

Other Determinations

BTS has analyzed this action for the purposes of the National Environmental Protection Act. It will not have a significant impact upon the quality of the human environment or the conservation of energy resources. Accordingly, an Environmental Impact Statement is not required. BTS has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612 ("Federalism") and determined that the rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. This action does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of \$100 million or more to state, local, or tribal governments, in the aggregate, or to the private sector, and is the least burdensome alternative that achieves the objectives of the rule. Similarly, because this action does not create an unfunded Federal mandate on state, local or tribal governments, the requirements of section 1(a) of Executive Order 12875, Enhancing Intergovernmental Partnerships, do not apply. This action does not have potential takings implication under Executive Order 12630 because it does not authorize any takings. In accordance with Executive Order 12630, regarding Governmental Action and Interference with Constitutionally Protected Property Rights, BTS finds that this SNPRM implicates no takings, in that it does not propose or implement licensing, permitting, or other conditions, requirements, or limitations on private use, nor does it require dedications or exactions from owners of private property. BTS has reviewed this action in accordance with Executive Order 12988, Civil Justice Reform, and has determined that this action meets the applicable standards provided in section 3(b) of the Executive Order. Nor does this action require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number 2139-AA05 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 1420

Motor carriers, Reporting and classification.

Proposed Rule

Accordingly, the Bureau of Transportation Statistics proposes to amend 49 CFR part 1420 Reports of Motor Carriers, as follows:

PART 1420—REPORTS OF MOTOR CARRIERS

1. The authority citation for part 1420 continues to read as follows:

Authority: 49 U.S.C. 14123.

2. In § 1420.10, paragraph (c) is redesignated as paragraph (d).

3. Section 1420.10 is amended by adding paragraph (c) to read as follows:

§ 1420.10 Public release of motor carrier of property data.

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(c) Exceptions relating to certain operating information.

(1) The following data items contained in annual report Form M or quarterly report Form QFR shall be withheld from public release for a period of three years after the report's due date: all of the Operating Statistics data items, the Cost column of the Revenue Equipment data items, and the Total Compensation and Hours Earned or Miles Operated columns of the Employment Information data items.

(2) Except as provided in paragraph (b) of this section, individual carrier financial data withheld from public disclosure may be disclosed by BTS to such persons and in such circumstances as BTS determines to be in the public interest or consistent with the Department of Transportation's regulatory functions and responsibilities.

(3) This paragraph applies to annual reports covering 1998 and later years, and quarterly reports beginning with the first quarter of 1999.

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Ashish Sen,

Director, Bureau of Transportation Statistics.

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 990226056-9056-01; I.D. 122498C]

RIN 0648-AL31

Northeast Multispecies Fishery; Amendment 9 to the Northeast Multispecies Fishery Management Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Amendment 9 to the Northeast Multispecies Fishery Management Plan (FMP). This amendment would add Atlantic halibut to the species managed under the Northeast Multispecies FMP, implement measures to rebuild halibut and stocks of winter flounder, and implement new or revised overfishing definitions and revised specifications of optimum yield for 12 groundfish species. This rule proposes: The addition of Atlantic halibut to the species managed under the Northeast Multispecies FMP and a one-fish halibut possession limit with a minimum size of 36 inches (66 cm); an increase of one inch in the minimum size of winter flounder; postponement of the Vessel Monitoring System (VMS) requirement beyond May 1, 1999; a modification of the framework process to allow for aquaculture projects and changes to the overfishing definitions; and a prohibition of brush-sweep trawl gear when fishing for multispecies. The intent of Amendment 9 is to eliminate overfishing and rebuild many of the groundfish stocks.

DATES: Comments are invited through May 3, 1999.

ADDRESSES: Comments on proposed Amendment 9 to the FMP, and its supporting documents should be sent to Jon C. Rittgers, Acting Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope "Comments on Multispecies Plan."

Comments regarding the collection-of-information requirements contained in this proposed rule should be sent to the Acting Regional Administrator and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

Copies of proposed Amendment 9, its Regulatory Impact Review, and the Final Environmental Assessment are available from Paul J. Howard, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway (U.S. Route 1), Saugus, MA 01906-1097.

Copies of the Initial Regulatory Flexibility Analysis (IRFA) are available from the Jon C. Rittgers, Acting Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Comments regarding the IRFA should be sent to the Acting Regional Administrator.

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, Fishery Policy Analyst, 978-281-9252.

