

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

[Docket No. 120330235–2014–01]

RIN 0648–BC04

**Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Closure of the Delmarva Access Area**

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

**ACTION:** Temporary rule; emergency action.

**SUMMARY:** NMFS issues this temporary rule under its authority to implement emergency measures under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). This emergency rule closes the Delmarva Scallop Access Area (Delmarva) to all scallop vessels for the remainder of the 2012 scallop fishing year and reallocates unused 2012 limited access full-time vessel (FT) scallop Delmarva trips to the Closed Area I Access Area (CAI). Closing Delmarva will prevent high levels of fishing effort in this area, which could have reduced long-term scallop biomass and yield from Delmarva, and could have compromised the overall success of the scallop area rotational management program. This emergency action reallocates 2012 Delmarva trips to CAI to ensure equity in trip allocations and to minimize economic impacts of closing the Delmarva. The New England Fishery Management Council (Council) recommended that NMFS take this action quickly in order to minimize any fishing effort in the Delmarva, and ensure the industry is aware of any allocation adjustments as soon as possible before CAI opens on June 15, 2012.

**DATES:** Effective June 13, 2012, through November 10, 2012. Comments must be received by June 13, 2012.

**ADDRESSES:** The Environmental Assessment (EA) is available by request from: Daniel S. Morris, Acting Regional Administrator, National Marine Fisheries Service, Northeast Region, 55 Great Republic Drive, Gloucester, MA 01930–2276, or via the Internet at <http://www.nero.noaa.gov>.

You may submit comments on this document, identified by NOAA–NMFS–2012–0071, by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal [www.regulations.gov](http://www.regulations.gov). To submit comments via the e-Rulemaking Portal, first click the “submit a comment” icon, then enter NOAA–NMFS–2012–0071 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the “Submit a Comment” icon on the right of that line.

- *Mail:* Submit written comments to Daniel S. Morris, Acting Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on Emergency Rule to Close the Delmarva Access Area.”

- *Fax:* (978) 281–9135; Attn: Emily Gilbert.

*Instructions:* Comments must be submitted by one of the above methods to ensure that the comments are received, documented, and considered by NMFS. 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. 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.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. 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 or Excel, WordPerfect, or Adobe PDF file formats only.

**FOR FURTHER INFORMATION CONTACT:** Emily Gilbert, Fishery Policy Analyst, 978–281–9244; fax 978–281–9135.

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

The management unit of the Atlantic sea scallop fishery ranges from the shorelines of Maine through North Carolina to the outer boundary of the Exclusive Economic Zone. The Atlantic Sea Scallop Fishery Management Plan (Scallop FMP) was first established in 1982 and now includes a number of amendments and framework adjustments that have revised and refined the fishery’s management. One of the foundations of the Scallop FMP’s success is the rotational area management program. Area-based management was developed in 1998 in

the scallop fishery and expanded through 2004. The rotational area management program was formally established in 2004 in the Scallop FMP. Under rotational management, areas that contain large concentrations of small scallops are closed before the scallops are harvested or disturbed, then the areas re-open when scallops are larger, producing more yield-per-recruit. These areas are known as scallop “access areas.”

There are currently five scallop access areas: Closed Area I (CAI), Closed Area II, Nantucket Lightship, Delmarva, and Hudson Canyon. When an area is re-opened, scallop vessels are allocated a certain number of trips into the area, based on their permit type. The limited access fleet, the larger “trip boat” fleet, consists of full-time (FT), part-time, and occasional vessels. Each vessel is allocated a certain number of trips, with FT vessels receiving area-specific trips and the other two types of limited access vessels receiving a fewer number of trips that are not specific to a certain access area. The smaller “day boat” fleet, known as the limited access general category individual fishing quota (IFQ) fleet, receive a fleet-wide allocation into most access areas. Once the fleet-wide trip allocation in a given access area is harvested, the area closes to IFQ vessels and the vessels can continue to fish their IFQ in other access areas or locations within the scallop management unit.

In order to manage the access areas’ schedules, and to identify new potential access areas, the Council develops biennial framework adjustments, which also set the overall scallop allocations and expected fishing effort for upcoming fishing years (FYs). The specifications contained in these framework adjustments use the most recent scallop survey information available at the time of development to project scallop biomass levels in various access areas for future years (e.g., estimates from 2010 surveys are used to determine the specifications for FYs 2011 and 2012). As a result, projections of scallop biomass for the second year of a framework are often outdated for some areas: Updated surveys may show more or less harvestable scallop biomass in a given area than originally anticipated.

The scallop FY begins on March 1 of each year and the FY 2012 scallop specifications are the second-year specifications developed by the Council through Framework Adjustment 22 to the Scallop FMP (Framework 22) (76 FR 43774, July 21, 2011). Framework 22 set the access area schedules for FYs 2011 and 2012 based on 2010 survey results.

In an attempt to account for unexpected changes in biomass levels, as well as optimize yield, Framework 22 included a new way to allocate access area trip for FT vessels: Although all FT vessels received a total of 4 access area trips in FY 2011 and in FY 2012, not all trips were allocated to the same access areas. Instead, Framework 22 included “split trip” allocations for FT vessels, where half the fleet is allocated a trip in one access area and half the fleet is allocated a trip in another access area. This split trip allocation scheme was successful in FY 2011. However, as explained in greater detail below, results from recent 2011 surveys show that the “split trip” access area allocations based on these older surveys should be adjusted for FY 2012 for the Delmarva and CAI access areas.

#### *New Information Regarding Current Scallop Biomass Levels in Delmarva*

At the Council’s Scallop Plan Development Team (PDT) meeting on January 5, 2012, staff from the Northeast Fisheries Science Center, the Virginia Institute of Marine Science (VIMS), and the University of Massachusetts School for Marine and Atmospheric Science presented results from their 2011 Delmarva scallop resource surveys. All three surveys, which represent the best available scientific information regarding the status of the scallop resource, indicated that the scallop biomass in Delmarva is substantially lower than expected for FY 2012.

The Delmarva estimates ranged from 5.1 M lb (2,313 mt) to 13.0 M lb (5,897 mt), depending on the type of survey used (i.e., dredge or video) and when the survey was conducted. For example, the VIMS dredge survey that estimated biomass of 5.1 M lb (2,313 mt) was the last survey of the area; it was conducted in October 2011, when nearly all vessels had fully fished their Delmarva trips, and also when scallop meat weights are at their lowest. For comparison, based on the 2010 survey estimates, Framework 22 allocated the FT vessel fleet 5.6 M lb (2,540 mt) and 2.8 M lb (1,270 mt) of scallops from this area in FYs 2011 and 2012, respectively. In 2011, all 313 FT vessels with permits in the Atlantic sea scallop fishery were each allocated one trip (18,000 lb/trip; 8,165 kg/trip) into Delmarva; in FY 2012, only 156 FT vessels were allocated one trip each into Delmarva. The recent survey information is supported by what was observed during FY 2011 fishing activity in Delmarva, where catch rates were much lower in the area than anticipated, and much lower than catch rates in other areas. Catch rates in Delmarva declined from

about 2,000 lb (907 kg) per day in the start of FY 2011 to less than 1,000 lb (454 kg) per day later in the FY. The new survey results indicate that the scallop biomass in Delmarva is not high enough to support the FY 2012 allocations set through Framework 22.

#### *New Information Regarding Current Scallop Recruitment Levels in Delmarva*

In addition to identifying lower-than-expected scallop biomass in Delmarva, the 2011 results also indicated that this access area is one of the few areas in the Mid-Atlantic where there is relatively strong recruitment, meaning an abundance of small scallops (1.57 to 2.95 in (40 to 75 mm)) that have reached maturity (i.e., are able to reproduce). These small scallops will benefit from additional protection through closure of the area—a closure will allow them to grow larger (to the 3.5-in (89-mm) minimum size for harvest) and produce more scallops before they are harvested. Recruitment helps define the health of the resource in terms of reproduction and growth, and helps predict future abundance levels of harvestable scallops. Recruitment levels also help shape the area rotation program for future years.

