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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 140305202–4379–01]

RIN 0648–BE07

#### Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery and Northeast Multispecies Fishery; Framework Adjustment 25

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

**ACTION:** Proposed rule; request for comments.

**SUMMARY:** NMFS proposes to approve and implement regulations for Framework Adjustment 25 to the Atlantic Sea Scallop Fishery Management Plan (Framework 25), which the New England Fishery Management Council adopted and submitted to NMFS for approval. Framework 25 would set specifications for the Atlantic sea scallop fishery for fishing year 2014, including days-at-sea allocations, individual fishing quotas, and sea scallop access area trip allocations. This action would also set precautionary default FY 2015 specifications, in case NMFS implements the next framework after the March 1, 2015, start of fishing year 2015, and the fishery must operate under transitional measures. Framework 25 would allow pounds that went unharvested in Closed Area I Access Area in 2012 and 2013 to be landed in a future year; develop Southern New England/Mid-Atlantic windowpane flounder accountability measures; and provide full-time scallop vessels the option to exchange their allocated Delmarva Access Area trip for 5 days-at-sea.

**DATES:** Comments must be received by 5 p.m., local time, on May 27, 2014.

**ADDRESSES:** The Council developed an environmental assessment (EA) for this action that describes the proposed action and other considered alternatives and provides a thorough analysis of the impacts of the proposed measures and alternatives. Copies of the Framework, the EA, and the Initial Regulatory Flexibility Analysis (IRFA), are

available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

You may submit comments on this document, identified by NOAA–NMFS–2014–0048, by any of the following methods:

- Electronic Submission: Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to [www.regulations.gov/](http://www.regulations.gov/) #!docketDetail;D=NOAA-NMFS-2014-0048, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- Mail: John K. Bullard, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on Scallop Framework 25 Proposed Rule.”

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

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

#### SUPPLEMENTARY INFORMATION:

##### Background

The scallop fishery’s management unit ranges from the shorelines of Maine through North Carolina to the outer boundary of the Exclusive Economic Zone. The Scallop Fishery Management Plan (FMP), first established in 1982, includes a number of amendments and framework adjustments that have revised and refined the fishery’s management. The Council sets scallop fishery specifications through framework adjustments that occur annually or biennially. This action includes allocations for fishing year (FY) 2014, as well as other scallop fishery management measures.

The Council adopted Framework 25 on January 29, 2014, and submitted it to NMFS on March 13, 2014, for review and approval. Framework 25 specifies

measures for FY 2014, but includes FY 2015 measures that will go into place as a default, should the next specifications-setting framework be delayed beyond the start of FY 2015. NMFS will implement Framework 25, if approved, after the start of FY 2014; FY 2014 default measures have been in place since March 1, 2014. Because the default allocation for the Limited Access General Category (LAGC) Individual Fishing Quota (IFQ) fleet is higher for FY 2014 than what is proposed under Framework 25, payback measures are identified and described below, to address unintended consequences of the late implementation of this action. This action includes some measures that are not explicitly proposed in Framework 25, which we are proposing under the authority of section 305(d) of the Magnuson-Stevens Fishery Conservation and Management Act (MSA), which provides that the Secretary of Commerce may promulgate regulations necessary to ensure that amendments to an FMP are carried out in accordance with the FMP and the MSA. These measures, which are separately identified and described below, are necessary to address unintended consequences of the projected late implementation of this action, as well as to clarify implied measures which may not have been explicitly included in Framework 25. The Council has reviewed the Framework 25 proposed rule regulations as drafted by NMFS and deemed them to be necessary and appropriate as specified in section 303(c) of the MSA.

##### *Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACLs), Annual Catch Targets (ACTs), and Set-Asides for FY 2014 and Default Specifications for FY 2015*

The Council sets the OFL based on a fishing mortality rate (F) of 0.38, equivalent to the F threshold updated through the most recent scallop stock assessment. The Council sets the ABC and the equivalent total ACL for each FY based on an F of 0.32, which is the F associated with a 25-percent probability of exceeding the OFL. The Council’s Scientific and Statistical Committee recommended scallop fishery ABCs for FYs 2014 and 2015 of 45.8 M lb (20,782 mt) and 52.9 M lb (23,982 mt), respectively, after accounting for discards and incidental mortality. The Scientific and Statistical Committee will reevaluate an ABC for FY 2015 when the Council develops the next framework adjustment.

TABLE 1—SCALLOP CATCH LIMITS FOR FYS 2014 AND 2015 FOR THE LA AND LAGC IFQ FLEETS

	2014	2015
Overfishing Limit .....	30,419 mt (67,062,427 lb) .....	34,247 mt (75,501,724 lb)
ABC/ACL w/ discards removed .....	20,782 mt (45,816,475 lb) .....	23,982 mt (52,871,269 lb)
Incidental TAC .....	22.7 mt (50,000 lb) .....	22.7 mt (50,000 lb)
Research Set-Aside (RSA) .....	567 mt (1,250,000 lb) .....	567 mt (1,250,021 lb)
Observer Set-aside (1 percent of ABC/ACL) .....	208 mt (458,562 lb) .....	240 mt (529,110 lb)
LA sub-ACL (94.5 percent of total ACL, after deducting set-asides and incidental catch) .....	18,885 mt (41,634,305 lb) .....	21,879 mt (48,234,778 lb)
LA sub-ACT (adjusted for management uncertainty) .....	15,567 mt (34,319,360 lb) .....	16,540 mt (36,463,509 lb)
LAGC IFQ sub-ACL (5.0 percent of total ACL, after deducting set-asides and incidental catch) .....	999.2 mt (2,202,859 lb) .....	1,158 mt (2,552,105 lb)
LAGC IFQ sub-ACL for vessels with LA scallop permits (0.5 percent of total ACL, after deducting set-asides and incidental catch) .....	99.9 mt (220,286 lb) .....	116 mt (255,210 lb)

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

This action would deduct 1.25 M lb (567 mt) of scallops annually for FYS 2014 and 2015 from the ABC and set it aside as the Scallop RSA to fund scallop research and to compensate participating vessels through the sale of scallops harvested under RSA projects. Beginning March 1, 2014, this set-aside is available for harvest by RSA-funded projects in open areas. In an effort to reduce mortality of both larger and smaller scallops in the Nantucket Lightship (NLS) and Delmarva (DMV)

access areas, Framework 25 would not allow RSA to be harvested from these two areas, and once this action is approved and implemented, applicable vessels would be able to harvest RSA from the Closed Area II access area (CA2) or open areas.

This action would also remove 1 percent from the ABC and set it aside for the industry-funded observer program to help defray the cost of carrying an observer. The observer set-aside for FYS 2014 and 2015 are 208 mt (458,562 lb) and 240 mt (529,110 lb), respectively.

#### *Temporary Adjustment to the Principles Used for Setting Target Catch Levels*

This action would temporarily modify a current principle used for setting target catch levels in this fishery. Specifically, the overfishing definition approved in Amendment 15 includes three main principles to set target catch: (1) F in open areas cannot exceed 0.38; (2) spatially averaged F target is limited to 0.28 for all areas combined (open and closed areas); and (3) F targets for access areas are based on a time-averaged principle (i.e., higher F in some years followed by closures or limited fishing levels in subsequent years). This action would temporarily modify the first principle, and allow open area F to exceed Fthreshold (0.38) for FY 2014 only. Because we do not consider this a modification of the overall overfishing definition for the fishery as a whole, this temporary change is a frameworkable measure under the Scallop FMP. This minor, temporary adjustment is consistent with the FMP, and, when analyzed in connection with measures for access to closed areas, still consistent with achieving an overall F of 0.28. Open area F would increase to a level that provides projected catch levels similar to FY 2013, but would not exceed an overall combined F of 0.28 for all areas. The OFL for the scallop stock as a whole (F of 0.38) would remain unchanged. The estimates of F for this

action are 0.52 for open areas, and 0.21 for all areas combined. Framework 25 projects that this level of effort in the open area would provide short-term economic benefits that outweigh any reduction in benefits due to projected marginal reductions in future DAS allocations in open areas.

#### *Open Area Days-at-Sea (DAS) Allocations*

This action would implement vessel-specific DAS allocations for each of the three LA scallop DAS permit categories (i.e., full-time, part-time, and occasional) for FYS 2014 and 2015 (Table 2). FY 2015 DAS allocations are precautionary, and are set at 75 percent of what current biomass projections indicate could be allocated to each LA scallop vessel for the entire FY so as to avoid over-allocating DAS to the fleet in the event that the framework that would set those allocations, if delayed past the start of FY 2015, estimates that DAS should be less than currently projected. The allocations in Table 2 exclude any DAS deductions that are required if the limited access scallop fleet exceeded its 2013 sub-ACL.

TABLE 2—SCALLOP OPEN AREA DAS ALLOCATIONS FOR FYS 2014 AND 2015

Permit category	FY 2014	FY 2015
Full-Time .....	31	17
Part-Time .....	12	7
Occasional .....	3	1

On March 1, 2014, full-time, part-time, and occasional vessels received 23, 9, and 2 DAS, respectively. These allocations would increase as soon as Framework 25 is implemented, if approved.

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

In terms of pounds allocated, the proposed access area allocations for FY 2014 are slightly lower than FY 2013 allocations, which were about 35 percent less than FY 2012 access area trip allocations. Allocations have been lower in recent years due, in part, to a decline in recruitment since 2008. From 1998–2008 recruitment in the Mid-Atlantic was unusually high. This led to higher allocations in the Mid-Atlantic access areas in several years thereafter. The decline in allocations in recent years, FY 2013 and FY 2014, is a result of recruitment returning to normal levels following this boom. In addition, scallop biomass was above maximum sustainable yield levels from 2003 through 2011. As a result, the Council set high scallop allocations to allow for maximum harvest of the resource. While this has been a very successful time for the scallop fishing industry, the scallop stock was not replenishing itself at a level that could sustain these high allocations indefinitely. Although all recent 2013 survey results show that there has been a large recruitment event in the Elephant Trunk Access Area (ETA) (second only to the massive recruitment that occurred in 2001), these young scallops should not be harvested until they have had at least another year to grow (i.e., harvest in FY 2015 at the earliest). As a result, the proposed FY 2014 access area allocations are similar to FY 2013 access area allocations. Because the Council does not know what will happen to the recruitment in the Mid-Atlantic over the course of next year, and because potential changes could occur based on the Essential Fish Habitat Omnibus Amendment (in development), the Council decided to develop Framework 25 as a 1-year specification-setting framework. Framework 25 is not allocating FY 2015 default access area trips, and the Council will wait for the 2014 survey results to develop final FY 2015 measures through the next framework adjustment (i.e., Framework 26).

Framework 25 would maintain the current closure of the ETA for FYs 2014 and 2015. The Council proposes to continue the closure of this area to protect the large number of small scallops that are located inside the area. In addition, Framework 25 would close the Hudson Canyon Access Area (HCA) for FYs 2014 and 2015. According to all 2012 survey results, recruitment was very widespread in the Mid-Atlantic and dense in all Mid-Atlantic access

areas, especially ETA. The PDT was concerned that these high levels of recruitment would not materialize, but many 2-year old scallops are still present. Overall, recruitment in 2013 is still relatively high. Protecting these small scallops will allow them to grow to a more marketable size for harvest, likely in FY 2015. Additionally, Framework 25 would close the Closed Area 1 Access Area (CA1) for FYs 2014 and 2015 because there is no longer enough biomass in this area to provide profitable access area trips to the fleet.

For FY 2014, full-time LA vessels would receive two 12,000-lb (5,443-kg) access area trips. Vessels would be allocated one trip in either the NLS or CA2 access area, and one trip in the DMV. Table 3 shows the total number of trips allocated to full-time vessels for each area.

**TABLE 3—TOTAL NUMBER OF FY 2014 FULL-TIME TRIPS BY ACCESS AREA**

Access area	Number of full-time vessel trips
HC .....	0
DMV .....	313
ET .....	0
CA1 .....	0
CA2 .....	197
NLS .....	116
Total .....	*626

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

Part-time vessels would receive one FY 2014 access area trip allocation in 2014 equivalent to 9,600 lb (4,354 kg), and vessels with limited access occasional permits would receive one 2,000-lb (907-kg) trip (although there are currently no vessels with an occasional scallop permit). These trips could be taken in any one of the access areas that is open to the fishery for FY 2014 (i.e., DMV, NLS, or CA2).