SUPPLEMENTARY INFORMATION: The New England Fishery Management Council (Council) developed Amendment 9 primarily to address the new requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended by the Sustainable Fisheries Act (SFA) on October 11, 1996. NMFS published a notice of availability for Amendment 9 in the **Federal Register** on January 5, 1999 (64 FR 471), soliciting public comments on the amendment through March 8, 1999. All comments received by the end of that comment period on the proposed amendment, whether specifically directed to the amendment or to this proposed rule, will be considered in the approval/disapproval decision on the amendment. Public comments must have been received (not postmarked or otherwise transmitted, including faxes) by the close of business on March 8, 1999, to be considered in the approval/disapproval decision. Comments received after March 8, 1999, but before the end of the comment period for this proposed rule (May 3, 1999), will not be considered in the approval/disapproval decision of the amendment, but will be addressed in the final rule.

In February 1998, the Multispecies Plan Development Team (PDT) met to review the new SFA requirements and the list of overfished groundfish stocks submitted in NMFS' September 1997 "Report to Congress," to develop recommendations for the Council on the required reductions to stop overfishing. Referring to the December 1997 Report of the Multispecies Monitoring Committee as its primary source of information, the PDT noted that overall nominal effort and exploitation rates had declined for all the stocks identified in this amendment as overfished except halibut. The PDT commented that this was primarily due to measures

implemented under Amendment 5 (59 FR 9872, March 1, 1994) and Amendment 7 (61 FR 27710, July 1, 1996) to the FMP. The PDT also commented that additional reductions proposed to take effect under the May 1998 annual adjustment, Framework Adjustment 25 (63 FR 15326), would likely result in further declines.

Amendment 7 (61 FR 27710) established a procedure for setting annual target total allowable catch (TAC) levels for specific cod, haddock, and yellowtail flounder stocks, and an aggregate TAC for the combined stocks of the other regulated species. Under this annual framework adjustment process, TAC levels are set to attain a fishing mortality rate that allows the principal stocks to rebuild to minimum biomass thresholds over time, and to maintain current potential yield for the other regulated species. Although the intent of the management program established under Amendment 7 is to rebuild stocks of cod, haddock, and yellowtail flounder, other multispecies stocks benefit from measures imposed as well. Except for Georges Bank haddock, rebuilding to the Amendment 7 thresholds was expected to take 10 years or less. Georges Bank haddock had a 50-percent probability of being rebuilt within 12 years. Because this annual adjustment provides a process to review new information, either through assessments or trawl surveys and landings data, it ensures a safety mechanism against increases in effort. Therefore, based on measures currently in place and the assurance of an annual adjustment process to address any new information, the PDT recommended that additional measures to reduce fishing mortality rates were not needed at this time.

Due to insufficient information, the PDT was unable to determine the status of the halibut stock, but noted that it was severely depleted by historical standards. Given this, the PDT's recommendation to the Council was to reduce fishing mortality for halibut to as close to zero as possible. This rule would implement a one-fish possession limit and set a minimum fish size of 36 inches (66 cm). This limit is intended to stop directed fishing on halibut without requiring wasteful discarding of vessels that incidentally catch an occasional halibut.

Early in the development of Amendment 9, the Council adopted the Atlantic States Marine Fisheries Commission's (ASMFC's) more restrictive rebuilding goal for winter flounder ($F^{40\%}$ as compared with the current overfishing definition in the FMP of $F^{20\%}$). At its meeting, the PDT

reviewed the ASMFC's most recent winter flounder assessment and, although this information was preliminary, the PDT noted that, if ASMFC's more restrictive management objective is to be met, additional measures were likely needed for the Southern New England/Mid-Atlantic winter flounder stock. To help achieve this goal, this rule proposes a 13-inch (33 cm) minimum fish size for winter flounder.

Because of the significant revisions to National Standard 1, the Council, with the Mid-Atlantic Fishery Management Council, convened an Overfishing Definition Review Panel to review existing overfishing definitions for compliance with the new SFA requirements. At its June 24-25, 1998, meeting, the Council adopted the Review Panel's recommendations, including control rules that specify a fishing mortality strategy to promote rebuilding. Amendment 9 would implement new and revised overfishing definitions for stocks of cod, haddock, pollock, redfish, white hake, yellowtail flounder, windowpane flounder, winter flounder, American plaice, witch flounder, Atlantic halibut, and ocean pout. It is the intent of the Council to address the established control rules during the annual framework adjustment process.

