

Fisheries Act and comply with all requirements of § 600.1504.

(3) In determining whether there has been a catastrophic regional fishery disaster, the Secretary must conclude that the severity of the economic impacts on the coastal or fishing communities are beyond the normal range of revenue fluctuations during the 5-year period immediately preceding the claimed disaster.

§ 600.1504 Initiating an evaluation request.

(a) The Secretary may accept requests for fisheries disaster assistance under section 312(a) or section 315 of the Magnuson-Stevens Act from the Governor of an affected state, or two or more Governors if under section 315, or an elected or politically appointed representative of the affected fishing community (i.e., mayor, city manager, or county executive). The Secretary may accept requests for fisheries disaster assistance under section 308(b) or section 308(d) of the Interjurisdictional Fisheries Act from an elected or politically appointed representative of the affected fishing community (i.e., mayor, city manager, or county executive). All such requests should be submitted to the Secretary by letter and must include:

(1) A clear definition of the fishery, including identification of all fish stocks and whether it includes non-Federal fisheries as well as Federal fisheries, and the geographical boundaries of the fishery for which the request is being made;

(2) The rationale and supporting documentation as required by this subpart, including:

(i) Characteristics of the fishery which is the subject of the request and other related fisheries that participants also fish in (size and value; number of participants; seasonal and other environmental limitations; socio-economic data; landings data; and market conditions);

(ii) Decline in landings, economic impact, revenues, or net revenues by vessel category, port, etc. (this should represent the proportion of the affected fishery resource compared to the commercial fishery as a whole, not just for the affected fishery resource);

(iii) Number of participants involved by vessel category, port, etc.;

(iv) Length of time the resource (or access to it) has been or will be restricted;

(v) Documented decline in the stock(s);

(vi) In the case of a fishery disaster request for a fishery that has been subject to overfishing during the 5-year period immediately preceding the

claimed disaster, the Secretary will presume that overfishing or inadequate harvest controls was the cause of the claimed disaster unless the requester provides:

(A) Information that demonstrates that overfishing did not cause the disaster if the stock(s) was subject to overfishing during the 5-year period immediately preceding the claimed disaster; and

(B) Information that demonstrates that adequate harvest controls were in place during the 5-year period immediately preceding the claimed disaster if the disaster was claimed to be caused by undetermined causes.

(vii) Documented spending plan which describes the activities that could be used to mitigate adverse impacts if a commercial fishery failure due to a fishery resource disaster were determined; and

(viii) A comprehensive economic and socio-economic evaluation of the affected region's fisheries, including economic losses to coastal and fishing communities, if the request is for a catastrophic regional fishery disaster.

(3) The amount of financial assistance needed to alleviate the claimed commercial fishery failure (under Magnuson-Stevens Act section 312(a) or 315 and under the Interjurisdictional Fisheries Act section 308(b)), the serious disruption affecting future production (under Interjurisdictional Fisheries Act section 308(b)), or harm incurred (under Interjurisdictional Fisheries Act section 308(d)), including which groups of fishery participants would be eligible to receive assistance.

(b) The Secretary will presume that overfishing or inadequate harvest controls was the cause of the claimed disaster unless the requester demonstrates otherwise.

(c) The requester may submit any additional information he or she believes relevant to an evaluation of the request. The requester is encouraged to contact the appropriate NMFS regional office informally for assistance in identifying materials that would assist in the evaluation before submitting the initiation letter.

(d) After receiving the initial request, the Secretary may request any additional information that it deems necessary to complete his/her evaluation and reach a decision.

(e) Requests without a rationale and supporting documentation for determining a commercial fishery failure will be denied. If the request fails to meet any one of the appropriate three prongs required to make a determination, the Secretary shall send the applicant a letter explaining his/her reasons for disapproving the request.

(f) Any new request from the applicant for disaster assistance in the same fishery for which a positive determination has previously been made must include an explanation of a new triggering event based on new data that evidences an appreciable change in the fishery resource, and the economic conditions of the commercial fishery showing new harm.

(g) Any vessel-specific fishery information submitted to the Secretary with a request for a Magnuson-Stevens section 312(a) or 315 determination would be subject to the confidentiality provisions and limitations of section 402(b) of the Magnuson-Stevens Act and regulations in 50 CFR 600 subpart E. Information submitted with a request for an Interjurisdictional Fisheries Act section 308(b) or 308(d) determination will be protected to the extent permitted by statute.

(h) The Secretary may also initiate his/her own evaluation and make a determination for fisheries disaster assistance based on relevant facts or data.

§ 600.1505 Evaluation process.

The Secretary shall initiate an evaluation of the letter requesting a determination as soon as practicable after receiving it. The Secretary shall conduct his/her evaluation in accordance with § 600.1503. The Secretary shall inform the requester of the outcome of the evaluation, including reasons for the decision.

§ 600.1506 [Reserved]

§ 600.1507 [Reserved]

§ 600.1508 [Reserved]

§ 600.1509 [Reserved]

§ 600.1510 [Reserved]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 080410547-81602-01]

RIN 0648-AW70

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and

Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: Several sections of the regulations governing the Fisheries of the Northeastern United States contain minor inadvertent errors, omissions, and ambiguities. This proposed rule would revise the portions of the Northeast (NE) fishery regulations that relate to the Vessel Monitoring System (VMS) and prohibitions, standardize the VMS vendor requirements, and add prohibitions and other regulations to clarify existing policies and requirements.

DATES: Written comments must be received on or before February 17, 2009.

ADDRESSES: You may submit comments, identified by 0648-AW70, by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal e-Rulemaking Portal: <http://www.regulations.gov>.

- **Mail:** Paper, disk, or CD-ROM comments should be sent to Regional Administrator, National Marine Fisheries Service, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope, "Comments on the Proposed Rule to Modify VMS and Prohibitions Regulations."

- **Fax:** (978) 281-9135; attention Moira Kelly.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All personal identifying information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). You may submit attachments to electronic comments in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Regional Administrator, Northeast Region, National Marine Fisheries Service, and by e-mail to David_Rostker@omb.eop.gov or fax to (202) 395-7285.

FOR FURTHER INFORMATION CONTACT: Moira C. Kelly, Fishery Policy Analyst,

phone (978) 281-9218, fax (978) 281-9135.

SUPPLEMENTARY INFORMATION:

Background

This proposed rule would revise portions of the NE fishery regulations by reorganizing the VMS and prohibitions sections, standardizing the VMS vendor requirements, and adding prohibitions and other regulations that would correct or clarify existing policies and requirements. The proposed changes would be enacted under the authority given to the Secretary of Commerce to promulgate regulations to fully carry out the requirements of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The proposed changes are summarized below.

VMS-Related Modifications

This action would standardize the qualification requirements of VMS vendors and VMS units between the NE Region and the National VMS program. The Regional Administrator, NE Region, NMFS (RA), would retain the authority to approve or disapprove a vendor or unit for use in the NE Region; however, the standards against which the vendors are judged would be the same as used by the National VMS program. This action would ensure that the VMS vendors meet industry-accepted criteria while the NE Region's specific VMS needs are achieved.

For consistency across fishery management plans (FMPs), a measure implemented under the Surfclam and Ocean Quahog FMP requiring vessel owners to call the Office of Law Enforcement (OLE) to verify connectivity between a new or replacement VMS unit and OLE prior to the vessel sailing on its first trip using VMS would be expanded to all vessel owners. This expansion would allow OLE to ensure that the units are installed and registered correctly in all of the necessary systems. In addition, this action would reorganize the VMS regulations so that the requirements that apply to vessel owners/operators are separate and distinguishable from the requirements that apply to VMS vendors. Further, the VMS Demarcation Line would be modified through the addition of a new coordinate intended to allow vessels from Monhegan Island, Isle au Haut, and Matinicus Isle, Maine, to more easily comply with the VMS requirements of the NE Multispecies FMP.

Prohibitions-Related Modifications

The prohibitions section (§ 648.14) is currently difficult to navigate because it

is generally not well organized. The reorganization of the prohibitions section would assist industry in more easily understanding the rules and regulations and serve to improve compliance with those requirements. This proposed rule would group together the prohibitions relating to a specific FMP, title the sections and subsections, and provide more guidance on where to find a specific prohibition. This action also would add prohibitions to clarify or correct existing requirements. The additional prohibitions, which relate to regulations that have already been reviewed and approved through appropriate rulemaking procedures, clarify that aiding and abetting actions prohibited by the Magnuson-Stevens Act, or any other statute administered by NOAA, is prohibited; that observers are prohibited from providing false information; that miscoding of trips through the VMS by vessel owners/operators is not permissible; that transferring regulated species at sea, without authorization from the RA, or as otherwise permitted, is prohibited; and, that any vessel possessing or retaining any species regulated by the NE Region must be under its own power.

Other Modifications

Several regulations pertaining to VMS were recently inadvertently deleted when two final rules affecting the same sections of the regulations were published at about the same time. The final rule implementing Surfclam/Ocean Quahog Framework Adjustment (FW) 1 inadvertently deleted sections of the VMS regulations that were modified or added under the NE Multispecies FW 42 correction rule. This rule would reinstate those regulations. Other sections that would be clarified relate to recordkeeping requirements and twine-top measurements of scallop dredges. Under this proposed rule, the recordkeeping regulations would be modified to specify some of the types of records vessel owners and dealers are required to retain, and to clarify that any person acting in the capacity of a federally permitted dealer is subject to the same requirements as a federally permitted dealer. Further, this rule would clarify how to measure twine-top in scallop dredges and assist industry members with complying with the minimum mesh size requirements of the Atlantic Sea Scallop FMP. Other minor adjustments to the regulations would correct the references of the Regular B Days-At-Sea (DAS) Program by removing the word "pilot," and make other corrections to cross-references.

A detailed description of the proposed regulatory changes, including their justification, is provided in the following paragraphs.

Proposed Measures

1. VMS Type Approval Regulations

Currently, the NE Region is the only NMFS region that has a different set of qualifications than the National VMS Program that VMS vendors and units must meet in order to sell approved VMS units to Federal permit holders. This action is intended to standardize the NE Region's qualifications with those of the National VMS Program, while retaining the RA's ability to approve or disapprove VMS vendors or units for use in the NE Region independently from the National VMS Program. Standardizing the VMS vendor and unit requirements would add the definition of a "mobile transmitting unit" as the formal definition of a VMS unit, and the definition of a "mobile communications service provider" as the formal definition of a VMS vendor.

2. Revisions to VMS Demarcation Line and Other VMS Requirements

The final rule implementing measures approved under FW 42 to the NE Multispecies FMP (71 FR 62156; November 22, 2006) required all vessels fishing for groundfish under a NE multispecies DAS to use VMS. Counting of a vessel's DAS begins once the vessel crosses the VMS Demarcation Line, a line running roughly parallel to the coast, as specified at § 648.10(a). Prior to the implementation of the FW 42 VMS requirement, several NE multispecies vessels were observed to be operating out of several small islands off the coast of Maine; namely, Monhegan Island, Isle au Haut, and Matinicus Isle. These vessels could not be charged any NE multispecies DAS while using the VMS, because the islands are seaward of the VMS Demarcation Line by several miles. In order to begin a DAS trip while using the VMS, a vessel must make a declaration in port, and cross the Demarcation Line on its way out to sea. The first VMS position detected seaward of the Demarcation Line is the beginning time for charging DAS. However, vessels fishing from these islands cannot trigger the DAS clock because they begin their trips seaward of the VMS Demarcation Line and, as a result, the VMS does not detect that a vessel operating out of these islands has begun (or ended) a trip under a DAS. This action would modify the existing VMS Demarcation Line to include Monhegan Island, ME, so that those vessels are accurately charged DAS, as

appropriate. The revised Demarcation Line also allows vessels from the other Maine islands to steam inside the Demarcation Line easily, as it is much closer, and begin their trip.

The final rule implementing measures for FW 1 to the Surfclam and Ocean Quahog FMP inadvertently removed previously approved sections of the VMS regulations. This proposed rule would reinstate those regulations that had previously been found at § 648.10(b)(2)(i) through (iv). A correcting amendment that became effective December 27, 2007 (72 FR 73274) amended § 648.10(b)(2)(iii); however, because that section had been removed prior to publication of the correcting amendment, the modification was not enacted. This amendment would implement that modification with the reinstatement of that regulation pertaining to how DAS are calculated as a vessel crosses the Demarcation Line or enters the Eastern U.S./Canada Area.

FW 1 also implemented a requirement that surfclam and ocean quahog vessel owners call OLE when installing or replacing a VMS unit to ensure connectivity between the vessel's unit and the OLE database. Previously, vessel owners who installed or replaced a unit would attempt to declare a trip and/or sail before the unit was registered by the National VMS Program or assigned to the NE Region. This would result in vessel owners appearing to sail with no code, or a trip not being recorded correctly, causing problems for both the vessel owner and OLE. This action would expand the surfclam and ocean quahog verification requirement to all vessel owners to confirm that their unit is in compliance with all the registration requirements of the various systems employed by the VMS program.

3. Reorganization of VMS and Prohibitions Sections

In addition to the changes and additions described above, the VMS and prohibitions sections would be reorganized by this proposed rule. The VMS sections (§§ 648.9 and 648.10) would be reorganized by relevance to a VMS vendor or unit requirement, or a vessel owner/operator requirement. The prohibitions section (§ 648.14) would be organized by FMP and, within each fishery specific sub-section, by relevance to regulatory requirements (e.g., permit requirements, possession and landing restrictions, gear requirements, etc.).

4. Additional Prohibitions

The following prohibitions would be added by this proposed rule and are intended to clarify existing policies or

regulations in order to increase understanding among affected parties and improve enforcement:

(1) A prohibition on the aiding and abetting of actions prohibited by the Magnuson-Stevens Act, or any regulation, notice, or permit issued in accordance with the Magnuson-Stevens Act, or any other statute administered by NOAA. This prohibition would clarify existing policy that the act of assisting in a violation of Federal fisheries regulations is itself a violation.

(2) A prohibition specifying that it is a violation for an observer to provide false or inaccurate data or other information to NMFS. This prohibition would clarify existing requirements for observers under their contracts.

(3) A prohibition clarifying that it is a violation to provide a VMS activity code that does not reflect the intended fishing activity.

(4) A prohibition clarifying that it is a violation to transfer at sea species regulated in the NE Region, without a Letter of Authorization or otherwise allowed, by vessels issued a valid Federal permit.

(5) A prohibition clarifying that any vessel fishing for, possessing, or retaining species regulated in the NE Region must be under its own power, unless it is an emergency.

5. Revisions to Recordkeeping Requirements

This proposed rule would revise the current recordkeeping requirements by identifying some of the types of records that are required to be kept regarding fish possessed by a vessel; or possessed, received, or purchased by a dealer that are required to be reported. This revision would clarify, for vessel owners and dealers, which records must be preserved and available for inspection by authorized officers, or other NMFS employees, as designated by the RA. To accomplish this, this rule would provide examples of the types of records that are required to be retained by dealers.

In addition, this rule would clarify that an individual acting in the capacity of a dealer, as defined by § 648.2, is required to submit a detailed report of all fish purchased or received for a commercial purpose, as federally permitted dealers are required to do.

6. Addition of Twine-top Measurement Regulation

This proposed rule would add a provision to clarify how twine-top should be measured to determine compliance with the scallop dredge gear requirements found at § 648.51(b).

7. Other Corrections

All references to the above sections would be modified to correctly cross-reference the intended citation. Minor corrections to the existing prohibitions would also be enacted to increase their readability or correct inadvertent errors. Also, the word “pilot” would be removed from all references to the Regular B DAS Program. As of November 22, 2006, the effective date of NE Multispecies FW 42, neither program is considered to be a pilot program. In addition, an existing prohibition that it is unlawful for a vessel to possess more than two claws and eight legs per red crab, unless the vessel has been issued a red crab limited access red crab permit and is fishing under a DAS would be clarified by adding the supporting regulation to the red crab possession and landing restrictions.

Classification

Pursuant to section 305(d) of the Magnuson–Stevens Act, the Assistant Administrator for Fisheries, NOAA, has determined that this proposed rule is consistent with the FMPs of the NE Region, other provisions of the Magnuson–Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for 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. The factual basis for this determination is as follows:

The proposed action would affect a substantial number of small entities, as all vessels issued a Federal permit in the NE Region would be affected by this action. The proposed action would correct/clarify the existing regulations to ensure that the current regulations accurately reflect measures adopted by the New England and Mid-Atlantic Fishery Management Councils and approved by the Secretary of Commerce. This action would ensure that the economic impacts analyzed in previous actions would be realized, but would not impose any additional economic impacts on affected entities. The proposed action would not significantly reduce profit for affected vessels, as the proposed measures are either administrative in nature and would not affect vessel operations, or would have no economic impact beyond that previously analyzed. This action would simply clarify or reinstate such requirements, respectively, but would not increase costs associated with these measures.

As a result, an initial regulatory flexibility analysis is not required, and none has been prepared.

This proposed rule contains a non-substantive change to a previously approved collection-of-information requirement subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement will be submitted to OMB for approval prior to the final rule. Public reporting burden for requiring all VMS users to confirm connectivity with the Office of Law Enforcement is estimated to average less than 5 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection information.

Public comment is sought regarding: whether this proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have 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 on these or any other aspects of the collection of information to the Northeast Regional Office at the **ADDRESSES** above, and by e-mail to David_Rostker@omb.eop.gov or fax to (202) 395-7285.

Notwithstanding any other provision of the law, no person is required to respond to, and no person shall be subject to penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB control number.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: January 9, 2009.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons stated 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, definitions for “MCSP”, “MTU”, and “Records” are added in alphabetical order to read as follows:

§ 648.2 Definitions.

