

## EPA-APPROVED NEBRASKA REGULATIONS—Continued

Nebraska citation	Title	State effective date	EPA approval date	Explanation
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	<b>PART 70—STATE OPERATING PERMIT PROGRAMS</b>			
■ 3.	The authority citation for part 70 continues to read as follows:			
	<b>Authority:</b> 42 U.S.C. 7401 <i>et seq.</i>			
■ 4.	Amend appendix A to part 70 by adding new paragraph (p) under “Nebraska; City of Omaha; Lincoln-Lancaster County Health Department” to read as follows:			
	<b>Appendix A to Part 70 Approval Status of State and Local Operating Permits Programs</b>			
	<i>Nebraska; City of Omaha; Lincoln-Lancaster County Health Department</i>			
	(p) The Nebraska Department of Environmental Quality submitted revisions to The Nebraska Administrative Code, title 129, chapter 1, “Definitions” on August 22, 2018. The state effective date is July 15, 2018. This revision is effective [date 60 days after date of publication of the final rule in the <b>Federal Register</b> ].			
	[FR Doc. 2019–02832 Filed 2–19–19; 8:45 am]			
	<b>BILLING CODE 6560–50–P</b>			
	<b>DEPARTMENT OF COMMERCE</b>			
	<b>National Oceanic and Atmospheric Administration</b>			
	<b>50 CFR Part 648</b>			
	[Docket No.: 181210999–9067–01]			
	<b>RIN 0648–BI66</b>			
	<b>Fisheries of the Northeastern United States; Framework Adjustment 30 to the Atlantic Sea Scallop Fishery Management Plan</b>			
	<b>AGENCY:</b> National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.			
	<b>ACTION:</b> Proposed rule; request for comments.			
	<b>SUMMARY:</b> NMFS proposes to approve and implement the measures of Framework Adjustment 30 to the Atlantic Sea Scallop Fishery Management Plan that establishes			
	scallop specifications and other measures for fishing years 2019 and 2020. This action is necessary to prevent overfishing and improve both yield-per-recruit and the overall management of the Atlantic sea scallop resource. The intended effect of this rule is to notify the public of these proposed measures and to solicit comment on the potential scallop fishery management changes.			
	<b>DATES:</b> Comments must be received by March 7, 2019.			
	<b>ADDRESSES:</b> The New England Fishery Management Council has prepared a draft environmental assessment (EA) for this action that describes the proposed measures in Framework Adjustment 30 and other considered alternatives and analyzes the impacts of the proposed measures and alternatives. The Council submitted a decision draft of Framework 30 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 30, the draft EA, the IRFA, and information on the economic impacts of this proposed rulemaking are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950 and accessible via the internet in documents available at: <a href="https://www.nefmc.org/library/framework-30-1">https://www.nefmc.org/library/framework-30-1</a> .			
	You may submit comments on this document, identified by NOAA–NMFS–2019–0002, by either of the following methods:			
	• <b>Electronic Submission:</b> Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to <a href="http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0002">www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2019-0002</a> , click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.			
	• <b>Mail:</b> Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, “Comments on Framework 30.”			
	<b>Instructions:</b> Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments			
	received are a part of the public record and will generally be posted for public viewing on <a href="http://www.regulations.gov">www.regulations.gov</a> without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).			
	<b>FOR FURTHER INFORMATION CONTACT:</b> Travis Ford, Fishery Policy Analyst, 978–281–9233.			
	<b>SUPPLEMENTARY INFORMATION:</b>			
	<b>Background</b>			
	The scallop fishery’s management unit ranges from the shorelines of Maine through North Carolina to the outer boundary of the Exclusive Economic Zone. The Atlantic Sea Scallop Fishery Management Plan (FMP), established in 1982, includes a number of amendments and framework adjustments that have revised and refined the fishery’s management. The New England Fishery Management Council sets scallop fishery catch limits and other management measures through specification or framework adjustments that occur annually or biennially. The Council adopted Framework 30 to the Atlantic Sea Scallop FMP on December 5, 2018. The Council submitted a decision draft of the framework, including a draft EA, for NMFS review and approval on December 19, 2018. This action proposes to approve and implement Framework 30, which establishes scallop specifications and other measures for fishing years 2019 and 2020, includes changes to the catch, effort, and quota allocations and adjustments to the rotational area management program for fishing year 2019, and default specifications for fishing year 2020.			
	NMFS will implement these measures of Framework 30, if approved, as close as possible to the April 1 of fishing year 2019. If NMFS implements these Framework 30 measures after the start of the fishing year, 2019 default allocation measures will go into place on April 1, 2019. The Council has reviewed the proposed regulations in this rule as drafted by NMFS and deemed them to be necessary and appropriate as			

specified in section 303(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

*Specification of Scallop Overfishing Limit (OFL), Acceptable Biological Catch (ABC), Annual Catch Limits (ACLs), Annual Catch Targets (ACTs), Annual Projected Landings (APLs) and Set-Asides for the 2019 Fishing Year, and Default Specifications for Fishing Year 2020*

The proposed allocations incorporate new biomass reference points that resulted from the Northeast Fisheries Science Center's most recent scallop stock benchmark assessment that was completed in August 2018. The assessment reviewed and updated the data and models used to assess the scallop stock and ultimately updated the reference points for status determinations. The scallop stock is considered overfished if the biomass is less than half of the biomass at maximum sustainable yield ( $B_{msy}$ ), and overfishing is occurring if fishing mortality ( $F$ ) is above the fishing mortality at maximum sustainable yield ( $F_{msy}$ ). The assessment found that the scallop resource is not overfished and overfishing is not occurring, but the estimates for  $F_{msy}$  and  $B_{msy}$  have changed. A comparison of the old and

new reference points is outlined in Table 1.

**TABLE 1—SUMMARY OF OLD AND NEW SCALLOP REFERENCE POINTS FROM THE LAST TWO BENCHMARK SCALLOP STOCK ASSESSMENTS IN 2014 AND 2018**

	2014 Assessment	2018 Assessment
$F_{msy}$ .....	0.48 .....	0.64.
$B_{msy}$ .....	96,480 mt ....	116,766 mt.
$\frac{1}{2} B_{msy}$ .....	48,240 mt ....	58,383 mt.

Due to these reference point updates, the fishing mortality rates that the Council uses to set OFL, ABC, and ACL would be updated through this action. The proposed OFL was set based on an  $F$  of 0.64, equivalent to the  $F$  threshold updated through the 2018 assessment. The proposed ABC and the equivalent total ACL for each fishing year are based on an  $F$  of 0.51, 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 125.7 million lb (57,003 mt) for 2019 and 101.5 million lb (46,028 mt) for the 2020 fishing year, after accounting for discards and incidental mortality. The SSC will reevaluate and

potentially adjust the ABC for 2020 when the Council develops the next framework adjustment.

