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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 121129661-3160-01]

RIN 0648-BC81

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery and Northeast Multispecies Fishery; Framework Adjustment 24 and Framework Adjustment 49

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to approve and implement regulations through Framework Adjustment 24 to the Atlantic Sea Scallop Fishery Management Plan (Framework 24), which the New England Fishery Management Council adopted and submitted to NMFS for approval. Framework 24 would set specifications for the Atlantic sea scallop fishery for the 2013 fishing year, including days-at-sea allocations, individual fishing quotas, and sea scallop access area trip allocations. This action would also set precautionary default fishing year 2014 specifications, in case the New England Fishery Management Council delays the development of the next framework, resulting in implementation after the March 1, 2014, start of the 2014 fishing year, and transitional measures are needed. In addition, Framework 24 adjusts the Georges Bank scallop access area seasonal closure schedules, and because that changes exemptions to areas closed to fishing specified in the Northeast Multispecies Fishery Management Plan, Framework 24 must be a joint action with that plan (Framework Adjustment 49). Framework 24 also

continues the closures of the Delmarva and Elephant Trunk scallop access areas, refines the management of yellowtail flounder accountability measures in the scallop fishery, makes adjustments to the industry-funded observer program, and provides more flexibility in the management of the individual fishing quota program.

DATES: Comments must be received by 5 p.m., local time, on [INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The New England Fishery Management Council developed an environmental assessment (EA) for this action that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of the Joint Frameworks, the EA, and the Initial Regulatory Flexibility Analysis (IRFA), are available upon request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

You may submit comments on this document, identified by NOAA-NMFS-2013-0014, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0014, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.
- Mail: John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on Scallop Framework 24 Proposed Rule.”
- Fax: (978) 281-9135, Attn: Emily Gilbert.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Emily Gilbert, Fishery Policy Analyst, 978-281-9244; fax 978-281-9135.

SUPPLEMENTARY INFORMATION:

Background

The management unit of the Atlantic sea scallop fishery (scallop) ranges from the shorelines of Maine through North Carolina to the outer boundary of the Exclusive Economic Zone. The Atlantic Sea Scallop Fishery Management Plan (Scallop FMP), first established in 1982, includes a number of amendments and framework adjustments that have revised and refined the fishery's management. The New England Fishery Management Council (Council) sets scallop fishery specifications through framework adjustments that occur annually or biennially. This action includes allocations for fishing year (FY) 2013, as well as other scallop fishery management measures.

The Council adopted Framework Adjustment 24 to the Scallop FMP (Framework 24) on November 15, 2012, initially submitted it to NMFS on January 22, 2013, for review and approval, and submitted a revised final framework document on February 15, 2013. Framework

24 specifies measures for FY 2013, but includes FY 2014 measures that will go into place as a default, should the next specifications-setting framework be delayed beyond the start of FY 2014. NMFS will implement Framework 24, if approved, after the start of FY 2013; FY 2013 default measures are in place starting March 1, 2013. Because some of the FY 2013 default allocations are higher than what are proposed under Framework 24, the Council included “payback” measures, which are identified and described below, to address unintended consequences of the projected late implementation of this action. This action includes some measures that are not explicitly proposed in Framework 24, but NMFS is proposing them under the authority of section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the MSA. These measures, which are identified and described below, are necessary to address unintended consequences of the projected late implementation of this action, as well as to clarify implied measures which may not have been explicitly included in Framework 24. The Council has reviewed the Framework 24 proposed rule regulations as drafted by NMFS and deemed them to be necessary and appropriate as specified in section 303(c) of the MSA.

Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACLs), Annual Catch Targets (ACTs), and set-asides for FY 2013 and default specifications for FY 2014

The Council sets the OFL based on a fishing mortality rate (F) of 0.38, equivalent to the F threshold updated through the most recent scallop stock assessment. The Council sets the ABC and the equivalent total ACL for each FY based on an F of 0.32, which is the F associated with a 25-percent probability of exceeding the OFL. The Council’s Scientific and Statistical

Committee (SSC) recommended scallop fishery ABCs for FYs 2013 and 2014 of 46.3 M lb (21,004 mt) and 52.2 M lb (23,697 mt), respectively, after accounting for discards and incidental mortality. The SSC will reevaluate an ABC for FY 2014 in conjunction with the next biennial framework adjustment.

Table 1 outlines the various scallop fishery catch limits that are derived from these ABC values. After deducting the incidental target total allowable catch (TAC) and the research and observer set-asides, the Council proportions out the remaining ACL available to the fishery according to Amendment 11 to the Scallop FMP (Amendment 11; 72 FR 20090; April 14, 2008) fleet allocations, with 94.5 percent allocated to the limited access (LA) scallop fleet (i.e., the larger “trip boat” fleet), 5 percent allocated to the limited access general category (LAGC) individual fishing quota (IFQ) fleet (i.e., the smaller “day boat” fleet), and the remaining 0.5 percent allocated to LA scallop vessels that also have LAGC IFQ permits. These separate ACLs and their corresponding ACTs are referred to as sub-ACLs and sub-ACTs, respectively, throughout this action. Amendment 15 (76 FR 43746; July 21, 2011) specified that no buffers to account for management uncertainty are necessary in setting the LAGC sub-ACLs, meaning that the LAGC sub-ACL would equal the LAGC sub-ACT. As a result, the LAGC sub-ACL values in Table 1, based on an F of 0.32, represent the amount of catch from which IFQ percent shares will be applied to calculate each vessel’s IFQ for a given FY. For the LA fleet, the Council set a management uncertainty buffer based on the F associated with a 75-percent probability of remaining below the F associated with ABC/ACL, which results in an F of 0.28.

Table 1. Scallop Catch Limits for FYs 2013 and 2014 for both the LA and LAGC IFQ Fleets.

| | 2013 | 2014 |
|---------|------------------------------|------------------------------|
| OFL | 31,555 mt (69,566,867 lb) | 31,110 mt (68,585,801 lb) |
| ABC/ACL | 21,004 mt (46,305,894 lb) | 23,697 mt (52,242,952 lb) |

| | | |
|--|------------------------------|------------------------------|
| Incidental TAC | 22.7 mt (50,000 lb) | 22.7 mt (50,000 lb) |
| Research Set-Aside (RSA) | 567 mt (1,250,000 lb) | 567 mt (1,250,000 lb) |
| Observer Set-aside (1 percent of ABC/ACL) | 210 mt (463,059 lb) | 237 mt (522,429 lb) |
| LA sub-ACL(94.5 percent of total ACL, after deducting set-asides and incidental catch) | 19,093 mt (42,092,979 lb) | 21,612 mt (47,647,385 lb) |
| LA sub-ACT (adjusted for management uncertainty) | 15,324 mt (33,783,637 lb) | 15,428 mt (34,012,918 lb) |
| LAGC IFQ sub-ACL (5.0 percent of total ACL, after deducting set-asides and incidental catch) | 1,010 mt (2,227,142 lb) | 1,144 mt (2,521,026 lb) |
| LAGC IFQ sub-ACL for vessels with LA scallop permits (0.5 percent of total ACL, after deducting set-asides and incidental catch) | 101 mt (222,714 lb) | 114 mt (252,103 lb) |

These allocations do not account for any adjustments that NMFS would make year-to-year if annual landings exceeded the scallop fishery's ACLs, resulting in triggering accountability measures (AMs).

This action would deduct 1.25 M lb (567 mt) of scallops annually for FYs 2013 and 2014 from the ABC and set it aside as the Scallop RSA to fund scallop research and to compensate participating vessels through the sale of scallops harvested under RSA projects. Beginning March 1, 2013, this set-aside is available for harvest by RSA-funded projects in open areas and the Hudson Canyon (HC) Access Area. Framework 24 would update the access area rotation schedule, and once this action is approved and implemented, applicable vessels would be also able to harvest RSA from other access areas (i.e., Closed Area 1 (CA1), Closed Area 2 (CA2), and Nantucket Lightship (NLS)).

This action would also remove 1 percent from the ABC and set it aside for the industry-funded observer program to help defray the cost of carrying an observer. The observer set-aside for FYs 2013 and 2014 are 210 mt (463,059 lb) and 237 mt (522,429 lb), respectively.

Open Area Days-at-Sea (DAS) Allocations

This action would implement vessel-specific DAS allocations for each of the three LA scallop DAS permit categories (i.e., full-time, part-time, and occasional) for FYs 2013 and 2014 (Table 2). FY 2014 DAS allocations are precautionary, and are set at 75 percent of what current biomass projections indicate could be allocated to each LA scallop vessel for the entire FY so as to avoid over-allocating DAS to the fleet in the event that the framework that would set those allocations, if delayed past the start of FY 2014, estimates that DAS should be less than currently projected.

Table 2. Scallop Open Area DAS Allocations for FYs 2013 and 2014.

| Permit Category | FY 2013 | FY 2014 |
|-----------------|---------|---------|
| Full-Time | 33 | 23 |
| Part-Time | 13 | 9 |
| Occasional | 3 | 2 |

Beginning March 1, 2013, full-time, part-time, and occasional vessels will receive 26, 11, and 3 DAS, respectively. If Framework 24 is approved, the allocations for full-time and part-time allocations would increase as soon as this action is implemented.

LA Trip Allocations, the Random Allocation Process, and Possession Limits for Scallop Access Areas

Proposed access area allocations for FY 2013 are much lower than they have been in the last few FYs (i.e., about 35 percent less than FY 2012 access area trip allocations). Due in part to unusually high recruitment in the Mid-Atlantic during 1998-2008 and the extension of the Georges Bank access area boundaries in 2011, scallop biomass has been above maximum sustainable yield levels from 2003 through 2011. As a result, the Council set high scallop allocations to allow for maximum harvest of the resource. While this has been a very successful

time for the scallop fishing industry, the scallop stock was not replenishing itself at a level that could sustain these high allocations indefinitely. Although all recent 2012 survey results show that there has been a large recruitment event in the Mid-Atlantic (second only to the massive recruitment that occurred in 2001), these young scallops should not be harvested until they have had more time to grow (i.e., FY 2015 at the earliest). As a result, the proposed FY 2013 access area allocations are considerably lower than they have been in the recent past. Because it is unknown what will happen to the high levels of recruitment in the Mid-Atlantic over the course of next year (i.e., will they grow faster from warmer water or will mortality be higher than expected?), the Council decided to develop Framework 24 as a 1-year specification-setting framework, is not allocating FY 2014 default access area trips, and will wait for the 2013 survey results to develop final FY 2014 measures through the next framework adjustment (i.e., Framework 25).

Framework 24 would close both the Elephant Trunk (ET) area and the Delmarva Access Area (DMV) for FYs 2013 and 2014, continuing the current closures of these areas implemented through MSA emergency actions (77 FR 64915 (October 24, 2012) and 77 FR 73957 (December 12, 2012)). By closing the ET, this action effectively re-establishes the ET as a scallop access area for future controlled access. The Council proposes to continue the closure of these areas to protect the large number of small scallops that are located in these areas. As mentioned above, protecting these small scallops will allow them to grow to a more marketable size for harvest, likely in FY 2015 or later.

For FY 2013, full-time LA vessels would receive two 13,000-lb (5,897-kg) access area trips. Each of these trips would take place in one of two access areas available for fishing (e.g.,

HC, NLS, CA1, and CA2), although the specific areas to which they have access would differ (Table 3).

Table 3. Total Number of FY 2013 Full-time Trips by Access Area.

| Access Area | Number of Full-time Vessel Trips |
|-------------|----------------------------------|
| HC | 210 |
| DMV | 0 |
| ET | 0 |
| CA1 | 118 |
| CA2 | 182 |
| NLS | 116 |
| Total | 626* |

* There are a total of 313 full-time vessels and each vessel would receive 2 trips.

Part-time vessels would receive one FY 2013 access area trip allocation in 2013 equivalent to 10,400 lb (4,717 kg), and vessels with limited access occasional permits would receive one 2,080-lb (943-kg) trip. These trips could be taken in any single access area that is open to the fishery for FY 2013 (i.e., all areas, except ET and DMV).

In order to preserve appropriate access area allocations, there would be no access area trips allocated under FY 2014 default measures. The next framework that would replace these FY 2014 default measures (i.e., Framework 25) would include the FY 2014 access area allocations based on updated scallop projections. If Framework 25 is delayed past March 1, 2014, scallop vessels would be restricted to fishing in open areas until final FY 2014 specifications are implemented. However, vessels would be able to fish FY 2013 compensation trips in the access areas that were open in FY 2013 (e.g., HC, NLS, CA1, and CA2) for the first 60 days that those areas are open in FY 2014, or until Framework 25 is approved and implemented, whichever occurs first. Although the Council did not consider this detail in how FY 2013 compensation trips carried over into FY 2014 would be handled, NMFS proposes, after

consultation with Council staff, the measure under section 305(d) authority of the MSA to provide some level of flexibility to vessel owners at the start of FY 2014. This level of effort is not expected to greatly impact the scallop resource and affect FY 2014 allocations.

In order to avoid allocating trips into access areas with scallop biomass levels not large enough to support a full trip by all 313 LA full-time vessels, Framework 24 proposes to allocate “split-fleet” trips into certain access areas. Framework 24 would randomly allocate two trips to each full-time vessel so that no full-time vessel has more than one trip in a given access area. To accomplish this random trip allocation assignment, the Scallop Plan Development Team (PDT) developed a system similar to the one developed in Framework Adjustment 22 to the Scallop FMP (Framework 22; 76 FR 43774; July 21, 2011), where permit numbers are selected based on a simple random number generator in Microsoft Excel and the vessels associated with a permit number would receive trip assignments into the access area(s) where they can fish. Section 2.1.3 of the Framework 24 document includes a description of the random allocation process. In order to facilitate trading trips between vessels, the Council has already proposed allocations for full-time vessels for FY 2013. These allocations are listed in Section 2.1.3 of the Framework 24 document (See ADDRESSES), as well as NMFS’s website. NMFS would update these preliminary allocations, subject to NMFS approval of Framework 24 and permit renewal requirements, with any changes in vessel ownership and/or vessel replacements.

Because the proposed measures would be implemented after March 1, 2013, and the FY 2013 default access area allocations are inconsistent with the proposed allocations, it is possible that during the interim between the start of FY 2013 and the implementation of the proposed measures, a scallop vessel could take too many access area trips and/or land too many pounds of scallops. For example, when Framework 22 set the FY 2013 default allocations, it projected that

more scallop biomass would be available to harvest than updated estimates indicate. As a result, the FY 2013 default access area allocations allow for a full-time vessel fish four access area trips at 18,000 lb (8,165 kg) a trip. Although vessels would not be able to fish all four access area trips prior to Framework 24's implementation because the Georges Bank access areas (i.e., CA1, CA2, and NLS) do not currently open until June 15, full-time vessels could fish one or two trips in HC. All full-time vessels have one HC trip, and half the full-time fleet has an additional HC trip under current measures. If all full-time vessels took their assigned HC trips prior to the implementation of Framework 24, up to 8.44 M lb (3,829 mt) of scallops could be harvested from HC, which is 5.71 M lb (2,591 mt) more than Framework 24 proposes to remove from that area. Because HC has a large number of small scallops in the area, such a dramatic and unintended increase in fishing mortality in that area could have very negative impacts on the scallop resource and the future fishery. To avoid this overharvest and to prevent a FY 2013 ACL overage due to this discrepancy, the Council developed a "payback" measure for vessels that fish default FY 2013 allocations before Framework 24 is implemented to replace those measures. Specifically, if a vessel takes FY 2013 access area trips authorized by Framework 22, it will have to give up all FY 2013 access area trips authorized to that vessel under Framework 24, plus 12 2013 open area DAS. However, vessels that take trips into HC at reduced possession limits (i.e., 13,000 lb; 5,897 kg) that are ultimately allocated those trips through Framework 24 would not be penalized if the trips are made before implementation of Framework 24.

For example, Vessel A and Vessel B, both full-time vessels, are both allocated two HC trips (18,000 lb/trip; 8,165 kg/trip), in addition to a CA2 and NLS trip, at the start of FY 2013. Under Framework 24 measures, Vessel A is allocated one trip in CA2 and one trip in CA1, and Vessel B is allocated one trip in HC and one trip in CA2 (13,000 lb/trip; 5,897 kg/trip). Because

CA1, CA2, and NLS would not be open at the start of the FY, no payback measures related to these areas are needed. Between March 1, 2013, and Framework 24's implementation, Vessel A takes a HC trip and lands 18,000 lb (8,165 kg) while Vessel B takes an HC trip and lands 13,000 lb (5,897 kg). Under this scenario, once Framework 24 is implemented, because Vessel A took an HC trip, its FY 2013 allocation would be reduced to 21 DAS (33 DAS- 12 DAS) and it would lose all of its FY 2013 access area trips. In this example, by taking one (or part of one) 18,000-lb (8,165-kg) trip into HC, the vessel would lose approximately 30,000 lb (13,608 kg) in DAS catch, assuming an LPUE of 2,500 lb/DAS (1,134 kg/DAS), and would lose its other 13,000-lb (5,897-kg) access area trip. By landing 18,000 lb (8,165 kg), the vessel would take a net loss of 33,000 lb (14,969 kg). If Vessel A took two HC trips (36,000 lb; 16,329 kg), it would incur a net loss of 15,000 lb (6,804 kg). Because Vessel B would be allocated an HC trip at 13,000 lb (5,897 kg) under Framework 24, that vessel would not have to payback any pounds for fishing that trip prior to Framework 24's implementation.

