

vessel issued a limited access scallop permit may fish no more than the maximum number of trips in the Elephant Trunk Sea Scallop Access Area from March 1, 2007, as specified in § 648.60(a)(3)(i), unless the vessel owner has made an exchange with another vessel owner whereby the vessel gains an Elephant Trunk Sea Scallop Access Area trip and gives up a trip into another Sea Scallop Access Area, as specified in § 648.60(a)(3)(ii), or unless the vessel is taking a compensation trip for a prior Elephant Trunk Access Area trip that was terminated early, as specified in § 648.60(c).

(ii) *General category vessels.* Subject to the possession limits specified in §§ 648.52(a) and (b) and 648.60(g), a vessel issued a general category scallop permit may not enter in, or fish for, possess, or land sea scallops in or from the Elephant Trunk Sea Scallop Access Area once the Regional Administrator has provided notification in the FEDERAL REGISTER, in accordance with § 648.60(g)(4), that 865 trips allocated for the period March 1, 2007, have been taken, in total, by all general category scallop vessels, unless transiting pursuant to paragraph (f) of this section. The Regional Administrator shall notify all general category scallop vessels of the date when the maximum number of allowed trips have been, or are projected to be, taken from March 1, 2007.

(f) *Transiting.* A sea scallop vessel that has not declared a trip into the Sea Scallop Area Access Program may enter the Sea Scallop Access Areas described in paragraphs (a), (b), (d), and (e), of this section, and possess scallops not caught in the Sea Scallop Access Areas, for transiting purposes only, provided the vessel's fishing gear is stowed in accordance with § 648.23(b). A scallop vessel that has declared a trip into the Sea Scallop Area Access Program may transit a Scallop Access Area while steaming to or from another Scallop Access Area, provided the vessel's fishing gear is stowed in accordance with § 648.23(b), or there is a compelling safety reason to be in such areas without such gear being stowed. A vessel may only transit the Closed Area II Access Area, as described in paragraph (c) of this section, if there is a compelling safety reason for

transiting the area and the vessel's fishing gear is stowed in accordance with § 648.23(b).

[71 FR 33228, June 8, 2006]

EFFECTIVE DATE NOTE: At 71 FR 76948, Dec. 22, 2006, § 648.59 was amended by suspending paragraphs (e)(1) and (e)(4), and by adding paragraphs (e)(5) and (e)(6), effective Dec. 22, 2006, through June 20, 2007. At 72 FR 29889, May 30, 2007, the effective date was extended through Dec. 23, 2007.

§ 648.60 Sea scallop area access program requirements.

(a) A vessel issued a limited access scallop permit may only fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, when fishing under a scallop DAS, provided the vessel complies with the requirements specified in paragraphs (a)(1) through (a)(9), and (b) through (f) of this section. A general category scallop vessel may fish in the Sea Scallop Access Areas specified in § 648.59, subject to the seasonal restrictions specified in § 648.59, provided the vessel complies with the requirements specified in paragraphs (g) of this section.

(1) *VMS.* Each vessel participating in the Sea Scallop Access Area Program must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10, and paragraph (e) of this section.

(2) Vessels participating in the Sea Scallop Access Area Program must comply with the trip declaration requirements specified in § 648.10(b)(4) and vessel notification requirements specified in § 648.11(g) for observer deployment.

(3) *Number of Sea Scallop Access Area trips.*—(i) *Limited Access Vessel trips.* (A) Except as provided in paragraph (c) of this section, and unless the number of trips is adjusted for the Elephant Trunk Access Area as specified in paragraph (a)(3)(i)(F) of this section, paragraphs (a)(3)(i)(B) through (E) specify the total number of trips that a limited access scallop vessel may take into Sea Scallop Access Areas during applicable seasons specified in § 648.59. The number of trips per vessel in any one Sea Scallop Access Area may not exceed

the maximum number of trips allocated for such Sea Scallop Access Area as specified in § 648.59, unless the vessel owner has exchanged a trip with another vessel owner for an additional Sea Scallop Access Area trip, as specified in paragraph (a)(3)(ii) of this section, been allocated a compensation trip pursuant to paragraph (c) of this section, or unless the Elephant Trunk Access Area trip allocations are adjusted as specified in § 648.60(a)(3)(i)(F).

(B) *Full-time scallop vessels.* In the 2006 fishing year, a full-time scallop vessel may take three trips in the Closed Area II Access Area, and two trips in the Nantucket Lightship Access Area. In the 2007 fishing year, a full-time scallop vessel may take one trip in the Closed Area I Access Area, one trip in the Nantucket Lightship Access Area, and five trips in the Elephant Trunk Access Area, unless adjusted as specified in paragraph (a)(3)(i)(F) of this section.