#### *New Information Regarding Current Scallop Biomass Levels in CAI*

The 2011 surveys estimated scallop biomass in CAI between 28–40 M lb (12,700–18,144 mt), depending on the survey results used and what time of year the surveys took place. These levels are higher than Framework 22’s 2011 projections based on the 2010 survey results, which estimated CAI biomass to be closer to 26 M lb (11,793 mt) in 2011, and indicate that more fishing effort could be allocated to CAI in FY 2012. In FY 2011, the scallop fishery harvested about 8.8 M lb (3,992 mt) of scallops from this area and Framework 22 allocated 157 FT vessels one trip each (18,000 lb/trip; 8,165 kg/trip) into CAI for FY 2012.

Based on the most recent information on the status of the scallop resource described above, NMFS takes this emergency action to close Delmarva for the remainder of FY 2012, and reallocates any unused FT trips from Delmarva to CAI in FY 2012. By closing Delmarva, this action will prevent localized overfishing of the scallop resource, protect scallop recruitment, and improve future scallop yield in the Mid Atlantic. By reallocating FT vessel trips into a more productive scallop access area, this action ensures equity across the scallop fleet for FY 2012 and supports overall scallop harvest levels that are consistent with Framework 22.

*Continued fishing in Delmarva during FY 2012 would result in longer fishing trips that damage scallop resources and increase the risk of overharvesting the available resource.*

Based on FY 2011 catch rates, if Delmarva did not close in FY 2012, catch rates could continue to be around 1,000 lb (454 kg) per day, compared to about 2,200 lb (998 kg) per day or higher in CAI, which would result in longer fishing trips that damage scallop resources and increase the risk of overharvesting the available resource. Although some vessels received Delmarva allocations at the start of FY 2012, which began March 1, 2012, very few limited access vessels have fished their FY 2012 trips in the area to date due to the poor conditions. However, if Delmarva remained open for the remainder of FY 2012, FT vessels with Delmarva “split trip” allocations would eventually take their trips or risk losing a full access area trip. As previously mentioned, unlike other scallop vessels that have non-specific allocations that can be fished in Delmarva or elsewhere, FT limited access vessels must fish their trips in specific areas, or trade their trips with other FT vessels to fish in other areas. If this area remained open with these low catch rates, the 156 FT vessels with Delmarva allocations would not likely be able to trade their Delmarva trips for other more productive areas. Without any other alternatives, these vessel operators would have continued to fish in Delmarva until they reached the 18,000-lb (8,165 kg) limit, which would have required much longer trips to catch their full possession limit. This would have increased the amount of time and area that the scallop fishing gear is in contact with the sea floor (i.e., increased area swept), which in turn would have resulted in negative impacts on the scallop resource due to increased fishing pressure.

In addition, if Delmarva remained open in FY 2012, vessel operators would have taken longer fishing trips due to lower scallop biomass levels, which would negatively impact scallop recruitment in the short and medium term, and could reduce the long-term biomass and yield from Delmarva and the Mid-Atlantic overall. Vessel operators would have continued to fish in Delmarva until they reached the 18,000-lb (8,165 kg) limit, which will which negatively impact scallop recruitment due to the potential harvest and disturbance of the small-sized and less mature scallops. The success of the entire scallop access area rotational management program depends on timely openings and closing of access

areas in order to protect scallop recruitment and optimize yield. This is particularly true in the Mid-Atlantic, where recruitment has been well below average for several years. By closing Delmarva for the remainder of FY 2012, this action avoids the potential for localized overfishing of the area and promotes future yield from the area by protecting the small scallops located in the area.

*Reallocating unused FY 2012 Delmarva trips to CAI would ensure equity across the scallop fleet, while not compromising the scallop resource.*

The reallocation to CAI of unused FT vessel trips from Delmarva is not expected to result in excessive fishing in CAI for FY 2012, based on the most recent survey results. By reallocating to CAI any unused FT vessel trips (up to 156) currently assigned to Delmarva, this action increases the total number of CAI trips from 157 to up to 313. The increase in CAI trips results in an FY 2012 CAI allocation of 5.6 M lb (2,540 mt) of scallops, an area with an estimated scallop biomass of between 28–40 M lb (12,700–18,144 mt). This increase doubles the amount of fishing effort that was initially allocated to CAI at the start of FY 2012, but the recent surveys show that the scallop biomass in this area can support this level of fishing.

