



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

October 29, 2004

SMALL ENTITY COMPLIANCE GUIDE

Dear Permit Holder:

This letter is to notify you that the regulations implementing Framework 16 to the Atlantic Sea Scallop Fishery Management Plan (FMP) and Framework 39 to the Northeast (NE) Multispecies FMP (Joint Frameworks) were filed with the Federal Register and will take effect on **November 2, 2004**. This letter summarizes the new management measures established by these Joint Frameworks, but this summary is not a substitute for the actual regulations. The full text of the regulations is available on our website: www.nero.nmfs.gov, or you may request a copy via mail by calling 978-281-9315.

The major measures implemented by the Joint Frameworks are as follows.

- Establishment of Sea Scallop Access Areas within Northeast (NE) multispecies Closed Area I (CAI), Closed Area II (CAII), and the Nantucket Lightship Closed Area (NLCA). The Joint Frameworks authorize the scallop fishery to access the scallop resource within portions of the NE multispecies closed areas during specified seasons, and ensure that NE multispecies catches by scallop vessels are consistent with the Multispecies FMP.
- Revision of the Essential Fish Habitat (EFH) closed areas implemented under Amendment 10 to the Scallop FMP (Amendment 10) in order to make the areas consistent with the EFH closures under the Multispecies FMP, as established by Amendment 13 to the Multispecies FMP (Amendment 13).

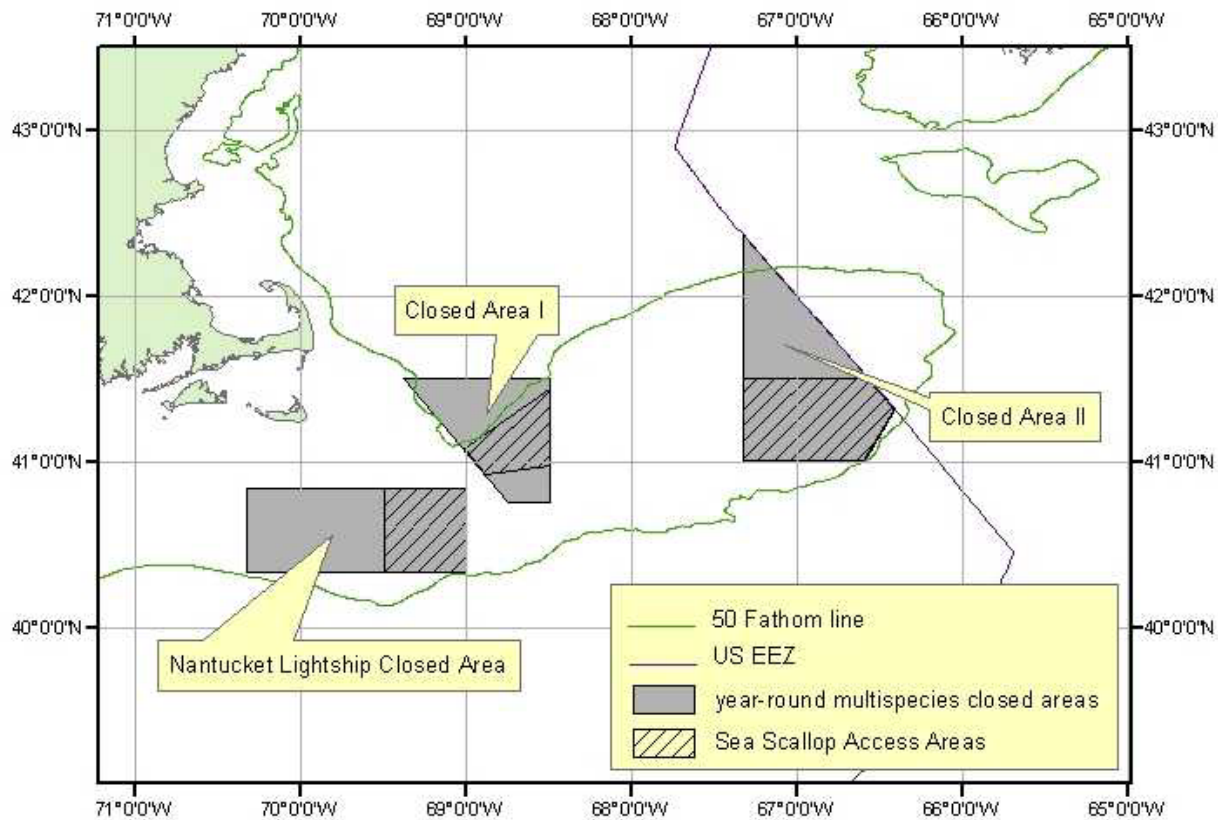
All of the management measures implemented by the Joint Frameworks and described below **will take effect on November 2, 2004, EXCEPT for** access to the Sea Scallop Access Areas in the NE multispecies closed areas for sea scallop vessel fishing under **General Category permits**.

