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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 180110025-8025-01]

RIN 0648-BH51

Fisheries of the Northeastern United States; Northern Gulf of Maine Measures in Framework Adjustment 29 to the Atlantic Sea Scallop Fishery Management Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes some of the measures included in Framework Adjustment 29 to the Atlantic Sea Scallop Fishery Management Plan that establish scallop specifications and other measures for the Northern Gulf of Maine scallop management area for fishing years 2018 and 2019. This action is necessary to prevent overfishing and improve both yield-per-recruit and the overall management of the Atlantic sea scallop resource in the Northern Gulf of Maine. 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.

DATES: Comments must be received by [*INSERT DATE 15 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER*].

ADDRESSES: The New England Fishery Management Council has prepared a draft environmental assessment (EA) for this action that describes the proposed measures, other

considered alternatives, and analyzes the impacts of the proposed measures and alternatives. The Council submitted a decision draft of the framework 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 decision draft of Framework Adjustment 29, the draft EA, and the IRFA, are available upon request from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

You may submit comments on this document, identified by NOAA-NMFS-2018-0007, by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov#!/docketDetail;D=NOAA-NMFS-2018-0007, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- **Mail:** Regional Administrator, NMFS, Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on Northern Gulf of Maine Measures in Framework Adjustment 29."

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted

voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Travis Ford, Fishery Policy Analyst, 978-281-9233.

SUPPLEMENTARY INFORMATION:

Background

The scallop fishery's management unit ranges from the shorelines of Maine through North Carolina to the outer boundary of the Exclusive Economic Zone. The Atlantic Sea Scallop 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 Adjustment 29 (Framework 29) to the Atlantic Sea Scallop FMP in its entirety on December 7, 2017, and submitted a decision draft of the framework, including a draft EA, to NMFS on December 21, 2017, for review and approval. Framework 29 includes catch, effort, and quota allocations and adjustments to the rotational area management program for fishing year 2018 and default specifications for fishing year 2019.

This action proposes the portion of Framework 29 that establishes scallop specifications and other measures for the Northern Gulf of Maine (NGOM) scallop management area for fishing years 2018 and 2019. These measures were developed to address harvesting activities by the limited access fleet in the past two years. In fishing years 2016 and 2017, the limited access fleet harvested substantially more scallops from the NGOM than they had since the beginning of

the NGOM management program. Because the limited access fleet accessed the NGOM through the days-at-sea (DAS) program, there was no hard limit on its landings from the area. This resulted in total landings from the NGOM by the limited access fleet that far exceeded the total allowable catch (TAC) for the limited access general category (LAGC) fleet. The Council felt that this was inconsistent with the goals of the NGOM management program. Accordingly, the Council developed Framework 29, in part, to put measures in place to temporarily divide the catch more equitably between the two fleets and limit the total catch by the limited access fleet from the NGOM to a level consistent with its specified TAC for the NGOM.

Prior to its approval of Framework 29 at its December meeting, the Council raised concerns regarding the complexity of Framework 29 and the timeline for implementation. Specifically, the Council was concerned that if the NGOM measures in Framework 29 are not in place by April 1, 2018, the limited access fleet could exceed its portion of the total allowable catch (TAC) proposed in the framework, potentially undermining the sustainability of the NGOM fishery in at least the short term. We informed the Council at the December meeting that we would consider separating out the NGOM measures in Framework 29 to ensure that they were in place prior to April 1, 2018. To help prevent excessive fishing in the NGOM, we are separating out the NGOM measures in Framework 29 to expedite their implementation. As a result, this action addresses only the portions of Framework 29 that affect fishing in the NGOM. We will address the remaining specifications and other management measure in Framework 29 in a follow-up action.

This action would set new management measures in the NGOM for the scallop fishery for the 2018 and 2019 fishing years, including prohibiting the limited access fleet from accessing

the NGOM while participating in the DAS program. In addition, this action would divide the annual NGOM TAC between the limited access fleet while on a research set-aside (RSA) trip and LAGC fleets for the 2018 and 2019 (default) fishing years as follows:

Table 1. NGOM TAC for Fishing years 2018 and 2019 (default)

Fleet	2018		2019 (default)	
	lb	kg	lb	kg
LAGC	135,000	61,235	102,500	46,493
Limited access	65,000	29,484	32,500	14,742
Total	200,000	90,718	135,000	61,235

Setting the NGOM TAC

The NGOM TAC would be set by applying a fishing mortality rate (F) of $F=0.18$ using only the projected exploitable biomass on Jeffreys Ledge and Stellwagen Bank for fishing years 2018 and 2019. The Council chose to base the F rate only on these two areas because the Council projects that this is where the bulk of the fishing in the NGOM will take place. The 2017 survey of Stellwagen Bank did not see any signs of recruitment to the NGOM resource. Therefore, the Council chose to set a more conservative TAC for fishing years 2018 and 2019 that may lead to more consistent harvests in the NGOM. The overall TAC for the entire NGOM management area would be set at 200,000 lbs (90,718 kg) for fishing year 2018, and 135,000 lbs (61,235 kg) for fishing year 2019 (Table 1).

Dividing the NGOM TAC

If current measures remain in place for the NGOM, limited access scallop vessels will be able to fish in the NGOM while on DAS until the LAGC fleet reaches the TAC. Since this could result in extremely high catch and fishing mortality in the NGOM, this action would divide the

TAC between the LAGC fleet and the limited access fleet while on a RSA trip at a level consistent with the biomass in the area. The NGOM TAC for the LAGC component was set at 70,000 lb (31,751 kg) from fishing year 2008 through fishing year 2016. Using this as a basis, the Council recommended that the first 70,000 lb (31,751 kg) of the NGOM TAC should be allocated to the LAGC fleet, and that any remaining pounds should be split equally between the LAGC and limited access fleets (Table 1). Each fleet would operate independently under its own portion of the TAC. The NGOM management area would remain open for each component until their TAC is projected to be harvested, even if the other component has reached its TAC. For example, if the LAGC component harvests its TAC before the limited access fleet harvests all of its allocation, the area would remain open for limited access fishing. The Council considered several options for temporarily dividing the TAC between the two fleets. This TAC division is intended to be a short-term solution to allow controlled fishing in the NGOM management area until the Council and NMFS can develop a future action to address NGOM issues more holistically.

Managing Limited Access Removals

This action would not change how the LAGC component currently operates in the NGOM. However, the limited access fleet would be prohibited from accessing the NGOM while participating in the DAS program. The limited access share of the NGOM TAC would be available through RSA compensation fishing only. Each year the Scallop FMP sets aside 1.25 million lb (566,990 kg) of scallops to fund research relevant to the FMP. RSA projects are selected through a competitive grants process, with priorities established by the Council. NMFS allocates award recipients a portion of the RSA quota and recipients use the money generated by

the sale of the awarded RSA quota, to fund the proposed research. This action would allow NMFS to allocate the limited access portion of the NGOM TAC (65,000 lb (29,484 kg)) to be harvested as RSA compensation quota. This allocation would not be in addition to the 1.25 million lb (566,990 kg) RSA quota. When allocating this quota to specific projects, NMFS would give priority to projects that are relevant to the NGOM. Any limited access or LAGC vessels that NMFS awards NGOM RSA compensation pounds would be required to declare into the area and fish exclusively within the NGOM management area. Any NGOM RSA harvest overages would be deducted from the following year's limited access NGOM TAC.

Capping removals for all fishery components at the specified portion of the NGOM TAC and requiring that all NGOM trips take place exclusively in the NGOM would allow the Council and NMFS to fully understand total removals from the area. Making the limited access share of the NGOM TAC available for RSA compensation fishing would be a short-term solution to utilize a small limited access portion of the NGOM TAC with the expectation that a more formal allocation and harvest strategy would be developed in a future amendment.

