

CORRESPONDENCE

Sherie Goutier

From: west9451@roadrunner.com
Sent: Friday, March 24, 2017 11:55 AM
To: comments
Subject: NGOM



Dear members of the Scallop Advisory Panel and Scallop Committee:

I am writing to you out of disgust and frustration on how your committee has been running the NGOM. The NGOM has a unique area it is not like the area to the South like George's Bank or to the SW down off of New Jersey. It has taken 20 to 30 years for the NGOM to rebuild. It has taken two months of the LA Fleet fishing to thin out the scallops on Thatcher's and Stellwagen. Last year we were told we could take out 70,000 pounds out of the NGOM and we ran over around 25,000 pounds. The LA Fleet took out over 295,000. This year, the survey said that we could take out 350,000 pounds but the NGOM fishermen decided on a lower quota of 95,000. You took 22,000 off of that which left us with a measly 73,000 pounds to catch for this year. We have caught 50,000 pounds and have been closed down. The LA Fleet this year has taken out a million pounds or MORE. How can you have a sustainable fisheries when you allow the LA Fleet take out that many? How do you fix the problem? You do not let the LA Fleet back into the NGOM until it has completely rebuilt. When the NGOM quota would be up around 500,000 pounds then that would mean there would be a larger abundance of scallops in the NGOM. Then LA Fleet could have some kind of access to the NGOM. Maybe a limited access trip with a limited amount of pounds per boat.

James W. West
F/V First Impression II
Permit #151983
NGOM



March 24, 2017

Dear Council members and members of the Scallop AP and Committee:

Fishermen fish wherever and whenever they can. That is their job.

It is the Council's job to put measures in place to ensure that fishing is sustainable and does not impede the Council's stated goals. And for the past eight years, the Council has dodged its responsibility in the Northern Gulf of Maine Scallop Management Area.

The NGOM was established because the Council acknowledged the uniqueness of the area and did not think it fair that fishermen from northern New England would lose access to the scallop fishery forever simply because scallops in the Gulf of Maine were in a bust cycle between 2001 and 2004. Some suggest we were "given" this fishery. The truth of the matter is everything except the NGOM was taken away.

I understand the Council deals with many issues and cannot do everything perfectly. I understand the wheels of change move slowly and justice cannot always be high on the list of considerations. But occasionally, the egregiousness of an oversight is such that immediate action is warranted. Last spring was such a time, when Limited Access vessels removed roughly 300K pounds from an area supposedly capped at 70K. But the Council chose not to act. And we've now seen the consequences of that choice.

To say that overfishing is not occurring because the stock as a whole is doing fine is absurd. The NGOM is different. It is the ONLY place NGOM permit holders can fish and it was created so that they could do so sustainably if and when the resource rebounded. To allow a burgeoning recovery to be wiped out by mobile vessels operating under a completely different management regime is absolutely irresponsible.

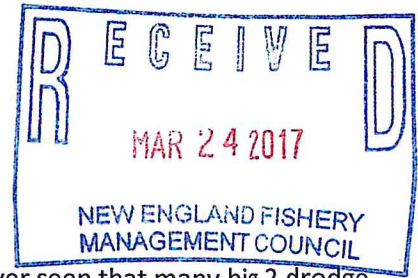
None of the NGOM permit holders I work with expect to have the NGOM to themselves. They do not begrudge the IFQ vessels fishing alongside them, because they abide by the regulations put in place to protect the resource and the fishery. And to be honest, they don't blame the LA vessels for doing what they're allowed to do. It is the Council's responsibility to come up with a way to allow LA vessels to fish in the NGOM that does not run counter to the very reason for which it was created. If we must think long and hard about the ideal way this should be done then so be it. But while we deliberate, LA vessels **MUST** be prohibited from fishing in the NGOM. Thank you for your consideration of this important issue.

Yours truly,

Togue Brawn

Sherie Goutier

From: Randal L Beal <randalbeal648@gmail.com>
Sent: Friday, March 24, 2017 11:17 AM
To: comments



To whom this may concern

My name is Randal Beal ,captain of the F/V Victoria of Gloucester Massachusetts.

I've been a commercial fisherman for nearly 30 years,and in that 30 years I have never seen that many big 2 dredge boats in such a small area.My last day out fishing in the Northern Gulf of Maine scallop fishery was on Tuesday march 21st,I counted 52 of them.

On the 1st day of the opening I counted 15 big boats their,and since then it only grew out of control. I've been to Georges bank scalloping,I've been to the Hudson canyon scalloping, I've been to the Nantucket lightship area , and I never saw that many boats in any of those area'

like I saw on top of the stellwagon bank. I' m allowed only 2 hundred pounds of scallop meat a day, day after day i'm watching the big boats haul back their 2 drags with10 to 20 times my limit every hour every day,the damage they can do to the bottom compared to us is unthinkable.The nmfs has done nothing to stop this.We warned them after last season,and it was devastating . This year was a total annulation.We can only hope that all of us small boats can put an end to this , so we can have a great future

Sherie Goutier

From: covetedyarn <covetedyarn@gmail.com>
Sent: Friday, March 24, 2017 10:00 AM
To: comments
Subject: Attn: Director Tom Nies re NGOM



Dear Sir,

I am writing to express my concern over DAS scallop vessels fishing in the Northern Gulf of Maine management area. It is unfathomable to me how an area can be set aside for conservation and sustainability, prove to be successful in both regards and then pillaged mercilessly for the extreme benefit of a select few. I find what little faith in regulators that I have left is rocked to the core.

As a crewman on a NGOM vessel on and off since 1998, my personal economic situation is greatly impacted by such actions. Fishing on a smaller vessel (F/V Bantry Bay) within the 200 lb and gear restrictions we have observed a reliable fishery prosper. Within the last two years we have seen a tremendous amount of biomass leave this management area. Does anyone believe that the current fishing pressure is sustainable?

Many of the NGOM permit holders are smaller vessels with weather and distance constraints that are not a factor on most DAS vessels. The NGOM fishery is proving that it is a viable fishery, when properly managed. Instead of continuing with a successful stock recovery and sustainable fishery, regulators are allowing the destruction and negation of said success.

If the intent of restricting the NGOM fishery to 200 lb trip limits and smaller gear for that fishing area was to rebuild a viable fishery, then action must be taken to preserve said fishery. On the contrary, if such measures were enacted to rebuild a spot fishery for DAS vessels to every few decades clean house then regulators are doing a great job. It is perhaps time to look back at the intent of what these regulations were for, otherwise the intent and motivation of the NEFMC will become clearly evident moving forward.

Thank you for your time and attention to these matters.

Sincerely,

ROBERT PORTER
107 GLOUCESTER AVE
GLOUCESTER MA 01930
978 406 5764

Sent from my T-Mobile 4G LTE Device

Sherie Goutier

From: Mike and Traci Murphy <murphysfarm@yahoo.com>
Sent: Thursday, March 23, 2017 4:33 PM
To: comments
Cc: togue@downeastdayboat.com
Subject: NGOM Scallop Mangement Area



Dear members of the Scallop Advisory Panel and Scallop Committee:

I'm writing to tell you that I am extremely discouraged and frustrated by what is going on with the NGOM Scallop Management Area.

Last year Jefferies Ledge was packed with a large amount of small scallops. At least it was until the LAC boats landed. They entered the area and nearly wiped it out. As a result, our fishing was not nearly as good as it should have been. We did manage to catch the quota, however, we watched the LAC boats pulling out thousands of pounds every day to our 200 pounds. This was almost a complete devastation of the area.

After the close of last year's scallop season, many of the NGOM permit holders, myself included, discussed our concerns that the same thing would happen this year. Unfortunately, that has happened. This year, the NGOM area was once again invaded by the LAC boats, and Stellwagon Bank has taken a hellish pounding. Not from the NGOM boats, but from the LAC again.

It has always been my understanding that the NGOM was established to be a small boat fishery. It is a very unique area, with only small sections that are fishable. If this is, in fact, a small boat fishery, why is it not being managed as such? Why are the large LAC boats allowed to fish with no limits?

I believe that now is the time to act, before it is too late, and the NGOM area is no longer fishable for anyone.

Respectfully,

Michael E. Murphy Sr.
F/V Murphys Law
Permit # 150214
Bucks Harbor, Maine

Sherie Goutier

From: Dustin Ketchopulos <ketchopulos.dustin@gmail.com>
Sent: Thursday, March 23, 2017 7:15 PM
To: comments
Subject: NGOM



My name is Dustin Ketchopulos I've been scalloping for 17 years and I've never seen anything like I saw on Stellwagen bank this month! I've lost faith in the fisheries management council with the way NGOM has been regulated. How can you cut back NGOM permit holders to #200 to conserve the scallop stocks in this heavy regulated area and let the limited access(DAS)scallop boats come in and have a free for all and wipe the place out? I hope something is done about this before the next NGOM opening because this is a tragedy. This is slap in the face to the fishermen who have been cut back and worked hard to get this area back to healthy stocks!

Dustin Ketchopulos

Sent from my iPhone

Sherie Goutier

From: Jay Vanderpool <vanderpool_jay@yahoo.com>
Sent: Thursday, March 23, 2017 8:19 PM
To: comments
Subject: Scallops



Sent from my iPhoneMy name is jay vanderpool and 50 years old. I ve been a fisherman my whole life and i would like to voice my concern over the northern gulf of maine scallop fishery.

I have a 45 ft boat and i tried scalloping on middlebank this march. I fished for 5 days before the quota was caught but the worse part was the big boats pounding the bank day after day. The last day i fished i counted 60 large boats towing 2 dredges cleaning up all the scallops. It was mayhem to say the least.

I would love to see the big boats be kept off shore and the little boats, which cant go off shore have a lot more breathing room in shore. Thanks

Sherie Goutier

From: Jim Ford- F%2FV Lisa Ann II <captainjim1@comcast.net>
Sent: Friday, March 24, 2017 3:58 AM
To: comments
Subject: Scallop



Council,

I am writing in regards to the massive amount of fishing pressure by the large fleet of Offshore scallopers that have been on Middlebank. The amount of destruction is unfathomable. We are a 200 lb NGOM vessel and have been down there since the opening. In this area we also groundfish and we fish all around the wrecks and mussel beds. As soon as the large boats showed up we watched them go right thru wrecks we avoid and the mussel bed that we don't go over with our rockhopper net. Now we are catching large pieces of fiberglass and wood and bunches of rocks in the flounder bottom. This is also the case up on Jeffreys when these boats showed up last year we started getting piles of rocks where we had a clean fishery. We also groundfish all along that area and now we keep catching rocks and occasionally rip our nets where we never had problems. I fully understand that these boats are just making a living like myself but I think a free for all in the inshore areas is not good for the fishery. I believe we need some gear restrictions or change the counting of days in this area ,perhaps 2 to 1 like they did groundfishing years ago. I'm glad that there was a bunch of scallops in this area but this bed was not huge as far as area. You could easily be off the scallops if you ventured away off the fleet the catch dropped drastically. I just hope there can be some changes to the way we manage inshore areas and not allow this much fishing pressure in such small areas.

Thank you, Jim Ford
F/V Lisa Ann III
Newburyport Ma.

Sherie Goutier

From: Jim Ford- F%2FV Lisa Ann II <captainjim1@comcast.net>
Sent: Friday, March 24, 2017 4:26 AM
To: comments
Cc: Travis Ford
Subject: scallop



Council,

I have already submitted my concerns over the fishing pressure inshore but I have another concern that happened last year when we were shut down. We groundfish the rest of the year in the NGOM area and we need to have a incidental amount of scallops after it closes . We see a few while we flounder fish, anywhere from 0 to 10 lbs a day inshore. It would be nice if we could keep these for home consumption or be able to land that small amount, everything helps with the cost of quota,observers and so on. Please take this under consideration.

Thanks,Jim Ford

F/V Lisa Ann III

Nbpt. Ma

Sherie Goutier

From: Randal L Beal <randalbeal648@gmail.com>
Sent: Friday, March 24, 2017 8:15 AM
To: comments
Subject: Northern gulf of Maine scallop fishery



To whom this may concern

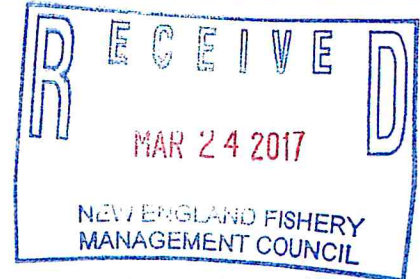
My name Randal Heal Captain of the F/V Victoria out of Gloucester Mass.

I've been a commercial fisherman for nearly 30 years , and in that nearly 30 years I can't remember a time I saw that many big boat scallopers in such a small area ever, I watched those boats haul back every hour, and what I saw sickened me.They was hauling back tows that equaled what I'm allowed to catch in 10 trips, where's the justice.I've been apart of a few closers that has reopened, and I never saw that many big boats in any of those openings.I counted 52 big boats on top of Stellwagon bank , 52 of them.We need a change and it should start from the top.I can only hope something is done,cause if we have a other year like

2017 , all of us small boats won't survive We need the help from the government to do the right thing,so please help us this time.