* * * * *

MCSP means a Mobile Communications Service Provider, which is an operator of a mobile communications service used to provide wireless connectivity between mobile platforms and fixed platforms, and enables location transmission and two-way message exchange between the vessel and NMFS, when using a compatible MTU.

* * * * *

MTU means a Mobile Transmitting Unit, which is a transceiver or communications device, including antennae, dedicated message terminal and display, and an input device such as a keyboard installed on a fishing vessel participating in the VMS program.

* * * * *

Records, with respect to records required to be kept by § 648.7, means those that include, but are not limited to, any written, recorded, graphic, electronic, or digital material; as well as other information stored in or accessible through a computer or other information retrieval system; worksheets; weighout slips; preliminary, interim, and final tally sheets; tags; notes; logbooks; statements; receipts; checks; ledgers; notebooks; diaries; spreadsheets; diagrams; graphs; charts; tapes; disks; or computer printouts.

* * * * *

3. In § 648.4, paragraphs (a)(8)(ii) and (a)(9)(i)(N)(3)(i) are revised to read as follows:

§ 648.4 Vessel permits.

(a) * * *

(8) * * *

(ii) *Party and charter vessels.* All party or charter boats must have been issued and carry on board a valid party or charter boat permit to fish for, possess, or land Atlantic bluefish in or from the EEZ if carrying passengers for hire. Persons on board such vessels must observe the possession limits established pursuant to § 648.164 and the prohibitions on sale specified in § 648.14(q).

* * * * *

(9) * * *

(i) * * *

(N) * * *

(3) * * *

(i) A vessel denied a limited access monkfish Category G or H permit may fish under the monkfish DAS program, provided that the denial has been

appealed, the appeal is pending, and the vessel has on board a letter from the Regional Administrator authorizing the vessel to fish under the monkfish DAS program. The letter of authorization must be carried on board the vessel. A vessel with such a letter of authorization shall not exceed the annual allocation of monkfish DAS as specified in § 648.92(b)(1) and must report the use of monkfish DAS according to the provisions of § 648.10. If the appeal is finally denied, the Regional Administrator shall send a notice of final denial to the vessel owner; the letter authorizing temporary participation in the monkfish fishery shall become invalid 5 days after receipt of the notice of denial, but no later than 10 days from the date of the denial letter. If the appeal is approved, any DAS used during pendency of the appeal shall be deducted from the vessel's annual allocation of monkfish DAS for that fishing year.

* * * * *

4. In § 648.7, paragraphs (a)(1) introductory text, (d), and (e) are revised to read as follows:

§ 648.7 Recordkeeping and reporting requirements.

* * * * *

(a) * * *

(1) *Detailed report.* Federally permitted dealers, and any individual acting in the capacity of a dealer, must submit to the Regional Administrator or to the official designee a detailed report of all fish purchased or received for a commercial purpose, other than solely for transport on land, within the time period specified in paragraph (f) of this section, by one of the available electronic reporting mechanisms

approved by NMFS, unless otherwise directed by the Regional Administrator. The following information, and any other information required by the Regional Administrator, must be provided in each report:

* * * * *

(d) *Inspection.* Upon the request of an authorized officer or an employee of NMFS designated by the Regional Administrator to make such inspections, all persons required to submit reports under this part must make immediately available for inspection copies of reports, and all records upon which those reports are or will be based, that are required to be submitted or kept under this part.

(e) *Record retention.* Any record, as defined at § 648.2, related to fish possessed, received, or purchased by a dealer that is required to be reported, must be retained and be available for immediate review for a total of 3 years after the date the fish were first possessed, received, or purchased. Dealers must retain the required records and reports at their principal place of business. Copies of fishing log reports must be kept on board the vessel and available for review for at least 1 year, and must be retained for a total of 3 years after the date the fish were last possessed, landed, and sold.

* * * * *

5. Section 648.9 is revised to read as follows:

§ 648.9 VMS vendor and unit requirements.

(a) *Approval.* The type approval requirements for VMS MTUs and MCSPs for the Northeast Region are those as published by the NMFS Office

of Law Enforcement in the **Federal Register**, and are available upon request. Both the minimum national standards and any established regional standards must be met in order to receive approval for use in the Northeast Region. The Regional Administrator shall approve all MTUs and MCSPs operating in the Northeast Region.

(b) *Maintenance.* Once approved, VMS units must maintain the minimum standards for which they were approved in the type approval requirements. Any changes made to the original submission for approval of an MTU or MCSP by NMFS must follow the procedures outlined in the type approval requirements.

(c) *Notification.* A list of approved VMS vendors will be published on the Northeast Regional Office web site and in each proposed and final rule for implementing or modifying VMS requirements for specific fisheries.

(d) *Revocations.* In the event that a VMS vendor is deleted from the list of approved vendors, vessel owners that purchased a VMS unit from that vendor to meet Northeast requirements will be considered authorized to use that unit for the remainder of the unit's service life.

6. Section 648.10 is revised to read as follows:

§ 648.10 VMS and DAS requirements for vessel owners/operators.

(a) *VMS Demarcation Line.* The VMS Demarcation Line is defined by straight lines connecting the following coordinates in the order stated (a copy of a map showing the line is available from the Regional Administrator upon request):

VMS DEMARCATION LINE

Description	N. Lat.	W. Long.
1. Northern terminus point (Canada landmass)	45°03'	66°47'
2. A point east of West Quoddy Head Light	44°48.9'	66°56.1'
3. A point east of Little River Light	44°39.0'	67°10.5'
4. Whistle Buoy "8BI" (SSE of Baker Island)	44°13.6'	68°10.8'
5. Isle au Haut Light	44°03.9'	68°39.1'
6. A point south of Monhegan Island	43°43.3'	69°18.6'
7. Pemaquid Point Light	43°50.2'	69°30.4'
8. A point west of Halfway Rock	43°38.0'	70°05.0'
9. A point east of Cape Neddick Light	43°09.9'	70°34.5'
10. Merrimack River Entrance "MR" Whistle Buoy	42°48.6'	70°47.1'
11. Halibut Point Gong Buoy "1AHP"	42°42.0'	70°37.5'

VMS DEMARCATION LINE—Continued

Description	N. Lat.	W. Long.
12. Connecting reference point	42°40'	70°30'
13. Whistle Buoy "2" off Eastern Point	42°34.3'	70°39.8'
14. The Graves Light (Boston)	42°21.9'	70°52.2'
15. Minots Ledge Light	42°16.2'	70°45.6'
16. Farnham Rock Lighted Bell Buoy	42°05.6'	70°36.5'
17. Cape Cod Canal Bell Buoy "CC"	41°48.9'	70°27.7'
18. A point inside Cape Cod Bay	41°48.9'	70°05'
19. Race Point Lighted Bell Buoy "RP"	42°04.9'	70°16.8'
20. Peaked Hill Bar Whistle Buoy "2PH"	42°07.0'	70°06.2'
21. Connecting point, off Nauset Light	41°50'	69°53'
22. A point south of Chatham "C" Whistle Buoy	41°38'	69°55.2'
23. A point in eastern Vineyard Sound	41°30'	70°33'
24. A point east of Martha's Vineyard	41°22.2'	70°24.6'
25. A point east of Great Pt. Light, Nantucket	41°23.4'	69°57'
26. A point SE of Sankaty Head, Nantucket	41°13'	69°57'
27. A point west of Nantucket	41°15.6'	70°25.2'
28. Squibnocket Lighted Bell Buoy "1"	41°15.7'	70°46.3'
29. Wilbur Point (on Sciticut Neck)	41°35.2'	70°51.2'
30. Mishaum Point (on Smith Neck)	41°31.0'	70°57.2'
31. Sakonnet Entrance Lighted Whistle Buoy "SR"	41°25.7'	71°13.4'
32. Point Judith Lighted Whistle Buoy "2"	41°19.3'	71°28.6'
33. A point off Block Island Southeast Light	41°08.2'	71°32.1'
34. Shinnecock Inlet Lighted Whistle Buoy "SH"	40°49.0'	72°28.6'
35. Scotland Horn Buoy "S", off Sandy Hook (NJ)	40°26.5'	73°55.0'
36. Barnegat Lighted Gong Buoy "2"	39°45.5'	73°59.5'
37. A point east of Atlantic City Light	39°21.9'	74°22.7'
38. A point east of Hereford Inlet Light	39°00.4'	74°46'
39. A point east of Cape Henlopen Light	38°47'	75°04'
40. A point east of Fenwick Island Light	38°27.1'	75°02'
41. A point NE of Assateague Island (VA)	38°00'	75°13'
42. Wachapreague Inlet Lighted Whistle Buoy "A"	37°35.0'	75°33.7'
43. A point NE of Cape Henry	36°55.6'	75°58.5'
44. A point east of Currituck Beach Light	36°22.6'	75°48'
45. Oregon Inlet (NC) Whistle Buoy	35°48.5'	75°30'
46. Wimble Shoals, east of Chicamacomico	35°36'	75°26'
47. A point SE of Cape Hatteras Light	35°12.5'	75°30'
48. Hatteras Inlet Entrance Buoy "HI"	35°10'	75°46'

VMS DEMARCATION LINE—Continued

Description	N. Lat.	W. Long.
49. Ocracoke Inlet Whistle Buoy "OC"	35°01.5'	76°00.5'
50. A point east of Cape Lookout Light	34°36.5'	76°30'
51. Southern terminus point	34°35'	76°41'

(b) *Vessels required to use VMS.* The following vessels must have installed on board an operational VMS unit that meets the minimum performance criteria specified in, or as modified pursuant to § 648.9(a):

(1) A scallop vessel issued a Full-time or Part-time limited access scallop permit, or an LAGC scallop permit;

(2) A scallop vessel issued an Occasional limited access permit when fishing under the Sea Scallop Area Access Program specified under § 648.60;

(3) A vessel issued a limited access monkfish, Occasional scallop, or Combination permit, whose owner elects to provide the notifications required by this paragraph (b), unless otherwise authorized or required by the Regional Administrator under paragraph (d) of this section;

(4) A vessel issued a limited access NE multispecies permit that fishes under a NE multispecies Category A or B DAS;

(5) A vessel issued a surfclam (SF 1) or an ocean quahog (OQ 6) open access permit;

(6) Effective January 1, 2009, a vessel issued a Maine mahogany quahog (OQ 7) limited access permit, unless otherwise exempted under paragraph § 648.4(a)(4)(ii)(B)(1);

(7) A limited access monkfish vessel electing to fish in the Offshore Fishery Program in the SFMA, as provided in § 648.95; and

(8) A vessel issued a limited access herring permit (i.e., All Areas Limited Access Permit, Areas 2 and 3 Limited Access Permit, Incidental Catch Limited Access Permit).

(c) *Operating requirements for all vessels.* (1) Except as provided in paragraph (c)(2) of this section, or unless otherwise required by paragraph (c)(1)(ii) of this section, all required VMS units must transmit a signal indicating the vessel's accurate position, as specified under paragraph (c)(1)(i) of this section:

(i) At least every hour, 24 hr a day, throughout the year; or

(ii) At least twice per hour, 24 hr a day, throughout the year, for vessels issued a scallop permit and subject to the requirements of § 648.4(a)(2)(ii)(B).

(2) *Power-down exemption.* (i) Any vessel required to transmit the vessel's location at all times, as required in paragraph (c)(1) of this section, is exempt from this requirement if it meets one or more of the following conditions and requirements:

(A) The vessel will be continuously out of the water for more than 72 consecutive hours, the vessel signs out of the VMS program by obtaining a valid letter of exemption pursuant to paragraph (c)(2)(ii) of this section, and the vessel complies with all conditions and requirements of said letter;

(B) For vessels fishing with a valid NE multispecies limited access permit, a valid surfclam and ocean quahog permit specified at § 648.4(a)(4), or an Atlantic sea scallop limited access permit, the vessel owner signs out of the VMS program for a minimum period of 30 consecutive days by obtaining a valid letter of exemption pursuant to paragraph (c)(2)(ii) of this section, the vessel does not engage in any fisheries until the VMS unit is turned back on, and the vessel complies with all conditions and requirements of said letter;

(C) The vessel has been issued a limited access herring permit, and is in port, unless required by other permit requirements for other fisheries to transmit the vessel's location at all times. Such a vessel must re-power the VMS and submit a valid VMS activity declaration prior to leaving port; or

(D) The vessel has been issued an LAGC permit, is not in possession of any scallops onboard the vessel, is tied to a permanent dock or mooring, the vessel operator has notified NMFS through VMS by transmitting the appropriate VMS power-down code that the VMS will be powered down, and the vessel is not required by other permit requirements for other fisheries to transmit the vessel's location at all times. Such a vessel must re-power the VMS and submit a valid VMS activity declaration prior to moving from the fixed dock or mooring. VMS codes and instructions are available from the Regional Administrator.

(ii) *Letter of exemption—(A) Application.* A vessel owner may apply for a letter of exemption from the VMS

transmitting requirements specified in paragraph (c)(1) of this section for his/her vessel by sending a written request to the Regional Administrator and providing the following: The location of the vessel during the time an exemption is sought; the exact time period for which an exemption is needed (i.e., the time the VMS signal will be turned off and turned on again); and, in the case of a vessel meeting the conditions of paragraph (c)(2)(i)(A) of this section, sufficient information to determine that the vessel will be out of the water for more than 72 consecutive hours. The letter of exemption must be on board the vessel at all times, and the vessel may not turn off the VMS signal until the letter of exemption has been received.

(B) *Issuance.* Upon receipt of an application, the Regional Administrator may issue a letter of exemption to the vessel if it is determined that the vessel owner provided sufficient information as required under this paragraph (c)(2), and that the issuance of the letter of exemption will not jeopardize accurate monitoring of the vessel's DAS. Upon written request, the Regional Administrator may change the time period for which the exemption is granted.

(d) *Presumption.* If a VMS unit fails to transmit an hourly signal of a vessel's position, the vessel shall be deemed to have incurred a DAS, or fraction thereof, for as long as the unit fails to transmit a signal, unless a preponderance of evidence shows that the failure to transmit was due to an unavoidable malfunction or disruption of the transmission that occurred while the vessel was properly declared out of the scallop fishery, NE multispecies fishery, or monkfish fishery, as applicable, or while the vessel was not at sea.

(e) *VMS notifications—(1) VMS installation notification.* (i) The owner of such a vessel specified in paragraph (b) of this section, with the exception of a vessel issued a limited access NE multispecies permit as specified in paragraph (b)(4) of this section, 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 installed on board that meets the

minimum performance criteria, unless otherwise allowed under paragraph (b) of this section.

(ii) Vessel owners must confirm the VMS unit's operation and communications service to NMFS by calling the Office of Law Enforcement (OLE) to ensure that position reports are automatically sent to and received by NMFS OLE.

(iii) NMFS does not regard the fishing vessel as meeting the VMS requirements until automatic position reports and a manual declaration are received.

(iv) If a vessel has already been issued a limited access permit without the owner providing such documentation, the Regional Administrator shall allow at least 30 days for the vessel to install an operational VMS unit that meets the minimum performance criteria, and for the owner to provide documentation of such installation to the Regional Administrator.

(v) The owner of a vessel issued a limited access NE multispecies permit that fishes or intends to fish under a Category A or B DAS as specified in paragraph (b)(1)(vi) of this section must provide documentation to the Regional Administrator that the vessel has an operational VMS unit installed on board, meeting all requirements of this part, prior to fishing under a groundfish DAS.

(vi) NMFS shall provide notification to all affected permit holders providing detailed information on procedures pertaining to VMS purchase, installation, and use.

(2) *Replacement VMS installations.* Should a VMS unit require replacement, a vessel owner must submit documentation to the Regional Administrator, within 3 days of installation and prior to the vessel's next trip, verifying, as described in this paragraph (e), that the new VMS unit is an operational approved system as described under § 648.9(a).

(3) *Access.* As a condition to obtaining a limited access scallop, multispecies, an Atlantic herring, a surfclam, ocean quahog, or Maine mahogany quahog permit; or as a condition of using a VMS unit; all vessel owners must allow NMFS, the USCG, and their authorized officers or designees access to the vessel's DAS data, if applicable, and to location data obtained from its VMS unit, if required, at the time of or after its transmission to the vendor or receiver, as the case may be.

(4) *Tampering.* Tampering with a VMS, a VMS unit, or a VMS signal, is prohibited. Tampering includes any activity that may affect the unit's ability to operate or signal properly, or to

accurately compute or report the vessel's position.

(5) *Fishery participation notification.*

(i) A vessel subject to the VMS requirements of § 648.9 and paragraphs (b) through (d) of this section that has crossed the VMS Demarcation Line under paragraph (a) of this section is deemed to be fishing under the DAS program, the General Category scallop fishery, or other fishery requiring the operation of VMS as applicable, unless prior to leaving port, the vessel's owner or authorized representative declares the vessel out of the scallop, NE multispecies, or monkfish fishery, as applicable, for a specific time period. NMFS must be notified by transmitting the appropriate VMS code through the VMS, or unless the vessel's owner or authorized representative declares the vessel will be fishing in the Eastern U.S./Canada Area, as described in § 648.85(a)(3)(ii), under the provisions of that program.

(ii) Notification that the vessel is not under the DAS program, the General Category scallop fishery, or any other fishery requiring the operation of VMS, must be received by NMFS 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.

(iii) DAS counting for a vessel that is under the VMS notification requirements of paragraph (b) of this section, with the exception of vessels that have elected to fish exclusively in the Eastern U.S./Canada Area on a particular trip, as described in paragraph (b)(i) of this section, begins with the first location signal received showing that the vessel crossed the VMS Demarcation Line after leaving port. DAS counting ends with the first location signal received showing that the vessel crossed the VMS Demarcation Line upon its return to port.

(iv) For those vessels that have elected to fish exclusively in the Eastern U.S./Canada Area pursuant to § 648.85(a)(3)(ii), the requirements of this paragraph (b) begin with the first location signal received showing that the vessel crossed into the Eastern U.S./Canada Area and end with the first location signal received showing that the vessel crossed out of the Eastern U.S./Canada Area upon beginning its return trip to port, unless the vessel elects to also fish outside the Eastern U.S./Canada Area on the same trip, in accordance with § 648.85(a)(3)(ii)(A).

(v) The Regional Administrator may authorize or require the use of the call-in system instead of the use of VMS, as described under paragraph (h) of this section. Furthermore, the Regional

Administrator may authorize or require the use of letters of authorization as an alternative means of enforcing possession limits, if VMS cannot be used for such purposes.

(f) *Atlantic sea scallop vessel VMS notification requirements.* Less than 1 hr prior to leaving port, the owner or authorized representative of a scallop vessel that is required to use VMS as specified in paragraph (b)(1) of this section must notify the Regional Administrator by entering the appropriate VMS code that the vessel will be participating in the scallop DAS program, Area Access Program, or general category scallop fishery. VMS codes and instructions are available from the Regional Administrator upon request.

(1) *IFQ scallop vessels.* An IFQ scallop vessel that has crossed the VMS Demarcation Line specified under paragraph (a) of this section is deemed to be fishing under the IFQ program, unless prior to the vessel leaving port, the vessel's owner or authorized representative declares the vessel out of the scallop fishery (i.e., agrees that the vessel will not possess, retain, or land scallops) for a specific time period by notifying the Regional Administrator through the VMS. An IFQ scallop vessel that is fishing north of 42°20' N. lat. is deemed to be fishing under the NGOM scallop fishery unless prior to the vessel leaving port, the vessel's owner or authorized representative declares the vessel out of the scallop fishery, as specified in paragraphs (e)(5)(i) and (ii) of this section, and the vessel does not possess, retain, or land scallops.

(2) *NGOM scallop fishery.* An NGOM scallop vessel is deemed to be fishing under the NGOM scallop fishery unless prior to the vessel leaving port, the vessel's owner or authorized representative declares the vessel out of the scallop fishery, as specified in paragraphs (e)(5)(i) and (ii) of this section, and the vessel does not possess, retain, or land scallops.

(3) *Incidental scallop fishery.* An Incidental scallop vessel that has crossed the VMS Demarcation Line on any declared fishing trip for any species is deemed to be fishing under the Incidental scallop fishery unless, prior to the vessel leaving port, the vessel's owner or authorized representative declares the vessel out of the scallop fishery, as specified in paragraphs (e)(5)(i) and (ii) of this section, and the vessel does not possess, retain, or land scallops.

(4) *Catch reports.* All scallop vessels fishing in the Sea Scallop Area Access Program as described in § 648.60 are required to submit daily reports through

VMS of scallops kept and yellowtail flounder caught (including discarded yellowtail flounder) on each Access Area trip. The VMS catch reporting requirements are specified in § 648.60(a)(9). A vessel issued an IFQ or NGOM scallop permit must report through VMS the amount of scallops kept on each trip declared as a scallop trip or on trips that are not declared through VMS as scallop trips, but on which scallops are caught incidentally. VMS catch reports by IFQ and NGOM scallop vessels must be sent prior to crossing the VMS Demarcation Line on the way back to port at the end of the trip, and must include the amount of scallop meats to be landed, the estimated time of arrival in port, the port at which the scallops will be landed, and the vessel trip report serial number recorded from that trip's vessel trip report.

(5) *Scallop vessels fishing under exemptions.* Vessels fishing under the exemptions provided by § 648.54 (a) and/or (b)(1) must comply with the exemption requirements and notify the Regional Administrator by VMS notification or by call-in notification as follows:

(i) *VMS notification for scallop vessels fishing under exemptions.* (A) Notify the Regional Administrator, via their VMS, prior to the vessel's first trip under the state waters exemption program, that the vessel will be fishing exclusively in state waters; and

(B) Notify the Regional Administrator, via their VMS, prior to the vessel's first planned trip in the EEZ, that the vessel is to resume fishing under the vessel's DAS allocation.

(ii) *Call-in notification for scallop vessels fishing under exemptions.* (A) Notify the Regional Administrator by using the call-in system and providing the following information at least 7 days prior to fishing under the exemption:

(1) Owner and caller name and address;

(2) Vessel name and permit number; and

(3) Beginning and ending dates of the exemption period.

(B) Remain under the exemption for a minimum of 7 days.

(C) If, under the exemption for a minimum of 7 days and wishing to withdraw earlier than the designated end of the exemption period, notify the Regional Administrator of early withdrawal from the program by calling the call-in system, providing the vessel's name and permit number and the name and phone number of the caller, and stating that the vessel is withdrawing from the exemption. The vessel may not leave port to fish in the

EEZ until 48 hr after notification of early withdrawal is received by the Regional Administrator.

(D) The Regional Administrator will furnish a phone number for call-ins upon request.

(E) Such vessels must comply with the VMS notification requirements specified in paragraph (e) of this section by notifying the Regional Administrator by entering the appropriate VMS code that the vessel is fishing outside of the scallop fishery. VMS codes and instructions are available from the Regional Administrator upon request.

(g) *VMS notification requirements for other fisheries.* (1) Unless otherwise specified in this part, or via letters sent to affected permit holders under paragraph (e)(1)(iv) of this section, the owner or authorized representative of a vessel that is required to use VMS, as specified in paragraph (b) of this section, must notify the Regional Administrator of the vessel's intended fishing activity by entering the appropriate VMS code prior to leaving port at the start of each fishing trip.

(2) Notification of a vessel's intended fishing activity includes, but is not limited to, gear and DAS type to be used; area to be fished; and whether the vessel will be declared out of the DAS fishery, or will participate in the NE multispecies and monkfish DAS fisheries, including approved special management programs.

(3) A vessel cannot change any aspect of its VMS activity code outside of port, except as follows:

(i) NE multispecies vessels are authorized to change the category of DAS used (i.e., flip its DAS), as provided at § 648.85(b), or change the area declared to be fished so that the vessel may fish both inside and outside of the Eastern U.S./Canada Area on the same trip, as provided at § 648.85(a)(3)(ii)(A).

(ii) Vessels issued both a NE multispecies permit and a monkfish permit are authorized to change their DAS declaration from a NE multispecies Category A DAS to a monkfish DAS, while remaining subject to the to the NE multispecies DAS usage requirements under § 648.92(b)(1)(i), during the course of a trip, as provided at § 648.92(b)(1)(iii)(A).

(4) VMS activity codes and declaration instructions are available from the Regional Administrator upon request.

(h) *Call-in notification.* The owner of a vessel issued a limited access monkfish or red crab permit who is participating in a DAS program and who is not required to provide notification using a VMS, and a scallop vessel

qualifying for a DAS allocation under the occasional category that has not elected to fish under the VMS notification requirements of paragraph (e) of this section and is not participating in the Sea Scallop Area Access program as specified in § 648.60, and any vessel that may be required by the Regional Administrator to use the call-in program under paragraph (i) of this section, are subject to the following requirements:

(1) Less than 1 hr prior to leaving port, for vessels issued a limited access NE multispecies DAS permit or, for vessels issued a limited access NE multispecies DAS permit and a limited access monkfish permit (Category C, D, F, G, or H), unless otherwise specified in this paragraph (h), and, prior to leaving port for vessels issued a limited access monkfish Category A or B permit, the vessel owner or authorized representative must notify the Regional Administrator that the vessel will be participating in the DAS program by calling the call-in system and providing the following information:

(i) Owner and caller name and phone number;

(ii) Vessel name and permit number;

(iii) Type of trip to be taken;

(iv) Port of departure; and

(v) That the vessel is beginning a trip.

(2) A DAS begins once the call has been received and a confirmation number is given by the Regional Administrator, or when a vessel leaves port, whichever occurs first, unless otherwise specified in paragraph (e)(2)(iii) of this section.

(3) Vessels issued a limited access monkfish Category C, D, F, G, or H permit that are allowed to fish as a monkfish Category A or B vessel in accordance with the provisions of § 648.92(b)(2)(i) are subject to the call-in notification requirements for limited access monkfish Category A or B vessels specified under this paragraph (h) for those monkfish DAS when there is not a concurrent NE multispecies DAS.

(4) The vessel's confirmation numbers for the current and immediately prior NE multispecies, monkfish, or red crab fishing trip must be maintained on board the vessel and provided to an authorized officer immediately upon request.

(5) At the end of a vessel's trip, upon its return to port, the vessel owner or owner's representative must call the Regional Administrator and notify him/her that the trip has ended by providing the following information:

(i) Owner and caller name and phone number;

(ii) Vessel name and permit number;

(iii) Port of landing; and

(iv) That the vessel has ended its trip.
 (6) A DAS ends when the call has been received and confirmation has been given by the Regional Administrator, or when a vessel enters port at the end of a fishing trip, whichever occurs later, unless otherwise specified in paragraph (e)(2)(iii) of this section.

(7) The Regional Administrator will furnish a phone number for DAS notification call-ins upon request.

(8) Any vessel that possesses or lands per trip more than 400 lb (181 kg) of scallops; any vessel issued a limited access NE multispecies permit subject to the NE multispecies DAS program requirements that possesses or lands regulated NE multispecies, except as provided in §§ 648.10(h)(9)(ii), 648.17, and 648.89; any vessel issued a limited access monkfish permit subject to the monkfish DAS program and call-in requirement that possess or lands monkfish above the incidental catch trip limits specified in § 648.94(c); and any vessel issued a limited access red crab permit subject to the red crab DAS program and call-in requirement that possesses or lands red crab above the incidental catch trip limits specified in § 648.263(b)(1) shall be deemed to be in its respective DAS program for purposes of counting DAS and will be charged DAS from its time of sailing to landing, regardless of whether the vessel's owner or authorized representative provides adequate notification as required by paragraphs (e) through (h) of this section.

(9) *Vessels electing to use VMS.* (i) A vessel issued a limited access monkfish, Occasional scallop, or Combination permit must use the call-in system specified in paragraph (h) of this section, unless the owner of such vessel has elected to provide the notifications required by this paragraph (e), through VMS as specified under paragraph (h)(9)(ii) of this section. Any vessel issued a limited access monkfish or an Occasional scallop permit that has elected to provide notifications through VMS must continue to provide notifications through VMS for the entire fishing year.

(ii) A vessel issued a limited access monkfish or Occasional scallop permit may be authorized by the Regional Administrator to provide the notifications required by paragraph (e) of this section using the VMS specified in paragraph (b) of this section. For the vessel to become authorized, the vessel owner must provide documentation to the Regional Administrator at the time of application for a limited access permit that the vessel has installed on board an operational VMS as provided

under § 648.9(a). A vessel that is authorized to use the VMS in lieu of the call-in requirement for DAS notification shall be subject to the requirements and presumptions described under paragraphs (e)(2)(i) through (v) of this section. This paragraph (h) does not apply to vessels electing to use the VMS.

(i) *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 (h) of this section, instead of using the VMS. 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**, e-mail, or other appropriate means.

(j) *Additional NE multispecies call-in requirements—*(1) *Spawning season call-in.* With the exception of a vessel issued a valid Small Vessel category permit or the Handgear A permit category, vessels subject to the spawning season restriction described in § 648.82 must notify the Regional Administrator of the commencement date of their 20-day period out of the NE multispecies fishery through the IVR system (or through VMS, if required by the Regional Administrator) and provide the following information:

- (i) Vessel name and permit number;
- (ii) Owner and caller name and phone number; and
- (iii) Commencement date of the 20-day period.

(2) *Gillnet call-in.* A vessel subject to the gillnet restriction described in § 648.82 must notify the Regional Administrator of the commencement of its time out of the NE multispecies gillnet fishery using the procedure described in paragraph (k)(1) of this section.

7. In § 648.11, paragraph (i)(3)(v) is added to read as follows:

§ 648.11 At-sea sampler/observer coverage.

* * * * *

- (i) * * *
- (3) * * *

(v) Observers must accurately record their sampling data, write complete reports, and report accurately any observations relevant to conservation of marine resources or their environment.

* * * * *

8. In § 648.13, paragraph (d) is revised to read as follows:

§ 648.13 Transfers at sea.

* * * * *

(d) All persons are prohibited from transferring or attempting to transfer at

sea summer flounder from one vessel to another vessel, except for vessels that have not been issued a Federal permit and fish exclusively in state waters.

* * * * *

9. Section 648.14 is revised to read as follows:

§ 648.14 Prohibitions.

(a) *General prohibitions.* It is unlawful for any person to do any of the following:

(1) Violate any provision of this part, the Magnuson-Stevens Act, or any regulation, notice, or permit issued under the Magnuson-Stevens Act, or any other statute administered by NOAA.

(2) Assist, aid, or abet in the commission of any act prohibited by the Magnuson-Stevens Act; or any regulation, notice, or permit issued under the Magnuson-Stevens Act; or any other statute administered by NOAA.

(3) Fail to report to the Regional Administrator within 15 days any change in the information contained in any permit or permit application.

(4) Falsify or fail to affix and maintain vessel markings as required by § 648.8.

(5) Make any false statement or provide any false information on, or in connection with, an application, declaration, record or report under this part.

(6) Fail to comply in an accurate and timely fashion with the log report, reporting, record retention, inspection, or other requirements of § 648.7, or submit or maintain false information in records and reports required to be kept or filed under § 648.7.

(7) Possess, import, export, transfer, land, or have custody or control of any species of fish regulated pursuant to this part that do not meet the minimum size provisions in this part, unless such species were harvested exclusively within state waters by a vessel not issued a permit under this part or whose permit has been surrendered in accordance with applicable regulations.

(8) Fail to comply with any sea turtle conservation measure specified in 50 CFR parts 222 and 223, including any sea turtle conservation measure implemented by notification in the **Federal Register**.

(9) Violate any provision of an in-season action to adjust trip limits, gear usage, season, area access and/or closure, or any other measure authorized by this part.

(10) *Food safety program.* (i) Purchase, receive for a commercial purpose other than transport to a testing facility, or process; or attempt to purchase, receive for commercial

purpose other than transport to a testing facility; or process, outside Maine, ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone, except at a facility participating in an overall food safety program, operated by the official state agency having jurisdiction, that utilizes food safety-based procedures including sampling and analyzing for PSP toxin consistent with procedures used by the State of Maine for such purpose.

(ii) Land ocean quahogs outside Maine that are harvested in or from the EEZ within the Maine mahogany quahog zone, except at a facility participating in an overall food safety program, operated by the official state agency having jurisdiction, that utilizes food safety-based procedures including sampling and analyzing for PSP toxin consistent with procedures used by the State of Maine for such purpose.

(iii) Fish for, harvest, catch, possess; or attempt to fish for, harvest, catch, or possess any bivalve shellfish, including Atlantic surfclams, ocean quahogs, and mussels with the exception of sea scallops harvested only for adductor muscles and shucked at sea, or a vessel issued and possessing on board a LOA from the Regional Administrator authorizing the collection of shellfish for biological sampling and operating under the terms and conditions of said LOA, in the area of the EEZ bound by the following coordinates in the order stated:

- (A) 43° 00' N. lat., 71° 00' W. long.;
- (B) 43° 00' N. lat., 69° 00' W. long.;
- (C) 41° 39' N. lat., 69° 00' W. long.;
- (D) 41° 39' N. lat., 71° 00' W. long.,

and then ending at the first point.

(iv) Fish for, harvest, catch, or possess; or attempt to fish for, harvest, catch, or possess; any scallops except for scallops harvested only for adductor muscles and shucked at sea, or a vessel issued and possessing on board a Letter of Authorization (LOA) from the Regional Administrator authorizing collection of shellfish for biological sampling and operating under the terms and conditions of said LOA, in the area of the EEZ bound by the following coordinates in the order stated:

- (A) 41° 39' N. lat., 71° 00' W. long.;
- (B) 41° 39' N. lat., 69° 00' W. long.;
- (C) 40° 00' N. lat., 69° 00' W. long.;
- (D) 40° 00' N. lat., 71° 00' W. long.,

and then ending at the first point.

(b) *Vessel and operator permits.* It is unlawful for any person to do any of the following:

(1) Fish for, take, catch, harvest or land any species of fish regulated by this part in or from the EEZ, 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.

(2) Alter, erase, or mutilate any permit issued under this part or any document submitted in support of an application for any such permit.

(3) Operate or act as operator of a vessel that fishes for or possesses any species of fish regulated by this part, or that is issued a vessel permit pursuant to this part, without having been issued and possessing a valid operator's permit.

(4) Fish for, possess, or land species regulated under this part with or from a vessel that is issued a limited access or moratorium permit under § 648.4(a) and that has had the horsepower, length, GRT, or NT of such vessel or its replacement upgraded or increased in excess of the limitations specified in § 648.4(a)(1)(i)(E) and (F).

(5) Fish for, take, catch, harvest or land any species of fish regulated by this part for which the vessel is eligible to possess under a limited access or moratorium permit prior to the time the vessel has been reissued the applicable limited access or moratorium permit by NMFS.

(6) Attempt to replace a limited access or moratorium fishing vessel, as specified at § 648.4(a)(1)(i)(E), more than once during a permit year, unless the vessel has been rendered permanently inoperable.

(7) Purchase, possess, or receive from a vessel for a commercial purpose, other than solely for transport on land, any species of fish for which a vessel permit is required under this part, unless the vessel possesses a valid vessel permit issued under this part.

