

resilient to environmental conditions such as drought and freezing. Therefore, we conclude that all remaining yellow-legged frog populations within the Sierra Nevada are at risk to declines and extirpation as a result of infection by this pathogen.

Other factors include airborne contaminants, habitat degradation (mainly as a result of livestock grazing) and the inadequacy of existing regulatory mechanisms. Each of these factors may contribute to mountain yellow-legged frog population declines or extirpations. In addition, these factors are exacerbated by the effects that have been caused by non-native fishes, specifically the isolation of remaining mountain yellow-legged frog populations and habitat fragmentation. As noted previously, populations that go extinct following habitat fragmentation and population isolation are unlikely to be recolonized due to both the isolation from, and lack of, connectivity to potential source populations.

We conclude that the overall magnitude of threats to the Sierra Nevada DPS of the mountain yellow-legged frog is high, and that the overall immediacy of these threats is imminent. Pursuant to our Listing Priority System (64 FR 7114), a DPS of a species for which threats are high and imminent is assigned a Listing Priority Number of 3. While we conclude that listing the Sierra Nevada DPS of the mountain yellow-legged frog is warranted, an immediate proposal to list is precluded by other higher priority listing actions. During Fiscal Year 2003 we must spend nearly all of our Listing Program funding to comply with court orders and judicially approved settlement agreements, which are now our highest priority actions. To the extent that we have discretionary funds, we will give priority to using them to address emergency listings and listing actions for other species with a higher priority. Due to litigation pertaining to various listing actions, our planned work with listing funds in Fiscal Year 2003 consists primarily of addressing court-ordered actions, court-approved settlement agreements, and listing actions that are in litigation. (Also, some litigation-related listing actions already are scheduled for Fiscal Year 2004.) We expect that our discretionary listing activity in Fiscal Year 2003 will focus on addressing our highest priority listing actions of finalizing expiring emergency listings.

The Sierra Nevada DPS of the mountain yellow-legged frog will be added to the list of candidate species upon publication of this notice of 12-

month finding. We will continue to monitor the status of this species and other candidate species. Should an emergency situation develop with one or more of the species, we will act to provide immediate protection, if warranted.

We intend that any proposed listing action for the Sierra Nevada DPS of the mountain yellow-legged frog will be as accurate as possible. Therefore, we will continue to accept additional information and comments from all concerned governmental agencies, the scientific community, industry, or any other interested party concerning this finding.

References Cited

A complete list of all references cited is available on request from the Sacramento Fish and Wildlife Office (see **ADDRESSES** section, above).

Author

The primary author of this document is Peter Epanchin of the Sacramento Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT** section).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 10, 2003.

Marshall P. Jones, Jr.,

Director, Fish and Wildlife Service.

[FR Doc. 03-973 Filed 1-15-03; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 030108004-3004-01; ID 010303B]

RIN 0648-AQ28

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 15

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Framework 15 to the Atlantic Sea Scallop Fishery Management Plan (FMP) developed by the New England Fishery Management Council (Council). This rule proposes to implement management measures for the 2003 fishing year, including a days-

at-sea (DAS) adjustment, and continuation of a Sea Scallop Area Access Program (Area Access Program) for 2003. The intent of this action is to achieve the goals and objectives of the FMP under the Magnuson-Stevens Fishery Conservation and Management Act and to achieve optimum yield in the scallop fishery. In addition, this proposed rule includes regulatory text that would codify an additional gear stowage provision for scallop dredge gear that was established by the Administrator, Northeast Region, NMFS (Regional Administrator) in 2001.

DATES: Comments must be received on or before 5 p.m., local time, on January 31, 2003.

ADDRESSES: Written comments should be sent to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Framework 15 to the Scallop FMP." Comments also may be sent via facsimile (fax) to (978) 281-9135. Comments will not be accepted if submitted via e-mail or Internet.

Copies of Framework Adjustment 15, its Regulatory Impact Review (RIR) including the Initial Regulatory Flexibility Analysis (IRFA), and the Environmental Assessment (EA) are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at <http://www.nefmc.org>.

FOR FURTHER INFORMATION CONTACT: Peter W. Christopher, Fishery Policy Analyst, 978-281-9288; fax 978-281-9135; e-mail peter.christopher@noaa.gov.