JOINT FRAMEWORKS MANAGEMENT MEASURES

Multispecies Closed Area Scallop Access Areas, Season, and Gear Restrictions

- The boundary coordinates for scallop Access Areas within the NE multispecies closed areas are provided below. A map is also provided below.
- Scallop fishing is authorized during an open season of June 15 through January 31.
- Vessels fishing for scallops in the multispecies closed areas can use only scallop dredge gear.





Access Area Coordinates

CLOSED AREA I ACCESS AREA

Point	Latitude	Longitude
CAIA1	41°26' N.	68°30' W.
CAIA2	40°58' N.	68°30' W.
CAIA3	40°55' N.	68°53' W.
CAIA4	41°04.5' N.	69°01' W.
CAIA1	41°26' N.	68°30' W.

CLOSED AREA II ACCESS AREA

Point	Latitude	Longitude
CAIIA1	41°00' N.	67°20' W.
CAIIA2	41°00' N.	66°35.8' W.
CAIIA3	41°18.6' N.	66°24.8' W.
CAIIA4	41°30' N.	66°34.8' W.
CAIIA5	41°30' N.	67°20' W.
CAIIA1	41°00' N.	67°20' W.

NANTUCKET LIGHTSHIP ACCESS AREA

Point	Latitude	Longitude
NLAA1	40°50' N.	69°30' W.
NLAA2	40°50' N.	69°00' W.
NLAA3	40°20' N.	69°00' W.
NLSS4	40°20' N.	69°30' W.

Closed Area Access Rotation Schedule

CAI, CAII, and the NLCA can be accessed on a rotational schedule as follows, for each fishing year.

2004: CAII and NLCA
 2005: CAI and CAII
 2006: CAI and NLCA

This cycle will repeat beginning in 2007, unless modified through framework action or an amendment.

Number of Trips

The number of trips that may be made into each Access Area by vessels issued limited access scallop permits vary according to permit category: Full-time, Part-time, and Occasional. Vessels in each permit category are allocated a specific number of DAS for use in Scallop Access Areas, with a specified number of DAS charged for each area trip, regardless of actual trip length. In addition, the Joint Frameworks specify the **maximum number of trips** that can be made into any one Access Area, by vessel permit category.

Fishing Year	Access Area	Maximum trips per area and per vessel	Maximum Number of Trips; and DAS Charge per trip		
			Full-time	Part-time	Occasional
2004	Closed Area II	2	2 trips; 12 DAS	2 trips; 11.2 DAS	1 trip; 7 DAS
	Nantucket Lightship	1	1 trip; 12 DAS		
	Hudson Canyon	4	4 trips; 12 DAS	1 trip; 12 DAS	
2005	Closed Area I	1	1 trip; 12 DAS	2 trips; 12 DAS	1 trip; 5 DAS
	Closed Area II	1	1 trip; 12 DAS		
	Hudson Canyon	3	3 trips; 12 DAS		
2006	Closed Area I	1	1 trip; 12 DAS	1 trip; 9.6 DAS	1 trip; 2 DAS
	Nantucket Lightship	1	1 trip; 12 DAS		

Example: A scallop vessel issued a part-time permit in fishing year 2004 may take a maximum of 2 trips into the NE multispecies closed area Access Areas, 2 into Closed Area II, OR 1 into

Closed Area II and 1 into Nantucket Lightship. In addition, this vessel may take 1 trip into the Hudson Canyon Access Area.

