

§ 648.55 Framework specifications.

(a) Annually, upon request from the NEFMC, but at a minimum in the years 1996 and 1999, the Regional Administrator will provide the NEFMC with information on the status of the scallop resource.

(b) Within 60 days of receipt of that information, the NEFMC PDT shall assess the condition of the scallop resource to determine the adequacy of the total allowable DAS reduction schedule, described in §648.53(b), to achieve the target fishing mortality rate. In addition, the PDT shall make a determination whether other resource conservation issues exist that require a management response in order to meet the goals and objectives outlined in the Scallop FMP. The PDT shall report its findings and recommendations to the NEFMC. In its report to the NEFMC, the PDT shall provide the appropriate rationale and economic and biological analysis for its recommendation, utilizing the most current catch, effort, and other relevant data from the fishery.

(c) After receiving the PDT findings and recommendations, the NEFMC shall determine whether adjustments to, or additional management measures are necessary to meet the goals and objectives of the Scallop FMP. After considering the PDT's findings and recommendations, or at any other time, if the NEFMC determines that adjustments to, or additional management measures are necessary, it shall develop and analyze appropriate management actions over the span of at least two NEFMC meetings. The NEFMC shall provide the public with advance notice of the availability of both the proposals and the analyses, and opportunity to comment on them prior to and at the second NEFMC meeting. The NEFMC's recommendation on adjustments or additions to management measures must come from one or more of the following categories:

- (1) DAS changes.
- (2) Shell height.
- (3) Offloading window reinstatement.
- (4) Effort monitoring.
- (5) Data reporting.
- (6) Trip limits.
- (7) Gear restrictions.

(8) Permitting restrictions.

(9) Crew limits.

(10) Small mesh line.

(11) Onboard observers.

(12) Any other management measures currently included in the FMP.

(d) The Council may make recommendations to the Regional Administrator to implement measures in accordance with the procedures described in this subpart to address gear conflict as defined under 50 CFR 600.10. In developing such recommendation, the Council shall define gear management areas, each not to exceed 2700 mi² (5000.4 km²), and seek industry comments by referring the matter to its standing industry advisory committee for gear conflict, or to any ad hoc industry advisory committee that may be formed. The standing industry advisory committee or ad hoc committee on gear conflict shall hold public meetings seeking comments from affected fishers and develop findings and recommendations on addressing the gear conflict. After receiving the industry advisory committee findings and recommendations, or at any other time, the Council shall determine whether it is necessary to adjust or add management measures to address gear conflicts and which FMPs must be modified to address such conflicts. If the Council determines that adjustments or additional measures are necessary, it shall develop and analyze appropriate management actions for the relevant FMPs over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of the recommendation, the appropriate justification and economic and biological analyses, and opportunity to comment on them prior to and at the second or final Council meeting before submission to the Regional Administrator. The Council's recommendation on adjustments or additions to management measures for gear conflicts must come from one or more of the following categories:

- (1) Monitoring of a radio channel by fishing vessels.
- (2) Fixed gear location reporting and plotting requirements.
- (3) Standards of operation when gear conflict occurs.

(4) Fixed gear marking and setting practices.

(5) Gear restrictions for specific areas (including time and area closures).

(6) Vessel monitoring systems.

(7) Restrictions on the maximum number of fishing vessels or amount of gear.

(8) Special permitting conditions.

(e) The measures shall be evaluated and approved by the relevant committees with oversight authority for the affected FMPs. If there is disagreement between committees, the Council may return the proposed framework adjustment to the standing or ad hoc gear conflict committee for further review and discussion.

(f) After developing management actions and receiving public testimony, the NEFMC shall make a recommendation to the Regional Administrator. The NEFMC's recommendation must include supporting rationale and, if management measures are recommended, an analysis of impacts and a recommendation to the Regional Administrator on whether to publish the management measures as a final rule. If the NEFMC recommends that the management measures should be published as a final rule, the NEFMC must consider at least the following factors and provide support and analysis for each factor considered:

(1) Whether the availability of data on which the recommended management measures are based allows for adequate time to publish a proposed rule, and whether regulations have to be in place for an entire harvest/fishing season.

(2) Whether there has been adequate notice and opportunity for participation by the public and members of the affected industry in the development of the NEFMC's recommended management measures.

(3) Whether there is an immediate need to protect the resource or to impose management measures to resolve gear conflicts.

(4) Whether there will be a continuing evaluation of management measures adopted following their promulgation as a final rule.

(g) If the NEFMC's recommendation includes adjustments or additions to management measures, and if, after re-

viewing the NEFMC's recommendation and supporting information:

(1) The Regional Administrator concurs with the NEFMC's recommended management measures and determines that the recommended management measures may be published as a final rule based on the factors specified in paragraph (d) of this section, the action will be published in the FEDERAL REGISTER as a final rule; or

(2) The Regional Administrator concurs with the NEFMC's recommendation and determines that the recommended management measures should be published first as a proposed rule, the action will be published as a proposed rule in the FEDERAL REGISTER. After additional public comment, if the Regional Administrator concurs with the NEFMC recommendation, the action will be published as a final rule in the FEDERAL REGISTER; or

(3) The Regional Administrator does not concur, the NEFMC will be notified, in writing, of the reasons for the non-concurrence.

(h) Nothing in this section is meant to derogate from the authority of the Secretary to take emergency action under section 305(e) of the Magnuson Act.

[61 FR 34968, July 3, 1996, as amended at 62 FR 1404, Jan. 10, 1997]

§648.56 Scallop research project.

(a)(1) *Scallop experimental area.* From August 28, 1998 through February 28, 2000, no fishing vessel or person on a fishing vessel may transit or fish with other than handgear in the area known as the Sea Scallop Experimental Area, as defined by straight lines connecting the following points in the order stated, except as described in paragraphs (a)(2) and (a)(3) of this section:

Point	Latitude	Longitude
1	41°11.8' N.	70°50' W.
2	41°11.8' N.	70°46' W.
3	41°08.8' N.	70°46' W.
4	41°08.8' N.	70°50' W.

(2) *Exemptions.* A fishing vessel and persons on a fishing vessel may transit or fish in the Sea Scallop Experimental Area under the following conditions only: