

notification letter of the proposed tests and schedule under the Alternative Tier 2 provisions have been placed in the public record.

In accordance with 40 CFR 79.56(a), manufacturers of F/FAs may satisfy the Subpart F testing requirements on a group basis, e.g. the API 211(b) Research Group. Each individual manufacturer that is a member of such a group, however, continues to be individually subject to the testing and data submission requirements.

This document serves as a notice to all manufacturers of the subject F/FAs, that are not exempted from these requirements under the small business provisions of 40 CFR 79.58(d), that they are subject to these requirements.

List of Subjects in 40 CFR Part 79

Environmental protection, Air pollution control, Gasoline, Conventional gasoline, Oxygenates, Methyl tertiary butyl ether, and Motor vehicle pollution.

Dated: November 3, 1997

Richard D. Wilson,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 97-29594 Filed 11-10-97; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AE 27

Endangered and Threatened Wildlife and Plants; Notice of Public Hearing and Reopening of Comment Period on Proposed Threatened Status for Newcomb's Snail From the Island of Kauai, Hawaii

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearing and reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service), pursuant to the Endangered Species Act of 1973, as amended (Act), provides notice of a public hearing on the proposed threatened status for Newcomb's snail (*Erinna newcombi*). In addition, the Service has reopened the comment period. All parties are invited to submit comments on this proposal.

DATES: The public comment period now closes on December 15, 1997. Any comments received by the closing date will be considered in the final decision on this proposal. The public hearing

will be held from 2:00 p.m. to 4:00 p.m. and from 6:00 p.m. to 8:00 p.m. on Wednesday, December 3, 1997.

ADDRESSES: The public hearing will be held at the Outrigger Kauai Beach Hotel, 4331 Kauai Beach Drive, Lihue, Kauai, Hawaii. Written comments and materials concerning this proposal may be submitted at the hearing or sent directly to Mr. Brooks Harper, Field Supervisor, Ecological Services, Pacific Islands Ecoregion, U.S. Fish and Wildlife Service, 300 Ala Moana Blvd., Room 3108, P.O. Box 50088, Honolulu, HI 96850. Comments and materials will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Christine Willis (see ADDRESSES section) or at 808/541-3441.

SUPPLEMENTARY INFORMATION:

Background

Newcomb's snail (*Erinna newcombi*) is a freshwater snail restricted to the island of Kauai, Hawaii. The distribution of this snail has greatly decreased from the known historic distribution and extant populations are presently limited to restricted habitats within five perennial streams on State land. The five known populations of this snail and its habitat are currently threatened by predation by a species of non-native predatory snail and two species of non-native marsh flies. These populations are also subject to an increased likelihood of extirpation from water development projects and naturally occurring events, including natural disasters such as hurricanes and landslides.

On July 21, 1997, the Service published a rule proposing threatened status for Newcomb's snail in the **Federal Register** (62 FR 38953-38958). Section 4(b)(5)(E) of the Act (16 U.S.C. 1531 *et seq.*) requires that a public hearing be held if it is requested within 45 days of the publication of the proposed rule. A public hearing request by the State of Hawaii, Department of Land and Natural Resources, was received within the allotted time period. The Service has scheduled a public hearing on Lihue, Kauai on Wednesday, December 3, 1997, at the Outrigger Kauai Beach Hotel from 2:00 to 4:00 p.m. and from 6:00 to 8:00 p.m.

Oral and written comments will be accepted and treated equally. Parties wishing to make statements for the record should bring a copy of their statements to the hearing. Oral statements may be limited in length, if the number of parties present at the hearing necessitates such a limitation.

There are no limits to the length of written comments or materials presented at the hearing or mailed to the Service. Written comments carry the same weight as oral comments. Legal notices announcing the date, time, and location of the hearing are being published in newspapers concurrently with this **Federal Register** notice.

The comment period on the proposal was initially closed on September 19, 1997. To accommodate the hearing, the public comment period is reopened upon publication of this notice. Written comments may now be submitted until December 15, 1997, to the Service office in the ADDRESSES section.

Author: The primary author of this notice is Christine Willis (see ADDRESSES section).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Dated: November 3, 1997.