Amendment 10 DAS Default Allocation

On September 15, 2004, vessels were allocated 20, 8, and 5 additional Open Area scallop DAS for Full-time, Part-time, and Occasional permit categories, respectively. Any vessel that has used any of these additional Open Area scallop DAS is ineligible to fish in the multispecies closed area access scallop fishery for the remainder of the 2004 fishing year. Vessels that have not used any additional DAS implemented under the DAS default are eligible to fish in the NE multispecies Access Areas.

Once an eligible vessel takes a trip into a NE multispecies Access Area, the additional allocation of Open Area DAS received on September 15, 2004 will be revoked.

To be eligible to fish in the NE multispecies Access Areas, DAS used must be less than or equal to: June 23, 2004 (Amendment 10) DAS allocation (42 Full-time, 17 Part-time and 4 Occasional) plus carryover DAS.

One-for-one Trip Exchanges

Limited access vessels will be allowed to exchange Access Area trips, on a one-for-one basis, with other vessels in the same vessel permit category. Exchanges can occur through the end of the season, provided the exchange is completed with sufficient time for a vessel to complete the exchanged trip(s).

- Vessel owners wishing to exchange trips **MUST** complete and return the enclosed Trip Exchange Form.
- Forms must be received **AT LEAST 15 DAYS** before the exchanged trip(s) are expected to occur.
- Upon approval of the exchange application, both parties will receive written confirmation of the approval. Vessel owners **MAY NOT** initiate trips acquired through an exchange until written approval is received.
- Trip Exchange Forms are also available on our website: www.nero.nmfs.gov, or via mail by calling 978-281-9315.

Minimum Ring Size in All Access Areas

The minimum size of the metal rings used to construct the chain bag in scallop dredge gear is **4.0 inches** in diameter for all Sea Scallop Access Areas.

Possession Limits

Fishing Year	Access Area	Possession Limit (per trip)		
		Full-time	Part-time	Occasional
2004	Closed Area II	18,000 lb (8,165 kg)	16,800 lb (7,620 kg)	10,500 lb (4,763 kg)
	Nantucket Lightship			
	Hudson Canyon		18,000 lb (8,165 kg)	18,000 lb (8,165 kg)
2005	Closed Area I	18,000 lb (8,165 kg)	18,000 lb (8,165 kg)	7,500 lb (3,402 kg)
	Closed Area II			
	Hudson Canyon			
2006	Closed Area I	18,000 lb (8,165 kg)	14,400 lb (6,532 kg)	3,000 lb (1,361 kg)
	Nantucket Lightship			

Incidental Catch Limits

Combined total NE multispecies possession limit is 1,000 lb **PER TRIP**, provided that the vessel is issued a multispecies permit.

All NE multispecies possessed by scallop vessels must comply with minimum size requirements established by the NE Multispecies FMP.

THIS INCLUDES:

1. 100-lb sub-limit for **cod** (for personal use only, i.e., cod catch may not be sold).
2. All other species (e.g., monkfish, skates, summer flounder) consistent with the current regulated limits under other FMPs, provided that the vessel is issued the required permits.
3. Yellowtail flounder possession limit in the NLCA area is **250 lb** per trip from June 15 - June 30.

Yellowtail flounder (yellowtail)

Yellowtail harvest is further managed through the establishment of Scallop Access Area Total Allowable Catch (TAC) allocations.

