

This memorandum supplements, where necessary, prior designations guidance documents on area designations for the 2010 primary SO<sub>2</sub> NAAQS issued on March 24, 2011, March 20, 2015, and July 22, 2016. The September 2019 memorandum identifies evaluation factors in determining whether areas are in violation of the 2010 SO<sub>2</sub> NAAQS and factors that EPA intends to assess in determining the boundaries for such areas. These factors include:

- (1) Air quality characterization via ambient monitoring or dispersion modeling results;
- (2) emissions-related data;
- (3) meteorology;
- (4) geography and topography; and
- (5) jurisdictional boundaries.

Available modeling indicates that portions of Westmoreland and Cambria counties are violating the 2010 1-hour SO<sub>2</sub> NAAQS. EPA's detailed evaluation of the modeled violations, contributing sources, and intended area boundaries based on the weight of evidence of the previously identified factors are included in the TSD, which is located in the docket for this action. EPA's intended boundaries of the relevant area encompass Lower Yoder Township in Cambria County, Pennsylvania and St. Clair Township, Seward Borough, and New Florence Borough in Westmoreland County, Pennsylvania. A map showing the boundaries of our intended nonattainment area for Westmoreland and Cambria counties is included in the TSD.

With respect to area boundaries, EPA's modeling shows that the sources of this nonattainment are SO<sub>2</sub> emissions from the Conemaugh and Seward plants, which are located in the existing Indiana, Pennsylvania nonattainment area. The attainment plan for the Indiana Area was partially disapproved and partially approved. This initiated a sanctions clock under CAA section 179, providing for emission offset sanctions for new sources unless Pennsylvania submits, and EPA fully approves, a revised attainment SIP for the Indiana Area within 18 months after the Agency's final partial disapproval, and providing for highway funding sanctions if EPA has not fully approved a revised plan within six months thereafter. Due to this unique situation and the already determined attainment planning schedule for the Indiana Area, EPA has decided not to add the proposed Westmoreland and Cambria nonattainment area into the existing

Indiana Area. EPA maintains that under the circumstances presented here, a new nonattainment area that does not include the contributing sources is not an impediment to the Commonwealth's ability to impose new emission limits on the sources contributing to the air quality violations in the nonattainment area. In any future attainment plan submitted for this new area, Pennsylvania will need to demonstrate that any future emissions or new emission limits for Seward and Conemaugh are sufficient to provide for NAAQS attainment in both areas as a result of this redesignation. A discussion of the intended boundaries for the Westmoreland and Cambria nonattainment area is located in the TSD associated with this redesignation document. The TSD can be found at [www.regulations.gov](http://www.regulations.gov) in Docket ID No. EPA-R03-OAR-2023-0419. Based on this information, EPA notified the Governor of Pennsylvania, in a letter dated February 17, 2023, of EPA's intention to redesignate portions of Westmoreland and Cambria counties to nonattainment. On June 22, 2023, Acting Secretary for the PA DEP, Richard Negrin, responded to EPA's letter but did not specify whether it agreed or disagreed with EPA's determination to redesignate portions of Westmoreland and Cambria counties as nonattainment for the 2010 SO<sub>2</sub> NAAQS. Instead, Pennsylvania's response included several comments questioning certain aspects of the TSD that EPA had developed and submitted to PA DEP with the February 17, 2023 redesignation letter. EPA has responded to the Commonwealth's comments in a RTC document which is in the docket for this action.<sup>14</sup>

Through this action, EPA is providing notice of our intent to redesignate portions of Westmoreland and Cambria counties to nonattainment for the 2010 SO<sub>2</sub> NAAQS. The Agency is voluntarily taking public comment on the intended redesignation, TSD, and our response to PA DEP's June 27, 2023 comments. Public comment information is located in section I of this document. Per CAA section 107(d)(3)(C), EPA intends to promulgate a redesignation, if any, after considering any further information obtained during the comment period.

**Adam Ortiz,**

*Regional Administrator, Region III.*

[FR Doc. 2024-02834 Filed 2-9-24; 8:45 am]

**BILLING CODE 6560-50-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 240129-0026]

RIN 0648-BM78

#### Fisheries of the Northeastern United States; Framework Adjustment 38 to the Atlantic Sea Scallop Fishery Management Plan

**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 Framework Adjustment 38 to the Atlantic Sea Scallop Fishery Management Plan (FMP) that establishes scallop specifications and other management measures for fishing years 2024 and 2025. Framework 38 would implement measures to protect small scallops to support rotational access area trips to the fleet in future years. This action would also revise regulatory text that is unnecessary, outdated, or unclear. This action is necessary to prevent overfishing and improve both yield-per-recruit and the overall management of the Atlantic sea scallop resource.

**DATES:** Comments must be received by February 27, 2024.

**ADDRESSES:** The New England Fishery Management Council (Council) has prepared a draft environmental assessment (EA) for this action that describes the proposed measures in Framework 38 and other considered alternatives and analyzes the impacts of the proposed measures and alternatives. The Council submitted a draft of Framework 38 to NMFS that includes the draft EA, a description of the Council's preferred alternatives, the Council's rationale for selecting each alternative, and an Initial Regulatory Flexibility Analysis (IRFA). Copies of the draft of Framework 38, the draft EA, the IRFA, and information on the economic impacts of this proposed rulemaking are available upon request from Dr. Cate O'Keefe, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: <https://www.nefmc.org/library/scallop-framework-38>.

You may submit comments on this document, identified by NOAA-NMFS-

<sup>14</sup> Tsigotis, dated September 5, 2019, available at [www.epa.gov/sites/default/files/2019-09/documents/round\\_4\\_so2\\_designations\\_memo\\_09-05-2019\\_final.pdf](http://www.epa.gov/sites/default/files/2019-09/documents/round_4_so2_designations_memo_09-05-2019_final.pdf).

<sup>14</sup> A copy of PA DEP's comments on EPA's initial redesignation TSD and also EPA's RTC replying to these comments, can be found in Docket No. EPA-R03-OAR-2023-0419 via [www.regulations.gov](http://www.regulations.gov).

2024–0004, by either of the following methods:

**Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <https://www.regulations.gov> and enter NOAA–NMFS–2024–0004 in the Search box (*note:* copying and pasting the FDMS Docket Number directly from this document may not yield search results). Click on the “Comment” icon, complete the required fields, and enter or attach your comments.

**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 <https://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).

**FOR FURTHER INFORMATION CONTACT:** Travis Ford, Fishery Policy Analyst, 978–281–9233, email: [travis.ford@noaa.gov](mailto:travis.ford@noaa.gov).

**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 Atlantic Sea Scallop FMP, 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 catch limits and other management measures through specification or framework adjustments that occur annually or biennially. The Council adopted Framework Adjustment 38 to the Atlantic Sea Scallop FMP on December 6, 2023. The Council submitted a draft

of the framework, including a draft EA, for NMFS review and approval on December 22, 2023. This action proposes to approve and implement Framework 38, which establishes scallop specifications and other measures for fishing years 2024 and 2025, including changes to the catch, effort, and quota allocations and adjustments to the rotational area management program for fishing year 2024, and default specifications for fishing year 2025, as recommended by the Council.

NMFS proposes to implement these Framework 38 measures as close as possible to the April 1 start of fishing year 2024. If NMFS implements these measures after the start of the fishing year, the default allocation measures currently established for fishing year 2024 will go into place on April 1, 2024. The Council reviewed the proposed regulations in this rule as drafted by NMFS and deemed them to be necessary and appropriate, as specified in section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

*Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACL), Annual Catch Targets (ACT), Annual Projected Landings (APL) and Set-Asides for the 2024 Fishing Year, and Default Specifications for Fishing Year 2025*

The Council set the proposed OFL based on a fishing mortality rate (F) of 0.61, equivalent to the F threshold updated through the Northeast Fisheries Science Center’s most recent scallop benchmark stock assessment that was completed in September 2020. The proposed ABC and the equivalent total ACL for each fishing year are based on an F of 0.45, which is the F associated with a 25-percent probability of exceeding the OFL. The Council’s Scientific and Statistical Committee (SSC) recommended scallop fishery ABCs of 47.4 million pounds (lb; 21,497 metric tons (mt)) for 2024 and 49.8

million lb (22,586 mt) for the 2025 fishing year, after accounting for discards and incidental mortality. The SSC will reevaluate and potentially adjust the ABC for 2025 when the Council develops the next framework adjustment.

Table 1 outlines the proposed scallop fishery catch limits. After deducting the incidental target total allowable catch (TAC), the research set-aside (RSA), and the observer set-aside, the remaining ACL available to the fishery is allocated according to the following fleet proportions established in Amendment 11 to the Atlantic Sea Scallop FMP (72 FR 20090; April 14, 2008): 94.5 percent is allocated to the limited access scallop fleet (*i.e.*, the larger “trip boat” fleet); 5 percent is allocated to the limited access general category (LAGC) individual fishing quota (IFQ) fleet (*i.e.*, the smaller “day boat” fleet); and the remaining 0.5 percent is allocated to limited access scallop vessels that also have LAGC IFQ permits. Amendment 15 (76 FR 43746; July 21, 2011) specified that buffers to account for management uncertainty are not necessary in setting the LAGC ACLs (*i.e.*, the LAGC ACL is equal to the LAGC ACT). For the limited access fleet, the management uncertainty buffer is based on the F associated with a 75-percent probability of remaining below the F associated with ABC/ACL, which, using the updated Fs applied to the ABC/ACL, now results in an F of 0.39. Amendment 21 (87 FR 1688, January 12, 2023) modified the ACL flowchart to account for the scallop biomass in the Northern Gulf of Maine (NGOM) as part of the legal limits in the fishery by adding biomass from the area into calculations of the OFL and ABC. That action moved the accounting of the NGOM ACL from only within the OFL into the OFL and ABC/ACL for the entire fishery. In addition, Amendment 21 created the NGOM Set-Aside to support a directed LAGC fishery (including NGOM and LAGC IFQ permitted vessels) in the NGOM Management Area.