(8) Transfer, remove, or offload, for a commercial purpose; or attempt to transfer, remove, land, or offload, for a commercial purpose; at sea, any species regulated under this part, unless the transferring vessel has been issued and carries on board a valid LOA from the Regional Administrator, or is otherwise exempted, and the receiving vessel has been issued and has on board a valid Federal permit for the species that is being transferred.

(9) Fish for, possess, or retain fish, during a fishing trip, aboard a federally permitted vessel that, in the absence of an emergency, has not been operating under its own power for the entire trip.

(c) *Dealer permits.* It is unlawful for any person to do any of the following:

(1) Purchase, possess or receive for a commercial purpose; or attempt to purchase possess or receive for a commercial purpose; other than solely for transport on land, 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 pursuant to the § 648.17 NAFO Regulatory Area exemptions.

(2) Sell, barter, trade, or transfer; or attempt to sell, barter, trade, or transfer; other than solely for transport on land, any Atlantic herring, multispecies, or monkfish from a vessel that fished for such species in the EEZ, unless the dealer or transferee has a valid dealer permit issued under § 648.6. A person who purchases and/or receives Atlantic herring at sea for his own personal use as bait, and does not have purse seine, mid-water trawl, pelagic gillnet, sink gillnet, or bottom trawl gear on board, is exempt from the requirement to possess an Atlantic herring dealer permit.

(d) *VMS.* It is unlawful for any person to do any of the following:

(1) Tamper with, damage, destroy, alter, or in any way distort, render useless, inoperative, ineffective, or inaccurate the VMS, VMS unit, or VMS signal required to be installed on or transmitted by vessel owners or operators required to use a VMS by this part.

(2) Fail to submit the appropriate VMS activity code for the intended activity at the appropriate time, in accordance with § 648.10.

(e) *Observer program.* It is unlawful for any person to do any of the following:

(1) Assault, resist, oppose, impede, harass, intimidate, or interfere with or bar by command, impediment, threat, or coercion any NMFS-approved observer or sea sampler conducting his or her duties; or any authorized officer conducting any search, inspection, investigation, or seizure in connection with enforcement of this part; or any official designee of the Regional Administrator conducting his or her duties, including those duties authorized in § 648.7(g).

(2) Refuse to carry onboard a vessel an observer or sea sampler if requested to do so by the Regional Administrator or the Regional Administrator's designee.

(3) Fail to provide information, notification, accommodations, access, or reasonable assistance to either a NMFS-approved observer or sea sampler conducting his or her duties aboard a vessel as specified in § 648.11.

(4) Submit false or inaccurate data, statements, or reports.

(f) *Research and experimental fishing.* It is unlawful for any person to violate any terms of a letter authorizing

experimental fishing pursuant to § 648.12 or fail to keep such letter on board the vessel during the period of the experiment.

(g) *Squid, mackerel, and butterfish*—(1) *All persons*. Unless participating in a research activity as described in § 648.21(g), it is unlawful for any person to do any of the following:

(i) *Possession and landing*. Take, retain, possess, or land more mackerel, squid or butterfish than specified under, or after the effective date of, a notification issued under § 648.22.

(ii) *Transfer and purchase*. (A) Purchase or otherwise receive for a commercial purpose; other than solely for transport on land; mackerel, squid, or butterfish caught by a vessel that has not been issued a Federal mackerel, squid, and butterfish vessel permit, unless the vessel fishes exclusively in state waters.

(B) Transfer *Loligo*, *Illex*, or butterfish within the EEZ, unless the vessels participating in the transfer have been issued a valid *Loligo* and butterfish or *Illex* moratorium permit and are transferring species for which the vessels are permitted, or have a valid squid/butterfish incidental catch permit and the appropriate LOA from the Regional Administrator.

(2) *Vessel and operator permit holders*. Unless participating in a research activity as described in § 648.21(g), it is unlawful for any person owning or operating a vessel issued a valid mackerel, squid, and butterfish fishery permit, or issued an operator's permit, to do any of the following:

(i) *General requirement*. Fail to comply with any measures implemented pursuant to § 648.21.

(ii) *Possession and landing*. (A) Possess more than the incidental catch allowance of *Loligo* or butterfish, unless issued a *Loligo* squid and butterfish fishery moratorium permit.

(B) Possess more than the incidental catch allowance of *Illex* squid, unless issued an *Illex* squid moratorium permit.

(C) Take, retain, possess, or land mackerel, squid or butterfish in excess of a possession allowance specified in § 648.22.

(D) Possess 5,000 lb (2.27 mt) or more of butterfish, unless the vessel meets the minimum mesh size requirement specified in § 648.23(a)(2).

(E) Take, retain, possess, or land mackerel, squid, or butterfish after a total closure specified under § 648.22.

(iii) *Gear and vessel requirements*. (A) Fish with or possess nets or netting that do not meet the gear requirements for Atlantic mackerel, *Loligo*, *Illex*, or butterfish specified in § 648.23(a); or

that are modified, obstructed, or constricted, if subject to the minimum mesh requirements, unless the nets or netting are stowed in accordance with § 648.23(b) or the vessel is fishing under an exemption specified in § 648.23(a)(3)(ii).

(B) Fish for, retain, or possess Atlantic mackerel in or from the EEZ with a vessel that exceeds either 165 ft (50.3 m) in length overall and 750 GRT, or a shaft horsepower (shp) of 3,000 shp, except for the retention and possession of Atlantic mackerel for processing by a vessel holding a valid at-sea processor permit pursuant to § 648.6(a)(2). It shall be presumed that the Atlantic mackerel on board were harvested in or from the EEZ, unless the preponderance of reliable evidence available indicates otherwise.

(C) Enter or fish in the mackerel, squid, and butterfish bottom trawling restricted areas, as described in § 648.23(a)(4).

(3) *Charter/party restrictions*. Unless participating in a research activity as described in § 648.21(g), it is unlawful for the owner and operator of a party or charter boat issued a mackerel, squid, and butterfish fishery permit (including a moratorium permit), when the boat is carrying passengers for hire, to do any of the following:

(i) Violate any recreational fishing measures established pursuant to § 648.21(d).

(ii) Sell or transfer mackerel, squid, or butterfish to another person for a commercial purpose.

(iii) Carry passengers for hire while fishing commercially under a mackerel, squid, and butterfish fishery permit.

(4) *Presumption*. For purposes of this part, the following presumption applies: All mackerel and butterfish possessed on board a party or charter boat issued a mackerel, squid, and butterfish fishery permit are deemed to have been harvested from the EEZ.

(h) *Atlantic salmon*. Unless participating in a research activity as described in § 648.21(g), it is unlawful for any person to do any of the following:

(1) *Possession and landing*. (i) Use any vessel of the United States for taking, catching, harvesting, fishing for, or landing any Atlantic salmon taken from or in the EEZ. It shall be presumed that the Atlantic salmon on board were harvested in or from the EEZ, unless the preponderance of reliable evidence available indicates otherwise.

(ii) Transfer, directly or indirectly; or attempt to transfer, directly or indirectly; to any vessel any Atlantic salmon taken in or from the EEZ.

(2) [Reserved]

(i) *Atlantic sea scallops*—(1) *All persons*. It is unlawful for any person to do any of the following:

(i) *Permit requirement*. Fish for, possess, or land, scallops without the vessel having been issued and carrying onboard a valid scallop permit in accordance with § 648.4(a)(2), unless the scallops were harvested by a vessel that has not been issued a Federal scallop permit and fishes for scallops exclusively in state waters.

(ii) *Gear and crew requirements*. Have a shucking or sorting machine on board a vessel while in possession of more than 400 lb (181.4 kg) of shucked scallops, unless that vessel has not been issued a scallop permit and fishes exclusively in state waters.

(iii) *Possession and landing*. (A) Fish for or land per trip, or possess at any time prior to a transfer to another person for a commercial purpose, other than solely for transport on land:

(1) In excess of 40 lb (18.1 kg) of shucked scallops at any time, 5 bu (1.76 hL) of in-shell scallops shoreward of the VMS Demarcation Line, or 10 bu (3.52 hL) of in-shell scallops seaward of the VMS Demarcation Line, unless:

(i) The scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters.

(ii) The scallops were harvested by a vessel that has been issued and carries on board a limited access scallop permit and is properly declared into the scallop DAS or Area Access program.

(iii) The scallops were harvested by a vessel that has been issued and carries on board an IFQ scallop permit and is properly declared into the IFQ scallop fishery.

(iv) The scallops were harvested by a vessel that has been issued and carries on board an NGOM scallop permit, and is properly declared into the NGOM scallop management area, and the NGOM TAC specified in § 648.62 has not been harvested.

(v) The scallops were harvested by a vessel that has been issued and carries on board an Incidental scallop permit allowing up to 40 lb (18.1 kg) of shucked or 5 bu (1.76 hL) of in-shell scallops; is carrying an at-sea observer; and is authorized by the Regional Administrator to have, and the vessel does not exceed, an increased possession limit to compensate for the cost of carrying the observer.

(2) In excess of 200 lb (90.7 kg) of shucked scallops at any time, 25 bu (8.8 hL) of in-shell scallops inside the VMS Demarcation Line, or 50 bu (17.6 hL) of in-shell scallops seaward of the VMS Demarcation Line, unless:

(i) The scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters.

(ii) The scallops were harvested by a vessel that has been issued and carries on board a limited access scallop permit and is properly declared into the scallop DAS or Area Access program.

(iii) The scallops were harvested by a vessel that has been issued and carries on board an IFQ scallop permit issued pursuant to § 648.4(a)(2)(ii)(A), is fishing outside of the NGOM scallop management area, and is properly declared into the general category scallop fishery.

(iv) The scallops were harvested by a vessel that has been issued and carries on board a scallop permit and the vessel is fishing in accordance with the provisions of the state waters exemption program specified in § 648.54.

(v) The scallops were harvested by a vessel that has been issued and carries on board an NGOM scallop permit allowing up to 200 lb (90.7 kg) of shucked or 25 bu (8.8 hL) of in-shell scallops; is carrying an at-sea observer; and is authorized by the Regional Administrator to have, and the vessel does not exceed, an increased possession limit to compensate for the cost of carrying the observer.

(3) In excess of 400 lb (181.4 kg) of shucked scallops at any time, 50 bu (17.6 hL) of in-shell scallops shoreward of the VMS Demarcation Line, or 100 bu (35.2 hL) in-shell scallops seaward of the VMS Demarcation Line, unless:

(i) The scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters.

(ii) The scallops were harvested by a vessel that has been issued and carries on board a limited access scallop permit issued pursuant to § 648.4(a)(2)(i) and is properly declared into the scallop DAS or Area Access program.

(iii) The scallops were harvested by a vessel that has been issued and carries on board a scallop permit and the vessel is fishing in accordance with the provisions of the state waters exemption program specified in § 648.54.

(iv) The scallops were harvested by a vessel that has been issued and carries on board an IFQ scallop permit, is carrying an at-sea observer, and is authorized by the Regional Administrator to have, and the vessel does not exceed, an increased possession limit to compensate for the cost of carrying the observer.

(iv) *Transfer and purchase.* (A) Land, offload, remove, or otherwise transfer; or attempt to land, offload, remove or otherwise transfer; scallops from one

vessel to another, unless that vessel has not been issued a scallop permit and fishes exclusively in state waters.

(B) Sell, barter, or trade, or otherwise transfer scallops from a vessel; or attempt to sell, barter or trade, or otherwise transfer scallops from a vessel; for a commercial purpose, unless the vessel has been issued a valid scallop permit pursuant to § 648.4(a)(2), or the scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters.

(C) Purchase, possess, or receive for commercial purposes; or attempt to purchase or receive for commercial purposes; scallops from a vessel other than one issued a valid limited access or general scallop permit, unless the scallops were harvested by a vessel that has not been issued a scallop permit and fishes for scallops exclusively in state waters.

(D) Sell or transfer to another person for a commercial purpose, other than solely for transport on land, any scallops harvested from the EEZ by a vessel issued a Federal scallop permit, unless the transferee has a valid scallop dealer permit.

(v) *Ownership cap.* Have an ownership interest in more than 5 percent of the total number of vessels issued limited access scallop permits and confirmations of permit history, except as provided in § 648.4(a)(2)(i)(M).

(vi) *Closed area requirements.* (A) Fish for scallops in, or possess or land scallops from, the areas specified in §§ 648.58 and 648.61.

(B) Transit or be in the areas described in §§ 648.58 or 648.61 in possession of scallops, except when all fishing gear is unavailable for immediate use as defined in § 648.23(b), or unless there is a compelling safety reason to be in such areas.

(vii) *Scallop sectors.* Fail to comply with any of the requirements or restrictions for general category scallop sectors specified in § 648.63.

(viii) *Scallop research.* Fail to comply with any of the provisions specified in § 648.56.

(ix) *Presumption.* For purposes of this section, the following presumption applies: Scallops that are possessed or landed at or prior to the time when the scallops are received by a dealer, or scallops that are possessed by a dealer, are deemed to be harvested from the EEZ, unless the preponderance of evidence demonstrates that such scallops were harvested by a vessel without a scallop permit and fishing exclusively for scallops in state waters.

(2) *Limited access scallop vessel permit holders.* It is unlawful for any

person owning or operating a vessel issued a limited access scallop permit under § 648.4(a)(2) to do any of the following:

(i) *Minimum shell height.* Land, or possess at or after landing, in-shell scallops smaller than the minimum shell height specified in § 648.50(a).

(ii) *Vessel, gear, and crew restrictions.* (A) Possess more than 40 lb (18.1 kg) of shucked, or 5 bu (1.76 hL) of in-shell scallops, or participate in the scallop DAS or Area Access programs, while in the possession of trawl nets that have a maximum sweep exceeding 144 ft (43.9 m), as measured by the total length of the footrope that is directly attached to the webbing of the net, except as specified in § 648.51(a)(1), unless the vessel is fishing under the Northeast multispecies or monkfish DAS program.

(B) While under or subject to the DAS allocation program, in possession of more than 40 lb (18.1 kg) of shucked scallops or 5 bu (1.76 hL) of in-shell scallops, or fishing for scallops in the EEZ:

(1) Fish with, or have available for immediate use, trawl nets of mesh smaller than the minimum size specified in § 648.51(a)(2).

(2) Fail to comply with any chafing gear or other gear obstruction restrictions specified in § 648.51(a)(3).

(3) Fail to comply with the dredge vessel gear restrictions specified in § 648.51(b).

(4) Fish under the small dredge program specified in § 648.51(e), with, or while in possession of, a dredge that exceeds 10.5 ft (3.2 m) in overall width, as measured at the widest point in the bail of the dredge.

(5) Fish under the small dredge program specified in § 648.51(e) with more than five persons on board the vessel, including the operator, unless otherwise authorized by the Regional Administrator or unless participating in the Area Access Program pursuant to the requirements specified in § 648.60.

(6) Participate in the DAS allocation program with more persons on board the vessel than the number specified in § 648.51(c), including the operator, when the vessel is not docked or moored in port, unless otherwise authorized by the Regional Administrator, or unless participating in the Area Access Program pursuant to the requirements specified in § 648.60.

(7) Have a shucking or sorting machine on board a vessel that shucks scallops at sea while fishing under the DAS allocation program, unless otherwise authorized by the Regional Administrator.

(8) Fish with, possess on board, or land scallops while in possession of

trawl nets, when fishing for scallops under the DAS allocation program, unless exempted as provided for in § 648.51(f).

(9) Fail to comply with the restriction on twine top described in § 648.51(b)(4)(iv).

(iii) *Possession and landing.* (A) Land scallops after using up the vessel's annual DAS allocation or land scallops on more than one trip per calendar day when not participating under the DAS allocation program pursuant to § 648.10, unless exempted from DAS allocations as provided in the state waters exemption, specified in § 648.54.

(B) Fish for, possess, or land more than 50 bu (17.62 hL) of in-shell scallops once inside the VMS Demarcation Line on or by a vessel that, at any time during the trip, fished in or transited any area south of 42°20' N. lat; or fished in any Sea Scallop Area Access Program specified in § 648.60, except as provided in the state waters exemption, as specified in § 648.54.

(C) Fish for or land per trip, or possess at any time, scallops in the NGOM scallop management area after notification in the **Federal Register** that the NGOM scallop management area TAC has been harvested, as specified in § 648.62, unless the vessel possesses or lands scallops that were harvested south of 42°20' N. lat. and the vessel only transits the NGOM scallop management area with the vessel's fishing gear properly stowed and unavailable for immediate use in accordance with § 648.23.

(iv) *DAS.* (A) Fish for, possess, or land scallops after using up the vessel's annual DAS allocation and Access Area trip allocations, or when not properly declared into the DAS or an Area Access program pursuant to § 648.10, unless the vessel has been issued an LAGC scallop permit pursuant to § 648.4(a)(2)(ii) and has properly declared into a general category scallop fishery, unless exempted from DAS allocations as provided in state waters exemption, specified in § 648.54.

(B) Combine, transfer, or consolidate DAS allocations, except as allowed for one-for-one Access Area trip exchanges as specified in § 648.60(a)(3)(ii).

(C) Fail to comply with any requirement for declaring in or out of the DAS allocation program or other notification requirements specified in § 648.10.

(v) *VMS requirements.* (A) Fail to have an approved, operational, and functioning VMS unit that meets the specifications of § 648.9 on board the vessel at all times, unless the vessel is not subject to the VMS requirements specified in § 648.10.

(B) If the vessel is not subject to VMS requirements specified in § 648.10(b), fail to comply with the requirements of the call-in system specified in § 648.10(c).

(vi) *Scallop access area program.* (A) Fail to comply with any of the provisions and specifications of § 648.60.

(B) Declare, initiate a trip into, or fish in the areas specified in § 648.59(b) through (d) after the effective date of the notice in the **Federal Register** stating that the yellowtail flounder TAC has been harvested as specified in § 648.85(c).