Sherie Goutier

From: Mike Murphy <bigbuggen@yahoo.com>
Sent: Friday, March 24, 2017 9:11 AM
To: comments
Subject: Public comments NGOM



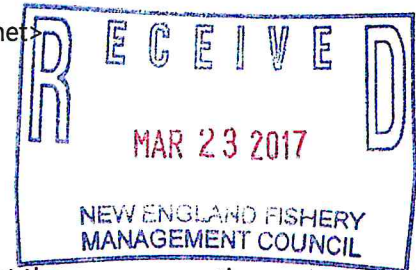
Hi, my name is Michael Murphy II, I am a fisherman from Downeast Maine participating in the Northern Gulf of Maine fisheries. The purpose of this area was originally to provide a sustainable resource for Northern New England boats. The limited access boats shouldn't be allowed access until the council can come up with a solution. Allowing the limited access boats in this area with no daily limit is defeating the purpose of what this area was intended for; which is to provide a sustainable resource for Northern New England boats. If it takes time for the council to come up with a solution then the limited access boats should not be in this area because overfishing the NGOM should not be allowed. Thank you for your time.

Michael Murphy II

Sent from my iPad

Joan O'Leary

From: Francesco Paul Vitale <fvangelarose@comcast.net>
Sent: Thursday, March 23, 2017 12:05 PM
To: comments
Subject: Northern Gulf of Maine Scallops



Committee members,

I writing about my concern about the NGOM scallop fisheries. I very worried that the pressure on the resources by the big boat fleet is more than the area can handle. Since it has taken many many years for this area to recover I feel that action is need to protect it.

I think that since this area is inside of the 12" Roller Restriction area for groundfish, that this area should have a dredge limited as well. I think all vessel fishing for scallops in the NGOM scallop area should be restricted to one 10.5' dredge.

Thank you

Francesco Paul Vitale

F/V Angela & Rose Sent from my iPhone

JP, SA, MB 3/23/17

From: richardburgess128@comcast.net [mailto:richardburgess128@comcast.net]

Sent: Wednesday, March 22, 2017 8:34 AM

To: Tom Nies

Subject: Stellwagon

Hi Tom, The scallop fleet has been on stellwagon for weeks , Yesterday there was 52 big boats there towing all thru the mussel beds wiping them out ,That is where the cod have been doing there adult thing for as long as I have been fishing, Very Very Disturbing, All the sacrifice we the small boats have been thru to try and rebuild this cod stock ounce again and this is happening, 800 lbs per day of cod and the stock was almost rebuilt until sectors came with the big draggers , Now this, We just do not stand a chance of ever going back fishing, I am going to try and get a grant to rebuild the beds , Most likely ill be laughed out of town but i have to try for the future of this fishery and hopefully this madness can be stopped

Thank you for taking time to read this.

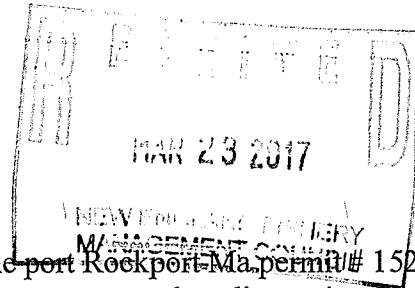
Regards

Richard Burgess



Woneta Cloutier

From: Paul Theriault <fvterminator@outlook.com>
Sent: Thursday, March 23, 2017 11:42 AM
To: comments
Subject: NGOM-Slaughterfest



Sent from my iPhone

NEFMC Members, My name is Paul Theriault F/V Terminator 2 home-port Rockport-Ma. permit # 152187 I've been commercial fishing for over 35 yrs. I'm writing you today to convey my complete disgust in what you've done to the NGOM scallop management area. Myself and many other people came to you last year with deep concerns about LA vessels working in the NGOM (because of a loophole). The NGOM scallop area is a unique area in that it is significant in sq mileage but the areas that support scallop habitat are quite small basically Jefferies Ledge and Stellwagon bank. When we were capped at a 200lb trip limit we were told by regulators that the NGOM cannot handle heavy sustained fishing pressure!!!! Hello !! On march 22nd I counted 58 vessels working on top of Stellwagon the majority of which were LA vessels fishing with 2 dredges and 7man crews. They've been there since the first day the fishery opened March 1st. Fishing around the clock and through hellish weather conditions- not even Mother Nature can stop them. I want you to know that by not doing your job you've hurt hundreds of families from Cape Cod all the way to the Canadain border. By the time this letter gets read the smoke will have cleared and there should be a count of the poundage that was taken out of the NGOM. I'm guessing somewhere north of 800,000 lbs !!! Shame on you!! It's time to get off your asses and do what's right for this unique ecosystem before its too late !! Thank You Paul Theriault

JP, Sa - 3/23/17

Joan O'Leary

From: Julie Miller <jamiller54@roadrunner.com>
Sent: Thursday, March 23, 2017 8:24 AM
To: comments
Cc: Ben Martens; togue.brawn@gmail.com
Subject: Mismanagement of the NGOM scallop fishery

Dear members of the

Scallop Advisory Panel and Scallop Committee:

I am writing to you to tell you how disheartened I am, not only as a participating Northern Gulf of Maine permit holder, but also as older fisherman who has witnessed many changes throughout my career. Many of these changes have had drastic effects on the fishing fleets of New England, but especially the small day boat segment of the fleet. Whether we agreed or not with these changes many were made with the supposed intentions of preserving the resources while trying to impact the fishing fleet at a minimum. It is undeniable that the small boat / nearshore fleet has suffered the most from many of these decisions. I believe that taking care of the resources upon which we all depend is paramount and I also believe that having a diverse fleet is just as important. The NGOM is certainly a distinct area and was properly deemed just that by the Council many years ago. The resource there has been cyclic throughout its history, this has been well documented. Historical participation of this area has been overwhelmingly that of the smaller day boat fleet. The scallop resource has taken around thirty years to rebuild in the NGOM, I know this first hand as I was a part of that fishery back then. It's been a long wait for an opportunity to take part in that fishery again and now that chance is being taken away by management issues that were ignored even though these issues had been pointed out many times over the last few years. The shame in this the inability to come up with plan that could have benefitted many boats and geographic areas of the Gulf of Maine with a chance to fish sustainably for many years to come. Last year in particular the predicted out come of management for the NGOM management area actually took place for the first time as far as the impact of the Limited Access Fleet and the call to attention of that matter went unheeded. There was one band aid approach that came out the management system that being the fifty bushel loading limit which was largely ignored and totally unenforced this year. What has taken place in the NGOM management area this year is a travesty and worse yet was totally avoidable! Many years ago situations like this happened due to lack of knowledge and how our impact affected the resources upon which we all depended on. I don't believe that we can use that as an appropriate excuse in this situation. The probable outcome was staring everyone in the face a little over a year ago (if not before), but no one wanted to take on the elephant in the room as it was just to damn hard to do the right thing! My hope is that we can learn from this and move forward with a management scheme that is respectful and beneficial to ALL participants as well as the resource. Thank you for considering my comments while moving this issue forward.

Sincerely,
Ira Miller
F/V Julie Ann

Tenants Harbor, Maine

Joan O'Leary

From: Ray Hilshey <rayhilshey@gmail.com>
Sent: Wednesday, March 22, 2017 9:15 PM
To: comments
Subject: Northern gulf of Maine scallop area

As I write to you the northern gulf of Maine will close at midnight 3/22/17. My general category vessel Victoria will have accomplished 12,200lbs trips. As I sat on the general category board, one of my document statement was general category would be able to make a living. This is less and less the case as the years go by. I switched from ground fishing, shrimping, whiting fishing in 1996 at the time I thought was going to be a better managed fishery. I pushed for a 5000 lbs level at the advisor meetings. I lose to everybody who wasn't a full time scallopers. Entry level 1000 lbs "200" more licenses to boats that make there living in another fishery and maybe tried it a hand full of times and didn't like it. Next there was the northern gulf of Maine and the 200lb license. From 2010- 2015 there was no sign of a Maine boat except the few LAGC license. Now 2016 came And word got out there was small area of scallops on the southern end of jefferies. So here comes the gold rush derby fishing what ever you want to call it. Not what I or noaa probably wanted. 5 New Bedford boats show up as well to take advantage of a loophole deck load come inside the demarcation and stop the clock. Seven weeks later LA boats 270,000lbs LAGC boats way over 70,000 lbs. "spot wiped out". A good set of scallops hadn't been there since the late 70s I know I'm 64 I was there and i know what's gone on there year after year. Now we move to Stellwagon, before the closer may 11/16 we got a few more trips and other boats found us. We have always been able to make a living grinding it out something. 20 year never seen a LA or Maine boat except a few LAGC boats On Stellwagon So this year all hell breaks loose lots of LA boats enough NGM and LAGC boats to shut down the fishing. Now the NGM boats go back to Maine to there lucrative lobster fishing and the Rest of the NGM boats that we have never seen until the GOLDRUSH go away and do what they do And the large LA go any where they want, they already got southern part of Stellwagon and east of the cape. Where do I GO, like I said I'm 64 now 65 July 3. This isn't the sustainable fishery that I envisioned or the fishery that NMFS wants I hope! There's a lot to this I know first hand trying to develop measures every body wants a piece of the pie, you know sometimes everybody can't have pie. Thank you for your time, something needs to be done.

Ray Hilshey
F/V Victoria
Gloucester Ma
Sent from my iPad

JP, Sa 3/27/17



Greater Atlantic Region Bulletin

NOAA Fisheries, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930

For Information Contact:
Sustainable Fisheries Division
(978) 281 - 9315

<http://www.greateratlantic.fisheries.noaa.gov/>
Date Issued: 3/22/2017

ATLANTIC SEA SCALLOP FISHERY: LIMITED ACCESS GENERAL CATEGORY (LAGC) SCALLOP VESSELS

Updated Allocations for the Remainder of the 2017 Fishing Year
and Other New Measures

Effective Date: March 23, 2017 at 4:15 p.m.

The following information describes new measures implementing Framework 28 and a summary of how they may affect your fishing plans and activities for the remainder of the 2017 fishing year. We have also included reminders of some current requirements. Please read through each section carefully, and distribute this letter to your vessel operators. This summary is not a substitute for the actual regulations, and we encourage you to review the full text of the regulations, available at <http://www.greateratlantic.fisheries.noaa.gov>.

We have posted additional information on our website at:
<http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/scallop/>.

REMINDER: The 2017 fishing year will be 13 months (March 1, 2017-March 31, 2018). The 2018 fishing year will start on April 1, 2018.

Final 2017 Allocations for all LAGC vessels

Updated Fishing Year 2017 Individual Fishing Quota (IFQ) Allocations: The table below includes the LAGC fleet IFQ allocations effective March 23, 2017, through the remainder of fishing year 2017 (through March 31, 2018). We will send you a separate letter that specifies your vessel's updated 2017 IFQ, which we set based on the following allocations.

LAGC Fleet Allocations

LAGC IFQ only	1,026 mt (2,261,943 lb)
LAGC IFQ with limited access scallop permit	103 mt (227,076 lb)

IFQ Overage Payback (accountability measure): Please remember that it is unlawful to exceed your IFQ allocation at any point in the year. You can balance an overage within a fishing year through temporary IFQ leases and/or permanent allocation transfers completed before the applicable fishing year ends. We will deduct any overages that remain at the end of the fishing year from the following year's IFQ allocation on a pound-for-pound basis.

For small entity compliance guides, this bulletin complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996. This notice is authorized by the Regional Administrator of the National Marine Fisheries Service, Greater Atlantic Region.

jo, sa - 3/24/17

2017 Access Area Closures:

- Closed Area I and Closed Area II Access Areas are closed to LAGC IFQ vessels for fishing year 2017.

Fishing Year 2017 Access Area Allocations

- The Mid-Atlantic Access Area (MAAA) and the Nantucket Lightship Access Area (NLS) are open to scallop fishing in fishing year 2017. In addition, the Elephant Trunk Closed Area will open and be renamed the Elephant Trunk Flex Access Area (ETFA). (see attached map and coordinates)
 - **PROHIBITION:** Vessels are prohibited from transiting the ETFA when on a declared scallop trip, unless on an ETFA declaration.
- The MAAA and NLS will be open for the remainder of the 2017 fishing year (i.e., there are no seasonal closures).
- **Seasonal Closure:** ETFA will be closed from July 1 through September 30.

LAGC IFQ Trip Allocations for Scallop Access Areas:

Access Area	2017	Seasonal Closure
NLS	837	None
MAAA	697	None
ETFA	697	July 1 – September 30
Total	2,231	

LAGC Northern Gulf of Maine (NGOM) Management Area Scallop Possession Limit and Total Allowable Catch (TAC):

Vessels issued an LAGC NGOM scallop permit and IFQ vessels fishing in the NGOM are restricted to 200 lb shucked or 25 U.S. bu in-shell scallops per trip.

Framework 28 implements a 95,000-lb annual NGOM TAC for fishing years 2017 and 2018. During the 2017 fishing year there was a 21,629-lb overage of the NGOM TAC. This triggers a pound-for-pound deduction in 2017 to account for the overage. Therefore, the 2017 NGOM TAC is 73,371 lb to account for the overage.

Update on NGOM TAC:

The Regional Administrator determined that we reached the NGOM TAC on March 23, 2017. This area will be closed to all Federal scallop fishing for the remainder of fishing year 2017.

LAGC Incidental Scallop Target TAC:

The incidental scallop target TAC for fishing year 2017 is 50,000 lb. Vessels issued an LAGC Incidental Catch scallop permit may only land up to 40 lb shucked or 5 U.S. bu of in-shell scallops per trip.