The scallop fleet has been allocated a yellowtail TAC that is equivalent to 10% of the overall TAC for yellowtail which is divided into bycatch (9.8%) and research set-aside (0.2%) components. The TAC includes all yellowtail caught, both kept and discarded. As shown in the chart below, the majority of the TAC is set-aside as a bycatch TAC for the scallop fleet fishing under the Access Area Program (9.8%); a small portion of the TAC is set-aside for the scallop fleet fishing under approved Research Set-Aside projects (0.2%).

Yellowtail Stock	Controlled Access Area	Fishing Year	Access Area Bycatch TAC (10% of total TAC)	Controlled Access Fishery TAC (9.8% of total TAC)	Research TAC (0.2% of the total TAC)
Southern New England (SNE)	Nantucket Lightship	2004	154,764 lb (70.7 mt)	152,780 lb (69.3 mt)	3,086 lb (1.4 mt)
		2005	436,956 lb (198.2 mt)	428,138 lb (194.2 mt)	8,818 lb (4.0 mt)
		2006	733,037 lb (332.5 mt)	718,266 lb (325.9 mt)	14,771 lb (6.7 mt)
Georges Bank (GB)	Closed Area I and Closed Area II combined	2004	1,322,774 lb (600 mt)	1,296,318 lb (588 mt)	26,455 lb (12 mt)
		2005	¹	¹	¹
		2006	¹	¹	¹

¹ To be updated annually according to the specifications procedure associated with the U.S./Canada Resource Sharing Understanding under the NE multispecies regulations.

When the yellowtail TAC established for the scallop Access Area program is, or is projected to be caught (all catch including discards), the scallop fishery in the affected area will close. (see below for notification procedures)

Georges Bank Closed Area I and Closed Area II

In addition to the yellowtail TAC specifically for scallop vessels in these areas, yellowtail is subject to a TAC under the Multispecies FMP in the Georges Bank area. When 100% of the overall yellowtail TAC is, or is projected to be harvested, scallop vessels **may continue fishing under the Access Area Program, but may not retain yellowtail**, provided the 9.8-percent yellowtail TAC allocated to the scallop Access Area fishery has not been harvested. Once the catch of yellowtail (landings and discards), reaches 9.8%, the scallop fishery in these Access Areas would close and remaining trips would be redirected into open areas.

NOTE: To date, less than 100% of the overall yellowtail TAC for multispecies fishing year 2004 has been harvested and scallop vessels currently may land yellowtail from the Closed Area II Access Area until further notice.

Notification of Closures and Other Restrictions

Scallop vessel owners **will receive notification** of closures and other restrictions resulting from harvest of yellowtail TACs through a variety of media including, but not limited to, NOAA weather radio, the Federal Register, an additional permit holder letter, and the NERO website (www.nero.nmfs.gov).

Trip Re-allocation if Yellowtail TAC is Harvested

- If the Scallop Access Area in a multispecies closed area closes prior to harvest of the total target scallop TAC (i.e., before all vessels have taken all trips) due to harvest of the yellowtail TAC, scallop vessels would be allowed to take the trips allocated for the closed area access program, but not used, in open areas.

The maximum number of DAS that may be reallocated to open areas is specified by permit category and by fishing year through 2006, as follows:

Maximum number (including traded trips) of additional DAS to be used in Open Areas after Access Area Closure	Permit Category	2004	2005	2006
	Full-time	20	60	24
	Part-time	8	48	9.6
	Occasional	1	5	2

Example: If a Full-time scallop vessel had 2 trips remaining in Closed Area II for fishing year 2004 (12 DAS charge for each if fished in the access area) that were not taken, the vessel would be allowed to fish an additional 20 DAS in the open areas (12 DAS from one trip but only 8 DAS from the second trip).

Allocation of Additional GB Yellowtail TAC

If, as of December 1 each year, the catch of yellowtail by scallop vessels fishing in the Scallop Access Area is determined to be below the yellowtail TAC set for the GB stock, and if NOAA Fisheries determines that the overall GB yellowtail TAC is not likely to be harvested for the fishing year, then NOAA Fisheries may enact measures to increase the Scallop Access Area yellowtail TAC allocated to scallop vessels fishing within the Closed Area I and II Scallop Access Areas. Any increase in the TAC would be enacted only if it would not be expected to cause the yellowtail TAC under the Multispecies FMP to be exceeded.

This will not occur for fishing year 2004 because at least 85% of the yellowtail TAC has already been harvested by multispecies permit holders and 100% of the TAC is projected to be harvested by the end of the fishing year.

Catch Reporting

The owner or operator of a scallop vessel fishing in the Scallop Access Areas are required to report catch of both scallops and yellowtail to allow for monitoring of the yellowtail TAC. The operator of such vessel must submit reports through the VMS for each day fished when declared in the Sea Scallop Area Access Program, including trips accompanied by a NOAA Fisheries-approved observer. The reports must be submitted in 24-hour intervals, for each day beginning at 0000 hours and ending at 2400 hours. The reports must be submitted by 0900 hours of the following day and must include the following information:

1. Total pounds/kilograms of scallop meats kept,
2. total pounds/kilograms of yellowtail flounder kept,
3. total pounds/kilograms of yellowtail flounder discarded,

4. total number of tows and,
5. Fishing Vessel Trip Report log page number.

For each trip that the vessel has a NMFS approved observer on board reports must include the following ADDITIONAL information for **EACH TOW** observed by a NMFS approved observer:

1. Total pounds/kilograms of scallop meats kept,
2. total pounds/kilograms of yellowtail flounder kept,
3. total pounds/kilograms of yellowtail flounder discarded.

Observer Coverage

NOAA Fisheries Observers will be assigned to a portion of the scallop fleet fishing in the NE multispecies Access Areas. Observers will collect information on scallop catch, yellowtail catch, and other bycatch to provide additional data on Scallop Access Area trips in order to monitor catch and bycatch.

Cost to Vessels Carrying an Observer

The FMP dictates that scallop vessels are responsible for paying for the cost of observers in Sea Scallop Access Areas. One percent of the scallop target TAC for each Access Area is allocated to help scallop vessels pay for the cost of observers. However, due to contracting issues, scallop vessels are currently **NOT** responsible for paying for the cost of observers in Access Areas or Open Areas.

Because scallop vessels are currently not responsible for paying for the cost of observers, they are **NOT** authorized to collect and utilize the additional pounds of scallop meats in Access Areas or receive DAS credit in Open Areas.

You will receive further notification when these issues have been resolved and you are required to pay for the cost of carrying an observer on your vessel. **Vessels are still required to carry observers and comply with the notification requirements below.**

Sea Scallop Access Area Trip Notification Requirements

All participating vessels must have installed on board an operational VMS unit.

Vessels must comply with all of the following notification requirements to fish in the Sea Scallop Access Area Program. **Please review the following requirements carefully. The email address and phone number in the observer program notification procedures have been modified from prior Area Access Programs.**

- Vessels issued a valid limited access scallop permit and planning to fish in the Access Area Program, must submit a report through the VMS **e-mail** messaging system to (usca@aisobservers.com) of its intention to fish in any Sea Scallop Access Area prior to the 25th of the month before the month in which the anticipated trip(s) are to be taken. The report must include the following information:
 1. Vessel name
 2. Federal permit number
 3. Owner and operator's names
 4. Contact phone number
 5. Number of trips the vessel intends to fish

This requirement is waived ONLY for trips to be taken in November 2004. Trips that begin after November 2004 MUST fulfill this requirement.

- In addition to the above advance notice for accessing the Sea Scallop Access Areas, for the purpose of randomly selecting vessels to carry an observer, a vessel must also contact the NOAA Fisheries observer contractor **by phone** (508.990.9057) at least 72 hours prior to the date it intends to depart on each trip into an Access Area. The following information should be included:
 1. Vessel name
 2. Contact phone number
 3. Federal permit number
 4. Date, time and port of departure
 5. Federal permit number
 6. Documentation number
 7. Boatracs or Skymate address
- A vessel that does not have a valid U.S. Coast Guard Inspection Sticker is deemed inadequate or unsafe for purposes of carrying a NOAA Fisheries observer. Any vessel that has been chosen to carry an observer may be prohibited from participating in the Access Area Program until the vessel is inspected by the Coast Guard and receives an inspection sticker.
- On the day that the vessel leaves port to fish under the Access Area Program, the vessel owner or operator must declare the vessel into the Access Area Program through the VMS prior to leaving port.

Instructions for declaring into the Access Area Program through VMS are available from the Northeast Regional Office of NOAA Fisheries upon request.

General Category Vessel Access

The Joint Frameworks also allow general category scallop vessels to fish within the multispecies closed area Access Area boundaries, during the open season, subject to certain restrictions. However, the provisions authorizing general category scallop vessels to fish within the multispecies closed area Scallop Access Areas **will NOT become effective until NOAA Fisheries can implement reporting requirements** for general category scallop vessels.

You will receive further notification when general category scallop vessels are allowed to fish in multispecies closed area Scallop Access Areas.

The following restrictions will apply to general category scallop vessels fishing in these areas:

- A 400-lb shucked or 50 U.S. bushel in-shell scallop possession limit
- A scallop TAC equal to 2% of the overall scallop TAC, by area (see table below)
- A limit on the total number of trips (see table below)
- A requirement to install and use VMS
- Zero possession of multispecies
- A requirement to carry at-sea observers when requested to do so
- Trip declaration procedures
- Reporting requirements via VMS (the same requirements as limited access scallop vessels)

- Gear restrictions, including minimum 4-inch ring size, 10-inch twine top mesh size, and maximum dredge width of 10.5 ft

In addition:

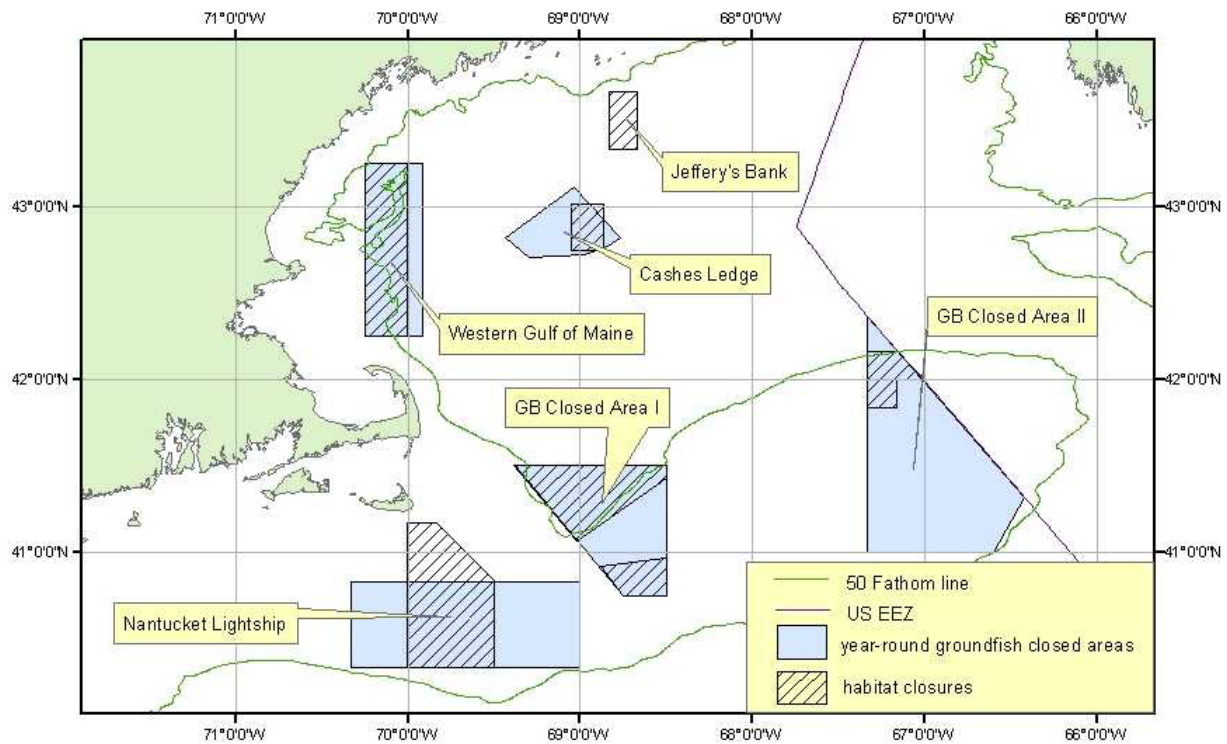
Vessels fishing in an approved NE multispecies SAP under multispecies DAS that also possess a general category scallop permit:

