

## CORRESPONDENCE





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

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



Dear John:

I want to bring to your attention our recent determination that the scallop fishery exceeded the incidental take statement (ITS) effort surrogate established in the 2012 Atlantic Sea Scallop Biological Opinion for the 2015-2016 and 2016-2017 periods. The Analysis and Program Support Division performs a data query annually as part of the incidental take monitoring scheme for the 2012 Biological Opinion. The most recent query, which included updates to previous years, found that from May through November 2016, the scallop fleet expended 451,741 hours of scallop dredge effort in Mid-Atlantic waters.<sup>1</sup> Based upon that effort total, the average dredge hours for 2015-2016 and 2016-2017 were 365,500 and 376,717 hours, respectively. The ITS trigger established in the 2012 Biological Opinion is a 2-year average of 359,797 dredge hours. The 2012 Biological Opinion states that, *"If the two-year benchmark average of 359,797 dredge hours is exceeded in the future, then we will reinitiate consultation because we assume the higher level of effort will result in a level of sea turtle take in excess of the levels exempted by the ITS."*

After investigating this further, we have concluded the circumstances surrounding the dredge hour estimate in 2016 were particularly unusual. In 2016, all scallop access area allocations and effort occurred in the Mid-Atlantic Access Area. During this time, the western portion of the Elephant Trunk Area, which contained the highest density of larger scallops in the Mid-Atlantic Access Area, was not opened for access to increase growth potential. This required vessels to fish in less dense areas on smaller scallops, which resulted in an increase in tow times/dredge hours compared to other years. Furthermore, the fleet was allocated a higher level of days-at-sea (DAS) per vessel compared to fishing years 2015 and 2017. Many of these DAS were likely fished in the Mid-Atlantic open area due to the closure of the Closed Area 2 Extension, which had been a commonly fished open area prior to 2016. We also think that the prevalence and intensity of a nematode in scallop meats, which peaked in 2016 and resulted in unmarketable scallops, may have led to additional fishing to reach vessel allocations in the Mid-Atlantic Access Area.

Based on the current condition of the scallop resource (i.e., location, density, and abundance), we do not expect the scallop fishery to exceed the Mid-Atlantic dredge hour benchmark of 359,797 hours over any 2-year period in the foreseeable future. However, moving forward, Sustainable Fisheries Division staff will work with the Northeast Fisheries Science Center and the New

<sup>1</sup> Mid-Atlantic waters are inclusive of NMFS statistical areas between 525 and 700, excluding areas 538, 539, 551, 561, and 562 per the 2012 Scallop Biological Opinion monitoring scheme.

JP 2/20/20

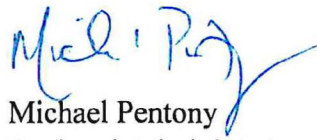


England Fishery Management Council's Plan Development Team to project dredge hours in the Mid-Atlantic using the Scallop Area Management Simulator (SAMS) model. Using the SAMS model in this context will allow the Council to consider projected dredge hours during the development of annual specification alternatives in order to avoid exceeding the dredge hour trigger in the future.

As previously noted, because the 2-year dredge hour benchmark was exceeded, we have reinitiated formal consultation under the Endangered Species Act on the operation of the scallop fishery. Staff and I will update you on the progress of this consultation at the April Council meeting.

Please contact me if you have any questions.

Sincerely,



Michael Pentony  
Regional Administrator

cc: Thomas A. Nies, New England Fishery Management Council, Executive Director  
Dr. Jon Hare, Northeast Fisheries Science Center, Director





**Dan McKiernan**  
*Acting Director*

# Commonwealth of Massachusetts

## Division of Marine Fisheries

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Boston, Massachusetts 02114

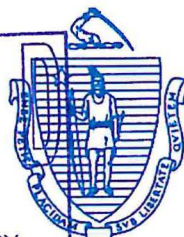
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FEB 14 2020

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*Deputy Commissioner*

February 14, 2020

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

Dear Mr. Nies,

I am writing to inform you that I will be stepping down as a member of the Scallop Plan Development Team (PDT), effective 28 February 2020, in concurrence with my departure from the Massachusetts Division of Marine Fisheries (MA DMF). I have served on the Scallop PDT during two separate terms, the first for five years (September 2007 - November 2012) and more recently as a representative of MA DMF from April 2016 - February 2020. During that time, I formed lasting professional relationships with your staff and gained excellent experience in the fields of biology, stock assessment, and fisheries policy/management.

I want to thank your staff, Jonathon Peros and Sam Asci, for their level of professionalism, attention to detail, and most importantly, ability to listen, solicit, and consider the full range of input from PDT members throughout the decision-making process. It has been a true pleasure to work these staff members, and I'm grateful for their leadership and inclusivity.

I hope to maintain collaborations with your staff, PDT members, and fishery stakeholders across management plans and issues, and I would consider reapplying to serve on the Scallop PDT in the future.

Thank you for the opportunity.

Sincerely,

Cate O'Keefe, PhD  
Marine Science and Policy Analyst  
Massachusetts Division of Marine Fisheries  
836 South Rodney French Blvd.  
New Bedford, MA 02744



## Sherie Goutier

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**From:** Jonathon Peros  
**Sent:** Friday, January 31, 2020 2:56 PM  
**To:** Michael Quinn  
**Cc:** Charles Quinn; comments; Tom Nies  
**Subject:** RE: Nantucket Light Ship West

Hi Michael,

Thank you for your letter. We'll make sure that this letter is available in correspondence for upcoming meetings.

I expect that we will discuss the cate rates in the NLS-West at our next Scallop AP meeting in February when we talk about FY 2019 fishery performance: <https://s3.amazonaws.com/nefmc.org/200226-27-Scallop-AP-cte-meeting-notice.pdf>

In the future, you can send correspondence to the Council's Executive Director Mr. Thomas Nies, or to [comments@nefmc.org](mailto:comments@nefmc.org).

Jonathon

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**From:** Michael Quinn <mike@standardmarineoutfitters.com>  
**Sent:** Friday, January 31, 2020 2:46 PM  
**To:** Jonathon Peros <jperos@nefmc.org>  
**Cc:** Charles Quinn <charlie@quinnfisheries.com>  
**Subject:** Nantucket Light Ship West

Dear Mr. Peros,

As a scallop limited access permit holder of 12 vessels, I believe it is imperative that the New England Fishery Management Council investigates the low catch rate in the Nantucket Light Ship West access area. The daily catch ranges from 500-900 pounds per day and our company is at risk of significant financial loss. I am also concerned for the hardworking captains and crew that we employ as they may experience financial hardships within their own families.

It is my hope that the council takes deep consideration into finding a solution regarding this unfortunate situation.

If you have any questions or would like to discuss this further, please do not hesitate to reach out to me. I would be happy to help brainstorm a solution to matter stated above.

JP 2/4/20

Sincerely,

Charles Quinn Jr

Michael Quinn

[charlie@quinnfisheries.com](mailto:charlie@quinnfisheries.com)

[mike@standardmarineoutfitters.com](mailto:mike@standardmarineoutfitters.com)

508-509-6620

508-525-3731

Thank you,

**Michael Quinn**

General Manager

Standard Marine Outfitters

137 Popes Island NB MA 02740

M:508-525-3731 O:508-990-7918

Email: [mike@standardmarineoutfitters.com](mailto:mike@standardmarineoutfitters.com)

<http://www.standardmarineoutfitters.com>

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-----Original Message-----

From: Brady Lybarger [<mailto:jettyhunter@icloud.com>]

Sent: Friday, January 31, 2020 6:24 PM

To: Tom Nies

Subject: NLS West 2020 Option

To Whom it may concern,

In lieu of the recent fishing activity in 2019 we have a potential problem that the NLS West pounds will not be caught by the May 31st 2020 deadline.

Im proposing that NLS West does not revert to open bottom on June 1, 2020 but remains an area closure for one more year to give the chance to catch the remaining 4.6-6,000,000 pounds that was allocated from 2019.

If the area goes to open bottom June 1, 2020 and the catch estimates are lower than 2k a day there will be almost no DAS used in the area formerly known as NLS West. Therefore having an area open with no fishing?

The sensible choice would be to keep it available to the fishermen and try to catch what was rightfully allocated.

If the pounds remaining still can't be caught in NLS West by 2021 it would be clear that NLS West was over estimated and I suggest the remaining pounds can be harvested from NLS South Deep in 2021 to make things right.

I'm not even sure that this is possible but I feel that it is most sensible and fair choice.

This has been done in the past with CA1 in 2013 over 1.6 million pounds that was held for 5 years and then moved CA1 north.

As a Scallop AP member we should be consistent with our motions.

Concerned Scallop Captain and Scallop AP Member...

Brady Lybarger

VP 2/4/20





**Sherie Goutier**

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**From:** comments  
**Subject:** FW: Nantucket West seed

**From:** [nas3rd@aol.com](mailto:nas3rd@aol.com) <[nas3rd@aol.com](mailto:nas3rd@aol.com)>  
**Sent:** Thursday, January 30, 2020 12:18 PM  
**To:** Jonathon Peros <[jperos@nefmc.org](mailto:jperos@nefmc.org)>  
**Subject:** Nantucket West seed

Good Day Jonathan, My name is Norval Stanley, I am an owner with Bergies Seafood Inc. and two scallopers, F/V Kathy & Jackie and F/V Sovereign Star.

I am writing in regards to the closed area known as Nantucket Lightship West. My partners and I am concerned with the harvesting of small scallops that should be left to grow into a sustainable fishing ground. We would hope you could consider moving the trips that are left to another area that would help with the long term viability of Nantucket West as a productive area for scalloping.

Thank you,  
Norval (Sonny) Stanley

jp 1/31/20





**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

**JAN 08 2020**

Chairman John F. Quinn, PhD  
New England Fishery Management Council  
50 Water Street, Mill 2  
Newburyport, MA 01950

Dear John:

I want to inform you that Emily Gilbert will be my designee on the Atlantic Sea Scallop and Atlantic Herring Committees. Emily was selected to this position due to her breadth of experience and knowledge of our region's fisheries. Emily is serving as the acting team lead for these fisheries for the Sustainable Fisheries Division and she will transition into a permanent role once we have completed the hiring process.

If you have any questions regarding this change, please contact Sarah Heil, Assistant Regional Administrator for Sustainable Fisheries, at (978) 281-9257.

Sincerely,

Michael Pentony  
Regional Administrator

cc: Tom 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 7, 2020

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

Dear Mike:

In accordance with provisions of the Magnuson-Stevens Act, I reviewed the draft regulatory text for Framework 32 to the Scallop FMP in order to deem whether it is consistent with the action's text and the Council's intent. The review was based on the draft regulatory text provided to the Council staff by email on December 26, 2019. The review focused only on the regulatory changes resulting from Framework 32, and not other modifications NMFS made under other authorities. As a result of discussion with your staff, several clarifications were made to the text provided to the Council. They have been incorporated and are reflected in the following enclosure. I deem the regulatory text in the enclosure consistent with Council intent for implementing measures proposed by Framework 32.

Please feel free to call me with any concerns.

Sincerely,

John F. Quinn, J.D., Ph.D.  
Council Chairman

Enclosure



#### **§648.4 Vessel permits.**

(a)(2)(ii)(G)(1)(ii) *NGOM and Incidental scallop permit.* A vessel may be issued either an NGOM or Incidental scallop permit for each fishing year, and a vessel owner may not change his/her LAGC scallop permit category during the fishing year, except as specified in this paragraph,

(a)(2)(ii)(G)(1)(ii). The owners of a vessel issued a NGOM or Incidental scallop permit must elect a permit category in the vessel's permit application and shall have one opportunity each fishing year to request a change in its permit category by submitting an application to the Regional Administrator within 45 days of the effective date of the vessel's permit. After that date, the vessel must remain in that permit category for the duration of the fishing year.

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

(f)(4) *Catch reports.* (i) For trips greater than 24 hours, the owner or operator of a limited access or LAGC scallop vessel with an IFQ permit that fishes for, possesses, or retains scallops, and is not fishing under a NE Multispecies DAS or sector allocation, must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished, including open area trips, access area trips as described in §648.59(b)(9), Northern Gulf of Maine RSA trips, and trips accompanied by a NMFS-approved observer. The reports must be submitted for each day (beginning at 0000 hr and ending at 2400 hr) and not later than 0900 hr of the following day. Such reports must include the following information:

- (A) VTR serial number;
- (B) Date fish were caught;
- (C) Total pounds of scallop meats kept;
- (D) Total pounds of all fish kept.

#### **§648.14 Prohibitions.**

(i) *Atlantic sea scallops—(1) All persons.* It is unlawful for any person to do any of the following:

(i) *Permit requirement.* Fish for, possess, or land, scallops without the vessel having been issued and carrying onboard a valid scallop permit in accordance with §648.4(a)(2), unless the scallops were harvested by a vessel that has not been issued a Federal scallop permit and fishes for scallops exclusively in state waters.

(ii) *Gear and crew requirements.* Have a shucking or sorting machine on board a vessel while in possession of more than 600 lb (272.2 kg) of shucked scallops, unless that vessel has not been issued a scallop permit and fishes exclusively in state waters.

(iii) *Possession and landing.* (A) Fish for or land per trip, or possess at any time prior to a transfer to another person for a commercial purpose, other than solely for transport on land:

(1) In excess of 40 lb (18.1 kg) of shucked scallops at any time, 5 bu (1.76 hL) of in-shell scallops shoreward of the VMS Demarcation Line, or 10 bu (3.52 hL) of in-shell scallops seaward of the VMS Demarcation Line, unless:

(i) The scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters.

(ii) The scallops were harvested by a vessel that has been issued and carries on board a limited access scallop permit and is properly declared into the scallop DAS, Area Access program, or the NGOM management area.

(iii) The scallops were harvested by a vessel that has been issued and carries on board an IFQ scallop permit and is properly declared into the IFQ scallop fishery or is properly declared into the NE multispecies, Atlantic surfclam or quahog fishery, or other fishery requiring a VMS declaration, and is not fishing in a sea scallop access area.

(iv) The scallops were harvested by a vessel that has been issued and carries on board an NGOM or IFQ scallop permit, and is properly declared into the NGOM scallop management area, and the LAGC portion of the NGOM TAC specified in §648.62 has not been harvested.

(v) [Reserved]

(2) In excess of 200 lb (90.7 kg) of shucked scallops at any time, 25 bu (8.8 hL) of in-shell scallops inside the VMS Demarcation Line, or 50 bu (17.6 hL) of in-shell scallops seaward of the VMS Demarcation Line, unless:

(i) The scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters.

(ii) The scallops were harvested by a vessel that has been issued and carries on board a limited access scallop permit and is properly declared into the scallop DAS or Area Access program.

(iii) The scallops were harvested by a vessel that has been issued and carries on board an IFQ scallop permit issued pursuant to §648.4(a)(2)(ii)(A), is fishing outside of the NGOM scallop management area, and is properly declared into the general category scallop fishery or is properly declared into the NE multispecies, or Atlantic surfclam or quahog fishery, or other fishery requiring a VMS declaration, and is not fishing in a sea scallop access area.

(iv) The scallops were harvested by a vessel that has been issued and carries on board a scallop permit and the vessel is fishing in accordance with the provisions of the state waters exemption program specified in §648.54.

(v) [Reserved]

(3) In excess of 600 lb (272.2 kg) of shucked scallops at any time, 75 bu (26.4 hL) of in-shell scallops per trip South of 42°20' N. Lat. and shoreward of the VMS Demarcation Line or 100 bu (35.2 hL) in-shell scallops South of 42°20' N. Lat. and seaward of the VMS Demarcation Line, unless:

(i) The scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters.

(ii) The scallops were harvested by a vessel that has been issued and carries on board a limited access scallop permit issued pursuant to §648.4(a)(2)(i) and is properly declared into the scallop DAS or Area Access program.

(iii) The scallops were harvested by a vessel that has been issued and carries on board a scallop permit and the vessel is fishing in accordance with the provisions of the state waters exemption program specified in §648.54.

(iv) The scallops were harvested by a vessel that has been issued and carries on board an IFQ scallop permit, is carrying an at-sea observer, and is authorized by the Regional Administrator to have, and the vessel does not exceed, an increased possession limit to compensate for the cost of carrying the observer.

(4) Scallops in Federal waters of the NGOM management area on a vessel that has been issued and carries on board a NGOM permit and has declared into the state waters fishery of the NGOM management area.

(5) Scallops in the Stellwagen Bank Scallop Closed Area, as described in § 648.62(e) unless transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in §648.2.

(iv) *Transfer and purchase.* (A) Land, offload, remove, or otherwise transfer; or attempt to land, offload, remove or otherwise transfer; scallops from one vessel to another, unless that vessel has not been issued a scallop permit and fishes exclusively in state waters.

(B) Sell, barter, or trade, or otherwise transfer scallops from a vessel; or attempt to sell, barter or trade, or otherwise transfer scallops from a vessel; for a commercial purpose, unless the vessel has been issued a valid scallop permit pursuant to §648.4(a)(2), or the scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters.

(C) Purchase, possess, or receive for commercial purposes; or attempt to purchase or receive for commercial purposes; scallops from a vessel other than one issued a valid limited access or LAGC scallop permit, unless the scallops were harvested by a vessel that has not been issued a Federal scallop permit and fishes for scallops exclusively in state waters.

(D) Sell or transfer to another person for a commercial purpose, other than solely for transport on land, any scallops harvested from the EEZ by a vessel issued a Federal scallop permit, unless the transferee has a valid scallop dealer permit.

(v) *Ownership cap.* Have an ownership interest in more than 5 percent of the total number of vessels issued limited access scallop permits and confirmations of permit history, except as provided in §648.4(a)(2)(i)(M).

