

Issued in Fort Worth, TX, on August 21, 1998.

JoEllen Casilio,

*Assistant Manager, Air Traffic Division,
Southwest Region.*

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 98-ASW-29]

Revision of Class E Airspace; Grand Isle, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This notice confirms the effective date of a direct final rule which revises Class E airspace at Grand Isle, LA.

EFFECTIVE DATE: The direct final rule published at 63 FR 31355 is effective 0901 UTC, October 8, 1998.

FOR FURTHER INFORMATION CONTACT: Donald J. Day, Airspace Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, Fort Worth, TX 76193-0520, telephone: 817-222-5593.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on June 9, 1998 (63 FR 31355). The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on October 8, 1998. No adverse comments were received, and thus this action confirms that this direct final rule will be effective on that date.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

[Docket No. 980817220-8220-01; I.D. 081098A]

RIN 0648-AL17

Fisheries of the Northeastern United States; Framework 10 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 issues this final rule to implement measures contained in Framework Adjustment 10 to the Atlantic Sea Scallop Fishery Management Plan (FMP). These regulations extend the closure of a 9 mi² (23.31 km²) site to transiting and fishing with other than hand gear for an 18-month period to allow for the conduct of a NMFS-sponsored sea scallop aquaculture research project. This rule provides for exemptions from the closure for vessels using certain gear types and for vessels participating in the project. Finally, this rule provides for the temporary exemption for vessels participating in the project from certain fishing regulations that might inhibit or prevent their participation. This action is intended to support an aquaculture research project and prevent conflicts between fishing gear and project equipment for the limited duration of the research project.

DATES: Effective August 28, 1998 through February 28, 2000.

ADDRESSES: Copies of Amendment 5 to the FMP (Amendment 5), its regulatory impact review and the final regulatory flexibility analysis, its final supplemental environmental impact statement, and the supporting documents for Framework Adjustment 10 are available from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906-1097.

Comments regarding burden-hour estimates for collection-of-information requirements contained in this final rule should be sent to Jon Rittgers, Acting Regional Administrator, 1 Blackburn Drive, Gloucester, MA 01930, and the Office of Information and Regulatory Affairs, Office of Management and

Budget (OMB), Washington, D.C. 20502 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Paul H. Jones, Fishery Policy Analyst, 978-281-9273.

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing Amendment 5 to the FMP (62 FR 1829) were published on January 14, 1997. Details of that action are described in the preamble to the final rule and will not be repeated here. The final rule closed a 9 mi² (23.31 km²) area closure approximately 12 mi (22.22 km) southwest of the island of Martha's Vineyard, MA, to transiting and fishing with other than handgear for an 18-month period to allow for the conduct of a NMFS-sponsored sea scallop aquaculture research project. The final rule provided for exemptions from the closure for vessels using certain gear types and for vessels participating in the project. The final rule provided temporary exemptions for vessels participating in the project from certain fishing regulations, which may have inhibited or prevented their participation.

Current scallop regulations allow for the adjustment of management measures, as necessary to meet or achieve consistency with the FMP's goals and objectives. The regulations authorize the New England Fishery Management Council (Council) to recommend adjustments to any of the measures currently in the FMP.

Framework Adjustment 10 continues the experimental closure established under Amendment 5 to the FMP. The success of the experiment is dependent on retaining the restrictions established by Amendment 5. The objective of the project is to obtain a comprehensive understanding of issues associated with scallop seeding and grow-out. These activities and required environmental monitoring require the continuation of restricted activities within the experimental area. Without controls on fishing, expensive grow-out and monitoring equipment could be inadvertently destroyed by towed gear.

The Council requests publication of the management measures as a final rule after considering the required factors stipulated in the regulations governing the Atlantic sea scallop fishery and providing supporting analysis for each factor considered. The Administrator, Northeast Region, NMFS (Regional Administrator) concurs with the Council's recommendation and has determined that Framework Adjustment 10 should be published as a final rule.

NMFS is adjusting the scallop regulations following the procedure for framework adjustments established by Amendment 4 and codified in 50 CFR part 648. The Council followed this procedure when making adjustments to the FMP by developing and analyzing the actions over the span of a minimum of two Council meetings held on April 15–16, 1998, and May 20–21, 1998.

