

shall include wording as follows: "Inspected for wholesomeness by U.S. Department of Agriculture." This wording shall be contained within a circle. The form and arrangement of such wording shall be exactly as indicated in the example in Figure 1, except that the appropriate official establishment number shall be shown, and if the establishment number appears elsewhere on the labeling material in the manner prescribed in § 381.123(b), it may be omitted from the inspection mark. The administrator may approve the use of abbreviations of such inspection mark; and such approved abbreviations shall have the same force and effect as the inspection mark. The official inspection legend, or the approved abbreviation thereof, shall be printed on consumer packages and other immediate containers of inspected and passed poultry products, or on labels to be securely affixed to such containers of such products and may be printed or stenciled thereon, but shall not be applied by rubber stamping. When applied by a stencil, the legend shall not be less than 4 inches in diameter. An official brand must be applied to inspected and passed carcasses and parts of ratites that are shipped unpacked.

Done at Washington, DC, on: April 25, 2001.

Thomas J. Billy,
Administrator.

[FR Doc. 01-10679 Filed 4-26-01; 1:36 pm]

BILLING CODE 3410-DM-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 01-AWP-1]

Establishment of a Class E Enroute Domestic Airspace Area, El Centro, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date.

SUMMARY: This document delays the effective date of a direct final rule which establishes a Class E enroute domestic airspace area beginning at 1,200 feet above ground level (AGL) in the vicinity of El Centro, CA and replaces existing Class G uncontrolled airspace within Restricted Area 2510A (R2510A), the Kane West Military Operating Area (MOA), and Kane East MOA.

EFFECTIVE DATE: The effective date of the direct final rule published on February

26, 2001 (66 FR 11531) is delayed until 0901 UTC July 12, 2001.

ADDRESSES: The official docket may be examined in the Office of the Assistant Chief Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6007, 15000 Aviation Boulevard, Lawndale, California 90261.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division at the above address.

FOR FURTHER INFORMATION CONTACT:

Debra Trindle, Air Traffic Division, Airspace Specialist, AWP-520.10, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725-6613.

SUPPLEMENTARY INFORMATION: On February 26, 2001, the FAA published in the **Federal Register** a direct final rule; request for comments, which established a Class E enroute domestic airspace area beginning at 1,200 feet above ground level in the vicinity of El Centro, CA (FR Document 01-4680, 66 FR 11531, Airspace Docket No. 01-AWP-1). Please note that when accessing this document it was published incorrectly by the **Federal Register** as 00-AWP-1. The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on June 15, 2001. No adverse comments were received; therefore this document confirms that this direct final rule will become effective, but on a delayed date of July 12, 2001. The delay in the effective date is so the change will be in conjunction with established aeronautical charting cycles.

Issued in Los Angeles, California, on April 4, 2001.

Leonard A. Mobley,

*Acting Manager, Air Traffic Division,
Western-Pacific Region.*

[FR Doc. 01-10841 Filed 4-30-01; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 648

[Docket No. 010410087-1087-01; I.D. 031401B]

RIN 0648-AO07

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; Framework Adjustment 14

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement measures contained in Framework Adjustment 14 to the Atlantic Sea Scallop Fishery Management Plan (FMP). This final rule implements management measures for the 2001 and 2002 fishing years, including a days-at-sea (DAS) adjustment, a Sea Scallop Area Access Program (Area Access Program) for two areas that have been closed to scallop fishing in the Mid-Atlantic, and a 50-bu (17.62 hectoliters (hl)) possession restriction of in-shell scallops on vessels shoreward of the vessel monitoring system (VMS) demarcation line. The intent of this action is to achieve the goals and objectives of the FMP and to achieve optimum yield in the scallop fishery. In addition, NMFS publishes the Office of Management and Budget (OMB) control numbers for collection-of-information requirements contained in this final rule.

DATES: Effective April 26, 2001.

ADDRESSES: Copies of Framework Adjustment 14, its Final Supplemental Environmental Impact Statement (FSEIS), and Regulatory Impact Review (RIR) are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950. These documents are also available online at <http://www.nefmc.org>.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298; and to the Office of Information and Regulatory Affairs, Office of Management and Budget,

Washington, DC 20503 (Attn: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT:

Peter W. Christopher, Fishery Policy Analyst, 978-281-9280; fax 978-281-9135; e-mail peter.christopher@noaa.gov.

SUPPLEMENTARY INFORMATION:

Regulations implementing Amendment 7 to the FMP (64 FR 14835, March 29, 1999) redefined overfishing and revised the fishing mortality (F) reduction schedule through fishing year 2008. The reductions in F and associated sea scallop DAS schedule were intended to rebuild the sea scallop stock within 10 years. Amendment 7 also established an annual monitoring and review process to adjust management measures to meet the stock rebuilding objectives as conditions in the resource change. In addition, Amendment 7 included a measure that continued the closures of two sea scallop closed areas in the Mid-Atlantic region, known as the Hudson Canyon South and Virginia Beach Closed Areas, through March 1, 2001. These closed areas were originally implemented by interim rules (63 FR 15324, March 31, 1998; 63 FR 51862, September 29, 1998) to prevent the harvest of juvenile scallops and to allow time for scallop growth and rebuilding. Framework 14 renames the Hudson Canyon South Closed Area as the Hudson Canyon Area to avoid confusion that the "South" description may cause.

Based on information from the 29th Northeast Regional Stock Assessment Workshop (September 1999) and on the updated catch and survey data, the New England Fishery Management Council (Council) included new biological projections in its 2000 Stock Assessment and Fishery Evaluation (SAFE) Report for sea scallops (September 8, 2000) that conclude that scallop rebuilding is ahead of the rebuilding schedule specified in Amendment 7. As reported in the 2000 SAFE Report, the accelerated rebuilding has occurred primarily because of strong year classes of scallops in 1998 and 2000. The Scallop Plan Development Team (PDT), which completed the analysis in the 2000 SAFE Report, determined that DAS allocations could be increased from the Amendment 7 levels while still meeting the 2001 and 2002 F targets, provided that the Georges Bank and Southern New England multispecies closed areas remain closed to scallop fishing and that access to scallops in the Hudson Canyon and Virginia Beach Areas in the Mid-Atlantic is controlled. The PDT also recommended closing four new areas to

scallop fishing to protect high concentrations of juvenile scallops.

At its January 25, 2001, meeting, the Council took final action on management measures for Framework 14. The Council recommended the following measures for fishing years 2001 and 2002: An annual DAS allocation of 120, 48, and 10 DAS for full-time, part-time, and occasional vessels, respectively; an Area Access Program for the Hudson Canyon and Virginia Beach Areas to control fishing effort, catch, and fishing mortality in these two previously closed areas; and a prohibition on the possession of more than 50 U.S. bushels (17.62 hl) of in-shell scallops inside the VMS demarcation line for vessels that fish in or transit the area south of 42°20' N. latitude. Although the Scallop Oversight Committee supported two additional closures in Framework 14, the Council ultimately decided to recommend that no new closures (beyond the continuation of the Georges Bank and Southern New England multispecies closed areas) be implemented because such closures had the potential for unnecessary hardships on the industry and that new closures are not necessary to achieve the goals of the FMP given the improved condition of the resource.

Approved Measures

This action implements an annual DAS allocation of 120, 48, and 10 DAS for full-time, part-time, and occasional vessels, respectively, for the 2001 and 2002 fishing years. This allocation represents an increase over the DAS allocations that became effective March 1, 2001, as scheduled under Amendment 7 (i.e., 49 full-time, 19 part-time, and 4 occasional).

Framework 14 implements a system (Area Access Program) for allowing controlled scallop fishing in the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, similar to programs implemented under Frameworks 11 and 13 to the FMP that allowed scallop fishing in the multispecies closed areas. Vessels are prohibited from fishing for scallops in the Sea Scallop Access Areas unless they are fishing under the Area Access Program. The intent of this access program is to derive biological, social, and economic benefits from fishing in the areas over the course of 2 years. Measures included in the Area Access Program are described below.

This action also implements a prohibition on the possession of more than 50 U.S. bu (17.62 hl) of in-shell scallops inside the VMS demarcation line for vessels that fish in or transit the area south of 42°20' N. latitude. Without this restriction, vessels could avoid the

limitations of the seven-man crew and DAS restrictions by bringing in-shell scallops shoreward of the VMS demarcation line and shucking inside the line. Because DAS stop accruing once a vessel is inside the VMS demarcation line, vessels are able to bank this saved time for future trips. This measure also may have the incidental benefit of helping to prevent possible contamination of inshore habitats caused by any large discards of scallop viscera as a result of shucking near shore. Vessels fishing north of 42°20' N. latitude will be exempt from this restriction, provided they do not enter the area south of 42°20' N. latitude. This exemption is intended to allow a limited fishery to continue north of 42°20' N. latitude by some vessels that have traditionally landed in-shell scallops.

Finally, this final rule corrects a reference to the stowage provisions in the regulations for Closed Area I that inadvertently references a paragraph that formerly included gear stowage provisions but is now reserved. This regulation is found at § 648.81(b)(2)(ii).

Sea Scallop Area Access Program Measures

The 2001 Area Access Program begins on May 1, 2001 and ends when the TAC is caught or when vessels have used up their allocated number of trips. The 2002 Area Access Program begins on March 1, 2002, unless the fishery is closed prior to February 28, 2002, in which case it will begin on April 1, 2002. A delay in the start date is intended to reduce possible bycatch of finfish that could occur in late winter and early spring.

The Area Access Program includes a TAC of 13.96 million lb (6,331 mt) and 0.62 million lb (283 mt) for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively, for 2001, and 14.14 million lb (6,415 mt) and 0.60 million lb (273 mt) for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively, for 2002. These TACs include set-asides of 2 percent and 1 percent to defray the costs of observers and research, respectively. The TACs achieve an F of 0.2 in each of the two areas.

All limited access scallop vessels, including vessels that replace vessels that hold a scallop Confirmation of Permit History, are eligible to fish for the sea scallop TAC under the Area Access Program. Full-time and part-time scallop vessels are restricted to a total of three annual trips to the Hudson Canyon and Virginia Beach Sea Scallop Access Areas. A trip to either of the areas counts as one of the allowed trips.

Vessels participating in the Area Access Program are allowed to take only one of the three allocated trips before May 1 and only two of the three allocated trips before June 1. At least one trip must be started before September 1 to be eligible to fish the remainder of the allocated trips or any additional trips that may be authorized on or after October 1. This measure is meant to prevent a derby style fishery from occurring and may reduce the potential for bycatch by limiting trips in late spring when bycatch, particularly of summer flounder, could be problematic. Vessels in the occasional permit category may conduct only one trip and may fish in the area of their choice.

Participating scallop vessels are allowed to possess and land from the areas up to 17,000 lb (7,711.1 kg) of scallop meats per trip in fishing year 2001 and 18,000 lb (8,164.7 kg) of scallop meats per trip in fishing year 2002. Limits on both the amount of scallops possessed and landed and the number of trips are intended to help to control fishing mortality of scallops in the areas. These limits are also intended to increase social benefits by allowing all limited access vessels an opportunity to fish in the areas without creating a derby fishery, and to increase economic benefits by promoting an orderly fishery and reducing the possibility of market gluts that could be caused by high initial catches in these areas.

After taking into account data on the number of eligible vessels participating and on the total number of trips taken, the Administrator, Northeast Region, NMFS (Regional Administrator) may adjust the sea scallop possession limit for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas any time during the season and on or after October 1 for fishing year 2001 and 2002 may allocate one or more additional trips for full-time and part-time vessels. In order for additional trips to be allocated, a sufficient amount of the sea scallop TAC must remain to warrant such an adjustment or allocation. In order for a vessel to participate in any additional Area Access Program trips allocated on or after October 1, that vessel must have started at least one Area Access Program trip prior to September 1 of the current fishing year. Vessels with occasional permits will not be allocated any additional trips.

Any trip of 10 DAS or less for a vessel fishing in the Area Access Program will count as 10 DAS. Any trip of over 10 DAS will count as the actual DAS (e.g., if a vessel used 12 DAS, 12 DAS would be deducted from its annual DAS allocation). The intended effect of the minimum 10 DAS count is to reduce the

amount of days that are available to be fished in the 2001–2002 fishing years in other areas, where scallops are generally smaller, thereby reducing fishing mortality by potentially reducing the number of scallops caught under DAS.

Vessels will be allowed to use dredges or trawls when fishing in the Area Access Program. Dredge gear is required to be outfitted with a twine top with a minimum mesh size of 10 inches (25.40 cm). The purpose of increasing the minimum twine top mesh size measurement from 8 inches (20.32 cm) to 10 inches (25.40 cm) for the Area Access Program is to reduce bycatch of groundfish and other finfish. Recent research and experience from the Georges Bank and Southern New England Closed Area Sea Scallop Exemption Program demonstrate that the 10-inch (25.40 cm) mesh size may significantly reduce bycatch of certain species, especially flatfish species.

All scallop vessels fishing in the Area Access Program must have installed on board an operational VMS unit that meets the minimum performance criteria as specified in the regulations at § 648.9(b). (Vessels with occasional permits are the only limited access scallop vessels not currently required to have a VMS unit). Scallop vessels planning to fish in the Area Access Program must so declare by notifying the Regional Administrator through the VMS as described here.

Each vessel operator is required to inform NMFS of his/her intention to fish in the Sea Scallop Access Areas prior to the 25th day of the month preceding the month in question through the VMS e-mail system to facilitate placement of observers (e.g., if the vessel plans to fish in these areas in July, it would need to notify the Regional Administrator by June 25).