Although the Council did not discuss the payback measures for part-time and occasional vessels, there would still be the potential for those vessels to fish more scallops from HC than allocated under Framework 24. To make measures consistent with the full-time HC payback measures, NMFS proposes, under its MSA section 305(d) authority, similar payback measures for part-time and occasional vessels that are proportional to those proposed by the Council for full-time vessels.

At the start of FY 2013 under default measures, part-time and occasional vessels will be allocated two trips at 14,400 lb (6,532 kg) and one trip at 6,000 lb (2,722 kg), respectively. These trips can be taken in any open area, and it is possible that some vessels may choose to take all their access area trips in HC at the start of the FY, rather than wait for Framework 24's

implementation, which would allocate one trip at 10,400 lb (4,717 kg) for part-time vessels and one trip at 2,080 lb (943 kg) for occasional vessels. If vessels choose to take a trip(s) into HC above their ultimate trip and possession limit as proposed under Framework 24, they would receive a reduced DAS allocation once Framework 24 was implemented. Proportionally similar to what is proposed for full-time vessels, part-time vessels would receive 5 fewer DAS (i.e., total FY 2013 allocation of 8 DAS, rather than 13 DAS) and occasional vessels would receive 1 less DAS (i.e., total FY 2013 allocation of 2 DAS, rather than 3 DAS).

This payback measure does not apply to carryover HC trips from FY 2012 (i.e., trips broken during the last 60 days of FY 2012). The regulations would allow for vessels to take these compensation trips within the first 60 days of the subsequent FY if the access area from where the trip was broken remains open.

The rationale for this payback is to protect the recruitment in HC as much as possible by providing a strong disincentive for vessels to overfish the area due to the delay in Framework 24 implementation and the FY 2013 default measures. Industry members on the Council's scallop Advisory Panel assisted in the development of these measures.

This action would also remove the measures that limit fishing effort in the Mid-Atlantic during times when sea turtle distribution overlaps with scallop fishing activity. As a result of the updated Biological Opinion, which includes updated reasonable and prudent measures, the Council is no longer required to develop those effort limitation measures through the specification-setting frameworks. If Framework 24 is approved, the measures specified in Framework 22 and currently in the regulations would cease to exist.

LAGC Measures

1. Sub-ACL for LAGC vessels with IFQ permits. For LAGC vessels with IFQ permits, this action proposes a 2,227,142-lb (1,010-mt) ACL for FY 2013 and an initial ACL of 2,521,026 lb (1,144 mt) for FY 2014 (Table 1). NMFS calculates IFQ allocations by applying each vessel's IFQ contribution percentage to these ACLs. These allocations assume that no LAGC IFQ AMs are triggered. If a vessel exceeds its IFQ in a given FY, its IFQ for the subsequent FY would be deducted by the amount of the overage.

Because Framework 24 would not go into effect until after the March 1 start of FY 2013, the default FY 2013 IFQ allocations, which are higher than those proposed in Framework 24, have rolled over until Framework 24 is implemented. It is possible that scallop vessels could exceed their Framework 24 IFQ allocations during this interim period between March 1, 2013, and NMFS's implementation of the proposed IFQ allocations in Framework 24. Therefore, Framework 24 specifies the following payback measure for LAGC IFQ vessels: If a vessel transfers (i.e., temporary lease or permanent transfer) all of its allocation to other vessels prior to Framework 24's implementation (i.e., transfers more than it is ultimately allocated for FY 2013), the vessel(s) that transferred in the pounds would receive a pound-for-pound deduction in FY 2013 (not the vessel that leased out the IFQ). For example, Vessel A is allocated 5,000 lb (2,268 kg) of scallops at the start of FY 2013, but would receive 3,500 lb (1,588 kg) of scallops once Framework 24 is implemented. If Vessel A transfers its full March 1, 2013, allocation of 5,000 lb (2,268 kg) to Vessel B prior to Framework 24's implementation, Vessel B would lose 1,500 lb (680 kg) of that transfer once Framework 24 is implemented.

In situations where a vessel leases out its IFQ to multiple vessels, only the vessel(s) that, in turn, leased in quota resulting in an overage would have to pay back that quota. Using the example above, if Vessel A first leases 3,000 lb (1,361 kg) of scallops to Vessel B and then

leases 2,000 lb (907 kg) of scallops to Vessel C, only Vessel C would have to pay back IFQ in excess of Vessel A's ultimate FY 2013 allocation (i.e., Vessel C would have to give up 1,500 lb (680 kg) of that quota because Vessel A ultimately only had 500 lb (227 kg) of IFQ to lease out). In this example, if Vessel C already fished all of its leased-in quota, it would incur an overage of 1,500 lb (680 kg) and could either lease in more quota to make up for that overage during FY 2013, or would have that overage, along with any other overages incurred in FY 2013, applied against its FY 2014 IFQ allocation as part of the individual AM applied to the LAGC IFQ fleet.

The onus is on the vessel owners to have a business plan to account for the mid-year adjustments in lieu of these payback measures. NMFS sent a letter to IFQ permit holders providing both March 1, 2013, IFQ allocations and Framework 24 proposed IFQ allocations so that vessel owners know how much they can lease to avoid any overages incurred through leasing full allocations prior to the implementation of Framework 24.

2. Sub-ACL for LA Scallop Vessels with IFQ Permits. For LA scallop vessels with IFQ permits, this action proposes a 222,714-lb (101-mt) ACL for FY 2013 and an initial 252,103-lb (114-mt) ACL for FY 2014 (Table 1). NMFS calculates IFQ allocations by applying each vessel's IFQ contribution percentage to these ACLs. These allocations assume that no LAGC IFQ AMs are triggered. If a vessel exceeds its IFQ in a given FY, its IFQ for the subsequent FY would be reduced by the amount of the overage.

If a vessel fishes all of the scallop IFQ it receives at the start of FY 2013, it would incur a pound-for-pound overage that would be applied against its FY 2014 IFQ allocation, along with any other overages incurred in FY 2013, as part of the individual AM applied to the LA vessels with LAGC IFQ permits. These vessels cannot participate in the IFQ transfer program, so leasing in more quota is not an option.

3. LAGC IFQ Trip Allocations and Possession Limits for Scallop Access Areas. Table 4 outlines the total number of FY 2013 LAGC IFQ fleetwide access area trips. Once the total number of trips is projected to be fished, NMFS would close that access area to LAGC IFQ vessels for the remainder of FY 2013.

Table 4. LAGC fleet-wide access area trip allocations for FY 2013.

| Access Area | FY 2013 |
|--------------------|----------------|
| CA1 | 212 |
| CA2 | 0 |
| NLS | 206 |
| HC | 317 |
| ETA | 0 |
| DMV | 0 |

In previous years, the Council did not allocate trips for LAGC IFQ vessels into CA2, because the Council and NMFS do not expect many of these vessels to fish in that area due to its distance from shore, and the total number of fleetwide trips only reflected 5.5 percent of each open access area. The Council proposes in Framework 24 to include 5.5 percent of the CA2 available TAC in setting LAGC IFQ fleetwide access area trip allocations, essentially shifting those CA2 trips to other access areas closer to shore, so that LAGC IFQ vessels would have the opportunity to harvest up to 5.5 percent of the overall access area TAC, not just that available in areas open to them. For example, the LAGC fishery could be allocated 217 trips in CA2 in FY 2013 (i.e., 5.5 percent of CA2's TAC) so those trips would be divided equally among the other access areas, adding about 72 additional trips per area.

In order to preserve appropriate access area allocations, there would be no access area trips allocated to LAGC IFQ vessels under FY 2014 default measures. The next framework that would replace these FY 2014 default measures (i.e., Framework 25) would include the FY 2014

access area allocations based on updated scallop projections. If Framework 25 is delayed past March 1, 2014, LAGC IFQ scallop vessels would be restricted to fishing their IFQ allocations in open areas until final FY 2014 specifications are implemented.

4. NGOM TAC. This action proposes a 70,000-lb (31,751-kg) annual NGOM TAC for FYs 2013 and 2014. The allocation for FY 2014 assumes that there are no overages in FY 2013, which would trigger a pound-for-pound deduction in FY 2014 to account for the overage.

5. Scallop Incidental Catch Target TAC. This action proposes a 50,000-lb (22,680-kg) scallop incidental catch target TAC for FYs 2013 and 2014 to account for mortality from this component of the fishery, and to ensure that F-targets are not exceeded. The Council may adjust this target TAC in the future if vessels catch more scallops under the incidental target TAC than predicted.

Adjustments to Georges Bank (GB) Access Area Closure Schedules

Framework 24 proposes to adjust the time of year when scallop vessels may fish in the GB access areas (CA1, CA2, and NLS). Because this changes exemptions to areas closed to fishing specified in the Northeast Multispecies FMP, this action is also a joint framework with that plan (Framework Adjustment 49 to the Northeast Multispecies FMP). Currently, vessels may fish in the areas from June 15 through January 31 and are prohibited from fishing in these areas from February 1 through June 14 of each FY. Instead, Framework 24 would move the CA2 closure to August 15 – November 15, when bycatch of yellowtail flounder (YTF) is highest, and would eliminate the seasonal closures from CA1 and NLS. This proposed measure is based on observer data in and around the GB access areas, and on recent RSA-funded research looking at seasonal variations in scallop meat weights and YTF bycatch rates from CA1 and CA2. There is a clear pattern for CA2 for when YTF bycatch rates are highest. The Council

selected the August 15 – November 15 time period because that is when scallop meat weights are lowest and YTF bycatch rates are highest, meaning that the closure would promote lower scallop fishing mortality (i.e., when meat weights are lower, more scallops are harvested to meet possession limits and fishing time is increased) as well as less potential YTF bycatch. Overall YTF bycatch in CA1 and NLS is low, and there does not appear to be a strong seasonal difference. Therefore, imposing a seasonal restriction in those areas may not do much for YTF and could actually shift effort into higher YTF bycatch areas if vessels fish in open areas when NL and CA1 are closed. Because this alternative adjusts regulations implemented through the NE Multispecies FMP, Framework 24 is a joint action (Framework Adjustment 49 to the NE Multispecies FMP). If this action is approved, all areas would open in FY 2013 once Framework 24 is implemented, likely in May 2013.

Addition of LAGC Yellowtail Flounder (YTF) Accountability Measures (AMs)

The proposed action includes two alternatives that would require AMs for the LAGC fishery, one for the LAGC dredge fishery and the other for the LAGC trawl fishery. To date, the LAGC fishery does not have associated AMs for any overages to the YTF sub-ACL, but the fleet is catching more YTF than previously expected. The Council is not proposing AMs for LAGC vessels in the GB YTF stock area because catch of YTF by these vessels is negligible. AMs are only proposed for the Southern New England/Mid-Atlantic (SNE/MA) YTF stock area.

For LAGC vessels that use dredges, if the YTF sub-ACL is exceeded and an AM is triggered for the LA scallop fishery, the LAGC dredge fishery would not have an AM triggered unless their estimated catch was more than 3 percent of the sub-ACL by the scallop fishery. AMs in SNE/MA would not trigger on this fishery if dredge vessels exceed 3 percent of the sub-ACL; only if the total sub-ACL and ACL are exceeded, and the LAGC dredge fishery catches

more than 3 percent of the sub-ACL. For example, if the total sub-ACL for the scallop fishery is 50 mt (110,231 lb) of YTF, and NMFS estimates that the LAGC dredge fishery will catch 1 mt (2,205 lb) of YTF, 2 percent of the sub-ACL, AMs would not trigger for this fleet even if the total sub-ACL was exceeded and LA AMs were triggered. However, if their catch is more than 3 percent of the SNE/MA YT sub-ACL (i.e., 1.5 mt (3,307 lb) of YTF), and both the overall scallop fishery's YTF sub-ACL and the YTF LA AM is triggered, an AM would also trigger for the LAGC dredge fishery. The Council designed this threshold as a way to relieve the LAGC dredge fishery from AMs if they are triggered for LA vessels, since the YTF catch from the LAGC dredge segment of the fishery is such a small percentage of the total.

The AM closure area for LAGC dredge vessels would be identical to that currently in place for the LA fishery (statistical areas 537, 539, and 613), but the closure schedule (based on the level of the YTF sub-ACL overage) differs. The Council developed a closure schedule that leaves some of the AM area open for parts of the year when traditional LAGC dredge fishing has occurred, but closes the areas during months when YTF bycatch is higher (Table 5).

Table 5. LAGC dredge fishery's proposed AM closure schedule for statistical areas 537, 539, and 613.

| | AM closure area and duration | | |
|-------------------------|------------------------------|------------------|--------------|
| Overage | 539 | 537 | 613 |
| 2 percent or less | Mar-Apr | Mar-Apr | Mar-Apr |
| 2.1 - 7 percent | Mar-May, Feb | Mar-May, Feb | Mar-May, Feb |
| 7.1 - 12 percent | Mar-May, Dec-Feb | Mar-May, Dec-Feb | Mar-May, Feb |
| 12.1 - 16 percent | Mar-Jun, Nov-Feb | Mar-Jun, Nov-Feb | Mar-May, Feb |
| 16.1 percent or greater | All year | Mar-Jun, Nov-Feb | Mar-May, Feb |

For LAGC trawl vessels, the AM closure areas would be statistical areas 612 and 613. The Council proposed that the SNE/MA YTF AM for LAGC trawl vessels would be triggered two different ways:

First, the AM would be triggered if the estimated catch of SNE/MA YTF by the LAGC trawl fishery is more than 10 percent of the SNE/MA YTF sub-ACL for the scallop fishery. In this case, the AM closure season for LAGC trawl vessels would be March – June and again from December – February, a total of 7 months (i.e., the most restrictive closure in Table 6 below). For example, if the total scallop fishery SNE/MA YTF sub-ACL was 50 mt (2,205 lb), AMs would trigger for the LAGC trawl fishery if the estimated catch by that segment is more than 5 mt (11,023 lb), 10 percent of the YTF sub-ACL for the scallop fishery for that FY. Because the LAGC trawl fishery would meet the 10-percent threshold, the AM would be a 7-month closure of statistical areas 612 and 613, regardless of whether or not the scallop fishery’s YTF sub-ACL was triggered. This measure is more restrictive than what the Council proposes for LAGC dredge vessels, because the LAGC trawl fishery is catching much more YTF than anticipated

(i.e., in FY 2012, NMFS estimated that the LAGC trawl fishery caught 22.5 percent of the total SNE/MA YTF sub-ACL, and the LAGC dredge fishery only caught 1.5 percent).

Second, if the scallop fishery exceeds its sub-ACL overall, and total SNE/MA YTF ACL is exceeded, triggering AMs in the LA fleet, LAGC trawl vessels would be subject to their AM closure, with the length of the closure based on the extent of the YTF sub-ACL overage of the entire scallop fishery (See Table 6). Continuing the example above, if the scallop fishery exceeds its 50-mt YTF sub-ACL and the LA AM is triggered, and the LAGC trawl portion of the scallop fishery catches an estimated 2 mt (i.e., less than the 10-percent threshold), LAGC vessels would be prohibited from using trawl gear in statistical areas 612 and 613 from March through April of a following FY, based on Table 6 (See the “Modification to the Timing of YTF AM Implementation” section below for more information on when AMs would be triggered for the scallop fishery overall).

If both of these caveats are triggered (i.e., the trawl fishery catches more than 10 percent of the total SNE/MA YTF sub-ACL and the overall SNE/MA YTF sub-ACL is exceeded, triggering AMs for the LA scallop fishery), the most restrictive AM would apply (i.e., the 7-month closure from March-June, and December-February).

In order to reduce the economic impacts on this fleet, the Council proposed to allow LAGC trawl vessels to fish in the AM area during the months of July through November to enable LAGC trawl vessels to fish for scallops in that area during part of the year that they have historically fished (i.e., summer and fall). In addition, if the LAGC trawl AM is triggered, a trawl vessel could still covert to dredge gear and continue fishing for scallops. If a vessel chooses to switch gears, it must follow all dredge gear regulations, including that fishery’s AM schedule if it has also been triggered.