(C) *Part-time scallop vessels.* In the 2006 fishing year, a part-time scallop vessel may take one trip in the Closed Area II Access Area and one trip in the Nantucket Lightship Access Area; or two trips in the Closed Area II Access Area; or two trips in the Nantucket Lightship Access Area. In the 2007 fishing year, a part-time scallop vessel may take one trip in the Closed Area I Access Area, one trip in the Nantucket Lightship Access Area, and one trip in the Elephant Trunk Access Area; or one trip in the Closed Area I Access Area and two trips in the Elephant Trunk Access Area; or one trip in the Nantucket Lightship Access Area and two trips in the Elephant Trunk Access Area; or three trips in the Elephant Trunk Access Area, unless adjusted as specified in paragraph (a)(3)(i)(F) of this section.

(D) *Occasional scallop vessels.* An occasional scallop vessel may take one trip in the 2006 fishing year and one trip in the 2007 fishing year into any of the Access Areas described in § 648.59 that is open during the specified fishing years.

(E) *Hudson Canyon Access Area trips.* In addition to the number of trips specified in paragraphs (a)(3)(i)(B) through (C) of this section, vessels may fish remaining Hudson Canyon Access Area

trips allocated for the 2005 fishing year in the Hudson Canyon Access Area in the 2006 and/or 2007 fishing year, as specified in § 648.59(a)(3). The maximum number of trips that a vessel could take in the Hudson Canyon Access Area in the 2005 fishing year was three trips, unless a vessel acquired additional trips through an authorized one-for-one exchange as specified in paragraph (a)(3)(ii) of this section. Full-time scallop vessels were allocated three trips into the Hudson Canyon Access Area. Part-time vessels were allocated two trips that could be distributed among Closed Area I, Closed Area II, and the Hudson Canyon Access Areas, not to exceed one trip in the Closed Area I or Closed Area II Access Areas. Occasional vessels were allocated one trip that could be taken in any Access Area that was open in the 2005 fishing year.

(F) *Procedure for adjusting the number of 2007 fishing year trips in the Elephant Trunk Access Area.* (1) The Regional Administrator shall reduce the number of Elephant Trunk Access Area trips using the table in paragraph (a)(3)(i)(F)(2) of this section, provided that an updated biomass projection is available with sufficient time to announce such an adjustment through publication of a final rule in the FEDERAL REGISTER, pursuant to the Administrative Procedure Act, on or about December 1, 2006. If information is not available in time for NMFS to publish a final rule on or about December 1, 2006, no adjustment may be made. The adjustment of the 2007 Elephant Trunk Access Area trip allocations shall be based on all available scientific surveys of scallops within the Elephant Trunk Access Area. Survey data must be available with sufficient time for review and incorporation in the biomass estimate. If NMFS determines that a survey is not scientifically sound and unbiased, those results shall not be used to estimate biomass. If no other surveys are available, the annual NOAA scallop resource survey shall be used alone to estimate exploitable scallop biomass for the Elephant Trunk Access Area.

(2) *Table of total allowable catch and trip allocation adjustments based on exploitable biomass estimates and revised*

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target total allowable catch levels. The following table specifies the adjustments that would be made through the procedure specified in paragraph

(a)(3)(i)(F)(I) of this section under various biomass estimates and adjusted 2007 target total allowable catch (TAC) estimates:

UPDATED ESTIMATES OF ELEPHANT TRUNK ACCESS AREA BIOMASS
[In metric tons (mt) and millions of pounds (mlb)]

	Below 22,920 mt (50.5 mlb)	22,920–28,650 mt (50.5–63.1 mlb)	28,651–34,380 mt (63.2–75.7 mlb)	Above 34,381 mt (75.8 mlb)
Adjusted 2007 Target Total Allowable Catch	5,234 mt (11.5 mlb)	7,851 mt (17.3 mlb)	10,468 mt (23.08 mlb)	13,085 mt (28.8 mlb)
Adjusted 2007 TAC for Research and General Category Fishery.	103 mt	157 mt	209 mt	262 mt
Adjusted 2007 Observer TAC	0.228 mlb	0.346 mlb	0.461 mlb	0.578 mlb
Maximum Number of Limited Access Trips per Vessel	52 mt	78 mt	105 mt	131 mt
General Category Trips	0.114 mlb	0.173 mlb	0.231 mlb	0.289 mlb
	2	3	4	No adjustment
	570	865	1,154	No adjustment