Fishing Year 2017 Groundfish Annual Catch Limits (ACL) in the Scallop Fishery:

Stock	Scallop sub-ACL
Georges Bank Yellowtail Flounder	32 mt (70,548 lb)
SNE/MA Yellowtail Flounder	34 mt (74,957 lb)
Southern Windowpane Flounder	209 mt (460,766 lb)
Northern Windowpane Flounder	38 mt (83,776 lb)

These limits are for both the LAGC fleet and limited access fleet combined. For more information about yellowtail flounder and windowpane flounder catch limits in the scallop fishery, go to <http://www.greateratlantic.fisheries.noaa.gov/regs/info.html>

Important LAGC Program Reminders

Observer Set-Aside Compensation: LAGC IFQ vessel owners must call in weekly to the NMFS's Northeast Fisheries Observer Program (see attachment for call-in instructions) to report scallop IFQ trips you expect to take during the week. Vessel operators must call by Thursday if they expect to make any open area (or access area) trips from Sunday through Saturday of the following week. Observer service providers should charge dock-to-dock, where a "day" is considered a 24-hr period and portions of other days should be pro-rated at an hourly charge.

If NMFS selects your IFQ vessel for an open area or access area observed trip, you will receive observer compensation credit of 200 lb per trip if the observer set-aside has not been fully harvested. You can fish those additional pounds on the observed IFQ trip above the regular possession limit or on a subsequent trip that fishing year (but you must harvest these pounds within the current possession limit if you fish them on a future trip).

NMFS monitors the compensation rates and the observer set-aside use in each area very closely throughout the year. If information suggests that a different rate is necessary to account for unexpected fishery conditions, NMFS will change the compensation rate as appropriate.

LAGC Calendar Day Landing Restriction: LAGC vessels may not land scallops more than once per calendar day. For example, an LAGC vessel that lands scallops on Monday may depart on a second trip on the same day if landed scallops (Monday), but cannot land scallops again until Tuesday or later.

Scallop Pre-Landing Notification: LAGC IFQ and NGOM vessels must send a Vessel Monitoring System (VMS) Scallop Pre-Landing Notification form at least 6 hours before arrival on the way back to port, or immediately after fishing ends if less than 6 hours before arrival. In addition, you must submit this form on trips that are not declared as scallop trips, but on which scallops are kept incidentally. Forms must include the:

- Operator's permit number;
- VTR serial number recorded from that trip's VTR;
- Estimated Amount of scallop meats and/or bushels to be landed;
- Estimated time and date of arrival in port;
- Port City and State at which the scallops will be landed; and
- Whether any scallops were caught in the NGOM.

Daily Scallop Catch Reports: Scallop catch reports are required to be submitted daily for vessels that fish for, possess, or retain scallops and not also fishing under a Northeast multispecies days-at-sea or sector allocation. These reports must be submitted in 24-hour intervals for each day of fishing that begins at 0000 hours and ends at 2400 hours. The reports must be submitted before 9:00 a.m. local time each day for the previous day's catch. Each report must include the:

- Operator's permit number;
- VTR serial number;
- Date fish were caught;
- Total pounds of scallop meats kept; and
- Total pounds of all other fish kept.

Declaration Instructions:

- To declare a ETFA trip, please use the Elephant Trunk SAA declaration (SES-SCG-ETXXXX).
 - We are currently in the process of updating our VMS software. The new software update will change the Elephant Trunk declaration to an Elephant Trunk Flex declaration.
- To declare a MAAA trip, please use the Mid-Atlantic SAA declaration (SES-SCG-MAXXXX).
 - Do not declare a Hudson Canyon, Elephant Trunk or Delmarva access area trip.

Shell Stock Restrictions:

- Vessels fishing in the Georges Bank paralytic shellfish poisoning (PSP) closure area may not retain in-shell scallops.
- Vessels fishing in or transiting the area south of 42°20'N. lat. at any time during a trip may possess no more than 75 bu of in-shell scallops shoreward of the VMS demarcation line.
- A vessel declared into the Sea Scallop Area Access Program may not possess more than 75 bu of in-shell scallops outside of the access area.
- Vessels issued an LAGC NGOM scallop permit and IFQ vessels fishing in the NGOM may possess no more than 25 bu in-shell scallops shoreward of the VMS demarcation line.

Industry-Funded Scallop Observer Program Call-In Guide

All scallop vessels must call (508) 495-2100 to notify the observer program of their intent to fish.

Limited Access (LA) Vessels MUST provide 72 hours' notice before the intended sail date. Notice should be no more than 10 days prior to sail date. Date requests within the 72 hours' notice window will not be granted.

LA General Category Vessels (LAGC) MUST notify by Thursday for the upcoming calendar week (Sunday through Saturday). Only one call per calendar week is required. Calls will not be back-dated if received after the calendar week has begun.

STEP I – Call the Automated IVR System at (508) 495-2100

1. Press 1 to report a trip and follow the telephone message prompts.
2. Gear type: Press 1 for Scallop Dredge
Press 2 for Scallop Trawl
3. Permit type: Press 1 for Limited Access
Press 2 for Limited Access General Category
4. Fishing area: Press 0 for Elephant Trunk Flex Access Area
Press 1 for Nantucket Lightship Access Area
Press 2 for Closed Area II Access Area
Press 4 for Mid Atlantic Open Area
Press 5 for Georges Bank Open Area
Press 9 for Mid Atlantic Access Area
5. Phone Number: Enter your 10 digit phone number (DO NOT use '1' before the area code)
6. Permit number: Enter your 6 digit permit number
7. Name: Please speak clearly, first and last name, then press # key
8. Sailing Port: Please speak city and state you intend to sail from, then press # key
9. Date of sailing: Please speak clearly the month, day, and year, then press # key
*** Please note that 72 hours' notice is **REQUIRED** for all sail dates

You will receive a confirmation number which **MUST** be retained.

A waiver or observer selection email from NMFS will be sent to your VMS unit within 24 hours.

***If you do not receive VMS notification within 24 hours, contact the Vessel Call-in Coordinator at (508) 495-2188

If you are issued a waiver, you may begin your trip.

If you receive an observer notice, please follow the instructions in Step II.

STEP II – When selected to carry an observer

If selected for observer coverage you **MUST** provide at least 48 hours' notice to the observer providers.

You are required to call all three of the observer providers in an attempt to obtain coverage, but you may choose to hire any provider that is available.

Current Industry Funded Scallop Observer Providers

A.I.S. Inc. (774) 200-1688

East West Technical Services Inc. (860) 910-4957

Fathom Research LLC. (508) 990 - 0997

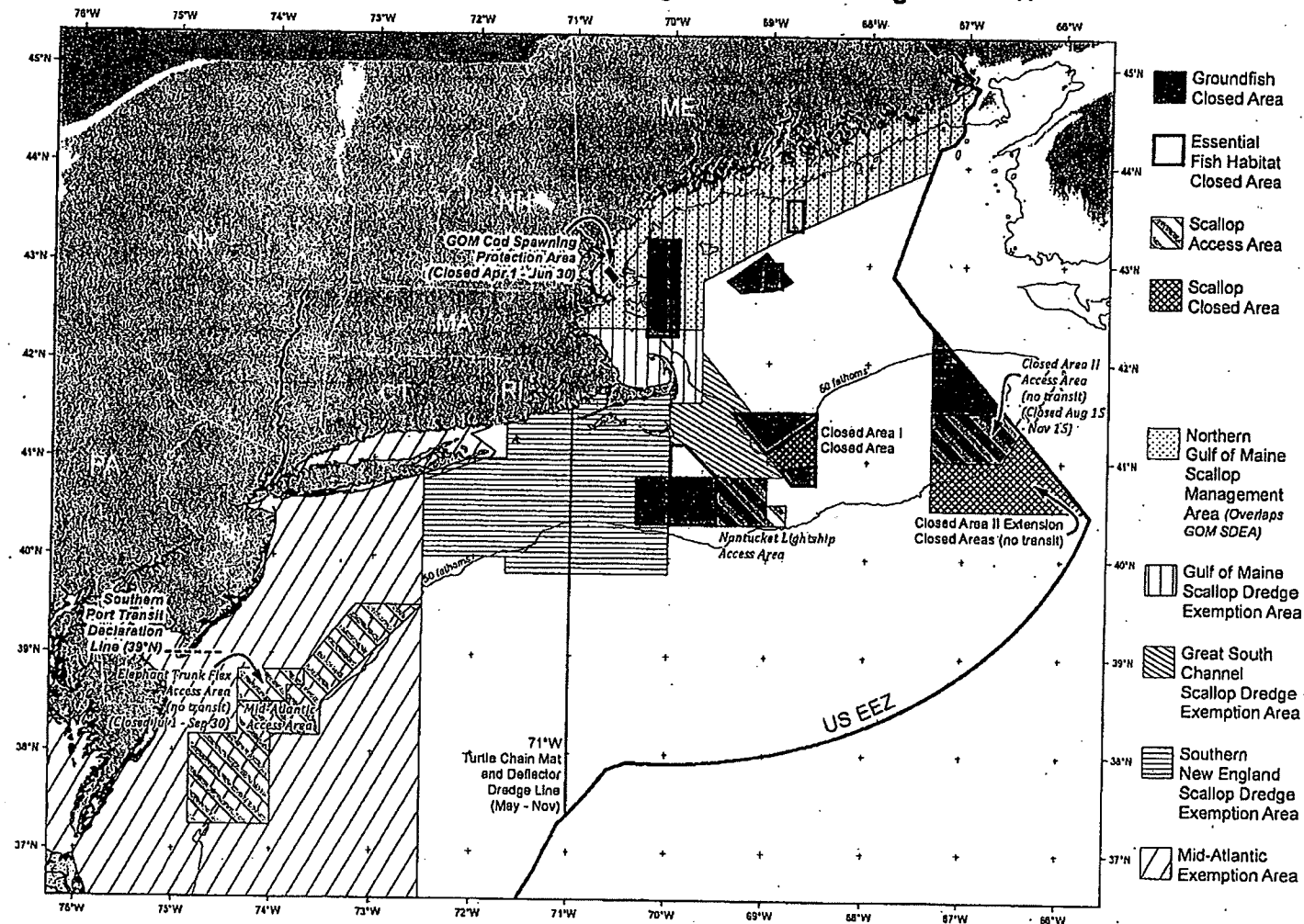
Please call the Vessel Call-in Coordinator at (508) 495-2188 or (508) 560-3550 (after-hours cell) if: there are no observers available from any of the providers and you would like to request a waiver, or if you are cancelling or delaying your trip more than 48 hours beyond the intended sail date.

This summary is not a substitute for the actual regulations. The full text of the regulations is available at <http://www.nmfs.gov> or call the Northeast Regional Office at (978) 281-9315.

OMB Control No: 0648-0593, Expires: October 31, 2018. Notwithstanding any 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

Northeast Fisheries Observer Program, March 21, 2017

Atlantic Sea Scallop Managed Waters Fishing Year 2017



Appendix B: Scallop Area Coordinates

Closed Areas

Closed Area 1 Closed Area

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.	

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

Closed Area 2 Extension Closed Area

Point	Latitude	Longitude	Note
CAIIE1	40°30' N.	67°20' W.	
CAIIE2	41°00' N.	67°20' W.	
CAIIE3	41°00' N.	66°35.8' W.	
CAIIE4	41°18.45' N.	(¹)	(²)
CAIIE5	40°30' N.	(³)	(²)
CAIIE1	40°30' N.	67°20' W.	

¹The 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.

²From Point CAIIE4 to Point CAIIE5 following the U.S.-Canada Maritime Boundary.

³The intersection of 40°30' N. lat. and the U.S.-Canada Maritime Boundary, approximately, 65°44.34' W. long.

Scallop Access Areas

Closed Area 2 Access Area

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.	

¹The 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.

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

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

Nantucket Lightship Access Area

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.

Elephant Trunk Flex Access Area

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.

The Mid-Atlantic Access Area is the combination of these three areas:

Delmarva Scallop Rotational Area

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.

Hudson Canyon Scallop Rotational 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°50' N.	73°30' W.
H5	38°50' N.	73°42' W.
H1	39°30' N.	73°10' W.

Elephant Trunk Scallop Rotational Area

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.



Greater Atlantic Region Bulletin

NOAA Fisheries, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930

For Information Contact:
Sustainable Fisheries Division
(978) 281 - 9315

www.greateratlantic.fisheries.noaa.gov/
Date Issued: 3/22/2017

ATLANTIC SEA SCALLOP FISHERY

Closure of the Northern Gulf of Maine Scallop Management Area

Effective Date: March 23, 2017

The Northern Gulf of Maine (NGOM) Scallop Management Area is closed to all federally permitted scallop vessels effective 0001 hr, on March 23, 2017, except as noted below. As of March 23, 2017, no scallop vessel fishing under Federal scallop regulations may fish for, possess, or land scallops in or from the NGOM Scallop Management Area. The scallop regulations require that we close this area once we project that 100 percent of the 2017 default total allowable catch for this area will be taken.

Vessels that have declared a trip into the NGOM Scallop Management Area using the correct Vessel Monitoring System (VMS) code, and have crossed the VMS demarcation line before 0001 hr, March 23, 2017, may complete their trip and retain and land scallops caught from the NGOM Scallop Management Area.

All limited access scallop vessels fishing on a day-at-sea must exit the NGOM Scallop Management Area before 0001 hr, March 23, 2017.

Exemption for Maine Vessels Fishing Exclusively in Maine State Waters

Vessels issued a NGOM scallop permit (category LAGC B) may continue to fish in the Maine state waters portion of the NGOM Scallop Management Area under the State Waters Exemption program provided they have a valid Maine state scallop permit and fish in state waters only.