TABLE 1—SCALLOP CATCH LIMITS (mt) FOR FISHING YEARS 2024 AND 2025 FOR THE LIMITED ACCESS AND LAGC IFQ FLEETS

| Catch limits                     | 2024 (mt) | 2025 (mt) <sup>1</sup> |
|----------------------------------|-----------|------------------------|
| OFL .....                        | 33,406    | 35,241                 |
| ABC/ACL (discards removed) ..... | 21,497    | 22,586                 |
| Incidental Landings .....        | 23        | 23                     |
| RSA .....                        | 578       | 578                    |
| Observer Set-Aside .....         | 215       | 226                    |
| NGOM Set-Aside .....             | 191       | 143                    |
| ACL for fishery .....            | 20,490    | 21,616                 |
| Limited Access ACL .....         | 19,363    | 20,427                 |
| LAGC Total ACL .....             | 1,127     | 1,189                  |

TABLE 1—SCALLOP CATCH LIMITS (mt) FOR FISHING YEARS 2024 AND 2025 FOR THE LIMITED ACCESS AND LAGC IFQ FLEETS—Continued

| Catch limits   | 2024 (mt) | 2025 (mt) <sup>1</sup> |
|--|-----------|------------------------|
| LAGC IFQ ACL (5 percent of ACL)  | 1,024     | 1,081                  |
| Limited Access with LAGC IFQ ACL (0.5 percent of ACL)                            | 103       | 109                    |
| Limited Access ACT   | 16,781    | 17,703                 |
| APL (after set-asides removed)   | 11,609    | (1)                    |
| Limited Access APL (94.5 percent of APL)   | 10,971    | (1)                    |
| Total IFQ Annual Allocation (5.5 percent of APL) <sup>2</sup>                    | 638       | 479                    |
| LAGC IFQ Annual Allocation (5 percent of APL) <sup>2</sup>                       | 580       | 435                    |
| Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) <sup>2</sup> | 58        | 44                     |

<sup>1</sup> The catch limits for the 2025 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2025 that will be based on the 2024 annual scallop surveys.

<sup>2</sup> As a precautionary measure, the 2025 IFQ and annual allocations are set at 75 percent of the 2024 IFQ Annual Allocations.

This action would deduct 1.275 million lb (578 mt) of scallops annually for 2024 and 2025 from the ABC for use as the Scallop RSA to fund scallop research. Vessels participating in the Scallop RSA are compensated through the sale of scallops harvested under RSA projects. Of the 1.275 million-lb (578-mt) allocation, NMFS has already allocated 125,941 lb (57,126 kg) to previously funded multi-year projects as part of the 2023 RSA awards process. NMFS is reviewing proposals submitted for consideration of 2024 RSA awards and will be selecting projects for funding in the near future.

This action would also deduct one percent of the ABC for the industry-funded observer program to help defray the cost to scallop vessels that carry an observer. The observer set-aside is 473,994 lb (215 mt) for 2024 and 498,245 lb (226 mt) for 2025. The Council may adjust the 2025 observer set-aside when it develops specific, non-default measures for 2025.

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

This action would implement vessel-specific DAS allocations for each of the three limited access scallop DAS permit categories (*i.e.*, full-time, part-time, and occasional) for 2024 and 2025 (Table 2). Proposed 2024 DAS allocations are less than those allocated to the limited access fleet in 2023. Framework 38 would set 2025 DAS allocations at 75 percent of fishing year 2024 DAS allocations as a precautionary measure. This is to avoid over-allocating DAS to the fleet in the event that the 2025 specifications action is delayed past the start of the 2025 fishing year. The proposed allocations in table 2 exclude any DAS deductions that are required if the limited access scallop fleet exceeds its 2023 sub-ACL.

TABLE 2—SCALLOP OPEN AREA DAS ALLOCATIONS FOR 2024 AND 2025

| Permit category | 2024  | 2025 (default) |
|-----------------|-------|----------------|
| Full-Time       | 20.00 | 15.00          |
| Part-Time       | 8.00  | 6.00           |
| Occasional      | 1.67  | 1.25           |

If NMFS implements these Framework 38 measures after the April 1 start of fishing year 2024, default DAS allocations, which were established in Framework Adjustment 36 to the Atlantic Sea Scallop FMP (88 FR 19559, April 3, 2023), would go into place on April 1, 2024. Under the default DAS allocations, full-time vessels would receive 18 DAS, part-time vessels would receive 7.20 DAS, and occasional vessels would receive 1.50 DAS. The allocations would later increase in accordance with Framework 38 when Framework 38 goes into effect. NMFS will notify all limited access permit holders of both default and Framework 38 DAS allocations so that vessel owners know what mid-year adjustments would occur should Framework 38 be approved and implemented after April 1, 2024.

*Changes to Fishing Year 2024 Sea Scallop Rotational Area Program*

For fishing year 2024 and for the start of 2025, Framework 38 would combine and expand the boundaries of the Nantucket Lightship-West and Nantucket Lightship-North to form one area called the Nantucket Lightship Rotational Area (Table 3). This expanded area would be closed to better support rotational access in the future.

TABLE 3—NANTUCKET LIGHTSHIP SCALLOP ROTATIONAL AREA

| Point | N latitude | W longitude |
|-------|------------|-------------|
| NLS1  | 40°49.8'   | 69°0.0'     |
| NLS2  | 40°49.8'   | 69°30.0'    |

TABLE 3—NANTUCKET LIGHTSHIP SCALLOP ROTATIONAL AREA—Continued

| Point | N latitude | W longitude |
|-------|------------|-------------|
| NLS3  | 40°43.2'   | 69°30.0'    |
| NLS4  | 40°43.2'   | 70°19.8'    |
| NLS5  | 40°26.4'   | 70°19.8'    |
| NLS6  | 40°19.8'   | 70°0.0'     |
| NLS7  | 40°19.8'   | 68°48.0'    |
| NLS8  | 40°33.0'   | 68°48.0'    |
| NLS9  | 40°33.0'   | 69°0.0'     |
| NLS1  | 40°49.8'   | 69°0.0'     |

For fishing year 2024 and the start of 2025, Framework 38 would divide Area I into three separate areas (*i.e.*, Area I, Area I-Sliver, and Area I-Quad). Area I (Table 4) would be closed to the limited access fleet but would be available for LAGC IFQ fishing until the Regional Administrator has determined that the total number of LAGC IFQ access area trips have been or are projected to be taken. Area I-Sliver (Table 5) would remain closed to all scallop fishing to protect small scallops. Area I-Quad (Table 6) would also be closed to all scallop fishing to protect transplanted scallops related to an ongoing RSA project. The Area I-Quad closure would remain in place for one year, and then revert to being part of the Area I Rotational Area.

TABLE 4—AREA I-SCALLOP ROTATIONAL AREA

| Point | N latitude | W longitude |
|-------|------------|-------------|
| AIA1  | 40°58.2'   | 68°30'      |
| AIA2  | 40°55.8'   | 68°46.8'    |
| AIA3  | 41°3.0'    | 68°52.2'    |
| AIA4  | 41°0.6'    | 68°58.2'    |
| AIA5  | 41°4.2'    | 69°1.2'     |
| AIA6  | 41°25.8'   | 68°30'      |
| AIA1  | 40°58.2'   | 68°30'      |

TABLE 5—AREA I-SLIVER SCALLOP ROTATIONAL AREA

| Point     | N latitude | W longitude |
|-----------|------------|-------------|
| AIS1 .... | 41°30.0'   | 68°30.0'    |
| AIS2 .... | 41°25.8'   | 68°30.0'    |
| AIS3 .... | 41°4.2'    | 69°1.2'     |
| AIS4 .... | 41°30.0'   | 69°22.8'    |
| AIS1 .... | 41°30.0'   | 68°30.0'    |

TABLE 6—AREA I-QUAD SCALLOP ROTATIONAL AREA

| Point     | N latitude | W longitude |
|-----------|------------|-------------|
| AIQ1 .... | 40°55.2'   | 68°53.4'    |
| AIQ2 .... | 41°0.6'    | 68°58.2'    |
| AIQ3 .... | 41°3.0'    | 68°52.2'    |
| AIQ4 .... | 40°55.8'   | 69°46.8'    |
| AIQ1 .... | 40°55.2'   | 68°53.4'    |

Framework 38 would keep the Area II Scallop Rotational Area open for fishing year 2024. In addition, it would open the New York Bight Scallop Rotational

Area (table 7) to scallop fishing as part of the Rotational Area Program. The New York Bight Scallop Rotational Area was previously closed to optimize growth of the several scallop year classes within the closure area and to support scallop fishing and is now ready for fishing.

TABLE 7—NEW YORK BIGHT SCALLOP ROTATIONAL AREA

| Point   | N latitude | W longitude |
|---------|------------|-------------|
| NYB1 .. | 40°00'     | 73°20'      |
| NYB2 .. | 40°00'     | 72°30'      |
| NYB3 .. | 39°20'     | 72°30'      |
| NYB4 .. | 39°20'     | 73°20'      |
| NYB1 .. | 40°00'     | 73°20'      |

*Elephant Trunk Scallop Rotational Area Reverting to Open Area*

Framework 38 would revert the Elephant Trunk Scallop Rotational Area to part of the open area. This area was previously managed as part of the area

rotation program; however, there is not enough biomass to support rotational access, nor was there enough recruitment seen in the 2023 annual survey to support keeping this area as part of the program. Based on this information, it no longer meets the criteria for either closure or controlled access as defined in 50 CFR 648.55(a)(6). This area would become part of the open area and could be fished as part of the DAS program or on LAGC IFQ open area trips.

*Full-Time Limited Access Allocations and Trip Possession Limits for Scallop Access Areas*

Table 8 provides the proposed limited access full-time allocations for all of the access areas for the 2024 fishing year and the first 60 days of the 2025 fishing year. These allocations could be landed in as many trips as needed, so long as vessels do not exceed the possession limit (also in table 8) on any one trip.

TABLE 8—PROPOSED SCALLOP ACCESS AREA FULL-TIME LIMITED ACCESS VESSEL POUNDAGE ALLOCATIONS AND TRIP POSSESSION LIMITS FOR 2024 AND 2025

| Rotational access area | Scallop per trip possession limit   | 2024 Scallop allocation     | 2025 Scallop allocation (default) |
|------------------------|-------------------------------------|-----------------------------|-----------------------------------|
| Area II .....          | 12,000 lb (5,443 kg) per trip ..... | 24,000 lb (10,886 kg) ..... | 0 lb (0 kg).                      |
| New York Bight .....   | 12,000 lb (5,443 kg) per trip ..... | 12,000 lb (5,443 kg) .....  | 0 lb (0 kg).                      |
| Total .....            | .....                               | 36,000 lb (16,329 kg) ..... | 0 lb (0 kg).                      |

*Changes to the Full-Time Limited Access Vessels' One-for-One Access Area Allocation Exchanges*

Framework 38 would allow full-time limited access vessels to exchange access area allocation in 6,000-lb (2,722-kg) increments. The owner of a vessel issued a full-time limited access scallop permit would be able to exchange unharvested scallop pounds allocated into an access area for another full-time limited access vessel's unharvested scallop pounds allocated into another access area. For example, a full-time vessel may exchange 6,000 lb (2,722 kg)

from one access area for 6,000 lb (2,722 kg) allocated to another full-time vessel for another access area. Further, a full-time vessel may exchange 12,000 lb (5,443 kg) from one access area for 12,000 lb (5,443 kg) allocated to another full-time vessel for another access area. These exchanges may be made only between vessels with the same permit category; a full-time vessel may not exchange allocations with a part-time vessel, and vice versa. Part-time vessels may not exchange access area allocations.

*Part-Time Limited Access Allocations and Trip Possession Limits for Scallop Access Areas*

Table 9 provides the proposed limited access part-time allocations for all of the access areas for the 2024 fishing year and the first 60 days of the 2025 fishing year. Vessels could fish the allocation in either of the open access areas (i.e., Area II and New York Bight). These allocations could be landed in as many trips as needed, so long as a vessel does not exceed the possession limit (also in table 9) or its available allocation on any one trip.

TABLE 9—PROPOSED SCALLOP ACCESS AREA PART-TIME LIMITED ACCESS VESSEL POUNDAGE ALLOCATIONS AND TRIP POSSESSION LIMITS FOR 2024 AND 2025

| Rotational access area                       | Scallop per trip possession limit  | 2024 Scallop allocation    | 2025 Scallop allocation (default) |
|--|------------------------------------|----------------------------|-----------------------------------|
| Area II or New York Bight <sup>1</sup> ..... | 7,200 lb (3,266 kg) per trip ..... | 14,400 lb (6,532 kg) ..... | 0 lb (0 kg).                      |
| Total .....                                  | .....                              | 14,400 lb (6,532 kg) ..... | 0 lb (0 kg).                      |

<sup>1</sup> Allocation can be fished in either Area II and/or New York Bight Access Areas.

*5-Minute Vessel Monitoring System (VMS) Reporting on Federal Scallop Trips*

Framework 38 would require that all scallop vessels with active VMS units be subject to constant reporting at 5-minute intervals when seaward of the VMS demarcation line on a federal scallop declaration. When inshore of the VMS demarcation line, vessels would report at a 30-minute interval. The increased VMS reporting rate is not intended to apply to vessels participating in state-waters scallop fisheries and excludes any scallop trip associated with the scallop state water exemption program. VMS is used in the scallop fishery as an enforcement and management tool. Increasing the VMS reporting rate to 5 minutes on declared scallop trips would improve enforcement of access area and closure boundaries by substantially reducing the window in which a vessel could enter or fish a closed area or access area undetected. VMS is also an important source of fishery effort data for the scallop fishery. Increasing the VMS reporting rate in the scallop fishery would improve data quality by increasing the spatial resolution of the data, which could lead to more effective management and enforcement.

*Prohibition on Transiting Scallop Rotational Areas and the Western Gulf of Maine Closure*

To better enforce the Sea Scallop Rotational Area Management Program, Framework 38 would prohibit all vessels fishing under a scallop declaration from entering or transiting any scallop rotational areas (unless the vessel is on a declared trip into that area, or otherwise specified) and the Western Gulf of Maine Closure Area. For fishing year 2024, the Area I (table 4) and the Area I-Quad (table 6) Scallop Rotational Areas would be corridors for continuous transiting, and transit would be permitted. Continuous transit means that a vessel has fishing gear stowed and not available for immediate use and travels through an area with a direct heading, consistent with navigational safety, while maintaining expeditious

headway throughout the transit without loitering or delay. Prohibiting vessels on declared scallop trips from entering or transiting scallop rotational areas (unless otherwise specified) and the Western Gulf of Maine Closure Area would reduce the likelihood of fishing occurring inside these areas.

*LAGC Measures*

1. *ACL and IFQ Allocation for LAGC Vessels with IFQ-Only Permits.* This action would implement a 2.26 million-lb (1,024-mt ACL for 2024 and a 2.40 million-lb (1,089-mt) default ACL for 2025 for LAGC vessels with IFQ-only permits (see table 1). These sub-ACLs have no associated regulatory or management requirements but provide a ceiling on overall landings by the LAGC IFQ fleets. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. Framework 28 (82 FR 15155; March 27, 2017) changed the way the LAGC IFQ allocations are set from a direct percentage of the ACL to a percentage of the APL. The purpose of this change was to help ensure that the allocation of potential catch between the fleets is more consistent with the concept of spatial management by allocating catch to the LAGC IFQ fleet based on harvestable scallops instead of total biomass. Since Framework 28 was implemented in 2017, the LAGC IFQ allocation has been equal to 5.5 percent of the projected landings (5 percent for LAGC IFQ vessels and 0.5 percent for LAGC IFQ vessels that also have a limited access scallop permit). The annual allocation to the LAGC IFQ-only fleet for fishing years 2024 and 2025 based on APL would be 1.28 million lb (580 mt) for 2024 and 959,011 lb (435 mt) for 2025 (see table 1). Each vessel's IFQ would be calculated from these allocations based on APL.

If NMFS implements these Framework 38 measures after the April 1 start of the 2024 fishing year, the default 2024 IFQ allocations would go into place automatically on April 1, 2024. Because this action would implement IFQ allocations that are less than the default allocations, NMFS will

notify IFQ permit holders of both default 2024 and Framework 38 IFQ allocations so that vessel owners know what mid-year adjustments would occur should Framework 38 be approved after the April 1, 2024, start of fishing year 2024.

2. *ACL and IFQ Allocation for Limited Access Scallop Vessels with IFQ Permits.* This action would implement a 227,076-lb (103-mt) ACL for 2024 and a default 240,304-lb (109-mt) ACL for 2025 for limited access scallop vessels with IFQ permits (see table 1). These sub-ACLs have no associated regulatory or management requirements but provide a ceiling on overall landings by this fleet. If the fleet were to reach this ceiling, any overages would be deducted from the following year's sub-ACL. The annual allocation to limited access vessels with IFQ permits would be 127,868 lb (58 mt) for 2024 and 97,003 lb (44 mt) for 2025 (see table 1). Each vessel's IFQ would be calculated from these allocations based on APL. Because this action would implement IFQ allocations that are less than the default allocations, NMFS will notify IFQ permit holders of both default 2024 and Framework 38 IFQ allocations so that vessel owners know what mid-year adjustments would occur should Framework 38 be approved after the April 1, 2024, start of fishing year 2024.

3. *LAGC IFQ Trip Allocations for Scallop Access Areas.* Framework 38 would allocate LAGC IFQ vessels a fleet-wide number of trips for fishing year 2024 and no default trips for fishing year 2025 (see table 10). The scallop catch associated with the total number of trips for all areas combined (856 trips) for fishing year 2024 is equivalent to 5.5 percent of total projected catch from access areas.

LAGC Access Area trips can be taken in any of the available areas (Area I, Area II, or New York Bight). Once the Regional Administrator has determined that the total number of LAGC IFQ access area trips have been or are projected to be taken all of the access areas would then be closed to LAGC IFQ fishing.

TABLE 10—FISHING YEARS 2024 AND 2025 LAGC IFQ TRIP ALLOCATIONS FOR SCALLOP ACCESS AREAS

| Scallop access area                              | 2024 | 2025 <sup>2</sup> |
|--|------|-------------------|
| Area I/Area II/New York Bight <sup>1</sup> ..... | 856  | 0                 |
| Total .....                                      | 856  | 0                 |

<sup>1</sup> LAGC Access Area trips can be taken in any of the available areas until Regional Administrator determines that the total number of LAGC IFQ trips have been or are projected to be taken.

<sup>2</sup> The LAGC IFQ access area trip allocations for the 2025 fishing year are subject to change through a future specifications action or framework adjustment.

4. *NGOM Scallop Fishery Landing Limits and Platts Bank Scallop Rotational Closed Area.* This action proposes total allowable landings (TAL) in the NGOM of 454,152 lb (206,000 kg) for fishing year 2024. This action would deduct 25,000 lb (11,340 kg) of scallops annually for 2024 and 2025 from the NGOM TAL to increase the overall Scallop RSA to fund scallop research. In addition, this action would deduct one percent of the NGOM ABC from the NGOM TAL for fishing years 2024 and

2025 to support the industry-funded observer program to help defray the cost to scallop vessels that carry an observer (table 11).  
 Amendment 21 developed landing limits for all permit categories in the NGOM and established an 800,000-lb (362,874-kg) NGOM Set-Aside trigger for the NGOM directed fishery, with a sharing agreement for access by all permit categories for allocation above the trigger. Allocation above the trigger (*i.e.*, the NGOM APL) will be split 5 percent for the NGOM fleet and 95

percent for limited access and LAGC IFQ fleets. Framework 38 would set a NGOM Set-Aside of 420,598 lb (190,780 kg) for fishing year 2024 and a default NGOM Set-Aside of 315,449 lb (143,085 kg) for fishing year 2025. Because the NGOM Set-Aside for fishing years 2024 and 2025 is below the 800,000-lb (362,874-kg) trigger, Framework 38 would not allocate any landings to the NGOM APL. Table 11 describes the breakdown of the NGOM TAL for the 2024 and 2025 (default) fishing years.

TABLE 11—NGOM SCALLOP FISHERY LANDING LIMITS FOR FISHING YEAR 2024 AND 2025

| Landings limits                        | 2024                          | 2025 <sup>1</sup>                      |
|--|-------------------------------|--|
| NGOM TAL .....                         | 454,152 lb (206,000 kg) ..... | 346,996 lb (157,395 kg) <sup>2</sup> . |
| 1 percent NGOM ABC for Observers ..... | 8,554 lb (3,880 kg) .....     | 6,548 lb (2,970 kg) <sup>2</sup> .     |
| RSA Contribution .....                 | 25,000 lb (11,340 kg) .....   | 25,000 lb (11,340 kg).                 |
| NGOM Set-Aside .....                   | 420,598 lb (190,780 kg) ..... | 315,449 lb (143,085 kg).               |
| NGOM APL .....                         | ( <sup>3</sup> ) .....        | ( <sup>3</sup> ).                      |

<sup>1</sup> The landings limits for the 2025 fishing year are subject to change through a future specifications action or framework adjustment.

