



UNITED STATES DEPARTMENT OF COMMERCE  
National Oceanic and Atmospheric Administration  
NATIONAL MARINE FISHERIES SERVICE  
NORTHEAST REGION  
55 Great Republic Drive  
Gloucester, MA 01930-2276

FEB 24 2010

## SMALL ENTITY COMPLIANCE GUIDE

Dear Sea Scallop Permit Holder:

This letter summarizes sea scallop management measures for the fishing year (FY) March 1, 2010 – February 28, 2011 (FY 2010). This letter is intended to help guide vessel owners' and operators' fishing plans and activities for the upcoming fishing year, so please read through each section carefully, and distribute this letter to your vessel operators. This summary is not a substitute for the actual regulations. We encourage you to review the full text of the regulations, available at <http://www.nero.noaa.gov> or from the Northeast Regional Office at (978) 281-9315.

The measures described in this letter will take effect on March 1, 2010, but please be aware that the New England Fishery Management Council (NEFMC) recently adopted measures for Framework 21 that, if approved, would likely become effective in July 2010. Framework 21 would affect the overall total allowable catch (TAC) for the scallop fishery, days-at-sea (DAS) and access area trip allocations, and individual fishing quotas (IFQ). This letter does not contain a description of the measures adopted by the NEFMC as part of Framework 21. Only the implications of the NEFMC's proposed changes are described in detail under specific measures described in the attachment.

Please call the Sustainable Fisheries Division at (978) 281-9315 if you have any questions regarding the information in this letter or the management measures for the 2010 fishing year.

Sincerely,

Patricia A. Kurkul  
Regional Administrator

*This small entity compliance guide complies with section 212 of the Small Business Regulatory Enforcement and Fairness Act of 1996.*



## **IFQ PROGRAM**

The individual fishing quota (IFQ) program for limited access general category (LAGC) vessels will be effective on March 1, 2010. A separate letter has been sent to LAGC IFQ permit holders with the details of the IFQ program. With the implementation of the IFQ program, the annual scallop total allowable catch (TAC) is distributed as follows (minus applicable observer and research days-at-sea (DAS) and TAC set-asides): 94.5 percent of the TAC is allocated to limited access scallop vessels for days-at-sea (DAS) and access area trips; 5 percent of the TAC is allocated to LAGC IFQ vessels, translated into IFQs; 0.5 percent of the TAC is allocated to LAGC IFQ vessels that also have a limited access scallop permit (i.e., scallop DAS), and translated into IFQs for such vessels.

## **DAS ALLOCATIONS**

### **Open area DAS allocation for limited access vessels**

<b>Full-Time</b>	<b>Part-Time</b>	<b>Occasional</b>
42	17	3

Allocations exclude carryover DAS

**Framework 21 Implication:** Full-time and part-time DAS allocations in Framework 21 as recommended by the New England Fishery Management Council (NEFMC) would be less than the DAS allocations that take effect on March 1, 2010. In such a case, it is possible that vessels could exceed the Framework 21 allocations prior to the effective date of Framework 21. If a vessel legally exceeds the Framework 21 DAS allocation by fishing its full 2010 DAS allocation prior to the effective date of Framework 21, the number of DAS that the vessel uses in excess of the Framework 21 DAS allocation would be deducted from the vessel's 2011 DAS allocation.

## **AREA ACCESS PROGRAM**

### **Hudson Canyon Closed Area (HCCA)**

The HCCA remains closed to all scallop fishing due to a high concentration of small scallops in the HCCA, consistent with the Scallop FMP's area rotation program strategy to protect young scallop concentrations. No vessel may fish for, possess, or retain scallops in or from the HCCA. (See Attachment 1 for coordinates and chart)

**Sea Scallop Access Area Schedule Effective March 1, 2010** (See Attachment 1 for coordinates and chart )

<b>Area</b>	<b>Status</b>
Nantucket Lightship (NLCA)	Closed
Closed Area II (CAII)	Closed
Elephant Trunk (ETAA)	Open-3/1/10 - 2/28/11 (Except September 1 – October 31 Seasonal Closure)
Delmarva	Open - 3/1/10 - 2/28/11
Closed Area I (CAI)	Closed

Framework 21 Implication: NLCA is scheduled to be open under Framework 21 measures adopted by the NEFMC.

