

PART 705—PUBLICIZING CONTRACT ACTIONS

705.502 [Amended]

11. Section 705.502(a) is amended by removing "Procurement Executive" and "702.170-13(c)(4)" in the first sentence and adding "M/OP Director" and "701.601(a)(1)" in their places respectively.

PART 706—COMPETITION REQUIREMENTS

706.302-70 [Amended]

12. Paragraph (b)(4) of section 706.302-70 is amended by removing "715.613-70" and replacing it with "715.370-1" and by removing "715.613-71" and replacing it with "715.370-2".

PART 709—CONTRACTOR QUALIFICATIONS

13. Section 709.503 is revised to read as follows:

709.503 Waiver.

For purposes of approving waivers or further delegating the authority to approve waivers pursuant to FAR 9.503, the M/OP Director is the Agency head (see AIDAR 701.601(a)(1)). The M/OP Director hereby delegates the authority to approve waivers pursuant to FAR 9.503 to the heads of USAID contracting activities, as defined in AIDAR 702.170-10.

PART 716—TYPES OF CONTRACTS

716.303 [Amended]

14. Section 716.303(c) is amended by removing "USAID Procurement Executive (see 702.170-13)" and replacing it with "M/OP Director (see 701.601(a)(1))".

716.306 [Removed]

15. Section 716.306 is removed and reserved.

16. The heading for Part 19 is revised to read as follows:

PART 719—SMALL BUSINESS PROGRAMS

719.271-6 [Amended]

17. Section 719.271-6 is amended by removing "715.613-71" in paragraph (a)(3) and replacing it with "715.370-2".

PART 732—CONTRACT FINANCING

18. Section 732.402 is amended by revising paragraph (e)(1) to read as follows:

732.402 General.

* * * * *

(e)(1) U.S. Dollar advances to for-profit organizations, including advances for disbursement to grantees, shall be processed and approved in accordance with ADS 583.5.6b.

* * * * *

732.406-72 [Amended]

19. Section 732.406-72 is amended by removing "16 digit" from paragraph (b)(2).

PART 733—PROTESTS, DISPUTES AND APPEALS

733.101 [Amended]

20. Section 733.101 is amended by removing paragraph (a) and by redesignating paragraphs (b) and (c) as (a) and (b), respectively.

PART 750—EXTRAORDINARY CONTRACTUAL ACTIONS

750.7101 [Amended]

21. Section 750.7101 is amended by removing the designation "(a)" in front of the first paragraph and by removing paragraph (b) in its entirety. The first sentence of the remaining text is amended by adding "and" in front of "Executive Order 12163" and by removing "as amended; and International Development Cooperation Agency Delegation of Authority No. 1, dated October 1, 1979 (44 FR 57521)".

22. Section 750.7110-1 is amended by revising the last sentence to read as follows:

750.7110-1 Investigation

* * * The investigation shall establish the facts essential to meet the standards for deciding the particular case and shall address the limitations upon exercise of the authority of the M/OP Director to approve the request.

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

752.202-1 Alternate 71 [Amended]

23. The definition of the "Director" in section 752.202-1, Alternative 71, is amended by removing "Office of International Training" and replacing it with "Center for Human Capacity Development (G/HCD)".

752.7026 [Removed]

24. Section 752.7026 is removed and reserved.

Dated: July 8, 1999.

Rodney W. Johnson,

Director, Office of Procurement.

[FR Doc. 99-19648 Filed 8-2-99; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990727204-9204-01; I.D. 072299A]

RIN 0648-AM87

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Gulf of Maine (GOM) Cod Landing Limit Adjustment

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

ACTION: Interim final rule; request for comments.

SUMMARY: This rule adjusts the GOM cod landing limit by increasing it from 30 lb (13.6 kg) to 100 lb (45.4 kg) per day-at-sea (DAS) with a maximum GOM cod possession limit of 500 lb (226.8 kg) per trip and by revising the "running clock" provision. The intent of this adjustment is to address overfishing of GOM cod by reducing overall fishing mortality and discards that have been reportedly occurring on trips targeting other species managed under the Northeast Multispecies Fishery Management Plan (FMP). The intent is to allow the fishing industry to attain some economic benefit from their GOM cod incidental catch, yet to be sufficiently restrictive to discourage a directed fishery for GOM cod, which remains severely overfished. These interim measures will provide intermediate relief from overfishing due to excessive discards while permanent measures to remedy the problem are developed by the New England Fishery Management Council (Council).

