



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
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Small Entity Compliance Guide
Implementation of the Individual Fishing Quota Program (IFQ) to the Atlantic Sea
Scallop Fishery Management Plan (FMP)

Dear Sea Scallop IFQ Permit Holder:

The sea scallop IFQ management program is being implemented on March 1, 2010. You recently received the IFQ allocation for your vessel in a separate letter, along with instructions and forms for transferring IFQ. This letter summarizes the other new regulatory requirements that will govern your fishing activity. We have also developed a set of information sheets that provide additional detail. This letter and the information sheets are only summaries of the actual regulations, which you are encouraged to read. Both the information sheets and the regulations are available at www.nero.noaa.gov, or may be requested by calling 978-281-9315.

Possession Limit Requirements

During the scallop fishing year, IFQ vessels may harvest and land scallops only up to the total amount allocated to the vessel. All scallop landings by an IFQ vessel count against the vessel's IFQ and must be reported, including scallops caught incidentally while fishing for other species and scallops caught in the Northern Gulf of Maine Management Area (NGOM).

Please be aware that the New England Fishery Management Council has adopted measures under Framework 21 that, if approved, would be implemented in July 2010. The IFQs issued to your vessel would be adjusted under Framework 21. The proposed Framework 21 IFQs would be slightly higher under Framework 21 than those issued for March 1, 2010.

The possession restrictions remain the same: An IFQ vessel may not possess or land, per trip, more than 400 lb of shucked scallops, or possess more than 50 bushels (bu) of in-shell scallops shoreward of the VMS demarcation line. A vessel may possess up to 100 bu of in-shell scallops seaward of the VMS demarcation line on a properly declared IFQ scallop trip. Only one landing of scallops is allowed per calendar day.

Some vessels are issued both the Limited Access days-at-sea (DAS) vessel permit, and the IFQ



vessel permit. Limited access scallop vessels must properly declare an IFQ scallop trip, or another VMS trip type (for example, Northeast Multispecies, if eligible), through the Vessel Monitoring System (VMS) in order to fish under the IFQ regulations.

Trip Notification and Catch Reporting Requirements

To facilitate the deployment of fishery observers, IFQ scallop vessels must continue to notify the Northeast Fisheries Observer Program by Thursday each week if they intend to start a scallop trip in an access area during the following week (Sunday through Saturday). To provide this notification contact (508) 945-2100.

An IFQ scallop vessel must also make a declaration of the vessel's activity on the VMS unit prior to leaving port (or prior to moving the vessel, if on a power down code). An IFQ vessel that crosses the VMS demarcation line will be presumed to be fishing under the IFQ program unless, prior to leaving port, a different VMS activity code is entered.

An IFQ vessel must report through VMS the amount of scallops kept on each trip on which scallops are caught (including incidental catch on trips not declared as IFQ trips). VMS catch reports must be sent prior to crossing the VMS demarcation line on the way back to port at the end of the trip, and must include the amount of scallop meats to be landed, the estimated time of arrival in port, the port of landing, and the vessel trip report serial number from the vessel's logbook. This form must be completed at least six 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.

In addition, IFQ vessels must continue to submit daily reports of all scallop and yellowtail flounder catch when fishing in scallop access areas. These reports must be submitted through VMS for each day beginning at 0000 hrs and ending at 2400 hrs, and must be made by 0900 hours of the following day. All scallop catch from the access areas counts toward both the vessel's individual IFQ allocation, and the total cap on trips established for each access area. Access areas are closed to fishing by IFQ vessels when the allocated number of trips to the access area is projected to have been taken.

IFQ Ownership Cap

Vessels with an IFQ scallop permit are subject to ownership cap restrictions. The Atlantic sea scallop regulations prohibit an individual from having ownership interest in more than 5 percent of the total allowable catch (TAC) allocated to all of the vessels issued LAGC IFQ permits, including any IFQ permits in confirmation of permit history (CPH). This provision does not apply to owners of vessels that are issued a limited access DAS scallop permit as well as an IFQ permit, because they cannot transfer or combine IFQ allocations. The ownership cap is applicable to all vessels acquired after the July 1, 2008, effective date of Amendment 11 to the FMP. The ownership cap does not apply if an individual had ownership interest in more than 5 percent of the TAC prior to the implementation of Amendment 11 on July 1, 2008, or if the individual exceeds the cap in the future without acquiring any new vessels, as a result of IFQ

vessels leaving the scallop fishery. Having an ownership interest includes, but is not limited to, individuals and persons who are shareholders in a vessel owned by a corporation, who are partners (general or limited) to a vessel owner, or who, in any way, partly own a vessel.