The following information must be reported to the Regional Administrator prior to the 25th day of the month preceding the month in question: Vessel name and permit number, owner and operator's name, owner and operator's phone numbers, the area to be fished, and the number of trips anticipated to be taken in the area in question. Vessels will be provided additional information by mail regarding all notification requirements.

Each vessel participating in the Area Access Program is required to report specific information on a daily basis through the VMS. For each day of an Area Access Program trip, a vessel must report the daily pounds (kg) of scallop meats kept, the area fished that day, and the Fishing Vessel Trip Report page numbers corresponding to the respective Sea Scallop Access Area trip.

In addition, vessels on observed trips must provide a separate report of the daily pounds (kg) of scallop meats kept on tows that were observed.

Vessels that have declared a trip into the Area Access Program are prohibited from possessing more than 50 U.S. bu (17.62 hl) (400 lb (181.4 kg) of meats) of shell stock when outside the Sea Scallop Access Areas. This limit for shell stock (i.e., unshucked scallops) is considered part of the overall possession limit. A limit on the amount of sea scallops landed in the shell is necessary to monitor and enforce the overall meat weight possession limit requirement. Allowing vessels to retain a relatively minor amount of shell stock will help satisfy a market for large, whole scallops, yet not compromise the enforceability of the conservation intent of the possession limit.

General category permitted vessels and limited access scallop vessels fishing outside a scallop DAS are allowed to fish in the Sea Scallop Access Areas throughout the year, provided that no more than 100 lb (45.36 kg) of scallop meats are possessed on board the vessel when the vessel is in the Sea Scallop Access Areas. These vessels are prohibited from possessing in-shell scallops while inside the Sea Scallop Access Areas, except they may possess an equivalent of in-shell scallops that are necessary to provide 100 lb (45.36 kg) of scallop meats. Vessels not fishing under the Area Access Program may transit the Sea Scallop Access Areas with more than these possession limits on board, provided their gear is properly stowed according to the regulations at § 648.23(b). This measure is intended to allow an incidental catch of scallops for scallop vessels that fish for other species outside the areas and to allow for more direct transiting to and from other fishing areas.

To improve the enforceability of the Area Access Program, all limited access scallop vessels equipped with a VMS unit will be polled twice per hour, regardless of whether the vessel is enrolled in the Area Access Program or not. Also, vessels are required to stow all dredge or trawl gear while transiting to and from the Sea Scallop Access Areas and must land their scallop catch at one location for each trip.

Vessels are required to carry observers when requested. The Council has recommended, as a goal, a 10-percent observer coverage for the Hudson Canyon Sea Scallop Access Area and a 20-percent observer coverage for the Virginia Beach Sea Scallop Access Area. Observers will obtain information on catch, catch rates, and bycatch and may

Vessels participating in the Area Access Program are allowed to take only one of the three allocated trips before May 1 and only two of the three allocated trips before June 1. At least one trip must be started before September 1 to be eligible to fish the remainder of the allocated trips or any additional trips that may be authorized on or after October 1. This measure is meant to prevent a derby style fishery from occurring and may reduce the potential for bycatch by limiting trips in late spring when bycatch, particularly of summer flounder, could be problematic. Vessels in the occasional permit category may conduct only one trip and may fish in the area of their choice.

Participating scallop vessels are allowed to possess and land from the areas up to 17,000 lb (7,711.1 kg) of scallop meats per trip in fishing year 2001 and 18,000 lb (8,164.7 kg) of scallop meats per trip in fishing year 2002. Limits on both the amount of scallops possessed and landed and the number of trips are intended to help to control fishing mortality of scallops in the areas. These limits are also intended to increase social benefits by allowing all limited access vessels an opportunity to fish in the areas without creating a derby fishery, and to increase economic benefits by promoting an orderly fishery and reducing the possibility of market gluts that could be caused by high initial catches in these areas.

After taking into account data on the number of eligible vessels participating and on the total number of trips taken, the Administrator, Northeast Region, NMFS (Regional Administrator) may adjust the sea scallop possession limit for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas any time during the season and on or after October 1 for fishing year 2001 and 2002 may allocate one or more additional trips for full-time and part-time vessels. In order for additional trips to be allocated, a sufficient amount of the sea scallop TAC must remain to warrant such an adjustment or allocation. In order for a vessel to participate in any additional Area Access Program trips allocated on or after October 1, that vessel must have started at least one Area Access Program trip prior to September 1 of the current fishing year. Vessels with occasional permits will not be allocated any additional trips.

Any trip of 10 DAS or less for a vessel fishing in the Area Access Program will count as 10 DAS. Any trip of over 10 DAS will count as the actual DAS (e.g., if a vessel used 12 DAS, 12 DAS would be deducted from its annual DAS allocation). The intended effect of the minimum 10 DAS count is to reduce the

amount of days that are available to be fished in the 2001–2002 fishing years in other areas, where scallops are generally smaller, thereby reducing fishing mortality by potentially reducing the number of scallops caught under DAS.

Vessels will be allowed to use dredges or trawls when fishing in the Area Access Program. Dredge gear is required to be outfitted with a twine top with a minimum mesh size of 10 inches (25.40 cm). The purpose of increasing the minimum twine top mesh size measurement from 8 inches (20.32 cm) to 10 inches (25.40 cm) for the Area Access Program is to reduce bycatch of groundfish and other finfish. Recent research and experience from the Georges Bank and Southern New England Closed Area Sea Scallop Exemption Program demonstrate that the 10-inch (25.40 cm) mesh size may significantly reduce bycatch of certain species, especially flatfish species.

All scallop vessels fishing in the Area Access Program must have installed on board an operational VMS unit that meets the minimum performance criteria as specified in the regulations at § 648.9(b). (Vessels with occasional permits are the only limited access scallop vessels not currently required to have a VMS unit). Scallop vessels planning to fish in the Area Access Program must so declare by notifying the Regional Administrator through the VMS as described here.

Each vessel operator is required to inform NMFS of his/her intention to fish in the Sea Scallop Access Areas prior to the 25th day of the month preceding the month in question through the VMS e-mail system to facilitate placement of observers (e.g., if the vessel plans to fish in these areas in July, it would need to notify the Regional Administrator by June 25).

The following information must be reported to the Regional Administrator prior to the 25th day of the month preceding the month in question: Vessel name and permit number, owner and operator's name, owner and operator's phone numbers, the area to be fished, and the number of trips anticipated to be taken in the area in question. Vessels will be provided additional information by mail regarding all notification requirements.

Each vessel participating in the Area Access Program is required to report specific information on a daily basis through the VMS. For each day of an Area Access Program trip, a vessel must report the daily pounds (kg) of scallop meats kept, the area fished that day, and the Fishing Vessel Trip Report page numbers corresponding to the respective Sea Scallop Access Area trip.

In addition, vessels on observed trips must provide a separate report of the daily pounds (kg) of scallop meats kept on tows that were observed.