Table 6. LAGC trawl fishery’s proposed AM closure schedule for statistical areas 612 and 613.

| Overage | AM Closure |
|-------------------|-----------------------|
| 2 percent or less | Mar-Apr |
| 2.1-3 percent | Mar-Apr, and Feb |
| 3.1-7 percent | Mar-May, and Feb |
| 7.1-9 percent | Mar-May, and Jan-Feb |
| 9.1-12 percent | Mar-May, and Dec-Feb |
| 12.1 or greater | Mar-June, and Dec-Feb |

Modification to the Timing of YTF AM Implementation

Currently, on or about January 15 of each FY, NMFS determines whether the scallop fishery is expected to exceed the YTF flounder sub-ACLs for that FY. This determination is based on a projection that includes assumptions of expected scallop catch for the remainder of the FY, as well as YTF bycatch rates from the previous year’s observer data if those data for the current FY are not available. Before the start of the next FY, NMFS announces if AMs are triggered, based on the January projection, and predefined areas close to the limited access scallop fishery based on the AM schedule in Framework 23 and the AM trigger thresholds outlined in Framework 47 to the NE Multispecies FMP (Groundfish Framework 47) (77 FR 26104; May 2, 2012). Once all the data are available for the previous year (i.e., full FY scallop landings, full FY observer data), NMFS re-estimates YTF catch and, if the new estimate shows a different conclusion when compared to the sub-ACLs than the initial projection, could re-evaluate the decision to trigger AMs.

Because we must determine whether or not the total YTF ACL has been exceeded, and because that information is not fully available until after the April 30 end of the NE multispecies

FY, administering this YTF AM has been extremely complex and has resulted in continuously re-evaluating the AM determination, depending on data variability.

To streamline the process of implementing YTF AMs in the scallop fishery, and to alleviate industry confusion, Framework 24 proposes that the respective AM for each YTF stock area would be implemented at the start of the next FY (i.e., the current way YTF AMs are to be triggered) only if reliable information is available that a YTF sub-ACL has been exceeded during a FY. This approach could be used in situations where the ACL for a stock is low, an overage is known early in the FY, and AM determinations are based on actual catch and landings rather than projections.

However, if reliable information is not available to make a mid-year determination of the need to implement an AM for the YTF sub-ACL, NMFS would wait until enough information is available (i.e., when the total observer and catch data is available for that FY) before making a decision to implement an AM. Under this scenario, the AMs would be implemented in Year 3 (e.g., for an overage in FY 2013, the AM would be implemented in FY 2015).

Additional Flexibility for the LAGC IFQ Leasing Program

At the request of the LAGC IFQ fleet, the Council developed alternatives that would provide more flexibility to the LAGC IFQ leasing program by allowing transfer of quota after an LAGC IFQ vessel landed scallops in a given FY and, beginning March 1, 2014, would allow IFQ to be transferred more than once (i.e., sub-transfers). These provisions would not apply to vessels that have both an LAGC IFQ and LA scallop permit. Those vessels are prohibited from leasing or permanently transferring LAGC IFQ.

Currently, an IFQ vessel is not allowed to transfer IFQ to another vessel for the remainder of a FY if it has already landed part of its scallop IFQ for that year. This restriction

was part of the original design of the scallop IFQ program implemented through Amendment 11. This action proposes to remove this prohibition, allowing a vessel more flexibility to utilize its IFQ throughout the FY. For example, if an IFQ vessel that has a base allocation of 10,000 lb (4,536 kg) only lands 2,000 lb (907 kg) before deciding to stop fishing for scallops for the remainder of the year, under Framework 24, the vessel would be able to transfer (temporarily or permanently) its remaining 8,000 lb (3,629 kg) of scallops to other IFQ vessels during the FY. Because this is a relatively minor adjustment to how NMFS monitors the fishery, and does not involve extensive programming changes, NMFS would be able to implement this portion of the measure along with other Framework 24 measures upon this action's effective date, likely in May 2013, if approved.

Currently, IFQ can only be transferred once during a FY, a restriction that was also part of the original design of the scallop IFQ program implemented through Amendment 11. This action also proposes to enable an IFQ vessel to transfer IFQ that it received through a previous transfer to another IFQ vessel or vessels. For example, a vessel that has a base allocation of 10,000 lb (4,536 kg) also leased in 5,000 lb (2,268 kg) from other IFQ vessels. After catching only 2,000 lb (907 kg) of scallops, the vessel's engine fails. Under this scenario, the vessel would be allowed to lease (or permanently transfer) out its remaining quota to one or more vessels, including both its base allocation (as explained in the first part of this proposed action) and the quota it has leased in.

Because sub-transfers will add more complexity to IFQ monitoring, and because NMFS is currently making a number of programming changes to the databases to improve monitoring in this fishery, NMFS would implement this by March 2014, following the completion of other

adjustments. Waiting until the start of FY 2014 would also avoid implementing a sub-transfer alternative mid-year, which would further complicate IFQ accounting for FY 2013.

In order to process IFQ sub-transfer applications, NMFS would require that both parties involved in a sub-leasing request (i.e., the transferor and the transferee) must be up-to-date with their data reporting (i.e., all VMS catch reports, VTR, and dealer data must be up-to-date).

Because this action would increase the complexity of NMFS IFQ monitoring, cost recovery fees would likely increase.

This action would also require adjustments to how NMFS applies scallop IFQ towards the ownership and vessel caps, which are held at 5 percent and 2.5 percent of the total LAGC IFQ sub-ACLs, respectively. Sub-transfers would complicate the ownership/vessel cap accounting, requiring stronger controls. To ensure accurate accounting and avoid the potential for abuse of the IFQ cap restriction, all pounds that have been on a vessel during a given FY would be counted towards ownership or vessel caps, no matter how long the pounds were "on" the vessel (i.e., even if a vessel leases in 100 lb (45.4 kg) and transfers out those pounds 2 days later, those 100 lb (45.4 kg) would count towards the caps).

For example, Owner A has an IFQ permit on Vessel 1 with an allocation consisting of 2.5 percent of the total IFQ allocation and also has a permit on Vessel 2 with an allocation of 2.0 percent, for a total of 4.5 percent ownership of the total IFQ allocation. If Owner A leases an additional 0.5 percent to Vessel 2 and then sub-leases that 0.5 percent to another vessel owned by a separate entity (Owner B), because those pounds were under the ownership of Owner A at one point during the given FY, he would still have reached his ownership cap, as well as the vessel caps for both vessels. As such, Owner A could continue to lease out (or permanently transfer) IFQ pounds to other owners, but could not transfer in any more IFQ until the next FY.

Modifications to the Observer Set-Aside Program

1. Inclusion of LAGC open area trips into the industry-funded observer set-aside program. Framework 24 proposes to expand the observer set-aside (OBS) program to include LAGC IFQ vessels in open areas in order to increase the amount of coverage of that fleet compared to current levels. Currently, if an LAGC IFQ vessel is required to carry an observer on an open area trip (i.e., a non-access area trip), NMFS covers the cost of that observer. All other scallop trips (LAGC trips in access areas, and LA trips in both open and access areas) are under the industry-funded scallop OBS program. Under the industry-funded OBS program, if a vessel is selected to carry an observer, the vessel is responsible to pay for that observer on that trip. The vessel is compensated from the OBS program in either additional pounds in access areas or DAS in open areas to help defray the cost of the observer. The OBS program was first used when scallop vessels gained access into portions of groundfish closed areas under Joint Framework Adjustments 11 and 39 to the Scallop and NE Multispecies FMPs, respectively (69 FR 63460; November 2, 2004). The set-aside program was expanded in Amendment 10 to the Scallop FMP (69 FR 35194; June 23, 2004) to include other access areas and open areas. The OBS program has enabled higher observer rates in the scallop fishery compared to other fisheries in the region. However, there is one segment of the scallop fishery with lower bycatch rates that could benefit from more coverage – LAGC open area fishing trips. Current LAGC open area observer coverage has been very low compared to all other scallop trips covered under the OBS program (e.g., open area LAGC IFQ coverage is generally less than 1 percent, while industry-funded LA open area observer coverage is usually set at 10 to 15 percent coverage).

This increase in coverage for this portion of the fleet would enable NMFS to have more bycatch information for this segment of the scallop fishery, which would improve monitoring of YTF bycatch.

In order to incorporate LAGC open area trips into the OBS Program, Framework 24 proposes that LAGC vessels would be compensated in a manner similar to how access area IFQ trips are handled. If an IFQ vessel is selected for an open area observed trip, that vessel would receive compensation of a certain number of pounds per trip. The exact compensation rate would be determined by NMFS at the start of each FY. For example, if the FY 2013 compensation rate for LAGC open area IFQ trips was 150 lb/trip (68 kg/trip) and a vessel is selected for an open area trip, that vessel would receive a credit of 150 lb (68 kg) towards its IFQ account to account for the observer coverage, so long as the OBS set-aside has not been fully harvested. Those additional pounds could be fished on the observed IFQ trip above the regular possession limit, or could be fished on a subsequent trip that FY (but must be harvested within the current possession limit requirements if fished on a future trip).

Framework 24 also proposes that LAGC call-in requirements for open area trips be identical to those currently in place for LAGC IFQ access area trips: All LAGC vessels would be required to call in to NMFS's Northeast Fisheries Observer Program weekly with their expected trip usage. For example, vessel operators must call by Thursday if they expect to make any open area (or access area) trips from Sunday through Saturday of the following week. In addition, Council proposes that observer providers should charge LAGC IFQ vessels on open area trips in the same way that they charge LAGC access area trips: Providers should charge dock-to-dock, where a "day" is considered a 24-hr period, and portions of other days would be pro-rated at an hourly charge.

Because the Council did not focus on the details of incorporating LAGC IFQ open area trips to the OBS Program, NMFS requests comments from LAGC IFQ vessels on this proposed approach, as outlined in the Framework 24 document (see ADDRESSES). If this action is approved and implemented, the FY 2013 coverage rate for LAGC open area trips would be about 8 percent. NMFS believes that this coverage level would not result in exceeding the available set-aside, and NMFS would re-evaluate this level, along with the resulting compensation rate (likely 150 lb/trip (68 kg/trip)), during the FY if fishing conditions are different than anticipated, resulting in the set-aside being harvested more quickly than expected.

2. Adjustments to applying the OBS TAC by area. One-percent of the total ACL for the scallop fishery is set aside annually to help compensate vessels for the cost of carrying an observer, and currently this amount is divided proportionally into access areas and open areas in order to set the compensation and coverage rates and monitor this set-aside harvest by area. These area-specific OBS allocations are then set in the regulations, along with all other specifications set through the framework process. If the set-aside for a given area is fully harvested, based on the TACs in the regulations, there is currently no mechanism to transfer OBS TAC from one area to another and, as a result, any vessel with an observed trip in an area with no remaining OBS has to pay for the observer without compensation. Framework 24 proposes to adjust how the OBS is allocated (i.e., removing the need for it to be area-specific), in order to allow for more flexibility in adjusting compensation rates by area mid-year. Although the specification-setting frameworks would still divide up the OBS proportionally by access and open areas in order to set the compensation and coverage rates and for monitoring purposes (i.e., in order to determine if fishing activity in one area is using up more of the set-aside compensation than anticipated when the compensation rate was set), these TACs would not be

officially set in the regulations. Instead, set-aside could 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 would be considered completely harvested when the full 1 percent is landed, at which point there would be no more compensation for any observed scallop trip, regardless of area. NMFS would continue to proactively adjust compensation rates mid-year to minimize the chance that the set-aside would be harvested prior to the end of the FY. Allowing set-aside to be flexible by area will help reduce the chance that vessels would have to pay for observers without compensation when fishing in a given area.

Other Clarifications and Modifications

This proposed rule includes several revisions to the regulatory text to address text that is duplicative and unnecessary, outdated, unclear, or otherwise could be improved. NMFS proposes these changes consistent with section 305(d) of the MSA. For example, there are terms and cross references in the current regulations that are now inaccurate due to the regulatory adjustments made through past rulemakings (e.g., measures related to the YTF access area TACs are no longer necessary because Framework 47 to the NE Multispecies FMP removed those TACs in May 2012). NMFS proposes to revise the regulations to remove measures intended by previous rulemaking, and to provide more ease in locating these regulations by updating cross references.

This action also proposes revisions that would clarify the intent of certain regulations. For example, NMFS proposes clarifications to the Turtle Deflector Dredge regulations at § 648.51 to more clearly indicate the gear requirements intended through Framework Adjustment 23 to the Scallop FMP (77 FR 20728; April 6, 2012). Additionally, prohibitions in § 648.14 imply that vessels cannot land scallops up to the incidental scallop possession limit when

declared out of the fishery and that IFQ vessels cannot land up to 600 lb (272 kg) of their IFQ scallops on NE multispecies, surfclam, ocean quahog, or other trip requiring a VMS declaration. This was not the intent of Amendment 11, and conflict with other regulations in part 648, subpart D. As such, NMFS proposes to clarify these regulations. NMFS also proposes to add more description to some access area and habitat closed area coordinates to clarify the boundaries of those areas.

Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the FMP, other provisions of the MSA, and other applicable law, subject to further consideration after public comment.

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

This rule contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). One requirement has been submitted to OMB for approval under the NMFS Northeast Region Observer Providers Family of Forms (OMB Control No. 0648-0546). Under the proposed action, all LAGC IFQ vessels would be required to call in weekly with their expected open area trip usage, similar to current requirements for LAGC IFQ trips in access areas. The public reporting burden for this collection of information has already been analyzed under this family of forms and is estimated to average 15 minutes per response with an associated cost of \$1.50, that includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Based on FY 2011 permit data, there are 259 active LAGC IFQ-permitted scallop vessels that would be subject to this information collection. These vessels would be required to notify observer providers if they plan on fishing in an open area in the following week. This information collection adds a burden to a small portion of the fleet. While this is a new requirement, vessels would never call in more than once a week. Since the 2011 renewal of this information collection already estimated the burden at once a week for all active vessels, there are no additional burden hours compared to the previous renewal.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Regional Administrator (see ADDRESSES), and email to OIRA_Submission@omb.eop.gov or fax to 202-395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

An IRFA has been prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA consists of Framework 24 analyses, its draft IRFA, and the preamble to this action. Because Framework 24 includes an alternative to modify the GB access area seasonal restrictions (Section 2.2.1), this action is also a joint framework with the NE Multispecies FMP

(Framework 49). However, this alternative is not expected to have direct economic impacts to the groundfish fishery (i.e., groundfish vessels currently have no access to these areas and should that change, Framework Adjustment 48 to the NE Multispecies FMP would include a full analysis of the economic impacts for the groundfish fishery) and thus impacts of such a measure on groundfish small business entities is expected to be negligible. Therefore, this IRFA focuses on the scallop fishery.

Statement of Objective and Need

This action proposes the management measures and specifications for the Atlantic sea scallop fishery for FY 2013, with FY 2014 default measures. A description of the action, why it is being considered, and the legal basis for this action are contained in Framework 24 and the preamble of this proposed rule and are not repeated here.

Description and Estimate of Number of Small Entities to Which the Rule Would Apply

The proposed regulations would affect all vessels with LA and LAGC scallop permits. The Framework 24 document provides extensive information on the number and size of vessels and small businesses that would be affected by the proposed regulations, by port and state. There were 313 vessels that obtained full-time LA permits in 2011, including 250 dredge, 52 small-dredge, and 11 scallop trawl permits. In the same year, there were also 34 part-time LA permits in the sea scallop fishery. No vessels were issued occasional scallop permits. In FY 2011, NMFS issued 288 IFQ permits (including 40 IFQ permits issued to vessels with a LA scallop permit), 103 NGOM, and 279 incidental catch permits. Of these, 169 IFQ, 14 NOGM, and over 76 incidental permitted vessels were active. Since all scallop permits are limited access, vessel owners would only cancel permits if they decide to stop fishing for scallops on the

permitted vessel permanently, or if they transfer IFQ to another IFQ vessel and permanently relinquish the vessel's scallop permit. This is likely to be infrequent due to the value of retaining the permit. As such, the number of scallop permits could decline over time, but would likely be fewer than 10 permits per year.

The RFA defines a small business entity in any fish-harvesting or hatchery business as a firm that is independently owned and operated and not dominant in its field of operation (including its affiliates), with receipts of up to \$4 M annually. In prior Scallop FMP actions, each vessel was considered a small business entity and was treated individually for the purposes of the RFA analyses. In this action, the Council recognized ownership affiliations and made very basic connections between multiple vessels to single owners and has made distinctions between large business entities and small business entities, as defined by the RFA. Although several vessels are owned by a single owner (i.e., 68 vessels out of a total of 343 LA vessels), the majority of the limited access vessels are owned by affiliated entities comprised of several individuals having ownership interest in multiple vessels (i.e., 275 vessels out of a total of 343 LA vessels). The sum of annual gross receipts from all scallop vessels operated by the majority of the multiple boat owners (but not all) would exceed \$4 M in 2011 and 2012, qualifying them as "large" entities. In FY 2010, 190 vessels, including LA and LAGC permitted-vessels, belonged to 27 large business entities that grossed more than \$4 M annually in scallop revenue. In the same year, 153 vessels belonged to 105 small business entities (ownership ranged from 1 to 4 vessels) that grossed less than \$4 M a year in scallop revenue. In FY 2011, scallop revenue greatly increased as the scallop ex-vessel prices increased by 20 percent from 2010 prices. As a result, more business entities fell in the large entity category (i.e., the number of LA permits that

grossed more than \$4 M annually increased to 34, and the number of small entities decreased to 97). It is likely that the number of large and small entities in FY 2012 were similar to those in FY 2011.

The Office of Advocacy at the Small Business Administration (SBA) suggests two criteria to consider in determining the significance of regulatory impacts; namely, disproportionality and profitability. The disproportionality criterion compares the effects of the regulatory action on small versus large entities (using the SBA-approved size definition of "small entity"), not the difference between segments of small entities. The changes in profits, costs, and net revenues due to Framework 24 are not expected to be disproportional for small versus large entities since each vessel will receive the same number of open areas DAS and access area trips allocations according to the categories they belong to (i.e., the allocations for all full-time vessels are identical, and the allocations for the part-time and occasional vessels are proportional to the full-time allocations, 40 percent and 8.33 percent of the full-time allocations, respectively). As a result, this action would have proportionally similar impacts on revenues and profits of each vessel and each multi-vessel owner compared both to status quo (i.e., FY 2012) and no action levels. Therefore, this action is not expected to have disproportionate impacts or place a substantial number of small entities at a competitive disadvantage relative to large entities. A summary of the economic impacts relative to the profitability criterion is provided below under "Economic Impacts of Proposed Measures and Alternatives."

Description of Projected Reporting, Recordkeeping, and other Compliance Requirements

One proposed measure in this rulemaking would impose new reporting, recordkeeping or other compliance requirements upon the small entities that participate in the fishery.

Under the proposed action, all LAGC IFQ vessels would be required to call in weekly with their expected open area trip usage, similar to current requirements for LAGC IFQ trips in access areas. This measure is intended to improve observer coverage for LAGC open area trips by incorporating them into the industry-funded observer program, rather than continuing to fund them under NMFS's Northeast Fisheries Observer Program, which results in lower coverage levels due to competing interests with funding observers in other targeting fisheries. Observer coverage in the LAGC scallop fishery is necessary to monitor the bycatch of finfish, including yellowtail flounder, skates, monkfish, cod, and other species. Monitoring of yellowtail and windowpane flounder is of particular concern because the scallop fishery is constrained by a fishery-specific sub-Annual Catch Limit (ACL) for these stocks. Observer coverage is also needed to monitor interactions of the LAGC scallop fishery with endangered and threatened sea turtles in open areas.

Notification requires the dissemination of the following information: Gear type (dredge or trawl); specification of LA or LAGC; area to be fished (for FY 2013, these areas include NLS, CA1, CA2, HC, MA open areas, or GB open areas); phone number; Federal fishery permit number; name; vessel name; port and state of departure; and estimated date of sail. This information would be used to place observers on LAGC scallop vessels to monitor catch, discards, and potential sea turtle interactions on open area trips. While this is a new requirement, vessels would never be obligated to call in more than once a week and already have a weekly call-in requirement for access area trips. As a result of the current collection of information requirements, there would be no additional burden hours compared to what has already been analyzed. The burden estimates, including the new requirement, applies to all LA

and LAGC IFQ vessels and assumed that each vessel would call in to the observer program a total of 50 times in a given FY. NMFS estimates each response to take about 10 min, with an associated cost of \$1.00. NMFS has estimated the cost to observer providers to respond to each vessel request to take about 5 min, with an associated cost of \$0.50 . In 2011, there were 259 LAGC IFQ vessels. Therefore, 12,950 requests (50 calls x 259 vessels) would impose total compliance costs of \$19,425. These estimates are likely over-estimates, as LAGC IFQ vessels would likely not call in 50 times a year.

This action contains no other compliance costs. It does not duplicate, overlap, or conflict with any other Federal law.

Economic Impacts of Proposed Measures and Alternatives

Summary of the Aggregate Economic Impacts

A detailed analysis of the economic impacts of the proposed actions may be found in Section 5.4 of the Framework 24 document. All economic values are presented in terms of 2011 dollars and projected economic values presented below use a 7-percent discount rate to compare results to current values.

The impact of five allocation alternatives were evaluated in Framework 24: Four alternatives proposed the same number of DAS, but differed on the number of access area trips and which areas would be open in FY 2013. One alternative (Alternative 1) proposed that full-time vessels would receive two access area trips at 13,000 lb (5,897 kg) into three access areas (i.e., HC, CA1, and CA2); another alternative (Alternative 2; the proposed alternative) offered the identical number of access area trips as Alternative 1, but included access into NLS as well as HC, CA1, and CA2. The remaining two alternatives offered full-time vessels one trip at 18,000

lb (8,165 kg), which would be randomly assigned to one of two access areas (Alternative 3) or one of four areas (Alternative 4). The fifth alternative considered by the Council was the No Action alternative, which would allow full-time vessels four access area trips at 18,000 lb (8,165 kg) per trip and lower DAS allocations than the other alternatives.

The definition of “No Action” refers to the implementation of FY 2013 default measures that are currently assigned in the regulations. The No Action alternative does not result in the same allocations or revenues as in FY 2012. Rather, No Action would result in eight fewer DAS in FY 2013 compared to FY 2012. In addition, because the scallop resource in the access areas is at a much lower level than in FY 2012 and earlier, the No Action would allocate four trips into areas that are no longer as productive as they were in FY 2012. As a result of fewer open area DAS, combined with a lower landings-per-unit effort (LPUE) due to the decline in estimated stock abundance in FY 2013, revenues for No Action would be lower (\$448 M in FY 2013) compared to the actual revenues in FY 2011 (\$582 M) and FY 2012 (estimated to be about \$550 M in inflation-adjusted 2011 prices). From the perspective of the impacts on the economy and of the participants in the fishery, a baseline that would reflect potential economic impacts relative to the recent levels of allocations would be a more useful comparison. For this purpose, a Status Quo scenario was also incorporated into the economic analysis. This scenario allocated vessels exactly the same amount of access area trips and DAS in FY 2013 as they had the opportunity to take in FY 2012. Because the recent scallop resource conditions in the open and access areas will be less favorable in FY 2013 compared to FY 2012, continuation of the same allocations under the Status Quo scenario would result in lower landings (50.9 M lb in FY 2013 versus an estimated 57.6 M lb in FY 2012) and lower revenues in FY 2013 compared to FY 2012

(\$505 M, compared to an estimated revenue of \$550 M) if actual scallop prices equal the estimated prices (\$9.92) for FY 2013. Similarly, in the future years, the landings and revenues for the Status Quo scenario will be lower than FY 2012 levels. This is because the continuation of the same number of open area DAS and access area trip allocations would increase the fishing mortality above the sustainable levels and reduce scallop yield and revenues in the long-term. Note that the Status Quo alternative is used here for analytical purposes in the economic impact analysis of Framework 24's allocations alternatives but was not actually considered by the Council, because it is based on an infeasible scenario that would increase the scallop fishing mortality above sustainable levels, resulting in reduced scallop yield and revenues in the long-term.

In summary, the aggregate economic impacts of the proposed measures, including the open area DAS and access area allocations for LA vessels and ACLs for the LAGC fishery, are expected to have negative impacts on the revenues and profits of the small businesses in the scallop industry in FY 2013, compared to the No Action alternative and FY 2012 conditions. However, the measures included in Framework 24 are not expected to offset the gains and profits of the scallop industry, or to jeopardize the financial viability of scallop vessels either in the short term or in the medium term, especially in this highly profitable industry. The record-high revenues and profits earned by the scallop industry since FY 2010 are expected to provide the scallop vessels with sufficient short-term cash reserves to finance their operations until the anticipated positive effects of the regulation start paying off in the later years. Over the medium term (i.e., from FYs 2013 to 2017), the economic impacts of the proposed alternative on the majority of small business entities in scallop fishing industry could range from small negative to

negligible impacts compared to taking no action and the FY 2012 levels. The economic impacts of the proposed action are expected to be positive over the long-term.

Economic Impacts of the Proposed Measures and Alternatives

1. Allocations for the LA and LAGC Scallop Fleets – Aggregate Impacts

The proposed open area DAS allocations are expected to prevent overfishing in open areas. The proposed action would implement the following vessel-specific DAS allocations for FYs 2013 and 2014: Full-time vessels would be allocated 33 and 23 DAS, respectively; part-time vessels would be allocated 13 and 9 DAS, respectively; and occasional vessels would receive 3 and 2 DAS, respectively. Additionally, in FY 2013 full-time vessels would receive a total of two access area trips at 13,000 lb (5,897 kg), and part-time vessels and occasional vessels would receive one access area trip, at 10,400 lb (4,717 kg) and 2,080 lb (943 kg), respectively. The proposed default FY 2014 DAS would be set at precautionary levels and would be reevaluated in the next specifications-setting framework action. No access area trips would be allocated under FY 2014 default measures, and vessels would have to wait until the next framework to fish in access areas in FY 2014.

The Framework 24 analysis of the fleet-wide aggregate economic impacts indicate that the proposed action and all other alternatives would have negative economic impacts compared to the No Action alternative in the short term (FYs 2013-2016) because vessels would receive fewer access area trips compared to No Action. Total fleet revenue under the proposed action (Alternative 2) is estimated at \$393.4 M, and net revenues per vessel (i.e., gross revenues minus trip costs, used as a proxy for profits) are estimated to be \$1,187,238 in FY 2013. Compared with No Action fleet revenues (\$448.4 M fleet-wide revenues and \$1,353,718 per vessel), the

proposed action and Alternative 1 would result in decreases in FY 2013 fleet and vessel net revenues of 12 percent; and Alternative 3 and 4 would result in decreases in FY 2013 fleet and vessel net revenues of 18 and 17 percent, respectively. Both the revenues and net revenues under the preferred alternative, as well as other considered alternatives, over the medium term (FYs 2014 to 2016) would be less than No Action, although the differences would be smaller after FY 2015. However, over the long-term (FYs 2013-2026), the proposed action would have positive impacts on the revenues and net revenues of scallop vessels. This is because under No Action more scallops would be landed in the short-term, resulting in less available scallops for harvest in the future.

Compared to the Status Quo alternative, the proposed action would have negative impacts on the revenues and profits of the scallop vessels and the small business entities in FYs 2013-2015. Estimated fleet revenues would decline by 22 percent in FY 2013 under the proposed action compared to the level for revenues for Status Quo. The reduction in revenues would be greater compared to estimated FY 2012 levels, although part of that decline would be due to the reduction in the scallop biomass in the recent year. The decline in net revenues (which the analysis uses as a proxy for profits) would be slightly lower, 21 percent in FY 2013 compared to the Status Quo scenario, because the fishing costs would be lower with fewer access area trips and less open area DAS under the proposed action and other alternatives. The decline in net revenue would be less under the proposed action compared to the other considered alternatives.

Although the lower allocations proposed in Framework 24 would have negative impacts over the short-term, they are not expected to offset the gains and profits of the scallop industry,

or to jeopardize the financial viability of scallop vessels either in the short term or in the medium term, especially in this highly profitable industry. The record-high revenues and profits earned by the scallop industry since FY 2010 are expected to provide the scallop vessels with sufficient short-term cash reserves to finance their operations until the anticipated positive effects of the regulation start paying off in the later years. The economic impacts on the net revenues and profits of the proposed action are expected to be positive over the long-term due to higher estimated scallop biomass levels.

As for LAGC vessels, the economic impacts of the proposed action are expected to be negative in the short-term, because the overall ACL would be lower, resulting in smaller allocations for the LAGC fishery compared to the No Action and Status Quo levels. Because the LAGC allocations are derived from the ACL (which is the same for all alternatives), the values are identical across all alternatives considered, with the exception of No Action. The total LAGC IFQ for the proposed action is equivalent to about 2.4 M lb (1,111 mt) and 2.8 M (1,257 mt) for FYs 2013 and default 2014, respectively, or about 400,000 lb (181.4 mt) less than under No Action. Because the LAGC fishery receives a fixed proportion of the total ACL (i.e., 5.5 percent), the economic impacts are similar to the impacts for the LA fishery in the medium-term (low negative) and over the long-term (slightly positive) as well compared to the No Action alternative and Status Quo scenario. The proposed action would prorate LAGC IFQ trips proportionally in all open access areas excluding CA2, with positive economic impacts on the LAGC vessels because they will be able to use CA2 trips in areas closer to the shore with lower trip costs, and offsetting some of the negative impacts of the reduced allocations. There are no

other alternatives that would generate higher economic benefits for the LAGC participants of the scallop fishery.

In summary, the economic impacts of the proposed LA and LAGC allocation measures are expected to have negative impacts on the revenues and profits of the small businesses in the scallop industry in FY 2013, compared to the No Action alternative and FY 2012 conditions. Over the medium term (i.e., from FYs 2013 to 2017), the economic impacts of the proposed alternative on the majority of small business entities in scallop fishing industry could range from small negative to negligible impacts compared to taking no action and the FY 2012 levels.

2. Payback Measures for LA and LAGC vessels for Overages Incurred between March 1, 2013, and Framework 24's Implementation

Framework 24 would be implemented after the start of FY 2013 (March 1, 2013) and the FY 2013 default measures would be in place until the proposed action is implemented. These current default measures include access area LA allocations that are considerably higher than proposed under Framework 24 (i.e., 4 access area trips at 18,000 lb/trip (8,165 kg/trip) compared to 2 access area trips at 13,000 lb/trip (5,897 kg/trip) for full-time vessels). LAGC IFQ vessels would receive allocations at the start of FY 2013 that are roughly 30 percent higher than Framework 24 allocations. Framework 24 included a number of provisions to account for the inconsistencies between allocations in effect at the start of FY 2013 and those that would be implemented under Framework 24. These "payback" measures create a disincentive to fish higher March 1, 2013, allocations and would help reduce the negative impacts of overfishing in 2013 on the scallop resource if vessels adhere to the lower Framework 24 allocations. For LA vessels, if a vessel takes FY 2013 default access area trips, it will have to give up all FY 2013

access area trips authorized to that vessel under Framework 24, plus 12 open area DAS as a payback. Since taking extra trips would result in a net loss of scallop catch, this could have negative economic impacts in the short-term. However, taking the number of trips allocated at the start of FY 2013 could have negative impacts on the scallop yield and revenues from these areas in the future years. As a result, the payback measures would help reduce the negative impacts of overfishing in 2013 on the scallop resource and the analysis results indicate positive long-term impacts on landings, revenues, and profits of the scallop vessels.

LAGC IFQ vessels that exceed their ultimate FY 2013 allocations through IFQ transfers would have a pound-for-pound deduction in FY 2013 to account for the excess allocated IFQ. The payback would be applied to the vessel that transfer the IFQ in (i.e., not the vessel that transfers out the IFQ). LAGC IFQ vessels that exceed their ultimate FY 2013 allocations would have a pound-for-pound payback in FY 2014 as their individual AM, specified in Amendment 15 to the Scallop FMP (Amendment 15).

As a result, LA and LAGC vessels that choose to exceed the FY 2013 allocations proposed in Framework 24 would have slightly lower revenues than the estimated fleet average in FY 2013, resulting in negative short-term impact on those individual vessels in FY 2013. Over the long-term, the overage provisions proposed in Framework 24 are expected to reduce the negative impacts of overfishing in FY 2013 on the scallop resource. Therefore, these measures will have positive fleet-wide impacts on landings and revenues over the long term. There are no alternatives that would generate higher economic benefits for the participants of the scallop fishery. Members of the scallop industry assisted in the development of these payback measures.

3. RSA and OBS TACs

The proposed action would set aside 1 percent of the ABC for the industry-funded OBS program, and would set aside 1.25 M lb (567 mt) from the ABC for the RSA program. These set-asides are expected to have indirect economic benefits for the scallop fishery by improving scallop information and data made possible by research and the observer program. Although allocating a higher OBS percentage or higher RSA allocation could result in higher indirect benefits to the scallop fleet by increasing available funds for research and the observer program, these set-aside increases could also decrease direct economic benefits to the fishery by reducing revenues, and no such alternatives were considered.

4. NGOM TAC

The proposed action (No Action alternative) specifies a 70,000-lb (31,751-kg) TAC for the NGOM and would not have additional economic impacts on the participants of the NGOM fishery. The NGOM TAC has been specified at this level since FY 2008, and the fishery has harvested less than 15 percent of the TAC in each FY; therefore, the TAC has no negative economic impacts. There are no alternatives that would generate higher benefits for NGOM scallop vessels. The alternative for setting the NGOM TAC at 58,000 lb (26,308 kg) is expected to reduce the chance of excess fishing in Federal waters in the NGOM management area, but considering that the current scallop catches by NGOM vessels are very low, neither alternative is expected to impact vessels. Thus, negligible economic impacts are expected from the No Action alternative and the other NGOM Alternative.

5. Modification of GB Access Area Seasonal Restrictions

The Council considered four options to modify the GB access area seasonal closures, in addition to No Action, which would keep the areas (NLS, CA1, CA2) closed from February 1

through June 14 of each FY. Option 1 would close all three areas from Sept 1 – April, Option 2 would close all three areas from September – November, Option 3 (the proposed action) would only close CA2 from August 15-November 15 and would not impose a seasonal closure on CA1 or NLS, and option 4 would eliminate the seasonal closure in the GB access areas entirely so that the areas would be open to scallop fishing year round.

