

Fishery Conservation and Management

§ 648.54

DAS, as specified under paragraph (b) of this section, are used up.

(b) *DAS allocations.* Each vessel qualifying for one of the three categories specified in paragraph (a) of this section shall be allocated, annually, the maximum number of DAS it may participate in the limited access scallop fishery, according to its category. A vessel whose owner/operator has declared it out of the scallop fishery, pur-

suant to the provisions of §648.10, or has used up its allocated DAS may leave port without being assessed a DAS, as long as it does not possess or land more than 400 lb (181.44 kg) of shucked or 50 bu (17.62 hl) of in-shell scallops and complies with the other requirements of this part. The annual allocations of DAS for each category of vessel for the fishing years indicated are as follows:

DAS Category	1999–2000	2000–2001	2001–2002	2002–2003	2003–2004	2004–2005	2005–2006	2006–2007	2007–2008	2008
Full-time	120	120	120	120	45	34	35	38	36	60
Part-time	48	48	48	48	18	14	14	15	17	24
Occasional	10	10	10	10	4	3	3	3	4	5

(c) *Adjustments in annual DAS allocations.* Adjustments or changes in annual DAS allocations, if required to meet fishing mortality reduction goals, may be made following a reappraisal and analysis under the framework provisions specified in §648.55.

(d) *End-of-year carry-over.* With the exception of vessels that held a Confirmation of Permit History as described in §648.4(a)(1)(i)(J) for the entire fishing year preceding the carry-over year, limited access vessels that have unused DAS on the last day of February of any year may carry over a maximum of 10 DAS into the next year. DAS sanctioned vessels will be credited with unused DAS based on their DAS allocation minus total DAS sanctioned.

(e) *Accrual of DAS.* DAS shall accrue to the nearest minute.

(f) *Good Samaritan credit.* Limited access vessels fishing under the DAS program and that spend time at sea assisting in a USCG search and rescue operation or assisting the USCG in towing a disabled vessel, and that can document the occurrence through the USCG, will not accrue DAS for the time documented.

[61 FR 34968, July 3, 1996, as amended at 62 FR 14648, Mar. 27, 1997; 62 FR 15386, Apr. 1, 1997; 63 FR 11595, Mar. 10, 1998; 64 FR 14839, Mar. 29, 1999; 65 FR 11480, Mar. 3, 2000; 65 FR 37911, June 19, 2000; 66 FR 24057, May 11, 2001]

§ 648.54 State waters exemption.

(a) *DAS exemption.* Any vessel issued a limited access scallop permit is exempt from the DAS requirements spec-

ified in §648.53(b) while fishing exclusively landward of the outer boundary of a state's waters, provided the vessel complies with paragraphs (c) through (f) of this section.

(b) *Gear restriction exemption—(1) Limited access permits.* Any vessel issued a limited access scallop permit that is exempt from the DAS requirements of §648.53(b) under paragraph (a) of this section is also exempt from the gear restrictions specified in §648.51 (a), (b), (e)(1) and (e)(2) while fishing exclusively landward of the outer boundary of the waters of a state that has been deemed by the Regional Administrator under paragraph (b)(3) of this section to have a scallop fishery and a scallop conservation program that does not jeopardize the fishing mortality/effort reduction objectives of the Scallop FMP, provided the vessel complies with paragraphs (c) through (f) of this section.

(2) *General permits.* Any vessel issued a general scallop permit is exempt from the gear restrictions specified in §648.51 (a), (b), and (e)(1) and (2) while fishing exclusively landward of the outer boundary of the waters of a state that has been determined by the Regional Administrator under paragraph (b)(3) of this section to have a scallop fishery and a scallop conservation program that does not jeopardize the fishing mortality/effort reduction objectives of the Scallop FMP, provided the vessel complies with paragraphs (c) through (f) of this section.

(3) *State eligibility for gear exemption.*

(i) A state is eligible to have vessels fishing exclusively landward of the outer boundary of the waters of that state exempted from the gear requirements specified in § 648.51 (a), (b), and (e) (1) and (e)(2), if it has a scallop fishery and a scallop conservation program that does not jeopardize the fishing mortality/effort reduction objectives of the Scallop FMP.

(ii) The Regional Administrator shall determine which states have a scallop fishery and which of those states have a scallop conservation program that does not jeopardize the fishing mortality/effort reduction objectives of the Scallop FMP.

(iii) Maine, New Hampshire, and Massachusetts have been determined by the Regional Administrator to have scallop fisheries and scallop conservation programs that do not jeopardize the fishing mortality/effort reduction objectives of the Scallop FMP. These states must immediately notify the Regional Administrator of any changes in their respective scallop conservation program. The Regional Administrator will review these changes and, if a determination is made that the state's conservation program jeopardizes the fishing mortality/effort reduction objectives of the Scallop FMP, or that the state no longer has a scallop fishery, the Regional Administrator shall publish a final rule in the FEDERAL REGISTER amending this paragraph (b)(3)(iii) to eliminate the exemption for that state. The Regional Administrator may determine that other states have scallop fisheries and scallop conservation programs that do not jeopardize the fishing mortality/effort reduction objectives of the Scallop FMP. In such case, the Regional Administrator shall publish a final rule in the FEDERAL REGISTER amending this paragraph (b)(3)(iii) to provide the exemption for such states.

(c) *Notification requirements.* Vessels fishing under the exemptions provided by paragraph(s) (a) and/or (b)(1) of this section must notify the Regional Administrator in accordance with the provisions of § 648.10(e).

(d) *Restriction on fishing in the EEZ.* A vessel fishing under a state water's ex-

emption may not fish in the EEZ during that time.

(e) *Duration of exemption.* An exemption expires upon a change in the vessel's name or ownership.

(f) *Applicability of other provisions of this part.* A vessel fishing under the exemptions provided by paragraphs (a) and/or (b) of this section remains subject to all other requirements of this part.

(g) *Possession restriction exemption.* Any vessel issued a limited access permit that is exempt under paragraph (a) of this section from the DAS requirements of § 648.53(b), or any vessel issued a general scallop permit is exempt from the possession restrictions specified in § 648.52(a) while fishing exclusively landward of the outer boundary of the waters of a state that has been determined by the Regional Administrator under paragraph (b)(3) of this section to have a scallop fishery and a scallop conservation program that does not jeopardize the fishing mortality/effort reduction objectives of the Scallop FMP, provided the vessel complies with paragraphs (c) through (f) of this section.

[61 FR 34968, July 3, 1996, as amended at 62 FR 14649, Mar. 27, 1997; 62 FR 43470, Aug. 14, 1997]

§ 648.55 Framework specifications.

(a) Annually, or upon a request from the NEFMC, 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), and of other management measures to achieve the stock-rebuilding objectives. 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