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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No.: 180205127-8896-01]

RIN 0648-BH68

Fisheries of the Northeastern United States; Proposed Rule to Expand the Scallop Dredge Exemption Areas under the Northeast Multispecies Fishery Management Plan

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement modifications to the regulations implementing the Northeast Multispecies Fishery Management Plan to allow vessels issued a limited access general category individual fishing quota sea scallop permit to fish for scallops with small dredges in an expanded area. In addition, NMFS also proposes to modify open area days-at-sea trip reporting procedures for limited access scallop vessels. This action is intended to provide consistency, flexibility, and potential economic benefit to the scallop fleet. This rule notifies the public of these proposed measures and solicits comments on the potential scallop fishery management changes.

DATES: Comments must be received by *[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]*.

ADDRESSES:

You may submit comments on this document, identified by NOAA-NMFS-2018-0118, 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-2018-0118, 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 Scallop Dredge Exemption”

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).

Copies of the proposed rule to expand the scallop dredge exemption areas, and of the draft Environmental Assessment (EA) and preliminary Regulatory Impact Review (EA/RIR), are available from the Greater Atlantic Regional Fisheries Office, 55 Great Republic Drive, Gloucester, MA 01930. The EA/RIR is also accessible via the Internet at: www.greateratlantic.fisheries.noaa.gov.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Greater

Atlantic Regional Fisheries Office and by e-mail to OIRA_Submission@omb.eop.gov or fax to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Shannah Jaburek, Fishery Management Specialist, 978-282-8456.

SUPPLEMENTARY INFORMATION:

Background

Regulations implementing the Northeast (NE) Multispecies Fishery Management Plan (FMP) include a bycatch control measure for the Gulf of Maine (GOM), Georges Bank (GB), and Southern New England (SNE) Regulated Mesh Areas (RMA). A vessel may not fish in these areas unless it is fishing under a multispecies or a scallop days-at-sea (DAS) allocation; is fishing with exempted gear; is fishing under the Handgear or Party/Charter permit restrictions; or is fishing in an exempted fishery (50 CFR 648.80(a)(3)(vi) and 50 CFR 648.80(b)(2)(vi)). The regulations found at 50 CFR 648.80(a)(8) give the Regional Administrator (RA) the authority to establish a new exempted fishery, or modify an existing exempted fishery, after consultation with the New England Fishery Management Council (Council), provided the bycatch of groundfish species is, or can be reduced to, less than five percent by weight of the total catch and the exempted fishery will not jeopardize the fishing mortality objectives of the NE Multispecies FMP.

The limited access general category (LAGC) individual fishing quota (IFQ) fleet currently operates in four different exemption areas: GOM scallop dredge exemption area (SDEA); Great South Channel (GSC) SDEA; SNE SDEA; and the Mid-Atlantic Exemption Area (Figure 1). Recently, some members of the scallop industry requested that NMFS expand the GSC and GOM SDEAs to encompass all of GB and the GOM. As a result, at its meeting on

June 20, 2017, the Council recommended that the RA use his authority to expand the GSC SDEA to encompass all of GB. The Council is considering an amendment to the Scallop FMP to develop comprehensive management measures for the GOM, and therefore, it did not recommend that we expand the GOM SDEA. This proposed rule proposes to adopt and implement the Council's recommendation.