Vessels that have declared a trip into the Area Access Program are prohibited from possessing more than 50 U.S. bu (17.62 hl) (400 lb (181.4 kg) of meats) of shell stock when outside the Sea Scallop Access Areas. This limit for shell stock (i.e., unshucked scallops) is considered part of the overall possession limit. A limit on the amount of sea scallops landed in the shell is necessary to monitor and enforce the overall meat weight possession limit requirement. Allowing vessels to retain a relatively minor amount of shell stock will help satisfy a market for large, whole scallops, yet not compromise the enforceability of the conservation intent of the possession limit.

General category permitted vessels and limited access scallop vessels fishing outside a scallop DAS are allowed to fish in the Sea Scallop Access Areas throughout the year, provided that no more than 100 lb (45.36 kg) of scallop meats are possessed on board the vessel when the vessel is in the Sea Scallop Access Areas. These vessels are prohibited from possessing in-shell scallops while inside the Sea Scallop Access Areas, except they may possess an equivalent of in-shell scallops that are necessary to provide 100 lb (45.36 kg) of scallop meats. Vessels not fishing under the Area Access Program may transit the Sea Scallop Access Areas with more than these possession limits on board, provided their gear is properly stowed according to the regulations at § 648.23(b). This measure is intended to allow an incidental catch of scallops for scallop vessels that fish for other species outside the areas and to allow for more direct transiting to and from other fishing areas.

To improve the enforceability of the Area Access Program, all limited access scallop vessels equipped with a VMS unit will be polled twice per hour, regardless of whether the vessel is enrolled in the Area Access Program or not. Also, vessels are required to stow all dredge or trawl gear while transiting to and from the Sea Scallop Access Areas and must land their scallop catch at one location for each trip.

Vessels are required to carry observers when requested. The Council has recommended, as a goal, a 10-percent observer coverage for the Hudson Canyon Sea Scallop Access Area and a 20-percent observer coverage for the Virginia Beach Sea Scallop Access Area. Observers will obtain information on catch, catch rates, and bycatch and may

comment, further notice and opportunity to comment on this final rule is unnecessary. Therefore, the AA, under 5 U.S.C. 553(b)(B), finds good cause exists to waive prior notice and additional opportunity for public comment.

It is contrary to the public interest to delay for 30 days the effective date for the prohibition on the possession limit of more than 50 U.S. bu (17.62 hl) of in-shell scallops shoreward of the VMS demarcation line. Currently, some vessels are shucking their scallop catch inside the VMS demarcation line and thus compromising the conservation objectives of both the DAS and crew size restrictions of the FMP. To allow this activity to continue unrestricted could undermine the effects of the scallop management measures. In addition, a 30 day delay in effectiveness would delay the potential incidental benefits of reducing contamination of inshore waters that may be associated with high discards of scallop viscera from vessels shucking inshore of the VMS demarcation line. For these reasons, the AA finds, under 5 U.S.C. 553(d)(3), good cause not to delay for 30 days the effective date of this provision.

Because the annual DAS allocations implemented in this final rule are higher than the DAS allocations that went into effect on March 1, 2001, and because the Area Access Program (and associated information collection requirements as published in 15 CFR 902) allows access to areas that would otherwise be closed to scallop fishing, these measures relieve restrictions, and are therefore not subject to a 30-day delay in effectiveness under 5 U.S.C. 553(d)(1).

Also, this final rule corrects a reference to the stowage provisions in the regulations for Closed Area I that inadvertently references a paragraph that formerly included gear stowage provisions but is now reserved (§ 648.81(b)(2)(ii)). The correction to this crossreference imposes no new requirements and is not subject to the 30-day delay in effective date provisions of 5 U.S.C. 553 (d).

Because a prior notice and opportunity for public comment is not required for this rule under 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This final rule has been determined to be significant for the purposes of Executive Order 12866.

For purposes of the Congressional Review Act, this rule has been determined to be major within the meaning of 5 U.S.C. 804 (2). Because

this rule establishes a regulatory program for a commercial activity related to fishing under 5 U.S.C. 808 (1), it is not subject to the Congressional Review Act 60-day delay in effective date.

This rule contains collection-of-information requirements subject to the PRA and which have been approved by OMB. The estimated response times and the OMB Control Numbers for these requirements are: 1 hour for installation of a vessel monitoring system (VMS) (0648-0416); 2 minutes for a monthly VMS declaration of an intent to fish during the next month (0648-0416); 2 minutes for notification at least 5 days prior to departure on a fishing trip (0648-0416); 10 minutes for a daily VMS catch report (0648-0416); 2 minutes for a notification of intent to leave on a fishing trip (0648-0202); and 5 seconds for VMS polling (0648-0416 and 0648-0307). The submission requirements for research proposals are cleared under OMB Control Numbers 0348-0043 and 0348-0044.

The response time estimates above include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS (see ADDRESSES) and to OMB at the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC. 20503 (Attention: NOAA Desk Officer).

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: April 25, 2001.

John Oliver,

Acting Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons set out in the preamble, 15 CFR chapter IX, part 902 and 50 CFR chapter VI, part 648 are amended as follows:

15 CFR Chapter IX

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT; OMB CONTROL NUMBERS

1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

2. In § 902.1, the table in paragraph (b) under 50 CFR is amended by adding in numerical order an entry for § 648.58 with new OMB control numbers to read as follows:

§ 902.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

| * * * * | | | | |
|---|--|--|--|--|
| (b) * * * | | | | |
| CFR part or section where the information collection requirement is located | | | Current OMB control number (all numbers begin with 0648-) | |
| * * * | | | * * | |
| 50 CFR | | | * * | |
| * * * | | | * * | |
| 648.58 | | | 0348-0043, 0348-0044, 0648-0202, 0648-0307, and 0648-0416 | |
| * * * | | | * * | |

50 CFR Chapter VI

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.10, the first sentence of paragraph (b)(1), introductory text, is revised to read as follows:

§ 648.10 DAS notification requirements.

* * * *

(b) * * *

(1) A scallop vessel issued a full-time or part-time limited access scallop permit; or issued an occasional limited access permit when fishing under the Sea Scallop Area Access Program specified under § 648.58; or a scallop vessel fishing under the small dredge program specified in § 648.51(e); or a vessel issued a limited access multispecies, monkfish, occasional scallop, or combination permit whose owner elects to provide the notifications required by paragraph (b) of this section using a VMS that meets the minimum performance criteria specified in § 648.9(b) or as modified pursuant to

§ 648.9(a), unless otherwise authorized or required by the Regional Administrator under paragraph (d) of this section, must have installed on board an operational VMS unit that meets the minimum performance criteria specified in § 648.9(b) or as modified pursuant to § 648.9(a). * * *

* * * * *

3. In § 648.14, revise paragraphs (a)(38), (a)(39), (a)(40), and (h)(27); and add paragraphs (a)(110), (a)(111), (h)(29), (h)(30), (h)(31), (h)(32), (h)(33), (i)(8), and (i)(9) to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(38) Enter or be in the area described in § 648.81(a)(1) on a fishing vessel, except as provided in § 648.81(a)(2) and (d).

