



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

March 27, 2007

## **IMPORTANT NOTICE FOR SCALLOP VESSEL OWNERS AND OPERATORS**

Dear Scallop Permit Holder:

Prior to the opening of the Elephant Trunk Access Area (ETAA) on March 1, 2007, the National Marine Fisheries Service (NMFS) received numerous requests to clarify whether or not general category scallop vessels and limited access scallop vessels fishing under general category rules can initiate a scallop trip on the same calendar day that scallops were landed by the vessel. In addition, it has come to our attention that some vessel operators are not completing the broken trip declaration form on the vessel monitoring system (VMS) before leaving the access area. A clarification of this requirement is provided in this letter.

### **General Category Fishing and Possession Limit Restriction**

The regulations at 50 CFR 648.14(i)(2) prohibit a general category vessel from “fish[ing] for, possess[ing], or land[ing] scallops on more than one trip per calendar day.” The definition of “fishing” in the Magnuson-Stevens Fishery Conservation and Management Act (MSA) includes: “...any operations at sea in support of, or in preparation for...” fishing (see attached MSA definition).

NMFS has determined that, in order to correctly interpret and enforce the “one trip per calendar day” scallop regulation, the term “fish for scallops” includes declaring a general category trip and moving the vessel from the dock or mooring to begin fishing.

Effective April 2, 2007, the regulations will be enforced as follows: **No scallop vessel may leave the dock or mooring to begin a fishing trip on a declared general category scallop trip on the same calendar day that scallops were landed by that vessel.**

This is not a new regulation, but rather is a clarification of the scallop regulations that have been in place since 1994.

### **Access Area Broken Trip Declarations**

A limited access scallop vessel fishing in a Sea Scallop Access Area (Access Area) that terminates an Access Area trip is required to notify NMFS that the trip is being terminated while the vessel is still within the boundaries of the Access Area. The scallop regulations at 50 CFR 648.60(c)(3) state: “The vessel owner/operator must report the termination of



the trip prior to leaving the Sea Scallop Access Area by VMS email messaging, with the following information: Vessel name; vessel owner; vessel operator; time of the trip termination; reason for terminating the trip (for NMFS recordkeeping purposes); expected date and time of return to port; and amount of scallops on board in pounds.”

NMFS has simplified the submission of this information by incorporating a form on VMS. Completing the form eliminates the need to submit a separate email with the specified information. The notification requirement not only improves enforceability of the broken trip measures, but simplifies administration and enables more timely responses to broken trip compensation request forms.

To receive compensation for a broken trip, vessel owners are still required to submit the broken trip compensation form within 30 days of landing the broken trip.

**Effective immediately, vessel owners will not be issued broken trip compensation for trips on which no VMS broken trip notification was submitted.**

It is the vessel owner/operators responsibility to retain records of the notifications should there be a discrepancy between vessel owner/operator records and NMFS records of VMS notifications. NMFS strongly encourages vessel owners to ensure that vessel operators are given a copy of this letter so that they are aware of this notification requirement.

If you have any questions regarding this letter, please call 978-281-9315.

Detailed information on restrictions and requirements pertaining to the scallop fishery can be found in the recent permit holder letter and information sheets dated February 28, 2007. Information sheets are also available online at <http://www.nero.noaa.gov/nero/regs/info.html>

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia A. Kurkul". The signature is stylized and cursive.

Patricia A. Kurkul  
Regional Administrator

**Magnuson-Stevens Fishery Conservation and Management Act**

Definition of “fishing”

Section 3 (16 U.S.C. 1802), paragraph 15:

The term “fishing” means—

- (A) the catching, taking, or harvesting of fish;
- (B) the attempted catching, taking, or harvesting of fish;
- (C) any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or
- (D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

Such term does not include any scientific research activity which is conducted by a scientific research vessel.