



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Blackburn Drive
Gloucester, MA 01930-2298

April 30, 2008

Small Entity Compliance Guide
Amendment 11 to the Atlantic Sea Scallop Fishery Management Plan

Dear Permit Holder:

Amendment 11 to the Atlantic Sea Scallop Management Plan (Amendment 11) was approved by NOAA's National Marine Fisheries Service (NMFS) on February 27, 2008. The final rule for Amendment 11 was published on April 14, 2008. A summary of the management measures included in Amendment 11 is provided with this letter.

Amendment 11 establishes a new management program for the general category scallop fishery, including a limited access program with individual fishing quotas (IFQs) for qualified general category vessels, a specific allocation for general category fisheries, and other measures to improve management of the general category scallop fishery. While Amendment 11 establishes criteria and authority for determining the percentage of scallop catch allocated to the general category fleet and establishes the IFQ program, the specific allocation amounts have been developed by the Council as part of Framework 19 to the FMP (Framework 19), which will establish scallop fishery management measures for the 2008 and 2009 fishing years.

NMFS expects that measures approved as part of Framework 19 may be implemented at the same time as Amendment 11 to ensure a less complex transition to new management measures. The proposed rule for Framework 19 can be found at <http://www.nero.noaa.gov/nero/regs/frdoc/08/08scalfw19pr.pdf>

All Amendment 11 measures are effective June 1, 2008, with the exception of the requirement to have been issued an LAGC scallop permit in order to fish in the general category scallop fishery, and specified related measures, which are effective July 1, 2008.

A description of how the effective date effects current general category permits and fishing for scallops in the 2008 fishing year is included in the attached description of Amendment 11 management measures. This letter also clarifies some of the dates that were provided in the April 14, 2008, letter explaining the permit application requirements for LAGC scallop permits.

Please review the information sent to you on Amendment 11 carefully. There are important deadlines and other important aspects of Amendment 11 that will affect future permit eligibility and fishing restrictions. These items are highlighted in the attached summary of measures.

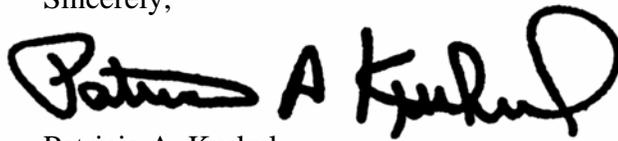
NMFS has sent additional information on the application process for the new LAGC permits, including: An LAGC scallop permit application; other forms applicable to the application process; instructions; and other information relevant to the application process.



Please call the Sustainable Fisheries Division at (978) 281-9315 if you have any questions about this letter or other information on Amendment 11.

The information provided with this letter is not a substitute for the complete regulations. All Federal permit holders and federally permitted dealers should get a copy of the complete, official regulations, which include area coordinates, by calling NMFS at 978-281-9315, or by going to our website at <http://www.nero.noaa.gov/nero/hotnews/scallamend11/>. A copy of Amendment 11, including the Final Supplemental Environmental Impact Statement, Regulatory Impact Review, and Regulatory Flexibility Analysis is also included on that website, or printed copies can be obtained from the New England Fishery Management Council (telephone 978-465-0492, website: <http://www.nefmc.org>).

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia A. Kurkul". The signature is stylized with a large initial "P" and a prominent loop at the end.

Patricia A. Kurkul
Regional Administrator

This small entity compliance guide complies with section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996.

Amendment 11 Management Measures

LIMITED ACCESS PROGRAM FOR THE GENERAL CATEGORY FISHERY

Amendment 11 implements a new limited access program for the general category fishery. In order to fish for, possess, or land scallops in or from Federal waters under general category rules, a vessel must be issued a limited access general category (LAGC) scallop permit.

The current open access 1A (non Vessel Monitoring System (VMS)) and 1B (VMS) permits have been replaced with three types of LAGC scallop permits:

- IFQ LAGC scallop permit (IFQ permit);
- Northern Gulf of Maine (NGOM) LAGC scallop permit (NGOM permit); and
- Incidental catch LAGC scallop permit (Incidental permit).

Open access general category permits issued for the 2008 fishing year will not be valid after June 30, 2008.

Initial Application for an LAGC Scallop Permit

NMFS sent initial applications for LAGC scallop permits to all permit holders on April 14, 2008, along with additional information about the application and permit process. The application package can also be downloaded from the Amendment 11 website:

<http://www.nero.noaa.gov/nero/hotnews/scallamend11/>.

Initial eligibility for an LAGC scallop permit must be established prior to March 1, 2009, subject to the application deadline described below.