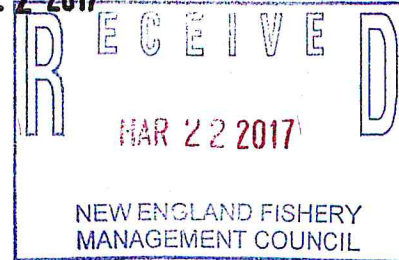
For small entity compliance guides, this bulletin complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996. This notice is authorized by the Regional Administrator of the National Marine Fisheries Service, Greater Atlantic Region.

jp, Sa - 3/24/17



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

MAR 22 2017



John F. Quinn, PhD
New England Fishery Management Council
50 Water Street
Newburyport, MA 01950

Dear John:

On behalf of the Secretary of Commerce, we have approved Framework Adjustment 28 to the Atlantic Sea Scallop Fishery Management Plan. We approved all management measures proposed by the Council in this action. The final rule implementing Framework 28 will file for public inspection with the Federal Register tomorrow, March 23, 2017, and all measures will be effective upon filing.

Framework 28 is an example of strong collaboration between our employees, as well as members of the scallop industry. Thank you and your staff for the hard work that was put into this action. Please contact me if you have any questions.

Sincerely,

John Bullard
Regional Administrator

JP, Sa - 3/23/17





UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Northeast Fisheries Science Center
166 Water Street
Woods Hole, MA 02543-1026

March 6, 2017



Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street, Newburyport, MA 01950

Dear Mr. Nies,

Thank you for your letter dated February 8th, 2017 inquiring about the sea day recommendations for the Atlantic sea scallop fishing modes as we work on the Standardized Bycatch Reporting Methodology (SBRM) sea day allocations.

The SBRM provides a structured sampling design, data collection procedures, and analyses to determined Federally-funded observer coverage to estimate bycatch in multiple fisheries based on the relative precision and relative importance of discards of Federally-managed species groups. Industry funded programs may be needed to address other management needs, or meet a finer scale or stratification of monitoring identified by the Council. The determination of observer coverage also considers other factors such as the need for at-sea biological sampling of scallops and groundfish bycatch. Hence, the objectives of SBRM analyses and the bycatch monitoring differ and the resultant observer coverage differs. The SBRM sea days may be considered the minimum coverage required and the industry-funded coverage may exceed that minimum.

There are two basic reasons why observer coverage for sea scallops may result in greater needs than the SBRM:

1. Discards need to be estimated on a spatial scale finer than that used for SBRM. For example, SBRM lumps all three New England scallop access areas together. For many bycatch species of concern for the scallop fishery, the three access areas are in different stock areas, thus requiring estimation of discards for each access area. For example, Closed Area I is part of the northern stock for windowpane flounder, whereas the Nantucket Lightship and Closed Area II access areas are part of the southern stock area. For yellowtail flounder, Nantucket Lightship Closed Area is part of the southern New England/Mid-Atlantic, whereas Closed Area II is part of the Georges Bank stock. Additionally, when the NEFMC is considering reopening one or more of these access areas, estimates of bycatch specific to that area are needed to assess the impact to the bycatch stocks of opening that area to scallop fishing.

JP:SA 3/20/17



2. Scallop observer data are crucially used for scallop assessments and not just for bycatch estimation. These other uses are not considered in the SBRM. Specifically, observer data are used to obtain measurements of commercially landed shell heights, which is required in the scallop stock assessment in order to estimate commercial selectivity. Unlike many other stocks, where this type of information can be obtained through port sampling, scallops are shucked at sea, so that sea sampling is the only way to obtain these data. Additionally, observers collect volumetric data on the size of meats at shell height. While shell height to meat weight data are collected on the scallop dredge surveys, weights of scallops shucked by scientists may be statistically different from commercial-shucked scallops. Commercial shell heights and meat weights from observer data are important for the scallop assessment since they allow for the converting of landings in units of weight into numbers of scallops by shell height.


As you have noted, we base elevated observer coverage rates in the scallop fishery on the Council's recommendations to do so. In Framework 16 to the Scallop Fishery Management Plan (FMP), the Council recommended between 9 and 25 percent coverage in the access areas within the groundfish closed areas; observer coverage rates have been within these limits in the access areas in recent years. There are no other specific coverage level recommendations or targets in the Scallop FMP. As a result, NMFS evaluates the coverage level that is needed for additional catch and bycatch information that will improve evaluation of the scallop fishery, using the Council's recommendations as a guide. We have not completed that evaluation yet, but we understand your need to have a clear explanation of our decisions. We will provide that once our evaluation is complete.

The Council has also specified an amount of the scallop resource to be used to compensate the industry for the added cost of the observer. NMFS calculates the observer compensation rates by using various sources of data including seaday allocations, average daily cost of the observer, landings per unit of effort (LPUE), and average price per pound of scallops. We expect the compensation rates to provide sufficient compensation for the observer fee, while also providing sufficient observer coverage based on anticipated coverage levels needed for the start of the fishing year. NMFS calculates the rates to include a buffer between the anticipated landed value of the scallops and the cost of the observer. The intent of these excess funds is to account for the cost in harvesting the additional set-aside scallop pounds as well as for uncertainties in prices and LPUE. The set-aside this year and last year did not limit the amount of coverage we can apply to the scallop fishery. For example, we could set the compensation rate very low (under 75 lb per day and less than 0.05 DAS credit per observed DAS) and cover an extremely high percentage of scallop sea days (around 70 percent of all sea-days). On the other hand, we could set the compensation rate extremely high this year (about 700 lb per day and 0.34 per DAS reduction of DAS on observed trips), and we would still cover more sea-days than the projected SBRM sea-days for the scallop fishery. Ultimately, we choose a compensation rate that provides sufficient funds to pay for the observer while not creating sampling bias with excessively high or low compensation. As a result, some scallop set-aside has been left unharvested.

With industry funded programs, the fishing industry is paying for the portion of the costs associated with the deployment at-sea, while the Government supports the shore-side infrastructure associated with the training of observers, debriefing, and data processing. The Northeast Fisheries Science Center uses four funding lines to support the SBRM (i.e. Northeast Fisheries Observer, Atlantic Coast Observer, National Observer Program, and Reducing Bycatch), and in addition the observer program receives funding through the National Catch Share funding line. The SBRM Omnibus Amendment specifies that the SBRM must first be fully funded from those 4 mentioned funding lines before using those funds to support other observer- and monitoring- related needs.

Since the SBRM is expected to be fully funded this year, the NEFSC has proposed the use of the observer funding lines to pay for the shore-side support for days assigned beyond the SBRM.

We recognize the need to provide more clarity on this topic in our documents, public notices, and presentations on scallop set asides and sea day deployment schedules and will strive to so.



Jon Hare, Ph.D.
Science and Research Director



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

March 9, 2017

Mr. John Bullard
Regional Administrator
National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

Dear John:

Today, my staff electronically sent the final submission of Framework 28 to the Scallop Fishery Management Plan (FMP), including the Environmental Assessment (EA), and associated appendices. The measures proposed in Framework 28 adjust 2017 and 2018 (default) scallop fishery specifications, apply spatial management to the specification setting process, and to remove incentives allowing LA vessels to possess and process large quantities of scallops while not using a DAS.

Two earlier versions of this document were also sent to your staff. We received your letter dated March 1, 2017 with several issues we needed to address to ensure the document is consistent with applicable law. In addition, your staff also sent us more detailed comments with minor suggestions from various reviewers within the Regional Office and the Science Center. We revised the final submission document to reflect these requested revisions and suggestions.

Some of the issues flagged for revision this year related to completion of the Regulatory Flexibility Act (RFA) analyses. In recent years, our staffs worked to reduce the content of the RFA in order to speed submission and implementation of scallop actions. If the RFA's scope needs to be expanded to include a more comprehensive analysis of the impacts on total revenue, and more detailed analyses at the entity level, the submission timeline may have to be extended. We will need to address this prior to submission of our next scallop action this fall.

Please contact me if you have any questions. Since the 2017 scallop fishing year begins on March 1, 2017, the Council requests the measures proposed in this framework adjustment be implemented as soon as possible.

Sincerely,

Thomas A. Nies
Executive Director



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
GREATER ATLANTIC REGIONAL FISHERIES OFFICE
55 Great Republic Drive
Gloucester, MA 01930-2276

Thomas A. Nies
Executive Director
New England Fishery Management Council
50 Water Street, Mill 2
Newburyport, MA 01950



RE: Comments on Framework Adjustment 28 to the Atlantic Sea Scallop Fishery Management Plan

Dear Tom:

The Council submitted a preliminary draft of Framework 28 on February 2, 2017. We completed a review of the draft document, and have some additional issues that must be addressed to ensure the document is consistent with applicable law.

First, in the Purpose and Need statement (section 1.2), the purposes of Framework 28 are well stated, but some of the corresponding needs that relate to these purposes must be included. Second, in sections 5.1 and 5.2.1 please add a brief discussion explaining that the overall impact from scallop management is positive on the scallop resource. Third, the Protected Resources Division has recommended additional modifications to sections 5.3 and 5.6 of the preliminary draft. Those recommendations have been emailed to your staff separately in a track changes version of the document itself for ease of transmission. Finally, the Regulatory Flexibility Act analysis should address the following points to make it consistent with existing guidelines:

- The number of large entities in the limited access days-at-sea (DAS) fleet may be underestimated because revenues reported in Table 127 appear to exclude sales from non-scallop trips.
- Analysis of impacts for both limited access and limited access general category (LAGC) individual fishing quota (IFQ) small entities was based only on changes in scallop revenues instead of revenue from all sources of fishing revenue. This means that:
 - The positive change in the limited access fleet may be overestimated, and
 - The negative change in LAGC IFQ fleet net revenue is likely to be overestimated.
- Reported impacts for the limited access fleet in Table 128 should be reported on an entity instead of per vessel basis.
- Economic impacts for the LAGC IFQ fleet in Table 30 should be reported on an entity basis instead of for the aggregate fleet.

Our staffs have already discussed the referenced comments and have coordinated on how best to incorporate the necessary changes. Further, they are working together to address more detailed reviewer comments that we provided. If you have additional questions on the comments provided, or on the review of Framework 28, please contact Travis Ford at (978) 281-9233. We



JP/BA 3/8/17

appreciate your quick turnaround of this document, given the compressed timeline for this action.

Sincerely,

A handwritten signature in black ink, appearing to be 'JB', followed by a long horizontal line extending to the right.

John K. Bullard
Regional Administrator



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

February 2, 2017

Mr. John Bullard
Regional Administrator
National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

Dear John:

Today, my staff electronically sent a pre-submission draft of Framework 28 to the Scallop Fishery Management Plan (FMP), including the Environmental Assessment (EA), and associated appendices. An earlier version of this document, a decision draft, was also sent to your staff in December to enable earlier publication of the proposed rule. As you know, we are continuing to use a more expedited process to help streamline rulemaking so that scallop fishery specifications can be in place closer to the start of the fishing year. We still plan to use the same pre-submission and final submission process that we use for other Council documents.

The measures proposed in Framework 28 adjust 2017 and 2018 (default) scallop fishery specifications, apply spatial management to the specification setting process, and to remove incentives allowing LA vessels to possess and process large quantities of scallops while not using a DAS.

Upon review of the Framework 28 pre-submission document, please communicate any comments and/or need for further document revision directly to me. Please contact me if you have any questions. Since the 2017 scallop fishing year begins on March 1, 2016, the Council requests the measures proposed in this framework adjustment be implemented as soon as possible.

Sincerely,

Thomas A. Nies
Executive Director



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116

John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

January 3, 2017

Ms. Emily Keiley
23 Garrison Street.
Fairhaven, MA 02719

Dear Emily:

This letter is to acknowledge receipt of correspondence to our office that you will be resigning from providing technical assistance to our Scallop Plan Development Team. On behalf of the Council, I would like to thank you for your service to the management process and contribution to the development of several scallop actions. SMAST is an important partner in scallop fishery management, and we appreciate your efforts to bring survey data and analyses to the PDT process. We wish you the best in your future endeavors and look forward to working with you again.

Sincerely,

Thomas A. Nies

Thomas A. Nies
Executive Director

*Good Luck, Emily!
See you soon at
GARFO!
Tom*



New England Fishery Management Council

50 WATER STREET | NEWBURYPORT, MASSACHUSETTS 01950 | PHONE 978 465 0492 | FAX 978 465 3116
John F. Quinn, J.D., Ph.D., *Chairman* | Thomas A. Nies, *Executive Director*

December 21, 2016

Mr. John Bullard
Regional Administrator
National Marine Fisheries Service
Greater Atlantic Regional Fisheries Office
55 Great Republic Drive
Gloucester, MA 01930

Dear John:

Today, my staff electronically sent a decision draft for Framework 28 to the Scallop Fishery Management Plan (FMP) to your staff in the Sustainable Fisheries Divisions at the Greater Atlantic Regional Fisheries Office. The Council has been working with your staff to identify ways to streamline rulemaking so that scallop fishery specifications can be in place closer to the start of the fishing year. Your staff has developed a more expedited process and we hope that the decision draft enclosed with this letter will enable you to complete and publish the proposed rule in a more expedited manner.

The Council took final action on Framework 28 on November 16, 2016. Since that meeting my staff has updated the document to include the information you requested for this expedited review. Specifically, the draft NEPA document the Council used to make final recommendations has been updated to include identification and rationale for the Council preferred alternatives, and an initial regulatory flexibility analysis has been drafted for Executive Order 12866 (Regulatory Impact Review).

In the coming weeks our staff will continue to update the Environmental Assessment for Framework 28 to the Scallop FMP for the pre-submission and formal submission process. The Council website will be updated with these documents as they are available. Please let me know if any questions come up.