(vi) *Closed area requirements—*

(A) *Habitat Management Areas.* (1) Fish for scallops in, or possess or land scallops from, the Habitat Management Areas specified in §648.370.



(2) Transit or enter the Habitat Management Areas specified in §648.370, except as provided by §648.61(b).

(B) *Scallop Rotational Areas.* (1) Fish for scallops in, or possess or land scallops from, the Scallop Rotational Areas closed to the scallop fishery through the specifications or framework adjustment processes specified in §648.55.

(2) Transit or enter the Scallop Rotational Areas, except as provided by §648.59(a) or (b).

(vii) *Scallop sectors.* Fail to comply with any of the requirements or restrictions for general category scallop sectors specified in §648.63.

(viii) [Reserved]

(ix) *Observer program.* (A) Refuse, or fail, to carry onboard an observer after being requested to by the Regional Administrator or the Regional Administrator's designee.

(B) Fail to provide information, notification, accommodations, access, or reasonable assistance to a NMFS-approved observer conducting his or her duties aboard a vessel, as specified in §648.11.

(C) Fail to comply with the notification, observer services procurement, and observer services payment requirements of the sea scallop observer program specified in §648.11(g).

(x) *Presumption.* For purposes of this section, the following presumption applies: Scallops that are possessed or landed at or prior to the time when the scallops are received by a dealer, or scallops that are possessed by a dealer, are deemed to be harvested from the EEZ, unless the preponderance of evidence demonstrates that such scallops were harvested by a vessel without a scallop permit and fishing exclusively for scallops in state waters.

(2) *Limited access scallop vessel permit holders.* It is unlawful for any person owning or operating a vessel issued a limited access scallop permit under §648.4(a)(2) to do any of the following:

(i) *Minimum shell height.* Land, or possess at or after landing, in-shell scallops smaller than the minimum shell height specified in §648.50(a).

(ii) *Vessel, gear, and crew restrictions.* (A) Possess more than 40 lb (18.1 kg) of shucked, or 5 bu (1.76 hL) of in-shell scallops, or participate in the scallop DAS or Area Access programs, while in the possession of trawl nets that have a maximum sweep exceeding 144 ft (43.9 m), as measured by the total length of the footrope that is directly attached to the webbing of the net, except as specified in §648.51(a)(1), unless the vessel is fishing under the Northeast multispecies or monkfish DAS program.

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

(1) Fish with, or have available for immediate use, trawl nets of mesh smaller than the minimum size specified in §648.51(a)(2).

(2) Fail to comply with any chafing gear or other gear obstruction restrictions specified in §648.51(a)(3).

(3) Fail to comply with the turtle deflector dredge vessel gear restrictions specified in §648.51(b)(5), and turtle dredge chain mat requirements in §223.206(d)(11) of this title.

(4) Fish under the small dredge program specified in §648.51(e), with, or while in possession of, a dredge that exceeds 10.5 ft (3.2 m) in overall width, as measured at the widest point in the bail of the dredge.

(5) Fish under the small dredge program specified in §648.51(e) with more persons on board the vessel, including the operator, than specified in §648.51(e)(3), unless otherwise authorized by the Regional Administrator.

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

(7) Fish in a Sea Scallop Access Area, as described in §648.60, with more persons on board the vessel than the number specified in §648.51(c) or §648.51(e)(3)(i), unless otherwise authorized by the Regional Administrator.

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

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

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

(iii) *Possession and landing.* (A) Land scallops after using up the vessel's annual DAS allocation or land scallops on more than one trip per calendar day when not participating under the DAS allocation program pursuant to §648.10, unless exempted from DAS allocations as provided in the state waters exemption, specified in §648.54.

(B) Fish for, possess, or land more than 50 bu (17.62 hL) of in-shell scallops inside the VMS Demarcation Line on or by a vessel, except as provided in the state waters exemption, as specified in §648.54.

(C) Fish for, possess, or land per trip, at any time, scallops in excess of any sea scallop possession and landing limit set by the Regional Administrator in accordance with §648.59(b)(3) when properly declared into the Sea Scallop Area Access Program as described in §648.59.

(D) Fish for, possess, or land yellowtail flounder from a vessel on a scallop fishing trip.

(E) Fish for, possess, or land scallops from the NGOM, unless on a scallop RSA compensation trip and allocated NGOM RSA allocation as described in §648.56(d).

(iv) *DAS.* (A) Fish for, possess, or land scallops after using up the vessel's annual DAS allocation and Access Area trip allocations, or when not properly declared into the DAS or an Area Access program pursuant to §648.10, unless the vessel has been issued an LAGC scallop permit pursuant to §648.4(a)(2)(ii) and is lawfully fishing in a LAGC scallop fishery, unless exempted from DAS allocations as provided in state waters exemption, specified in §648.54.

(B) Combine, transfer, or consolidate DAS allocations, except as allowed for one-for-one Access Area trip exchanges as specified in §648.59(b)(3)(ii).

(C) Fail to comply with any requirement for declaring in or out of the DAS allocation program or other notification requirements specified in §648.10.

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

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

(v) *VMS requirements.* (A) Fail to have an approved, operational, and functioning VMS unit that meets the specifications of §648.9 on board the vessel at all times, unless the vessel is not subject to the VMS requirements specified in §648.10.

(B) If the vessel is not subject to VMS requirements specified in §648.10(b), fail to comply with the requirements of the call-in system specified in §648.10(c).

(C) If a limited access scallop vessel declares a scallop trip before first crossing the VMS Demarcation Line, but not necessarily from port, in accordance with §648.10(f), fail to declare out of the fishery in port and have fishing gear not available for immediate use as defined in §648.2, until declared into the scallop fishery.

(D) Once declared into the scallop fishery in accordance with §648.10(f), change its VMS declaration until the trip has ended and scallop catch has been offloaded, except as specified at §648.53(f)(3).

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

(vi) *Scallop rotational area management program and scallop access area program requirements.* (A) Fail to comply with any of the provisions and specifications of §648.59.

(B) Transit the Closed Area II Scallop Rotational Area, as defined in §648.60(d), unless there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in §648.2.

(C) Fish for, possess, or land scallops in or from an access area in excess of the vessel's remaining specific allocation for that area as specified in §648.59(b)(3) or the amount permitted to be landed from that area.

(D) Possess more than 50 bu (17.6 hL) of in-shell scallops outside the boundaries of a Sea Scallop Access Area by a vessel that is declared into the Area Access Program as specified in §648.59.

(E) Fish for, possess, or land scallops in or from any Sea Scallop Access Area without an observer on board, unless the vessel owner, operator, or manager has received a waiver to carry an observer for the specified trip and area fished.

(F)-(G) [Reserved]

(vii) *State waters exemption program.* Fail to comply with any requirement for participating in the State Waters Exemption Program specified in §648.54.

(viii) Fish for scallops in, or possess scallops or land scallops from, the yellowtail flounder accountability measure closed areas specified in §648.64 during the period specified in the notice announcing the closure and based on the closure table specified in §648.64.

(ix) Fish for scallops in the Mid-Atlantic Accountability Measure Area, described in §648.64(b)(2) with gear that does not meet the specifications described in §648.64(c) during the period specified in the notice announcing the Southern New England/Mid-Atlantic Yellowtail Flounder or the Southern Windowpane Flounder Gear Restricted Area described in §648.64(e) and (g), respectively.

(x) Fish for scallops in the Georges Bank Accountability Measure Area described in §648.64(b)(1), with gear that does not meet the specifications described in §648.64(c) during the period specified in the notice announcing the Georges Bank Yellowtail Flounder or the Northern Windowpane Flounder Gear Restricted Area described in §648.64(d) and (f), respectively.

(3) *LAGC scallop vessels.* It is unlawful for any person owning or operating a vessel issued an LAGC scallop permit to do any of the following:

(i) *Permit requirements.* (A) Fail to comply with the LAGC scallop permit restrictions as specified in §648.4(a)(2)(ii)(G) through (O).

(B) Fish for, possess, or land scallops on a vessel that is declared out of scallop fishing unless the vessel has been issued an Incidental scallop permit, or is an IFQ scallop vessel that is properly declared into the IFQ scallop, NE multispecies, Atlantic surfclam or quahog, or other fishery requiring a VMS declaration.

(ii) *Gear requirements.* (A) Possess or use trawl gear that does not comply with any of the provisions or specifications in §648.51(a), unless the vessel is fishing under the Northeast multispecies or monkfish DAS program.

(B) Possess or use dredge gear that does not comply with any of the provisions or specifications in §648.51(b).

(iii) *Possession and landing.* (A) Land scallops more than once per calendar day.

(B) Possess in-shell scallops while in possession of the maximum allowed amount of shucked scallops specified for each LAGC scallop permit category in §648.52.

(C) Declare into the NGOM scallop management area after the effective date of a notification published in the FEDERAL REGISTER stating that the LAGC portion of the NGOM scallop management area TAC has been harvested as specified in §648.62, unless the vessel is fishing exclusively in state waters, declared a state-waters only NGOM trip, and is participating in an approved state waters exemption program as specified in §648.54, or unless the vessel is participating in the scallop RSA program as specified in §648.56.

(D) Fish for, possess, or land scallops in or from the NGOM scallop management area after the effective date of a notification published in the FEDERAL REGISTER that the LAGC portion of the NGOM scallop management area TAC has been harvested, as specified in §648.62, unless the

vessel possesses or lands scallops that were harvested south of 42°20' N lat., the vessel is transiting the NGOM scallop management area, and the vessel's fishing gear is properly stowed and not available for immediate use in accordance with §648.2 or unless the vessel is fishing exclusively in state waters, declared a state-waters only NGOM trip, and is participating in an approved state waters exemption program as specified in §648.54, or unless the vessel is participating in the scallop RSA program as specified in §648.56.

(iv) *VMS requirements.* (A) Fail to comply with any of the VMS requirements specified in §§648.10, 648.59, or 648.62.

(B) Fail to comply with any requirement for declaring in or out of the LAGC scallop fishery or other notification requirements specified in §648.10(b).

(C) If an LAGC scallop vessel declares a scallop trip shoreward of the VMS Demarcation Line, but not necessarily from port, in accordance with §648.10(f), fail to declare out of the fishery in port and have fishing gear not available for immediate use as defined in §648.2, until declared into the scallop fishery.

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

(v) *Scallop rotational area management program and scallop access area program requirements.* (A) Fail to comply with any of the requirements specified in §648.59.

(B) Declare into or leave port for an area specified in §648.60 after the effective date of a notification published in the FEDERAL REGISTER stating that the number of LAGC trips have been taken, as specified in §648.59.

(C) Fish for or land per trip, or possess in excess of 40 lb (18.1 kg) of shucked scallops at any time in or from any Sea Scallop Access Area specified at §648.60, unless declared into the Sea Scallop Access Area Program.

(D) Fish for, possess, or land scallops in or from any Sea Scallop Access Area without an observer on board, unless the vessel owner, operator, or manager has received a waiver to carry an observer for the specified trip and area fished.

(E) Transit the Closed Area II Scallop Rotational Area, as defined in §648.60 (d), unless there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in §648.2.

(vi) *Sectors.* Fail to comply with any of the requirements and restrictions for General Category sectors and harvesting cooperatives specified in §648.63.

(4) *IFQ scallop permit.* It is unlawful for any person owning or operating a vessel issued an IFQ scallop permit to do any of the following:

(i) *Possession and landing.* (A) Fish for or land per trip, or possess at any time, in excess of 600 lb (272.2 kg) of shucked, or 75 bu (26.4 hL) of in-shell scallops per trip, or 100 bu (35.2 hL) in-shell scallops seaward of the VMS Demarcation Line, unless the vessel is carrying an observer as specified in §648.11 and an increase in the possession limit is authorized by the Regional Administrator and not exceeded by the vessel, as specified in §§648.52(g) and 648.59(d).

(B) Fish for or land per trip, or possess at any time, in excess of 200 lb (90.7 kg) of shucked or 25 bu (8.8 hL) of in-shell scallops in the NGOM scallop management area, unless the vessel is seaward of the VMS Demarcation Line and in possession of no more than 50 bu (17.6 hL) of in-shell scallops, or when the vessel is not declared into the NGOM scallop management area and is transiting the NGOM scallop management area with gear properly stowed and unavailable for immediate use in accordance with §648.23.

(C) Declare into the NGOM scallop management area after the effective date of a notification published in the FEDERAL REGISTER stating that the LAGC share of the NGOM scallop management area TAC has been harvested as specified in §648.62, unless the vessel is fishing exclusively in state waters, declared a state-waters only NGOM trip, and is participating in an approved state waters exemption program as specified in §648.54, or unless the vessel is participating in the scallop RSA program as specified in §648.56.

(D) Possess more than 100 bu (35.2 hL) of in-shell scallops seaward of the VMS Demarcation Line and not be participating in the Access Area Program, or possess or land per trip more than 50 bu (17.6 hL) of in-shell scallops shoreward of the VMS Demarcation Line, unless exempted from DAS allocations as provided in §648.54.

(E) [Reserved]

(F) Fish for, possess, or land scallops in excess of a vessel's IFQ.

(G) Fish for, possess, or land more than 40 lb (18.1 kg) of shucked scallops, or 5 bu (1.76 hL) of in-shell scallops shoreward of the VMS Demarcation Line, or 10 bu (3.52 hL) of in-shell scallops seaward of the VMS Demarcation Line, when the vessel is not declared into the IFQ scallop fishery, unless the vessel is fishing in compliance with all of the requirements of the State waters exemption program, specified at §648.54.

(H) Land scallops more than once per calendar day.

(ii) *Owner and allocation cap.* (A) Have an ownership interest in vessels that collectively are allocated more than 5 percent of the total IFQ scallop APL as specified in §648.53(a)(8).

(B) Have an IFQ allocation on an IFQ scallop vessel of more than 2.5 percent of the total IFQ scallop APL as specified in §648.53(a)(8).

(iii) *IFQ Transfer Program.* (A) Apply for an IFQ transfer that will result in the transferee having an aggregate ownership interest in more than 5 percent of the total IFQ scallop ACL.

(B) Apply for an IFQ transfer that will result in the receiving vessel having an IFQ allocation in excess of 2.5 percent of the total IFQ scallop ACL as specified in §648.53(a)(4)(i).

(C) Fish for, possess, or land transferred IFQ prior to approval of the transfer by the Regional Administrator as specified in §648.53(h)(5).

(D)-(F) [Reserved]

(G) Transfer scallop IFQ to, or receive scallop IFQ from, a vessel that has not been issued a valid IFQ scallop permit.

(iv) *Cost Recovery Program*. Fail to comply with any of the cost recovery requirements specified under §648.53(g)(4).

(v) Fish for scallops in the Mid-Atlantic Accountability Measure Area, described in §648.64(b)(2) with gear that does not meet the specifications described in §648.64(c) during the period specified in the notice announcing the Southern New England/Mid-Atlantic Yellowtail Flounder or the Southern Windowpane Flounder Gear Restricted Area described in §648.64(e) and (g), respectively.

(vi) Fish for scallops in the Georges Bank Accountability Measure Area described in §648.64(b)(1), with gear that does not meet the specifications described in §648.64(c) during the period specified in the notice announcing the Georges Bank Yellowtail Flounder or the Northern Windowpane Flounder Gear Restricted Area described in §648.64(d) and (f), respectively.

(5) *NGOM scallop permit*. It is unlawful for any person owning or operating a vessel issued an NGOM scallop permit to do any of the following:

(i) Declare into, or fish for or possess scallops outside of the NGOM Scallop Management Area as defined in §648.62.

(ii) Fish for or land per trip, or possess at any time, in excess of 200 lb (90.7 kg) of shucked or 25 bu (8.81 hL) of in-shell scallops in or from the NGOM scallop management area, or seaward of the VMS Demarcation Line more than 50 bu (17.6 hL) of in-shell scallops.

(iii) Fish for, possess, or land scallops in state or Federal waters of the NGOM management area after the effective date of notification in the FEDERAL REGISTER that the LAGC share of the NGOM scallop management area TAC has been harvested as specified in §648.62, unless the vessel is fishing exclusively in state waters, declared a state-waters only NGOM trip, and is participating in an approved state waters exemption program as specified in §648.54, or unless the vessel is participating in the scallop RSA program as specified in §648.56.

(iv) Fish for, possess, or retain scallops in Federal waters of the NGOM after declaring a trip into NGOM state waters.

(6) *Incidental scallop permit*. It is unlawful for any person owning or operating a vessel issued an Incidental scallop permit to fish for, possess, or retain, more than 40 lb (18.1 kg) of shucked scallops, or 5 bu (1.76 hL) of in-shell scallops shoreward of the VMS Demarcation Line, or 10 bu (3.52 hL) of in-shell scallops while seaward of the VMS Demarcation Line.

#### **§648.50 Shell-height standard.**

#### **§648.51 Gear and crew restrictions.**

(a) *Trawl vessel gear restrictions*. Trawl vessels issued a limited access scallop permit under §648.4(a)(2) while fishing under or subject to the DAS allocation program for scallops and authorized to fish with or possess on board trawl nets pursuant to §648.51(f), any trawl vessels in possession of more than 40 lb (18.14 kg) of shucked, or 5 bu (176.2 L) of in-shell scallops in or from the EEZ, and any trawl vessels fishing for scallops in the EEZ, must comply with the following:

(1) *Maximum sweep*. The trawl sweep of nets shall not exceed 144 ft (43.9 m), as measured by the total length of the footrope that is directly attached to the webbing, unless the net is stowed and not available for immediate use, defined in §648.2, or unless the vessel is fishing under the Northeast multispecies or monkfish DAS programs.