Cynthia U. Barry,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 97-29439 Filed 11-10-97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 971030259-7259-01; I.D. 101497C]

RIN 0648-AJ96

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 24

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 Framework Adjustment 24 to the Northeast (NE) Multispecies Fishery Management Plan (FMP). This framework would implement measures to adjust the Gulf of Maine (GOM) cod trip limit provision (1,000 lbs (453.6 kg) per day; 1,500 lbs (680.4 kg) per day, starting with day 5) by requiring vessels to come into port and report to NMFS at least once every 14 days and, for those vessels that exceed the trip limit, to remain in port until days-at-sea (DAS) used equate to the allowable cod

landings and by adjusting the trip limit boundary line from 42°00' N. lat. to 42°20' N. lat. east of 69°30' W. long.; allow vessels to carry-over up to 10 unused multispecies DAS into the next fishing year; and exempt vessels that fish in the Northwest Atlantic Fisheries Organization (NAFO) Regulatory Area from certain provisions of the NE multispecies FMP, such as the DAS program. The intended effect of this rule is to improve the effectiveness of the GOM cod trip limit, promote safety, and provide flexibility and opportunity to vessels fishing under the multispecies stock-rebuilding program.

DATES: Comments must be received on or before December 10, 1997.

ADDRESSES: Comments on the rule should be sent to Andrew A. Rosenberg, Ph.D., Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930 ATTN: Susan A. Murphy. Copies of Amendment 7 to the FMP (Amendment 7), its regulatory impact review (RIR), and the final regulatory flexibility analysis (FRFA) contained with the RIR, its final supplemental environmental impact statement (FSEIS), and Framework Adjustment 24 documents are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council (Council), 5 Broadway, Saugus, MA 01906-1097.

Comments regarding burden-hour estimates for collection-of-information requirements contained in this proposed rule should be sent to the Regional Administrator (See **ADDRESSES**) and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20502 (ATTN: NOAA Desk Officer).

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

SUPPLEMENTARY INFORMATION: The regulations implementing the FMP restrict landings of GOM cod. Vessels fishing under a multispecies DAS north of 42°00' N. lat. are allowed to retain up to 1,000 lb (453.6 kg) of cod per day, or any part of a day, for each of the first 4 days of a trip, and up to 1,500 lb (680.4 kg) of cod per day, or any part of a day, in excess of 4 consecutive days. To minimize discarding, vessels may land cod in excess of the trip limit provided that they do not call-out of the multispecies DAS program until DAS per trip correspond to the total allowable landings of cod per trip.

Recent concern has been raised that the intent of these regulations was being circumvented by fishers directing on GOM cod early in the trip and allowing

their DAS clock continue to run while returning to fish for other regulated species. This practice allows vessels to take advantage of the 1,500 lb (680.4 kg) cod trip limit after the fourth day of a "trip," and permits some Trip-gillnet category vessels, which normally bring in their nets at the end of each trip, to leave them in the water.

This framework proposes to adjust the GOM cod trip limit by requiring vessels subject to this provision (i.e., all vessels fishing under a multispecies DAS that are not fishing under the trip limit exemption specified at § 648.86(b)(2) and that have exceeded the trip limit) to remain in port until sufficient DAS have passed to equate to the cod landed. In addition, these vessels would be required to come into port and report to NMFS by calling either the cod hail line or the DAS call-out number within 14 days of starting a trip, whichever is appropriate. For instance, if the trip limit is exceeded, the operator would call the cod hail line, if not exceeded, the operator must call the DAS number and end the trip.

This measure is intended to prevent vessels from "running their clock" and taking advantage of the 1,500 lb (680.4 kg) cod trip limit after the fourth day of a trip, as well as help ensure that Trip-gillnet vessels retrieve their nets from the water periodically. Vessels exceeding the cod trip limit, and thus required to remain in port, may transit to another port, provided the operator or owner calls the cod hail line and reports the vessel name and permit number, time of departure, destination port, and estimated time of arrival before leaving the dock to transit. Transiting vessels would be required to stow all nets and would be prohibited from having fish on board the vessel.

Because current regulations contained in § 648.4(c)(2)(iii)(B) specify that gillnet vessels must select either the Day- or Trip-gillnet category for an entire fishing year, and since the cod trip limit as implemented may have influenced a vessel owner's selection, this framework would allow gillnet vessels to switch categories once during the 1997 fishing year. Vessels electing to change their gillnet category would need to complete the Gillnet Category Designation and Tag Program Application Form within 30 days of the date of effectiveness of the final rule implementing Framework 24. A vessel switching from the Trip- to Day-gillnet category would be required to take the full 120 days out of the gillnet fishery, starting with the time the vessel was issued a Day gillnet category designation.

Also, to better represent the stock boundary between GOM and Georges

Bank cod, this framework would modify the current GOM cod trip limit boundary. Specifically, the trip limit boundary line would be modified from 42°00' N. lat. to 42°20' N. lat. east of 69°30' W. long.