Sincerely,

Thomas A. Nies
Executive Director



David E. Pierce
Director

Commonwealth of Massachusetts

Division of Marine Fisheries

251 Causeway Street, Suite 400

Boston, Massachusetts 02114

(617)626-1520
fax (617)626-1509



Charles D. Baker
Governor

Karyn E. Polito

Lieutenant Governor

Matthew A. Beaton

Secretary

George N. Peterson, Jr.

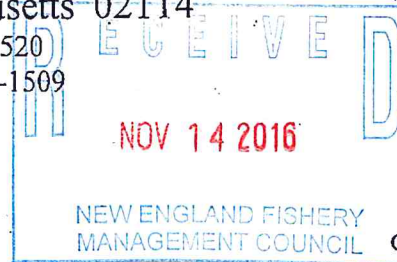
Commissioner

Mary-Lee King

Deputy Commissioner

November 10, 2016

John Bullard
Regional Administrator
Greater Atlantic Regional Fisheries Office
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930



Re: Commonwealth of Massachusetts Request for a State Waters Exempted Scallop Fishery

Dear Mr. Bullard:

I request a determination of whether a state waters exempted scallop fishery is warranted for the Massachusetts state waters portion of the Northern Gulf of Maine (NGOM) management area. My staff and I have concluded it is warranted, and we request your agreement. Our exemption would be restricted to Limited Access General Category - Individual Fishing Quota (LAGC-IFQ) and Northern Gulf of Maine (LAGC-NGOM) permit holders who possess a valid Commonwealth Coastal Access Permit (CAP) for mobile gear fishing in MA state waters.

The public petitioned the Division of Marine Fisheries (DMF) for such an exemption late this summer. DMF with support of the Massachusetts Marine Fisheries Advisory Commission moved this petition forward for consideration. During a public comment period unilateral support was heard for an exempted NGOM scallop fishery in MA state waters. Permit holders stressed and continue to highlight the importance of a timely exemption for the remainder of the 2016 fishing year to allow exempted activity during the winter fishery beginning in December.

Allowing certain dually permitted mobile gear scallopers to continue fishing in the state waters portion of the NGOM after the NGOM Total Allowable Catch (TAC) is taken is consistent with the current federal allowance exempting similar state waters only catch from counting against the NGOM TAC during the open season.

In 2016 the scallop resource in the NGOM increased significantly drawing effort into the area, particularly off Cape Ann. Federal Limited Access (LA) scallop permit holder effort increased due in part to an ability to shuck more than 50 bushels of scallops inside the demarcation line north of the 42° 30'. The New England Fishery Management Council is addressing this outdated gap in the federal rules (shucking is limited to 50 bu. south of the 42° 30'), and the Commonwealth has affirmed transiting rules that prohibit such activity and constrain commercial fishermen fishing in state waters to the 200-lb. state waters scallop possession limit (322 CMR 6.05(3)).

Finally, the Council's Scallop PDT has preliminarily recommended that the NGOM can sustainably support increased removals. Given this increase in the exploitable biomass, there is no biological reason to restrict additional effort on the resource - effort that is limited by state possession and regulatory restrictions.

JP - 11/18/16


Based upon 2008 correspondence from the National Marine Fisheries Service's Greater Atlantic Regional Fisheries Office (GARFO) to the states of Maine, New Hampshire and Massachusetts regarding the Atlantic sea scallop state waters exemption program, I understand the following information is required to make a determination:

1. a complete description of scallop fishing regulations in Massachusetts waters;
2. the number of vessels and trips that could be expected in Massachusetts waters;
3. the average landings per trip for vessels fishing in Massachusetts waters; and
4. the average per-pound value of scallops landed by vessels fishing for scallops in Massachusetts waters.

Please find state scallop fishing regulations and analysis supporting the above requested information appended to this request for an exemption.

In closing I ask you make as timely a determination as possible so as not to fully preclude permit holders from traditional winter fisheries conducted in the NGOM. Thank you for your time and consideration. If you or staff have any questions please contact Melanie Griffin by phone at (617) 626.1528 or by email at Melanie.griffin@state.ma.us.

Sincerely yours,

A handwritten signature in black ink, appearing to read "David E. Pierce", is written over a circular stamp or seal.

David E. Pierce, Ph.D
Director

cc
Melanie Griffin
Tom Nies

APPENDIX of Massachusetts sea scallop regulations and fishery analysis in support of request for state waters exempted fishery in a portion of the NGOM management area.

Massachusetts Sea Scallop Regulations

6.05: Atlantic Sea Scallop (*Placopecten magellanicus*) Management

(1) Definitions.

Commercial Fisherman means any person or vessel permitted in accordance with 322 CMR 7.01(2); Commercial Fisherman Permits.

Discard means the return of live sea scallops to the sea.

Exclusive Economic Zone means all waters extending from the seaward boundary of the waters under the jurisdiction of the Commonwealth to two-hundred nautical miles from the coast.

Land means to transfer or attempt to transfer catch onto any land, pier, wharf, dock or other artificial structure or for a fishing vessel with any fish on board to tie-up to any dock, pier or other artificial structure.

Sea Scallop means the species known as *Placopecten magellanicus*. Shuck means to remove from the shell and retain only the edible adductor muscle of a sea scallop.

Standard Fish Tote means a fish tote that does not exceed the volume of 6525 cubic inches.

(2) Minimum Size.

(a) It is unlawful to fish for, catch, take, have on board, or off-load from any fishing vessel, Atlantic Sea Scallops the shells of which are less than 3½ inches in diameter from the hinge to the outer edge.

(b) Notwithstanding 322 CMR 6.05(2)(a), it is lawful to fish for, catch, take, have on board, or off-load from any fishing vessel Atlantic Sea Scallops with shells less than 3½ inches in the longest diameter provided said Atlantic Sea Scallops comprise no more than 10% of the entire lot of Atlantic Sea Scallops. This 10% tolerance shall be determined by numerical count taken at random of not less than one peck no more than four pecks of the entire lot of Atlantic Sea Scallops.

(3) Possession and Landing Limits.

(a) Possession and Landing Limits.

1. Shucked Sea Scallops. It shall be unlawful for any commercial fisherman to, at any time, possess or land more than 200 lbs. of shucked sea scallops;

2. Whole In-shell Sea Scallops. It shall be unlawful for any commercial fisherman to, at any time, possess or land more than 2,000 lbs. of whole in-shell sea scallops

a. Possession Equivalency. For any commercial fisherman landing both whole in-shell sea scallops and shucked sea scallops the weight of whole in-shell sea scallops shall be multiplied by .10 to determine compliance with the possession and landing limits.

b. Volumetric Equivalency.

i. All whole in-shell sea scallops shall be placed in level filled standard fish totes upon landing;

ii. A level filled standard fish tote shall represent 100 lbs. of whole in-shell sea scallops

3. Exemption. Vessels permitted by the National Marine Fisheries Service to commercially harvest and land Atlantic sea scallops may possess and land more than the state possession and daily landing limits provided:

a. The vessel transits directly through the waters under the jurisdiction of the Commonwealth for the purpose of landing sea scallops;

b. The vessel makes no stops unless otherwise directed by the Massachusetts Environmental Police for the purpose of boarding and inspection;

c. The dredge gear is out of the water and properly stowed on board; and

d. The vessel, crew, gear and catch is otherwise in compliance with the applicable federal regulations.

(4) Commercial Harvest, Discarding and Disposition of Catch.

- (a) It shall be unlawful to fish for, harvest, possess or land sea scallops taken from the waters of the Exclusive Economic Zone unless so authorized by a sea scallop permit issued by the National Marine Fisheries Service;
 - (b) It shall be unlawful to discard any sea scallops within the restricted coastal waters of the Commonwealth, as established at 322 CMR 4.02: *Use of Nets in Inshore Restricted Waters*; and
 - (c) It shall be unlawful to land sea scallops in shell unless the area where the sea scallops were harvested from is classified as "Approved" by the Division of Marine Fisheries in accordance with the National Shellfish Sanitation Program.
- (5) Recreational Fishery Limit. In any one day, it is unlawful for a recreational fisherman to harvest or possess more than one bushel of whole scallops or four quarts of shucked scallops for personal use.
- (6) Permits.
- (a) No person shall take or possess scallops in excess of the recreational fishery limits as defined in 322 CMR 6.05(3) unless licensed as a commercial fisherman under the authority of 322 CMR 7.01: *Form, Use and Contents of Permits*.
 - (b) Commercial fishermen who harvest sea scallops by hand must possess a commercial permit endorsed for sea scallop diving.
 - (c) No person shall be issued a commercial permit endorsed for sea scallop diving unless he or she is a *bona fide* resident of the Commonwealth or is a resident of a state that grants equal access to Massachusetts residents.
 - (d) Each individual diver on board a vessel where the scallop quantities exceed the recreational possession limit as noted in 322 CMR 6.05(3) must possess a commercial permit endorsed for sea scallop diving.
 - (e) Commercial fishermen who harvest sea scallops by mobile gear from waters under the jurisdiction of the Commonwealth must possess a Coastal Access commercial permit as defined in 322 CMR 7.05: Coastal Access Permit (CAP).

7.01: Form, Use and Contents of Permits

- (1) Definitions. For purposes of 322 CMR 7.01, unless the context requires otherwise, the following words shall have the following meanings:

At-sea Processing means to receive or transfer fish, fillet fish or shuck shellfish and/or freeze fish or shellfish. At-sea processing does not include the filleting of finfish for personal use as authorized pursuant to 322 CMR 6.41(2)(a): *Possession of Fish Parts by Commercial Fishermen*; the evisceration of finfish, including the removal of codfish gonads and monkfish livers; the separating of monkfish tails from whole monkfish; and the shucking of bay scallops and sea scallops under the authority of a regulated fishery permit endorsement.

Bait means marine organisms including but not limited to fish, shellfish and seaworms exclusively used to attract and harvest other fish and shellfish.

Commercial Fishing means to take or harvest any fish or shellfish for purposes of sale, barter or exchange, or to keep for personal or family use any fish or shellfish taken under the authority of a commercial permit issued by the Director.

Commercial Purposes means the possession or attempted possession of any fish or shellfish in connection with any person, business or other undertaking intended for sale, barter, exchange or other forms of profit, excluding for-hire recreational fishing businesses permitted in accordance with 322 CMR 7.10(5).

Director means the Director of the Division of Marine Fisheries.

Harvest means to catch, dig, take or attempt to catch, dig or take any fish, shellfish or bait.

Land or Landing as used in 322 CMR 7.00 and in M.G.L. c. 130, § 80 means to transfer or attempt to transfer the catch of fish or shellfish from any vessel to any other vessel or onto any land, pier, wharf, dock or other artificial structure, or for a fishing vessel with any fish on board to tie-up to any dock, pier or other artificial structure.

Mobile Device means any electronic device that can be carried on one's person, such as a smartphone, which is capable of displaying a true, complete and legible image of a current and valid permit issued by the Division.

Mobile Gear means any movable fishing gear or nets which are set, towed, hauled, or dragged through the water for the harvest of fish, squid, and shellfish including but not limited to otter trawls, beam trawls, bottom and mid-water pair trawls, Scottish seines, Danish seines, pair seines, purse seines, and sea scallop dredges. For the purpose of this section, mobile gear does not include surf clam and ocean quahog dredges, bay quahog dredges or the use of moveable fishing gear by shellfish fishermen authorized under a local permit to take shellfish and are fishing only within those city or town waters.

Online System means the online recreational permitting system of the Department of Fish and Game and the Division of Marine Fisheries, accessible via the Department's and the Division's website, which allows for the automated issuance of recreational saltwater and non-commercial lobster fishing permits. The purchase online of a recreational saltwater or non-commercial lobster permit requires an electronic signature made after an online affirmation under the pains and penalties of perjury by the applicant that the information provided is true and accurate and that the applicant shall comply with all applicable marine fisheries regulations.

Possession or to Possess means to have custody or control of, or to handle or hold.

Recreational Fishing means the non-commercial taking or attempted taking of finfish for personal or family use, sport or pleasure which are not sold, traded or bartered.

Registered Length means that length set forth in either the U.S. Coast Guard or Massachusetts Boat and Recreational Vehicle Safety Bureau, whichever is applicable.

Shellfish means clams, conchs, limpets, mussels, oysters, periwinkles, quahogs, razor clams, bay scallops, sea scallops, surf clams, ocean quahogs and winkles.

Vessel means any commercial fishing vessel, boat, ship or other water craft registered under the laws of the Commonwealth (state) as defined in M.G.L. c. 130, § 1, and which is used exclusively to harvest fish or shellfish for purposes of sale, barter or exchange, and shall include any vessel documented under the laws of the United States to carry passengers for hire exclusively to harvest fish or shellfish.

(2) Commercial Fisherman Permits. In order to harvest, possess or land fish, shellfish or bait for commercial purposes, the following permits are required for the following fishing activities:

(a) Coastal Lobster. Issued to a named individual in accordance with 322 CMR 7.01 authorizing the possession and landing of lobster and fish for commercial purposes from waters within the jurisdiction and authority of the Commonwealth in accordance with M.G.L. c. 130, § 38B and 322 CMR 7.01. This permit may be endorsed for the harvest, possession and landing of shellfish and seaworms for commercial purposes. The permit shall include a restriction that memorializes the permit holders declaration of the ASMFC Lobster Management Areas the permit holder will fish during a calendar year. If the permit authorizes fishing in more than one area, the permit shall be subject to the most restrictive ASMFC lobster management regulations governing the permitted fishing area, as set forth in 322 CMR 6.02(2): *Maximum and Minimum Sizes* and (5): *V-notched Female Lobster Protection*.