Please note that although NMFS will try to expedite application reviews, NMFS may take up to 30 days to process a complete application for an LAGC scallop permit. You are therefore encouraged to return the enclosed application and other required documents as soon as possible to ensure that your vessel receives a permit, if qualified, by July 1, 2008. LAGC scallop permits issued prior to July 1, 2008, will be made effective on July 1, 2008.

Application Deadline

Amendment 11 establishes a 90-day deadline to submit an initial application for an LAGC scallop permit so that NMFS can expedite the transition to the IFQ program. The IFQ program cannot be implemented until all IFQ permits are issued, because the number of IFQ vessels and the contribution factors for all qualified IFQ vessels will be used to determine each vessel's IFQ share of the overall quota to IFQ vessels (see "IFQs for LAGC Scallop Vessels" below).

Application Deadline

A vessel owner must submit an initial application for a LAGC scallop permit or LAGC confirmation of permit history (CPH) no later than August 30, 2008 (post marked no later than August 30, 2008). Failure to submit an application for an LAGC scallop permit by August 30, 2008, permanently prevents issuance of an LAGC scallop permit for the vessel unless the vessel replaces another vessel that has been issued an LAGC scallop permit.

Vessel Monitoring System (VMS) Requirement

All LAGC scallop vessels are required to have an operational VMS. An LAGC scallop permit will not be issued to a vessel for which an application has been received and a VMS is not installed or is not operational. Please refer to the April 14, 2008, permit application information for additional information on the VMS activation requirements.

NOTE: March 1, 2000, through November 1, 2004, is referred to as the “qualification period” throughout this letter. To meet the LAGC qualification requirements, scallop landings must have been made on or before November 1, 2004.

Vessel owners may apply for, and be issued if qualified, only one category of LAGC scallop permit per vessel. Additional restrictions on changing permit category are described below.

IFQ Permit Qualification

In order to qualify for an LAGC scallop permit, BOTH of the following conditions must be satisfied:

Permit requirement: The vessel was issued a Federal scallop permit in any one of the 2000, 2001, 2002, and/or 2003 fishing years, and/or the 2004 fishing year on or before November 1, 2004; and

Landings requirement: The vessel landed at least 1,000 lb of scallop meats in any one of the 2000, 2001, 2002, or 2003 fishing years, or the 2004 fishing year between March 1 and November 1, 2004. Scallop landings must have occurred while the vessel held a valid Federal general category scallop permit

A vessel issued a limited access Full-time, Part-time, or Occasional scallop permit during the qualification time period may also qualify for the IFQ permit if it meets the landings requirement for trips taken while the vessel was not participating in the scallop DAS or Area Access Program as a limited access vessel. The landings outside of DAS cannot be separated or split from the limited access permit and fishing history.

IFQ Contribution Factor

A qualified IFQ scallop vessel will be issued a “contribution factor” that will be used to determine the vessel’s IFQ once all qualified IFQ vessels are known and their final contribution factors are established. A vessel’s contribution factor will be provided to the owner of a qualified IFQ scallop vessel upon issuance of the IFQ permit (with one exception, see “Data Confidentiality” section below).

Contribution factor is the product of the vessel’s best year of scallop landings and an index based on the number of years the vessel was active in the scallop fishery. An IFQ scallop vessel’s contribution factor is based on the vessel’s “Best Year,” “Years Active,” and “Index Factor” defined below.

Best Year

An eligible IFQ scallop vessel’s “Best Year” is the vessel’s highest scallop landings during any scallop fishing year that the vessel was issued a Federal scallop permit during the qualification period. NMFS dealer reports will be used to determine the vessel’s best year of scallop landings under general category rules. Scallop landings in the 2004 fishing year must have occurred on or before November 1, 2004.

A single vessel may have more than one Best Year if more than one owner established their own scallop fishing history during the qualification period.

Years Active

“Years Active” for each eligible IFQ scallop vessel is the total number of scallop fishing years during the qualification period in which the vessel had a Federal scallop permit and landed at least 1 lb of scallop meats or in-shell scallops under general category rules. Scallop landings in the 2004 fishing year must have occurred on or before November 1, 2004.

Index Factor

The appropriate index factor based on years active is specified in the following table:

Years Active	Index Factor
1	0.750
2	0.875
3	1.000
4	1.125
5	1.250

<p style="text-align: center;">Contribution Factor Formula Best Year x Index Factor = Contribution</p>
--

Example of Contribution factor

Best Year = 48,550 lb
Years Active = 5 years
Index Factor Based on 5 years = 1.250

48,550 lb x 1.250 = 60,687 lb

Determination of Eligibility and Contribution Factor

NMFS landings data from dealer reports will be used to determine a vessel’s eligibility for an IFQ scallop permit, a qualified IFQ scallop vessel’s best year of scallop landings, and years active in the general category scallop fishery.

