

prohibited from possessing more than 50 U.S. bu (17.62 hl) (400 lb (181.4 kg) of meats) of shell stock (i.e., unshucked scallops) when outside the Sea Scallop Access Areas. This limit for shell stock would be considered part of the overall possession limit. A limit on the amount of sea scallops landed in the shell is necessary to monitor and enforce the overall meat weight possession limit requirement. Allowing vessels to retain a relatively minor amount of shell stock would help satisfy a market for large, whole scallops, without compromising the enforceability of the conservation intent of the possession limit.

General category permitted vessels and limited access scallop vessels fishing outside a scallop DAS would be allowed to fish in the Sea Scallop Access Areas throughout the year, provided that no more than 100 lb (45.36 kg) of scallop meats are possessed on board the vessel when the vessel is in the Sea Scallop Access Areas. These vessels would be prohibited from possessing in-shell scallops while inside the Sea Scallop Access Areas, except they would be allowed to possess an equivalent of in-shell scallops that are necessary to provide 100 lb (45.36 kg) of scallop meats. Vessels not fishing under the Area Access Program would be allowed to transit the Sea Scallop Access Areas with more than these possession limits on board, provided their gear is properly stowed according to the regulations at § 648.23(b). This measure is intended to allow an incidental catch of scallops for scallop vessels that fish for other species outside the areas and to allow for more direct transiting to and from other fishing areas.

To improve the enforceability of the Area Access Program, all limited access scallop vessels equipped with a VMS unit would be polled twice per hour, regardless of whether the vessel is enrolled in the Area Access Program or not. Also, vessels would be required to stow all dredge or trawl gear while transiting to and from the Sea Scallop Access Areas and must land their scallop catch at one location for each trip. The new stowage requirement included in this proposed rule would improve safety on board vessels transiting to and from the Access Areas.

Vessels would be required to carry observers when requested. The Council has recommended 10-percent observer coverage for the Hudson Canyon Sea Scallop Access Area and 20-percent observer coverage for the Virginia Beach Sea Scallop Access Area. Observers would obtain information on catch, catch rates, and bycatch and may obtain information on gear efficiency and

selectivity and on other characteristics of the fishery. The vessel owner would be responsible for paying for the cost of the observer, regardless of whether any scallops are caught on the trip. At the discretion of the Regional Administrator, scallop vessels could be allocated an additional amount of sea scallops, not to exceed a cumulative total of 155 mt or 2 mt for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively, for each trip on which an observer is taken, to help defray the cost of the observer. Additional scallops to fund observers could not exceed a value equal to two percent of the overall scallop TAC. One percent of the scallop TAC for both the Hudson Canyon and Virginia Beach Access Areas would be set aside to pay for observers. Similarly, a value equal to one percent of the overall TAC would be added on to the amount of observer TAC, also to help vessels pay for the cost of observers. The allocation of one percent set-aside and one percent additional observer TAC would be consistent with the Area Access Program in 2001 and 2002, as well as the Georges Bank Closed Area Exemption Program. A TAC set-aside of 1 percent to fund research would also be included as part of the Area Access Program. Amounts over the trip limits for sea scallop meats to be allocated for defraying research costs shall be limited, by area, up to 77 mt or 1 mt for the Hudson Canyon and Virginia Beach Sea Scallop Access Areas, respectively. This research program for the Sea Scallop Access Areas would be modeled after the research program in the 2000 Georges Bank Sea Scallop Exemption Program. A Request for Proposals notice will be published in the **Federal Register** that will provide information on the submission process, eligibility criteria, proposal requirements and priorities, project evaluation, application deadlines and other requirements.

#### Abbreviated Rulemaking

NMFS proposes these revisions to the regulations under the framework abbreviated rulemaking procedure codified at 50 CFR part 648, subpart D. This procedure requires the Council, when making specifically allowed adjustments to the FMP, to develop and analyze the actions over the span of at least two Council meetings. The Council must provide the public with advance notice of both the proposals and the analysis and with an opportunity to comment on them prior to and at a second Council meeting. Upon review of the analysis and public comment, the Council may recommend to the

Regional Administrator that the measures be published as a final rule if certain conditions are met. This action is being published as a proposed rule because the Council had sufficient time to prepare for proposed rulemaking and allow for additional public comment on the action.

Documents summarizing the Council's proposed action, the EA, and economic impacts analysis of the preferred and alternative actions, were available for public review 1 week prior to the final Council meeting on September 12, 2002, as is required under the framework adjustment process. Written and oral comments were accepted up to and during that meeting. Comments pertaining specifically to the EA, and framework measures are included and responded to in the EA.

#### Classification

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

The Council prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. A summary of the analysis follows:

The proposed action and its alternatives could affect any commercial vessel holding an active Federal permit for sea scallops. Data from the 2001 Northeast permit database show that 310 commercial vessels were permitted with limited access scallop permits, and 2,293 commercial vessels were permitted with general category (open access) scallop permits. Information from the 2002 fishing year is incomplete. The majority, if not all, of the federally permitted vessels readily fall within the Small Business Administration's (SBA) definition of small business and the Regulatory Flexibility Act's definition of "small entity." Therefore, all alternatives and analyses associated with this proposed rule necessarily are alternatives and analyses applicable to impacts on small entities. A description of the significant alternatives to the proposed action are addressed in detail in the EA and are not repeated here.

The analyses in the Council's IRFA and the economic impacts section of the EA show that the increase in the DAS allocations of the preferred and non-preferred alternative and the access to the Hudson Canyon and Virginia Beach Access Areas will have positive