(2) *Net requirements*—(i) *Minimum mesh size*. Subject to applicable minimum mesh size restrictions for other fisheries as specified under this part, the mesh size for any scallop trawl net in all areas shall not be smaller than 5.5 inches (13.97 cm).

(ii) *Measurement of mesh size*. Mesh size is measured by using a wedge-shaped gauge having a taper of 2 cm (0.79 inches) in 8 cm (3.15 inches) and a thickness of 2.3 mm (0.09 inches), inserted into the meshes under a pressure or pull of 5 kg (11.02 lb) for mesh size less than 120 mm (4.72 inches) and under a pressure or pull of 8 kg (17.64 lb) for mesh size at, or greater than, 120 mm (4.72 inches). The mesh size is the average of the measurements of any series of 20 consecutive meshes for nets having 75 or more meshes, and 10 consecutive meshes for nets having fewer than 75 meshes. The mesh in the regulated portion of the net is measured at least five meshes away from the lacings running parallel to the long axis of the net.

(3) *Chafing gear and other gear obstructions*—(i) *Net obstruction or constriction*. A fishing vessel may not use any device or material, including, but not limited to, nets, net strengtheners, ropes, lines, or chafing gear, on the top of a trawl net, except that one splitting strap and one bull rope (if present), consisting of line and rope no more than 3 inches (7.62 cm) in diameter, may be used if such splitting strap and/or bull rope does not constrict in any manner the top of the trawl net. “The top of the trawl net” means the 50 percent of the net that (in a hypothetical situation) would not be in contact with the ocean bottom during a tow if the net were laid flat on the ocean floor. For the purpose of this paragraph (a)(3), head ropes shall not be considered part of the top of the trawl net.

(ii) *Mesh obstruction or constriction*. A fishing vessel may not use any mesh configuration, mesh construction, or other means on or in the top of the net, as defined in paragraph (a)(3)(i) of this section, if it obstructs the meshes of the net in any manner.

(iii) A fishing vessel may not use or possess a net capable of catching scallops in which the bars entering or exiting the knots twist around each other.

(b) *Dredge vessel gear restrictions*. All vessels issued limited access and General Category scallop permits and fishing with scallop dredges, with the exception of hydraulic clam dredges and mahogany quahog dredges in possession of 600 lb (181.44 kg), or less, of scallops, must comply with the following restrictions, unless otherwise specified:

(1) *Maximum dredge width*. The combined dredge width in use by or in possession on board such vessels shall not exceed 31 ft (9.4 m), measured at the widest point in the bail of the dredge, except as provided under paragraph (e) of this section, in §648.59(g)(2), and the scallop dredge exemption areas specified in §648.80. However, component parts may be on board the vessel such that they do not conform with the definition of “dredge or dredge gear” in §648.2, *i.e.*, the metal ring bag and the mouth frame, or bail, of the dredge are not attached, and such that no more than one complete spare dredge could be made from these component's parts.

(2) *Minimum mesh size*. The mesh size of a net, net material, or any other material on the top of a scallop dredge (twine top) possessed or used by vessels fishing with scallop dredge gear shall not be smaller than 10-inch (25.4-cm) square or diamond mesh.

(3) *Minimum ring size*. (i) Unless otherwise required under the Sea Scallop Area Access program specified in §648.59(b)(6), the ring size used in a scallop dredge possessed or used by scallop vessels shall not be smaller than 4 inches (10.2 cm).

(ii) Ring size is determined by measuring the shortest straight line passing through the center of the ring from one inside edge to the opposite inside edge of the ring. The measurement shall not



include normal welds from ring manufacturing or links. The rings to be measured will be at least five rings away from the mouth, and at least two rings away from other rigid portions of the dredge.

(4) *Chafing gear and other gear obstructions*—(i) *Chafing gear restrictions*. No chafing gear or cookies shall be used on the top of a scallop dredge.

(ii) *Link restrictions*. No more than double links between rings shall be used in or on all parts of the dredge bag, except the dredge bottom. No more than triple linking shall be used in or on the dredge bottom portion and the diamonds. Damaged links that are connected to only one ring, *i.e.*, “hangers,” are allowed, unless they occur between two links that both couple the same two rings. Dredge rings may not be attached via links to more than four adjacent rings. Thus, dredge rings must be rigged in a configuration such that, when a series of adjacent rings are held horizontally, the neighboring rings form a pattern of horizontal rows and vertical columns. A copy of a diagram showing a schematic of a legal dredge ring pattern is available from the Regional Administrator upon request.

(iii) *Dredge or net obstructions*. No material, device, net, dredge, ring, or link configuration or design shall be used if it results in obstructing the release of scallops that would have passed through a legal sized and configured net and dredge, as described in this part, that did not have in use any such material, device, net, dredge, ring link configuration or design.

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

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

(5) *Restrictions applicable to sea scallop dredges in the mid-Atlantic*—(i) *Requirement to use chain mats*. See §223.206(d)(11) of this chapter for chain mat requirements for scallop dredges.

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

(1) The cutting bar must be located in front of the depressor plate.

(2) The acute angle between the plane of the bale and the strut must be less than or equal to 45 degrees.

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

(4) Struts must be spaced 12 inches (30.5 cm) apart or less from each other, along the entire length of the frame.

(5) Unless exempted, as specified in paragraph (b)(5)(ii)(B) of this section, the TDD must include a straight extension ("bump out") connecting the outer bale bars to the dredge frame. This "bump out" must exceed 12 inches (30.5 cm) in length, as measured along the inside of the bale bar from the front of the cutting bar to the first bend in the bale bar.

(B) A limited access scallop vessel that uses a dredge with a width less than 10.5 ft (3.2 m) is required to use a TDD, except that such a vessel is exempt from the "bump out" requirement specified in paragraph (b)(5)(ii)(A)(5) of this section. This exemption does not apply to LAGC vessels that use dredges with a width of less than 10.5 ft (3.2 m), because such vessels are exempted from the requirement to use a TDD, as specified in paragraph (b)(5)(ii) of this section.

(C) A vessels subject to the requirements in paragraph (b)(5)(ii) of this section transiting waters west of 71° W. long., from the shoreline to the outer boundary of the EEZ, is exempted from the requirement to only possess and use TDDs, provided the dredge gear is stowed and not available for immediate use as defined in §648.2.

(D) *TDD-related definitions.* (1) The cutting bar refers to the lowermost horizontal bar connecting the outer bails at the dredge frame.

(2) The depressor plate, also known as the pressure plate, is the angled piece of steel welded along the length of the top of the dredge frame.

(3) The struts are the metal bars connecting the cutting bar and the depressor plate.

(c) *Crew restrictions.* A limited access vessel participating in or subject to the scallop DAS allocation program may have no more than seven people aboard, including the operator, and a limited access vessel participating in the Sea Scallop Area Access Program as specified in §648.59 may have no more than eight people aboard, including the operator, when not docked or moored in port, except as follows:

(1) A vessel fishing in the Nantucket Lightship-South-Deep Access Area, as described in § 648.60(e), may have no more than 10 people aboard, including the operator, when not docked or moored in port.

(2) A vessel participating in the small dredge program is restricted as specified in paragraph (e) of this section;

(3) The Regional Administrator may authorize additional people to be on board through issuance of a letter of authorization.

(4) A certified at-sea observer is on board, as required by §648.11(g).

(d) *Sorting and shucking machines.* (1) Shucking machines are prohibited on all limited access vessels fishing under the scallop DAS program, or any vessel in possession of more than 600 lb (272.2 kg) of scallops, unless the vessel has not been issued a limited access scallop permit and fishes exclusively in state waters.

(2) Sorting machines are prohibited on limited access vessels fishing under the scallop DAS program.

(e) *Small dredge program restrictions.* Any vessel owner whose vessel is assigned to either the part-time or Occasional category may request, in the application for the vessel's annual permit, to be placed in one category higher. Vessel owners making such request may be placed in the appropriate higher category for the entire year, if they agree to comply with the following restrictions, in addition to, and notwithstanding other restrictions of this part, when fishing under the DAS program described in §648.53:

(1) The vessel must fish exclusively with one dredge no more than 10.5 ft (3.2 m) in width.

(2) The vessel may not use or have more than one dredge on board. However, component parts may be on board the vessel such that they do not conform with the definition of "dredge or dredge gear" in §648.2, *i.e.*, the metal ring bag and the mouth frame, or bail, of the dredge are not attached, and no more than one complete spare dredge could be made from these component's parts.

(3) The vessel may have no more than five people, including the operator, on board, except as follows:

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

(ii) The Regional Administrator may authorize additional people to be on board through issuance of a letter of authorization.

(iii) A certified at-sea observer is on board, as required by §648.11(g).

(iv) A vessel fishing in the Nantucket Lightship-South-Deep Access Area, as described in § 648.60(e), may have no more than 8 people aboard, including the operator, when not docked or moored in port, unless a certified at-sea observer is on board, as required by §648.11(g).

(f) *Restrictions on the use of trawl nets.* (1) A vessel issued a limited access scallop permit fishing for scallops under the scallop DAS allocation program may not fish with, possess on board, or land scallops while in possession of a trawl net, unless such vessel has been issued a limited access trawl vessel permit that endorses the vessel to fish for scallops with a trawl net. A limited access scallop vessel issued a trawl vessel permit that endorses the vessel to fish for scallops with a trawl net and general category scallop vessels enrolled in the Area Access Program as specified in §648.59, may not fish for scallops with a trawl net in the Closed Area I, Closed Area II, Closed Area II Extension, and Nantucket Lightship Rotational Areas specified in §648.60.

(2) *Replacement vessels.* A vessel that is replacing a vessel authorized to use trawl nets to fish for scallops under scallop DAS may also be authorized to use trawl nets to fish for scallops under scallop DAS if it meets the following criteria:

(i) Has not fished for scallops with a scallop dredge after December 31, 1987; or

(ii) Has fished for scallops with a scallop dredge on no more than 10 trips from January 1, 1988, through December 31, 1994, has an engine horsepower no greater than 450.

**§648.52 Possession and landing limits.**

(a) A vessel issued an IFQ scallop permit that is declared into the IFQ scallop fishery as specified in §648.10(b), or on a properly declared NE multispecies, surfclam, or ocean quahog trip (or other fishery requiring a VMS declaration) and not fishing in a scallop access area, unless as specified in paragraph (g) of this section or exempted under the state waters exemption program described in §648.54, may not possess or land, per trip, more than 600 lb (272.2 kg) of shucked scallops, or possess more than 75 bu (26.4 hL) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 100 bu (35.2 hL) of in-shell scallops seaward of the VMS Demarcation Line on a properly declared IFQ scallop trip, or on a properly declared NE multispecies, surfclam, or ocean quahog trip, or other fishery requiring a VMS declaration, and not fishing in a scallop access area.

(b) A vessel issued an NGOM scallop permit, or an IFQ scallop permit that is declared into the NGOM scallop fishery as described in §648.62, unless exempted under the state waters exemption program described under §648.54, may not possess or land, per trip, more than 200 lb (90.7 kg) of shucked scallops, or possess more than 25 bu (8.81 hL) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 50 bu (17.6 hL) of in-shell scallops seaward of the VMS demarcation line on a properly declared NGOM scallop fishery trip.

(c) A vessel issued an Incidental scallop permit, or an IFQ scallop permit that is not declared into the IFQ scallop fishery or on a properly declared NE multispecies, surfclam, or ocean quahog trip or other fishery requiring a VMS declaration as required under §648.10(f), unless exempted under the state waters exemption program described under §648.54, may not possess or land, per trip, more than 40 lb (18.1 kg) of shucked scallops, or possess more than 5 bu (1.76 hL) of in-shell scallops shoreward of the VMS Demarcation Line. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 10 bu (3.52 hL) of in-shell scallops seaward of the VMS Demarcation Line.

(d) Owners or operators of vessels with a limited access scallop permit that have properly declared into the Sea Scallop Area Access Program as described in §648.59 are prohibited from fishing for or landing per trip, or possessing at any time, scallops in excess of any sea scallop possession and landing limit set by the Regional Administrator in accordance with §648.59(b)(5).

(e) Owners or operators of vessels issued limited access permits are prohibited from fishing for, possessing, or landing per trip more than 50 bu (17.6 hL) of in-shell scallops shoreward of the VMS Demarcation Line, unless when fishing under the state waters exemption specified under §648.54.

(f) A limited access vessel or an LAGC vessel that is declared into the Sea Scallop Area Access Program as described in §648.59, may not possess more than 50 bu (17.6 hL) or 75 bu (26.4 hL), respectively, of in-shell scallops outside of the Access Areas described in §648.60.

(g) *Possession limit to defray the cost of observers for LAGC IFQ vessels.* An LAGC IFQ vessel with an observer on board may retain, per observed trip, an allowance of scallops in addition to the possession limit, as established by the Regional Administrator in accordance with §648.59(d), provided the observer set-aside specified in §648.59(d)(1) has not been fully utilized. For example, if the LAGC IFQ vessel possession limit is 600 lb (272.2 kg) and the additional allowance to defray the cost of an observer is 200 lb (90.7 kg), the vessel could retain up to 800 lb (362.9 kg) when carrying an observer, regardless of trip length. If a vessel does not land its additional allowance on the trip while carrying an observer, the additional allowance will be added to the vessel's IFQ allocation, and it may land it on a subsequent trip. However, the vessel may not exceed the IFQ trip possession limit as described in §648.52(a) unless it is actively carrying an observer.

**§648.53 Overfishing limit (OFL), acceptable biological catch (ABC), annual catch limits individual fishing quotas (IFQ).**

(a) The following determinations and allocations for the sea scallop rotational areas are defined as follows and shall be established through the specifications or framework adjustment process:

(1) *OFL.* OFL shall be based on an updated scallop resource and fishery assessment provided by either the Scallop PDT or a formal stock assessment. OFL shall include all sources of scallop mortality and shall include an upward adjustment to account for catch of scallops in state waters by vessels not issued Federal scallop permits. The fishing mortality rate (*i.e.* F) associated with OFL shall be the threshold F, above which overfishing is occurring in the scallop fishery. The F associated with OFL shall be used to derive specifications for ABC, ACL, and ACT, as defined in paragraph (a) of this section.

(2) The specification of ABC, ACL, and ACT shall be based upon the following overfishing definition: The F shall be set so that in access areas, averaged for all years combined over the period of time that the area is closed and open to scallop fishing as an access area, it does not exceed the established F threshold for the scallop fishery; in open areas it shall not exceed the F threshold for the scallop fishery; and for access and open areas combined, it is set at a level that has a 75-percent probability of remaining below the F associated with ABC, as defined in paragraph (a)(3) of this section, taking into account all sources of fishing mortality in the limited access and LAGC fleets of the scallop fishery.

(3) *Overall ABC/ACL and APL—(i) Overall ABC/ACL.* The overall ABC for sea scallop fishery shall be the catch level that has an associated F that has a 75-percent probability of remaining below the F associated with OFL. The overall ACL shall be equal to the ABC for the scallop fishery, minus discards (an estimate of both incidental and discard mortality). The ABC/ACL, after the discards and deductions specified in paragraph (a)(4) of this section are removed, shall be divided as sub-ACLs between limited access vessels, limited access vessels that are fishing under a LAGC permit, and LAGC vessels as defined in paragraphs (a)(5) and (6) of this section, after the deductions outlined in paragraph (a)(4) of this section.

(ii) *APL.* The APL shall be equal to the combined projected landings by the limited access and LAGC IFQ fleets in both the open area and access areas, after set-asides (RSA and observer) and incidental landings are accounted for, for a given fishing year. Projected scallop landings are calculated by estimating the landings that will come from open and access area effort combined for both limited access and LAGC IFQ fleets. These projected landings shall not exceed the overall ABC/ACL and ACT, as described in paragraph (a) of this section.

(4) *Deductions from ABC/ACL.* Incidental catch, as defined in paragraph (a)(7) of this section, shall be removed from ABC/ACL. One percent of ABC/ACL shall be removed from ABC/ACL for observer set-aside. Scallop catch equal to the value specified in §648.56(d) shall be removed from ABC/ACL for research set-aside. These deductions for incidental catch, observer set-aside, and research set-aside, shall be made prior to establishing sub-ACLs for the limited access and LAGC fleets, as specified in paragraphs (a)(5) and (6) of this section.

(5) *Limited access fleet sub-ACL and sub-ACT—*(i) *Limited access fleet sub-ACL.* After applying the deductions as specified in paragraph (a)(4) of this section, the limited access scallop fleet shall be allocated a sub-ACL equal to 94.5 percent of the ABC/ACL.

(ii) *Limited access fleet sub-ACT.* The ACT for the limited access fishery shall be set at a level that has an associated F with a 75-percent probability of remaining below the F associated with ABC/ACL.

(6) *LAGC IFQ fleet sub-ACL, sub-ACT, and annual allocation—*(i) *LAGC IFQ fleet sub-ACL.* After applying the deductions as specified in paragraph (a)(4) of this section, the LAGC IFQ fleet shall be allocated a sub-ACL equal to 5.5 percent of the ABC/ACL, so that 5 percent of ABC/ACL is allocated to the LAGC fleet of vessels that do not also have a limited access scallop permit, and 0.5 percent of the ABC/ACL is allocated to the LAGC fleet of vessels that have limited access scallop permits. This specification of sub-ACLs shall not account for catch reductions associated with the application of AMs or adjustment of the sub-ACL as a result of the limited access AM exception as specified in paragraph (c)(1) of this section.