**Access Area Trip Allocations and Possession Limits**

<u>Permit Category</u>	<u>Possession Limit</u>	<u>Total Access Area Trips</u>	<u>ETAA</u>	<u>Delmarva</u>
<b>Full-time</b>	18,000 lb/trip	4	3	1
<b>Part-time*</b>	18,000 lb/trip	2	Up to 2	Up to 1
<b>Occasional**</b>	7,500 lb/trip	1	Up to 1	Up to 1
<b>LAGC</b>	400 lb/trip	NA	1,964 Fleetwide	728 Fleetwide

\* Part-time scallop vessels have the following access area trip options in 2010:  
1 trip in the ETAA and 1 trip in Delmarva; OR 2 trips in ETAA.

\*\* Occasional scallop vessels have the following access area trip options:  
1 trip in ETAA; OR 1 trip in Delmarva.

Framework 21 Implications: Access Area trip measures recommended by the NEFMC as part of Framework 21 would reduce the number of ETAA trips for full-time vessels, reduce the total possession limit for part-time vessels, reduce the number of LAGC trips in the ETAA and Delmarva, and allocate one trip in the NLCA. Similar to DAS allocation, if a vessel exceeds the trip or possession limit allocations included in Framework 21, the number of trips fished in an area or pounds caught in one or both areas in excess of the ultimate 2010 access area trip or possession limit allocation will be deducted from the vessel’s 2011 trip or possession limit allocations. If the number of LAGC trips in an access area exceeds the final 2010 allocation, the LAGC trip allocations would be reduced in 2011 by the amount of the overage.

**INDUSTRY FUNDED OBSERVER PROGRAM**

The owner, operator or vessel manager of a limited access scallop vessel or LAGC scallop vessel must comply with observer notification procedures (details in Attachment 2), as follows:

- Limited Access Vessels: notification prior to all open area and access area trips.
- LAGC vessels: notification prior to all access area trips.

**Please Note:** There was an error in a recent letter sent to scallop vessel owners, the correct observer notification call-in number is **(508) 495-2100**.

One percent of both the open area DAS and access area TAC allocations are set aside to help defray the cost of observer coverage. The observer set-asides were exhausted before the end of the 2009 fishing year, so we are re-evaluating the DAS and TAC compensation rates based on anticipated 2010

fishery conditions. The compensation rate amounts, and the basis for those amounts, will be sent to you shortly in a separate mailing.

### 2010 Observer Set-Asides

ETAA Access Area TAC	Delmarva Access Area TAC	Open Area DAS
162,000 lb	60,000 lb	141 DAS

**Framework 21 Implication:** TAC and DAS set-asides recommended by the NEFMC under Framework 21 would be lower than those effective March 1, 2010, for the ETAA, Delmarva, and Open Areas. Since the NLCA is proposed to open under Framework 21, it would also have an observer TAC set-aside. Since observer set-aside DAS and TACs are higher on March 1, 2010, than those proposed under Framework 21, NMFS would apply the same 2011 adjustment procedure as described above for vessel DAS and ETAA trip allocations. NMFS expects this would only occur if almost the entire fleet of vessels fishes all available DAS and/or ETAA trips prior to the implementation of Framework 21.