Measures of Concern

NMFS specifically invites public comment on the proposed indefinite postponement of the mandatory use of VMS by multispecies vessels that possess an individual days-at-sea (DAS) allocation permit (Individual DAS, Large Mesh Individual DAS, and Combination Vessel (for multispecies only) permit categories). The mandatory use of VMS by individual DAS vessels was originally implemented under Amendment 5. However, at that time, the Administrator, Northeast Region, NMFS (Regional Administrator) authorized the alternative call-in system as the method of notification for these vessels, until the VMS was determined to be operable. Although the operational date was determined as the beginning of the 1998 fishing year, a measure implemented under the May 1998 annual adjustment (Framework Adjustment 25) postponed mandatory usage for an additional year to provide time for the Council to address comments and issues raised by members of the public. The Council proposed an indefinite postponement of VMS implementation under this action because it believed that more time was needed to resolve several outstanding issues and questions raised by the

public. A major concern identified is equity among permit categories. With the layover requirement for Fleet DAS vessels eliminated under Amendment 7, the Council believes that DAS permit categories have become less distinguishable and questions why individual DAS vessels are subjected to a VMS requirement, while other DAS permitted vessels are not. While the original (Amendment 5) application of the VMS was solely to track DAS on individual DAS vessels, the Council also considers VMS to be a useful device to monitor area location based on experience with prior implementation of the VMS requirement in the Atlantic sea scallop fishery and on an experimental basis in the Northeast Multispecies fishery. The Council believes that limiting VMS to just individual DAS vessels (a category representing only a small proportion of the overall DAS vessels) compromises this monitoring tool. Other issues raised consist of general cost uncertainties for several issues associated with VMS, including cost control issues inherent with only one certified vendor (as is currently the case), efficacy of VMS hourly tracking (as opposed to recording DAS usage by minute), especially regarding per-day trip limits and enforcing closed areas or transit provisions, and the inability of some vessels to continuously run their VMS units.

Although removal of the fleet DAS lay-over requirement in Amendment 7 did remove one principal difference between Fleet and Individual DAS vessels, a major distinction between the two permitted vessel categories remains, and that is the fact that Individual DAS vessels tend to fish their DAS at a much higher rate, on average, than do Fleet DAS vessels. For example, of the vessels that called into the DAS program in fishing years 1996 and 1997, Individual DAS category vessels fished approximately 86 percent and 84 percent of their DAS, respectively, while Fleet DAS vessels fished roughly 27 percent and 42 percent, respectively. Furthermore, NMFS believes that the Council has had ample time to address the public's issues of concern. For these reasons, NMFS is considering disapproving VMS postponement for vessels that have an individual DAS allocation and, therefore, is seeking specific comment on this issue.

Other Measures

For Atlantic halibut, Amendment 9 proposes to include Atlantic halibut in the Northeast Multispecies fishery management unit. This proposed rule would establish a one-fish possession

limit for commercial and recreational vessels and sets a minimum fish size of 36 inches (66 cm). Because halibut would be included under the NE Multispecies FMP, commercial and charter/party vessels would be required to possess an appropriate open access multispecies permit. As is the case for other groundfish species, non-charter/party recreational vessels would not be required to possess a permit and would be prohibited from selling their catch. To facilitate collection of additional information on halibut, NMFS would request multispecies permitted vessels to voluntarily include on their mandatory Vessel Trip Reports the estimated length and time of day for each halibut caught, whether or not the fish are retained.

For winter flounder, this proposed rule would increase the minimum fish size from 12 inches (30.5 cm) to 13 inches (33.0 cm) for both commercial and recreational vessels. The intent of this measure is to increase the age at which winter flounder are first captured. Industry members have commented that southern winter flounder are generally smaller than in the north and that an increased fish size would create regulatory discards. Under the current regulations, net vessels fishing for regulated multispecies are required to fish with a minimum mesh size of either 6-inch (15.24-cm) diamond or 6-inch (15.24-cm) square mesh nets, or, when fishing in the Mid-Atlantic Regulated Mesh Area, 5½-inch (13.97-cm) diamond or 6-inch (15.24-cm) square mesh nets. Many fishers acknowledge that, when fishing for flounders, they fish with nets of 6-inch (15.24-cm) square mesh. In proposing this measure, the Council believes, and NMFS agrees, that an increased winter flounder minimum fish size provides an incentive for industry to fish with diamond mesh rather than square mesh, since diamond mesh releases a higher proportion of juvenile and sub-legal sized flatfish. It also would reduce any incentive for using net liners. Since it takes approximately 9 months for southern winter flounder to grow one inch, increasing the minimum fish size would create a short-term economic loss in this area. However, NMFS anticipates that within one year increased yield per recruit and a likely higher price per pound would offset any short term losses.

