of submission of this FMP, the list of MPA sites has not been developed by the departments. No further guidance related to this Executive Order is available at this time.

## **13.0 IMPACTS ON STATES (CZMA)**

The Council has determined that the final proposed alternatives comply with the rules and regulations of the Coastal Zone Management Act. This document has been sent to coastal states from Maine to North Carolina for review of compliance with individual state's CZMA management regulations.

## **14.0 PAPERWORK REDUCTION ACT (PRA)**

This section describes and estimates the burden (time and cost) of preparing, submitting, and administration of new data collection requirements for the proposed action. The proposed action is not identified until the Council approves the final amendment and this section is therefore reserved. The proposed action is described in Section 5.1, but this PRA analysis is under development and will be submitted with the draft proposed action.

Due to timing constraints, this document and analysis is being prepared separately, in conjunction with the proposed rule for Amendment 10, to clear the new collection of information requirements through OMB. New collection of information requirements and their need are explained below. A formal burden-hour analysis of these new reporting requirements in Amendment 10 will be available with the proposed rule.

### ***14.1 Broken trip procedure***

The broken trip procedure allows adjustment of DAS for the controlled access area trips terminated prematurely due to an emergency, poor weather, or any other reason deemed appropriate by the captain as described in Section 5.1.2.4. The intent of this action is to reduce fishing costs and the losses from broken trips, and to provide more incentive for vessels to take their controlled access trips. This provision will allow a vessel to fish at 1,500 lb. per day for the remaining days of a broken trip. The vessels will need to submit a trip termination notice via VMS, and an application for DAS/trip adjustment with actual DAS use and landings. The costs of filling these applications are estimated to be minimal, and be outweighed by the benefits from the broken trip adjustment.

## ***14.2 One-to-one exchange controlled access trips***

The intent of the provision for “one-to-one exchange controlled access trips” is to provide flexibility to the vessels about where to fish. Under Amendment 10 regulations, DAS allocations will be area-specific in order to achieve optimum yield from individual areas with differing scallop abundance and growth potential, and thus to maximize the yield from the overall scallop resource. Although this action is expected to benefit most vessels in the scallop fishery by increasing the productivity of the scallop resource, the benefits may not necessarily be equally distributed. Some vessels could incur losses from area-specific trip and DAS allocations if they are unable to take their trips to specific controlled access areas due to the limitations in vessel size and equipment, safety concerns, or cost factors. To mitigate these adverse impacts, Amendment 10 includes a provision that allows for one-to-one exchange of controlled access area DAS allocations. This is expected to provide flexibility to vessels regarding which areas to fish, thereby reducing the possibility of revenue loss to those vessels that are unable to access some distant areas due to their capacity constraints. Although, there will be some transaction costs associated with the exchange of the controlled area trips with another vessel, such as notifying NMFS of such exchange, the net impacts of exchange should result in a reduction in overall costs of fishing if a vessel is engaged in such a transaction. Administrative and enforcement costs associated with the exchange of controlled access trip authorizations should be relatively modest when compared with the potential improvement in controlled access allocation programs and reduced economic costs to the industry.

## ***14.3 Open area DAS set-aside for the extension of the observer program to include open scallop areas.***

Vessels with sea scallop fishing permits may be required by the Regional Administrator to carry onboard an observer, whose costs will be borne by the vessel. Unlike the existing controlled access set aside, Amendment 10 expands this program to the entire fishery, applied to both controlled access areas and regular open scallop fishing areas (Section 5.1.8.1). More observer coverage is needed to improve the estimated amount of finfish bycatch in order to comply with National Standard 9, and to determine the level of sea turtle takes in the scallop fishery. Amendment 10 establishes a one percent DAS set aside to provide partial funding for this program, and to allow compensation to vessel owners and crews, which will pay for observers. The Regional Administrator will adjust the DAS charge for an observed trip or increase the vessel’s annual DAS allocation by applying a constant adjustment factor that applies to each DAS on an observed trip, taking into account the average open area catch per day expected from open fishing areas and the effect that the amount has on sampling frequency. To facilitate the random observer selection process a vessel must provide NMFS with notice at least five working days prior to the date it intends to depart into a specific area via VMS e-mail messaging system or a personal computer equipped with e-mail messaging. For further discussion and analysis on this program see Section 8.2.4.

## ***14.4 Cooperative surveys***

NMFS will also initiate a cooperative industry survey to provide information for rotation area management (Section 5.1.8.2). These surveys will increase the sampling intensity and assist in estimating the distribution and biomass of scallops in specific areas. Vessel compensation and direct administrative costs of this survey will be recaptured from a two percent set-aside to fund

research and resource monitoring. The vessel owners will need to submit an application form to enroll in this program which supply information on vessel specifications, including size, horsepower, and number of berths, on vessel and captain availability, vessel owner/captain experience, and estimated cost per DAS for vessel use. Although this requirement will increase the burden on respondents, the funds obtained through set-asides will reduce the compliance costs for vessels by providing compensation for observer coverage. The scallop industry will benefit from improved management made possible through cooperative industry surveys and research funded by TAC/DAS set-asides. In addition to the cooperative industry surveys, there will be a scallop research program, which will continue using the existing administrative procedures with an increase in funding to a two-percent TAC/DAS set aside (Section 5.1.8.3). The research projects under these set-aside programs are entirely covered under PRA already cleared for grants applications; thus, they do not need any additional collection.