

docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

**SUPPLEMENTARY INFORMATION:**

**Viewing Documents**

The policy letter discussed below is available and can be viewed by going to <http://www.uscg.mil/nmc> and clicking on "Regulations & Policy," then click on "Policy Letters."

**Discussion**

Liftboats spend significant periods elevated at work sites and are not underway at those times. The time a liftboat spends underway is generally limited to travelling to and from a job site, and may be a relatively small portion of the total time the liftboat is in operation. Because of these specialized operations, the Coast Guard considers liftboats to be unique vessels and has evaluated sea service on liftboats to determine its equivalency to traditional service.

This policy letter describes policy for the Coast Guards' evaluation of service obtained on liftboats used to qualify for national officer endorsements to an MMC.

**Authority**

This notice of availability is issued under the authority of 5 U.S.C. 552(a).

Dated: April 2, 2015.

**J.C. Burton,**

*Captain, U.S. Coast Guard, Director, Inspection & Compliance.*

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Parts 223 and 648**

[Docket No. 141125999-5362-02]

**RIN 0648-BE68**

**Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery and Northeast Multispecies Fishery; Framework Adjustment 26; Endangered and Threatened Wildlife; Sea Turtle Conservation**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS approves and implements through regulations the measures included in Framework Adjustment 26 to the Atlantic Sea Scallop Fishery Management Plan, which the New England Fishery Management Council adopted and submitted to NMFS for approval. The purpose of Framework 26 is to prevent overfishing, improve yield-per-recruit, and improve the overall management of the Atlantic sea scallop fishery. Framework 26 sets fishing specifications for 2015, including catch limits, days-at-sea allocations, individual fishing quotas, and sea scallop access area trip allocations. In addition, Framework 26 closes a portion of the Elephant Trunk Access Area and extends the boundaries of the Nantucket Lightship Access Area to protect small scallops, adjusts the State Waters Exemption Program, allows for Vessel Monitoring System declaration changes for vessels to steam home with product on board, implements a proactive accountability measure to protect windowpane flounder and yellowtail flounder, aligns two gear measures designed to protect sea turtles, and implements other measures to improve the management of the scallop fishery. Aligning the gear measures designed to protect sea turtles involves modifying existing regulations implemented under the Endangered Species Act; therefore, this action is implemented under joint authority of the Endangered Species Act and the Magnuson-Stevens Fishery Conservation and Management Act.

**DATES:** Effective May 1, 2015, except for the amendment to § 648.51(b)(4)(iv), which will be effective May 21, 2015.

**ADDRESSES:** The Council developed an environmental assessment (EA) for this action that describes the action and other considered alternatives and provides a thorough analysis of the impacts of these measures. Copies of the Framework, the EA, and the Initial Regulatory Flexibility Analysis (IRFA), are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. The EA/IRFA is also accessible via the Internet at <http://www.nefmc.org/scallops/index.html> or <http://www.greateratlantic.fisheries.noaa.gov/regs/2015/March/15scalp26turtlepr.html>.

*org/scallops/index.html* or <http://www.greateratlantic.fisheries.noaa.gov/regs/2015/March/15scalp26turtlepr.html>.

Copies of the small entity compliance guide are available from John K. Bullard, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930-2298, or available on the Internet at <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/scallop/>.

**FOR FURTHER INFORMATION CONTACT:** Travis Ford, Fishery Policy Analyst, 978-281-9233

**SUPPLEMENTARY INFORMATION:**

**Background**

The Council adopted Framework 26 on November 20, 2014, and submitted it to NMFS on February 17, 2015, for review and approval. Framework 26 specifies measures for fishing year 2015, but includes fishing year 2016 measures that will go into place as a default, should the next specifications-setting framework be delayed beyond the start of fishing year 2016. Fishing year 2015 default allocations have been in place since March 1, 2015, and allow for only 17 DAS and zero access area trips. The default measures are replaced by the higher Framework 26 allocations described below. Details concerning the development of these measures were contained in the preamble of the proposed rule and are not repeated here.

*Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACLs), Annual Catch Targets (ACTs), and Set-Asides for the 2015 Fishing Year and Default Specifications for Fishing Year 2016*

The allocations incorporate new biomass reference points that resulted from the Northeast Fisheries Science Center's most recent scallop stock benchmark assessment that was completed in July 2014. The assessment reviewed and updated the data and models used to assess the scallop stock and ultimately updated the reference points for status determinations. A comparison of the old and new reference points is outlined in Table 1.

**TABLE 1—SUMMARY OF OLD AND NEW SCALLOP REFERENCE POINTS FROM THE LAST TWO BENCHMARK SCALLOP STOCK ASSESSMENTS IN 2010 AND 2014**

	2010 Assessment	2014 Assessment
Fishing Mortality at Maximum Sustainable Yield ( $F_{msy}$ ) .....	0.38 .....	0.48.
Biomass at Maximum Sustainable Yield ( $B_{msy}$ ) .....	125,000 mt .....	96,480 mt.

TABLE 1—SUMMARY OF OLD AND NEW SCALLOP REFERENCE POINTS FROM THE LAST TWO BENCHMARK SCALLOP STOCK ASSESSMENTS IN 2010 AND 2014—Continued

	2010 Assessment	2014 Assessment
1/2 B <sub>msy</sub> .....	62,000 mt .....	48,240 mt.

Due to these reference point updates, we are updating the fishing mortality rates that the Council uses to set OFL, ABC, and ACL through this action. The Council set OFL based on an F of 0.48, equivalent to the F threshold updated through the 2014 assessment. The Council set ABC and the equivalent

total ACL for each fishing year using an F of 0.38, which is the F associated with a 25-percent probability of exceeding the OFL. The Council’s Scientific and Statistical Committee recommended scallop fishery ABCs for the 2015 and 2016 fishing years of 55.9 million lb (25,352 mt) and 70.1 million lb (31,807

mt), respectively, after accounting for discards and incidental mortality. The Scientific and Statistical Committee will reevaluate an ABC for 2016 when the Council develops the next framework adjustment. Table 2 outlines the scallop fishery catch limits derived from the ABC values.

TABLE 2—SCALLOP CATCH LIMITS FOR FISHING YEARS 2015 AND 2016 FOR THE LIMITED ACCESS AND LIMITED ACCESS GENERAL CATEGORY (LAGC) INDIVIDUAL FISHING QUOTA (IFQ) FLEETS

	2015	2016
Overfishing Limit .....	38,061 mt .....	45,456 mt.
ABC/ACL w/ discards removed .....	25,352 mt .....	31,807 mt.
Incidental Total Allowable Catch (TAC) .....	22.7 mt .....	22.7 mt.
Research Set-Aside (RSA) .....	567 mt .....	567 mt.
Observer Set-aside (1 percent of ABC/ACL) .....	254 mt .....	318 mt.
Limited Access sub-ACL (94.5 percent of total ACL, after deducting set-asides and incidental catch).	23,161 mt .....	29,200 mt.
Limited Access sub-ACT (adjusted for management uncertainty) .....	19,311 mt .....	23,016 mt.
LAGC IFQ sub-ACL (5.0 percent of total ACL, after deducting set-asides and incidental catch).	1,225 mt .....	1,545 mt.
LAGC IFQ sub-ACL for vessels with limited access scallop permits (0.5 percent of total ACL, after deducting set-asides and incidental catch).	123 mt .....	154 mt.

This action deducts 567 mt of scallops annually for 2015 and 2016 from the ABC and sets it aside as the Scallop research set-aside (RSA) to fund scallop research and to compensate participating vessels through the sale of scallops harvested under RSA projects. Framework 26 allows RSA to be harvested from the Mid-Atlantic Access Area that is opened for 2015, once this action is approved and implemented, but would prevent RSA harvesting from access areas under 2016 default measures. Of this 1.25 M lb (567 mt) allocation, NMFS has already allocated 397,470 lb (180.3 mt) to previously funded multi-year projects as part of the 2014 RSA awards process. NMFS reviewed proposals submitted for consideration of 2015 RSA awards and will be selecting projects for funding in the near future.

This action also sets aside 1 percent of the ABC for the industry-funded observer program to help defray the cost to scallop vessels that carry an observer. The observer set-asides for fishing years 2015 and 2016 are 254 mt and 318 mt, respectively. In fishing year 2015, the

compensation rates for limited access vessels in open areas fishing under days-at-sea (DAS) is 0.08 DAS per DAS fished, and for access area trips the compensation rate is 150 lb, in addition to the vessel’s possession limit for the trip for each day or part of a day an observer is onboard. LAGC IFQ vessels may possess an additional 150 lb per trip in open areas when carrying an observer. NMFS may adjust the compensation rate throughout the fishing year, depending on how quickly the fleets are using the set aside. The 2016 observer set-aside may be adjusted by the Council when it develops specific, non-default measures for 2016.

*Open Area DAS Allocations*

This action implements vessel-specific DAS allocations for each of the three limited access scallop DAS permit categories (i.e., full-time, part-time, and occasional) for 2015 and 2016 (Table 3). Fishing year 2015 DAS allocations are almost identical to those allocated to the limited access fleet in 2014 (31 DAS for full-time, 12 DAS for part-time, and 3 DAS for occasional vessels). Fishing

year 2016 DAS allocations are precautionary, and are set at 75 percent of what current biomass projections indicate could be allocated to each limited access scallop vessel for the entire fishing year. This is to avoid over-allocating DAS to the fleet in the event that the framework that would set those allocations is delayed past the start of the 2016 fishing year. The allocations in Table 3 exclude any DAS deductions that are required if the limited access scallop fleet exceeded its 2014 sub-ACL. The DAS values in Table 3 take into account a slight DAS reduction (0.14 DAS) to account for vessels steaming to southern ports while not accruing DAS (See *Adjustment to Vessel Monitoring System (VMS) Declaration Procedures for Some Open Area Trips*). In addition, the Council requested that DAS allocations now be specified to the hundredth decimal place, rather than rounding up or down to whole DAS. This is consistent with DAS accounting as vessels use DAS throughout the year. Table 3 also includes 2015 Default DAS that are replaced by the 2015 DAS.

TABLE 3—SCALLOP OPEN AREA DAS ALLOCATIONS FOR 2015 AND 2016

Permit category	Default 2015	2015	2016
Full-Time .....	17	30.86	26.00
Part-Time .....	7	12.94	10.40
Occasional* .....	1	2.58	2.17

\* Note: There are no occasional vessels currently.

*LA Allocations and Trip Possession Limits for Scallop Access Areas*

For fishing year 2015 and the start of 2016, Framework 26 closes all three Georges Bank Access Areas (*i.e.*, Nantucket Lightship (NLS), Closed Area 1, and Closed Area 2 Access Areas) and opens all three Mid-Atlantic Access Areas (*i.e.*, Elephant Trunk, Delmarva, and Hudson Canyon Access Areas combined). This action extends the boundaries of the NLS Access Area that will be closed to the scallop fleet to include a concentration of small scallops near the existing boundary along the southeast corner, currently considered part of the open area. Opening this NLS extended closure area, which increases the NLS Access

Area boundary by 158 square miles (409 square km), will be reconsidered in a future framework action when the scallops are larger and ready for harvest.