(b) Offshore Lobster. Authorizes the possession and landing of lobsters harvested from waters outside the jurisdiction of the Commonwealth using a vessel registered under the laws of the state and validly endorsed for FCZ fishing. This permit shall be further endorsed for gear type to enhance management, reporting, and enforcement of gear-specific trip limits by requiring a non-trap endorsement for those permit holders fishing with non-trap gear; permits fished with trap gear will be the default category and not require a distinct endorsement. Offshore lobster permit holders or users may not also hold, use or have on board an individual non-commercial or family non-commercial lobster permit. The permit shall include a restriction that memorializes the permit holders declaration of the ASMFC Lobster Management Areas the permit holder will fish during a calendar year. If the permit authorizes fishing in more than one area, the permit shall be subject to the most restrictive ASMFC lobster management regulations governing the permitted fishing area, as set forth in 322 CMR 6.02(2): *Maximum and Minimum Sizes* and (5): *V-notched Female Lobster Protection*.

(c) Boat 100 Feet or Greater. Authorizes the harvest, possession and landing of fish for commercial purposes using a vessel 100 feet registered length or greater. Said permits shall authorize the crew of said vessel to fish under its authority and may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(d) Boat 60 to 99 Feet. Authorizes the harvest, possession and landing of fish for commercial purposes using a vessel from 60 to 99 feet registered length. Said permit shall authorize the crew of the vessel to fish under its authority and may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(e) Boat 0 to 59 Feet. Authorizes the harvest, possession and landing of fish for commercial purposes using a vessel from 0 to 59 feet registered length. Said permit shall authorize the crew of said vessel to fish under its authority and may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(f) Seasonal Lobster. Authorizes only the named individual to harvest, possess and land lobsters for commercial purposes, to be issued only to full-time students 12 years of age or older and conditioned to authorize the harvest, possession and landing of lobsters for commercial purposes only from June 15 to September 15 of each year and further conditioned to the use of not more than 25 lobster pots.

(g) Shellfish and Seaworms. Authorizes only the named individual to harvest, possess and land shellfish and seaworms for commercial purposes, and may be endorsed for the shucking of bay scallops.

(h) Individual. Authorizes only the named individual to harvest, possess and land fish for commercial purposes. Said permit may be endorsed upon request of the applicant for the harvest, possession and landing of shellfish and seaworms for commercial purposes.

(i) Shellfish/Rod and Reel. Authorizes the harvest, possession and landing of shellfish for commercial purposes and/or the harvest, possession or landing of fish by means of a rod and reel for commercial purposes subject to 322 CMR 7.01(10).

(j) Rod and Reel. Authorizes only the named individual to harvest, possess and land for commercial purposes by means of a rod and reel.

(k) Shellfish Transaction Card. Authorizes only the named individual holding a commercial fishermen permit endorsed for shellfish and seaworms to sell shellfish and seaworms, and shall be used in conjunction with either a Massachusetts driver's license or a Registry of Motor Vehicles identification card.

(3) Dealer Permits. The following categories of permits may be issued by the Director and are required for the following activities:

(a) Wholesale Dealer. Authorizes the wholesale possession, distribution, processing, sale or resale of raw fish and shellfish. Said permit includes authorization for the retail sale and retail resale of fish and shellfish from a fixed location approved in writing by the Massachusetts Department of Public Health.

(b) Wholesale Broker. Authorizes the wholesale brokering, directing the transport of or any commercial transaction in the sale of raw or processed fish or shellfish.

(c) Wholesale Truck. Authorizes the wholesale possession or distribution of raw or processed fish and shellfish for commercial purposes from a vehicle approved in writing by the Massachusetts Department of Public Health. Exception: Commercial Lobster Permit holders who also hold a Retail Boat Permit as defined in 322 CMR 7.01(3)(f) shall be exempt from the requirements to obtain this wholesale truck dealer's permit when transporting only live lobsters and live crabs for commercial sale.

(d) Retail Dealer. Authorizes the retail sale of raw fish and shellfish from a fixed location approved in writing by the Massachusetts Department of Public Health.

(e) Retail Truck. Authorizes the retail sale of raw fish from a vehicle approved in writing by a local or county Board of Health.

(f) Retail Boat. Authorizes a fisherman with a Massachusetts commercial fishing permit to sell from a boat to the general public, product he lawfully harvested, including the sale of live lobsters and whole raw fish from a boat. For holders of any commercial lobster permit, the

authorization granted under this retail boat dealer's permit shall also include the transport of live lobsters or live crabs, caught aboard the holder's permitted vessel, for sale to the public including to persons and businesses that are not retail or wholesale dealers of raw or processed fish or shellfish.

(g) Bait Dealer. Authorizes the possession and sale of bait.

(4) Special Permits. The following special permits may be issued by the Director for the following activities:

(a) Regulated Fishery Permit Endorsement. In accordance with M.G.L. c. 130, §§ 2 and 80, regulated fishery permit endorsements may be added to commercial fisherman permits, issued pursuant to 322 CMR 7.01(2), to authorize the named individual and/or commercial fishing vessel to harvest, possess or land fish or shellfish or use certain fishing gear in a fishery regulated pursuant to M.G.L. c. 130, § 17A.

1. Open Access Regulated Fishery Permit Endorsements. The following regulated fishery permit endorsements may be added to commercial fisherman permits, issued in accordance with 322 CMR 7.01(2), and shall be required:

a. American Eel. For a named individual and/or vessel to commercially fish for American eels within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land American eels for commercial purposes in the Commonwealth.

b. Bay Scallop Shucking. For a named individual and/or vessel to shuck bay scallops at-sea for commercial or non-commercial purposes.

c. Contaminated Surf Clam. For a named individual and/or vessel to operate a surf clam dredge in shellfish growing area designated by the Division as "PROHIBITED" and to harvest, possess or land surf clams taken from a shellfish growing area designated by the Division "PROHIBITED" for the purpose of being kept or sold as bait.

d. Fish Weir. To operate a fish weir in the waters under the jurisdiction of the Commonwealth or to harvest, possess or land fish or shellfish taken by a fish weir in the Commonwealth.

e. Inshore Net Permit. To operate net gear within the inshore net areas described at 322 CMR 4.02: *Use of Nets in Inshore Restricted Waters*. This regulated fishery permit endorsement is not required for the use of a bait net that measures less than 250 square feet.

f. Northern Shrimp. For a named individual and/or vessel to commercially fish for Northern shrimp within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land northern shrimp for commercial purposes in the Commonwealth.

g. Sea Herring. For a named individual and/or vessel to commercially fish for Atlantic sea herring within the waters under the jurisdiction of the Commonwealth, or harvest, possess or land Atlantic sea herring for commercial purposes in the Commonwealth.

h. Sea Scallop Diving. For a named individual to commercially fish for sea scallops by hand within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land sea scallops for commercial purposes that were taken by hand in the Commonwealth.

i. Sea Scallop Shucking. For a named individual and/or vessel to shuck sea scallops at-sea for commercial or non-commercial purposes.

j. Sea Urchin Diving. For a named individual to commercially fish for sea urchins by hand within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land sea urchins for commercial purposes that were taken by hand in the Commonwealth.

k. Sea Urchin Dredge. For a named individual to operate a sea urchin dredge in the waters under the jurisdiction of the Commonwealth or to harvest, possess or land any

sea urchins taken by a sea urchin dredge from the waters under the jurisdiction of the Commonwealth.

l. Scup. For a named individual and/or vessel to commercially fish for scup within the waters under the jurisdiction of the Commonwealth or harvest, possess or land scup for commercial purposes in the Commonwealth.

m. Spiny Dogfish. For a named individual and/or vessel to commercially fish for spiny dogfish within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land spiny dogfish for commercial purposes in the Commonwealth.

n. Striped Bass. For a named individual and/or vessel to commercially fish for striped bass within the waters under the jurisdiction of the Commonwealth or to harvest, possess or land striped bass for commercial purposes in the Commonwealth.

o. Surface Gillnet. For named individual named individual and/or vessel to set or fish a gillnet - anchored, drifting or otherwise - that is designed to be, capable of being or is fished in the upper two-thirds of the water column. This regulated fishery permit endorsement is not required for the use of a surface gillnet that measures less than 250 square feet. A named individual and/or vessel that holds a sink gillnet regulated fishery permit endorsement shall not also hold a surface gillnet regulated fishery permit endorsement to fish surface gillnets that exceed 250 square feet.

2. Limited Entry Regulated Fishery Permit Endorsements. Commercial fisherman permits, issued in accordance with 322 CMR 7.01(2), may be endorsed with the following regulated fishery permit endorsements. Pursuant to the authority at M.G.L. c. 130, § 2, the following regulated fishery permit endorsements are limited entry and may only be renewed and transferred subject to the provisions set forth at 322 CMR 7.06. These regulated fishery permit endorsements are required for the following:

a. Black Sea Bass. For a named individual and/or vessel to commercially fish for black sea bass within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land any black sea bass for commercial purposes in the Commonwealth.

b. Bluefin Tuna Seine. For a named individual and/or vessel to set or fish for tuna by means of purse seine within the waters under the jurisdiction of the Commonwealth.

c. Bluefish Gillnet. For a named individual and/or vessel to set or fish for bluefish by means of a gillnet, in accordance with 322 CMR 6.18(3): *Use of Gillnets for Taking Bluefish for Commercial Purposes*, within the waters under the jurisdiction of the Commonwealth.

d. Coastal Access Permit. For a named individual and/or vessel to set or fish with mobile gear within the waters of the jurisdiction of the Commonwealth. Coastal Access Permits may be further endorsed for participation in exempted fisheries authorized at 322 CMR 4.06: *Use of Mobile Gear*:

i. Small Mesh Trawl Fishery for Whiting. A Coastal Access regulated fishery permit endorsement may be further endorsed for the use and possession of small mesh trawls to commercially fish for whiting within certain waters under the jurisdiction of the Commonwealth.

ii. Small Mesh Trawl Fishery for Longfin Squid. A Coastal Access regulated fishery permit endorsement may be further endorsed for the use and possession of small mesh trawls to commercially fish for squid within certain waters under the jurisdiction of the Commonwealth.

iii. North Shore Mobile Gear. A Coastal Access regulated fishery permit endorsement may be further to fish with mobile gear within the Area 5 and Area 6 exemptions to the North Shore Year Round Mobile Gear Closure.

iv. Purse Seine. A Coastal Access regulated fishery permit endorsement may be further endorsed for the use of purse seines within certain waters under the jurisdiction of the Commonwealth.

e. Fish Pots. For a named individual to set or fish species-specific fish pots for black sea bass, scup or whelks within the waters under the jurisdiction of the Commonwealth, or to possess, take or land black sea bass, scup or whelks by fish pot for commercial purposes in the Commonwealth. A black sea bass or scup pot regulated fishery permit endorsement holder shall be required to also hold a black sea bass or scup regulated fishery permit endorsement to harvest, possess or land black sea bass and scup for commercial purposes in the Commonwealth.

f. Fluke. For a named individual and/or vessel to commercially fish for summer flounder (fluke) within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land any summer flounder for commercial purposes in the Commonwealth.

g. Horseshoe Crab Harvest. For a named individual and/or vessel to commercially fish for horseshoe crabs in the waters under the jurisdiction of the Commonwealth or land horseshoe crabs for commercial purposes in the Commonwealth.

h. Menhaden. For a named individual and/or vessel to commercially fish for menhaden within the waters under the jurisdiction of the Commonwealth, or to harvest, possess or land any menhaden for commercial purposes in the Commonwealth. A menhaden regulated fishery permit endorsement is not required to commercially fish for menhaden in the Commonwealth, provided no more than 6,000 pounds of menhaden are possessed at any one time or landed within a calendar day or fishing trip, whichever period is longer.

i. Ocean Quahog and Surf Clam Dredge. For a named individual and/or a vessel to operate an ocean quahog and/or surf clam dredge or to commercially fish for, harvest, possess or land ocean quahogs or surf clams taken by ocean quahog and/or surf clam dredge gear from the waters under the jurisdiction of the Commonwealth.

j. Quahog Dredge. For a named individual and/or vessel to operate a bay quahog dredge or to commercially fish for, harvest, possess or land bay quahogs taken by bay quahog dredge gear from the waters under the jurisdiction of the Commonwealth seaward of the outer jurisdiction of coastal cities and towns to regulate shellfish pursuant to M.G.L. c. 130, § 52, as appearing on official maps of the Commonwealth prepared pursuant to M.G.L. c. 1 § 3.

k. Sink Gillnet. For a named individual or vessel to set or fish a gillnet - anchored or otherwise - that is designed to be, capable of being or is fished in the lower third of the water column in waters under the jurisdiction of the Commonwealth. Sink gillnet regulated fishery permit endorsements are not transferable. Holders of a sink gillnet regulated fishery permit may fish surface gillnets under the authority of this permit.

l. State-waters Groundfish. For a named individual or vessel to commercially fish for regulated groundfish, as defined at 322 CMR 6.03(1): *Definitions*, or to harvest, possess or land any regulated groundfish for commercial purposes taken from waters under the jurisdiction of the Commonwealth. A state-waters groundfish regulated fishery permit endorsement is not required for vessels that hold a federal multi-species groundfish or monkfish permit or for a commercial fisherman to harvest, possess and land up to 25 pounds of whole or eviscerated regulated groundfish for commercial purposes.

(b) Non-commercial Fishing Permits.

1. Recreational Saltwater Fishing Permits. Pursuant to M.G.L. c. 130, § 17C and 322 CMR 7.10, the Director may issue a recreational saltwater fishing permit to authorize:

- a. recreational saltwater fishing; and
- b. for-hire vessels.