(39) Enter or be in the area described in § 648.81(b)(1) on a fishing vessel, except as provided in § 648.81(b)(2).

(40) Enter or be in the area described in § 648.81(c)(1) on a fishing vessel, except as allowed under § 648.81(c)(2) and (d).

* * * * *

(110) Fish for, possess, or land sea scallops in or from the areas described in § 648.57, except as allowed under § 648.52(e) and 648.58.

(111) Transit or be in the areas described in § 648.57 when fishing under a scallop DAS, except: As allowed under § 648.58; or when all scallop gear is unavailable for immediate use as defined in § 648.23(b), unless there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

* * * * *

(h) * * *

(27) Enter or be in the areas described in § 648.57 when fishing with scallop dredge gear under the Sea Scallop Area Access Program specified in § 648.58, with a net, net material, or any other material on the top half of the dredge with mesh size smaller than that specified in § 648.58(c)(7).

* * * * *

(29) Possess or land per trip more than 50 bu (17.62 hectoliters (hl)) of in-shell scallops, as specified in § 648.52(d), once inside the VMS Demarcation Line by a vessel that, at any time during the trip, fished in or transited any area south of 42°20' N. Latitude, except as provided in § 648.54.

(30) Land per trip more than 100 lb (45.36 kg) of scallop meats as specified

in § 648.52(e) in or from the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program.

(31) Possess more than 100 lb (45.36 kg) of scallop meats in the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program, unless the vessel's fishing gear is unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

(32) Except as allowed in § 648.52(e), land in-shell scallops in or from the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program.

(33) Except as allowed in § 648.52(e), possess in-shell scallops in the areas described in § 648.57 when fishing under a scallop DAS but not declared into the Sea Scallop Area Access Program or when fishing outside of the scallop DAS program, unless the vessel's fishing gear is unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

* * * * *

(i) * * *

(8) Possess, retain, or land per trip no more than 100 lb (45.36 kg) of shucked scallops in or from the areas described in § 648.57.

(9) Except as allowed in § 648.52(e), possess or land in-shell scallops in or from the areas described in § 648.57.

* * * * *

4. In § 648.52, the section heading and paragraphs (a) and (c) are revised, and paragraphs (d) and (e) are added to read as follows:

§ 648.52 Possession and landing limits.

(a) Except as provided in paragraph (e) of this section, owners or operators of vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10 or that have used up their DAS allocations, and vessels possessing a general scallop permit, unless exempted under the state waters exemption program described under § 648.54, are prohibited from possessing or landing per trip more than

400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops with no more than one scallop trip of 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops, allowable in any calendar day.

* * * * *

(c) Owners or operators of vessels with a limited access scallop permit that have declared into the Sea Scallop Area Access Program as described in § 648.58 are prohibited from fishing for, possessing or landing per trip more than the sea scallop possession and landing limit specified in § 648.58(c)(6).

(d) Owners or operators of vessels issued limited access or general category scallop permits fishing in or transiting the area south of 42°20' N. Latitude at any time during a trip are prohibited from fishing for, possessing, or landing per trip more than 50 bu (17.62 hl) of in-shell scallops shoreward of the VMS Demarcation Line, unless when fishing under the state waters exemption specified under § 648.54.

(e) Owners or operators of vessels with a general category scallop permit and vessels with a limited access scallop permit that are not fishing under a scallop DAS may land per trip no more than 100 lb (45.36 kg) of sea scallop meats in or from the areas described in § 648.57, and may possess no more than 100 lb (45.36 kg) of sea scallop meats in or from the areas described in § 648.57, unless the vessel is only transiting the areas with all fishing gear unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. No in-shell scallops from the Hudson Canyon and Virginia Beach Sea Scallop Access Areas may be landed. In-shell scallops up to 12.5 bu (4.41 hl) taken by such vessels from the Hudson Canyon and Virginia Beach Sea Scallop Access Areas may be possessed only for the purpose of shucking in order to provide no more than 100 lb of scallop meats. Any combination of scallop meats and in-shell scallops possessed by such vessels must be equivalent to no more than 100 lb (45.36 kg) of scallop meats.

5. In § 648.53, paragraph (b) is amended by revising the table to read as follows:

§ 648.53 DAS allocations.

* * * * *

(b) * * *

| DAS Category | 1999– 2000 | 2000– 2001 | 2001– 2002 | 2002– 2003 | 2003– 2004 | 2004– 2005 | 2005– 2006 | 2006– 2007 | 2007– 2008 | 2008 |
|--------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|---------------|------|
| Full-time | 120 | 120 | 120 | 120 | 45 | 34 | 35 | 38 | 36 | 60 |
| Part-time | 48 | 48 | 48 | 48 | 18 | 14 | 14 | 15 | 17 | 24 |
| Occasional | 10 | 10 | 10 | 10 | 4 | 3 | 3 | 3 | 4 | 5 |

* * * * *

6. In § 648.57, the section heading and the introductory text of paragraphs (a) and (b) are revised to read as follows:

§ 648.57 Closed and regulated areas.

(a) *Hudson Canyon Sea Scallop Access Area.* Through February 28, 2003, except as provided in §§ 648.52 and 648.58, no vessel may fish for scallops in or land scallops from the area known as the Hudson Canyon Sea Scallop Access Area, and no vessel may possess scallops in the Hudson Canyon Sea Scallop Access Area, unless such vessel is only transiting the area with all fishing gear unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. The Hudson Canyon Sea Scallop Access Area (copies of a chart depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

* * * * *

(b) *Virginia Beach Sea Scallop Access Area.* Through February 28, 2003, except as provided in §§ 648.52 and 648.58, no vessel may fish for scallops in or land scallops from the area known as the Virginia Beach Sea Scallop Access Area, and no vessel may possess scallops in the Virginia Beach Sea Scallop Access Area, unless such vessel is only transiting the areas with all fishing gear unavailable for immediate use as defined in § 648.23(b), or, there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use. The Virginia Beach Sea Scallop Access Area (copies of a chart depicting this area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

* * * * *

7. Section 648.58 is revised to read as follows:

§ 648.58 Sea Scallop Area Access Program.

(a) *Eligibility.* Vessels issued a limited access scallop permit are eligible to participate in the Sea Scallop Area Access Program, and may fish in the Sea Scallop Access Areas, as described in § 648.57 of this section, for the times

specified in paragraph (c)(1) of this section, when fishing under a scallop DAS, and while complying with the requirements of this section. Copies of a chart depicting these areas are available from the Regional Administrator upon request.

(b) *Sea Scallop Access Areas—(1) Hudson Canyon Sea Scallop Access Area.* Eligible vessels, as specified in paragraph (a) of this section, may fish for, possess, and retain sea scallops in excess of the possession limit specified in § 648.52(e) in or from in the Hudson Canyon Sea Scallop Access Area, which is the area described in § 648.57(a).