In order to ensure appropriate access area allocations in the next framework adjustment, there would be no access area trips allocated under FY 2015 default measures. The next framework that would replace these FY 2015 default measures would include the FY 2015 access area allocations based on updated scallop projections. If Framework 26 is delayed past March 1, 2015, scallop vessels would be restricted to fishing in open areas until final FY 2015 specifications are implemented. However, vessels would be able to fish FY 2014 compensation trips in the access areas that were open in FY 2014 (e.g., DMV, NLS, and CA2) for the first 60 days that those areas are

open in FY 2015, or until Framework 26 is approved and implemented, whichever occurs first. This level of effort is not expected to greatly impact the scallop resource or affect FY 2015 allocations.

In order to avoid allocating trips into access areas with scallop biomass levels not large enough to support a full trip by all 313 LA full-time vessels, Framework 25 proposes to allocate “split-fleet” trips into certain access areas. First, Framework 25 would allocate each full-time vessel one trip in the DMV area. Then Framework 25 would randomly allocate one trip to each full-time vessel into either NLS or CA2. To accomplish this random trip allocation assignment, the Scallop Plan Development Team (PDT) developed a system similar to the one developed in Framework Adjustment 22 to the Scallop FMP (Framework 22; 76 FR 43774; July 21, 2011), where permit numbers are selected based on a simple random number generator in Microsoft Excel and the vessels associated with a permit number would receive trip assignments into the access area where they can fish. In order to facilitate trading trips between vessels, the Council has already proposed allocations for full-time vessels for FY 2014. These allocations are listed in Appendix IV of the Framework 25 document (See **ADDRESSES**), as well as NMFS’s Web site. NMFS would update these preliminary allocations, subject to NMFS approval of Framework 25 and permit renewal requirements, with any changes in vessel ownership and/or vessel replacements.

*Ability To Exchange a DMV Trip for 5 DAS*

In response to uncertain projections of scallop sizes and densities in DMV, this action would give LA vessels the flexibility to exchange their 12,000-pound DMV trip for 5 open area DAS. If scallops are of harvestable size in DMV and in higher densities than open areas, as projected, then vessels would be expected to fish there. If projections are not correct, however, giving vessels a choice to fish in open areas instead would help reduce impacts on smaller scallops. This flexibility may help self-regulate the area based on the fishing condition in DMV, which is more uncertain than some of the other access areas due to the large proportion of smaller scallops and more uncertainty about natural mortality and growth in that access area. Providing this flexibility does have the potential to increase fishing mortality in open areas further above the current target of 0.38 that would already be exceeded by the

proposed 31 DAS allocation. Although we do not know how the fleet would behave if they were given this option, the estimated additional effort was included in the projected F of 0.52 for the open area.

A vessel would receive automatically an additional 5 DAS for not fishing its DMV trip in one of two ways. First, from the date this action goes into place, DMV would be open for 90 days. If DMV closes for the remainder of the FY and a vessel did not take its DMV trip, that vessel would automatically be credited 5 additional DAS. For example, Vessel A would receive 31 DAS once this action goes into place. If the DMV closed on August 15, 2014, and Vessel A never declared or fished a DMV trip, then Vessel A would automatically be credited with 5 additional DAS, giving Vessel A a total of 36 DAS for FY 2014. Alternatively, a vessel could fish its initial allocation of 31 open area DAS before the DMV closes, and, then fish five additional DAS by deciding not fish a DMV trip, regardless of whether the DMV has closed. For example, if Vessel B fishes a total of 31 DAS prior to the DMV closing, it could fish up to an additional 5 DAS even if the DMV hasn't closed. Vessel B could not fish in the DMV subsequent to using any or all of the additional 5 DAS. NMFS will track trips and declarations to automatically convert the non-used DMV trip into 5 additional DAS. All vessel owners would be notified of this process upon the implementation of this action.

#### *LAGC Measures*

1. *Sub-ACL for LAGC vessels with IFQ permits.* For LAGC vessels with IFQ permits, this action proposes a 2,202,859-lb (999.2-mt) ACL for FY 2014 and an initial ACL of 2,552,105 lb (1,158 mt) for FY 2015 (Table 1). We calculate IFQ allocations by applying each vessel's IFQ contribution percentage to these ACLs. These allocations assume that no LAGC IFQ AMs are triggered. If a vessel exceeds its IFQ in a given FY, its IFQ for the subsequent FY would be reduced by the amount of the overage.

Because Framework 25 would not go into effect until after the March 1 start of FY 2014, we implemented the default FY 2014 IFQ allocations. These default FY 2014 IFQ allocations are higher than those proposed in Framework 25. To provide the ability for IFQ permit holders to transfer the entirety of their final FY 2014 quota, industry members requested that vessels have access to their full allocation at the beginning of the FY. Consequently, it is possible that scallop vessels could exceed their Framework 25 IFQ allocations during

this interim period between March 1, 2014, and NMFS's implementation of the proposed IFQ allocations in Framework 25. To account for this possibility, Framework 25 specifies the following payback measure for LAGC IFQ vessels: If a vessel transfers (i.e., temporary lease or permanent transfer) all of its allocation to other vessels prior to Framework 25's implementation (i.e., transfers more than it is ultimately allocated for FY 2014), the vessel that transferred in the pounds would receive a pound-for-pound deduction in FY 2014 (not the vessel that leased out the IFQ). This is the identical process that NMFS took at the start of last year (FY 2013) to account for lower proposed allocations that would be implemented mid-year. For example, Vessel A is allocated 1,000 lb (454 kg) of scallops at the start of FY 2014, but would receive 880 lb (399 kg) of scallops once Framework 25 is implemented. If Vessel A transfers its full March 1, 2014, allocation of 1,000 lb (454 kg) to Vessel B prior to Framework 25's implementation, Vessel B would lose 120 lb (54 kg) of that transfer once Framework 25 is implemented.

In situations where a vessel transfers out its IFQ to multiple vessels, only the vessel(s) that, in turn, transferred in quota resulting in an overage would have to pay back that quota. Using the example above, if Vessel A first leases 500 lb (227 kg) of scallops to Vessel B and then leases 500 lb (227 kg) of scallops to Vessel C, only Vessel C would have to pay back IFQ in excess of Vessel A's ultimate FY 2014 allocation (i.e., Vessel C would have to give up 120 lb (54 kg) of that quota because Vessel A ultimately only had 380 lb (172 kg) of IFQ to lease out). In this example, if Vessel C already fished all of its leased-in quota, it would incur an overage of 120 lb (54 kg) and could either lease in more quota to make up for that overage during FY 2014, or would have that overage, along with any other overages incurred in FY 2014, applied against its FY 2015 IFQ allocation as part of the individual AM applied to the LAGC IFQ fleet. We will attempt to notify all parties involved of the possible consequences of transferring IFQ that would be reduced by implementing Framework 25.

Since March 1, 2014, vessel owners have been able to transfer all IFQ on their vessel to other vessels, including IFQ that was previously transferred permanently or temporarily from another vessel (i.e., they may re-transfer, or sub-lease, IFQ). If a vessel transfers (i.e., temporary lease or permanent transfer) all of its allocation to another vessel prior to Framework 25's

implementation (i.e., transfers more than it is ultimately allocated for FY 2014), and then the vessel receiving the allocation retransfers out that allocation to another vessel, the vessel that transferred in the pounds initially would receive a pound-for-pound deduction in FY 2014 (not the vessel that leased out the IFQ or the vessel that received the retransferred pounds). For example, if Vessel A transfers its full March 1, 2014, allocation of 1,000 lb (454 kg) to Vessel B prior to Framework 25's implementation, then Vessel B proceeded to sub-lease all 1,000 lb (454 kg) to Vessel C, Vessel B would lose 120 lb (54 kg) of that transfer once Framework 25 is implemented.

The onus is on the vessel owners to have a business plan to account for the mid-year adjustments in light of these payback measures. NMFS sent a letter to IFQ permit holders providing both March 1, 2014, IFQ allocations and Framework 25 proposed IFQ allocations so that vessel owners know how much they can transfer to avoid any overages incurred through transferring full allocations prior to the implementation of Framework 25. NMFS has explained the consequences of owners' leasing decisions that involve full allocations that would be reduced under Framework 25.

2. *Sub-ACL for LA Scallop Vessels with IFQ Permits.* For LA scallop vessels with IFQ permits, this action proposes a 220,286-lb (99.9-mt) ACL for FY 2014 and an initial 255,210-lb (116-mt) ACL for FY 2015 (Table 1). We calculate IFQ allocations by applying each vessel's IFQ contribution percentage to these ACLs. These allocations assume that no LAGC IFQ AMs are triggered. If a vessel exceeds its IFQ in a given FY, its IFQ for the subsequent FY would be reduced by the amount of the overage.

If a vessel fishes all of the scallop IFQ it receives at the start of FY 2014, it would incur a pound-for-pound overage deduction that would be applied against its FY 2015 IFQ allocation, along with any other overages incurred in FY 2014, as part of the individual AM applied to the LA vessels with LAGC IFQ permits. These vessels cannot participate in the IFQ transfer program, so transferring in more quota is not an option.

3. *LAGC IFQ Trip Allocations and Possession Limits for Scallop Access Areas.* Table 4 outlines the total number of FY 2014 LAGC IFQ fleetwide access area trips. Once the total number of trips is projected to be fished, we would close that access area to LAGC IFQ vessels for the remainder of FY 2014.

TABLE 4—LAGC FLEET-WIDE ACCESS AREA TRIP ALLOCATIONS FOR FY 2014

Access area	FY 2014
CA1 .....	0
CA2 .....	0
NLS .....	241
HC .....	0
ETA .....	0
DMV .....	516

In previous years, the Council did not allocate trips for LAGC IFQ vessels into CA2, because the Council and NMFS do not expect many of these vessels to fish in that area due to its distance from shore, and the total number of fleetwide trips only reflected 5.5 percent of each open access area. To make up for the fact that the IFQ vessels would not be able to access CA2, the Council proposes in Framework 25 to include 5.5 percent of the CA2 available TAC in setting LAGC IFQ fleetwide access area trip allocations, essentially shifting those CA2 trips to other access areas closer to shore, so that LAGC IFQ vessels would have the opportunity to harvest up to 5.5 percent of the overall access area TAC, not just that available in areas open to them. Specifically, this action would equally divide 226 trips that would have been allocated to CA2 into the other 2 areas (DMV and NLS), adding 113 additional trips per area.

In order to preserve appropriate access area allocations, there would be no access area trips allocated to LAGC IFQ vessels under FY 2015 default measures. The next framework that would replace these FY 2015 default measures would include the FY 2015 access area allocations based on updated scallop projections. If Framework 26 is delayed past March 1, 2015, LAGC IFQ scallop vessels would be restricted to fishing their IFQ allocations in open areas until final FY 2015 specifications are implemented.

4. *NGOM TAC*. This action proposes a 70,000-lb (31,751-kg) annual NGOM TAC for FYs 2014 and 2015. The allocation for FY 2015 assumes that there are no overages in FY 2014, which would trigger a pound-for-pound deduction in FY 2015 to account for the overage.

5. *Scallop Incidental Catch Target TAC*. This action proposes a 50,000-lb (22,680-kg) scallop incidental catch target TAC for FYs 2014 and 2015 to account for mortality from this component of the fishery, and to ensure that F-targets are not exceeded. The Council may adjust this target TAC in the future if vessels catch more scallops

under the incidental target TAC than predicted.

#### *Restrictions to the DMV*

##### 1. Seasonal Restriction

Framework 25 would allow all scallop vessels to fish their FY 2014 DMV trips from June 1 through August 31 or until 90 days after Framework 25 becomes effective, whichever is later. The proposed delay of entrance in DMV would give the scallops in that area some additional time to grow if Framework 25 were to become effective prior to June 1, 2014. The proposed closure of DMV following the 3-month fishery would reduce mortality by concentrating harvest in the area when meat yields are the highest.

##### 2. Crew Limit Restrictions

Limited access scallop vessels have crew size limits when fishing in open areas. These limits are in place to restrict the shucking capacity of a vessel to help reduce landings per unit effort while on DAS. However, in access areas there are possession limits so there is no crew limit restriction. In an effort to protect small scallops and discourage vessels from highgrading (discarding smaller scallops in exchange for larger ones), Framework 25 would impose a crew limit of seven individuals per LA vessel in DMV. If a vessel is participating in the small dredge program it may not have more than five people on board.