Comments and Responses

The April 1998 Council meeting was the first of two meetings that provided an opportunity for public comment on Framework Adjustment 10. A draft document containing the proposed management measures and their rationale was available to the public during the third week in May 1998. Notification of the initial and final Council meetings were mailed to approximately 1,900 people and were published in the **Federal Register**. Individuals and associations representing user groups who initially objected to the original location of the Sea Scallop Experimental Area were also contacted by mail. The final public hearing was held on May 20–21, 1998. Testimony provided by industry members at the public meetings favored the framework adjustment. There were no negative comments.

Under NOAA Administrative Order 205–11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA (AA), the authority to sign material for publication in the **Federal Register**.

Classification

The Regional Administrator determined that this final rule is necessary for the conservation and management of the Atlantic sea scallop fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable law.

This final rule has been determined to be not significant for the purposes of E.O. 12866.

The AA finds that there is good cause to waive prior notice and opportunity for comment under 5 U.S.C. 553(b)(B) because such procedures would be unnecessary. Public meetings held by the Council to discuss the management measures implemented by this rule provided adequate prior notice and an opportunity for public comment to be heard and considered; therefore, further notice and opportunity to comment before this rule is effective is unnecessary. Similarly, the need to implement these measures in a timely

manner to prevent possible damage to expensive grow-out and monitoring equipment inadvertently destroyed by towed gear constitutes good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553 or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule contains one collection-of-information requirement subject to the PRA. This collection-of-information requirement has been approved by OMB, and the OMB control number and public reporting burden are listed as follows: Sea Scallop Experimental Area authorization request, (0.5 hours/response) under OMB control number 0648–0321.

The estimated response time includes the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection-of-information. Public comment is sought regarding: whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding this burden estimate, or any other aspect of this data collection to NMFS and OMB (see **ADDRESSES**).

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 24, 1998.

Rolland A. Schmitten,

*Assistant Administrator for Fisheries,
National Marine Fisheries Service.*

For the reasons set out in the preamble, 15 CFR Chapter IX and 50 CFR Chapter VI 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, paragraph (b), the table is amended by adding in the left column under 50 CFR, the entry “648.56”, and in the right column, in the corresponding position, the control number “– 0321” 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 require- ment is located					Current OMB control number (all numbers begin with 0648 –)	
50 CFR	*	*	*	*	*	
§ 648.56	*	*	*	*	*	0321
	*	*	*	*	*	

50 CFR CHAPTER VI

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

4. In § 648.14, paragraph (a)(97) is added to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(97) Fish in or transit the Scallop Experimental Area defined in § 648.56(a)(1), except as provided for in § 648.56 (a)(2) and (a)(3).

* * * * *

5. Section 648.56 is added to subpart D to read as follows:

§ 648.56 Scallop research project.

(a)(1) *Scallop experimental area.* From August 28, 1998 through February 28, 2000, no fishing vessel or person on

a fishing vessel may transit or fish with other than handgear in the area known as the Sea Scallop Experimental Area, as defined by straight lines connecting the following points in the order stated, except as described in paragraphs (a)(2) and (a)(3) of this section:

Point	Latitude	Longitude
1	41°11.8' N.	70°50' W.
2	41°11.8' N.	70°46' W.
3	41°08.8' N.	70°46' W.
4	41°08.8' N.	70°50' W.

(2) *Exemptions.* A fishing vessel and persons on a fishing vessel may transit or fish in the Sea Scallop Experimental Area under the following conditions only:

(i) The vessel has been issued an allowed gear permit (AGP) under paragraph (a)(4)(i) of this section and is fishing with pot gear, traps, longline gear, or any other gear determined by the Regional Administrator as unlikely to interfere with the sea scallop aquaculture research project in the Sea Scallop Experimental Area; or

(ii) The vessel has been issued an experimental fishing permit (EFP) under paragraph (a)(4)(i) of this section to participate in the sea scallop aquaculture research project in the Sea Scallop Experimental Area.

(3) *Transiting.* Vessels that are not exempted from the prohibition against transiting and fishing in the Sea Scallop Experimental Area under paragraph (a)(2) of this section may transit such area provided that their gear is stowed in accordance with the provisions of § 648.81(e).