Due to a concern that unforeseen circumstances may result in forfeiture of DAS or fishing under unsafe circumstances, such as bad weather conditions or mechanical breakdowns near the end of the year, the Council developed a measure to allow vessels to carry-over up to 10 unused multispecies DAS from one fishing year to the next. This action would credit each active vessel with the amount of unused DAS remaining, up to a maximum of 10. The carry-over allowance could not be accumulated year to year; e.g., a vessel that receives an allocation of 88 DAS per year would not be allowed to use more than 176 DAS over a 2-year period. This measure would promote safety by reducing risk and increasing planning flexibility, while not compromising the conservation impact of the DAS program.

In September 1996 and 1997, NAFO allocated the U.S. allocations of redfish and *Illex* squid, as well as a small effort allocation for shrimp (*Pandalus* sp.). The U.S. has an interest in increasing U.S. participation in NAFO fisheries. In response, the Council developed steps to remove regulatory obstacles to allow vessels to fish for species currently regulated under the FMP and to land in U.S. ports. Specifically, Framework 24 would exempt multispecies vessels that possess a High Seas Fishing Compliance Act permit and that are fishing exclusively in the NAFO Regulatory Area from DAS, minimum mesh size, and possession limit requirements of the multispecies FMP. These vessels would, instead, be subject to the requirements imposed by NAFO. Vessels would be required to call the NMFS Office of Law Enforcement, nearest to the point where the vessel intends to offload, to declare their intent to fish in the NAFO area prior to leaving port, and to call-in by marine radio-telephone to the NMFS Law Enforcement Office nearest to the point of offloading when leaving the NAFO area to return home. If necessary for enforcement or administrative reasons, the Administrator, Northeast Region, NMFS (Regional Administrator) is authorized to require that a NMFS-issued exemption certificate be on board the vessel.

NMFS is requesting comments on the proposed measures contained in this action, and in particular, the proposed modification of the current GOM cod trip limit boundary line. Comments

must be received on or before December 10, 1997.

Classification

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. This certification is based on the following analysis which takes into account the applicable criteria established by the agency for determining whether economic impacts on small entities are "significant" under the Regulatory Flexibility Act. For the purposes of the GOM cod trip limit adjustment and the 10-DAS carry-over provision, there are approximately 1,650 limited access multispecies vessels, virtually all of which are small entities that are subject to these regulations. However, based on the best available information, both of these measures would affect fewer than 20 percent of the vessels in the fishery. Recent information shows that most vessels have begun redirecting effort off GOM cod and, therefore, are not catching cod at rates greater than the trip limit. Preliminary reports show that for the first 2 months of the 1997 fishing year, 250 calls were made to the cod hail line. This figure constitutes fewer than 5 percent of the 5,300 DAS notification calls made during this time. Further, with a 50 percent DAS reduction now in effect (May 1, 1997), a strong incentive exists for vessels to call-in and end a DAS trip, i.e., not exceeding the cod trip limit. In regards to the DAS carry-over provision, based on 1996 DAS utilization rates, it is anticipated that far fewer than 20 percent of all vessels will utilize their DAS to within 10 days of their annual allocation. Of those that do, only a subset will actually benefit, that is, use the carryover. For the NAFO exemptions proposed in this rule, the universe of vessels for practical purposes is limited to the vessels that are physically capable of making the trip. As these exemptions would apply to all vessels regardless of whether or not they have a multispecies permit, the universe of small entities is all U.S. vessels capable of making the trip. Variables involved in determining ability to make a trip include vessel size, hull design, fuel capacity, captain and crew experience, and weather conditions. Based on this, the number of affected vessels cannot be currently

estimated; however, recent information shows that a total of 40 vessels have obtained a High Seas Fishing Compliance Act permit from NMFS and, thus, have indicated an interest in participating in this exemption program. Considering the necessity of vessel capability and the limited number of vessels that have demonstrated an interest thus far in fishing in the NAFO Regulatory Area, the impact of these exemptions is expected to be positive since it provides additional opportunity to fish and, therefore, will not have a significant adverse effect. As a result, an initial regulatory flexibility analysis was not prepared.

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 three new collection-of-information requirements. The collection-of-information requirements have been submitted to the OMB for approval under control number 0648-0202, and the estimated response times are as follows:

1. Declaration of transit to another port under the exception to the cod trip limit requirement to remain in port (1-minute response when made in conjunction with a cod hail line call, 3-minutes response when made as a separate call).
2. Declaration to fish in and to leave the NAFO Regulatory Area (3-minutes response for initial call, 5-minutes response for second call).
3. Request for letter of authorization to fish in the NAFO Regulatory Area (3-minutes response).