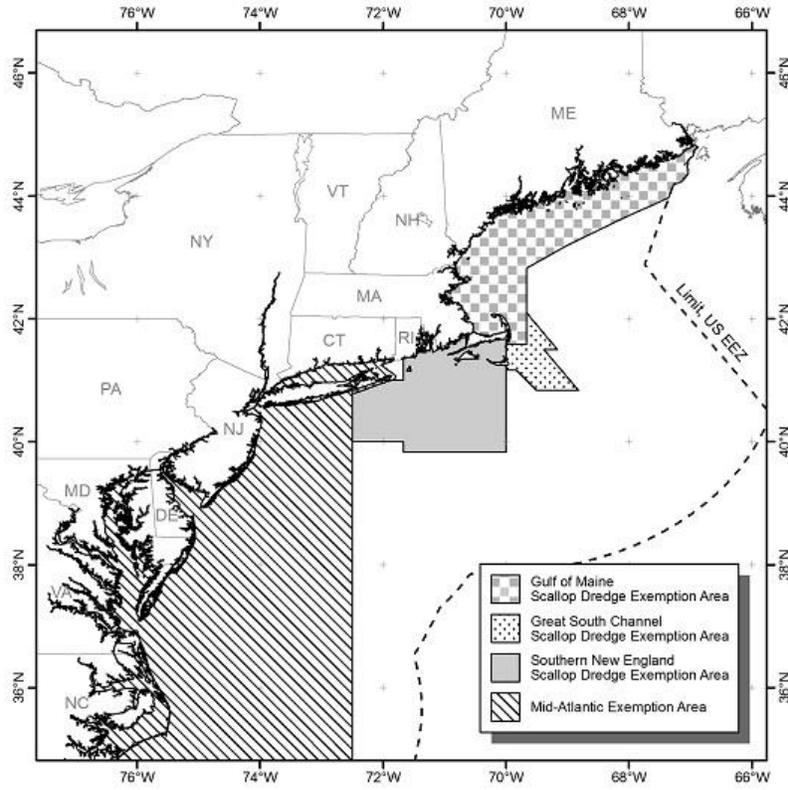
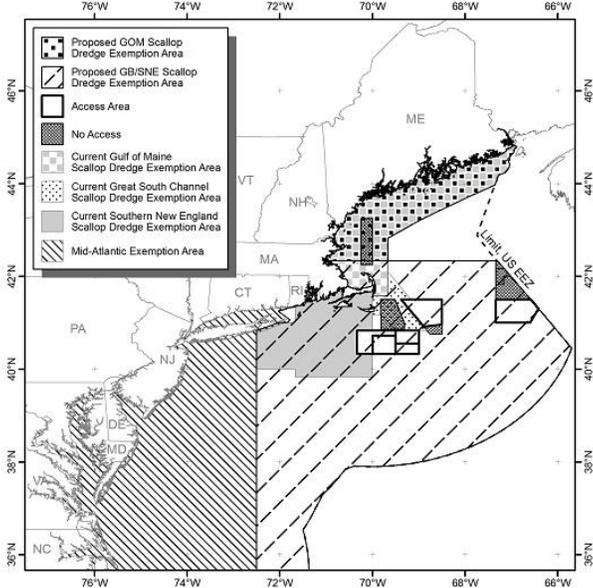


Figure 1. Map of Current Scallop Dredge Exemption Areas

The current exemptions in the SDEAs allow LAGC IFQ vessels to fish within the designated SDEA using dredge gear that is less than 10.5 feet wide. The exemptions allow these vessels to retain only scallops and up to 50 lb of monkfish tails per trip. One purpose of this action is to expand the area where these exemptions apply. Because the Mid-Atlantic Exemption Area is not subject to the same exemption conditions under the NE Multispecies FMP as the SDEAs, no changes are being proposed for the Mid-Atlantic Exemption area.

Based on consultations with the Council, the current SDEAs for the LAGC IFQ fleet would be expanded by eliminating the current GSC and SNE SDEAs designations and creating a new expanded exemption area called Georges Bank/Southern New England (GB/SNE) SDEA . The GB/SNE SDEA would encompass all fishing grounds south of 42° 20' N lat. and east of the Mid-Atlantic Exemption Area (Figure 2).

Figure 2. Map of Proposed Georges Bank/Southern New England Scallop Dredge Exemption Area



This new expanded exemption area would provide continuity for IFQ scallop fishing and achieve the following benefits:

- Include new areas that were originally part of the Nantucket Lightship Essential Fish Habitat Closure opened under the Omnibus Habitat Amendment 2 (OHA2) and are not currently accessible to the LAGC fleet; and
- Include an area off the coasts of Rhode Island, Connecticut, and New York that is not covered by current exemption areas, but where activity in the IFQ fishery has occurred.

The primary area that would open to LAGC fishing as a result of this action is the GB Broad Stock Area (BSA), which is made up of statistical reporting areas 522, 525, 542, 561, 562, and 543 (a map of the statistical reporting areas is available from the Regional Administrator upon request).