(ii) *One-for-one area access trip exchanges.* (A) If the total number of trips allocated to a vessel into all Sea Scallop Access Areas combined is more than one, the owner of a vessel issued a limited access scallop permit may exchange, on a one-for-one basis, unutilized trips into one access area for another vessel's unutilized trips into another Sea Scallop Access Area. One-for-one exchanges may be made only between vessels with the same permit category. For example, a full-time vessel may not exchange trips with a part-time vessel and vice versa. Vessel owners must request the exchange of trips by submitting a completed Trip Exchange Form at least 15 days before the date on which the applicant desires the exchange to be effective. Trip exchange forms are available by request from the Regional Administrator. Each vessel owner involved in an exchange is required to submit a completed Trip Exchange Form. The Regional Administrator shall review the records for each vessel to confirm that each vessel has unutilized trips remaining to exchange. The exchange is not effective until the vessel owner(s) receive a confirmation in writing from the Regional Administrator that the trip exchange has been made effective. A vessel owner may exchange trips between two or more vessels under his/her ownership. A vessel owner holding a Confirmation of Permit History is not eligible to exchange trips between another vessel and the

vessel for which a Confirmation of Permit History has been issued.

(B) The owner of a vessel issued a limited access scallop permit may exchange, on a one-for-one basis, unutilized Closed Area I and Nantucket Lightship Access Area trips allocated for the 2006 fishing year as specified in paragraph (a)(3)(i) of this section for Elephant Trunk Access Area trips allocated for the 2007 fishing year as specified in paragraph (a)(3)(i) of this section. If Elephant Trunk Access Area allocations are reduced as specified in paragraph (a)(3)(i)(F) of this section, vessels that have exchanged 2006 Closed Area I and/or Nantucket Lightship Access Area trips for 2007 Elephant Trunk Access Area trips shall have excess Elephant Trunk Access Area trips acquired through the exchange deducted from their available 2007 Elephant Trunk Access Area trip allocation.

(C) Limited access scallop vessels involved in an exchange of Closed Area II and/or Nantucket Lightship Closed Area Access Area trips for the 2006 fishing year, and Elephant Trunk Access Area trips for the 2007 fishing year shall be subject to a reduction of the vessels' allocated trips so that the total number of allocated Elephant Trunk Access Area trips between two vessels that were involved in such an exchange shall be six for full-time vessels and four for part-time vessels in the 2007 fishing year. Reductions will be applied equally to both vessels' resulting Elephant Trunk Access Area allocation for the 2007 fishing year after

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the exchange is taken into account, unless the vessel giving Elephant Trunk Access Area trips to another vessel has one or zero Elephant Trunk Access Area trips remaining after the exchange. In such a case, the vessel that received the Elephant Trunk Access Area trips will be subject to a reduction of up to four Elephant Trunk Access Area trips.

(iii) *Limited Access Vessel trips.* (A) Except as provided in paragraph (c) of this section, paragraphs (a)(3)(i)(B) through (E) specify the total number of trips that a limited access scallop vessel may take into Sea Scallop Access Areas during applicable seasons specified in §648.59. The number of trips per vessel in any one Sea Scallop Access Area may not exceed the maximum number of trips allocated for such Sea Scallop Access Area as specified in §648.59, unless the vessel owner has exchanged a trip with another vessel owner for an additional Sea Scallop Access Area trip, as specified in paragraph (a)(3)(ii) of this section, has been allocated a compensation trip pursuant to paragraph (c) of this section.

(B) *Full-time scallop vessels.* In the 2007 fishing year, a full-time scallop vessel may take one trip in the Closed Area I Access Area, one trip in the Nantucket Lightship Access Area, and three trips in the Elephant Trunk Access Area.

(C) *Part-time scallop vessels.* In the 2007 fishing year, a part-time scallop vessel may take one trip in the Closed Area I Access Area and one trip in the Nantucket Lightship Access Area; or one trip in the Closed Area I Access Area and one trip in the Elephant Trunk Access Area; or one trip in the Nantucket Lightship Access Area and one trip in the Elephant Trunk Access Area; or two trips in the Elephant Trunk Access Area.

(D) *Occasional scallop vessels.* An occasional scallop vessel may take one trip in the 2007 fishing year into any of the Access Areas described in §648.59 that is open during the specified fishing years.

(4) *Area fished.* While on a Sea Scallop Access Area trip, a vessel may not fish for, possess, or land scallops in or from areas outside the Sea Scallop Access Area in which the vessel operator has declared the vessel will fish during that trip, and may not enter or exit the specific declared Sea Scallop Access Area more than once per trip. A vessel on a Sea Scallop Access Area trip may not enter or be in another Sea Scallop Access Area on the same trip except such vessel may transit another Sea Scallop Access Area provided its gear is stowed in accordance with §648.23(b).

(i) *Reallocation of trips into open areas.* If the yellowtail flounder TAC allocated for a Scallop Access Area specified in §648.59(b) through (d) has been harvested and such area has been closed, a vessel with trips remaining to be taken in such Access Areas may fish the remaining DAS associated with the unused trip(s) in Open Areas, up to the maximum DAS specified in §648.53(b)(4)(i) through (iii).