This proposed rule would prohibit the use of brush-sweep trawl gear, also known as "streetsweeper" gear, by vessels fishing for or possessing multispecies finfish. A relatively new gear modification, brush-sweep trawl gear consists of rubber discs and bristle

brushes that modify the footrope in such a way to make it lighter and more flexible than conventional rockhopper and roller gear. Unlike conventional modifications to the gear, brush-sweeps bring the entire trawl sweep in contact with the ocean floor and, thus, greatly improve the efficiency of the trawl. Users of this gear modification comment that efficiency is realized because their nets "hang-up" less and, therefore, require less repair, saving time. Time conserved in the multispecies fishery compromises the effectiveness of the DAS reduction program. By allowing this gear to continue, additional management measures would be needed to ensure that the FMP remains conservation neutral. Therefore, because of this compromised effectiveness, and the concern expressed by industry that this gear modification would only escalate, this rule proposes to prohibit the brush sweep gear modification as a precautionary step. The Council has suggested that it may consider lifting this prohibition in the future if it can be proven that this gear does not significantly increase catch per unit effort or overall efficiency as compared with other gear modifications.

This proposed rule would modify the current framework adjustment process by allowing expedited rulemaking for aquaculture projects and changes to the multispecies overfishing definitions. For aquaculture projects, this measure would allow the Council to make recommendations on adjustments or additions to management measures from one or more of the following categories: minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring and reporting requirements, permit restrictions, area closures, establishment of special management zones, and any other management measure currently included in the FMP. This measure would also allow the Council to modify overfishing definitions through the framework adjustment process as new scientific information becomes available warranting such a revision.

Classification

At this time, NMFS has not determined that the amendment that this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period.

The Office of Management and Budget has determined that this rule is significant for the purposes of E.O. 12866.

NMFS prepared an IRFA for this proposed rule, pursuant to 5 U.S.C. 603, without regard to whether the proposal would have a significant impact on a substantial number of small entities. Measures analyzed in the IRFA include the brush-sweep trawl gear prohibition, the one-fish halibut possession limit, and the winter flounder fish size increase. The following is a brief discussion of the measures analyzed in the IRFA.

Amendment 9 would prohibit possessing brush-sweep trawl gear while in the possession of NE multispecies and fishing for, landing, or possessing NE multispecies harvested with brush-sweep trawl gear unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters. The cost of the brush-sweep trawl gear is estimated to be between \$8,000 and \$15,000, depending on the individual vessel. Excessive wear and tear on the gear requires that it be replaced often. The overall cost to vessels impacted by this action would be based on the loss of the use of the gear which, when utilized, wears out in a few months to a year. The potential universe of vessels that could be impacted by the brush-sweep trawl gear prohibition is approximately 900 vessels, i.e., the number of permit holders based on NMFS Regional Office database that fish for multispecies with otter trawl gear. Therefore, the one-time cost to the industry would likely be between \$7.2 million (900×\$8,000) and \$13.5 million (900×\$15,000) since there are approximately 900 vessels that fish for multispecies with otter trawl gear. This assumes that all 900 vessels are currently using brush sweep gear. NMFS is seeking information on the number of vessels fishing with brush sweep trawl gear.

A one-fish halibut possession limit with a minimum fish size of 36 inches is also proposed. Commercial vessels wishing to retain a halibut under this possession and size limit would be required to obtain a multispecies permit. The economic costs associated with the proposed halibut restrictions include lost revenues from restricted or prohibited landings, as well as the added costs of enforcing new regulations and administering the new open-access permits. For years 1996 and 1997, Vessel Trip Reports indicate that 134 and 139 vessels, respectively, reported landing halibut. Based on recent landings data reported to NMFS, halibut landings have averaged less than 50,000 pounds, and more recently have declined from 31,542 pounds in 1996 to 17,078 pounds in 1997. Annual

landings per vessel averaged 235 pounds in 1996 and 123 pounds in 1997. Annual revenues per vessel during this time averaged \$1,059 and \$553, respectively. The total exvessel revenue from halibut was \$141,906 (134×\$1,059) in 1996 and \$76,867 (139×\$553) in 1997.

The number of vessels affected by the proposed one-fish halibut possession limit may amount to 1,050 vessels based on the number of permitted vessels in the multispecies fishery. This number includes active limited access multispecies permit holders (1,000) combined with a subset of one-half the estimated 100 active participants in the directed halibut fishery that do not possess a Federal fisheries permit. Active vessels (those that reported landings of halibut in recent years) are estimated to be only those vessels that caught at least one halibut (134–139 vessels) in 1996 or 1997.