Because LAGC dredge fishing is not currently permitted in these areas, we analyzed potential effect on groundfish catch by LAGC dredge fishing in the expansion area by looking at limited access and LAGC observed hauls in the Southern New England/Mid-Atlantic (SNE/MA) BSA and Statistical Area 521 from 2012 to 2016 (n = 3,426). We determined that this information from these areas would be a valid way to estimate potential catch of groundfish in the newly expanded areas. In looking at this information, we excluded hauls that caught less than 40 lbs of scallop meats because these are not representative samples. Using the observer program information, we developed a ratio of groundfish discarded (*D*) to total catch (*K*) for both the limited access and LAGC fleets according to the following equation:

$$\text{Percent Multispecies} = [D / K] \times 100$$

For this analysis, we summed the weights of groundfish caught on observed trips in the SNE/MA BSA and Statistical Area 521, and divided it into the total weight (n = 374). Trips were aggregated across area, fishing year, and fleet. The ratios for both fleets were compared for differences using statistical analysis. We found that the limited access fleet had a bycatch rate of 0.52 percent of regulated species in the SNE BSA and the LAGC fleet had a bycatch rate of 0.53 percent of regulated species. There were no significant differences between bycatch rates of regulated species between the two fleets.

Limited access *D/K* ratios were then calculated from observed trips within the GB BSA. We used additional statistical analysis to determine the range of the likely rate of groundfish bycatch by the LAGC fleet in the GB BSA. We found that the limited access fleet had a bycatch rate of 1.07 percent of regulated species. Based on the combination of these two analyses, the expected range of regulated species bycatch for the LAGC fleet in the GB BSA would be between 0.99 percent and 1.25 percent. Further, an examination of rates within fishing years and individual areas revealed that there were no years or areas where the *D/K* rate exceeded 5 percent.

Based on data analysis performed by NMFS, the LAGC IFQ fishery is expected to meet the five-percent-or-less bycatch criteria for granting an exemption throughout the entirety of the GB and SNE RMAs. Further, because multispecies catch is controlled for the IFQ fleet by the sub-annual catch limits and there are accountability measures for yellowtail and windowpane flounder caught in the fishery, allowing the IFQ fleet to fish in the expanded area would not likely jeopardize fishing mortality limits for NE multispecies stocks.

In addition, this expanded exemption would help offset the effects on the closure to fishing implemented by the OHA2. The GSC Habitat Management Area (HMA) was created

under the OHA2 within the existing GSC SDEA. The GSC HMA prohibits the use of all mobile fishing gear, including scallop dredge gear, year-round. Creating the new GB/SNE SDEA would provide additional fishing area, fishing opportunity, and greater flexibility and simplicity to the IFQ fleet.

This action also proposes to modify open area DAS trip reporting procedures by requiring that each limited access vessel submit a pre-landing notification form through its vessel monitoring system (VMS) unit prior to returning to port at the end of each DAS trip, including trips where no scallops were landed. At its June 13, 2018, meeting the Council requested that NMFS use its authority to require a VMS pre-landing notification on all limited access scallop trips to create reporting parity in the fishery with other limited access trips and LAGC trips where this notification is required. NOAA's Office of Law Enforcement may use this information to assist in monitoring vessel activity and to improve compliance with the regulations.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), the Assistant Administrator has determined that this proposed rule is consistent with the NE Multispecies and Atlantic Sea Scallop FMPs, 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.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

The proposed rule would expand the Great South Channel (GSC) Scallop Dredge Exemption Area (SDEA), as requested by the New England Fishery Management Council (Council). The existing exemption allows the limited access general category (LAGC) individual fishing quota (IFQ) scallop fleet to operate in the GSC SDEA with dredge gear.

The LAGC IFQ fleet currently operates in four different exemption areas: the Gulf of Maine (GOM), GSC, and Southern New England (SNE) SDEAs and the Mid-Atlantic Exemption Area. The current exemptions in the SDEAs allow LAGC IFQ vessels to fish within the designated SDEA using dredge gear that is less than 10.5 feet wide. The exemptions allow vessels to retain only scallops and up to 50 lb of monkfish tails per trip. The purpose this action is to expand the area where these exemptions apply. The Mid-Atlantic Exemption Area is not subject to the same exemption conditions under the Northeast (NE) Multispecies Fishery Management Plan (FMP) as the SDEAs, therefore the restrictions under the proposed action would not apply.

