



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

June 26, 2006

Dear Scallop Permit Holder:

This letter is to inform you of new requirements that were implemented through an emergency final rule published by NOAA Fisheries Service. The new requirements enable us to reactivate the scallop observer set-aside program by requiring vessel owners or operators to arrange for carrying an observer by contacting an approved observer service provider(s) prior to departing on a scallop trip on which an observer is required. Details of the revised program are provided below.

Please also see attachments pertaining to trip declarations and reporting through vessel monitoring systems (VMS), and a list of approved VMS vendors for the Northeast Region's fisheries requiring VMS.

**VESSEL OWNERS, OPERATORS, OR VESSEL MANAGERS MUST COMPLY WITH THE VESSEL NOTIFICATION REQUIREMENTS SPECIFIED IN THIS LETTER ON JULY 1, 2006, AND FOR ALL SCALLOP TRIPS BEGINNING JULY 1, 2006, OR AFTER, THAT HAVE NOT ALREADY BEEN SCHEDULED WITH THE OBSERVER PROGRAM.**

WHEN NOAA FISHERIES SERVICE NOTIFIES A VESSEL OWNER, OPERATOR, OR VESSEL MANAGER OF ANY REQUIREMENT TO CARRY AN OBSERVER ON A SPECIFIED TRIP IN EITHER OPEN AREAS OR AN ACCESS AREA, THE VESSEL MAY NOT FISH FOR, TAKE, RETAIN, POSSESS, OR LAND ANY SCALLOPS WITHOUT CARRYING AN OBSERVER. VESSELS MAY ONLY EMBARK ON A SCALLOP TRIP IN OPEN AREAS OR AN ACCESS AREA WITHOUT AN OBSERVER IF THE OWNER, OPERATOR, OR VESSEL MANAGER HAS BEEN NOTIFIED VIA THE VESSEL'S VMS THAT THE VESSEL HAS RECEIVED A WAIVER OF THE OBSERVER REQUIREMENT FOR THAT TRIP.

## **TRIP NOTIFICATION REQUIREMENTS**

For the purpose of determining if an observer will be deployed on a vessel for a specific trip, a vessel issued a limited access permit fishing in open areas or in the Sea Scallop Area Access Program, or a vessel issued a general category scallop permit and fishing in the Sea Scallop Area Access Program, is required to comply with the following notification requirements:

### 1) Notification of Intent to Fish for Scallops for Each Month

Prior to the 25th day of the month preceding the month in which fishing is to take place, the vessel owner or operator must submit, through the VMS e-mail messaging system to the Northeast Fishery Observer Program (NEFOP) at [Call.Scallop@noaa.gov](mailto:Call.Scallop@noaa.gov), notice of its intention to fish for scallops during the specified month. This email must include the following information:



- Vessel name and permit number;
- Owner's and operator's name;
- Owner and operator's phone numbers; and
- Number of trips anticipated for open areas and each Sea Scallop Access in which it intends to fish.

**Notification prior to the 25<sup>th</sup> of the month preceding the month in which fishing is to take place is not required for trips that are scheduled for July 2006 only.**

## 2) Specific Trip notification

For each scallop trip, the vessel owner, operator, or vessel manager shall notify the NEFOP by telephone, **(508) 495-2100**, and provide the following information:

- Vessel name;
- Contact name and number;
- Date and time of departure;
- Port of departure; and
- Area to be fished, either open areas or the specific Sea Scallop Access Area.

*A vessel owner, operator, or vessel manager should take into account when notifying the NEFOP of a pending trip that the NEFOP may take 24 hours to respond to notification of the trip. In addition, the observer service provider must be given 72 hours to deploy an observer on a trip on which the NEFOP has notified the vessel owner, operator, or vessel manager that it is required to carry an observer. The vessel owner, operator, or vessel manager may need to call multiple observer service providers to procure an observer, which may delay the trip start time if the time needed for the notification requirements and procurement of observer procedures are not accounted for.*

## **SELECTION OF SCALLOP FISHING TRIPS FOR OBSERVER COVERAGE**

The NEFOP will notify the vessel owner, operator, or vessel manager whether the vessel must carry an observer, or if a waiver has been granted, on the specified trip within 24 hours of the vessel owner's, operator's, or vessel manager's notification of the prospective trip as specified above.

All waivers for observer coverage will be issued to the vessel by VMS so as to have on-board verification of the waiver.

## **PROCUREMENT OF OBSERVER SERVICES BY SCALLOP VESSELS**

A vessel owner, operator, or vessel manager of a scallop vessel selected to carry an observer on a specified trip, as determined by the NEFOP, must arrange for carrying a NEFOP-certified observer from an approved observer service provider (listed below and on the NEFOP's website at: <http://www.nefsc.noaa.gov/femad/fsb/>).

The owner, operator, or vessel manager of a vessel selected to carry an observer must contact the observer service provider, and must provide at least 72 hours for the provider to arrange for observer deployment for a specified trip.

An owner, operator, or vessel manager of a vessel that cannot procure a certified observer within

72 hours of the notification to the provider due to the unavailability of an observer may request a waiver from the NEFOP from the requirement for observer coverage for that trip, but only if the owner, operator, or vessel manager has contacted all of the available observer service providers to secure observer coverage. The NEFOP will issue a waiver within 24 hours of the vessel owner, operator, or vessel manager notification that no observers are available, provided observer service providers confirm that no observers are available.

**THE FOLLOWING ORGANIZATION IS APPROVED AS A SCALLOP FISHERY  
OBSERVER SERVICE PROVIDER**

A.I.S. Inc.  
89 North Water Street  
P.O. Box 2093  
New Bedford, MA 02741  
(508) 990-9057  
[scallops@aisobservers.com](mailto:scallops@aisobservers.com)

### **OBSERVER COVERAGE REFUSALS**

1) An observer service provider may refuse to deploy an observer on a requesting scallop vessel if the observer service provider does not have an available observer within 72 hours of receiving a request for an observer from a vessel.

2) An observer service provider may refuse to deploy an observer on a requesting scallop vessel if the observer service provider has determined that the requesting vessel is inadequate or unsafe pursuant to the reasons described in NOAA Fisheries Service's October 2005 letter to permit holders. This letter is available upon request or can be accessed on the Northeast Regional Office's website at:

<http://www.nero.noaa.gov/nero/nr/nrdoc/nrphlo5/05vsc.pdf>

3) An observer service provider may refuse to deploy an observer on a scallop vessel that is otherwise eligible to carry an observer for any other reason, including failure to pay for previous observer deployments, provided the observer service provider has received prior written confirmation from NOAA Fisheries Service authorizing such refusal.

### **SCALLOP INDUSTRY FUNDING OF OBSERVERS**

Approved observer service providers are responsible for setting the daily cost for a vessel carrying an observer. Unless otherwise notified by the Regional Administrator, owners of scallop vessels are responsible for paying the cost of the observer for each day the observer is on board a vessel. This requirement applies to all scallop fishing trips on which an observer is carried onboard the vessel, regardless of whether the vessel lands or sells sea scallops on that trip, and regardless of the availability of set-aside for an increased possession limit or reduced DAS accrual rate (described below).

### **DAYS-AT-SEA (DAS) AND TOTAL ALLOWABLE CATCH (TAC) SET-ASIDES**

One percent of the total DAS allocated and one percent of the total scallop catch in Access Areas has been set aside to help vessel owners pay for the cost of carrying observers. The set-asides

for the 2006 fishing year are:

Open Area DAS set-aside

165 DAS

Access Area TAC set-asides

Nantucket Lightship Closed Area – 115,390 lb

Closed Area II –173,085 lb

Hudson Canyon Access Area – 149,562 lb

If all of the available DAS or TAC set-aside for observer coverage is used, vessels shall still be required to carry an observer as specified in this section and shall be responsible for paying for the cost of the observer, but shall not be authorized to harvest additional pounds or fish at a reduced DAS accrual rate.

**COMPENSATION FOR VESSELS TO HELP DEFRAY THE COST OF OBSERVERS**

1) Open Area DAS Trips

For each trip that a limited access vessel carries an observer on an open area DAS trip, the vessel's DAS will accrue at a rate of 0.85 DAS for each DAS fished. In effect, the remaining 0.15 DAS for each DAS fished will be available to the vessel for subsequent trips. For example, a vessel fishing on an open area trip for 10 DAS with an observer onboard will be charged 8.5 DAS from its overall DAS allocation. The remaining 1.5 DAS will be available for the vessel to use on a subsequent trip(s).

For each DAS fished with an observer onboard a vessel on open area trips, 0.15 DAS will be deducted from the 165 DAS set-aside allocation.

2) Access Area Trips

For each trip that a limited access or general category vessel carries an observer on an Access Area trip, the vessel is authorized to possess, and land, an additional 400 lb for each day, or part of a day, fished. For example, if a limited access full-time vessel carries an observer on an Access Area trip that is 5 DAS in duration, it may possess an additional 2,000 lb of scallops above the 18,000 lb possession limit, for a total of 20,000 lb. If a general category vessel carries an observer on an Access Area trip that is 2 days in duration, the vessel may possess an additional 800 lb of scallops, for a total of 1,200 lb.

The reduced DAS accrual rate and the amount of additional scallops authorized is based on a projection that the average open area catch rate of scallops will be approximately 1,800 lb of scallop meats per DAS and that the average ex-vessel price for scallop meats will be approximately \$7.50 per pound. NOAA Fisheries Service expects that the average cost of an observer will be approximately \$750 to \$1,000 per day. If the cost of observers and catch and price conditions change so that the set-aside compensation amounts are no longer sufficient, NOAA Fisheries Service may modify the reduced DAS accrual rate and the amount of additional scallops authorized.