Table 2 outlines the proposed scallop fishery catch limits. After deducting the incidental target total allowable catch (TAC), the research set-aside (RSA), and the observer set-aside, the remaining ACL available to the fishery is allocated according to the following fleet proportions established in Amendment 11 to the FMP (72 FR 20090; April 14, 2008): 94.5 percent is allocated to the limited access scallop fleet (*i.e.*, the larger "trip boat" fleet); 5 percent is allocated to the limited access general category (LAGC) individual fishing quota (IFQ) fleet (*i.e.*, the smaller "day boat" fleet); and the remaining 0.5 percent is allocated to limited access scallop vessels that also have LAGC IFQ permits. Amendment 15 to the FMP (76 FR 43746; July 21, 2011) specified that no buffers to account for management uncertainty are necessary in setting the LAGC ACLs, meaning that the LAGC ACL would equal the LAGC ACT. For the limited access fleet, the management uncertainty buffer is based on the  $F$  associated with a 75-percent probability of remaining below the  $F$  associated with ABC/ACL, which, using the updated  $F$ s applied to the ABC/ACL, now results in an  $F$  of 0.46.

**TABLE 2—SCALLOP CATCH LIMITS (mt) FOR FISHING YEARS 2019 AND 2020 FOR THE LIMITED ACCESS AND LAGC IFQ FLEETS**

Catch limits	2019 (mt)	2020 (mt) <sup>1</sup>
Overfishing Limit .....	73,421	59,447
Acceptable Biological Catch/ACL (discards removed) .....	57,003	46,028
Incidental Catch .....	23	23
Research Set-Aside (RSA) .....	567	567
Observer Set-Aside .....	570	460
ACL for fishery .....	55,843	44,978
Limited Access ACL .....	52,772	42,504
LAGC Total ACL .....	3,071	2,474
LAGC IFQ ACL (5 percent of ACL) .....	2,792	2,249
Limited Access with LAGC IFQ ACL (0.5 percent of ACL) .....	279	225
Limited Access ACT .....	47,598	38,337
APL (after set-asides removed) .....	27,209	( <sup>1</sup> )
Limited Access Projected Landings (94.5 percent of APL) .....	25,713	( <sup>1</sup> )
Total IFQ Annual Allocation (5.5 percent of APL) <sup>2</sup> .....	1,497	1,122
LAGC IFQ Annual Allocation (5 percent of APL) <sup>2</sup> .....	1,360	1,020
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) <sup>2</sup> .....	136	102

<sup>1</sup> The catch limits for the 2020 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2020 that will be based on the 2019 annual scallop surveys.

<sup>2</sup> As a precautionary measure, the 2020 IFQ annual allocations are set at 75 percent of the 2019 IFQ Annual Allocations.

This action would deduct 1.25 million lb (567 mt) of scallops annually for 2019 and 2020 from the ABC for use as the Scallop RSA to fund scallop research. Participating vessels are compensated through the sale of scallops harvested under RSA projects. Of the 1.25 million-lb (567-mt)

allocation, NMFS has already allocated 103,418 lb (46,902 kg) to previously-funded multi-year projects as part of the 2018 RSA awards process. NMFS is reviewing proposals submitted for consideration of 2019 RSA awards and will be selecting projects for funding in the near future.

This action would also deduct 1 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 570 mt for 2019 and 460 mt for 2020. The Council may adjust the 2020 observer

set-aside when it develops specific, non-default measures for 2020.

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

This action would implement vessel-specific DAS allocations for each of the three limited access scallop DAS permit categories (i.e., full-time, part-time, and occasional) for 2019 and 2020 (Table 2). Proposed 2019 DAS allocations are the same as those allocated to the limited access fleet in 2018. Framework 30 would set 2020 DAS allocations at 75 percent of fishing year 2019 DAS allocations as a precautionary measure. This is to avoid over-allocating DAS to the fleet in the event that the 2020 specifications action is delayed past the start of the 2020 fishing year. The proposed allocations in Table 3 exclude any DAS deductions that are required if the limited access scallop fleet exceeded its 2018 sub-ACL.

**TABLE 3—SCALLOP OPEN AREA DAS ALLOCATIONS FOR 2019 AND 2020**

Permit category	2019	2020 (default)
Full-Time .....	24.00	18.00
Part-Time .....	9.60	7.20
Occasional .....	2.00	1.5

If NMFS implements these Framework 30 measures after the April 1 start of fishing year 2019, default DAS allocations, which were established in Framework Adjustment 29 to the Scallop FMP (83 FR 17300; April 19, 2018), would go into place on April 1. Full-time vessels would receive 18 DAS, Part-time vessels would receive 7.20 DAS, and occasional vessels would receive 1.50 DAS. The allocations would later be increased in accordance with Framework 30, if approved. NMFS will send a letter to all limited access permit holders providing both default and Framework 30 DAS allocations so that vessel owners know what mid-year adjustments would occur should Framework 30 be approved and implemented after April 1, 2019.

*Limited Access Allocations and Trip Possession Limits for Scallop Access Areas*

For fishing year 2019 and the start of 2020, Framework 30 would keep the Mid-Atlantic Access Area (MAAA), Nantucket Lightship-West Access Area (NLS-W), and Closed Area 1 Access Area (CA1) open as access areas. In addition, this action would close the Nantucket Lightship-South Access Area (NLS-S).

*Closed Area 1 Flex Allocation*

Framework 30 will allocate a new type of flexible allocation in Closed Area 1. Limited access full-time and part-time vessels would be allocated 18,000 lb (8,165 kg) and 17,000 lb (7,711 kg) of flexible allocation (flex allocation) in CA1 (Table 4 and Table 5). Because of uncertainty about the condition of the resource in CA1, scallops allocated to the limited access fleet in CA1 could be landed in any available access area. For the 2019 fishing year and the first 60 days of the 2020 fishing year, limited access vessels may choose to land CA1 flex allocation from any access area available in fishing year 2019 (i.e., MAAA and/or NLS-W). For example, a full-time vessel could take a trip in the CA1 and land 10,000 lb (4,536 kg) from that area, leaving the vessel with 8,000 lb (3,629 kg) of the CA1 flex allocation available, which could be landed from MAAA and/or NLS-W. Trips could be combined with allocation dedicated to those areas, provided the 18,000-lb (8,165-kg) possession limit is not exceeded on any one trip.

Table 4 provides the proposed limited access full-time allocations for all of the access areas, which could be taken in as many trips as needed, so long as the vessels do not exceed the possession limit (also in Table 4) on any one trip.

**TABLE 4—PROPOSED SCALLOP ACCESS AREA FULL-TIME LIMITED ACCESS VESSEL POUNDAGE ALLOCATIONS AND TRIP POSSESSION LIMITS FOR 2019 AND 2020**

Rotational access area	Scallop possession limit	2019 Scallop allocation	2020 Scallop allocation (default)
Closed Area 1 Flex* .....	18,000 lb (8,165 kg) per trip .....	18,000 lb (8,165 kg) .....	0 lb (0 kg).
Nantucket Lightship-West .....		54,000 lb (24,494 kg) .....	18,000 lb (8,165 kg).
Mid-Atlantic .....		54,000 lb (24,494 kg) .....	18,000 lb (8,165 kg).
Total .....	.....	126,000 lb (57,153 kg) .....	36,000 lb (16,329 kg).