If a dealer reported more than 400 lb of scallops landed on any trip, only 400 lb (the maximum per-trip possession limit under general category scallop regulations during the qualification period) will be credited for that trip toward the qualification and best year calculation.

In-shell scallop landings reported in pounds of scallops are converted to meat-weight using the formula of 8.33 lb of in-shell scallops for each pound of scallop meats, for qualification purposes. In-shell scallop landings reported in bushels of scallops are converted to meat-weight using the formula of 8 lb of scallop meats per bushel of in-shell scallops.

Data Confidentiality

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) restricts the release of confidential fishery information (including landings information) to anyone other than the owner of the vessel at the time the data were compiled. Due to this restriction, for qualifying vessel IFQ information for vessels that are currently owned by someone other than the owner of the vessel that made the landings, NMFS may be restricted in the release of the contribution factor if the release of such information is inconsistent with the Magnuson-Stevens Act. NMFS understands that this may add complexity to the qualification and appeals process, but will work with vessel owners to ensure fairness in the appeals process.

NGOM and Incidental Permit Qualification

The owner of a vessel who cannot qualify for an IFQ scallop permit can instead apply for and be issued an NGOM or Incidental scallop permit. There are no landings eligibility criteria. A vessel qualifies for the NGOM or Incidental scallop permit if it was issued a valid general category scallop permit as of November 1, 2004. “As of November 1, 2004,” means that the vessel had

been issued a general category permit that was valid on November 1, 2004.

A vessel that qualifies for an IFQ permit, but for which the owner elects to be issued an NGOM or Incidental scallop permit, automatically qualifies for an NGOM or Incidental scallop permit, although the vessel can only be issued one category of LAGC scallop permit.

The NGOM scallop permit allows the vessel to fish in the NGOM exclusively. The NGOM scallop management area and the restrictions for NGOM and other scallop vessels are summarized in the description of the NGOM Scallop Management Area below.

The Incidental scallop permit allows a vessel to possess and land up to 40 lb of scallops per trip and is intended to allow landing of incidental scallop catch on an unlimited number of trips.

Appeal of Permit Denial and Contribution Factor

Vessel owners that have been denied an LAGC scallop permit may appeal the denial of the permit. A vessel owner may also appeal NMFS's determination of his/her vessel's Contribution Factor by following the appeals process. A vessel owner may appeal NMFS's determination of the vessel's Contribution Factor once the owner has received a letter from NMFS specifying the vessel's Contribution Factor. Any appeal or request for a hearing may only be based on the grounds that the information used by the Regional Administrator to deny the applicable permit or to determine the vessel's Contribution Factor was incorrect or incomplete. An appeal or a hearing request must be made in writing to the Regional Administrator within 30 days of any denial or a vessel owner's receipt of the vessel's contribution factor.

Because the scallop fishery has been subject to mandatory catch reporting since 1994, no independent dealer records, landing slips, or other records will be accepted for purposes of an appeal, unless they can be verified with NMFS records, such as completed and legally submitted Vessel Trip Reports (NMFS-issued vessel logbooks).

Status of Vessels under Appeal

The owner of a vessel denied an LAGC scallop permit can fish for scallops under the permit applied for during the pendency of a properly filed appeal if the vessel has on board a letter of authorization (LOA) from the Regional Administrator authorizing the vessel to fish under the requirements of the applied-for LAGC scallop permit. The Regional Administrator shall issue such LOA for the pendency of any appeal, if requested by the applicant.

All restrictions applicable to the appealed LAGC scallop permit apply. This includes the VMS installation and operation requirements of LAGC scallop permits.

If the appeal is denied, the Regional Administrator shall send a notice of final denial to the vessel owner; and the authorizing letter will become invalid 5 days after receipt of the notice of denial,

but no longer than 10 days after the date that the denial letter is sent, regardless of when the final denial letter is received.

Change of Permit Category

A vessel owner may apply for and be issued only one category of LAGC scallop permit. Once issued, a vessel owner may request one change in LAGC permit category only within 45 days of the effective date of the LAGC permit issued. A vessel owner that changes an IFQ permit to an NGOM or Incidental permit is ineligible to apply for an IFQ scallop permit in the future. A vessel issued an NGOM or Incidental permit can be issued either the NGOM or Incidental permit each fishing year, and a vessel owner may request a change in NGOM or Incidental permit each year within 45 days of the effective date of the permit issued for that year. A vessel owner cannot request a change from an NGOM or Incidental permit to an IFQ permit.

LAGC Scallop Permits for Full-time, Part-time, and Occasional limited access scallop vessels

A vessel issued a Full-time, Part-time, or Occasional scallop permit may also be eligible to be issued a LAGC scallop permit if the vessel was issued a valid limited access scallop permit at any time during the period from March 1, 2000, through November 1, 2004, and it meets the landings criteria specified in “Limited Access Program for the General Category Fishery” and “Landings History.” Such a vessel is allowed to fish under general category regulations when not fishing under the scallop DAS program or Area Access trip allocated for its limited access permit.