The proposed rule would:

- Remove the GSC and SNE SDEAs and exempt LAGC IFQ scallop fishing using dredge gear that is less than 10.5-ft wide south of 42° 20' N lat. and east of 72° 30' W long.;
- Provide continuity for IFQ scallop fishing south of 42° 20' N lat.;

- Include new areas that were originally part of the Nantucket Lightship Essential Fish Habitat Closure opened under the Omnibus Habitat Amendment 2 (OHA2) and are not currently accessible to the LAGC fleet; and
- Include an area off the coasts of Rhode Island, Connecticut, and New York that is not covered by current exemption areas, but where the IFQ fishery has fished.

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

On June 1 of each year, ownership entities are categorized as small. 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 to calendar year 2016 ownership data results in 115 distinct ownership entities for the LAGC IFQ fleet. Less than three of the remaining LAGC IFQ entities are categorized as large entities.

**NUMBER OF ACTIVE VESSELS AND BUSINESS ENTITIES WITH LAGC
IFQ PERMITS**

Year	Description	Small Business
2014	No. of Entities	103
	No. of active LAGC IFQ Permits*	111
	Average Revenue per affiliation	\$844,061
	Total Scallop revenue by vessels with IFQ permits	\$24,269,674
	Total Affiliation Revenue	\$86,938,240
2015	No. of Entities	101
	No. of active LAGC IFQ Permits*	108
	Average Revenue per affiliation	\$864,696
	Total Scallop revenue by vessels with IFQ permits	\$27,116,630
	Total Affiliation Revenue	\$87,334,298
2016	No. of Entities	113
	No. of active LAGC IFQ Permits*	120
	Average Revenue per affiliation	\$887,384
	Total Scallop revenue by vessels with IFQ permits	\$35,629,220
	Total Affiliation Revenue	\$100,274,409

*Number of permits refer only to LAGC IFQ permits. Affiliations could include several vessels with permits other than scallop.

The implementation of this action will expand the fishing area for all federal IFQ permit holders. Therefore, the small entities to which this action applies includes the majority of IFQ permit holders. NMFS does not expect the proposed action to have a substantial or disproportional negative impact on small businesses. NMFS expects the profits of regulated small businesses identified in this analysis to be positive relative to the no action alternative. If

approved and implemented, this action would provide greater operational flexibility for permit holders than current SDEA regulations.

Since there are cost savings resulting from this proposed rule, the impact on small entities would be a positive one. Permit holders would be able to maximize the profits of each fishing trip by having additional fishing grounds to choose from. Cost savings would be determined by individual permit holders based on the fuel cost variables associated with fishing trips. These costs would include the fuel needed to transit to the fishing grounds versus the fuel needed for fishing operations. If this rule is approved and implemented then individual permit holders would be able to prioritize one cost over the other in order to maximize profits. For limited access vessels, the costs associated with the new requirement to send in a pre-landing notification report for open area trips is expected to be less than five dollars per fishing year and considered to be minimal in nature. Therefore, this rule will not have a significant economic impact on a substantial number of small entities. As a result, an Initial Regulatory Flexibility Analysis is not required and none has been prepared.

The proposed action contains a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA). The requirements will be submitted to OMB for approval under the NMFS Greater Atlantic Region Scallop Report Family of Forms (OMB Control No. 0648-0491).

Under the proposed action, all 347 limited access scallop vessels would be required to submit a pre-landing notification form for each DAS trip through their VMS units. This information collection is intended to improve DAS trip monitoring, as well as create reporting consistency for all scallop trips.

The pre-landing notification would include the following information: Operator's permit number; amount of scallop meats to be landed; the estimated time of arrival; the landing port and state where the scallops will be offloaded; and the vessel trip report (VTR) serial number recorded from that trip's VTR.