1. May possess up to 400 lb of scallops in an Access Area that is open to multispecies fishing but CLOSED to scallop fishing without having to comply with the requirements above.
2. May possess up to 400 lb of scallops in an Access Area that is OPEN to both multispecies and scallop fishing only if they comply with the requirements listed above under the General Category Vessel Access heading (except for zero possession of multispecies). Such vessels are subject to closure of the general category fishery if the TAC given in the chart below is reached.

Fishing Year	Access Area	Scallop TAC (2% of overall scallop target TAC)	Number of Trips (General category scallop TAC ÷ 400 lb/trip)
2004	Closed Area I	closed	closed
	Closed Area II	167,904 lb (76 mt)	420
	Nantucket Lightship Closed Area	154,368 lb (70 mt)	386
2005	Closed Area I	64,860 lb (29 mt)	162
	Closed Area II	153,971 lb (70 mt)	385
	Nantucket Lightship Closed Area	closed	closed
2006	Closed Area I	56,482 lb (26 mt)	141
	Closed Area II	closed	closed
	Nantucket Lightship Closed Area	135,937 lb (62 mt)	340

Essential Fish Habitat (EFH) Closed Areas

Amendment 10 designated a series of Area Closures to protect EFH from adverse effects due to scallop fishing. No vessel may fish for, possess or land sea scallops in or from these areas, unless transiting the areas with gear properly stowed and unavailable for immediate use. Under the Joint Frameworks, these habitat closed area boundaries are consistent with EFH closed areas implemented under Amendment 13 to the Multispecies FMP. See map below.



EFH Closed Area Coordinates

WESTERN GOM HABITAT CLOSURE AREA

Point	Latitude	Longitude
WGM4	43°15' N.	70°15' W.
WGM1	42°15' N.	70°15' W.
WGM5	42°15' N.	70°00' W.
WGM6	43°15' N.	70°00' W.
WGM4	43°15' N.	70°15' W.

CASHES LEDGE HABITAT CLOSURE AREA

Point	Latitude	Longitude
CLH1	43°01' N.	69°03' W.
CLH2	43°01' N.	68°52' W.
CLH3	42°45' N.	68°52' W.
CLH4	42°45' N.	69°03' W.
CLH1	43°01' N.	69°03' W.

JEFFREY'S BANK HABITAT CLOSURE AREA

Point	Latitude	Longitude
JB1	43°40' N.	68°50' W.
JB2	43°40' N.	68°40' W.
JB3	43°20' N.	68°40' W.
JB4	43°20' N.	68°50' W.
JB1	43°40' N.	68°50' W.

CLOSED AREA I - NORTH HABITAT CLOSURE AREA

Point	Latitude	Longitude
CI1	41°30' N.	69°23' W.
CI4	41°30' N.	68°30' W.

