

Fishery Conservation and Management

§ 648.56

(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:

(i) The vessel has been issued an allowed gear permit (AGP) under paragraph (a)(4)(i) of this section and is fishing with pot gear, traps, longline gear, or any other gear determined by the Regional Administrator as unlikely to interfere with the sea scallop aquaculture research project in the Sea Scallop Experimental Area; or

(ii) The vessel has been issued an experimental fishing permit (EFP) under paragraph (a)(4)(i) of this section to participate in the sea scallop aquaculture research project in the Sea Scallop Experimental Area.

(3) *Transiting.* Vessels that are not exempted from the prohibition against transiting and fishing in the Sea Scallop Experimental Area under paragraph (a)(2) of this section may transit such area provided that their gear is stowed in accordance with the provisions of § 648.81(e).

(4) *Allowed gear and experimental fishing permits—(i) Allowed gear permits.* The Regional Administrator may issue an AGP to any vessel to fish within the Sea Scallop Experimental Area with the gear specified in paragraph (a)(2)(i) of this section. Vessels receiving AGPs may be required to move their gear within, or remove their gear from, the area upon notification by the Regional Administrator and must comply with any additional restrictions specified in the permit.

(ii) *Experimental fishing permits.* The Regional Administrator may issue an EFP under the provisions of § 648.12, and consistent with paragraph (a)(4)(iv) of this section, to any vessel participating in the sea scallop aquaculture research project to engage in any of the following activities; fish in the Sea Scallop Experimental Area; use fishing gear that does not conform to the regulations; possess scallops when not fishing under a DAS allocation; use up to an additional 2 DAS per year when collecting and transporting undersized scallops to the Sea Scallop Experimental Area; and do any other activity necessary to project operations for which an exemption from regulatory provision is required. Vessels issued an EFP must comply with all conditions and restrictions specified in the permit.

(iii) A vessel with an AGP or EFP must carry the permit on board the vessel while fishing in the Sea Scallop Experimental Area or participating in the scallop aquaculture project.

(iv) The Regional Administrator may not issue an AGP or EFP unless he determines that issuance is consistent with the objectives of the FMP, the provisions of the Magnuson-Stevens Act, and other applicable law and will not:

(A) Have a detrimental effect on the sea scallop resource and fishery;

(B) Create significant enforcement problems; or

(C) Have a detrimental effect on the scallop project.

(5) *Application.* An application for an AGP or EFP must be in writing to the Regional Administrator and be submitted at least 30 days before the desired effective date of the permit. The application must include, but is not limited to, the following information:

(i) The date of application.

(ii) The applicant's name, current address, telephone number and fax number, if applicable.

(iii) The current vessel name, owner address, and telephone number.

(iv) The vessel's Federal permit number.

(v) The USCG documentation number.

(vi) The species (target and incidental) expected to be harvested.

(vii) The gear type, size, buoy colors, trap identification markings and amount of gear that will be used; and exact time(s) fishing will take place in the Sea Scallop Experimental Area.

(viii) The signature of the applicant.

(b) [Reserved]

[63 FR 45940, Aug. 28, 1998]

EFFECTIVE DATE NOTE: At 63 FR 45940, Aug. 28, 1998, § 648.56 was added, effective Aug. 28, 1998 through Feb. 28, 2000.

EFFECTIVE DATE NOTE: At 63 FR 15326, Mar. 31, 1998, § 648.57 was added, effective Apr. 3, 1998 through Sept. 27, 1998. At 63 FR 51862, Sept. 29, 1998, the effectiveness of § 648.57 was extended through Mar. 26, 1999.

§ 648.57 Closed areas.

(a) *Hudson Canyon South Closed Area.* No vessel may fish for, possess, or retain sea scallops in or from the area known as the Hudson Canyon South