The proposed action (Option 3) would modify GB seasonal restrictions to provide access during months with highest scallop meat weights and to minimize yellowtail bycatch. Compared to No Action and the other options considered, this alternative would provide higher flexibility to vessels because CA2 would close for only 3 months (August 15 through November 15) and CA1 and NLS would be open all year, resulting in positive economic benefits for the scallop fishery.

There are no alternatives that would generate higher economic benefits for the participants of the scallop fishery. Under No Action, all the GB access areas will remain closed during 4.5 months (from February 1 to June 14), during times when scallop meat weights are higher compared to the months that would be closed under the proposed action. Similarly, other alternatives (Options 1 and 2) would keep all three GB access areas closed, while the proposed action would only close CA2. Eliminating GB access area seasonal restrictions could have positive economic benefits for the scallop vessels in the short-term. It is more likely, however, for the long-term benefits of this option to be lower compared to the economic benefits from other options since fishing effort could occur in the access areas during the low meat weight seasons, resulting in higher fishing costs and lower benefits for the scallop resource.

6. Measures to Address YTF Bycatch in the LAGC IFQ Dredge Fishery

Under the proposed action, if the SNE/MA YTF AM for LAGC IFQ vessels using dredges was triggered, these vessels would be unable to fish in certain areas in SNE during the months of the highest YTF bycatch. The closure areas are identical to those for LA vessels when the SNE/MA YTF AM is triggered, except that there would be no year-round closure of these areas for LAGC vessels (i.e., some of the closure areas would be open for parts of the year when traditional fishing has occurred). This should reduce the amount of effort that could be shifted to other months and areas, thus reducing negative impacts on crew income and profits. Bycatch from this segment of the fishery is typically very small, and as long as the future catch of YTF does not increase from those levels estimated in previous years, this alternative would likely have negligible economic impacts. However, if the AM were triggered, a small negative economic impact on LAGC vessels using dredge gear would be expected.

There are no alternatives that would generate higher economic benefits for all the participants of the scallop fishery. Under No Action, YTF catch by LAGC dredge vessels would count against the scallop fishery YTF sub-ACLs (GB and SNE/MA), but if an AM is triggered, these vessels would be exempt from those measures. As a result, No Action would have positive economic impacts on the LAGC vessels and negative economic impacts on the LA vessels if the AM triggered. Also, no accountability for the LAGC fishery would likely increase the risk of catching substantial proportions of YTF sub-ACL by this fishery with negative economic impacts on the overall scallop fishing industry.

7. Measures to Address YTF Bycatch in the LAGC IFQ Trawl Fishery

The AMs to address YTF bycatch in the LAGC IFQ trawl fishery are expected to reduce incentive to catch YTF as bycatch and reduce the risks of closing of the YTF AM seasonal

closure areas to scallop fishing with positive long-term economic impacts. However, if the YTF bycatch by the LAGC IFQ trawl fishery remains above 10 percent, the proposed action would close statistical areas 612 and 613 for 7 months to trawl vessels. These areas would close to fishing during certain months, as well, if the overall YTF SNE/MA sub-ACL for the scallop fishery is exceeded. In either case, the vessels would have to shift their effort to July through November if they want to fish with trawl gear, which is likely to increase costs of fishing. Allowing dredge gear to be used for fishing during closure periods would add to flexibility for those vessels that have the capacity to use dredge gear. This would mitigate the potential impacts of AM closures since the costs of installing a dredge could outweigh cost of shifting effort to other months and areas during the AM closure season.

There are no alternatives that would generate higher economic benefits for all the participants of the scallop fishery. Two other options were considered: One that was similar to the proposed action, but that would have not allowed LAGC trawl vessels to switch to dredge gear (Option 1), and another that would have prohibited trawl gear for an entire FY in the SNE/MA area if the overall YTF sub-ACL was exceeded (Option 3). The proposed action (Option 2) is more flexible than Option 1 because it allows a trawl vessel to convert to dredge gear, and it is more flexible than Option 3 because it is not a gear restriction for the entire SNE/MA YT stock area. Under No Action, YTF catch by LAGC vessels would count against the scallop fishery YTF sub-ACLs (GB and SNE/MA), but if an AM is triggered, LAGC vessels are exempt from those measures. As a result, No Action would have positive economic impacts on the LAGC vessels and negative economic impacts on the LA vessels if the AM is triggered. Also, no accountability for the LAGC fishery would likely increase the risk of catching

substantial proportions of YTF sub-ACL by this fishery, with negative economic impacts on the overall scallop fishing industry.

8. Timing of AMs for the Scallop Fishery YTF Sub-ACL

Under the proposed action, if reliable information is not available to make a mid-year determination of the need to implement an AM for the YTF sub-ACL, NMFS would wait until enough information is available before making a decision to implement an AM. This alternative would have positive economic impacts on the scallop vessels since the decisions would be made based on more accurate information.

There are no alternatives that would generate higher economic benefits for all of the participants in the scallop fishery. Under No Action, AMs will trigger in Year 2 regardless of the reliability of the information available at that time. This could have negative economic impacts on the scallop fishery if the AMs were triggered in the next FY based on inaccurate data that resulted in loss of scallop landings and revenue.

9. Additional Flexibility for the LAGC IFQ Leasing Program

This measure would allow transfer of quota after an LAGC IFQ vessel landed scallops in a given FY and, beginning March 1, 2014, would allow IFQ to be transferred more than once (i.e., sub-transfers). This measure is expected to have positive economic impacts allowing the vessels fully land their quota, and would enable a vessel owner to transfer IFQ to another vessel if his vessel sank or became inoperable mid-year, thus providing more revenue opportunities. The second aspect of this alternative would enable an IFQ vessel to transfer IFQ that it received through a previous transfer (i.e., a sub-transfer to another vessel) to another IFQ vessel or vessels. Although this alternative would provide more flexibility to vessels by allowing sub-

leasing with positive economic benefits, it would also add more complexity to IFQ monitoring with a possibility for the cost recovery fees increasing and thus reducing the net economic benefits for the LAGC vessels.

There are no alternatives that would generate higher economic benefits for all of the participants in the scallop fishery. No Action could result in loss of revenue from unused quota if a vessel cannot fish during the rest of the year and lease its quota to another vessel, with negative economic impacts.

10. Inclusion of LAGC Open Area Trips into the Industry-Funded Observer Set-Aside (OBS) Program

Framework 24 proposes to expand the OBS program to include LAGC IFQ vessels in open areas to increase the amount of coverage of that fleet compared to current levels. Given that the scallop fishery is subject to bycatch sub-ACLs, it would be useful to have more observer data to rely on to monitor these ACLs more precisely, including the LAGC fishing in open areas. Having more precise bycatch information for all segments of the scallop fishery would improve management and would have indirect positive impacts on economic benefits.

There are no alternatives that would generate higher economic benefits for all of the participants in the scallop fishery. Under No Action, LAGC trips in open areas will not be under the OBS program and that portion of the fleet's trips would have very little observer coverage.

11. Adjustments to Applying the OBS TAC by Area

Under the proposed action, OBS could be transferred from one area to another based on NMFS's monitoring that determines whether one area will likely have excess set-aside, while another may not. Therefore, this alternative would be more efficient in using the OBS where it is

needed most and, as such, they would be more fully utilized for better monitoring the catch, with indirect positive economic benefits.

There are no alternatives that would generate higher economic benefits for all the participants of the scallop fishery. Under No Action, if the OBS for a given area is fully harvested, there would be no mechanism to transfer TAC from one area to another. As a result, any vessel with an observed trip in an area with no remaining OBS would have to pay for the observer without compensation. This would increase costs for vessels and have negative economic impacts.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 5, 2013

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
performing the functions and duties of the
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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

PART 648--FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.10, paragraph (f)(1) is revised to read as follows:

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

* * * * *

(f) * * *

(1) IFQ scallop vessels. An IFQ scallop vessel that has crossed the VMS Demarcation Line specified under paragraph (a) of this section is deemed to be fishing under the IFQ program, unless prior to the vessel leaving port, the vessel's owner or authorized representative declares the vessel out of the scallop fishery by notifying the Regional Administrator through the VMS. If the vessel has not fished for any fish (i.e., steaming only), after declaring out of the fishery, leaving port, and steaming to another location, the owner or authorized representative of an IFQ scallop vessel may declare into the IFQ fishery without entering another port by making a declaration before first crossing the VMS Demarcation Line. An IFQ scallop vessel that is fishing north of 42°20' N. lat. is deemed to be fishing under the NGOM scallop fishery unless prior to the vessel leaving port, the vessel's owner or authorized representative declares the vessel out of the scallop fishery, as specified in paragraphs (e)(5)(i) and (ii) of this section. After declaring out of the fishery, leaving port, and steaming to another location, if the IFQ scallop vessel has not fished for any fish (i.e., steaming only), the vessel may declare into the NGOM

fishery without entering another port by making a declaration before first crossing the VMS Demarcation Line.

* * * * *

3. In § 648.11, paragraphs (g)(1), (g)(2)(ii), (g)(5)(i)(B), (g)(5)(ii), and the introductory text to paragraphs (g)(5) and (g)(5)(i), are revised to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(g) * * *

(1) General. Unless otherwise specified, owners, operators, and/or managers of vessels issued a Federal scallop permit under § 648.4(a)(2), and specified in paragraph (a) of this section, must comply with this section and are jointly and severally responsible for their vessel's compliance with this section. To facilitate the deployment of at-sea observers, all sea scallop vessels issued limited access and LAGC IFQ permits are required to comply with the additional notification requirements specified in paragraph (g)(2) of this section. When NMFS notifies the vessel owner, operator, and/or manager of any requirement to carry an observer on a specified trip in either an Access Area or Open Area as specified in paragraph (g)(3) of this section, the vessel may not fish for, take, retain, possess, or land any scallops without carrying an observer. Vessels may only embark on a scallop trip in open areas or Access Areas without an observer if the vessel owner, operator, and/or manager has been notified that the vessel has received a waiver of the observer requirement for that trip pursuant to paragraphs (g)(3) and (g)(4)(ii) of this section.

(2) * * *

(ii) LAGC IFQ vessels. LAGC IFQ vessel owners, operators, or managers must notify the NMFS/NEFOP by telephone by 0001 hr of the Thursday preceding the week (Sunday through Saturday) that they intend to start any scallop trip, and must include the port of departure, open area or specific Sea Scallop Access Area to be fished, and whether fishing as a scallop dredge, scallop trawl vessel. If selected, up to two trips that start during the specified week (Sunday through Saturday) can be selected to be covered by an observer. NMFS/NEFOP must be notified by the owner, operator, or vessel manager of any trip plan changes at least 48 hr prior to vessel departure.

* * * * *

(5) Owners of scallop vessels shall be responsible for paying the cost of the observer for all scallop trips on which an observer is carried onboard the vessel, 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 or reduced DAS accrual rate. The owners of vessels that carry an observer may be compensated with a reduced DAS accrual rate for open area scallop trips or additional scallop catch per day in Sea Scallop Access Areas or additional catch per trip for LAGC IFQ trips in order to help defray the cost of the observer, under the program specified in §§ 648.53 and 648.60.

(i) Observer service providers shall establish the daily rate for observer coverage on a scallop vessel on an Access Area trip or open area DAS or IFQ scallop trip consistent with paragraphs (g)(5)(i)(A) and (B), respectively, of this section.

* * * * *

(B) Open area scallop trips. For purposes of determining the daily rate for an observed scallop trip for DAS or LAGC IFQ open area trips, regardless of the status of the industry-funded observer set-aside, a service provider shall charge dock to dock where “day” is defined as a 24-hr period, and portions of the other days would be pro-rated at an hourly charge (taking the daily rate divided by 24). For example, if a vessel with an observer departs on the July 1st at 10 pm and lands on July 3rd at 1 am, the time at sea equals 27 hr, so the provider would charge 1 day and 3 hr.

(ii) NMFS shall determine any reduced DAS accrual rate and the amount of additional pounds of scallops per day fished in a Sea Scallop Access Area or on an open area LAGC IFQ trips for the applicable fishing year based on the economic conditions of the scallop fishery, as determined by best available information. Vessel owners and observer service providers shall be notified through the Small Entity Compliance Guide of any DAS accrual rate changes and any changes in additional pounds of scallops determined by the Regional Administrator to be necessary. NMFS shall notify vessel owners and observer providers of any adjustments.

* * * * *

4. In § 648.14, paragraphs (i)(2)(vi)(F), (i)(2)(vi)(G), (i)(4)(i)(G), and (i)(4)(iii)(E) are removed and reserved, paragraphs (i)(1)(iii)(A)(1)(iii), (i)(1)(iii)(A)(2)(iii), (i)(3)(i)(B) (i)(4)(i)(A), and (i)(4)(iii)(D) are revised to read as follows:

§ 648.14 Prohibitions.

(i) * * *

(1) * * *

(iii) * * *

(A) * * *

(1) * * *

(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.

* * * * *

(2) * * *

(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.

* * * * *

(3) * * *

(i) * * *

(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.

* * * * *

(4) * * *

(i) * * *

(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 648.60(d).

* * * * *

(iii) * * *

(D) Prior to March 1, 2014, request to transfer IFQ that has already been temporarily transferred from an IFQ scallop vessel in the same fishing year.

5. In § 648.51, the introductory text to paragraph (b), and paragraphs (b)(1), and (b)(5)(ii), are revised to read as follows:

§ 648.51 Gear and crew restrictions.

* * * * *

(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 § 648.60(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.

* * * * *

(5) * * *

(ii) Requirement to use a turtle deflector dredge (TDD) frame —(A) From May 1 through October 31, 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 (b)(5)(ii)(A)(5) of this section. See paragraph (b)(5)(ii)(E) 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. Only one side of the flaring bar may be attached to the dredge frame. The appendage should at no point be closer than 12 inches (30.5 cm) to the cutting bar so that it does not interfere with the space created by the bump out.

(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) 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, are exempted from the requirement to only possess and use TDDs, provided the dredge gear is stowed in accordance with § 648.23(b) and not available for immediate use.

(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.

* * * * *

6. In § 648.52, paragraphs (a) and (g) are revised to read as follows:

§ 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.

* * * * *

(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, up to 1 day's allowance of the possession limit allocated to limited access vessels, as established by the Regional Administrator in accordance with § 648.60(d), provided the observer set-aside specified in

§ 648.60(d)(1) has not been fully utilized. For example, if the limited access vessel daily possession limit to defray the cost of an observer is 180 lb (82 kg), the LAGC IFQ possession limit to defray the cost of an observer would be 180 lb (82 kg) per trip, regardless of trip length.

7. In § 648.53, paragraph (b)(5) is removed and reserved and paragraphs (a), (b)(1), (b)(4), (c), (g), (h)(3)(i)(B), and (h)(5) are revised to read as follows:

§ 648.53 Acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), DAS allocations, and individual fishing quotas (IFQ).

(a) Scallop fishery ABC. The ABC for the scallop fishery shall be established through the framework adjustment process specified in § 648.55 and is equal to the overall scallop fishery ACL. The ABC/ACL shall be divided as sub-ACLs between limited access vessels, limited access vessels that are fishing under a LAGC permit, and LAGC vessels as specified in paragraphs (a)(3) and (a)(4) of this section, after deducting the scallop incidental catch target TAC specified in paragraph (a)(2) of this section, observer set-aside specified in paragraph (g)(1) of this section, and research set-aside specified in § 648.56(d). The ABC/ACL for the 2014 fishing year is subject to change through a future framework adjustment.

(1) ABC/ACL for fishing years 2013 through 2014 shall be:

(i) 2013: 21,004 mt (46,305,894 lb).

(ii) 2014: 23,697 mt (52,242,942 lb).

(iii) [Reserved]

(2) Scallop incidental catch target TAC. The annual incidental catch target TAC for vessels with incidental catch scallop permits is 50,000 lb (22.7 mt).

(3) Limited access fleet sub-ACL and ACT. The limited access scallop fishery shall be allocated 94.5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a). ACT for the limited access scallop fishery shall be established through the framework adjustment process described in § 648.55. DAS specified in paragraph (b) of this section shall be based on the ACTs specified in paragraph (a)(3)(ii) of this section. The limited access fleet sub-ACL and ACT for the 2014 fishing year are subject to change through a future framework adjustment.

(i) The limited access fishery sub-ACLs for fishing years 2013 and 2014 are:

(A) 2013: 19,093 mt (42,092,979 lb).

(B) 2014: 21,612 mt (47,647,385 lb).

(C) [Reserved]

(ii) The limited access fishery ACTs for fishing years 2013 and 2014 are:

(A) 2013: 15,324 mt (33,783,637 lb).

(B) 2014: 15,428 mt (34,012,918 lb).