#### *Unharvested Pounds in Closed Area 1*

##### 1. FY 2012

The FY 2012 scallop specifications were the second-year specifications developed by the Council through Framework 22. In FY 2012, vessels were allocated access area trips into HC, DMV, NLS, CA1, and CA2. Based on updated survey results presented at the Council's Scallop PDT meeting on January 5, 2012, DMV showed lower-than-expected scallop biomass and strong recruitment present. In order to prevent high levels of fishing effort in this area, which could have reduced long-term scallop biomass and yield from DMV, and could have compromised the overall success of the scallop area rotational management program, we issued an Emergency Closure of the DMV (77 FR 28311; May 14, 2012). At the industry's request we reallocated unused 2012 DMV trips to CA1, which appeared at the time to have enough biomass to support these trips. However, towards the end of FY 2012 and into FY 2013 catch rates in CA1 began to drop below profitable levels. Many vessels were unable to

harvest the pounds associated with their CA1 trips. This action would allow unused pounds associated with FY 2012 CA1 trips to be harvested by some of those vessels in CA1 when it reopens in the future. For FY 2012 CA1 trips, this would be limited to vessels that submitted a broken trip adjustment sheet and qualified for a compensation trip.

##### 2. FY 2013

Because catch rates had not yet begun to fall in CA1 during development of the FY 2013 specifications, Framework 24 allocated an additional 118 trips into CA1 in FY 2013. Most of the vessels allocated CA1 FY 2013 trips were unable to fish some or any of their trips. Framework 25 would allow unharvested pounds associated with FY 2013 CA1 trips to be harvested by the vessel in CA1 when it reopens in the future. Because the potential for this provision had been discussed throughout the year, for FY 2013 CA1 trips, vessels would not be required to submit a broken trip adjustment sheet to receive the permission to harvest these unused pounds. Instead, we would determine which vessels have scallop pounds left to harvest and would inform them after Framework 25 is implemented.

Any CA1 pounds that would be allocated to vessels from FYs 2012 or 2013 to be harvested in a future FY would come off that future FY's LA sub-ACL. The Scallop FMP sets an ACL for every FY based on the most up-to-date surveys, and we cannot allocate the fleet any additional scallops above this limit even if they are "carried over" from prior years.

#### *Addition of Southern New England/ Mid-Atlantic (SNE/MA) Windowpane Flounder AMs*

Framework Adjustment 48 to the Northeast Multispecies FMP (78 FR 26118, May 3, 2013) established a sub-ACL for SNE/MA windowpane flounder. The proposed action contains two alternatives for AMs to respond to and prevent, reactive and proactive, respectively, overages in the SNE/MA windowpane flounder sub-ACL.

##### 1. Reactive AM

This action proposes to add a reactive AM for SNE/MA windowpane flounder. If the scallop sub-ACL for the scallop fishery is exceeded, the area west of 71° W. Long., excluding Mid-Atlantic access areas (HCA, ETA, and DMV), would be considered the SNE/MA windowpane flounder gear restricted area. Scallop vessels participating in the DAS or LAGC IFQ scallop fisheries would be required to comply with the gear

restrictions described below for the months of February or February through March, depending on the severity of the overage (Table 5).

**TABLE 5—SNE/MA WINDOWPANE FLOUNDER AM LENGTH OF GEAR RESTRICTION**

Percent overage of YTF sub-ACL	Length of gear restriction
0–20 .....	February.
>20 .....	February through March.

When a vessel is subject to the SNE/MA windowpane flounder accountability measure gear restricted area, the vessel would be required to fish with dredges where:

(1) The maximum number of rows of rings in the apron of the topside does not exceed five rows; and

(2) The maximum hanging ratio for a net, net material, or any other material on the top of a scallop dredge (twine top) possessed or used by vessels fishing with scallop dredge gear does not exceed 1.5:1 overall. An overall hanging ratio of 1.5:1 means that the twine top is hung alternating 2 meshes per ring and 1 mesh per ring (counted at the bottom where the twine top connects to the apron), for an overall average of 1.5 meshes per ring for the entire width of the twine top. For example, an apron that is 40 meshes wide (not including any ring in the side pieces) would only be able to use a twine top with 60 or fewer meshes so that the overall ratio of meshes to rings did not exceed 1.5 (60 meshes/40 rings = 1.5) (copies of a figure depicting this gear are available from the Regional Administrator upon request).

## 2. Proactive AM

In addition to the reactive AM described above, this action proposes to implement a gear restriction in the area west of 71° W. Long., excluding Mid-Atlantic access areas that are meant to help reduce bycatch of windowpane flounder and other species of flatfish. This is considered to be a proactive AM because it may avoid the exceeding of the sub-ACL for this stock. The specific gear restriction would require dredge vessels to have a maximum of seven rows in the apron. Current twine top restrictions state that a dredge greater than 8 feet (2.44 m) in width, must have at least 7 rows of rings between the terminus of the dredge (clubstick) and the twine top. Framework Adjustment 5 to the Scallop FMP (June 29, 1995; 60 FR 33757) implemented this regulation to protect against the overharvest of

small scallops. At that time some vessels were running twine top along the topside of the dredge all the way down to the clubstick. Since the mesh used for twine top was much smaller than it is today this practice essentially turned the dredge bag into a net, which has higher mortality on small scallops. Now that twine top mesh is a required to be a minimum of 10 inches (25.4 cm) there is less incentive to run it back to the terminus of the dredge. However, recent gear research has shown that a shorter apron, for example five rows of rings from the clubstick, may reduce flatfish bycatch.

This action applies to the area west of 71° W. Long., excluding Mid-Atlantic access areas, year-round. This measure may reduce flatfish bycatch by requiring vessels that fish in the AM area all year to use a maximum of seven rows, and enable vessels to voluntarily fish with an even shorter apron, less than seven rings, to proactively reduce flatfish bycatch in any area or season. This measure would apply to all scallop dredge vessels (LA and LAGC IFQ).

## Other Clarifications and Modifications

This proposed rule includes several revisions to the regulatory text to address text that is duplicative and unnecessary, outdated, unclear, or otherwise could be improved. NMFS proposes these changes consistent with section 305(d) of the MSA. For example, we are removing regulations that referred to payback measure from FY 2013 due to the delayed implementation of Framework 24. NMFS proposes to revise the regulations to remove measures intended by previous rulemaking, and to provide more ease in locating these regulations by updating cross references.

This action also proposes revisions that would clarify the intent of certain regulations. For example, and we added clarifying language to the IFQ quota transfer regulations to make it clear that the intent of Amendment 11 to the Scallop FMP was to allow vessels in confirmation of permit history to transfer IFQ. Additionally, regulations are unclear regarding how a LAGC IFQ vessel's potential carryover is calculated. We clarified that a vessel's potential carryover is 15 percent of the vessel's original IFQ and the total of transferred in minus transferred out IFQ. As such, NMFS proposes to clarify these regulations. NMFS also proposes to add more description to some access area and habitat closed area coordinates to clarify the boundaries of those areas.

## Classification

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

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

This rule does not contain a collection-of-information requirement subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act.

An IRFA has been prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA consists of Framework 25 analyses, its draft IRFA, and the preamble to this action.

## Statement of Objective and Need

This action proposes the management measures and specifications for the Atlantic sea scallop fishery for FY 2014, with FY 2015 default measures. A description of the action, why it is being considered, and the legal basis for this action are contained in Framework 25 and the preamble of this proposed rule and are not repeated here.

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

The proposed regulations would affect all vessels with LA and LAGC scallop permits. The Framework 25 document provides extensive information on the number and size of vessels and small businesses that would be affected by the proposed regulations, by port and state (see **ADDRESSES**). There were 313 vessels that obtained full-time LA permits in 2012, including 250 dredge, 52 small-dredge, and 11 scallop trawl permits. In the same year, there were also 34 part-time LA permits in the sea scallop fishery. No vessels were issued occasional scallop permits. NMFS issued 278 LAGC-IFQ permits in 2012. Since all scallop permits are limited access, vessel owners would cancel permits only if they decide to stop fishing for scallops on the permitted vessel permanently or if they transfer IFQ to another IFQ vessel and permanently relinquish the vessel's scallop permit. This is not likely to occur due to the value of retaining the permit. As such, the number of scallop permits could decline over time, but would likely be fewer than 10 permits per year.

The RFA defines a small business in shellfish fishery as a firm that is

independently owned and operated and not dominant in its field of operation, with receipts of up to \$5 M annually. In scallop FMP actions prior to Framework 24, each vessel was considered a small business entity and was treated individually for the purposes of the RFA analyses. Since Framework 24, the Council recognizes ownership affiliations and makes very basic connections between multiple vessels to single owners and makes distinctions between large business entities and small business entities, as defined by the RFA. Every LA vessel has multiple owners and some owners of a particular vessel have ownership interest in other vessels with different entities. There have been 132 distinct business entities (23 larger business entities and 109 small business entities) in the scallop limited access fishery as of FY 2012, slightly lower than the number of businesses in FY 2010. The primary industry of all these individual businesses was identified as “scallop” fishery, because their revenues from the scallop fishery exceeded the revenues from all other species. Scallop revenue averaged over 96-percent of the total revenue during FYs 2010–2012 for the businesses with LA permits. The sum of annual gross receipts from all scallop vessels operated by the majority of the multiple boat owners (but not all) would exceed \$5 M in 2011 and 2012, qualifying them as “large” entities. From FY 2010 to FY 2012, 193 vessels, including LA and LAGC permitted-vessels, belonged to 23 large business entities that grossed more than \$5 M annually in scallop revenue. In the same year, 155 vessels belonged to 109 small business entities (ownership ranged from 1 to 4 vessels) that grossed less than \$5 M a year in scallop revenue.

The Office of Advocacy at the Small Business Administration (SBA) suggests two criteria to consider in determining the significance of regulatory impacts on small entities; namely, disproportionality and profitability. The disproportionality criterion compares the effects of the regulatory action on small versus large entities (using the SBA-approved size definition of “small entity”), not the difference between segments of small entities. The changes in profits, costs, and net revenues due to Framework 25 are not expected to be disproportional for small versus large entities since each vessel will receive the same number of open areas DAS and access area trips allocations according to the categories they belong to (i.e., the allocations for all full-time vessels are identical, and the allocations for the part-time and occasional vessels are

proportional to the full-time allocations, 40 percent and 8.33 percent of the full-time allocations, respectively). As a result, this action would have proportionally similar impacts on revenues and profits of each vessel and each multi-vessel owner compared both to status quo (i.e., FY 2013) and no action levels. Therefore, this action is not expected to have disproportionate impacts or place a substantial number of small entities at a competitive disadvantage relative to large entities. A summary of the economic impacts relative to the profitability criterion is provided below under “Economic Impacts of Proposed Measures and Alternatives.”

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

This action contains no new collection-of-information, reporting, or recordkeeping requirements. It does not duplicate, overlap, or conflict with any other Federal law.

#### *Economic Impacts of Proposed Measures and Alternatives*

##### *Summary of the Aggregate Economic Impacts*

A detailed analysis of the economic impacts of the proposed actions may be found in Section 5.4 of the Framework 25 document (see **ADDRESSES**). All economic values are presented in terms of 2012 dollars and projected economic values presented below use a 7-percent (3-percent when indicated) discount rate to compare results to current values.

The impact of six allocation alternatives were evaluated in Framework 25: Three alternatives (No Action, Alternatives 2, and Alternative 3) each proposed the same number of DAS (23 for full-time vessels), but varied in the number of access area trips. The No Action alternative proposed no access area trips, while Alternatives 2 and Alternative 3 each proposed two 12,000-lb (5,443-kg) full-time access area trips (one in DMV and one in either NLS or CL2). However, Alternative 3 included an option for each vessel to exchange their DMV trip for five additional DAS to be used in the open area. Alternatives 4 and 5 had the same access area options as Alternative 3 (two 12,000-lb (5,443-kg) full-time trips with the DMV option), but varied in the number of DAS allocated to each full-time vessel, 31 DAS and 28 DAS, respectively. Finally, Alternative 6 proposed allocating each full-time vessel 37 DAS, but only issuing one 12,000-lb (5,443-kg) access area trip to

be taken in either NLS or CA2 and keeping DMV closed.

The definition of “No Action” refers to the implementation of FY 2014 default measures that are currently assigned in the regulations. The No Action alternative does not result in the same allocations or revenues as in FY 2013. During the development of Framework 24 the Council decided to wait for the 2013 survey results to develop final measures for FY 2014. Therefore, the No Action would result in 10 fewer DAS in FY 2014 compared to FY 2013, and would not allocate any trips into access areas. As a result of fewer open area DAS, combined with the lack of access area trips, revenues for No Action would be lower (\$280.5 M in FY 2014) compared to the actual revenues in FY 2012 (\$546 M) and FY 2013 (estimated to be about \$460 M in inflation-adjusted 2013 prices).

The previous frameworks also included a status quo scenario to reflect the changes in landings and economic benefits as a result of changes in allocations from their current values. Alternative 4 in this action reflects a scenario that maintains landings at the projected FY 2013 levels by allocating full-time vessels 31 DAS and two access area trips with a flexibility to exchange a DMV trip for five open areas DAS. This is also the preferred alternative for Framework 25. Therefore, for the purposes of Framework 25 analyses, the projected economic benefits for other alternatives will also be compared to the benefits for Alternative 4 instead of to a hypothetical status quo scenario that keeps the allocations at FY 2013 levels (33 DAS and 2 access area trips).

In summary, the aggregate economic impacts of the proposed measures, including the open area DAS and access area allocations for LA vessels and ACLs for the LAGC IFQ fishery, are expected to have positive impacts on the revenues and profits of the small businesses in the scallop industry in FY 2014 compared to the No Action alternative and neutral impacts compared to FY 2013 conditions. However, the measures included in Framework 25 are not expected to offset the gains and profits of the scallop industry, or to jeopardize the financial viability of scallop vessels either in the short term or in the medium term, especially in this highly profitable industry. The proposed measures (Alternative 4) would have the highest increase in revenues, producer surplus and total economic benefits in FY 2014, but would have a smaller increase in revenues (\$18.5 million), producer surplus (\$15.1 million) and total economic benefits (\$6.5 million) over



the long term compared to No Action and other alternatives except for Alternative 6. The economic impacts of the proposed action are expected to be positive over the long term.

#### *Economic Impacts of the Proposed Measures and Alternatives*

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

The proposed open area DAS allocations are expected to prevent overfishing in open areas. The proposed action would implement the following vessel-specific DAS allocations for FYs 2014 and 2015: Full-time vessels would be allocated 31 and 17 DAS, respectively; part-time vessels would be allocated 12 and 7 DAS, respectively; and occasional vessels would receive 3 and 1 DAS, respectively. Additionally, in FY 2014 full-time vessels would receive a total of two access area trips at 12,000 lb (5,443 kg), and part-time vessels and occasional vessels would receive one access area trip, at 9,600 lb (4,354 kg) and 2,000-lb (907-kg), respectively. The proposed default FY 2015 DAS would be set at precautionary levels and would be reevaluated in the next specifications-setting framework action. No access area trips would be allocated under FY 2015 default measures, and vessels would have to wait until the next framework to fish in access areas in FY 2015.

The Framework 25 analysis of the fleet-wide aggregate economic impacts indicate that the proposed action and all other alternatives are expected to be positive both in the short (2014) and the long term compared to the No Action alternative. The proposed alternative (Alternative 4) would result in highest landings (17,463 mt), revenues (\$427.8 M) and total economic benefits (\$429.9 M) in 2014 among all the alternatives considered. The total economic benefits of the proposed alternative would exceed the No Action levels by \$151.8 in FY 2014 and by \$6.5 M (\$26.3 M) over the long-term if a 7-percent (3-percent) discount rate was used to estimate the present value of cumulative benefits. However, long-term economic benefits under the preferred alternative would be less than the benefits for Alternative 3 using a 7-percent discount rate, and would be less than the benefits for Alternative 2, Alternative 3 and Alternative 5 using a discount rate of 3-percent to estimate cumulative present value of net economic benefits. The proposed alternative also reflects status quo conditions by maintaining the landings at the projected FY 2013 levels. Therefore, the economic impacts of the

proposed alternative are expected to be low compared to the levels in FY 2013.

As for LAGC IFQ vessels, the economic impacts of the proposed action are the same under all of the specification alternatives considered since the IFQ allocation remains the same under all the alternatives, 1,099 mt. This total catch would be very similar to that from FY 2013, 1,111 mt.

In summary, the economic impacts of the proposed LA and LAGC allocation measures are expected to have positive impacts on the revenues and profits of the small businesses in the scallop industry in FY 2014, compared to the No Action alternative and similar impacts compared to FY 2013 conditions. Over the long term, the economic impacts of the proposed alternative on the majority of small business entities in scallop fishing industry are projected to be positive when compared to No Action.

##### 2. Measures To Reduce Mortality on Smaller Scallops in NLS and DMV in FY 2014

This action would prohibit RSA compensation fishing in NLS and DMV. This would be more restrictive than the No Action alternative because it would limit operational flexibility possibly resulting in slightly higher costs. However, prohibiting RSA compensation fishing in these areas may have slight benefits on the scallop resource by limiting effort in those areas with potential impacts on smaller scallops from incidental mortality. Therefore, this action would have positive impacts on long-term yield, revenues and total economic benefits compared to No Action overall.

This action would also constrain fishing in DMV between June and August, or three months after implementation of this action to concentrate fishing in a season with higher yields. In addition, it would restrict crew limits in DMV to limits used in open area fishing to reduce potential highgrading on small scallops in DMV. As a result, this action could have beneficial impacts on the scallop resource and would therefore have long-term positive impacts on landings, revenues and total economic benefits compared to No Action.

##### 3. Measures To Address Unused CA1 Trips

This action would allow rollover of unused FY 2012 and FY 2013 CA1 trips a future FY. No Action would prevent a vessel from fully utilizing its allocation if it had, for example, a broken trip, which would have a negative impact on the revenues and

profits if those vessels with unused trips. This action would have positive economic impacts on vessels with unused trips by allowing them to land their CA1 allocations in a future year and low negative impacts on the rest of the fishery since this rollover would likely result in reduction in allocations in future years for the fleet.

This measure will impact future access for the LA fishery overall since this unused catch will need to be accounted for within the LA sub-ACL. Future access in and around CA1 will be lower for the overall fleet compared to No Action. Spreading access over 2 years would lower those negative impacts somewhat although not totally. Therefore, the economic impacts of the proposed alternatives would be positive for those vessels that are allowed to use their unused trips in a future year and would be low negative on the remainder of the fleet with no unused trips.

##### 4. Payback Measures for LAGC Vessels for Overages Incurred Between March 1, 2014, and Framework 25's Implementation

Framework 25 would be implemented after the start of FY 2014 (March 1, 2014) and the FY 2014 default measures would be in place until the proposed action is implemented. LAGC IFQ vessels have received allocations at the start of FY 2014 that are roughly 13 percent higher than Framework 25 allocations. Framework 25 included a number of provisions to account for the inconsistencies between allocations in effect at the start of FY 2014 and those that would be implemented under Framework 25. These "payback" measures create a disincentive to fish higher March 1, 2014, allocations and would help reduce the negative impacts of overfishing in 2014 on the scallop resource if vessels adhere to the lower Framework 25 allocations.

LAGC IFQ vessels that exceed their ultimate FY 2014 allocations through IFQ transfers would have a pound-for-pound deduction in FY 2014 to account for the excess allocated IFQ. The payback would be applied to the vessel that transfers the IFQ in (i.e., not the vessel that transfers out the IFQ). LAGC IFQ vessels that exceed their ultimate FY 2014 allocations would have a pound-for-pound payback in FY 2015 as their individual AM, specified in Amendment 15 to the Scallop FMP (Amendment 15).

As a result, LAGC vessels that choose to exceed the FY 2014 allocations proposed in Framework 25 would have slightly lower revenues than the estimated fleet average in FY 2014, resulting in negative short-term impacts



on those individual vessels in FY 2014. Over the long term, the overage provisions proposed in Framework 25 are expected to reduce the negative impacts of overfishing in FY 2014 on the scallop resource. Therefore, these measures will have positive fleet-wide impacts on landings and revenues over the long term. There are no alternatives that would generate higher economic benefits for the participants of the scallop fishery. Members of the scallop industry assisted in the development of these payback measures.

#### 5. RSA and OBS TACs

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

#### 6. NGOM TAC

The proposed action (No Action alternative) specifies a 70,000-lb (31,751-kg) TAC for the NGOM and would not have additional economic impacts on the participants of the NGOM fishery. The NGOM TAC has been specified at this level since FY 2008, and the fishery has harvested less than 60 percent of the TAC in each FY; therefore, the TAC has no negative economic impacts. There are no alternatives that would generate higher benefits for NGOM scallop vessels. The alternative for setting the NGOM TAC at 58,000 lb (26,308 kg) is expected to reduce the chance of excess fishing in Federal waters in the NGOM management area, but considering that NGOM vessels have never exceeded the TAC, neither alternative is expected to impact vessels. Thus, negligible economic impacts are expected from the No Action alternative and the other NGOM Alternative.

#### 7. SNE/MA Windowpane Flounder Reactive AM—Seasonal Gear Restricted Area

The proposed action would implement a gear restricted area for a specified period of time with higher bycatch rates of SNE/MA windowpane

flounder if the scallop fishery exceeds its sub-ACL and the entire ACL is exceeded, or the sub-ACL is exceeded by more than 50 percent. The AM area would be all waters west of 71° W Long., not including scallop access areas. If AMs are triggered and the overage by the scallop fishery is estimated to be >0 and <20-percent the AM would be in place for the month of February. If the overage is over 20 percent the AM season would be for the months of February and March.

Although reduced flexibility and potentially reduced landings due to fishing with modified gear will have some negative economic impacts on the scallop vessels, these impacts are expected to be low. Based on input from the Scallop Advisory Panel, the required gear modification is expected to have minor impacts on fishing costs. If a vessel switches its gear several times a year there is labor cost involved, but some vessels may just fish with this gear all year, and that could even result in some costs savings since there is less gear with the modified dredge.

The gear modifications will only be applied during the month of February if the overage rate is less than 20 percent and in both February and March if the overage is 20 percent or more. About 1 percent of the landings in Mid-Atlantic open areas took place February and another 10 percent in March by the LA vessels, however, in terms of overall landings in all open areas, 2 percent of scallop pounds were landed in February and 8 percent in March as an average for 2011–2012 fishing years. Therefore, this alternative could result some effort displacement for some vessels that choose not to fish during these months with modified gear. The economic impacts could be slightly higher for the LAGC vessels if instead of fishing with the modified gear they chose not to fish in February or March if the AM triggered. About 3 percent of LAGC scallop landings took place during February and another 6 percent in March in the open Mid-Atlantic areas.

The dredge modification in this alternative is expected to reduce scallop catch, up to 10 percent fewer in terms of catch weights. Therefore, vessels may need to tow longer to attain the same amount of scallop catch, which could increase the trip costs. However, the results from this gear study demonstrated that while the modified gear caught fewer scallops, the gear is more selective at catching larger scallops. If the gear is less efficient at catching smaller scallops, then the impacts on total scallop pounds landed could be small or negligible. In addition, given that larger scallops usually sell at

a higher price, the impacts on revenues could be negligible or slightly positive.

Therefore, the net economic impacts of this measure could be slightly negative, neutral, or slightly positive depending on the relative impacts on fishing costs, landings and revenues. However, when compared to the area closure alternative, this alternative could have potentially low positive impacts, because instead of closures, it would require fishing with modified gear in those areas for at most two months in February and March and would still allow the vessels the option to fish in other areas or seasons if they choose not to modify their gear.

The Council clarified that vessels with trawl gear are included, meaning they are not exempt from the AM. This could have low negative economic impacts on trawl vessels compared to No Action since they are unlikely to change their gear to fish in February and March in the event of an AM trigger.

A trawl vessel could switch to dredge gear and fish with the modified gear during the AM season, but this may not be very likely for many trawl vessels, especially if the season is only for two months of the year. In FYs 2010 and 2011 about 5.6 percent of scallops were landed in February and another 5.6 percent in March by LAGC vessels that use a trawl, therefore, this option is likely to increase the costs due to the displacement with effort. Again, however, the net economic impacts will depend to what extent the fishing in seasons when meat weights are larger will outweigh or falls short of the costs associated with reduced flexibility due to a narrower fishing season.

#### 8. SNE/MA Windowpane Flounder Proactive Gear Modification

Under this action, all scallop dredge vessels (LA and LAGC) would only be able to fish with a maximum of seven rows of rings in the apron of their dredge in waters west of 71° W Long., excluding the Mid-Atlantic access areas to reduce the chance the fishery would exceed the sub-ACL. The current regulation is a minimum of seven rows of rings, so vessels are not able to fish with fewer than seven rows. Most scallop vessels already fish with seven rows of rings on the topside of the dredge bag, so they will not be affected by this measure. However, some vessels may want to fish with more rows in the apron of their dredge in harder bottoms (i.e. Great South Channel). Therefore, this proactive measure would be confined to SNE and the MA for now.

If vessels decide to fish with fewer than seven rows (i.e. five rows as was tested in the gear modification study)

tow times may increase since shorter aprons are expected to catch fewer scallops. However, shorter aprons are expected to be more selective and retain fewer small scallops. If that is the case, then the impacts on scallop landings could be negligible if the composition of catch changes towards larger scallops.