\* Closed Area 1 flex allocation can be landed in any available access area.

Table 5 provides the proposed limited access part-time allocations for all of the access areas, which could be taken in as many trips as needed, so long as the vessels do not exceed the possession limit (also in Table 5) on any one trip.

**TABLE 5—PROPOSED SCALLOP ACCESS AREA PART-TIME LIMITED ACCESS VESSEL POUNDAGE ALLOCATIONS AND TRIP POSSESSION LIMITS FOR 2019 AND 2020**

Rotational access area	Scallop possession limit	2019 Scallop allocation	2020 Scallop allocation (default)
Closed Area 1 Flex* .....	17,000 lb (7,711 kg) per trip .....	17,000 lb (7,711 kg) .....	0 lb (0 kg).
Nantucket Lightship West .....		17,000 lb (7,711 kg) .....	7,200 lb (3,266 kg).
Mid-Atlantic .....		17,000 lb (7,711 kg) .....	7,200 lb (3,266 kg).
Total .....	.....	51,000 lb (23,133 kg) .....	14,400 lb (6,532 kg).

\* Closed Area 1 flex allocation can be landed in any available access area.

For the 2019 fishing year, an occasional limited access vessel would be allocated 10,500 lb (4,763 kg) of scallops with a trip possession limit at 10,500 lb (4,763 kg) of scallops per trip. Occasional vessels would be able to

harvest 10,500 lb (4,763 kg) allocation from only one of three available access areas (CA1, NLS-W, or MAAA). For the 2020 fishing year, occasional limited access vessels would be allocated 10,500 lb (4,763 kg) in the MAAA only with a trip possession limit of 10,500 lb (4,763 kg) per trip.

*Limited Access Vessels' One-for-One Area Access Allocation Exchanges*

The owner of a vessel issued a limited access scallop permit may exchange unharvested scallop pounds allocated into one access area for another vessel's unharvested scallop pounds allocated into another access area. These exchanges may only be made for the amount of the current trip possession limit (18,000 lb (8,165 kg) for full-time vessels and 17,000 lb (7,711 kg) for part-time vessels). In addition, these exchanges would be made only between vessels in the same permit category. For example, a full-time vessel may not exchange allocations with a part-time vessel, and vice versa.

*LAGC Measures*

1. *ACL and IFQ Allocation for LAGC Vessels with IFQ Permits.* For LAGC vessels with IFQ permits, this action would implement a 2,792-mt ACL for 2019 and a 2,249-mt default ACL for 2020 (see Table 2). 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 2019 and 2020 based on APL would be 1,360 mt for 2019 and 1,020 mt for 2020 (see Table 2). Each vessel's IFQ would be calculated from these allocations based on APL.

If NMFS implements these Framework 30 measures after the April 1 start of the 2019 fishing year, the default 2019 IFQ allocations would go into place automatically on April 1, 2019. Because this action would implement IFQ allocations greater than the default allocations, NMFS will send a letter to IFQ permit holders providing both default 2019 and Framework 30 IFQ allocations so that vessel owners know what mid-year adjustments would occur should Framework 30 be approved.

2. *ACL and IFQ Allocation for Limited Access Scallop Vessels with IFQ Permits.* For limited access scallop vessels with IFQ permits, this action would implement a 279-mt ACL for 2019 and a default 225-mt ACL for 2020 (see Table 2). 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 for fishing years would be 136 mt for 2019 and 102 mt for 2020 (see Table 2). Each vessel's IFQ would be calculated from these allocations based on APL.

3. *LAGC IFQ Trip Allocations for Scallop Access Areas.* Framework 30 would allocate LAGC IFQ vessels a

fleet-wide number of trips in the CA1, NLS-W, and MAAA for fishing year 2019 trips and default fishing year 2020 trips in the MAAA (see Table 6). The scallop catch associated with the total number of trips for all areas combined (3,997) for fishing year 2019 is equivalent to the 5.5 percent of total catch from access areas.

TABLE 6—FISHING YEARS 2019 AND 2020 LAGC IFQ TRIP ALLOCATIONS FOR SCALLOP ACCESS AREAS

Scallop access area	2019	2020 <sup>1</sup>
Closed Area 1 .....	571	0
Nantucket Lightship-West .....	1,713	571
Mid-Atlantic .....	1,713	571
Total .....	3,997	1,142

<sup>1</sup> The LAGC IFQ access area trip allocations for the 2020 fishing year are subject to change through a future specifications action or framework adjustment.

4. *Northern Gulf of Maine (NGOM) TAC.* This action proposes a 205,000-lb (92,986-kg) annual NGOM TAC for fishing years 2019 and 2020. The NGOM portions of Framework 29 (83 FR 12857; March 26, 2018) developed a methodology for splitting the TAC between the LAGC and the limited access fleets. The limited access portion of the TAC may only be fished by vessels participating in the RSA program that are participating in a project that has been allocated NGOM RSA allocation. Table 7 describes the division of the TAC for the 2019 and 2020 (default) fishing years.

TABLE 7—NGOM TACS FOR FISHING YEAR 2019 AND 2020

Fleet	2019		2020 (default)	
	lb	kg	lb	kg
LAGC .....	137,500	62,369	120,000	5,443
Limited access .....	67,500	30,617	50,000	22,680
Total .....	205,000	92,986	170,000	77,111

5. *Scallop Incidental Catch Target TAC.* This action proposes a 50,000-lb (22,680-kg) scallop incidental catch target TAC for fishing years 2019 and 2020 to account for mortality from vessels that catch scallops while fishing for other species, and to 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 proposes that vessels participating in RSA projects would be able to harvest RSA compensation from NLS-W, MAAA, and the open area. All vessels would be prohibited from harvesting RSA compensation pounds in CA1. Vessels would be prohibited from fishing for RSA compensation in the NGOM unless the vessel is fishing an RSA compensation trip using NGOM RSA allocation that was awarded to an RSA project, as implemented in the

NGOM portions of Framework 29. Finally, Framework 30 would prohibit the harvest of RSA from any access areas under default 2020 measures. At the start of 2020, RSA compensation could only be harvested from open areas. The Council would re-evaluate this default prohibition measure in the action that would set final 2020 specifications.

*Standardized Default Allocations*

The Scallop FMP allocates fishery specifications on an annual basis

including open-area DAS and access area trips for the limited access component, IFQ to qualifying LAGC IFQ vessels, and access area trips to the LAGC IFQ fleet. Default specifications have been developed in this annual process so that the fishery may continue to operate at a conservative level if updated specifications are not in place by April 1 (start of the fishing year). To reduce the number of decisions made by the Council, and workload for Council's Plan Development Team and staff to develop default measures on an annual basis that have predictable outcomes, this action proposes to standardize the process for developing some default measures.