The Council has reviewed the NGOM portions of the Framework 29 proposed rule regulations 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).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management 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, 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 29 analyses of the NGOM measures, 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 in the NGOM for 2018, with 2019 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 29 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. Accordingly, this proposed rule does not implicate the Paperwork Reduction Act.

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. Framework 29 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 2016 data were used for this analysis because these data are the most recent complete data set for a fishing year. There were 313 vessels that obtained full-time limited access permits in 2016, including 250 dredge, 52 small-dredge, and 11 scallop trawl permits. In the same year, there were also 34 part-time limited access permits in the sea scallop fishery. No vessels were issued occasional scallop permits. NMFS issued 225 LAGC IFQ permits in 2016, and 125 of these vessels actively fished for scallops that year. The remaining permit holders likely leased out scallop IFQ allocations with their permits in Confirmation of Permit History. In 2016, there were 27 NGOM vessels that actively fished.

For RFA purposes, NMFS defines a small business in 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 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 2016 permits and contains average gross sales associated with those permits for calendar years 2014 through 2016. Matching the potentially impacted 2016 fishing year permits described above (limited access permits and LAGC IFQ permits) to calendar year 2016 ownership data results in 161 distinct ownership entities for the limited access fleet and 115 distinct ownership entities for the LAGC IFQ fleet. Of these, and based on the Small Business Administration guidelines, 154 of the limited access distinct ownership entities and 113 of the LAGC IFQ entities are categorized as small. The remaining seven of the limited access and two of the LAGC IFQ entities are categorized as large entities. The number of distinct small business entities with NGOM permits and active NGOM vessels were 27 in 2016 permits.

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 considered three alternatives for setting a TAC in the NGOM: Alternative 1 (No Action, 95,000 lb (43,091 kg) TAC and no changes to management), Alternative 2 (Set NGOM TAC using exploitable biomass projections for 2018 and 2019, cap removals for all fishery components, and apply limited access share of TAC toward RSA compensation fishing), and Alternative 3 (Set NGOM TAC at 0 lb (0 kg)). Under the Council’s preferred alternative, Alternative 2, there were two options for setting the TAC and each of these options had two sub-

options for splitting the TAC between the limited access and the LAGC fleets. Option 1 (setting that TAC based on F=0.15) included these two sub-options to split the TAC: sub-option 1 (allocating the first 70,000 lb (31,751 kg) to LAGC fleet and the remaining TAC is split equally), and sub-option 2 (first 95,000 lb (43,091 kg) to LAGC fleet and the remaining TAC is split 25(LAGC)/75(limited access)). These two sub-options are described in **Table 2**. Under these sub-options scallop revenues and net revenues of the small business entities for the NGOM vessels would increase relative to No Action levels ranging from 19 percent to 27 percent. However, the preferred alternative (Alternative 2, Option 2, Sub-Option 1) would result in the highest economic benefits for this fishery with an estimated increase in net revenues by 42 percent compared to both Alternative 1 (No Action) and Alternative 3 (Set NGOM TAC at 0 lb (0 kg)).

Table 2. Impacts of the Preferred Alternative 2 for NGOM scallop fishery (2018 fishing year)

	Option 1 (F=0.15)	Option 2 (F=0.18) - Preferred
Split Sub-Option 1 (70,000 lb (31,751 kg) then 50/50) Preferred		
LA scallop pounds	47500 lb (21546 kg)	65000 lb (29,484 kg)
LAGC scallop pounds	117500 lb (53297 kg)	135000 lb (61,235 kg)
Total Pounds	165000 lb (74843 kg)	200000 lb (90,718 kg)
Net revenue (in 2017 Mill. \$)	1.13	1.29
Net Revenue under No Action (Alternative 1, in 2017 Mill. \$)	0.91	0.91
Percent Change in net revenue per vessel and per business entity	24 percent	42 percent
Split Sub-Option 2 (95,000 lb (43,091 kg) then 25/75)		
LA scallop pounds	52,500 lb (23,814 kg)	78,750 lb (35,720 kg)
LAGC scallop pounds	112,500 lb (51,029 kg)	121,250 lb (54,998 kg)
Total Pounds	16,5000 lb (74,843 kg)	200,000 lb (90,718 kg)
Estimated LA RSA value	\$643,125	\$964,687.5
Estimated LAGC scallop revenue	\$1,378,125	\$1,485,313