A limited access scallop vessel that does not qualify for a LAGC scallop permit cannot fish for, possess, or retain scallops when not fishing under the scallop DAS or limited access Area Access program.

LAGC scallop permit eligibility established while the vessel was also a limited access scallop vessel cannot be split from the limited access vessel to qualify another vessel for an LAGC scallop permit. Once issued, the LAGC scallop permit cannot be split from the limited access scallop permit.

LAGC Permit Provisions

Confirmation of Permit History

A person who does not currently own a fishing vessel, but who has owned a qualifying vessel that has sunk, been destroyed, or transferred to another person without the LAGC history, must apply for and receive a CPH for a specific LAGC scallop permit if the fishing and permit history of such vessel has been retained lawfully by the applicant and the applicant wishes to maintain eligibility for an LAGC scallop permit.

An application for a CPH to establish the initial LAGC qualification of a vessel must be made within 90 days of the effective date of the final regulations for Amendment 11.

To be eligible to obtain a CPH, the applicant must show that the sold or destroyed vessel meets the eligibility requirements for one of the LAGC scallop permit categories, and that all other permit restrictions described below are satisfied.

Issuance of a valid CPH preserves the eligibility of the applicant to apply for the LAGC permit specified in the CPH for a replacement vessel.

Upon implementation of the IFQ program, CPHs for IFQ vessels will be allocated IFQ. In addition, IFQ associated with a CPH can be transferred. IFQ associated with a CPH counts toward a vessel owner's overall ownership of IFQ, which is restricted under the 5-percent ownership cap.

Permit Transfers

An LAGC scallop permit and fishery history is presumed to transfer with a vessel at the time it is bought, sold, or otherwise transferred from one owner to another, unless it is retained through a written agreement signed by both parties in the vessel sale or transfer.

NOTE: "Permit Transfer" is not to be confused with "Vessel Replacement," which is described below.

Permit Splitting

Vessel owners who sold vessels with limited access permits for fisheries other than scallops and retained the general category scallop fishing history with the intention of qualifying a different vessel for the LAGC scallop permit may use the retained history to qualify for an LAGC scallop permit under Amendment 11, as long as the transaction was completed prior to June 1, 2008, and before the LAGC scallop permit is issued to the vessel.

All limited access permits, including LAGC scallop permits, must be transferred as a package when a vessel is replaced or sold, unless the transfer/sale of general category scallop fishing history occurred prior to June 1, 2008, and before the LAGC scallop permit is issued to the vessel.

A vessel with a limited access scallop permit (i.e., full-time, part-time, or occasional) that also qualifies for an LAGC scallop permit cannot split the LAGC scallop permit or fishing history from the limited access scallop permit, regardless of when the vessel was sold.

Qualification Restriction

No more than one vessel can qualify, at any one time, for a limited access permit or CPH based on that or another vessel's fishing and permit history, unless more than one owner has independently established fishing and permit history on the vessel during the qualification period and has either retained the fishing and permit history, as specified above, or owns the vessel at the time of initial application under Amendment 11. If more than one vessel owner claims eligibility for a limited access permit or CPH, based on a vessel's fishing and permit history during the same time period, the Regional Administrator will determine who is entitled to qualify for the permit or CPH.

Vessel Upgrades

A vessel issued an LAGC scallop permit is not limited by vessel size upgrade restrictions if the owner wishes to modify or replace the vessel.

If that vessel has also been issued limited access permits for any other fishery that has upgrade restrictions, the upgrade restrictions for that fishery shall apply to any modification or replacement, unless the permit with the restrictions are permanently relinquished as specified under "voluntary relinquishment of eligibility," below.

Vessel Baselines

A vessel's baseline refers to those specifications (length overall, gross registered tonnage, net tonnage, and horsepower) from which any future vessel size change is measured. Because there are no vessel size upgrade restrictions for LAGC scallop permits, an LAGC scallop permit does not have baseline size and horsepower specifications.

If an LAGC scallop vessel has also been issued limited access permits for any other fishery that has upgrade restrictions, any size change shall be restricted by those baseline specification requirements, unless those permits are permanently relinquished as specified in "voluntary relinquishment of eligibility" below.

Vessel Replacements

Vessel replacement, in general, refers to replacing an existing limited access vessel with another vessel. The same ownership entity (i.e., individual, partnership, corporation) must own both the LAGC scallop vessel (or fishing history) that is being replaced, and the replacement vessel. Unlimited upgrades of vessel size and horsepower through a vessel replacement are allowed, unless the vessel to be replaced is restricted on upgrades because it has been issued a limited access permit for any other fishery that has upgrade restrictions. See "Vessel Upgrades" above.

IFQ and Ownership Cap

A vessel issued an IFQ permit or CPH may not be allocated more than 2 percent of the TAC

allocated to all of the vessels issued IFQ permits and CPHs. The only exceptions to these IFQ and ownership cap provisions are if a vessel's initial contribution factor specified upon initial issuance of the IFQ permit results in an allocation of more than 2 percent of the TAC allocated to all of the vessels issued IFQ permits and CPHs.

An individual may not have ownership interest in more than 5 percent of the TAC allocated to all of the vessels issued IFQ permits and CPHs. Exceptions to this restriction are allowed only if the vessel owner owns more than 5 percent of the TAC allocated to all of the vessels issued IFQ permits and CPHs upon initial application for the IFQ scallop permits, or if the owner owns more than 5 percent of the overall TAC in future years as a result of IFQ scallop vessels leaving the fishery (for example, if an IFQ permit is permanently removed from the fishery).

The IFQ and ownership cap restrictions do not apply to existing limited access scallop vessels that also have been issued an IFQ scallop permit, because such vessels are already restricted to owning no more than 5 percent of all limited access permits and CPHs, because such vessels would not be permitted to transfer IFQ between vessels, and IFQ permits cannot be split from limited access scallop permits.

Voluntary Relinquishment of Eligibility

A vessel owner can voluntarily exit the LAGC fishery by permanently relinquishing the permit. In some circumstances, doing so would allow vessel owners to choose between different permits, with different restrictions, without being bound by the more restrictive requirement (e.g., lobster permit holders may choose to relinquish their other Northeast Region limited access permits to avoid being subject to the reporting requirements associated with those other permits). If a vessel's LAGC scallop permit or CPH is voluntarily relinquished to the Regional Administrator, no LAGC scallop permit can ever be reissued or renewed based on that vessel's permit and fishing history.

Permit Renewals and CPH Issuance

A vessel owner must maintain the limited access permit status for an eligible vessel by renewing the permits on an annual basis or applying for issuance of a CPH. All LAGC scallop permits must be issued on an annual basis by the last day of the fishing year for which the permit is required, unless a CPH has been issued. The scallop fishing year ends on February 28 (or 29th) of each year.

A vessel may not fish for, catch, possess, or land scallops, in or from Federal or state waters, unless and until the LAGC scallop permit has been issued, or the permit either has been voluntarily relinquished or otherwise forfeited, revoked, or transferred from the vessel.

Except for the initial application for an LAGC scallop permit (which must be submitted by August 30, 2008), a complete application for an LAGC scallop permits must be received no later than 30 days prior to the last day of each fishing year.

A CPH does not need to be renewed annually. Once a CPH has been issued to an individual who has retained the LAGC scallop permit and fishing history of a vessel, it remains valid until it is replaced by a vessel permit through the vessel replacement process.

A vessel's LAGC scallop permit history may be cancelled due to the failure to renew, in which case no LAGC scallop permit can ever be reissued based on that vessel's permit and fishing history.

Change of Issuance Date of General Category Permit

The issuance date of general category permits is changed from May 1 to March 1 of each year to be consistent with the scallop fishing year.

ALLOCATION OF THE TOTAL TARGET TOTAL ALLOWABLE CATCH (TAC) TO THE GENERAL CATEGORY FISHERY

Total Target TAC

The total target TAC for the scallop fishery shall be established through the framework adjustment process. The total target TAC includes the TAC for all scallop vessels fishing in open areas and Sea Scallop Access Areas, but excludes the TAC established for the Northern Gulf of Maine Scallop Management Area (described below). After deducting the total estimated incidental catch of scallops by vessels issued Incidental permits, the annual target TAC for open areas and Sea Scallop Access Areas shall each be divided between limited access vessels, limited access vessels that are fishing under an IFQ permit, and IFQ scallop vessels.

Framework 19 to the FMP will establish the TACs and DAS allocations for the 2008 and 2009 fishing years according to the measures in Amendment 11. Framework 19 measures will be announced upon publication of the final rule for Framework 19.

Measures for the Transition Period to IFQ

It will take 12 to 24 months, or longer, to determine the total number of qualified vessels that will be issued an IFQ scallop permit. The time is necessary to accommodate applicants who pursue permits through the appeals process. As a result, it will not be possible to implement an IFQ program at the same time that NMFS is in the process of determining eligibility and the contribution factor of each IFQ scallop vessel. During this transition period, the general category scallop fishery will be allocated 10 percent of the total target TAC (after deducting incidental catch). The resulting TAC allocated to IFQ scallop vessels will be divided by quarter:

Quarter 1: March through May

Quarter 2: June through August

Quarter 3: September through November

Quarter 4: December through February

Vessels that qualify for an IFQ scallop permit and vessels under appeal for an IFQ scallop permit with an LOA to fish for scallops can fish for scallops during the transition period, subject to the quarterly TAC, with all landings counted toward the TAC. When the TAC is projected to be attained, the general category fishery will close for the remainder of the quarter. Any underage or overage of the first quarter will be applied to the third quarter, and any underage or overage of the second and/or third quarter will be applied to the fourth quarter.

