

**§ 751.107 Downstream notification.**

Each person who manufactures, processes, or distributes in commerce methylene chloride for any use after August 26, 2019 must, prior to or concurrent with the shipment, notify companies to whom methylene chloride is shipped, in writing, of the restrictions described in this subpart. Notification must occur by inserting the following text in the Safety Data Sheet (SDS) provided with the methylene chloride or with any methylene chloride containing product:

(a) SDS Section 1.(c): “This chemical/product is not and cannot be distributed in commerce (as defined in TSCA section 3(5)) or processed (as defined in TSCA section 3(13)) for consumer paint or coating removal.”

(b) SDS Section 15: “This chemical/product is not and cannot be distributed in commerce (as defined in TSCA section 3(5)) or processed (as defined in TSCA section 3(13)) for consumer paint or coating removal.”

**§ 751.109 Recordkeeping.**

(a) Each person who manufactures, processes, or distributes in commerce any methylene chloride after August 26, 2019 must retain in one location at the headquarters of the company, or at the facility for which the records were generated, documentation showing:

- (1) The name, address, contact, and telephone number of companies to whom methylene chloride was shipped;
- (2) A copy of the notification provided under § 751.107; and
- (3) The amount of methylene chloride shipped.

(b) The documentation in paragraph (a) of this section must be retained for 3 years from the date of shipment.

**Subpart C—[Reserved]**

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

[Docket No.: 181210999–9239–02]

RIN 0648–BI66

**Fisheries of the Northeastern United States; Framework Adjustment 30 to the Atlantic Sea Scallop Fishery Management Plan**

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** NMFS approves and implements the measures of Framework Adjustment 30 to the Atlantic Sea Scallop Fishery Management Plan that establish scallop specifications and other measures for fishing years 2019 and 2020. This action is necessary to respond to updated scientific information, and the intended effect of this rule is to prevent overfishing, improve both yield-per-recruit and the overall management of the Atlantic sea scallop resource, and implement these measures for the 2019 fishing year.

**DATES:** Effective April 1, 2019.

**ADDRESSES:** The New England Fishery Management Council developed an environmental assessment (EA) for this action that describes the measures in Framework Adjustment 30 and other considered alternatives and analyzes the impacts of the measures and alternatives. Copies of Framework 30, the EA, the Initial Regulatory Flexibility Analysis (IRFA), and information on the economic impacts of this rulemaking are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: <https://www.nefmc.org/library/framework-30-1>.

Copies of the small entity compliance guide are available from Michael Pentony, Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930–2298, or available on the internet at: <http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/scallop/>.

**FOR FURTHER INFORMATION CONTACT:** Travis Ford, Fishery Policy Analyst, 978–281–9233.

**SUPPLEMENTARY INFORMATION:****Background**

The New England Fishery Management Council adopted Framework 30 to the Atlantic Sea Scallop Fishery Management Plan (FMP) on December 5, 2018, and submitted a final EA to NMFS on March 7, 2019, for approval. NMFS published a proposed rule for Framework 30 on February 20, 2019 (84 FR 5035). To help ensure that the final rule would be implemented before April 1, 2019, the start of the fishing year, the proposed rule included a 15-day public comment period that closed on March 7, 2019.

NMFS has approved all of the measures in Framework 30

recommended by the Council, as described below. This final rule implements Framework 30, which establishes scallop specifications and other measures for fishing years 2019 and 2020, including changes to the catch, effort, and quota allocations and adjustments to the rotational area management program for fishing year 2019, and default specifications for fishing year 2020. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) allows NMFS to approve, partially approve, or disapprove measures proposed by the Council based on whether the measures are consistent with the FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. NMFS generally defers to the Council's policy choices unless there is a clear inconsistency with the law or the FMP. Details concerning the development of these measures were contained in the preamble of the proposed rule and are not repeated here.

*Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACLs), Annual Catch Targets (ACTs), Annual Projected Landings (APLs) and Set-Asides for the 2019 Fishing Year, and Default Specifications for Fishing Year 2020*

The allocations incorporate updated biomass reference points that resulted from the Northeast Fisheries Science Center's most recent scallop stock benchmark assessment that was completed in August 2018. The assessment reviewed and updated the data and models used to assess the scallop stock and ultimately updated the reference points for status determinations. The scallop stock is considered overfished if the biomass is less than half of the biomass at maximum sustainable yield ( $B_{msy}$ ), and overfishing is occurring if fishing mortality ( $F$ ) is above the fishing mortality at maximum sustainable yield ( $F_{msy}$ ). The assessment found that the scallop resource is not overfished and overfishing is not occurring, but the estimates for  $F_{msy}$  and  $B_{msy}$  have changed. A comparison of the old and new reference points is outlined in Table 1.

TABLE 1—SUMMARY OF OLD AND NEW SCALLOP REFERENCE POINTS FROM THE LAST TWO BENCHMARK SCALLOP STOCK ASSESSMENTS IN 2014 AND 2018

	2014 assessment	2018 assessment
$F_{msy}$ .....	0.48 .....	0.64 .....
$B_{msy}$ .....	96,480 mt ...	116,766 mt
$1/2 B_{msy}$ .....	48,240 mt ...	58,383 mt

Due to these reference point updates, the fishing mortality rates that the Council uses to set OFL, ABC, and ACL are updated through this action. The OFL was set based on an  $F$  of 0.64, equivalent to the  $F$  threshold updated through the 2018 assessment. The ABC and the equivalent total ACL for each fishing year are based on an  $F$  of 0.51, 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 of

125.7 million lb (57,003 mt) for 2019 and 101.5 million lb (46,028 mt) for the 2020 fishing year, after accounting for discards and incidental mortality. The SSC will reevaluate and potentially adjust its ABC recommendation for 2020 when the Council begins to develop the next framework adjustment in the summer of 2019.

Table 2 outlines the scallop fishery catch limits derived from the ABC values and the projected landings of the fleet.