net revenue (2017 Mill. \$)	1.08	1.16
Net Revenue under No Action (Alternative 1, in 2017 Mill. \$))	0.91	0.91
Percent Change in net revenue	19 percent	27 percent

The economic impacts of the preferred NGOM alternative on the limited access vessels could range, however, from low negative to neutral. In both 2016 and 2017, limited access vessels were active in the NGOM management area until it closed when the LAGC component was projected to have reached its TAC. Approximately 67 limited access vessels operated within the NGOM management area in 2017 while operating under DAS. Depending on the scallop resource productivity in the open areas, the cap on limited access landings from the NGOM and the requirement that limited access share would be harvested as RSA compensation fishing could have some marginally low negative impacts on the limited access fishery due to effort displacement to other areas which may not be as productive as the NGOM scallop fishery.

List of Subjects 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: February 13, 2018.

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

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

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

Subpart A—General Provisions

2. In § 648.10, revise paragraphs (f) introductory text, (f)(2) introductory text, and (f)(4)(i) to read as follows:

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

* * * * *

(f) Atlantic sea scallop vessel VMS notification requirements. Less than 1 hour prior to leaving port, the owner or authorized representative of a scallop vessel that is required to use VMS as specified in paragraph (b)(1) of this section must notify the Regional Administrator by transmitting the appropriate VMS code that the vessel will be participating in the scallop DAS program, Area Access Program, LAGC scallop fishery, fishing in the Northern Gulf of Maine management area, or will be fishing outside of the scallop fishery under the requirements of its other Federal permits, or that the vessel will be steaming to another location prior to commencing its fishing trip by transmitting a “declared out of fishery” VMS code. If the owner or authorized representative of a scallop vessel declares out of the fishery for the steaming portion of the trip, the vessel cannot possess, retain, or land scallops, or fish for any other fish. Prior to commencing the fishing trip following a “declared out of fishery” trip, the owner or authorized representative must notify the Regional Administrator by transmitting the appropriate VMS code, before first crossing the VMS Demarcation Line, that the vessel will be participating

in the scallop DAS program, Area Access Program, or LAGC scallop fishery. VMS codes and instructions are available from the Regional Administrator upon request.

* * * * *

(2) *NGOM scallop fishery.* A NGOM scallop vessel is deemed to be fishing in Federal waters of the NGOM management area and will have its landings applied against the LAGC portion of the NGOM management area TAC, specified in § 648.62(b)(1), unless:

* * * * *

(4) *Catch reports.* (i) The owner or operator of a limited access or LAGC scallop vessel with an IFQ permit that fishes for, possesses, or retains scallops, and is not fishing under a NE Multispecies DAS or sector allocation, must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished, including open area trips, access area trips as described in § 648.59(b)(9), Northern Gulf of Maine RSA trips, and trips accompanied by a NMFS-approved observer. The reports must be submitted for each day (beginning at 0000 hr and ending at 2400 hr) and not later than 0900 hr of the following day. Such reports must include the following information:

- (A) VTR serial number;
- (B) Date fish were caught;
- (C) Total pounds of scallop meats kept;
- (D) Total pounds of all fish kept.

* * * * *

3. In § 648.14:

a. Revise paragraphs (i)(1)(iii)(A)(I)(ii) and (iv), and (i)(1)(viii)(A) and (B);

- b. Add paragraph (i)(2)(iii)(E); and
- c. Revise paragraphs (i)(3)(iii)(C) and(D).