DATES: Effective August 3, 1999 through January 30, 2000; comments must be received on or before September 2, 1999.

ADDRESSES: Copies of the documents supporting this action may be obtained from the Northeast Regional Office, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Comments on the interim final rule may be sent to the Regional Administrator, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298. Mark the outside of the

envelope "comments on GOM cod trip limit adjustment."

FOR FURTHER INFORMATION CONTACT:
Richard A. Pearson, 978-281-9279.

SUPPLEMENTARY INFORMATION:

Background

GOM cod is overfished. The Advisory Report on Stock Status issued pursuant to the 27th Stock Assessment Workshop (SAW) in July 1998 stated that GOM cod biomass has declined to an extremely low level. Recruitment of cod to the fishery in 1996 through 1998 was the lowest ever observed. In addition, survival of pre-recruits has been declining and is at an all-time low. Fishing mortality has also been very high—about 1.5 times greater than the fishing mortality rate threshold of the overfishing definition and approximately twice the maximum fishing mortality rate necessary to rebuild the stock under the rebuilding schedule in the FMP. The low spawning stock biomass, high fishing mortality, record low recruitment, and record low survival of pre-recruit fish indicate that the stock is collapsing. The 27th SAW Advisory Report stated that measures should be implemented to cease all directed fishing on GOM cod and to minimize bycatch of the species. In 1998, the Stock Assessment Review Committee (SARC) recommended an immediate reduction in fishing mortality to near zero.

In response to SAW 27 and to the recommendations of the SARC, the Council, in January 1999, approved Framework Adjustment 27 to the FMP. Framework 27 was necessary to address overfishing of several stocks, in particular GOM cod, and to achieve the rebuilding goals of the FMP for the 1999 multispecies fishing year. Framework 27 utilized a conservative fishing mortality rate (F) reference point, $F_{0.1} = 0.16$, to ensure that the fishing mortality rate objective of Amendment 7 to the FMP ($F_{max} = 0.29$) would not be exceeded.

In developing the measures for Framework 27, the Council attempted to balance the interests of several industry sectors. The measures that the Council approved relied to a significant extent upon the premise stated by the fishing industry that vessel owners could, and would, avoid GOM cod when conducting fisheries for such other species as flounder. Based largely upon this testimony, the Council approved measures in Framework 27 consisting of a GOM cod landing limit of 200 lb (90.7 kg) per DAS and rolling closure areas, in an effort to balance the need to protect GOM cod while still allowing fishing for other species managed under

the FMP. To ensure that the target total allowable catch (TAC) level would not be exceeded, the Council also approved a mechanism to reduce the landing limit to between 5 and 100 lb (2.3 and 45.4 kg) per DAS, triggered when 402 metric tons (mt) of GOM cod was projected to be landed. Framework 27 also included several important gear restrictions and other measures.

On May 1, 1999, areas off Massachusetts, including Stellwagen Bank, which had been closed during February, March, and April under Framework Adjustment 26, were reopened. Based upon projected landings data, the trigger of 402 mt of GOM cod was reached on May 28, 1999. Accordingly, the landing limit was reduced to 30 lb (13.6 kg) per DAS to ensure that the TAC associated with $F_{0.1}$ was not exceeded (64 FR 28937, May 28, 1999). Almost immediately, high levels of GOM cod discards were reported by the industry. Two factors apparently contributed to this situation: (1) Despite previous testimony, the industry could not avoid cod while fishing for other species; and (2) concentrations of cod in the reopened closed areas were very large.

These reports of discarding prompted the Council on May 28, 1999, by a 9-8 vote, to request the Secretary of Commerce to take emergency action to increase the GOM cod landing limit up to 700 lb (317.5 kg) per DAS, with the following two additional changes to the regulations:

[The first change to the rule is that] there would be a limit on the allowance of overages equating to three days' landings. When landing overages, a vessel must remain in port until sufficient time has been deducted from its days-at-sea allocation. Currently, there is no limit on the amount of overage a vessel can land on any trip except for the vessel's total days-at-sea allocation. The second change to the rule is that when a vessel lands an overage, it must remain in port for two additional layover days after calling out of the days-at-sea program. The Council decided to recommend this course of action because it would minimize regulatory discards and, with the mandatory layover requirement and overage limit, would reduce the potential for vessels to direct effort and pulse fish on cod.