TABLE 2—SCALLOP CATCH LIMITS (MT) FOR FISHING YEARS 2019 AND 2020 FOR THE LIMITED ACCESS AND LAGC IFQ FLEETS

Catch limits	2019 (mt)	2020 (mt) <sup>1</sup>
Overfishing Limit .....	73,421	59,447
Acceptable Biological Catch/ACL (discards removed) .....	57,003	46,028
Incidental Catch .....	23	23
Research Set-Aside (RSA) .....	567	567
Observer Set-Aside .....	570	460
ACL for fishery .....	55,843	44,978
Limited Access ACL .....	52,772	42,504
LAGC Total ACL .....	3,071	2,474
LAGC IFQ ACL (5 percent of ACL) .....	2,792	2,249
Limited Access with LAGC IFQ ACL (0.5 percent of ACL) .....	279	225
Limited Access ACT .....	47,598	38,337
APL (after set-asides removed) .....	27,209	( <sup>1</sup> )
Limited Access Projected Landings (94.5 percent of APL) .....	25,713	( <sup>1</sup> )
Total IFQ Annual Allocation (5.5 percent of APL) <sup>2</sup> .....	1,497	1,122
LAGC IFQ Annual Allocation (5 percent of APL) <sup>2</sup> .....	1,360	1,020
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) <sup>2</sup> .....	136	102

<sup>1</sup> The catch limits for the 2020 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2020 that will be based on the 2019 annual scallop surveys.

<sup>2</sup> As a precautionary measure, the 2020 IFQ annual allocations are set at 75 percent of the 2019 IFQ Annual Allocations.

This action deducts 1.25 million lb (567 mt) of scallops annually for 2019 and 2020 from the ABC for use as the Scallop RSA to fund scallop research. Participating vessels are compensated through the sale of scallops harvested under RSA projects. Of the 1.25 million-lb (567-mt) allocation, NMFS has already allocated 103,418 lb (46,902 kg) to previously-funded multi-year projects as part of the 2018 RSA awards process. NMFS is reviewing proposals submitted for consideration of 2019 RSA awards and will be selecting and announcing projects for funding in the near future.

This action also deducts 1 percent of the ABC for the industry-funded observer program to help defray the cost to scallop vessels that carry an observer. The observer set-aside is 570 mt for 2019 and 460 mt for 2020. In fishing year 2019, the compensation rates for limited access vessels in open areas fishing under days-at-sea (DAS) is 0.12 DAS per DAS fished. For access area trips, the compensation rate is 250 lb (113 kg), in addition to the vessel's possession limit for the trip for each day

or part of a day an observer is onboard. LAGC IFQ vessels may possess an additional 250 lb (113 kg) per trip when carrying an observer. NMFS may adjust the compensation rate throughout the fishing year, depending on how quickly the fleets are using the set aside. The Council may adjust the 2020 observer set-aside when it develops specific, non-default measures for 2020.

#### Open Area DAS Allocations

This action implements vessel-specific DAS allocations for each of the three limited access scallop DAS permit categories (*i.e.*, full-time, part-time, and occasional) for 2019 and 2020 (Table 3). The 2019 DAS allocations are the same as those allocated to the limited access fleet in 2018. Framework 30 sets 2020 DAS allocations at 75 percent of fishing year 2019 DAS allocations as a precautionary measure. This is to avoid over-allocating DAS to the fleet in the event that the 2020 specifications action is delayed past the start of the 2020 fishing year. The allocations in Table 3 exclude any DAS deductions that are required if, when calculating final

landings for fishing year 2018, NMFS determines that the limited access scallop fleet exceeded its 2018 sub-ACL.

TABLE 3—SCALLOP OPEN AREA DAS ALLOCATIONS FOR 2019 AND 2020

Permit category	2019	2020 (default)
Full-Time .....	24.00	18.00
Part-Time .....	9.60	7.20
Occasional .....	2.00	1.5

#### Limited Access Allocations and Trip Possession Limits for Scallop Access Areas

For fishing year 2019 and the start of 2020, Framework 30 keeps the Mid-Atlantic Access Area (MAAA), Nantucket Lightship-West Access Area (NLS-W), and Closed Area 1 Access Area (CA1) open as access areas. In addition, this action closes the Nantucket Lightship-South Access Area (NLS-S). However, vessels are still able to fish fishing year 2018 allocation in NLS-S during the first 60 days of the 2019 fishing year.

*Closed Area 1 Flex Allocation*

Framework 30 allocates a new type of flexible allocation in CA1. Limited access full-time and part-time vessels will be allocated 18,000 lb (8,165 kg) and 17,000 lb (7,711 kg), respectively, of flexible allocation (flex allocation) in CA1 (Table 4 and Table 5). Because of uncertainty about the condition of the resource in CA1, scallops allocated to the limited access fleet in CA1 can be

landed in any available access area. For the 2019 fishing year and the first 60 days of the 2020 fishing year, limited access vessels may choose to land CA1 flex allocation from any access area available in fishing year 2019 (*i.e.*, CA1, MAAA, and/or NLS-W). For example, a full-time vessel can take a trip in the CA1 and land 10,000 lb (4,536 kg) from that area, leaving the vessel with 8,000 lb (3,629 kg) of the CA1 flex allocation available, which can be landed from

CA1, MAAA, and/or NLS-W. Trips can be combined with allocation dedicated to other areas, provided the 18,000-lb (8,165-kg) possession limit is not exceeded on any one trip.

Table 4 provides the limited access full-time allocations for all of the access areas, which could be taken in as many trips as needed, so long as the vessels do not exceed the 18,000-lb (8,165-kg) possession limit on any one trip.

**TABLE 4—SCALLOP ACCESS AREA FULL-TIME LIMITED ACCESS VESSEL POUNDAGE ALLOCATIONS AND TRIP POSSESSION LIMITS FOR 2019 AND 2020**

Rotational access area	Scallop possession limit	2019 Scallop allocation	2020 Scallop allocation (default)
Closed Area 1 Flex *	18,000 lb (8,165 kg) per trip	18,000 lb (8,165 kg) .....	0 lb (0 kg).
Nantucket Lightship-West .....		54,000 lb (24,494 kg) .....	18,000 lb (8,165 kg).
Mid-Atlantic .....		54,000 lb (24,494 kg) .....	18,000 lb (8,165 kg).
Total .....		126,000 lb (57,153 kg) .....	36,000 lb (16,329 kg.)