This rule also restates current information requirements that had been approved by OMB under the PRA and that are needed for the implementation of Framework Adjustment 24. These current information requirements are approved under OMB control number 0648-0202. Their estimated response times are as follows:

1. Declaration into the Trip or Day gillnet vessel category and request for initial gillnet tags requires written declaration (5-minutes response).
2. Declaration of 120 days out of the gillnet fishery in minimum blocks of 7 days requires vessel notification (3-minutes response).
3. Reporting of cod catch on board and off-loaded for vessels fishing north of the cod exemption line, specified at § 648.86(b)(1), while fishing under a NE

multispecies DAS requires vessel notification (3-minutes response).

4. Declaration that a vessel will be fishing south of the cod exemption line, specified at § 648.86(b)(2), while fishing under a NE multispecies DAS requires vessel notification (2-minutes response).

Send comments regarding these burden estimates or any other aspect of the data requirements, including suggestions for reducing the burden, to the Regional Administrator and to OMB (see ADDRESSES).

Public comment is sought regarding whether this proposed collection of information is necessary and practical for the proper performance of the functions of the agency; 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 techniques or other forms of information technology.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 5, 1997.

David Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be 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 § 648.2, the definitions for "NAFO", "NAFO Convention Area", and "NAFO Regulatory Area" are added, in alphabetical order, to read as follows:

§ 648.2 Definitions.

* * * * *

NAFO means Northwest Atlantic Fisheries Organization.

NAFO Convention Area means the waters of the Northwest Atlantic Ocean north of 35°00' N. lat. and west of a line extending due north from 35°00' N. lat. and 42°00' W. long. to 59°00' N. lat., thence due west to 44°00' W. long., and thence due north to the coast of Greenland and the waters of the Gulf of St. Lawrence, Davis Strait and Baffin Bay south of 78°10' N. lat.

NAFO Regulatory Area means the part of the NAFO Convention Area that lies beyond the 200-mile zones of the coastal States.

* * * * *

3. In § 648.4, paragraphs (a)(1) introductory text and (c)(2)(iii)(B) are revised to read as follows:

§ 648.4 Vessel and individual commercial permits.

(a) * * *

(1) *NE multispecies vessels.* Except for vessels that have been issued a valid High Seas Fishing Compliance Act permit, have declared their intent to fish, and fish exclusively in the NAFO Regulatory Area as provided in § 648.17(a), any vessel of the United States, including a charter or party boat, must have been issued and have on board a valid multispecies permit to fish for, possess or land multispecies finfish in or from the EEZ. Multispecies frames used as, or to be used as, bait on a vessel fishing exclusively with pot gear are deemed not to be multispecies finfish for purposes of this part provided that there is a receipt for the purchase of those frames on board the vessel.

* * * * *

(c) * * *

(2) * * *

(iii) * * *

(B) For vessels fishing for NE multispecies with gillnet gear, with the exception of vessels under the Small Vessel permit category, an annual declaration as either a Day or Trip gillnet vessel designation as described in § 648.82(k). Vessel owners electing a Day gillnet designation must indicate the number of gillnet tags that they are requesting and must include a check for the cost of the tags. A permit holder letter will be sent to all eligible gillnet vessels informing them of the costs associated with this tagging requirement and directions for obtaining tags. Except for fishing year 1997, once a vessel owner has elected this designation, he/she may not change the designation or fish under the other gillnet category for the remainder of the fishing year. For the 1997 fishing year, a vessel may change its gillnet category designation once, provided the vessel owner submits a Gillnet Category Designation and Tag Program Application Form to NMFS within 30 calendar days of the effectiveness date of this provision. Incomplete applications, as described in paragraph (e) of this section, will be considered incomplete for the purpose of obtaining authorization to fish in the NE multispecies gillnet fishery and will be processed without a gillnet authorization.

* * * * *

4. In § 648.10, paragraph (c)(5) is revised and paragraph (f)(3) is added to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(c) * * *

(5) Any vessel that possesses or lands per trip more than 400 lb (181.44 kg) of scallops, and any vessel issued a limited access multispecies permit subject to the DAS program and call-in requirement that possesses or lands regulated species, except as provided in §§ 648.17 and 648.89, shall be deemed in the DAS program for purposes of counting DAS, regardless of whether the vessel's owner or authorized representative provided adequate notification as required by paragraph (c) of this section.

* * * * *

(f) * * *

(3) *Cod trip limit call-in.* (i) A vessel subject to the cod landing limit restriction specified in § 648.86(b)(1)(i), that has not exceeded the allowable limit of cod based on the duration of the trip, must enter port and call-out of the DAS program no later than 14 DAS after starting (i.e., the time of issuance of a DAS authorization number) a multispecies DAS trip.