However, NMFS determined that the current situation did not meet NMFS' policy guidelines for taking emergency action under sec. 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The policy guidelines (62 FR 44421, August 21, 1997) define an emergency, in part, as a situation that results from recent, unforeseen events or recently discovered circumstances. Although the

magnitude of discarding is large, the Council was aware of this possibility during its deliberations for Framework 27 and considered the possible consequences when approving the measures. The Council instead chose to rely upon industry testimony given during the development of Framework 27, which stated that vessels could, and would, avoid cod while targeting other species. Furthermore, a GOM cod landing limit of 700 lb (317.5 kg) per DAS, even in conjunction with the other measures proposed by the Council, would not be sufficient to discourage a directed fishery for GOM cod and, most likely, would result in the target TAC and overall fishing mortality objectives being greatly exceeded, thereby worsening overfishing.

Interim measures are authorized under sec. 305(c) of the Magnuson-Stevens Act when they are needed to reduce overfishing. Measures to reduce high levels of discarding and overall fishing mortality are necessary because, if left uncontrolled, the effectiveness of Framework 27 will be undermined. These measures contribute towards the achievement of the GOM cod fishing mortality target in two ways: (1) Allowing the retention of cod (100 lb (45.4 kg) per DAS) that would otherwise be discarded enhances the profitability per day of a fishing trip, compared to the status quo (30 lb (13.6 kg) per DAS), and therefore, may provide more of an incentive for vessel owners to decrease the length of their trips. A decrease in the length of trips targeting other species will reduce the opportunity to encounter GOM cod, and thereby reduce the overall fishing mortality, as compared to the status quo. (2) Revising the "running clock" so that it may be used for no more than 24 hours may reduce the incentive for industry to target GOM cod, which may result in fewer overall discards and reduced fishing mortality.

These interim measures allow vessels to land 100 lb (45.4 kg) of GOM cod for the first 24-hour period of a trip or portion thereof, after a vessel has called into the DAS program to start a trip on which cod are landed. For example, a vessel that starts a trip at 6 a.m. may call out of the DAS program at 11 a.m. and land up to 100 lb (45.4 kg), but the vessel cannot land any more GOM cod on a subsequent trip until at least 6 a.m. on the following day. For trips longer than 24 hours, a vessel may land up to an additional 100 lb (45.4 kg) for each additional 24-hour block of DAS fished, or part of an additional 24-hour block of DAS fished, up to a maximum possession limit of 500 lb (226.8 kg) per trip. For example, a vessel that has been

called into the DAS program for 48 hours or less, but more than 24 hours, may land up to, but no more than, 200 lb (90.7 kg) of GOM cod. However, for trips beyond 24 hours, if a vessel lands GOM cod and has only been called into part of an additional 24-hour block of a DAS (e.g., more than 24 hours but less than 48 hours), the vessel may only land an additional 100 lb (45.4 kg) of cod provided the vessel operator does not call out of the DAS program or depart from port, until the remainder of the additional 24-hour block of the DAS has elapsed. For example, a vessel that has been called into the DAS program for 49 hours, at the time of landing, may land only up to 300 lb (136.08 kg) of cod, provided that the vessel operator does not call out of the DAS program, or leave port, until 72 hours have elapsed from the beginning of the trip. In effect, use of the "running clock" may not exceed 24 hours.

Vessels possessing multispecies permit categories C (small vessel), H (handgear) and J (scallop limited access possession limit) are subject to this same landing limit (100 lb (45.4 kg) per day), but with a maximum possession limit of 300 lb (136.08 kg) of GOM cod per trip.

The adjusted GOM cod landing limit is set to provide a balance that is more reflective of the actual level of cod encountered in directed fishing for other species, yet that discourages directed fishing for GOM cod. These interim measures are within the range of alternatives analyzed for Framework 27, and will provide some relief from overfishing due to excessive discards of GOM cod while other measures are developed by the Council.

Increasing the daily GOM cod landing limit to 100 lb (45.4 kg) per DAS allows vessels to retain cod that otherwise would have been discarded under the current limit of 30 lb (13.6 kg) per DAS of cod. Regulatory discards will be converted to economic benefits for vessels, which could enhance the profitability of time spent fishing, compared to the status quo, and may provide an incentive for vessel operators to reduce the length of their trips. Shorter trips may reduce overall GOM cod fishing mortality because there is less opportunity to encounter cod. Although a higher trip limit may result in higher reported landings of GOM cod than the current trip limit, it is projected that the interim measures will bring the overall GOM cod fishing mortality rate closer to the F_{max} target than is likely to occur under the status quo.