### **OTHER PROVISIONS AND REMINDERS**

#### **Trips Beginning Prior to March 1, 2010**

- A limited access vessel's ETAA or Delmarva trip that begins prior to March 1, 2010, and ends after March 1, 2010, will count in its entirety against the vessel's 2010 ETAA or Delmarva trip allocation.
- Limited access vessels without any remaining fishing year 2009 ETAA or Delmarva trips, and LAGC scallop vessels, may begin an ETAA or Delmarva trip prior to March 1, 2010, provided the vessel does not enter the ETAA or Delmarva, as applicable, prior to March 1, 2010.
- All Vessel Monitoring System (VMS) trip declaration and observer program notification requirements must be met for all access area trips.

#### **ETAA and Delmarva Trips Broken after December 30, 2009**

Limited access ETAA or Delmarva trips that were broken after December 30, 2009, may be completed under an authorized compensation trip that begins no later than April 29, 2010. All compensation trips from trips broken after December 30, 2009, that do not begin on or before April 29, 2010, will expire on April 30, 2010. To be eligible for a compensation trip, vessels must have followed the broken trip notification and compensation trip request requirements for the trip broken after December 30, 2009.

#### **Prohibition on Deckloading**

Scallop vessels declared into the Area Access Program are prohibited from possessing more than 50 bushels (bu) of in-shell scallops outside the boundaries of any Sea Scallop Access Area.

#### **Notification of Fishery Closures**

Vessel owners will be notified when a fishery is closed (for instance when a TAC is projected to be reached, or when the maximum number of trips into an access area are projected to have been taken). Closures are announced using VMS and, in most cases, on NOAA Weather Radio and USCG radio. All vessel owners will be mailed permit holder letters announcing closures, though these may be obtained more quickly by email. Sign up to get permit holder letters by email at: [www.nero.noaa.gov/nero/nr/nr04.htm](http://www.nero.noaa.gov/nero/nr/nr04.htm).

**Paralytic Shellfish Poisoning (PSP) Closures**

As a reminder, only scallop meats (adductor muscle) may be possessed, retained, or landed in or from the PSP closure areas. See Attachment 3 for coordinates and chart.

**MEASURES SPECIFIC TO LAGC FISHERY**

**LAGC Northern Gulf of Maine (NGOM) Management Area scallop TAC**

The NGOM TAC for the 2010 fishing year is 70,000 lb. Once this TAC is reached, vessels issued LAGC permits are prohibited from fishing for, possessing, retaining, or landing scallops in or from the NGOM for the remainder of the fishing year. The NGOM Management Area is the area north of 42° 20' N.Lat and within the Gulf of Maine Scallop Dredge Exemption Area. (See Attachment 1 for coordinates and chart).

**LAGC Incidental Scallop Target TAC (TTAC)**

The Incidental scallop TTAC for the 2010 fishing year is 50,000 lb. Vessels issued an LAGC Incidental Catch scallop permit are restricted to 40 lb shucked or 5 U.S. bushels in shell scallops per trip. Landings are compared to the TTAC after the 2010 fishing year is completed, and future management measures may be adjusted if the TTAC is exceeded.

**Possession of In-shell Scallops Seaward of the VMS Demarcation Line**

LAGC vessels not declared into an Access Area and fishing in compliance with all other regulations may possess the following amounts of in-shell scallops SEAWARD of the VMS demarcation line:

LAGC Permit Category	Scallop Meat Possession Limit	In-Shell Possession Limit Shoreward of VMS Line	In-shell Possession Limit Seaward of VMS Line
IFQ	400 lb	50 U.S. bu	100 U.S. bu
NGOM	200 lb	25 U.S. bu	50 U.S. bu
Incidental	40 lb	5 U.S. bu	10 U.S. bu

**LAGC Calendar Day Landing Restriction**

LAGC vessels are prohibited from landing scallops more than once per calendar day. For example, an LAGC vessel that lands scallops on Monday may depart on a second trip on the same day it landed scallops (Monday) as long as the vessel does not land until Tuesday.