In short, this alternative could increase fishing costs for vessels that fish with more than seven rows of rings. However, given that this measure will affect only a subset of vessels and fishing in SNE and Mid-Atlantic, it likely would have low negative economic impacts on the participants of the scallop fishery. Over the long-term, compared to No Action, this measure could have potentially positive economic benefits on the resource if it enables vessels to reduce bycatch and reduce the likelihood that AMs are triggered.

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

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: April 30, 2014.

**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 proposed to be amended as follows:

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. In § 648.10, paragraph (f)(4)(i) is revised to read as follows:

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

\* \* \* \* \*

(f) \* \* \*

(4) \* \* \*. (i) The owner or operator of a limited access or LAGC IFQ vessel that fishes for, possesses, or retains scallops, and is not fishing under a NE Multispecies DAS or sector allocation, must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished, including open area trips, access area trips as described in § 648.60(a)(9), and trips accompanied by a NMFS-approved observer. The reports must be submitted for each day (beginning at 0000 hr and ending at 2400 hr) and not later than 0900 hours of the following day. Such reports must include the following information:

(A) FVTR serial number;

(B) Date fish were caught;

(C) Total pounds of scallop meats kept;

(D) Total pounds of yellowtail flounder discarded; and

(E) Total pounds of all other fish kept.

\* \* \* \* \*

■ 3. In § 648.14:

■ a. Revise paragraphs (i)(1)(iii)(A)(3) introductory text, (i)(2)(ii)(B)(3),

(i)(2)(ii)(B)(5), (i)(2)(ii)(B)(6),

(i)(2)(ii)(B)(9);

■ b. Add paragraph (i)(2)(ix);

■ c. Remove and reserve paragraph

(i)(4)(iii)(D);

The additions and revisions to read as follows.

#### § 648.14 Prohibitions.

\* \* \* \* \*

(i) \* \* \*

(1) \* \* \*

(iii) \* \* \*

(A) \* \* \*

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

\* \* \* \* \*

(2) \* \* \*

(ii) \* \* \*

(B) \* \* \*

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

\* \* \* \* \*

(5) Fish under the small dredge program specified in § 648.51(e) with more than five persons on board the vessel, including the operator, unless otherwise authorized by the Regional Administrator or unless participating in the Area Access Program, with the exception of the Delmarva Access Area in from March 1, 2014 to February 28, 2015, pursuant to the requirements specified in § 648.60.

(6) Participate in the DAS allocation program with more persons on board the vessel than the number specified in § 648.51(c), including the operator, when the vessel is not docked or moored in port, unless otherwise authorized by the Regional Administrator, or unless participating in the Area Access Program, with the exception of the Delmarva Access Area in from March 1, 2014 to February 28, 2015, pursuant to the requirements specified in § 648.60.

\* \* \* \* \*

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

\* \* \* \* \*

(ix) Fish for scallops west of 71° W. long., outside of the Sea Scallop Access Areas, with gear that does not meet the specifications described in § 648.65 during the period specified in the notice announcing the windowpane flounder accountability measure gear restricted area described in § 648.65.

\* \* \* \* \*

(4) \* \* \*

(iii) \* \* \*

(D) [Reserved]

\* \* \* \* \*

■ 4. In § 648.51, paragraph (b)(3)(iii) is removed, and paragraphs (b)(4)(iv), (b)(5)(ii)(A), (b)(5)(ii)(C), (c) introductory text, (c)(1), (c)(2), and (e)(3)(i), are revised to read as follows:

#### § 648.51 Gear and crew restrictions.

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(iv) *Twine top restrictions.* In addition to the minimum twine top mesh size specified in paragraph (b)(2) of this section the following restrictions apply:

(A) Vessels issued limited access scallop permits that are fishing for scallops under the DAS Program are also subject to the following restrictions:

(1) If a vessel is rigged with more than one dredge, or if a vessel is rigged with only one dredge and such dredge is greater than 8 ft (2.4 m) in width, there must be at least seven rows of non-overlapping steel rings unobstructed by netting or any other material between the terminus of the dredge (club stick) and the net material on the top of the dredge (twine top).

(2) If a vessel is rigged with only one dredge, and such dredge is less than 8 ft (2.4 m) in width, there must be at least four rows of non-overlapping steel rings unobstructed by netting or any other material between the club stick and the twine top of the dredge. (A copy of a diagram showing a schematic of a legal dredge with twine top is available from the Regional Administrator upon request)

(B) *Twine top restrictions in waters west of 71° W long. as a proactive accountability measure.* In addition to the minimum twine top mesh size specified in paragraph (b)(2) of this section, limited access and limited access general category IFQ vessels fishing for scallops outside of the Scallop Access Areas specified in § 648.59, may not fish with a dredge having more than seven rows of non-overlapping steel rings unobstructed by netting or any other material between the terminus of the dredge (club stick) and the net material on the top of the dredge (twine top) (A copy of a diagram

showing a schematic of a legal dredge with twine top is available from the Regional Administrator upon request).

\* \* \* \*

(5) \* \* \*

(ii) \* \* \* A) From May 1 through October 31, any limited access scallop vessel using a dredge, regardless of dredge size or vessel permit category, or any LAGC IFQ scallop vessel fishing with a dredge with a width of 10.5 ft (3.2 m) or greater, that is fishing for scallops in waters west of 71° W long., from the shoreline to the outer boundary of the EEZ, must use a TDD. The TDD requires five modifications to the rigid dredge frame, as specified in paragraphs (b)(5)(ii)(A)(1) through (b)(5)(ii)(A)(5) of this section. See paragraph (b)(5)(ii)(D) of this section for more specific descriptions of the dredge elements mentioned below.

\* \* \* \*

(C) A vessels subject to the requirements in paragraph (b)(5)(ii) of this section transiting waters west of 71° W. long., from the shoreline to the outer boundary of the EEZ, is exempted from the requirement to only possess and use TDDs, provided the dredge gear is stowed in accordance with § 648.23(b) and not available for immediate use.

\* \* \* \*

(c) *Crew restrictions.* A full-time limited access vessel participating in or subject to the scallop DAS allocation program and a full-time limited access vessel fishing in the Delmarva Access Area from March 1, 2014, through February 28, 2015, may have no more than seven people aboard, including the operator, when not docked or moored in port, except as follows:

(1) There is no restriction on the number of people on board for vessels participating in the Sea Scallop Area Access Program as specified in § 648.60 other than the Delmarva Access Area.

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

\* \* \* \*

(e) \* \* \*

(3) \* \* \*

(i) There is no restriction on the number of people on board for vessels participating in the Sea Scallop Area Access Program as specified in § 648.60 other than the Delmarva Access Area.

\* \* \* \*

5. In § 648.53:

(a) Revise paragraphs (a) introductory text, (a)(1), (a)(3), (a)(4)(i), (a)(4)(ii);

(b) Revise (b)(1)(i) and (ii), (b)(4) introductory text;

(c) Add (b)(4)(i);

(d) Revise (g)(1) introductory text, (h)(2)(v)(A), and (h)(5)(i), (h)(5)(ii)(A),

(h)(5)(iii), (h)(5)(iv) introductory text, (h)(5)(iv)(A), (h)(5)(iv)(D);

The additions and revisions to read as follows:

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

(a) *Scallop fishery ABC.* The ABC for the scallop fishery shall be established through the framework adjustment process specified in § 648.55 and is equal to the overall scallop fishery ACL. The ABC/ACL shall be divided as sub-ACLs between limited access vessels, limited access vessels that are fishing under a LAGC permit, and LAGC vessels as specified in paragraphs (a)(3) and (a)(4) of this section, after deducting the scallop incidental catch target TAC specified in paragraph (a)(2) of this section, observer set-aside specified in paragraph (g)(1) of this section, and research set-aside specified in § 648.56(d). The ABC/ACL for the 2015 fishing year is subject to change through a future framework adjustment.

(1) ABC/ACL for fishing years 2014 through 2015 shall be:

(i) 2014: 20,782 mt (45,816,475 lb).

(ii) 2015: 23,982 mt (52,871,269 lb).

\* \* \* \*

(3) *Limited access fleet sub-ACL and ACT.* The limited access scallop fishery shall be allocated 94.5 percent of the ACL specified in paragraph (a)(1) of this section, after deducting incidental catch, observer set-aside, and research set-aside, as specified in this paragraph (a). ACT for the limited access scallop fishery shall be established through the framework adjustment process described in § 648.55. DAS specified in paragraph (b) of this section shall be based on the ACTs specified in paragraph (a)(3)(ii) of this section. The limited access fleet sub-ACL and ACT for the 2015 fishing year are subject to change through a future framework adjustment.

(i) The limited access fishery sub-ACLs for fishing years 2014 and 2015 are:

(A) 2014: 18,885 mt (41,634,305 lb).

(B) 2015: 21,879 mt (48,234,778 lb).

(ii) The limited access fishery ACTs for fishing years 2014 and 2015 are:

(A) 2014: 15,567 mt (34,319,360 lb).

(B) 2015: 16,540 mt (36,463,509 lb).

(4) \* \* \*

(i) The ACLs for fishing years 2014 and 2015 for LAGC IFQ vessels without a limited access scallop permit are:

(A) 2014: 999.2 mt (2,202,859 lb).

(B) 2015: 1,158 mt (2,552,105 lb).

(ii) The ACLs for fishing years 2014 and 2015 for vessels issued both a LAGC and a limited access scallop permits are:

(A) 2014: 99.9 mt (220,286 lb).

(B) 2015: 116 mt (255,210 lb).

(b) \* \* \*

(1) \* \* \*

(i) 2014 fishing year: 2,581 lb/DAS (1,171 kg/DAS).

(ii) 2015 fishing year: 2,590 lb/DAS (1,175 kg/DAS).

\* \* \* \*

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

**SCALLOP OPEN AREA DAS ALLOCATIONS**

Permit category	2014	2015
Full-Time .....	31	17
Part-Time .....	12	7
Occasional .....	3	1

(i) Additional DAS for Full-time limited access vessels that exchange a FY 2014 Delmarva Access Area trip. A vessel that exchanges a Delmarva Access Area trip for open area DAS, as specified in § 648.60(a)(3)(iii) shall be allocated 5 additional DAS in the 2014 fishing year.

\* \* \* \*

(g) \* \* \*. (1) To help defray the cost of carrying an observer, 1 percent of the ABC/ACL specified in paragraph (a)(1) of this section shall be set aside to be used by vessels that are assigned to take an at-sea observer on a trip. The total TAC for observer set aside is 208 mt (458,562 lb) in fishing year 2014, and 240 mt (529,110 lb) in fishing year 2015.

\* \* \* \*

(h) \* \* \*

(2) \* \* \*

(v) \* \* \* (A) With the exception of vessels that held a confirmation of permit history as described in

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

\* \* \* \* \*

(5) \* \* \* (i) *Temporary IFQ transfers.* Subject to the restrictions in paragraph (h)(5)(iii) of this section, the owner of an IFQ scallop vessel (and/or IFQ scallop permit in confirmation of permit history) not issued a limited access scallop permit may temporarily transfer (e.g. lease) its entire IFQ allocation, or a portion of its IFQ allocation, to another IFQ scallop vessel. Temporary IFQ transfers shall be effective only for the fishing year in which the temporary transfer is requested and processed. For the remainder of the 2013 fishing year, IFQ, once temporarily transferred, cannot be temporarily transferred again to another vessel. Beginning on March 1, 2014, IFQ can be temporarily transferred more than once (i.e., re-transferred). For example, if a vessel temporarily transfers IFQ to a vessel, the transferee vessel may re-transfer any portion of that IFQ to another vessel. There is no limit on how many times IFQ can be re-transferred in a fishing year after March 1, 2014. The Regional Administrator has final approval authority for all temporary IFQ transfer requests.

(ii) \* \* \* (A) Subject to the restrictions in paragraph (h)(5)(iii) of this section, the owner of an IFQ scallop vessel (and/or IFQ scallop permit in confirmation of permit history) not issued a limited access scallop permit may transfer IFQ permanently to or from another IFQ scallop vessel. Any such transfer cannot be limited in duration and is permanent as to the transferee, unless the IFQ is subsequently permanently transferred to another IFQ scallop vessel. For the remainder of the 2013 fishing year, IFQ permanently transferred to a vessel during the 2013 fishing year may then

be temporarily transferred (i.e., leased) to another vessel(s) in any amount not to exceed the original permanent transfer. IFQ may be permanently transferred to a vessel and then be re-transferred (temporarily transferred (i.e., leased) or permanently transferred) by such vessel to another vessel in the same fishing year. There is no limit on how many times IFQ can be re-transferred in a fishing year after March 1, 2014.