(C) Possess or retain yellowtail flounder in or from the areas specified in § 648.59(b) through (d) after the effective date of the notice in the **Federal Register** stating that the yellowtail flounder TAC has been harvested as specified in § 648.85(c).

(D) Possess more than 50 bu (17.6 hL) of in-shell scallops outside the boundaries of a Sea Scallop Access Area by a vessel that is declared into the Area Access Program as specified in § 648.60.

(E) Fish for, possess, or land scallops in or from any Sea Scallop Access Area without an observer on board, unless the vessel owner, operator, or manager has received a waiver to carry an observer for the specified trip and area fished.

(vii) *State waters exemption program.* Fail to comply with any requirement for participating in the State Waters Exemption Program specified in § 648.54.

(3) *LAGC scallop vessels.* It is unlawful for any person owning or operating a vessel issued an LAGC scallop permit to do any of the following:

(i) *Permit requirements.* (A) Fail to comply with the LAGC scallop permit restrictions as specified in § 648.4(a)(2)(ii)(G) through (O).

(B) Fish for, possess, or land scallops on a vessel that is declared out of scallop fishing unless the vessel has been issued an Incidental scallop permit.

(ii) *Gear requirements.* (A) Possess or use trawl gear that does not comply with any of the provisions or specifications in § 648.51(a), unless the vessel is fishing under the Northeast multispecies or monkfish DAS program.

(B) Possess or use dredge gear that does not comply with any of the provisions or specifications in § 648.51(b).

(iii) *Possession and landing.* (A) Land scallops more than once per calendar day.

(B) Possess in-shell scallops while in possession of the maximum allowed

amount of shucked scallops specified for each LAGC scallop permit category in § 648.52.

(C) Declare into, or leave port for, the NGOM scallop management area after the effective date of a notification published in the **Federal Register** stating that the general category scallop TAC has been harvested as specified in § 648.52 or § 648.62.

(D) Fish for, possess, or land scallops in or from the NGOM scallop management area after the effective date of a notification published in the **Federal Register** that the NGOM scallop management area TAC has been harvested, as specified in § 648.62, unless the vessel possesses or lands scallops that were harvested south of 42°20' N. lat., the vessel is transiting the NGOM scallop management area, and the vessel's fishing gear is properly stowed and unavailable for immediate use in accordance with § 648.23.

(E) Fish for, land, or possess more than 40 lb (18.1 kg) of shucked, or 5 bu (1.76 hL) of in-shell scallops at any time after 10 days from being notified that his or her appeal for an LAGC scallop permit has been denied and that the denial is the final decision of the Department of Commerce, unless the vessel holds a valid Incidental scallop permit.

(iv) *VMS requirements.* (A) Fail to comply with any of the VMS requirements specified in §§ 648.10, 648.60, or 648.62.

(B) Fail to comply with any requirement for declaring in or out of the general category scallop fishery or other notification requirements specified in § 648.10(b).

(v) *Observer program.* (A) Refuse, or fail, to carry an observer after being requested to carry onboard a vessel an observer by the Regional Administrator or the Regional Administrator's designee.

(B) Fail to provide information, notification, accommodations, access, or reasonable assistance to a NMFS-approved observer conducting his or her duties aboard a vessel, as specified in § 648.11.

(vi) *Scallop access area program.* (A) Fail to comply with any of the requirements specified in § 648.60.

(B) Declare into or leave port for an area specified in § 648.59(b) through (d) after the effective date of a notification published in the **Federal Register** stating that the general category scallop TAC has been harvested or that the number of General Category trips have been taken, as specified in § 648.60.

(C) Declare into, or leave port for, an area specified in § 648.59(b) through (d) after the effective date of a notification

published in the **Federal Register** stating that the yellowtail flounder TAC has been harvested as specified in § 648.85(c).

(D) Fish for, possess, or land scallops in or from any Sea Scallop Access Area without an observer on board, unless the vessel owner, operator, or manager has received a waiver to carry an observer for the specified trip and area fished.

(vii) Sectors. Fail to comply with any of the requirements and restrictions for General Category sectors and harvesting cooperatives specified in § 648.63.

(4) *IFQ scallop permit*. It is unlawful for any person owning or operating a vessel issued an IFQ scallop permit to do any of the following:

(i) *Possession and landing*. (A) Fish for or land per trip, or possess at any time, in excess of 400 lb (181.4 kg) of shucked, or 50 bu (17.6 hL) of in-shell scallops shoreward of the VMS Demarcation Line, unless the vessel is participating in the Area Access Program specified in § 648.60; is carrying an observer as specified in § 648.11; and, an increase in the possession limit is authorized by the Regional Administrator and not exceeded by the vessel, as specified in § 648.60(d)(2).

(B) Fish for or land per trip, or possess at any time, in excess of 200 lb (90.7 kg) of shucked or 25 bu (8.8 hL) of in-shell scallops in the NGOM scallop management area, unless the vessel is seaward of the VMS Demarcation Line and in possession of no more than 50 bu (17.6 hL) in-shell scallops, or when the vessel is not declared into the NGOM scallop management area and is transiting the NGOM scallop management area with gear properly stowed and unavailable for immediate use in accordance with § 648.23.

(C) Possess more than 100 bu (35.2 hL) of in-shell scallops seaward of the VMS Demarcation Line and not participating in the Access Area Program, or possess or land per trip more than 50 bu (17.6 hL) of in-shell scallops shoreward of the VMS Demarcation Line, unless exempted from DAS allocations as provided in § 648.54.

(D) Possess more than 50 bu (17.6 hL) of in-shell scallops, as specified in § 648.52(d), outside the boundaries of a Sea Scallop Access Area by a vessel that is declared into the Area Access Program as specified in § 648.60.

(E) Fish for, possess, or land scallops after the effective date of a notification in the **Federal Register** that the quarterly TAC specified in § 648.53(a)(8) has been harvested.

(F) Fish for, possess, or land scallops in excess of a vessel's IFQ.

(G) Fish for, possess, or land more than 40 lb (18.1 kg) of shucked scallops, or 5 bu (1.76 hL) of in-shell scallops shoreward of the VMS Demarcation Line, or 10 bu (3.52 hL) of in-shell scallops seaward of the VMS Demarcation Line, when the vessel is not declared into the IFQ scallop fishery, unless the vessel is fishing in compliance with all of the requirements of the state waters exemption program, specified at § 648.54.

(H) Land scallops more than once per calendar day.

(ii) *Owner and allocation cap*. (A) Have an ownership interest in vessels that collectively are allocated more than 5 percent of the total IFQ scallop TAC as specified at § 648.53(a)(5)(ii) and (iii).

(B) Have an IFQ allocation on an IFQ scallop vessel of more than 2 percent of the total IFQ scallop TAC as specified in § 648.53(a)(5).

(iii) *IFQ Transfer Program*. (A) Apply for an IFQ transfer that will result in the transferee having an aggregate ownership interest in more than 5 percent of the total IFQ scallop TAC.

(B) Apply for an IFQ transfer that will result in the receiving vessel having an IFQ allocation in excess of 2 percent of the total IFQ scallop TAC.

(C) Fish for, possess, or land transferred IFQ prior to approval of the transfer by the Regional Administrator as specified in § 648.53(h)(5).

(D) Request to transfer IFQ that has already been temporarily transferred from an IFQ scallop vessel in the same fishing year.

(E) Transfer scallop IFQ to a vessel after the transferring vessel has landed scallops in the same fishing year.

(F) Transfer a portion of a vessel's scallop IFQ.

(G) Transfer scallop IFQ to, or receive scallop IFQ from, a vessel that has not been issued a valid IFQ scallop permit.

(iv) *Cost Recovery Program*. Fail to comply with any of the cost recovery requirements specified under § 648.53(g)(4).

(5) *NGOM scallop permit*. It is unlawful for any person owning or operating a vessel issued an NGOM scallop permit to do any of the following:

(i) Declare into or leave port for a scallop trip, or fish for or possess scallops outside of the NGOM Scallop Management Area as defined in § 648.62.

(ii) Fish for or land per trip, or possess at any time, in excess of 200 lb (90.7 kg) of shucked or 25 bu (8.81 hL) of in-shell scallops in or from the NGOM scallop management area, or seaward of the

VMS Demarcation Line more than 50 bu (17.6 hL) of in-shell scallops.

(iii) Fish for, possess, or land scallops after the effective date of notification in the **Federal Register** that the NGOM scallop management area TAC has been harvested.

(6) *Incidental scallop permit*. It is unlawful for any person owning or operating a vessel issued an Incidental scallop permit to fish for, possess, or retain, more than 40 lb (18.1 kg) of shucked scallops, or 5 bu (1.76 hL) of in-shell scallops shoreward of the VMS Demarcation Line, or 10 bu (3.52 hL) of in-shell scallops while seaward of the VMS Demarcation Line.

(j) *Atlantic surfclam and ocean quahog*. It is unlawful for any person to do any of the following:

(1) *Possession and landing*. (i) Fish for surfclams or ocean quahogs in any area closed to surfclam or ocean quahog fishing.

(ii) Shuck surfclams or ocean quahogs harvested in or from the EEZ at sea, unless permitted by the Regional Administrator under the terms of § 648.74.

(iii) Fish for, retain, or land both surfclams and ocean quahogs in or from the EEZ on the same trip.

(iv) Fish for, retain, or land ocean quahogs in or from the EEZ on a trip designated as a surfclam fishing trip under § 648.15(b); or fish for, retain, or land surfclams in or from the EEZ on a trip designated as an ocean quahog fishing trip under § 648.15(b).

(v) Fail to offload any surfclams or ocean quahogs harvested in the EEZ from a trip discontinued pursuant to § 648.15(b) prior to commencing fishing operations in waters under the jurisdiction of any state.

(vi) Land or possess any surfclams or ocean quahogs harvested in or from the EEZ without having been issued, or in excess of, an individual allocation.

(2) *Transfer and purchase*. (i) Receive for a commercial purpose other than solely for transport on land, surfclams or ocean quahogs harvested in or from the EEZ, whether or not they are landed under an allocation under § 648.70, unless issued a dealer/processor permit under this part.

(ii) Transfer any surfclams or ocean quahogs harvested in or from the EEZ to any person for a commercial purpose, other than solely for transport on land, without a surfclam or ocean quahog processor or dealer permit.

(iii) Offload unshucked surfclams or ocean quahogs harvested in or from the EEZ outside the Maine mahogany quahog zone from vessels not capable of carrying cages, other than directly into cages.

(3) *Gear and tags requirements.* (i) Alter, erase, mutilate, duplicate or cause to be duplicated, or steal any cage tag issued under this part.

(ii) Produce, or cause to be produced, cage tags required under this part without written authorization from the Regional Administrator.

(iii) Tag a cage with a tag that has been rendered null and void or with a tag that has been previously used.

(iv) Tag a cage of surfclams with an ocean quahog cage tag, or tag a cage of ocean quahogs with a surfclam cage tag.

(v) Possess an empty cage to which a cage tag required by § 648.75 is affixed, or possess any cage that does not contain surfclams or ocean quahogs and to which a cage tag required by § 648.75 is affixed.

(vi) Land or possess, after offloading, any cage holding surfclams or ocean quahogs without a cage tag or tags required by § 648.75, unless the person can demonstrate the inapplicability of the presumptions set forth in § 648.75(h).

(vii) Sell null and void tags.

(4) *VMS requirements.* (i) Fail to maintain an operational VMS unit as specified in § 648.9, and comply with any of the notification requirements specified in § 648.15(b) including:

(A) Fish for, land, take, possess, or transfer surfclams or ocean quahogs under an open access surfclam or ocean quahog permit without having provided proof to the Regional Administrator that the vessel has a fully functioning VMS unit on board the vessel and declared a surfclam, ocean quahog, or Maine mahogany quahog fishing activity code via the VMS unit prior to leaving port as specified at § 648.15(b).

(B) Fish for, land, take, possess, or transfer ocean quahogs under a limited access Maine mahogany quahog permit without having provided proof to the Regional Administrator of NMFS that the vessel has a fully functioning VMS unit on board the vessel and declared a fishing trip via the VMS unit as specified at § 648.15(b).

(5) *Maine mahogany quahog zone.* (i) Land unshucked surfclams or ocean quahogs harvested in or from the EEZ outside the Maine mahogany quahog zone in containers other than cages from vessels capable of carrying cages.

(ii) Land unshucked surfclams and ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone in containers other than cages from vessels capable of carrying cages unless, with respect to ocean quahogs, the vessel has been issued a Maine mahogany quahog permit under this part and is not fishing for an

individual allocation of quahogs under § 648.70.

(iii) Offload unshucked surfclams harvested in or from the EEZ within the Maine mahogany quahog zone from vessels not capable of carrying cages, other than directly into cages.

(iv) Offload unshucked ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone from vessels not capable of carrying cages, other than directly into cages, unless the vessel has been issued a Maine mahogany quahog permit under this part and is not fishing for an individual allocation of quahogs under § 648.70.

(v) Land or possess ocean quahogs harvested in or from the EEZ within the Maine mahogany quahog zone after the effective date published in the **Federal Register** notifying participants that Maine mahogany quahog quota is no longer available for the respective fishing year, unless the vessel is fishing for an individual allocation of ocean quahogs under § 648.70.

(7) *Presumptions.* For purposes of this part, the following presumptions apply:

(i) Possession of surfclams or ocean quahogs on the deck of any fishing vessel in closed areas, or the presence of any part of a vessel's gear in the water in closed areas is prima facie evidence that such vessel was fishing in violation of the provisions of the Magnuson-Stevens Act and these regulations.

(ii) Surfclams or ocean quahogs landed from a trip for which notification was provided under § 648.15(b) or § 648.70(b) are deemed to have been harvested in the EEZ and count against the individual's annual allocation, unless the vessel has a valid Maine mahogany quahog permit issued pursuant to § 648.4(a)(4)(i) and is not fishing for an individual allocation under § 648.70.

(iii) Surfclams or ocean quahogs found in cages without a valid state tag are deemed to have been harvested in the EEZ and are deemed to be part of an individual's allocation, unless the vessel has a valid Maine mahogany quahog permit issued pursuant to § 648.4(a)(4)(i) and is not fishing for an individual allocation under § 648.70; or, unless the preponderance of available evidence demonstrates that he/she has surrendered his/her surfclam and ocean quahog permit issued under § 648.4 and he/she conducted fishing operations exclusively within waters under the jurisdiction of any state. Surfclams and ocean quahogs in cages with a Federal tag or tags, issued and still valid pursuant to this part, affixed thereto are deemed to have been harvested by the individual allocation holder to whom

the tags were issued or transferred under § 648.70 or § 648.75(b).

(k) *NE multispecies—(1) Permit requirements for all persons.* It is unlawful for any person, including any owner or operator of a vessel issued a valid Federal NE multispecies permit or letter under § 648.4(a)(1)(i), unless otherwise specified in § 648.17, to do any of the following:

(i) Fish for, possess, or land NE multispecies, unless:

(A) The NE multispecies are being fished for or were harvested in or from the EEZ by a vessel holding a valid Federal NE multispecies permit under this part, or a letter under § 648.4(a)(1), and the operator on board such vessel has a valid operator's permit and has it on board the vessel.

(B) The NE multispecies were harvested by a vessel not issued a Federal NE multispecies permit, nor eligible to renew or be reissued a limited access NE multispecies permit as specified in § 648.4 (b)(2), that fishes for NE multispecies exclusively in state waters.

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

(D) Any haddock and up to 100 lb of other regulated NE multispecies were harvested by a vessel that has an All Areas limited access herring permit and/or an Areas 2 and 3 limited access herring permit on a trip that did not use a NE multispecies DAS, is subject to the requirements specified in § 648.80(d) and (e), and may not sell the fish for human consumption.

(E) Otherwise specified in § 648.17.

(ii) Land, offload, remove, or otherwise transfer; or attempt to land, offload, remove or otherwise transfer; NE multispecies from one vessel to another vessel, unless both vessels have not been issued Federal NE multispecies permits and both fish exclusively in state waters, unless authorized in writing by the Regional Administrator, or otherwise allowed.

(iii) 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:

(A) The vessel is holding a Federal NE multispecies permit, or a letter under § 648.4(a)(1), and is not fishing under the charter/party vessel restrictions specified in § 648.89.

(B) The NE multispecies were harvested by a vessel without a Federal NE multispecies permit that fishes for NE multispecies exclusively in state waters.

(C) Or as otherwise specified in § 648.17.

(iv) Operate or act as an operator of a vessel fishing for or possessing NE multispecies in or from the EEZ, or holding a Federal NE multispecies vessel permit without having been issued and possessing a valid operator's permit.

(2) *Permit requirements for vessel and operator permit holders.* It is unlawful for any owner or operator of a vessel issued a valid Federal NE multispecies permit or letter under § 648.4(a)(1)(i), unless otherwise specified in § 648.17, to do any of the following:

(i) Fish for, possess, or land NE multispecies with or from a vessel that has had the length, GRT, or NT of such vessel, or its replacement, increased or upgraded in excess of limitations specified in § 648.4(a)(1)(i)(E) and (F).

(ii) Fish for, possess, or land NE multispecies with or from a vessel that has had the horsepower of such vessel or its replacement upgraded or increased in excess of the limitations specified in § 648.4(a)(1)(i)(E) and (F).

(3) *Dealer requirements.* (i) Purchase, possess, or receive as a dealer, or in the capacity of a dealer, regulated species in excess of the possession limits specified in § 648.85 or § 648.86 applicable to a vessel issued a NE multispecies permit, unless otherwise specified in § 648.17, or unless the regulated species are purchased or received from a member of an approved Sector, as specified at § 648.87, that is exempt from such possession limits in accordance with an approved Sector Operations Plan.