(ii) A vessel subject to the cod trip limit restriction specified in § 648.86(b)(1)(i), that exceeds or is expected to exceed the allowable limit of cod based on the duration of the trip, must enter port no later than 14 DAS after starting (i.e., the time of issuance of a DAS authorization number) a multispecies DAS trip, and, must report, upon entering port and before offloading, its hailed weight of cod under the separate call-in system specified at § 648.86(b)(1)(ii)(B). Such vessel must remain in port, unless for transiting purposes as allowed in § 648.86(b)(3), and may not call-out of the DAS program for that trip, until sufficient time has elapsed to account for and justify the amount of cod on board in accordance with § 648.86(b)(1)(ii).

5. In § 648.14, paragraphs (a)(12), (a)(13), (a)(31)(iii), (a)(33), (a)(35) through (37), (a)(47), (a)(55), (b), (c) introductory text, (d) introductory text, (e), (g) introductory text, (t), (x)(4)(i), and (ii) are revised, and paragraphs (a)(31)(iv), and (c)(22) through (25) are added to read as follows:

§ 648.14 Prohibitions.

(a) * * *

* * * * *

(12) Fish for, take, catch, harvest, possess or land any species of fish regulated by this part in or from the EEZ, on or by a vessel, unless the vessel has a valid and appropriate permit issued under this part and the permit is

on board the vessel and has not been surrendered, revoked, or suspended, or unless otherwise specified in § 648.17.

(13) Purchase, possess or receive for a commercial purpose, or attempt to purchase possess or receive for a commercial purpose, any species regulated under this part unless in possession of a valid dealer permit issued under this part, except that this prohibition does not apply to species that are purchased or received from a vessel not issued a permit under this part that fished exclusively in state waters, or unless otherwise specified in § 648.17.

* * * * *

(31) * * *

(iii) The NE multispecies were harvested in or from the EEZ by a recreational fishing vessel; or

(iv) Unless otherwise specified in § 648.17.

* * * * *

(33) Sell, barter, trade, or otherwise transfer; or attempt to sell, barter, trade, or otherwise transfer for a commercial purpose any NE multispecies from a trip, unless the vessel is holding a multispecies permit, or a letter under § 648.4(a)(1), and is not fishing under the charter/party vessel restrictions specified in § 648.89, or unless the NE multispecies were harvested by a vessel without a multispecies permit that fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

* * * * *

(35) Fish with, use, or have on board within the area described in § 648.80(a)(1), nets of mesh whose size is smaller than the minimum mesh size specified in § 648.80(a)(2), except as provided in § 648.80(a)(3) through (6), (a)(8), (a)(9), (d), (e) and (i), unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

(36) Fish with, use, or have available for immediate use within the area described in § 648.80(b)(1), nets of mesh size smaller than the minimum size specified in § 648.80(b)(2), except as provided in § 648.80(b)(3), (d), (e), and (i), or unless the vessel has not been issued a multispecies permit and fishes for multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

(37) Fish with, use, or have available for immediate use within the area described in § 648.80(c)(1), nets of mesh size smaller than the minimum mesh size specified in § 648.80(c)(2), except as provided in § 648.80(c)(3), (d), (e), and

(i), or unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

* * * * *

(47) Fish for the species specified in § 648.80(d) or (e) with a net of mesh size smaller than the applicable mesh size specified in § 648.80(a)(2), (b)(2), or (c)(2), or possess or land such species, unless the vessel is in compliance with the requirements specified in § 648.80(d) or (e), or unless the vessel has not been issued a multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

* * * * *

(55) Purchase, possess, or receive as a dealer, or in the capacity of a dealer, regulated species in excess of the possession limit specified in § 648.86 applicable to a vessel issued a multispecies permit, unless otherwise specified in § 648.17.

* * * * *

(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) and (b), or to violate any of the other provisions of § 648.86, unless otherwise specified in § 648.17.

(c) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraphs (a) and (b) of this section, it is unlawful for any person owning or operating a vessel issued a limited access multispecies permit or a letter under § 648.4(a)(1)(i)(H)(3), unless otherwise specified in § 648.17, to do any of the following:

* * * * *

(22) Fail to comply with the exemption specifications as described in § 648.17.

(23) 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 § 648.86(b)(1)(i), unless otherwise specified in § 648.86(b)(1)(ii), or unless the vessel is fishing under the cod exemption specified in § 648.86(b)(2).