Conservation benefits will also be achieved by limiting the "running clock" to no more than 24 hours, and by

instituting a maximum possession limit for GOM cod of 500 lb (226.8 kg) per trip. Under current regulations, there is only an indirect limit on the "running clock," which requires vessels to call out of the DAS program after 14 days. Limiting the "running clock" to no more than 24 hours and implementing a maximum possession limit prevents the possibility that a vessel will target cod, retain several hundred pounds, and then return to shore and let the DAS clock continue to run to equate to the vessel's GOM cod landings. This is possible under current regulations because many vessels do not utilize their entire allocation of DAS and can afford to let the DAS clock run to account for overages. Although the "running clock" was originally implemented for the purpose of reducing regulatory discards, it has unintentionally allowed industry to circumvent the daily GOM cod landing limit and continue a directed fishery for GOM cod. Revising the "running clock" provision will reduce the incentive to target cod, which otherwise would have occurred by increasing the trip limit. With fewer individual vessels targeting cod, overall discards will be minimized.

Several options were considered in the development of these interim measures, including a higher landing limit, additional closed areas in conjunction with a higher limit, and a no-action alternative. A higher landing limit would not be effective in curtailing a directed fishery for GOM cod, as evidenced by the high volume of landings that occurred under a 200 lb (90.7 kg) per DAS landing limit in May 1999 and triggered the reduction of the landing limit to 30 lb (13.6 kg) per DAS on May 28, 1999. Additional closed areas in conjunction with a higher landing limit would have required additional analysis and could not have been implemented in a timely manner. These interim measures, which were analyzed in Framework 27, will help to reduce discards while contributing to the achievement of the fishing mortality target.

The Council has initiated a framework action to modify the GOM cod fishery management program, which would remain in effect through the next fishing year if it is approved and implemented. NMFS will work with the Council and the public, while these interim measures are in place, to develop measures that reduce mortality on GOM cod, without excessive discarding.

These measures will remain in effect for 180 days and may be extended for an additional 180 days, provided the public has had opportunity to comment on the measures. Accordingly, NMFS is

seeking public comment on these interim measures.

Classification

The Assistant Administrator for Fisheries (AA) finds that a delay in action to reduce overfishing to provide prior notice and opportunity for public comment would increase the likelihood of exceeding the GOM cod target TAC and would increase the probable need for more severe restrictions in the future. Thus, the AA, pursuant to authority set forth at 5 U.S.C. 553(b)(B), for good cause finds that it would be contrary to the public interest to provide prior notice and opportunity for public comment for this rule. The increase in the GOM cod landing limit relieves a restriction and, thus, under 5 U.S.C. 553(d)(1) is not subject to a 30-day delay in effective date. With respect to the other provisions of the rule, because of the need to implement these measures in a timely manner to address overfishing of GOM cod, the AA finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness.

This rule has been determined to be not significant for purposes of E.O. 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and Recordkeeping requirements.

Dated: July 28, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is amended 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 § 648.10, paragraphs (f)(3)(i) and (ii) are suspended and paragraph (f)(3)(iii) is added to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(f) * * *

(3) * * *

(iii) A vessel subject to the cod landing limit restriction, specified in § 648.86(b)(1)(iv), must enter port and call-out of the DAS program no later than 14 DAS after starting a multispecies DAS trip.

3. In § 648.14, paragraphs (c)(23), (c)(24), and (c)(25) are suspended and paragraphs (c)(27), (c)(28), (c)(29), and (c)(30) are added to read as follows:

§ 648.14 Prohibitions.

* * * * *

(c) * * *
 (27) Fail to enter port and call-out of the DAS program no later than 14 DAS after starting (i.e., the time of the issuance of the DAS authorization number) a multispecies DAS trip, as specified in § 648.10(f)(3)(iii), unless otherwise specified in § 648.86(b)(1)(iv), or unless the vessel is fishing under the cod exemption specified in § 648.86(b)(2).

(28) Enter port, while on a multispecies DAS trip, in possession of more than the allowable limit of cod specified in § 648.86(b)(1)(iv) without reporting the cod hail weight, unless the vessel is fishing under the cod exemption specified in § 648.86(b)(2). Under no circumstances may such a trip exceed 14 days in length.

(29) Fail to remain in port for the appropriate time specified in § 648.86(b)(1)(ii), except for transiting purposes, provided the vessel complies with § 648.86(b)(5).