(ii) Sell or transfer to another person for a commercial purpose, other than solely for transport on land, any NE multispecies harvested from the EEZ by a vessel issued a Federal NE multispecies permit, unless the transferee has a valid NE multispecies dealer permit.

(4) *NAFO.* It is unlawful for any owner or operator of a vessel issued a valid NE multispecies permit or letter under § 648.4(a)(1)(i), to fail to comply with the exemption specifications in § 648.17.

(5) *Regulated Mesh Areas.* It is unlawful for any person, including any owner or operator of a vessel issued a valid Federal NE multispecies permit or letter under § 648.4(a)(1)(i), unless otherwise specified in § 648.17, to do any of the following:

(i) Violate any of the provisions of § 648.80, including paragraphs (a)(5), the Small-mesh Northern Shrimp Fishery Exemption Area; (a)(6), the Cultivator Shoal Whiting Fishery Exemption Area; (a)(9), Small-mesh Area 1/Small-mesh Area 2; (a)(10), the Nantucket Shoals Dogfish Fishery Exemption Area; (a)(11), the GOM

Scallop Dredge Exemption Area; (a)(12), the Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area; (a)(13), the GOM/GB Monkfish Gillnet Exemption Area; (a)(14), the GOM/GB Dogfish Gillnet Exemption Area; (a)(15), the Raised Footrope Trawl Exempted Whiting Fishery; (a)(16) the GOM Grate Raised Footrope Trawl Exempted Whiting Fishery; (a)(18), the Great South Channel Scallop Dredge Exemption Area; (b)(3), exemptions (small mesh); (b)(5), the SNE Monkfish and Skate Trawl Exemption Area; (b)(6), the SNE Monkfish and Skate Gillnet Exemption Area; (b)(8), the SNE Mussel and Sea Urchin Dredge Exemption Area; (b)(9), the SNE Little Tunny Gillnet Exemption Area; and (b)(11), the SNE Scallop Dredge Exemption Area. Each violation of any provision in § 648.80 constitutes a separate violation.

(ii) Enter or fish in the Gulf of Maine, Georges Bank, or Southern New England Regulated Mesh Areas, except as provided in § 648.80(a)(3)(vi) and (b)(2)(vi), and, for purposes of transiting, all gear (other than exempted gear) must be stowed in accordance with § 648.23(b).

(iii) *Gulf of Maine and Georges Bank Regulated Mesh Areas.* (A) Fish with, use, or have on board, within the areas described in § 648.80(a)(1) and (2), nets with mesh size smaller than the minimum mesh size specified in § 648.80(a)(3) and (4); except as provided in § 648.80(a)(5) through (8), (a)(9), (a)(10), (a)(15), (a)(16), (d), (e), and (i); unless the vessel has not been issued a NE multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

(B) Fish within the areas described in § 648.80(a)(6) with net mesh smaller than the minimum size specified in § 648.80(a)(3) or (4).

(iv) *Southern New England Regulated Mesh Area.* Fish with, use, or have available for immediate use within the area described in § 648.80(b)(1), net mesh smaller than the minimum size specified in § 648.80(b)(2), except as provided in § 648.80(b)(3), (b)(9), (d), (e), and (i), or unless the vessel has not been issued a Federal NE multispecies permit and fishes for multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

(v) *Mid-Atlantic Regulated Mesh Area.* 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 Federal NE multispecies permit

and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

(vi) *Mid-water trawl exempted fishery.* (A) Fish for, land, or possess NE multispecies harvested by means of pair trawling or with pair trawl gear, except under the provisions of § 648.80(d), or unless the vessels that engaged in pair trawling have not been issued multispecies permits and fish for NE multispecies exclusively in state waters.

(B) Fish for the species specified in § 648.80(d) or (e) with a net mesh smaller than the applicable mesh size specified in § 648.80(a)(3) or (4), (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 Federal NE multispecies permit and fishes for NE multispecies exclusively in state waters, or unless otherwise specified in § 648.17.

(vii) *Scallop vessels.* (A) Violate any of the possession or landing restrictions on fishing with scallop dredge gear specified in §§ 648.80(h) and 648.94.

(B) Possess, land, or fish for regulated species, except winter flounder as provided for in accordance with § 648.80(i) from or within the areas described in § 648.80(i), while in possession of scallop dredge gear on a vessel not fishing under the scallop DAS program as described in § 648.53, or fishing under a general scallop permit, unless the vessel and the dredge gear conform with the stowage requirements of § 648.23(b), or unless the vessel has not been issued a Federal NE multispecies permit and fishes for NE multispecies exclusively in state waters.

(viii) *Northern shrimp and small mesh multispecies exempted fisheries.* (A) Fish for, harvest, possess, or land in or from the EEZ northern shrimp, unless such shrimp were fished for or harvested by a vessel meeting the requirements specified in § 648.80(a)(5).

(B) Fish for, harvest, possess, or land in or from the EEZ, when fishing with trawl gear, any of the exempted species specified in § 648.80(a)(9)(i), unless such species were fished for or harvested by a vessel meeting the requirements specified in § 648.80(a)(5)(ii) or (a)(9)(ii).

(ix) *Winter flounder state exemption program.* Violate any provision of the state waters winter flounder exemption program as provided in § 648.80(i).

(6) *Gear requirements—(i) For all persons.* It is unlawful for any person, including any owner or operator of a vessel issued a valid NE multispecies permit or letter under § 648.4(a)(1)(i),

unless otherwise specified in § 648.17, to do any of the following:

(A) Obstruct or constrict a net as described in § 648.80(g)(1) or (2).

(B) Fish for, harvest, possess, or land any species of fish in or from the GOM/GB Inshore Restricted Roller Gear Area described in § 648.80(a)(3)(vii) with trawl gear where the diameter of any part of the trawl footrope, including discs, rollers or rockhoppers, is greater than 12 inches (30.5 cm).

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

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

(E) Use, set, haul back, fish with, possess on board a vessel, unless stowed in accordance with § 648.23(b), or fail to remove, sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(2)(ii)), in the areas and for the times specified in § 648.80(g)(6)(i) and (ii), except as provided in § 648.80(g)(6)(i) and (ii), and § 648.81(f)(2)(ii), or unless otherwise authorized in writing by the Regional Administrator.

(F) Fish for, land, or possess NE multispecies harvested with the use of de-hookers ("crucifiers") with less than 6-inch (15.2-cm) spacing between the fairlead rollers unless the vessel has not been issued a Federal NE multispecies permit and fishes for NE multispecies exclusively in state waters.

(G) Possess or use de-hookers ("crucifiers") with less than 6-inch (15.2-cm) spacing between the fairlead rollers while in possession of NE multispecies, unless the vessel has not been issued a Federal NE multispecies permit and fishes for NE multispecies exclusively in state waters.

(ii) *For vessel and operator permit holders.* It is unlawful for any owner or operator of a vessel issued a valid NE multispecies permit or letter under § 648.4(a)(1)(i), unless otherwise specified in § 648.17, to do any of the following:

(A) *Gillnet gear.* (1) If the vessel has been issued a limited access NE multispecies permit and fishes under a NE multispecies DAS with gillnet gear, fail to comply with gillnet tagging requirements specified in §§ 648.80(a)(3)(iv)(B)(4), (a)(3)(iv)(C), (a)(4)(iv)(B)(3), (b)(2)(iv)(B)(3), and

(c)(2)(v)(B)(3), or fail to produce immediately, or cause to be produced immediately, gillnet tags when requested by an authorized officer.

(2) Produce, or cause to be produced, gillnet tags under § 648.80(a)(3)(iv)(C), without the written confirmation from the Regional Administrator described in § 648.80(a)(3)(iv)(C).

(3) Tag a gillnet or use a gillnet tag that has been reported lost, missing, destroyed, or that was issued to another vessel.

(4) Sell, transfer, or give away gillnet tags that have been reported lost, missing, destroyed, or issued to another vessel.

(5) Enter, fail to remove sink gillnet gear or gillnet gear capable of catching NE multispecies from, or be in the areas, and for the times, described in § 648.80(g)(6)(i) and (ii), except as provided in §§ 648.80(g)(6)(i) and 648.81(i).

(B) *Hook gear.* Fail to comply with the restrictions on fishing and gear specified in § 648.80(a)(3)(v), (a)(4)(v), (b)(2)(v), and (c)(2)(iv) if the vessel has been issued a limited access NE multispecies permit and fishes with hook gear in areas specified in § 648.80(a), (b), or (c), unless allowed under § 648.85(b)(7)(iv)(F).

(7) *Closed areas and EFH—(i) All persons.* It is unlawful for any person, including any owner or operator of a vessel issued a valid Federal NE multispecies permit or letter under § 648.4(a)(1)(i), unless otherwise specified in § 648.17, to do any of the following:

(A) Enter, be on a fishing vessel in, or fail to remove gear from the EEZ portion of the areas described in § 648.81(d)(1) through (g)(1), except as provided in § 648.81(d)(2), (e)(2), (f)(2), (g)(2), and (i).

(B) Fish for, harvest, possess, or land regulated species in or from the closed areas specified in § 648.81(a) through (f), unless otherwise specified in § 648.81(c)(2)(iii), (f)(2)(i), (f)(2)(iii), or as authorized under § 648.85.

(C) *Restricted gear areas.* (1) Fish, or be in the areas described in § 648.81(j)(1), (k)(1), (l)(1), and (m)(1) on a fishing vessel with mobile gear during the time periods specified in § 648.81(j)(2), (k)(2), (l)(2), and (m)(2), except as provided in § 648.81(j)(2), (k)(2), (l)(2), and (m)(2).

(2) Fish, or be in the areas described in § 648.81(j)(1), (k)(1), and (l)(1) on a fishing vessel with lobster pot gear during the time periods specified in § 648.81(j)(2), (k)(2), and (l)(2).

(3) Deploy in or fail to remove lobster pot gear from the areas described in § 648.81(j)(1), (k)(1), and (l)(1), during

the time periods specified in § 648.81(j)(2), (k)(2), and (l)(2).

(D) *GB Seasonal Closure Area.* Enter, fail to remove gear from, or be in the areas described in § 648.81(g)(1) through (i)(1) during the time period specified, except as provided in § 648.81(d), (g)(2), (h)(2), and (i)(2).

(E) *Closed Area I.* Enter or be in the area described in § 648.81(a)(1) on a fishing vessel, except as provided in § 648.81(a)(2) and (i).

(F) *Closed Area II.* Enter or be in the area described in § 648.81(b)(1) on a fishing vessel, except as provided in § 648.81(b)(2) and (i).

(G) *Nantucket Lightship Closure Area.* Enter or be in the area described in § 648.81(c)(1) on a fishing vessel, except as allowed under § 648.81(c)(2) and (i).

(ii) *Vessel and permit holders.* It is unlawful for any owner or operator of a vessel issued a valid NE multispecies permit or letter under § 648.4(a)(1)(i), unless otherwise specified in § 648.17, to do any of the following:

(A) *EFH closure area restrictions.* If fishing with bottom tending mobile gear, fish in, enter, be on a fishing vessel in, the EFH closure areas described in § 648.81(h)(1)(i) through (vi).

(8) *DAS restrictions for all persons.* It is unlawful for any person, including any owner or operator of a vessel issued a valid NE multispecies permit or letter under § 648.4(a)(1)(i), unless otherwise specified in § 648.17, to do any of the following:

(i) For vessels issued a limited access NE multispecies permit, or those issued a limited access NE multispecies permit and a limited access monkfish permit (Category C, D, F, G, or H), but not fishing under the limited access monkfish Category A or B provisions as allowed under § 648.92(b)(2), call into the DAS program prior to 1 hr before leaving port.

(ii) Call in DAS in excess of those allocated, leased, or permanently transferred, in accordance with the restrictions and conditions of § 648.82.

(9) *DAS restrictions for vessel and operator permit holders.* It is unlawful for any owner or operator of a vessel issued a valid NE multispecies permit or letter under § 648.4(a)(1)(i), unless otherwise specified in § 648.17, to do any of the following:

(i) *Differential DAS Areas.* If fishing under a NE multispecies Category A DAS in either the GOM Differential DAS Area, or the SNE Differential DAS Area defined under § 648.82(e)(2)(i), fail to declare into the area through VMS as required under § 648.82(e)(2)(ii).

(ii) *DAS Leasing Program.* (A) Provide false information on an application, required by § 648.82(k)(4)(xi), to

downgrade the DAS Leasing Program baseline.

(B) Lease NE multispecies DAS or use leased DAS that have not been approved for leasing by the Regional Administrator as specified in § 648.82(k).

(C) Provide false information on, or in connection with, an application, required under § 648.82(k)(3), to effectuate the leasing of NE multispecies DAS.

(D) Act as lessor or lessee of a NE multispecies Category B DAS, or Category C DAS.

(E) Act as lessor or lessee of NE multispecies DAS, if the lessor's or the lessee's vessels do not comply with the size restrictions specified in § 648.82(k)(4)(ix).

(F) Sub-lease NE multispecies DAS.

(G) Lease more than the maximum number of DAS allowable under § 648.82(k)(4)(iv).

(H) Lease NE multispecies DAS to a vessel that does not have a valid limited access multispecies permit.

(I) Lease NE multispecies DAS associated with a Confirmation of Permit History.

(J) Lease NE multispecies DAS if the number of unused allocated DAS is less than the number of DAS requested to be leased.

(K) Lease NE multispecies DAS in excess of the duration specified in § 648.82(k)(4)(viii).

(L) Combine, transfer, or consolidate DAS allocations, except as provided for under the DAS Leasing Program or the DAS Transfer Program, as specified under § 648.82(k) and (l), respectively.

(iii) *DAS Transfer Program.* (A) Transfer NE multispecies DAS, or use transferred DAS, that have not been approved for transfer by the Regional Administrator, as specified in § 648.82(l).

(B) Provide false information on, or in connection with, an application, required by § 648.82(l)(2), for a NE multispecies DAS transfer.

(C) Permanently transfer only a portion of a vessel's total allocation of DAS.

(D) Permanently transfer NE multispecies DAS between vessels, if such vessels do not comply with the size restrictions specified in § 648.82(l)(1)(ii).

(iv) *Gillnet fishery.* (A) Fail to declare, and be, out of the non-exempt gillnet fishery as required by § 648.82(j)(1)(ii), using the procedure specified in § 648.82(h).

(B) If a vessel has been issued a limited access NE multispecies permit and fishes under a NE multispecies DAS, fail to comply with the gillnet

requirements and restrictions specified in § 648.82(j).

(C) If a vessel has been issued a limited access Day gillnet category designation, fail to comply with the restrictions and requirements specified in § 648.82(j)(1).

(D) If a vessel has been issued a limited access Trip gillnet category designation, fail to comply with the restrictions and requirements specified in § 648.82(j)(2).

(v) *Spawning blocks.* Fail to declare, and be, out of the NE multispecies DAS program as required by § 648.82(g), using the procedure described under § 648.82(h), as applicable.

(vi) *DAS notification.* (A) For purposes of DAS notification, if required, or electing, to have a VMS unit under § 648.10:

(1) Fail to have a certified, operational, and functioning VMS unit that meets the specifications of § 648.9 on board the vessel at all times.

(2) Fail to comply with the notification, replacement, or any other requirements regarding VMS usage specified in § 648.10(b).

(B) Fail to comply with any provision of the DAS notification program specified in § 648.10.

(vii) *Charter/party vessels.* Participate in the DAS program pursuant to § 648.82 when carrying passengers for hire on board a vessel during any portion of a fishing trip.

(10) *Gear marking requirement for all persons.* It is unlawful for any person, including any owner or operator of a vessel issued a valid NE multispecies permit or letter under § 648.4(a)(1)(i), unless otherwise specified in § 648.17, to fail to comply with the gear-marking requirements of § 648.84.

(11) *U.S./Canada Resource Management Area—(i) Possession and landing restrictions of the U.S./Canada Area—(A) All Persons.* (1) Fish for, harvest, possess or land any regulated NE multispecies from the areas specified in § 648.85(a)(1), unless in compliance with the restrictions and conditions specified in § 648.85(a)(3).

(2) If fishing under a NE multispecies DAS in the Western U.S./Canada Area or Eastern U.S./Canada Area specified in § 648.85(a)(1), exceed the trip limits specified in § 648.85(a)(3)(iv), unless further restricted under § 648.85(b).

(3) If fishing inside the Eastern U.S./Canada Area and in possession of fish in excess of what is allowed under more restrictive regulations that apply outside of the Eastern U.S./Canada Area, fish outside of the Eastern U.S./Canada Area on the same trip, as prohibited under § 648.85(a)(3)(ii)(A).

(4) If fishing both outside and inside of the areas specified for a SAP under § 648.85(b)(3) and (8), under a NE multispecies DAS in the Eastern U.S./Canada Area specified in § 648.85(a)(1), fail to abide by the DAS and possession restrictions under § 648.85(b)(8)(v)(A)(2) through (4).

(B) *Vessel and operator permit holders.* Fail to comply with the GB yellowtail flounder trip limit specified under § 648.85(a)(3)(iv)(C).

(ii) *Gear requirements for all persons.* If fishing with trawl gear under a NE multispecies DAS in the Eastern U.S./Canada Area defined in § 648.85(a)(1)(ii), fail to fish with a haddock separator trawl or a flounder trawl net, as specified in § 648.85(a)(3)(iii); unless using other gear authorized under § 648.85(b)(6) or (8).

(iii) *Notification and VMS requirements for all persons.* (A) Enter or fish in the Western U.S./Canada Area or Eastern U.S./Canada Area specified in § 648.85(a)(1), unless declared into the area in accordance with § 648.85(a)(3)(ii).