The FT Delmarva trips that will be converted to CAI once this action is effective include any undeclared FY 2012 trips and all FY 2012 Delmarva compensation trips. If a vessel began an FY 2012 Delmarva scallop trip, ended the trip prior to landing its full possession limit, and has received a subsequent FY 2012 Delmarva compensation trip in order to harvest the remainder of the possession limit, that compensation trip will also be converted to CAI upon the effective date of this action. Any vessel that has gained a Delmarva trip through a trip exchange will also have that trip converted to a CAI trip. In addition, this action reallocates the unused Delmarva FY 2012 observer set-aside (up to 36,000 lb; 16.3 mt) to CAI to account for the increase in FT trips.

NMFS's policy guidelines for the use of emergency rules (62 FR 44421; August 21, 1997) specify the following three criteria that define what an emergency situation is, and justification for final rulemaking: (1) The emergency results from recent, unforeseen events or recently discovered circumstances; (2) the emergency presents serious conservation or management problems in the fishery; and (3) the emergency can be addressed through emergency regulations for which the immediate

benefits outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process. NMFS's policy guidelines further provide that emergency action is justified for certain situations where emergency action would prevent significant direct economic loss, or to preserve a significant economic opportunity that otherwise might be foregone. NMFS has determined that the issue of closing Delmarva meets the three criteria for emergency action for the reasons outlined below.

The emergency results from recent, unforeseen events or recently discovered circumstance. Although the last survey in Delmarva was completed in October 2011, the results of the three 2011 Delmarva scallop resource surveys were not available until the January 5, 2012, Scallop PDT meeting. There is now evidence that there is significantly less biomass in Delmarva than projected through Framework 22. In addition, the surveys show that small scallops, or recruitment, are present within Delmarva and that there is not substantial recruitment elsewhere in the Mid-Atlantic.

The emergency also presents serious conservation and management problems in the fishery. Allowing fishing effort in Delmarva in FY 2012 with the current low biomass levels could result in negative impacts on recruitment and could reduce the long-term biomass and economic yield from this area. Since there has been well below average recruitment in the Mid-Atlantic for several years, protecting scallop recruitment in this area is essential for the future success of area rotation to maximize yield and economic benefits to the scallop fishery.

Additionally, catch rates are much lower for Delmarva than Framework 22 originally projected, and lower than other access areas that are currently open to vessels for FY 2012. When catch rates fall, vessels must fish longer to get the same total catch, increasing area swept, or time that fishing gear is in the water. Increased area swept has greater impacts on bycatch, habitat, and protected resources, as well as increased costs for fishing vessels due to longer trips.

The increase in fishing costs would also have negative impacts on the producer surplus and net economic benefits from the fishery. Assuming catch rates in FY 2012 are similar on average to catch rates in FY 2011, CAI trips would cost about \$16,500 per FT vessel, about half as much as trip costs

estimated for that vessel to take a Delmarva trip. Total fleet net revenue for those 156 vessels, assuming no used trips, which would each be reallocated a CAI trip instead of a Delmarva trip is estimated to be \$25.5 million, \$2.6 million more than if Delmarva had remained open and those vessels were required to fish their trips in that area.

These potentially serious conservation and management consequences of high fishing effort in Delmarva in FY 2012 justify the emergency closure of this area.

NMFS also finds that this emergency can be addressed through emergency regulations for which the immediate benefits to both the scallop resource and those who depend on it outweigh the value of advance notice, public comment, and deliberative consideration of the impacts on participants to the same extent as would be expected under the normal rulemaking process. Although the Council has the authority to develop a management action to modify the scallop access area trip allocations, an emergency action can be developed and implemented by NMFS more swiftly than a Council action that is subject to procedural and other requirements not applicable to the Secretary. If the normal regulatory process is used to revise the trip allocations (e.g., considering "pay back" measures for vessels with unused FY 2012 Delmarva trips during the development of Framework 24, which would set the specifications for FYs 2013–2014) it would take substantially longer for the revised trip allocations to be implemented, could result in unintended impacts to future FY annual catch limits (ACLs), and could result in triggering economically harmful management actions that otherwise may have been avoided. By implementing these measures through emergency action, it is possible to maintain overall catch allocations for scallops for the remainder of FY 2012 and avoid unnecessary adverse biological and economic impacts.