Allocation of the Total Target TAC under the IFQ Program

Once the IFQ program is implemented, 5 percent of the total target TAC will be allocated to vessels with IFQ scallop permits, after deducting estimated catch by Incidental scallop vessels from the total target TAC. Each IFQ scallop vessel's IFQ will be derived from the 5-percent TAC allocation.

The 5-percent allocation will not apply to current limited access vessels that also have IFQ scallop permits. Limited access scallop vessels with IFQ scallop permits will be allocated 0.5 percent of the total target TAC, after deducting estimated catch by Incidental scallop vessels from the total target TAC. Each of these IFQ scallop vessel's IFQ will be derived from the 0.5-percent TAC allocation.

The remaining 94.5 percent of the total target TAC, after deduction of incidental catch, will be allocated for harvest by the current limited access scallop fishery.

INDIVIDUAL FISHING QUOTAS

Each IFQ vessel will be allocated a percentage of the total TAC allocated to IFQ scallop vessels. For each fishing year of the IFQ program, an IFQ scallop vessel may only harvest and land the total amount of scallop meats allocated and/or transferred to it. An IFQ scallop vessel may harvest up to 400 lb of scallops per trip, with one landing of scallops per calendar day allowed. All scallop landings by an IFQ vessel count against the vessel's IFQ (or the quarterly TAC during the transition period).

NMFS will provide additional information on each IFQ vessel's IFQ when the IFQ program is implemented.

The TAC allocated to IFQ scallop vessels, and the TAC allocated to limited access scallop vessels issued IFQ scallop permits, will be used to determine the IFQ of each vessel issued an IFQ scallop permit. Each fishing year, the Regional Administrator will provide each IFQ scallop vessel's owner with its scallop IFQ for the upcoming fishing year.

Calculation of IFQ for Each Fishing Year

A vessel's IFQ for each fishing year is determined by first calculating an IFQ contribution percentage. A vessel's IFQ contribution percentage is calculated by dividing its contribution factor by the sum of contribution factors for all IFQ scallop vessels. The contribution percentage

is then multiplied by the TAC allocated to IFQ scallop vessels to determine that vessel's IFQ for the fishing year. The vessel's IFQ will be rounded up to the nearest 10 lb. The following diagram demonstrates how a vessel's IFQ is calculated.

IFQ calculation formula			
Vessels Best Fishing Year of Landings during Qualification period	×	Index factor	= Contribution Factor
next			
$\frac{\text{Contribution Factor}}{\text{Sum of all IFQ vessel's Contribution Factors}}$		=	Contribution Percentage
next			
TAC	×	Vessel's Contribution Percentage	= IFQ

IFQ calculation example			
Best Year = 48,550 lb			
Years Active = 5			
Sum of all vessel's contribution factors = 4,180,000 lb			
TAC = 2,500,000 lb			
48,550 lb	×	1.25	= 60,687 lb (Contribution Factor)
next			
$\frac{60,687 \text{ lb}}{4,180,000 \text{ lb}}$		=	1.45 percent (Contribution Percentage)
next			
2,500,000 lb		×	1.45 percent = 36,250 lb (Vessel's IFQ)

IFQ Transfers

IFQ scallop vessel and IFQ CPH owners may transfer IFQ to or from other IFQ vessels or CPH owners that have not been issued a full-time, part-time, or occasional scallop permit, on a temporary or permanent basis. A temporary IFQ transfer moves the IFQ from one IFQ vessel to another IFQ vessel for one fishing year only. After that fishing year, the IFQ reverts back to the original vessel, or can be transferred to another IFQ vessel again. A permanent IFQ transfer permanently moves the IFQ from one IFQ vessel to another IFQ vessel and requires the vessel to transfer the IFQ scallop permit and any other permits to the transferee as a vessel replacement. All vessel replacement restrictions apply.

Additional information on IFQ transfers will be made available when the IFQ program is implemented. The following provisions and restrictions apply to both temporary and permanent IFQ transfers.