<sup>2</sup> The catch limits for the 2025 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2025 that will be based on the 2024 annual scallop surveys.

<sup>3</sup> NGOM APL is set when the NGOM Set-Aside is above 800,000 lb (362,874 kg).

Framework 38 would close the Platts Bank Scallop Rotational Closed Area (table 12) through fishing year 2025. This closure would protect a substantial number of small scallops that have not been recruited into the fishery.

TABLE 12—PLATTS BANK SCALLOP ROTATIONAL CLOSED AREA

| Point   | N latitude | W longitude |
|---------|------------|-------------|
| NYB1 .. | 40°00'     | 73°20'      |
| NYB2 .. | 40°00'     | 72°30'      |
| NYB3 .. | 39°20'     | 72°30'      |
| NYB4 .. | 39°20'     | 73°20'      |
| NYB1 .. | 40°00'     | 73°20'      |

5. *Scallop Incidental Landings Target TAL.* This action proposes a 50,000-lb (22,680-kg) scallop incidental landings target TAL for fishing years 2024 and 2025 to account for mortality from vessels that catch scallops while fishing for other species and ensure that F targets are not exceeded. The Council and NMFS may adjust this target TAC in a future action if vessels catch more scallops under the incidental target TAC than predicted.

*RSA Harvest Restrictions*

This action allows vessels participating in RSA projects to harvest RSA compensation from the open area and the Area II Scallop Rotational Area. All vessels are prohibited from harvesting RSA compensation pounds in all other access areas. Vessels are prohibited from fishing for RSA compensation in the NGOM unless the

vessel is fishing on an RSA compensation trip using NGOM RSA allocation that was awarded to an RSA project. Lastly, Framework 38 prohibits the harvest of RSA from any rotational area under default 2025 measures. At the start of 2025, RSA compensation may only be harvested from open areas. The Council will re-evaluate this default prohibition measure in the action that would set final 2025 specifications.

*Regulatory Corrections Under Regional Administrator Authority*

This proposed rule includes one revision to address regulatory text that is unnecessary, outdated, and unclear. This revision to § 648.64(f)(2) would fix an error and clarify that the Northern Windowpane Flounder Gear Restricted Area shall remain in effect for the period of time based on the corresponding percent overage of the northern windowpane flounder sub-ACL.

In addition, this proposed rule includes changes to regulatory text in § 648.11 that are required to update the industry-funded observer program to the Pre-Trip Notification System (PTNS). The integration of the scallop notification requirement into the PTNS helps standardize observer operations between fisheries and modernize reporting systems. The PTNS is a mobile-friendly website that is more sophisticated and flexible than the aging interactive voice response technology. The change to the PTNS does not affect determination of scallop coverage rates

or the compensation analysis. There are no changes to the requirements vessels must abide by if selected to carry an observer, such as equal accommodations, a harassment-free environment, and other safety requirements. These revisions would be made at § 648.11(k)(1), (2), (3), and (4).

These revisions are consistent with section 305(d) of the Magnuson-Stevens Act, which provides authority to the Secretary of Commerce to promulgate regulations necessary to ensure that amendments to the Atlantic Sea Scallop FMP are carried out in accordance with the Atlantic Sea Scallop FMP and the Magnuson-Stevens Act.

**Classification**

NMFS is proposing these annual specifications and management measure changes pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, which provides specific authority for implementing this action. Pursuant to section 305(d) of the Magnuson-Stevens Act, this action is necessary to carry out the Atlantic Sea Scallop FMP by allowing NMFS to implement measures developed in Framework Adjustment 38 to the Atlantic Sea Scallop FMP for fishing year 2024. The NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Sea Scallop FMP and other applicable law, subject to further consideration after public comment.

NMFS finds that a 15-day comment period for this action provides a reasonable opportunity for public

participation in this action pursuant to Administrative Procedure Act section 553(c) (5 U.S.C. 553(c)), while also ensuring that the final specifications are in place for the start of the Atlantic sea scallop fishing year on April 1, 2024. The Council adopted Framework 38 to the Atlantic Sea Scallop FMP on December 6, 2023, and submitted a preliminary draft of the framework on December 22, 2023. NMFS has taken all diligent steps to promulgate this rule as quickly as possible but could not have published the rule sooner because the data necessary for the Council to develop the framework was not yet available. Stakeholder and industry groups have been involved with the development of this action and have participated in public meetings throughout the past year.

If this action is not implemented by April 1, 2024, it would delay positive economic benefits to the scallop fleet, could negatively impact the access area rotation program by delaying fishing in areas that should be available, could adversely affect scallop stocks by delaying harvest when scallop meats are smaller resulting in increased mortality, and could create confusion in the Atlantic sea scallop industry. A 15-day comment period is reasonable because the rule is not complex, it implements an FMP that underwent a full comment period, there is a pending deadline of April 1, 2024, before default specification goes into effect, and failing to implement Framework 38 by that deadline would have adverse consequences for the public.

While NMFS is not waiving the comment period in its entirety, a 30-comment period would likely delay implementation of Framework 38 and trigger the 2024 default specifications from Framework 36. If Framework 38 is delayed beyond April 1, 2024, certain default measures, including access area designations, DAS, IFQ, RSA, and observer set-aside allocations, would automatically be put into place. Most of these default allocations are set at lower harvest levels than what would be implemented under Framework 38. These default allocations were intentionally set at levels low enough to avoid exceeding the final Framework 38 allocations. Framework 38 would increase allocations throughout the fleet. Under default measures, each full-time vessel has 18 DAS and no access area trips. The specification measures in Framework 38 would provide full-time vessels with an additional 2 DAS (20 DAS total) and 36,000 lb (16,329 kg) in access area allocations. Framework 38 also would open the New York Bight Access Area allowing the fleet to

sustainably fish in the area.

Accordingly, this action also prevents more restrictive aspects of the default measures from going into effect.

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

An IRFA was prepared for Framework 38, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A copy of this analysis is available from the Council (see **ADDRESSES**). A summary of the IRFA follows:

*Description of the Reasons Why Action by the Agency Is Being Considered and Statement of the Objectives of, and Legal Basis for, This Proposed Rule*

This action proposes the management measures and specifications for the Atlantic sea scallop fishery for 2024, with 2025 default measures. A description of the action, why it is being considered, and the legal basis for this action are contained in the Council's Framework 38 document and the preamble of this proposed rule and are not repeated here.

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

This proposed rule contains no information collection requirements under the Paperwork Reduction Act of 1995.

*Federal Rules Which May Duplicate, Overlap or Conflict With This Proposed Rule*

The proposed regulations do not create overlapping regulations with any state regulations or other Federal laws.

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

The proposed regulations would affect all vessels with limited access, LAGC IFQ, and LAGC NGOM scallop permits. Framework 38 (section 5.6) and the LAGC IFQ Performance Evaluation (2017) provide extensive information on the number of vessels that would be affected by the proposed regulations, their home and principal state, dependency on the scallop fishery, and revenues and profits (see **ADDRESSES**). There were 307 vessels that held full-time limited access permits in fishing year 2022, including 244 dredge, 53

small-dredge, and 10 scallop trawl permits. In the same year, there were also 27 part-time limited access permits in the sea scallop fishery. No vessels were issued occasional scallop permits in 2022. In 2019, NMFS reported that there were a total of 300 IFQ-only permits, with 212 issued and 88 in Confirmation of Permit History. Approximately 96 of the IFQ vessels and 78 NGOM vessels actively fished for scallops in fishing year 2022. The remaining IFQ permits likely leased out scallop IFQ allocations with their permits in Confirmation of Permit History. Thirty-eight limited access vessels also held LAGC IFQ permits, 52 had NGOM permits, and 102 had incidental permits.

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

On June 1 of each year, ownership entities are identified based on a list of all permits for the most recent complete calendar year. The current ownership dataset is based on the calendar year 2022 permits and contains average gross sales associated with those permits for calendar years 2018 through 2022. Matching the potentially impacted 2022 fishing year permits described above (*i.e.*, limited access and LAGC IFQ) to calendar year 2022 ownership data results in 150 distinct ownership entities for the limited access fleet and 77 distinct ownership entities for the LAGC IFQ fleet. Based on the Small Business Administration (SBA)

guidelines, 142 of the limited access distinct ownership entities and 87 LAGC IFQ entities are categorized as small business entities. Eight limited access and none of the LAGC IFQ entities are categorized as large business entities with annual fishing revenues over \$11 million in 2022. There were 73 distinct small business entities with NGOM permits in 2022.

*Description of Significant Alternatives to the Proposed Action Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize Any Significant Economic Impact on Small Entities*

The Council's preferred alternative (section 4.3.3) in Framework 38 (see **ADDRESSES**) would allocate each full-time limited access vessel 20 open area DAS and 3 access area trips (*i.e.*, 2 Area II trips at 12,000 lb (5,443 kg) and 1 New York Bight trip at 12,000 lb (5,443 kg)) amounting to 36,000 lb (16,329 kg) in fishing year 2024. This is estimated to result in about 25.596 million lb (11,610 mt) of APLs after research and observer set asides are accounted for. The limited access share of 94.5 percent is around 24.18 million lb (10,792 mt) (table 14). The LAGC IFQ share (*i.e.*, 5.5 percent allocation for both IFQ only and limited access vessels with IFQ permits) will be about 1.407 million lb (638 mt) (section 4.4.2, table 15). Total landings, including set-asides to support research and observer coverage is projected to be about 27.39 million lb (12,423 mt) (table 13).

The preferred alternative (section 4.3.3) is expected to have negative impacts on the net revenues and profits of small entities regulated by this action in fishing year 2024 (*i.e.*, Framework 38) compared to the fishing year 2023 (*i.e.*, Framework 36) scenario. The decline in revenue per entity between fishing year 2023 levels and fishing year 2024 is a result of a decline in scallop prices for these fishing years despite higher projected landings in Framework 38 relative to Framework 36. Projected landings for limited access fleet are expected to increase by about 1.325 million lb (601 mt) under the Framework 38 preferred alternative compared to the Framework 36 preferred alternative.

Under the Framework 38 preferred alternative (section 4.3.3), allocations for the LAGC IFQ fishery, including the limited access vessels with IFQ permits,

will be about 12 percent higher than the allocation that was implemented for fishing year 2023 under Framework 36. In terms of net revenue, this difference is expected to be of similar magnitude and negative for the preferred alternative relative to fishing year 2023 levels. Therefore, the Framework 38 preferred alternative will have slightly negative or negligible economic impacts on the LAGC IFQ fishery compared to fishing year 2023 levels due to a recent decline in scallop prices (table 15).