This emergency action closes Delmarva in FY 2012 for 150 days (after a 30-day delay in effectiveness), and NMFS anticipates extending this action for an additional 186 days, which would carry these measures into May 2013. This emergency action is expected to be replaced by Framework Adjustment 24 to the Scallop FMP (Framework 24), which sets the specifications for FYs 2013 and 2014. The Council is currently developing Framework 24 management measures but it is likely Delmarva would continue to be closed for FY 2013. NMFS expects that Framework 24

measures will be implemented in May 2013, if approved, which would coincide with the expiration of this emergency action.

**Classification**

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary to respond to an emergency situation and is consistent with the national standards and other provisions of the Magnuson-Stevens Act and other applicable laws. The rule may be extended for a period of not more than 186 days as described under section 305(c)(3)(B) of the Magnuson-Stevens Act.

The Assistant Administrator for Fisheries, NOAA, finds good cause under section 553(b)(B) of the Administrative Procedure Act (APA) that it is contrary to the public interest and impracticable to provide for prior notice and opportunity for the public to comment. As more fully explained above, the reasons justifying promulgation of this rule on an emergency basis make solicitation of public comment contrary to the public interest.

This action provides benefits to both the scallop resource and the scallop fishery by not jeopardizing the success of the access area program in future years, not compromising future scallop biomass levels and subsequent scallop harvest, and ensuring that some members of the limited access scallop fleet will not be inequitably subjected to fewer economic benefits than others. Specifically, by closing the Delmarva for the remainder of FY 2012, this action avoids jeopardizing the success of the access area program in future years by protecting scallop recruitment in the Mid-Atlantic and avoiding localized overfishing. In addition, by reallocating unused FT Delmarva trips (up to 156 trips) into CAI in FY 2012, this action avoids potential inequity in FY 2012 allocations and ensures that the limited access scallop fleet would not risk exceeding its sub-ACL in FY 2013, if vessels allocated Delmarva trips were compensated in FY 2013, rather than FY 2012. This also avoids the potential for the limited access fleet to be subjected to potential days-at-sea deductions in FY 2014 to account for any overage of their FY 2013 ACL. In addition, this action minimizes the likelihood of sea turtle interactions in the Mid-Atlantic, which are known to begin in June, due to longer Delmarva fishing trips. This action did not allow for prior public comment because the review process and determination could not have been completed before Delmarva opened on March 1, 2012, due to the inherent time

constraints associated with the Council's rulemaking process to adjust FY 2012 allocations already specified through Framework 22. The results of the three 2011 Delmarva scallop resource surveys were not available until the January 5, 2012, Scallop PDT meeting, and thus there was not enough time for NMFS to complete a rulemaking through the Council's process under the Magnuson-Stevens Act before the Delmarva area opened to fishing on March 1, 2012. This action is undertaken at the request of the Council and is supported by the Fisheries Survival Fund, an organization that represents a large portion of the scallop industry, and that is an active participant in the development of scallop fishery management measures. The Council urged that NMFS implement this action quickly in order to minimize any fishing effort in the Delmarva, and ensure the industry is aware of any allocation adjustments before CAI opens on June 15, 2012. Had this action been further delayed past the start of FY 2012 to account for public comment, it is possible that FT vessels, uncertain whether or not they would receive CAI trips instead of their Delmarva trips, would have fished in the Delmarva when the meat weights would be highest (i.e., during the first few months of the fishing year), which would have negative implications on the recruitment in the area.

In the interest of receiving public input on this action, the EA analyzing this action will be made available to the public and this temporary final rule solicits public comment.

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

This rule is exempt from the procedures of the Regulatory Flexibility Act to prepare a regulatory flexibility analysis because the rule is issued without opportunity for prior public comment.

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

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: May 9, 2012.

**Samuel D. Rauch III,**

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

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

**PART 648—FISHERIES OF THE 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 § 648.58, paragraph (f) is added to read as follows:

**§ 648.58 Rotational Closed Areas.**

(f) *Delmarva Closed Area.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Delmarva Closed Area. No vessel may possess scallops in the Delmarva Closed Area, unless such vessel is only transiting the area as provided in paragraph (c) of this section. The Delmarva 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
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

■ 3. In § 648.59, paragraphs (a) and (b)(5)(i) are suspended, and paragraph (b)(5)(iii) is added to read as follows:

**§ 648.59 Sea Scallop Access Areas.**

\* \* \* \* \*

(b) \* \* \*

(5) \* \* \*

(iii) *Limited access vessels.* Based on its permit category, a vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Closed Area I Access Area, unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains a Closed Area I Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Closed Area I Access Area trip that was terminated early, as specified in § 648.60(c).