The revisions and additions read as follows:

§ 648.14 Prohibitions.

* * * * *

(i) * * *

(1) * * *

(iii) * * *

(A) * * *

(I) * * *

(ii) The scallops were harvested by a vessel that has been issued and carries on board a limited access scallop permit and is properly declared into the scallop DAS, Area Access program, or the NGOM management area.

* * * * *

(iv) The scallops were harvested by a vessel that has been issued and carries on board an NGOM or IFQ scallop permit, and is properly declared into the NGOM scallop management area, and the LAGC portion of the NGOM TAC specified in § 648.62 has not been harvested.

* * * * *

(viii) *Scallop research.* (A) Fail to comply with any of the provisions specified in §648.56 or the conditions of a letter of authorization issued under §648.56.

(B) Fish for scallops in, or possess or land scallops from the NGOM, unless allocated NGOM RSA allocation as described in § 648.56(d) and fishing on a scallop research set aside compensation trip.

* * * * *

(2) * * *

(iii) * * *

(E) Fish for, possess, or land scallops from the NGOM, unless on a scallop RSA compensation trip and allocated NGOM RSA allocation as described in § 648.56(d).

* * * * *

(3) * * *

(iii) * * *

(C) Declare into the NGOM scallop management area after the effective date of a notification published in the FEDERAL REGISTER stating that the LAGC portion 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.

(D) Fish for, possess, or land scallops in or from the NGOM scallop management area after the effective date of a notification published in the FEDERAL REGISTER that the LAGC portion of the NGOM scallop management area TAC has been harvested, as specified in § 648.62, unless the vessel possesses or lands scallops that were harvested south of 42°20' N. lat., the vessel is transiting the NGOM scallop management area, and the vessel's fishing gear is

properly stowed and not available for immediate use in accordance with § 648.2 or 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

4. In § 648.56 revise paragraphs (c) and (d) to read as follows:

§ 648.56 Scallop research.

* * * * *

(c) NOAA shall make the final determination as to what proposals are approved and which vessels are authorized to take scallops in excess of possession limits, or take additional trips into Open, Access Areas, or the NGOM management area. NMFS shall provide authorization of such activities to specific vessels by letter of acknowledgement, letter of authorization, or Exempted Fishing Permit issued by the Regional Administrator, which must be kept on board the vessel.

(d) Available RSA allocation shall be 1.25 million lb (567 mt) annually, which shall be deducted from the ABC/ACL specified in § 648.53(a) prior to setting ACLs for the limited access and LAGC fleets, as specified in § 648.53(a)(3) and (4), respectively. Approved RSA projects shall be allocated an amount of scallop pounds that can be harvested in open areas, available access areas, and the NGOM. The specific access areas that are open to RSA harvest and the amount of NGOM allocation to be landed through RSA harvest shall be specified through the framework process as identified in § 648.59(e)(1). In a year in which a framework

adjustment is under review by the Council and/or NMFS, NMFS shall make RSA awards prior to approval of the framework, if practicable, based on total scallop pounds needed to fund each research project. Recipients may begin compensation fishing in open areas prior to approval of the framework, or wait until NMFS approval of the framework to begin compensation fishing within approved access areas.

* * * * *

5. In § 648.62:

- a. Revise paragraphs (a)(2) through (a)(4), (b), (c), and (d); and
- b. Add paragraph (a)(5).

The addition and revisions to read as follows:

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

(a) * * *

(2) Scallop landings by vessels issued NGOM permits shall be deducted from the LAGC portion of the NGOM scallop total allowable catch when vessels fished all or part of a trip in the Federal waters portion of the NGOM. If a vessel with a NGOM scallop permit fishes exclusively in state waters within the NGOM, scallop landings from those trips will not be deducted from the Federal NGOM quota.