(30) Land more than the allowable limit of cod specified in § 648.86(b)(1)(iv), unless the vessel is fishing under the cod exemption specified in § 648.86(b)(2).

* * * * *

4. In § 648.82, paragraph (b)(3)(i) is suspended and paragraph (b)(3)(iii) is added to read as follows:

§ 648.82 Effort-control program for limited access vessels.

* * * * *

(b) * * *

(3) * * *

(iii) *DAS allocation.* A vessel qualified and electing to fish under the small vessel category may retain up to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, per trip without being subject to DAS restrictions, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(b), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip. Such a vessel is not subject to a possession limit for other NE multispecies.

* * * * *

5. In § 648.86 paragraphs (b)(1)(i), (b)(1)(ii)(A), and (b)(3) are suspended and paragraphs (b)(1)(iv) and (b)(5) are added to read as follows:

§ 648.86 Possession restrictions.

* * * * *

(b) * * *

(1) * * *

(iv) *Landing limit.* Notwithstanding any other provisions of this part, the following measures shall be in effect from August 3, 1999 until January 30, 2000. Except as provided in paragraph (b)(2) of this section, and subject to the call-in provision specified in § 648.10(f)(3)(iii), a vessel fishing under a NE multispecies DAS may land only up to 100 lb (45.4 kg) of cod during the first 24-hour period after the vessel has started a trip on which cod were landed (e.g., a vessel that starts a trip at 6 a.m. may call out of the DAS program at 11 a.m. and land up to a 100 lb (45.4 kg), but the vessel cannot land any more cod on a subsequent trip until at least 6 a.m. on the following day). For each trip longer than 24 hours, a vessel may land up to an additional 100 lbs (45.4 kg) for each additional 24-hour block of DAS fished, or part of an additional 24-hour block of DAS fished, up to a maximum of 500 lb (226.8 kg) per trip (e.g., a vessel that has been called into the DAS program for 48 hours or less, but more than 24 hours, may land up to but no more than 200 lb (90.7 kg) of cod). A vessel that has only been called into part of an additional 24-hour block of a DAS (e.g., a vessel that has been called into the DAS program for more than 24 hours but less than 48 hours) may land up to an additional 100 lb (45.4 kg) of cod for that trip provided that the vessel complies with the following:

(A) The vessel operator does not call-out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port, unless transiting as allowed in paragraph (b)(5) of this section, until the rest of the additional 24-hour block of the DAS has elapsed regardless of whether all of the cod on board is offloaded (e.g., a vessel that has been called into the DAS program for 25 hours, at the time of landing, may land only up to 200 lb (90.7 kg) of cod, provided the vessel does not call out of the DAS program or leave port until 48 hours have elapsed from the beginning of the trip).

(B) Comply with paragraph (b)(1)(ii)(B) of this section.

(C) Vessels must have at least one standard tote on board. Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

* * * * *

(5) *Transiting.* A vessel that has exceeded the cod landing limit as specified in paragraph (b)(1) of this section, and is therefore, subject to the requirement to remain in port for the period of time described in paragraph

(b)(1)(iv) of this section may transit to another port during this time, provided that the vessel operator notifies the Regional Administrator (see Table 1 to § 600.502 of this chapter) either at the time the vessel reports its hailed weight of cod or at a later time prior to transiting and provides the following information: vessel name and permit number, destination port, time of departure, and estimated time of arrival. A vessel transiting under this provision must stow its gear in accordance with one of the methods specified in § 648.81(e) and may not have any fish on board the vessel.

* * * * *

6. In § 648.88, paragraph (a)(1) is suspended and paragraph (a)(3) is added to read as follows:

§ 648.88 Open access permit restrictions.

(a) * * *

(3) Notwithstanding any other provisions of this part, the following measures shall be in effect from August 3, 1999 until January 30, 2000. The vessel may possess and land up to 300 lb (136.1 kg) of cod, haddock, and yellowtail flounder, combined, per trip, and unlimited amounts of the other NE multispecies, provided that the amount of cod on board does not exceed the daily cod limit specified in § 648.86(b)(1)(iv), up to a maximum of 300 lb (136.1 kg) of cod for the entire trip, and that the vessel 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.

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[FR Doc. 99-19851 Filed 7-29-99; 4:00 pm]

BILLING CODE 3510-22-F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 990723203-9203-01; I.D. 061599A]

RIN 0648-AM65

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustments 27 and 30 to the Northeast Multispecies Fishery Management Plan (FMP)

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

ACTION: Final rule.