An increase in the minimum fish size for winter flounder to 13 inches from the current minimum size of 12 inches for both commercial and recreational fishing vessels is proposed in Amendment 9. For the commercial fishery, economic impacts of increasing the winter flounder fish size involve revenue loss from prohibiting landings of fish that are between 12 and 13 inches and revenue gains from the increased yield per recruit and price per pound for higher market category once 12-inch fish grow to 13 inches and above.

The NMFS data show 1997 winter flounder landings, including all sizes of fish, approximately 11.7 million pounds, or 14 percent of the total regulated species landings. Exvessel revenues of winter flounder during this period amounted to \$15.6 million (8.5 percent) of the total exvessel revenues (\$183.5 million) from all species for vessels that landed winter flounder. Although some fishers have commented that fish in the 12–13 inch size range accounted for up to 30–40 percent of their winter flounder catch, many other fishers have reported that very few fish in the 12–13 inch range are retained by nets unless the vessel is fishing with nets that are less than the minimum regulated mesh size. Landings reports from the New Bedford, MA auction indicate that 12 inch fish make up less than 10 percent of winter flounder sold in this port. Assuming that 30–40 percent of winter flounder landed were in the 12–13 inch size range, the decrease in exvessel revenue would likely be between 2.6 percent (\$4.68 million of \$183.5 million) and 3.4 percent (\$6.24 million of \$183.5 million) in the first year for all vessels

that reported landings of winter flounder.

Compliance costs associated with increasing the minimum winter flounder fish size would result from the cost of modifying trawl codends to reduce the bycatch of 12-inch fish. However, because codends are expandable and replaced often due to constant wear and tear, annual costs associated with this measure would be part of normal gear replacement cost.

Approximately 1,650 vessels have limited access permits and could land winter flounder regardless of whether it was the target species. Based on the NMFS 1997 landings data, 971 of the active multispecies vessels landed winter flounder. On average, gross revenue per vessel would likely be reduced between \$4,820 and \$6,430 in the first year, assuming uniform landings across vessels. Otter trawl vessels accounted for the majority of the landings (64 percent), followed by gillnet vessels (18 percent). Thus, otter trawl vessels could lose between \$3.0 million and \$4.0 million in the first year. Gillnet vessels could lose between \$0.8 million and \$1.1 million in the first year.

NMFS seeks comments regarding the IRFA. In particular, NMFS is seeking information on the number of vessels using brush sweep trawl gear, the number of vessels currently fishing for halibut, and the number of vessels impacted by the increase in the winter flounder fish size. Copies of the IRFA are available (see ADDRESSES).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule contains information collection requirements subject to the PRA and which require OMB approval. The rule restates requirements concerning the installation of a vessel tracking system, documentation of installation of a vessel tracking system, declarations of a vessel being in or out of a fishery, and call-in systems. The requirement for installation of vessel tracking systems has been approved by OMB under control number 0648–0307, with an estimated response time of 1 hour. The other requirements have been approved by OMB under control number 0648–0202, with an estimated response time of 2 minutes for each requirement.

The contents of this rule also affect two other information collection

requirements. The requirement that a vessel must have a NE multispecies permit in order to land or possess one halibut will subject additional persons to the existing permit requirement approved under OMB number 0648-0202. Those persons who are newly subject to the permit requirement will also automatically be subject to the requirement that permit holders submit Vessel Trip Reports, a requirement which has been approved under OMB number 0648-0212. Requests have been submitted to OMB for the expanded coverage of these requirements. The estimated response time for these requirements is 35 minutes for the permit and 5 minutes per day for the logbook entries beyond those made in vessel logbooks as part of normal fishing operations.

The estimated response times include the time needed for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Public comment is sought regarding: whether this collection of information is necessary for the proper performance of the functions of this agency, including whether the information has practical utility; the accuracy of the burden estimate; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information, including through the use of automated collection techniques or other forms of information technology. Send comments regarding any of these burden estimates or any other aspect of the collection of information to NMFS and OMB (see ADDRESSES).

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 18, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries,
National Marine Fisheries Service.

For the reasons stated in the preamble, NMFS proposes to amend 50 CFR part 648 as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.2, the definitions for “Nonregulated multispecies” and “Northeast (NE) multispecies or multispecies” are revised and the definition for “Brush sweep trawl gear” is added to read as follows:

§ 648.2 Definitions.