SUPPLEMENTARY INFORMATION: On September 12, 2002, the Council adopted Framework 15 to the FMP, which proposes annual management measures for the 2003 fishing year (March 1, 2003, through February 29, 2004). Framework 15 would increase the annual DAS allocation, and extend the Area Access Program in the Hudson Canyon and Virginia Beach areas for 2003. The only modification to the measures that have been in effect for the 2002 fishing year would be an increase in the possession limit allowed to vessels participating in the Area Access Program. This increase is intended to be consistent with increasing catch rates in the area so that there is sufficient incentive for vessels to fish in these areas.

Regulations implementing Amendment 7 to the FMP (64 FR 14835,

March 29, 1999) redefined overfishing and revised the annual fishing mortality rate (F) reduction schedule through fishing year 2008. The FMP currently specifies that the DAS allocated for the 2003 fishing year will be 45, 18, and 4 DAS for full-time, part-time, and occasional scallop vessels, respectively. Amendment 7 included the annual DAS allocations projected to be necessary to rebuild the stock within 10 years. DAS for the 2003 fishery were intended to achieve an F target of $F=0.22$. The reductions in F and associated sea scallop DAS schedule were intended to rebuild the sea scallop stock within 10 years. Amendment 7 also established an annual monitoring and review process to adjust management measures to meet the stock rebuilding objectives as conditions in the resource change. Finally, Amendment 7 established two closed areas, the Hudson Canyon and Virginia Beach Closed Areas, in the Mid-Atlantic to protect large concentrations of small scallops. In May of 2001, the Hudson Canyon and Virginia Beach Closed Areas were re-opened to controlled scallop fishing under Framework 14 to the FMP (66 FR 21639, May 1, 2001; 66 FR 24052, May 11, 2001 (republishing); and 66 FR 457784, August 30, 2001 (correction)) because the scallops in the areas had increased in size and the resource abundance had improved. Framework 14 established measures to control fishing in the areas through February, 2003.

Since the implementation of Amendment 7 in 1998, scallop biomass has increased by nearly five times, and the stock as a whole is at or near the biomass target. The most recent stock assessment was completed in April 2001 through the 32nd Northeast Regional Stock Assessment Workshop (SAW 32). SAW 32 found that neither stock area (Georges Bank and Mid-Atlantic) was overfished, with biomass in both areas above or near the biomass targets. SAW 32 found F on Georges Bank to be 0.14 in 1999, well below the overfishing threshold of $F=0.24$, so overfishing was not occurring. In the Mid-Atlantic, SAW 32 found that F was 0.43 in 1999, so overfishing was still occurring in that stock area. Although no formal updates of the status of the scallop resource have been completed, projections completed for Framework 15 indicate that the resource will continue to exceed biomass targets.

Under the existing regulations, the Area Access Program will expire on February 28, 2003. These areas were initially closed in 1998 to protect concentrations of juvenile scallops, which have since grown to harvestable

size. For the past 2 fishing years, fishing has been allowed within those areas under the Area Access Program established by Framework 14. If the Area Access Program expires, there would be uncontrolled fishing within those areas. This rule proposes to maintain controls on effort and catch that would prevent scallops in the areas from being overfished while at the same time creating a sufficient incentive to fish in these areas in order to alleviate effort on other scallop areas.

Because of the increases in stock biomass, Framework 15 estimates that the number of DAS currently specified for fishing year 2003 (i.e., 45, 18, and 4 DAS for full-time, part-time, and occasional vessels, respectively) would result in an F of 0.091, which is significantly lower than the FMP's target F. Fishing at this level would not achieve optimum yield and would result in negative economic impacts on the industry. The proposed DAS allocation under Framework 15 is more consistent with the F target, and would prevent economic losses for some vessels that would result from lower DAS allocations. The F is projected to be approximately 0.155 for the resource overall under the proposed action. While projections indicate that the proposed DAS allocations would allow overexploitation of scallops in the open portions of the Mid-Atlantic and Georges Bank to continue ($F=0.35$ to 0.39), they also show that the fishery overall would not exceed its F target of $F=0.22$, due in part to continued large concentrations of scallops in the Georges Bank groundfish closed areas.

Proposed Measures

This action would implement an annual DAS allocation of 120, 48, and 10 DAS for full-time, part-time, and occasional vessels, respectively, for the 2003 fishing year. This would represent an increase over the DAS allocations that would otherwise become effective March 1, 2003 (i.e., 45 full-time, 18 part-time, and 4 occasional). The 120, 48, and 10 DAS allocations have been in place each year since 1999, due to better conditions in the scallop resource than were anticipated in Amendment 7.