2. Non-commercial Lobster. Pursuant to M.G.L. c. 130, § 38, the Director may issue a non-commercial lobster permit to authorize:

- a. Pot Fishing. Issued to a named individual authorizing the harvest, possession and landing of lobsters by means of pots for non-commercial purposes by that individual or by members of that individual's immediate family residing in the same household.

b. Diver Fishing. Issued to a named individual authorizing the harvest, possession and landing of lobsters by diving for non-commercial purposes by that individual only. A noncommercial lobster permit may not be carried on board any vessel fishing under authority of an offshore lobster permit.

(c) Special Project. Authorizes only the names individual to engage in a specified marine fishery project, including but not limited to aquaculture or mariculture; scientific, environmental and biological collection and study, assessment or experimentation; collection and possession for education purposes; shellfish relay; and shellfish propagation.

(d) Anadromous Fish Passageway. Authorizes the named individual to carry out activities related to the construction, reconstruction, repair, or alteration of any anadromous fish passageway, as defined in M.G.L. c. 130, §§ 1 and 19.

(e) At-sea Processing. A special permit is required for the commercial at-sea processing of fish or shellfish in the waters under the jurisdiction of the Commonwealth. This permit is not required for the evisceration of finfish, including the removal of cod gonads and monkfish livers; the removal of monkfish tails from monkfish; the shucking of bay scallops and sea scallops under the authority of a bay scallop or sea scallop shucking regulated fishery permit endorsement; or to keep fish parts for personal use as authorized pursuant to 322 CMR 6.41(2)(a): *Possession of Fish Parts by Commercial Fishermen*.

(f) Special Biomedical Horseshoe Crab Harvest Permit. For a named individual to harvest horseshoe crabs exclusively for use by the biomedical industry for the manufacturing of limulus lysate or for sale to a permitted scientific institution for the purpose of research. The holder of a biomedical harvest permit shall not also hold a horseshoe crab harvest regulated fishery permit endorsement.

(5) Application. Applicants for a permit shall comply with the following requirements:

(a) Forms. Applications for a permit shall be on forms supplied by the Director. A separate application shall be made for each individual, boat, vessel, plant, firm, establishment, corporation, partnership or other business entity.

(b) Information. An application for a permit required by M.G.L. c. 130 and 322 CMR 7.01 shall contain and include the following:

1. the name and address of the applicant;
2. the date of birth of the applicant;
3. the last four digits of either the applicant's social security number or federal identification number;
4. for applicants for a commercial fishermen permit endorsed for shellfish, the applicant's Massachusetts driver's license number or Registry of Motor Vehicles identification number;
5. the name of the commercial fishing vessel;
6. the required length of the fishing vessel;
7. the Massachusetts vessel registration number;
8. the homeport of the commercial fishing vessel; and
9. the true and accurate signature of the applicant;
10. any other information sufficient to fully identify the particular activity to be undertaken and the intended use for the permit.

(c) Conditions. The following permit applicants shall comply with the following conditions:

1. Master digger permit applicants shall submit with their application a valid bond as required by 322 CMR 7.02(2)(b);
2. Dealer permit applicants shall submit with their application an approved health inspection certificate validly issued by the Department of Public Health pursuant to a health inspection of the applicant's premises;
3. Seasonal lobster permit applicants shall submit an affidavit supplied by the Director signed under the pains and penalties of perjury attesting to their full-time student status; and

4. Shellfish and seaworm permit applicants shall, for a bay scallop endorsement, submit a certified sanitary inspection approved by the Massachusetts Department of Public Health.

(d) Multiple Applications. A separate application shall be made for each individual, boat, vessel, plant, firm, establishment, corporation, partnership or other business entity.

(e) Signature. Permit applicants shall comply with the following applicable signature requirements:

1. applicants for recreational saltwater fishing permits and non-commercial lobster fishing permits issued in accordance with 322 CMR 7.01(4)(b) and 7.10 through the Online System shall electronically sign their permit after making an online affirmation under the pains and penalties of perjury that the information provided is true and accurate and that the applicant shall comply with all applicable marine fisheries regulations.
2. Applicants for all other permits issued to an individual in accordance with 322 CMR 7.01 shall sign their name on the paper application and the permit.
4. Except as otherwise provided at 322 CMR 7.01(5)(f), whenever a permit is issued to a boat, vessel or business entity, the permit may be signed by of the owner of the boat or vessel or by a duly authorized officer of the business entity that includes the true and correct business title of the duly authorized officer.

(f) Exception. Coastal lobster permits shall be issued to and renewed by a named individual only. The permit application and the permit itself shall be signed by a named individual who shall be the holder. In no event may a coastal lobster permit be issued to or renewed by a business entity or an officer of a business entity.

(g) Effect of Signature. The applicant's signature on either the paper application or their electronic signature through the Online System shall constitute:

1. a declaration under the pains and penalties of perjury that all information contained in the application is true and accurate to the best belief of the applicant;
2. a statement that the applicant and all individuals conducting the activity under authority of the permit have read and are familiar with all applicable statutes contained in M.G.L. c. 130, all applicable regulations contained in 322 CMR and agree to fully comply therewith; and
3. an agreement to display all fish in possession of the applicant and all individuals conducting the activity under authority of the permit to any officer authorized to enforce the marine fishery laws of the Commonwealth.

(h) Fees. All fees required in accordance with M.G.L. c. 130, § 83 shall accompany each application in the form of checks or money orders made payable to the Commonwealth of Massachusetts. Cash may be used only when the application is made in person. In the event an applicant's personal check is not honored by the payor or bank, the permit issued to such applicant shall be void until such time as the required fee in the form of a bank check, certified check or postal money order is received by the Director. Any activity conducted by the applicant under the purported authority of said permit five or more days subsequent to the mailing to the applicant of a notice of the dishonored check shall constitute a violation of the applicable provisions of M.G.L. c. 130 and 322 CMR.

(6) Issuance. Permits shall not be validly issued or of full force and effect unless the following applicable requirements are met:

(a) Paper permits must:

1. identify the activity which is authorized or the privilege which is granted by the Director;
2. contain a financial transaction number;
3. contain a permit number;
4. contain the date of issuance;
5. contain a true and accurate copy of the Director's signature;
6. contain a true and accurate signature of the holder, or if a boat, vessel or business entity, the owner, master or duly authorized officer of the business entity including his or her business title.

- (b) Recreational salt water fishing permits and non-commercial lobster permits issued through the Online System must be based on a completed form provided by the Director through the Online System and electronically signed in accordance with 322 CMR 7.01(5)(e).
- (7) Conditions. The Director may at any time, in his discretion, attach any written conditions or restrictions to the permit deemed necessary or appropriate for purposes of conservation and management or to protect the public health, welfare and safety.
- (8) Duplicates. Duplicate permits may be issued by the Director provided that a satisfactory affidavit signed under the pains and penalties of perjury is submitted by the person who signed the original application and permit attesting to the disposition of the original permit sought to be replaced.
- (9) Suspension and Revocation. In accordance with M.G.L. c. 30A, §§ 10, 11 and 13, and pursuant to the procedural rules of 801 CMR 1.00: *Standard Adjudicatory Rules of Practice and Procedure*, any permit issued by the Director may be suspended or revoked for falsifying any application form, violation of any condition or restriction of the permit, or for violation of any provision of M.G.L. c. 130 or 322 CMR.
- (10) Alteration. Any permit validly issued by the Director which is subsequently and substantially altered, erased or mutilated is invalid.
- (11) Expiration. All permits validly issued shall expire on December 31st following the date of issuance unless otherwise provided by law, modified or extended by the Director in writing, or suspended or revoked by the Director or a court of competent jurisdiction.
- (12) Transfer. Unless otherwise provided in writing by the Director, or in accordance with 322 CMR or M.G.L. c. 130, permits may not be transferred, loaned, leased, exchanged, bartered, sold or possessed by a person other than the holder, boat, vessel, or business entity to which it was issued.
- (13) Requirement to Accommodate Sea Samplers. For the purpose of observing and acquiring information about fishing operations and sampling catches for biological information, all permit holders, as condition of their permit, shall agree to take on board and provide safe access for sea samplers authorized by the Division of Marine Fisheries at a location established by the Division.
- (14) Prohibitions. It is unlawful to:
- (a) conduct any marine fishery activity which is subject to a permit pursuant to M.G.L. c. 130 or 322 CMR without such permit or during a period of suspension or revocation of the permit, or five days after the mailing of a notice pursuant to 322 CMR 7.01(5)(d);
 - (b) falsify any application form, documentation or letters of support in conjunction with any application form;
 - (c) alter, erase, mutilate or falsify any permit issued by the Director;
 - (d) violate or fail to comply with any permit condition or restriction;
 - (e) transfer, loan, lease, exchange, barter or sell any permit or for any person other than the holder to possess a permit except as otherwise provided for in writing by the Director or in accordance with 322 CMR or M.G.L. c. 130;
 - (f) violate any provision of M.G.L. c. 130 or 322 CMR when conducting an activity authorized by permit;
 - (g) fail to produce a permit upon demand of any officer authorized to enforce the marine fishery laws of the Commonwealth, except that persons who have purchased a recreational saltwater fishing permit or non-commercial lobster permit through the Online System may produce their permit by displaying a true, complete and legible image of it on their mobile device;
 - (h) fail to display fish harvested or possessed under authority of a permit to any officer authorized to enforce the marine fishery laws of the Commonwealth;
 - (i) harass, threaten, intimidate, coerce or assault any officer authorized to enforce the marine fishery laws of the Commonwealth;
 - (j) have more than one individual, boat, vessel or business entity fish or conduct business under authority of a permit, unless otherwise provided for in M.G.L. c. 130, 322 CMR or in writing by the Director;

(k) sell or offer to sell any shellfish harvested under authority of a commercial fishermen permit endorsed for shellfish to any person without a valid Massachusetts shellfish transaction card and either a valid Massachusetts driver's license or a Registry of Motor Vehicles Identification card;

(l) have a non-commercial lobster permit on board any vessel fishing under authority of an offshore lobster permit;

(m) conduct any activity designed to construct, reconstruct, rebuild, repair, or alter any anadromous fish passageway as defined in M.G.L. c. 130, §§ 1 and 19, or to construct or build any new anadromous fish passageway without a special permit issued pursuant to 322 CMR 7.01(4).

(n) to sell or offer to sell any regulated groundfish species as defined in 322 CMR 8.12(1): *Definitions* harvested by persons aboard vessels that are engaged in for-hire fishing.

(o) obtain multiple State Waters Multispecies Groundfish Endorsements for the same vessel regardless of the number of commercial permits associated with said vessel.

(p) obtain a State Waters Multispecies Groundfish Endorsement for a vessel authorized to take Multispecies Groundfish or monkfish under a federal permit.

(q) obtain a State Waters Multispecies Groundfish Endorsement for a vessel authorized on or before January 1, 2006 to take Multispecies Groundfish or monkfish under a federal permit if that federal permit has been transferred, leased or sold on or after January 1, 2006;

(r) any vessel to engage in the at-sea transfer of any fish or shellfish subject to possession limits established pursuant to 322 CMR 6.41: *Further Regulation of Catches*.

(s) any vessel with an at-sea processing permit to process any fish or shellfish subject to minimum size limits established pursuant to 322 CMR.

(t) any wholesale truck or retail dealer permit holder to accept raw shellfish from a commercial fisherman or to act as a primary buyer of shellfish.

7.05: Coastal Access Permit (CAP)

(1) The purpose of 322 CMR 7.05 is to help prevent:

(a) uncontrolled, opportunistic, new mobile gear fishing effort from developing in state waters by commercial fishermen not traditionally dependent on state waters' fisheries, and

(b) a shift of mobile gear effort from federal to state waters in response to the 50% fishing effort reduction scheduled by the New England Fishery Management Council to occur by 1998 and described in the Council's Amendment #5 to the Northeast Multispecies Fishery Management Plan. Furthermore, its purpose is to establish the basis for developing a more comprehensive limited access program involving additional conservation measures and CAP transfers.

(2) Definitions. For purposes of 322 CMR 7.05 the following terms shall have the following meanings:

Baseline Vessel means the overall length of the authorized vessel listed on the permit when the permit was first issued in 1992 or the overall length and of the most recently upgraded vessel.

Eligibility Period means January 1, 1989 through the April 2, 1992 commercial fisheries control date described in 322 CMR 7.04.

Mobile Gear means any movable fishing gear or nets which are set, towed, hauled, or dragged through the water for the harvest of fish, squid, and shellfish including but not limited to otter trawls, beam trawls, bottom and mid-water pair trawls, Scottish seines, Danish seines, pair seines, purse seines, and sea scallop dredges.

Vessel Overall Length means the horizontal distance between the outboard side of the foremost part of the stem and the outboard side of the aftermost part of the stern, excluding rudders, outboard motor brackets, and other similar fittings and attachments.

(3) Permit Holders. All mobile gear fishermen fishing in waters under the jurisdiction of the Commonwealth shall obtain a coastal access regulated fishery permit endorsement, issued pursuant to 322 CMR 7.01(4). This permit endorsement is not required for shellfish fishermen who either hold a regulated fishery permit endorsement to operate an ocean quahog, surf clam, or bay quahog

dredge or are authorized by city or town regulations to take shellfish under the authority of a local permit and are fishing only within those city and town waters.

(4) Permit Endorsements. The coastal access permit may be endorsed by the Director allowing the permit holder to participate in fisheries described in 322 CMR 3.02(2): *North Shore Region Year-round Closure (New Hampshire Border to Winthrop)* and 8.08(3) through (6).