* * * * *

Brush-sweep trawl gear means trawl gear consisting of alternating roller discs and bristle brushes that are strung along cables, chains, or footropes, and aligned together to form the sweep of the trawl net, designed to allow the trawl sweep to maintain contact with the ocean floor, or any modification to trawl gear that is substantially similar in design or effect.

* * * * *

Nonregulated multispecies means the subset of Northeast multispecies that includes silver hake, red hake, ocean pout, and Atlantic halibut.

Northeast (NE) multispecies or multispecies means the following species:

American plaice—*Hippoglossoides platessoides*.

Atlantic cod—*Gadus morhua*.

Atlantic halibut—*Hippoglossus hippoglossus*.

Haddock—*Melanogrammus aeglefinus*.

Ocean pout—*Macrozoarces americanus*.

Pollock—*Pollachius virens*.

Redfish—*Sebastes fasciatus*.

Red hake—*Urophycis chuss*.

Silver hake (whiting)—*Merluccius bilinearis*.

White hake—*Urophycis tenuis*.

Windowpane flounder—*Scophthalmus aquosus*.

Winter flounder—*Pleuronectes americanus*.

Witch flounder—*Glyptocephalus cynoglossus*.

Yellowtail flounder—*Pleuronectes ferrugineus*.

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3. In § 648.10, paragraphs (b) and (d) are revised to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(b) *VMS Notification.* (1) Scallop vessels issued a full-time or part-time limited access scallop permit, or scallop vessels fishing under the small dredge program specified in § 648.51(e), or vessels issued a limited access multispecies or scallop permit and whose owners elect to fish under the VMS notification of this paragraph (b), unless otherwise authorized or required by the Regional Administrator under paragraph (d) of this section, must have installed on board an operational VMS unit that meets the minimum performance criteria specified in § 648.9(b) or as modified in § 648.9(a). Owners of such vessels must provide documentation to the Regional Administrator at the time of application for a limited access permit that the vessel has an operational VMS unit that meets those criteria. If a vessel has already been issued a limited access permit without providing such documentation, the Regional Administrator shall allow at least 30

days for the vessel to install an operational VMS unit that meets the criteria and to provide documentation of such installation to the Regional Administrator. Vessels that are required to or have elected to use a VMS unit shall be subject to the following requirements and presumptions:

(i) Vessels that have crossed the VMS Demarcation Line specified under paragraph (a) of this section are deemed to be fishing under the DAS program, unless the vessel's owner or authorized representative declares the vessel out of the scallop or NE multispecies fishery, as applicable, for a specific time period by notifying the Regional Administrator through the VMS prior to the vessel leaving port.

(ii) Part-time scallop vessels may not fish in the DAS allocation program unless they declare into the scallop fishery for a specific time period by notifying the Regional Administrator through the VMS.

(iii) Notification that the vessel is not under the DAS program must be received prior to the vessel leaving port. A vessel may not change its status after the vessel leaves port or before it returns to port on any fishing trip.

(iv) DAS for vessels that are under the VMS notification requirements of this paragraph (b) begin with the first hourly location signal received showing that the vessel crossed the VMS Demarcation Line leaving port. DAS end with the first hourly location signal received showing that the vessel crossed the VMS Demarcation Line upon its return to port.

(v) If the VMS is not available or not functional, and if authorized by the Regional Administrator, a vessel owner must provide the notifications required by paragraphs (b)(1)(i), (ii), and (iii) of this section by using the call-in notification system described under paragraph (c) of this section, instead of using the VMS system.

(2) Upon recommendation by the Council, the Regional Administrator may require, by notification through a letter to affected permit holders, notification in the **Federal Register**, or other appropriate means, that multispecies vessels issued an Individual DAS or Combination Vessel permit install on board an operational VMS unit that meets the minimum performance criteria specified in § 648.9(b) or as modified in § 648.9(a). Owners of such vessels must provide documentation to the Regional Administrator at the time of application for these permits that the vessel has an operational VMS unit that meets those criteria. If a vessel has already been issued a permit without providing such

documentation, the Regional Administrator shall allow at least 30 days for the vessel to install an operational VMS unit that meets the criteria and to provide documentation of such installation to the Regional Administrator. Vessels that are required to use a VMS unit shall be subject to requirements and presumptions described under paragraphs (b)(1)(i) through (b)(1)(v) of this section.