**RESEARCH SET-ASIDE (RSA) PROGRAM**

Two percent of both the open area DAS and access area TAC allocations are set aside to fund sea scallop research. Additional DAS and access area TAC will be allocated to vessels participating in approved research projects. Scallop vessels participating in the RSA program are limited to a catch of yellowtail flounder that equals 0.2 percent of the annual yellowtail flounder TACs established in the NE multispecies regulations. The yellowtail flounder set-aside amount is pending final action in the NE multispecies regulations. Set-aside projects for the 2010 fishing year are currently under consideration for funding.

**2010 Set-Asides**

	ETAA Access Area TAC	Delmarva Access Area TAC	Open Area DAS
	324,000 lb	120,000 lb	282 DAS

Framework 21 Implication: The set-asides recommended by the NEFMC as part of Framework 21 would be lower, and the NLCA would have an RSA set aside. Project funding will be based on the Framework 21 set asides.

## Attachment 1 – Area Coordinates

### Hudson Canyon Closed Area

Point	Latitude	Longitude
H1	39°30' N.	73°10' W.
H2	39°30' N.	72°30' W.
H3	38°30' N.	73°30' W.
H4	38°50' N.	73°30' W.
H5	38°50' N.	73°42' W.
H1	39°30' N.	73°10' W.

### Delmarva Sea Scallop Access Area.

Point	Latitude	Longitude
DMV1	38°10' N.	74°50' W.
DMV2	38°10' N.	74°00' W.
DMV3	37°15' N.	74°00' W.
DMV4	37°15' N.	74°50' W.
DMV1	38°10' N.	74°50' W.

### Closed Area II Sea Scallop Access Area

Point	Latitude	Longitude
CAIIA1	41°00' N.	67°20' W.
CAIIA2	41°00' N.	66°35.8' W.
CAIIA3	41°18.6' N.	66°24.8' W.
CAIIA4	41°30' N.	66°34.8' W.
CAIIA5	41°30' N.	67°20' W.
CAIIA1	41°00' N.	67°20' W.

