



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

SMALL ENTITY COMPLIANCE GUIDE

Dear Permit Holder:

This letter is to notify you that Framework 15 to the Atlantic Sea Scallop Fishery Management Plan (Framework 15) has been approved, and the regulations that implement it are effective on **March 1, 2003**. This letter is only a summary of regulatory provisions implementing Framework 15 and is not a substitute for the actual regulations.

1. DAYS-AT-SEA (DAS) ALLOCATIONS FOR FISHING YEAR 2003

Framework 15 implements the following DAS allocations for the respective limited access scallop permitted vessels for fishing year 2003 (March 1, 2003 - February 29, 2004):

- < Full-time vessels: 120 DAS
- < Part-time vessels: 48 DAS
- < Occasional vessels: 10 DAS

2. SEA SCALLOP AREA ACCESS PROGRAM FOR FISHING YEAR 2003

Framework 15 maintains the existing controlled re-opening of the Hudson Canyon South and Virginia Beach Sea Scallop Closed Areas. The boundaries of the areas are unchanged, and are defined by straight lines connecting the following points in the order stated:

Hudson Canyon Sea Scallop Access Area

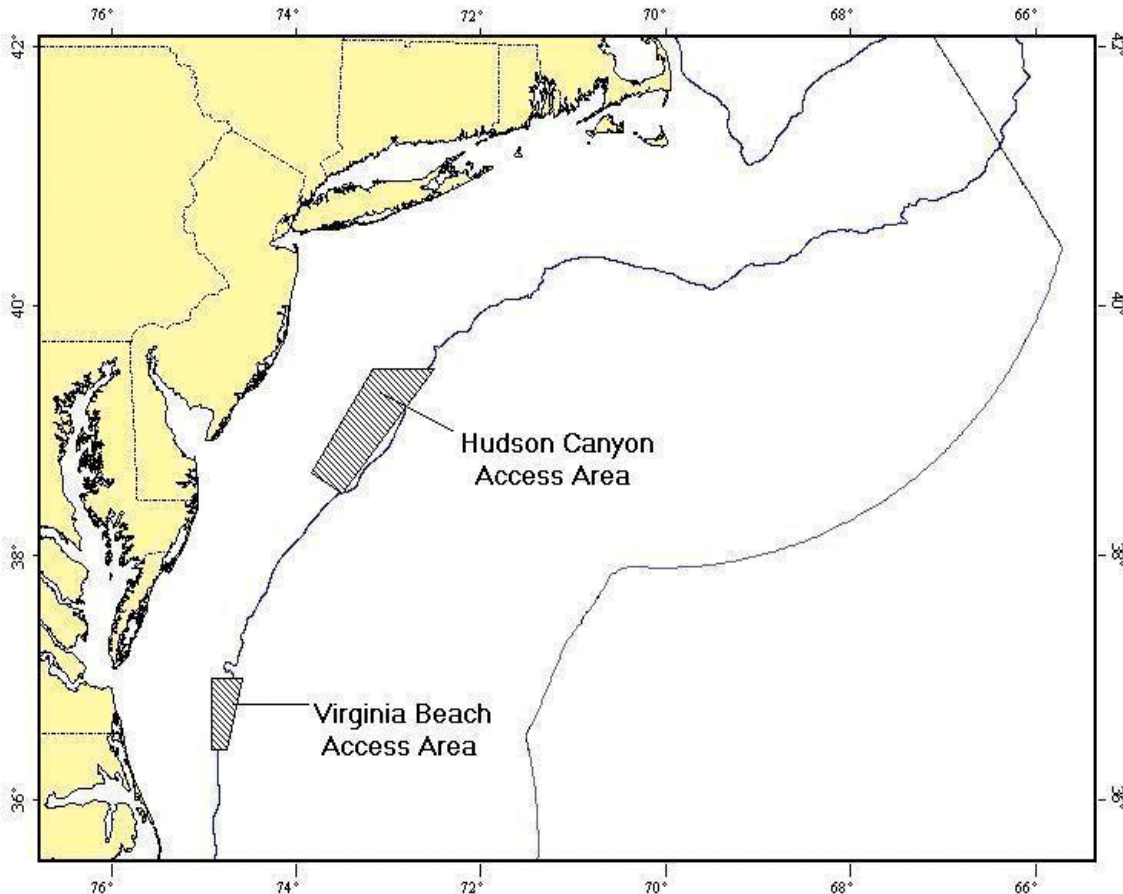
Point	Latitude	Longitude
H1.....	39°30' N.	73°10' W.
H2.....	39°30' N.	72°30' W.
H3.....	38°30' N.	73°30' W.
H4.....	38°40' N.	73°50' W.

Virginia Beach Sea Scallop Access Area

Point	Latitude	Longitude
V1.....	37°00' N.	74°55' W.
V2.....	37°00' N.	74°35' W.
V3.....	36°25' N.	74°45' W.
V4.....	36°25' N.	74°55' W.



SEA SCALLOP ACCESS AREAS



For fishing year 2003 limited access scallop vessels may fish for scallops in the Hudson Canyon and Virginia Beach Sea Scallop Access Areas when fishing under a scallop DAS provided the vessel complies with the requirements specified below:

Season

The season begins on March 1, 2003, and ends when one of the following events first occurs: The fishing year ends; the total allowable catch (TAC) is caught; or, for each individual vessel, when that vessel has used up its number of Area Access Program trips or allocated DAS.

Vessel Monitoring System (VMS)

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

Declaration - Failure to comply with all of the following declaration procedures will prohibit vessels from participating in the Area Access Program. Please thoroughly read the following requirements:

- < A vessel issued a valid limited access scallop permit and planning to fish in the Area Access Program must submit a report through the VMS e-mail messaging system

(NEC.Observers@noaa.gov) of its intention to fish in one or both of the Sea Scallop Access Areas 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: Vessel name and permit number; owner and operator's names; owner and operator's phone numbers; and number of trips anticipated for each Sea Scallop Access Area in which the vessel intends to fish. This requirement is waived for trips to be taken in March only. Vessel owners are requested to submit this information as soon as possible if they intend to fish in the Area Access Program during March.

- < 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 submit a report through the VMS e-mail messaging system (NEC.Observers@noaa.gov) of its intention to fish in the Area Access Program at least 5 **working** days (Saturday, Sunday, and Federal holidays are not considered working days) prior to the date it intends to depart on each trip into a Sea Scallop Access Area. For each of these reports, vessels must submit the following information: Vessel name and permit number; owner and operator's names; owner and operator's phone numbers; date and time of departure; port of departure; and the specific Sea Scallop Area Access Area to be fished. This requirement is waived for trips to be taken in March only. Vessel owners are requested to submit this information as soon as possible if they intend to fish in the Area Access Program in March.
- < **A vessel which does not have a valid Coast Guard Inspection Sticker is deemed inadequate or unsafe for purposes of carrying a NMFS approved observer. Any vessel that has been chosen to carry an observer may be prohibited from participating in the Area Access Program until the vessel is inspected by the Coast Guard and receives its inspection sticker.**
- < On the day that the vessel leaves port to fish under the Area Access Program, the vessel owner or operator must declare the vessel into the Area Access Program through the VMS prior to leaving port. Please see the attached instructions, titled "Sending in the "Vessel Activity" Macro", on how to declare into this program through VMS.

Number of Trips

Full-time and part-time scallop vessels are restricted to a total of three trips each year to the Sea Scallop Access Areas, unless otherwise authorized. A trip to either the Hudson Canyon or Virginia Beach Sea Scallop Access Areas counts as one of the allowed trips. Vessels participating in the Area Access Program are allowed to start only one of their three allocated trips before May 1, 2003, and no more than two of their three allocated trips before June 1, 2003.

Vessels that have started at least one of the three allocated trips before September 1, 2003, will be eligible to fish additional trips if they are allocated by the Regional Administrator. Based on vessel participation through August 31, 2003, and if the TAC is not exceeded, additional trips may be authorized by the Regional Administrator after September 30, 2003.

Vessels permitted in the Occasional scallop permit category are allocated only one trip, which may be fished in the area of their choice.

DAS Accrual

A scallop vessel that has declared a fishing trip into the Area Access Program will have a minimum of 10 DAS deducted from its DAS allocation, regardless of whether the actual number of DAS used during the trip is less than 10. Trips that exceed 10 DAS will be deducted equal to

the actual time fished.

Area Fished

A vessel that has declared a trip into the Area Access Program is prohibited from fishing for, catching or harvesting scallops outside of the Access Areas, may enter and exit the Access Areas only once per trip, and may not enter both Access Areas on one trip.

Possession Limits

Sea Scallops: Unless otherwise authorized by the Regional Administrator, a vessel declared into the Area Access Program may possess and land **up to 21,000 lb per trip** of scallops, of which no more than 50 bushels may consist of in-shell scallops:

The sea scallop possession limit for a vessel that has declared a fishing trip into the Area Access Program and has a NMFS-approved observer on board is increased by 300 lb of scallop meats per day the vessel is actually gone from port for more than 6 hours to help defray the costs of the observer. The vessel owner will be responsible for paying the cost of the observer, regardless of whether the vessel lands or sells sea scallops on that trip. A letter containing observer protocol, including instructions on how to receive an increased trip limit to help pay for an observer, is attached.

The Regional Administrator may also increase the sea scallop possession limit or number of trips into an area to help defray research costs in accordance with the scallop research set-aside program. The possession limit increase or number of additional trips will be determined by the Regional Administrator up to a cumulative total not to exceed 1 percent of the scallop total allowable catch for an area. The vessel owner will be responsible for paying and/or defraying the cost of the research project, whichever is applicable, regardless of whether the vessel lands or sells sea scallops on that trip.

Other Species: A vessel declared into the Area Access Program must adhere to all current possession, trip, and landing limits for species other than scallops.

Reporting

A vessel must submit reports through the VMS for each day fished when declared in the Area Access Program. Reports for each fishing day **must be submitted no later than 0900** hours the following day. A fishing day is defined as beginning at 0000 hours and ending at 2400 hours. For example: A vessel fishing for scallops between 5:00 am and 9:00 pm Tuesday must submit a report for this day (Tuesday) by 9:00 am the following day (Wednesday). A tow that is in the water at midnight should be counted toward the next day's catch. Each daily report must include the following information:

- < Total pounds of scallop meats kept,
- < Log book page number, and
- < For each trip that the vessel has a NMFS-approved observer on board, a separate report of total pounds of scallop meats kept and log book page number for each tow that is observed by a NMFS-approved observer.

In the event a vessel operator or observer misses a reporting day, 2 days of data may not be grouped into a single report. If a day is missed, two separate reports must be filed back to back, with the first report being the day that was missed. Missing a reporting requirement, however, may be considered a violation of the regulations.

Please see the attached instructions, titled "Sending in the "Scallop Hail Report" Macro", on

how to fill out these reports using VMS.

VMS Polling

To aid enforcement, for the duration of the Area Access Program, all limited access scallop vessels equipped with a VMS unit will be polled twice per hour at the vessel's expense, regardless of whether the vessel is enrolled in the Area Access Program.

Gear Restrictions

All vessels declared into the Area Access Program must fish with or possess scallop dredge or trawl gear in accordance with current scallop dredge or trawl gear restrictions, except that the mesh size of net material on the top of a scallop dredge in use by or in possession of a vessel declared into the Area Access Program may not be smaller than 10.0 inches square or diamond mesh.

Transiting

When transiting to and from the Sea Scallop Access Areas, all gear on board must be properly stowed and not available for immediate use in accordance with the regulations (specified in § 648.23(b)).

Limited access sea scallop vessels intending to fish for scallops under a scallop DAS that have not declared a trip into the Area Access Program may not enter, fish, or be in the Hudson Canyon or Virginia Beach Sea Scallop Access Areas unless the vessel is transiting the areas with all fishing gear stowed and not available for immediate use as required in the regulations.

Offloading

Vessels may not off-load their sea scallop catch at more than one location per fishing trip.

In-Season Adjustments

The Regional Administrator may adjust the sea scallop possession limit, and/or allocate one or more additional trips for full and part-time limited access sea scallop vessels, for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, after September 30, 2003. Occasional permitted vessels will not be allocated an additional trip.

Termination of Area Access Program

The Area Access Program for each area will end when the TAC for each respective area, specified below in metric tons (MT), is projected to be caught:

- < 7,740 MT - Hudson Canyon Sea Scallop Access Area
- < 105 MT - Virginia Beach Sea Scallop Access Area

Termination of the Area Access Program for each area will be made through notification in the Federal Register.

3. SEA SCALLOP POSSESSION LIMIT FOR GENERAL CATEGORY VESSELS AND LIMITED ACCESS SCALLOP VESSELS NOT FISHING UNDER A SCALLOP DAS

General Category scallop vessels and limited access scallop vessels not fishing under the scallop DAS program (and, therefore, under the General Category provisions) may possess or land per trip up to 100 lb of sea scallop meats in or from the Hudson Canyon or Virginia Beach Sea Scallop Access Areas. These vessels may transit the Sea Scallop Access Areas with more than 100 lb of scallop meats on board, provided the scallop meats in excess of the 100 lb were not harvested from the Sea Scallop Access Areas and all fishing gear is properly stowed and unavailable for immediate use as required in the regulations.

No in-shell scallops from the Hudson Canyon and Virginia Beach Sea Scallop Access Areas may be landed. Up to 12.5 bu of in-shell scallops may be harvested by such vessels from the Hudson Canyon and Virginia Beach Sea Scallop Access Areas and possessed at sea, but only for the purpose of shucking to provide no more than 100 lb of scallop meats. Any combination of scallop meats and in-shell scallops possessed by such vessels must be equivalent to no more than 100 lb of scallop meats.

4. IN-SHELL SCALLOP POSSESSION LIMIT

Vessels issued a limited access or General category scallop permit are prohibited from possessing more than 50 U.S. bushels of in-shell scallops shoreward of the Vessel Monitoring System (VMS) demarcation line if the vessel fished in or transited the area south of 42°20' N. latitude at any time during a fishing trip. This restriction does not apply to vessels possessing in-shell scallops north of 42°20' N. latitude, provided such vessels are not participating in the Area Access Program described elsewhere in this letter.

5. TRANSITING FOR GENERAL CATEGORY VESSELS

Fishing for scallops is currently prohibited in the Southern New England Exemption Area (SNE Exemption Area) if a vessel is not fishing under either a scallop or Northeast multispecies DAS. Vessels legally fishing for scallops outside of the scallop or multispecies DAS program in an area other than the SNE Exemption Area (for example, the Mid-Atlantic Regulated Mesh Area), are allowed to transit the SNE Exemption Area, provided that their gear is properly stowed and unavailable for immediate use as required in the regulations.

The boundary of the SNE Exemption Area is the same line that formerly defined the SNE Regulated Mesh Area under the Northeast Multispecies plan: from the Rhode Island shoreline at 41°18.2' N. lat. and 71°51.5' W. long. (Watch Hill, RI) southwesterly through Fishers Island, NY, to Race Point, Fishers Island, NY; and from Race Point, Fishers Island, NY, southeasterly to the intersection of the 3-nautical mile line east of Montauk Point, southwesterly along the 3-mile nautical line to the intersection of 72°30' W. long.; and south along that line to the intersection of the outer boundary of the EEZ.

6. AT-SEA DISPOSAL OF SCALLOP DISCARD

The EPA has informed NMFS that disposal of sea scallop discard (shucked scallop viscera and shells) inside the VMS demarcation line may be subject to permitting requirements under the Clean Water Act or Marine Protection, Research and Sanctuary Act (Ocean Dumping Act). If you intend on shucking scallops inside the VMS demarcation line, you are advised to contact the Regional EPA Office of Ecosystem Protection, Water Quality Unit, #617-918-1676 or 1-888-372-7341.

Sincerely,



for Patricia A. Kurkul
Regional Administrator

SEA SCALLOP 2003 AREA ACCESS PROGRAM POSSESSION LIMIT INCREASE AND OBSERVER PROTOCOL

The following outlines the sea scallop possession limit increase and protocol for observer payment for vessels declared and accepted into the Sea Scallop Area Access Program (Area Access Program) and carrying a NMFS approved observer on board.

POSSESSION LIMIT INCREASE:

Vessels selected to carry an observer while participating in the Area Access Program are authorized to possess and to land an additional 300 lb of scallop meats for each day the vessel is gone from port for 6 or more hours. This extra poundage, above and beyond the 21,000-lb scallop possession limit allowed for all non-observed Area Access Program trips, is to be used to reimburse the cost of the observer program, as well as to compensate the vessel and its crew. For example, a vessel that has declared and been accepted into the Area Access Program during the 2003 fishing year and selected to carry an observer for that trip, and which is gone from port for 5 days, starting from the time the vessel left port, would be authorized to possess and land up to 22,500 lb of scallop meats for that trip (21,000-lb trip limit + 1,500 lb for the 5 observer days). If this same vessel was gone from port for 5 days and 6 hours (5¼ days), it would be allowed to possess and land up to 22,800 lb of scallop meats.

PAY DISTRIBUTION:

Vessels selected to carry an observer while participating in the Area Access Program are required to pay **\$707.00** per day for the observer coverage. The increase in the cost per day for observer coverage from last year's program reflects changes in the main contract for observer coverage, which was reissued in 2002. Using the 5¼ day Area Access Program trip example from above and an average scallop price of \$3.35 per pound, 300 lb x 6 days (or 1,800 lb), would yield a total of \$6,030.00 (1,800 lb x \$3.35 per lb). A vessel that declared into the Area Access Program for 5¼ days while carrying an observer on board would be allowed to possess up to 22,800 lb of scallop meats, and would be required to compensate the observer \$4,242.00 (\$707.00 x 6 days). The remaining money, in this case \$1,788 (1,800 lb x \$3.35 = \$6,030 - \$4,242.00), would belong to the vessel and crew.

OBSERVER PAYMENT:

Bank or cashier checks for the cost of the observer must be made out to A.I.S., Incorporated, and must be received within 1 week of the date the scallops are landed, unless the vessel receives other instructions in writing from NMFS. Please mail your check, along with a note containing the following information: "Sea Scallop Observer Fund," vessel name, permit number, owner or operator name, time and date of departure, and time and date of return, to:

**A.I.S., Incorporated
Attn: Arvidas Poshkus
P.O. Box 2093
New Bedford, MA 02741-2093**

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