(24) Fail to enter port and report the hail weight of cod no later than 14 DAS after starting (i.e., the time of the issuance of the DAS authorization

number) a multispecies DAS trip, if the vessel exceeds the allowable limit of cod specified in § 648.86(b)(1)(i), unless the vessel is fishing under the cod exemption specified in § 648.86(b)(2).

(25) Fail to remain in port for the appropriate time specified in § 648.86(b)(1)(ii)(A), except for transiting purposes, provided the vessel complies with § 648.86(b)(3).

(d) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraphs (a), (b), and (c) of this section, it is unlawful for any person owning or operating a vessel issued a multispecies handgear permit to do any of the following, unless otherwise specified in § 648.17:

* * * * *

(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 regulated species specified at § 648.88(c) or to possess or land regulated species when not fishing under a scallop DAS, unless otherwise specified in § 648.17.

* * * * *

(g) In addition to the general prohibitions specified in § 600.725 of this chapter and the prohibitions specified in paragraphs (a) through (f) of this section, it is unlawful for the owner or operator of a charter or party boat issued a multispecies permit, or of a recreational vessel, as applicable, to, unless otherwise specified in § 648.17:

* * * * *

(t) In addition to the general prohibitions specified in § 600.725 of this chapter and in paragraphs (a) through (h) of this section, it is unlawful for any person owning or operating a vessel issued a nonregulated multispecies permit to possess or land any regulated species as defined in § 648.2, or violate any applicable provisions of § 648.88, unless otherwise specified in § 648.17.

* * * * *

(x) * * *

(4) * * *

(i) Regulated species possessed for sale that do not meet the minimum sizes specified in § 648.83 for sale are deemed to have been taken or imported in violation of these regulations, unless the preponderance of all submitted evidence demonstrates that such fish were harvested by a vessel not issued a permit under this part fished exclusively within state waters, or by a vessel that fished exclusively in the NAFO Regulatory Area. This

presumption does not apply to fish being sorted on deck.

(ii) Regulated species possessed for sale that do not meet the minimum sizes specified in § 648.83 for sale are deemed taken from the EEZ or imported in violation of these regulations, unless the preponderance of all submitted evidence demonstrates that such fish were harvested by a vessel not issued a permit under this part fished exclusively within state waters, or by a vessel that fished exclusively in the NAFO Regulatory Area. This presumption does not apply to fish being sorted on deck.

* * * * *

6. Section 648.17 is added to read as follows:

§ 648.17 Exemptions for vessels fishing in the NAFO Regulatory Area.

(a) *Multispecies vessels.* (1) A vessel issued a valid High Seas Fishing Compliance Act permit under 50 CFR part 300 is exempt from multispecies permit, mesh size, effort-control, and possession limit restrictions, specified in §§ 648.4, 648.80, 648.82 and § 648.86, respectively, while transiting the EEZ with multispecies on board the vessel, or landing multispecies in U.S. ports that were caught while fishing in the NAFO Regulatory Area, provided:

(i) Prior to leaving port, the vessel operator notifies the Regional Administrator of his/her intent to fish in the NAFO Regulatory Area by calling the NMFS Office of Law Enforcement nearest to the point where the vessel intends to offload, (contact the Regional Administrator for locations and phone numbers), unless otherwise required by the Regional Administrator under paragraph (a)(2) of this section;

(ii) Prior to leaving the NAFO Regulatory Area to return to the EEZ, the vessel operator notifies the Regional Administrator by calling the NMFS Office of Law Enforcement nearest to the point of offloading (contact the Regional Administrator for locations and phone numbers) via marine-radio telephone or other voice communications system, unless otherwise required by the Regional Administrator under paragraph (a)(2) of this section, and provides the following information: His/her intent to return to the EEZ, the vessels destination port, and the estimated time of arrival;

(iii) For the duration of the trip, the vessel fishes, except for transiting purposes, exclusively in the NAFO Regulatory Area and does not harvest fish in, or possess fish harvested in, or from, the EEZ;

(iv) When transiting the EEZ, all gear is properly stowed in accordance with

one of the applicable methods specified in § 648.81(e); and

(v) Vessels comply with the High Seas Fishing Compliance Act permit and all NAFO conservation and enforcement measures while fishing in the NAFO Regulatory Area.

(2) Vessels fishing in the NAFO Regulatory Area under the multispecies exemptions specified in paragraph (a)(1) of this section may be required to have a letter of authorization issued by the Regional Administrator on board the vessel should he/she determine that it is needed for purposes of enforcement and administration of this provision. In the event that a letter of authorization is required, vessel owners will be informed through a permit holder letter at least two weeks prior to the change.