Framework 30 would standardize the default DAS allocations for the limited access fleet. During the specifications setting process, each limited access permit type would receive 75 percent of Fishing Year 1 open area DAS to begin the subsequent fishing year. In addition, this action would standardize the default LAGC IFQ allocation. The LAGC IFQ component would receive 75 percent of Fishing Year 1 quota allocation. This action would not allocate default access area trips for the limited access or LAGC IFQ component, and it would not standardize default allocations to the NGOM.

#### *Standardized Approach To Setting LAGC IFQ Access Area Trips*

The LAGC IFQ fishery is allocated a fleetwide total number of access area trips. Individual vessels are not required to take trips in specific areas as is the case for access area trips allocated to the limited access fishery. Instead, a maximum number of trips are identified for each area and, once that limit is reached, the area closes to all LAGC IFQ vessels for the remainder of the fishing year. The level of allocation can vary and is specified in each framework action. Framework 30 would standardize overall access area allocations to the LAGC IFQ component by allocating the amount equivalent to 5.5 percent of total projected access area harvest by the limited access and LAGC IFQ components. The total projected access area harvest would be set by:

1. First, multiplying the number of full-time access area trips by the full-time limited access fleet's access area possession limit and the number of full-time equivalent permits in the fishery (327).

2. Next, dividing the expected limited access fleet's access area harvest by 0.945 to calculate total expected access area harvest, and

3. Finally, calculating the number of access area trips allocated to the LAGC

IFQ fleet by dividing 5.5 percent of total expected access area harvest by the LAGC IFQ possession limit.

#### *Regulatory Corrections Under Regional Administrator Authority*

This proposed rule includes three revisions to address regulatory text that is unnecessary, outdated, or unclear. 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 an FMP are carried out in accordance with the FMP and the Magnuson-Stevens Act. The first revision, at § 648.52(g), would clarify that LAGC IFQ scallop vessels cannot exceed the scallop possession limit unless they are carrying an observer. The second revision, at § 648.53(h)(4)(ii) and (iii), would adjust the specific timing for the LAGC IFQ Cost Recovery Program to more accurately reflect the realities and limitations of how the program has been operating. The current regulatory language states that NMFS shall mail out cost recovery bills on or about October 31 of each year, and that the fee must be paid by January 1 of each year. In practice, it is not possible for NMFS to prepare bills on or before October 31, because it does not provide enough time to collect any data from the last few weeks of the cost recovery year, run quality assurance and quality control checks on that data, determine total recoverable costs, and generate bills. We have determined that cost recovery can be accomplished more effectively and clearly by simply giving up to 60 days for the bill to be paid after it is mailed. The final revision, at § 648.59(d), would clarify that limited access scallop vessels cannot exceed the scallop possession limit unless they are carrying an observer.

#### **Classification**

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Sea Scallop FMP, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

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

An IRFA has been prepared for Framework 30, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. The IRFA consists of Framework 30

analyses, the draft IRFA, and the preamble to this proposed rule.

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

This action proposes the management measures and specifications for the Atlantic sea scallop fishery for 2019, with 2020 default measures. A description of the action, why it is being considered, and the legal basis for this action are contained in the Council's Framework 30 document and the preamble of this proposed rule, and are not repeated here.

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

This action contains no new collection-of-information, reporting, or recordkeeping requirements.

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

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

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

The proposed regulations would affect all vessels with limited access and LAGC scallop permits, but there is no differential effect based on whether the affected entities are small or large. As explained in the section below, the proposed regulations are expected to result in slightly higher profits for small entities. Framework 30 provides extensive information on the number and size of vessels and small businesses that would be affected by the proposed regulations, by port and state (see **ADDRESSES**). Fishing year 2017 data were used for this analysis because these data are the most recent complete data set for a fishing year. There were 307 vessels that held full-time limited access permits in 2017, including 247 dredge, 50 small-dredge, and 10 scallop trawl permits. In the same year, there were also 31 part-time limited access permits in the sea scallop fishery. No vessels were issued occasional scallop permits in 2017. NMFS issued 240 LAGC IFQ permits and 95 LAGC NGOM permits in 2017, of which, about 127 of the IFQ vessels and 32 NGOM vessels actively fished for scallops in 2017. The remaining IFQ permits likely leased out scallop IFQ allocations with their permits in Confirmation of Permit History. Section 6.5 of Framework 30 provides extensive information on the

number and size of vessels that would be affected by the proposed regulations, their home and principal state, dependency on the scallop fishery, and revenues and profits (see ADDRESSES).

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 proposed rule. Furthermore, multiple permitted vessels and/or permits may be owned by entities with various personal and business affiliations. 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 between the two owners for the additional vessels 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 2017 permits. This analysis considers average gross sales associated with the permits in the current ownership dataset for calendar years 2015 through 2017 to provide a recent average. Matching the potentially impacted 2017 fishing year permits (limited access permits and LAGC IFQ permits) to calendar year 2017 ownership data results in 164 distinct ownership entities for the limited access fleet, and 101 distinct ownership entities for the LAGC IFQ fleet. Of these, based on the Small Business Administration guidelines, 157 of the limited access distinct ownership entities and 101 of the LAGC IFQ entities are categorized as small entities. The remaining seven of the limited access and none of the LAGC IFQ entities are categorized as large entities. There were 32 distinct small business entities with active NGOM permits in 2017.

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

The Council's preferred alternative (Alternative 3, Sub-option 2, Section

4.3.3.2, in the Council's EA) would allocate each full-time limited access vessel 24 open area DAS and 7 access area trips, amounting to 126,000 lb (57,153 kg) with a possession limit of 18,000 lb (8,165 kg) for each trip. This is estimated to result in about 56.7 million lb (26.2 million kg) of landings for the limited access fishery after the set asides are removed, and about 62.5 million lb (28.3 million kg) of landings including set-asides and LAGC sub-ACL (Table 8). The LAGC IFQ sub-ACL for vessels with IFQ permits only will be close to 3.0 million pounds (1.4 million kg) and, including those limited access vessels with IFQ permits, will be about 3.3 million lb (1.5 million kg). This alternative is expected to have low positive impacts on the net revenues and profits small entities regulated by this action in 2019 compared to the status quo scenario, because, while it would allocate more allocation to access areas, it would allocate the same amount of DAS to the fleet (24 DAS). As a result, the preferred alternative would have about 0.2 percent higher net revenue per entity compared to the status quo levels, translating to higher profits (Table 9).

