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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 181210999-9239-02]

RIN 0648-XG998

Fisheries of the Northeastern United States; Atlantic Sea Scallop Fishery; 2019 Closure of the Northern Gulf of Maine Scallop Management Area to the Limited Access General Category Fishery

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS announces the closure of the Northern Gulf of Maine Scallop Management Area for the remainder of the 2019 fishing year for Limited Access General Category vessels. Regulations require this action once NMFS projects that 100 percent of the Limited Access General Category total allowable catch for the Northern Gulf of Maine Scallop Management Area will be harvested. This action is intended to prevent the overharvest of the 2019 total allowable catch allocated to the Limited Access General Category Fishery.

DATES: Effective 0001 hr local time, April 25, 2019, through March 31, 2020.

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

SUPPLEMENTARY INFORMATION: The reader can find regulations governing fishing activity in the Northern Gulf of Maine (NGOM) Scallop Management Area in 50 CFR 648.54

and 648.62. These regulations authorize vessels issued a valid federal scallop permit to fish in the NGOM Scallop Management Area under specific conditions, including a total allowable catch (TAC) of 137,500 lb (62,369 kg) for the Limited Access General Category (LAGC) fleet for the 2019 fishing year, and a State Waters Exemption Program for the State of Maine and Commonwealth of Massachusetts. Section 648.62(b)(2) requires the NGOM Scallop Management Area to be closed to scallop vessels issued federal LAGC scallop permits, except as provided below, for the remainder of the fishing year once the NMFS Greater Atlantic Regional Administrator determines that the LAGC TAC for the fishing year is projected to be harvested. Any vessel that holds a federal NGOM (category LAGC B) or Individual Fishing Quota (IFQ) (LAGC A) permit may continue to fish in the Maine or Massachusetts state waters portion of the NGOM Scallop Management Area under the State Waters Exemption Program found in § 648.54 provided it has a valid Maine or Massachusetts state scallop permit and fishes only in that state's respective waters.

Based on trip declarations by federally permitted LAGC scallop vessels fishing in the NGOM Scallop Management Area and analysis of fishing effort, we project that the 2019 LAGC TAC will be harvested as of April 25, 2019. Therefore, in accordance with § 648.62(b)(2), the NGOM Scallop Management Area is closed to all federally permitted LAGC scallop vessels as of April 25, 2019. As of this date, no vessel issued a federal LAGC scallop permit may fish for, possess, or land scallops in or from the NGOM Scallop Management Area after 0001 local time, April 25, 2019, unless the vessel is fishing exclusively in state waters and is participating in an approved state waters exemption program as specified in § 648.54. Any federally permitted LAGC scallop vessel that has declared into the NGOM Scallop Management Area, complied

with all trip notification and observer requirements, and crossed the VMS demarcation line on the way to the area before 0001, April 25, 2019, may complete its trip and land scallops. This closure is in effect until the end of the 2019 scallop fishing year, through March 31, 2020. This closure does not apply to the Limited Access (LA) scallop fleet, which was allocated a separate TAC of 67,500 lb (30,617 kg) for the 2019 fishing year under Framework Adjustment 30 to the Atlantic Sea Scallop Fishery Management Plan. Vessels that are participating in the 2019 scallop Research Set-Aside Program and have been issued letters of authorization to conduct compensation fishing activities will harvest the 2019 LA TAC.

Classification

This action is required by 50 CFR part 648 and is exempt from review under Executive Order 12866.

The Assistant Administrator for fisheries, NOAA, finds good cause pursuant to 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment because it would be contrary to the public interest and impracticable. NMFS also finds, pursuant to 5 U.S.C. 553(d)(3), good cause to waive the 30-day delayed effectiveness period for the reasons noted below. The NGOM Scallop Management Area opened for the 2019 fishing year on April 1, 2019. The regulations at § 648.60(b)(2) require this closure to ensure that federally permitted scallop vessels do not harvest more than the allocated LAGC TAC for the NGOM Scallop Management Area. NMFS can only make projections for the NGOM closure date as trips into the area occur on a real-time basis and as activity trends appear. As a result, NMFS can typically make an accurate projection only shortly before the TAC is harvested. A rapid harvest rate, that has occurred in the last 2 weeks, makes it more difficult to project a closure well in advance. To

allow federally permitted LAGC scallop vessels to continue to take trips in the NGOM Scallop Management Area during the period necessary to publish and receive comments on a proposed rule would result in vessels harvesting more than the 2019 LAGC TAC for the NGOM Scallop Management Area. This would result in excessive fishing effort in the area thereby undermining conservation objectives of the Atlantic Sea Scallop Fishery Management Plan and requiring more restrictive future management measures to make up for the excessive harvest. Also, the public had prior notice and full opportunity to comment on this closure process when we put the NGOM management provisions in place on March 27, 2019 (84 FR 11436).

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

Dated: April 23, 2019.

Karen H. Abrams,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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