(B) If declared into one of the areas specified in § 648.85(a)(1), fish during that same trip outside of the declared area, unless in compliance with the applicable restrictions specified under § 648.85(a)(3)(ii)(A) or (B).

(C) If the vessel has been issued a limited access NE multispecies DAS permit, and is in the area specified in § 648.85(a), fail to comply with the VMS requirements in § 648.85(a)(3)(i).

(D) If fishing under a NE multispecies DAS in the Eastern U.S./Canada Area specified in § 648.85(a)(1)(ii), but not in a SAP specified in § 648.85(b) on the same trip, fail to comply with the requirements specified in § 648.85(a)(3).

(E) Fail to notify NMFS via VMS prior to departing the Eastern U.S./Canada Area, when fishing inside and outside of the area on the same trip, in accordance with § 648.85(a)(3)(ii)(A)(1).

(F) When fishing inside and outside of the Eastern U.S./Canada Area on the same trip, fail to abide by the most restrictive requirements that apply to any area fished, including the DAS counting, trip limits, and reporting requirements that apply, as described in § 648.85(a)(3)(ii)(A).

(iv) *Reporting requirements for all persons.* (A) If fishing under a NE multispecies DAS in the Western U.S./Canada Area or Eastern U.S./Canada Area specified in § 648.85(a)(1), fail to report landings in accordance with § 648.85(a)(3)(v).

(B) Fail to comply with the reporting requirements under § 648.85(a)(3)(ii)(A)(2) when fishing

inside and outside of the Eastern U.S./Canada Area on one trip.

(v) *DAS*—(A) *All Persons*. If fishing under a NE multispecies DAS in the Eastern U.S./Canada Area specified in § 648.85(a)(1)(ii), and in one of the SAPs specified in § 648.85(b)(3) or (8) on the same trip, fail to comply with the no discard and DAS flip provisions specified in § 648.85(b)(8)(v)(I) or the minimum Category A DAS requirement specified in § 648.85(b)(8)(v)(J).

(B) *Vessel and operator permit holders*. (1) If fishing under a NE multispecies Category A DAS in one of the Differential DAS Areas defined in § 648.82(e)(2)(i), and under the restrictions of one or more of the SAPs under § 648.85, fail to comply with the most restrictive regulations.

(2) For vessels fishing inside and outside the Eastern U.S./Canada Area on the same trip, fail to comply with the most restrictive regulations that apply on the trip as required by § 648.85(a)(3)(ii)(A).

(vi) *Closure of the U.S./Canada Area for all persons*. If fishing under a NE multispecies DAS, declare into, enter, or fish in the Eastern U.S./Canada Area specified in § 648.85(a)(1), if the area is closed under the authority of the Regional Administrator as described in § 648.85(a)(3)(iv)(D) or (E), unless fishing in the Closed Area II Yellowtail Flounder SAP specified in § 648.85(b)(3) or the Eastern U.S./Canada Haddock SAP Pilot Program specified in § 648.85(b)(8).

(12) *SAP restrictions*—(i) *General restrictions for all persons*. (A) If declared into the areas specified in § 648.85(b), enter or exit the declared areas more than once per trip.

(B) If a vessel is fishing under a Category B DAS in the Closed Area II Yellowtail Flounder SAP specified in § 648.85(b)(3), the Regular B DAS Program specified in § 648.85(b)(6), or the Eastern U.S./Canada Haddock SAP specified in § 648.85(b)(8), remove any fish caught with any gear, including dumping the contents of a net, except on board the vessel.

(ii) *General restrictions for vessel and operator permit holders*. Discard legal-sized NE regulated multispecies, ocean pout, or Atlantic halibut while fishing under a SAP, as described in §§ 648.85(b)(3)(xi), 648.85(b)(7)(iv)(H), or 648.85(b)(8)(v)(I).

(iii) *Closed Area II Yellowtail Flounder SAP restrictions for all persons*. (A) If fishing under the Closed Area II Yellowtail Flounder SAP, fish for, harvest, possess, or land any regulated NE multispecies from the area specified in § 648.85(b)(3)(ii), unless in

compliance with § 648.85(b)(3)(i) through (xi).

(B) Enter or fish in Closed Area II as specified in § 648.81(b), unless declared into the area in accordance with § 648.85(b)(3)(v).

(C) Enter or fish in Closed Area II under the Closed Area II Yellowtail Flounder SAP outside of the season specified in § 648.85(b)(3)(iii).

(D) If fishing in the Closed Area II Yellowtail Flounder SAP specified in § 648.85(b)(3), exceed the number of trips specified under § 648.85(b)(3)(vi) or (vii).

(E) If fishing in the Closed Area II Yellowtail Flounder SAP specified in § 648.85(b)(3), exceed the trip limits specified in § 648.85(b)(3)(viii).

(iv) *Southern New England/Mid-Atlantic Winter Flounder SAP restrictions for all persons*. If fishing under the SNE/MA Winter Flounder SAP described in § 648.85(b)(4), fail to comply with § 648.85(b)(4)(i) through (iv).

(v) *Regular B DAS Program restrictions for vessel and operator permit holders*. (A) If fishing in the Regular B DAS Program specified in § 648.85(b)(6), fail to comply with §§ 648.85(b)(6)(iv)(A) through (F), (I), and (J).

(B) If fishing in the Regular B DAS Program specified in § 648.85(b)(6), fail to use a haddock separator trawl as described in § 648.85(a)(3)(iii)(A), or other approved gear as described in § 648.85(b)(6)(iv)(J).

(C) If possessing a Ruhle Trawl, either at sea or elsewhere, as allowed under § 648.85(b)(6)(iv)(J)(1) or (b)(8)(v)(E)(1), fail to comply with the net specifications under § 648.85(b)(6)(iv)(J)(J).

(D) Discard legal-sized NE regulated multispecies, ocean pout, Atlantic halibut, or monkfish while fishing under a Regular B DAS in the Regular B DAS Program, as described in § 648.85(b)(6)(iv)(E).

(E) If fishing in the Regular B DAS Program specified in § 648.85(b)(6), fail to comply with the landing limits specified in § 648.85(b)(6)(iv)(D).

(F) If fishing under a Regular B DAS in the Regular B DAS Program, fail to comply with the DAS flip requirements of § 648.85(b)(6)(iv)(E) if the vessel harvests and brings on board more than the landing limit for a groundfish stock of concern specified in § 648.85(b)(6)(iv)(D), other groundfish specified under § 648.86, or monkfish under § 648.94.

(G) *DAS usage restrictions*. (1) If fishing in the Regular B DAS Program, fail to comply with the restriction on

DAS use specified in § 648.82(d)(2)(i)(A).

(2) If fishing in the Regular B DAS Program specified in § 648.85(b)(6), fail to comply with the minimum Category A DAS and Category B DAS accrual requirements specified in § 648.85(b)(6)(iv)(F).

(3) Use a Regular B DAS in the Regular B DAS Program specified in § 648.85(b)(6), if the program has been closed as specified in § 648.85(b)(6)(iv)(G) or (H), or (b)(6)(vi).

(H) *VMS requirements*. (1) If fishing in the Regular B DAS Program specified in § 648.85(b)(6), fail to comply with the VMS requirement specified in § 648.85(b)(6)(iv)(A).

(2) If fishing in the Regular B DAS Program specified in § 648.85(b)(6), fail to comply with the VMS declaration requirement specified in § 648.85(b)(6)(iv)(C).

(I) If fishing in the Regular B DAS Program specified in § 648.85(b)(6), fail to comply with the observer notification requirement specified in § 648.85(b)(6)(iv)(B).

(J) If fishing in the Regular B DAS Program specified in § 648.85(b)(6), fail to comply with the reporting requirements specified in § 648.85(b)(6)(iv)(I).

(vi) *Closed Area I Hook Gear Haddock SAP restrictions for vessel and operator permit holders*. (A) If fishing in the Closed Area I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the applicable requirements and conditions specified in § 648.85(b)(7)(iv), and (b)(7)(v) or (b)(7)(vi).

(B) Fish in the Closed Area I Hook Gear Haddock SAP specified in § 648.85(b)(7) outside of the season specified in § 648.85(b)(7)(iii).

(C) Fish in the Closed Area I Hook Gear Haddock Access Area specified in § 648.85(b)(7)(ii), if that area is closed as specified in § 648.85(b)(7)(iv)(I) or (b)(7)(vi)(F).

(D) If fishing in the Closed Area I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the applicable DAS use restrictions specified in § 648.85(b)(7)(iv)(A), and (b)(7)(v)(A) or (b)(7)(vi)(A).

(E) *VMS requirements*. (1) If fishing in the Closed Area I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the VMS requirements specified in § 648.85(b)(7)(iv)(B).

(2) If fishing in the Closed Area I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the VMS declaration requirement specified in § 648.85(b)(7)(iv)(D).

(F) If fishing in the Closed Area I Hook Gear Haddock SAP specified in

§ 648.85(b)(7), fail to comply with the observer notification requirements specified in § 648.85(b)(7)(iv)(C).

(G) If fishing in the Closed Area I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the applicable gear restrictions specified in § 648.85(b)(7)(iv)(E), and (b)(7)(v)(B) or (b)(7)(vi)(B).

(H) If fishing in the Closed Area I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the applicable landing limits specified in § 648.85(b)(7)(iv)(H), and (b)(7)(v)(C) or (b)(7)(vi)(C).

(I) If fishing in the Closed Area I Hook Gear Haddock SAP specified in § 648.85(b)(7), fail to comply with the applicable reporting requirement specified in § 648.85(b)(7)(v)(D) or (b)(7)(vi)(D).

(vii) *Eastern U.S./Canada Haddock SAP Restrictions*—(A) *All Persons*. (1) If fishing under a NE multispecies DAS in the Eastern U.S./Canada Haddock SAP specified in § 648.85(b)(8), in the area specified in § 648.85(b)(8)(ii), and during the season specified in § 648.85(b)(8)(iv), fail to comply with § 648.85(b)(8)(v).

(2) *VMS and declaration requirements*. (i) If the vessel has been issued a limited access NE multispecies DAS permit and is in the area specified in § 648.85(b)(8)(ii), fail to comply with the VMS requirements in § 648.85(b)(8)(v)(B).

(ii) If fishing under a NE multispecies DAS, fish in the Eastern U.S./Canada Haddock SAP Program specified in § 648.85(b)(8), unless declared into the program in accordance with § 648.85(b)(8)(v)(D).

(3) Enter or fish in the Eastern U.S./Canada Haddock SAP outside of the season specified in § 648.85(b)(8)(iv).

(4) If possessing a Rühle Trawl, either at sea or elsewhere, as allowed under § 648.85(b)(6)(iv)(j)(1) or (b)(8)(v)(E)(1), fail to comply with the net specifications under § 648.85(b)(6)(iv)(j)(3).

(5) *Possession limits and restrictions*. (i) If fishing under a NE multispecies DAS in the Eastern U.S./Canada Haddock SAP, exceed the possession limits specified in § 648.85(b)(8)(v)(F).

(ii) If fishing under the Eastern U.S./Canada Haddock SAP, fish for, harvest, possess, or land any regulated NE multispecies from the area specified in § 648.85(b)(8)(ii), unless in compliance with the restrictions and conditions of § 648.85(b)(8)(v)(A) through (I).

(6) If fishing in the Eastern U.S./Canada Haddock SAP specified in § 648.85(b)(8), fail to comply with the reporting requirements of § 648.85(b)(8)(v)(G).

(7) If fishing under the Eastern U.S./Canada Haddock SAP specified in § 648.85(b)(8), fail to comply with the observer notification requirements of § 648.85(b)(8)(v)(C).

(B) *Vessel and operator permit holders*. (1) If fishing in the Eastern U.S./Canada Haddock SAP Area, and other portions of the Eastern U.S./Canada Haddock SAP Area on the same trip, fail to comply with the restrictions in § 648.85(b)(8)(v)(A).

(2) *DAS usage restrictions*. (i) If fishing in the Eastern U.S./Canada Haddock SAP Area under a Category B DAS, fail to comply with the DAS flip requirements of § 648.85(b)(8)(v)(I), if the vessel possesses more than the applicable landing limit specified in §§ 648.85(b)(8)(v)(F) or 648.86.

(ii) If fishing in the Eastern U.S./Canada Haddock SAP Area under a Category B DAS, fail to have the minimum number of Category A DAS available as required by § 648.85(b)(8)(v)(J).

(3) Fish in the Eastern U.S./Canada Haddock SAP specified in § 648.85(b)(8), if the SAP is closed as specified in § 648.85(b)(8)(v)(K) or (L).

(13) *Possession and landing restrictions*—(i) *All persons*. (A) Under § 648.85 or § 648.86, fail to offload regulated species subject to a landing limit based on a DAS fished at the end of a fishing trip, as required by § 648.86(i).

(B) *Scallop vessels*. Possess or land fish caught with nets of mesh smaller than the minimum size specified in § 648.51, or with scallop dredge gear on a vessel not fishing under the scallop DAS program described in § 648.54, or fishing under a general scallop permit, unless said fish are caught, possessed, or landed in accordance with §§ 648.80 and 648.86, or unless the vessel has not been issued a Federal NE multispecies permit and fishes for NE multispecies exclusively in state waters.

(ii) *Vessel and operator permit holders*. (A) Land, or possess on board a vessel, more than the possession or landing limits specified in § 648.86(a), (b), (c), (d), (g), and (h); or violate any of the other provisions of § 648.86, unless otherwise specified in § 648.17.

(B) Possess or land per trip more than the possession or landing limits specified under § 648.86(a), (e), (g), (h), and (j), and under § 648.82(b)(5) or (6), if the vessel has been issued a limited access NE multispecies permit or open access NE multispecies permit, as applicable.

(C) 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 by §§ 648.82(b)(5) or 648.89.

(D) *Atlantic cod*. (1) Enter port, while on a NE multispecies DAS trip, in possession of more than the allowable limit of cod specified in § 648.86(b)(1), unless the vessel is fishing under the cod exemption specified in § 648.86(b)(4).

(2) Enter port, while on a NE multispecies DAS trip, in possession of more than the allowable limit of cod specified in § 648.86(b)(2).

(3) *Cod running clock*. (i) For vessels fishing in the NE multispecies DAS program under the provisions of the call-in system, described in § 648.10(c), fail to remain in port for the appropriate time specified in § 648.86(b)(1)(ii)(A) and (b)(2)(ii)(A), except for transiting purposes, provided the vessel complies with § 648.86(b)(3).

(ii) For vessels fishing in the NE multispecies DAS program under the provisions of VMS, described in § 648.10(b), fail to declare through VMS that insufficient DAS have elapsed in order to account for the amount of cod on board the vessel as required under § 648.86(b)(2)(ii)(B).

(4) Fail to declare through VMS an intent to be exempt from the GOM cod trip limit under § 648.86(b)(1), as required under § 648.86(b)(4), or fish north of the exemption line if in possession of more than the GOM cod trip limit specified under § 648.86(b)(1).

(E) *Atlantic halibut*. Possess or land per trip more than the possession or landing limit specified under § 648.86(c).

(F) *White hake*. Possess or land more white hake than allowed under § 648.86(e).

(G) *Yellowtail flounder*. While fishing in the areas specified in § 648.86(g)(1) with a NE multispecies Handgear A permit, or under the NE multispecies DAS program, or under the limited access monkfish Category C or D permit provisions, possess yellowtail flounder in excess of the limits specified under § 648.86(g)(1), unless fishing under the recreational or charter/party regulations, or transiting in accordance with § 648.23(b).

(H) *GB winter flounder*. Possess or land more GB winter flounder than allowed under § 648.86(j).

(14) *Sector requirements for all persons*—(i) *General requirements*. (A) If fishing under an approved sector, as authorized under § 648.87, fail to abide by the restrictions specified in § 648.87(b)(1).

(B) If fishing under an approved sector, as authorized under § 648.87, fail to remain in the sector for the remainder of the fishing year as required by § 648.87(b)(1).

(C) If fishing under an approved sector, as authorized under § 648.87, fish in the NE multispecies DAS program in a given fishing year or, if fishing under a NE multispecies DAS, fish in an approved sector in a given fishing year, unless otherwise provided under § 648.87(b)(1)(xii).

(D) If a vessel has agreed to participate in a sector, fail to remain in the sector for the entire fishing year, as required under § 648.87(b)(1)(xi).

(E) If a vessel is removed from a sector for violating the sector rules, fish under the NE multispecies regulations for non-sector vessels.

(ii) *GB Cod Hook Sector.* If fishing under the GB Cod Hook Sector specified under § 648.87(d)(1), fish with gear other than jigs, demersal longline, or handgear.

(iii) *GB Fixed Gear Sector.* If fishing under the GB Fixed Gear Sector specified under § 648.87(d)(2), fish with gear other than jigs, non-automated demersal longline, handgear, or sink gillnets.

(15) *Open access permit restrictions—*
(i) *All persons.* (A) Violate any provision of the open access permit restrictions of § 648.88.

(B) Possess on board gear other than that specified in § 648.88(a)(2)(i), or fish with hooks greater than the number specified in § 648.88(a)(2)(iii), if fishing under an open access Handgear permit.

(C) Fish for, possess, or land regulated multispecies from March 1 to March 20, if issued an open access Handgear permit.

(ii) *Vessel and operator permit holders—*(A) *Open access Handgear permit.* It is unlawful for any person owning or operating a vessel issued an open access NE multispecies Handgear permit to do any of the following, unless otherwise specified in § 648.17:

(1) Violate any provision of the open access Handgear permit restrictions of § 648.88(a).

(2) 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.

(3) Use, or possess on board, gear capable of harvesting NE multispecies, other than rod and reel, or handline gear, or tub-trawls, while in possession of, or fishing for, NE multispecies.