\* \* \* \* \*

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

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

fishing year. Applications for temporary transfers received less than 45 days prior to the end of the fishing year may not be processed in time for a vessel to utilize the transferred IFQ, if approved, prior to the expiration of the fishing year.

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

\* \* \* \* \*

(D) If an LAGC IFQ vessel transfers (i.e., temporary lease or permanent transfer) all of its allocation to other IFQ vessels prior to Framework 25's implementation (i.e., transfers more than what it is allocated for fishing year 2014 pursuant to the implantation of Framework 25), the vessel(s) to which the scallops were transferred (i.e., the transferee) shall receive a pound-for-pound deduction in fishing year 2014 equal to the difference between the amount of scallops transferred and the amount allocated to the transferring vessel for 2014 pursuant to Framework 25. The vessel that transferred the scallops shall not be assessed this deduction. For example, Vessel A is allocated 5,000 lb (2,268 kg) of scallops at the start of fishing year 2014, but would receive 3,500 lb (1,588 kg) of scallops once Framework 25 is implemented. If Vessel A transfers its full March 1, 2014, allocation of 5,000 lb (2,268 kg) to Vessel B prior to Framework 25's implementation, Vessel B would lose 1,500 lb (680 kg) of that transfer once Framework 25 is implemented. In situations where a vessel leases out its IFQ to multiple vessels, the deduction of the difference between the original amount of scallops allocated and the amount allocated pursuant to Framework 25 shall begin to

apply only to the transfer(s) that exceed the original allocation. Using the example above, if Vessel A first leases 3,000 lb (1,361 kg) of scallops to Vessel B and then leases 2,000 lb (907 kg) of scallops to Vessel C, only Vessel C would have to pay back IFQ in excess of Vessel A's ultimate fishing year 2014 allocation (i.e., Vessel C would have to give up 1,500 lb (680 kg) of that quota because Vessel A ultimately only had 500 lb (227 kg) of IFQ to lease out). If a vessel has already fished its leased-in quota in excess of the amount ultimately allocated pursuant to Framework 25, the vessel must either lease in more quota to make up for that overage during fishing year 2014, or the overage, along with any other overages incurred in fishing year 2014, shall be deducted from its fishing year 2015 IFQ allocation as part of the individual AM applied to the LAGC IFQ fleet, as specified in paragraph (h)(2)(vi) of this section.

■ 6. In § 648.55, paragraph (d) is revised to read as follows:

**§ 648.55 Framework adjustments to management measures.**

\* \* \* \* \*

(d) *Yellowtail flounder and windowpane flounder sub-ACLs.* The Council shall specify the yellowtail flounder and windowpane flounder sub-ACLs allocated to the scallop fishery through the framework adjustment process specified in § 648.90.

\* \* \* \* \*

■ 7. Section 648.57 is revised to read as follows:

**§ 648.57 Sea scallop area rotation program.**

An area rotation program is established for the scallop fishery, which may include areas closed to

scallop fishing defined in § 648.58, and/or Sea Scallop Access Areas defined in § 648.59, subject to the Sea Scallop Access program requirements specified in § 648.60. Areas not defined as Rotational Closed Areas, Sea Scallop Access Areas, EFH Closed Areas, or areas closed to scallop fishing under other FMPs, are open to scallop fishing as governed by the other management measures and restrictions in this part. The Council's development of area rotation programs is subject to the framework adjustment process specified in § 648.55, including the Area Rotation Program factors included in § 648.55(a). The percentage of the total allowable catch for each Sea Scallop Access Area that is allocated to limited access scallop vessels and limited access general category scallop vessels shall be through the framework adjustment process specified in § 648.55.

■ 8. In § 648.58 paragraph (b) is revised to read as follows:

**§ 648.58 Rotational Closed Areas.**

\* \* \* \* \*

(b) *Hudson Canyon Closed Area.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Hudson Canyon Closed Area. No vessel may possess scallops in the Hudson Canyon Closed Area, unless such vessel is only transiting the area as provided in paragraph (c) of this section. The Hudson Canyon Closed Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
H1 .....	39°30' N	73°10' W
H2 .....	39°30' N	72°30' W
H3 .....	38°30' N	73°30' W
H4 .....	38°50' N	73°30' W
H5 .....	38°50' N	73°42' W
H1 .....	39°30' N	73°10' W

\* \* \* \* \*

■ 9. In § 648.59, paragraphs (b), (c), (d), and (e) are revised to read as follows:

**§ 648.59 Sea Scallop Access Areas.**

\* \* \* \* \*

(b) *Closed Area I Access Area—*(1) From March 1, 2014, through February 29, 2016 (i.e., fishing year 2014 and 2015), vessels issued scallop permits may not fish for, possess, or land scallops in or from, the area known as the Closed Area I Access Area, described in paragraph (b)(3) of this section, unless transiting pursuant to paragraph (f) of this section. Vessels issued both a NE Multispecies permit and an LAGC scallop permit may fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, provided they comply with restrictions in paragraph (b)(5)(ii)(C) of this section.

(2) [Reserved]

(3) The Closed Area I Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request), and so that the line connecting points CAIA3 and CAIA4 is the same as the portion of the western boundary line of Closed Area I, defined in § 648.81(a)(1), that lies between points CAIA3 and CAIA4:

Point	Latitude	Longitude	Note
CAIA1 .....	41°26' N	68°30' W	
CAIA2 .....	40°58' N	68°30' W	
CAIA3 .....	40°54.95' N	68°53.37' W	(1)
CAIA4 .....	41°04.32' N	69°01.27' W	(1)
CAIA1 .....	41°26' N	68°30' W	

<sup>1</sup> From Point CAIA3 to Point CAIA4 along the western boundary of Closed Area I, defined in § 648.81(a)(1).

(4) [Reserved]

(c) *Closed Area II Access Area—*(1) From March 1, 2014, through February 28, 2015 (i.e., fishing year 2014), subject to the seasonal restrictions specified in paragraph (c)(4) of this section, a vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Closed Area II Sea Scallop Access Area, described in paragraph (c)(3) of this section, unless the vessel is participating in, and

complies with the requirements of, the area access program described in § 648.60.

(2) From March 1, 2015, through February 29, 2016 (i.e., fishing year 2015), unless fishing a 2014 fishing year compensation trip, as specified in § 648.60(c)(5)(v), a vessel issued scallop permit may not fish for, possess, or land scallops in or from, the area known as the Closed Area II Access Area, described in paragraph (c)(3) of this

section, unless transiting pursuant to paragraph (f) of this section, a vessel issued both a NE Multispecies permit and an LAGC scallop permit may not fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, unless it complies with restrictions in paragraph (c)(5)(ii)(C) of this section.

(3) The Closed Area II Sea Scallop Access Area is defined by straight lines, except where noted, connecting the

following points in the order stated  
(copies of a chart depicting this area are

available from the Regional  
Administrator upon request):

Point	Latitude	Longitude	Note
CAIIA1 .....	41°00' N	67°20' W	
CAIIA2 .....	41°00' N	66°35.8' W	
CAIIA3 .....	41°18.6' N	(1)	(2)
CAIIA4 .....	41°30' N	(3)	(2)
CAIIA5 .....	41°30' N	67°20' W	
CAIIA1 .....	41°00' N	67°20' W	

<sup>1</sup> The intersection of 41°18.6' N lat. and the U.S.-Canada Maritime Boundary, approximately 41°18.6' N lat. and 66°25.01' W long.

<sup>2</sup> From Point CAIIA3 connected to Point CAIIA4 along the U.S.-Canada Maritime Boundary.

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

(4) *Season*. A vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Closed Area II Sea Scallop Access Area, described in paragraph (c)(3) of this section, during the period of August 15 through November 15 of each year the Closed Area II Access Area is open to scallop vessels, unless transiting pursuant to paragraph (f) of this section.

(d) *Nantucket Lightship Access Area*—(1) From March 1, 2014, through February 28, 2015 (i.e., fishing year 2014), a vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Sea Scallop Access Area, described in paragraph (d)(3) of this section, unless the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(2) From March 1, 2015, through February 29, 2016 (i.e., fishing year 2015), unless fishing a 2014 fishing year compensation trip, as specified in § 648.60(c)(5)(v), a vessel issued scallop permits may not fish for, possess, or land scallops in or from the area known as the Nantucket Lightship Access Area, described in paragraph (d)(3) of this section, unless transiting pursuant to paragraph (f) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may not fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, unless it complies with restrictions in paragraph (d)(5)(ii)(C) of this section.

(3) The Nantucket Lightship Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
NLAA1 .....	40°50' N	69°30' W
NLAA2 .....	40°50' N	69°00' W
NLAA3 .....	40°20' N	69°00' W
NLAA4 .....	40°20' N	69°30' W

Point	Latitude	Longitude
NLAA1 .....	40°50' N	69°30' W

(4) [Reserved]

(e) *Delmarva Sea Scallop Access Area*. (1) Beginning upon the effective date of Framework 25 and for 90 days following that effective date, a vessel issued a scallop permit may not fish for, possess, or land scallops in or from the area known as the Delmarva Sea Scallop Access Area, described in paragraph (e)(3) of this section, unless the vessel is participating in, and complies with the requirements of, the area access program described in § 648.60.

(2) From March 1, 2015, through February 29, 2016 (i.e., fishing year 2015), unless fishing a 2014 fishing year compensation trip, as specified in § 648.60(c)(5)(v), a vessel issued scallop permits may not fish for, possess, or land scallops in or from the area known as the Hudson Canyon Access Area, described in paragraph (e)(3) of this section, unless transiting pursuant to paragraph (f) of this section.

(3) The Delmarva Sea Scallop Access Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request):

Point	Latitude	Longitude
DMV1 .....	38°10' N	74°50' W
DMV2 .....	38°10' N	74°00' W
DMV3 .....	37°15' N	74°00' W
DMV4 .....	37°15' N	74°50' W
DMV1 .....	38°10' N	74°50' W

\* \* \* \* \*

■ 10. In § 648.60:

■ (a) Revise paragraphs (a) introductory text, (a)(3)(i), (a)(5)(i);

■ (b) Add paragraph (a)(3)(iii);

■ (c) Revise paragraphs (c)(5)(ii), (c)(5)(v), (e), and (g);

The additions and revisions to read as follows:

#### § 648.60 Sea Scallop access area program requirements.

(a) A limited access scallop vessel may only fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, provided the vessel complies with the requirements specified in paragraphs (a)(1) through (a)(9), and (b) through (f) of this section. An LAGC scallop vessel may fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, provided the vessel complies with the requirements specified in paragraph (g) of this section.

\* \* \* \* \*

(3) \* \* \* (i) *Limited access vessel trips*. (A) Except as provided in paragraph (c) of this section, paragraphs (a)(3)(i)(B) through (E) of this section specify the total number of trips that a limited access scallop vessel may take into Sea Scallop Access Areas during applicable seasons specified in § 648.59. The number of trips per vessel in any one Sea Scallop Access Area may not exceed the maximum number of trips allocated for such Sea Scallop Access Area, unless the vessel owner has exchanged a trip with another vessel owner for an additional Sea Scallop Access Area trip, as specified in paragraph (a)(3)(ii) of this section, or has been allocated a compensation trip pursuant to paragraph (c) of this section. No access area trips are allocated for fishing year 2015.

(B) *Full-time scallop vessels*. In fishing year 2014, each full-time vessel shall have a total of two access area trips, including one trip in the Delmarva Access Area and one trip in either Closed Area II Access Area or the Nantucket Lightship Access Area. These allocations shall be determined by the Regional Administrator through a random assignment and shall be made publically available on the NMFS Northeast Region Web site prior to the start of the 2014 fishing year.

(C) *Part-time scallop vessels.* (1) For the 2014 fishing year, a part-time scallop may take one trip in the Closed Area II Access Area, or one trip in the Nantucket Lightship Access Area, or one trip in the Delmarva Access Area.

(2) For the 2015 fishing year, part-time scallop vessels shall not receive access area trip allocations.

(D) *Occasional scallop vessels.* For the 2014 fishing year, an occasional scallop vessel may take one trip in the Closed Area II Access Area, or one trip in the Nantucket Lightship Access Area, or one trip in the Delmarva Access Area.

\* \* \* \* \*

(iii) *Delmarva Access Area Trip Exchange for open area DAS.* From

March 1, 2014, to February 28, 2015, (i.e., fishing year 2014) Full-Time Limited Access Scallop vessels may exchange a single Delmarva Access Area trip for 5 additional open area DAS, as specified in § 648.53(b)(4)(i). A vessel may not exchange more than one Delmarva Access Area trip for five DAS. For example, a vessel's initially issued 31 DAS and 2 Scallop Access Area trips, one in the Delmarva Access Area and one in the Nantucket Lightship Access Area, that exchanges its Nantucket Lightship Access Area trip for another Delmarva Access Area trip may only exchange one Delmarva Access Area trip for an additional five DAS.