- Each IFQ allocation must be transferred in full before it is utilized; once an IFQ scallop vessel catches scallops in a fishing year, it cannot transfer its IFQ to another IFQ scallop vessel during that fishing year.
- An IFQ can be transferred only once in a fishing year.
- An IFQ transfer may not be approved if it would result in the receiving IFQ scallop vessel having a share of more than 2 percent of the TAC allocated to IFQ scallop vessels or an owner of IFQ scallop vessels having an ownership interest in more than 5 percent of the TAC allocated to IFQ scallop vessels.
- Full-time, Part-time, and Occasional scallop vessels that have been issued an IFQ permit cannot transfer IFQ.

In addition, the following provisions apply to temporary transfers:

- A temporary transfer is effective only for the fishing year in which it is requested and authorized.
- Requests for temporary transfers may not be processed by NMFS if the request for the transfer is received less than 30 days from the end of the applicable fishing year.

IFQ Cost Recovery

The Magnuson-Stevens Act requires any Limited Access Privilege Program, which includes IFQ programs, to include a cost recovery program, whereby NMFS would collect up to 3 percent of ex-vessel value of landed product to cover NMFS's actual costs directly related to the management, data collection, and enforcement of an IFQ program. The authority for collection of cost recovery fees is established in Amendment 11 but further details of the cost recovery program have been proposed in Framework 19 and additional information regarding cost recovery will be provided to IFQ vessel owners when the IFQ program is implemented.

MECHANISM TO ALLOW VOLUNTARY SECTORS IN THE GENERAL CATEGORY FISHERY

Amendment 11 includes a mechanism to allow the owners of IFQ scallop vessels to form voluntary sectors that could manage their own fishing activity as a group. The Sector provisions include:

- Restrictions on participation;
- Definition and requirements for operations plans;
- Specifications for the review, approval, and revocation process;
- Allocation of TAC to sectors;

- Sector share determination;
- Restrictions on sector membership changes;
- Restrictions on interactions between sectors;
- Monitoring and enforcement provisions for sectors;
- A prohibition on trading of allocation between sectors;
- Restrictions on vessel movement between sectors; and
- A 20-percent maximum total allocation for a single sector.

The 400-lb possession limit is maintained for vessels in a sector.

Amendment 11 does not allow sectors to be exempt from any scallop regulations through the Sector process, except that participating vessels would not be restricted by their IFQs.

NGOM SCALLOP MANAGEMENT AREA MEASURES

The NGOM scallop management area is established under Amendment 11 with different management measures than the overall general category fishery to distinguish the unique characteristics of the NGOM scallop fishery and to ensure that scallop fishing controls are appropriate for the fishery while protecting the resource in the area from overharvest.

The NGOM scallop management area is defined as waters north of 42°20' N. lat. and within the Gulf of Maine Scallop Dredge Exemption Area.

NGOM Scallop Management Area

Point	N. lat.	W. long.
NGOM1	42°20'	Massachusetts Shoreline
NGOM2	42°20'	69°40'
NGOM3	42°49.5'	69°40'
NGOM4	43°12'	69°00'
NGOM5	43°41'	68°00'
G2	43°58'	67°22'
G1	(¹)	(¹)

¹Northward along the irregular U.S.-Canada maritime boundary to the shoreline.

Measures include:

- A separate NGOM permit for vessels to fish exclusively in the NGOM scallop management area;
- A TAC based on historical landings from Federal waters in the NGOM;
- A possession limit of 200 lb (90.7 kg) of scallops per trip, with one landing per calendar day allowed;

- A provision that an IFQ vessel fishing in the NGOM scallop management area will have scallop landings deducted from its IFQ and the NGOM scallop management area TAC;
- Incidental catch is deducted from the NGOM TAC; and
- A prohibition on possession of scallops by any vessel in the NGOM scallop management area once the NGOM scallop management area TAC is harvested.

Amendment 11 does not include specific restrictions for vessels fishing under scallop DAS in the NGOM, except that such vessels cannot continue fishing in the NGOM once the TAC for the area has been reached.

Framework 19 will establish the TAC for the NGOM Scallop Management Area.

VMS REQUIREMENTS

All LAGC scallop vessels are required to install and operate VMS.

Operators of IFQ and NGOM scallop vessels are required to declare a general category trip or other appropriate fishing activity code for every trip. A copy of the scallop declaration screen is attached for reference.

In addition, IFQ and NGOM scallop vessels are required to send a Scallop Pre-Landing notification form and report scallop landings through VMS. The information required in the Pre-Landing Form is provided as an attachment to this letter. Please note that the information will be displayed differently for each VMS vendor. Vessels fishing in sea scallop access areas must continue to complete the Scallop Catch Report used to monitor yellowtail flounder bycatch and area-specific scallop catch.

All Northeast VMS vessels will be provided with updated VMS software prior to July 1, 2008, in order to support the new LAGC scallop permit reporting requirements.