The burden estimates for these new requirements apply to all limited access scallop vessels. In a given fishing year, NMFS estimates that for DAS reporting, each of the 313 full-time limited access scallop vessels would submit a pre-landing report 3 times (939 responses) and each of the 34 part-time limited access vessels would submit a pre-landing report up to 2 times (68 responses), for a total of 1,007 responses. Public reporting burden for submitting this pre-landing notification form is estimated to average 5 minutes per response with an associated cost of \$1.25, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Therefore, 1,007 responses would impose total compliance costs of \$1,259.

Public comment is sought regarding: Whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these or any other aspects of the collection of information to the Regional Administrator (See **ADDRESSES** above), and e-mail to *OIRA_Submission@omb.eop.gov*, or fax to (202) 395-5806.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information

subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number. All currently approved NOAA collections of information may be viewed at: http://www.cio.noaa.gov/services_programs/prasubs.html.

This action contains no other compliance costs.

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.

List of Subjects 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: October 25, 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

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 § 648.10, revise paragraph (f)(4)(iii) to read as follows:

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

* * * * *

(f) * * *

(4) * * *

(iii) *Scallop Pre-Landing Notification Form for limited access vessels fishing on scallop trips.* A limited access vessel on a declared sea scallop trip must report through VMS, using the Scallop Pre-Landing Notification Form, the amount of any scallops kept on each trip, including declared trips where no scallops were landed. The report must be submitted no less than 6 hours before arrival, or, if fishing ends less than 6 hours before arrival, immediately after fishing ends. If scallops will be landed, the report must include the vessel operator's permit number, the amount of scallop meats in pounds to be landed, the number of bushels of in-shell scallops to be landed, the estimated time of arrival, the landing port and state where the scallops will be offloaded, and the VTR serial number recorded from that trip's VTR (the same VTR serial number as reported to the dealer). If no scallops will be landed, a limited access vessel on a declared sea scallop trip must provide only the vessel's captain/operator's permit number, the VTR serial number recorded from that trip's VTR (the same VTR serial number as reported to the dealer), and confirmation that no scallops will be landed. A limited access scallop vessel may provide a corrected report. If the report is being submitted as a correction of a prior report, the information entered into the notification form will replace the data previously submitted in

the prior report. Submitting a correction does not prevent NMFS from pursuing an enforcement action for any false reporting. A vessel may not offload its catch from a Sea Scallop Access Area trip at more than one location per trip.

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3. In § 648.14, revise paragraph (k)(5)(i) to read as follows:

§648.14 Prohibitions.

* * * * *

(k) * * *

(5) * * *

(i) Violate any of the provisions of §648.80, including paragraphs (a)(5), the Small-mesh Northern Shrimp Fishery Exemption Area; (a)(6), the Cultivator Shoal Whiting Fishery Exemption Area; (a)(9), Small-mesh Area 1/Small-mesh Area 2; (a)(10), the Nantucket Shoals Dogfish Fishery Exemption Area; (h)(3)(i), the GOM Scallop Dredge Exemption Area; (a)(12), the Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area; (a)(13), the GOM/GB Monkfish Gillnet Exemption Area; (a)(14), the GOM/GB Dogfish Gillnet Exemption Area; (a)(15), the Raised Footrope Trawl Exempted Whiting Fishery; (a)(16), the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery; (h)(3)(ii), the Georges Bank/Southern New England Scallop Dredge Exemption Area; (a)(19), the Eastern and Western Cape Cod Spiny Dogfish Exemption Areas; (b)(3), exemptions (small mesh); (b)(5), the SNE Monkfish and Skate Trawl Exemption Area; (b)(6), the SNE Monkfish and Skate Gillnet Exemption Area; (b)(8), the SNE Mussel and Sea Urchin Dredge Exemption Area; (b)(9), the SNE Little Tunny Gillnet Exemption Area; (h)(3)(ii); or (b)(12), the SNE Skate Bait Trawl Exemption Area. Each violation of any provision in §648.80 constitutes a separate violation.