TABLE 8—SPECIFICATION ALTERNATIVES UNDER CONSIDERATION IN FRAMEWORK 30

Alternative	EA Section	DAS	Scenario	Landings (mil lb/kg)		Revenue (mil 2001 \$)
Alternative 1	4.3.1	18 DAS (F=0.18)	One MAAA at 18k	22.9	10.4	170
Alternative 2	4.3.2	26 DAS (F=0.25)	7 trips at 15k	57.6	26.1	381
Alternative 3	4.3.3.1 Preferred	26 DAS (F=0.25)	1 CAI FLEX trip, 7 trips at 18k.	64.2	29.1	413
	4.3.3.2 Preferred	24 DAS (F=0.23)	1 CAI FLEX trip, 7 trips at 18k.	62.5	28.3	406
Alternative 4	4.3.4	24 DAS (F=0.23)	1 CAI FLEX trip at 15k, 6 trips at 18k.	61.5	27.9	400
Alternative 5	4.3.5	F=0.295 (30 DAS)	For Comparison Only	63.1	28.6	407

TABLE 9—NET SCALLOP REVENUE FOR LIMITED ACCESS VESSELS AND PERCENT CHANGE FROM THE STATUS QUO UNDER THE PROPOSED ACTION [2019 fishing year, revenues in 2018 dollars]

Alternative	lb kg	Alt.1	Alt.2	Alt.3	Alt.3—Preferred	Alt.4	Alt.5
Values/RUN		No Action	7at15k	F25FLEX18k	24DASFLEX18k	24DASFLEX15k	Status Quo.
Landings (LA vessels, mill. lb/kg)		19.2	52.0	58.2	56.7	55.7	57.2.
		8.7	23.6	26.4	25.7	25.3	25.9.
Total Scallop Net Rev. (LA vessels, mill. \$).		190	461	501	493	486	492.
Net scallop Rev. per entity (\$)		1,160,165	2,811,338	3,057,712	3,005,555	2,962,932	2,999,713.
Percent change in net scallop revenue.		-61.3%	-6.3%	1.9%	0.2%	-1.2%	0.0%

Under the preferred alternative, allocation for the LAGC IFQ fishery,

excluding the limited access vessels with IFQ permits, will be about 0.8

percent lower than the allocation under the status quo. However, under the

proposed action, DAS and trip costs would be lower due to smaller allocations and higher landings per unit effort relative to the status quo.

Therefore, in terms of net revenue, the difference between the proposed action and the status quo values is expected to be even smaller. Therefore, the preferred

alternative will have negligible economic impacts on the LAGC IFQ fishery compared to the status quo scenario (Table 10).

TABLE 10—IMPACTS OF THE LAGC IFQ TAC FOR 2019 FISHING YEAR

EA Section		4.3.1	4.3.2	4.3.3.1	4.3.3.2	4.3.4	4.3.5
Alternative		Alt.1	Alt.2	Alt.3	Alt.3—preferred	Alt.4	Alt.5
Values/RUN .....		No Action .....	7at15k .....	F25FLEX18k .....	24DAS FLEX18k ..	24DAS FLEX15k ..	Status Quo.
TAC for IFQ vessels (mill. lb/kg) .....	lb	1.02 .....	2.75 .....	3.08 .....	3.00 .....	2.95 .....	3.02.
	kg	0.46 .....	1.25 .....	1.40 .....	1.36 .....	1.34 .....	1.37.
TAC for LA vessels with IFQ permits (mill. lb/kg).	lb	0.10 .....	0.28 .....	0.31 .....	0.30 .....	0.29 .....	0.30.
	kg	0.05 .....	0.13 .....	0.14 .....	0.14 .....	0.13 .....	0.14.
Total TAC for IFQ fishery (mill.lb/kg) ..	lb	1.12 .....	3.03 .....	3.39 .....	3.30 .....	3.24 .....	3.33.
	kg	0.51 .....	1.37 .....	1.54 .....	1.50 .....	1.47 .....	1.51.
% Change in estimated scallop landings and revenue per business entity from Status Quo.		-66.3% .....	-9.1% .....	1.9% .....	-0.8% .....	-2.6% .....	0.0%.

Under the preferred alternative (Alternative 2 Sub-Option 1, Section 4.3.3.2), total allowable catch (TAC) for the NGOM management area will be set at 205,000 pounds in 2019. The first 70,000 pounds will be allocated to the LAGC component of the fishery. The remaining poundage will be split 50/50 between the LAGC and the limited access components of the fishery. For the 2019 fishing year, the overall shares for LAGC vessels will be 137,500 pounds, and for limited access vessels the overall shares will be 67,500 pounds (Table 8). The limited access share of the NGOM TAC can be utilized only for research set-aside (RSA) compensation fishing.

NGOM TAC for the preferred alternative, Alternative 2 Sub-Option 1, Section 4.3.3.2, (overall TAC of 205,000 lbs (92,986 kg)), would be higher than the TAC for the No Action alternative, Alternative 1, (overall TAC of 135,000 lbs (61,224 kg)). As a result, the net revenue for the LAGC NGOM fishery is expected to increase by 25 percent under the preferred alternative, compared to the No Action alternative, resulting in positive impacts on the profits of NGOM LAGC entities.

The economic benefits of all of the other alternatives, including the preferred alternative adopted in this proposed rule, considered in this action would exceed the benefits for the No Action alternative. The specifications alternative, Alternative 3 Sub-Option 1, Section 4.3.3.1, which allocates 26 DAS, would have the highest landings and net revenues in 2019 (see Table 9, 10, and 11). Although Alternative 3, Sub-Option 1, Section 4.3.3.1 net revenues would be slightly higher than net revenues for the preferred alternative (Alternative 3 Sub-Option 2, Section 4.3.3.2) because Alternative 3 allows for 2 more open area DAS to be allocated than are

allocated under the preferred alternative, we have determined that the preferred alternative is optimal because it would minimize risks associated with stock biomass uncertainties in those areas.

**List of Subjects 50 CFR Part 648**

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: February 12, 2019.

**Samuel D. Rauch III,**

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

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

**PART 648—FISHERIES OF THE NORTHEAST UNITED STATES**

**Subpart A—General Provisions**

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

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

■ 2. In § 648.14:

- a. Remove and reserve paragraph (i)(2)(viii); and
- b. Revise paragraphs (i)(4)(i)(C) and (i)(5)(iii).

The revisions read as follows:

**§ 648.14 Prohibitions.**

- \* \* \* \* \*
- (i) \* \* \*
- (2) \* \* \*
- (viii) [Reserved]
- \* \* \* \* \*
- (4) \* \* \*
- (i) \* \* \*

(C) Declare into the NGOM scallop management area after the effective date of a notification published in the **Federal Register** stating that the LAGC share of the NGOM scallop management area TAC has been harvested as

specified in § 648.62, unless the vessel is fishing exclusively in state waters, declared a state-waters only NGOM trip, and is participating in an approved state waters exemption program as specified in § 648.54, or unless the vessel is participating in the scallop RSA program as specified in § 648.56.

