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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 240314–0080]

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: Final rule.

SUMMARY: NMFS approves and implements the measures included in Framework Adjustment 38 to the Atlantic Sea Scallop Fishery Management Plan as adopted and submitted by the New England Fishery Management Council. Framework 38 establishes scallop specifications and other measures for fishing years 2024 and 2025. Framework 35 implements measures to protect small scallops which would thereby support rotational access area trips to the fleet in future years. To promote uniformity in the fishery, this final rule also corrects and clarifies regulatory text that is unnecessary, outdated, or unclear.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: Effective on April 1, 2024, except for the amendment to § 648.10(c)(1)(ii), which is effective April 22, 2024.

ADDRESSES: The New England Fishery Management Council (Council) has prepared an environmental assessment (EA) for this action that describes the

measures in Framework 38 and other considered alternatives and analyzes the impacts of the measures and alternatives. The Council submitted 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 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>.

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, 978–281–9233, travis.ford@noaa.gov.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council adopted Framework Adjustment 38 to the Atlantic Sea Scallop FMP on December 6, 2023. The Council submitted Framework 38, including a draft EA, for NMFS review and approval on February 26, 2024. NMFS published a proposed rule for Framework 38 on February 12, 2024 (89 FR 9819). To help ensure that the final rule would be implemented before the start of the fishing year on April 1, 2024, the proposed rule included a 15-day public comment period that closed on February 27, 2024. Except as explained below with respect to section 305(d), NMFS is issuing this rule pursuant to 304(b)(1)(A) rulemaking authority. NMFS has approved all of the measures in Framework 38 recommended by the Council. This final rule implements Framework 38, which sets 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. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) allows NMFS to approve, partially approve, or disapprove measures proposed by the Council based on whether the measures are consistent with the FMP, the Magnuson-Stevens Act and its National Standards, and other applicable law. Details concerning the development of these measures were contained in the preamble of the proposed rule and are not repeated here. This final rule also addresses regulatory text that is unnecessary, outdated, or unclear pursuant to section 305(d) of the 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 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 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 scallop fishery catch limits.

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

Catch limits	2024 (mt)	2025 (mt) ^a
OFL	33,406	35,241
ABC/ACL (discards removed)	21,497	22,586
Incidental Landings	23	23
Research Set-Aside (RSA)	578	578
Observer Set-Aside	215	226
Northern Gulf of Maine (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

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

Catch limits	2024 (mt)	2025 (mt) ^a
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	(^a)
Limited Access APL (94.5 percent of APL)	10,971	(^a)
Total IFQ Annual Allocation (5.5 percent of APL) ^b	638	479
LAGC IFQ Annual Allocation (5 percent of APL) ^b	580	435
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) ²	58	44

^a 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.

^b As a precautionary measure, the 2025 IFQ and annual allocations are set at 75 percent of the 2024 IFQ Annual Allocations.

This action deducts 1.275 million lb (578 mt) of scallops annually for 2024 and 2025 from the respective 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 reviewed proposals submitted for consideration of 2024 RSA awards and intends to announce project selections in late March. Details on the 2024 RSA awards will be posted on our website when announced.

This action also deducts 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. In fishing year 2024, the compensation rates for limited access vessels in open areas fishing under days-at-sea (DAS) is 0.12 DAS per DAS fished. For access area trips, the compensation rate is 250 lb (113.4 kg), in addition to the vessel's possession limit for the trip for each day or part of a day an observer is onboard.

For LAGC IFQ trips less than 24 hours, a vessel will be able to harvest the trip limit and the daily compensation rate on the observed trip, or the vessel could harvest any unfished compensation on a subsequent trip while adhering to the commercial possession limit. LAGC IFQ vessels may possess an additional 250 lb (113.4 kg) per trip on trips less than 24 hours when carrying an observer.

