



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

February 17, 2009

SMALL ENTITY COMPLIANCE GUIDE

Dear Sea Scallop Permit Holder:

This letter summarizes sea scallop management measures for the fishing year March 1, 2009 – February 28, 2010 (the 2009 fishing year). You are urged to review the full text of the regulations. This summary is not a substitute for the actual regulations. The full text of the regulations is available at <http://www.nero.noaa.gov> or call the Northeast Regional Office at (978) 281-9315.

This letter also serves as notification that the implementation of the Individual Transferable Quota (IFQ) program will be delayed until March 1, 2010. Vessels issued the IFQ scallop permit and vessels issued Letters of Authorization (LOAs) to fish in the IFQ scallop fishery while an appeal is pending will continue to be managed under a quarterly total allowable catch (TAC) allocation. Further details about these measures are provided later in this letter.

Open area days-at-sea (DAS) allocation for limited access vessels

Full-Time	Part-Time	Occasional
37	15	3

Allocations exclude carryover DAS

Sea scallop access area schedule

Area (See Attachment 1 for coordinates and chart)	Status
Nantucket Lightship (NLCA)	Closed
Closed Area II (CAII)	Open - 06/15/09 - 01/31/10
Elephant Trunk (ETAA)	Open*
Delmarva	Open - 3/1/09 – 2/28/10
Closed Area I (CAI)	Closed

*ETAA is under seasonal closure September 1 – October 31.

Hudson Canyon Rotational Closed Area (HCAA)

Due to a high concentration of small scallops in the HCAA, consistent with the Scallop FMP's area rotation program strategy to protect young scallop concentrations, the HCAA is closed to all scallop fishing. No vessel can fish for, possess, or retain scallops in or from the HCAA.



Access area trip allocations and possession limits

<u>Permit Category</u>	<u>Possession Limit</u>	<u>Total Access Area Trips</u>	<u>CAII</u>	<u>ETAA</u>	<u>Delmarva</u> <u>a</u>
Full-time	18,000 lb/trip	5	1	3	1
Part-time*	18,000 lb/trip	2	Up to 1	Up to 2	Up to 1
Occasional**	7,500 lb/trip	1	Up to 1	Up to 1	Up to 1
General Category			0	1,964	728

- * Part-time scallop vessels have the following access area trip options in 2009:
1 trip in CAII and 1 trip in Delmarva; OR 1 trip in the ETAA and 1 trip in Delmarva; OR 2 trips in ETAA.
- ** Occasional scallop vessels have the following access area trip options:
1 trip in CAII; OR 1 trip in ETAA; OR 1 trip in Delmarva.

Trips beginning prior to March 1, 2009

- A limited access vessel ETAA trip that begins prior to March 1, 2009, and ends after March 1, 2009, will count in its entirety against the vessel's 2008 ETAA trip allocation.
- Limited access vessels without any remaining ETAA trips, and LAGC scallop vessels may begin an ETAA trip prior to March 1, 2009, provided the vessel does not enter the ETAA prior to March 1, 2009.
- Limited access vessels and LAGC vessels may begin a Delmarva trip prior to March 1, 2009, provided the vessel does not enter the Delmarva area prior to March 1, 2009.
- All Vessel Monitoring System (VMS) trip declaration and observer program notification requirements must be met for all access area trips.

ETAA trips broken after December 30

Limited access ETAA trips that were broken after December 30, 2008, may be completed under an authorized compensation trip that begins no later than April 29, 2009. All compensation trips from trips broken after December 30, 2008, will expire on April 30, 2009. To be eligible for a compensation trip, vessels must have followed the broken trip notification and compensation trip request requirements.

Prohibition on deckloading

No scallop vessel that is declared into the Area Access Program may possess more than 50 bushels (bu) of in-shell scallops outside the boundaries of the Sea Scallop Access Area.

Notification of fishery closures

Vessel owners will be notified when a fishery is closed (for instance when a TAC is projected to be reached, or when the maximum number of trips into an access area are projected to have been

taken). Closures are announced using VMS and, in most cases, on NOAA Weather Radio and USCG radio. All vessel owners will be mailed permit holder letters announcing closures, though these may be obtained more quickly by email. Sign up to get permit holder letters by email at: www.nero.noaa.gov/nero/nr/nr04.htm.