\* \* \* \* \*

(5) \* \* \*

(iii) Fish for, possess, or land scallops in state or Federal waters of the NGOM management area after the effective date of notification in the **Federal Register** that the LAGC share of the NGOM scallop management area TAC has been harvested as specified in § 648.62, unless the vessel is fishing exclusively in state waters, declared a state-waters only NGOM trip, and is participating in an approved state waters exemption program as specified in § 648.54, or unless the vessel is participating in the scallop RSA program as specified in § 648.56.

\* \* \* \* \*

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

■ 3. In § 648.52 revise paragraph (g) to read as follows:

**§ 648.52 Possession and landing limits.**

\* \* \* \* \*

(g) *Possession limit to defray the cost of observers for LAGC IFQ vessels.* An LAGC IFQ vessel with an observer on board may retain, per observed trip, an allowance of scallops in addition to the possession limit, as established by the Regional Administrator in accordance with § 648.59(d), provided the observer set-aside specified in § 648.59(d)(1) has not been fully utilized. For example, if the LAGC IFQ vessel possession limit is 600 lb (272.2 kg) and the additional allowance to defray the cost of an

observer is 200 lb (90.7 kg), the vessel could retain up to 800 lb (362.9 kg) when carrying an observer, regardless of trip length. If a vessel does not land its additional allowance on the trip while carrying an observer, the additional allowance will be added to the vessel's IFQ allocation, and it may land it on a subsequent trip. However, the vessel may not exceed the IFQ trip possession limit as described in § 648.52(a) unless it is actively carrying an observer.

\* \* \* \* \*

■ 4. Amend § 648.53 by:

■ a. Revising paragraphs (a)(6)(iii), (a)(8) and (b)(3);

■ b. Adding paragraph (b)(4); and

■ c. Revising paragraphs (c)(1) and (2) and (h)(4)(ii) and (iii).

The revisions and additions 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) \* \* \*

(6) \* \* \*

(iii) *LAGC IFQ fleet annual allocation.*

(A) The annual allocation for the LAGC IFQ fishery for vessels issued an LAGC IFQ scallop permit and not also issued a limited access permit shall be equal to 5 percent of the APL. The annual allocation for the LAGC IFQ fishery for vessels issued both a LAGC IFQ scallop permit and a limited access scallop permit shall be 0.5 percent of the APL.

(B) Standardized default LAGC IFQ allocation. Unless otherwise specified

by the Council through the framework adjustment or specifications process defined in § 648.55, after the first-year allocation expires, the second-year default allocation, as described in § 648.55(a), shall be set at 75 percent of the first-year allocation for all vessels issued an LAGC IFQ scallop permit and not also issued a limited access permit and for vessels issued both an LAGC IFQ scallop permit and a limited access scallop permit. After the second-year default allocation expires, the third year allocation would be set to zero until replaced by subsequent allocations.

\* \* \* \* \*

(8) The following catch limits will be effective for the 2019 and 2020 fishing years:

SCALLOP FISHERY CATCH LIMITS

Catch limits	2019 (mt)	2020 (mt) <sup>1</sup>
Overfishing Limit	73,421	59,447
Acceptable Biological Catch/ACL (discards removed)	57,003	46,028
Incidental Catch	23	23
Research Set-Aside (RSA)	567	567
Observer Set-Aside	570	460
ACL for fishery	55,843	44,978
Limited Access ACL	52,772	42,504
LAGC Total ACL	3,071	2,474
LAGC IFQ ACL (5 percent of ACL)	2,792	2,249
Limited Access with LAGC IFQ ACL (0.5 percent of ACL)	279	225
Limited Access ACT	47,598	38,337
APL (after set-asides removed)	27,209	( <sup>1</sup> )
Limited Access Projected Landings (94.5 percent of APL)	25,713	( <sup>1</sup> )
Total IFQ Annual Allocation (5.5 percent of APL) <sup>2</sup>	1,497	1,122
LAGC IFQ Annual Allocation (5 percent of APL) <sup>2</sup>	1,360	1,020
Limited Access with LAGC IFQ Annual Allocation (0.5 percent of APL) <sup>2</sup>	136	102

<sup>1</sup> The catch limits for the 2020 fishing year are subject to change through a future specifications action or framework adjustment. This includes the setting of an APL for 2020 that will be based on the 2019 annual scallop surveys. The 2020 default allocations for the limited access component are defined for DAS in paragraph (b)(3) of this section and for access areas in § 648.59(b)(3)(i)(B).

<sup>2</sup> As specified in (a)(6)(iii)(B) of this section, the 2020 IFQ annual allocations are set at 75 percent of the 2019 IFQ Annual Allocations.

\* \* \* \* \*

(b) \* \* \*

(3) The DAS allocations for limited access scallop vessels for fishing years 2019 and 2020 are as follows:

SCALLOP OPEN AREA DAS ALLOCATIONS

Permit category	2019	2020 <sup>1</sup>
Full-Time	24.00	18.00
Part-Time	9.60	7.20
Occasional	2.00	1.5

<sup>1</sup> The DAS allocations for the 2020 fishing year are subject to change through a future specifications action or framework adjustment. The 2020 DAS allocations are set at 75 percent of the 2019 allocation as a precautionary measure.

(4) Standardized default DAS allocations. Unless otherwise specified by the Council through the framework

adjustment or specifications process defined in § 648.55, after the first-year allocations expire, the second-year default limited access DAS allocations, as described in § 648.55(a), shall be set at 75 percent of the first-year allocation. After the second-year default allocation expires, the third year allocation would be set to zero until replaced by subsequent allocations.

(c) \* \* \*

(1) *Limited access AM exception.* If NMFS determines that the fishing mortality rate associated with the limited access fleet's landings in a fishing year is less than 0.46, the AM specified in paragraph (c) of this section shall not take effect. The fishing mortality rate of 0.46 is the fishing mortality rate that is one standard deviation below the fishing mortality

rate for the scallop fishery ACL, currently estimated at 0.51.

(2) *Limited access fleet AM and exception provision timing.* The Regional Administrator shall determine whether the limited access fleet exceeded its sub-ACL, defined in paragraph (a)(5) of this section, by July of the fishing year following the year for which landings are being evaluated. On or about July 1, the Regional Administrator shall notify the New England Fishery Management Council of the determination of whether or not the sub-ACL for the limited access fleet was exceeded, and the number of landings in excess of the sub-ACL. Upon this notification, the Scallop Plan Development Team (PDT) shall evaluate the overage and determine if the fishing mortality rate associated with total landings by the limited access scallop



fleet is less than 0.46. On or about September 1 of each year, the Scallop PDT shall notify the Council of its determination, and the Council, on or about September 30, shall make a recommendation, based on the Scallop PDT findings, concerning whether to invoke the limited access AM exception. If NMFS concurs with the Scallop PDT's recommendation to invoke the limited access AM exception, in accordance with the APA, the limited access AM shall not be implemented. If NMFS does not concur, in accordance with the APA, the limited access AM shall be implemented as soon as possible after September 30 each year.