**VESSEL OWNERS WILL STILL BE RESPONSIBLE FOR PAYING FOR THE COST OF CARRYING AN OBSERVER ON SCALLOP TRIPS WHEN THE DAS AND/OR TAC SETASIDE LIMITS HAVE BEEN ATTAINED. VESSEL OWNERS WILL BE NOTIFIED WHEN THE SETASIDE LIMITS HAVE BEEN ATTAINED AND WHEN COMPENSATION DESCRIBED BELOW IS NO LONGER AVAILABLE.**

### **OBSERVER SERVICE PROVIDER INTERESTED PARTIES**

NOAA Fisheries Service will accept applications for observer service providers throughout the effective period of the emergency rule. Parties interested in becoming an approved observer service provider must meet certain eligibility criteria as described in the emergency rule published in the Federal Register. The criteria and responsibilities of approved observer service providers, as well as information pertaining to providing observers in the scallop fishery, is also available on the Northeast Fisheries Science Center's web page at <http://www.nefsc.noaa.gov/femad/fsb/>.

For further information, please contact the Sustainable Fisheries Division at (978) 281-9315 or the Northeast Fishery Observer Program at (508) 495-2262 or (508) 495-2338.

Sincerely,

A handwritten signature in black ink, appearing to read "Patricia A. Kurkul". The signature is fluid and cursive, with the first name "Patricia" written in a larger, more prominent script than the last name "Kurkul".

Patricia A. Kurkul  
Regional Administrator

## VMS Trip Notification

NOAA Fisheries Service has noted that some vessels are using incorrect codes for scallop trips. Be advised that the VMS code remains unchanged until the vessel operator changes the code. For example, if "DOF" code is entered for transiting from port to port, that code will remain as the vessel's code until the operator changes it to a fishery activity code (e.g., open area DAS, or access area).

Please note the following VMS trip selections as they appear on your VMS screen. Prior to each trip, you must ensure that the appropriate trip-type is entered. If you are actively fishing under an inappropriate code for your fishing activity (for example, fishing in the Scallop Access Area within Nantucket Lightship Closed Area under an "Open" trip type), you may be subject to enforcement action.

The scallop and yellowtail catch and limited access vessel broken trip declaration VMS screens are also attached.

### VMS Trip Selection Screens

```
SCALLOP
_ LIMITED ACCESS PERMIT OPEN AREA TRIP
_ LIMITED ACCESS PERMIT SPECIAL ACCESS
  AREA TRIP
  AREA: _ HC _ NLCA _ CA1 _ CA2
  MODS: IS THIS A NMFS AUTHORIZED
        COMPENSATION TRIP FOR A PRIOR
        BROKEN TRIP? _ YES _ NO
_ GENERAL CATEGORY ACCESS TRIP
  AREA: _ NLCA _ CA1 _ CA2 _ OPEN
        (OPEN = HC OR FED EXEMPT AREAS)
_ GENERAL CATEGORY POWER DOWN
  (REMEMBER TO TURN ON VMS POWER PRIOR
   TO LEAVING DOCK OR MOORING AND TO
   SELECT/SEND THE APPROPRIATE CODE!)
```

```
OTHER
_ HERRING
_ DECLARE OUT OF FISHERIES:
  LIMITED ACCESS SCALLOP, GENERAL
  CATEGORY SCALLOP, NE MULTISPECIES,
  MONKFISH DAYS AT SEA OR HERRING
```

**Scallop catch report screen**

Logbook Page	_____
Scallop Meats	_____ (Lbs)
Yellowtail Kept	_____ (Lbs)
Yellowtail Discarded	_____ (Lbs)
Observer Scallop Meats	_____ (Lbs)
Observer Yellowtail Kept	_____ (Lbs)
Observer Yellowtail Discard	_____ (Lbs)

**Scallop broken trip notification screen**

Estimated Landing Month	(01 - 12):	__
Estimated Landing Day	(01 - 31):	__
Estimated Landing Hour	(00 - 23):	__
Estimated Landing Minute	(00 - 59):	__
Estimated Scallop Meats:	_____	(lbs)
Reason for Termination:	_____	
	_____	
	_____	
	_____	

## **List of approved vessel monitoring system (VMS) vendors in the NOAA Fisheries Northeast Region**

Boatrac, Inc.  
9155 Brown Deer Road  
Suite 8  
San Diego, CA 92121  
Tel: 858-458-8100  
Fax: 858-458-8116  
website: [www.boatrac.com](http://www.boatrac.com)  
Contact: Debbie Foste @ 858-458-8105

SkyMate, Inc.  
14000 Willard Road  
Chantilly, VA 20151  
Tel: 866-SKYMATE (866-759-6283)  
Fax: 703-814-8585  
website: [www.skymate.com](http://www.skymate.com)  
Contact: Jim Harper @ 703-961-0244

Thrane & Thrane, Inc.  
509 Viking Drive  
Virginia Beach, VA 23452  
Tel: 757-463-9557  
Fax: 757-463-9581  
website: [www.us.thrane.com](http://www.us.thrane.com)  
Contact: Ron Lockerby @ 757-747-2359