(d) *Temporary authorization for use of the call-in system.* The Regional Administrator may authorize or require, on a temporary basis, the use of the call-in system of notification specified in paragraph (c) of this section. If use of the call-in system is authorized or required, the Regional Administrator shall notify affected permit holders through a letter, notification in the **Federal Register**, or other appropriate means. Multispecies vessels issued an Individual DAS or Combination Vessel (regarding the multispecies fishery) permit are authorized to use the call-in system of notification specified in paragraph (c) of this section, unless otherwise notified as specified in paragraph (b)(2) of this section.

4. In § 648.14, paragraphs (b), (c)(1), (d)(1), (e) and (g)(2) are revised, and paragraphs (a)(116), (a)(117) and (c)(26) are added to read as follows:

§ 648.14 Prohibitions.

(a) * * * (116) Fish for, land, or possess NE multispecies harvested with brush-sweep trawl gear unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters.

(117) Possess brush-sweep trawl gear while in possession of NE multispecies, unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters.

(b) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraph (a) of this section, it is unlawful for any person owning or operating a vessel holding a multispecies permit, issued an operator's permit, or issued a letter under § 648.4(a)(1)(i)(H)(3), to land, or possess on board a vessel, more than the possession or landing limits specified in § 648.86(a), (b) and (c), or to violate any of the other provisions of § 648.86, unless otherwise specified in § 648.17.

(c) * * * (1) Fish for, possess at any time during a trip, or land per trip more than the possession limit of NE multispecies specified in § 648.86(d) after using up

the vessel's annual DAS allocation or when not participating in the DAS program pursuant to § 648.82, unless otherwise exempted under § 648.82(b)(3) or § 648.89.

* * * * * (26) Possess or land per trip more than the possession or landing limit specified under § 648.86(c) if the vessel has been issued a multispecies permit.

(d) * * * (1) Possess, at any time during a trip, or land per trip, more than the possession limit of NE multispecies specified in § 648.88(a), unless the vessel is a charter or party vessel fishing under the charter/party restrictions specified in § 648.89.

(e) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraphs (a) through (d) of this section, it is unlawful for any person owning or operating a vessel issued a scallop multispecies possession limit permit to possess or land more than the possession limit of NE multispecies specified in § 648.88(c), or to possess or land regulated species when not fishing under a scallop DAS, unless otherwise specified in § 648.17.

(g) * * * (2) Possess cod, haddock, and Atlantic halibut in excess of the possession limits specified in § 648.89(c).

5. In § 648.80, paragraph (g)(4) is added to read as follows:

§ 648.80 Regulated mesh areas and restrictions on gear and methods of fishing.

(g) * * * (4) *Brush-sweep trawl prohibition.* No vessel may fish for, possess, or land NE multispecies while fishing with, or while in possession of, brush-sweep trawl gear.

6. In § 648.83, paragraph (a)(1) is revised to read as follows:

§ 648.83 Minimum fish sizes.

(a) * * * (1) Minimum fish sizes for recreational vessels and charter/party vessels that are not fishing under a NE multispecies DAS are specified in § 648.89. Except as provided in § 648.17, all other vessels are subject to the following minimum fish sizes, determined by total length (TL):

Species	Size (inches)
Cod	19 (48.3 cm)
Haddock	19 (48.3 cm)
Pollock	19 (48.3 cm)
Witch flounder (gray sole)	14 (35.6 cm)

Species	Size (inches)
Yellowtail flounder	13 (33.0 cm)
American plaice (dab)	14 (35.6 cm)
Atlantic halibut	36 (91.4 cm)
Winter flounder (blackback) ..	13 (33.0 cm)
Redfish	9 (22.9 cm)

* * * * * 7. In § 648.86, paragraph (c) is revised and paragraph (d) is added to read as follows:

§ 648.86 Possession restrictions.

(c) *Atlantic halibut.* A vessel issued an NE multispecies permit under § 648.4(a)(1) may land or possess on board no more than one Atlantic halibut, provided the vessel complies with other applicable provisions of this part.

(d) *Other possession restrictions.* Vessels are subject to any other applicable possession limit restrictions of this part.

8. In § 648.88, paragraphs (a)(1), (b), (c) and (d) are revised to read as follows:

§ 648.88 Open access permit restrictions.

(a) * * * (1) The vessel may possess and land up to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, one Atlantic halibut, and unlimited amounts of the other NE multispecies, per trip, provided that it does not use or possess on board gear other than rod and reel or handlines while in possession of, fishing for, or landing NE multispecies, and provided it has at least one standard tote on board.