(ii) [Reserved]

(5) *Possession and landing limits—(i) Scallop possession limits.* Unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of this section, after declaring a trip into a Sea Scallop Access Area, a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, scallops, up to the maximum amounts specified in the table in this paragraph (a)(5). No vessel fishing in the Sea Scallop Access Area may possess shoreward of the VMS demarcation line, or land, more than 50 bu (17.6 hl) of in-shell scallops.

Fishing year	Access area	Possession limit		
		Full-time	Part-time	Occasional
2006	Closed Area II Nantucket Lightship	18,000 lb (8,165 kg)	18,000 lb (8,165 kg)	7,500 lb (3,402 kg)
2007	Closed Area I Nantucket Lightship Elephant Trunk	18,000 lb (8,165 kg)	16,800 lb (7,620 kg)	7,500 lb (3,402 kg)

Fishing year	Access area	Possession limit		
		Full-time	Part-time	Occa-sional
2006 and 2007	Hudson Can-yon	18,000 lb (8,165 kg)	18,000 lb (8,165 kg)	7,500 lb (3,402 kg)

(ii) *NE multispecies possession limits and yellowtail flounder TAC.* Subject to the seasonal restriction established under the Sea Scallop Area Access Program and specified in §648.59(b)(4), (c)(4), and (d)(4), and provided the vessel has been issued a scallop multispecies possession limit permit as specified in §648.4(a)(1)(ii), after declaring a trip into a Sea Scallop Access Area and fishing within the Access Areas described in §648.59(b) through (d), a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, up to a maximum of 1,000 lb (453.6 kg) of all NE multispecies combined, subject to the minimum commercial fish size restrictions specified in §648.83(a)(2), and the additional restrictions for Atlantic cod, haddock, and yellowtail flounder specified in paragraphs (a)(5)(ii)(A) through (C) of this section.

(A) *Atlantic cod.* Such vessel may bring onboard and possess only up to 100 lb (45.4 kg) of Atlantic cod per trip, provided such fish is intended for personal use only and cannot be not sold, traded, or bartered.

(B) *Haddock.* Such vessels may possess and land haddock up to the overall possession limit of all NE multispecies combined, as specified in paragraph (a)(5)(ii) of this section, except that such vessels are prohibited from possessing or landing haddock from January 1 through June 30.

(C) *Yellowtail flounder—(1) Yellowtail flounder TACs.* Such vessel may catch yellowtail flounder provided the Regional Administrator has not issued a notice that the scallop fishery portion of the TACs specified in §648.85(c) for the Closed Area I, Closed Area II, and Nantucket Lightship Access Scallop Areas have been harvested. The Regional Administrator shall publish notification in the FEDERAL REGISTER, in accordance with the Administrative Procedure Act, to notify scallop vessel owners that the scallop fishery portion

of the TAC for a yellowtail flounder stock has been or is projected to be harvested by scallop vessels in any Access Area. Upon notification in the FEDERAL REGISTER that a TAC has been or is projected to be harvested, scallop vessels are prohibited from declaring and initiating a trip within the Access Area(s), where the TAC applies, for the remainder of the fishing year. The yellowtail flounder TACs allocated to scallop vessels may be increased by the Regional Administrator after December 1 of each year pursuant to §648.85(c)(2).

(2) *SNE/MA yellowtail flounder possession limit.* Such vessels fishing within the Nantucket Lightship Access Area described in §648.59(d) may fish for, possess, and land yellowtail flounder up to the overall possession limit of all NE multispecies combined, as specified in paragraph (a)(5)(ii) of this section, except that such vessels may not fish for, possess, or land more than 250 lb (113.6 kg) per trip of yellowtail flounder between June 15 and June 30, provided the Regional Administrator has not issued a notice that the scallop fishery portion of the yellowtail flounder TAC as specified in §648.85(c)(i) has been harvested.

(3) *GB yellowtail flounder possession limit.* After declaring a trip into and fishing within the Closed Area I or Closed Area II Access Area described in §648.59(b) and (c), the vessel owner or operator of a limited access scallop vessel may fish for, possess, and land up to 1,000 lb (453.6 kg) per trip of yellowtail flounder subject to the amount of other NE multispecies onboard, provided that the Regional Administrator has not issued a notice that the yellowtail flounder TAC specified in §648.85(c) has been harvested. If the yellowtail flounder TAC established for the Eastern U.S./Canada Area pursuant to §648.85(a)(2) has been or is projected to be harvested, as described in §648.85(a)(3)(iv)(C)(3), scallop

vessels are prohibited from harvesting, possessing, or landing yellowtail flounder in or from the Closed Area I and Closed Area II Access Areas.