For trips exceeding 24 hours, the daily compensation rate of 250 lb (113.4 kg) will be prorated at 12-hour increments. The amount of compensation a vessel can receive on one trip will be capped at 2 days (48

hours) and vessels fishing longer than 48 hours will not receive additional compensation allocation. For example, if the observer compensation rate is 250 lb/day (113.4 kg/day) and an LAGC IFQ vessel carrying an observer departs on July 1 at 2200 and lands on July 3 at 0100, the length of the trip would equal 27 hours, or 1 day and 3 hours. In this example, the LAGC IFQ vessel would be eligible for 1 day plus 12 hours of compensation allocation, *i.e.*, 375 lb (170.1 kg).

For NGOM trips, a vessel will be able to harvest the trip limit and the daily compensation rate on the observed trip. NGOM vessels may possess an additional 125 lb (56.7 kg) per trip when carrying an observer.

NMFS may adjust the compensation rate throughout the fishing year, depending on how quickly the fleets are using the set aside.

Open Area Days-at-Sea (DAS) Allocations

This action implements 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). The 2024 DAS allocations are less than those allocated to the limited access fleet in 2023. Framework 38 sets 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 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	15

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

Permit category	2024	2025 (default)
Part-Time	8	6
Occasional	1.67	1.25

Changes to Fishing Year 2024 Sea Scallop Rotational Area Program

For fishing year 2024 and for the start of 2025, Framework 38 combines and expands 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 is 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'
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 divides Area I into three separate areas (*i.e.*, Area I, Area I-Sliver, and Area I-Quad). Area I (table 4) will be closed to the limited access fleet, but is 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) will remain closed to all scallop fishing to protect small scallops. Area I-Quad (table 6) will also be closed to all scallop fishing to protect transplanted scallops related to an

ongoing RSA project. The Area I-Quad closure will 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'	68°46.8'
AIQ1	40°55.2'	68°53.4'

Framework 38 keeps the Area II Scallop Rotational Area open for fishing year 2024. In addition, it opens 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 reverts 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 will 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 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—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 (per trip)	2024 Scallop allocation	2025 Scallop allocation (default)
Area II	12,000 lb (5,443 kg)	24,000 lb (10,886 kg)	0 lb (0 kg).
New York Bight	12,000 lb (5,443 kg)	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 allows 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 may 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 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 may fish the allocation in either of the open access areas (*i.e.*, Area II and New York Bight). These allocations can be landed in as many trips as needed, so long as a vessel does not exceed the possession limit (table 9) or its available allocation on any one trip.

The proposed rule for Framework 38 incorrectly listed the possession limit for part-time vessels on access area trips as 7,200 lb (3,266 kg) per trip. The correct possession limit is 14,400 lb (6,532 kg) per trip.

TABLE 9—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 ^a	14,400 lb (6,532 kg)	14,400 lb (6,532 kg)	0 lb (0 kg).
Total .....	.....	14,400 lb (6,532 kg)	0 lb (0 kg).

^a 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 requires 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 will 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 will 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 will 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 Area

To better enforce the Sea Scallop Rotational Area Management Program, Framework 38 prohibits 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 will be corridors for continuous transiting, and transit will 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 will 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 implements 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 (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. The annual allocation to the LAGC IFQ-only fleet for fishing years 2024 and 2025 based on APL will be 1.28 million lb (580 mt) for 2024 and 959,011 lb (435 mt) for 2025 (table 1). Each vessel's IFQ

will be calculated from these allocations based on APL.

2. *ACL and IFQ Allocation for Limited Access Scallop Vessels with IFQ Permits.* This action implements 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 (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 will be 127,868 lb (58 mt) for 2024 and 97,003 lb (44 mt) for 2025 (table 1). Each vessel's IFQ will be calculated from these allocations based on APL.

3. *LAGC IFQ Trip Allocations for Scallop Access Areas.* Framework 38 will allocate LAGC IFQ vessels a fleet-wide number of trips for fishing year 2024 and no default trips for fishing year 2025 (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 will 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 ^a
Area I/Area II/New York Bight ^b	856	0
Total	856	0

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

^b 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.