This action opens all three Mid-Atlantic access areas to both the limited access and LAGC IFQ fleet, and treats the three areas as one single area. This is named the Mid-Atlantic Access Area under this action. Scallop vessels are able to fish across all three areas in a single access area trip, except in one area within the Mid-Atlantic Access Area that is closed to scallop fishing. This area is seven 10-minute squares (*i.e.*, 548 square nautical miles, 1419 square km) in the northwest corner of the Elephant Trunk Access Area, and is closed to protect small scallops. This area constitutes roughly 35 percent of

the current Elephant Trunk Access Area. The closure allows for the small concentrations of scallops in this portion of the access area to be protected as they grow to a more harvestable size. This action prohibits transiting across this small area due to its small size and because the incentive to fish in the area is relatively high due to the high abundance of scallops.

Table 4 outlines the limited access allocations that can be fished from the Mid-Atlantic Access Area. Vessels can take this allocation in as many trips as needed, so long as vessels do not exceed the trip possession limits (also in Table 4). These access area allocations for 2015 represent a 112-percent increase in access area allocations compared to 2014.

TABLE 4—SCALLOP ACCESS AREA POUNDAGE ALLOCATIONS AND TRIP POSSESSION LIMITS FOR 2015 AND 2016

Permit category	Possession limits	2015 Allocation	2016 Allocation
Full-Time .....	17,000 lb (7,711 kg) .....	51,000 lb (23,133 kg) .....	17,000 lb (7,711 kg).
Part-Time .....	10,200 lb ( 4,627 kg) .....	20,400 lb ( 9,253 kg) .....	10,200 lb (4,627 kg).
Occasional* .....	1,420 lb (644 kg) .....	4,250 lb ( 1,928 kg) .....	1,420 lb ( 644 kg).

\* Note: There are no occasional vessels currently.

This action also modifies access area trip reporting procedures by requiring that each limited access vessel submit a pre-landing notification form through its VMS unit prior to returning to port at the end of each access area trip, including trips where no scallops are landed. These pre-landing notifications replace the current broken trip and compensation trip procedures. Vessels are no longer required to submit a broken trip notification form if they are unable to land their full possession limits on an access area trip. Vessels also no longer need to apply to NMFS to receive, or wait for NMFS to issue, a compensation trip to fish their remaining access area scallop allocation.

For example, under Framework 26 access area allocations, a full-time vessel receives 51,000 lb (23,133 kg) in the Mid-Atlantic Access Area. That allocation can be landed on as many or as few trips as needed, so long as the 17,000-lb (7,711-kg) possession limit is not exceeded on any one trip. The vessel may choose to fish its full allocation over the course of three trips,

landing the maximum allowance of 17,000 lb (7,711 kg) on each trip, or it can choose to fish its full allocation over the course of two, three, or more trips, landing less than the trip possession limit on each trip. Regardless, the vessel must submit a pre-landing notification form prior to returning to port for each access area trip, but does not have to wait for NMFS to issue a compensation trip prior to starting its next access area trip.

Under this action, each vessel automatically carries over unharvested access area allocation that the vessel can fish in the first 60 days of the subsequent fishing year, as long as the access area is open for scallop fishing during that time. This change results in little change to the amount of carryover NMFS expects from year to year because most vessels with unharvested access area pounds took advantage of the broken trip provisions. Also, Framework 26 accounts for the uncertainty associated with carryover by setting the limited access fishery's ACT lower than the fishery's ACL. The ACT is meant to

prevent carryover from causing the fleet to exceed an ACL.

Although vessel owners are ultimately responsible for tracking their own scallop access area landings and ensuring they do not exceed their annual allocations, NMFS will match dealer-reported scallop landing records with access area trip declarations and make that information available on the web-based allocation monitoring tool, Fish-On-Line, which each vessel owner can access and review.

*Adjustment to VMS Declaration Procedures for Some Open Area Trips*

This action enables a vessel to declare out of a DAS trip at or south of Cape May, NJ (specifically, at or south of 39° N. lat.), once it goes inside the VMS demarcation line, and then, with scallops on board, steam seaward of the VMS demarcation line to ports south of Cape May, NJ, without being charged DAS. This measure does not apply to vessels that intend to land scallops in ports north of Cape May, NJ. Once this change in declaration to “declare out of

fishery” has been made, vessels are required to submit a scallop pre-landing notification form through VMS, return directly to port and offload scallops immediately, and stow all gear. In addition, such vessels are prohibited from having on board any in-shell scallops. The purpose of the is measure is to provide an incentive for vessels to land scallops in the fishery’s southern-most ports by reducing some of the steaming time to return from more distant and heavily fished fishing grounds.

Because this change in when some vessels may “clock out” of their DAS could impact overall DAS allocations to the fleet, this action also reduces the overall DAS allocated to each limited access scallop vessel. The DAS adjustment (which has already been calculated into the DAS allocations proposed in Table 3) is a decrease of 0.14 DAS for full-time vessels and 0.06 DAS for part-time vessels. This measure, including the appropriate DAS deductions, was supported by the Council’s Advisory Panel.

#### *Additional Access Area Measures To Reduce Impacts on Small Scallops*

1. **Crew Limit Restrictions in Access Areas.** This action implements crew limits for all access areas. In an effort to protect small scallops and discourage vessels from high-grading (discarding smaller scallops in exchange for larger ones), Framework 26 imposes a crew limit of eight individuals per limited access vessel, including the captain, when fishing in any scallop access area. If a vessel is participating in the small dredge program, it may not have more than six people on board, including the captain, on an access area trip. These crew limits may be reevaluated in a future framework action.

2. **Delayed Harvesting of Default 2016 Mid-Atlantic Access Area Allocations.** Although the Framework includes precautionary access area allocations for the 2016 fishing year (see 2016 allocations in Table 4), vessels have to wait to fish these allocations until April 1, 2016. This precautionary measure is designed to protect scallops when scallop meat weights are lower than other times of the year (generally, this change in meat-weight is a physiological change in scallops due to spawning). However, if a vessel has not fully harvested its 2015 scallop access area allocation in fishing year 2015, it may still fish the remainder of its allocation in the first 60 days of 2016 (*i.e.*, March 1, 2016, through April 29, 2016).

3. **2016 RSA Harvest Restrictions.** This action prohibits vessels participating in RSA projects from

harvesting RSA in the Mid-Atlantic Access Area under default 2016 measures. At the start of 2016, RSA can only be harvested from open areas. This will be re-evaluated for the remainder of 2016 in the framework action that would set final 2016 specifications.

#### *LAGC Measures*

1. **Sub-ACL for LAGC vessels with IFQ permits.** For LAGC vessels with IFQ permits, this action implements a 1,225-mt ACL for 2015 and an initial ACL of 1,545 mt for 2016 (Table 2). We calculate IFQ allocations by applying each vessel’s IFQ contribution percentage to these ACLs. These allocations assume that no LAGC IFQ AMs are triggered. If a vessel exceeds its IFQ in a given fishing year, its IFQ for the subsequent fishing year would be reduced by the amount of the overage.

Because Framework 26 is being implemented after the March 1 start of fishing year 2015, the default 2015 IFQ allocations went into place automatically on March 1, 2015. This action increases the current vessel IFQ allocations. NMFS sent a letter to IFQ permit holders providing both March 1, 2015, IFQ allocations and Framework 26 IFQ allocations so that vessel owners know what mid-year adjustments will occur now that Framework 26 is approved.

2. **Sub-ACL for Limited Access Scallop Vessels with IFQ Permits.** For limited access scallop vessels with IFQ permits, this action implements a 123-mt ACL for 2015, and an initial 154-mt ACL for 2016 (Table 2). We calculate IFQ allocations by applying each vessel’s IFQ contribution percentage to these ACLs. These allocations assume that no LAGC IFQ accountability measures (AMs) are triggered. If a vessel exceeds its IFQ in a given fishing year, its IFQ for the subsequent fishing year will be reduced by the amount of the overage.

3. **LAGC IFQ Trip Allocations and Possession Limits for Scallop Access Areas.** Framework 26 allocates the LAGC IFQ vessels a fleetwide number of trips that can be taken in the Mid-Atlantic Access Area. Framework 26 allocates 2,065 and 602 trips in 2015 and 2016, respectively, to this area. Under default 2016 measures, LAGC IFQ vessels must wait to fish these trips until April 1, 2016.

These trip allocations are equivalent to the overall proportion of total catch from access areas compared to total catch. For example, the total projected catch for the scallop fishery in 2015 is 20,865 mt, and 8,700 mt are projected to come from access areas, roughly 41.7 percent. If the same proportion is

applied to total LAGC IFQ catch, the total allocation to LAGC IFQ vessels from access areas would be about 600 mt, roughly 44.5 percent of the total LAGC IFQ sub-ACL for 2015 (1,348 mt).

4. **Northern Gulf of Maine (NGOM) TAC.** This action allocates a 70,000-lb (31,751-kg) annual NGOM TAC for fishing years 2015 and 2016. The allocation for 2015 assumes that there are no overages in 2014, which would trigger a pound-for-pound deduction in 2015 to account for the overage.

5. **Scallop Incidental Catch Target TAC.** This action allocates a 50,000-lb (22,680-kg) scallop incidental catch target TAC for fishing years 2015 and 2016 to account for mortality from this component of the fishery, and to ensure that F targets are not exceeded. The Council and NMFS may adjust this target TAC in a future action if vessels catch more scallops under the incidental target TAC than predicted.

#### *Adjustments to Gear Modifications To Protect Sea Turtles*

This action adjusts season regulations for the sea turtle deflector dredge (TDD) and area regulations for the sea turtle chain mat to make them consistent by moving the chain mat requirement line to 71° W. long. and changing the end of the TDD season from October to November. By making the area and season for these two gear modifications consistent, west of 71° W. long. from May through November, the conservation benefit of the current chain mat and TDD requirements is maintained, while reducing the regulatory complexity of differing seasons and areas. Any reduction in the size of the area in which chain mats would be required is balanced by an extension of the season that TDDs would be required.

This action also makes a very slight modification to the TDD gear regulations for safety purposes. Current TDD gear regulations allow for a flaring bar to ensure safe handling of the dredge. Prior to this action, this flaring bar could only be attached to the dredge frame on one side. This action adjusts this regulation to allow for a bar or “u”-shaped flaring mechanism to support safety at sea. Allowing a u-shaped flaring mechanism should not have an impact on sea turtles and the effectiveness of the TDD because the flaring bar or mechanism would still be prohibited from being attached within 12 inches (30.5 cm) of the “bump out” of the TDD and not between the bale bars. This change requires that each side of the bar or mechanism be no more than 12 inches (30.5 cm) in length.

This action does not change any other regulatory requirements for the use of chain mats and TDDs.

#### *Adjustments to the State Water Exemption Program To Include NGOM Management Area Exemptions*

Framework 26 modifies the State Water Exemption Program to include a new exemption that enables scallop vessels to continue to fish in state waters after the NGOM hard TAC is reached. This action expands the exemptions to include this new measure related to the NGOM. Specifically, states within the NGOM management area (*i.e.*, Massachusetts, New Hampshire, and Maine) can request an exemption from the regulation that requires that scallop vessels must stop fishing in the state waters portion of the NGOM once the Federal TAC has been reached. States have to apply for this exemption and specify to which vessels this would apply (*e.g.*, vessels with NGOM permits, IFQ permits, incidental permits, or limited access permits).

This measure alleviates the concerns of Maine permit holders about their ability to fish in state waters when the state season is open in the winter if the NGOM TAC is reached by giving the state the ability to apply for an exemption through the State Water Exemption Program. Because the NGOM Federal TAC is set based only on the Federal portion of the resource, NMFS does not expect this measure to compromise the Atlantic Sea Scallop Fishery Management Plan's (FMP's) limits on catch and mortality.