(iii) *NE multispecies possession limits and yellowtail flounder TAC.* Subject to the seasonal restriction established under the Sea Scallop Area Access Program and specified in § 648.59(b)(4), (c)(4), and (d)(4), and provided the vessel has been issued a scallop multispecies possession limit permit as specified in § 648.4(a)(1)(ii), after declaring a trip into a Sea Scallop Access Area and fishing within the Access Areas described in § 648.59(b) through (d), a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, up to a maximum of 1,000 lb (453.6 kg) of all NE multispecies combined, subject to the minimum commercial fish size restrictions specified in § 648.83(a)(3), and the additional restrictions for Atlantic cod, haddock, and yellowtail flounder specified in paragraphs (a)(5)(iii)(A) through (C) of this section.

(iv) *Scallop possession limits.* Unless authorized by the Regional Administrator, as specified in paragraphs (c) and (d) of this section, after declaring a trip into a Sea Scallop Access Area, a vessel owner or operator of a limited access scallop vessel may fish for, possess, and land, per trip, scallops, up to the maximum amounts specified in paragraphs (a)(5)(i)(A) and (B) of this section. No vessel declared into the Elephant Trunk Access Area as described in § 648.59(e) may possess more than 50 bu (17.62 hL) of in-shell scallops outside of the Elephant Trunk Access Area described in § 648.59(e).

(A) Up to 18,000 lb (8,165 kg) shucked scallops for full-time and part-time scallop vessels.

(B) Up to 7,500 lb (3,402 kg) shucked scallop for occasional scallop vessels.

(6) *Gear restrictions.* (i) The minimum ring size for dredge gear used by a vessel fishing on a Sea Scallop Access Area trip is 4 inches (10.2 cm) in diameter. Dredge or trawl gear used by a vessel fishing on a Sea Scallop Access Area trip must be in accordance with the restrictions specified in § 648.51(a) and (b).

(ii) Vessels fishing in the Closed Area I, Closed Area II, and Nantucket

Lightship Closed Area Sea Scallop Access Areas described in § 648.59(b) through (d) are prohibited from fishing with trawl gear as specified in § 648.51(f)(1).

(7) *Transiting.* While outside a Sea Scallop Access Area on a Sea Scallop Access Area trip, the vessel must have all fishing gear stowed in accordance with § 648.23(b), unless there is a compelling safety reason to be transiting the area without gear stowed.

(8) *Off-loading restrictions.* The vessel may not offload its catch from a Sea Scallop Access Area trip at more than one location per trip.

(9) *Reporting.* The owner or operator must submit reports through the VMS, in accordance with instructions to be provided by the Regional Administrator, for each day fished when declared in the Sea Scallop Area Access Program, including trips accompanied by a NMFS-approved observer. The reports must be submitted in 24-hour intervals, for each day beginning at 0000 hours and ending at 2400 hours. The reports must be submitted by 0900 hours of the following day and must include the following information:

(i) Total pounds of scallop meats kept, total number of tows, and the Fishing Vessel Trip Report log page number.

(ii) Total pounds of yellowtail flounder kept and total pounds of yellowtail flounder discarded.

(b) [Reserved]

(c) *Compensation for Sea Scallop Access Area trips terminated early.* If a Sea Scallop Access Area trip is terminated before catching the allowed possession limit, the vessel may be authorized to fish an additional trip in the same Sea Scallop Access Area based on the following conditions and requirements.

(1) The vessel owner/operator has determined that the Sea Scallop Access Area trip should be terminated early for reasons deemed appropriate by the operator of the vessel;

(2) The amount of scallops landed by the vessel for the trip must be less than the maximum possession limit specified in paragraph (a)(5) of this section;

(3) The vessel owner/operator must report the termination of the trip prior to leaving the Sea Scallop Access Area

by VMS email messaging, with the following information: Vessel name, vessel owner, vessel operator, time of trip termination, reason for terminating the trip (for NMFS recordkeeping purposes), expected date and time of return to port, and amount of scallops on board in pounds;

(4) The vessel owners/operator must request that the Regional Administrator authorize an additional trip as compensation for the terminated trip by submitting a written request to the Regional Administrator within 30 days of the vessel's return to port from the terminated trip; and

(5) The Regional Administrator shall authorize the vessel to take an additional trip and shall specify the amount of scallops that the vessel may land on such trip pursuant to the calculation specified in paragraph (c)(5)(i) of this section. Such authorization shall be made within 10 days of receipt of the formal written request for compensation.

(i) The amount of scallops that can be landed on an authorized additional compensation Sea Scallop Access Area trip shall equal the possession limit specified in paragraph (a)(5) of this section minus the amount of scallops landed on the terminated trip. For example, if the possession limit for a full-time vessel is 18,000 lb (8,165 kg) per trip, and the vessel lands 6,500 lb (2,948.4 kg) of scallops and requests compensation for the terminated trip, the possession limit for the additional trip is 11,500 lb (5,216.3 kg) or 18,000 lb (8,165 kg) minus 6,500 lb (2,948.4 kg)).