\* Closed Area 1 flex allocation can be landed in any available access area.

Table 5 provides the limited access part-time allocations for all of the access

areas, which could be taken in as many trips as needed, so long as the vessels

do not exceed the 17,000-lb (7,711-kg) possession limit on any one trip.

**TABLE 5—SCALLOP ACCESS AREA PART-TIME LIMITED ACCESS VESSEL POUNDAGE ALLOCATIONS AND TRIP POSSESSION LIMITS FOR 2019 AND 2020**

Rotational access area	Scallop possession limit	2019 Scallop allocation	2020 Scallop allocation (default)
Closed Area 1 Flex *	17,000 lb (7,711 kg) per trip	17,000 lb (7,711 kg) .....	0 lb (0 kg)
Nantucket Lightship West .....		17,000 lb (7,711 kg) .....	7,200 lb (3,266 kg)
Mid-Atlantic .....		17,000 lb (7,711 kg) .....	7,200 lb (3,266 kg)
Total .....		51,000 lb (23,133 kg) .....	14,400 lb (6,532 kg)

\* Closed Area 1 flex allocation can be landed in any available access area.

For the 2019 fishing year, an occasional limited access vessel is allocated 10,500 lb (4,763 kg) of scallops with a trip possession limit of 10,500 lb (4,763 kg) of scallops per trip. Occasional vessels can harvest 10,500 lb (4,763 kg) allocation from only one of three available access areas (CA1, NLS-W, or MAAA). For the 2020 fishing year, occasional limited access vessels are allocated 10,500 lb (4,763 kg) in the MAAA only with a trip possession limit of 10,500 lb (4,763 kg) per trip.

*Limited Access Vessels' One-for-One Area Access Allocation Exchanges*

The owner of a vessel issued a limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another vessel's unharvested scallop pounds allocated to another access area. These exchanges may only be made for the amount of the

current trip possession limit (18,000 lb (8,165 kg) for full-time vessels and 17,000 lb (7,711 kg) for part-time vessels). In addition, these exchanges can only be made between vessels in the same permit category. For example, a full-time vessel may not exchange allocations with a part-time vessel, and vice versa.

*LAGC Measures*

1. *ACL and IFQ Allocation for LAGC Vessels with IFQ Permits.* For LAGC vessels with IFQ permits, this action implements a 2,792-mt ACL for 2019 and a 2,249-mt default ACL for 2020 (see Table 2). These sub-ACLs have no associated regulatory or management requirements, but provide a ceiling on overall landings by the LAGC IFQ fleets. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. The

annual allocation to the LAGC IFQ-only fleet for fishing year 2019 is 1,360 mt and 1,020 mt for 2020 (see Table 2). Each vessel's IFQ is calculated from these allocations based on APL.

2. *ACL and IFQ Allocation for Limited Access Scallop Vessels with IFQ Permits.* For limited access scallop vessels with IFQ permits, this action implements a 279-mt ACL for 2019 and a default 225-mt ACL for 2020 (see Table 2). These sub-ACLs have no associated regulatory or management requirements, but provide a ceiling on overall landings by this fleet. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. The annual allocation to limited access vessels with IFQ permits for fishing year 2019 is 136 mt and 102 mt for 2020 (see Table 2). Each vessel's IFQ is calculated from these allocations based on APL.

3. *LAGC IFQ Trip Allocations for Scallop Access Areas.* Framework 30 allocates LAGC IFQ vessels a fleet-wide number of trips in the CA1, NLS-W, and MAAA for fishing year 2019 and default fishing year 2020 trips in the MAAA (see Table 6). The scallop catch associated with the total number of trips for all areas combined (3,997) for fishing year 2019 is equivalent to the 5.5 percent of total catch from access areas.

TABLE 6—FISHING YEARS 2019 AND 2020 LAGC IFQ TRIP ALLOCATIONS FOR SCALLOP ACCESS AREAS

Scallop access area	2019	2020 <sup>1</sup>
Closed Area 1 .....	571	0
Nantucket Lightship-West	1,713	571
Mid-Atlantic .....	1,713	571
Total .....	3,997	1,142

<sup>1</sup> The LAGC IFQ access area trip allocations for the 2020 fishing year are subject to change through a future specifications action or framework adjustment.

4. *Northern Gulf of Maine (NGOM) TAC.* This action implements a 205,000-

lb (92,986-kg) annual NGOM TAC for fishing year 2019 and a 170,000-lb (77,111-kg) default TAC for fishing year 2020. The NGOM portions of Framework 29 (83 FR 12857; March 26, 2018) developed a methodology for splitting the TAC between the LAGC and the limited access fleets. The limited access portion of the TAC may only be fished by vessels participating in the RSA program that are participating in a project that has been allocated NGOM RSA allocation. Table 7 describes the division of the TAC for the 2019 and 2020 (default) fishing years.

TABLE 7—NGOM TACS FOR FISHING YEAR 2019 AND 2020

Fleet	2019		2020 (default)	
	lb	kg	lb	kg
LAGC .....	137,500	62,369	120,000	54,431
Limited access .....	67,500	30,617	50,000	22,680
Total .....	205,000	92,986	170,000	77,111

5. *Scallop Incidental Catch Target TAC.* This action implements a 50,000-lb (22,680-kg) scallop incidental catch target TAC for fishing years 2019 and 2020 to account for mortality from vessels that catch scallops while fishing for other species, and to ensure that F targets are not exceeded. The Council and NMFS may adjust this target TAC in a future action if vessels catch more scallops under the incidental target TAC than predicted.