(4) *Allowed gear and experimental fishing permits—(i) Allowed gear permits.* The Regional Administrator may issue an AGP to any vessel to fish within the Sea Scallop Experimental Area with the gear specified in paragraph (a)(2)(i) of this section. Vessels receiving AGPs may be required to move their gear within, or remove their gear from, the area upon notification by the Regional Administrator and must comply with any additional restrictions specified in the permit.

(ii) *Experimental fishing permits.* The Regional Administrator may issue an EFP under the provisions of § 648.12, and consistent with paragraph (a)(4)(iv) of this section, to any vessel participating in the sea scallop aquaculture research project to engage in any of the following activities; fish in the Sea Scallop Experimental Area; use fishing gear that does not conform to the regulations; possess scallops when not fishing under a DAS allocation; use up

to an additional 2 DAS per year when collecting and transporting undersized scallops to the Sea Scallop Experimental Area; and do any other activity necessary to project operations for which an exemption from regulatory provision is required. Vessels issued an EFP must comply with all conditions and restrictions specified in the permit.

(iii) A vessel with an AGP or EFP must carry the permit on board the vessel while fishing in the Sea Scallop Experimental Area or participating in the scallop aquaculture project.

(iv) The Regional Administrator may not issue an AGP or EFP unless he determines that issuance is consistent with the objectives of the FMP, the provisions of the Magnuson-Stevens Act, and other applicable law and will not:

(A) Have a detrimental effect on the sea scallop resource and fishery;

(B) Create significant enforcement problems; or

(C) Have a detrimental effect on the scallop project.

(5) *Application.* An application for an AGP or EFP must be in writing to the Regional Administrator and be submitted at least 30 days before the desired effective date of the permit. The application must include, but is not limited to, the following information:

(i) The date of application.

(ii) The applicant's name, current address, telephone number and fax number, if applicable.

(iii) The current vessel name, owner address, and telephone number.

(iv) The vessel's Federal permit number.

(v) The USCG documentation number.

(vi) The species (target and incidental) expected to be harvested.

(vii) The gear type, size, buoy colors, trap identification markings and amount of gear that will be used; and exact time(s) fishing will take place in the Sea Scallop Experimental Area.

(viii) The signature of the applicant.

(b) [Reserved]

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FEDERAL TRADE COMMISSION

16 CFR Part 305

Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule")

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Federal Trade Commission ("Commission") amends its Appliance Labeling Rule by publishing new ranges of comparability to be used on required labels for instantaneous water heaters. The Commission also announces that the current ranges of comparability for room air conditioners, storage-type water heaters, heat pump water heaters, pool heaters, furnaces, boilers, and dishwashers will remain in effect until further notice.

EFFECTIVE DATE: November 27, 1998.

FOR FURTHER INFORMATION CONTACT: James Mills, Attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580 (202-326-3035).

SUPPLEMENTARY INFORMATION: The Appliance Labeling Rule ("Rule") was issued by the Commission in 1979 (44 FR 66466 (Nov. 19, 1979)) in response to a directive in the Energy Policy and Conservation Act of 1975.¹ The Rule covers eight categories of major household appliances: refrigerators and refrigerator-freezers, freezers, dishwashers, clothes washers, water heaters (this category includes storage-type water heaters, instantaneous water heaters, and heat pump water heaters), room air conditioners, furnaces (this category includes boilers), and central air conditioners (this category includes heat pumps). The Rule also covers pool heaters (59 FR 49556 (Sept. 28, 1994)), and contains requirements that pertain to fluorescent lamp ballasts (54 FR 28031 (July 5, 1989)), certain plumbing products (58 FR 54955 (Oct. 25, 1993)), and certain lighting products (59 FR 25176 (May 13, 1994)).

The Rule requires manufacturers of all covered appliances and pool heaters to disclose specific energy consumption or efficiency information (derived from the DOE test procedures) at the point of sale in the form of an "EnergyGuide" label and in catalogs. It also requires manufacturers of furnaces, central air conditioners, and heat pumps either to provide fact sheets showing additional cost information, or to be listed in an industry directory showing the cost information for their products. The Rule requires that manufacturers include, on labels and fact sheets, an energy consumption or efficiency figure and a "range of comparability." This range shows the highest and lowest energy consumption or efficiencies for all comparable appliance models so

¹ 42 U.S.C. 6294. The statute also requires DOE to develop test procedures that measure how much energy the appliances use, and to determine the representative average cost a consumer pays for the different types of energy available.