(ii) If a vessel is authorized more than one additional compensation trip into any Sea Scallop Access Area as the result of more than one terminated trip in the same Access Area, the possession limits for the authorized trips may be combined, provided the total possession limit on a combined additional compensation trip does not exceed the possession limit for a trip as specified in paragraph (a)(5) of this section. For example, a vessel that has two broken trips with corresponding additional compensation trip authorizations of 10,000 lb (4,536 kg) and 8,000 lb (3,629 kg) may combine the authorizations to allow one compensation trip

with a possession limit of 18,000 lb (8,165 kg).

(iii) A vessel operator must comply with all notification requirements prior to taking an additional compensation trip, and for each such trip, must enter a trip identification number by entering the number in the VMS for each such trip. The trip identification number will be included in the Regional Administrator's authorization for each additional compensation trip. If a vessel operator is combining additional compensation trips, the trip identification numbers from each authorization must be entered into VMS.

(iv) *Unutilized 2005 Hudson Canyon compensation trips.* A vessel that terminated a 2005 Hudson Canyon Access Area trip shall be issued authorization to take an additional trip as compensation for the trip terminated early pursuant to paragraph (c)(5) of this section. Such additional trips may be taken at any time during the 2006 or 2007 fishing years, as specified in § 648.59(a)(3).

(v) *Additional compensation trip carry-over.* If an Access Area trip conducted during the last 60 days of the open period or season for the Access Area is terminated before catching the allowed possession limit, and the requirements of paragraph (c) of this section are met, the vessel operator shall be authorized to fish an additional trip as compensation for the terminated trip in the following fishing year. The vessel owner/operator must take such additional compensation trips, complying with the trip notification procedures specified in paragraph (a)(2)(iii) of this section, within the first 60 days of that fishing year the Access Area first opens in the subsequent fishing year. For example, a vessel that terminates a Nantucket Lightship Access Area trip on December 10, 2006, must declare that it is beginning its additional compensation trip during the first 60 days that the Access Area is open (June 15, 2007, through August 15, 2007). If an Access Area is not open in the subsequent fishing year, then the additional compensation trip authorization would expire at the end of the Access Area Season in which the trip was broken. For example, a vessel that terminates a Closed Area II trip on December 10,

2006, may not carry its additional compensation trip into the 2007 fishing year because Closed Area II is not open during the 2007 fishing year, and must complete any compensation trip by January 31, 2007.

(d) *Possession limit to defray costs of observers*—(1) *Observer set-aside limits by area*—(i) *Hudson Canyon Access Area*. For 2006 and 2007 combined, the observer set-aside for the Hudson Canyon Access Area is 149,562 lb (67.8 mt).

(ii) *Closed Area I Access Area*. For the 2007 fishing year, the observer set-aside for the Closed Area I Access Area is 43,207 lb (20 mt).

(iii) *Closed Area II Access Area*. For the 2006 fishing year, the observer set-aside for the Closed Area II Access Area is 173,085 lb (79 mt).

(iv) *Nantucket Lightship Access Area*. For the 2006 and 2007 fishing years, the observer set-asides for the Nantucket Lightship Access Area are 115,390 lb (52 mt) and 78,727 lb (36 mt), respectively.

(v) *Elephant Trunk Access Area*. From January 1, 2007, through February 29, 2008, the observer set-aside for the Elephant Trunk Access Area is 272,000 lb (123 mt), unless adjusted as specified in paragraph (a)(3)(i)(F) of this section.

(vi) *Elephant Trunk Access Area*. From March 1, 2007, the observer set-aside for the Elephant Trunk Access Area is 173,100 lb (78.5 mt).

(2) *Increase in the possession limit to defray the costs of observers*. The Regional Administrator may increase the sea scallop possession limit specified in paragraph (a)(5) of this section to defray costs of at-sea observers deployed on area access trips subject to the limits specified in paragraph (d)(1) of this section. An owner of a scallop vessel shall be notified of the increase in the possession limit through a permit holder letter issued by the Regional Administrator. If the observer set-aside is fully utilized prior to the end of the fishing year, the Regional Administrator shall notify owners of scallop vessels that, effective on a specified date, the increase in the possession limit is no longer available to offset the cost of observers. Unless otherwise notified by the Regional Administrator, vessel owners shall be responsible for paying the cost of the observer, 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.

(e) *Possession limits and/or number of trips to defray the costs of sea scallop research*—(1) *Research set-aside limits and number of trips by area*—(i) *Hudson Canyon Access Area*. For the 2006 and 2007 fishing years combined, the research set-aside for the Hudson Canyon Access Area is 299,123 (135.7 mt).