#### *RSA Harvest Restrictions*

This action allows vessels participating in RSA projects to harvest RSA compensation from NLS-W, MAAA, and the open area. All vessels are prohibited from harvesting RSA compensation pounds in CA1. Vessels are prohibited from fishing for RSA compensation in the NGOM unless the vessel is fishing an RSA compensation trip using NGOM RSA allocation that was awarded to an RSA project, as implemented in the NGOM portions of Framework 29. Finally, Framework 30 prohibits the harvest of RSA from any access areas under default 2020 measures. At the start of the 2020 fishing year, RSA compensation can only be harvested from open areas. The Council will likely re-evaluate this default prohibition measure in the action that will set final 2020 specifications.

#### *Standardized Default Allocations*

The Scallop FMP allocates fishery specifications on an annual basis

including open-area DAS and access area trips for the limited access component, IFQ to qualifying LAGC IFQ vessels, and access area trips to the LAGC IFQ fleet. Default specifications have been developed in this annual process so that the fishery may continue to operate at a conservative level if updated specifications are not in place by April 1 (start of the fishing year). This action standardizes the process for developing some default measures.

Framework 30 standardizes the default DAS allocations for the limited access fleet. During the specifications setting process, each limited access permit type receives 75 percent of Fishing Year 1 open area DAS to begin the subsequent fishing year. In addition, this action standardizes the default LAGC IFQ allocation. The LAGC IFQ component receives 75 percent of Fishing Year 1 quota allocation. This action does not allocate default access area trips for the limited access or LAGC IFQ component, and it does not standardize default allocations to the NGOM.

#### *Standardized Approach To Setting LAGC IFQ Access Area Trips*

The LAGC IFQ fishery is allocated a fleetwide total number of access area trips. Individual vessels are not required to take trips in specific areas as is the case for access area trips allocated to the limited access fishery. Instead, a maximum number of trips are identified for each area and, once that limit is reached, the area closes to all LAGC IFQ

vessels for the remainder of the fishing year. The level of allocation can vary and is specified in each framework action. Framework 30 standardizes overall access area allocations to the LAGC IFQ component by allocating the amount equivalent to 5.5 percent of total projected access area harvest by the limited access and LAGC IFQ components. The total projected access area harvest will be set by:

1. First, multiplying the number of full-time access area trips by the full-time limited access fleet's access area possession limit and the number of full-time equivalent permits in the fishery (327);

2. Next, dividing the expected limited access fleet's access area harvest by 0.945 to calculate total expected access area harvest; and

3. Finally, calculating the number of access area trips allocated to the LAGC IFQ fleet by dividing 5.5 percent of total expected access area harvest by the LAGC IFQ possession limit.

#### *Regulatory Corrections Under Regional Administrator Authority*

This final rule includes three revisions to address regulatory text that is unnecessary, outdated, or unclear. These revisions are consistent with section 305(d) of the Magnuson-Stevens Act, which provides authority to the Secretary of Commerce to promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the Magnuson-Stevens Act. The first

revisions, at § 648.52(g) and § 648.59(d), clarify that LAGC IFQ and limited access scallop vessels, respectively, cannot exceed the scallop possession limit unless they are carrying an observer. The second revision, at § 648.53(h)(4)(ii) and (iii), adjusts the specific timing for the LAGC IFQ Cost Recovery Program to more accurately reflect the realities and limitations of how the program has been operating. The current regulatory language states that NMFS shall mail out cost recovery bills on or about October 31 of each year, and that the fee must be paid by January 1 of each year. In practice, it is not possible for NMFS to prepare bills on or before October 31, because it does not provide enough time to collect any data from the last few weeks of the cost recovery year, run quality assurance and quality control checks on that data, determine total recoverable costs, and generate bills. We have determined that cost recovery can be accomplished more effectively and clearly by simply giving up to 60 days for the bill to be paid after it is mailed.

#### Comments and Responses

We did not receive any comments on the proposed rule.

#### Changes From the Proposed Rule

We corrected a typographical error at § 648.62(b)(1) that listed the LAGC portion of the 2020 NGOM TAC in kilograms as 5,443 kg (12,000 lb). The actual LAGC portion of the 2020 NGOM TAC is 54,431 kg (120,000 lb). The pounds listed in the proposed rule were correct.

#### Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act and other applicable law.

OMB has determined that this rule is not significant pursuant to E.O. 12866.

This final rule does not contain policies with federalism or “takings” implications, as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

This action does not contain any collection-of-information requirements subject the Paperwork Reduction Act (PRA).

The Assistant Administrator for Fisheries has determined that the need to implement the measures of this rule in an expedited manner are necessary to achieve conservation objectives for the scallop fishery and certain fish stocks, and to relieve other restrictions on the scallop fleet. This constitutes good

cause, under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in the date of effectiveness and to make the final Framework 30 measures effective on April 1, 2019.

The 2019 fishing year begins on April 1, 2019. If Framework 30 is delayed beyond April 1, certain default measures, including access area designations, DAS, IFQ, RSA and observer set-aside allocations, would automatically be put into place. These default allocations were set more conservatively than what would eventually be implemented under Framework 30. Under default measures, each full-time vessel has 18 DAS and one access area trip for 18,000 lb (8,165 kg) in the Mid-Atlantic Access Area. We have good cause to waive the 30-day delay in effectiveness because this action provides full-time vessels with an additional 6 DAS (24 DAS total) and 108,000 lb (48,988 kg) in access area allocation (126,000 lb (57,153 kg) total). Further, LAGC IFQ vessels will receive an additional 447-mt (1,497-mt total) of allocation and 3,426 access area trips spread out across 3 access areas (3,997 trips total). Accordingly, this action prevents more restrictive aspects of the default measures from going into place. Framework 30 could not have been put into place sooner to allow for a 30-day delayed effectiveness because the information and data necessary for the Council to develop the framework was not available in time for this action to be forwarded to NMFS and implemented by April 1, 2019, the beginning of the scallop fishing year.

Further, following the lapse in appropriations, NMFS published the proposed rule as quickly as possible, allowing for only a 15-day comment period, after receiving a draft of Framework 30 from the Council, and NMFS published the final rule as quickly as possible after the close of the comment period. Delaying the implementation of this action for 30 days would delay positive economic benefits to the scallop fleet and could negatively impact the access area rotation program by delaying fishing in access areas that should be available. Therefore, the Assistant Administrator for Fisheries has waived the 30-day delay in the date of effectiveness requirement of 5 U.S.C. 553(d).