(2) *Virginia Beach Sea Scallop Access Area.* Eligible vessels, as specified in paragraph (a) of this section, may fish for, possess, and retain sea scallops in excess of the possession limit specified in § 648.52(e) in or from the Virginia Beach Sea Scallop Access Area, which is the area described in § 648.57(b).

(c) *Sea Scallop Area Access Season and Requirements.* To fish in the Sea Scallop Access Areas under the Sea Scallop Area Access Program, eligible vessels must fish during the Season specified in paragraph (c)(1) of this section and must comply with the requirements specified in paragraphs (c)(2) through (c)(4) of this section:

(1) *Season—(i) Fishing year 2001.* From May 1, 2001 through February 28, 2002, vessels participating in the Sea Scallop Area Access Program may fish for or possess sea scallop in or from the respective Sea Scallop Access Areas specified in § 648.57 of this section, unless access to these areas is terminated as specified in paragraph (f) of this section.

(ii) *Fishing year 2002.* From March 1, 2002, through February 28, 2003, vessels participating in the Sea Scallop Area Access Program may fish in the respective Sea Scallop Access Areas specified in § 648.57 of this section, unless access to these areas is terminated as specified in paragraph (f) of this section. Should the 2001 fishing year season be closed early, as described in paragraph (c)(1) of this section, the Sea Scallop Area Access Program season for fishing year 2002 will begin on April 1, 2002.

(2) *VMS.* The vessel must have installed on board an operational VMS unit that meets the minimum performance criteria specified in

§§ 648.9 and 648.10 and paragraph (h) of this section.

(3) *Declaration.* (i) Prior to the 25th day of the month preceding the month in which fishing is to take place, the vessel must submit a monthly report through the VMS e-mail messaging system of its intention to fish in the Hudson Canyon or Virginia Beach Sea Scallop Access Areas, along with the following information: Vessel name and permit number, owner and operator's name, owner and operator's phone numbers, and number of trips anticipated for each Sea Scallop Access Area in which it intends to fish. The Regional Administrator may waive a portion of this notification period for trips into the Sea Scallop Access Areas in April or May, 2001. Notification of this waiver of a portion of the notification period will be provided to the vessel through a permit holder letter issued by the Regional Administrator.

(ii) In addition to the requirements described in paragraph (c)(3)(i) of this section, and for the purpose of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the time, port of departure, and specific Sea Scallop Access Area to be fished, at least 5 working days prior to the beginning of any trip on which it declares into the Sea Scallop Area Access Program.

(iii) On the day the vessel leaves port to fish under the Sea Scallop Area Access Program, the vessel owner or operator must declare into the Program through the VMS, in accordance with instructions to be provided by the Regional Administrator prior to the vessel leaving port.

(4) *Number of trips—(i) Full and part-time vessels.* Full and part-time vessels are restricted to a total of three trips into the Sea Scallop Access Areas, unless otherwise authorized by the Regional Administrator as specified in paragraph (e)(2) of this section. A trip to either area counts as one trip.

(A) *Distribution of trips for the 2001 fishing year.* For fishing year 2001, full-time and part-time vessels participating in the Sea Scallop Area Access Program may start no more than two of their three allowed Area Access Program trips before June 1, 2001. To be eligible for any additional trips allocated under paragraph (e)(4) of this section, at least

one trip must begin by September 1, 2001.

(B) *Distribution of trips for 2002 fishing year.* For fishing year 2002, full-time and part-time vessels participating in the Sea Scallop Area Access Program may start no more than one of their three allowed Area Access Program trips before May 1, 2002, and no more than two of their three allowed Area Access Program trips before June 1, 2002.

(ii) *Occasional scallop vessels.* Occasional vessels may fish only one trip per fishing year in 2001 and 2002 under the Sea Scallop Area Access Program. The one allowed trip may be conducted in either the Hudson Canyon or Virginia Beach Sea Scallop Access Area specified in § 648.57 of this section at any time during the season, as specified in paragraph (c)(1) of this section.

(5) *Area fished.* A vessel that has declared a trip into the Sea Scallop Area Access Program must not fish for, possess, or land scallops from outside the specific Sea Scallop Access Area fished during that trip and must not enter or exit the specific Sea Scallop Access Area fished more than once per trip. A vessel that has declared a trip into the Sea Scallop Area Access Program must not exit one Sea Scallop Access Area and transit to, or enter, the other Sea Scallop Access Area on the same trip.

(6) *Possession and landing limits—(i) Fishing year 2001.* Unless otherwise authorized by the Regional Administrator as specified in paragraph (e) of this section, after declaring into the Sea Scallop Area Access Program in fishing year 2001 a vessel owner or operator may fish for, possess and land up to 17,000 lb (7,711.1 kg) of scallop meats per trip, with a maximum of 400 lb (181.4 kg) of the possession limit originating from 50 bu (17.62 hl) of in-shell scallops.

(ii) *Fishing year 2002.* Unless otherwise authorized by the Regional Administrator as specified in paragraph (e) of this section, after declaring into the Sea Scallop Area Access Program in fishing year 2002, a vessel owner or operator may fish for, possess, and land up to 18,000 lb (8,164.7 kg) of scallop meats per trip, with a maximum of 400 lb (181.4 kg) of the possession limit originating from 50 bu (17.62 hl) of in-shell scallops.

(7) *Gear restrictions.* The vessel must fish with or possess scallop dredge or trawl gear only in accordance with the restrictions specified in § 648.51(a) and (b), except that the mesh size of a net, net material, or any other material on the top of a scallop dredge in use by or in possession of the vessel shall not be

smaller than 10.0 inches (25.40 cm) square or diamond mesh.

(8) *Transiting.* While outside of the Sea Scallop Access Areas specified in § 648.57, all fishing gear must be unavailable for immediate use as defined in § 648.23(b), unless there is a compelling safety reason.

(9) *Off-loading restrictions.* The vessel may not off-load its sea scallop catch from a trip at more than one location per trip.

(10) *Reporting.* The owner or operator must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished when declared in the Sea Scallop Area Access Program, including trips accompanied by a NMFS-approved observer. The reports must be submitted in 24-hour intervals, for each day beginning at 0000 hours and ending at 2400 hours. The reports must be submitted by 0900 hours of the following day and must include the following information:

(i) Total pounds/kilograms of scallop meats kept, total number of tows and the Fishing Vessel Trip Report log page number.

(ii) [Reserved]

(d) *Accrual of DAS.* A scallop vessel that has declared a fishing trip into the Sea Scallop Area Access Program of this section shall have a minimum of 10 DAS deducted from its DAS allocation, regardless of whether the actual number of DAS used during the trip is less than 10. Trips that exceed 10 DAS will be counted as actual time.