The economic benefits of all the alternatives considered in Framework 38, including the proposed alternative, will exceed economic benefits of No Action. The specification alternatives considered in Framework 38 slightly differ across alternatives with each alternative allocating to the same access area allocations. Differences between the alternatives are driven by the number of DAS allocated, which ranges from 18 to 24 DAS and the trip limit in access areas is fixed at 12,000 lb (5,443 kg). The Council's preferred alternative, alternative 3 (section 4.3.3) (see **ADDRESSES**) would result in a higher allocation to the limited access and LAGC IFQ components in 2024. This is expected to result in lower revenues compared to Framework 36 preferred alternative in fishing year 2023 primarily due to lower expected price during Framework 38 relative to Framework 36 (table 14 and table 15). The percent change in net revenue per business entity for all Framework 38 alternatives is expected to decline by 2.3 percent to 12.28 percent compared to the Framework 36 preferred alternative. Under the preferred alternative in Framework 38, net revenues per entity with limited access permits are estimated to be below fishing year 2023 levels by about 8.6 percent in fishing year 2024 (table 14).

The Council considered 4 NGOM TAL options for fishing year 2024 that ranged from 396,391 lb (179,800 kg) (option 1) to 527,346 lb (239,200 kg) (option 3). All TAL options would result in higher revenues compared to No Action, which are default measures set in Framework 36 for fishing year 2024. The preferred alternative (alternative 2, option 2) would have a slightly higher TAL (454,152 lb, 206,000 kg) and revenue compared to the alternative 2 (option 1), but lower revenues than alternative 2 (option 3). When compared to No Action, the higher TAL of alternative 2

(option 2) would also result in higher revenues and economic benefits for entities in this fishery with an estimated increase in net revenues by about 47 percent compared to No Action (table 16).

Under the sharing arrangement approved for the NGOM Management Area in Amendment 21, Framework 38 would not allocate pounds to the LAGC IFQ or limited access components for fishing year 2024 because the NGOM set-aside did not exceed 800,000 lb (362,874 kg). Therefore, Action 2 would not have direct impacts on the limited access component. More research is planned for this area in 2024, which will help to increase the understanding of biomass in the NGOM management area. This will lead to better management of the NGOM resource with positive biological and economic impacts over the long-term on both LAGC and limited access vessels.

Economic impacts of Framework 38 preferred alternatives, including fishery specifications, access area trip allocations for the limited access and LAGC IFQ fisheries, NGOM measures, and other measures to reduce fishery impacts are expected to be slightly negative for the scallop vessels and small business entities compared to the fishing year 2023 baseline implemented through Framework 36. This is primarily due to a decline in the projected price. There are eight large entities in the limited access component of the scallop fishery and impacts on scallop revenues to small entities would not be disproportionate. All entities would be impacted in a similar way from a higher projected landing allocation. A slight negative or negligible economic impact in Framework 38 compared to Framework 36 is primarily due to a decline in scallop prices rather than changes in projected landings between these frameworks. We have determined that the preferred alternative is nevertheless optimal because it would minimize risks associated with stock biomass uncertainties while protecting small scallops and minimizing bycatch of species such as yellowtail and windowpane flounder. Furthermore, the preferred alternative intentionally leaves biomass in the water to increase the likelihood that a similar DAS allocation and associated F rate, along with access area fishing will be available for the following fishing year.

TABLE 13—SHORT-TERM ECONOMIC IMPACTS FOR FISHING YEAR 2024 COMPARED WITH FY 2023: ESTIMATED LANDINGS (million lb.), REVENUES, PRODUCER SURPLUS, AND TOTAL ECONOMIC BENEFITS [In 2023 current dollars, Mil. dollars]

| Alternatives/runs                     | * Framework 38 alternatives (in 2023 dollars) |               |                           |               |            | * Framework 36's preferred alternative | * Framework 36's preferred alternative |
|---------------------------------------|---|---------------|---------------------------|---------------|------------|--|--|
|                                       | Alternative 1 no action                       | Alternative 2 | Alternative 3 (preferred) | Alternative 4 | Status quo |  |  |
| Economic variables                    | 4.3.1 NA                                      | 4.3.2 18d12k  | 4.3.3 20d12k              | 4.3.4 24d12k  | 4.3.5 SQ   | In 2023 \$                             | In 2022 \$                             |
| Landings (millions of lb) .....       | 14.40   | 26.17         | 27.39                     | 29.73         | 27.11      | 25.01                                  | 25.01                                  |
| Landings (millions of kg) .....       | 6.53  | 11.87         | 12.42                     | 13.48         | 12.29      | 11.34                                  | 11.34                                  |
| Revenue .....                         | \$218.34                                      | \$368.96      | \$383.93                  | \$409.92      | \$379.04   | \$415.09                               | \$398.63                               |
| Producer Surplus (PS) .....           | \$136.21                                      | \$269.15      | \$281.14                  | \$301.33      | \$274.66   | \$314.19                               | \$301.73                               |
| Total Economic Benefits (CS+PS) ..... | \$146.25                                      | \$300.90      | \$315.84                  | \$341.77      | \$307.39   | \$335.46                               | \$322.15                               |

Net Values or Difference from Fishing Year 2024 Status Quo:

|                                       |          |         |      |       |   |       |       |
|---------------------------------------|----------|---------|------|-------|---|-------|-------|
| Landings .....                        | - 12.71  | - 0.95  | 0.28 | 2.62  | 0 | ..... | ..... |
| Revenue .....                         | - 160.70 | - 10.08 | 4.89 | 30.88 | 0 | ..... | ..... |
| Producer Surplus (PS) .....           | - 138.45 | - 5.51  | 6.48 | 26.67 | 0 | ..... | ..... |
| Total Economic Benefits (CS+PS) ..... | - 161.14 | - 6.49  | 8.45 | 34.38 | 0 | ..... | ..... |

Net Values or Difference from Fishing Year 2023 (Framework 36's Preferred Alternative projection) values:

|                                       |           |          |          |          |          |        |       |
|---------------------------------------|-----------|----------|----------|----------|----------|--------|-------|
| Landings .....                        | - 10.61   | 1.16     | 2.38     | 4.73     | 2.11     | 0.00   | ..... |
| Revenue .....                         | -\$196.75 | -\$46.13 | -\$31.16 | -\$5.17  | -\$36.05 | \$0.00 | ..... |
| Producer Surplus (PS) .....           | -\$177.98 | -\$45.04 | -\$33.05 | -\$12.86 | -\$39.53 | \$0.00 | ..... |
| Total Economic Benefits (CS+PS) ..... | -\$189.21 | -\$34.56 | -\$19.62 | \$6.31   | -\$28.07 | \$0.00 | ..... |

Notes: A negative sign indicates a lower value for a Framework 38 alternative compared to the Framework 36 preferred alternative and vice versa. \*Note that Framework 36 and Framework 38 are evaluated at different prices, and price variability may swing wildly for various reasons affecting the economic comparisons between the two frameworks. In such a case, preferred alternative comparison with status quo in the current framework would be more relevant.

TABLE 14—NET SCALLOP REVENUE FOR LIMITED ACCESS VESSELS IN FY 2024 AND PERCENT CHANGE FROM THE FY 2023 [Revenues in 2023 dollars]

| Alternatives/runs  | Unit              | Framework 38 alternatives |           |                  |           |                  | Framework 36's preferred alternative (in 2023 \$) |
|--|-------------------|---------------------------|-----------|------------------|-----------|------------------|---|
|  |                   | Alt. 1                    | Alt 2     | Alt 3            | Alt 4     | Status quo       |   |
| Description  |                   | 4.3.1 No Action           | 4.3.2     | 4.3.3 Pref. Alt. | 4.3.4     | 4.3.5 Status quo |   |
| Estimated scallop APL landings .....   | mil lb .....      | 14.40                     | 26.17     | 27.39            | 29.73     | 27.11            | 25.01   |
|  | mil kg .....      | 6.53                      | 11.87     | 12.42            | 13.48     | 12.30            | 11.34   |
| Estimated limited access scallop landings (94.5% net of set asides).         | mil lb .....      | 11.91                     | 23.03     | 24.19            | 26.40     | 23.92            | 21.601  |
|  | mil kg .....      | 5.40                      | 10.44     | 10.97            | 11.97     | 10.85            | 9.80  |
| No. of Entities (Average in 2018–2022) both small and large .....            | Counts .....      | 151                       | 151       | 151              | 151       | 151              | 146   |
| Estimated revenues for scallop APL .....                                     | mil dollars ..... | \$218.34                  | \$368.96  | \$383.93         | \$409.92  | \$379.04         | \$476.51  |
| Estimated limited access revenues from scallop .....                         | mil dollars ..... | \$180.55                  | \$324.69  | \$338.99         | \$363.94  | \$334.43         | \$415.63  |
| Estimated Net Revenue for scallop APL .....                                  | mil dollars ..... | \$199,580                 | \$338,703 | \$351,730        | \$373,948 | \$345,805        | \$377.04  |
| Estimated limited access net revenue from scallop .....                      | mil dollars ..... | \$165.04                  | \$298.07  | \$310.56         | \$332.00  | \$305.10         | \$328.87  |
| Net scallop revenue per Entity .....   | mil dollars ..... | \$1,092                   | \$1,971   | \$2,054          | \$2,196   | \$2,018          | \$2,247   |
| % change in net revenue compared to SQ (Framework 36 preferred alternative). | Percent .....     | - 51.43%                  | - 12.28%  | - 8.61%          | - 2.30%   | - 10.21%         | 0.00%   |

Note: landings and net revenues net of set asides, such as RSA scallop, etc.