CIH1	41°26' N.	68°30' W.
CIH2	41°04' N.	69°01' W.
CI1	41°30' N.	69°23' W.

CLOSED AREA I - SOUTH HABITAT CLOSURE AREA

Point	Latitude	Longitude
CIH3	40°55' N.	68°53' W.
CIH4	40°58' N.	68°30' W.
CI3	40°45' N.	68°30' W.
CI2	40°45' N.	68°45' W.
CIH3	40°55' N.	68°53' W.

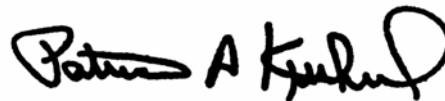
CLOSED AREA II HABITAT CLOSURE AREA

Point	Latitude	Longitude
CIIH1	42°00' N.	67°20' W.
CIIH2	42°00' N.	67°00' W.
CIIH3	41°40' N.	66°43' W.
CIIH4	41°40' N.	67°20' W.
CIIH1	42°00' N.	67°20' W.

NANTUCKET LIGHTSHIP HABITAT CLOSED AREA

Point	Latitude	Longitude
NLH1	41°10' N.	70°00' W.
NLH2	41°10' N.	69°50' W.
NLH3	40°50' N.	69°30' W.
NLH4	40°20' N.	69°30' W.
NLH5	40°20' N.	70°00' W.
NLH1	41°10' N.	70°00' W.

Sincerely,



Patricia A. Kurkul
Regional Administrator

Attachments

This Small Entity Compliance Guide complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996.



**REQUEST FOR ONE-FOR-ONE
EXCHANGE OF SEA SCALLOP
ACCESS AREA TRIP**

**SUBMIT TO
SEA SCALLOP TRIP EXCHANGES (SFD)
US DEPARTMENT OF COMMERCE, NOAA
NATIONAL MARINE FISHERIES SERVICE
ONE BLACKBURN DRIVE, GLOUCESTER, MA 01930
FAX – (978) 281-9135**

Trip Exchange: This form must be used to request an exchange of Sea Scallop Access Area trip between two vessels that have Sea Scallop Access Area Trips available to exchange. Exchanges of Access Area trips are on a one-to-one basis. One form must be used for each exchange. This form may be duplicated for additional exchange requests.

- The vessels indicated below must have trips available to exchange.
- Vessels may not exchange trips within the same Access Area.
- Vessel operators may not initiate the Access Area trip requested below until vessel owners receive written notice that the request has been approved.
- Written approval or disapproval of the request will be provided within 15 days of receipt of this form.

Vessel A Information:

Owner Name: _____ Permit #:

Vessel Name: _____ Official #:

The owner of Vessel A wishes to give one trip to Vessel B in the following area (Circle One):

CAI CAII NLCA HCAA

Vessel B Information:

Owner Name: _____ Permit #:

Vessel Name: _____ Official #:

In exchange, the owner of Vessel B wishes to give one trip to Vessel A in the following area (Circle One):

CAI CAII NLCA HCAA

Signed: _____
(Owner of Vessel A)

Signed: _____
(Owner of Vessel B)

Dated: _____

Dated: _____

Area Codes: Closed Area I = CAI; Closed Area II = CAII; Nantucket Lightship Closed Area = NLCA; Hudson Canyon Access Area = HCAA

Signature of this form certifies that the information provided on this form is true, complete and correct to the best of the vessel owner's knowledge, and made in good faith (18 U.S.C. 1001). Making a false statement on this form is punishable by law.

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 Paperwork Reduction Act, unless that collection of information displays a currently valid OMB Control Number. Public reporting burden for this collection of information is estimated to average 5 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the information. Send comments regarding this burden estimate or suggestions for reducing this burden to NMFS, One Blackburn Drive, Gloucester MA 01930; and to OMB, Paperwork Reduction Project, Washington, DC 20509. OMB Approval No. 0648-0491; Expires June, 2007.