(b) [Reserved]

7. Section 648.80 is amended by revising the introductory text to read as follows:

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

Except as provided in § 648.17(a), all vessels must comply with the following minimum mesh size, gear and methods of fishing requirements, unless otherwise exempted or prohibited.

* * * * *

8. In § 648.82, paragraph (a) and (k)(1)(iv)(A) are revised and (k)(1)(iv)(D) and (l) are added to read as follows:

§ 648.82 Effort-control program for limited access vessels.

(a) General. Except as provided in § 648.17(a), a vessel issued a limited access multispecies permit may not fish for, possess, or land regulated species, except during a DAS as allocated under and in accordance with the applicable DAS program described in this section, unless otherwise provided in these regulations.

* * * * *

- (k) * * *
- (l) * * *
- (iv) * * *

(A) During each fishing year, vessels must declare, and take, a total of 120 days out of the non-exempt gillnet fishery. Each period of time declared and taken must be a minimum of 7 consecutive days. At least 21 days of this time must be taken between June 1 and September 30 of each fishing year, unless otherwise specified in paragraph (k)(1)(iv)(D) of this section. The spawning season time out period required by § 648.82(g) will be credited toward the 120-days time out of the non-exempt gillnet fishery. If a vessel owner has not declared and taken, any or all of the remaining periods of time required by the last possible date to

meet these requirements, the vessel is prohibited from fishing for, possessing, or landing regulated multispecies or non-exempt species harvested with gillnet gear, and from having gillnet gear on board the vessel that is not stowed in accordance with § 648.81(e)(4), while fishing under a multispecies DAS, from that date through the end of the period between June 1 and September 30, or through the end of the fishing year, as applicable, unless otherwise specified in paragraph (k)(1)(iv)(D) of this section.

* * * * *

(D) For the 1997 fishing year, vessels that switch mid-year from the Trip gillnet category to the Day gillnet category, as described in § 648.4(c)(2)(iii)(B), must take 120-days out of the non-exempt gillnet fishery between the time that the vessel receives its new Day gillnet category designation and gillnet tags and the end of the fishing year.

* * * * *

(l) *End-of-year carry-over.* With the exception of vessels that held a Confirmation of Permit History as described in § 648.4(a)(1)(i)(J) for the entire fishing year preceding the carry-over year, limited access vessels that have unused DAS on the last day of April of any year, may carry over a maximum of 10 DAS into the next year. This carry-over allowance may not be accumulated year-to-year, e.g., a vessel that receives an allocation of 88 DAS per fishing year is not allowed to use more than 176 DAS over a 2-year period.

9. In § 648.83, paragraph (a)(1) introductory text 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(a), all other vessels are subject to the following minimum fish sizes (TL):

* * * * *

10. In § 648.86, introductory text and paragraph (b)(3) are added, and (b)(1) introductory text, (b)(1)(i), and (ii) introductory text, (b)(1)(ii)(A) and (B), and (b)(2) are revised to read as follows:

§ 648.86 Possession restrictions.

Except as provided in § 648.17(a) of this section, the following possession restrictions apply:

* * * * *

(b) * * *

(1) *Gulf of Maine trip limit.* (i) Except as provided in paragraph (b)(1)(ii) and

(b)(2) of this section, and subject to the cod trip limit call-in provision specified at § 648.10(f)(3)(i), a vessel fishing under a NE multispecies DAS may land up to 1,000 lb (453.6 kg) of cod per DAS, or any part of a DAS, for each of the first 4 days of a trip, and may land up to 1,500 lb (680.4 kg) of cod per day for each DAS, or any part of a day, in excess of 4 consecutive DAS. A day, for the purposes of this paragraph, means a 24-hour period. Vessels calling-out of the multispecies DAS program under § 648.10(c)(3) that have utilized "part of a DAS" (less than 24 hours) may land up to an additional 1,000 lb (453.6 kg) of cod for that "part of a DAS"; however, such vessels may not end any subsequent trip with cod on board within the 24-hour period following the beginning of the "part of the DAS" utilized (e.g., a vessel that has called-in to the multispecies DAS program at 3 p.m. on a Monday and ends its trip the next day (Tuesday) at 4 p.m. (accruing a total of 25 hours) may legally land up to 2,000 lb (907.2 kg) of cod on such a trip, but the vessel may not end any subsequent trip with cod on board until after 3 p.m. on the following day (Wednesday)). 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.