TABLE 15—IMPACTS OF THE LAGC IFQ ALLOCATION FOR THE FISHING YEAR 2023

| Sections   | Framework 38 alternatives |             |                   |             |            | Framework 36's preferred alternative |
|--|---------------------------|-------------|-------------------|-------------|------------|--------------------------------------|
|  | 4.3.1                     | 4.3.2       | 4.3.3 (preferred) | 4.3.4       | 4.3.5      |                                      |
| Descriptions   | NA                        | 12k, 18 DAS | 12k, 20DAS        | 12k, 24 DAS | Status quo |                                      |
| Allocation for IFQ only vessels (5%) (lb) .....  | 630,015                   | 1,218,319   | 1,279,673         | 1,396,717   | 1,265,718  | 1,142,890                            |
| Allocation for IFQ only vessels (5%) (kg) .....  | 285,721                   | 552,526     | 580,351           | 633,432     | 574,022    | 518,317                              |
| Allocation for limited access vessels with IFQ permits (0.5%) (lb) .....                               | 63,002                    | 121,832     | 127,967           | 139,672     | 126,572    | 114,289                              |
| Allocation for limited access vessels with IFQ permits (0.5%) (kg) .....                               | 28,572                    | 55,253      | 58,035            | 63,343      | 57,402     | 51,832                               |
| Total Allocation* for IFQ fishery (5.5%) (lb) .....  | 693,017                   | 1,340,150   | 1,407,641         | 1,536,388   | 1,392,290  | 1,257,179                            |
| Total Allocation* for IFQ fishery (5.5%) (kg) .....  | 314,293                   | 607,778     | 638,386           | 696,775     | 631,424    | 570,149                              |
| % Change in estimated landings (and revenue) per business entity from SQ (Framework 36 Pref Alt) ..... | - 44.9%                   | 6.6%        | 12.0%             | 22.2%       | 10.7%      | 0.0%                                 |

\* APL w/set aside removed.

TABLE 16—IMPACTS OF THE PREFERRED ALTERNATIVE 2 OPTION 2 AND OTHER ALTERNATIVES FOR NGOM SCALLOP FISHERY

[2024 fishing year and monetary values in 2023 dollars]

| Area(s) fished                                 | Alternative 2                 |                               |                               | Alternative 1 |
|--|-------------------------------|-------------------------------|-------------------------------|---------------|
|  | 4.2.2.2.1                     | 4.2.2.2.2                     | 4.2.2.2.3                     | (no action)   |
|  | Option 1                      | Option 2 (preferred)          | Option 3                      |               |
|  | F=0.18                        | F=0.21                        | F=0.25                        |               |
|  | Stellwagen, Ipswich, Jeffreys | Stellwagen, Ipswich, Jeffreys | Stellwagen, Ipswich, Jeffreys |               |
| 2024 Total Allowable Landings (TAL) (lb) ..... | 396,391                       | 454,152                       | 527,346                       |               |
| 2024 Total Allowable Landings (TAL) (kg) ..... | 179,769                       | 205,965                       | 239,159                       |               |
| 1% NGOM ABC for Observers (lb) .....           | 8,554                         | 8,554                         | 8,554                         |               |
| 1% NGOM ABC for Observers (kg) .....           | 3,879                         | 3,879                         | 3,879                         |               |
| 2024 RSA Contribution (lb) .....               | 25000                         | 25000                         | 25000                         |               |
| 2024 RSA Contribution (kg) .....               | 11,338                        | 11,338                        | 11,338                        |               |
| Lag year Overage Payback .....                 |                               |                               |                               |               |
| 2024 NGOM Set-Aside (lb) .....                 | 362,837                       | 420,598                       | 493,792                       | 285,641       |
| 2024 NGOM Set-Aside (kg) .....                 | 164,552                       | 190,747                       | 223,942                       | 129,542       |
| <i>Impacts of the NGOM Set-Aside:</i>          |                               |                               |                               |               |
| Estimated LAGC revenue (in 2023 dollars) ..... | \$5,002,773                   | \$5,799,178                   | \$6,808,372                   | \$3,938,399   |
| Days at sea (DAS) .....                        | 1,814                         | 2,103                         | 2,469                         | 1,428         |
| Trip costs (in 2023 dollars) .....             | 1,239,370                     | 1,436,669                     | 1,686,683                     | \$975,686     |
| Net revenue .....                              | \$3,763,403                   | \$4,362,509                   | \$5,121,688                   | \$2,962,713   |
| Net revenue net of No Action .....             | \$800,689                     | \$1,399,795                   | \$2,158,975                   |               |
| Net revenue net of No Action % .....           | 27.03%                        | 47.25%                        | 72.87%                        | 0.00%         |

**List of Subjects 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: January 29, 2024.

**Samuel D. Rauch III,**

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

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 648 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.*

**Subpart A—General Provisions**

■ 2. In § 648.2, add the definition, in alphabetical order, of “Continuous transit or transit” to read as follows:

**§ 648.2 Definitions.**

\* \* \* \* \*

*Continuous transit or transit*, with respect to the Atlantic Sea Scallop Fishery, means that a vessel has fishing gear stowed and not available for immediate use, as described in this section, and travels through an area with a direct heading, consistent with navigational safety, while maintaining expeditious headway throughout the transit without loitering or delay.

\* \* \* \* \*

■ 3. In § 648.10, revise paragraph (c)(1)(ii) to read as follows:

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

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) For vessels issued a Federal scallop permit and equipped with a VMS unit, at least once every 30 minutes, 24 hr a day, throughout the year, when not on a declared Federal scallop trip or when shoreward of the VMS Demarcation Line. With the exception of vessels on a declared state waters exemption trip, all vessels issued a Federal scallop permit and equipped with a VMS unit shall be polled at a minimum of once every 5 minutes when on a declared Federal scallop trip and seaward of the VMS Demarcation Line.

\* \* \* \* \*

■ 4. In § 648.11, revise paragraphs (k)(1) through (3), and (4)(i) to read as follows:

**§ 648.11 Monitoring coverage.**

\* \* \* \* \*

(k) \* \* \*

(1) *General.* Unless otherwise specified, owners, operators, and/or managers of vessels issued a Federal scallop permit under § 648.4(a)(2), and specified in paragraph (a) of this section, must comply with this section and are jointly and severally responsible for their vessel’s compliance with this section. To facilitate the deployment of at-sea observers, all sea scallop vessels issued limited access, LAGC IFQ, and

LAGC NGOM permits are required to comply with the additional notification requirements specified in paragraph (k)(2) of this section. When NMFS informs the vessel owner, operator, and/or manager of any requirement to carry an observer on a specified trip in either an Access Area, Open Area, or NGOM as specified in paragraph (k)(3) of this section, the vessel may not fish for, take, retain, possess, or land any scallops without carrying an observer. Vessels may only embark on a scallop trip without an observer if the vessel owner, operator, and/or manager has been informed that the vessel has received a waiver of the observer requirement for that trip pursuant to paragraphs (k)(3) of this section.

(2) *Vessel notification procedures—*Scallop limited access, LAGC IFQ, and LAGC NGOM vessel owners, operators, or managers shall notify NMFS via a Pre-Trip Notification System (PTNS) at least 48 hours, but not more than 10 days, prior to the beginning of any Federal scallop trip of all requested stratification information (e.g., permit category, access area/area to be fished, gear, and EFP participation) and deployment details (e.g., sail date, sail time, port of departure, estimated trip duration).

(3) *Selection of scallop trips for observer coverage.* Based on predetermined coverage levels for various permit categories and areas of the scallop fishery that are provided by NMFS in writing to all observer service providers approved pursuant to

paragraph (h) of this section, NMFS shall inform the vessel owner, operator, or vessel manager whether the vessel must carry an observer, or if a waiver has been granted, for the specified scallop trip, at least 24 hr prior to the PTNS sail time of that trip notification. All assignments and waivers of observer coverage shall be issued to the vessel. A vessel may not fish in an area with an observer waiver confirmation number that does not match the scallop trip plan that was submitted to NMFS. PTNS notifications that are canceled are not considered active notifications, and a vessel may not sail on a Federal scallop trip on a canceled notification.

(4) \* \* \*

(i) An owner of a scallop vessel required to carry an observer under paragraph (k)(3) of this section must carry an observer that has passed a NMFS-certified Observer Training class certified by NMFS from an observer service provider approved by NMFS under paragraph (h) of this section. The PTNS will offer selected trips to approved observer service providers in a manner that will take into account the vessels' provider preferences, but final outcomes will be dependent on the observer availability of each provider. The PTNS will inform the owner, operator, or vessel manager of a trip's selection outcome between 48 and 24 hours prior to the PTNS sail time. The PTNS will specify the trip's outcome (*i.e.*, selection to carry an observer or a waiver), as well as which provider has been assigned to provide any required coverage along with their contact information. Vessels shall communicate trip details with the assigned observer provider company within a reasonable timeframe after the provider has been assigned. A list of approved observer service providers shall be posted on the NMFS/FSB website: <https://www.fisheries.noaa.gov/resource/data/observer-providers-northeast-and-mid-atlantic-programs>. Observers are not required to be available earlier than the

PTNS sail time for that trip notification. Unless otherwise determined by the Regional Administrator or their delegate, if an observer is not available for a trip, providers will indicate as such in the PTNS, and the trip will be waived of the coverage requirement, as appropriate. Upon initial selection, providers will indicate their availability to cover a trip between 48 and 24 hours prior to the PTNS sail time for that trip notification, however extenuating circumstances impacting the observer's availability (*e.g.*, illness or transportation issues) may result in a waiver within 24 hours of the vessel's sail time. A vessel of any eligible permit type may not begin a selected trip without the assigned observer unless having been issued a waiver.

\* \* \* \* \*

- 5. Amend § 648.14 by:
  - a. Revising paragraphs (i)(1)(vi)(B)(1) and (2);
  - b. Adding paragraphs (i)(1)(vi)(C) and (C)(1);
  - c. Revising paragraphs (i)(2)(vi)(B); and (i)(3)(v)(E).

The revisions and additions read as follows:

**§ 648.14 Prohibitions.**

\* \* \* \* \*

- (i) \* \* \*
- (1) \* \* \*
- (vi) \* \* \*
- (B) \* \* \*

(1) Fish for, possess, or land scallops in or from a Scallop Rotational Area unless it is participating in and complies with the requirements of the Scallop Access Area program defined in § 648.59(b)–(g).

(2) Enter or transit Scallop Rotational Areas on a declared Federal scallop trip, as described in § 648.59(a)(1), unless the Scallop Rotational Area has been defined as “available for continuous transit” as provided by § 648.59(a)(2) and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

(C) *Western Gulf of Maine Closure Area*

(1) Enter or transit the Western Gulf of Maine Closure Area, as defined in § 648.81(a)(4) on a declared Federal scallop trip.

