

(2) Vessels participating in the small dredge program are restricted as specified in paragraph (e) of this section;

(3) The Regional Administrator may authorize additional people to be on board through issuance of a letter of authorization.

(4) A certified at-sea observer is on board, as required by §648.11(g).

(d) *Sorting and shucking machines.* (1) Shucking machines are prohibited on all limited access vessels fishing under the scallop DAS program, or any vessel in possession of more than 400 lb (181.44 kg) of scallops, unless the vessel has not been issued a limited access scallop permit and fishes exclusively in state waters.

(2) Sorting machines are prohibited on limited access vessels fishing under the scallop DAS program.

(e) *Small dredge program restrictions.* Any vessel owner whose vessel is assigned to either the part-time or Occasional category may request, in the application for the vessel's annual permit, to be placed in one category higher. Vessel owners making such request may be placed in the appropriate higher category for the entire year, if they agree to comply with the following restrictions, in addition to and notwithstanding other restrictions of this part, when fishing under the DAS program described in §648.53, or in possession of more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hl) of in-shell scallops:

(1) The vessel must fish exclusively with one dredge no more than 10.5 ft (3.2 m) in width.

(2) The vessel may not use or have more than one dredge on board.

(3) The vessel may have no more than five people, including the operator, on board, except as follows:

(i) There is no restriction on the number of people on board for vessels participating in the Sea Scallop Area Access Program as specified in §648.60;

(ii) The Regional Administrator may authorize additional people to be on board through issuance of a letter of authorization.

(iii) A certified at-sea observer is on board, as required by §648.11(g).

(f) *Restrictions on the use of trawl nets.* (1) A vessel issued a limited access scallop permit fishing for scallops under the scallop DAS allocation pro-

gram may not fish with, possess on board, or land scallops while in possession of a trawl net, unless such vessel has been issued a limited access trawl vessel permit that endorses the vessel to fish for scallops with a trawl net. A limited access scallop vessel issued a trawl vessel permit that endorses the vessel to fish for scallops with a trawl net and general category scallop vessels enrolled in the Area Access Program as specified in §648.60, may not fish with a trawl net in the Access Areas specified in §648.59(b) through (d).

(2) *Replacement vessels.* A vessel that is replacing a vessel authorized to use trawl nets to fish for scallops under scallop DAS may also be authorized to use trawl nets to fish for scallops under scallop DAS if it meets the following criteria:

(i) Has not fished for scallops with a scallop dredge after December 31, 1987; or

(ii) Has fished for scallops with a scallop dredge on no more than 10 trips from January 1, 1988, through December 31, 1994, has an engine horsepower no greater than 450.

[69 FR 35215, June 23, 2004, as amended at 69 FR 63473, Nov. 2, 2004; 71 FR 33226, June 8, 2006; 72 FR 8288, Feb. 26, 2007; 72 FR 32558, June 13, 2007]

§ 648.52 Possession and landing limits.

(a) Owners or operators of vessels with a limited access scallop permit that have declared out of the DAS program as specified in §648.10 or that have used up their DAS allocations, and vessels issued a VMS general scallop permit, unless exempted under the state waters exemption program described under §648.54, are prohibited from possessing or landing per trip more than 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hL) of in-shell scallops, with no more than one scallop trip of 400 lb (181.44 kg) of shucked, or 50 bu (17.62 hL) of in-shell scallops, allowable in any calendar day.

(b) Owners or operators of vessels without a scallop permit, vessels issued a Non-VMS general scallop permit, and vessels issued a VMS general scallop permit that have declared out of the general scallop fishery as described in §648.10(b)(4), except vessels fishing for

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scallops exclusively in state waters, are prohibited from possessing or landing per trip, more than 40 lb (18.14 kg) of shucked, or 5 bu (176.2 L) of in-shell scallops. Owners or operators of vessels without a scallop permit are prohibited from fishing for or possessing more than 40 lb (18.14 kg) of shucked, or 5 bu (176.2 L) if in-shell scallops and from selling, bartering, or trading scallops harvested from Federal waters.

(c) Owners or operators of vessels with a limited access scallop permit that have declared into the Sea Scallop Area Access Program as described in §648.60 are prohibited from fishing for or landing per trip, or possessing at any time, more than any sea scallop possession and landing limit specified in or specified by the Regional Administrator in accordance with §648.60(a)(5).

(d) Owners or operators of vessels issued limited access or general category scallop permits fishing in or transiting the area south of 42°20' N. Latitude at any time during a trip are prohibited from fishing for, possessing, or landing per trip more than 50 bu (17.62 hl) of in-shell scallops shoreward of the VMS Demarcation Line, unless when fishing under the state waters exemption specified under §648.54.

(e) Owners or operators of a vessel that is declared into the Elephant Trunk Access Area Sea Scallop Area Access Program as described in §648.60, are prohibited from possessing more than 50 bu (17.62 hL) of in-shell scallops outside of the Elephant Trunk Access Area described in §648.59(e).

[69 FR 35215, June 23, 2004, as amended at 69 FR 63473, Nov. 2, 2004; 70 FR 48867, Aug. 22, 2005; 71 FR 33226, June 8, 2006]

EFFECTIVE DATE NOTE: At 71 FR 76948, Dec. 22, 2006, §648.52 was amended by adding paragraph (e), effective Dec. 22, 2006, through June 20, 2007. At 72 FR 29890, May 30, 2007, the effective date was extended through Dec. 23, 2007.

§ 648.53 DAS allocations.

(a) *Assignment to DAS categories.* Subject to the vessel permit application requirements specified in §648.4, for each fishing year, each vessel issued a limited access scallop permit shall be assigned to the DAS category (full-time, part-time, or Occasional) it was

assigned to in the preceding year, except as provided under the small dredge program specified in §648.51(e).

(b) *Open area DAS allocations.* (1) Total DAS to be used in all areas other than those specified in §648.59, are specified through the framework process as specified in §648.55.

(2) Each vessel qualifying for one of the three DAS categories specified in the table in this paragraph (b)(2) (Full-time, Part-time, or Occasional) shall be allocated the maximum number of DAS for each fishing year it may participate in the open area limited access scallop fishery, according to its category. A vessel whose owner/operator has declared out of the scallop fishery, pursuant to the provisions of §648.10, or that has used up its maximum allocated DAS, may leave port without being assessed a DAS, as long as it has made appropriate VMS declaration as specified in §648.10(b)(4), does not fish for or land per trip, or possess at any time, more than 400 lb (181.4 kg) of shucked or 50 bu (17.6 hL) of in-shell scallops and complies with all other requirements of this part. The annual open area DAS allocations for each category of vessel for the fishing years indicated, after deducting DAS for observer and research DAS set-asides, are as follows:

DAS category	2006	2007
Full-time	52	51
Part-time	21	20
Occasional	4	4

(3) Prior to setting the DAS allocations specified in paragraph (b)(2) of this section, one percent of total available DAS will be set aside to help defray the cost of observers, as specified in paragraph (h)(i) of this section. Two percent of total available DAS will be set aside to pay for scallop related research, as outlined in paragraph (h)(ii) of this section.

(4) *Additional open area DAS.* If a TAC for yellowtail flounder specified in §648.85(c) is harvested for an Access Area specified in §648.59(b) through (d), a scallop vessel with remaining trips in the affected Access Area shall be allocated additional open area DAS according to the calculations specified in paragraphs (b)(4)(i) through (iii) of this section.