#### *Proactive AMs for Flatfish Protection*

Prior to Framework 26, all scallop vessels (*i.e.*, limited access and LAGC) fishing for scallops with dredges in open areas west of 71° W. long. were required to have their dredges configured so that no dredge has more than seven rows of rings in the apron (*i.e.*, the area between the terminus of the dredge (clubstick) and the twine top) on the topside of the dredge. The twine top helps finfish (flatfish in particular) escape from the dredge during fishing and the maximum number of rows of rings prevents fishermen from making the twine top small and ineffective in reducing bycatch. Framework 26 extends this proactive accountability measure to all areas where scallop fishing occurs (*i.e.*, all access and open areas). This increased spatial coverage may further reduce flatfish bycatch by preventing dredge configurations using more than seven rows of rings. This is considered to be a proactive AM because it may help the fishery stay below the sub-ACLs for flatfish

(yellowtail flounder and windowpane flounder, currently). Additionally, this measure enables vessels to voluntarily fish with an even shorter apron (less than seven rings), to proactively reduce flatfish bycatch in any area or season.

#### *Regulatory Corrections Under Regional Administrator Authority*

This rule includes several revisions to the regulatory text to address text that is unnecessary, outdated, unclear, or otherwise could be improved. NMFS changes these consistent with section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the Magnuson-Stevens Act. Two revisions clarify how to apply and measure gear modifications to ensure compliance. The first revision at § 648.51 clarifies where to measure meshes to ensure twine top compliance. The second revision at § 648.53 clarifies an example on how the hanging ratio should be applied and measured if the windowpane reactive AM implemented through Framework 25 (June 26, 2014; 79 FR 34251) is triggered.

This action also modifies the VMS catch report requirements at § 648.10(f)(4)(i) to only include the information used by NMFS to monitor flatfish bycatch. The form currently requires that the amount of yellowtail flounder discards be reported daily. This requirement has been in place since Amendment 15 to the Scallop FMP (76 FR 43746; July 21, 2011), which established the yellowtail flounder AMs in the FMP. However, since the implementation of Amendment 15, the scallop fishery now has other bycatch sub-ACLs and AMs (*e.g.*, SNE/MA windowpane flounder) which are not captured in this form. In addition, current bycatch monitoring relies solely on observer reports to determine bycatch discards for these species. In order to minimize confusion, and because this information is not necessary for bycatch monitoring, we will remove the reference to reporting yellowtail discards. Instead, the vessels will report daily scallop catch and the amount of all other species kept.

In addition, this action adjusts the regulations at § 648.53(a) to clarify that the values for ABC/ACL stated in the regulations reflect the levels from which ACTs are set, thus they do not include estimates of discards and incidental mortality. This regulatory clarification is at the request of the Council and more accurately reflects the process for

establishing ABCs and ACLs in the scallop fishery.

#### **Comments and Responses**

NMFS received six comment letters in response to the proposed rule from: Fisheries Survival Fund, a scallop fishing industry organization; the Maine Department of Marine Resources; and four individuals. We provide responses below to the issues these commenters raised. NMFS may only approve, disapprove, or partially approve measures in Framework 26, and cannot substantively amend, add, or delete measures beyond what is necessary under section 305(d) of the Magnuson-Stevens Act to discharge its responsibility to carry out such measures.

*Comment 1:* Fisheries Survival Fund, which represents a majority of the limited access scallop fleet, was supportive of this action, but asked that we waive the delay of effectiveness period for the measures related to access area allocations and DAS. It asked that we retain the 30-day delay of effectiveness period for other measures that may require some time for the industry to make the necessary changes, *e.g.*, gear modifications.

*Response:* NMFS agrees with the timing suggestions and will be implementing all measures upon publication of this final rule, with the exception of the maximum seven-row apron requirement. This measure will have a 30-day delay in effectiveness.

*Comment 2:* One commenter was concerned that, because the Georges Bank Access Areas are closing and the Mid-Atlantic Access Area is opening in May, there may be a gear conflict with 15–20 monkfish gillnetters in the Delmarva Access Area. The commenter was concerned that the scallop vessels would dredge through their gear because April through June is the height of the monkfish fishing season.

*Response:* The scallop fishery operates year round. The delayed opening of Delmarva in fishing year 2014 (mid-June instead of March 1) was a result of a delay in the Council's submission of Framework Adjustment 26 to the Atlantic Sea Scallop FMP due to additional alternatives that were added late in the process. This action was intended to be in place before May. In the past, when we had 2-year specifications, the Delmarva area was opened on March 1. Also, the Delmarva area is currently opened to scallop fishing from 2014 carryover trips and will be through April. The commenter did not ask us to delay access to this area to give the monkfish fleet time to make the necessary adjustments, but

they asked that we not allow scallopers in the area until they were done fishing. We cannot delay access area trips to prevent gear conflict because the Council did not address this issue in Framework 26. Section 305(1)(K) of the Magnuson-Stevens Act prohibits the negligent removal or damaging of fishing gear owned by another person, which is located in the exclusive economic zone, or the fish contained in such fishing gear. We will remind the scallop fleet of this prohibition in a bulletin announcing the implementation of Framework 26.

*Comment 3:* The Maine Department of Marine Resources commented in support of the rule, in particular, the proposed modifications to the State Water Exemption Program.

*Response:* NMFS appreciates the comment.

*Comment 4:* One commenter stated that fishing year 2015 scallop quotas should be reduced by 25 percent to account for poaching.

*Response:* There is no evidence in the record to support neither this assertion nor the need to reduce scallop quotas by 25 percent to address poaching. As we discuss in the preambles to both the proposed and final rules, the quota allocations for fishing years 2015 and 2016 are based on the best scientific information available and are consistent with the control rules outlined in the ACL process established under Amendment 15 to the FMP. We do not currently consider scallops overfished or subject to overfishing. Sufficient analysis and scientific justification for our action in this final rule are contained within the supporting documents.

*Comment 5:* One commenter stated that anyone who kills a turtle should be fined \$1 million.

*Response:* As discussed in the preamble, the measures in this action to address turtle interactions were determined to be conservation neutral by balancing the smaller area for the turtle chain mat requirement with the additional months for the Turtle Deflector Dredge. Addressing any fines for the incidental take of turtles is not within the scope or authority for this type of action.

*Comment 6:* One commenter requested that we increase the 40-lb possession limit for vessels with incidental LAGC permits.

*Response:* Framework 26 did not include or analyze any alternatives regarding changes to possession limits for LAGC incidental permits. NMFS can only approve or disapprove this framework and cannot in this action add additional substantive measures not

contained in the framework. The Council would have to consider this change in a subsequent action.

*Comment 7:* One commenter simply stated that he opposed this action because he loves and needs scallops.

*Response:* Framework 26 creates two closure areas to protect small scallops in the Elephant Trunk and Nantucket Lightship Access Areas, and NMFS has managed scallop fishing through area-based management since 1999. By protecting small scallops through area-based management, NMFS and the Council hope to support long term optimum yield. Under this management, NMFS and the Council intend to support this fishery that fills a demand for scallops that the U.S. and world love.

#### *Changes From Proposed Rule to Final Rule*

We corrected a typographical error that referenced section § 648.65, and we included changes to the regulatory text to §§ 648.58, 648.59, and 648.61 clarify the description of the regulated areas defined under the Scallop FMP.

#### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act, the ESA, and other applicable law.

The Office of Management and Budget (OMB) has determined that this rule is not significant according to Executive Order (E.O.) 12866.

This final rule does not contain policies with federalism or “takings” implications, as those terms are defined in E.O. 1312 and E.O. 12630, respectively.

This action contains collection-of-information requirements subject the Paperwork Reduction Act (PRA). The two requirements were approved by OMB under the NMFS Greater Atlantic Region Scallop Report Family of Forms (OMB Control No. 0648-0491). Under Framework 26, all 347 limited access vessels are required to submit a pre-landing notification form for each access area trip through their VMS units. This information collection is intended to improve access area trip monitoring, as well as streamline a vessel’s ability to fish multiple access area trips. Although this is a new requirement, it replaces other reporting procedures currently required for breaking an access area trip and receiving permission to take a compensation trip to harvest remaining unharvested scallop pounds from an access area trip. The action also

includes a new requirement for some limited access vessels to report a pre-landing notification form through their VMS unit before changing their open area trip declaration to a “declared out of fishery declaration,” which is expected to add a burden to a very small portion of the fleet. Public reporting burden for submitting these pre-landing notification forms is estimated to average 5 minutes per response with an associated cost of \$1.25, which includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This requirement applies to a few vessels that intend to land open area scallops at ports south of Cape May, NJ, and want to steam to those ports while not using DAS. This new pre-landing requirement is necessary to enforce a measure intended to assist shoreside businesses in southern ports by providing an incentive for vessels to steam to ports far away from popular open area fishing grounds.

In a given fishing year, NMFS estimates that for access area reporting, each of the 313 full-time limited access vessels will submit a pre-landing report 5 times (1,565 responses), and each of the 34 part-time limited access vessel will submit a pre-landing report up to 3 times (102 responses), for a total of 1,667 responses. These 1,667 responses impose total compliance costs of \$2,084 on the whole fishery, but this cost is offset by the reduction in burden from the replaced trip termination and compensation trip reporting procedures, which were estimated to cost a total of \$300 annually. Thus, the additional burden for this new pre-landing requirement is \$1,785 (\$2,085 – \$300), or \$5.14 per vessel. This is likely an overestimate, but accounts for the potential of higher access area scallop allocations in future fishing years.

For the new DAS pre-landing requirements, NMFS estimates that this will likely impact 30 vessels and result in each of those vessels reporting one time a year. Public reporting burden for submitting these pre-landing notification forms is also estimated to average 5 minutes per response with an associated cost of \$1.25. Therefore, the total cost of this will impose total compliance costs of \$38 (30 vessels × \$1.25). The total additional burden for all vessels from both of these new pre-landing requirements is \$1,823.

The Assistant Administrator for Fisheries has determined that the need to implement these measures in an expedited manner in order to help achieve conservation objectives for the

scallop fishery and certain fish stocks constitutes good cause, under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in effectiveness and to make the majority of Framework 26 final measures effective May 1, 2015, or upon publication in the **Federal Register** if published after May 1, 2015. The only exception to this waiver is the proactive accountability measure for bycatch requiring a maximum of seven rows of rings in the topside of the apron found in § 648.51(b)(4)(iv). This measure is effective 30 days after the publication date, in order to give vessels the opportunity to modify their gear to comply with regulations.

If there is a 30-day delay in implementing the measures in Framework 26, the scallop fleet will continue under the current default access area, DAS, IFQ, RSA, and observer set-aside allocations. These default allocations were purposely set to be more conservative than what would eventually be implemented under Framework 26. Under default measures, each full-time vessel has 17 DAS and no access area allocation. If the rule is not in place May 1, many scallopers will not be able to fish because they have already used a significant portion of their default DAS. This action gives them another 13.86 DAS. More importantly, the entire fleet will not be allowed in the Access Area. Each full time vessel will receive an additional 51,000 to be harvested in the Mid-Atlantic Access Area with this action. This action, therefore, relieves restrictions on the scallop fleet by providing full-time vessels with an additional 13.86 DAS (30.86 DAS total) and 51,000 lb in access area allocation. Further, the catch rates, meat weights, and meat quality in Mid-Atlantic Access Area are best from May through July. Improving these parameters helps conserve the scallop resources in the access areas because it limits the number of individuals that scallop fishermen must harvest to reach a possession limit. Maximizing catch rates, meat weights, and meat quality will help the scallop fleet achieve optimum yield in the Mid-Atlantic Access Area, which is the central goal of the access area rotation program. Therefore, the greatest benefits to the scallop fishing industry, the scallop resource, and the public would come from earlier access in May. This provides more time for vessels to fish during the most productive time for the resource. Delaying the implementation of Framework 26 for 30 days would be contrary to the public interest because continuing with these lower allocations would negatively impact the access area

rotation program, as well as the scallop fleet economically. Any delay in implementation past May 1st would reduce the amount of time that scallop fishermen are able to fish in the Mid-Atlantic Access Area under the conditions that are ideal under the access area rotation program.