\* \* \* \* \*

- (i) \* \* \*
- (2) \* \* \*
- (vi) \* \* \*

(B) Enter or transit Scallop Rotational Areas on a declared Federal scallop trip, as described in § 648.59(a)(1), unless the Scallop Rotational Area has been defined as “available for continuous transit” as provided by § 648.59(a)(2) and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

\* \* \* \* \*

- (i) \* \* \*
- (3) \* \* \*
- (v) \* \* \*

(E) Enter or transit Scallop Rotational Areas on a declared Federal scallop trip, as described in § 648.59(a)(1), unless the Scallop Rotational Area has been defined as “available for continuous transit” as provided by § 648.59(a)(2) and the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2.

\* \* \* \* \*

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

- 6. In § 648.53, revise paragraphs (a)(9) and (b)(3) to read as follows:

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

(a) \* \* \*

(9) *Scallop fishery catch limits.* The following catch limits will be effective for the 2024 and 2025 fishing years:

TABLE 2 TO PARAGRAPH (a)(9)—SCALLOP FISHERY CATCH LIMITS

| Catch limits  | 2024 (mt) | 2025 (mt) <sup>1</sup> |
|---|-----------|------------------------|
| OFL .....   | 33,406    | 35,241                 |
| ABC/ACL (discards removed) .....                            | 21,497    | 22,586                 |
| Incidental Landings .....                                   | 23        | 23                     |
| RSA .....   | 578       | 578                    |
| Observer Set-Aside .....                                    | 215       | 226                    |
| NGOM Set-Aside .....  | 191       | 143                    |
| ACL for fishery .....                                       | 20,490    | 21,616                 |
| Limited Access ACL .....                                    | 19,363    | 20,427                 |
| LAGC Total ACL .....  | 1,127     | 1,189                  |
| LAGC IFQ ACL (5 percent of ACL) .....                       | 1,024     | 1,081                  |
| Limited Access with LAGC IFQ ACL (0.5 percent of ACL) ..... | 103       | 109                    |
| Limited Access ACT .....                                    | 16,781    | 17,703                 |
| APL (after set-asides removed) .....                        | 11,609    | (1)                    |

TABLE 2 TO PARAGRAPH (a)(9)—SCALLOP FISHERY CATCH LIMITS—Continued

| Catch limits   | 2024 (mt) | 2025 (mt) <sup>1</sup> |
|--|-----------|------------------------|
| Limited Access APL (94.5 percent of APL) .....   | 10,971    | (1)                    |
| Total IFQ Annual Allocation (5.5 percent of APL) <sup>2</sup> .....                    | 638       | 479                    |
| LAGC IFQ Annual Allocation (5 percent of APL) <sup>2</sup> .....                       | 580       | 435                    |
| Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) <sup>2</sup> ..... | 58        | 44                     |

<sup>1</sup> The catch limits for the 2025 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2025 that will be based on the 2024 annual scallop surveys. The 2025 default allocations for the limited access component are defined for DAS in paragraph (b)(3) of this section and for access areas in § 648.59(b)(3)(i)(B).

<sup>2</sup> As specified in paragraph (a)(6)(iii)(B) of this section, the 2025 IFQ annual allocations are set at 75 percent of the 2024 IFQ Annual Allocations.

\* \* \* \* \*

(b) \* \* \*

(3) *DAS allocations.* The DAS allocations for limited access scallop vessels for fishing years 2024 and 2025 are as follows:

TABLE 3 TO PARAGRAPH (b)(3)—SCALLOP OPEN AREA DAS ALLOCATIONS

| Permit category  | 2024  | 2025 <sup>1</sup> |
|------------------|-------|-------------------|
| Full-Time .....  | 20.00 | 15.00             |
| Part-Time .....  | 8.00  | 6.00              |
| Occasional ..... | 1.67  | 1.25              |

<sup>1</sup> The DAS allocations for the 2025 fishing year are subject to change through a future specifications action or framework adjustment. The 2025 DAS allocations are set at 75 percent of the 2024 allocation as a precautionary measure.

\* \* \* \* \*

■ 7. Amend § 648.59 by:

- a. Revising paragraphs (a)(1) and (2);
- b. Removing paragraph (a)(3);
- c. Revising paragraphs (b)(3)(i)(B) and (b)(3)(ii)(A)(1);
- d. Removing and reserving paragraph (b)(3)(ii)(B); and

■ e. Revising paragraphs (c), (e)(1) and (2), (f), (g)(1), (g)(3)(v) and (g)(4)(ii).

The revisions read as follows:

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

(a) \* \* \*

(1) *Prohibition on Entering or Transiting a Scallop Rotational Area.* On a declared scallop trip, a vessel issued any Federal scallop permit may not enter, transit, fish for, possess, or land scallops in or from a Scallop Rotational Area unless it is participating in, and complies with, the Scallop Access Area Program Requirements defined in paragraphs (b) through (g) of this section, or if the vessel is transiting a Scallop Rotational Area defined as “available for continuous transit” pursuant to paragraph (a)(2) of this section. On a trip declared out of the Federal scallop fishery, a vessel may fish for species other than scallops within the rotational closed areas, provided the vessel does not fish for, catch, possess, or retain scallops or intend to fish for, catch, possess, or retain scallops.

(2) *Transiting a Scallop Rotational Area available for Continuous Transit.*

A vessel on a declared scallop trip or possessing scallops may continuously transit, as defined in § 648.2, a Scallop Rotational Area, if that area has been determined available for continuous transit, as specified in (a)(2)(i) of this section, and the vessel’s fishing gear is stowed and not available for immediate use as defined in § 648.2.

(i) Scallop Rotational Areas Available for Continuous Transit:

(A) Area 1 Scallop Rotational Area, as defined in § 648.60(c);

(B) Area 1 Quad Scallop Rotational Areas, as defined in § 648.60(a).

(ii) [Reserved]

(b) \* \* \*

(3) \* \* \*

(i) \* \* \*

(B) The following access area allocations and possession limits for limited access vessels shall be effective for the 2024 and 2025 fishing years:

(1) *Full-time vessels.*

(i) For a full-time limited access vessel, the possession limit and allocations are:

TABLE 1 TO PARAGRAPH (b)(3)(i)(B)(1)(i)

| Rotational access area | Scallop possession limit            | 2024 Scallop allocation     | 2025 Scallop allocation (default) |
|------------------------|-------------------------------------|-----------------------------|-----------------------------------|
| Area II .....          | 12,000 lb (5,443 kg) per trip ..... | 24,000 lb (10,886 kg) ..... | 0 lb (0 kg).                      |
| New York Bight .....   | 12,000 lb (5,443 kg) per trip ..... | 12,000 lb (5,443 kg) .....  | 0 lb (0 kg).                      |
| Total .....            | .....                               | 36,000 lb (16,329 kg) ..... | 0 lb (0 kg).                      |

(ii) [Reserved]

(2) \* \* \*

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

TABLE 2 TO PARAGRAPH (b)(3)(i)(B)(2)(i)

| Rotational access area                       | Scallop possession limit          | 2024 Scallop allocation    | 2025 Scallop allocation (default) |
|--|-----------------------------------|----------------------------|-----------------------------------|
| Area II or New York Bight <sup>1</sup> ..... | 7,200lb (3,266 kg) per trip ..... | 14,400 lb (6,532 kg) ..... | 0 lb (0 kg).                      |

TABLE 2 TO PARAGRAPH (b)(3)(i)(B)(2)(i)—Continued

| Rotational access area | Scallop possession limit | 2024 Scallop allocation    | 2025 Scallop allocation (default) |
|------------------------|--------------------------|----------------------------|-----------------------------------|
| Total .....            | .....                    | 14,400 lb (6,532 kg) ..... | 0 lb (0 kg).                      |

<sup>1</sup> Allocation can be fished in either Area II and/or New York Bight Access Areas.

(ii) [Reserved]

(3) \* \* \*

(i) For the 2024 fishing year only, an occasional limited access vessel is allocated 3,000 lb (1,361 kg) of scallops with a trip possession limit at 3,000 lb of scallops per trip (1,361 kg per trip). Occasional limited access vessels may harvest the 3,000 lb (1,361 kg) allocation from Area II or New York Bight Access Areas.

(ii) For the 2025 fishing year, occasional limited access vessels are not allocated scallops in any rotational access area.

(ii) \* \* \*

(A) \* \* \*

(1) The owner of a vessel issued a full-time limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another vessel's unharvested scallop pounds allocated into another scallop access area. These exchanges may be made only in 6,000 lb (2,722 kg) increments. For example, a full-time vessel may exchange 12,000 lb (5,443 kg) from one access area for 12,000 lb (5,443 kg) allocated to another full-time vessel for another access area. Further, a full-time vessel may exchange 12,000 lb (5,443 kg) from one access area for 12,000 lb (5,443 kg) allocated to another full-time vessel for another access area. In addition, these exchanges may be made only between vessels with the same permit category (*i.e.*, a full-time vessel may not exchange allocations with a part-time vessel, and vice versa). Vessel owners must request these exchanges by submitting a completed Access Area Allocation Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Exchange forms are available from the Regional Administrator upon request. Each vessel owner involved in an exchange is required to submit a completed Access Area Allocation Form. The Regional Administrator shall

review the records for each vessel to confirm that each vessel has enough unharvested allocation remaining in a given access area to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from the Regional Administrator that the allocation exchange has been made effective. A vessel owner may exchange equal allocations in 6,000 lb (2,722 kg) increments between two or more vessels of the same permit category under his/her ownership. A vessel owner holding a Confirmation of Permit History is not eligible to exchange allocations between another vessel and the vessel for which a Confirmation of Permit History has been issued.

\* \* \* \* \*

(B) [Reserved]

(c) *Scallop Access Area scallop allocation carryover.* With the exception of vessels that held a Confirmation of Permit History as described in § 648.4(a)(2)(i)(j) for the entire fishing year preceding the carry-over year, a limited access scallop vessel may fish any unharvested Scallop Access Area allocation from a given fishing year within the first 60 days of the subsequent fishing year if the Scallop Access Area is open, unless otherwise specified in this section. However, the vessel may not exceed the Scallop Rotational Area trip possession limit. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Area II Access Area at the end of fishing year 2023, that vessel may harvest those 7,000 lb (3,175 kg) during the first 60 days that the Area II Access Area is open in fishing year 2024 (April 1, 2024 through May 30, 2024).

\* \* \* \* \*

(e) \* \* \*

- (1) 2024: Area II Scallop Rotational Area.
- (2) 2025: No access areas.