(b) *Charter/party permit.* A vessel that has been issued a valid open access multispecies charter/party permit is subject to the additional restrictions on gear, recreational minimum fish sizes, possession limits, and prohibitions on sale specified in § 648.89, and any other applicable provisions of this part.

(c) *Scallop multispecies possession limit permit.* A vessel that has been issued a valid open access scallop multispecies possession limit permit may possess and land up to 300 lb (136.1 kg) of regulated species and one Atlantic halibut when fishing under a scallop DAS allocated under § 648.53, provided the vessel does not fish for, possess, or land haddock from January 1 through June 30 as specified under § 648.86(a)(2)(i), and provided the vessel has at least one standard tote on board.

(d) *Non-regulated multispecies permit.* A vessel issued a valid open access nonregulated multispecies permit may possess and land one Atlantic halibut and unlimited amounts of the

other nonregulated multispecies. The vessel is subject to restrictions on gear, area, and time of fishing specified in § 648.80 and any other applicable provisions of this part.

9. In § 648.89, paragraphs (b)(1) and (c) are revised to read as follows:

§ 648.89 Recreational and charter/party restrictions.

* * * * *

(b) * * * (1) *Minimum fish sizes.*

Persons aboard charter or party vessels permitted under this part and not fishing under the DAS program, and recreational fishing vessels in the EEZ, may not retain fish smaller than the minimum fish sizes, measured in total length (TL) as follows:

Species	Size (inches)
Cod	21 (53.3 cm)
Haddock	21 (53.3 cm)
Pollock	19 (48.3 cm)
Witch flounder (gray sole)	14 (35.6 cm)
Yellowtail flounder	13 (33.0 cm)
Atlantic halibut	36 (91.4 cm)
American plaice (dab)	14 (35.6 cm)
Winter flounder (blackback) ..	13 (33.0 cm)
Redfish	9 (22.9 cm)

* * * * *

(c) *Possession restrictions*—(1) *Cod and haddock.* Each person on a recreational vessel may possess no more than 10 cod and/or haddock, combined, in, or harvested from, the EEZ.

(i) For purposes of counting fish, fillets will be converted to whole fish at the place of landing by dividing fillet number by two. If fish are filleted into a single (butterfly) fillet, such fillet shall be deemed to be from one whole fish.

(ii) Cod and haddock harvested by recreational vessels with more than one person aboard may be pooled in one or more containers. Compliance with the possession limit will be determined by dividing the number of fish on board by the number of persons on board. If there is a violation of the possession limit on board a vessel carrying more than one person, the violation shall be deemed to have been committed by the owner and operator.

(iii) Cod and haddock must be stored so as to be readily available for inspection.

(2) *Atlantic halibut.* Charter and party vessels permitted under this part, and recreational fishing vessels fishing in the EEZ, may not possess, on board, more than one Atlantic halibut.

* * * * *

10. In § 648.90, paragraphs (b) introductory text and (b)(1) are revised to read as follows:

§ 648.90 Framework specifications.

* * * * *

(b) *Within season management action.* The Council may, at any time, initiate action to add or adjust management measures if it finds that action is necessary to meet or be consistent with the goals and objectives of the Northeast Multispecies FMP, to address gear conflicts as defined under § 600.10 of this chapter, or to facilitate the development of aquaculture projects in the EEZ. This procedure may also be used to modify FMP overfishing definitions and fishing mortality targets which form the basis for selecting specific management measures.

(1) *Adjustment process.* The Council shall develop and analyze appropriate

management actions over the span of at least two Council meetings. The Council shall provide the public with advance notice of the availability of both the proposals and the analyses and an opportunity to comment on them prior to, and at, the second Council meeting. The Council's recommendation on adjustments or additions to management measures, other than to address gear conflicts, must come from one or more of the following categories: DAS changes, effort monitoring, data reporting, possession limits, gear restrictions, closed areas, permitting restrictions, crew limits, minimum fish sizes, onboard observers, minimum hook size and hook style, the use of crucifiers in the hook-gear fishery, fleet sector shares, recreational fishing measures, area closures and other appropriate measures to mitigate marine mammal entanglements and interactions, and any other management measures currently included in the FMP. The Council's recommendation on adjustments or additions to management measures for the purposes of facilitating aquaculture projects must come from one or more of the following categories: minimum fish sizes, gear restrictions, minimum mesh sizes, possession limits, tagging requirements, monitoring requirements, reporting requirements, permit restrictions, area closures, establishment of special management areas or zones, and any other management measures currently included in the FMP.

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