(e) *Adjustments to possession limits and number of trips—(1) Adjustment process for sea scallop possession limits for Hudson Canyon and the Virginia Beach Sea Scallop Access Areas.* The Regional Administrator may adjust the sea scallop possession limit at any time during the Sea Scallop Area Access Program. This adjustment may be made if the Regional Administrator determines that such adjustment will likely allow the scallop TAC to be reached without exceeding it. Notification of this adjustment to the possession limit will be provided to the vessel through a permit holder letter issued by the Regional Administrator.

(2) *Adjustment process for number of trips for Hudson Canyon and the Virginia Beach Sea Scallop Access Areas.* On or after October 1 for fishing years 2001 and 2002, if the scallop catch in the Hudson Canyon and/or Virginia Beach Sea Scallop Access Areas is less than the scallop TACs specified for fishing years 2001 and 2002 in paragraphs (f)(1) and (f)(2) of this section, respectively, the Regional Administrator may allocate one or more

additional trips for the Hudson Canyon and/or Virginia Beach Sea Scallop Access Areas for full and part-time limited access sea scallop vessels that declared into and began a trip under the Sea Scallop Area Access Program prior to September 1 for the respective fishing year. This adjustment may be made if the Regional Administrator determines that such adjustment will likely allow the scallop TAC to be reached without exceeding it. Notification of this adjustment to the trip limit will be provided to the vessel through a permit holder letter issued by the Regional Administrator. Unused trips after September 30, 2001, may not be carried over into the 2002 Sea Scallop Area Access Program. Vessels with occasional permits would not be allocated an additional trip.

(3) *Increase of possession limit to defray costs of observers—(i) Defraying the costs of observers.* The Regional Administrator may increase the sea scallop possession limit specified in paragraph (c)(6) of this section to defray costs of observers by areas subject to the limits specified in paragraph (e)(3)(ii) of this section and to the limit on the cumulative amount of sea scallops allocated for a vessel that has declared a fishing trip into the Sea Scallop Area Access Program with a NMFS-approved observer on board. Notification of this increase of the possession limit will be provided to the vessel through a Letter of Authorization issued by the Regional Administrator which must be kept on board the vessel. The amount of the possession limit increase will be determined by the Regional Administrator and the vessel owner will be responsible for paying the cost of the observer, regardless of whether the vessel lands or sells sea scallops on that trip.

(ii) *Observer set-aside limits on increases of possession limits by area.* The cumulative amount of scallops authorized under this part to be taken by vessels in excess of the possession limits specified in paragraph (c)(6) of this section to defray the cost of an observer shall not exceed 2-percent of the overall TAC for each Sea Scallop Access Area. The following amounts represent 2 percent of those TACs:

(A) Hudson Canyon Sea Scallop Access Area, 2001 area access program - 127 mt;

(B) Virginia Beach Sea Scallop Access Area, 2001 area access program - 6 mt;

(C) Hudson Canyon Sea Scallop Access Area, 2002 area access program - 128 mt;

(D) Virginia Beach Sea Scallop Access Area, 2002 area access program - 5 mt.

(iii) *Notification of observer set-aside limit.* NMFS shall publish notification in the **Federal Register** of the date that the Regional Administrator projects that the observer set-aside limit will be caught.

(4) *Adjustments to possession limits and/or number of trips to defray the costs of sea scallop research—(i) Defraying the costs of sea scallop research.* The Regional Administrator may increase the sea scallop possession limit specified in paragraph (c)(6) of this section or allow additional trips into a Sea Scallop Access Area, subject to the limits on the cumulative amount of sea scallops allocated to defray costs for sea scallop research specified in paragraph (e)(4)(ii) of this section.

(ii) *Research set-aside limits on adjustments to possession limits and number of trips by area.* The cumulative amount of scallops authorized to be taken by vessels in excess of the possession limits specified in paragraph (c)(6) of this section for purposes of defraying the cost of sea scallop research shall not exceed 1 percent of the overall TAC for each Sea Scallop Access Area. The following amounts represent 1 percent of those TACs:

(A) Hudson Canyon Sea Scallop Access Area, 2001 area access program - 63 mt;

(B) Virginia Beach Sea Scallop Access Area, 2001 area access program - 3 mt;

(C) Hudson Canyon Sea Scallop Access Area, 2002 area access program - 64 mt;

(D) Virginia Beach Sea Scallop Access Area, 2002 area access program - 3 mt.

(iii) NMFS shall publish notification in the **Federal Register** of the date that the Regional Administrator projects that the scallop research set-aside limits will be caught.

(iv) *Adjustment procedure.* (A) Determinations as to which vessel may be authorized to take more than the trip limits specified in paragraph (c)(6) of this section, or to take additional trips for the purposes of defraying sea scallop research costs, shall be made by NMFS, in cooperation with the Council. At a minimum, applicants shall submit a scallop proposal under this program and a project summary that includes: The project goals and objectives, relationship of sea scallop research to management needs or priorities identified by the Council, project design, participants other than applicant, funding needs, breakdown of costs, and the vessel(s) for which authorization is requested.

(B) NMFS will make the final determination as to what proposals are approved and which vessels are authorized to take scallops in excess of

possession limits or additional trips. Authorization to increase possession limits and/or number of trips will be provided to the vessel by Letter of Authorization issued by the Regional Administrator which must be kept on board the vessel.

(v) *Project Report Procedure.* Upon completion of his/her sea scallop research, the researcher of approved projects must provide the Council with a report of his/her findings, which include:

(A) A detailed description of methods of data collection and analysis;

(B) A discussion of results and any relevant conclusions presented in a format that is understandable to a non-technical audience; and

(C) A detailed final accounting of all funds used to conduct the sea scallop research.

(f) *Termination of the Sea Scallop Area Access Program—(1) Fishing year 2001 area access program—(i) Hudson Canyon Sea Scallop Access Area.* The Hudson Canyon Sea Scallop Access Area fishery for fishing year 2001 shall be terminated as of the date the Regional Administrator projects that 6,204 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Hudson Canyon Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(ii) *Virginia Beach Sea Scallop Access Area.* The Virginia Beach Sea Scallop Access Area fishery for fishing year 2001 shall be terminated as of the date the Regional Administrator projects that 277 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Virginia Beach Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(2) *Fishing year 2002 area access program.* (i) Hudson Canyon Sea Scallop Access Area. The Hudson Canyon Sea Scallop Access Area fishery for fishing year 2002 shall be terminated as of the date the Regional

Administrator projects that 6,287 mt of sea scallops (the TAC less the observer and research set-asides) will be caught by vessels fishing in the Hudson Canyon Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(ii) *Virginia Beach Sea Scallop Access Area.* The Virginia Beach Sea Scallop Access Area fishery for fishing year 2002 shall be terminated as of the date the Regional Administrator projects that 268 mt of sea scallops (the TAC less the

observer and research set-asides) will be caught by vessels fishing in the Virginia Beach Sea Scallop Access Area described in this section. NMFS shall publish notification of the termination in the **Federal Register**.

