

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

[Docket No. 071130780-8013-02]

RIN 0648-AU32

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Amendment 11

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

ACTION: Final rule; postponement of effective date.

SUMMARY: This final rule postpones from June 1, 2008, to July 1, 2008, the effective date of the limited access general category (LAGC) scallop permit requirements, and specified related requirements, that are included in the final rule for Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan (Amendment 11). This final rule is intended to provide the industry with additional time to comply with the new LAGC scallop permit requirements.

DATES: The effective date of the following amendments published on April 14, 2008 (73 FR 70090) is delayed from June 1, 2008 to July 1, 2008: § 648.4(a)(1)(i)(I)(3), (a)(2)(ii), and § 648.9(c)(2)(i)(D); § 648.10(b)(1)(i), (b)(1)(iii), (b)(1)(iv), and (b)(4)(i) through (iv); § 648.14(a)(56), (a)(57), (b)(1), (h)(28), and (i); § 648.52; § 648.54(b); § 648.59(b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and (e)(4)(ii); and § 648.60(a), introductory text, (g)(1) and (2), and (g)(3) introductory text.

ADDRESSES: A final supplemental environmental impact statement (FSEIS) was prepared for Amendment 11 that describes the action and other considered alternatives and provides a thorough analysis of the impacts of the approved measures and alternatives. Copies of Amendment 11 and the FSEIS are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council (Council), 50 Water Street, Newburyport, MA 01950. These documents are also available online at: <http://www.nero.noaa.gov/nero/hotnews/scallamend11/>

Written comments regarding the burden-hour estimate or other aspects of the collection-of-information requirements contained in this final rule should be submitted to the Regional Administrator at 1 Blackburn Drive,

Gloucester, MA, 01930, and by e-mail to David_Rostker@omb.eop.gov, or fax to 202-395-7285.

FOR FURTHER INFORMATION CONTACT: Peter Christopher, Fishery Policy Analyst, phone 978-281-9288, fax 978-281-9135.

SUPPLEMENTARY INFORMATION: The final rule to implement the measures in Amendment 11 was published in the *Federal Register* on April 14, 2008 (73 FR 70090). Among the measures established is a requirement that any vessel that wishes to fish for scallops under general category rules after May 31, 2008, is required to possess an LAGC scallop permit. The final rule provided 45 days for the industry to comply with the requirement. However, given the time it may take NMFS to review, process, and issue a permit once an application is received, this would provide very limited time for applicants to complete the permit application that has been provided to them. Some vessel owners may also need to purchase and install new vessel monitoring systems (VMS) in order to comply with the VMS operation and reporting requirements of the LAGC scallop permits. As a result, NMFS has determined that applicants should be allowed an additional 30 days, through June 30, 2008, to comply with the requirement to be issued an LAGC scallop permit. Because some of the provisions in Amendment 11 are specific to vessels issued LAGC scallop permits, the effective date of these related measures has been postponed to July 1, 2008, as well. These include VMS notification requirements, prohibitions, possession and landing limits, the state waters exemption, Sea Scallop Access Area provisions, and Sea Scallop Access Area program requirements that are applicable to LAGC scallop permits. Without postponing these additional restrictions, there would be no applicable restrictions in effect for vessels that have an open access general category permit after June 1, 2008.

Classification

The Administrator, Northeast Region, NMFS, has determined that delaying the effective date of the specified Amendment 11 provisions is consistent with the analysis, objectives, and determinations of Amendment 11 and the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

This final rule refers to collection-of-information requirements subject to the Paperwork Reduction Act (PRA) and which have been approved by OMB under control number 0648-0491.

Public reporting burden for these collections of information are estimated to average as follows:

1. Initial application for an IFQ scallop permit, OMB#0648-0491-30 min per response;
2. Initial application for an NGOM or Incidental scallop permit, OMB #0648-0491-15 min per response;
3. Completion of ownership cap form for IFQ scallop vessel owners, OMB #0648-0491-5 min per response;
4. Appeal for an LAGC scallop permit and IFQ scallop vessel contribution factor, OMB #0648-0491-2 hr per response;
5. Application for a vessel replacement or confirmation of permit history OMB #0648-0491-3 hr per response;
6. Purchase and installation of a VMS unit for general category scallop vessels, OMB #0648-0491-2 hr per response;
7. IFQ scallop vessel VMS trip notification requirements, OMB #0648-0491-2 min per response;
8. NGOM scallop fishery VMS trip notification requirements, OMB #0648-0491-2 min per response;
9. Incidental catch vessel VMS trip notification requirements, OMB #0648-0491-2 min per response;
10. Pre-landings VMS notification requirements, OMB #0648-0491-5 min per response;
11. Application for an IFQ transfer, OMB #0648-0491 -10 min per response;
12. Electronic payment of cost recovery payment, OMB #0648-0491-2 hr per response;
13. LAGC scallop fishery sector applications, OMB #0648-0491-150 hr per response; and
14. Sector operations plans, OMB #0648-0491-100 hr per response.

These estimates include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information. Send comments regarding these burden estimates, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see **ADDRESSES**) and by e-mail to David_Rostker@omb.eop.gov, or fax to 202-395-7285.

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

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

Pursuant to 5 U.S.C. 533(b)(B), there is good cause to waive prior notice and

opportunity for public comment on this action. Given the imminence of the effective date, seeking prior public comment on this temporary stay would have been impracticable, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. It is unlikely that vessel owners would be able to comply with the requirement to

be issued a permit by June 1, 2008, despite their best efforts. As a result, vessel owners that could not acquire an LAGC scallop permit would be prohibited from fishing for scallops, or would be subject to enforcement action, through no fault of their own.

This final rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without

opportunity for prior notice and opportunity for public comment.

Dated: April 24, 2008.

Samuel D. Rauch III,

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

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