Yellowtail flounder catch in CAII

Scallop vessels fishing in the CAII Access Area are limited to a catch (retained legal catch and all discards) of yellowtail flounder that equals 9.8 percent of the annual yellowtail flounder total allowable catch (TAC) established by the Northeast (NE) multispecies regulations. The proposed yellowtail TAC for the 2009 scallop fishery in CAII is 158.5 mt (9.8 percent of the proposed U.S. fishery TAC of 1,617 mt for all fisheries). Scallop vessel owners will be notified when this TAC is finalized. If the TAC is reached, the CAII Access Area will close for the rest of the scallop fishing year. After the opening of the CAII scallop fishery on June 15, 2009, regular updates of yellowtail catch will be posted at: www.nero.noaa.gov/ro/fso/scal.htm.

If the 2009 Access Area yellowtail flounder TAC is attained, unused CAII access area trip(s) will be converted to open area DAS as specified in the scallop management plan. Each vessel with unutilized trip(s) will be allocated a specific amount of additional open area DAS according to its permit category:

- Full-time vessels will be allocated 7.9 DAS per unutilized trip in CAII.
- Part-time vessels will be allocated 7.9 DAS per unutilized trip in CAII, provided the vessel has no other access area available for the vessel to take a trip(s).
- Occasional vessels will be allocated 3.3 DAS per unutilized trip in CAII, provided the vessel has no available access area in which to take its trip.

If a vessel has unused broken trip compensation trip(s) when an access area closes due to reaching a yellowtail TAC, it will be issued additional open area DAS in proportion to the unharvested possession limit. For example, if a full-time vessel had an unused 9,000-lb CAII compensation trip (half of the full possession limit) at the time of a CAII yellowtail TAC closure, the vessel would be allocated 3.95 DAS (half of the 7.9 DAS that would be allocated for a full CAII trip).

LAGC scallop quarterly TAC

The LAGC scallop TAC is 4,590,024 lb for the 2009 fishing year. The TAC is allocated quarterly, as specified below. All open area landings, including landings of scallops caught incidentally while fishing for other species, by LAGC IFQ vessels and vessels issued an LOA for an LAGC IFQ permit will count against the quarterly TACs. Access area scallop landings by LAGC IFQ vessels, excluding landings of extra pounds of scallops to pay for observers, will count against the quarterly TACs. If a quarterly TAC is reached, IFQ scallop vessels, including vessels issued an LOA for an LAGC IFQ scallop permit, are prohibited from possessing, retaining, or landing scallops for the remainder of the quarter.

Quarterly TACs for the 2009 fishing year

Quarter	Percent	2009 TAC (lb)
I. March-May	35	1,606,508

II. June-August	40	1,836,010
III. September-November	15	688,504
IV. December-February	10	459,002

LAGC Northern Gulf of Maine (NGOM) Management Area scallop TAC

The NGOM TAC for the 2009 fishing year is 70,000 lb. Once this TAC is reached, vessels issued LAGC permits, including vessels issued an LOA for an LAGC scallop permit, are prohibited from possessing, retaining, or landing scallops in or from the NGOM for the remainder of the fishing year. The NGOM Management Area is the area north of 42° 20' N.Lat and within the Gulf of Maine Scallop Dredge Exemption Area. (See Attachment 1 for coordinates and chart).

LAGC incidental scallop Target TAC (TTAC)

The Incidental scallop TTAC for the 2009 fishing year is 50,000 lb. Vessels issued an LAGC Incidental Catch scallop permit are restricted to 40 lb shucked or 5 U.S. bushels in shell scallops per trip. Landings are compared to the TTAC after the 2009 fishing year is completed, and future management measures may be adjusted if they exceed the TTAC.

Status of Letters of Authorization (LOAs) for LAGC appeals

Letters of Authorization (LOAs) currently issued to vessels to fish in the LAGC scallop fishery while an appeal is pending remain valid for the 2009 fishing year. A vessel fishing under a LOA is subject to all applicable regulations, and may continue to operate provided the applicable LAGC fishery remains open and provided the final decision on the appeal is pending. The LOA is valid until NMFS makes a final decision on the appeal.

- If you have received a denial of an initial appeal, and do not submit a request for a hearing, NMFS initial denial becomes the final decision on the application and the LOA expires 40 days after the date of the initial appeal denial letter.
- If NMFS approves the appeal, the LOA will expire upon receipt of the LAGC permit.
- If NMFS’s final decision is to deny the appeal, the LOA will expire 5 days from receipt of the denial letter, or not more than 10 days from the date of the final denial letter.