\* \* \* \* \*

(5) \* \* \* (i) *Scallop possession limits.* Unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of this section, after declaring a trip into a Sea Scallop Access Area, a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, scallops, up to the maximum amounts specified in the table in this paragraph (a)(5). No vessel declared into the Access Areas as described in § 648.59(a) through (e) may possess more than 50 bu (17.62 hL) of in-shell scallops outside of the Access Areas described in § 648.59(a) through (e).

Fishing year	Permit category possession limit		
	Full-time	Part-time	Occasional
2014 .....	12,000 lb (5,443 kg) .....	9,600 lb (4,354 kg) .....	2,000 lb (907 kg).

\* \* \* \* \*

(c) \* \* \*  
(5) \* \* \*

(ii) If a vessel is authorized more than one additional compensation trip into any Sea Scallop Access Area as the result of more than one terminated trip in the same Access Area, the possession limits for the authorized trips may be combined, provided the total possession limit on a combined additional compensation trip does not exceed the possession limit for a trip as specified in paragraph (a)(5) of this section. For example, if the possession limit for a full-time vessel is 18,000 lb (8,165 kg) per trip, a full-time vessel that has two broken trips with corresponding additional compensation trip authorizations of 10,000 lb (4,536 kg) and 8,000 lb (3,629 kg) may combine the authorizations to allow one compensation trip with a possession limit of 18,000 lb (8,165 kg).

\* \* \* \* \*

(v) *Additional compensation trip carryover.* Unless otherwise specified in § 648.59, if an Access Area trip conducted during the last 60 days of the open period or season for the Access Area is terminated before catching the allowed possession limit, and the requirements of paragraph (c) of this section are met, the vessel operator shall be authorized to fish an additional trip as compensation for the terminated trip in the following fishing year. The vessel owner/operator must take such additional compensation trips, complying with the trip notification procedures specified in paragraph (a)(2)(iii) of this section, within the first 60 days of that fishing year the Access

Area first opens in the subsequent fishing year. For example, a vessel that terminates an Delmarva Access Area trip on December 29, 2011, must declare that it is beginning its additional compensation trip during the first 60 days that the Delmarva Access Area is open (March 1, 2012, through April 29, 2012). If an Access Area is not open in the subsequent fishing year, then the additional compensation trip authorization would expire at the end of the Access Area Season in which the trip was broken. For example, a vessel that terminates a Closed Area I trip on December 10, 2012, may not carry its additional compensation trip into the 2013 fishing year because Closed Area I is not open during the 2013 fishing year, and must complete any compensation trip by January 31, 2013.

\* \* \* \* \*

(e) *Sea Scallop Research Set-Aside Harvest in Access Areas—*(1) *Access Areas available for harvest of research set-aside (RSA).* Unless otherwise specified, RSA may be harvested in any access area that is open in a given fishing year, as specified through a framework adjustment and pursuant to § 648.56. The amount of pounds that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process. The access areas open for RSA harvest for fishing years 2014 and 2015 are:

- (i) 2014: Closed Area II Access Area
- (ii) 2015: None.
- (2) [Reserved]

\* \* \* \* \*

(g) *Limited Access General Category Vessels.* (1) An LAGC scallop vessel may only fish in the scallop access areas specified in § 648.59(a) through (e), subject to the seasonal restrictions specified in § 648.59(b)(4), (c)(4), and (d)(4), and subject to the possession limit specified in § 648.52(a), and provided the vessel complies with the requirements specified in paragraphs (a)(1), (a)(2), (a)(6) through (9), (d), (e), (f), and (g) of this section. A vessel issued both a NE multispecies permit and an LAGC scallop permit may fish in an approved SAP under § 648.85 and under multispecies DAS in the Closed Area I, Closed Area II, and Nantucket Lightship Sea Scallop Access Areas specified in § 648.59(b) through (d), provided the vessel complies with the requirements specified in § 648.59(b)(5)(ii), (c)(5)(ii), and (d)(5)(ii), and this paragraph (g), but may not fish for, possess, or land scallops on such trips.

(2) *Limited Access General Category Gear restrictions.* An LAGC IFQ scallop vessel authorized to fish in the Access Areas specified in § 648.59(a) through (e) must fish with dredge gear only. The combined dredge width in use by, or in possession on board of, an LAGC scallop vessel fishing in Closed Area I, Closed Area II, and Nantucket Lightship Access Areas may not exceed 10.5 ft (3.2 m). The combined dredge width in use by, or in possession on board of, an LAGC scallop vessel fishing in the remaining Access Areas described in § 648.59 may not exceed 31 ft (9.4 m). Dredge width is measured at the widest point in the bail of the dredge.



(3) *LAGC IFQ Access Area Trips.*—(i) An LAGC scallop vessel authorized to fish in the Access Areas specified in § 648.59(a) through (e) may land scallops, subject to the possession limit specified in § 648.52(a), unless the Regional Administrator has issued a notice that the number of LAGC IFQ access area trips have been or are projected to be taken. The total number of LAGC IFQ trips in a specified Access Area for fishing year 2014 and 2015 are:

Access Area	2014	2015
Hudson Canyon .....	0	0
Delmarva .....	516	0
Elephant Trunk .....	0	0
Closed Area 1 .....	0	0
Closed Area 2 .....	0	0
Nantucket Lightship .....	241	0

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

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

(4) *Possession Limits.*—(i) Scallops. 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 enrolled in the LAGC Access Area fishery, is prohibited from possessing scallops. An LAGC scallop

vessel authorized to fish in the Access Areas specified in § 648.59(a) through (e) may possess scallops up to the possession limit specified in § 648.52(a).

(ii) *Other species.* Unless issued an LAGC scallop permit and fishing under an approved NE multispecies SAP under NE multispecies DAS, an LAGC IFQ vessel fishing in the Access Areas specified in § 648.59(b) through (d) is prohibited from possessing any species of fish other than scallops and monkfish, as specified in § 648.94(c)(8)(i).

■ 11. Section 648.61 is revised to read as follows:

**§ 648.61 EFH closed areas.**

(a) No vessel fishing for scallops, or person on a vessel fishing for scallops, may enter, fish in, or be in the EFH Closure Areas described in paragraphs (a)(1) through (6) of this section, unless otherwise specified. A chart depicting these areas is available from the Regional Administrator upon request.

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

**WESTERN GOM HABITAT CLOSURE AREA**

Point	Latitude	Longitude
WGM1 .....	43°15' N	70°15' W
WGM2 .....	42°15' N	70°15' W
WGM3 .....	42°15' N	70°00' W
WGM4 .....	43°15' N	70°00' W
WGM1 .....	43°15' N	70°15' W

(2) *Cashes Ledge Habitat Closure Area.* The restrictions specified in paragraph (a) of this section apply to the Cashes Ledge Habitat Closure Area,

which is the area bounded by straight lines connecting the following points in the order stated:

**CASHES LEDGE HABITAT CLOSURE AREA**

Point	Latitude	Longitude
CLH1 .....	43°01' N	69°03' W
CLH2 .....	43°01' N	68°52' W
CLH3 .....	42°45' N	68°52' W
CLH4 .....	42°45' N	69°03' W
CLH1 .....	43°01' N	69°03' W

(3) *Jeffrey's Bank Habitat Closure Area.* The restrictions specified in paragraph (a) of this section apply to the Jeffrey's Bank Habitat Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

**JEFFREY'S BANK HABITAT CLOSURE AREA**

Point	Latitude	Longitude
JB1 .....	43°40' N	68°50' W
JB2 .....	43°40' N	68°40' W
JB3 .....	43°20' N	68°40' W
JB4 .....	43°20' N	68°50' W
JB1 .....	43°40' N	68°50' W

(4) *Closed Area I Habitat Closure Areas.* The restrictions specified in paragraph (a) of this section apply to the Closed Area I Habitat Closure Areas, Closed Area I—North and Closed Area I—South, which are the areas bounded by straight lines connecting the following points in the order stated, and so that the line connecting points CI1 CIH2 and CI1CIH1, and CI2 and CIH3 is the same as the portion of the western boundary line of Closed Area I, defined in § 648.81(a)(1), that lies between those points:

**CLOSED AREA I—NORTH HABITAT CLOSURE AREA**

Point	Latitude	Longitude	Note
CI1 .....	41°30' N	69°23' W	
CI4 .....	41°30' N	68°30' W	
CIH1 .....	41°26' N	68°30' W	
CIH2 .....	41°04.32' N	69°01.27' W	( <sup>1</sup> )
CI1 .....	41°30' N	69°23' W	( <sup>1</sup> )

<sup>1</sup> From Point CI2 back to Point CIH3 along the western boundary of Closed Area I, defined in § 648.81(a)(1).

**CLOSED AREA I—SOUTH HABITAT CLOSURE AREA**

Point	Latitude	Longitude	Note
CIH3 .....	40°54.95' N	68°53.37' W	
CIH4 .....	40°58' N	68°30' W	
CI3 .....	40°45' N	68°30' W	
CI2 .....	40°45' N	68°45' W	( <sup>1</sup> )
CIH3 .....	40°54.95' N	68°53.37' W	( <sup>1</sup> )

<sup>1</sup> From Point CI2 back to Point CIH3 along the western boundary of Closed Area I, defined in § 648.81(a)(1).

(5) *Closed Area II Habitat Closure Area.* The restrictions specified in this paragraph (a) apply to the Closed Area

II Habitat Closure Area (also referred to as the Habitat Area of Particular Concern), which is the area bounded by

straight lines, except where noted, connecting the following points in the order stated:

#### CLOSED AREA II HABITAT CLOSURE AREA

Point	Latitude	Longitude	Note
CIIH1 .....	42°10' N	67°20' W	
CIIH2 .....	42°10' N	(1)	(2)
CIIH3 .....	42°00' N	(3)	(2)
CIIH4 .....	42°00' N	67°10' W	
CIIH5 .....	41°50' N	67°10' W	
CIIH6 .....	41°50' N	67°20' W	
CIIH1 .....	42°10' N	67°20' W	

<sup>1</sup> The intersection of 42°10' N lat. and the U.S.-Canada Maritime Boundary, approximately 42°10' N lat. and 67°9.38' W long.

<sup>2</sup> From Point CIIH2 connected to Point CIIH3 along the U.S.-Canada Maritime Boundary.

<sup>3</sup> The intersection of 42°00' N lat. and the U.S.-Canada Maritime Boundary, approximately 42°00' N lat. and 67°0.63' W long.

(6) *Nantucket Lightship Habitat Closure Area.* The restrictions specified in paragraph (a) of this section apply to the Nantucket Lightship Habitat Closure Area, which is the area bounded by straight lines connecting the following points in the order stated:

#### NANTUCKET LIGHTSHIP HABITAT CLOSED AREA

Point	Latitude	Longitude
NLH1 .....	41°10' N	70°00' W
NLH2 .....	41°10' N	69°50' W
NLH3 .....	40°50' N	69°30' W
NLH4 .....	40°20' N	69°30' W
NLH5 .....	40°20' N	70°00' W
NLH1 .....	41°10' N	70°00' W

(b) *Transiting.* A vessel may transit the EFH Closure Areas as defined in

paragraphs (a)(1) through (6) of this section, unless otherwise restricted, provided that its gear is stowed in accordance with the provisions of § 648.23(b). A vessel may transit the CAII EFH closed area, as defined in paragraph (a)(5) of this section, provided there is a compelling safety reason to enter the area and all gear is stowed in accordance with the provisions of § 648.23(b).

■ 12. In § 648.64, paragraphs (a), (b)(1), (c)(1)(i), (c)(2)(ii), (c)(2)(iii), and (c)(2)(iv) are revised to read as follows:

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

(a) As specified in § 648.55(d), and pursuant to the biennial framework adjustment process specified in § 648.90, the scallop fishery shall be

allocated a sub-ACL for the Georges Bank and Southern New England/Mid-Atlantic stocks of yellowtail flounder. The sub-ACLs for the 2014 fishing year are specified in § 648.90(a)(4)(iii)(C) of the NE multispecies regulations.