For the reasons discussed above, to maximize conservation and economic benefits it necessary to allow access to the Mid-Atlantic Access Area on May 1. NMFS was unable to allow for a 30-day delay in effectiveness for Framework 26 rulemaking and allow access to the Mid-Atlantic Access Area on May 1. The Council's February 2015 submission of Framework 26 initiated a timeline for implementation that did not for both the 30-day delay in effectiveness and May 1 access to the Mid-Atlantic Access Area. However, NMFS must also consider the need of the scallop industry to have prior notice in order to make the necessary preparations to comply with changes to the gear required by the proactive accountability measure for bycatch. For these reasons, NMFS has determined that implementing these measures immediately, and with a 30-day delay in effectiveness of the proactive accountability measure for bycatch, would have the greatest public benefit.

NMFS, pursuant to section 604 of the Regulatory Flexibility Act (RFA), has completed a final regulatory flexibility analysis (FRFA) in support of Framework 26 in this final rule. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS responses to those comments, a summary of the analyses completed in the Framework 26 EA, and this portion of the preamble. A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of, and the legal basis for this rule is contained in Framework 26 and in the preamble to the proposed and this final rule, and is not repeated here. All of the documents that constitute the FRFA are available from NMFS and a copy of the IRFA, the Regulatory Impact Review (RIR), and the EA are available upon request (see **ADDRESSES**).

*A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments*

NMFS received no public comments directly in response to the IRFA

summary or regarding economic impacts in the proposed rule.

*Description and Estimate of Number of Small Entities to Which the Rule Would Apply*

The regulations affect all vessels with limited access and LAGC scallop permits. The Framework 26 document provides extensive information on the number and size of vessels and small businesses that will be affected by these regulations, by port and state (see **ADDRESSES**). There were 313 vessels that obtained full-time limited access permits in 2013, including 250 dredge, 52 small-dredge, and 11 scallop trawl permits. In the same year, there were also 34 part-time limited access permits in the sea scallop fishery. No vessels were issued occasional scallop permits. NMFS issued 212 LAGC IFQ permits in 2013, and 155 of these vessels actively fished for scallops that year (the remaining permits likely leased out scallop IFQ allocations with their permits in Confirmation of Permit History). The Small Business Administration (SBA) defines a small business in shellfish fishery as a firm that is independently owned and operated and not dominant in its field of operation, with receipts of up to \$5.5 M annually. Matching the potentially impacted 2013 fishing year permits described above (LA and LAGC IFQ) to calendar year 2013 ownership data results in 172 distinct ownership entities for the limited access fleet and 115 distinct ownership entities for the LAGC IFQ fleet. Of these, and based on the SBA guidelines, 154 of the limited access distinct ownership entities and all 115 of the LAGC IFQ entities are categorized as small. The remaining 18 of the limited access entities are categorized as large entities, all of which are shellfish businesses.

*Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements*

This action contains collection-of-information requirements subject to the PRA. The OMB, under the NMFS Greater Atlantic Region Scallop Report Family of Forms (OMB Control No. 0648-0491), approved the two requirements.

Under this action, all 347 limited access vessels are required to submit a pre-landing notification form for each access area trip through their VMS units. NMFS intends that this information collection will improve access area trip monitoring, as well as streamline a vessel's ability to fish multiple access area trips. Although this is a new requirement, it replaces other

reporting procedures currently required for breaking an access area trip and receiving permission to take a compensation trip to harvest remaining unharvested scallop pounds from an access area trip. The action also includes a new requirement for some limited access vessels to report a pre-landing notification form through their VMS unit before changing their open area trip declaration to a "declared out of fishery declaration," which is expected to add a burden to a very small portion of the fleet. This requirement only applies to a few vessels that intend to land open area scallops at ports south of Cape May, NJ, and want to steam to those ports while not using DAS. This new pre-landing requirement is necessary to enforce a measure intended to assist shoreside businesses in southern ports by providing an incentive for vessels to steam to ports far away from popular open area fishing grounds.

Notification requires the dissemination of the following information: Operator's permit number; amount of scallop meats and/or bushels to be landed; the estimated time of arrival; the landing port and state where the scallops will be offloaded; and the vessel trip report (VTR) serial number recorded from that trip's VTR. This information will be used by the NMFS Office of Law Enforcement to monitor vessel activity and ensure compliance with the regulations.

The burden estimates for these new requirements apply to all limited access vessels. In a given fishing year, NMFS estimates that for access area reporting, each of the 313 full-time limited access vessels will submit a pre-landing report 5 times (1,565 responses), and each of the 34 part-time limited access vessel will submit a pre-landing report up to 3 times (102 responses), for a total of 1,667 responses. Public reporting burden for submitting these pre-landing notification forms is estimated to average 5 minutes per response with an associated cost of \$1.25, which includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Therefore, 1,667 responses impose total compliance costs of \$2,084 across the whole fishery; however, this new requirement replaces current trip termination and compensation trip reporting procedures, which were estimated to cost a total of \$300 annually, so the additional burden for this new pre-landing requirement is actually \$1,785 (\$2,085 - \$300), or \$5.14 per vessel. This figure is likely an

overestimate, but accounts for the potential of higher access area scallop allocations in future fishing years. For the new DAS pre-landing requirements, NMFS estimates that this will likely impact 30 vessels and result in each of those vessels reporting one time a year. Public reporting burden for submitting these pre-landing notification forms is also estimated to average 5 minutes per response with an associated cost of \$1.25. Therefore, the total cost of this will impose total compliance costs of \$38 (30 vessels x \$1.25). The total additional burden from both of these new pre-landing requirements will be \$1,823.

NMFS sought public comment regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. NMFS did not receive any comments regarding these collections of information.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at: [http://www.cio.noaa.gov/services\\_programs/prasubs.html](http://www.cio.noaa.gov/services_programs/prasubs.html).

This action contains no other compliance costs. It does not duplicate, overlap, or conflict with any other Federal law.

*Description of the Steps the Agency Has Taken to Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes*

During the development of Framework 26, NMFS and the Council considered ways to reduce the regulatory burden on, and provide flexibility for, the regulated entities in this action. For example, they removed the requirement to send in broken trip forms and process compensation trips, and they allowed carryover of all access area allocation 60 days into the following fishing year. Final actions and alternatives are described in detail in Framework 26, which includes an EA,

RIR, and IRFA (available at **ADDRESSES**). The measures implemented by this final rule minimize the long-term economic impacts on small entities to the extent practicable. The only alternatives for the prescribed catch limits that were analyzed were those that met the legal requirements to implement effective conservation measures. Catch limits are fundamentally a scientific calculation based on the Scallop FMP control rules and SSC approval, and therefore are legally limited to the numbers contained in this rule. Moreover, the limited number of alternatives available for this action must be evaluated in the context of an ever-changing fishery management plan that has considered numerous alternatives over the years and have provided many mitigating measures applicable every fishing year.

Overall, this rule minimizes adverse long-term impacts by ensuring that management measures and catch limits result in sustainable fishing mortality rates that promote stock rebuilding, and as a result, maximize yield. The measures implemented by this final rule also provide additional flexibility for fishing operations in the short-term. This final rule implements several measures that enable small entities to offset some portion of the estimated economic impacts. These measures include: Removing the requirement to send in broken trip and compensation trip forms; allowing vessels to harvest access area quota in any of the three access areas; aligning the gear designed to protect sea turtles; allowing vessel landing at a port south of 39 degrees N. lat. to "declare out of fishery with product on board" to reduce DAS use while transiting; and modifying the State Waters Exemption Program to allow vessels to continue to fish in state waters if the NGOM TAC is reached.

**List of Subjects**

*50 CFR Part 223*

Endangered and threatened species, Exports, Imports, Transportation.

*50 CFR Part 648*

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 16, 2015.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

For the reasons set out in the preamble, 50 CFR parts 223 and 648 is amended as follows:



## PART 223—THREATENED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 223 continues to read as follows:

**Authority:** 16 U.S.C. 1531 1543; subpart B, § 223.201–202 also issued under 16 U.S.C. 1361 *et seq.*; 16 U.S.C. 5503(d) for § 223.206(d)(9).

■ 2. In § 223.206, paragraph (d)(11) is revised to read as follows:

### § 223.206 Exceptions to prohibitions relating to sea turtles.

\* \* \* \* \*

(d) \* \* \*

(11) *Restrictions applicable to sea scallop dredges in the mid-Atlantic—(i) Gear Modification.* During the time period of May 1 through November 30, any vessel with a sea scallop dredge and required to have a Federal Atlantic sea scallop fishery permit, regardless of dredge size or vessel permit category, that enters waters west of 71° W. long., from the shoreline to the outer boundary of the Exclusive Economic Zone must have on each dredge a chain mat described as follows. The chain mat must be composed of horizontal (“tickler”) chains and vertical (“up-and-down”) chains that are configured such that the openings formed by the intersecting chains have no more than four sides. The vertical and horizontal chains must be hung to cover the opening of the dredge bag such that the vertical chains extend from the back of the cutting bar to the sweep. The horizontal chains must intersect the vertical chains such that the length of each side of the openings formed by the intersecting chains is less than or equal to 14 inches (35.5 cm) with the exception of the side of any individual opening created by the sweep. The chains must be connected to each other with a shackle or link at each intersection point. The measurement must be taken along the chain, with the chain held taut, and include one shackle or link at the intersection point and all links in the chain up to, but excluding, the shackle or link at the other intersection point.

(ii) Any vessel that enters the waters described in paragraph (d)(11)(i) of this section and that is required to have a Federal Atlantic sea scallop fishery permit must have the chain mat configuration installed on all dredges for the duration of the trip.

(iii) Vessels subject to the requirements in paragraphs (d)(11)(i) and (ii) of this section transiting waters west of 71° W. long., from the shoreline to the outer boundary of the Exclusive Economic Zone, will be exempted from the chain-mat requirements provided

the dredge gear is not available for immediate use as defined by § 648.2 of this title and there are no scallops on-board.

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 3. The authority citation for part 648 continues to read as follows:

**Authority:** 16 U.S.C. 1801 *et seq.*

■ 4. In § 648.10, paragraphs (e)(5)(iii) and (f)(4) are revised, and paragraph (f)(6) is added to read as follows:

### § 648.10 VMS and DAS requirements for vessel owners/operators.

\* \* \* \* \*

(e) \* \* \*

(5) \* \* \*

(iii) DAS counting for a vessel that is under the VMS notification requirements of paragraph (b) of this section, with the exception of vessels that have elected to fish exclusively in the Eastern U.S./Canada Area on a particular trip, as described in paragraph (e)(5) of this section, begins with the first location signal received showing that the vessel crossed the VMS Demarcation Line after leaving port. DAS counting ends with the first location signal received showing that the vessel crossed the VMS Demarcation Line upon its return to port, unless the vessel is declared into a limited access scallop DAS trip and, upon its return to port, declares out of the scallop fishery shoreward of the VMS Demarcation Line at or south of 39° N. lat., as specified in paragraph (f)(6) of this section, and lands in a port south of 39° N. lat.