(ii) *LAGC IFQ fleet sub-ACT.* The LAGC IFQ fishery sub-ACT shall be equal to the LAGC IFQ fishery's sub-ACL. The sub-ACT for the LAGC IFQ fishery for vessels issued only a LAGC IFQ scallop permit shall be equal to 5 percent of the ABC/ACL specified in paragraph (a)(3) of this section, after applying the deductions as specified in paragraph (a)(4) of this section. The sub-ACT for the LAGC IFQ fishery for vessels issued both a LAGC IFQ scallop permit and a limited access scallop permit shall be 0.5 percent of the ACL specified in paragraph (a)(3) of this section, after applying the deductions as specified in paragraph (a)(4) of this section.

(iii) *LAGC IFQ fleet annual allocation.* (A) The annual allocation for the LAGC IFQ fishery for vessels issued an LAGC IFQ scallop permit and not also issued a limited access permit shall be equal to 5 percent of the APL. The annual allocation for the LAGC IFQ fishery for vessels issued both a LAGC IFQ scallop permit and a limited access scallop permit shall be 0.5 percent of the APL.

(B) *Standardized default LAGC IFQ allocation.* Unless otherwise specified by the Council through the framework adjustment or specifications process defined in §648.55, after the first-year allocation expires, the second-year default allocation, as described in §648.55(a), shall be set at 75 percent of the first-year allocation for all vessels issued an LAGC IFQ scallop permit and not also issued a limited access permit and for vessels issued both an LAGC IFQ scallop permit and a limited access scallop permit. After the second-year default allocation expires, the third year allocation would be set to zero until replaced by subsequent allocations.

(7) *Scallop incidental catch target TAC.* The annual incidental catch target TAC is the catch available for harvest for vessels with incidental catch scallop permits. This incidental catch target will be removed from the ABC/ACL defined in paragraph (a)(3) of this section prior to establishing the limited access and LAGC IFQ sub-ACLs and sub-ACTs defined in paragraphs (a)(5) and (6) of this section.

(8) The following catch limits will be effective for the 2020 and 2021 fishing years:

### SCALLOP FISHERY CATCH LIMITS

Catch limits	2020 (mt)	2021 (mt) <sup>1</sup>
Overfishing Limit	56,186	47,503
Acceptable Biological Catch/ACL (discards removed)	45,414	36,435
Incidental Catch	23	23
Research Set-Aside (RSA)	567	567
Observer Set-Aside	454	364
ACL for fishery	44,370	35,481
Limited Access ACL	41,930	33,530
LAGC Total ACL	2,440	1,951
LAGC IFQ ACL (5 percent of ACL)	2,219	1,774
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	222	177
Limited Access ACT	37,819	30,242
APL (after set-asides removed)	22,370	( <sup>1</sup> )
Limited Access Projected Landings (94.5 percent of APL)	21,140	( <sup>1</sup> )
Total IFQ Annual Allocation (5.5 percent of APL) <sup>2</sup>	1,230	923
LAGC IFQ Annual Allocation (5 percent of APL) <sup>2</sup>	1,119	839
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) <sup>2</sup>	112	84

<sup>1</sup>The catch limits for the 2021 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2021 that will be based on the 2020 annual scallop surveys. The 2021 default allocations for the limited access component are defined for DAS in paragraph (b)(3) of this section and for access areas in §648.59(b)(3)(i)(B).

<sup>2</sup>As specified in (a)(6)(iii)(B) of this section, the 2021 IFQ annual allocations are set at 75 percent of the 2020 IFQ Annual Allocations.

(b) *DAS specifications and allocations.* DAS specifications and allocations for limited access scallop trips in open areas are defined as follows and shall be specified through the specifications or framework adjustment processes defined in §648.55, as follows:

(1) *DAS allocations.* DAS allocations shall be determined by distributing the portion of the limited access ACT defined in paragraph (a)(3) of this section, as reduced by access area allocations defined in §648.59, and dividing that amount among vessels in the form of DAS calculated by applying estimates of open area landings per unit effort (LPUE) projected through the specifications or framework adjustment processes used to set annual allocations.

(2) *Assignment to DAS categories*—(i) Limited access vessels shall be categorized as full-time, part-time, or occasional. Allocations for part-time and occasional scallop vessels shall be 40 percent and 8.33 percent of the full-time DAS allocations, respectively.

(ii) Subject to the vessel permit application requirements specified in §648.4, for each fishing year, each vessel issued a limited access scallop permit shall be assigned to the DAS category (full-time, part-time, or occasional) it was assigned to in the preceding year, except as provided under the small dredge program specified in §648.51(e).

(3) The DAS allocations for limited access scallop vessels for fishing years 2020 and 2021 are as follows:

**SCALLOP OPEN AREA DAS ALLOCATIONS**

<b>Permit category</b>	<b>2020</b>	<b>2021<sup>1</sup></b>
Full-Time	24.00	18.00
Part-Time	9.60	7.20
Occasional	2.00	1.5

<sup>1</sup>The DAS allocations for the 2021 fishing year are subject to change through a future specifications action or framework adjustment. The 2021 DAS allocations are set at 75 percent of the 2020 allocation as a precautionary measure.

(4) Standardized default DAS allocations. Unless otherwise specified by the Council through the framework adjustment or specifications process defined in §648.55, after the first-year allocations expire, the second-year default limited access DAS allocations, as described in §648.55(a), shall be set at 75 percent of the first-year allocation. After the second-year default allocation expires, the third year allocation would be set to zero until replaced by subsequent allocations.

(c) *Accountability measures (AM) for limited access vessels.* Unless the limited access AM exception is implemented in accordance with the provision specified in paragraph (c)(1) of this section, if the limited access sub-ACL defined in paragraph (a)(5) of this section is exceeded for the applicable fishing year, the DAS for each limited access vessel shall be reduced by an amount equal to the amount of landings in excess of the sub-ACL divided by the applicable LPUE for the fishing year in which the AM will apply as projected by the specifications or framework adjustment process specified in §648.55, then divided by the number of scallop vessels eligible to be issued a full-time limited access scallop permit. For example, assuming a 300,000-lb (136-mt) overage of the limited access fishery's sub-ACL in Year 1, an open area LPUE of 2,500 lb (1.13 mt) per DAS in Year 2, and 313 full-time vessels, each full-time vessel's DAS for Year 2 would be reduced by 0.38 DAS ( $300,000 \text{ lb (136 mt)} / 2,500 \text{ lb (1.13 mt) per DAS} = 120 \text{ lb (0.05 mt) per DAS} / 313 \text{ vessels} = 0.38 \text{ DAS per vessel}$ ). Deductions in DAS for part-time and occasional scallop vessels shall be 40 percent and 8.33 percent of the full-time DAS deduction, respectively, as calculated pursuant to paragraph (b)(2) of this section. The AM shall take effect in the fishing year following the fishing year in which the overage occurred. For example, landings in excess of the limited access fishery's sub-ACL in Year 1 would result in the DAS reduction AM in Year 2. If the AM takes effect, and a limited access vessel uses more open area DAS in the fishing year in which the AM is applied, the vessel shall have the DAS used in excess of the allocation after applying the AM deducted from its open area DAS



allocation in the subsequent fishing year. For example, a vessel initially allocated 32 DAS in Year 1 uses all 32 DAS prior to application of the AM. If, after application of the AM, the vessel's DAS allocation is reduced to 31 DAS, the vessel's DAS in Year 2 would be reduced by 1 DAS.

(1) *Limited access AM exception.* If NMFS determines that the fishing mortality rate associated with the limited access fleet's landings in a fishing year is less than 0.46, the AM specified in paragraph (c) of this section shall not take effect. The fishing mortality rate of 0.46 is the fishing mortality rate that is one standard deviation below the fishing mortality rate for the scallop fishery ACL, currently estimated at 0.51.

(2) *Limited access fleet AM and exception provision timing.* The Regional Administrator shall determine whether the limited access fleet exceeded its sub-ACL, defined in paragraph (a)(5) of this section, by July of the fishing year following the year for which landings are being evaluated. On or about July 1, the Regional Administrator shall notify the New England Fishery Management Council of the determination of whether or not the sub-ACL for the limited access fleet was exceeded, and the number of landings in excess of the sub-ACL. Upon this notification, the Scallop Plan Development Team (PDT) shall evaluate the overage and determine if the fishing mortality rate associated with total landings by the limited access scallop fleet is less than 0.46. On or about September 1 of each year, the Scallop PDT shall notify the Council of its determination, and the Council, on or about September 30, shall make a recommendation, based on the Scallop PDT findings, concerning whether to invoke the limited access AM exception. If NMFS concurs with the Scallop PDT's recommendation to invoke the limited access AM exception, in accordance with the APA, the limited access AM shall not be implemented. If NMFS does not concur, in accordance with the APA, the limited access AM shall be implemented as soon as possible after September 30 each year.

(d) *End-of-year carry-over for open area DAS.* With the exception of vessels that held a Confirmation of Permit History as described in §648.4(a)(2)(i)(J) for the entire fishing year preceding the carry-over year, limited access vessels that have unused open area DAS on the last day of March of any year may carry over a maximum of 10 DAS, not to exceed the total open area DAS allocation by permit category, into the next year. DAS carried over into the next fishing year may only be used in open areas. Carry-over DAS are accounted for in setting the sub-ACL for the limited access fleet, as defined in paragraph (a)(5)(ii) of this section. Therefore, if carry-over DAS result or contribute to an overage of the ACL, the limited access fleet AM specified in paragraph (c) of this section would still apply, provided the AM exception specified in paragraph (c)(1) of this section is not invoked.

(e) *Accrual of DAS.* All DAS fished shall be charged to the nearest minute. A vessel carrying an observer and authorized to be charged fewer DAS in Open Areas based on the total available DAS set aside under paragraph (g) of this section shall be charged at a reduced rate as specified in paragraph (g)(1) of this section.

(f) *DAS credits—(1) Good Samaritan credit.* A limited access vessel operating under the DAS program and that spends time at sea assisting in a USCG search and rescue operation or assisting the USCG in towing a disabled vessel, and that can document the occurrence through the USCG, will not accrue DAS for the time documented.

(2) *Canceled trip DAS credit.* A limited access vessel operating under the DAS program and that ends a fishing trip prior to setting and/or hauling fishing gear for any reason may request a canceled trip DAS credit for the trip based on the following conditions and requirements:

(i) There is no fish onboard the vessel and no fishing operations on the vessel were initiated, including setting and/or hauling fishing gear; and

(ii) The owner or operator of the vessel fishing under a DAS program and required to use a VMS as specified under §648.10(b) makes an initial trip cancelation notification from sea, at the time the trip was canceled, or at the earliest opportunity prior to crossing the demarcation line as defined at §648.10(a). These reports are in the form of an email to NMFS Office of Law Enforcement and include at least the following information: Operator name; vessel name; vessel permit number; port where vessel will return; date trip started; estimated date/time of return to port; and a statement by the operator that no fish were onboard and no fishing activity occurred; and

(iii) The owner or operator of the vessel operating under the DAS program required to use the IVR call in as specified under §648.10(h) makes an initial trip cancelation notification to NMFS by calling the IVR back at the time the trip was canceled, or at the earliest opportunity prior to returning to port. This request must include at least the following information: Operator name; vessel name; vessel permit number; port where vessel will return; date trip started; estimated date/time of return to port; and a statement from the operator that no fish were onboard and no fishing activity occurred; and

(iv) The owner or operator of the vessel requesting a canceled trip DAS credit, in addition to the requirements in paragraphs (f)(2)(ii) and (iii) of this section, submits a written DAS credit request form to NMFS within 30 days of the vessel's return to port from the canceled trip. This application must include at least the following information: Date and time when the vessel canceled the fishing trip; date and time of trip departure and landing; operator name; owner/corporation name; permit number; hull identification number; vessel name; date and time notification requirements specified under paragraphs (f)(2)(ii) and (iii) of this section were made; reason for canceling the trip; and owner/operator signature and date; and

(v) The vessel trip report for the canceled trip as required under §648.7(b) is submitted along with the DAS credit request form; and

(vi) For DAS credits that are requested near the end of the fishing year as defined at §648.2, and approved by the Regional Administrator, the credited DAS apply to the fishing year in which the canceled trip occurred. Credited DAS that remain unused at the end of the fishing year or that are not credited until the following fishing year may be carried over into the next fishing year, not to exceed the maximum number of carryover DAS as specified under paragraph (d) of this section.

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

(i) The vessel must submit a Scallop Pre-landing Notification Form, as specified at §648.10(f)(4)(iv);

(ii) The vessel's fishing gear is stowed and not available for immediate use as defined in §648.2;

(iii) The vessel must return directly to port and offload scallops;

(iv) The vessel must land scallops at a port located at or south of 39° N. lat.; and

(v) The vessel may not possess in-shell scallops.

(g) *Set-asides for observer coverage.* (1) To help defray the cost of carrying an observer, 1 percent of the ABC/ACL defined in paragraph (a)(3) of this section shall be set aside to be used by vessels that are assigned to take an at-sea observer on a trip. This observer set-aside is specified through the specifications or framework adjustment process defined in §648.55.

(2) At the start of each scallop fishing year, the observer set-aside specified in paragraph (g)(1) of this section initially shall be divided proportionally by access and open areas, based on the amount of effort allocated into each area, in order to set the compensation and coverage rates. NMFS shall monitor the observer set-aside usage and may transfer set-aside from one area to another if one area is using more or less set-aside than originally anticipated. The set-aside may be transferred from one area to another, based on NMFS in-house area-level monitoring that determines whether one area will likely have excess set-aside while another may not. The set-aside shall be considered completely harvested when the full one percent is landed, at which point there would be no more compensation for any observed scallop trip, regardless of area. NMFS shall continue to proactively adjust compensation rates and/or observer coverage levels mid-year in order to minimize the chance that the set-aside would be harvested prior to the end of the FY. Utilization of the set-aside shall be on a first-come, first-served basis. When the set-aside for observer coverage has been utilized, vessel owners shall be notified that no additional scallop catch or DAS remain available to offset the cost of carrying observers. The obligation to carry and pay for an observer shall not be waived if set-aside is not available.

(3) *DAS set-aside for observer coverage.* A limited access scallop vessel carrying an observer in open areas shall be compensated with reduced DAS accrual rates for each trip on which the vessel carries an observer. For each DAS that a vessel fishes for scallops with an observer on board, the DAS shall be charged at a reduced rate, based on an adjustment factor determined by the Regional Administrator on an annual basis, dependent on the cost of observers, catch rates, and amount of available set-aside. The Regional Administrator shall notify vessel owners of the cost of observers and the DAS adjustment factor through a permit holder letter issued prior to the start of each fishing year. This DAS adjustment factor may also be changed during the fishing year if fishery conditions warrant such a change. The number of DAS that are deducted from each trip based on the adjustment factor shall be deducted from the observer set-aside amount in the applicable fishing year.

(h) *Annual IFQs—(1) IFQ restriction.* For each fishing year of the IFQ program, a vessel issued an IFQ scallop permit may only harvest and land the total amount of scallop meats allocated in accordance with this subpart. Unless otherwise specified in this part, a vessel allocated scallop IFQ may not exceed the possession limits specified in §648.52 on any trip.

(2) *Calculation of IFQ.* The LAGC IFQ fleet annual allocation as defined in paragraph (a)(6)(iii) of this section, shall be used to determine the IFQ of each vessel issued an IFQ scallop permit. Each fishing year, the Regional Administrator shall provide the owner of a vessel issued an IFQ scallop permit issued pursuant to §648.4(a)(2)(ii) with the scallop IFQ for the vessel for the upcoming fishing year.

(i) *IFQ.* The IFQ for an IFQ scallop vessel shall be the vessel's contribution percentage as specified in paragraph (h)(2)(iii) of this section and determined using the steps specified in paragraph (h)(2)(ii) of this section, multiplied by the LAGC IFQ fleet annual allocation as defined in paragraph (a)(6)(iii) of this section.

(ii) *Contribution factor.* An IFQ scallop vessel's contribution factor is calculated using the best year, years active, and index factor as specified in paragraphs (h)(2)(ii)(A) through (C) of this section. A vessel's contribution factor shall be provided to the owner of a qualified limited access general category vessel following initial application for an IFQ scallop permit as specified in §648.4(a)(2)(ii)(E), consistent with confidentiality restrictions of the Magnuson-Stevens Act specified at 16 U.S.C. 1881a.

(A) *Best year determination.* An eligible IFQ scallop vessel's highest scallop landings in any scallop fishing year that the vessel was issued a general category scallop permit between March 1, 2000, and November 1, 2004, shall be determined using NMFS dealer reports. Scallop landings in the 2004 fishing year must have occurred on or before November 1, 2004. If a dealer reported more than 400 lb (181.4 kg) of scallops landed on a trip, only 400 lb (181.4 kg) will be credited for that trip toward the best year calculation. For dealer reports that indicate clearly that the landings were bushels of in-shell scallops, a conversion of 8.33 lb (3.78 kg) of scallop meats per bushel shall be used to calculate meat-weight, up to a maximum of 400 lb (181.4 kg) per trip.

(B) *Years active.* For each eligible IFQ scallop vessel, the total number of scallop fishing years during the period March 1, 2000, through November 1, 2004, in which the vessel had a general category scallop permit and landed at least 1 lb (0.45 kg) of scallop meats, or in-shell scallops, shall be counted as active years based on NMFS dealer reports. Scallop landings in the 2004 fishing year must have occurred on or before November 1, 2004.

(C) *Index to determine contribution factor.* For each eligible IFQ scallop vessel, the best year as determined pursuant to paragraph (a)(2)(ii)(E)(1) of this section shall be multiplied by the appropriate index factor specified in the following table, based on years active as specified in paragraph (a)(2)(ii)(E)(2) of this section. The resulting contribution factor shall determine its IFQ for each fishing year based on the allocation to general category scallop vessels as specified in paragraph (a)(4) of this section and the method of calculating the IFQ provided in paragraph (h) of this section.