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

#### GEORGES BANK YELLOWTAIL ACCOUNTABILITY MEASURE CLOSURE

Point	Latitude	Longitude	Note
GBYT AM 1 .....	41°50' N	(1)	(2)
GBYT AM 2 .....	40°30' N	(3)	(2)
GBYT AM 3 .....	40°30' N	66°40' W	
GBYT AM 4 .....	40°40' N	66°40' W	
GBYT AM 5 .....	40°40' N	66°50' W	
GBYT AM 6 .....	40°50' N	66°50' W	
GBYT AM 7 .....	40°50' N	67°00' W	
GBYT AM 8 .....	41°00' N	67°00' W	
GBYT AM 9 .....	41°00' N	67°20' W	
GBYT AM 10 .....	41°10' N	67°20' W	
GBYT AM 11 .....	41°10' N	67°40' W	
GBYT AM 12 .....	41°50' N	67°40' W	
GBYT AM 1 .....	41°50' N	(1)	

<sup>1</sup> The intersection of 41°50' N lat. and the U.S.-Canada Maritime Boundary, approximately 41°50' N lat., 66°51.94' W long.

<sup>2</sup> From Point GBYT AM 1 connected to Point GBYT AM 2 along the U.S.-Canada Maritime Boundary.

<sup>3</sup> The intersection of 40°30' N lat. and the U.S.-Canada Maritime Boundary, approximately 40°30' N lat. and 65°44.34' W long.

\* \* \* \* \*

(c) *Southern New England/Mid-Atlantic accountability measures.* (1) Limited access scallop vessels. (i) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the Southern New

England/Mid-Atlantic yellowtail flounder sub-ACL for the scallop fishery is exceeded, the following area shall be closed to scallop fishing by vessels issued a limited access scallop permit for the period of time specified in paragraph (c)(1)(ii) of this section. The

Southern New England Yellowtail Accountability Measure Closure Area for Limited Access Scallop Vessels is comprised of Northeast Region Statistical Areas #537, #539 and #613, and is defined by the following coordinates, connected in the order

listed by straight lines, unless otherwise noted:

Point	Latitude	Longitude	Note
LA SNEYT AM A .....	(1)	73°00' W	
LA SNEYT AM B .....	40°00' N	73°00' W	
LA SNEYT AM C .....	40°00' N	71°40' W	
LA SNEYT AM D .....	39°50' N	71°40' W	
LA SNEYT AM E .....	39°50' N	70°00' W	
LA SNEYT AM F .....	(2)	70°00' W	(3)
LA SNEYT AM G .....	41°16.76' N	70°13.47' W	(3) (4)
LA SNEYT AM H .....	41°18.01' N	70°15.47' W	(5)
LA SNEYT AM I .....	41°20.26' N	70°18.30' W	(6)
LA SNEYT AM J .....	41°21.09' N	70°27.03' W	(7) (8)
LA SNEYT AM K .....	41°20' N	(9)	(8)
LA SNEYT AM L .....	41°20' N	71°10' W	
LA SNEYT AM M .....	(10)	71°10' W	(11)
LA SNEYT AM N .....	(12)	71°40' W	(11)
LA SNEYT AM O .....	41°00' N	71°40' W	
LA SNEYT AM P .....	41°00' N	(13)	(14)
LA SNEYT AM A .....	(1)	73°00' W	(14)

<sup>1</sup> The south facing mainland coastline of Long Island.

<sup>2</sup> The southern coastline of Nantucket.

<sup>3</sup> From Point F to Point G along the southern coastline of Nantucket.

<sup>4</sup> Point G represents Esther Island, Nantucket, Massachusetts.

<sup>5</sup> Point H represents Tuckernuck Island, Nantucket, Massachusetts.

<sup>6</sup> Point I represents Muskeget Island, Nantucket, Massachusetts.

<sup>7</sup> Point J represents Wasque Point, Chappaquiddick Island, Massachusetts.

<sup>8</sup> From Point J to Point K along the southern coastline of Martha's Vineyard.

<sup>9</sup> The western coastline of Martha's Vineyard.

<sup>10</sup> The southern coastline of Rhode Island.

<sup>11</sup> From Point M to Point N following the mainland coastline of Rhode Island.

<sup>12</sup> The southern coastline of Rhode Island.

<sup>13</sup> Southeast facing coastline of Long Island.

<sup>14</sup> From Point P back to Point A along the southern mainland coastline of Long Island.

\* \* \* \* \*

(2) \* \* \*

(ii) Closure Area 1 is comprised of Northeast Region Statistical Area #537, and is defined by the following

coordinates, connected in the order listed by straight lines, unless otherwise noted:

Point	Latitude	Longitude	Note
LAGC Dredge SNEYT AM1 A .....	41°20' N	(1)	
LAGC Dredge SNEYT AM1 B .....	41°20' N	71°10' W	
LAGC Dredge SNEYT AM1 C .....	41°10' N	71°10' W	
LAGC Dredge SNEYT AM1 D .....	41°10' N	71°20' W	
LAGC Dredge SNEYT AM1 E .....	40°50' N	71°20' W	
LAGC Dredge SNEYT AM1 F .....	40°50' N	71°40' W	
LAGC Dredge SNEYT AM1 G .....	39°50' N	71°40' W	
LAGC Dredge SNEYT AM1 H .....	39°50' N	70°00' W	
LAGC Dredge SNEYT AM1 I .....	(2)	70°00' W	(3)
LAGC Dredge SNEYT AM1 J .....	41°16.76' N	70°13.47' W	(3) (4)
LAGC Dredge SNEYT AM1 K .....	41°18.01' N	70°15.47' W	(5)
LAGC Dredge SNEYT AM1 L .....	41°20.26' N	70°18.30' W	(6)
LAGC Dredge SNEYT AM1 M .....	41°21.09' N	70°27.03' W	(7) (8)
LAGC Dredge SNEYT AM1 A .....	(8)		
LAGC Dredge SNEYT AM1 A .....	41°20' N	(1)	(8)

<sup>1</sup> The western coastline of Martha's Vineyard.

<sup>2</sup> The southern coastline of Nantucket.

<sup>3</sup> From Point I to Point J along the southern coastline of Nantucket.

<sup>4</sup> Point J represents Esther Island, Nantucket, Massachusetts.

<sup>5</sup> Point K represents Tuckernuck Island, Nantucket, Massachusetts.

<sup>6</sup> Point L represents Muskeget Island, Nantucket, Massachusetts.

<sup>7</sup> Point M represents Wasque Point, Chappaquiddick Island, Massachusetts.

<sup>8</sup> From Point M back to Point A along the southern coastline of Martha's Vineyard.

(iii) Closure Area 2 is comprised of Northeast Region Statistical Area #613,

and is defined by the following coordinates, connected in the order

listed by straight lines, unless otherwise noted:

Point	Latitude	Longitude	Note
LAGC Dredge SNEYT AM2 A .....	(1)	73°00' W	
LAGC Dredge SNEYT AM2 B .....	40°00' N	73°00' W	

Point	Latitude	Longitude	Note
LAGC Dredge SNEYT AM2 C .....	40°00' N	71°40' W	
LAGC Dredge SNEYT AM2 D .....	41°00' N	71°40' W	
LAGC Dredge SNEYT AM2 E .....	41°00' N	(2)	(3)
LAGC Dredge SNEYT AM2 A .....	(1)	73°00' W	(3)

<sup>1</sup> The south facing mainland coastline of Long Island.

<sup>2</sup> Southeast facing coastline of Long Island.

<sup>3</sup> From Point E back to Point A along the southern mainland coastline of Long Island.

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

Point	Latitude	Longitude	Note
LAGC Dredge SNEYT AM3 A .....	(1)	71°40' W	
LAGC Dredge SNEYT AM3 B .....	40°50' N	71°40' W	
LAGC Dredge SNEYT AM3 C .....	40°50' N	71°20' W	
LAGC Dredge SNEYT AM3 D .....	41°10' N	71°20' W	
LAGC Dredge SNEYT AM3 E .....	41°10' N	71°10' W	
LAGC Dredge SNEYT AM3 F .....	(1)	71°10' W	(2)
LAGC Dredge SNEYT AM3 A .....	(1)	71°40' W	(2)

<sup>1</sup> The southern coastline of Rhode Island.

<sup>2</sup> From Point F back to Point A following the southern mainland coastline of Rhode Island.

\* \* \* \* \*

#### ■ 13. Section 648.65 is added:

##### **§ 648.65 Windowpane flounder sub-ACL and AM for the scallop fishery.**

(a) As specified in § 648.55(d), and pursuant to the biennial framework adjustment process specified in § 648.90, the scallop fishery shall be allocated a sub-ACL for SNE/MA stock of windowpane flounder. The sub-ACLs for the 2014 fishing year are specified in § 648.90(a)(4)(iii)(E) of the NE multispecies regulations.

(b) *Accountability measure.* (1) Unless otherwise specified in § 648.90(a)(5)(iv) of the NE multispecies regulations, if the SNE/MA windowpane flounder sub-ACL for the scallop fishery is exceeded and an accountability measure is triggered as described in § 648.90(a)(5)(iv), the area west of 71° W. long., shall be considered the SNE/MA windowpane flounder gear restricted area. Scallop vessels participating in the DAS, or LAGC IFQ scallop fishery for the period of time specified in paragraph (b)(2) of this section must comply with the gear restrictions specified in paragraph (b)(3) of this section when fishing in open areas. This accountability measure does not apply to scallop vessels fishing in Sea Scallop Access Areas.

(2) *Duration of gear restricted area.* The SNE/MA windowpane flounder accountability measure gear restricted area shall remain in effect for the period of time based on the corresponding percent overage of the SNE/MA windowpane flounder sub-ACL, as follows:

Percent overage of YTF	Length of closure
20 or less .....	February.
Greater than 20.	February through March.

(3) *Gear restriction.* When subject to the SNE/MA windowpane flounder accountability measure gear restricted area as described in paragraphs (b) and (b)(2) of this section, a vessel must fish with scallop dredge gear that conforms to the following restrictions:

(i) No more than 5 rows of rings shall be used in the apron of the dredge. The apron is on the top side of the dredge, extends the full width of the dredge, and is the rows of dredge rings that extend from the back edge of the twine top (i.e., farthest from the dredge frame) to the clubstick; and

(ii) The maximum hanging ratio for a net, net material, or any other material on the top of a scallop dredge (twine top) possessed or used by vessels fishing with scallop dredge gear does not exceed 1.5:1 overall. An overall hanging ratio of 1.5:1 means that the twine top is attached to the rings in a pattern of alternating 2 meshes per ring and 1 mesh per ring (counted at the bottom where the twine top connects to the apron), for an overall average of 1.5 meshes per ring for the entire width of the twine top. For example, an apron that is 40 rings wide (not including any ring in the side pieces) would only be able to use a twine top with 60 or fewer meshes so that the overall ratio of meshes to rings did not exceed 1.5 (60 meshes/40 rings = 1.5).

(iii) Vessels may not fish for scallops with trawl gear west of 71° W. Long

when the gear restricted area accountability measure is in effect.

(c) *Process for implementing the AM—*(1) If reliable information is available to make a mid-year determination: On or about January 15 of each year, based upon catch and other information available to NMFS, the Regional Administrator shall determine whether the SNE/MA windowpane flounder sub-ACL was exceeded, or is projected to be exceeded, and if an accountability measure was triggered as described in § 648.90(a)(5)(iv), by scallop vessels prior to the end of the scallop fishing year ending on February 28/29. The determination shall include the amount of the overage or projected amount of the overage, specified as a percentage of the overall sub-ACL for the SNE/MA windowpane flounder stock, in accordance with the values specified in paragraph (a) of this section. Based on this initial determination in mid-January, the Regional Administrator shall implement the AM in accordance with the APA and attempt to notify owners of limited access and LAGC scallop vessels by letter identifying the length of the gear restricted area and a summary of the SNE/MA windowpane flounder catch, overage, and projection that resulted in the gear restricted area.

(2) If reliable information is not available to make a mid-year determination: Once NMFS has compiled the necessary information (e.g., when the previous fishing year's observer and catch data are fully available), the Regional Administrator shall determine whether the SNE/MA windowpane flounder sub-ACL was

exceeded and if an accountability measure was triggered as described in § 648.90(a)(5)(iv), by scallop vessels following the end of the scallop fishing year ending on February 28/29. The determination shall include the amount of the overage, specified as a percentage of the overall sub-ACL for the SNE/MA windowpane flounder stock, in

accordance with the values specified in paragraph (a) of this section. Based on this information, the Regional Administrator shall implement the AM in accordance with the APA in Year 3 (e.g., an accountability measure would be implemented in fishing year 2016 for an overage that occurred in fishing year 2014) and attempt to notify owners of

limited access and LAGC scallop vessels by letter identifying the length of the gear restricted area and a summary of the SNE/MA windowpane flounder catch and overage information.

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