(f) *VMS polling.* All vessels issued a Federal scallop permit and equipped with a VMS unit shall be polled at a minimum of once every 30 minutes when not on a declared Federal scallop trip or when shoreward of the VMS Demarcation Line. With the exception of vessels on a declared state waters exemption trip, all vessels issued a Federal scallop permit and equipped with a VMS unit shall be polled at a minimum of once every 5 minutes when on a declared Federal scallop trip and seaward of the VMS Demarcation Line. Vessel owners shall be responsible for paying the costs of VMS polling.

(g) *Limited Access General Category vessels.*

(1) An LAGC scallop vessel may only fish in the scallop rotational areas specified in § 648.60 or in paragraph (g)(3)(iv) of this section, subject to any additional restrictions specified in § 648.60, subject to the possession limit and access area schedule specified in the specifications or framework adjustment processes defined in § 648.55, provided the vessel complies with the requirements specified in paragraphs (b)(1), (2), and (6) through (9) and (d) through (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 Area II, Area I, and New York Bight Scallop Rotational Areas specified in § 648.60, when open, provided the vessel complies with the requirements specified in § 648.59 and this paragraph (g), but may not fish for, possess, or land scallops on such trips.

\* \* \* \* \*

(3) \* \* \*

(v) *LAGC IFQ access area allocations.* The following LAGC IFQ access area trip allocations will be effective for the 2024 and 2025 fishing years:

TABLE 3 TO PARAGRAPH (g)(3)(v)

| Scallop access area                              | 2024 | 2025 <sup>2</sup> |
|--|------|-------------------|
| Area I/Area II/New York Bight <sup>1</sup> ..... | 856  | 0                 |
| Total .....                                      | 856  | 0                 |

<sup>1</sup> LAGC Access Area trips can be taken in any of the available areas until Regional Administrator determines that the total number of LAGC IFQ trips have been or are projected to be taken.

<sup>2</sup>The LAGC IFQ access area trip allocations for the 2025 fishing year are subject to change through a future specifications action or framework adjustment.

(4) \* \* \*

(ii) *Other species.* Unless issued an LAGC IFQ scallop permit and fishing under an approved NE multispecies SAP under NE multispecies DAS, an LAGC IFQ vessel fishing in the Area II or Area I Scallop Rotational Areas specified in § 648.60 is prohibited from possessing any species of fish other than scallops and monkfish, as specified in § 648.94(c)(8)(i). Such a vessel may fish in an approved SAP under § 648.85 and under multispecies DAS in the scallop access area, provided that it has not declared into the Scallop Access Area Program. Such a vessel is prohibited from fishing for, possessing, or landing scallops.

\* \* \* \* \*

■ 8. Amend § 648.60 by:

- a. Adding paragraph (a);
- b. Revising paragraphs (b)(1) and (c);
- c. Adding paragraph (d);
- d. Revising paragraph (g);
- e. Removing and reserving paragraph (i);
- f. Revising paragraph (j); and
- g. Removing paragraph (k).

The additions and revisions read as follows:

**§ 648.60 Sea Scallop Rotational Areas.**

(a) *Area I-Quad Scallop Rotational Area.* The Area I-Quad Scallop Rotational 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):

TABLE 2 TO PARAGRAPH (b)(1)

| Point      | N latitude | W longitude      | Note             |
|------------|------------|------------------|------------------|
| All1 ..... | 41°30'     | 67°20'           |                  |
| All2 ..... | 41°30'     | ( <sup>1</sup> ) | ( <sup>2</sup> ) |
| All3 ..... | 40°40'     | ( <sup>3</sup> ) | ( <sup>2</sup> ) |
| All4 ..... | 40°40'     | 67°20'           |                  |
| All1 ..... | 41°30'     | 67°20'           |                  |

<sup>1</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.

<sup>2</sup> From Point All2 connected to Point All3 along the U.S.-Canada Maritime Boundary.

<sup>3</sup> The intersection of 40°40' N lat. and the U.S.-Canada Maritime Boundary, approximately 40°40' N lat. and 65°52.61' W long.

\* \* \* \* \*

(c) *Area I Scallop Rotational Area.* The Area I Scallop Rotational 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):

TABLE 3 TO PARAGRAPH (c)

| Point     | N latitude | W longitude |
|-----------|------------|-------------|
| AIA1 .... | 40°58.2'   | 68°30'      |
| AIA2 .... | 40°55.8'   | 68°46.8'    |
| AIA3 .... | 41°3.0'    | 68°52.2'    |
| AIA4 .... | 41°0.6'    | 68°58.2'    |
| AIA5 .... | 41°4.2'    | 69°1.2'     |
| AIA6 .... | 41°25.8'   | 68°30'      |
| AIA1 .... | 40°58.2'   | 68°30'      |

(d) *Area 1-Sliver Scallop Rotational Area.* The Area 1-Sliver Scallop Rotational 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):

TABLE 4 TO PARAGRAPH (d)

| Point     | N latitude | W longitude |
|-----------|------------|-------------|
| AlS1 .... | 41°30.0'   | 68°30.0'    |
| AlS2 .... | 41°25.8'   | 68°30.0'    |
| AlS3 .... | 41°4.2'    | 69°1.2'     |
| AlS4 .... | 41°30.0'   | 69°22.8'    |
| AlS1 .... | 41°30.0'   | 68°30.0'    |

\* \* \* \* \*

(g) *Nantucket Lightship Scallop Rotational Area.* The Nantucket Lightship Scallop Rotational 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):

TABLE 5 TO PARAGRAPH (g)

| Point    | N latitude | W longitude |
|----------|------------|-------------|
| NLS1 ... | 40°49.8'   | 69°0.0'     |
| NLS2 ... | 40°49.8'   | 69°30.0'    |
| NLS3 ... | 40°43.2'   | 69°30.0'    |
| NLS4 ... | 40°43.2'   | 70°19.8'    |
| NLS5 ... | 40°26.4'   | 70°19.8'    |
| NLS6 ... | 40°19.8'   | 70°0.0'     |
| NLS7 ... | 40°19.8'   | 68°48.0'    |
| NLS8 ... | 40°33.0'   | 68°48.0'    |
| NLS9 ... | 40°33.0'   | 69°0.0'     |

TABLE 1 TO PARAGRAPH (a)

| Point     | N latitude | W longitude |
|-----------|------------|-------------|
| AIQ1 .... | 40°55.2'   | 68°53.4'    |
| AIQ2 .... | 41°0.6'    | 68°58.2'    |
| AIQ3 .... | 41°3.0'    | 68°52.2'    |
| AIQ4 .... | 40°55.8'   | 69°46.8'    |
| AIQ1 .... | 40°55.2'   | 68°53.4'    |

(b) \* \* \*

(1) *Area II Scallop Rotational Area boundary.* The Area II Scallop Rotational 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):

TABLE 5 TO PARAGRAPH (g)—Continued

| Point    | N latitude | W longitude |
|----------|------------|-------------|
| NLS1 ... | 40°49.8'   | 69°0.0'     |

\* \* \* \* \*

(i) [Reserved]

(j) *New York Bight Scallop Rotational Area.* The New York Bight Scallop Rotational 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):

TABLE 6 TO PARAGRAPH (j)

| Point   | N latitude | W longitude |
|---------|------------|-------------|
| NYB1 .. | 40°00'     | 73°20'      |
| NYB2 .. | 40°00'     | 72°30'      |
| NYB3 .. | 39°20'     | 72°30'      |
| NYB4 .. | 39°20'     | 73°20'      |
| NYB1 .. | 40°00'     | 73°20'      |

\* \* \* \* \*

■ 9. In § 648.62, revise paragraph (b)(1) and add paragraph (e) to read as follows:

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

(1) The following landings limits will be effective for the NGOM for the 2024 and 2025 fishing years.

TABLE 1 TO PARAGRAPH (b)(1)

| Landings limits                        | 2024                          | 2025 <sup>1</sup>                      |
|--|-------------------------------|--|
| NGOM TAL .....                         | 454,152 lb (206,000 kg) ..... | 346,996 lb (157,395 kg) <sup>2</sup> . |
| 1 percent NGOM ABC for Observers ..... | 8,554 lb (3,880 kg) .....     | 6,548 lb (2,970 kg) <sup>2</sup> .     |
| RSA Contribution .....                 | 25,000 lb (11,340 kg) .....   | 25,000 lb (11,340 kg).                 |
| NGOM Set-Aside .....                   | 420,598 lb (190,780 kg) ..... | 315,449 lb (143,085 kg).               |
| NGOM APL .....                         | ( <sup>3</sup> ) .....        | ( <sup>3</sup> )                       |

<sup>1</sup> The landings limits for the 2025 fishing year are subject to change through a future specifications action or framework adjustment.

<sup>2</sup> The catch limits for the 2025 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2025 that will be based on the 2024 annual scallop surveys.

<sup>3</sup> NGOM APL is set when the NGOM Set-Aside is above 800,000 lb (362,874 kg).

\* \* \* \* \*

(e) *Platts Bank Scallop Rotational Closed Area.* (1) For fishing years 2024 and 2025, a vessel issued a Federal scallop permit on a declared scallop trip may not enter, transit, fish for, possess, or land scallops in or from the Platts Bank Scallop Rotational Closed Area.

(2) *Boundaries.* The Platts Bank Scallop Rotational 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):

TABLE 2 TO PARAGRAPH (e)(2)

| Point   | N latitude | W longitude |
|---------|------------|-------------|
| NYB1 .. | 40°00'     | 73°20'      |
| NYB2 .. | 40°00'     | 72°30'      |
| NYB3 .. | 39°20'     | 72°30'      |
| NYB4 .. | 39°20'     | 73°20'      |
| NYB1 .. | 40°00'     | 73°20'      |

\* \* \* \* \*

■ 10. In § 648.64, revise paragraph (f)(2) to read as follows:

**§ 648.64 Flounder Stock sub-ACLs and Ams for the scallop fishery.**

\* \* \* \* \*

(f) \* \* \*

(2) The Northern Windowpane Flounder Gear Restricted Area shall remain in effect for the period of time based on the corresponding percent overage of the northern windowpane flounder sub-ACL, as follows:

TABLE 4 TO PARAGRAPH (f)(2)—NORTHERN WINDOWPANE FLOUNDER GEAR RESTRICTED AREA ACCOUNTABILITY MEASURE DURATION

| Percent overage of sub-ACL | Duration of gear restriction      |
|----------------------------|-----------------------------------|
| 20 or less .....           | November 15 through December 31.  |
| Greater than 20 .....      | April through March (year-round). |

\* \* \* \* \*