Years active	Index factor
1	0.75
2	0.875
3	1.0
4	1.125
5	1.25

(D) *Contribution factor example.* If a vessel landed 48,550 lb (22,022 kg) of scallops in its best year, and was active in the general category scallop fishery for 5 years, the vessel's contribution factor is equal to 60,687 lb (27,527 kg) (48,550 lb (22,022 kg) \* 1.25).

(iii) *Contribution percentage.* A vessel's contribution percentage shall be determined by dividing its contribution factor by the sum of the contribution factors of all vessels issued an IFQ scallop permit. Continuing the example in paragraph (h)(1)(ii)(D) of this section, the sum of the contribution factors for 380 IFQ scallop vessels is estimated for the purpose of this example to be 4.18 million lb (1,896 mt). The contribution percentage of the above vessel is 1.45 percent (60,687 lb (27,527 kg)/4.18 million lb (1,896 mt) = 1.45 percent). The contribution percentage for a vessel that is issued an IFQ scallop permit and whose owner has permanently transferred all of its IFQ to another IFQ vessel, as specified in paragraph (h)(5)(ii) of this section, shall be equal to 0 percent.

(iv) *Vessel IFQ Example.* Continuing the example in paragraphs (h)(1)(ii)(D) and (h)(1)(iii) of this section, with an ACL allocated to IFQ scallop vessels estimated for this example to be equal to 2.5 million lb (1,134 mt), the vessel's IFQ would be 36,250 lb (16,443 kg) (1.45 percent \* 2.5 million lb (1,134 mt)).

(v) *End-of-year carry-over for IFQ.* (A) With the exception of vessels that held a Confirmation of Permit History as described in §648.4(a)(2)(ii)(L) for the entire fishing year preceding the carry-over year, LAGC IFQ vessels that have unused IFQ on the last day of March of any year may carry over up to 15 percent of the vessel's original IFQ plus the total of IFQ transferred to such vessel minus the total IFQ transferred from such vessel (either temporary or permanent) IFQ into the next fishing year. For example, a vessel with a 10,000-lb (4,536-kg) IFQ and 5,000-lb (2,268-kg) of leased IFQ may carry over 2,250 lb (1,020 kg) of IFQ (*i.e.*, 15 percent of 15,000 lb (6,804 kg)) into the next fishing year if it landed 12,750 lb (5,783 kg) (*i.e.*, 85 percent of 15,000 lb (6,804 kg)) of scallops or less in the preceding fishing year. Using the same IFQ values from the example, if the vessel landed 14,000 lb (6,350 kg) of scallops, it could carry over 1,000 lb (454 kg) of scallops into the next fishing year.

(vi) *AM for the IFQ fleet.* If a vessel exceeds its IFQ, including all temporarily and permanently transferred IFQ, in a fishing year, the amount of landings in excess of the vessel's IFQ, including all temporarily and permanently transferred IFQ, shall be deducted from the vessel's IFQ as soon as possible in the fishing year following the fishing year in which the vessel exceeded its IFQ. If the AM takes effect, and an IFQ vessel lands more scallops than allocated after the AM is applied, the vessel shall have the IFQ landed in excess of its IFQ after applying the AM deducted from its IFQ in the subsequent fishing year. For example, a vessel with an initial IFQ of 1,000 lb (453.6 kg) in 2010 that lands 1,200 lb (544.3 kg) of scallops in 2010, and is initially allocated 1,300 lb (589.7 kg) of scallops in 2011 would be subject to an IFQ reduction equal to 200 lb (90.7 kg) to account for the 200 lb (90.7 kg) overage in 2010. If that vessel lands 1,300 lb (589.7 kg) of scallops in 2011 prior to application of the 200 lb (90.7 kg) deduction, the vessel would be subject to a deduction of 200 lb (90.7 kg) in 2012. For vessels involved in a temporary IFQ transfer, the entire deduction shall apply to the vessel that acquired IFQ, not the transferring vessel. A vessel that has an overage that exceeds its IFQ in the subsequent fishing year shall be subject to an IFQ reduction in subsequent years until the overage is paid back. For example, a vessel with an IFQ of 1,000 lb (454 kg) in each year over a 3-year period that harvests 2,500 lb (1,134 kg) of scallops the first year would have a 1,500-lb (680-kg) IFQ deduction, so that it would have zero pounds to harvest in year 2, and 500 lb (227 kg) to harvest in year 3. A vessel that has a "negative" IFQ balance, as described in the example, could lease or transfer IFQ to balance the IFQ, provided there are no sanctions or other enforcement penalties that would prohibit the vessel from acquiring IFQ.

(3) *IFQ ownership restrictions—(i) IFQ scallop vessel IFQ cap.* (A) Unless otherwise specified in paragraphs (h)(3)(i)(B) and (C) of this section, a vessel issued an IFQ scallop permit or confirmation of permit history shall not be issued more than 2.5 percent of the sub-ACL allocated to the IFQ scallop vessels as described in paragraph (a)(6) of this section.

(B) A vessel may be initially issued more than 2.5 percent of the sub-ACL allocated to the IFQ scallop vessels as described in paragraph (a)(6) of this section, if the initial determination of its contribution factor specified in accordance with §648.4(a)(2)(ii)(E) and paragraph (h)(2)(ii) of this section, results in an IFQ that exceeds 2.5 percent of the sub-ACL allocated to the IFQ scallop vessels as described in paragraph (a)(6) of this section. A vessel that is allocated an IFQ that exceeds 2.5 percent of the sub-ACL allocated to the IFQ scallop vessels as described in paragraph (a)(6) of this section, in accordance with this paragraph (h)(3)(i)(B), may not receive IFQ through an IFQ transfer, as specified in paragraph (h)(5) of this section. All scallops that have been allocated as part of the original IFQ allocation or transferred to a vessel during a given fishing year shall be counted towards the vessel cap.

(C) A vessel initially issued a 2008 IFQ scallop permit or confirmation of permit history, or that was issued or renewed a limited access scallop permit or confirmation of permit history for a vessel in 2009 and thereafter, in compliance with the ownership restrictions in paragraph (h)(3)(i)(A) of this section, is eligible to renew such permit(s) and/or confirmation(s) of permit history, regardless of whether the renewal of the permit or confirmations of permit history will result in the 2.5-percent IFQ cap restriction being exceeded.

(ii) *IFQ ownership cap.* (A) For any vessel acquired after June 1, 2008, a vessel owner is not eligible to be issued an IFQ scallop permit for the vessel, and/or a confirmation of permit history, and is not eligible to transfer IFQ to the vessel, if, as a result of the issuance of the permit and/or confirmation of permit history, or IFQ transfer, the vessel owner, or any other person who is a shareholder or partner of the vessel owner, will have an ownership interest in more than 5 percent of the sub-ACL allocated to the IFQ scallop vessels as described in paragraph (a)(6) of this section.

(B) Vessel owners who were initially issued a 2008 IFQ scallop permit or confirmation of permit history, or who were issued or renewed a limited access scallop permit or confirmation of permit history for a vessel in 2009 and thereafter, in compliance with the ownership restrictions in paragraph (h)(3)(ii)(A) of this section, are eligible to renew such permits(s) and/or confirmation(s) of permit history, regardless of whether the renewal of the permits or confirmations of permit history will result in the 5-percent ownership restriction being exceeded.

(C) Having an ownership interest includes, but is not limited to, persons who are shareholders in a vessel owned by a corporation, who are partners (general or limited) to a vessel owner, or who, in any way, partly own a vessel.

(iii) *Limited access scallop vessels that have been issued an IFQ scallop permit.* The IFQ scallop vessel IFQ cap and IFQ ownership cap specified in this paragraph (h)(3) do not apply to limited access scallop vessels that are also issued a limited access general category scallop permit because such vessels are already subject to an ownership limitation, as specified in §648.4(a)(2)(i)(M).

(4) *IFQ cost recovery.* A fee, not to exceed 3 percent of the ex-vessel value of IFQ scallops harvested, shall be collected to recover the costs associated with management, data collection, and enforcement of the IFQ program. The owner of a vessel issued an IFQ scallop permit and subject to the IFQ program specified in this paragraph (h)(4), shall be responsible for paying the fee as specified by NMFS in this paragraph (h)(4). An IFQ scallop vessel shall incur a cost recovery fee liability for every landing of IFQ scallops. The IFQ scallop permit holder shall be responsible for collecting the fee for all of its vessels' IFQ scallop landings, and shall be responsible for submitting this payment to NMFS once per year. The cost recovery fee for all landings, regardless of ownership changes throughout the fishing year, shall be the responsibility of the official owner of the vessel, as recorded in the vessel permit or confirmation of permit history file, at the time the bill is sent.

(i) *Cost recovery fee determination.* The ex-vessel value of scallops shall be determined as an average of the ex-vessel value, as determined by Northeast Federal dealer reports, of all IFQ scallops landed between March 1 and September 30 of the initial year of the IFQ scallop program, and from October 1 through September 30 of each year thereafter.

(ii) *Fee payment procedure.* On or about October 31 of each year NMFS shall mail a cost recovery bill to each IFQ scallop permit holder for the previous cost recovery period. An IFQ scallop permit holder who has incurred a fee must pay the fee to NMFS within 60 days from the date of mailing of the recovery bill. Cost recovery payments shall be made electronically via the Federal web portal, [www.pay.gov](http://www.pay.gov), or other internet sites as designated by the Regional Administrator. Instructions



for electronic payment shall be available on both the payment website and the paper bill. Payment options shall include payment via a credit card, as specified in the cost recovery bill, or via direct automated clearing house (ACH) withdrawal from a designated checking account. Payment by check may be authorized by NMFS if it has determined that electronic payment is not possible (for example, if the geographical area of an individual(s) is affected by catastrophic conditions).

(iii) *Payment compliance.* An IFQ scallop permit holder that has incurred an IFQ cost recovery fee must pay the fee to NMFS within 60 days from the date of mailing. If the cost recovery payment, as determined by NMFS, is not made within 60 days from the date of mailing, NMFS may deny the renewal of the IFQ scallop permit until full payment is received. If, upon preliminary review of the accuracy and completeness of a fee payment, NMFS determines the IFQ scallop permit holder has not paid the full amount due, NMFS shall notify the IFQ scallop permit holder by letter. NMFS shall explain the discrepancy and provide the IFQ scallop permit holder 30 days to either pay the amount specified by NMFS or to provide evidence that the amount paid was correct. If the IFQ scallop permit holder submits evidence in support of his/her payment, NMFS shall determine if there is any remaining disagreement as to the appropriate IFQ fee, and prepare a Final Administrative Determination (FAD). The FAD shall set out the facts, discuss those facts within the context of the relevant agency policies and regulations, and decide as to the appropriate disposition of the matter. A FAD shall be the final agency action, and, if the FAD determines that the IFQ scallop permit holder is out of compliance, the FAD shall require payment within 30 days. If a FAD is not issued until after the start of the fishing year, the IFQ scallop permit holder may be authorized to fish temporarily by the Regional Administrator until the FAD is issued, at which point the permit holder shall have 30 days to comply with the terms of the FAD or the IFQ scallop permit shall not be issued until such terms are met. If NMFS determines that the IFQ scallop permit holder owes additional fees for the previous cost recovery period, and the IFQ scallop permit has already been renewed, NMFS shall issue a FAD, at which point the permit holder shall have 30 days to comply with the terms of the FAD or NMFS may withdraw the issuance of the IFQ scallop permit until such terms are met. If such payment is not received within 30 days of issuance of the FAD, NMFS shall refer the matter to the appropriate authorities within the U.S. Department of the Treasury for purposes of collection, and no IFQ permit held by the permit holder may be renewed until the terms of the FAD are met. If NMFS determines that the conditions of the FAD have been met, the IFQ permit holder may renew the IFQ scallop permit(s). If NMFS does not receive full payment prior to the end of the fishing year, the IFQ scallop permit shall be considered voluntarily abandoned, pursuant to §648.4(a)(2)(ii)(K), unless otherwise determined by the Regional Administrator.

(5) *Transferring IFQ—(i) Temporary IFQ transfers.* Subject to the restrictions in paragraph (h)(5)(iii) of this section, the owner of an IFQ scallop vessel (and/or IFQ scallop permit in confirmation of permit history) not issued a limited access scallop permit may temporarily transfer (e.g., lease) its entire IFQ allocation, or a portion of its IFQ allocation, to another IFQ scallop vessel. Temporary IFQ transfers shall be effective only for the fishing year in which the temporary transfer is requested and processed. IFQ can be temporarily transferred more than once (i.e., re-transferred). For example, if a vessel temporarily transfers IFQ to a vessel, the transferee vessel may re-transfer any portion of that IFQ to another vessel. There is no limit on how many times IFQ can be re-transferred in a fishing year. The Regional Administrator has final approval authority for all temporary IFQ transfer requests.

(ii) *Permanent IFQ transfers.* (A) Subject to the restrictions in paragraph (h)(5)(iii) of this section, the owner of an IFQ scallop vessel (and/or IFQ scallop permit in confirmation of permit history) not issued a limited access scallop permit may transfer IFQ permanently to or from another IFQ scallop vessel. Any such transfer cannot be limited in duration and is permanent as to the transferee, unless the IFQ is subsequently permanently transferred to another IFQ scallop vessel. IFQ may be permanently transferred to a vessel and then be re-transferred (temporarily transferred

(i.e., leased) or permanently transferred) by such vessel to another vessel in the same fishing year. There is no limit on how many times IFQ can be re-transferred in a fishing year.

(B) If a vessel owner permanently transfers the vessel's entire IFQ to another IFQ vessel, the LAGC IFQ scallop permit shall remain valid on the transferor vessel, unless the owner of the transferor vessel cancels the IFQ scallop permit. Such cancellation shall be considered voluntary relinquishment of the IFQ permit, and the vessel shall be ineligible for an IFQ scallop permit unless it replaces another vessel that was issued an IFQ scallop permit. The Regional Administrator has final approval authority for all IFQ transfer requests.

(iii) *IFQ transfer restrictions.* The owner of an IFQ scallop vessel (and/or IFQ scallop permit in confirmation of permit history) not issued a limited access scallop permit may transfer that vessel's IFQ to another IFQ scallop vessel, regardless of whether or not the vessel has fished under its IFQ in the same fishing year. Requests for IFQ transfers cannot be less than 100 lb (46.4 kg), unless that the transfer reflects the total IFQ amount remaining on the transferor's vessel, or the entire IFQ allocation. IFQ may be temporarily or permanently transferred to a vessel and then temporarily re-transferred (i.e., leased) or permanently re-transferred by such vessel to another vessel in the same fishing year. There is no restriction on how many times IFQ can be re-transferred. A transfer of an IFQ may not result in the sum of the IFQs on the receiving vessel exceeding 2.5 percent of the ACL allocated to IFQ scallop vessels. A transfer of an IFQ, whether temporary or permanent, may not result in the transferee having a total ownership of, or interest in, general category scallop allocation that exceeds 5 percent of the ACL allocated to IFQ scallop vessels. Limited access scallop vessels that are also issued an IFQ scallop permit may not transfer to or receive IFQ from another IFQ scallop vessel.

(iv) *Application for an IFQ transfer.* The owners of vessels applying for a transfer of IFQ must submit a completed application form obtained from the Regional Administrator. The application must be signed by both parties (transferor and transferee) involved in the transfer of the IFQ, and must be submitted to the NMFS Northeast Regional Office at least 30 days before the date on which the applicants desire to have the IFQ effective on the receiving vessel. The Regional Administrator shall notify the applicants of any deficiency in the application pursuant to this section. Applications may be submitted at any time during the scallop fishing year, regardless of whether or not the vessel has fished under its IFQ in the same fishing year. Applications for temporary transfers received less than 45 days prior to the end of the fishing year may not be processed in time for a vessel to utilize the transferred IFQ, if approved, prior to the expiration of the fishing year.

(A) *Application information requirements.* An application to transfer IFQ must contain at least the following information: Transferor's name, vessel name, permit number, and official number or state registration number; transferee's name, vessel name, permit number, and official number or state registration number; total price paid for purchased IFQ; signatures of transferor and transferee; and date the form was completed. In addition, applications to transfer IFQ must indicate the amount, in pounds, of the IFQ allocation transfer. Information obtained from the transfer application will be held confidential, and will be used only in summarized form for management of the fishery. If the applicants are requesting a transfer of IFQ that has already been transferred in a given fishing year, both parties must be up-to-date with all data reporting requirements (e.g., all necessary VMS catch reports, VTR, and dealer data must be submitted) in order for the application to be processed.

(B) *Approval of IFQ transfer applications.* Unless an application to transfer IFQ is denied according to paragraph (h)(5)(iii)(C) of this section, the Regional Administrator shall issue confirmation of application approval to both parties involved in the transfer within 30 days of receipt of an application.



(C) *Denial of transfer application.* The Regional Administrator may reject an application to transfer IFQ for any of the following reasons: The application is incomplete; the transferor or transferee does not possess a valid limited access general category permit; the transferor's or transferee's vessel or IFQ scallop permit has been sanctioned, pursuant to a final administrative decision or settlement of an enforcement proceeding; the transfer will result in the transferee's vessel having an allocation that exceeds 2.5 percent of the ACL allocated to IFQ scallop vessels; the transfer will result in the transferee having a total ownership of, or interest in, a general category scallop allocation that exceeds 5 percent of the ACL allocated to IFQ scallop vessels; or any other failure to meet the requirements of the regulations in 50 CFR part 648. Upon denial of an application to transfer IFQ, the Regional Administrator shall send a letter to the applicants describing the reason(s) for the rejection. The decision by the Regional Administrator is the final agency decision, and there is no opportunity to appeal the Regional Administrator's decision. An application that was denied can be resubmitted if the discrepancy(ies) that resulted in denial are resolved.