4. *NGOM Scallop Fishery Landing Limits and Platts Bank Scallop Rotational Closed Area.* This action implements total allowable landings (TAL) in the NGOM of 454,152 lb (206,000 kg) for fishing year 2024. This action deducts 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 deducts 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).

Framework 38 sets 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 does 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 ^a
NGOM TAL	454,152 lb (206,000 kg)	346,996 lb (157,395 kg) ^b .
1 percent NGOM ABC for Observers	8,554 lb (3,880 kg)	6,548 lb (2,970 kg) ^b .
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	(c)	(c).

^a The landings limits for the 2025 fishing year are subject to change through a future specifications action or framework adjustment.

^b 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.

^c NGOM APL is set when the NGOM Set-Aside is above 800,000 lb (362,874 kg).

Framework 38 closes the Platts Bank Scallop Rotational Closed Area (table 12) through fishing year 2025. This closure protects 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
PB1	43°13.8'	69°43.8'
PB2	43°13.8'	69°31.2'
PB3	43°5.4'	69°31.2'
PB4	43°5.4'	69°43.8'
PB1	43°13.8'	69°43.8'

5. *Scallop Incidental Landings Target TAL.* This action implements 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 rule includes one revision to address regulatory text that is unnecessary, outdated, and unclear. The revision at § 648.64(f)(2) fixes an error and clarifies 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 rule includes changes to regulatory text in 50 CFR part 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 will be made at § 648.11(k)(1) through (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.

Comments and Responses

We received seven comments on the proposed rule during the public comment period; three individuals and the Maine Coast Fishermen's Association commented in support of the action; two individuals commented against more general aspects of fishing and fisheries management; one individual commented that Framework 38 was pointless without the total eradication of offshore wind.

Comment 1: Several commenters commented in support of Framework 38 and recommended the continued management of Atlantic sea scallops.

Response: NMFS appreciates the comment.

Comment 2: Two individuals encouraged NMFS to consider more stakeholder input and actively engage with the fishing community throughout the implementation of Framework 38.

Response: The Council considered public/stakeholder input throughout the development of Framework 38. The Council made adjustments to Framework 38 measures in response to stakeholder input. Specifically, the Council selected alternatives in Framework 38 to allow the LAGC IFQ fleet to fish 2024 access area trips in either Area II, Area I, or the New York Bight. Further, Framework 38 allows

limited access part-time vessels to fish access area trips in either Area II or the New York Bight. These measures were selected provide flexibility to the LAGC IFQ and limited access part-time vessels. NMFS solicits and addresses public comment on all scallop management actions and will continue to do so moving forward.

Comment 3: One individual was opposed to dredging because it allegedly disrupts the ecosystem.

Response: The measures in Framework 38 would have a negligible to slight negative impact on essential fish habitat (EFH). Since the inception of this FMP, a broad suite of measures has been employed to reduce fishing mortality and address habitat impacts. The Council has identified areas to prohibit scallop fishing in order reduce impacts on EFH (for more information, see the Omnibus EFH Amendment 2; 83 FR 15240; April 9, 2018). After a period of very high fishing mortality during the mid-1980's and early-1990's, rotational area management (formalized in Amendment 10 to the Atlantic Sea Scallop FMP (69 FR 35194; June 23, 2004)) has improved meat yields and landings per unit effort, while DAS reductions have curbed overall fishing mortality. Overall, the successful management of the scallop resource has generally reduced fishing effort and mitigated the impacts of scallop dredging on EFH.

Comment 4: One individual thought the measures in Framework 38 were too limiting on industry and, citing the Commerce Clause of the U.S. Constitution, alleged that NOAA lacks expertise to regulate fisheries that affect interstate commerce.

Response: The primary goal of managing the scallop fishery is to maintain long-term sustainable catch levels and the first objective of the Scallop FMP is to prevent overfishing. The Scallop FMP established a fishery specifications process that ensures a consistent review of the Atlantic sea scallop stock status, fishery performance, and other factors to manage by annual catch limits and prevent overfishing. The measures implemented through this action should further achieve the goals/objectives and reduce the possibility of overfishing the Atlantic sea scallop resource, ultimately achieving optimal yield for the fishery. With respect to NOAA's expertise and authority, NOAA has the expertise and rulemaking authority that the commenter alleges it does not have. Congress passed the Magnuson-Stevens Act pursuant to the Commerce Clause of the U.S. Constitution. NOAA administers the Magnuson-Stevens Act

as Congress' delegated expert. Congress granted NOAA rulemaking authority under the Magnuson-Stevens Act to issue rules, such as this rule, where there may be an effect on interstate commerce.

Comment 5: One individual commented that Framework 38 was pointless without the total eradication of offshore wind.

Response: This comment is outside the scope of the rule. Nevertheless, NMFS continues to monitor offshore wind development for effects on fisheries and other marine life.

Changes From the Proposed Rule

The proposed rule for Framework 38 incorrectly listed the possession limit for part-time vessels on access area trips as 7,200 lb (3,266 kg) per trip. The correct possession limit is 14,400 lb (6,532 kg) per trip. We corrected this in the preamble and the regulatory revisions at § 648.59(b)(3)(i)(B)(2)(i). The proposed rule for Framework 38 contained typos in the coordinates for the Area I-Quad Rotational Area and Platts Bank Scallop Rotational Closed Area. We corrected these in the preamble and the regulatory revisions at §§ 648.60(a) and 648.62(e)(2). This final rule removes prohibitions at § 648.14(i)(2)(vi)(B) and (i)(3)(v)(E) and adds a prohibition at § 648.14(i)(1)(vi)(B)(3) to better clarify that a vessel on declared scallop trip is prohibited from entering a Scallop Rotational Area, defined as "available for continuous transit" and not continuously transiting through the area, unless it is participating in and complies with the Scallop Access Area Program Requirements.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the FMP, other provisions of the Magnuson-Stevens Act and other applicable law. Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this final rule is necessary to discharge NMFS' responsibilities and to carry out the Magnuson-Stevens Act.

The Office of Management and Budget has determined that this rule is not significant pursuant to E.O. 12866.

This final rule does not contain policies with federalism or "takings" implications, as those terms are defined in E.O. 13132 and E.O. 12630, respectively.

This action does not contain any collection-of-information requirements subject to the Paperwork Reduction Act.

With the exception of the amendment to § 648.10(c)(1)(ii) (5-minute VMS pings), the Assistant Administrator for Fisheries has determined that the need to implement the measures of this rule in an expedited manner is necessary to achieve conservation objectives for the scallop fishery, windowpane and yellowtail flounder stocks, and to prevent adverse effects to scallop fishery participants. As explained in more detail below, this constitutes good cause, under authority contained in 5 U.S.C. 553(d)(3), to waive the 30-day delay in the date of effectiveness and to make the final Framework 38 measures effective upon publication in the **Federal Register**. The 2024 fishing year begins 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. Stakeholder and industry groups have been involved with the development of this action and have participated in relevant 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 would create confusion in the Atlantic sea scallop industry. 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 will 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 increases 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 provides 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 opens 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,

which would undermine the intent of the rule.

The final rule implementing Framework 38 could not have been issued sooner to allow for a 30-day delayed effectiveness by the April 1, 2024, start of the scallop fishing year. The information underlying the rule was unavailable until shortly before the Council voted on the framework (December 6, 2023). A proposed rule package was diligently forwarded to NMFS on December 22, 2023, and NMFS published a proposed rule on February 12, 2023. Delaying the implementation of this action for 30 days would delay positive economic benefits to the scallop fleet, would negatively impact the access area rotation program by delaying fishing in areas that should be available, and could adversely affect scallop stocks.

Pursuant to section 604 of the Regulatory Flexibility Act (RFA), NMFS has completed a final regulatory flexibility analysis (FRFA) in support of Framework 38, as included below. This FRFA incorporates the IRFA, a summary of the significant issues raised by public comments in response to the IRFA, NMFS' responses to those comments, a summary of the analyses completed in the Framework 38 EA, and the preamble to this final rule. A summary of the IRFA was published in the proposed rule for this action and is not repeated here. A description of why this action was considered, the objectives of, and the legal basis for this rule is contained in Framework 38 and in the preambles to the proposed rule and this final rule and are not repeated here. All of the documents that constitute the FRFA (including the preambles of the proposed and final rules) are available from NMFS and/or the Council, and a copy of the IRFA, the RIR, and the EA are available upon request (see **ADDRESSES** section).

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

We received no comments specific to the IRFA or on the economic impacts of the rule more generally. See above for responses to comments on the proposed rule.

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

These regulations 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 are affected by these regulations, their home and principal state, dependency on the scallop fishery, and revenues and profits (see **ADDRESSES** section). 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 this 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 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 Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Final Rule

This action contains no new collection-of-information, reporting, or recordkeeping requirements. This final rule does not require specific action on behalf of regulated entities other than to ensure they stay within the specifications that are set.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

During the development of Framework 38, NMFS and the Council considered ways to reduce the regulatory burden on, and provide flexibility for, the regulated entities in this action. Framework 38 allows the LAGC IFQ fleet to fish 2024 access area trips in either Area II, Area I, or the New York Bight. Further, Framework 38 allows part-time vessels to fish access area trips in either Area II or the New York Bight. This could have potentially slight positive impacts on the resource overall by spreading effort out and providing more access in areas with higher catch rates. It also could potentially reduce total area swept because the LAGC IFQ and part-time components will have the opportunity to fish on high densities of scallops in all open access areas. Alternatives to the measures in this final rule are described in detail in Framework 38, which includes an EA, RIR, and IRFA (see **ADDRESSES** section). The measures implemented by this final rule minimize the long-term economic impacts on small entities to the extent practicable. The only alternatives for the prescribed catch limits that were analyzed were those that met the legal requirements to implement effective conservation measures. Specifically, catch limits

must be derived using SSC-approved scientific calculations based on the Scallop FMP. Moreover, the limited number of alternatives available for this action must also be evaluated in the context of an ever-changing FMP, as the Council has considered numerous alternatives to mitigating measures every fishing year in amendments and frameworks since the establishment of the FMP in 1982.

Overall, this rule minimizes adverse long-term impacts by ensuring that management measures and catch limits result in sustainable fishing mortality rates that promote stock rebuilding, and as a result, maximize optimal yield. The measures implemented by this final rule also provide additional flexibility for fishing operations in the short-term.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency will publish one or more guides to assist small entities in complying with the rule and will designate such publications as “small entity compliance guides.” The agency will explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a bulletin to permit holders that also serves as a small entity compliance guide was prepared. This final rule and the guide (*i.e.*, bulletin) will be sent via email to the Greater Atlantic Regional Fisheries Office scallop email list and are available on the website at: <https://www.fisheries.noaa.gov/action/framework-adjustment-38-atlantic-sea-scallop-fishery-management-plan>. Hard copies of the guide and this final rule will be available upon request (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 14, 2024.

Samuel D. Rauch, III,

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

For the reasons set out in the preamble, NMFS amends 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 hours 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 (k)(3), and (k)(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 hours 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)(B)(3) and (i)(1)(vi)(C);

■ c. Removing and reserving 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) through (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.

(3) Enter a Scallop Rotational Area defined as “available for continuous transit”, as provided by § 648.59(a)(2), on a declared Federal scallop trip and not continuously transit through the area, unless it is participating in and complies with the Scallop Access Area Program Requirements.

(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.

(2) [Reserved]

* * * * *

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) ^a
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	(^a)
Limited Access APL (94.5 percent of APL)	10,971	(^a)
Total IFQ Annual Allocation (5.5 percent of APL) ^b	638	479
LAGC IFQ Annual Allocation (5 percent of APL) ^b	580	435
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) ²	58	44

^a 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).