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), NMFS has completed a final regulatory flexibility analysis (FRFA) in support of Framework 30. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, NMFS responses to those comments, a summary of the

analyses completed in the Framework 30 EA, and the preamble to this final rule. A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of, and the legal basis for this rule is contained in Framework 30 and in the preambles to the proposed rule and this final rule, and is not repeated here. All of the documents that constitute the FRFA are available from NMFS and/or the Council, and a copy of the IRFA, the Regulatory Impact Review (RIR), and the EA are available upon request (see **ADDRESSES**).

#### *A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments*

There were no specific comments on the IRFA.

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

These regulations affect all vessels with limited access and LAGC scallop permits, but there is no differential effect based on whether the affected entities are small or large. As explained in the proposed rule, the regulations are expected to result in slightly higher profits for small entities when compared to status quo. Framework 30 provides extensive information on the number and size of vessels and small businesses that will be affected by the regulations, by port and state (see **ADDRESSES**). Fishing year 2017 data were used for this analysis because these data are the most recent complete data set for a fishing year. There were 307 vessels that held full-time limited access permits in 2017, including 247 dredge, 50 small-dredge, and 10 scallop trawl permits. In the same year, there were also 31 part-time limited access permits in the sea scallop fishery. No vessels were issued occasional scallop permits in 2017. NMFS issued 240 LAGC IFQ permits and 95 LAGC NGOM permits in 2017, of which, about 127 of the IFQ vessels and 32 NGOM vessels declared scallop trips in 2017. The remaining IFQ permits likely leased out scallop IFQ allocations with their permits in Confirmation of Permit History. Section 6.5 of Framework 30 provides extensive information on the number and size of vessels that will be affected by the regulations, their home and principal state, dependency on the scallop

fishery, and revenues and profits (see **ADDRESSES**).

For RFA purposes, NMFS defines a small business in a shellfish fishery as a firm that is independently owned and operated with receipts of less than \$11 million annually (see 50 CFR 200.2). Individually-permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different fishery management plans, even beyond those impacted by this rule. Furthermore, multiple permitted vessels and/or permits may be owned by entities with various personal and business affiliations. For the purposes of this analysis, ownership entities are defined as those entities with common ownership as listed on the permit application. Only permits with identical ownership are categorized as an ownership entity. For example, if five permits have the same seven persons listed as co-owners on their permit applications, those seven persons would form one ownership entity that holds those five permits. If two of those seven owners also co-own additional vessels, that ownership arrangement between the two owners for the additional vessels would be considered a separate ownership entity for the purpose of this analysis.

On June 1 of each year, ownership entities are identified based on a list of all permits for the most recent complete calendar year. The current ownership dataset is based on the calendar year 2017 permits. This analysis considers average gross sales associated with the permits in the current ownership dataset for calendar years 2015 through 2017 to provide a recent average. Matching the potentially impacted 2017 fishing year permits (limited access permits and LAGC IFQ permits) to calendar year 2017 ownership data results in 164 distinct ownership entities for the limited access fleet, and 101 distinct ownership entities for the LAGC IFQ fleet. Of these, based on the Small Business Administration guidelines, 157 of the limited access distinct ownership entities and 101 of the LAGC IFQ entities are categorized as small entities. The remaining seven of the limited access and none of the LAGC IFQ entities are categorized as large entities. There were 32 distinct small business entities with active NGOM permits in 2017.

#### *Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Final Rule*

This action contains no new collection-of-information, reporting, or recordkeeping requirements.

#### *Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes*

During the development of Framework 30, NMFS and the Council considered ways to reduce the regulatory burden on, and provide flexibility for, the regulated entities in this action. For instance, Framework 30 standardizes default specifications for limited access DAS and LAGC IFQ allocation and standardizes the approach used to set the number of access area trips available to for the LAGC. This reduces confusion for the fleet and allows them to better plan future scenarios. In addition, Framework 30 implements flexible allocation in CA1. This was intended to provide flexibility to the fleet by allowing them to fish this allocation in any available access. Alternatives to the measures in this final rule are described in detail in Framework 30, which includes an EA, RIR, and IRFA (see **ADDRESSES**). The measures implemented by this final rule minimize the long-term economic impacts on small entities to the extent practicable. The only alternatives for the prescribed catch limits that were analyzed were those that met the legal requirements to implement effective conservation measures. Specifically, catch limits must be derived using SSC-approved scientific calculations based on the Scallop FMP. Moreover, the limited number of alternatives available for this action must also be evaluated in the context of an ever-changing FMP, as the Council has considered numerous alternatives to mitigating measures every fishing year in amendments and frameworks since the establishment of the FMP in 1982.

Overall, this rule minimizes adverse long-term impacts by ensuring that management measures and catch limits result in sustainable fishing mortality rates that promote stock rebuilding, and as a result, maximize optimal yield. The measures implemented by this final rule also provide additional flexibility for fishing operations in the short-term.

#### *Small Entity Compliance Guide*

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency will publish one or more guides to assist small entities in complying with the rule, and will designate such publications as “small entity compliance guides.” The agency will

explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as a small entity compliance guide was prepared. Copies of this final rule are available from the Greater Atlantic Regional Fisheries Office, and the guide (*i.e.*, permit holder letter) will be sent to all holders of permits for the scallop fishery. The guide and this final rule will be available upon request.

#### **List of Subjects 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 21, 2019.

**Samuel D. Rauch III,**

*Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.*

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

#### **PART 648—FISHERIES OF THE NORTHEAST UNITED STATES**

##### **Subpart A—General Provisions**

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

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

■ 2. In § 648.14:

■ a. Remove and reserve paragraph (i)(2)(viii); and

■ b. Revise paragraphs (i)(4)(i)(C) and (i)(5)(iii).

The revisions read as follows:

#### **§ 648.14 Prohibitions.**

\* \* \* \* \*

(i) \* \* \*

(4) \* \* \*

(i) \* \* \*

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

\* \* \* \* \*

(5) \* \* \*

(iii) Fish for, possess, or land scallops in state or Federal waters of the NGOM management area after the effective date of notification in the **Federal Register** that the LAGC share of the NGOM scallop management area TAC has been

harvested as specified in § 648.62, unless the vessel is fishing exclusively in state waters, declared a state-waters only NGOM trip, and is participating in an approved state waters exemption program as specified in § 648.54, or unless the vessel is participating in the scallop RSA program as specified in § 648.56.

\* \* \* \* \*

#### Subpart D—Management Measures for the Atlantic Sea Scallop Fishery

■ 3. In § 648.52, revise paragraph (g) to read as follows:

##### § 648.52 Possession and landing limits.

\* \* \* \* \*

(g) *Possession limit to defray the cost of observers for LAGC IFQ vessels.* An LAGC IFQ vessel with an observer on board may retain, per observed trip, an allowance of scallops in addition to the possession limit, as established by the Regional Administrator in accordance with § 648.59(d), provided the observer set-aside specified in § 648.59(d)(1) has not been fully utilized. For example, if the LAGC IFQ vessel possession limit is 600 lb (272.2 kg) and the additional

allowance to defray the cost of an observer is 200 lb (90.7 kg), the vessel could retain up to 800 lb (362.9 kg) when carrying an observer, regardless of trip length. If a vessel does not land its additional allowance on the trip while carrying an observer, the additional allowance will be added to the vessel's IFQ allocation, and it may land it on a subsequent trip. However, the vessel may not exceed the IFQ trip possession limit as described in § 648.52(a) unless it is actively carrying an observer.

■ 4. Amend § 648.53 by:

■ a. Revising paragraphs (a)(6)(iii), (a)(8), and (b)(3);

■ b. Adding paragraph (b)(4); and

■ c. Revising paragraphs (c)(1) and (2) and (h)(4)(ii) and (iii).

The revisions and additions read as follows:

**§ 648.53 Overfishing limit (OFL), acceptable biological catch (ABC), annual catch limits (ACL), annual catch targets (ACT), annual projected landings (APL), DAS allocations, and individual fishing quotas (IFQ).**

(a) \* \* \*

(6) \* \* \*

(iii) *LAGC IFQ fleet annual allocation.*

(A) The annual allocation for the LAGC

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

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

\* \* \* \* \*

(8) The following catch limits will be effective for the 2019 and 2020 fishing years:

#### SCALLOP FISHERY CATCH LIMITS

Catch limits	2019 (mt)	2020 (mt) <sup>1</sup>
Overfishing Limit .....	73,421	59,447
Acceptable Biological Catch/ACL (discards removed) .....	57,003	46,028
Incidental Catch .....	23	23
Research Set-Aside (RSA) .....	567	567
Observer Set-Aside .....	570	460
ACL for fishery .....	55,843	44,978
Limited Access ACL .....	52,772	42,504
LAGC Total ACL .....	3,071	2,474
LAGC IFQ ACL (5 percent of ACL) .....	2,792	2,249
Limited Access with LAGC IFQ ACL (0.5 percent of ACL) .....	279	225
Limited Access ACT .....	47,598	38,337
APL (after set-asides removed) .....	27,209	( <sup>1</sup> )
Limited Access Projected Landings (94.5 percent of APL) .....	25,713	( <sup>1</sup> )
Total IFQ Annual Allocation (5.5 percent of APL) <sup>2</sup> .....	1,497	1,122
LAGC IFQ Annual Allocation (5 percent of APL) <sup>2</sup> .....	1,360	1,020
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) <sup>2</sup> .....	136	102

<sup>1</sup> The catch limits for the 2020 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2020 that will be based on the 2019 annual scallop surveys. The 2020 default allocations for the limited access component are defined for DAS in paragraph (b)(3) of this section and for access areas in § 648.59(b)(3)(i)(B).

<sup>2</sup> As specified in (a)(6)(iii)(B) of this section, the 2020 IFQ annual allocations are set at 75 percent of the 2019 IFQ Annual Allocations.

\* \* \* \* \*

(b) \* \* \*

(3) The DAS allocations for limited access scallop vessels for fishing years 2019 and 2020 are as follows:

#### SCALLOP OPEN AREA DAS ALLOCATIONS

Permit category	2019	2020 <sup>1</sup>
Full-Time ...	24.00	18.00

#### SCALLOP OPEN AREA DAS ALLOCATIONS—Continued

Permit category	2019	2020 <sup>1</sup>
Part-Time ..	9.60	7.20
Occasional	2.00	1.5

<sup>1</sup> The DAS allocations for the 2020 fishing year are subject to change through a future specifications action or framework adjustment. The 2020 DAS allocations are set at 75 percent of the 2019 allocation as a precautionary measure.

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

(c) \* \* \*

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

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

\* \* \* \* \*

(h) \* \* \*

(4) \* \* \*

(ii) *Fee payment procedure.* On or about October 31 of each year NMFS shall mail a cost recovery bill to each IFQ scallop permit holder for the previous cost recovery period. An IFQ scallop permit holder who has incurred

a fee must pay the fee to NMFS within 60 days from the date of mailing of the recovery bill. Cost recovery payments shall be made electronically via the Federal web portal, [www.pay.gov](http://www.pay.gov), or other internet sites as designated by the Regional Administrator. Instructions for electronic payment shall be available on both the payment website and the paper bill. Payment options shall include payment via a credit card, as specified in the cost recovery bill, or via direct automated clearing house (ACH) withdrawal from a designated checking account. Payment by check may be authorized by NMFS if it has determined that electronic payment is not possible (for example, if the geographical area of an individual(s) is affected by catastrophic conditions).