**§648.54 State waters exemption.**

**§648.55 Specifications and framework adjustments to management measures.**

**§648.56 Scallop research.**

**§§648.57-648.58 [Reserved]**

**§648.59 Sea Scallop Rotational Area Management Program and Access Area Program requirements.**

(a) The Sea Scallop Rotational Area Management Program consists of Scallop Rotational Areas, as defined in §648.2. Guidelines for this area rotation program (*i.e.*, when to close an area and reopen it to scallop fishing) are provided in §648.55(a)(6). Whether a rotational area is open or closed to scallop fishing in a given year, and the appropriate level of access by limited access and LAGC IFQ vessels, are specified through the specifications or framework adjustment processes defined in §648.55. When a rotational area is open to the scallop fishery, it is called an Access Area and scallop vessels fishing in the area are subject to the Access Area Program Requirements specified in this section. Areas not defined as Scallop Rotational Areas specified in §648.60, Habitat Management Areas specified in §648.370, or areas closed to scallop fishing under other FMPs, are governed by other management measures and restrictions in this part and are referred to as Open Areas.

(1) When a Scallop Rotational Area is closed to scallop fishing, a vessel issued any scallop permit may not fish for, possess, or land scallops in or from the area unless the vessel is transiting pursuant to paragraph (a)(2) of this section. A vessel may fish for species other than scallops within the rotational closed areas, provided the vessel does not fish for, catch, or retain scallops or intend to fish for, catch, or retain scallops. When a Scallop Rotational Area is open to scallop fishing (henceforth referred to as an Access Area), a scallop vessel may not fish for, possess, or land scallops in or from the area unless it is participating in, and complies with the requirements of, the Scallop Access Area Program Requirements defined in paragraphs (b) through (g) of this section or the vessel is transiting pursuant to paragraph (a)(3) of this section.

(2) *Transiting a Closed Scallop Rotational Area.* No vessel possessing scallops may enter or be in the area(s) specified in this section when those areas are closed, as specified through the specifications or framework adjustment processes defined in §648.55, unless the vessel is transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in §648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Closed Area II Scallop Rotational Area, as defined in §648.60(d), if there

is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in §648.2.

(3) *Transiting a Scallop Access Area.* Any sea scallop vessel that has not declared a trip into the Scallop Area Access Program may enter a Scallop Access Area, and possess scallops not caught in the Scallop Access Areas, for transiting purposes only, provided the vessel's fishing gear is stowed and not available for immediate use as defined in §648.2. Any scallop vessel that has declared a trip into the Scallop Area Access Program may not enter or be in another Scallop Access Area on the same trip except such vessel may transit another Scallop Access Area provided its gear is stowed and not available for immediate use as defined in §648.2, or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Closed Area II Scallop Rotational Area, as defined in §648.60(d), if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed and not available for immediate use as defined in §648.2.

(b) A limited access scallop vessel may only fish in the Scallop Rotational Areas, defined in §648.60, when the areas are open (*i.e.*, Access Areas), as specified through the specifications or framework adjustment processes defined in §648.55, subject to any additional restrictions specified in §648.60, provided the vessel complies with the requirements specified in paragraphs (b)(1) through (b)(9), and (c) through (f) of this section. An LAGC scallop vessel may fish in the Scallop Rotational Areas, defined in §648.60, when the areas are open (*i.e.*, Access Areas), as specified through the specifications or framework adjustment processes defined in §648.55, subject to any additional requirements specified in §648.60, provided the vessel complies with the requirements specified in paragraph (g) of this section.

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

(2) Vessels participating in the Scallop Access Area Program must comply with the trip declaration requirements specified in §648.10(f) and vessel notification requirements specified in §648.11(g) for observer deployment.

(3) *Scallop Access Area Allocations—(i) Limited access vessel allocations and possession limits.* (A) Except as provided in paragraph (c) of this section, the specifications or framework adjustment processes defined in §648.55 determine the total amount of scallops, in weight, that a limited access scallop vessel may harvest from Scallop Access Areas during applicable seasons specified in §648.60. A vessel may not possess or land in excess of its scallop allocation assigned to specific Scallop Access Areas, unless authorized by the Regional Administrator, as specified in paragraph (d) of this section, unless the vessel owner has exchanged an area-specific scallop allocation with another vessel owner for additional scallop allocation in that area, as specified in paragraph (b)(3)(ii) of this section. A vessel may harvest its scallop allocation on any number of trips in a given fishing year, provided that no single trip exceeds the possession limits specified in the specifications or framework adjustment processes defined in §648.55, unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of this section. No vessel declared into the Scallop Access Areas may possess more than 50 bu (17.62 hL) of in-shell scallops outside of the Scallop Rotational Area boundaries defined in §648.60.

(B) The following access area allocations and possession limits for limited access vessels shall be effective for the 2020 and 2021 fishing years:

(1) *Full-time vessels*—(i) For a full-time limited access vessel, the possession limit and allocations are:

Rotational access area	Scallop possession limit	2020 Scallop allocation	2021 Scallop allocation (default)
Closed Area 1 Flex*	18,000 lb (8,165 kg) per trip	9,000 lb (4,082 kg)	0 lb (0 kg)
Closed Area 2		18,000 lb (8,165 kg)	0 lb (0 kg)
Nantucket Lightship-North		9,000 lb (4,082 kg)	0 lb (0 kg)
Nantucket Lightship-South-Deep		18,000 lb (8,165 kg)	0 lb (0 kg)
Mid-Atlantic		36,000 lb (16,329 kg)	18,000 lb (8,165 kg)
Total		90,000 lb (40,823 kg)	18,000 lb (8,165 kg)

\*Closed Area 1 flex allocation can be landed from either Closed Area 1 or the Mid-Atlantic Access Area pursuant to the area boundaries defined by Framework 32.

(ii) *Closed Area 1 Access Area flex allocations.* (A) For the 2019 fishing year and the first 60 days of the 2020 fishing year, a full-time limited access vessel may choose to land up to 18,000 lb (8,165 kg) of its Closed Area 1 Access Area allocation from any access area made available in the 2019 fishing year pursuant to the area boundaries defined by Framework 30. For example, a vessel could take a trip in the Closed Area 1 Access Area and land 10,000 lb (4,536 kg) from that area, leaving the vessel with 8,000 lb (3,629 kg) of the Closed Area 1 flex allocation available, which could be landed from any other available access area as described in this section, provided the 18,000-lb (8,165-kg) possession limit is not exceeded on any one trip.

(B) For the 2020 fishing year and the first 60 days of the 2021 fishing year, a full-time limited access vessel may choose to land its Closed Area 1 Access Area allocation from either Closed Area 1 or the Mid-Atlantic Access Area pursuant to the area boundaries defined by Framework 32. For example, a vessel could take a trip in the Closed Area 1 Access Area and land 5,000 lb (2,268 kg) from that area, leaving the vessel with 4,000 lb (1,814 kg) of the Closed Area 1 flex allocation available, which could be landed from the Mid-Atlantic Access Area as described in this section, provided the 18,000-lb (8,165-kg) possession limit is not exceeded on any one trip.

(iii) If implementation of Framework 32 is delayed beyond April 1, 2020, the start of the 2020 fishing year, any full-time limited access vessel that harvests any portion of its default 2020 Nantucket Lightship-West Access Area allocation, established in Framework 30, will have 18,000 lb deducted from its fishing year 2020 Closed Area II Access Area allocation. (2) *Part-time vessels*—(i) For a part-time limited access vessel, the possession limit and allocations are as follows:

Rotational access area	Scallop possession limit	2020 Scallop allocation	2021 Scallop allocation (default)
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Closed Area 2	12,000 lb (5,443 kg) per	12,000 lb (5,443 kg)	0 lb (0 kg)
Mid-Atlantic	trip	24,000 lb (10,886 kg)	7,200 lb (3,266 kg)
Total		36,000 lb (16,329 kg)	7,200 lb (3,266 kg)

(ii) *Closed Area 1 Access Area flex allocations.* For the 2019 fishing year and the first 60 days of the 2020 fishing year, a part-time limited access vessel may choose to land up to 17,000 lb (7,711 kg) of its Closed Area 1 Access Area allocation from any access area made available in the 2019 fishing year pursuant to the area boundaries defined by Framework 30. For example, a vessel could take a trip in the Closed Area 1 Access Area and land 10,000 lb (4,536 kg) from that area, leaving the vessel with 7,000 lb (3,175 kg) of the Closed Area 1 flex allocation available, which could be landed from any other available access area as described in this section, provided the possession limit is not exceeded on any one trip.

(iii) If implementation of Framework 32 is delayed beyond the April 1, 2020, start of the 2020 fishing year, any part-time limited access vessel that harvests any portion of its default 2020 Nantucket Lightship-West Access Area allocation, established in Framework 30, will have 12,000 lb (5,443 kg) deducted from its fishing year 2020 Closed Area 2 Access Area allocation.

(3) *Occasional limited access vessels.* (i) For the 2020 fishing year only, an occasional limited access vessel is allocated 7,500 lb (3,402 kg) of scallops with a trip possession limit at 7,500 lb of scallops per trip (3,402 kg per trip). Occasional limited access vessels may harvest the 7,500 lb (3,402 kg) allocation from only the Mid-Atlantic Access Area).

(ii) For the 2021 fishing year, occasional limited access vessels are allocated 1,500 lb (680 kg) of scallops in the Mid-Atlantic Access Area only with a trip possession limit of 1,500 lb of scallops per trip (680 kg per trip).

(ii) *Limited access vessels' one-for-one area access allocation exchanges.* (A) *Full-time limited access vessels.* (1) The owner of a vessel issued a full-time limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another vessel's unharvested scallop pounds allocated into another scallop access area. These exchanges may be made only in 9,000-lb (4,082-kg) increments. For example, a full-time vessel may exchange 9,000 lb (4,082 kg), from one access area for 9,000 lb (4,082 kg) allocated to another full-time vessel for another access area. Further, a full-time vessel may exchange 18,000 lb (8,165 kg) from one access area for 18,000 lb (8,165 kg) allocated to another full-time vessel for another access area. In addition, these exchanges may be made only between vessels with the same permit category: A full-time vessel may not exchange allocations with a part-time vessel, and vice versa. Vessel owners must request these exchanges by submitting a completed Access Area Allocation Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Exchange forms are available from the Regional Administrator upon request. Each vessel owner involved in an exchange is required to submit a completed Access Area Allocation Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has enough unharvested allocation remaining in a given access area to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from the Regional Administrator that the allocation exchange has been made effective. A vessel owner may exchange equal allocations in 9,000-lb (4,082-kg) increments between two or more vessels of the same permit category under his/her ownership. A vessel owner holding a Confirmation of Permit History is not eligible to exchange allocations between another vessel and the vessel for which a Confirmation of Permit History has been issued.

(2) *Closed Area 1 Flex allocation exchanges.* In fishing year 2020, full-time limited access vessels are allocated 9,000 lb (4,082 kg) of scallops that may be landed from either Closed Area 1 or the Mid-Atlantic Access Area pursuant to the area boundaries defined by Framework 32. This flex allocation may be exchanged in full for another access area allocation, but only the flex allocation may be landed from either Closed Area 1 or the Mid-Atlantic Access Area. For example, if a Vessel A exchanges 9,000 lb (4,082 kg) of Closed Area 1 flex allocation for 9,000 lb (4,082 kg) of Nantucket Lightship-North allocation with Vessel B, Vessel A would no longer be allowed to land this allocation from the Mid-Atlantic Access Area and may only land this allocation from Nantucket Lightship-North, but Vessel B could land the flex allocation from either Closed Area 1 or the Mid-Atlantic Access Area.

(B) *Part-time limited access vessels.* The owner of a vessel issued a part-time limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another part-time vessel's unharvested scallop pounds allocated into another scallop access area. These exchanges may be made only for the amount of the current trip possession limit, as specified in paragraph (b)(3)(i)(B)(2) of this section. For example, if the access area trip possession limit for part-time limited access vessels is 12,000 lb (5,443 kg), a part-time limited access vessel may exchange no more or less than 12,000 lb (5,443 kg), from one access area for no more or less than 12,000 lb (5,443 kg) allocated to another vessel for another access area. In addition, these exchanges may be made only between vessels with the same permit category: A full-time limited access vessel may not exchange allocations with a part-time vessel, and vice versa. Vessel owners must request these exchanges by submitting a completed Access Area Allocation Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Exchange forms are available from the Regional Administrator upon request. Each vessel owner involved in an exchange is required to submit a completed Access Area Allocation Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has enough unharvested allocation remaining in a given access area to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from the Regional Administrator that the allocation exchange has been made effective. A part-time limited access vessel owner may exchange equal allocations up to the current possession limit between two or more vessels under his/her ownership. A vessel owner holding a Confirmation of Permit History is not eligible to exchange allocations between another vessel and the vessel for which a Confirmation of Permit History has been issued.

(4) *Area fished.* While on a Scallop Access Area trip, a vessel may not fish for, possess, or land scallops in or from areas outside the Scallop Access Area in which the vessel operator has declared the vessel will fish during that trip, and may not enter or exit the specific declared Scallop Access Area more than once per trip. A vessel on a Scallop Access Area trip may not enter or be in another Scallop Access Area on the same trip except such vessel may transit another Scallop Access Area as provided for under paragraph (a)(3) of this section.

(5) *NE multispecies possession limits—(i) Maximum possession limit of NE Multispecies combined.* A vessel owner or operator of a limited access scallop vessel issued a valid NE multispecies permit as specified in §648.4(a)(1), that has declared into a Scallop Access Area and fishes within the open Scallop Rotational Area boundaries defined in §648.60, may fish for, possess, and land, per trip, up to a maximum of 1,000 lb (453.6 kg) of all NE multispecies combined, excluding yellowtail flounder, subject to the minimum commercial fish size restrictions specified in §648.83(a)(1), and the additional restrictions for Atlantic cod, haddock, and yellowtail flounder specified in paragraphs (b)(5)(ii) through (iv) of this section.

(ii) *Atlantic cod.* Such vessel may bring onboard and possess only up to 100 lb (45.4 kg) of Atlantic cod per trip, provided such fish is intended for personal use only and cannot be not sold, traded, or bartered.

(iii) *Haddock*. Such vessel may possess and land haddock up to the overall possession limit of all NE multispecies combined, as specified in paragraph (b)(5)(ii) of this section, except that such vessel are prohibited from possessing or landing haddock from January 1 through June 30.

(iv) *Yellowtail flounder*. Such vessel is prohibited from fishing for, possessing, or landing yellowtail flounder.

(6) *Gear restrictions*. (i) The minimum ring size for dredge gear used by a vessel fishing on a Scallop Access Area trip is 4 inches (10.2 cm) in diameter. Dredge or trawl gear used by a vessel fishing on a Scallop Access Area trip must be in accordance with the restrictions specified in §648.51(a) and (b).

(ii) Vessels fishing in the Closed Area I, Closed Area II, Closed Area II Extension, and Nantucket Lightship Scallop Rotational Areas defined in §648.60 are prohibited from fishing with trawl gear as specified in §648.51(f)(1).

(7) *Transiting*. While outside a Sea Scallop Access Area (*i.e.*, in open areas) on a Scallop Access Area trip, the vessel must have all fishing gear stowed and not available for immediate use as defined in §648.2, unless there is a compelling safety reason to be transiting open areas without gear stowed. Regulations pertaining to transiting Scallop Rotational Areas are provided for under paragraph (a)(3) of this section.

(8) *Off-loading restrictions*. The vessel may not offload its catch from a Scallop Access Area trip at more than one location per trip.

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

(c) *Scallop Access Area scallop allocation carryover*. With the exception of vessels that held a Confirmation of Permit History as described in §648.4(a)(2)(i)(J) for the entire fishing year preceding the carry-over year, a limited access scallop vessel operator may fish any unharvested Scallop Access Area allocation from a given fishing year within the first 60 days of the subsequent fishing year if the Scallop Access Area is open, unless otherwise specified in this section. However, the vessel may not exceed the Scallop Rotational Area trip possession limit. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Mid-Atlantic Access Area at the end of fishing year 2019, that vessel may harvest those 7,000 lb (3,175 kg) during the first 60 days that the Mid-Atlantic Access Area is open in fishing year 2020 (April 1, 2020 through May 30, 2020).

(d) *Possession limit to defray the cost of observers*. The Regional Administrator may increase the sea scallop possession limit through the specifications or framework adjustment processes defined in §648.55 to defray costs of at-sea observers deployed on area access trips subject to the limits specified §648.53(g). An owner of a scallop vessel shall be notified of the increase in the possession limit through a permit holder letter issued by the Regional Administrator. If the observer set-aside is fully utilized prior to the end of the fishing year, the Regional Administrator shall notify owners of scallop vessels that, effective on a specified date, the increase in the possession limit is no longer available to offset the cost of observers. Unless otherwise notified by the Regional Administrator, vessel owners shall be responsible for paying the cost of the observer, regardless of whether the vessel lands or sells sea scallops on that trip, and regardless of the availability of set-aside for an increased possession limit. If a vessel does not land its additional allowance on the trip while carrying an observer, the additional allowance will be added to the vessel's IFQ allocation or the vessel's allocation for the Scallop Rotational Area that was fished. The vessel may land the

remainder of its allowance on a subsequent trip. However, the vessel may not exceed the IFQ or Scallop Rotational Area trip possession limit, as described in §648.52(a) or §648.59(b), respectively, unless it is actively carrying an observer.