Possession of in-shell scallops seaward of the VMS

LAGC vessels fishing in compliance with all other regulations may possess the following amounts of in-shell scallops SEAWARD of the VMS demarcation line:

LAGC Permit Category	Scallop Meat Possession Limit	In-Shell Possession Limit (Shoreward of VMS Line)	In-shell Possession Limit (Seaward of VMS Line)
IFQ	400 lb	50 U.S. bu	100 U.S. bu
NGOM	200 lb	25 U.S. bu	50 U.S. bu
Incidental	40 lb	5 U.S. bu	10 U.S. bu

LAGC calendar day landing restriction

LAGC vessels are prohibited from landing scallops more than once per calendar day. For example, an LAGC vessel that lands scallops on Monday may depart on a second trip on the same day it landed scallops (Monday) as long as the vessel does not land until Tuesday.

Industry funded observer program

The owner, operator or vessel manager of a limited access scallop vessel or LAGC scallop vessel must comply with observer notification procedures (details in Attachment 2), as follows:

- Limited Access Vessels: notification prior to all open area and access area trips.
- LAGC vessels: notification prior to all access area trips.

One percent of both the open area DAS and access area TAC allocations are set aside to help defray the cost of observer coverage. The Council recommended in Framework 19 that the observer set-aside compensation rates be adjusted to more accurately reflect current fishery conditions. NMFS evaluated the current DAS set-aside rates and determined that the current rate provides the greatest benefit to the fleet and should not change for the 2009 fishing year. NMFS determined that if the DAS compensation rate were increased, the DAS set-aside would not likely last the entire fishing year, resulting in some vessel owners needing to pay the full cost of observer DAS trips without any compensation. Therefore, the reduced DAS charge on observed DAS trips will remain at 0.85 for the 2009 fishing year.

2009 Observer Set-Asides

CAII Access Area TAC	ETAA Access Area TAC	Delmarva Access Area TAC	Open Area DAS
58,000 lb	162,000 lb	60,000 lb	124 DAS

Research set-aside (RSA) program

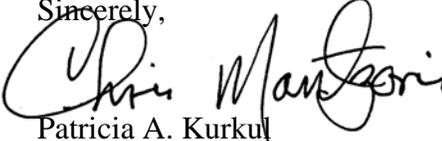
Two percent of both the open area DAS and access area TAC allocations are set aside to fund sea scallop research. Additional DAS and access area TAC will be allocated to vessels participating in approved research projects. Scallop vessels participating in the RSA program are limited to a catch of yellowtail flounder that equals 0.2 percent of the annual yellowtail flounder TACs established in the NE multispecies regulations (3.2 mt for RSA projects, pending final action in the NE multispecies regulations). Set-aside projects for the 2009 fishing year are currently under consideration for funding.

2009 RSA Set-Asides

CAII Access Area TAC	ETAA Access Area TAC	Delmarva Access Area TAC	Open Area DAS
116,000 lb	324,000 lb	120,000 lb	241 DAS

Paralytic Shellfish Poisoning (PSP) Closures

As a reminder, only scallop meats (adductor muscle) may be possessed, retained, or landed in or from the PSP closure areas. See Attachment 3 for coordinates and chart.

Sincerely,

for Patricia A. Kurkul
Regional Administrator

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

Attachment 1 – Area Coordinates

Hudson Canyon Closed Area

Point	Latitude	Longitude
H1	39°30' N.	73°10' W.
H2	39°30' N.	72°30' W.
H3	38°30' N.	73°30' W.
H4	38°50' N.	73°30' W.
H5	38°50' N.	73°42' W.
H1	39°30' N.	73°10' W.

Delmarva Sea Scallop Access Area.

Point	Latitude	Longitude
DMV1	38°10' N.	74°50' W.
DMV2	38°10' N.	74°00' W.
DMV3	37°15' N.	74°00' W.
DMV4	37°15' N.	74°50' W.
DMV1	38°10' N.	74°50' W.

Closed Area II Sea Scallop Access Area

Point	Latitude	Longitude
CAIIA1	41°00' N.	67°20' W.
CAIIA2	41°00' N.	66°35.8' W.
CAIIA3	41°18.6' N.	66°24.8' W.
CAIIA4	41°30' N.	66°34.8' W.
CAIIA5	41°30' N.	67°20' W.
CAIIA1	41°00' N.	67°20' W.

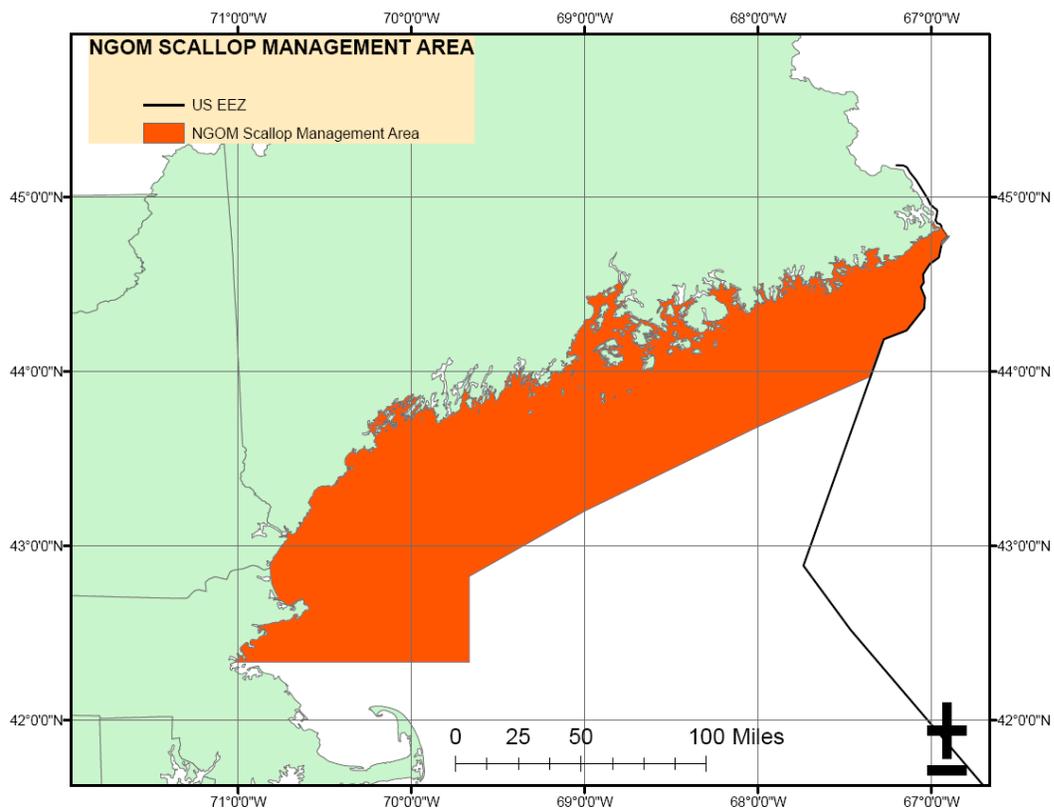
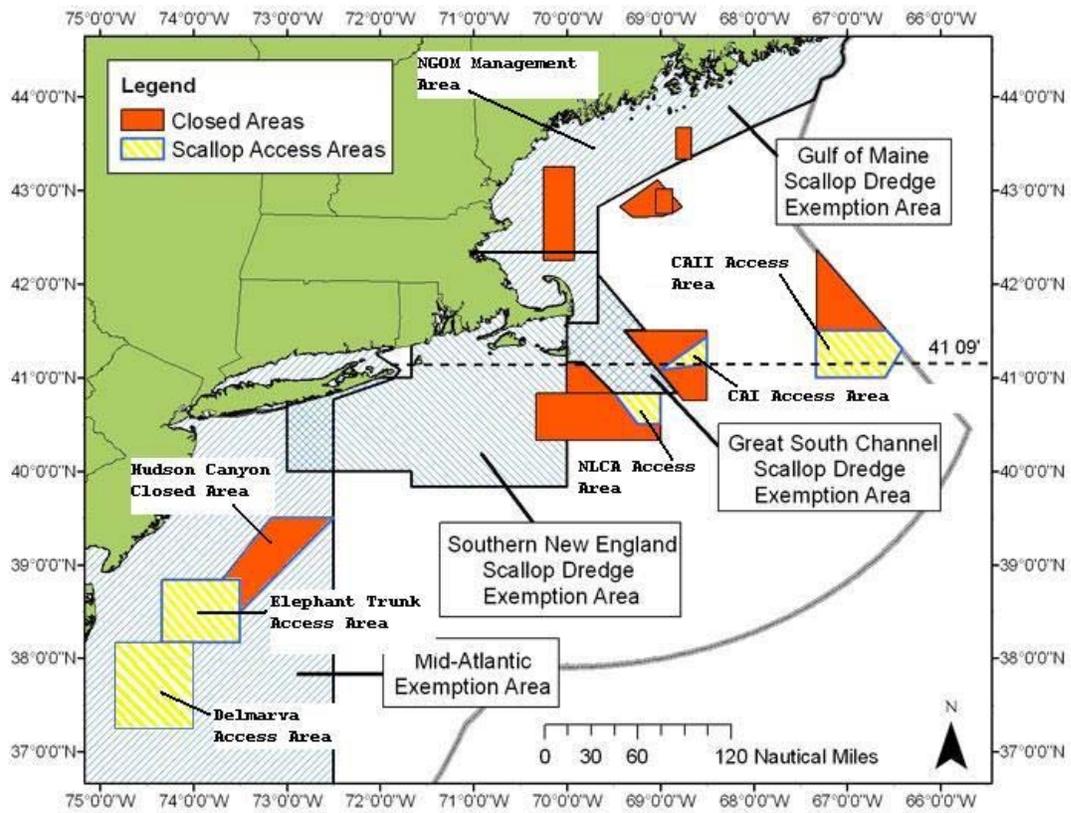
Elephant Trunk Sea Scallop Access Area

Point	Latitude	Longitude
ETAA1	38°50' N.	74°20' W.
ETAA2	38°10' N.	74°20' W.
ETAA3	38°10' N.	73°30' W.
ETAA4	38°50' N.	73°30' W.
ETAA1	38°50' N.	74°20' W.

NGOM Scallop Management Area

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

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



Attachment 2 Industry-Funded Scallop Observer Program Call-In Guide (NE Fisheries Observer Program, February 2009)

For Limited Access (Open Area and Access Area trips) and General Category (Access Area trips)

STEP I - TRIP NOTIFICATION 72-HOURS PRIOR TO TRIP

No More than 10 days prior to sail date

Call the automated NE Fisheries Scallop Observer Program Number at **(508) 495-2100**, press **1** to report a trip, and follow the telephone message prompts:

Gear type – 1=scallop dredge, 2=scallop trawl

Limited Access/General Category – 1=limited access, 2=general category

Area Fishing – 1=NLSA, 2=CAII, 3=HCA, 4=MA Open, 5=GB Open, 6=ET, 7=CAI, 8=DELMARVA

Phone number – enter your 10 digit phone number (DO NOT use ‘1’ before the area code)

Permit number – enter your 6 digit permit number

Name - speak clearly, first and last name, then press # key

Port sailing from - speak clearly, port name including city and state, then press # key

Date of sailing - speak clearly, month, day, and year, then press # key; for General Category, use the date for Sunday starting that week.

You will receive a **trip confirmation number** for each call (trip calls for limited access trips, and weekly calls for general category trips). For the weekly general category calls, call by Thursday if you expect to make any trips in an access area from Sunday through Saturday of the next week. An email transmission from the National Marine Fisheries Service (NMFS) will be sent to your email address(s) within 24 hours and will either issue a ‘waiver’ or notify you that an observer must be hired for the trip. If you are issued a waiver, you may begin your trip(s). If you receive an observer notice, please follow the instructions in StepII. Once you make the initial call, NMFS/NEFOP may take up to 24 hours to inform you if you have been selected for observer coverage or not. **If selected, you MUST provide 48 hours notice to the observer provider.** The observer provider may take up to 18 hours to get back to you on observer availability. **If you do not receive VMS notification within 24 hours, contact the NMFS Vessel Call-in Coordinator.**

STEP II - OBSERVER PROVIDER 48-HOURS PRIOR TO TRIP

If you receive an email from NMFS that you must hire an observer for the trip, week (Gen Category) please call the provider(s) below. For the most current list of approved observer service providers, go to the ‘Sea Scallop Observer Program Information’ webpage at <http://www.nefsc.noaa.gov/femad/fsb/> or call the NE Fisheries Scallop Observer Program Number listed above, and press 2. These are the current providers:

A.I.S. Inc. (508) 990-9057, and East West Technical Services Inc. (860) 223-5165.

If there are no observers available from any of the providers, request a waiver by calling the:

NMFS Vessel Call-in Coordinator at (508) 495-2188 or (508) 560-3550 (cell).