\* \* \* \* \*

■ 4. In § 648.60:

■ a. Paragraphs (a)(3)(i)(B)(2), (a)(3)(i)(C)(2), (a)(3)(i)(D)(2), (d)(1)(ii), (d)(1)(iv), and (e)(1)(ii) are suspended; and

■ b. Paragraphs (a)(3)(i)(B)(5), (a)(3)(i)(C)(5), (a)(3)(i)(D)(4), (d)(1)(vi), and (e)(1)(iv) are added to read as follows:

**§ 648.60 Sea scallop access area program requirements.**

(a) \* \* \*

(3) \* \* \*

(i) \* \* \*

(B) \* \* \*

(5) In fishing year 2012, each full-time vessel shall have a total of four access

area trips and is subject to the following seasonal trip restrictions specified in paragraph (a)(3)(i)(B)(4) of this section. All full-time vessels shall receive one trip into the Closed Area II Access Area and one trip into the Hudson Canyon Access Area. Each vessel shall also receive an additional two access area trips that must be allocated in one of the following combinations: Two trips in the Closed Area I Access Area; one trip in the Closed Area I Access Area and one trip in the Nantucket Lightship Access Area; one trip in the Closed Area I Access Area and one additional trip in the Hudson Canyon Access Area; or one trip in the Nantucket Lightship Access Area and an additional trip in the Hudson Canyon Access Area. These allocations shall be determined by the Regional Administrator through a random assignment and shall be made publically available prior to the start of the 2012 fishing year. A full description of the random assignment process for FY 2012 is outlined in Section 2.4.2 of Framework 22 to the Scallop Fishery Management Plan.

(i) If a full-time vessel was allocated, declared, and fully harvested a 2012 fishing year Delmarva Access Area trip, as originally allocated under Framework

Adjustment 22 management measures, prior to the Delmarva Access Area closure implemented under emergency action authority, it will not receive a 2012 fishing year Closed Area I Access Area trip once the Delmarva Access Area closes under emergency action. If the vessel terminated a 2012 fishing year Delmarva Access Area trip early and received a Delmarva Access Area compensation trip fish the remainder of its allowed possession limit, as specified in § 648.60(c), the compensation trip will reallocated to Closed Area I Access Area trip once the Delmarva Access Area closes under emergency action.

(ii) [Reserved]

(C) \* \* \*

(5) For the 2012 fishing year, a part-time scallop vessel is allocated two trips that may be distributed between access areas as follows: Two trips in the Hudson Canyon Access Area; two trips in the Closed Area I Access Area; one trip in the Closed Area I Access Area and one trip in the Nantucket Lightship Access Area; one trip in the Closed Area I Access Area and one trip in the Hudson Canyon Access Area; or one trip in the Nantucket Lightship Access Area and one trip in the Hudson Canyon

Access Area. Part-time vessels are subject to the seasonal trip restrictions specified in paragraph (a)(3)(i)(C)(4) of this section.

(D) \* \* \*

(4) For the 2012 fishing year, an occasional scallop vessel may take one trip in the Hudson Canyon Access Area, or one trip in the Closed Area I Access Area, or one trip in the Closed Area II Access Area, or one trip in the Nantucket Lightship Access Area.

\* \* \* \* \*

(d) \* \* \*

(1) \* \* \*

(vi) *Closed Area I Access Area*. For the 2011 and 2012 fishing years, the observer set-asides for the Closed Area I Access Area are 111,540 lb (51 mt) and 72,000 lb (33 mt), respectively.

\* \* \* \* \*

(e) \* \* \*

(1) \* \* \*

(iv) *2012: Hudson Canyon Access Area, Closed Area I Access Area, Closed Area II Access Area, and Nantucket Lightship Access Area*.

\* \* \* \* \*

[FR Doc. 2012-11670 Filed 5-11-12; 8:45 am]

**BILLING CODE 3510-22-P**