(C) [Reserved]

(4) LAGC fleet sub-ACL. The sub-ACL for the LAGC IFQ fishery shall be equal to 5.5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a). The LAGC IFQ fishery ACT shall be equal to the LAGC IFQ fishery's ACL. The ACL for the LAGC IFQ fishery for vessels issued only a LAGC IFQ scallop permit shall be equal to 5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-

aside, and research set-aside, as specified in this paragraph (a). The ACL for the LAGC IFQ fishery for vessels issued only both a LAGC IFQ scallop permit and a limited access scallop permit shall be 0.5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a).

(i) The ACLs for fishing years 2013 and 2014 for LAGC IFQ vessels without a limited access scallop permit are:

(A) 2013: 1,010 mt (2,227,142 lb).

(B) 2014: 1,144 mt (2,521,026 lb).

(C) [Reserved]

(ii) The ACLs for fishing years 2013 and 2014 for vessels issued both a LAGC and a limited access scallop permits are:

(A) 2013: 101 mt (222,714 lb).

(B) 2014: 114 mt (252,103 lb).

(C) [Reserved]

(b) * * *

(1) Landings per unit effort (LPUE). LPUE is an estimate of the average amount of scallops, in pounds, that the limited access scallop fleet lands per DAS fished. The estimated LPUE is the average LPUE for all limited access scallop vessels fishing under DAS, and shall be used to calculate DAS specified in paragraph (b)(4) of this section, the DAS reduction for the AM specified in paragraph (b)(4)(ii) of this section, and the observer set-aside DAS allocation specified in paragraph (g)(1) of this section. LPUE shall be:

(i) 2013 fishing year: 2,550 lb/DAS (1,157 kg/DAS).

(ii) 2014 fishing year: 2,600 lb/DAS (1,179 kg/DAS).

(iii) [Reserved]

* * * * *

(4) Each vessel qualifying for one of the three DAS categories specified in the table in this paragraph (b)(4) (full-time, part-time, or occasional) shall be allocated the maximum number of DAS for each fishing year it may participate in the open area limited access scallop fishery, according to its category, excluding carryover DAS in accordance with paragraph (d) of this section. DAS allocations shall be determined by distributing the portion of ACT specified in paragraph (a)(3)(ii) of this section, as reduced by access area allocations specified in § 648.59, and dividing that amount among vessels in the form of DAS calculated by applying estimates of open area LPUE specified in paragraph (b)(1) of this section. Allocation for part-time and occasional scallop vessels shall be 40 percent and 8.33 percent of the full-time DAS allocations, respectively. The annual open area DAS allocations for each category of vessel for the fishing years indicated are as follows:

Scallop Open Area DAS Allocations

| Permit category | 2013 | 2014 |
|------------------------|-------------|-------------|
| Full-Time | 33 | 26 |
| Part-Time | 13 | 9 |
| Occasional | 3 | 2 |

(i) [Reserved]

(ii) Accountability measures (AM). Unless the limited access AM exception is implemented in accordance with the provision specified in paragraph (b)(4)(iii) of this section, if the ACL specified in paragraph (a)(3)(i) of this section is exceeded for the applicable fishing year, the DAS specified in paragraph (b)(4) of this section for each limited access vessel shall be reduced by an amount equal to the amount of landings in excess of the ACL divided by the applicable LPUE for the fishing year in which the AM will apply as specified in paragraph (b)(1) of this section, 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 ACL in 2011, an open area LPUE of 2,500 lb (1.13 mt) per DAS in 2012, and 313 full-time vessels, each full-time vessel's DAS would be reduced by 0.38 DAS (300,000 lb (136 mt)/2,500 lb (1.13 mt) per DAS = 120 lb (0.05 mt) per DAS/313 vessels = 0.38 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 this paragraph (b)(4)(ii). 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 ACL in fishing year 2011 would result in the DAS reduction AM in fishing year 2012. 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 2011 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 2012 would be reduced by 1 DAS.

(iii) Limited access AM exception —If NMFS determines, in accordance with paragraph (b)(4)(ii) of this section, that the fishing mortality rate associated with the limited access fleet's landings in a fishing year is less than 0.28, the AM specified in paragraph (b)(4)(ii) of this section shall not take effect. The fishing mortality rate of 0.28 is the fishing mortality rate that is one standard deviation below the fishing mortality rate for the scallop fishery ACL, currently estimated at 0.32.

(iv) Limited access fleet AM and exception provision timing. The Regional Administrator shall determine whether the limited access fleet exceeded its ACL specified in paragraph (a)(3)(i) 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 (Council) of the determination of whether or not the ACL for the limited access fleet was exceeded, and the amount of landings in excess of the 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 0.28. 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.

* * * * *

(c) Adjustments in annual DAS allocations. Annual DAS allocations shall be established for up to 3 fishing years through biennial framework adjustments as specified in § 648.55. If a biennial framework action is not undertaken by the Council and implemented by NMFS before the beginning of the third year of each biennial adjustment, the third-year measures specified in the biennial framework adjustment shall remain in effect for the next fishing year. If a new biennial or other framework adjustment is not implemented by NMFS by the conclusion of the third year, the management measures from that third year would remain in place until a new action is implemented. The Council may also recommend adjustments to DAS allocations or other measures through a framework adjustment at any time.

* * * * *

(g) Set-asides for observer coverage. (1) To help defray the cost of carrying an observer, 1 percent of the ABC/ACL specified in paragraph (a)(1) of this section shall be set aside to be used by vessels that are assigned to take an at-sea observer on a trip. The total TAC for observer set aside is 210 mt (463,054 lb) in fishing year 2013, and 237 mt (522,429 lb) in fishing year 2014.

(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) * * *

(3) * * *

(i) * * *

(B) A vessel may be initially issued more than 2.5 percent of the ACL allocated to the IFQ scallop vessels as described in paragraph (a)(4)(i) 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 ACL allocated to the IFQ scallop vessels as described in paragraph (a)(4)(i) of this section. A vessel that is allocated an IFQ that exceeds 2.5 percent of the ACL allocated to the IFQ scallop vessels as described in paragraph (a)(4)(i) 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.

* * * * *

(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 not issued a limited access scallop permit may temporarily transfer 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. For the remainder of the 2013 fishing year, IFQ can be transferred only once during a given fishing year. Beginning on March 1, 2014, IFQ can be transferred more than once (i.e., sub-transferred). Temporary IFQ transfers must be in the amount of at least 100 lb (45 kg), or the entire allocation may be transferred to another vessel. If a vessel has previously transferred a portion of its IFQ and the remaining allocation is less than 100 lb (45 kg), the remaining IFQ may be transferred in full to

another vessel. The Regional Administrator has final approval authority for all temporary IFQ transfer requests.

(ii) Permanent IFQ transfers. Subject to the restrictions in paragraph (h)(5)(iii) of this section, the owner of an IFQ scallop vessel 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, unless the IFQ is subsequently transferred to another IFQ scallop vessel, other than the originating IFQ scallop vessel, in a subsequent fishing year or, beginning on March 1, 2014, in the same fishing year as the initial permanent transfer. 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 transferring vessel, unless the owner of the transferring 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 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 value reflects the total IFQ amount remaining on the transferor's vessel, or the entire IFQ allocation. For the remainder of the 2013 fishing year, a vessel owner can complete several transfers of portions of his/her vessel's IFQ during the fishing year, but cannot complete a temporary transfer of a portion of its IFQ then request to either temporarily or permanently transfer the entire IFQ in the same fishing year.

Beginning on March 1, 2014, a vessel's total IFQ allocation can be transferred more than once (i.e., sub-leased) during a given fishing year. 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, provided the vessel transferring the IFQ to another vessel has not utilized any of its own IFQ in that 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 for temporary transfers, and in contribution percent for permanent transfers) of the IFQ allocation transfer, which may not be less than 100 lb (45 kg), unless that value reflects the total IFQ amount remaining on the transferor's vessel or the entire IFQ allocation. 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.

(D) If an LAGC IFQ vessel transfers (i.e., temporary lease or permanent transfer) all of its allocation to other IFQ vessels prior to Framework 24's implementation (i.e., transfers more than what it is allocated for fishing year 2013 pursuant to the implantation of Framework 24), the vessel(s) to which the scallops were transferred (i.e., the transferee) shall receive a pound-for-pound deduction in fishing year 2013 equal to the difference between the amount of scallops transferred and the amount allocated to the transferring vessel for 2013 pursuant to Framework 24. The vessel that transferred the scallops shall not be assessed this deduction. For example, Vessel A is allocated 5,000 lb (2,268 kg) of scallops at the start of fishing year 2013, but would receive 3,500 lb (1,588 kg) of scallops once Framework 24 is implemented. If Vessel A transfers its full March 1, 2013, allocation of 5,000 lb (2,268 kg) to Vessel B prior to Framework 24's implementation, Vessel B would lose 1,500 lb (680 kg) of that transfer once Framework 24 is implemented. In situations where a vessel leases out its IFQ to multiple vessels, the deduction of the difference between the original amount of scallops allocated and the amount allocated pursuant to Framework 24 shall begin to apply only to the transfer(s) that exceed the original allocation. Using the example above, if Vessel A first leases 3,000 lb (1,361 kg) of scallops to Vessel B and then leases 2,000 lb (907 kg) of scallops to Vessel C, only Vessel C would have to pay back IFQ in excess of Vessel A's ultimate fishing year 2013 allocation (i.e., Vessel C would

have to give up 1,500 lb (680 kg) of that quota because Vessel A ultimately only had 500 lb (227 kg) of IFQ to lease out). If a vessel has already fished its leased-in quota in excess of the amount ultimately allocated pursuant to Framework 24, the vessel must either lease in more quota to make up for that overage during fishing year 2013, or the overage, along with any other overages incurred in fishing year 2013, shall be deducted from its fishing year 2014 IFQ allocation as part of the individual AM applied to the LAGC IFQ fleet, as specified in paragraph (h)(2)(vi) of this section.

8. In § 648.54, paragraph (c) is revised to read as follows:

§ 648.54 State waters exemption.

* * * * *

(c) Gear and possession limit restrictions. Any vessel issued a limited access scallop permit, an LAGC NGOM, or an LAGC IFQ scallop permit is exempt from the minimum twine top mesh size for scallop dredge gear specified in § 648.51(b)(2) and (b)(4)(iv) while fishing exclusively landward of the outer boundary of the waters of the State of Maine under the state waters exemption specified in paragraph (a)(4) of this section, provided the vessel is in compliance with paragraphs (d) through (g) of this section.

* * * * *

8. In § 648.58, paragraphs (a) and (b) are added to read as follows:

§ 648.58 Rotational Closed Areas.

(a) Elephant Trunk Closed Area. No vessel may fish for scallops in, or possess or land scallops from, the area known as the Elephant Trunk Closed Area. No vessel may possess scallops in the Elephant Trunk Closed Area, unless such vessel is only transiting the area as

provided in paragraph (c) of this section. The Elephant Trunk 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 | Latitude | Longitude |
|--------------|-----------------|------------------|
| ETAA1 | 38°50' N | 74°20' W |
| ETAA2 | 38°10' N | 74°20' W |
| ETAA3 | 38°10' N | 73°30' W |
| ETAA4 | 38°50' N | 73°30' W |
| ETAA1 | 38°50' N | 74°20' W |

(b) Delmarva Closed Area. No vessel may fish for scallops in, or possess or land scallops from, the area known as the Delmarva Closed Area. No vessel may possess scallops in the Delmarva Closed Area, unless such vessel is only transiting the area as provided in paragraph (c) of this section. The Delmarva 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 | Latitude | Longitude |
|--------------|-----------------|------------------|
| DMV1 | 38°10' N | 74°50' W |
| DMV2 | 38°10' N | 74°00' W |
| DMV3 | 37°15' N | 74°00' W |
| DMV4 | 37°15' N | 74°50' W |
| DMV1 | 38°10' N | 74°50' W |

* * * * *

9. Revise § 648.59 to read as follows:

§ 648.59 Sea Scallop Access Areas.

(a) [Reserved].

(b) Closed Area I Access Area —(1) From March 1, 2014, through February 28, 2015 (i.e., fishing year 2014), vessels issued scallop permits may not fish for, possess, or land scallops in or from, the area known as the Closed Area I Access Area, described in paragraph (b)(3) of this section, unless transiting pursuant to paragraph (f) of this section. Vessels 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 scallop access area, provided they comply with restrictions in paragraph (b)(5)(ii)(C) of this section.

(2) From March 1, 2013, through February 28, 2014 (i.e., fishing year 2013), a vessel issued a scallop permit may fish for, possess, and land scallops in or from the area known as the Closed Area I Access Area, described in paragraph (b)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(3) The Closed Area I Access 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), and so that the line connecting points CAIA3 and CAIA4 is the same as the portion of the western boundary line of Closed Area I, defined in § 648.81(a)(1), that lies between points CAIA3 and CAIA4:

| Point | Latitude | Longitude |
|--------------|-----------------|------------------|
| CAIA1 | 41°26' N | 68°30' W |
| CAIA2 | 40°58' N | 68°30' W |
| CAIA3 | 40°54.95' N | 68°53.40' W |
| CAIA4 | 41°04.30' N | 69°01.29' W |
| CAIA1 | 41°26' N | 68°30' W |

(4) [Reserved]

(5) Number of trips —(i) Limited access vessels. Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Closed Area I Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area I Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Closed Area I Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Closed Area I Access Area shall be based on the TAC for the access area, which will be determined through the annual framework process and specified in paragraph (c)(5)(i) of this section. The number of trips allocated to limited access vessels in the Closed Area I Access Area shall be based on the TAC for the access area, which shall be determined through the annual framework process and specified in this paragraph (b)(5)(i). The Closed Area I Access Area scallop TAC for limited access scallop vessels is 1,534,000 lb (695.8 mt) in fishing year 2013. Limited access scallop vessels shall not receive Closed Area I Access Area trip allocations in fishing year 2014.

(ii) LAGC scallop vessels. (A) The percentage of the Closed Area I Access Area TAC to be allocated to LAGC scallop vessels shall be specified through the framework adjustment process and shall determine the number of trips allocated to LAGC scallop vessels as specified in paragraph (b)(5)(ii)(B) of this section. The TAC applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit. LAGC IFQ vessels will be allocated 5.5 percent of the Closed Area I Access Area TAC

in fishing year 2013. The Closed Area I Access Area is closed to LAGC IFQ vessels in fishing year 2014.

(B) LAGC IFQ vessels are allocated a total of 212 trips in fishing year 2013 in the Closed Area I Access Area. This trip allocation is based on 5.5 percent of the Closed Area I Access Area TAC, and also includes 72 trips that have been set aside from the Closed Area II Access Area and evenly distributed to access areas available to LAGC IFQ vessels in the 2013 fishing year. No LAGC IFQ trips will be allocated in Closed Area I Access Area in fishing year 2014. The Regional Administrator shall notify all LAGC scallop vessels of the date when the maximum number of allowed trips for the applicable fishing year have been, or are projected to be, taken by providing notification in the Federal Register, in accordance with § 648.60(g)(4). Except as provided in paragraph (b)(5)(ii)(C) of this section, and subject to the seasonal restrictions specified in paragraph (b)(4) of this section, an LAGC scallop vessel may not fish for, possess, or land sea scallops in or from the Closed Area I Access Area, or enter the Closed Area I Access Area on a declared LAGC scallop trip after the effective date published in the Federal Register, unless transiting pursuant to paragraph (f) of this section.

(C) A vessel issued a NE Multispecies permit and a LAGC scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (b)(5)(ii)(A) of this section, provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from fishing for, possessing, or landing scallops.

(D) Scallops landed by each LAGC IFQ vessel on a Closed Area I Access Area trip shall count against that vessel's IFQ.

(iii) Limited access vessels. Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Closed Area I Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area I Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Closed Area I Access Area trip that was terminated early, as specified in § 648.60(c).

(c) Closed Area II Access Area. —(1) From March 1, 2014, through February 28, 2015 (i.e., fishing year 2014), vessels issued scallop permits may not fish for, possess, or land scallops in or from, the area known as the Closed Area II Access Area, described in paragraph (c)(3) of this section, unless transiting pursuant to paragraph (f) of this section. Vessels 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 scallop access area, provided they comply with restrictions in paragraph (c)(5)(ii)(C) of this section.

(2) From March 1, 2013, through February 28, 2014 (i.e., fishing year 2013), subject to the seasonal restrictions specified in paragraph (c)(4) of this section, a vessel issued a scallop permit may fish for, possess, or land scallops in or from the area known as the Closed Area II Sea Scallop Access Area, described in paragraph (c)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(3) The Closed Area II Sea Scallop Access 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 | Latitude | Longitude |
|-------|----------|-----------|
|-------|----------|-----------|

| | | |
|--------|-------------|-----------------------------------|
| CAIIA1 | 41°00' N. | 67°20' W. |
| CAIIA2 | 41°00' N. | 66°35.8' W. |
| CAIIA3 | 41°18.6' N. | (¹) (²) |
| CAIIA4 | 41°30' N. | (³) |
| CAIIA5 | 41°30' N. | 67°20' W. |
| CAIIA1 | 41°00' N. | 67°20' W. |

(¹) The intersection of 41°18.6 N. lat. and the U.S.-Canada maritime boundary

(²) From Point CAIIA3 connected to Point CAIIA4 along the U.S.-Canada maritime boundary

(³) The intersection of 41°30 N. lat. and the U.S.-Canada maritime boundary

(4) Season. 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 Access Area, described in paragraph (c)(3) 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 paragraph (f) of this section.

(5) Number of trips —(i) Limited access vessels. Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Closed Area II Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area II Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Closed Area II Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Closed Area II Access Area shall be based on the TAC for the access area, which will be determined through the annual framework process and specified in this paragraph (c)(5)(i). The Closed Area II Access Area scallop TAC for limited access scallop vessels is 2,366,000 lb (1,073.2 mt) in

fishing year 2013. Limited access scallop vessels shall not receive Closed Area II Access Area trip allocations in fishing year 2014.

(ii) LAGC scallop vessels. (A) The percentage of the total Closed Area II Access Area TAC to be allocated to LAGC IFQ scallop vessels shall be specified through the framework adjustment process and shall determine the number of trips allocated to IFQ LAGC scallop vessels as specified in paragraph (c)(5)(ii)(B) of this section. The TAC applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits. The Closed Area II Access Area is closed to LAGC IFQ vessels in the 2013 fishing year.

(B) The Regional Administrator shall notify all LAGC scallop vessels of the date when the maximum number of allowed trips for the applicable fishing year have been, or are projected to be, taken by providing notification in the Federal Register, in accordance with § 648.60(g)(4). Except as provided in paragraph (c)(5)(ii)(C) of this section, and subject to the seasonal restrictions specified in paragraph (c)(4) of this section, an LAGC scallop vessel may not fish for, possess, or land sea scallops in or from the Closed Area II Access Area, or enter the Closed Area II Access Area on a declared LAGC scallop trip after the effective date published in the Federal Register unless transiting pursuant to paragraph (f) of this section.

(C) A vessel issued a NE Multispecies permit and an LAGC scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (c)(5)(ii)(A) of this section, provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from fishing for, possessing, or landing scallops.

(D) Scallops landed by each LAGC IFQ vessel on a Closed Area II Access Area trip shall count against that vessel's IFQ.

(d) Nantucket Lightship Access Area. —(1) From March 1, 2014, through February 28, 2015 (i.e., fishing year 2014), vessels issued scallop permits may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Access Area, described in paragraph (d)(3) of this section, unless transiting pursuant to paragraph (f) of this section. Vessels 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 scallop access area, provided they comply with restrictions in paragraph (d)(5)(ii)(C) of this section.

(2) From March 1, 2013, through February 28, 2014 (i.e., fishing year 2013), a vessel issued a scallop permit may fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Sea Scallop Access Area, described in paragraph (d)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(3) The Nantucket Lightship Sea Scallop Access 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 | Latitude | Longitude |
|--------------|-----------------|------------------|
| NLAA1 | 40°50' N | 69°30' W |
| NLAA2 | 40°50' N | 69°00' W |
| NLAA3 | 40°20' N | 69°00' W |
| NLAA4 | 40°20' N | 69°30' W |
| NLAA1 | 40°50' N | 69°30' W |

(4) [Reserved]

(5) Number of trips —(i) Limited access vessels. Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Nantucket Lightship Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Nantucket Lightship Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Nantucket Lightship Access Area trip that was terminated early, as specified in § 648.60(c). The number of trips allocated to limited access vessels in the Nantucket Lightship Access Area shall be based on the TAC for the access area. The Nantucket Lightship Access Area scallop TAC for limited access scallop vessels is 1,508,000 lb (684.0 mt) in fishing year 2013. Limited access scallop vessels shall not receive Nantucket Lightship Access Area trip allocations in fishing year 2014.

(ii) LAGC scallop vessels. (A) The percentage of the Nantucket Lightship Access Area TAC to be allocated to LAGC IFQ scallop vessels shall be specified through the framework adjustment process and shall determine the number of trips allocated to LAGC IFQ scallop vessels as specified in paragraph (d)(5)(ii)(B) of this section. The TAC applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit. LAGC IFQ vessels are allocated 5.5 percent of the Nantucket Lightship Access Area TAC in fishing year 2013. The Nantucket Lightship Access Area is closed to LAGC IFQ vessels in fishing year 2014.

(B) LAGC scallop vessels are allocated 206 trips to the Nantucket Lightship Access Area in fishing year 2013. This trip allocation is based on 5.5 percent of the Nantucket Lightship Access Area TAC, and also includes 72 trips that have been set aside from the Closed Area II

Access Area and evenly distributed to access areas available to LAGC IFQ vessels in the 2013 fishing year. This fleet-wide trip allocation applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit. The Regional Administrator shall notify all LAGC IFQ scallop vessels of the date when the total number of trips have been, or are projected to be, taken by providing notification in the Federal Register, in accordance with § 648.60(g)(4). Except as provided in paragraph (d)(5)(ii)(C) of this section, an LAGC IFQ scallop vessel may not fish for, possess, or land sea scallops in or from the Nantucket Lightship Access Area, or enter the Nantucket Lightship Access Area on a declared LAGC IFQ scallop trip after the effective date published in the Federal Register, unless transiting pursuant to paragraph (f) of this section.

(C) A vessel issued a NE Multispecies permit and an LAGC scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS may fish in the Scallop Access Areas without being subject to the restrictions of paragraph (d)(5)(ii)(A) of this section, provided that it has not enrolled in the Scallop Area Access program. Such vessel is prohibited from fishing for, possessing, or landing scallops.

(D) Scallops landed by each LAGC IFQ vessel on a Nantucket Lightship Access Area trip shall count against that vessel's IFQ.

(e) Hudson Canyon Sea Scallop Access Area. (1) From March 1, 2014, through February 28, 2015 (i.e., fishing year 2014), vessels issued scallop permits may not fish for, possess, or land scallops in or from the area known as the Hudson Canyon Access Area, described in paragraph (e)(3) of this section, unless transiting pursuant to paragraph (f) of this section.

(2) From March 1, 2013, through February 28, 2014 (i.e., fishing year 2013), a vessel issued a scallop permit may fish for, possess, or land scallops in or from the area known as the Hudson Canyon Sea Scallop Access Area, described in paragraph (e)(3) of this section, only if the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(3) The Hudson Canyon Sea Scallop Access 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 | Latitude | Longitude |
|--------------|-----------------|------------------|
| H1 | 39°30' N | 73°10' W |
| H2 | 39°30' N | 72°30' W |
| H3 | 38°30' N | 73°30' W |
| H4 | 38°50' N | 73°30' W |
| H5 | 38°50' N | 73°42' W |
| H1 | 39°30' N | 73°10' W |

(4) Number of trips —(i) Limited access vessels. Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Hudson Canyon Sea Scallop Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Hudson Canyon Sea Scallop Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Hudson Canyon Access Area trip that was terminated early, as specified in § 648.60(c). The Hudson Canyon Access Area scallop TAC for limited access scallop vessels is 2,730,000 lb (1,238.3 mt) in fishing year 2013.

Limited access scallop vessels shall not receive Hudson Canyon Access Area trip allocations in fishing year 2014.

(ii) LAGC IFQ scallop vessels. —(A) The percentage of the Hudson Canyon Access Area TAC to be allocated to LAGC scallop vessels shall be specified through the framework adjustment process and shall determine the number of trips allocated to LAGC IFQ scallop vessels as specified in paragraph (e)(4)(ii)(B) of this section. The TAC applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit. LAGC IFQ vessels shall be allocated 5.5 percent of the Hudson Canyon Access Area TAC in fishing year 2013. The Hudson Canyon Access Area is closed to LAGC IFQ vessels in fishing year 2014.

(B) LAGC IFQ vessels are allocated a total of 317 trips in the Hudson Canyon Access Area in fishing year 2013. This trip allocation is based on 5.5 percent of the Hudson Canyon Access Area TAC, and also includes 72 trips that have been set aside from the Closed Area II Access Area and evenly distributed to access areas available to LAGC IFQ vessels in the 2013 fishing year. This fleet-wide trip allocation applies to both LAGC IFQ vessels and limited access vessels with LAGC IFQ permits that are fishing under the provisions of the LAGC IFQ permit. The Regional Administrator shall notify all LAGC IFQ scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be taken by providing notification in the Federal Register, in accordance with § 648.60(g)(4). An LAGC IFQ scallop vessel may not fish for, possess, or land sea scallops in or from the Hudson Canyon Access Area, or enter the Hudson Canyon Access Area on a declared LAGC IFQ scallop trip after the effective date published in the Federal Register, unless transiting pursuant to paragraph (f) of this section.

(C) Scallops landed by each LAGC IFQ vessel on a Hudson Canyon Access Area trip shall count against that vessel's IFQ.

(f) Transiting. A sea scallop vessel that has not declared a trip into the Sea Scallop Area Access Program may enter the Sea Scallop Access Areas described in paragraphs (a), (b), (d), and (e), of this section, and possess scallops not caught in the Sea Scallop Access Areas, for transiting purposes only, provided the vessel's fishing gear is stowed in accordance with § 648.23(b). A scallop vessel that has declared a trip into the Sea Scallop Area Access Program may transit a Scallop Access Area while steaming to or from another Scallop Access Area, provided the vessel's fishing gear is stowed in accordance with § 648.23(b), 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 Access Area, as described in paragraph (c) of this section, if there is a compelling safety reason for transiting the area and the vessel's fishing gear is stowed in accordance with § 648.23(b).

10. In § 648.60, paragraphs (a)(3)(ii)(A), (a)(4)(i), (c)(5)(ii)(A), and (e)(3) are removed and reserved and paragraphs (a)(3)(i), (a)(5)(i), (d), (e)(1), and (g)(4)(ii) are revised to read as follows:

§ 648.60 Sea scallop area access program requirements.

(a) * * *

(3) * * *

(i) Limited access vessel trips. (A) Except as provided in paragraph (c) of this section, paragraphs (a)(3)(i)(B) through (E) of this section specify the total number of trips that a limited access scallop vessel may take into Sea Scallop Access Areas during applicable seasons

specified in § 648.59. The number of trips per vessel in any one Sea Scallop Access Area may not exceed the maximum number of trips allocated for such Sea Scallop Access Area as specified in § 648.59, unless the vessel owner has exchanged a trip with another vessel owner for an additional Sea Scallop Access Area trip, as specified in paragraph (a)(3)(ii) of this section, or has been allocated a compensation trip pursuant to paragraph (c) of this section. No access area trips are allocated for fishing year 2014.

(B) Full-time scallop vessels. In fishing year 2013, each full-time vessel shall have a total of two access area trips in two of the following areas: Hudson Canyon Access Area, Closed Area I Access Area, Closed Area II Access Area, and Nantucket Lightship Access Area. These allocations shall be determined by the Regional Administrator through a random assignment and shall be made publically available on the NMFS Northeast Region website prior to the start of the 2013 fishing year. If, prior to the implementation of Framework 24, a full-time vessel lands more scallops from the Hudson Canyon Access Area than ultimately allocated for fishing year 2013, that vessel is not eligible to take any additional access area trips in fishing year 2013 and NMFS shall deduct 12 open area DAS in fishing year 2013 from that vessel's allocation.

(C) Part-time scallop vessels. (1) For the 2013 fishing year, a part-time scallop vessel is allocated two trips that may be distributed between access areas as follows: One trip in the Closed Area I Access Area and one trip in the Closed Area II Access Area; one trip in the Closed Area I Access Area and one trip in the Hudson Canyon Access Area; one trip in the Closed Area I Access Area and one trip in the Nantucket Lightship Access Area; one trip in the Closed Area II Access Area and one trip in the Hudson Canyon Access Area; one trip in the Closed Area II

Access Area and one trip in the Nantucket Lightship Access Area; or one trip in the Hudson Canyon Access Area and one trip in the Nantucket Lightship Access Area.

(i) If, prior to the implementation of Framework 24, a part-time vessel lands more scallops from the Hudson Canyon Access Area than ultimately allocated for fishing year 2013, NMFS shall deduct five open area DAS in fishing year 2013 from that vessel's allocation.

(ii) [Reserved].

(2) For the 2014 fishing year, part-time scallop vessels shall not receive access area trip allocations.

(D) Occasional scallop vessels. For the 2013 fishing year, an occasional scallop vessel may take one trip in the Closed Area I Access Area, or one trip in the Closed Area II Access Area, or one trip in the Nantucket Lightship Access Area, or one trip in the Hudson Canyon Access Area. If, prior to the implementation of Framework 24, an occasional vessel lands more scallops from the Hudson Canyon Access Area than ultimately allocated for fishing year 2013, NMFS shall deduct one open area DAS in fishing year 2013 from that vessel's allocation.

* * * * *

(5) * * *

(i) Scallop possession limits. Unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of this section, after declaring a trip into a Sea Scallop Access Area, a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, scallops, up to the maximum amounts specified in the table in this paragraph (a)(5). No vessel declared into the Access Areas as described in § 648.59(a) through (e) may

possess more than 50 bu (17.62 hL) of in-shell scallops outside of the Access Areas described in § 648.59(a) through (e).

| Fishing year | Permit category possession limit | | |
|--------------|----------------------------------|----------------------|-------------------|
| | Full-time | Part-time | Occasional |
| 2013 | 13,000 lb (5,897 kg) | 10,400 lb (4,717 kg) | 2,080 lb (943 kg) |

* * * * *

(d) Increase in possession limit to defray costs of observers —The Regional Administrator may increase the sea scallop possession limit specified in paragraph (a)(5) of this section 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.

(e) * * *

(1) Access Areas available for harvest of research set-aside (RSA). RSA may be harvested in any access area that is open in a given fishing year, as specified through a framework adjustment and pursuant to § 648.56. The amount of pounds 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 2013 and 2014 are:

(i) 2013: Hudson Canyon Access Area, Nantucket Lightship Access Area, Closed Area I Access Area, and Closed Area II Access Area.

(ii) 2014: None.

* * * * *

(g) * * *

(4) * * *

(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 Access Areas specified in § 648.59(b) through (d) is prohibited from possessing any species of fish other than scallops and monkfish, as specified in § 648.94(c)(8)(i).

* * * * *

12. In § 648.61, paragraphs (a)(1) and (5) are revised to read as follows.

§ 648.61 EFH closed areas.

(a) * * *

(1) Western GOM Habitat Closure Area. The restrictions specified in this paragraph (a) apply to the Western GOM Habitat Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

Western GOM Habitat Closure Area

| Point | N. lat. | W. long. |
|--------------|----------------|-----------------|
| WGM1 | 43°15' | 70°15' |
| WGM2 | 42°15' | 70°15' |
| WGM3 | 42°15' | 70°00' |
| WGM4 | 43°15' | 70°00' |

| | | |
|------|--------|--------|
| WGM1 | 43°15' | 70°15' |
|------|--------|--------|

* * * * *

(5) Closed Area II Habitat Closure Area. The restrictions specified in this paragraph (a) apply to the Closed Area II Habitat Closure Area (also referred to as the Habitat Area of Particular Concern), which is the area bounded by straight lines, except where noted, connecting the following points in the order stated:

Closed Area II Habitat Closure Area

| Point | N. Lat. | W. Long. |
|-------|---------|-----------------------------------|
| CIIH1 | 42°10' | 67°20' |
| CIIH2 | 42°10' | (¹) (²) |
| CIIH3 | 42°00' | (³) |
| CIIH4 | 42°00' | 67°10' |
| CIIH5 | 41°50' | 67°10' |
| CIIH6 | 41°50' | 67°20' |
| CIIH1 | 42°10' | 67°20' |

(¹) The intersection of 42°10 N. lat. and the U.S.-Canada maritime boundary

(²) From Point CAIIA3 connected to Point CAIIA4 along the U.S.-Canada maritime boundary

(³) The intersection of 42°00 N. lat. and the U.S.-Canada maritime boundary

* * * * *

13. In § 648.62, paragraph (b)(1) is revised to read as follows.

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

* * * * *

(b) * * *

(1) NGOM annual hard TACs. The annual hard TAC for the NGOM is 70,000 lb (31.8 mt) for the 2013 and 2014 fishing years.

* * * * *

14. In § 648.64, paragraph (d) is removed and reserved , and paragraphs (a), (b)(1), (c), and (e) are revised to read as follows:

§ 648.64 Yellowtail flounder sub-ACLs and AMs for the scallop fishery.

(a) As specified in § 648.55(d), and pursuant to the biennial framework adjustment process specified in § 648.90, the scallop fishery shall be allocated a sub-ACL for the Georges Bank and Southern New England/Mid-Atlantic stocks of yellowtail flounder. The sub-ACLs for the 2013 fishing year are specified in § 648.90(a)(4)(iii)(C) of the NE multispecies regulations.

(b) * * *

(1) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the Georges Bank yellowtail flounder sub-ACL for the scallop fishery is exceeded, the area defined by the following coordinates, bounded in the order stated by straight lines except where noted, shall be closed to scallop fishing by vessels issued a limited access scallop permit for the period of time specified in paragraph (b)(2) of this section:

Georges Bank Yellowtail Accountability Measure Closure

| Point | N. lat. | W. long. |
|--------------|----------------|-----------------------------------|
| GBYT AM 1 | 41°50' | (¹) (²) |
| GBYT AM 2 | 40°30.75' | (³) |
| GBYT AM 3 | 40°30' | 66°40' |
| GBYT AM 4 | 40°40' | 66°40' |
| GBYT AM 5 | 40°40' | 66°50' |
| GBYT AM 6 | 40°50' | 66°50' |
| GBYT AM 7 | 40°50' | 67°00' |
| GBYT AM 8 | 41°00' | 67°00' |
| GBYT AM 9 | 41°00' | 67°20' |
| GBYT AM 10 | 41°10' | 67°20' |
| GBYT AM 11 | 41°10' | 67°40' |

| | | |
|------------|--------|-----------|
| GBYT AM 12 | 41°50' | 67°40' |
| GBYT AM 1 | 41°50' | 66°51.94' |

(¹)The intersection of 41°50 N. lat. and the U.S.-Canada maritime boundary

(²) From Point CAIIA3 connected to Point CAIIA4 along the U.S.-Canada maritime boundary

(³) The intersection of 41°30.75 N. lat. and the U.S.-Canada maritime boundary

* * * * *

(c) Southern New England/Mid-Atlantic accountability measures. (1) Limited access scallop vessels. —(i) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL for the scallop fishery is exceeded, the area defined by the following coordinates, bounded in the order stated by straight lines except where noted, shall be closed to scallop fishing by vessels issued a limited access scallop permit for the period of time specified in paragraph (c)(1)(ii) of this section. The Southern New England Yellowtail Accountability Measure Closure Area for Limited Access Scallop Vessels is comprised of Northeast Region Statistical Areas #537, #539 and #613, and is defined by the following coordinates, connected in the order listed by straight lines, unless otherwise noted:

| Point | N. lat. | W. long. |
|--------------------------------|-----------------------------------|-----------------|
| LA SNEYT AM 1 | (¹) | 73°00' |
| LA SNEYT AM 2 | 40°00' | 73°00' |
| LA SNEYT AM 3 | 40°00' | 71°40' |
| LA SNEYT AM 4 | 39°50' | 71°40' |
| LA SNEYT AM 5 | 39°50' | 70°00' |
| LA SNEYT AM 6 | (²) (³) | 70°00' |
| LA SNEYT AM 7 (⁴) | 41°16.76' | 70°13.47' |
| LA SNEYT AM 8 (⁵) | 41°18.01' | 70°15.47' |
| LA SNEYT AM 9 (⁶) | 41°20.26' | 70°18.30' |

| | | |
|-------------------------------|---------------------------------|-----------------|
| LA SNEYT AM 10 ⁽⁷⁾ | 41°21.09' ⁽⁸⁾ | 70°27.03' |
| LA SNEYT AM 11 | 41°20' | ⁽⁹⁾ |
| LA SNEYT AM 12 | 41°20' | 71°10' |
| LA SNEYT AM 13 | ⁽¹⁰⁾ ⁽¹¹⁾ | 71°10' |
| LA SNEYT AM 14 | ⁽¹²⁾ | 71°40' |
| LA SNEYT AM 15 | 41°00' | 71°40' |
| LA SNEYT AM 16 | 41°00' ⁽¹³⁾ | ⁽¹⁴⁾ |

⁽¹⁾ The south facing mainland coastline of Long Island

⁽²⁾ The southern coastline of Nantucket

⁽³⁾ From Point F to Point G along the southern coastline of Nantucket

⁽⁴⁾ Point G represents Esther Island, Nantucket, Massachusetts

⁽⁵⁾ Point H represents Tuckernuck Island, Nantucket, Massachusetts

⁽⁶⁾ Point I represents Muskeget Island, Nantucket, Massachusetts

⁽⁷⁾ Point J represents Wasque Point, Chappaquiddick Island, Massachusetts

⁽⁸⁾ From Point J to Point K along the southern coastline of Martha's Vineyard

⁽⁹⁾ The western coastline of Martha's Vineyard

⁽¹⁰⁾ The southern coastline of Rhode Island

⁽¹¹⁾ From Point M to Point B following the mainland coastline of Rhode Island

⁽¹²⁾ The southern coastline of Rhode Island

⁽¹³⁾ From Point P back to Point A along the southern mainland coastline of Long Island

⁽¹⁴⁾ Southeast facing coastline of Long Island

(ii) Duration of closure. The Southern New England/Mid-Atlantic yellowtail flounder accountability measure closed area for limited access vessels shall remain closed for the period of time, not to exceed 1 fishing year, as specified for the corresponding percent overage of the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL, as follows:

| Percent overage of YTF sub-ACL | Length of closure |
|---------------------------------------|--|
| 2 or less | March through April. |
| 2.1–3 | March through April, and February. |
| 3.1–7 | March through May, and February. |
| 7.1–9 | March through May and January through February. |
| 9.1–12 | March through May and December through February. |
| 12.1–15 | March through June and December through February. |
| 15.1–16 | March through June and November through February. |
| 16.1–18 | March through July and November through February. |
| 18.1–19 | March through August and October through February. |
| 19.1 or more | March through February. |

(2) Limited access general category IFQ scallop vessels using dredges. — (i) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL for the scallop fishery is exceeded, and the criteria in paragraph (c)(2)(iii) of this section are met, the Southern New England Yellowtail Accountability Measure Closure Areas described in paragraphs (c)(2)(ii) through (iv) shall be closed to scallop fishing by vessels issued an LAGC IFQ scallop permit and using dredges for the period of time specified in paragraph (c)(2)(v) of this section.

(ii) Closure Area 1 is comprised of Northeast Region Statistical Area #537, and is defined by the following coordinates, connected in the order listed by straight lines, unless otherwise noted:

| Point | N. lat. | W. long. |
|-------------------------|----------------|------------------|
| LAGC Dredge SNEYT AM1 A | 41°20' | (¹) |
| LAGC Dredge SNEYT AM1 B | 41°20' | 71°10' |
| LAGC Dredge SNEYT AM1 C | 41°10' | 71°10' |
| LAGC Dredge SNEYT AM1 D | 41°10' | 71°20' |
| LAGC Dredge SNEYT AM1 E | 40°50' | 71°20' |

| | | |
|--|----------------------------------|-----------|
| LAGC Dredge SNEYT AM1 F | 40°50' | 71°40' |
| LAGC Dredge SNEYT AM1 G | 39°50' | 71°40' |
| LAGC Dredge SNEYT AM1 H | 39°50' | 70°00' |
| LAGC Dredge SNEYT AM1 I | (²)(³) | 70°00' |
| LAGC Dredge SNEYT AM1 J (⁴) | 41°16.76' | 70°13.47' |
| LAGC Dredge SNEYT AM1 K (⁵) | 41°18.01' | 70°15.47' |
| LAGC Dredge SNEYT AM1 L (⁶) | 41°20.26' | 70°18.30' |
| LAGC Dredge SNEYT AM1 M (⁷) | 41°21.09' (⁸) | 70°27.03' |

(¹) The western coastline of Martha's Vineyard

(²) The southern coastline of Nantucket

(³) From Point I to Point J along the southern coastline of Nantucket

(⁴) Point J represents Esther Island, Nantucket, Massachusetts

(⁵) Point K represents Tuckernuck Island, Nantucket, Massachusetts

(⁶) Point L represents Muskeget Island, Nantucket, Massachusetts

(⁷) Point M represents Wasque Point, Chappaquiddick Island, Massachusetts

(⁸) From Point M back to Point A along the southern coastline of Martha's Vineyard

(iii) Closure Area 2 is comprised of Northeast Region Statistical Area #613, and is defined by the following coordinates, connected in the order listed by straight lines, unless otherwise noted:

| Point | N. lat. | W. long. |
|-------------------------|-------------------------|------------------|
| LAGC Dredge SNEYT AM2 A | (¹) | 73°00' |
| LAGC Dredge SNEYT AM2 B | 40°00' | 73°00' |
| LAGC Dredge SNEYT AM2 C | 40°00' | 71°40' |
| LAGC Dredge SNEYT AM2 D | 41°00' | 71°40' |
| LAGC Dredge SNEYT AM2 E | 41°00' (²) | (³) |

(¹) The south facing mainland coastline of Long Island

(²) Southeast facing coastline of Long Island

(³) From Point E back to Point A along the southern mainland coastline of Long Island

(iv) Closure Area 3 is comprised of Northeast Region Statistical Area #539, and is defined by the following coordinates, connected in the order listed by straight lines, unless otherwise noted:

| Point | N. lat. | W. long. |
|-------------------------|-----------------------------------|-----------------|
| LAGC Dredge SNEYT AM3 A | (¹) | 71°40' |
| LAGC Dredge SNEYT AM3 B | 40°50'N | 71°40' |
| LAGC Dredge SNEYT AM3 C | 40°50'N | 71°20' |
| LAGC Dredge SNEYT AM3 D | 41°10'N | 71°20' |
| LAGC Dredge SNEYT AM3 E | 41°10'N | 71°10' |
| LAGC Dredge SNEYT AM3 F | (¹) (²) | 71°10' |

(¹) The southern coastline of Rhode Island

(²) From Point F back to Point A following the southern mainland coastline of Rhode Island

(v) Duration of closure. The Southern New England/Mid-Atlantic yellowtail flounder accountability measure closure areas for LAGC IFQ vessels using dredge gear shall remain closed for the period of time, not to exceed 1 fishing year, as specified for the corresponding percent overage of the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL, as follows:

| Percent overage of YTF sub-ACL | AM closure area and duration | | |
|---------------------------------------|-------------------------------------|--------------------------|--------------------------|
| | AM Closure Area 1 | AM Closure Area 2 | AM Closure Area 3 |
| 2 or less | Mar-Apr | Mar-Apr | Mar-Apr |
| 2.1 – 7 | Mar-May, Feb | Mar-May, Feb | Mar-May, Feb |
| 7.1 – 12 | Mar-May, Dec-Feb | Mar-May, Feb | Mar-May, Dec-Feb |
| 12.1 – 16 | Mar-Jun, Nov-Feb | Mar-May, Feb | Mar-Jun, Nov-Feb |
| 16.1 or greater | Mar-Jun, Nov-Feb | Mar-May, Feb | All year |

(vi) The Southern New England/Mid-Atlantic yellowtail flounder accountability measure for LAGC IFQ vessels using dredge gear shall only be triggered if the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL is exceeded, an accountability measure is triggered for the limited access scallop fishery, and the catch of yellowtail flounder by LAGC IFQ vessels using dredge gear was estimated to be more than 3 percent of the total catch of yellowtail flounder in the scallop fishery. For example, in a given fishing year, if the total sub-ACL for the scallop fishery was 50 mt of yellowtail flounder and LAGC IFQ vessels using dredge gear caught an estimated 1 mt, accountability measures for IFQ vessels using dredges would not trigger because the fishery did not catch more than 3 percent of the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL (1.5 mt), even if the total sub-ACL was exceeded. If LAGC IFQ vessels using dredge gear caught more than 3 percent of the Southern New England/Mid-Atlantic yellowtail flounder, but the sub-ACL is not exceeded and the limited access accountability measure is not triggered, LAGC IFQ vessels using dredge gear would not trigger their own accountability measure

(3) Limited access general category IFQ scallop vessels using trawls. -- (i) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL for the scallop fishery is exceeded, and the criteria in paragraph (c)(3)(iii) of this section are met, the area defined by the following coordinates shall be closed to LAGC vessels fishing with trawl for the period of time specified in paragraph (c)(3)(ii) of this section. Southern New England Yellowtail Accountability Measure Closure Area for Limited Access General Category IFQ Scallop Vessels using Trawl Gear is

comprised of Northeast Region Statistical Areas #612 and #613, and is defined by the following coordinates, connected in the order listed by straight lines, unless otherwise noted:

| Point | N. lat. | W. long. |
|-----------------------|------------------------|------------------|
| LAGC Trawl SNEYT AM A | 40°00' | (¹) |
| LAGC Trawl SNEYT AM B | 40°00' | 71°40' |
| LAGC Trawl SNEYT AM C | 41°00' | 71°40' |
| LAGC Trawl SNEYT AM D | 41°00'(²) | (³) |

(¹)New Jersey mainland coastline

(²)From Point D back to Point A along the southern mainland coastline of Long Island and New York, and the eastern coastline of New Jersey.

(³)Southeast facing coastline of Long Island, NY

(ii) Duration of closure. The Southern New England/Mid-Atlantic yellowtail flounder accountability measure closure area for LAGC IFQ vessels using trawl gear shall remain closed for the period of time, not to exceed 1 fishing year, as specified for the corresponding percent overage of the Southern New England/Mid-Atlantic yellowtail flounder sub-ACL, as follows:

| Percent overage of YTF sub-ACL | Length of closure |
|---------------------------------------|---|
| 2 or less | March through April. |
| 2.1–3 | March through April, and February. |
| 3.1–7 | March through May, and February. |
| 7.1–9 | March through May and January through February. |
| 9.1–12 | March through May and December through February. |
| 12.1–15 | March through June and December through February. |

(iii) The accountability measure for LAGC vessels using trawl gear shall be triggered under the following conditions:

(A) If the estimated catch of Southern New England/Mid-Atlantic yellowtail flounder by LAGC IFQ vessels using trawl gear is more than 10 percent of the total Southern New

England/Mid-Atlantic yellowtail flounder sub-ACL, the accountability measure for LAGC IFQ vessels using trawl gear shall be triggered, regardless of whether or not the scallop fishery's Southern New England/Mid-Atlantic yellowtail flounder sub-ACL was exceeded in a given fishing year. In this case, the accountability measure closure season shall be from March-June and again from December–February (a total of 7 months). For example, if the scallop fishery's Southern New England/Mid-Atlantic yellowtail flounder sub-ACL for a given fishing year is 50 mt, LAGC IFQ vessels using trawl gear would trigger a 7-month closure, the most restrictive closure duration specified in paragraph (c)(3)(ii) of this section, if they caught 5 mt or more of yellowtail flounder.

(B) If the scallop fishery's Southern New England/Mid-Atlantic yellowtail flounder sub-ACL for a given fishing year is exceeded, resulting in an accountability measure for the limited access fleet as specified in paragraph (c)(1) of this section, LAGC IFQ vessels using trawl gear shall be subject to a seasonal closure accountability measure, as specified in paragraph (c)(3)(i) of this section, based on the total scallop fishery's sub-ACL overage, as specified in paragraph (c)(3)(ii) of this section.

(C) If both of these conditions are triggered, (i.e., LAGC IFQ vessels using trawl gear catch more than 10 percent of the total Southern New England/Mid-Atlantic yellowtail flounder sub-ACL and the overall Southern New England/Mid-Atlantic yellowtail flounder sub-ACL is exceeded, triggering limited access scallop fishery accountability measures), the most restrictive accountability measure shall apply to LAGC IFQ vessels using trawl gear (i.e., the closure season would be from March-June and again from December–February).

(iv) If the LAGC accountability measure for vessels using trawl gear is triggered, a vessel can switch to dredge gear to continue fishing in the LAGC trawl closure areas, as specified in paragraph (c)(3)(i) of this section, during the time of year when trawl gear is prohibited, as specified in paragraph (c)(3)(ii) of this section. If such a vessel does switch to dredge gear, it is subject to any yellowtail flounder accountability measures that may be in place for that gear type, as specified in paragraph (c)(3) of this section.

* * * * *

(e) Process for implementing the AM. (1) If reliable information is available to make a mid-year determination: On or about January 15 of each year, based upon catch and other information available to NMFS, the Regional Administrator shall determine whether a yellowtail flounder sub-ACL was exceeded, or is projected to be exceeded, by scallop vessels prior to the end of the scallop fishing year ending on February 28/29. The determination shall include the amount of the overage or projected amount of the overage, specified as a percentage of the overall sub-ACL for the applicable yellowtail flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this initial projection in mid-January, the Regional Administrator shall implement the AM in accordance with the APA and notify owners of limited access and LAGC scallop vessels by letter identifying the length of the closure and a summary of the yellowtail flounder catch, overage, and projection that resulted in the closure.

(2) If reliable information is not available to make a mid-year determination: Once NMFS has compiled the necessary information (e.g., when the previous fishing year's observer and catch data are fully available), the Regional Administrator shall determine whether a yellowtail flounder sub-ACL was exceeded by scallop vessels following the end of the scallop

fishing year ending on February 28/29. The determination shall include the amount of the overage, specified as a percentage of the overall sub-ACL for the applicable yellowtail flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this information, the Regional Administrator shall implement the AM in accordance with the APA in Year 3 (e.g., an accountability measure would be implemented in fishing year 2016 for an overage that occurred in fishing year 2014) and notify owners of limited access and LAGC scallop vessels by letter identifying the length of the closure and a summary of the yellowtail flounder catch and overage information.

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