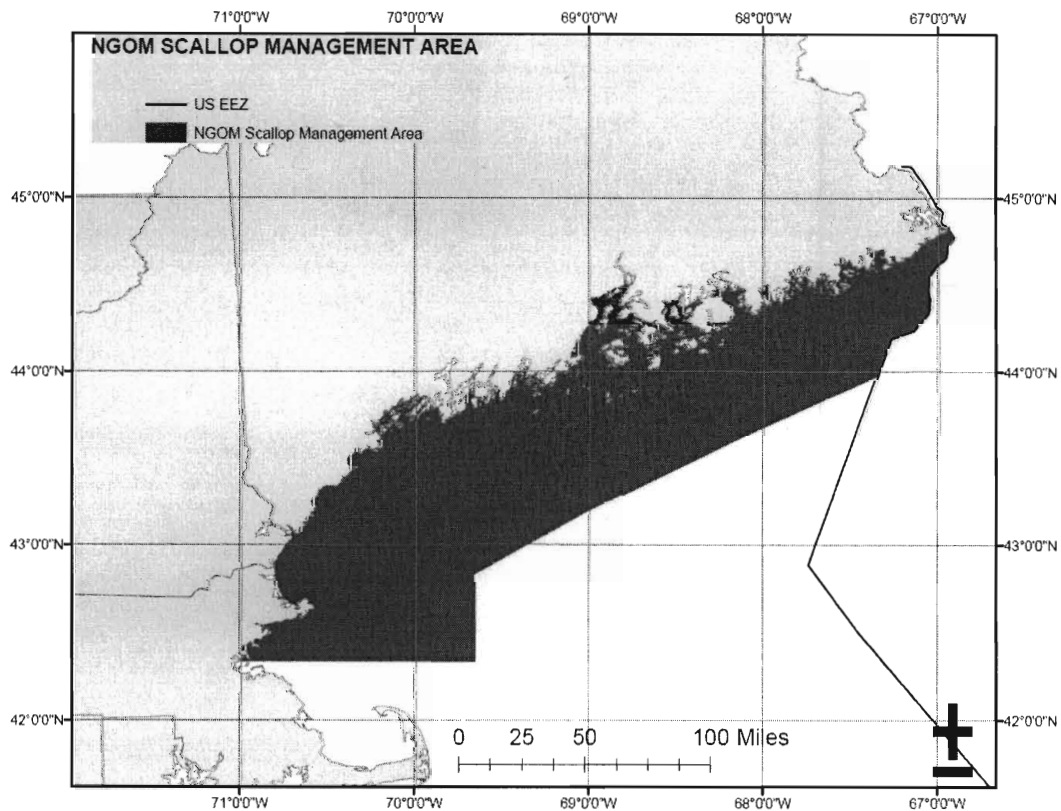
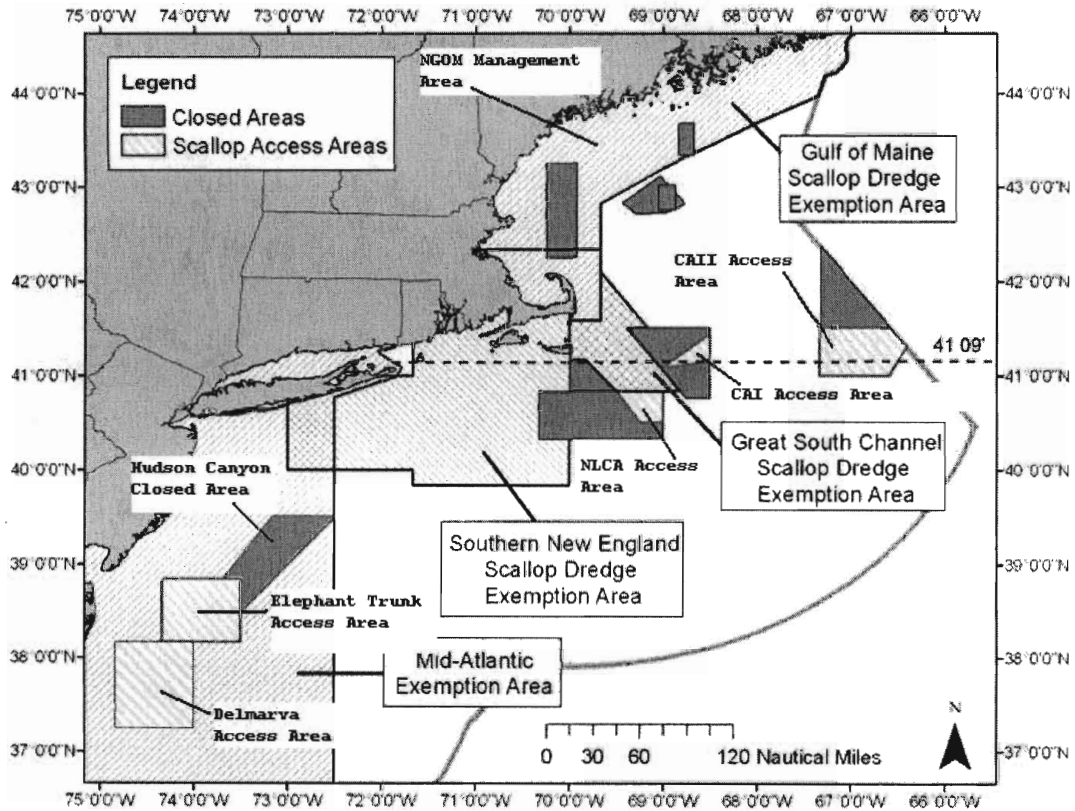
### Elephant Trunk Sea Scallop Access Area

Point	Latitude	Longitude
ETAA1	38°50' N.	74°20' W.
ETAA2	38°10' N.	74°20' W.
ETAA3	38°10' N.	73°30' W.
ETAA4	38°50' N.	73°30' W.
ETAA1	38°50' N.	74°20' W.