(e) *Sea Scallop Research Set-Aside Harvest in Scallop Access Areas.* Unless otherwise specified, RSA may be harvested in any access area that is open in a given fishing year, as specified through a specifications action or framework adjustment and pursuant to §648.56. The amount of scallops that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process. The access areas open for RSA harvest for fishing years 2020 and 2021 are:

(1) 2020: Mid-Atlantic Access Area.

(2) 2021: No access areas.

(f) *VMS polling.* For the duration of the Sea Scallop Area Access Program, as defined in this section, all sea scallop vessels equipped with a VMS unit shall be polled at a minimum of twice per hour, regardless of whether the vessel is enrolled in the Sea Scallop Area Access Program. Vessel owners shall be responsible for paying the costs of polling twice per hour.

(g) *Limited Access General Category vessels.* (1) An LAGC scallop vessel may only fish in the scallop rotational areas specified in §648.60 or in paragraph (g)(3)(iv) of this section, subject to any additional restrictions specified in §648.60, subject to the possession limit and access area schedule specified in the specifications or framework adjustment processes defined in §648.55, provided the vessel complies with the requirements specified in paragraphs (b)(1), (b)(2), (b)(6) through (9), (d), (e), (f), and (g) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may fish in an approved SAP under §648.85 and under multispecies DAS in the Closed Area I, Closed Area II, Closed Area II Extension, and Nantucket Lightship Scallop Rotational Areas specified in §648.60, when open, provided the vessel complies with the requirements specified in §648.59 and this paragraph (g), but may not fish for, possess, or land scallops on such trips.

(2) *Limited Access General Category Gear restrictions.* An LAGC IFQ scallop vessel authorized to fish in the Scallop Rotational Areas specified in §648.60 that lay east of 72°30' W. lat. must fish with dredge gear only. The combined dredge width in use by, or in possession on board of, an LAGC scallop vessel fishing in these areas may not exceed 10.5 ft (3.2 m). The combined dredge width in use by, or in possession on board of, an LAGC scallop vessel fishing in the remaining Scallop Rotational Areas defined in §648.60 may not exceed 31 ft (9.4 m). Dredge width is measured at the widest point in the bail of the dredge.

(3) *LAGC IFQ Access Area trips.* (i) An LAGC scallop vessel authorized to fish in the Scallop Rotational Areas specified in §648.60 or in paragraph (g)(3)(iv) of this section may land scallops, subject to the possession limit specified in §648.52(a), unless the Regional Administrator has issued a notice that the number of LAGC IFQ access area trips have been or are projected to be taken. All LAGC IFQ access area trips must be taken in the fishing year that they are allocated (*i.e.*, there are no carryover trips). The total number of LAGC IFQ trips in an Access Area is specified in the specifications or framework adjustment processes defined in §648.55.

(ii) Scallops landed by each LAGC IFQ vessel on an access area trip shall count against the vessel's IFQ.

(iii) Upon a determination from the Regional Administrator that the total number of LAGC IFQ trips in a specified Access Area have been or are projected to be taken, the Regional Administrator shall publish notification of this determination in the FEDERAL REGISTER, in accordance with the Administrative Procedure Act. Once this determination has been made, an LAGC IFQ scallop vessel may not fish for, possess, or land scallops in or from the specified Access Area after the effective date of the notification published in the FEDERAL REGISTER.

(iv) *Allocation of Scallop Access Area Trips.* Unless otherwise specified by the Council through the framework adjustment or specifications process defined in §648.55, the LAGC IFQ access area trip allocations, specified in paragraph (v) of this section, shall be set at 5.5 percent of the total expected access area harvest for each year.

(v) The following LAGC IFQ access area trip allocations will be effective for the 2020 and 2021 fishing years:

Scallop access area	2020	2021 <sup>1</sup>
Closed Area 1	571	0
Nantucket Lightship-North	571	0
Nantucket Lightship-South-Deep	571	0
Mid-Atlantic	1,142	571
Total	2,855	571

<sup>1</sup>The LAGC IFQ access area trip allocations for the 2021 fishing year are subject to change through a future specifications action or framework adjustment.

(4) *Possession limits*—(i) *Scallops.* (A) A vessel issued a NE multispecies permit and a general category scallop permit that is fishing in an approved SAP under §648.85 under multispecies DAS, and that has not declared into the Scallop Access Area Program, is prohibited from possessing scallops.

(B) An LAGC scallop vessel authorized to fish in the Scallop Rotational Areas specified in §648.60 may possess scallops up to the possession limit specified in §648.52(a), unless otherwise authorized pursuant to paragraph (d) of this section.

(ii) *Other species.* Unless issued an LAGC scallop permit and fishing under an approved NE multispecies SAP under NE multispecies DAS, an LAGC IFQ vessel fishing in the Closed Area I, Closed Area II, Closed Area II Extension, and Nantucket Lightship Rotational Areas specified in §648.60, and the Nantucket Lightship North Sea Scallop Access Area specified in paragraph (g)(3)(iv) of this section is prohibited from possessing any species of fish other than scallops and monkfish, as specified in §648.94(c)(8)(i). Such a vessel may fish in an approved SAP under §648.85 and under multispecies DAS in the scallop access area, provided that it has not declared into the Scallop Access Area Program. Such a vessel is prohibited from fishing for, possessing, or landing scallops.

#### **§648.60 Sea Scallop Rotational Areas.**



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

Point	N latitude	W longitude
MAA1	39°30'	73°10'
MAA2	39°30'	72°30'
MAA3	38°30'	73°30'
MAA4	38°10'	73°30'
MAA5	38°10'	74°20'
MAA6	38°50'	74°20'
MAA7	38°50'	73°42'
MAA1	39°30'	73°10'

(b) *Closed Area II-Southwest and Extension Scallop Rotational Area*. The Closed Area II-Southwest and Extension Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	N latitude	W longitude	Note
CAIISWE1	41°11'	67°20'	
CAIISWE2	41°11'	66°41'	
CAIISWE3	41°0'	66°41'	
CAIISWE4	41°0'	( <sup>1</sup> )	( <sup>2</sup> )
CAIISWE5	40°40'	( <sup>3</sup> )	( <sup>2</sup> )
CAIISWE6	40°40'	67°20'	
CAIISWE1	41°11'	67°20'	

<sup>1</sup>The intersection of 41°0' N. lat. and the U.S.-Canada Maritime Boundary, approximately 41°0' N. lat. and 66°09.33' W. long.

<sup>2</sup>From Point CA2SWE 4 connected to Point CA2SWE5 along the U.S.-Canada Maritime Boundary.

<sup>3</sup>The intersection of 40°40' N. lat. and the U.S.-Canada Maritime Boundary, approximately 40°40' N. lat. and 66°43.31' W. long.

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

Point	N latitude	W longitude
CAIA1	41°30'	68°30'
CAIA2	40°58'	68°30'
CAIA3	40°54.95'	68°53.37'
CAIA4	41°04'	69°01'
CAIA5	41°30'	69°23'
CAIA1	41°30'	68°30'

(d) *Closed Area II Scallop Rotational Area.* (1) The Closed Area II Scallop Rotational Area is defined by straight lines, except where noted, connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	N latitude	W longitude	Note
CAIIA1	41°30'	67°20'	
CAIIA2	41°11'	67°20'	
CAIIA3	41°11'	66°41'	
CAIIA4	41°00'	66°41'	
CAIIA5	41°00'	( <sup>1</sup> )	( <sup>2</sup> )
CAIIA6	41°30' N	( <sup>3</sup> )	( <sup>2</sup> )

CAIIA1	41°30' N	67°20' W.	
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<sup>1</sup>The intersection of 41°00' N. lat. and the U.S.-Canada Maritime Boundary, approximately 41°00' N. lat. and 66°09.33' W. long.

<sup>2</sup>From Point CAIIA5 connected to Point CAIIA6 along the U.S.-Canada Maritime Boundary.

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

(2) *Season.* (i) A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Closed Area II Sea Scallop Rotational Area, defined in paragraph (d)(1) of this section, during the period of August 15 through November 15 of each year the Closed Area II Access Area is open to scallop vessels, unless transiting pursuant to §648.59(a).

(ii) For the 2020 scallop fishing year, a vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Closed Area II Sea Scallop Rotational Area, defined in paragraph (d)(1) of this section, during the period of November 16 through November 30, unless transiting pursuant to §648.59(a).

(e) *Nantucket Lightship-South-Deep Scallop Rotational Area.* The Nantucket Lightship South-Deep Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	N latitude	W longitude
NLSSD1	40°22'	69°30'
NLSSD2	40°15'	69°30'
NLSSD3	40°15'	69°00'
NLSSD4	40°28'	69°00'
NLSSD5	40°28'	69°17'
NLSSD1	40°22'	69°30'

(f) *Nantucket Lightship West Scallop Rotational Area.* From April 1, 2020 through May 30, 2020, the Nantucket Lightship West Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	N latitude	W longitude
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NLSW1	40°20'	70°00'
NLSW2	40°43.44'	70°00'
NLSW3	40°43.44'	69°30'
NLSW4	40°20'	69°30'
NLSW1	40°20'	70°00'

(g) *Nantucket Lightship-North Scallop Rotational Area*. The Nantucket Lightship North Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	N latitude	W longitude
NLSN1	40°50'	69°30'
NLSN2	40°50'	69°00'
NLSN3	40°28'	69°00'
NLSN4	40°28'	69°30'
NLSN1	40°50'	69°30'

(h) *Nantucket Lightship-Triangle Scallop Rotational Area*. The Nantucket Lightship Triangle Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	N latitude	W longitude
NLST1	40°28'	69°30'
NLST2	40°28'	69°17'
NLST3	40°22'	69°30'
NLST1	40°28'	69°30'

#### **§648.62 Northern Gulf of Maine (NGOM) Management Program.**

(a) The NGOM scallop management area is the area north of 42°20' N. lat. and within the boundaries of the Gulf of Maine Scallop Dredge Exemption Area as specified in §648.80(a)(11). To

fish for or possess scallops in the NGOM scallop management area, a vessel must have been issued a scallop permit as specified in §648.4(a)(2).

(1) If a vessel has been issued a NGOM scallop permit, the vessel is restricted to fishing for or possessing scallops only in the NGOM scallop management area.

(2) Scallop landings by vessels issued NGOM permits shall be deducted from the LAGC portion of the NGOM scallop total allowable catch when vessels fished all or part of a trip in the Federal waters portion of the NGOM. If a vessel with a NGOM scallop permit fishes exclusively in state waters within the NGOM, scallop landings from those trips will not be deducted from the Federal NGOM quota.

(3) Scallop landings by all vessels issued LAGC IFQ scallop permits and fishing in the NGOM scallop management area shall be deducted from the LAGC portion of the NGOM scallop total allowable catch specified in the specifications or framework adjustment processes defined in §648.55. Scallop landings by LAGC IFQ scallop vessels fishing in the NGOM scallop management area shall be deducted from their respective scallop IFQs. Landings by incidental catch scallop vessels shall not be deducted from the NGOM total allowable catch specified in paragraph (b) of this section.

(4) A vessel issued a NGOM or LAGC IFQ scallop permit that fishes in the NGOM may fish for, possess, or retain up to 200 lb (90.7 kg) of shucked or 25 bu (8.81 hL) of in-shell scallops, and may possess up to 50 bu (17.6 hL) of in-shell scallops seaward of the VMS Demarcation Line. A vessel issued an incidental catch general category scallop permit that fishes in the NGOM may fish for, possess, or retain only up to 40 lb of shucked or 5 U.S. bu (1.76 hL) of in-shell scallops, and may possess up to 10 bu (3.52 hL) of in-shell scallops seaward of the VMS Demarcation Line.

(5) Scallop landings by all vessels issued scallop permits and fishing in the NGOM under the scallop RSA program (as specified in §648.56) shall be deducted from the limited access portion of the NGOM scallop total allowable catch.

(b) *Total allowable catch.* The total allowable catch for the NGOM scallop management area shall be specified through the framework adjustment process. The total allowable catch for the NGOM scallop management area shall be based on the Federal portion of the scallop resource in the NGOM. The total allowable catch shall be determined by historical landings until additional information on the NGOM scallop resource is available, for example through an NGOM resource survey and assessment. The ABC/ACL as defined in §648.53(a) shall not include the total allowable catch for the NGOM scallop management area, and landings from the NGOM scallop management area shall not be counted against the ABC/ACL defined in §648.53(a). The total allowable catch shall be divided between the limited access and the LAGC fleets.

(1) *NGOM annual hard TACs.* The LAGC and the limited access portions of the annual hard TAC for the NGOM 2020 and 2021 fishing years are as follows:

Fleet	2020		2021 (default)	
	lb	kg	lb	kg
LAGC	210,000	95,254	167,500	75,977
Limited access	140,000	63,503	97,500	44,225

Total	350,000	158,757	265,000	120,202
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(2) Unless a vessel has fished for scallops outside of the NGOM scallop management area and is transiting the NGOM scallop management area with all fishing gear stowed and not available for immediate use as defined in §648.2, no vessel issued an LAGC or limited access scallop permit pursuant to §648.4(a)(2) may possess, retain, or land scallops in the NGOM scallop management area once the Regional Administrator has provided notification in the FEDERAL REGISTER that the vessel's respective portion(s) of the NGOM scallop total allowable catch in accordance with paragraph (b)(1) of this section has been reached, unless the vessel is participating in the scallop RSA program as specified in §648.56, has been allocated NGOM RSA pounds, and the limited access portion of the NGOM TAC has not been reached. Once the NGOM hard TAC is reached, a vessel issued a NGOM permit may no longer declare a state-only NGOM scallop trip and fish for scallops exclusively in state waters within the NGOM, unless participating in the state waters exemption program as specified in §648.54. A vessel that has not been issued a Federal scallop permit that fishes exclusively in state waters is not subject to the closure of the NGOM scallop management area.

(3) If either the LAGC or the limited access portion of the annual NGOM TAC is exceeded, the amount of NGOM scallop landings in excess of the portion of the TAC specified in paragraph (b)(1) of this section shall be deducted from the respective portion(s) of the NGOM TAC which has been exceeded for the subsequent fishing year, as soon as practicable, once scallop landings data for the NGOM management area is available.

(c) *VMS requirements.* Except scallop vessels issued a limited access scallop permit pursuant to §648.4(a)(2)(i) that have declared a NGOM trip under the scallop RSA program, a vessel issued a scallop permit pursuant to §648.4(a)(2) that intends to fish for scallops in the NGOM scallop management area or fishes for, possesses, or lands scallops in or from the NGOM scallop management area, must declare a NGOM scallop management area trip and report scallop catch through the vessel's VMS unit, as required in §648.10. If the vessel has a NGOM or IFQ permit, the vessel must declare either a Federal NGOM trip or a state-waters NGOM trip. If a vessel intends to fish any part of a NGOM trip in Federal NGOM waters, it may not declare into the state water NGOM fishery.

(d) *Gear restrictions.* Except scallop vessels issued a limited access scallop permit pursuant to §648.4(a)(2)(i) that have properly declared a NGOM trip under the scallop RSA program, the combined dredge width in use by, or in possession on board, LAGC scallop vessels fishing in the NGOM scallop management area may not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

(e) *Stellwagen Bank Scallop Closed Area.* (1) From April 1, 2020 through March 31, 2022, unless a vessel has fished for scallops outside of the Stellwagen Bank scallop management area and is transiting the area with all fishing gear stowed and not available for immediate use as defined in §648.2, no vessel issued a Federal scallop permit pursuant to §648.4(a)(2) may possess, retain, or land scallops in the Stellwagen Bank Scallop Closed Area.

(2) From April 1, 2020 through March 31, 2022, the Stellwagen Bank Scallop Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	N latitude	W longitude
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SB1	42°26'	70°27'
SB2	42°26'	70°15'
SB3	42°20'	70°15'
SB4	42°20'	70°27'
SB1	42°26'	70°27'



## 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 24, 2019

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

Dear Mike:

Today, my staff electronically sent a decision draft for Framework 32 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 32 on December 5, 2019. Since that meeting our 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 32 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







## 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 11, 2019

Mr. Alan Risenhoover  
Director, Office of Sustainable Fisheries  
National Marine Fisheries Service  
National Oceanic and Atmospheric Administration  
1315 East-West Highway, Room 14743  
Silver Spring, MD 20910

Dear Alan:

Thank you for providing the New England Fishery Management Council the opportunity to comment on the DRAFT tech memo titled "National Standard 1 Technical Guidance for Designing, Evaluating, and Implementing Carry-over and Phase-in Provisions within ABC Control Rules". As requested, the Council developed its comments in consultation with its Scientific and Statistical Committee (SSC).

Our Council believes that allowing ACL and ABC carryovers can be very beneficial, as long as the carryovers do not cause overfishing in the subsequent year. It believes that carryover provisions like those implemented under the Atlantic Scallop and Northeast Multispecies provide adequate safeguards to avoid overfishing and provide important safety and flexibility benefits for these fisheries.

Allowing a phase-in policy of fishing reductions needed to end overfishing also could be beneficial in terms of reducing economic and social impacts on the fishery under some circumstances, and our Council believes that the policy guidance provides a useful framework for evaluating whether a phase-in is appropriate.

One issue that should be considered in the development of National Standard 1 guidance is how councils should develop ABCs and ACLs for stocks that no longer have an accepted assessment and for which the OFL cannot be determined. I mention that in these comments because the lack of an agreed upon OFL also could affect carryovers and phase-ins.

Additionally, there is an error in the example that is provided for how carryover provisions might apply in the Atlantic Scallop FMP. The scallop ACLs that are proposed in each framework adjustment for updating scallop specifications and the final rule published by NMFS do not include carryover values because they are not known at that time.

Thank you for considering our Council's comments and if you have any questions, please contact me.

Sincerely,

Thomas A. Nies  
Executive Director



# WANTED!

## Flexibility in the Scallop Fishery

### *Strong Support Across the Industry for Leasing Demonstration Project*

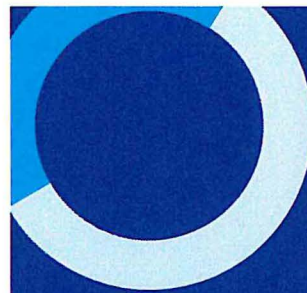
A growing majority of the scallop fleet is asking for a leasing pilot project in the limited access scallop fishery. The numbers are rising every day: the fleet is asking the Council to start work in 2020 on a new approach to building flexibility in the scallop fishery.

#### FLEET-WIDE SUPPORT

### 227 vessels

support the pilot project in the limited access (LA) fishery.

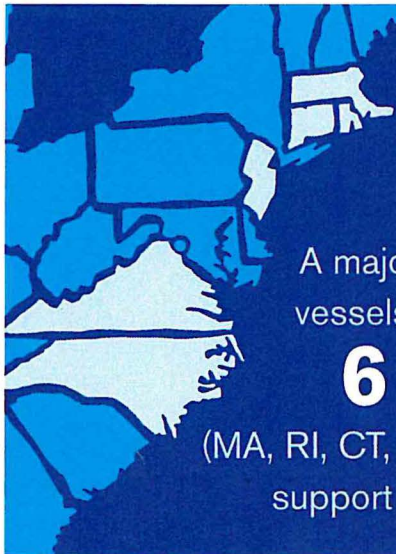
These numbers include 42 owners operating out of 7 states.



#### SMALLER OPERATORS ON BOARD

More than half (62%) of supporting owners have

### 4 or fewer permits.



#### STATE BY STATE

A majority of permits in vessels home ported in

### 6 states

(MA, RI, CT, NJ, VA, and NC)

support the pilot project.

#### CLASS BY CLASS

65% of the LA scallop fishery supports the project (with more joining as they hear about us), including

- 64% of full-time (FT) permit holders
- 100% of FT permits also authorized to use trawl nets
- 61% of FT small dredge permit holders
- 69% of part-time (PT) small dredge permit holders

*The scallop fleet supports the initiation of an action by the New England Fishery Management Council in its 2020 priorities to develop a voluntary leasing pilot demonstration project in the limited access sector that provides owners with operational flexibility, is conservation neutral, and includes measures to protect non-participants and other fisheries.*

*Rec'd 12/5/19 - Council Mtg.*

*JP 12/9/19*





We Support Flexibility in the Limited Access Scallop Fishery  
December 5, 2019

Owners of the 227 limited access scallop vessels listed below support the initiation of an action by the New England Fishery Management Council in its 2020 priorities to develop a voluntary leasing pilot demonstration project in the limited access sector that provides owners with operational flexibility, is conservation neutral, and includes measures to protect non-participants and other fisheries.

St	Vessel Name	Category
CT	F/V Furious	FT-SMD
CT	F/V Invictus	FT-SMD
CT	F/V Regulus	FT
CT	F/V Starbrite	PT-SMD
MA	F/V Ambition	FT
MA	F/V Amelia Joyce	FT
MA	F/V Ann M	FT-SMD
MA	F/V Araho	FT
MA	F/V Arcturus	FT
MA	F/V Atlantic Prince	PT-SMD
MA	F/V Avenger	FT
MA	F/V Blue Delta	FT
MA	F/V Blue Eastern	FT
MA	F/V Blue North	FT
MA	F/V Blue Pacific	FT
MA	F/V Blue South	FT
MA	F/V Blue Wave	FT-SMD
MA	F/V Blue Western	FT
MA	F/V Boomer Too	PT-SMD
MA	F/V Brittany Eryn	FT
MA	F/V Celtic	FT
MA	F/V Challenge	FT
MA	F/V Courageous	FT
MA	F/V Cynbel	FT
MA	F/V Eileen Rita	FT
MA	F/V Expectation	FT
MA	F/V Explorer	FT

MA	F/V Fair Wind	FT-SMD
MA	F/V Fjord	FT
MA	F/V Flavian S	FT
MA	F/V Friendship	FT
MA	F/V Frontier	FT
MA	F/V Galway	FT
MA	F/V Generation	FT
MA	F/V Gold Digger	LAGC
MA	F/V Grace	PT-SMD
MA	F/V Growler	FT-SMD
MA	F/V Harvester	FT
MA	F/V Horizon	FT
MA	F/V Hunter	FT-SMD
MA	F/V Incentive	FT
MA	F/V Inheritance	FT
MA	F/V Jane Elizabeth	FT
MA	F/V Kate	FT
MA	F/V Kate 2	FT
MA	F/V Kathryn Marie	FT-SMD
MA	F/V Kelly S	FT
MA	F/V Kineo	FT
MA	F/V Laura Mae	FT
MA	F/V Linda	FT-SMD
MA	F/V Little Gull	PT-SMD
MA	F/V Luzitano	FT
MA	F/V Madison Kate	FT
MA	F/V Maelstrom	FT
MA	F/V Mariner	FT

JP 12/19/19

Rec'd 12/5/19 - Council Mtg



MA	F/V Miss Shauna	FT
MA	F/V Monomoy	FT
MA	F/V Nashira	FT
MA	F/V Neskone	FT
MA	F/V Nordic Pride	FT
MA	F/V Norseman	FT
MA	F/V Ocean Fox	FT
MA	F/V Ocean Wave	FT-SMD
MA	F/V Orion	FT
MA	F/V Pacer	FT
MA	F/V Pamela Ann	FT
MA	F/V Patience	FT
MA	F/V Paul & Michelle	FT
MA	F/V Perception	FT
MA	F/V Polaris	FT
MA	F/V Prowess	FT
MA	F/V Pyxis	FT
MA	F/V Ranger	FT
MA	F/V Reflection	FT
MA	F/V Reliance	FT
MA	F/V Resolution	FT
MA	F/V Rost	FT
MA	F/V Ryan William	PT-SMD
MA	F/V Seafarer	FT
MA	F/V Socatean	FT
MA	F/V Torbay	FT
MA	F/V Tradition	FT
MA	F/V Vanquish	FT
MA	F/V Vantage	FT
MA	F/V Viking Power	FT
MA	F/V Weatherly	FT
MA	F/V William Lee	FT-SMD
MA	F/V Wisdom	FT
NC	F/V Amanda Ashley	FT-SMD

NC	F/V Ashton Matthew	FT-Nets
NC	F/V Bald Eagle II	PT-SMD
NC	F/V Birdie P	PT-SMD
NC	F/V Capt Carl	PT-SMD
NC	F/V Capt Gaston	FT
NC	F/V Capt Jeff	FT-SMD
NC	F/V Capt Malc	FT
NC	F/V Capt Potter	FT-SMD
NC	F/V Capt Ryan	FT
NC	F/V Catherine Lane	LAGC
NC	F/V Chaz's Toy	FT
NC	F/V Colten Scott	FT
NC	F/V Divine Mercy	FT
NC	F/V El Jefe	FT
NC	F/V Elizabeth Amber	FT
NC	F/V Gaston's Legacy	FT
NC	F/V Gods Mercy	FT
NC	F/V Good News II	FT
NC	F/V Gulf Stream	FT
NC	F/V Helen Louise	FT-Nets
NC	F/V Jane Carolyn	FT-SMD
NC	F/V Jeffrey Scott	FT
NC	F/V Jonathan Ryan	PT-SMD
NC	F/V Lady Anna	LAGC
NC	F/V Lady Deborah	FT
NC	F/V McKenzie	PT-SMD
NC	F/V Micah Bell	PT-SMD
NC	F/V Miss Caroline	FT
NC	F/V Miss Georgie	FT-Nets
NC	F/V Miss Maude	FT
NC	F/V Miss Tyler	FT-Nets
NC	F/V Papa's Girl	FT
NC	F/V Sassy Girl	FT-SMD
NC	F/V Sassy Sarah	FT-SMD



NC	F/V U-Boys	FT
NC	F/V Vickie II	PT-SMD
NJ	F/V Adventuress	FT-SMD
NJ	F/V Alexandra L	FT
NJ	F/V Amber Nicole	FT
NJ	F/V Andrea A	FT
NJ	F/V Anticipation	FT
NJ	F/V Atlantic Bounty	FT
NJ	F/V Atlantic Girl	PT-SMD
NJ	F/V Barbara Anne	FT
NJ	F/V Big Dog	PT-SMD
NJ	F/V Capt Bob	FT
NJ	F/V Capt Gavin	FT-SMD
NJ	F/V Capt Jesse	FT-SMD
NJ	F/V Capt John	FT
NJ	F/V Capt T	FT-SMD
NJ	F/V CB Keane	FT
NJ	F/V Collin & Warren III	FT
NJ	F/V Crystal Girl B	FT-SMD
NJ	F/V Dauntless	FT
NJ	F/V Determination	FT
NJ	F/V Elizabeth	FT
NJ	F/V Fishermens Dream B	FT-Nets
NJ	F/V Frances M. Lee Sr.	FT
NJ	F/V Freedom	FT
NJ	F/V Grand Larson III	FT
NJ	F/V Hawk	FT-SMD
NJ	F/V Jersey Girl	FT
NJ	F/V John & Nicholas	FT-Nets
NJ	F/V Karen Nicole	FT
NJ	F/V Karina	FT-SMD
NJ	F/V Kathy Anne	FT
NJ	F/V Kim & Jr II	FT
NJ	F/V Lady Evelyn	FT-Nets
NJ	F/V Lady Roslyn	FT

NJ	F/V Leader	FT
NJ	F/V Lucky Thirteen	LAGC
NJ	F/V Madelyn	FT
NJ	F/V Maizey James	PT-SMD
NJ	F/V Master James	FT
NJ	F/V Miss Sue Ann	FT-SMD
NJ	F/V Motivation	FT
NJ	F/V Ms Many	FT
NJ	F/V My Girl	FT-Nets
NJ	F/V Negotiator	FT
NJ	F/V Norreen Marie	FT-Nets
NJ	F/V Ocean Blue	FT-SMD
NJ	F/V Ocean Boy	FT-SMD
NJ	F/V Ocean Gold	FT
NJ	F/V Ocean Pride	FT
NJ	F/V Ocean Princess	FT
NJ	F/V Ocean Prowler	FT
NJ	F/V Paige Felicia	FT
NJ	F/V Patriarch	FT
NJ	F/V Pontos	FT
NJ	F/V Princess Scarlett	FT
NJ	F/V Pursuit	FT
NJ	F/V Rachel Hailey	FT-SMD
NJ	F/V Redemption	FT
NJ	F/V Saint James	PT-SMD
NJ	F/V Sea Quest	FT
NJ	F/V Silver Sea	FT
NJ	F/V Somethin Else	PT-SMD
NJ	F/V Stacy Lee	FT
NJ	F/V Tenacious	FT
NJ	F/V Thunder Bay	FT
NJ	F/V Travis & Natalie	FT-SMD
NJ	F/V Vaud-J	FT
NJ	F/V Vengeance	LAGC
NJ	F/V Victoray	PT-SMD



NJ	F/V Wesley-L	PT-SMD
PA	F/V Karen L	PT-SMD
RI	F/V Karen Elizabeth	FT
RI	F/V Yankee Pride	FT
VA	F/V Alaska	FT
VA	F/V Andy Two	FT-Nets
VA	F/V Ashley Gail	FT-SMD
VA	F/V Blue Canyon	FT
VA	F/V Blue Cove	FT
VA	F/V Blue Harbor	FT
VA	F/V Blue Harvest	FT
VA	F/V Blue Lagoon	FT
VA	F/V Blue Ocean	FT
VA	F/V Blue Sea	FT
VA	F/V Blue Stream	FT
VA	F/V Captain Billy Haver	FT
VA	F/V Carolina Capes II	FT
VA	F/V Christian & Alexa	FT
VA	F/V Cove	FT
VA	F/V Diligence	FT-SMD

VA	F/V Fortitude	PT-SMD
VA	F/V Little Tootie	FT
VA	F/V Lucky Danny II	FT-Nets
VA	F/V Lynam Jackson	FT
VA	F/V Miss Crockett	FT
VA	F/V Miss Stevie B II	FT
VA	F/V Miz Alma B	FT
VA	F/V Miz Juanita B	FT
VA	F/V Ocean Hunter	FT
VA	F/V Ocean Lady	FT
VA	F/V Ocean Leader	FT
VA	F/V Ocean Prowler	FT
VA	F/V Ocean Scout	FT-SMD
VA	F/V Providence	FT-SMD
VA	F/V Pursuit	FT
VA	F/V Relentless	FT
VA	F/V Tony Two	FT
VA	F/V Virginia Queen	FT
VA	F/V Virginia Wave	FT
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Mr. Tom Nies  
Executive Director  
New England Fishery Management Council  
50 Water Street, Mill #2  
Newburyport, MA 01950

November 4, 2019

Dear Tom,

I am writing as a follow-up to my September 12 letter requesting the Council advance the development of a temporary limited access scallop vessel DAS and access area trip leasing pilot project by ranking the project third on the scallop priorities task list for 2020.

We were pleased that the Scallop Advisory Panel (AP) voted 8-2 in New Bedford on October 23 to strongly endorse the leasing pilot project by ranking it just after Amendment 21 (A21) and the Northern Edge Access Habitat amendment, which will be led by the Habitat Committee, with involvement from the Groundfish and Scallop Committees. These top three priorities are separate from the required regulatory work on the 2021 specifications package.

The Council's Scallop AP is a remarkably knowledgeable group, broadly representing the entire fishery from Maine to Virginia, and their discussion of the leasing project was quite informative. From one-boat owners to multi-vessel owners, leasing can provide operational flexibility and resiliency that does not exist in the Fishery Management Plan (FMP). Under the current all-in or all-out system, vessel owners have no operational flexibility, no way to reduce fishing capacity or streamline their operations, and no way to improve or grow their fishing operations other than by purchasing a permit and vessel at the \$6 to \$7 million range.

With this in mind, I am writing to clarify what we are proposing. We are asking the Council to prioritize the initial steps, including developing and refining scoping documents, for a voluntary limited access scallop leasing pilot project that would be time-limited and subject to Council review. We anticipate that the amendment would emerge from the Council process with either a sunset provision or a set of frameworkable mechanisms that would allow the Council to modify, end, or extend the program based on its performance.

The fleet is aware that scallop surveys have indicated low recruitment for at least the past three years, and that the PDT has observed no significant recruitment events since the 2012 and 2013 year classes. Because of this extended period of low recruitment, the Scallop PDT has recommended significant reductions in the ABC and OFL for 2020 and 2021. Further underscoring uncertainties regarding future yields, sea scallop biomass in the DELMARVA has declined by an order of magnitude since 2017.

DAS usage has now decreased to the point that dedicated LA scallop boats are at the dock 78 percent of the year, with no ability to improve their fishing operations. These looming challenges have led to a significant and increasing number of limited access vessels to support moving forward with the development of a temporary leasing pilot project. A voluntary leasing alternative would bring flexibility



and resilience to the fishery that would allow every sector of the fleet to mitigate variability in future quotas and weather future storms.

Unfortunately, the Scallop Committee rejected the AP's recommendations and subordinated the AP's recommended priorities on a 4-3 vote that demoted the leasing project to sixth and likely below the line. The Committee's decision to subordinate the AP recommendations turned, in large part, on arguments that there is already too much work for Council staff in 2020 and that this initiative is similar to previous efforts the Council passed by. *These arguments missed the mark.* As we have stated in previous correspondence, this initiative stands apart from what has been brought to the Council before and includes principled commitments to conservation neutrality and protecting non-participants. We've also been clear and cooperative in our request that the Council begin the initial scoping work in 2020 only as time and resources allow, without displacing the important work needed on the 2021 Specifications Framework or A21.

The time is right to begin work on this project and proactively position the fleet for a strong future. We appreciate there will be concerns regarding the details of any significant amendment to such an important management plan. However, the Council amendment process provides the ideal forum for identifying and addressing any concerns through the development and evaluation of goals, objectives, management alternatives, and impacts. We ask that the Executive Committee respect the overwhelming support for a leasing pilot project by endorsing the rankings of the AP.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeffrey Pike", with a stylized, cursive script.

Jeffrey Pike

**From:** Jim Ford- FV Lisa Ann III, IV [  
**Sent:** Thursday, October 31, 2019 1:25 PM  
**To:** Tom Nies; Janice Plante  
**Cc:** Travis Ford; Sarah Heil; Michael Pentony  
**Subject:** Lisa Ann III

Council,

I am writing in regards to NGOM scallops. We hold a NGOM scallop permit and would like to see a incidental amount built into the quota for draggers and gillnetters when the season shuts down. Since it has only lasted 3 to 4 weeks it really makes no sense why we cannot either have a limited amount 5 to 10 lbs or whatever seems reasonable for home consumption or for sale for the boats who hold a NGOM permit or Limited access permit. I think if some hard tac number was allotted then shut down when it was hit it would not affect the abundant stock. We brought this question up before and also recently brought this up if we were allowed as a EM boat to eat some for lunch. I guess the answer was no! ( 0 possession ) I am trying to do the right thing under the rules and want to be legal at what I do. A lot boats keep a handful of scallops for dinner if they are seeing them and they are not reported on a VTR as discard. A lot of these scallops are deep water and are large and will never be harvested since nobody scallops there. I hope the council will take this into consideration in the next set of rules.

Thanks, Jim Ford  
FV Lisa Ann III

JP 11/1/19