\* \* \* \* \*

(f) \* \* \*

(4) *Catch reports.* (i) The owner or operator of a limited access or LAGC IFQ vessel that fishes for, possesses, or retains scallops, and is not fishing under a NE Multispecies DAS or sector allocation, must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished, including open area trips, access area trips as described in § 648.60(a)(9), and trips accompanied by a NMFS-approved observer. The reports must be submitted for each day (beginning at 0000 hr and ending at 2400 hr) and not later than 0900 hr of the following day. Such reports must include the following information:

(A) VTR serial number;

(B) Date fish were caught;

(C) Total pounds of scallop meats kept;

(D) Total pounds of all fish kept.

(ii) *Scallop Pre-Landing Notification Form for IFQ and NGOM vessels.* A vessel issued an IFQ or NGOM scallop permit must report through VMS, using the Scallop Pre-Landing Notification Form, the amount of any scallops kept on each trip declared as a scallop trip, including declared scallop trips where no scallops were landed. In addition, vessels with an IFQ or NGOM permit must submit a Scallop Pre-Landing Notification Form on trips that are not declared as scallop trips, but on which scallops are kept incidentally. A limited access vessel that also holds an IFQ or NGOM permit must submit the Scallop Pre-Landing Notification Form only when fishing under the provisions of the vessel’s IFQ or NGOM permit. VMS Scallop Pre-Landing Notification forms must be submitted no less than 6 hours prior to arrival, or, if fishing ends less than 6 hours before arrival, immediately after fishing ends. If scallops will be landed, the report must include the vessel operator’s permit number, the amount of scallop meats in pounds to be landed, the number of bushels of in-shell scallops to be landed, the estimated time of arrival in port, the landing port and state where the scallops will be offloaded, the VTR serial number recorded from that trip’s VTR (the same VTR serial number as reported to the dealer), and whether any scallops were caught in the NGOM. If no scallops will be landed, a vessel issued an IFQ or NGOM scallop permit must provide only the vessel’s captain/operator’s permit number, the VTR serial number recorded from that trip’s VTR (the same VTR serial number as reported to the dealer), and confirmation that no scallops will be landed. A vessel issued an IFQ or NGOM scallop permit may provide a corrected report. If the report is being submitted as a correction of a prior report, the information entered into the notification form will replace the data previously submitted in the prior report. Submitting a correction does not prevent NMFS from pursuing an enforcement action for any false reporting.

(iii) *Scallop Pre-Landing Notification Form for limited access vessels fishing on Scallop Access Area trips.* A limited access vessel on a declared Sea Scallop Access Area trip must report through VMS, using the Scallop Pre-Landing Notification Form, the amount of any scallops kept on each access area trip, including declared access area trips where no scallops were landed. The report must be submitted no less than 6 hours before arrival, or, if fishing ends less than 6 hours before arrival,

immediately after fishing ends. If scallops will be landed, the report must include the vessel operator's permit number, the amount of scallop meats in pounds to be landed, the number of bushels of in-shell scallops to be landed, the estimated time of arrival, the landing port and state where the scallops will be offloaded, and the VTR serial number recorded from that trip's VTR (the same VTR serial number as reported to the dealer). If no scallops will be landed, a limited access vessel on a declared Sea Scallop Access Area trip must provide only the vessel's captain/operator's permit number, the VTR serial number recorded from that trip's VTR (the same VTR serial number as reported to the dealer), and confirmation that no scallops will be landed. A limited access scallop vessel may provide a corrected report. If the report is being submitted as a correction of a prior report, the information entered into the notification form will replace the data previously submitted in the prior report. Submitting a correction does not prevent NMFS from pursuing an enforcement action for any false reporting. A vessel may not offload its catch from a Sea Scallop Access Area trip at more than one location per trip.

(iv) *Scallop Pre-Landing Notification Form for limited access vessels on a declared DAS trip landing scallops at ports located at or south of 39° N. lat.* In order to end a declared Sea Scallop DAS trip and steam south of 39° N. lat., a limited access vessel must first report through VMS, using the Scallop Pre-Landing Notification Form, the amount of any scallops kept on its DAS trip. Upon crossing shoreward of the VMS Demarcation Line at or south of 39° N. lat., the Scallop Pre-Landing Notification form must be submitted. The report must include the vessel operator's permit number, the amount of scallop meats in pounds to be landed, the estimated time of arrival in port, the landing port and state where the scallops will be offloaded, and the VTR serial number recorded from that trip's VTR (the same VTR serial number as reported to the dealer). Prior to crossing seaward of the VMS Demarcation Line for the transit to a southern port at or south of 39° N. lat., the vessel must declare out of the scallop fishery. A limited access scallop vessel may provide a corrected report. If the report is being submitted as a correction of a prior report, the information entered into the notification form will replace the data previously submitted in the prior report. Submitting a correction does not prevent NMFS from pursuing

an enforcement action for any false reporting.

\* \* \* \* \*

(6) *Limited access scallop vessels fishing under the DAS program and landing scallops at ports south of 39° N. Lat.* If landing scallops at a port located at or south of 39° N. lat., a limited access vessel participating in the scallop DAS program may end its DAS trip once it has crossed shoreward of the VMS Demarcation Line at or south of 39° N. lat. by declaring out of the scallop fishery and submitting the Scallop Pre-Landing Notification Form, as specified at paragraph (f)(4)(iv) of this section. Once declared out of the scallop fishery, and the vessel has submitted the Scallop Pre-Landing Notification Form, the vessel may cross seaward of the VMS Demarcation Line and steam to a port at or south of 39° N. lat., to land scallops while not on a DAS. Such vessels that elect to change their declaration to steam to ports with scallops onboard and not accrue DAS must comply with all the requirements at § 648.53(f)(3).

\* \* \* \* \*

5. In § 648.14, paragraphs (i)(2)(ii)(B), (i)(2)(iii)(C), (i)(2)(v)(D), (i)(3)(iii)(C) and (D), (i)(4)(i)(C), and (i)(5)(iii) are revised, and paragraphs (i)(2)(iv)(D) and (E) and (i)(2)(v)(E) are added to read as follows:

**§ 648.14 Prohibitions.**

- \* \* \* \* \*
- (i) \* \* \*
  - (2) \* \* \*
  - (ii) \* \* \*

(B) While under or subject to the DAS allocation program, in possession of more than 40 lb (18.1 kg) of shucked scallops or 5 bu (1.76 hL) of in-shell scallops, or fishing for scallops in the EEZ:

- (1) Fish with, or have available for immediate use, trawl nets of mesh smaller than the minimum size specified in § 648.51(a)(2).
- (2) Fail to comply with any chafing gear or other gear obstruction restrictions specified in § 648.51(a)(3).
- (3) Fail to comply with the turtle deflector dredge vessel gear restrictions specified in § 648.51(b)(5), and turtle dredge chain mat requirements in § 223.206(d)(11) of this title.
- (4) Fish under the small dredge program specified in § 648.51(e), with, or while in possession of, a dredge that exceeds 10.5 ft (3.2 m) in overall width, as measured at the widest point in the bail of the dredge.
- (5) Fish under the small dredge program specified in § 648.51(e) with more persons on board the vessel, including the operator, than specified in § 648.51(e)(3), unless otherwise

authorized by the Regional Administrator.

(6) Participate in the DAS allocation program with more persons on board the vessel than the number specified in § 648.51(c), including the operator, when the vessel is not docked or moored in port, unless otherwise authorized by the Regional Administrator.

(7) Fish in the Mid-Atlantic Access Area, as described in § 648.59(a), with more persons on board the vessel than the number specified in § 648.51(c) or § 648.51(e)(3)(i), unless otherwise authorized by the Regional Administrator.

(8) Have a shucking or sorting machine on board a vessel that shucks scallops at sea while fishing under the DAS allocation program, unless otherwise authorized by the Regional Administrator.

(9) Fish with, possess on board, or land scallops while in possession of trawl nets, when fishing for scallops under the DAS allocation program, unless exempted as provided for in § 648.51(f).

(10) Fail to comply with the gear restrictions described in § 648.51.

(iii) \* \* \*

(C) Fish for or land per trip, or possess at any time, scallops in the NGOM scallop management area after notification in the **Federal Register** that the NGOM scallop management area TAC has been harvested, as specified in § 648.62, unless the vessel possesses or lands scallops that were harvested south of 42°20' N. lat. and the vessel only transits the NGOM scallop management area with the vessel's fishing gear properly stowed and not available for immediate use in accordance with § 648.2 or unless the vessel is fishing exclusively in state waters and is participating in an approved state waters exemption program as specified in § 648.54.

\* \* \* \* \*

(iv) \* \* \*

(D) Fail to comply with any requirements for declaring out of the DAS allocation program and steaming to land scallops at ports located at or south of 39° N. lat., as specified in § 648.53(f)(3).

(E) Possess on board or land in-shell scallops if declaring out of the DAS allocation program and steaming to land scallops at ports located at or south of 39° N. lat.

(v) \* \* \*

(D) Once declared into the scallop fishery in accordance with § 648.10(f), change its VMS declaration until the trip has ended and scallop catch has

been offloaded, except as specified at § 648.53(f)(3).

(E) Fail to submit a scallop access area pre-landing notification form through VMS as specified at § 648.10(f)(4)(iii).

\* \* \* \* \*

(3) \* \* \*  
(iii) \* \* \*

(C) Declare into the NGOM scallop management area after the effective date of a notification published in the **Federal Register** stating that the NGOM scallop management area TAC has been harvested as specified in § 648.62, unless the vessel is fishing exclusively in state waters, declared a state-waters only NGOM trip, and is participating in an approved state waters exemption program as specified in § 648.54.

(D) Fish for, possess, or land scallops in or from the NGOM scallop management area after the effective date of a notification published in the **Federal Register** that the NGOM scallop management area TAC has been harvested, as specified in § 648.62, unless the vessel possesses or lands scallops that were harvested south of 42°20' N. lat., the vessel is transiting the NGOM scallop management area, and the vessel's fishing gear is properly stowed and not available for immediate use in accordance with § 648.2 or unless the vessel is fishing exclusively in state waters, declared a state-waters only NGOM trip, and is participating in an approved state waters exemption program as specified in § 648.54.

\* \* \* \* \*

(4) \* \* \*  
(i) \* \* \*

(C) Declare into the NGOM scallop management area after the effective date of a notification published in the **Federal Register** stating that the NGOM scallop management area TAC has been harvested as specified in § 648.62, unless the vessel is fishing exclusively in state waters, declared a state-waters only NGOM trip, and is participating in an approved state waters exemption program as specified in § 648.54.

\* \* \* \* \*

(5) \* \* \*

(iii) Fish for, possess, or land scallops in state or Federal waters of the NGOM management area after the effective date of notification in the **Federal Register** that the NGOM scallop management area TAC has been harvested as specified in § 648.62, unless the vessel is fishing exclusively in state waters, declared a state-waters only NGOM trip, and is participating in an approved state waters exemption program as specified in § 648.54.

\* \* \* \* \*

■ 4. In § 648.51:

■ a. Paragraphs (b)(4)(iv) and (v), (b)(5)(ii)(A) introductory text, (b)(5)(ii)(A)(3), and (c) introductory text are revised;

■ b. Paragraph (c)(1) is removed and reserved; and

■ c. Paragraph (e)(3)(i) is revised.

