

(iv) *Twine top restrictions.* Vessels issued limited access scallop permits that are fishing for scallops under the DAS Program are also subject to the following restrictions: For dredges greater than 8 ft (2.44 m) in width or for dredges on a vessel rigged with more than one dredge, regardless of size, at least seven rows of nonoverlapping steel rings unobstructed by netting or any other material, must be between the terminus of the dredge (club stick) and the net material on the top of the dredge (twine top). For dredges less than 8 ft (2.44 m) in width, used singly, at least four rows of nonoverlapping steel rings unobstructed by netting or any other material must be between the club stick and the twine top of the dredge (Figure 2).

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(f) *Restriction on the use of trawl nets.*

(1) Beginning on August 28, 1995 vessels issued a limited access scallop permit fishing for scallops under the DAS allocation program may not fish with, possess on board, or land scallops while in possession of trawl nets unless such vessels have been determined to be eligible to use trawl nets and have on board a valid letter of authorization as specified and provided for under paragraphs (f)(2) and (3) of this section.

(2) *Determination of eligibility to use trawl nets.* To be eligible for an exemption from the restriction described in paragraph (f) of this

section, a vessel may not have fished for scallops with a scallop dredge from January 1, 1988, to the present. NMFS will contact all limited access permit holders to notify them of their initial determination of eligibility for an exemption from the prohibition on the use of trawl nets based on information currently available to NMFS. If a vessel owner agrees with an initial determination that the vessel is eligible to use a trawl net, the owner must, within 30 days of receipt of the initial determination, sign and submit to NMFS a declaration, provided by NMFS, stating that the vessel has not fished for scallops with a scallop dredge from January 1, 1988, to the present. If the vessel owner disagrees with an initial determination that the vessel is not eligible to use a trawl net, the owner must, within 30 days of receipt of the initial determination, sign and submit to NMFS a declaration, provided by NMFS, stating that the vessel has not fished for scallops with a scallop dredge from January 1, 1988, to the present. The signed declaration shall serve as a rebuttable presumption that the vessel qualifies for an exemption from the prohibition on the use of trawl nets. This exemption applies only to vessels that have been issued 1995 limited access scallop permits or that are eligible to be issued such a permit, and for which a determination has been

made in 1995, except as provided in paragraph (f)(4) of this section.

(3) *Authorization to use trawl nets.* Vessels determined to have met the criteria for exemption from the prohibition on the use of trawl nets, pursuant to paragraph (f)(2) of this section, shall be issued a letter of authorization by the Regional Director. Such letter must be carried on board the vessel at all times. In subsequent years, eligibility for this exemption will be indicated on the vessel's permit.

(4) *Authorization to use trawl nets by replacement vessels.* To be eligible for an exemption from the restriction described in paragraph (f) of this section, any replacement vessel of a vessel authorized to fish for scallops with trawl nets must meet the eligibility requirements and have on board a valid letter of authorization as specified and provided under paragraphs (f)(2) and (f)(3) of this section. The letter of authorization must be requested at the time the vessel owner initially applies for a permit for the replacement vessel. The determination of a replacement vessel's eligibility for a letter of authorization shall be made in accordance with, and as specified in paragraph (f)(2) of this section.

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4. Figure 2 to part 650 is added to part 650 to read as follows:

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