\* \* \* \* \*

- (h) \* \* \*
- (4) \* \* \*

(ii) *Fee payment procedure.* On or about October 31 of each year NMFS shall mail a cost recovery bill to each IFQ scallop permit holder for the previous cost recovery period. An IFQ scallop permit holder who has incurred a fee must pay the fee to NMFS within 60 days from the date of mailing of the recovery bill. Cost recovery payments shall be made electronically via the Federal web portal, *www.pay.gov*, or other internet sites as designated by the Regional Administrator. Instructions for electronic payment shall be available on both the payment website and the paper bill. Payment options shall include payment via a credit card, as specified in the cost recovery bill, or via direct automated clearing house (ACH) withdrawal from a designated checking account. Payment by check may be authorized by NMFS if it has determined that electronic payment is not possible (for example, if the geographical area of an individual(s) is affected by catastrophic conditions).

(iii) *Payment compliance.* An IFQ scallop permit holder that has incurred an IFQ cost recovery fee must pay the

fee to NMFS within 60 days from the date of mailing. If the cost recovery payment, as determined by NMFS, is not made within 60 days from the date of mailing, NMFS may deny the renewal of the IFQ scallop permit until full payment is received. If, upon preliminary review of the accuracy and completeness of a fee payment, NMFS determines the IFQ scallop permit holder has not paid the full amount due, NMFS shall notify the IFQ scallop permit holder by letter. NMFS shall explain the discrepancy and provide the IFQ scallop permit holder 30 days to either pay the amount specified by NMFS or to provide evidence that the amount paid was correct. If the IFQ scallop permit holder submits evidence in support of his/her payment, NMFS shall determine if there is any remaining disagreement as to the appropriate IFQ fee, and prepare a Final Administrative Determination (FAD). The FAD shall set out the facts, discuss those facts within the context of the relevant agency policies and regulations, and decide as to the appropriate disposition of the matter. A FAD shall be the final agency action, and, if the FAD determines that the IFQ scallop permit holder is out of compliance, the FAD shall require payment within 30 days. If a FAD is not issued until after the start of the fishing year, the IFQ scallop permit holder may be authorized to fish temporarily by the Regional Administrator until the FAD is issued, at which point the permit holder shall have 30 days to comply with the terms of the FAD or the IFQ scallop permit shall not be issued until such terms are met. If NMFS determines that the IFQ scallop permit holder owes additional fees for the previous cost recovery period, and the IFQ scallop permit has already been renewed, NMFS shall issue a FAD, at which point the permit holder shall have 30 days to

comply with the terms of the FAD or NMFS may withdraw the issuance of the IFQ scallop permit until such terms are met. If such payment is not received within 30 days of issuance of the FAD, NMFS shall refer the matter to the appropriate authorities within the U.S. Department of the Treasury for purposes of collection, and no IFQ permit held by the permit holder may be renewed until the terms of the FAD are met. If NMFS determines that the conditions of the FAD have been met, the IFQ permit holder may renew the IFQ scallop permit(s). If NMFS does not receive full payment prior to the end of the fishing year, the IFQ scallop permit shall be considered voluntarily abandoned, pursuant to § 648.4(a)(2)(ii)(K), unless otherwise determined by the Regional Administrator.

\* \* \* \* \*

- 5. Revise §§ 648.57–648.5 [Reserved] to read as §§ 648.57–648.58 [Reserved].
- 6. Amend § 648.59 by:
  - a. Revising paragraph (b)(3)(i)(B);
  - b. Adding paragraphs (b)(3)(ii)(A) and (B);
  - c. Revising paragraphs (c) through (e), (g)(3)(iv) and (v) ; and
  - d. Adding paragraphs (g)(4)(i)(A) and (B).

The revisions and additions read as follows:

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

- (b) \* \* \*
- (3) \* \* \*
- (i) \* \* \*

(B) The following access area allocations and possession limits for limited access vessels shall be effective for the 2019 and 2020 fishing years:

(1) *Full-time vessels*—(i) For a full-time limited access vessel, the possession limit and allocations are:

Rotational access area	Scallop possession limit	2019 Scallop allocation	2020 Scallop allocation (default)
Closed Area 1 Flex* .....	18,000 lb (8,165 kg) per trip .....	18,000 lb (8,165 kg) .....	0 lb (0 kg).
Nantucket Lightship-West		54,000 lb (24,494 kg) .....	18,000 lb (8,165 kg).
Mid-Atlantic		54,000 lb (24,494 kg) .....	18,000 lb (8,165 kg).
Total .....	.....	126,000 lb (57,153 kg) .....	36,000 lb (16,329 kg).

\* Closed Area 1 flex allocation can be landed in any access area made available in the 2019 fishing year pursuant to the area boundaries defined by Framework 30.

(ii) *Closed Area 1 Access Area flex allocations.* For the 2019 fishing year and the first 60 days of the 2020 fishing year, a full-time limited access vessel may choose to land up to 18,000 lb (8,165 kg) of its Closed Area 1 Access Area allocation from any access area

made available in the 2019 fishing year pursuant to the area boundaries defined by Framework 30. For example, a vessel could take a trip in the Closed Area 1 Access Area and land 10,000 lb (4,536 kg) from that area, leaving the vessel with 8,000 lb (3,629 kg) of the Closed

Area 1 flex allocation available, which could be landed from any other available access area as described in this section, provided the 18,000-lb (8,165-kg) possession limit is not exceeded on any one trip.

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

Rotational access area	Scallop possession limit	2019 Scallop allocation	2020 Scallop allocation (default)
Closed Area 1 Flex* Nantucket Lightship West Mid-Atlantic	17,000 lb (7,711 kg) per trip	17,000 lb (7,711 kg) 17,000 lb (7,711 kg) 17,000 lb (7,711 kg)	0 lb (0 kg). 7,200 lb (32,66 kg). 7,200 lb (3,266 kg).
Total		51,000 lb (23,133 kg)	14,400 lb (6,532 kg).

\* Closed Area 1 flex allocation can be landed in any access area made available in the 2019 fishing year pursuant to the area boundaries defined by Framework 30.

(ii) *Closed Area 1 Access Area flex allocations.* For the 2019 fishing year and the first 60 days of the 2020 fishing year, a part-time limited access vessel may choose to land up to 17,000 lb (7,711 kg) of its Closed Area 1 Access Area allocation from any access area made available in the 2019 fishing year pursuant to the area boundaries defined by Framework 30. For example, a vessel could take a trip in the Closed Area 1 Access Area and land 10,000 lb (4,536 kg) from that area, leaving the vessel with 7,000 lb (3,175 kg) of the Closed Area 1 flex allocation available, which could be landed from any other available access area as described in this section, provided the 17,000-lb (7,711-kg) possession limit is not exceeded on any one trip.