NMFS is reviewing compliance with this cap which may result in the discovery of permit holders that have acquired an ownership interest in more than 5 percent of the IFQ fishery TAC subsequent to July 1, 2008. If an IFQ permit was mistakenly issued in violation of the ownership cap NMFS will notify such permit holder, and such permit holder will be required to divest ownership in any vessel and IFQ permits resulting in the ownership violation. NMFS will not issue knowingly, an IFQ permit for a vessel if the issuance of that IFQ permit to the vessel would result in an individual owning more than 5 percent of the IFQ fishery TAC. In addition, transfers will not be approved if the ownership cap restriction would be violated by the transfer.

IFQ Cost Recovery Program

The Magnuson-Stevens Fishery Conservation and Management Act requires that IFQ programs include a cost recovery program to collect up to 3 percent of the ex-vessel value of landed product to cover the actual costs directly related to the management, data collection, and enforcement of the IFQ program. To comply with this mandate, NMFS requires, as discussed below, that the owner of a vessel issued an IFQ scallop permit pay this fee based on a cost recovery liability for every landing of IFQ scallops, whether owned or leased from another IFQ vessel owner.

IFQ cost recovery payments must be made before IFQ permits are renewed for the next fishing year which begins March 1st. On or about October 31st each year, NMFS will mail a cost recovery bill to each IFQ scallop permit holder for the twelve-month period that ended on September 30th. Vessel owners who have incurred a fee will be required to pay the fee to NMFS by January 1st of the following year. Failure to make this payment will result in non-renewal of the IFQ permit required for the fishing year that begins on March 1st.

For example, the cost recovery fees due by January 1, 2012, will be calculated from Federal dealer reports of IFQ scallops landed between October 1, 2010, and September 30, 2011. NMFS will determine the fee based on the costs associated with the program for that period, but the fee may not exceed 3 percent of the value of the IFQ scallops landed. The value of IFQ scallops will be determined from the Federal dealer reports, with fees based on an average ex-vessel value of all IFQ landings during the period. Each IFQ owner will receive a cost recovery bill on or about October 31, 2011, and payment will be due to NMFS by January 1, 2012. If the cost recovery fee is not paid in full by January 1, 2012, the IFQ scallop permit required on March 1, 2012, will not be renewed until payment is received.

In this initial year of implementation, the cost recovery fee will not be assessed for the full twelve month period, but will be assessed for the period March 1, 2010 – September 30, 2010. The fee notice will be mailed to IFQ owners on or about October 31, 2010, and

will be due by January 1, 2011. It is not possible for NMFS to provide advance notification of the fee amount because information from the cost recovery period is used to determine both NMFS costs and the value of the scallops landed. To give IFQ owners an idea of the fee that might be associated with an allocation, the following example is provided assuming that the full 3 percent cost recovery is assessed:

IFQ vessel lands	10,000 lb
Scallop price	\$ 7.30
Stock to vessel:	\$ 73,000
Cost recovery fee	3%
Cost recovery bill	\$ 73,000 x 0.03 = \$ 2,190

Voluntary IFQ Sector Program

The IFQ program includes a provision that allows the owners of IFQ scallop vessels to form voluntary sectors that could manage their own fishing activity as a group. To create a Sector, a group (two or more) of IFQ permit holders must agree to cooperate and submit a binding plan for the management of that Sector's combined IFQ allocation. Scallop sectors may not be exempted from any scallop regulations through the Sector process, except that the individual IFQ vessels could harvest scallops in excess of their individual IFQ allocations, provided the combined harvest of scallops by Sector members does not exceed the Sector's total IFQ allocation. A Sector may not be allocated more than 20 percent of the total allowable catch allocated to the IFQ fleet. A Sector must go through a proposal review and approval process outlined in detail in an information sheet and in the regulations. Sector plans must be submitted to both the New England Fishery Management Council and NMFS for review and approval. Submission must be made no less than 1 year prior to the date that the Sector wishes to begin operations. IFQ owners interested in the voluntary Sector program should review both the information sheet and regulations for further information.

This small entity compliance guide complies with section 212 of the Small Business Regulatory Enforcement and Fairness act of 1996. The reporting and recordkeeping requirements referenced in this guide have been approved by the Office of Management and Budget, as required under the Paperwork Reduction Act. Approval numbers are available upon request.