IF THE TRIP IS DELAYED OR CANCELED

If the trip is delayed more than 48 hours beyond the intended sail date, please call the NMFS vessel Call-in Coordinator to explain. If you had an observer assigned and you canceled the trip, you must take an observer on your next trip to the same area, unless no observers are available.

TO CHANGE INTENDED FISHING AREA

If you change the area you plan to fish, please call the NE Fisheries Scallop Observer Program Number for a new confirmation number.

FOR TRIPS THAT LAYOVER IN PORT

If you must interrupt an open area trip and return to port, for example due to weather, **do not offload your catch,**

and go back out within 48 hours, you may use the same confirmation number and maintain the same observer status. If any catch is offloaded or the layover time is greater than 48 hours, call the NE Fisheries Scallop Observer Program Number for a new confirmation number.

Attachment 3 – PSP Closure Areas

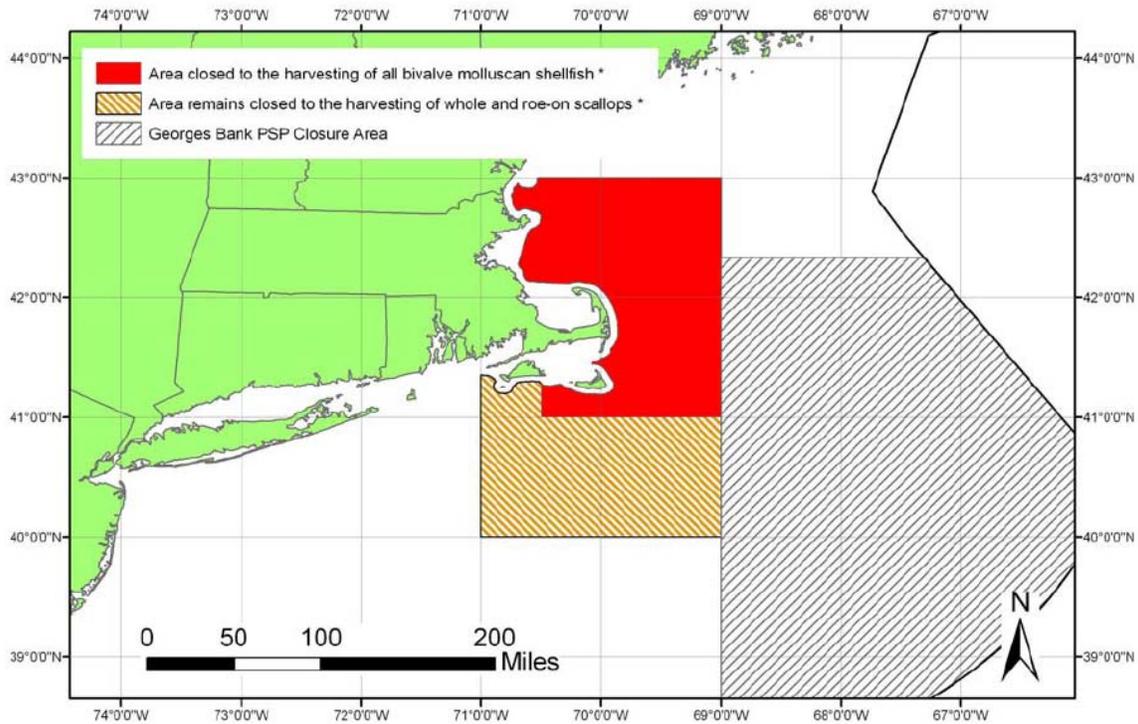
Table 1. Revised Northern Temporary PSP Closure Area Coordinates

Point	Latitude	Longitude
1	43° 00' N	71° 00' W
2	43° 00' N	69° 00' W
3	41° 00' N	69° 00' W
4	41° 00' N	70° 30' W
5	41° 39' N	70° 30' W
6	41° 39' N	71° 00' W
7	43° 00' N	71° 00' W

Table 2. Revised Southern Temporary PSP Closure Area Coordinates

Point	Latitude	Longitude
1	41° 39' N	71° 00' W
2	41° 39' N	70° 30' W
3	41° 00' N	70° 30' W
4	41° 00' N	69° 00' W
5	40° 00' N	69° 00' W
6	40° 00' N	71° 00' W
7	41° 39' N	71° 00' W

Federal Water Closure Due to the Presence of the Toxin that Causes Paralytic Shellfish Poisoning



* Exception allowed for scallop harvesting with onboard shucking of the adductor muscle only