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Subpart D—Management Measures for the Atlantic Sea Scallop Fishery

4. In § 648.51, revise paragraph (b)(1) to read as follows:

§648.51 Gear and crew restrictions

* * * * *

(b) * * *

(1) *Maximum dredge width.* The combined dredge width in use by or in possession on board such vessels shall not exceed 31 ft (9.4 m), measured at the widest point in the bail of the dredge, except as provided under paragraph (e) of this section, in §648.59(g)(2), and the scallop dredge exemption areas specified in §648.80(h). However, component parts may be on board the vessel such that they do not conform with the definition of “dredge or dredge gear” in §648.2, *i.e.*, the metal ring bag and the mouth frame, or bail, of the dredge are not attached, and such that no more than one complete spare dredge could be made from these component's parts.

* * * * *

5. In § 648.62, revise paragraph (a) to read as follows:

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

(a) The NGOM scallop management area is the area north of 42°20' N. lat. and within the boundaries of the Gulf of Maine Scallop Dredge Exemption Area as specified in §648.80(h)(3)(i). To fish for or possess scallops in the NGOM scallop management area, a vessel must have been issued a scallop permit as specified in §648.4(a)(2).

* * * * *

Subpart F—Management Measures for the Northeast Multispecies Fishery

6. In § 648.80,

- a. Revise paragraphs (a)(3)(vi), (b)(2)(vi), (h)(1);
- b. Remove and reserve paragraphs (a)(11), (a)(18), and (b)(11); and
- c. Add new paragraph (h)(3), to read as follows:

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

(a) * * *

(3) * * *

(vi) *Other restrictions and exemptions.* A vessel is prohibited from fishing in the GOM or GB Exemption Area as defined in paragraph (a)(17) of this section, except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (a)(5) through (7), (a)(9) through (a)(16) and (a)(18) through (a)(19), (d), (e), (h), and (i) of this section; or if fishing under a NE multispecies DAS; or if fishing on a sector trip; or if fishing under the Small Vessel or Handgear A permit specified in §648.82(b)(5) and (6), respectively; or if fishing under a Handgear B permit specified in §648.88(a); or if fishing under the scallop state waters exemptions specified in §648.54 and paragraph (h)(3)(i) of this section; or if fishing under a scallop DAS or general category trip in accordance with paragraph (h) of this section; or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit specified in §648.88; or if fishing as a charter/party or private recreational vessel in compliance with §648.89. Any gear used by a vessel in this area must be authorized under one of these exemptions. Any gear on a vessel that is not authorized under one of these exemptions must be stowed and not available for immediate use as defined in §648.2

* * * * *

(b) * * *

(2) * * *

(vi) *Other restrictions and exemptions.* A vessel is prohibited from fishing in the SNE Exemption Area, as defined in paragraph (b)(10) of this section, except if fishing with exempted gear (as defined under this part) or under the exemptions specified in paragraphs (b)(3), (b)(5) through (9), (b)(12), (c), (e), (h), and (i) of this section; or if fishing under a NE multispecies DAS; or if fishing on a sector trip; or if fishing under the Small Vessel or Handgear A permit specified in §648.82(b)(5) and (6), respectively; or if fishing under a Handgear B permit specified in §648.88(a); or if fishing under a scallop state waters exemption specified in §648.54; or if fishing under a scallop DAS or General Category scallop permit in accordance with paragraph (h) of this section; or if fishing pursuant to a NE multispecies open access Charter/Party or Handgear permit specified in §648.88; or if fishing as a charter/party or private recreational vessel in compliance with the regulations specified in §648.89. Any gear on a vessel, or used by a vessel, in this area must be authorized under one of these exemptions or must be stowed and not available for immediate use as defined in §648.2.

* * * * *

(h) *Scallop vessels.* (1) Except as provided in paragraph (h)(2) and (3) of this section, a scallop vessel that possesses a limited access scallop permit and either a NE multispecies Combination vessel permit or a scallop/multispecies possession limit permit, and that is fishing under a scallop DAS allocated under §648.53, may possess and land up to 300 lb (136.1 kg) of regulated species per trip, provided that the amount of regulated species on board the vessel does not exceed the trip limits specified in §648.86, and provided the vessel has at least one standard tote on board, unless otherwise restricted by §648.86(a)(2).