(3) Scallop landings by all vessels issued LAGC IFQ scallop permits and fishing in the NGOM scallop management area shall be deducted from the LAGC portion of the NGOM scallop total allowable catch specified in the specifications or framework adjustment processes defined in § 648.55. Scallop landings by LAGC IFQ scallop vessels fishing in the NGOM scallop management area shall be deducted from their respective scallop IFQs. Landings by

incidental catch scallop vessels shall not be deducted from the NGOM total allowable catch specified in paragraph (b) of this section.

(4) A vessel issued a NGOM or LAGC IFQ scallop permit that fishes in the NGOM may fish for, possess, or retain up to 200 lb (90.7 kg) of shucked or 25 bu (8.81 hL) of in-shell scallops, and may possess up to 50 bu (17.6 hL) of in-shell scallops seaward of the VMS Demarcation Line. A vessel issued an incidental catch general category scallop permit that fishes in the NGOM may fish for, possess, or retain only up to 40 lb of shucked or 5 U.S. bu (1.76 hL) of in-shell scallops, and may possess up to 10 bu (3.52 hL) of in-shell scallops seaward of the VMS Demarcation Line.

(5) Scallop landings by all vessels issued scallop permits and fishing in the NGOM under the scallop RSA program (as specified in § 648.56) shall be deducted from the limited access portion of the NGOM scallop total allowable catch.

(b) *Total allowable catch.* The total allowable catch for the NGOM scallop management area shall be specified through the framework adjustment process. The total allowable catch for the NGOM scallop management area shall be based on the Federal portion of the scallop resource in the NGOM. The total allowable catch shall be determined by historical landings until additional information on the NGOM scallop resource is available, for example through an NGOM resource survey and assessment. The ABC/ACL as defined in § 648.53(a) shall not include the total allowable catch for the NGOM scallop management area, and landings from the NGOM scallop management area shall not be counted against the ABC/ACL defined in § 648.53(a). The total allowable catch shall be divided between the limited access and the LAGC fleets.

(1) *NGOM annual hard TACs.* The LAGC and the limited access portions of the annual hard TAC for the NGOM 2018 and 2019 fishing years are as follows:

Fleet	2018		2019 (default)	
	lb	kg	lb	kg
LAGC	135,000	61,235	102,500	46,493
Limited access	65,000	29,484	32,500	14,742
Total	200,000	90,718	135,000	61,235

(2) Unless a vessel has fished for scallops outside of the NGOM scallop management area and is transiting the NGOM scallop management area with all fishing gear stowed and not available for immediate use as defined in § 648.2, no vessel issued an LAGC or limited access scallop permit pursuant to § 648.4(a)(2) may possess, retain, or land scallops in the NGOM scallop management area once the Regional Administrator has provided notification in the FEDERAL REGISTER that the vessel's respective portion(s) of the NGOM scallop total allowable catch in accordance with paragraph (b)(1) has been reached, unless the vessel is participating in the scallop RSA program as specified in § 648.56, has been allocated NGOM RSA pounds, and the limited access portion of the NGOM TAC has not been reached. Once the NGOM hard TAC is reached, a vessel issued a NGOM permit may no longer declare a state-only NGOM scallop trip and fish for scallops exclusively in state waters within the NGOM, unless participating in the state waters exemption program as specified in § 648.54. A vessel that has not been issued a Federal scallop permit that fishes exclusively in state waters is not subject to the closure of the NGOM scallop management area.

(3) If either the LAGC or the limited access portion of the annual NGOM TAC is exceeded, the amount of NGOM scallop landings in excess of the portion of the TAC specified

in paragraph (b)(1) of this section shall be deducted from the respective portion(s) of the NGOM TAC which has been exceeded for the subsequent fishing year, as soon as practicable, once scallop landings data for the NGOM management area is available.

(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 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.

(d) *Gear restrictions.* Except scallop vessels issued a limited access scallop permit pursuant to § 648.4(a)(2)(i) that have properly declared a NGOM trip under the scallop RSA program, the combined dredge width in use by, or in possession on board, LAGC scallop vessels fishing in the NGOM scallop management area may not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

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