(ii) *Closed Area I Access Area*. For the 2007 fishing year, the research set-aside for the Closed Area I Access Area is 84,414 lb (38 mt).

(iii) *Closed Area II Access Area*. For the 2006 fishing year, the research set-aside for the Closed Area II Access Area is 346,170 lb (157 mt).

(iv) *Nantucket Lightship Access Area*. For the 2006 and 2007 fishing years, the research set-asides for the Nantucket Lightship Access Area are 230,780 lb (105 mt) and 157,454 lb (71 mt), respectively.

(v) *Elephant Trunk Access Area*. From January 1, 2007, through February 29, 2008, the research set-aside for the Elephant Trunk Access Area is 544,000 lb (247 mt), unless adjusted as specified in (a)(3)(i)(E) of this section.

(vi) *Elephant Trunk Access Area*. From March 1, 2007, the research set-aside for the Elephant Trunk Access Area is 346,200 lb (157 mt).

(2) *Increase of possession limit to defray the costs of sea scallop research*. The Regional Administrator may increase the sea scallop possession limit specified in paragraph (a)(5) of this section or allow additional trips into a Sea Scallop Access Area to defray costs for approved sea scallop research up to the amount specified in paragraph (e)(1) of this section.

(3) *Yellowtail flounder research TAC set-aside*. Vessels conducting research approved under the process described in § 648.56, and in the Access Areas specified in § 648.59(b) through (d) may harvest cumulative yellowtail flounder up to a total amount that equals 0.2 percent of the yellowtail flounder TACs established annually, according to the specification procedure described in § 648.85(a)(2), and subject to the possession limits specified in paragraph

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(a)(5)(ii)(C) of this section. Once 0.2 percent of the yellowtail flounder TACs established according to the specification procedure described in § 648.85(a)(2) has been harvested by research vessels, research may no longer be authorized in the applicable Access Area.

(f) *VMS polling*. For the duration of the Sea Scallop Area Access Program, as described in this section, all sea scallop vessels equipped with a VMS unit shall be polled at a minimum of twice per hour, regardless of whether the vessel is enrolled in the Sea Scallop Area Access Program. Vessel owners shall be responsible for paying the costs of polling twice per hour.

(g) *General category scallop vessels*. (1) A vessel issued a general category scallop permit, except a vessel issued a NE Multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS that has not enrolled in the general category Access Area fishery, may only fish in the Closed Area I, Closed Area II, and Nantucket Lightship Sea Scallop Access Areas specified in § 648.59(b) through (d), subject to the seasonal restrictions specified in § 648.59(b)(4), (c)(4), and (d)(4), and subject to the possession limit specified in § 648.52(a), and provided the vessel complies with the requirements specified in paragraphs (a)(1), (a)(2), (a)(6) through (a)(9), (d), (e), (f), and (g) of this section, and § 648.85(c)(3)(ii). A vessel issued a NE Multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS that has not enrolled in the Sea Scallop Area Access program as specified in paragraph (a)(2) of this section is not subject to the restrictions and requirements specified in § 648.59(b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and this paragraph (g), and is prohibited from retaining scallops on such trips.

(2) *Gear restrictions*. A general category vessel authorized to fish in the Access Areas specified in § 648.59(b) through (d) must fish with dredge gear only. The combined dredge width in use by, or in possession on board, general category scallop vessels fishing in the Access Areas described in § 648.59(b) through (d) may not exceed 10.5 ft (3.2

m), measured at the widest point in the bail of the dredge.

(3) *Scallop TAC*. A general category vessel authorized to fish in the Access Areas specified in § 648.59(b) through (d) may land scallops, subject to the possession limit specified in § 648.52(a), unless the Regional Administrator has issued a notice that the scallop TAC in the Access Area has been or is projected to be harvested. Upon a determination from the Regional Administrator that the scallop TAC for a specified Access Area, as specified in this paragraph (g)(3), has been, or is projected to be harvested, the Regional Administrator shall publish notification of this determination in the FEDERAL REGISTER, in accordance with the Administrative Procedure Act.

(i) *Closed Area I Access Area*. 86,414 (38 mt) in 2007.

(ii) *Closed Area II Access Area*. 346,170 (157 mt) in 2006.

(iii) *Nantucket Lightship Access Area*. 230,780 lb (105 mt) in 2006, and 157,454 lb (71 mt) in 2007.

(iv) *Elephant Trunk Access Area*. 544,000 lb (247 mt) from January 1, 2007, through February 29, 2008, unless adjusted as specified in paragraph (a)(3)(i)(E) of this section.