* * * * *

(3) *Scallop dredge exemption areas for general category scallop permits*

(i) *GOM Scallop Dredge Exemption Area.* Unless otherwise prohibited in §648.81, §648.370, or §648.371, vessels with a limited access scallop permit that have declared out of the DAS program as specified in §648.10, or that have used up their DAS allocations, and vessels issued a General Category scallop permit, may fish in the GOM Regulated Mesh Area specified in paragraph (a)(1) of this section, when not under a NE multispecies DAS, providing the vessel fishes in the GOM Scallop Dredge Exemption Area and complies with the requirements specified in paragraph (h)(3)(iii) of this section. The GOM Scallop Dredge Fishery Exemption Area is bounded on the west and north by the coastlines of Massachusetts, New Hampshire, and Maine, bounded on the east by the U.S.-Canada Maritime Boundary, and bounded on the south by straight lines connecting the following points in the order stated:

GOM SCALLOP DREDGE EXEMPTION AREA

Point	N lat.	W long.
GOM1	43° 58'	(1)
GOM2	43° 58'	67° 22'
GOM3	43° 41'	68° 00'
GOM4	43° 12'	69° 00'
GOM5	42° 49.5'	69° 40'
GOM6	42° 20'	69° 40'
GOM7	42° 20'	(2)

(1) The intersection of 43° 58' N lat. and the U.S.-Canada Maritime boundary.

(2) The intersection of 42° 20' N lat. and the coastline of Massachusetts.

(ii) *Georges Bank/Southern New England Scallop Dredge Exemption Area.* Unless otherwise prohibited in §648.81, §648.370, or §648.371, vessels issued a LAGC scallop permit,

including limited access scallop permits that have used up their DAS allocations, may fish in the Georges Bank/Southern New England Scallop Dredge Exemption Area, as defined under paragraph (h)(3)(ii)(A) of this section, when not under a NE multispecies or scallop DAS or on a sector trip, provided the vessel complies with the requirements specified in paragraph (h)(3)(iii) of this section and applicable scallop regulations in subpart D of this part.

(A) *Area Definition.* The Georges Bank/Southern New England dredge exemption area is bounded on the north by 42° 20' N lat.; bounded on the east by the U.S.-Canada Maritime boundary and the outer limit of the US EEZ; bounded on the west by 72° 30' W long. from the outer limit of the US EEZ to the south-facing coastline of Long Island; and bounded on the northwest by the following points, connected as noted in the order listed:

GB/SNE SCALLOP DREDGE EXEMPTION AREA

Point	N lat.	W long.	Note
1	The south-facing coastline of Long Island	72° 30' W	From Point 1 to Point 2 following the coastline of Long Island.
2	41° 00' N	The southeast-facing coast of Long Island	From Point 2 to Point 3 following a straight line.
3	41° 00' N	The 3 nautical mile line, approximately 71° 51.841' W long.	From Point 3 to Point 4 following the Submerged Lands Act (3 nautical mile) line.
4	41° 4.25' N	The 3 nautical mile line, approximately 71° 47.384' W long.	From Point 4 to Point 5 following a straight line.
5	41° 15' N	72° 2.25' W	Point 5 represents Race Point, Fishers Island, NY. From Point 5 to Point

			6 following a straight line northeasterly through Fishers Island, NY.
6	41° 18.2' N	71° 51.5' W	Point 6 represents Watch Hill, RI. From Point 6 to Point 7 following the coastlines of Rhode Island and Massachusetts
7	42° 20' N	The coastline of Massachusetts	

(B) [Reserved]

(iii) *Requirements.* (A) A vessel fishing in the Scallop Dredge Fishery Exemption Areas specified in paragraphs (h)(3)(i) and (ii) of this section may not fish for, possess on board, or land any species of fish other than Atlantic sea scallops and up to 50 lb (23 kg) tail weight or 166 lb (75 kg) whole weight of monkfish per trip.

(B) The combined dredge width in use by, or in possession on board, vessels fishing in the Scallop Dredge Fishery Exemption Areas may not exceed 10.5 ft (3.2 m), measured at the widest point in the bail of the dredge.

(C) The exemption does not apply to the Cashes Ledge Closure Area or the Western GOM Area Closure specified in §648.81(a)(3) and (4), respectively.

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