(3) *Occasional limited access vessels.* (i) For the 2019 fishing year only, an occasional limited access vessel is allocated 10,500 lb (4,763 kg) of scallops with a trip possession limit at 10,500 lb of scallops per trip (4,763 kg per trip). Occasional limited access vessels may harvest the 10,500 lb (4,763 kg) allocation from only one available access area (Closed Area 1, Nantucket Lightship-West, or Mid-Atlantic).

(ii) For the 2020 fishing year, occasional limited access vessels are allocated 3,000 lb (1,361 kg) of scallops in the Mid-Atlantic Access Area only with a trip possession limit of 3,000 lb of scallops per trip (1,361 kg per trip).

(ii) *Limited access vessels' one-for-one area access allocation exchanges.*

(A) The owner of a vessel issued a 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 for the amount of the current trip possession limit, as specified in paragraph (b)(3)(i)(B) of this section. For example, if the access area trip possession limit for full-time vessels is 18,000 lb (8,165 kg), a full-time vessel may exchange no more or less than 18,000 lb (8,165 kg), from one access

area for no more or less than 18,000 lb (8,165 kg) allocated to another vessel for another access area. In addition, 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. 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 up to the current possession limit between two or more vessels under his/her ownership. A vessel owner holding a Confirmation of Permit History is not eligible to exchange allocations between another vessel and the vessel for which a Confirmation of Permit History has been issued.

(B) *Flex allocation exchanges.* In fishing year 2019, full-time and part-time vessel are respectively allocated 18,000 lb (8,165 kg) and 17,000 lb (7,711 kg) of scallops that may be landed from any access area made available in the 2019 fishing year pursuant to the area boundaries defined by Framework 30. This flex allocation may be exchanged in full for another access area allocation, but only the flex allocation may be landed from any access area. For example, if a Vessel A exchanges 18,000 lb (8,165 kg) of flex allocation for 18,000 lb (8,165 kg) of Mid-Atlantic Access Area allocation with Vessel B, Vessel A would no longer be allowed to land this

allocation from the any available access area and may only land this allocation from Mid-Atlantic Access Area, but Vessel B could land the flex allocation in any available access area.

\* \* \* \* \*

(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 operator 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. For example, if a full-time vessel has 7,000 lb (3,175 kg) remaining in the Mid-Atlantic Access Area at the end of fishing year 2018, that vessel may harvest those 7,000 lb (3,175 kg) during the first 60 days that the Mid-Atlantic Access Area is open in fishing year 2019 (April 1, 2019, through May 30, 2019).

(d) *Possession limit to defray the cost of observers.* The Regional Administrator may increase the sea scallop possession limit through the specifications or framework adjustment processes defined in § 648.55 to defray costs of at-sea observers deployed on area access trips subject to the limits specified § 648.53(g). An owner of a scallop vessel shall be notified of the increase in the possession limit through a permit holder letter issued by the Regional Administrator. If the observer set-aside is fully utilized prior to the end of the fishing year, the Regional Administrator shall notify owners of scallop vessels that, effective on a specified date, the increase in the possession limit is no longer available to offset the cost of observers. Unless otherwise notified by the Regional Administrator, vessel owners shall be responsible for paying the cost of the observer, regardless of whether the vessel lands or sells sea scallops on that trip, and regardless of the availability of

set-aside for an increased possession limit. If a vessel does not land its additional allowance on the trip while carrying an observer, the additional allowance will be added to the vessel's IFQ allocation or the vessel's allocation for the Scallop Rotational Area that was fished. The vessel may land the remainder of its allowance on a subsequent trip. However, the vessel may not exceed the IFQ or Scallop Rotational Area trip possession limit, as described in § 648.52(a) or § 648.59(b), respectively, unless it is actively carrying an observer.

(e) *Sea Scallop Research Set-Aside Harvest in Scallop Access Areas.* Unless otherwise specified, RSA may be harvested in any access area that is open in a given fishing year, as specified through a specifications action or framework adjustment and pursuant to § 648.56. The amount of scallops that can be harvested in each access area by vessels participating in approved RSA projects shall be determined through the RSA application review and approval process. The access areas open for RSA harvest for fishing years 2019 and 2020 are:

- (1) 2019: Nantucket Lightship-West and Mid-Atlantic.
- (2) 2020: No access areas.
- \* \* \* \* \*
- (g) \* \* \*
- (3) \* \* \*
- (iv) *Allocation of Scallop Access Area Trips.* Unless otherwise specified by the Council through the framework adjustment or specifications process defined in § 648.55, the LAGC IFQ access area trip allocations, specified in paragraph (v) of this section, shall be set at 5.5 percent of the total expected access area harvest for each year.
- (v) The following LAGC IFQ access area trip allocations will be effective for the 2019 and 2020 fishing years:

Scallop access area	2019	2020 <sup>1</sup>
Closed Area 1 .....	571	0
Nantucket Lightship-West .....	1,713	571
Mid-Atlantic .....	1,713	571
Total .....	3,997	1,142

<sup>1</sup> The LAGC IFQ access area trip allocations for the 2020 fishing year are subject to change through a future specifications action or framework adjustment.

(4) *Possession limits*—(i) *Scallops.* (A) A vessel issued a NE multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS, and that has not declared into the Scallop Access Area Program, is prohibited from possessing scallops.

(B) An LAGC scallop vessel authorized to fish in the Scallop Rotational Areas specified in § 648.60 may possess scallops up to the possession limit specified in § 648.52(a), unless otherwise authorized pursuant to paragraph (d) of this section.

\* \* \* \* \*

■ 6. In § 648.62 revise paragraphs (b)(1) and (c) to read as follows:

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

\* \* \* \* \*

(b) \* \* \*

(1) *NGOM annual hard TACs.* The LAGC and the limited access portions of the annual hard TAC for the NGOM 2019 and 2020 fishing years are as follows:

Fleet	2019		2020 (default)	
	lb	kg	lb	kg
LAGC .....	137,500	62,369	120,000	5,443
Limited access .....	67,500	30,617	50,000	22,680
Total .....	205,000	92,986	170,000	77,111

\* \* \* \* \*

(c) *VMS requirements.* Except scallop vessels issued a limited access scallop permit pursuant to § 648.4(a)(2)(i) that have declared a NGOM trip under the scallop RSA program, a vessel issued a scallop permit pursuant to § 648.4(a)(2) that intends to fish for scallops in the NGOM scallop management area or

fishes for, possesses, or lands scallops in or from the NGOM scallop management area, must declare a NGOM scallop management area trip and report scallop catch through the vessel's VMS unit, as required in § 648.10. If the vessel has a NGOM or IFQ permit, the vessel must declare either a Federal NGOM trip or a state-waters NGOM trip. If a vessel

intends to fish any part of a NGOM trip in Federal NGOM waters, it may not declare into the state water NGOM fishery.

\* \* \* \* \*

[FR Doc. 2019-02628 Filed 2-19-19; 8:45 am]

BILLING CODE 3510-22-P