The revisions read as follows:

**§ 648.51 Gear and crew restrictions.**

\* \* \* \* \*

(b) \* \* \*  
(4) \* \* \*

(iv) *Twine top restrictions as a proactive accountability measure for bycatch.* In addition to the minimum twine top mesh size specified in paragraph (b)(2) of this section, limited access and limited access general category IFQ vessels may not fish for scallops with a dredge having more than seven rows of non-overlapping steel rings unobstructed by netting or any other material between the terminus of the dredge (club stick) and the net material on the top of the dredge (twine top) (a copy of a diagram showing a schematic of a legal dredge with twine top is available from the Regional Administrator upon request).

(v) *Measurement of twine top mesh size.* Twine top mesh size is measured by using a wedge-shaped gauge having a taper of 0.79 inches (2 cm) in 3.15 inches (8 cm) and a thickness of 0.09 inches (2.3 mm), inserted into the meshes under a pressure or pull of 17.64 lb (8 kg). The mesh size is the average of the measurements of any series of 20 consecutive meshes for twine tops having 75 or more meshes, and 10 consecutive meshes for twine tops having fewer than 75 meshes. The mesh in the twine top must be measured along the length of the twine top, running parallel to a longitudinal axis, and be at least five meshes away from where the twine top mesh meets the rings, running parallel to the long axis of the twine top.

(5) \* \* \*  
(ii) \* \* \*

(A) From May 1 through November 30, any limited access scallop vessel using a dredge, regardless of dredge size or vessel permit category, or any LAGC IFQ scallop vessel fishing with a dredge with a width of 10.5 ft (3.2 m) or greater, that is fishing for scallops in waters west of 71° W. long., from the shoreline to the outer boundary of the EEZ, must use a TDD. The TDD requires five modifications to the rigid dredge frame, as specified in paragraphs (b)(5)(ii)(A)(1) through (5) of this section. See paragraph (b)(5)(ii)(D) of this section for more specific descriptions of the dredge elements mentioned below.

\* \* \* \* \*

(3) All bale bars must be removed, except the outer bale (single or double) bars and the center support beam, leaving an otherwise unobstructed space between the cutting bar and forward bale wheels, if present. The center support beam must be less than 6 inches (15.24 cm) wide. For the purpose of flaring and safe handling of the dredge, a minor appendage not to exceed 12 inches (30.5 cm) in length may be attached to each of the outer bale bars. If the flaring bar is attached in a u-shape, none of the three sides of the flaring bar shall exceed 12 inches (30.5 cm) in length. The appendage shall at no point be closer than 12 inches (30.5 cm) to the cutting bar.

\* \* \* \* \*

(c) *Crew restrictions.* A limited access vessel participating in or subject to the scallop DAS allocation program may have no more than seven people aboard, including the operator, and a limited access vessel participating in the Sea Scallop Area Access Program as specified in § 648.60 may have no more than eight people aboard, including the operator, when not docked or moored in port, except as follows:

\* \* \* \* \*

(e) \* \* \*  
(3) \* \* \*

(i) A vessel participating in the Sea Scallop Area Access Program as specified in § 648.60 may have no more than six people, including the operator, on board.

\* \* \* \* \*

■ 5. In § 648.53:

■ a. Paragraphs (a), (b)(1), and (b)(4) are revised;

■ b. Paragraph (f)(3) is added; and

■ c. Paragraph (g)(1) is revised.

The revisions and additions read as follows:

**§ 648.53 Acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), DAS allocations, and individual fishing quotas (IFQ).**

(a) *Scallop fishery ABC.* The ABC for the scallop fishery shall be established through the framework adjustment process specified in § 648.55 and is equal to the overall scallop fishery ACL minus discards. The ABC/ACL, after discards are removed, shall be divided as sub-ACLs between limited access vessels, limited access vessels that are fishing under a LAGC permit, and LAGC vessels as specified in paragraphs (a)(3) and (4) of this section, after deducting the scallop incidental catch target TAC specified in paragraph (a)(2) of this section, observer set-aside specified in paragraph (g)(1) of this section, and research set-aside specified in

§ 648.56(d). The ABC/ACL for the 2016 fishing year is subject to change through a future framework adjustment.

(1) ABC/ACL for fishing years 2015 through 2016, excluding discards, shall be:

- (i) 2015: 25,352 mt.
- (ii) 2016: 31,807 mt.

(2) *Scallop incidental catch target TAC*. The annual incidental catch target TAC for vessels with incidental catch scallop permits is 22.7 mt.

(3) *Limited access fleet sub-ACL and ACT*. The limited access scallop fishery shall be allocated 94.5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a)(3). ACT for the limited access scallop fishery shall be established through the framework adjustment process described in § 648.55. DAS specified in paragraph (b) of this section shall be based on the ACTs specified in paragraph (a)(3)(ii) of this section. The limited access fleet sub-ACL and ACT for the 2016 fishing year are subject to change through a future framework adjustment.

(i) The limited access fishery sub-ACLs for fishing years 2015 and 2016 are:

- (A) 2015: 23,161 mt.
- (B) 2016: 29,200 mt.

(ii) The limited access fishery ACTs for fishing years 2015 and 2016 are:

- (A) 2015: 19,311 mt.
- (B) 2016: 23,016 mt.

(4) *LAGC fleet sub-ACL*. The sub-ACL for the LAGC IFQ fishery shall be equal to 5.5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a)(4). The LAGC IFQ fishery ACT shall be equal to the LAGC IFQ fishery's ACL. The ACL for the LAGC IFQ fishery for vessels issued only a LAGC IFQ scallop permit shall be equal to 5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a)(4). The ACL for the LAGC IFQ fishery for vessels issued only both a LAGC IFQ scallop permit and a limited access scallop permit shall be 0.5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a)(4).

(i) The ACLs for fishing years 2015 and 2016 for LAGC IFQ vessels without a limited access scallop permit are:

- (A) 2015: 1,225 mt.
- (B) 2016: 1,545 mt.

(ii) The ACLs for fishing years 2015 and 2016 for vessels issued both a LAGC and a limited access scallop permits are:

- (A) 2015: 123 mt.
- (B) 2016: 154 mt.
- (b) \* \* \*

(1) *Landings per unit effort (LPUE)*.

LPUE is an estimate of the average amount of scallops, in pounds, that the limited access scallop fleet lands per DAS fished. The estimated LPUE is the average LPUE for all limited access scallop vessels fishing under DAS, and shall be used to calculate DAS specified in paragraph (b)(4) of this section, the DAS reduction for the AM specified in paragraph (b)(4)(ii) of this section, and the observer set-aside DAS allocation specified in paragraph (g)(1) of this section. LPUE shall be:

- (i) 2015 fishing year: 2,594 lb/DAS (1,171 kg/DAS).
- (ii) 2016 fishing year: 2,715 lb/DAS (1,175 kg/DAS).
- (iii) [Reserved]

\* \* \* \* \*

(4) Each vessel qualifying for one of the three DAS categories specified in the table in this paragraph (b)(4) (full-time, part-time, or occasional) shall be allocated the maximum number of DAS for each fishing year it may participate in the open area limited access scallop fishery, according to its category, excluding carryover DAS in accordance with paragraph (d) of this section. DAS allocations shall be determined by distributing the portion of ACT specified in paragraph (a)(3)(ii) of this section, as reduced by access area allocations specified in § 648.59, and dividing that amount among vessels in the form of DAS calculated by applying estimates of open area LPUE specified in paragraph (b)(1) of this section. Allocation for part-time and occasional scallop vessels shall be 40 percent and 8.33 percent of the full-time DAS allocations, respectively. The annual open area DAS allocations for each category of vessel for the fishing years indicated are as follows:

SCALLOP OPEN AREA DAS ALLOCATIONS

Permit category	2015	2016
Full-Time ...	30.86	26
Part-Time ..	12.94	10.40
Occasional	2.58	2.17

(i) [Reserved]

(ii) *Accountability measures (AM)*.

Unless the limited access AM exception is implemented in accordance with the provision specified in paragraph (b)(4)(iii) of this section, if the ACL

specified in paragraph (a)(3)(i) of this section is exceeded for the applicable fishing year, the DAS specified in paragraph (b)(4) of this section for each limited access vessel shall be reduced by an amount equal to the amount of landings in excess of the ACL divided by the applicable LPUE for the fishing year in which the AM will apply as specified in paragraph (b)(1) of this section, then divided by the number of scallop vessels eligible to be issued a full-time limited access scallop permit. For example, assuming a 300,000-lb (136-mt) overage of the ACL in 2011, an open area LPUE of 2,500 lb (1.13 mt) per DAS in 2012, and 313 full-time vessels, each full-time vessel's DAS for 2012 would be reduced by 0.38 DAS (300,000 lb (136 mt)/2,500 lb (1.13 mt) per DAS = 120 lb (0.05 mt) per DAS/313 vessels = 0.38 DAS per vessel). Deductions in DAS for part-time and occasional scallop vessels shall be 40 percent and 8.33 percent of the full-time DAS deduction, respectively, as calculated pursuant to this paragraph (b)(4)(ii). The AM shall take effect in the fishing year following the fishing year in which the overage occurred. For example, landings in excess of the ACL in fishing year 2011 would result in the DAS reduction AM in fishing year 2012. If the AM takes effect, and a limited access vessel uses more open area DAS in the fishing year in which the AM is applied, the vessel shall have the DAS used in excess of the allocation after applying the AM deducted from its open area DAS allocation in the subsequent fishing year. For example, a vessel initially allocated 32 DAS in 2011 uses all 32 DAS prior to application of the AM. If, after application of the AM, the vessel's DAS allocation is reduced to 31 DAS, the vessel's DAS in 2012 would be reduced by 1 DAS.

(iii) *Limited access AM exception*. If NMFS determines, in accordance with paragraph (b)(4)(ii) of this section, that the fishing mortality rate associated with the limited access fleet's landings in a fishing year is less than 0.34, the AM specified in paragraph (b)(4)(ii) of this section shall not take effect. The fishing mortality rate of 0.34 is the fishing mortality rate that is one standard deviation below the fishing mortality rate for the scallop fishery ACL, currently estimated at 0.38.

(iv) *Limited access fleet AM and exception provision timing*. The Regional Administrator shall determine whether the limited access fleet exceeded its ACL specified in paragraph (a)(3)(i) of this section by July of the fishing year following the year for which landings are being evaluated. On or about July 1, the Regional

Administrator shall notify the New England Fishery Management Council of the determination of whether or not the ACL for the limited access fleet was exceeded, and the amount of landings in excess of the ACL. Upon this notification, the Scallop Plan Development Team (PDT) shall evaluate the overage and determine if the fishing mortality rate associated with total landings by the limited access scallop fleet is less than 0.34. On or about September 1 of each year, the Scallop PDT shall notify the Council of its determination, and the Council, on or about September 30, shall make a recommendation, based on the Scallop PDT findings, concerning whether to invoke the limited access AM exception. If NMFS concurs with the Scallop PDT's recommendation to invoke the limited access AM exception, in accordance with the APA, the limited access AM shall not be implemented. If NMFS does not concur, in accordance with the APA, the limited access AM shall be implemented as soon as possible after September 30 each year.

\* \* \* \* \*

(f) \* \* \*

(3) *Limited access scallop vessels fishing under the DAS program and landing scallops at a port located at or south of 39° N. Lat.* If landing scallops at a port located at or south of 39° N. lat., a limited access vessel participating in the scallop DAS program may end its DAS trip once shoreward of the VMS Demarcation Line at or south of 39° N. lat. by declaring out of the scallop fishery. Once declared out of the scallop fishery, the vessel may cross seaward of the VMS Demarcation Line and steam to ports at or south of 39° N. lat., to land scallops while not on a DAS, provided that the vessel complies with the following requirements:

- (i) The vessel must submit a Scallop Pre-landing Notification Form, as specified at § 648.10(f)(4)(iv);
- (ii) The vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2;
- (iii) The vessel must return directly to port and offload scallops;
- (iv) The vessel must land scallops at a port located at or south of 39° N. lat.; and
- (v) The vessel may not possess in-shell scallops.

(g) *Set-asides for observer coverage.*

(1) To help defray the cost of carrying an observer, 1 percent of the ABC/ACL specified in paragraph (a)(1) of this section shall be set aside to be used by vessels that are assigned to take an at-sea observer on a trip. The total TAC for observer set aside is 254 mt in fishing

year 2015, and 318 mt in fishing year 2016.

\* \* \* \* \*

■ 6. In § 648.54, paragraphs (a)(4) and (b) through (g) are revised, and paragraph (h) is added, to read as follows:

**§ 648.54 State waters exemption.**

(a) \* \* \*

(4) The Regional Administrator has determined that the State of Maine has a scallop fishery conservation program for its scallop fishery that does not jeopardize the biomass and fishing mortality/effort limit objectives of the Scallop FMP. A vessel fishing in State of Maine waters may fish under the State of Maine state waters exemption, subject to the exemptions specified in paragraphs (b) and (c) of this section, provided the vessel is in compliance with paragraphs (e) through (g) of this section.

(b) *Limited access scallop vessel exemption.* Any vessel issued a limited access scallop permit is exempt from the DAS requirements specified in § 648.53(b) while fishing exclusively landward of the outer boundary of the waters of a state that has been issued a state waters exemption under paragraph (a)(4) of this section, provided the vessel complies with paragraphs (f) through (h) of this section.

(c) *Gear and possession limit restrictions.* Any vessel issued a limited access scallop permit, an LAGC NGOM, or an LAGC IFQ scallop permit is exempt from the minimum twine top mesh size for scallop dredge gear specified in § 648.51(b)(2) and (b)(4)(iv) while fishing exclusively landward of the outer boundary of the waters of the State of Maine under the state waters exemption specified in paragraph (a)(4) of this section, provided the vessel is in compliance with paragraphs (d) through (g) of this section.

(d) *NGOM closure exemption.* Any vessel issued a Federal scallop permit may be exempt from the regulations specified in § 648.52(b)(2) requiring that once the NGOM Federal hard TAC is reached, no vessel issued a scallop permit may fish in the NGOM area. This exemption, which a state must apply for through the process specified in paragraph (a) of this section, would allow vessels to continue to fish for scallops within a state's waters inside the NGOM. A state applying for this exemption must clarify to which scallop permit types this exemption would apply.

(e) *Notification requirements.* Vessels fishing under the exemptions specified in paragraph (b) and/or (c) of this

section must notify the Regional Administrator in accordance with the provisions of § 648.10(e).

(f) *Restriction on fishing in the EEZ.* A vessel fishing under a state waters exemption may not fish in the EEZ during the time in which it is fishing under the state waters exemption, as declared under the notification requirements of this section.

(g) *Duration of exemption.* An exemption expires upon a change in the vessel's name or ownership, or upon notification through VMS by the participating vessel's owner.

(h) *Applicability of other provisions of this part.* A vessel fishing under the exemptions provided by paragraph (b) and/or (c) of this section remains subject to all other requirements of this part.

■ 7. Section 648.58 is revised to read as follows:

**§ 648.58 Rotational Closed Areas.**

(a) *Closed Area I Closed Area.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Closed Area I Closed Area. No vessel may possess scallops in the Closed Area I Closed Area, unless such vessel is only transiting the area as provided in paragraph (e) of this section. The Closed Area I Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request), and so that the line connecting points CAIA3 and CAIA4 is the same as the portion of the western boundary line of Closed Area I, defined in § 648.81(a)(1), that lies between points CAIA3 and CAIA4:

Point	Latitude	Longitude	Note
CAIA1 ..	41°26' N.	68°30' W.	
CAIA2 ..	40°58' N.	68°30' W.	
CAIA3 ..	40°54.95' N.	68°53.37' W.	(1)
CAIA4 ..	41°04' N.	69°01' W.	(1)
CAIA1 ..	41°26' N.	68°30' W.	

<sup>1</sup>From Point CAIA3 to Point CAIA4 along the western boundary of Closed Area I, defined in § 648.81(a)(1).

(b) *Closed Area II Closed Area.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Closed Area II Closed Area. No vessel may possess scallops in the Closed Area II Closed Area. The Closed Area II Closed Area is defined by straight lines, except where noted, connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude	Note
CAIIA1	41°00' N.	67°20' W.	
CAIIA2	41°00' N.	66°35.8' W.	
CAIIA3	41°18.45' N.	(1)	(2)
CAIIA4	41°30' N.	(3)	(2)
CAIIA5	41°30' N.	67°20' W.	
CAIIA1	41°00' N.	67°20' W.	

<sup>1</sup> The intersection of 41°18.45' N. lat. and the U.S.-Canada Maritime Boundary, approximately 41°18.45' N. lat. and 66°24.89' W. long.

<sup>2</sup> From Point CAIIA3 connected to Point CAIIA4 along the U.S.-Canada Maritime Boundary.

<sup>3</sup> The intersection of 41°30' N. lat. and the U.S.-Canada Maritime Boundary, approximately 41°30' N. lat., 66°34.73' W. long.

(c) *Nantucket Lightship Closed Area.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Nantucket Lightship Closed Area. No vessel may possess scallops in the Nantucket Lightship Closed Area, unless such vessel is only transiting the area as provided in paragraph (e) of this section. The Nantucket Lightship Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request),

Point	Latitude	Longitude
NLAA1 .....	40°50' N.	69°30' W.
NLAA2 .....	40°50' N.	69°00' W.
NLAA3 .....	40°33' N.	69°00' W.
NLAA4 .....	40°33' N.	68°48' W.
NLAA5 .....	40°20' N.	68°48' W.
NLAA6 .....	40°20' N.	69°30' W.
NLAA1 .....	40°50' N.	69°30' W.

(d) *Elephant Trunk Closed Area.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Elephant Trunk Closed Area. No vessel may possess scallops in Elephant Trunk Closed Area. The Elephant Trunk Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request).

Point	Latitude	Longitude
ETCA 1 .....	38°50' N.	74°20' W.
ETCA 2 .....	38°50' N.	73°40' W.
ETCA 3 .....	38°40' N.	73°40' W.
ETCA 4 .....	38°40' N.	73°50' W.
ETCA 5 .....	38°30' N.	73°50' W.
ETCA 6 .....	38°30' N.	74°20' W.
ETCA 1 .....	38°50' N.	74°20' W.

(e) *Transiting.* No vessel possessing scallops may enter or be in the area(s) specified in paragraphs (a) and (c) of this section unless the vessel is transiting the area and the vessel's

fishing gear is stowed and not available for immediate use as defined in § 648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Closed Area II Closed Area, as described in paragraph (b) of this section, or the Elephant Trunk Closed Area, as described in paragraph (d) of this section, if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

(f) *Vessels fishing for species other than scallops.* A vessel may fish for species other than scallops within the closed areas specified in paragraphs (a) through (d) of this section as allowed in this part, provided the vessel does not fish for, catch, or retain scallops or intend to fish for, catch, or retain scallops. Declaration through VMS that the vessel is fishing in the LAGC scallop fishery is deemed to be an intent to fish for, catch, or retain scallops.

- 8. In § 648.59:
  - a. Paragraph (a) is added;
  - b. Paragraphs (b) introductory text, (b)(1), (b)(3), (c) introductory text, and (c)(1) are revised;
  - c. Paragraph (c)(2) is removed and reserved;
  - d. Paragraphs (c)(3), (d) introductory text, and (d)(1) are revised; and
  - e. Paragraphs (d)(2) and (e) are removed and reserved.

The addition and revisions read as follows:

**§ 648.59 Sea Scallop Access Areas.**

(a) *Mid-Atlantic Scallop Access Area.* (1) Beginning March 1, 2015, through February 28, 2017 (*i.e.*, fishing years 2015 and 2016), a vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Mid-Atlantic Access Area unless the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60. The Mid-Atlantic Access Area is comprised of the following scallop access areas: The Delmarva Scallop Access Area, as described in paragraph (a)(2) of this section; the Elephant Trunk Scallop Access Area, as described in paragraph (a)(3) of this section; and the Hudson Canyon Scallop Access Area, as described in paragraph (a)(4) of this section.

(2) *Delmarva Scallop Access Area.* The Delmarva Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
DMV1 .....	38°10' N.	74°50' W.
DMV2 .....	38°10' N.	74°00' W.
DMV3 .....	37°15' N.	74°00' W.
DMV4 .....	37°15' N.	74°50' W.
DMV1 .....	38°10' N.	74°50' W.

(i) *Season.* A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Delmarva Sea Scallop Access Area, described in paragraph (a)(2) of this section, during the period of March 1, 2016, through March 31, 2016.

(ii) [Reserved]

(3) *Elephant Trunk Scallop Access Area.* The Elephant Trunk Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
ETAA1 .....	38°30' N.	74°20' W.
ETAA2 .....	38°30' N.	73°50' W.
ETAA3 .....	38°40' N.	73°50' W.
ETAA4 .....	38°40' N.	73°40' W.
ETAA5 .....	38°50' N.	73°40' W.
ETAA6 .....	38°50' N.	73°30' W.
ETAA7 .....	38°10' N.	73°30' W.
ETAA8 .....	38°10' N.	74°20' W.
ETAA1 .....	38°30' N.	74°20' W.

(4) *Hudson Canyon Scallop Access Area.* The Hudson Canyon Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

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°50' N.	73°30' W.
H5 .....	38°50' N.	73°42' W.
H1 .....	39°30' N.	73°10' W.

(b) *Closed Area I Scallop Access Area.* (1) From March 1, 2015, through February 28, 2017 (*i.e.*, fishing years 2015 and 2016), a vessel issued a scallop permit may not fish for, possess, or land scallops in or from, the area known as the Closed Area I Scallop Access Area, described in paragraph (b)(3) of this section, unless transiting in accordance with paragraph (f) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may not fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, unless it complies with restrictions in paragraph (b)(5)(ii)(C) of this section.

\* \* \* \* \*

(3) The Closed Area I Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request), and so that the line connecting points CAIA3 and CAIA4 is the same as the portion of the western boundary line of Closed Area I, defined in § 648.81(a)(1), that lies between points CAIA3 and CAIA4:

Point	Latitude	Longitude	Note
CAIA1 ..	41°26' N.	68°30' W.	
CAIA2 ..	40°58' N.	68°30' W.	
CAIA3 ..	40°54.95' N.	68°53.37' W.	(1)
CAIA4 ..	41°04' N.	69°01' W.	(1)
CAIA1 ..	41°26' N.	68°30' W.	

<sup>1</sup>From Point CAIA3 to Point CAIA4 along the western boundary of Closed Area I, defined in § 648.81(a)(1).

\* \* \* \* \*

(c) *Closed Area II Scallop Access Area.* (1) From March 1, 2015, through February 28, 2017 (*i.e.*, fishing years 2015 and 2016), a vessel issued a scallop permit may not fish for, possess, or land scallops in or from, the area known as the Closed Area II Access Area, described in paragraph (c)(3) of this section, unless transiting in accordance with paragraph (f) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may not fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, unless it complies with restrictions in paragraph (c)(5)(ii)(C) of this section.

(2) [Reserved]

(3) The Closed Area II Scallop Access Area is defined by straight lines, except where noted, connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude	Note
CAIIA1	41°00' N.	67°20' W.	
CAIIA2	41°00' N.	66°35.8' W.	
CAIIA3	41°18.45' N.	(1)	(2)
CAIIA4	41°30' N.	(3)	(2)
CAIIA5	41°30' N.	67°20' W.	
CAIIA1	41°00' N.	67°20' W.	

<sup>1</sup>The intersection of 41°18.45' N. lat. and the U.S.-Canada Maritime Boundary, approximately 41°18.45' N. lat. and 66°24.89' W. long.

<sup>2</sup>From Point CAIIA3 connected to Point CAIIA4 along the U.S.-Canada Maritime Boundary.

<sup>3</sup>The intersection of 41°30' N. lat. and the U.S.-Canada Maritime Boundary, approximately 41°30' N. lat., 66°34.73' W. long.

\* \* \* \* \*

(d) *Nantucket Lightship Scallop Access Area.* (1) From March 1, 2015, through February 28, 2017 (*i.e.*, fishing

years 2015 and 2016), a vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Access Area, described in paragraph (d)(3) of this section, unless transiting pursuant to paragraph (f) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may not fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, unless it complies with restrictions in paragraph (d)(5)(ii)(C) of this section.

\* \* \* \* \*

■ 9. In § 648.60, paragraphs (a)(1), (a)(3), (a)(5)(i), (a)(9), (c), (e)(1), and (g)(3)(i) are revised to read as follows:

**§ 648.60 Sea scallop access area program requirements.**

(a) \* \* \*

(1) *VMS.* Each vessel participating in the Sea Scallop Access Area Program must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10, and paragraphs (a)(9) and (f) of this section.

\* \* \* \* \*

(3) *Sea Scallop Access Area Allocations*—(i) *Limited access vessel allocations.* (A) Except as provided in paragraph (c) of this section, paragraphs (a)(3)(i)(B) through (E) of this section specify the total amount of scallops, in weight, that a limited access scallop vessel may harvest from Sea Scallop Access Areas during applicable seasons specified in § 648.59. A vessel may not possess or land in excess of its scallop allocation assigned to specific Sea Scallop Access Areas, unless authorized by the Regional Administrator, as specified in paragraph (d) of this section, unless the vessel owner has exchanged an area-specific scallop allocation with another vessel owner for additional scallop allocation in that area, as specified in paragraph (a)(3)(ii) of this section. A vessel may harvest its scallop allocation, as specified in paragraph (a)(3)(i)(B) of this section, on any number of trips in a given fishing year, provided that no single trip exceeds the possession limits specified in paragraph (a)(5) of this section, unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of this section,

(B) *Full-time scallop vessels.* (1) In fishing year 2015, each full-time vessel shall have a total of 51,000 lb (23,133 kg) of scallops that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a).

(2) For the 2016 fishing year, each full-time vessel shall have a total of

17,000 lb (7,711 kg) of scallops that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a), starting on April 1, 2016.

(C) *Part-time scallop vessels.* (1) For the 2015 fishing year, each part-time scallop vessel shall have a total of 20,400 lb (9,253 kg) of scallop that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a).

(2) For the 2015 fishing year, each part-time scallop vessel shall have a total of 10,200 lb (4,627 kg) of scallop that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a), starting on April 1, 2016.

(D) *Occasional scallop vessels.* (1) For the 2015 fishing year, each occasional scallop vessel shall have a total of 4,250 lb (1,928 kg) of scallop that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a).

(2) For the 2016 fishing year, each occasional scallop vessel shall have a total of 1,420 lb (644 kg) of scallop that may be harvested from the Mid-Atlantic Access Area, as defined in § 648.59(a), starting on April 1, 2016.

(ii) *One-for-one area access allocation exchanges.* The owner of a vessel issued a limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another vessel's unharvested scallop pounds allocated into another Sea Scallop Access Area. These exchanges may only be made for the amount of the current trip possession limit, as specified in paragraph (a)(5) of this section. For example, if the access area trip possession limit for full-time vessels is 17,000 lb (7,711 kg), a full-time vessel may exchange no less than 17,000 lb (7,711 kg), from one access area for no more or less than 17,000 lb (7,711 kg) allocated to another vessel for another access area. In addition, these exchanges may be made only between vessels with the same permit category: A full-time vessel may not exchange allocations with a part-time vessel, and vice versa. Vessel owners must request these exchanges by submitting a completed Access Area Allocation Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Exchange forms are available from the Regional Administrator upon request. Each vessel owner involved in an exchange is required to submit a completed Access Area Allocation Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has enough unharvested allocation remaining in a given access area to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from

the Regional Administrator that the allocation exchange has been made effective. A vessel owner may exchange equal allocations up to the current possession limit between two or more vessels under his/her ownership. A vessel owner holding a Confirmation of Permit History is not eligible to exchange allocations between another vessel and the vessel for which a

Confirmation of Permit History has been issued.  
 \* \* \* \* \*  
 (5) *Possession and landing limits*—(i) *Scallop possession limits.* Unless authorized by the Regional Administrator, as specified in paragraph (d) of this section, after declaring a trip into a Sea Scallop Access Area, a vessel owner or operator of a limited access

scallop vessel may fish for, possess, and land, per trip, scallops, up to the maximum amounts specified in the table in this paragraph (a)(5). No vessel declared into the Access Areas as described in § 648.59(a) through (e) may possess more than 50 bu (17.62 hL) of in-shell scallops outside of the Access Areas described in § 648.59(a) through (e).

Fishing year	Permit category possession limit		
	Full-time	Part-time	Occasional
2015 .....	17,000 lb (57,711 kg) .....	10,200 lb (4,627 kg) .....	1,420 lb (644 kg).
2016 .....	17,000 lb (57,711 kg) .....	10,200 lb (4,627 kg) .....	1,420 lb (644 kg).

\* \* \* \* \*  
 (9) *Reporting.* The owner or operator must submit scallop catch reports through the VMS, as specified in § 648.10(f)(4)(i), and limited access scallop access area pre-landing notification forms, as specified in § 648.10(f)(4)(iii).  
 \* \* \* \* \*

(c) *Access area scallop allocation carryover.* Unless otherwise specified in § 648.59, a limited access scallop vessel operator may fish any unharvested Scallop Access Area allocation from a given fishing year within the first 60 days of the subsequent fishing year if the Access Area is open. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Mid-Atlantic Access Area at the end of fishing year 2015, that vessel may harvest 7,000 lb (3,175 kg) from its 2016 fishing year scallop access area allocation during the first 60 days that the Mid-Atlantic Access Area is open in fishing year 2016 (March 1, 2016, through April 29, 2017). Unless otherwise specified in § 648.59, if an Access Area is not open in the subsequent fishing year, then the unharvested scallop allocation would expire at the end of the fishing year that the scallops were allocated.  
 \* \* \* \* \*

(e) *Sea Scallop Research Set-Aside Harvest in Access Areas*—(1) *Access Areas available for harvest of research set-aside (RSA).* Unless otherwise specified, RSA may be harvested in any access area that is open in a given fishing year, as specified through a framework adjustment and pursuant to § 648.56. The amount of scallops that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process. The access areas open for RSA harvest for fishing years 2015 and 2016 are:

(i) 2015: The Mid-Atlantic Scallop Access Area, as specified in § 648.59(a).

(ii) 2016: None.  
 \* \* \* \* \*

(g) \* \* \*  
 (3) *LAGC IFQ Access Area Trips.* (i) An LAGC scallop vessel authorized to fish in the Access Areas specified in § 648.59(a) through (e) may land scallops, subject to the possession limit specified in § 648.52(a), unless the Regional Administrator has issued a notice that the number of LAGC IFQ access area trips have been or are projected to be taken. The total number of LAGC IFQ trips in a specified Access Area for fishing year 2015 and 2016 are:

Access area	2015	2016
Mid-Atlantic Access Area	2,065	602
Closed Area 1 .....	0	0
Closed Area 2 .....	0	0
Nantucket Lightship .....	0	0

\* \* \* \* \*  
 ■ 10. In § 648.61, paragraph (a)(4) is revised to read as follows:

**§ 648.61 EFH closed areas.**

(a) \* \* \*  
 (4) *Closed Area I Habitat Closure Areas.* The restrictions specified in paragraph (a) of this section apply to the Closed Area I Habitat Closure Areas, Closed Area I-North and Closed Area I-South, which are the areas bounded by straight lines connecting the following points in the order stated, and so that the lines connecting Point CIN4 to Point CIN1, and Point CIS4 to Point CIS1 is the same as the portion of the western boundary line of Closed Area I, defined in paragraph (a)(1) of this section, that lies between those points:

**CLOSED AREA I—NORTH HABITAT CLOSURE AREA**

Point	Latitude	Longitude	Note
CIN1 ....	41°30' N.	69°23' W.	
CIN2 ....	41°30' N.	68°30' W.	
CIN3 ....	41°26' N.	68°30' W.	
CIN4 ....	41°04' N.	69°01' W.	(1)
CIN1 ....	41°30' N.	69°23' W.	(1)

<sup>1</sup> From Point CIN4 back to Point CIN1 along the western boundary of Closed Area I, defined in § 648.81(a)(1).

**CLOSED AREA I—SOUTH HABITAT CLOSURE AREA**

Point	Latitude	Longitude	Notes
CIS1 ...	40°54.95' N.	68°53.37' W.	
CIS2 ...	40°58' N.	68°30' W.	
CIS3 ...	40°45' N.	68°30' W.	
CIS4 ...	40°45' N.	68°45' W.	(1)
CIS1 ...	40°54.95' N.	68°53.37' W.	(1)

<sup>1</sup> From Point CIS4 back to Point CIS1 along the western boundary of Closed Area I, defined in § 648.81(a)(1).

\* \* \* \* \*  
 ■ 11. In § 648.64, paragraph (a) is revised to read as follows:

**§ 648.64 Yellowtail flounder sub-ACLs and AMs for the scallop fishery.**

(a) As specified in § 648.55(d), and pursuant to the biennial framework adjustment process specified in § 648.90, the scallop fishery shall be allocated a sub-ACL for the Georges Bank and Southern New England/Mid-Atlantic stocks of yellowtail flounder. The sub-ACLs are specified in § 648.90(a)(4)(iii)(C) of the NE multispecies regulations.  
 \* \* \* \* \*

■ 12. In § 648.65, paragraph (b)(3)(ii) is revised to read as follows:

**§ 648.65 Windowpane flounder sub-ACLs and AMs for the scallop fishery.**

\* \* \* \* \*  
 (b) \* \* \*



(3) \* \* \*

(ii) The maximum hanging ratio for a net, net material, or any other material on the top of a scallop dredge (twine top) possessed or used by vessels fishing with scallop dredge gear does not exceed 1.5:1 overall. An overall hanging ratio of 1.5:1 means that the twine top is attached to the rings in a pattern of

alternating 2 meshes per ring and 1 mesh per ring (counted at the bottom where the twine top connects to the apron), for an overall average of 1.5 meshes per ring for the entire width of the twine top. For example, an apron that is 40 rings wide subtracting 5 rings one each side of the side pieces,

yielding 30 rings, would only be able to use a twine top with 45 or fewer meshes so that the overall ratio of meshes to rings did not exceed 1.5 (45 meshes/30 rings = 1.5).

\* \* \* \* \*

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