OTHER MEASURES

State Waters Exemption Program

Until further notice, any state waters exemption programs that were authorized are no longer in effect. Because of the new measures implemented under Amendment 11 for general category vessels, all states eligible for state waters exemption program must re-apply. A state waters exemption will be authorized if the state's scallop fishery is deemed compatible with the Scallop FMP and if NMFS determines that a state's scallop fishery and scallop conservation programs do not jeopardize the biomass and fishing mortality/effort limit objectives of the FMP. If approved, an exemption for a state's scallop fishery would continue to exempt only Federal gear and possession limit restrictions.

Trawl Gear Sweep Restriction

Amendment 11 clarifies that vessels that are fishing under a Northeast multispecies or monkfish DAS may fish for, possess, retain, or land more than 40 lb of shucked or 5 bu of in-shell scallops while fishing with a net with a net sweep greater than 144 ft.

In-shell Possession Limit Seaward of the VMS Demarcation Line

An IFQ scallop vessel may possess up to 100 bu of in-shell scallops seaward of the VMS demarcation line only. Once shoreward of the VMS demarcation line, a vessel may possess up to 50 bu of in-shell scallops.

An NGOM scallop vessel may possess up to 50 bu of in-shell scallops seaward of the VMS demarcation line only. Once shoreward of the VMS demarcation line, a vessel may possess up to 25 bu of in-shell scallops.

An Incidental scallop vessel may possess up to 10 bu of in-shell scallops seaward of the VMS demarcation line only. Once shoreward of the VMS demarcation line, a vessel may possess up to 5 bu of in-shell scallops.

Limited Access Scallop Vessel Ownership Cap Clarification

The Amendment 11 final rule clarifies that for Full-time, Part-time, and Occasional scallop vessels, an individual cannot have an ownership interest in more than 5 percent of all limited access permits and CPHs combined.

VMS Scallop Declarations (Actual screen view varies by VMS vendor)

GENERAL CATEGORY (LAGC) POWER DOWN [**SES-PWD**]

NOTE: THIS DECLARATION IS ONLY VALID AT THE DOCK.
REMEMBER TO TURN ON VMS UNIT PRIOR TO LEAVING DOCK
OR MOORING AND TO SELECT/SEND A VALID DECLARATION
PRIOR TO SAILING. ENSURE THAT YOU RECEIVE A
CONFIRMATION BEFORE POWERING DOWN YOUR VMS EQUIPMENT.

GENERAL CATEGORY (LAGC) PERMIT [**SES-SCG**]

- OPEN (FEDERAL EXEMPTION AREAS)
- CLOSED AREA 1 SAA
- CLOSED AREA 2 SAA
- NANTUCKET LIGHTSHIP SAA
- ELEPHANT TRUNK SAA
- NORTHERN GULF OF MAINE

LIMITED ACCESS PERMIT

- OPEN [**SES-SCA**]
- SPECIAL ACCESS AREA [**SES-SAA**]
 - CLOSED AREA 1 SAA
 - CLOSED AREA 2 SAA
 - NANTUCKET LIGHTSHIP SAA
 - ELEPHANT TRUNK SAA

COMPENSATION TRIP:

- YES
(NOTE: IF YES, MUST ALSO SEND SCALLOP ACCESS AREA
COMPENSATION TRIP FORM)
- NO

RESEARCH SET ASIDE TRIP [**SES-RSA**]

- OPEN
- CLOSED AREA 1 SAA
- CLOSED AREA 2 SAA
- NANTUCKET LIGHTSHIP SAA
- ELEPHANT TRUNK SAA

GENERAL CATEGORY SCALLOP PRE-LANDING NOTIFICATION

NOTE: THIS FORM IS FOR REFERENCE ONLY. IT MUST BE COMPLETED AND SUBMITTED THROUGH VMS

Instructions: All IFQ and NGOM-permitted general category scallop vessels must send a completed form at least 6 hours prior to landing, and before crossing the VMS demarcation line. However, if the scallop harvest ends less than 6 hours before landing, then the report is to be sent immediately upon leaving the fishing grounds.

Vessel Captain/Operator's Name: _____

Correction of a prior report (Y/N): _____

If yes, Date of prior report (MM/DD/YY): _____

If yes, all information provided below, including blank fields, will replace the data submitted in the prior report.

VTR Serial Number (Logbook Page): _____

Scallops Retained/Landed? (Y/N): _____

If NO, send form.

If YES, complete remaining blocks then send form.

Any scallops caught in NGOM Area? (Y/N): _____

Estimated Scallops onboard (choose one):

Meats (lbs): _____

or, Bushels in-shell: _____

Estimated Landing Date (MM/DD/YY): _____

Estimated Landing Hour (00 - 23): _____

Estimated Landing Minute (00 - 59): _____

Landing Port State (Abbreviated): _____

Landing Port City: _____