(g) *Transiting.* Limited access sea scallop vessels fishing under a scallop DAS that have not declared a trip into the Sea Scallop Area Access Program may not fish in the areas known as the Hudson Canyon and Virginia Beach Sea Scallop Access Areas described in § 648.57, and may not enter or be in such areas unless the vessel is transiting the area and the vessel's fishing gear is unavailable for immediate use as defined in § 648.23(b), or there is a compelling safety reason to be in such areas without all such gear being unavailable for immediate use.

(h) *VMS Polling.* For the duration of the Sea Scallop Area Access Program, as described under this section, all sea scallop limited access vessels equipped with a VMS unit will be polled twice per hour, regardless of whether the vessel is enrolled in the Sea Scallop Area Access Program.

8. In § 648.80, paragraph (h)(1) is revised to read as follows:

§ 648.80 Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

(h) * * *

(1) Except as provided in paragraph (h)(2) of this section, a scallop vessel that possesses a limited access scallop permit and either a multispecies combination vessel permit or a scallop multispecies possession limit permit, and that is fishing under a scallop DAS allocated under § 648.53, may possess and land up to 300 lb (136.1 kg) of regulated species per trip, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(b), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip, and provided the vessel has at least one standard tote on board, unless otherwise restricted by § 648.86(a)(2).

* * * * *

9. In § 648.81, the introductory text of paragraphs (a)(1), (b)(1), and (c)(1) and paragraph (b)(2)(ii) are revised to read as follows:

§ 648.81 Closed areas.

(a) * * *

(1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Closed Area I (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the

following points in the order stated, except as specified in paragraphs (a)(2) and (d) of this section:

* * * *

(b) * * *

(1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as Closed Area II (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, except as specified in paragraph (b)(2) of this section:

* * * *

(2) * * *

(ii) The vessel's fishing gear is stowed in accordance with the provisions of § 648.23(b).

(c) * * *

(1) No fishing vessel or person on a fishing vessel may enter, fish, or be in the area known as the Nantucket Lightship Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request), as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (c)(2) and (d) of this section:

* * * *

10. In § 648.86, paragraph (a)(2)(iii) is revised to read as follows:

§ 648.86 Multispecies possession restrictions.

* * * *

(a) * * *

(2) * * *

(iii) Unless otherwise authorized by the Regional Administrator as specified in paragraph (f) of this section, scallop dredge vessels or persons owning or operating a scallop dredge vessel that is fishing under a scallop DAS allocated under § 648.53 may land or possess on board up to 300 lb (136.1 kg), of haddock, except as specified in § 648.88(c), provided that the vessel has at least one standard tote on board. This restriction does not apply to vessels issued NE multispecies Combination Vessel permits that are fishing under a multispecies DAS. Haddock on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

* * * *

11. In § 648.88, paragraph (c) is revised to read as follows:

§ 648.88 Multispecies open access permit restrictions.

* * * *

(c) *Scallop multispecies possession limit permit.* A vessel that has been

issued a valid open access scallop multispecies possession limit permit may possess and land up to 300 lb (136.1 kg) of regulated species when fishing under a scallop DAS allocated under § 648.53, provided the vessel does not fish for, possess, or land haddock from January 1 through June 30, as specified under § 648.86(a)(2)(i), and provided the vessel has at least one standard tote on board.

* * * *

[FR Doc. 01-10783 Filed 4-26-01; 4:30 pm]

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SECURITIES AND EXCHANGE COMMISSION

17 CFR PART 240

[Release No. 34-44227; File No. 57-17-99]

RIN 3235-AH74

Recordkeeping Requirements for Transfer Agents

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Securities and Exchange Commission ("Commission") is amending its transfer agent record retention rule, Rule 17Ad-7, under the Securities Exchange Act of 1934 ("Act"). The amendments will allow registered transfer agents to use electronic, microfilm, and microfiche records maintenance systems to preserve records that they are required to retain under Rule 17Ad-6. The new requirements apply only to those registered transfer agents that elect to store their records using these methods. The amendments are designed to increase the flexibility and efficiency of transfer agent recordkeeping. The amendments adopted today are consistent with the requirements of the Electronic Signatures and Global and National Commerce Act of 2000 ("ESIGN").

EFFECTIVE DATE: May 31, 2001.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, or David Karasik, Special Counsel, at 202-942-4187, Office of Risk Management and Control, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549-1001.

SUPPLEMENTARY INFORMATION: The Commission today is adopting amendments to rule 17Ad-7 [17 CFR 240.17Ad-7(f)] under the Act.

I. Discussion of Amendments to Rule 17Ad-7

A. Background

On May 25, 1999, the Commission issued a release requesting comment on proposed amendments to its transfer agent record retention rule, Rule 17Ad-7,¹ that would allow registered transfer agents to use electronic and micrographic records storage systems subject to certain conditions ("Proposing Release").² The purpose of the proposal was to increase the flexibility and efficiency of transfer agent recordkeeping while maintaining necessary controls over accuracy, integrity, and access to those records. The proposed amendments would have codified, in most part, two staff no-action positions that permitted transfer agents to use optical storage technology.³ However, based on the comments received and the experience gained by the staff in considering appropriate records management solutions, the Commission is adopting the proposed amendments with certain changes discussed herein.

B. The Transfer Agent Regulatory System

Section 17A(a)(2)(A)(i) of the Act directs the Commission to use its authority under the Act "to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of transactions in securities. * * *"⁴ Transfer agents play a vital role in the operation of that system. Transfer agents cancel stock certificates presented for transfer, issue new stock certificates, and maintain the records

¹ 17 CFR 240.17Ad-7. Unless otherwise noted, all references to Rule 17Ad-7 or Rule 17Ad-6 or to any paragraph of those rules will be to 17 CFR 240.17Ad-7 and 17 CFR 17Ad-6, respectively.

² Securities Exchange Act Release No. 41442 (May 25, 1999), 64 FR 29608 (June 2, 1999).

³ On February 2, 1993, the Commission's Divisions of Market Regulation and Investment Management issued a no-action letter that permitted registered transfer agents, investment advisors, and investment companies to retain their records using optical disk storage technology. Letter regarding DST Systems, Inc. (Feb. 2, 1993). On February 12, 1997, the Commission announced in the release adopting amendments to Rule 17a-4 that the staff would take no action if transfer agents fulfilled their recordkeeping requirements by complying with the provisions of Rule 17a-4. Securities Exchange Act Release No. 38245 (Feb. 5, 1997), 62 FR 6469 (Feb. 12, 1997). The optical disk recordkeeping requirements of the 1997 no-action position were similar to those set forth in the 1993 no-action position but contained additional safeguards, such as a third party access requirement and eliminated certain requirements, such as the requirement that the storage system be reviewed and evaluated by two independent public accounting firms. The requirements of the Proposing Release were nearly identical to those of the 1997 no-action position.

⁴ 15 U.S.C. 78q-1(a)(2)(A)(i).