(v) *Possession Limits—(A) Scallops*. A vessel issued a NE Multispecies permit and a general category scallop permit that is fishing in an approved SAP under § 648.85 under multispecies DAS that has not enrolled in the general category Access Area fishery is prohibited from possessing scallops. A general category scallop vessel authorized to fish in the Access Areas specified in § 648.59(b) through (e) may possess scallops up to the possession limit specified in § 648.52(b), subject to a limit on the total number of trips that can be taken by all such vessels into the Access Areas, as specified in § 648.59(b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and (e)(4)(ii). Upon a determination by the Regional Administrator that the total number of trips allowed for general category vessels have been or are projected to be taken, the Regional Administrator shall publish notification of this determination in the FEDERAL

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REGISTER, in accordance with the Administrative Procedure Act, and general category vessels may no longer fish within the specified Access Area.

(B) *Other species.* Except for vessels issued a general category scallop permit and fishing under an approved NE multispecies SAP under NE multispecies DAS, general category vessels fishing in the Access Areas specified in § 648.59(b) through (d) are prohibited from possessing any species of fish other than scallops.

(vi) *Elephant Trunk Access Area.* 346,000 lb (157 mt) in 2007.

(4) *Number of trips.* A general category scallop vessel may not fish for, possess, or land scallops in or from the Access Areas specified in § 648.59(b) through (e) after the effective date of the notification published in the FEDERAL REGISTER, stating that the total number of trips specified in § 648.59(b)(5)(ii), (c)(5)(ii), (d)(5)(ii), and (e)(4)(ii) have been, or are projected to be, taken by general category scallop vessels.

[71 FR 33231, June 8, 2006, as amended at 72 FR 32559, June 13, 2007]

EFFECTIVE DATE NOTES: 1. At 71 FR 76949, Dec. 22, 2006, § 648.60 was amended by suspending paragraphs (a)(3)(i), (a)(3)(ii)(B), (a)(5)(i), (d)(1)(v), (e)(1)(v), and (g)(3)(iv), and by adding paragraphs (a)(3)(ii)(C), (a)(3)(iii), (a)(5)(iv), (d)(1)(vi), (e)(1)(vi), and (g)(3)(vi), effective Dec. 22, 2006, through June 20, 2007. At 72 FR 29889, May 30, 2007, the effective date was extended through Dec. 23, 2007.

2. At 72 FR 44980, Aug. 10, 2007, § 648.60 was amended by suspending the introductory text to paragraph (a)(5)(ii) and adding paragraph (a)(5)(iii), effective Aug. 10, 2007, through Feb. 6, 2008.

§ 648.61 EFH closed areas.

Notwithstanding any other provision of this part, the following areas identified in paragraphs (a) through (e) of this section are closed to scallop fishing to protect EFH from adverse effects of scallop fishing (copies of charts depicting these areas are available from the Regional Administrator upon request):

(a) *Closed Area I EFH Closure.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Closed Area I EFH Closure. No vessel may possess scallops in the Closed Area I EFH Closure, unless such vessel is only transiting the area as

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provided in paragraph (e) of this section. The Closed Area I EFH Closure consists of two sections, defined by straight lines connecting the points in the order stated in the following table:

SECTION 1

Point	Latitude	Longitude
CAIE1	41°30' N.	69°23' W.
CAIE2	41°30' N.	68°35' W.
CAIE3	41°08' N.	69°4.2' W.
CAIE4	41°30' N.	69°23' W.

SECTION 2

Point	Latitude	Longitude
CAIE5	41°04.5' N.	69°1.2' W.
CAIE6	41°09' N.	68°30' W.
CAIE7	40°45' N.	68°30' W.
CAIE8	40°45' N.	68°45' W.
CAIE5	41°04.5' N.	69°1.2' W.

(b) *Closed Area II EFH Closure.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Closed Area II EFH Closure. No vessel may possess scallops in the Closed Area II EFH Closure, unless such vessel is only transiting the area as provided in paragraph (e) of this section. The Closed Area II EFH Closure is defined by straight lines connecting the points in the order stated in the following table:

Point	Latitude	Longitude
CAIIE1	42°22' N.	67°20' W. ¹
CAIIE2	41°30' N.	66°34.8' W. ¹
CAIIE3	41°30' N.	67°20' W.
CAIIE1	42°22' N.	67°20' W. ¹

¹ The U.S./Canada Maritime Boundary

(c) *Nantucket Lightship Closed Area EFH Closure.* No vessel may fish for scallops in, or possess or land scallops from, the area known as the Nantucket Lightship Closed Area EFH Closure. No vessel may possess scallops in the Nantucket Lightship Closed Area EFH Closure, unless such vessel is only transiting the area as provided in paragraph (e) of this section. The Nantucket Lightship Closed Area EFH Closure is defined by straight lines connecting the points in the order stated in the following table: