

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****15 CFR Part 902****50 CFR Part 648**

[Docket No. 010410087-1087-01; I.D. 031401B]

RIN 0648-A007

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 14*Republication*

Editorial Note: Federal Register Rule document 01-10783 originally appeared in the issue of Tuesday, May 1, 2001 at 66 FR 21639-21648. Due to numerous errors the document is being reprinted in its entirety.

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 14 to the Atlantic Sea Scallop Fishery Management Plan (FMP). This final rule implements management measures for the 2001 and 2002 fishing years, including a days-at-sea (DAS) adjustment, a Sea Scallop Area Access Program (Area Access Program) for two areas that have been closed to scallop fishing in the Mid-Atlantic, and a 50-bu (17.62 hectoliters (hl)) possession restriction of in-shell scallops on vessels shoreward of the vessel monitoring system (VMS) demarcation line. The intent of this action is to achieve the goals and objectives of the FMP and to achieve optimum yield in the scallop fishery. In addition, NMFS publishes the Office of Management and Budget (OMB) control numbers for collection-of-information requirements contained in this final rule.

DATES: Effective May 1, 2001.

ADDRESSES: Copies of Framework Adjustment 14, its Final Supplemental Environmental Impact Statement (FSEIS), and Regulatory Impact Review (RIR) are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at <http://www.nefmc.org>.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia A. Kurkul, Regional Administrator,

Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT:

Peter W. Christopher, Fishery Policy Analyst, 978-281-9280; fax 978-281-9135; e-mail peter.christopher@noaa.gov.

SUPPLEMENTARY INFORMATION:

Regulations implementing Amendment 7 to the FMP (64 FR 14835, March 29, 1999) redefined overfishing and revised the fishing mortality (F) reduction schedule through fishing year 2008. The reductions in F and associated sea scallop DAS schedule were intended to rebuild the sea scallop stock within 10 years. Amendment 7 also established an annual monitoring and review process to adjust management measures to meet the stock rebuilding objectives as conditions in the resource change. In addition, Amendment 7 included a measure that continued the closures of two sea scallop closed areas in the Mid-Atlantic region, known as the Hudson Canyon South and Virginia Beach Closed Areas, through March 1, 2001. These closed areas were originally implemented by interim rules (63 FR 15324, March 31, 1998; 63 FR 51862, September 29, 1998) to prevent the harvest of juvenile scallops and to allow time for scallop growth and rebuilding. Framework 14 renames the Hudson Canyon South Closed Area as the Hudson Canyon Area to avoid confusion that the "South" description may cause.

Based on information from the 29th Northeast Regional Stock Assessment Workshop (September 1999) and on the updated catch and survey data, the New England Fishery Management Council (Council) included new biological projections in its 2000 Stock Assessment and Fishery Evaluation (SAFE) Report for sea scallops (September 8, 2000) that conclude that scallop rebuilding is ahead of the rebuilding schedule specified in Amendment 7. As reported in the 2000 SAFE Report, the accelerated rebuilding has occurred primarily because of strong year classes of scallops in 1998 and 2000. The Scallop Plan Development Team (PDT), which completed the analysis in the 2000 SAFE Report, determined that DAS allocations could be increased from the Amendment 7 levels while still meeting the 2001 and 2002 F targets, provided that the Georges Bank and Southern New England multispecies closed areas remain closed to scallop fishing and that

access to scallops in the Hudson Canyon and Virginia Beach Areas in the Mid-Atlantic is controlled. The PDT also recommended closing four new areas to scallop fishing to protect high concentrations of juvenile scallops.

At its January 25, 2001, meeting, the Council took final action on management measures for Framework 14. The Council recommended the following measures for fishing years 2001 and 2002: An annual DAS allocation of 120, 48, and 10 DAS for full-time, part-time, and occasional vessels, respectively; an Area Access Program for the Hudson Canyon and Virginia Beach Areas to control fishing effort, catch, and fishing mortality in these two previously closed areas; and a prohibition on the possession of more than 50 U.S. bushels (17.62 hl) of in-shell scallops inside the VMS demarcation line for vessels that fish in or transit the area south of 42°20' N. latitude. Although the Scallop Oversight Committee supported two additional closures in Framework 14, the Council ultimately decided to recommend that no new closures (beyond the continuation of the Georges Bank and Southern New England multispecies closed areas) be implemented because such closures had the potential for unnecessary hardships on the industry and that new closures are not necessary to achieve the goals of the FMP given the improved condition of the resource.

Approved Measures

This action implements an annual DAS allocation of 120, 48, and 10 DAS for full-time, part-time, and occasional vessels, respectively, for the 2001 and 2002 fishing years. This allocation represents an increase over the DAS allocations that became effective March 1, 2001, as scheduled under Amendment 7 (i.e., 49 full-time, 19 part-time, and 4 occasional).

Framework 14 implements a system (Area Access Program) for allowing controlled scallop fishing in the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, similar to programs implemented under Frameworks 11 and 13 to the FMP that allowed scallop fishing in the multispecies closed areas. Vessels are prohibited from fishing for scallops in the Sea Scallop Access Areas unless they are fishing under the Area Access Program. The intent of this access program is to derive biological, social, and economic benefits from fishing in the areas over the course of 2 years. Measures included in the Area Access Program are described below.

This action also implements a prohibition on the possession of more than 50 U.S. bu (17.62 hl) of in-shell

scallops inside the VMS demarcation line for vessels that fish in or transit the area south of 42°20' N. latitude. Without this restriction, vessels could avoid the limitations of the seven-man crew and DAS restrictions by bringing in-shell scallops shoreward of the VMS demarcation line and shucking inside the line. Because DAS stop accruing once a vessel is inside the VMS demarcation line, vessels are able to bank this saved time for future trips. This measure also may have the incidental benefit of helping to prevent possible contamination of inshore habitats caused by any large discards of scallop viscera as a result of shucking near shore. Vessels fishing north of 42°20' N. latitude will be exempt from this restriction, provided they do not enter the area south of 42°20' N. latitude. This exemption is intended to allow a limited fishery to continue north of 42°20' N. latitude by some vessels that have traditionally landed in-shell scallops.

Finally, this final rule corrects a reference to the stowage provisions in the regulations for Closed Area I that inadvertently references a paragraph that formerly included gear stowage provisions but is now reserved. This regulation is found at § 648.81(b)(2)(ii).

Sea Scallop Area Access Program Measures

The 2001 Area Access Program begins on May 1, 2001 and ends when the TAC is caught or when vessels have used up their allocated number of trips. The 2002 Area Access Program begins on March 1, 2002, unless the fishery is closed prior to February 28, 2002, in which case it will begin on April 1, 2002. A delay in the start date is intended to reduce possible bycatch of finfish that could occur in late winter and early spring.

The Area Access Program includes a TAC of 13.96 million lb (6,331 mt) and 0.62 million lb (283 mt) for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively, for 2001, and 14.14 million lb (6,415 mt) and 0.60 million lb (273 mt) for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively, for 2002. These TACs include set-asides of 2 percent and 1 percent to defray the costs of observers and research, respectively. The TACs achieve an F of 0.2 in each of the two areas.

All limited access scallop vessels, including vessels that replace vessels that hold a scallop Confirmation of Permit History, are eligible to fish for the sea scallop TAC under the Area Access Program. Full-time and part-time scallop vessels are restricted to a total of

three annual trips to the Hudson Canyon and Virginia Beach Sea Scallop Access Areas. A trip to either of the areas counts as one of the allowed trips. Vessels participating in the Area Access Program are allowed to take only one of the three allocated trips before May 1 and only two of the three allocated trips before June 1. At least one trip must be started before September 1 to be eligible to fish the remainder of the allocated trips or any additional trips that may be authorized on or after October 1. This measure is meant to prevent a derby style fishery from occurring and may reduce the potential for bycatch by limiting trips in late spring when bycatch, particularly of summer flounder, could be problematic. Vessels in the occasional permit category may conduct only one trip and may fish in the area of their choice.

Participating scallop vessels are allowed to possess and land from the areas up to 17,000 lb (7,711.1 kg) of scallop meats per trip in fishing year 2001 and 18,000 lb (8,164.7 kg) of scallop meats per trip in fishing year 2002. Limits on both the amount of scallops possessed and landed and the number of trips are intended to help to control fishing mortality of scallops in the areas. These limits are also intended to increase social benefits by allowing all limited access vessels an opportunity to fish in the areas without creating a derby fishery, and to increase economic benefits by promoting an orderly fishery and reducing the possibility of market gluts that could be caused by high initial catches in these areas.

After taking into account data on the number of eligible vessels participating and on the total number of trips taken, the Administrator, Northeast Region, NMFS (Regional Administrator) may adjust the sea scallop possession limit for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas any time during the season and on or after October 1 for fishing year 2001 and 2002 may allocate one or more additional trips for full-time and part-time vessels. In order for additional trips to be allocated, a sufficient amount of the sea scallop TAC must remain to warrant such an adjustment or allocation. In order for a vessel to participate in any additional Area Access Program trips allocated on or after October 1, that vessel must have started at least one Area Access Program trip prior to September 1 of the current fishing year. Vessels with occasional permits will not be allocated any additional trips.

Any trip of 10 DAS or less for a vessel fishing in the Area Access Program will count as 10 DAS. Any trip of over 10 DAS will count as the actual DAS (e.g.,

if a vessel used 12 DAS, 12 DAS would be deducted from its annual DAS allocation). The intended effect of the minimum 10 DAS count is to reduce the amount of days that are available to be fished in the 2001–2002 fishing years in other areas, where scallops are generally smaller, thereby reducing fishing mortality by potentially reducing the number of scallops caught under DAS.

Vessels will be allowed to use dredges or trawls when fishing in the Area Access Program. Dredge gear is required to be outfitted with a twine top with a minimum mesh size of 10 inches (25.40 cm). The purpose of increasing the minimum twine top mesh size measurement from 8 inches (20.32 cm) to 10 inches (25.40 cm) for the Area Access Program is to reduce bycatch of groundfish and other finfish. Recent research and experience from the Georges Bank and Southern New England Closed Area Sea Scallop Exemption Program demonstrate that the 10-inch (25.40 cm) mesh size may significantly reduce bycatch of certain species, especially flatfish species.

All scallop vessels fishing in the Area Access Program must have installed on board an operational VMS unit that meets the minimum performance criteria as specified in the regulations at § 648.9(b). (Vessels with occasional permits are the only limited access scallop vessels not currently required to have a VMS unit). Scallop vessels planning to fish in the Area Access Program must so declare by notifying the Regional Administrator through the VMS as described here.

Each vessel operator is required to inform NMFS of his/her intention to fish in the Sea Scallop Access Areas prior to the 25th day of the month preceding the month in question through the VMS e-mail system to facilitate placement of observers (e.g., if the vessel plans to fish in these areas in July, it would need to notify the Regional Administrator by June 25).

The following information must be reported to the Regional Administrator prior to the 25th day of the month preceding the month in question: Vessel name and permit number, owner and operator's name, owner and operator's phone numbers, the area to be fished, and the number of trips anticipated to be taken in the area in question. Vessels will be provided additional information by mail regarding all notification requirements.

Each vessel participating in the Area Access Program is required to report specific information on a daily basis through the VMS. For each day of an Area Access Program trip, a vessel must report the daily pounds (kg) of scallop

meats kept, the area fished that day, and the Fishing Vessel Trip Report page numbers corresponding to the respective Sea Scallop Access Area trip. In addition, vessels on observed trips must provide a separate report of the daily pounds (kg) of scallop meats kept on tows that were observed.

Vessels that have declared a trip into the Area Access Program are prohibited from possessing more than 50 U.S. bu (17.62 hl) (400 lb (181.4 kg) of meats) of shell stock when outside the Sea Scallop Access Areas. This limit for shell stock (i.e., unshucked scallops) is considered part of the overall possession limit. A limit on the amount of sea scallops landed in the shell is necessary to monitor and enforce the overall meat weight possession limit requirement. Allowing vessels to retain a relatively minor amount of shell stock will help satisfy a market for large, whole scallops, yet not compromise the enforceability of the conservation intent of the possession limit.

General category permitted vessels and limited access scallop vessels fishing outside a scallop DAS are allowed to fish in the Sea Scallop Access Areas throughout the year, provided that no more than 100 lb (45.36 kg) of scallop meats are possessed on board the vessel when the vessel is in the Sea Scallop Access Areas. These vessels are prohibited from possessing in-shell scallops while inside the Sea Scallop Access Areas, except they may possess an equivalent of in-shell scallops that are necessary to provide 100 lb (45.36 kg) of scallop meats. Vessels not fishing under the Area Access Program may transit the Sea Scallop Access Areas with more than these possession limits on board, provided their gear is properly stowed according to the regulations at § 648.23(b). This measure is intended to allow an incidental catch of scallops for scallop vessels that fish for other species outside the areas and to allow for more direct transiting to and from other fishing areas.

To improve the enforceability of the Area Access Program, all limited access scallop vessels equipped with a VMS unit will be polled twice per hour, regardless of whether the vessel is enrolled in the Area Access Program or not. Also, vessels are required to stow all dredge or trawl gear while transiting to and from the Sea Scallop Access Areas and must land their scallop catch at one location for each trip.

Vessels are required to carry observers when requested. The Council has recommended, as a goal, a 10-percent observer coverage for the Hudson Canyon Sea Scallop Access Area and a

20-percent observer coverage for the Virginia Beach Sea Scallop Access Area. Observers will obtain information on catch, catch rates, and bycatch and may obtain information on gear efficiency and selectivity and on other characteristics of the fishery. The vessel owner will be responsible for paying for the cost of the observer, regardless of whether any scallops are caught on the trip. At the discretion of the Regional Administrator, scallop vessels may be allocated an additional amount of sea scallops, not to exceed a cumulative total of 127 mt or 6 mt in 2001 for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively, and 128 mt or 5 mt in 2002 for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively, for each trip on which an observer is taken, to help defray the cost of the observer. Additional scallops to fund observers cannot exceed 2 percent of the overall scallop TAC. A TAC set-aside of 1 percent to fund research is also included as part of the Area Access Program. This research program for the Sea Scallop Access Areas is modeled after the research program in the 2000 Georges Bank Sea Scallop Exemption Program. A Request for Proposals notice will be published in the Federal Register that will provide information on the submission process, eligibility criteria, proposal requirements and priorities, project evaluation, application deadlines and other requirements. A report of the project results must be submitted to the Council and NMFS. Successful applicants will receive grant awards to help defray the costs of the sea scallop research. Grant awards will be made consistent with the Department of Commerce's grant policy and procedures. Amounts over the trip limits for sea scallop meats to be allocated for defraying research costs shall be limited by area up to 63 mt or 3 mt in 2001 for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively, and 64 mt or 3 mt in 2002 for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively.

Abbreviated Rulemaking

NMFS is making these revisions to the regulations under the framework abbreviated rulemaking procedure codified at 50 CFR part 648, subpart F. This procedure requires the Council, when making specifically allowed adjustments to the FMP, to develop and analyze the actions over the span of at least two Council meetings. The Council must provide the public with advance notice of both the proposals and the analysis and with an opportunity to

comment on them prior to and at a second Council meeting. Upon review of the analysis and public comment, the Council may recommend to the Regional Administrator that the measures be published as a final rule if certain conditions are met. NMFS may publish the measures as a final rule or as a proposed rule if additional public comment is determined to be needed.

Because this action was determined to have a significant impact on the human environment, the Council prepared a Draft SEIS (DSEIS) to consider a range of impacts of the proposed action and its alternatives. The public was provided the opportunity to comment on the measures contained in Framework 14, during the development of the framework, at the following meetings:

Date	Meeting
<i>2000</i>	
June 5-6	Scallop PDT
June 21-22	Scallop PDT
July 24-25	Scallop PDT
August 4	Scallop Oversight Committee
August 15	Scallop PDT
August 28	Scallop PDT
September 18-19	Joint Scallop Oversight Committee and Advisory Committee
September 27	Council
October 4	Scallop Oversight Committee
October 5	Scallop PDT
October 27	Scallop PDT
November 14	Council
<i>2001</i>	
January 22	Scallop Oversight Committee
January 25	Council

The public also was provided with the opportunity to comment on the Council's Notice of Intent to Prepare an SEIS (NOI) (65 FR 60396, October 11, 2000), and during the public comment period following the Notice of Availability (NOA) of the DSEIS (65 FR 77025, December 8, 2000, corrected in 65 FR 78484, December 15, 2000), which ended on January 24, 2001.

Documents summarizing the Council's proposed action, the draft FSEIS, and economic impacts analysis of the preferred and alternative actions, were available for public review 1 week prior to the final Council meeting on January 25, 2001, as is required under the framework adjustment process. Written and oral comments were accepted up to and during that meeting. Comments pertaining specifically to the NOI, DSEIS, and framework measures are included and responded to in the FSEIS.

NOAA codifies its OMB control numbers for information collection at 15 CFR part 902. Part 902 collects and displays the control numbers assigned to information collection requirements of NOAA by OMB pursuant to the Paperwork Reduction Act (PRA). This final rule codifies OMB control numbers for 0648-0202, 0648-0307, and 0648-0416 for § 648.58.

Under NOAA Administrative Order 205-11, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere, NOAA, has delegated to the Assistant Administrator for Fisheries, NOAA (AA), the authority to sign material for publication in the **Federal Register**.

Classification

The Council prepared an FSEIS for this framework adjustment; an NOA was published on March 9, 2001 (66 FR 14141). Subsequent to the publication of the NOA on the FSEIS, NMFS received a comment letter on the FSEIS requesting that NMFS reject the environmental analysis because it failed to comply with the National Environmental Policy Act (NEPA) and the Magnuson-Stevens Fishery Conservation and Management Act. The commenter indicated that there were numerous procedural deficiencies during the FSEIS development and approval process, most notably that the Council failed to analyze the environmental impacts of Framework 14 and a range of alternatives to minimize the environmental effects before the Council took final action. The commenter also indicated that the FSEIS fails to analyze the environmental consequences of Framework 14 and a range of alternatives that would minimize the environmental impacts.

NMFS has determined, upon review of the framework, FSEIS, and upon consideration of all public comments received on the DSEIS, FSEIS, and framework measures that the Council considered an adequate analysis of the impacts and range of alternatives when it voted to submit Framework 14 to the agency for its consideration. NMFS, in making the decision to approve and implement Framework 14, also considered a broad range of alternatives in the FSEIS, which addresses measures to achieve objectives established by Amendment 7 and to achieve optimum yield. The Council is considering alternative ways to manage the resource and the fishery in its current development of Amendment 10. Many of the alternatives suggested in the comment letter on the FSEIS are more appropriate for consideration in this larger context.

The AA finds that, because public meetings held by the Council to discuss the management measures implemented by this final rule provided adequate prior notice and opportunity for public comment, further notice and opportunity to comment on this final rule is unnecessary. Therefore, the AA, under 5 U.S.C. 553(b)(B), finds good cause exists to waive prior notice and additional opportunity for public comment.

It is contrary to the public interest to delay for 30 days the effective date for the prohibition on the possession limit of more than 50 U.S. bu (17.62 hl) of in-shell scallops shoreward of the VMS demarcation line. Currently, some vessels are shucking their scallop catch inside the VMS demarcation line and thus compromising the conservation objectives of both the DAS and crew size restrictions of the FMP. To allow this activity to continue unrestricted could undermine the effects of the scallop management measures. In addition, a 30 day delay in effectiveness would delay the potential incidental benefits of reducing contamination of inshore waters that may be associated with high discards of scallop viscera from vessels shucking inshore of the VMS demarcation line. For these reasons, the AA finds, under 5 U.S.C. 553(d)(3), good cause not to delay for 30 days the effective date of this provision.

Because the annual DAS allocations implemented in this final rule are higher than the DAS allocations that went into effect on March 1, 2001, and because the Area Access Program (and associated information collection requirements as published in 15 CFR 902) allows access to areas that would otherwise be closed to scallop fishing, these measures relieve restrictions, and are therefore not subject to a 30-day delay in effectiveness under 5 U.S.C. 553(d)(1).

Also, this final rule corrects a reference to the stowage provisions in the regulations for Closed Area I that inadvertently references a paragraph that formerly included gear stowage provisions but is now reserved (§ 648.81(b)(2)(ii)). The correction to this crossreference imposes no new requirements and is not subject to the 30-day delay in effective date provisions of 5 U.S.C. 553 (d).

Because a prior notice and opportunity for public comment is not required for this rule under 5 U.S.C. 533, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This final rule has been determined to be significant for the purposes of Executive Order 12866.

For purposes of the Congressional Review Act, this rule has been determined to be major within the meaning of 5 U.S.C. 804 (2). Because this rule establishes a regulatory program for a commercial activity related to fishing under 5 U.S.C. 808 (1), it is not subject to the Congressional Review Act 60-day delay in effective date.

This rule contains collection-of-information requirements subject to the PRA and which have been approved by OMB. The estimated response times and the OMB Control Numbers for these requirements are: 1 hour for installation of a vessel monitoring system (VMS) (0648-0416); 2 minutes for a monthly VMS declaration of an intent to fish during the next month (0648-0416); 2 minutes for notification at least 5 days prior to departure on a fishing trip (0648-0416); 10 minutes for a daily VMS catch report (0648-0416); 2 minutes for a notification of intent to leave on a fishing trip (0648-0202); and 5 seconds for VMS polling (0648-0416 and 0648-0307). The submission requirements for research proposals are cleared under OMB Control Numbers 0348-0043 and 0348-0044.

The response time estimates above include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20503 (Attention: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 25, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR chapter IX, part 902 and 50 CFR chapter VI, part 648 are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT; OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 et seq.

2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by adding in numerical order an entry for § 648.58 with new OMB control numbers to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

(b) * * *

CFR part or section where the information collection requirement is located	Current OMB control number (all numbers begin with 0648-)
50 CFR	
648.58	-0202, -0307, and -0416

50 CFR Chapter VI

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, the first sentence of paragraph (b)(1), introductory text, is revised to read as follows:

§ 648.10 DAS notification requirements.

(b) * * *

(1) A scallop vessel issued a full-time or part-time limited access scallop permit; or issued an occasional limited access permit when fishing under the Sea Scallop Area Access Program specified under § 648.58; or a scallop vessel fishing under the small dredge program specified in § 648.51(e); or a vessel issued a limited access multispecies, monkfish, occasional

scallop, or combination permit whose owner elects to provide the notifications required by paragraph (b) of this section using a VMS that meets the minimum performance criteria specified in § 648.9(b) or as modified pursuant to § 648.9(a), unless otherwise authorized or required by the Regional Administrator under paragraph (d) of this section, must have installed on board an operational VMS unit that meets the minimum performance criteria specified in § 648.9(b) or as modified pursuant to § 648.9(a). * * *

3. In § 648.14, revise paragraphs (a)(38), (a)(39), (a)(40), and (h)(27); and add paragraphs (a)(110), (a)(111), (h)(29), (h)(30), (h)(31), (h)(32), (h)(33), (i)(8), and (i)(9) to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(38) Enter or be in the area described in § 648.81(a)(1) on a fishing vessel, except as provided in § 648.81(a)(2) and (d).

(39) Enter or be in the area described in § 648.81(b)(1) on a fishing vessel, except as provided in § 648.81(b)(2).

(40) Enter or be in the area described in § 648.81(c)(1) on a fishing vessel, except as allowed under § 648.81(c)(2) and (d).

(110) Fish for, possess, or land sea scallops in or from the areas described in § 648.57, except as allowed under § 648.52(e) and 648.58.

(111) Transit or be in the areas described in § 648.57 when fishing under a scallop DAS, except: As allowed under § 648.58; or when all scallop gear is unavailable for immediate use as defined in § 648.23(b), unless there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

(h) * * *

(27) Enter or be in the areas described in § 648.57 when fishing with scallop dredge gear under the Sea Scallop Area Access Program specified in § 648.58, with a net, net material, or any other material on the top half of the dredge with mesh size smaller than that specified in § 648.58(c)(7).

(29) Possess or land per trip more than 50 bu (17.62 hectoliters (hl)) of in-shell scallops, as specified in § 648.52(d), once inside the VMS Demarcation Line by a vessel that, at any time during the trip, fished in or transited any area south of 42°20' N. Latitude, except as provided in § 648.54.

(30) Land per trip more than 100 lb (45.36 kg) of scallop meats as specified in § 648.52(e) in or from the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program.

(31) Possess more than 100 lb. (45.36 kg) of scallop meats in the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program, unless the vessel's fishing gear is unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

(32) Except as allowed in § 648.52(e), land in-shell scallops in or from the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program.

(33) Except as allowed in § 648.52(e), possess in-shell scallops in the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program, unless the vessel's fishing gear is unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

(i) * * *

(8) Possess, retain, or land per trip no more than 100 lb (45.36 kg) of shucked scallops in or from the areas described in § 648.57.

(9) Except as allowed in § 648.52(e), possess or land in-shell scallops in or from the areas described in § 648.57.

4. In § 648.52, the section heading and paragraphs (a) and (c) are revised, and paragraphs (d) and (e) are added to read as follows:

§ 648.52 Possession and landing limits.

(a) Except as provided in paragraph (e) of this section, owners or operators of vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10 or that have used up their DAS allocations, and vessels possessing a general scallop permit, unless exempted under the state waters exemption program described under § 648.54, are prohibited from possessing or landing per trip more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops with no

more than one scallop trip of 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops, allowable in any calendar day.

* * * * *

(c) Owners or operators of vessels with a limited access scallop permit that have declared into the Sea Scallop Area Access Program as described in § 648.58 are prohibited from fishing for, possessing or landing per trip more than the sea scallop possession and landing limit specified in § 648.58(c)(6).

(d) Owners or operators of vessels issued limited access or general category scallop permits fishing in or transiting the area south of 42°20' N. Latitude at any time during a trip are prohibited from fishing for, possessing, or landing per trip more than 50 bu (17.62 hl) of

in-shell scallops shoreward of the VMS Demarcation Line, unless when fishing under the state waters exemption specified under § 648.54.

(e) Owners or operators of vessels with a general category scallop permit and vessels with a limited access scallop permit that are not fishing under a scallop DAS may land per trip no more than 100 lb (45.36 kg) of sea scallop meats in or from the areas described in § 648.57, and may possess no more than 100 lb (45.63 kg) of sea scallop meats in or from the areas described in § 648.57, unless the vessel is only transiting the areas with all fishing gear unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. No in-

shell scallops from the Hudson Canyon and Virginia Beach Sea Scallop Access Areas may be landed. In-shell scallops up to 12.5 bu (4.41 hl) taken by such vessels from the Hudson Canyon and Virginia Beach Sea Scallop Access Areas may be possessed only for the purpose of shucking in order to provide no more than 100 lb of scallop meats. Any combination of scallop meats and in-shell scallops possessed by such vessels must be equivalent to no more than 100 lb (45.36 kg) of scallop meats.

5. In § 648.53, paragraph (b) is amended by revising the table to read as follows:

§ 648.53 DAS allocations.

* * * * *

(b) * * *

DAS Category	1999–2000	2000–2001	2001–2002	2002–2003	2003–2004	2004–2005	2005–2006	2006–2007	2007–2008	2008
Full-time	120	120	120	120	45	34	35	38	36	60
Part-time	48	48	48	48	18	14	14	15	17	24
Occasional	10	10	10	10	4	3	3	3	4	5

* * * * *

6. In § 648.57, the section heading and the introductory text of paragraphs (a) and (b) are revised to read as follows:

§ 648.57 Closed and regulated areas.

(a) *Hudson Canyon Sea Scallop Access Area.* Through February 28, 2003, except as provided in §§ 648.52 and 648.58, no vessel may fish for scallops in or land scallops from the area known as the Hudson Canyon Sea Scallop Access Area, and no vessel may possess scallops in the Hudson Canyon Sea Scallop Access Area, unless such vessel is only transiting the area with all fishing gear unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. The Hudson Canyon Sea Scallop Access Area (copies of a chart depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

* * * * *

(b) *Virginia Beach Sea Scallop Access Area.* Through February 28, 2003, except as provided in §§ 648.52 and 648.58, no vessel may fish for scallops in or land scallops from the area known as the Virginia Beach Sea Scallop Access Area, and no vessel may possess scallops in the Virginia Beach Sea Scallop Access Area, unless such vessel is only transiting the areas with all fishing gear unavailable for immediate

use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. The Virginia Beach Sea Scallop Access Area (copies of a chart depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

* * * * *

7. Section 648.58 is revised to read as follows:

§ 648.58 Sea Scallop Area Access Program.

(a) *Eligibility.* Vessels issued a limited access scallop permit are eligible to participate in the Sea Scallop Area Access Program, and may fish in the Sea Scallop Access Areas, as described in § 648.57 of this section, for the times specified in paragraph (c)(1) of this section, when fishing under a scallop DAS, and while complying with the requirements of this section. Copies of a chart depicting these areas are available from the Regional Administrator upon request.

(b) *Sea Scallop Access Areas—(1) Hudson Canyon Sea Scallop Access Area.* Eligible vessels, as specified in paragraph (a) of this section, may fish for, possess, and retain sea scallops in excess of the possession limit specified in § 648.52(e) in or from in the Hudson Canyon Sea Scallop Access Area, which is the area described in § 648.57(a).

(2) *Virginia Beach Sea Scallop Access Area.* Eligible vessels, as specified in paragraph (a) of this section, may fish for, possess, and retain sea scallops in excess of the possession limit specified in § 648.52(e) in or from the Virginia Beach Sea Scallop Access Area, which is the area described in § 648.57(b).

(c) *Sea Scallop Area Access Season and Requirements.* To fish in the Sea Scallop Access Areas under the Sea Scallop Area Access Program, eligible vessels must fish during the Season specified in paragraph (c)(1) of this section and must comply with the requirements specified in paragraphs (c)(2) through (c)(4) of this section:

(1) *Season—(i) Fishing year 2001.* From May 1, 2001 through February 28, 2002, vessels participating in the Sea Scallop Area Access Program may fish for or possess sea scallop in or from the respective Sea Scallop Access Areas specified in § 648.57 of this section, unless access to these areas is terminated as specified in paragraph (f) of this section.

(ii) *Fishing year 2002.* From March 1, 2002, through February 28, 2003, vessels participating in the Sea Scallop Area Access Program may fish in the respective Sea Scallop Access Areas specified in § 648.57 of this section, unless access to these areas is terminated as specified in paragraph (f) of this section. Should the 2001 fishing year season be closed early, as described in paragraph (c)(1) of this section, the Sea Scallop Area Access Program season

for fishing year 2002 will begin on April 1, 2002.

(2) *VMS*. The vessel must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10 and paragraph (h) of this section.

(3) *Declaration*. (i) Prior to the 25th day of the month preceding the month in which fishing is to take place, the vessel must submit a monthly report through the VMS e-mail messaging system of its intention to fish in the Hudson Canyon or Virginia Beach Sea Scallop Access Areas, along with the following information: Vessel name and permit number, owner and operator's name, owner and operator's phone numbers, and number of trips anticipated for each Sea Scallop Access Area in which it intends to fish. The Regional Administrator may waive a portion of this notification period for trips into the Sea Scallop Access Areas in April or May, 2001. Notification of this waiver of a portion of the notification period will be provided to the vessel through a permit holder letter issued by the Regional Administrator.

(ii) In addition to the requirements described in paragraph (c)(3)(i) of this section, and for the purpose of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the time, port of departure, and specific Sea Scallop Access Area to be fished, at least 5 working days prior to the beginning of any trip on which it declares into the Sea Scallop Area Access Program.

(iii) On the day the vessel leaves port to fish under the Sea Scallop Area Access Program, the vessel owner or operator must declare into the Program through the VMS, in accordance with instructions to be provided by the Regional Administrator prior to the vessel leaving port.

(4) *Number of trips*—(i) *Full and part-time vessels*. Full and part-time vessels are restricted to a total of three trips into the Sea Scallop Access Areas, unless otherwise authorized by the Regional Administrator as specified in paragraph (e)(2) of this section. A trip to either area counts as one trip.

(A) *Distribution of trips for the 2001 fishing year*. For fishing year 2001, full-time and part-time vessels participating in the Sea Scallop Area Access Program may start no more than two of their three allowed Area Access Program trips before June 1, 2001. To be eligible for any additional trips allocated under paragraph (e)(4) of this section, at least one trip must begin by September 1, 2001.

(B) *Distribution of trips for 2002 fishing year*. For fishing year 2002, full-time and part-time vessels participating in the Sea Scallop Area Access Program may start no more than one of their three allowed Area Access Program trips before May 1, 2002, and no more than two of their three allowed Area Access Program trips before June 1, 2002.

(ii) *Occasional scallop vessels*. Occasional vessels may fish only one trip per fishing year in 2001 and 2002 under the Sea Scallop Area Access Program. The one allowed trip may be conducted in either the Hudson Canyon or Virginia Beach Sea Scallop Access Area specified in § 648.57 of this section at any time during the season, as specified in paragraph (c)(1) of this section.

(5) *Area fished*. A vessel that has declared a trip into the Sea Scallop Area Access Program must not fish for, possess, or land scallops from outside the specific Sea Scallop Access Area fished during that trip and must not enter or exit the specific Sea Scallop Access Area fished more than once per trip. A vessel that has declared a trip into the Sea Scallop Area Access Program must not exit one Sea Scallop Access Area and transit to, or enter, the other Sea Scallop Access Area on the same trip.

(6) *Possession and landing limits*—(i) *Fishing year 2001*. Unless otherwise authorized by the Regional Administrator as specified in paragraph (e) of this section, after declaring into the Sea Scallop Area Access Program in fishing year 2001 a vessel owner or operator may fish for, possess and land up to 17,000 lb (7,711.1 kg) of scallop meats per trip, with a maximum of 400 lb (181.4 kg) of the possession limit originating from 50 bu (17.62 hl) of in-shell scallops.

(ii) *Fishing year 2002*. Unless otherwise authorized by the Regional Administrator as specified in paragraph (e) of this section, after declaring into the Sea Scallop Area Access Program in fishing year 2002, a vessel owner or operator may fish for, possess, and land up to 18,000 lb (8,164.7 kg) of scallop meats per trip, with a maximum of 400 lb (181.4 kg) of the possession limit originating from 50 bu (17.62 hl) of in-shell scallops.

(7) *Gear restrictions*. The vessel must fish with or possess scallop dredge or trawl gear only in accordance with the restrictions specified in § 648.51(a) and (b), except that the mesh size of a net, net material, or any other material on the top of a scallop dredge in use by or in possession of the vessel shall not be smaller than 10.0 inches (25.40 cm) square or diamond mesh.

(8) *Transiting*. While outside of the Sea Scallop Access Areas specified in § 648.57, all fishing gear must be unavailable for immediate use as defined in § 648.23(b), unless there is a compelling safety reason.

(9) *Off-loading restrictions*. The vessel may not off-load its sea scallop catch from a trip at more than one location per trip.

(10) *Reporting*. The owner or operator must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished when declared in the Sea Scallop Area Access Program, including trips accompanied by a NMFS-approved observer. The reports must be submitted in 24-hour intervals, for each day beginning at 0000 hours and ending at 2400 hours. The reports must be submitted by 0900 hours of the following day and must include the following information:

(i) Total pounds/kilograms of scallop meats kept, total number of tows and the Fishing Vessel Trip Report log page number.

(ii) [Reserved]

(d) *Accrual of DAS*. A scallop vessel that has declared a fishing trip into the Sea Scallop Area Access Program of this section shall have a minimum of 10 DAS deducted from its DAS allocation, regardless of whether the actual number of DAS used during the trip is less than 10. Trips that exceed 10 DAS will be counted as actual time.

(e) *Adjustments to possession limits and number of trips*—(1) *Adjustment process for sea scallop possession limits for Hudson Canyon and the Virginia Beach Sea Scallop Access Areas*. The Regional Administrator may adjust the sea scallop possession limit at any time during the Sea Scallop Area Access Program. This adjustment may be made if the Regional Administrator determines that such adjustment will likely allow the scallop TAC to be reached without exceeding it. Notification of this adjustment to the possession limit will be provided to the vessel through a permit holder letter issued by the Regional Administrator.

(2) *Adjustment process for number of trips for Hudson Canyon and the Virginia Beach Sea Scallop Access Areas*. On or after October 1 for fishing years 2001 and 2002, if the scallop catch in the Hudson Canyon and/or Virginia Beach Sea Scallop Access Areas is less than the scallop TACs specified for fishing years 2001 and 2002 in paragraphs (f)(1) and (f)(2) of this section, respectively, the Regional Administrator may allocate one or more additional trips for the Hudson Canyon and/or Virginia Beach Sea Scallop

Access Areas for full and part-time limited access sea scallop vessels that declared into and began a trip under the Sea Scallop Area Access Program prior to September 1 for the respective fishing year. This adjustment may be made if the Regional Administrator determines that such adjustment will likely allow the scallop TAC to be reached without exceeding it. Notification of this adjustment to the trip limit will be provided to the vessel through a permit holder letter issued by the Regional Administrator. Unused trips after September 30, 2001, may not be carried over into the 2002 Sea Scallop Area Access Program. Vessels with occasional permits would not be allocated an additional trip.

(3) *Increase of possession limit to defray costs of observers*—(i) *Defraying the costs of observers.* The Regional Administrator may increase the sea scallop possession limit specified in paragraph (c)(6) of this section to defray costs of observers by areas subject to the limits specified in paragraph (e)(3)(ii) of this section and to the limit on the cumulative amount of sea scallops allocated for a vessel that has declared a fishing trip into the Sea Scallop Area Access Program with a NMFS-approved observer on board. Notification of this increase of the possession limit will be provided to the vessel through a Letter of Authorization issued by the Regional Administrator which must be kept on board the vessel. The amount of the possession limit increase will be determined by the Regional Administrator and the vessel owner will be responsible for paying the cost of the observer, regardless of whether the vessel lands or sells sea scallops on that trip.

(ii) *Observer set-aside limits on increases of possession limits by area.* The cumulative amount of scallops authorized under this part to be taken by vessels in excess of the possession limits specified in paragraph (c)(6) of this section to defray the cost of an observer shall not exceed 2-percent of the overall TAC for each Sea Scallop Access Area. The following amounts represent 2 percent of those TACs:

- (A) Hudson Canyon Sea Scallop Access Area, 2001 area access program - 127 mt;
- (B) Virginia Beach Sea Scallop Access Area, 2001 area access program - 6 mt;
- (C) Hudson Canyon Sea Scallop Access Area, 2002 area access program - 128 mt;
- (D) Virginia Beach Sea Scallop Access Area, 2002 area access program - 5 mt.

(iii) *Notification of observer set-aside limit.* NMFS shall publish notification in the **Federal Register** of the date that

the Regional Administrator projects that the observer set-aside limit will be caught.

(4) *Adjustments to possession limits and/or number of trips to defray the costs of sea scallop research*—(i) *Defraying the costs of sea scallop research.* The Regional Administrator may increase the sea scallop possession limit specified in paragraph (c)(6) of this section or allow additional trips into a Sea Scallop Access Area, subject to the limits on the cumulative amount of sea scallops allocated to defray costs for sea scallop research specified in paragraph (e)(4)(ii) of this section.

(ii) *Research set-aside limits on adjustments to possession limits and number of trips by area.* The cumulative amount of scallops authorized to be taken by vessels in excess of the possession limits specified in paragraph (c)(6) of this section for purposes of defraying the cost of sea scallop research shall not exceed 1 percent of the overall TAC for each Sea Scallop Access Area. The following amounts represent 1 percent of those TACs:

- (A) Hudson Canyon Sea Scallop Access Area, 2001 area access program - 63 mt;
- (B) Virginia Beach Sea Scallop Access Area, 2001 area access program - 3 mt;
- (C) Hudson Canyon Sea Scallop Access Area, 2002 area access program - 64 mt;
- (D) Virginia Beach Sea Scallop Access Area, 2002 area access program - 3 mt.

(iii) NMFS shall publish notification in the **Federal Register** of the date that the Regional Administrator projects that the scallop research set-aside limits will be caught.

(iv) *Adjustment procedure.* (A) Determinations as to which vessel may be authorized to take more than the trip limits specified in paragraph (c)(6) of this section, or to take additional trips for the purposes of defraying sea scallop research costs, shall be made by NMFS, in cooperation with the Council. At a minimum, applicants shall submit a scallop proposal under this program and a project summary that includes: The project goals and objectives, relationship of sea scallop research to management needs or priorities identified by the Council, project design, participants other than applicant, funding needs, breakdown of costs, and the vessel(s) for which authorization is requested.

(B) NMFS will make the final determination as to what proposals are approved and which vessels are authorized to take scallops in excess of possession limits or additional trips. Authorization to increase possession limits and/or number of trips will be

provided to the vessel by Letter of Authorization issued by the Regional Administrator which must be kept on board the vessel.

(v) *Project Report Procedure.* Upon completion of his/her sea scallop research, the researcher of approved projects must provide the Council with a report of his/her findings, which include:

(A) A detailed description of methods of data collection and analysis;

(B) A discussion of results and any relevant conclusions presented in a format that is understandable to a non-technical audience; and

(C) A detailed final accounting of all funds used to conduct the sea scallop research.

(f) *Termination of the Sea Scallop Area Access Program*—(1) *Fishing year 2001 area access program*—(i) *Hudson Canyon Sea Scallop Access Area.* The Hudson Canyon Sea Scallop Access Area fishery for fishing year 2001 shall be terminated as of the date the Regional Administrator projects that 6,204 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Hudson Canyon Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(ii) *Virginia Beach Sea Scallop Access Area.* The Virginia Beach Sea Scallop Access Area fishery for fishing year 2001 shall be terminated as of the date the Regional Administrator projects that 277 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Virginia Beach Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(2) *Fishing year 2002 area access program.* (i) *Hudson Canyon Sea Scallop Access Area.* The Hudson Canyon Sea Scallop Access Area fishery for fishing year 2002 shall be terminated as of the date the Regional Administrator projects that 6,287 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Hudson Canyon Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(ii) *Virginia Beach Sea Scallop Access Area.* The Virginia Beach Sea Scallop Access Area fishery for fishing year 2002 shall be terminated as of the date the Regional Administrator projects that 268 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Virginia Beach Sea Scallop Access Area

described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(g) *Transiting*. Limited access sea scallop vessels fishing under a scallop DAS that have not declared a trip into the Sea Scallop Area Access Program may not fish in the areas known as the Hudson Canyon and Virginia Beach Sea Scallop Access Areas described in § 648.57, and may not enter or be in such areas unless the vessel is transiting the area and the vessel's fishing gear is unavailable for immediate use as defined in § 648.23(b), or there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

(h) *VMS Polling*. For the duration of the Sea Scallop Area Access Program, as described under this section, all sea scallop limited access vessels equipped with a VMS unit will be polled twice per hour, regardless of whether the vessel is enrolled in the Sea Scallop Area Access Program.

8. In § 648.80, paragraph (h)(1) is revised to read as follows:

§ 648.80 Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(h) * * *

(1) Except as provided in paragraph (h)(2) of this section, a scallop vessel that possesses a limited access scallop permit and either a multispecies combination vessel permit or a scallop multispecies possession limit permit, and that is fishing under a scallop DAS allocated under § 648.53, may possess and land up to 300 lb (136.1 kg) of regulated species per trip, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(b), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip, and provided the vessel has at least one standard tote on board, unless otherwise restricted by § 648.86(a)(2).

* * * * *

9. In § 648.81, the introductory text of paragraphs (a)(1), (b)(1), and (c)(1) and paragraph (b)(2)(ii) are revised to read as follows:

§ 648.81 Closed areas.

(a) * * *

(1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Closed Area I (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated,

except as specified in paragraphs (a)(2) and (d) of this section:

* * * * *

(b) * * *

(1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Closed Area II (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, except as specified in paragraph (b)(2) of this section:

* * * * *

(2) * * *

(ii) The vessel's fishing gear is stowed in accordance with the provisions of § 648.23(b).

(c) * * *

(1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as the Nantucket Lightship Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (c)(2) and (d) of this section:

* * * * *

10. In § 648.86, paragraph (a)(2)(iii) is revised to read as follows:

§ 648.86 Multispecies possession restrictions.

* * * * *

(a) * * *

(2) * * *

(iii) Unless otherwise authorized by the Regional Administrator as specified in paragraph (f) of this section, scallop dredge vessels or persons owning or operating a scallop dredge vessel that is fishing under a scallop DAS allocated under § 648.53 may land or possess on board up to 300 lb (136.1 kg), of haddock, except as specified in § 648.88(c), provided that the vessel has at least one standard tote on board. This restriction does not apply to vessels issued NE multispecies Combination Vessel permits that are fishing under a multispecies DAS. Haddock on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

* * * * *

11. In § 648.88, paragraph (c) is revised to read as follows:

§ 648.88 Multispecies open access permit restrictions.

* * * * *

(c) *Scallop multispecies possession limit permit*. A vessel that has been issued a valid open access scallop

multispecies possession limit permit may possess and land up to 300 lb (136.1 kg) of regulated species when fishing under a scallop DAS allocated under § 648.53, provided the vessel does not fish for, possess, or land haddock from January 1 through June 30, as specified under § 648.86(a)(2)(i), and provided the vessel has at least one standard tote on board.

* * * * *

[FR Doc. 01-10783 Filed 4-26-01; 4:30 pm]

BILLING CODE 3510-22-S

Editorial Note: Federal Register Rule document 01-10783 originally appeared in the issue of Tuesday, May 1, 2001 at 66 FR 21639-21648. Due to numerous errors the document is being reprinted in its entirety.

[FR Doc. R1-10783 Filed 5-10-01; 8:45 am]

BILLING CODE 1505-05-D

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 160

RIN 3038-AB68

Privacy of Consumer Financial Information; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final regulations which were published in the **Federal Register** of Friday, April 27, 2001 (66 FR 21236). The regulations related to notice requirements and restrictions on the ability of certain financial institutions to disclose nonpublic personal information about consumers to nonaffiliated third parties.

DATES: Effective on June 21, 2001.

FOR FURTHER INFORMATION CONTACT: Susan Nathan, 202-418-5120 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of this correction require certain financial institutions to provide their consumers with notice of their privacy policies and practices, and provide that the financial institutions may not disclose nonpublic personal information about a consumer to nonaffiliated third parties unless the institution provides certain information to the consumer and the consumer has not elected to opt out of the disclosure.

Need for Correction

As published, the final regulations contain an error which may prove to be misleading and needs to be clarified.