^b 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 ^a
Full-Time	20	15
Part-Time	8	6
Occasional	1.67	1.25

^a 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 paragraph (a);
- b. Revising paragraphs (b)(3)(i)(B) and (b)(3)(ii)(A)(1);
- c. Removing and reserving paragraph (b)(3)(ii)(B); and
- d. 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) The Scallop Rotational Area Management Program consists of Scallop Rotational Areas, as defined in

§ 648.2. Guidelines for this area rotation program (*i.e.*, when to close an area and reopen it to scallop fishing) are provided in § 648.55(a)(6). Whether a rotational area is open or closed to scallop fishing in a given year, and the appropriate level of access by limited access and LAGC IFQ vessels, are specified through the specifications or framework adjustment processes defined in § 648.55. When a rotational area is open to the scallop fishery, it is called an Access Area and scallop vessels fishing in the area are subject to the Scallop Access Area Program Requirements specified in this section. Areas not defined as Scallop Rotational Areas specified in § 648.60, Habitat Management Areas specified in § 648.370, or areas closed to scallop fishing under other FMPs, are governed by other management measures and restrictions in this part and are referred to as Open Areas.

(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 paragraph (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 (per trip)	2024 Scallop allocation	2025 Scallop allocation (default)
Area II	12,000 lb (5,443 kg)	24,000 lb (10,886 kg)	0 lb (0 kg).
New York Bight	12,000 lb (5,443 kg)	12,000 lb (5,443 kg)	0 lb (0 kg).
Total .....	.....	36,000 lb (16,329 kg)	0 lb (0 kg).

(ii) [Reserved]

(2) *Part-time vessels.*

(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 (per trip)	2024 Scallop allocation	2025 Scallop allocation (default)
Area II or New York Bight ^a	14,400 lb (6,532 kg)	14,400 lb (6,532 kg)	0 lb (0 kg).
Total .....	.....	14,400 lb (6,532 kg)	0 lb (0 kg).

^a Allocation can be fished in either Area II and/or New York Bight Access Areas.

(ii) [Reserved]

(3) *Occasional limited access vessels.*

(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.

* * * * *

(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) * * *

(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) through (2), (b)(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 ^a
Area I/Area II/New York Bight ^b	856	0
Total	856	0

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

^b 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.

(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.

(6) *Area I-Quad Scallop Rotational Area.* The Area 1-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 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'	68°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 2 TO PARAGRAPH (b)(1)

Point	N latitude	W longitude	Note
AI11	41°30'	67°20'	
AI12	41°30'	(a)	(b)
AI13	40°40'	(c)	(b)
AI14	40°40'	67°20'	
AI11	41°30'	67°20'	

^a The intersection of lat. 41°30' N and the United States-Canada Maritime Boundary, approximately lat. 41°30' N, long. 66°34.73' W.

^b From Point AI12 connected to Point AI13 along the United States-Canada Maritime Boundary.

^c The intersection of lat. 40°40' N and the United States-Canada Maritime Boundary, approximately lat. 40°40' N and long. 65°52.61' W.

* * * * *

(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'

(6) *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
AIS1	41°0.0'	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'

* * * * *

(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'
NLS1 ...	40°49.8'	69°0.0'

TABLE 1 TO PARAGRAPH (b)(1)

Landings limits	2024	2025 ^a
NGOM TAL	454,152 lb (206,000 kg)	346,996 lb (157,395 kg) ^b .
1 percent NGOM ABC for Observers	8,554 lb (3,880 kg)	6,548 lb (2,970 kg) ^b .
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).

* * * * *

(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)—Continued

Landings limits	2024	2025 ^a
NGOM APL	(^c)	(^c).

^a The landings limits for the 2025 fishing year are subject to change through a future specifications action or framework adjustment.
^b 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.
^c 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) 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
PB1	43°13.8'	69°43.8'
PB2	43°13.8'	69°31.2'
PB3	43°5.4'	69°31.2'
PB4	43°5.4'	69°43.8'
PB1	43°13.8'	69°43.8'

■ 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).