### NGOM Scallop Management Area

Point	Latitude	Longitude
NGOM1	42°20' N.	Massachusetts Shoreline
NGOM2	42°20' N.	69°40' W.
NGOM3	42°49.5' N.	69°40' W.
NGOM4	43°12' N.	69°00' W.
NGOM5	43°41' N.	68°00' W.
G2	43°58' N.	67°22' W.
G1	( <sup>1</sup> )	( <sup>1</sup> )

<sup>1</sup>Northward along the irregular U.S.-Canada maritime boundary to the shoreline.





# **Attachment 2 Industry-Funded Scallop Observer Program Call-In Guide**

(NE Fisheries Observer Program, February 2009)

For Limited Access (Open Area and Access Area trips) and General Category (Access Area trips)

## **STEP I - TRIP NOTIFICATION 72-HOURS PRIOR TO TRIP**

**No More than 10 days prior to sail date**

Call the automated NE Fisheries Scallop Observer Program Number at (508) 495-2100, press 1 to report a trip, and follow the telephone message prompts:

**Gear type** – 1=scallop dredge, 2=scallop trawl

**Limited Access/General Category** – 1=limited access, 2=general category

**Area Fishing** – 1=NLSA, 2=CAII, 3=HCA, 4=MA Open, 5=GB Open, 6=ET, 7=CAI, 8=DELMARVA

**Phone number** – enter your 10 digit phone number (DO NOT use '1' before the area code)

**Permit number** – enter your 6 digit permit number

**Name** - speak clearly, first and last name, then press # key

**Port sailing from** - speak clearly, port name including city and state, then press # key

**Date of sailing** - speak clearly, month, day, and year, then press # key; for General Category, use the date for Sunday starting that week.

You will receive a **trip confirmation number** for each call (trip calls for limited access trips, and weekly calls for general category trips). For the weekly general category calls, call by Thursday if you expect to make any trips in an access area from Sunday through Saturday of the next week. An email transmission from the National Marine Fisheries Service (NMFS) will be sent to your email address(s) within 24 hours and will either issue a 'waiver' or notify you that an observer must be hired for the trip. If you are issued a waiver, you may begin your trip(s). If you receive an observer notice, please follow the instructions in StepII. Once you make the initial call, NMFS/NEFOP may take up to 24 hours to inform you if you have been selected for observer coverage or not. **If selected, you MUST provide 48 hours notice to the observer provider.** The observer provider may take up to 18 hours to get back to you on observer availability. **If you do not receive VMS notification within 24 hours, contact the NMFS Vessel Call-in Coordinator.**

## **STEP II - OBSERVER PROVIDER 48-HOURS PRIOR TO TRIP**

If you receive an email from NMFS that you must hire an observer for the trip, week (Gen Category) please call the provider(s) below. For the most current list of approved observer service providers, go to the 'Sea Scallop Observer Program Information' webpage at <http://www.nefsc.noaa.gov/femad/fsb/> or call the NE Fisheries Scallop Observer Program Number listed above, and press 2. These are the current providers:

**A.I.S. Inc. (508) 990-9057, and East West Technical Services Inc. (860) 223-5165.**

If there are no observers available from any of the providers, request a waiver by calling the:

**NMFS Vessel Call-in Coordinator at (508) 495-2188 or (508) 560-3550 (cell).**

### **IF THE TRIP IS DELAYED OR CANCELED**

If the trip is delayed more than 48 hours beyond the intended sail date, please call the NMFS vessel Call-in Coordinator to explain. If you had an observer assigned and you canceled the trip, you must take an observer on your next trip to the same area, unless no observers are available.

### **TO CHANGE INTENDED FISHING AREA**

If you change the area you plan to fish, please call the NE Fisheries Scallop Observer Program Number for a new confirmation number.

### **FOR TRIPS THAT LAYOVER IN PORT**

If you must interrupt an open area trip and return to port, for example due to weather, **do not offload your catch**, and go back out within 48 hours, you may use the same confirmation number and maintain the same observer status. If any catch is offloaded or the layover time is greater than 48 hours, call the NE Fisheries Scallop Observer Program Number for a new confirmation number.

### Attachment 3 – PSP Closure Areas

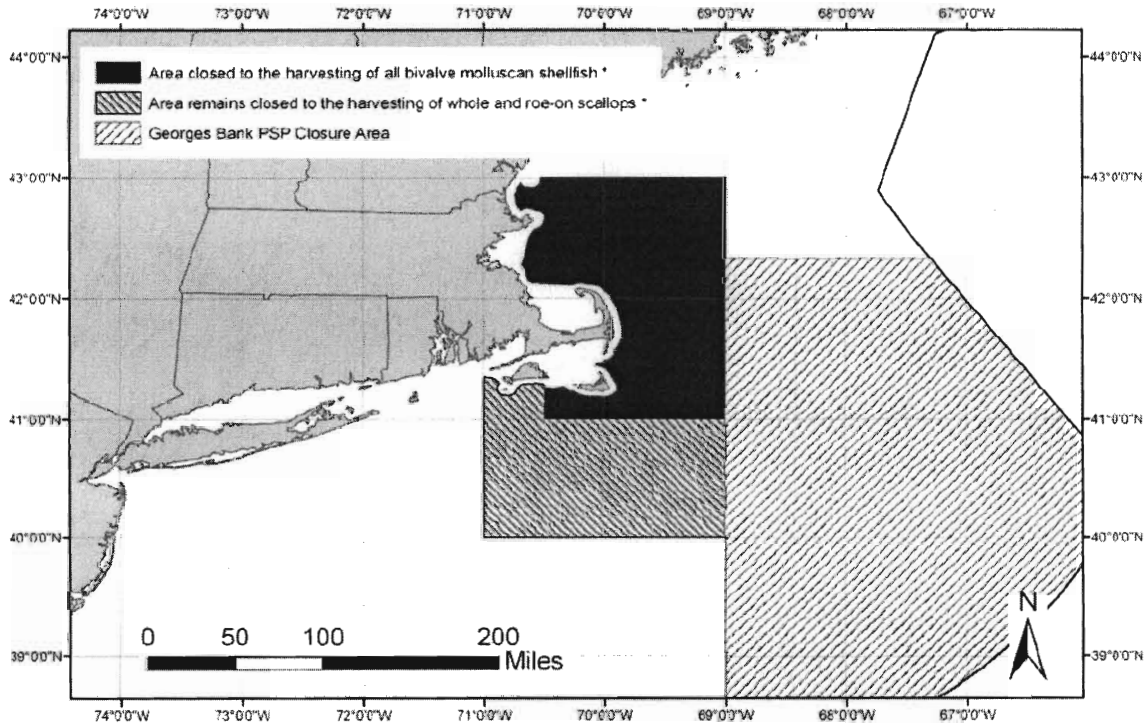
Table 1. Revised Northern Temporary PSP Closure Area Coordinates

Point	Latitude	Longitude
1	43° 00' N	71° 00' W
2	43° 00' N	69° 00' W
3	41° 00' N	69° 00' W
4	41° 00' N	70° 30' W
5	41° 39' N	70° 30' W
6	41° 39' N	71° 00' W
7	43° 00' N	71° 00' W

Table 2. Revised Southern Temporary PSP Closure Area Coordinates

Point	Latitude	Longitude
1	41° 39' N	71° 00' W
2	41° 39' N	70° 30' W
3	41° 00' N	70° 30' W
4	41° 00' N	69° 00' W
5	40° 00' N	69° 00' W
6	40° 00' N	71° 00' W
7	41° 39' N	71° 00' W

### Federal Water Closure Due to the Presence of the Toxin that Causes Paralytic Shellfish Poisoning



\* Exception allowed for scallop harvesting with onboard shucking of the adductor muscle only