(iii) *Payment compliance.* An IFQ scallop permit holder that has incurred an IFQ cost recovery fee must pay the fee to NMFS within 60 days from the date of mailing. If the cost recovery payment, as determined by NMFS, is not made within 60 days from the date of mailing, NMFS may deny the renewal of the IFQ scallop permit until full payment is received. If, upon preliminary review of the accuracy and completeness of a fee payment, NMFS determines the IFQ scallop permit holder has not paid the full amount due, NMFS shall notify the IFQ scallop permit holder by letter. NMFS shall explain the discrepancy and provide the IFQ scallop permit holder 30 days to either pay the amount specified by NMFS or to provide evidence that the amount paid was correct. If the IFQ scallop permit holder submits evidence in support of his/her payment, NMFS shall determine if there is any remaining disagreement as to the appropriate IFQ fee, and prepare a Final Administrative Determination (FAD). The FAD shall set out the facts, discuss those facts within the context of the relevant agency policies and regulations, and decide as to the appropriate disposition of the matter. A FAD shall be the final agency action, and, if the FAD determines that the IFQ scallop permit holder is out of compliance, the FAD shall require payment within 30 days. If a FAD is not issued until after the start of the fishing year, the IFQ scallop permit holder may

be authorized to fish temporarily by the Regional Administrator until the FAD is issued, at which point the permit holder shall have 30 days to comply with the terms of the FAD or the IFQ scallop permit shall not be issued until such terms are met. If NMFS determines that the IFQ scallop permit holder owes additional fees for the previous cost recovery period, and the IFQ scallop permit has already been renewed, NMFS shall issue a FAD, at which point the permit holder shall have 30 days to comply with the terms of the FAD or NMFS may withdraw the issuance of the IFQ scallop permit until such terms are met. If such payment is not received within 30 days of issuance of the FAD, NMFS shall refer the matter to the appropriate authorities within the U.S. Department of the Treasury for purposes of collection, and no IFQ permit held by the permit holder may be renewed until the terms of the FAD are met. If NMFS determines that the conditions of the FAD have been met, the IFQ permit holder may renew the IFQ scallop permit(s). If NMFS does not receive full payment prior to the end of the fishing year, the IFQ scallop permit shall be considered voluntarily abandoned, pursuant to § 648.4(a)(2)(ii)(K), unless otherwise determined by the Regional Administrator.

■ 5. Amend § 648.59 by:

- a. Revising paragraph (b)(3)(i)(B);
- b. Adding paragraphs (b)(3)(ii)(A) and (B);
- c. Revising paragraphs (c) through (e);
- d. Adding paragraph (g)(3)(iv); and
- e. Revising paragraphs (g)(3)(v) and (g)(4)(i).

The revisions and additions read as follows:

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

(b) \* \* \*

(3) \* \* \*

(i) \* \* \*

(B) The following access area allocations and possession limits for limited access vessels shall be effective for the 2019 and 2020 fishing years:

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

Rotational access area	Scallop possession limit	2019 Scallop allocation	2020 Scallop allocation (default)
Closed Area 1 Flex * .....	18,000 lb (8,165 kg) per trip	18,000 lb (8,165 kg) .....	0 lb (0 kg).
Nantucket Lightship-West .....		54,000 lb (24,494 kg) .....	18,000 lb (8,165 kg).
Mid-Atlantic .....		54,000 lb (24,494 kg) .....	18,000 lb (8,165 kg).

Rotational access area	Scallop possession limit	2019 Scallop allocation	2020 Scallop allocation (default)
Total .....	.....	126,000 lb (57,153 kg) .....	36,000 lb (16,329 kg).

\* Closed Area 1 flex allocation can be landed in any access area made available in the 2019 fishing year pursuant to the area boundaries defined by Framework 30.

(ii) *Closed Area 1 Access Area flex allocations.* For the 2019 fishing year and the first 60 days of the 2020 fishing year, a full-time limited access vessel may choose to land up to 18,000 lb (8,165 kg) of its Closed Area 1 Access Area allocation from any access area made available in the 2019 fishing year

pursuant to the area boundaries defined by Framework 30. For example, a vessel could take a trip in the Closed Area 1 Access Area and land 10,000 lb (4,536 kg) from that area, leaving the vessel with 8,000 lb (3,629 kg) of the Closed Area 1 flex allocation available, which could be landed from any other

available access area as described in this section, provided the 18,000-lb (8,165-kg) possession limit is not exceeded on any one trip.

(2) *Part-time vessels*—(i) For a part-time limited access vessel, the possession limit and allocations are as follows:

Rotational access area	Scallop possession limit	2019 Scallop allocation	2020 Scallop allocation (default)
Closed Area 1 Flex * .....	17,000 lb (7,711 kg) per trip	17,000 lb (7,711 kg) .....	0 lb (0 kg).
Nantucket Lightship West .....		17,000 lb (7,711 kg) .....	7,200 lb (32,66 kg).
Mid-Atlantic .....		17,000 lb (7,711 kg) .....	7,200 lb (3,266 kg).
Total .....	.....	51,000 lb (23,133 kg) .....	14,400 lb (6,532 kg).

\* Closed Area 1 flex allocation can be landed in any access area made available in the 2019 fishing year pursuant to the area boundaries defined by Framework 30.

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

(3) *Occasional limited access vessels.* (i) For the 2019 fishing year only, an occasional limited access vessel is allocated 10,500 lb (4,763 kg) of scallops with a trip possession limit at 10,500 lb of scallops per trip (4,763 kg per trip). Occasional limited access vessels may harvest the 10,500 lb (4,763 kg) allocation from only one available access area (Closed Area 1, Nantucket Lightship-West, or Mid-Atlantic).

(ii) For the 2020 fishing year, occasional limited access vessels are allocated 3,000 lb (1,361 kg) of scallops in the Mid-Atlantic Access Area only with a trip possession limit of 3,000 lb of scallops per trip (1,361 kg per trip).