(5) Prohibition. It is unlawful for mobile gear fishermen to fish in waters under the jurisdiction of the Commonwealth without a coastal access permit. The coastal access permit shall be carried by the holder at all times and shall be displayed forthwith on demand of any Environmental Police officer or other official authorized to enforce 322 CMR.

(6) Renewals. The Director shall renew all limited entry permits for which transfers are authorized by 322 CMR 7.06, in accordance with 322 CMR 7.01, provided that renewal

applications and all required catch reports are received by February 28th of each year, and the renewal process, including late renewals approved for sufficient cause, is completed prior to June 30th of each year.

(7) Forfeiture. Beginning January 1, 2000, all limited entry permits subject to 322 CMR 7.06 which are not renewed in accordance with 322 CMR 7.06(2) shall be forfeited to the Division. All forfeited permits shall be retired.

(8) Moratorium. A Coastal Access Permit will be issued only to mobile gear fishermen who renew their permits in accordance with 322 CMR 7.05(6). Purse seiners fishing for sea herring, menhaden, may apply for a Coastal Access permit exclusively for purse seining and are exempted from the moratorium.

(9) Eligibility Criteria. (Reserved)

(10) Appeals Process. (Reserved)

(11) Coastal Access Permit (CAP) Transfer Criteria. (Reserved)

(12) Vessel Replacement.

(a) Guidelines. A Coastal Access Permit holder may change the authorized vessel listed on the permit provided that the replacement vessel's overall length does not exceed the overall length of the baseline vessel by more than 10%. Vessel length overall shall not exceed that specified in 322 CMR 7.05(13). Vessel upgrades may occur only once during any five year period. The permit holder must document his/her ownership of the authorized vessel.

(b) Exception. Coastal Access Permit holders authorized to fish a vessel that measures 45 feet or less in length overall may appeal to the Director for an exemption to exceed the allowed increases in overall length provided the upgraded vessel length does not exceed 50 feet in overall length. The Director may not grant the appeal if the vessel being replaced remains in a federal fishery using mobile gear.

(13) Vessel Length Limit.

(a) Limit. Beginning in 1995 the issuance of a Coastal Access Permit shall be limited to those fishermen who held a Coastal Access Permit in 1994 and with vessels equal to or less than 72 feet in overall length. For those vessels determined by the Director to need verification of overall length, written certification of overall length shall be obtained by the vessel owner based on the vessel's construction plans or by a marine surveyor certified by the National Association of Marine Surveyors or accredited by the Society of American Marine Surveyors, and shall be submitted to the Director.

(b) Exceptions.

1. The maximum vessel length limit of 72 feet in overall length may be waived for vessels that were built in or prior to the year 1945 provided the mobile gear fisherman held a 1994 Coastal Access Permit for that vessel, and provided further that the mobile gear fisherman had not previously exercised his right to replace the vessel listed on his 1994 Coastal Access Permit. Replacement vessels shall meet the length and performance requirements effective at the time of transfer.

2. The maximum vessel length limit of 72 feet in overall length may be waived for permit holders who apply for a Coastal Access Permit exclusively for purse seining provided that the permit holder and vessel legally fished with a purse seine for menhaden, herring

or mackerel in Massachusetts waters since 1995. Replacement vessels shall meet the 72 foot maximum vessel length requirement.

7.06: Transfer of Limited Entry Permits

(1) Definitions.

Black Sea Bass means that species of fish known as *Centropristes striata*.

Black Sea Bass Pot Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use black sea bass pots, as defined at 322 CMR 6.12(1): *Definitions*, for the taking of black sea bass for commercial purposes.

Coastal Access Permit means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130 §§ 2 and 80 and 322 CMR 7.01, 7.05 and 7.06, that authorize the permit holder to use mobile gear in the waters under the jurisdiction of the Commonwealth.

Coastal Commercial Lobster Permit means the commercial fisherman permit, issued and managed pursuant to M.G.L. c. 37 and c. 38 and 322 CMR 7.01(2) and 7.03, that authorizes a named individual to fish for, possess and land lobsters and finfish taken from the waters under the jurisdiction of the Commonwealth for commercial purposes.

Conch Pot Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use conch pots, as defined at 322 CMR 6.12(1): *Definitions*, for the taking of whelks for commercial purposes.

Director means the Director of the Division of Marine Fisheries

Fish Pot Regulated Fishery Permit Endorsement means those limited entry regulated fishery permit endorsements for black sea bass pots, scup pots and conch pots, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06.

Immediate Family Member means the legal father, mother, wife, husband, sister, brother, son, daughter, grandparent or grandchild.

Limited Entry Regulated Fishery Permit Endorsement means any regulated fishery permit endorsement that is issued, pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a), and is limited in distribution to renewals only and may be transferred in accordance with this section. Limited entry regulated fishery permit endorsements include, but are not limited to: Atlantic menhaden; black sea bass; black sea bass pots; bluefish gillnets; bluefin tuna seines; coastal access permits; conch pots, fluke, horseshoe crabs, sink gillnets; ocean quahog, scup pots, state-waters groundfish, surf clams, and quahog dredges.

Owner-operator means that the named individual listed on the limited entry regulated fishery permit endorsement must be onboard the vessel when commercial fishing is being conducted under the authority of that limited entry regulated fishery permit endorsement.

Regulated Fishery Permit Endorsement means any required special permit, issued in accordance with M.G.L. c. 130, § 80 and 322 CMR 7.01(4)(a), for a fishery, gear type or fishing activity regulated by the Director in the form of an endorsement to the commercial fishing permit.

Scup means that species of fish known as *Stenotomus chrysops*.

Scup Pot Regulated Fishery Permit Endorsement means those regulated fishery permit endorsements, issued and managed pursuant to M.G.L. c. 130, §§ 2 and 80 and 322 CMR 7.01(4)(a) and 7.06, that authorize a named individual to use scup pots, as defined at 322 CMR 6.12(1): *Definitions*, for the taking of scup.

Whelk means those species known as *Busyon carica* (knobbed whelk) and *Busycotypus canaliculatus* (channeled whelk).

(2) Renewal of Limited Entry Regulated Fishery Permit Endorsements. Annual applications for the renewal of limited entry regulated fishery permit endorsements, which shall include any catch reports or other documentation required by any provision of M.G.L. c. 130 and 322 CMR must be post marked or otherwise marked with the date of receipt by the Division of Marine Fisheries no

later than 12:00 A.M. on the last day of February. Renewal applications not post marked or otherwise received by the Division of Marine Fisheries by this deadline may be denied and returned to the applicant. Limited entry regulated fishery permit endorsements that are not post marked or received by the Division of Marine Fisheries prior to 12:00 A.M. on the last day of February may be approved by the Director.

(3) Retiring of Limited Entry Regulated Fishery Permit Endorsements. All limited entry regulated fishery permit endorsements that are not renewed in accordance with 322 CMR 7.06(2) are automatically forfeited to the Division of Marine Fisheries. All forfeited limited entry regulated fishery permits are retired.

(4) Transfers of Limited Entry Regulated Fishery Permit Endorsements.

(a) Transfer Eligibility Criteria. Limited entry regulated fishery permit endorsements are non-transferable unless approved by the Director. The Director may approve the transfer of a limited entry regulated fishery permit endorsement subject to the following criteria:

1. The holder of the limited entry regulated fishery permit endorsement is in good standing with the marine fisheries laws and regulations at M.G.L. c. 130 and 322 CMR.
2. The limited entry regulated fishery permit endorsement has been actively fished during four of the last five years, as evidenced by commercial fisherman catch reports and SAFIS dealer reports. Final determination of active fishing shall be specified in written policy provided by the Director.
3. If a permit holder transfers a limited entry regulated fishery Coastal Access Permit endorsement or a Coastal Lobster Permit other limited entry regulated fishery permit endorsements held in conjunction with that permit or permit endorsement may be transferred as part of that transaction, at the request of the permit holder and with approval of the Director.

(b) Transferee Eligibility Criteria.

1. Fish Pot Regulated Fishery Permit Endorsements. To be eligible to obtain a transferable limited entry regulated fishery fish pot permit endorsement, the transferee must document that he/she has one-year full-time or the equivalent part-time commercial fishing experience in a commercial pot fishery or two-year full-time or the equivalent part time commercial fishing experience in another commercial fishery, as determined by the Director.
2. All Other Limited Entry Regulated Fishery Permit Endorsements. To be eligible to obtain any limited entry regulated fishery permit endorsement, other than a limited entry regulated fishery fish pot permit endorsement, the transferee must document that he/she has one-year full-time or the equivalent part-time commercial fishing experience in a commercial fishery, as determined by the Director.

(c) Exceptions to Transfer Eligibility Criteria.

1. The actively fished performance criteria established at 322 CMR 7.06(4)(a)2. may be waived in instances of a posthumous transfer; a recent disability to the permit holder; or for persons on active military duty, provided that the limited entry regulated fishery permit endorsement was fished four out of the five years preceding the death, disability or military duty. In the case of disability there must be a signed statement from a physician that verifies that the disability prevents the permit holder from fishing. Final determination of active fishing shall be specified in written policy provided by the Director.
2. The experience criteria at 322 CMR 7.06(4)(b) may be waived for posthumous transfers to immediate family members.

(d) Restrictions.

1. Transfers shall involve the sale or transfer of fishing-related business assets.
2. Transfers may be denied if any evidence of fraud is found, or if the Director determines that the transfer is not in the best interests of the Commonwealth.

(e) Restrictions Specific to the Coastal Access Permit.

1. Coastal Access Permits are authorized for use on a specific vessel. If the Coastal Access Permit is issued to the recipient of a transfer, the vessel that is authorized may be either

the same vessel as the original permit holder or another vessel that does not exceed by more than 20% the horsepower of the original vessel, nor exceed by more than 10% the length overall, gross registered or net tonnage of the original vessel for which the Coastal Access Permit was issued. Vessel length overall shall not exceed that specified in 322 CMR 7.05(13).

2. No person or corporation may hold more than 5% of the existing Coastal Access Permits issued by DMF.
3. The recipient of a transfer, after obtaining a permit, may not transfer the permit until he or she has fished said permit for two years. This requirement may be waived in instances of a posthumous transfer, a recent disability to the permit holder, or active military duty, provided the performance criteria at 322 CMR 7.06(4)(a)2. were met before death, disability or military service occurred.

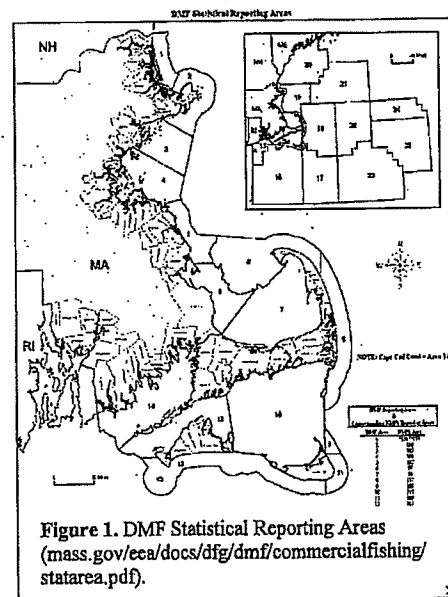
(5) Owner-operator Requirements.

(a) Fish Pot Regulated Fishery Permit Endorsements. All fish pot regulated fishery permit endorsements are issued to a named individual who shall be the owner-operator of that commercial fishing business. This requirement may be waived by means of a letter of authorization from the Director for immediate family or active military duty or for up to two years and subject to annual renewal in instances of a posthumous transfer or disability to the permit holder provided that performance criteria at 322 CMR 7.06(4)(a)2. were met prior to the request for a letter of authorization.

Expected Number of Vessels and Trips

The Commonwealth's primary scalloping grounds exist in Cape Cod Bay and along the backside of the Cape; a region comprised of DMF Statistical Reporting Areas 5-9 (hereafter referred to as "Areas"; see Figure 1). Area 8, surrounding Provincetown, has historically dominated state waters landings.

A secondary state waters scallop fishery is conducted around the North Shore, primarily off Cape Ann (Area 1). Area 1, along with Areas 2-4 equate to the Massachusetts state waters portion of the NGOM (Figure 1). The southern boundary of the NGOM bisects Area 4 (Boston Harbor), but minimal scallop harvest comes out of this area, so all Area 4 landings are included in calculations of scallop harvest from the MA state waters portion of the NGOM.



The fishery prosecuted within the MA state waters portion of the NGOM (Areas 1-4) has generally been split between a handful of state waters only permit holders and dual permit holders; both in terms of number of active permit holders and relative percent of harvest from the area. From 2012-2015 the number of dual permit holders actively scalloping in Areas 1-4 has held steady at six (6) individuals. There are an additional half-dozen dual permit holders (LAGC-IFQ or LAGC-NGOM) that actively land scallops from the NGOM but have not traditionally harvested from the Massachusetts state waters portion of the management area (i.e., Areas 1-4).

Average Landings per Trip

The maximum state possession limit is 200-lbs. of shucked sea scallops, 2,000-lbs. of whole in-shell scallops (322 CMR 6.04(3)(a)). The whole in-shell scallop possession limit is 2,000 pounds. For any commercial fisherman landing both whole in-shell sea scallops and shucked sea scallops the weight of whole in-shell sea scallops shall be multiplied by .10 to determine compliance with the possession and landing limits.

On average:

1. 694-lbs. of whole in-shell scallops are landed from state waters per trip, statewide; and
2. 618-lbs of whole-in shell scallops are landed per trip from Areas 1-4.

Average per-Pound Value

Prices are only available for statewide landings. On average:

1. whole in-shell scallops sold for \$1.95 per live-lb.; and
2. shucked sea scallops sold for \$13.05 per meat lb.