(ii) A vessel subject to the cod landing limit restrictions described in paragraph (b)(1)(i) of this section, and subject to the cod trip limit call-in provision specified at § 648.10(f)(3)(ii), may come into port with and offload cod in excess of the landing limit as determined by the number of DAS elapsed since the vessel called into the DAS program, provided that:

(A) The vessel operator does not call-out of the DAS program as described under § 648.10(c)(3), and remains in port, unless for transiting purposes as allowed in paragraph (b)(3) of this section, until sufficient time has elapsed to account for and justify the amount of cod harvested at the time of offloading regardless of whether all of the cod on board is offloaded (e.g., a vessel that has called-in to the multispecies DAS program at 3 p.m. on Monday may fish and come back into port at 4 p.m. on Wednesday of that same week with 4,000 lb (1,814.4 kg) of cod, and offload some or all of its catch, but cannot call out of the DAS program until 3:01 p.m. the next day, Thursday (i.e., 3 days plus one minute); and

(B) Upon returning to port and before offloading, the vessel operator notifies the Regional Administrator (see Table 1 to § 600.502 for the Regional Administrator's address) and provides

the following information: Vessel name and permit number, owner and caller name, DAS confirmation number, phone number, and the hail weight of cod on board and the amount of cod to be offloaded, if any. A vessel that has not exceeded the landing limit and is offloading and ending its trip by calling out of the multispecies DAS program does not have to report under this call-in system.

* * * * *

(2) *Exemption.* A vessel fishing under a NE multispecies DAS is exempt from the landing limit described in paragraph (b)(1) when fishing south of a line beginning at the Cape Cod, MA coastline at 42°00' N. lat. and running eastward along 42°00' N. lat. until it intersects with 69°30' W. long., then northward along 69°30' W. long. until it intersects with 42°20' N. lat., then eastward along 42°20' N. lat. until it intersects with 67°20' W. long., then northward along 67°20' W. long. until it intersects with the U.S.-Canada maritime boundary, provided that it does not fish north of this exemption area for a minimum of 30 consecutive days (when fishing under the multispecies DAS program), and has on board an authorization letter issued by the Regional Administrator. Vessels exempt from the landing limit requirement may transit the GOM/GB Regulated Mesh Area north of this exemption area, provided that their gear is stowed in accordance with one of the provisions of § 648.81(e).

(3) *Transiting.* A vessel that has exceeded the cod trip limit as specified in paragraph (b)(1) of this section and is, therefore, subject to remain in port for the period of time described in paragraph (b)(1)(ii)(A) 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 for the Regional Administrator's address) 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.

* * * * *

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 110597A]

RIN: 0648-AH67

Fisheries of the Exclusive Economic Zone Off Alaska; Forage Fish Species Category

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

ACTION: Notice of availability of amendments to fishery management plans; request for comments.

SUMMARY: The North Pacific Fishery Management Council (Council) has submitted Amendment 36 to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area and Amendment 39 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMPs) for Secretarial review. Amendments 36 and 39 would define a forage fish species category in both FMPs and implement associated management measures. The intended effect of the amendments is to prevent the development of an unrestricted fishery for forage fish, which are a critical food source for many marine mammal, seabird, and fish species.

DATES: Comments on Amendment 36 and 39 must be received by January 12, 1998.

ADDRESSES: Comments on Amendments 36 and 39 should be submitted to the Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802-1668, Attn: Lori Gravel, or delivered to the Federal Building, 709 West 9th Street, Juneau, AK. Copies of the amendments and the Environmental

Assessment/Regulatory Impact Review prepared for the amendments are available from NMFS at the above address, or by calling the Alaska Region, NMFS, at 907-586-7228.

FOR FURTHER INFORMATION CONTACT: Kent Lind, 907-586-7228.

SUPPLEMENTARY INFORMATION: The intent of the Council is to implement a program that would establish a forage fish species category and would allow for the management of these species in a manner that prevents the development of a commercial directed fishery for forage fish, which are a critical food source for many marine mammal, seabird and fish species. Management measures for this species category will be specified in regulations and may include such measures as prohibitions on directed fishing, limitations on allowable bycatch retention amounts, or limitations on the sale, barter, trade or any other commercial exchange, as well as the processing of forage fish in a commercial processing facility.

A proposed rule to implement Amendments 36 and 39 has been received from the Council. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the amendments, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish it in the **Federal Register** for public review and comment.

Comments received by January 12, 1998, whether specifically directed to the amendment or the proposed rule, will be considered by NMFS in its decision to approve, disapprove, or partially approve Amendments 36 and 39. Comments received after that date will not be considered by NMFS in this decision. All comments received by NMFS on these amendments or on the proposed rule during their respective comment periods will be addressed in the final rule.

Dated: November 5, 1997.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

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