(ii) *Limited access vessels' one-for-one area access allocation exchanges.* (A)

The owner of a vessel issued a limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another vessel's unharvested scallop pounds allocated into another scallop access area. These exchanges may be made only for the amount of the current trip possession limit, as specified in paragraph (b)(3)(i)(B) of this section. For example, if the access area trip possession limit for full-time vessels is 18,000 lb (8,165 kg), a full-time vessel may exchange no more or less than 18,000 lb (8,165 kg) allocated to another vessel for another access area. In addition, these exchanges may be made only between vessels with the same permit category: A full-time vessel may not exchange allocations with a part-time vessel, and vice versa. Vessel owners must request these exchanges by submitting a completed Access Area Allocation Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Exchange forms are available from the Regional Administrator upon request. Each vessel owner involved in an exchange is required to submit a completed Access Area Allocation Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has enough unharvested allocation remaining in a given access area to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in

writing from the Regional Administrator that the allocation exchange has been made effective. A vessel owner may exchange equal allocations up to the current possession limit between two or more vessels under his/her ownership. A vessel owner holding a Confirmation of Permit History is not eligible to exchange allocations between another vessel and the vessel for which a Confirmation of Permit History has been issued.

(B) *Flex allocation exchanges.* In fishing year 2019, full-time and part-time vessel are respectively allocated 18,000 lb (8,165 kg) and 17,000 lb (7,711 kg) of scallops that may be landed from any access area made available in the 2019 fishing year pursuant to the area boundaries defined by Framework 30. This flex allocation may be exchanged in full for another access area allocation, but only the flex allocation may be landed from any access area. For example, if a Vessel A exchanges 18,000 lb (8,165 kg) of flex allocation for 18,000 lb (8,165 kg) of Mid-Atlantic Access Area allocation with Vessel B, Vessel A would no longer be allowed to land this allocation from the any available access area and may only land this allocation from Mid-Atlantic Access Area, but Vessel B could land the flex allocation in any available access area.

\* \* \* \* \*  
(c) *Scallop Access Area scallop allocation carryover.* With the exception of vessels that held a Confirmation of Permit History as described in

§ 648.4(a)(2)(i)(J) for the entire fishing year preceding the carry-over year, a limited access scallop vessel operator may fish any unharvested Scallop Access Area allocation from a given fishing year within the first 60 days of the subsequent fishing year if the Scallop Access Area is open, unless otherwise specified in this section. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Mid-Atlantic Access Area at the end of fishing year 2018, that vessel may harvest those 7,000 lb (3,175 kg) during the first 60 days that the Mid-Atlantic Access Area is open in fishing year 2019 (April 1, 2019, through May 30, 2019).

(d) *Possession limit to defray the cost of observers.* The Regional Administrator may increase the sea scallop possession limit through the specifications or framework adjustment processes defined in § 648.55 to defray costs of at-sea observers deployed on area access trips subject to the limits specified § 648.53(g). An owner of a scallop vessel shall be notified of the increase in the possession limit through a permit holder letter issued by the Regional Administrator. If the observer set-aside is fully utilized prior to the end of the fishing year, the Regional Administrator shall notify owners of scallop vessels that, effective on a specified date, the increase in the possession limit is no longer available to offset the cost of observers. Unless otherwise notified by the Regional Administrator, vessel owners shall be responsible for paying the cost of the observer, regardless of whether the vessel lands or sells sea scallops on that trip, and regardless of the availability of set-aside for an increased possession

limit. If a vessel does not land its additional allowance on the trip while carrying an observer, the additional allowance will be added to the vessel's IFQ allocation or the vessel's allocation for the Scallop Rotational Area that was fished. The vessel may land the remainder of its allowance on a subsequent trip. However, the vessel may not exceed the IFQ or Scallop Rotational Area trip possession limit, as described in § 648.52(a) or § 648.59(b), respectively, unless it is actively carrying an observer.

(e) *Sea Scallop Research Set-Aside Harvest in Scallop Access Areas.* Unless otherwise specified, RSA may be harvested in any access area that is open in a given fishing year, as specified through a specifications action or framework adjustment and pursuant to § 648.56. The amount of scallops that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process. The access areas open for RSA harvest for fishing years 2019 and 2020 are:

(1) 2019: Nantucket Lightship-West and Mid-Atlantic.

(2) 2020: No access areas.

\* \* \* \* \*

(g) \* \* \*

(3) \* \* \*

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

(v) The following LAGC IFQ access area trip allocations will be effective for the 2019 and 2020 fishing years:

Scallop access area	2019	2020 <sup>1</sup>
Closed Area 1 .....	571	0
Nantucket Lightship-West ....	1,713	571
Mid-Atlantic .....	1,713	571
<b>Total .....</b>	<b>3,997</b>	<b>1,142</b>

<sup>1</sup> The LAGC IFQ access area trip allocations for the 2020 fishing year are subject to change through a future specifications action or framework adjustment.

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

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

\* \* \* \* \*

■ 7. In § 648.62, revise paragraphs (b)(1) and (c) to read as follows:

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

(b) \* \* \*

(1) *NGOM annual hard TACs.* The LAGC and the limited access portions of the annual hard TAC for the NGOM 2019 and 2020 fishing years are as follows:

Fleet	2019		2020 (default)	
	lb	kg	lb	kg
LAGC .....	137,500	62,369	120,000	54,431
Limited access .....	67,500	30,617	50,000	22,680
<b>Total .....</b>	<b>205,000</b>	<b>92,986</b>	<b>170,000</b>	<b>77,111</b>

\* \* \* \* \*

(c) *VMS requirements.* Except scallop vessels issued a limited access scallop permit pursuant to § 648.4(a)(2)(i) that have declared a NGOM trip under the scallop RSA program, a vessel issued a scallop permit pursuant to § 648.4(a)(2) that intends to fish for scallops in the NGOM scallop management area or

fishes for, possesses, or lands scallops in or from the NGOM scallop management area, must declare a NGOM scallop management area trip and report scallop catch through the vessel's VMS unit, as required in § 648.10. If the vessel has a NGOM or IFQ permit, the vessel must declare either a Federal NGOM trip or a state-waters NGOM trip. If a vessel

intends to fish any part of a NGOM trip in Federal NGOM waters, it may not declare into the state water NGOM fishery.

\* \* \* \* \*

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