Framework 15 would continue the Area Access Program that was implemented under Framework 14 while leaving in place extensive closures under the Northeast Multispecies FMP in other highly abundant scallop grounds. The continued Area Access Program would allow controlled scallop fishing in the Hudson Canyon and Virginia Beach Sea Scallop Access Areas. Vessels would be prohibited from fishing for scallops in

the Sea Scallop Access Areas unless they are fishing under the Area Access Program. The intent of the Area Access Program is to derive biological, social, and economic benefits from fishing in the areas.

Finally, this proposed rule includes regulatory text that would codify a scallop dredge gear stowage provision that was established by the Regional Administrator in 2001. The new provision would eliminate the need for vessel operators to disconnect towing wires and reel them fully onto the winch in order for the gear to be considered stowed properly. Reconnecting the wires at sea was determined to be dangerous, particularly in rough seas. The Regional Administrator has the authority to establish new gear stowage provisions through notification through a permit holder letter. Subsequent codification of the provision would ensure proper implementation of the requirement.

Interactions with Endangered and Threatened Species

NMFS is currently considering and evaluating the effects of the scallop fishery on threatened and endangered species, including sea turtles. The scallop fishery as a whole and the management measures proposed in Framework 15 are being considered in a formal consultation that is currently being conducted under Section 7 of the Endangered Species Act. Although the biological opinion (BO) has not been completed as of the publication of this proposed rule, the final rule or subsequent actions will address the findings of the BO, if appropriate.

Sea Scallop Area Access Program Measures

The 2003 Area Access Program would begin on March 1, 2003, unless the fishery is closed prior to February 28, 2003, in which case it would begin on April 1, 2003. The 2003 Area Access Program would end when the total allowable catch (TAC) allocated to the Area Access Program is caught, or when vessels have used up their allocated number of trips.

The Area Access Program would include a TAC of 17.06 million lb (7,740 mt) and 0.23 million lb (105 mt) for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively. These TACs include set-asides of 2 percent and 1 percent to defray the costs of observers and research, respectively. The TACs would achieve an F of 0.32 in each of the two areas. Although this F exceeds the target F of 0.22 for the scallop fishery, it is not expected to jeopardize the rebuilding potential for

the Mid-Atlantic stock. Rather, it is anticipated that the higher F for the Access Areas would allow greater levels of effort and catch within the Access Areas, thereby reducing effort and catch in other areas of the Mid-Atlantic. This anticipated effort distribution is expected to continue to provide for rebuilding of the Mid-Atlantic scallop stock and the scallop resource as a whole.

All limited access scallop vessels, including vessels that replace vessels that hold a scallop Confirmation of Permit History, would be eligible to fish for the sea scallop TAC under the Area Access Program. Full-time and part-time scallop vessels would be restricted to a total of three annual trips into the Hudson Canyon and Virginia Beach Sea Scallop Access Areas. A trip into either of the Areas would count as one of the allowed trips. Vessels participating in the Area Access Program would be allowed to take only one of the three allocated trips before May 1, and only two of the three allocated trips before June 1. At least one trip would be required to be started before September 1 for that vessel to be eligible to fish any additional trips on or after October 1 that may be authorized by the Regional Administrator. This measure is meant to prevent a derby style fishery from occurring and may reduce the potential for bycatch by limiting trips in late spring when bycatch, particularly of summer flounder, could be problematic. Vessels in the occasional permit category would be allowed to conduct only one trip into the Area of their choice.

Participating scallop vessels would be allowed to possess and land from the Areas up to 21,000 lb (9,525.4 kg) of scallop meats per trip. Limits on both the amount of scallops possessed and landed, and the number of trips, are intended to help to control fishing mortality of scallops in the Areas while still creating an incentive to fish in the areas. The increase in the possession limit is a result of the higher F in the Areas. This higher F allows for more trips and a higher limit thereby creating more opportunity for vessels to fish in the Areas. The increased opportunity to fish in the areas should create an incentive for vessels to utilize the Area Access Program where the scallop resource can be harvested at higher rates, thereby removing fishing pressure from other areas that may be more sensitive to fishing pressure. These limits are also intended to increase social benefits by allowing all limited access vessels an opportunity to fish in the Areas without creating a derby fishery, and increase economic benefits

by promoting an orderly fishery and reducing the possibility of market gluts that could be caused by high initial catches in these Areas.

After taking into account data on the number of eligible vessels participating, and on the total number of trips taken, the Regional Administrator could consider adjusting the sea scallop possession limit for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas any time during the season; and, on or after October 1, 2003, could consider allocating one or more additional trips for full-time and part-time vessels. In order for additional trips to be allocated, a sufficient amount of the sea scallop TAC must remain to warrant such an adjustment or allocation. In order for a vessel to participate in any additional Area Access Program trips that would be allocated on or after October 1, 2003, that vessel must have started at least one Area Access Program trip prior to September 1, 2003. Vessels with occasional permits would not be allocated any additional trips.

Any trip of 10 DAS or less by a vessel fishing in the Area Access Program would count as 10 DAS. Any trip of over 10 DAS would count as the actual DAS (e.g., if a vessel used 12 DAS, 12 DAS would be deducted from its annual DAS allocation). The intended effect of the minimum 10 DAS count is to reduce the number of days that are available to be fished in other areas, thereby reducing fishing mortality on the scallop resource overall by potentially reducing the number of scallops caught under DAS.

Vessels would be allowed to use dredges or trawls when fishing in the Area Access Program. Dredge gear would be required to be outfitted with a twine top with a minimum mesh size of 10 inches (25.40 cm). The purpose of increasing the minimum twine top mesh size measurement from 8 inches (20.32 cm) to 10 inches (25.40 cm) for the Area Access Program is to reduce bycatch of groundfish and other finfish. Recent research and experience from the Georges Bank and Southern New England Closed Area Sea Scallop Exemption Program demonstrate that the 10-inch (25.40-cm) mesh size may significantly reduce bycatch of certain species, especially flatfish species.

All scallop vessels fishing in the Area Access Program would be required to have installed on board an operational vessel monitoring system (VMS) unit that meets the minimum performance criteria as specified in the regulations at § 648.9(b). Vessels with occasional permits are the only limited access scallop vessels not currently required to

have a VMS unit and would, therefore, be required to install an approved VMS unit in order to participate in the Area Access Program. Scallop vessels planning to fish in the Area Access Program would be required to so declare by notifying the Regional Administrator through the VMS as described below.

Each vessel operator would be required to inform NMFS of his/her intention to fish in the Sea Scallop Access Areas prior to the 25th day of the month preceding the month in question through the VMS e-mail system (e.g., if the vessel plans to fish in these areas in July, it would need to notify the Regional Administrator by June 25). This notification requirement would facilitate placement of observers and would provide for an estimate of the number of potential Area Access Program participating vessels in order to make preliminary projections of potential TAC harvest rates.

Vessel operators would be required to report the following information to the Regional Administrator prior to the 25th day of the month preceding the month in question: Vessel name and permit number, owner and operator's name, owner and operator's phone numbers, the area to be fished, and the anticipated number of trips to be taken in the area in question.

In addition, for the purpose of selecting vessels for observer deployment, a vessel's operator would be required to provide notice to NMFS of the time, port of departure, and specific Sea Scallop Access Area to be fished, at least 5 working days prior to the beginning of any trip on which it declares into the Sea Scallop Area Access Program.

On the day the vessel leaves port to fish under the Area Access Program, the vessel owner or operator must declare into the Program through the VMS. Declaration into the fishery would allow for more accurate and timely monitoring of the catch in the fishery.

The operator of each vessel participating in the Area Access Program would be required to report specific information on a daily basis through the VMS. For each day of an Area Access Program trip, a vessel would be required to report the daily pounds (kg) of scallop meats kept, the area fished that day, and the Fishing Vessel Trip Report page numbers corresponding to the respective Sea Scallop Access Area trip. In addition, vessels on observed trips would be required to provide a separate report of the daily pounds (kg) of scallop meats kept on tows that were observed.

Vessels that have declared a trip into the Area Access Program would be

prohibited from possessing more than 50 U.S. bu (17.62 hl) (400 lb (181.4 kg) of meats) of shell stock (i.e., unshucked scallops) when outside the Sea Scallop Access Areas. This limit for shell stock would be considered part of the overall possession limit. A limit on the amount of sea scallops landed in the shell is necessary to monitor and enforce the overall meat weight possession limit requirement. Allowing vessels to retain a relatively minor amount of shell stock would help satisfy a market for large, whole scallops, without compromising the enforceability of the conservation intent of the possession limit.

General category permitted vessels and limited access scallop vessels fishing outside a scallop DAS would be allowed to fish in the Sea Scallop Access Areas throughout the year, provided that no more than 100 lb (45.36 kg) of scallop meats are possessed on board the vessel when the vessel is in the Sea Scallop Access Areas. These vessels would be prohibited from possessing in-shell scallops while inside the Sea Scallop Access Areas, except they would be allowed to possess an equivalent of in-shell scallops that are necessary to provide 100 lb (45.36 kg) of scallop meats. Vessels not fishing under the Area Access Program would be allowed to transit the Sea Scallop Access Areas with more than these possession limits on board, provided their gear is properly stowed according to the regulations at § 648.23(b). This measure is intended to allow an incidental catch of scallops for scallop vessels that fish for other species outside the areas and to allow for more direct transiting to and from other fishing areas.

To improve the enforceability of the Area Access Program, all limited access scallop vessels equipped with a VMS unit would be polled twice per hour, regardless of whether the vessel is enrolled in the Area Access Program or not. Also, vessels would be required to stow all dredge or trawl gear while transiting to and from the Sea Scallop Access Areas and must land their scallop catch at one location for each trip. The new stowage requirement included in this proposed rule would improve safety on board vessels transiting to and from the Access Areas.

Vessels would be required to carry observers when requested. The Council has recommended 10-percent observer coverage for the Hudson Canyon Sea Scallop Access Area and 20-percent observer coverage for the Virginia Beach Sea Scallop Access Area. Observers would obtain information on catch, catch rates, and bycatch and may obtain information on gear efficiency and

selectivity and on other characteristics of the fishery. The vessel owner would be responsible for paying for the cost of the observer, regardless of whether any scallops are caught on the trip. At the discretion of the Regional Administrator, scallop vessels could be allocated an additional amount of sea scallops, not to exceed a cumulative total of 155 mt or 2 mt for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively, for each trip on which an observer is taken, to help defray the cost of the observer. Additional scallops to fund observers could not exceed a value equal to two percent of the overall scallop TAC. One percent of the scallop TAC for both the Hudson Canyon and Virginia Beach Access Areas would be set aside to pay for observers. Similarly, a value equal to one percent of the overall TAC would be added on to the amount of observer TAC, also to help vessels pay for the cost of observers. The allocation of one percent set-aside and one percent additional observer TAC would be consistent with the Area Access Program in 2001 and 2002, as well as the Georges Bank Closed Area Exemption Program. A TAC set-aside of 1 percent to fund research would also be included as part of the Area Access Program. Amounts over the trip limits for sea scallop meats to be allocated for defraying research costs shall be limited, by area, up to 77 mt or 1 mt for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively. This research program for the Sea Scallop Access Areas would be modeled after the research program in the 2000 Georges Bank Sea Scallop Exemption Program. A Request for Proposals notice will be published in the **Federal Register** that will provide information on the submission process, eligibility criteria, proposal requirements and priorities, project evaluation, application deadlines and other requirements.

Abbreviated Rulemaking

NMFS proposes these revisions to the regulations under the framework abbreviated rulemaking procedure codified at 50 CFR part 648, subpart D. This procedure requires the Council, when making specifically allowed adjustments to the FMP, to develop and analyze the actions over the span of at least two Council meetings. The Council must provide the public with advance notice of both the proposals and the analysis and with an opportunity to comment on them prior to and at a second Council meeting. Upon review of the analysis and public comment, the Council may recommend to the

Regional Administrator that the measures be published as a final rule if certain conditions are met. This action is being published as a proposed rule because the Council had sufficient time to prepare for proposed rulemaking and allow for additional public comment on the action.

Documents summarizing the Council's proposed action, the EA, and economic impacts analysis of the preferred and alternative actions, were available for public review 1 week prior to the final Council meeting on September 12, 2002, as is required under the framework adjustment process. Written and oral comments were accepted up to and during that meeting. Comments pertaining specifically to the EA, and framework measures are included and responded to in the EA.

Classification

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

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows:

The proposed action and its alternatives could affect any commercial vessel holding an active Federal permit for sea scallops. Data from the 2001 Northeast permit database show that 310 commercial vessels were permitted with limited access scallop permits, and 2,293 commercial vessels were permitted with general category (open access) scallop permits. Information from the 2002 fishing year is incomplete. The majority, if not all, of the federally permitted vessels readily fall within the Small Business Administration's (SBA) definition of small business and the Regulatory Flexibility Act's definition of "small entity." Therefore, all alternatives and analyses associated with this proposed rule necessarily are alternatives and analyses applicable to impacts on small entities. A description of the significant alternatives to the proposed action are addressed in detail in the EA and are not repeated here.

The analyses in the Council's IRFA and the economic impacts section of the EA show that the increase in the DAS allocations of the preferred and non-preferred alternative and the access to the Hudson Canyon and Virginia Beach Access Areas will have positive

economic impacts on all vessels as compared to the no action alternative. The revenues per full-time vessel are expected to increase by 56 percent under the proposed action, and by 38 percent to 58 percent for the 100 and 140 full-time DAS alternatives, respectively, compared to the no action alternative. The profits are expected to more than double under all DAS alternatives, including the proposed alternative and access to the Area Access Program in the Mid-Atlantic, relative to the no action alternative. Although the analysis in the document is conducted for an average full-time vessel in the scallop fishery, relative to the no action alternative, the results are expected to be positive for all full-time, part-time, and occasional vessels, as well, since their DAS allocations will also be adjusted upward and they will be able to access the Hudson Canyon and Virginia Beach Access Areas. No additional reporting requirements are included in this proposed rule. Likewise, no other Federal rules will

duplicate, overlap or conflict with this proposed rule.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 13, 2003.

Rebecca Lent,

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

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.23, paragraph (b)(2) is revised to read as follows:

§ 648.23 Gear restrictions.

* * * * *

(b) * * *

(2) *Scallop dredges.* (i) The towing wire is detached from the scallop dredge, the towing wire is completely reeled up onto the winch, the dredge is secured and the dredge or the winch is covered so that it is rendered unuseable for fishing; or

(ii) The towing wire is detached from the dredge and attached to a bright-colored poly ball no less than 24 inches (60.9 cm) in diameter, with the towing wire left in its normal operating position (through the various blocks) and either is wound back to the first block (in the gallows) or is suspended at the end of the lifting block where its retrieval does not present a hazard to the crew and where it is readily visible from above.

* * * * *

3. In § 648.53, the table in paragraph (b) is revised to read as follows:

§ 648.53 DAS allocations.

* * * * *

(b) * * *

| DAS Category | 1999-2000 | 2000-2001 | 2001-2002 | 2002-2003 | 2003-2004 | 2004-2005 | 2005-2006 | 2006-2007 | 2007-2008 | 2008 |
|--------------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|------|
| Full-time | 120 | 120 | 120 | 120 | 120 | 34 | 35 | 38 | 36 | 60 |
| Part-time | 48 | 48 | 48 | 48 | 48 | 14 | 14 | 15 | 17 | 24 |
| Occasional | 10 | 10 | 10 | 10 | 10 | 3 | 3 | 3 | 4 | 5 |

* * * * *

4. In § 648.57, the introductory text of paragraphs (a) and (b) are revised to read as follows:

§ 648.57 Closed and regulated areas.

(a) *Hudson Canyon Sea Scallop Access Area.* Through February 29, 2004, except as provided in §§ 648.52 and 648.58, no vessel may fish for scallops in or land scallops from the area known as the Hudson Canyon Sea Scallop Access Area, and no vessel may possess scallops in the Hudson Canyon Sea Scallop Access Area, unless such vessel is only transiting the area with all fishing gear unavailable for immediate use as defined in § 648.23(b), or there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. The Hudson Canyon Sea Scallop Access Area (copies of a chart depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

* * * * *

(b) *Virginia Beach Sea Scallop Access Area.* Through February 29, 2004, except as provided in §§ 648.52 and 648.58, no vessel may fish for scallops in or land scallops from the area known

as the Virginia Beach Sea Scallop Access Area, and no vessel may possess scallops in the Virginia Beach Sea Scallop Access Area, unless such vessel is only transiting the areas with all fishing gear unavailable for immediate use as defined in § 648.23(b), or there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. The Virginia Beach Sea Scallop Access Area (copies of a chart depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

* * * * *

5. In § 648.58, paragraphs (c)(1), (c)(4), (c)(6), (e)(2), (e)(3)(ii), (e)(4)(ii), and (f) are revised to read as follows:

§ 648.58 Sea Scallop Area Access Program.

* * * * *

(c) * * *

(1) *Season.* From March 1, 2003, through February 29, 2004, vessels participating in the Sea Scallop Area Access Program may fish for or possess sea scallop in or from the respective Sea Scallop Access Areas specified in § 648.57, unless access to these areas is terminated as specified in paragraph (f)

of this section. Should the 2002 fishing year season be closed early (i.e., prior to February 28, 2003), as described in this paragraph (c)(1), the Sea Scallop Area Access Program season for fishing year 2003 will begin on April 1, 2003.

* * * * *

(4) *Number of trips--(i) Full and part-time vessels.* Full and part-time vessels are restricted to a total of three trips into the Sea Scallop Access Areas, unless otherwise authorized by the Regional Administrator as specified in paragraph (e)(2) of this section. A trip to either Area counts as one trip. Full-time and part-time vessels participating in the Sea Scallop Area Access Program may start no more than one of their three allowed Area Access Program trips before May 1, 2003, and no more than two of their three allowed Area Access Program trips before June 1, 2003.

(ii) *Occasional scallop vessels.* Occasional vessels may fish only one trip under the Sea Scallop Area Access Program. The one allowed trip may be conducted in either the Hudson Canyon or Virginia Beach Sea Scallop Access Area specified in § 648.57 at any time during the season, as specified in paragraph (c)(1) of this section.

* * * * *

(6) Possession and landing limits-- Unless otherwise authorized by the Regional Administrator as specified in paragraph (e) of this section, after declaring into the Sea Scallop Area Access Program in fishing year 2003, a vessel owner or operator may fish for, possess, and land up to 21,000 lb (9,525.4 kg) of scallop meats per trip, with a maximum of 400 lb (181.4 kg) of the possession limit originating from 50 bu (17.62 hl) of in-shell scallops.

* * * * *

(e) * * *

(2) Adjustment process for number of trips for Hudson Canyon and the Virginia Beach Sea Scallop Access Areas. On or after October 1, 2003, if the scallop catch in the Hudson Canyon and/or Virginia Beach Sea Scallop Access Areas is less than the scallop TACs specified for fishing year 2003 in paragraph (f) of this section, the Regional Administrator may allocate one or more additional trips for the Hudson Canyon and/or Virginia Beach Sea Scallop Access Areas for full and part-time limited access sea scallop vessels that declared into and began a trip under the Sea Scallop Area Access Program prior to September 1, 2003. This adjustment may be made if the Regional Administrator determines that such adjustment will likely allow the scallop TAC to be reached without exceeding it. Notification of this adjustment to the trip limit will be

provided to the vessel through a permit holder letter issued by the Regional Administrator. Vessels with occasional permits would not be allocated an additional trip.

(3) * * *

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(ii) *Observer set-aside limits by area.* The cumulative amount of scallop authorized under this part to be taken by vessels in excess of the possession limits specified in paragraph (c)(6) of this section to defray the cost of an observer shall not exceed 2 percent of the overall TAC for each Sea Scallop Access Area. The following amounts represent 2 percent of those TACs:

(A) Hudson Canyon Sea Scallop Access Area - 2003 area access program - 155 mt;

(B) Virginia Beach Sea Scallop Access Area - 2003 area access program - 2 mt.

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(4) * * *

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(ii) *Research set-aside limits and number of trips by area.* The cumulative amount of scallop authorized under this part to be taken by vessels in excess of the possession limits specified in paragraph (c)(6) of this section to defray the cost of sea scallop research shall not exceed 1 percent of the overall TAC for each Sea Scallop Access Area. The following amounts represent 1 percent of those TACs:

(A) Hudson Canyon Sea Scallop Access Area - 2003 area access program - 77 mt;

(B) Virginia Beach Sea Scallop Access Area - 2003 area access program - 1 mt.

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(f) *Termination of the Sea Scallop Area Access Program--(1) Hudson Canyon Sea Scallop Access Area.* The Hudson Canyon Sea Scallop Access Area fishery for fishing year 2003 shall be terminated as of the date the Regional Administrator projects that 7,585 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Hudson Canyon Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(2) *Virginia Beach Sea Scallop Access Area.* The Virginia Beach Sea Scallop Access Area fishery for fishing year 2003 shall be terminated as of the date the Regional Administrator projects that 103 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Virginia Beach Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

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