(4) Possess or land NE multispecies during the time period specified in § 648.88(a)(2).

(B) *Scallop multispecies possession limit permit.* 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.

(C) *Open access NE multispecies (Non-regulated species permit).* It is unlawful for any owner or operator of a vessel issued a valid open access NE multispecies permit to possess or land any regulated species as defined in § 648.2, or to violate any applicable provisions of § 648.88, unless otherwise specified in § 648.17.

(16) *Recreational and charter/party requirements.* It is unlawful for the owner or operator of a charter or party boat issued a valid Federal NE multispecies permit, or for a recreational vessel, as applicable, unless otherwise specified in § 648.17, to do any of the following:

(i) *Possession and landing.* Possess cod, haddock, or Atlantic halibut in excess of the possession limits specified in § 648.89(c).

(ii) *Gear requirements.* Fish with gear in violation of the restrictions of § 648.89(a).

(iii) *Seasonal and area restrictions.* (A) If fishing under the recreational or charter/party regulations, fish for or possess cod caught in the GOM Regulated Mesh Area during the seasonal GOM cod possession prohibition under § 648.89(c)(1)(v) or (c)(2)(v), or fail to abide by the appropriate restrictions if transiting with cod on board.

(B) If the vessel has been issued a charter/party permit or is fishing under charter/party regulations, fail to comply with the requirements specified in § 648.81(f)(2)(iii) when fishing in the areas described in § 648.81(d)(1) through (f)(1) during the time periods specified.

(C) If the vessel is a private recreational fishing vessel, fail to comply with the seasonal GOM cod possession prohibition described in § 648.89(c)(1)(v), or, if the vessel has been issued a charter/party permit or is fishing under charter/party regulations, fail to comply with the prohibition on fishing under § 648.89(c)(2)(v).

(iv) *Restriction on sale and transfer.* Sell, trade, barter, or otherwise transfer; or attempt to sell, trade, barter or otherwise transfer; NE multispecies for

a commercial purpose as specified in § 648.89(d).

(17) *Presumptions.* For purposes of this part, the following presumptions apply:

(i) Regulated species possessed for sale that do not meet the minimum sizes specified in § 648.83 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 and fishing 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 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 and fishing 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.

(1) *Small-mesh multispecies.* (1) It is unlawful for any person owning or operating a vessel issued a valid Federal multispecies permit to land, offload, or otherwise transfer; or attempt to land, offload, or otherwise transfer; small-mesh multispecies from one vessel to another in excess of the limits specified in § 648.13.

(2) *Presumptions.* For purposes of this part, the following presumption applies: All small-mesh multispecies retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested from the EEZ.

(m) *Monkfish.* It is unlawful for any person owning or operating a vessel that engages in fishing for monkfish to do any of the following, unless otherwise fishing in accordance with, and exempted under, the provisions of § 648.17:

(1) *Permit requirement.* (i) Fish for, possess, retain, or land monkfish, unless:

(A) The monkfish are being fished for, or were harvested, in or from the EEZ by a vessel issued a valid monkfish permit under § 648.4(a)(9).

(B) The vessel does not hold a valid Federal monkfish permit and fishes for or possesses monkfish exclusively in state waters.

(C) The vessel does not hold a valid Federal monkfish permit and engages in recreational fishing.

(D) The monkfish were harvested from the NAFO Regulatory Area in accordance with the provisions specified under § 648.17.

(ii) Fish for, possess, or land monkfish in or from the EEZ without having been issued and possessing a valid operator permit pursuant to § 648.5, and this permit is onboard the vessel.

(3) *Gear requirements.* (i) Fish with or use nets with mesh size smaller than the minimum mesh size specified in § 648.91(c) while fishing under a monkfish DAS.

(ii) Fail to immediately produce gillnet tags when requested by an authorized officer.

(iii) Tag a gillnet with, or otherwise use or possess, a gillnet tag that has been reported lost, missing, destroyed, or issued to another vessel, or use or possess a false gillnet tag.

(iv) Sell, transfer, or give away gillnet tags.

(v) If the vessel has been issued a valid limited access monkfish permit, and fishes under a monkfish DAS, fail to comply with gillnet requirements and restrictions specified in § 648.92(b)(8).

(4) *Area restrictions.* (i) Fail to comply with the restrictions applicable to limited access Category G and H vessels specified under § 648.92(b)(9).

(ii) Fail to comply with the NFMA requirements specified at § 648.94(f).

(5) *DAS requirements.* (i) Fail to comply with the monkfish DAS provisions specified at § 648.92 when issued a valid limited access monkfish permit.

(ii) Combine, transfer, or consolidate monkfish DAS allocations.

(6) *Size limits.* Fail to comply with the monkfish size limit restrictions of § 648.93 when issued a valid monkfish permit under § 648.4(a)(9) or when fishing in the EEZ.

(7) *Possession and landing.* (i) Fail to comply with the monkfish possession limits and landing restrictions, including liver landing restrictions, specified under § 648.94.

(ii) Violate any provision of the monkfish incidental catch permit restrictions as specified in §§ 648.4(a)(9)(ii) or 648.94(c).

(8) *Transfer and sale.* (i) Sell, barter, trade, or otherwise transfer for a commercial purpose; or attempt to sell, barter, trade, or otherwise transfer for a commercial purpose; any monkfish from a vessel without having been issued a valid monkfish vessel permit, unless the vessel fishes for monkfish exclusively in state waters, or exclusively in the NAFO Regulatory Area in accordance with the provisions specified under § 648.17.

(ii) Purchase, possess, or receive as a dealer, or in the capacity of a dealer,

monkfish in excess of the possession or trip limits specified in § 648.94.

(iii) Land, offload, or otherwise transfer; or attempt to land, offload, or otherwise transfer; monkfish from one vessel to another vessel, unless each vessel has not been issued a monkfish permit and fishes exclusively in state waters.

(9) *Presumption.* For purposes of this part, the following presumption applies: All monkfish retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested from the EEZ, unless the preponderance of evidence demonstrates that such fish were harvested by a vessel that fished exclusively in the NAFO Regulatory Area, as authorized under § 648.17.

(n) *Summer flounder—(1) All persons.* Unless participating in a research activity as described in § 648.21(g), it is unlawful for any person to do any of the following:

(i) *Permit requirement.* Possess summer flounder in or harvested from the EEZ, either in excess of the possession limit specified in § 648.105, or before or after the time period specified in § 648.102, unless the vessel was issued a summer flounder moratorium permit and the moratorium permit is on board the vessel and has not been surrendered, revoked, or suspended.

(ii) *Transfer and purchase.* (A) Purchase or otherwise receive for a commercial purpose, other than solely for transport on land, summer flounder from the owner or operator of a vessel issued a summer flounder moratorium permit, unless in possession of a valid summer flounder dealer permit.

(B) Purchase or otherwise receive for commercial purposes summer flounder caught by a vessel subject to the possession limit of § 648.105.

(C) Purchase or otherwise receive for a commercial purpose summer flounder landed in a state after the effective date published in the **Federal Register** notifying permit holders that commercial quota is no longer available in that state for the respective fishing year.

(iii) *Gear requirements.* Possess nets or netting with mesh not meeting the minimum mesh requirement of § 648.104 if the person possesses summer flounder harvested in or from the EEZ in excess of the threshold limit of § 648.105(a).

(2) *Vessel and operator permit holders.* Unless participating in a research activity as described in § 648.100(f), it is unlawful for any person owning or operating a vessel issued a summer flounder permit

(including a moratorium permit) to do any of the following:

(i) *Possession and landing.* (A) Possess 100 lb (45.4 kg) or more of summer flounder between May 1 and October 31, or 200 lb (90.7 kg) or more of summer flounder between November 1 and April 30, unless the vessel meets the gear requirements or restrictions specified in § 648.104.

(B) Possess summer flounder in other than a container specified in § 648.105(d) if fishing with nets having mesh that does not meet the minimum mesh-size requirement specified in § 648.104(a), unless the vessel is fishing pursuant to the exemptions specified in § 648.104(b).

(C) Land summer flounder for sale in a state after the effective date of a notification in the **Federal Register** notifying permit holders that commercial quota is no longer available in that state.

(D) Sell or transfer to another person for a commercial purpose, other than solely for transport on land, any summer flounder, possessed or landed by a vessel not issued a summer flounder moratorium permit.

(ii) *Transfer and purchase.* Sell or transfer to another person for a commercial purpose, other than solely for transport on land, any summer flounder, unless the transferee has a valid summer flounder dealer permit.

(iii) *Gear requirements.* (A) Fish with or possess nets or netting that do not meet the minimum mesh requirement, or that are modified, obstructed or constricted, if subject to the minimum mesh requirement specified in § 648.104, unless the nets or netting are stowed in accordance with § 648.104(e).

(B) Fish with or possess nets or netting that do not meet the minimum mesh requirement, or that are modified, obstructed or constricted, if fishing with an exempted net described in § 648.104, unless the nets or netting are stowed in accordance with § 648.104(f).

(C) Fish west or south, as appropriate, of the line specified in § 648.104(b)(1) if exempted from the minimum mesh requirement specified in § 648.104 by a summer flounder exemption permit.

(3) *Charter/party restrictions.* Unless participating in a research activity as described in § 648.100(f), it is unlawful for the owner and operator of a party or charter boat issued a summer flounder permit (including a moratorium permit), when the boat is carrying passengers for hire or carrying more than three crew members if a charter boat or more than five members if a party boat, to:

(i) Carry passengers for hire, or carry more than three crew members for a charter boat or five crew members for a

party boat, while fishing commercially pursuant to a summer flounder moratorium permit.

(ii) Possess summer flounder in excess of the possession limit established pursuant to § 648.105.

(iii) Fish for summer flounder other than during a season specified pursuant to § 648.102.

(iv) Sell or transfer summer flounder to another person for a commercial purpose.

(4) *Presumption.* For purposes of this part, the following presumption applies: All summer flounder retained or possessed on a vessel issued a permit under § 648.4 are deemed to have been harvested in the EEZ.

(o) *Scup*—(1) *All persons.* Unless participating in a research activity as described in § 648.120(e), it is unlawful for any person to do any of the following:

(i) *Permit requirement.* Fish for, catch, or retain for sale, barter, or trade scup in or from the EEZ north of 35°15.3' N. lat. on board a party or charter boat without the vessel having been issued an applicable valid party or charter boat permit pursuant to § 648.4(a)(6), unless the vessel other than a party or charter vessel observes the possession limit restrictions and prohibition against sales specified in § 648.125.

(ii) *Possession and landing.* (A) Possess scup in or harvested from the EEZ north of 35°15.3' N. lat. in an area closed, or before or after a season established pursuant to § 648.122(g).

(B) Possess scup in excess of the possession limit established pursuant to § 648.125.

(C) Fish for, possess, or land scup harvested in or from the EEZ north of 35°15.3' N. lat. for a commercial purpose after the effective date of a notification published in the **Federal Register** stating that the commercial quota has been harvested.

(D) Fish for, catch, possess, or retain scup in or from the EEZ north of 35°15.3' N. lat. in excess of the amount specified in § 648.123, unless the vessel complies with all of the gear restrictions in § 648.123.

(E) Fish for, catch, retain, or land scup in or from the EEZ north of 35°15.3' N. lat. in excess of the limit established through the annual specification process and published in the **Federal Register** pursuant to § 648.120(b)(3), (4), and (7).

(iii) *Minimum fish size.* Possess, other than solely for transport on land, scup harvested in or from the EEZ north of 35°15.3' N. lat. that do not meet the minimum fish size specified in § 648.124.

(iv) *Transfer and purchase.* Purchase or otherwise receive for a commercial

purpose scup harvested from the EEZ north of 35°15.3' N. lat., or from a vessel issued a scup moratorium permit after the effective date of a notification published in the **Federal Register** stating that the commercial quota has been harvested.

(v) *Gear requirements.* Fail to comply with any of the gear restrictions specified in § 648.123.

(vi) *Gear restricted areas.* Fish for, catch, possess, retain, or land *Loligo* squid, silver hake, or black sea bass in or from the areas and during the time periods described in § 648.122(a) or (b) while in possession of any trawl nets or netting that do not meet the minimum mesh restrictions or that are obstructed or constricted as specified in §§ 648.122 and 648.123(a), unless the nets or netting are stowed in accordance with § 648.123(b).

(2) *Vessel and operator permit holders.* Unless participating in a research activity as described in § 648.120(e), it is unlawful for any person owning or operating a vessel issued a scup permit (including a moratorium permit) to do any of the following:

(i) *Possession and landing.* (A) Possess scup in excess of the threshold amount specified in § 648.123, unless the vessel meets the minimum mesh-size restrictions specified in § 648.123.

(B) Land scup for sale after the effective date of a notification published in the **Federal Register** stating that the commercial quota has been harvested.

(C) Possess scup in, or harvested from, the EEZ in an area closed by, or before or after a season established pursuant to § 648.122.

(ii) *Transfer and purchase.* (A) Sell or transfer to another person for a commercial purpose, other than solely for transport on land, any scup, unless the transferee has a dealer permit issued under § 648.6.

(B) Transfer scup at sea, or attempt to transfer at sea to any vessel, any scup taken from the EEZ, unless in compliance with the provisions of § 648.13(i).

(3) *Charter/party requirements.* Unless participating in a research activity as described in § 648.120(e), it is unlawful for the owner or operator of a party or charter boat issued a scup permit (including a moratorium permit), when the boat is carrying passengers for hire, or when carrying more than three crew members, if a charter boat, or more than five members, if a party boat to:

(i) Carry passengers for hire, or carry more than three crew members for a charter boat, or five crew members for a party boat, while fishing for scup

under the terms of a moratorium permit issued pursuant to § 648.4(a)(6).

(ii) Possess scup in excess of the possession limit established pursuant to § 648.125.

(iii) Fish for scup other than during a season established pursuant to § 648.122.

(iv) Sell scup or transfer scup to another person for a commercial purpose other than solely for transport on land.

(v) Possess scup that do not meet the minimum fish size specified in § 648.124(b).

(4) *Presumption.* For purposes of this part, the following presumption applies: All scup retained or possessed on a vessel issued a permit under § 648.4 are deemed to have been harvested in the EEZ, north of 35°15.3' N. lat., unless a preponderance of the evidence shows the fish were harvested by a vessel that fished exclusively in state waters.

(p) *Black sea bass*—(1) *All persons.* Unless participating in a research activity as described in § 648.140(e), it is unlawful for any person to do any of the following:

(i) *Permit requirement.* Possess black sea bass in or harvested from the EEZ north of 35°15.3' N. lat., either in excess of the possession limit established pursuant to § 648.145, or before or after the time period established pursuant to § 648.142, unless the person is operating a vessel issued a moratorium permit under § 648.4 and the moratorium permit is on board the vessel.

(ii) *Possession and landing.* Fish for, catch, possess, land, or retain black sea bass in or from the EEZ north of 35°15.3' N. lat. (the latitude of Cape Hatteras Light, NC, to the U.S.–Canadian border) in excess of the amount specified in § 648.144(a)(1)(i), unless the vessel complies with all of the gear restrictions at § 648.144(a).

(iii) *Transfer and purchase.* Purchase or otherwise receive for commercial purposes, other than solely for transport on land, black sea bass landed for sale by a moratorium vessel in any state, or part thereof, north of 35°15.3' N. lat., after the effective date of a notification published in the **Federal Register** stating that the commercial annual quota has been harvested and the EEZ is closed to the harvest of black sea bass.

(iv) *Gear restriction.* Fail to comply with any of the gear restrictions specified in § 648.144.

(v) *Minimum fish size.* Fish for, possess, land, or retain black sea bass in or from the EEZ that does not comply with the minimum fish size specified in § 648.143.

(2) *Vessel and operator permit holders.* Unless participating in a

research activity as described in § 648.140(e), it is unlawful for any person owning or operating a vessel issued a black sea bass permit (including a moratorium permit) to do any of the following:

(i) *Permit requirement.* Sell or transfer to another person for a commercial purpose, other than solely for transport on land, any black sea bass from a vessel, unless the transferee has a valid black sea bass dealer permit.

(ii) *Possession and landing.* (A) Land black sea bass for sale in any state, or part thereof, north of 35°15.3' N. lat. after the effective date of a notification published in the **Federal Register** stating that the commercial annual quota has been harvested and the EEZ is closed to the harvest of black sea bass.

(B) Possess, retain, or land black sea bass harvested in or from the EEZ in excess of the commercial possession limit established at § 648.140.

(C) Land black sea bass for sale in any state south of North Carolina.

(D) Possess black sea bass after the effective date of a notification published in the **Federal Register** stating that the commercial annual quota has been harvested and the EEZ is closed to the harvest of black sea bass, unless the vessel has been issued a Southeast Region Snapper/Grouper Permit and fishes for and possess black sea bass south of 35°15.3' N. lat.

(3) *Charter/party restrictions.* Unless participating in a research activity as described in § 648.140(e), it is unlawful for the owner or operator of a party or charter boat issued a black sea bass permit (including a moratorium permit), when the boat is carrying passengers for hire or carrying more than three crew members, if a charter boat, or more than five members, if a party boat, to:

(i) Fish for black sea bass under the terms of a moratorium permit issued pursuant to § 648.4(a)(7).

(ii) Possess, retain, or land black sea bass in excess of the possession limit established pursuant to § 648.145.

(iii) Fish for black sea bass other than during a time allowed pursuant to § 648.142.

(iv) Sell black sea bass or transfer black sea bass from a vessel to another person for a commercial purpose other than solely for transport on land.

(4) *Presumption.* For purposes of this part, the following presumption applies: All black sea bass retained or possessed on a vessel issued a permit under § 648.4 are deemed to have been harvested in the EEZ, unless the vessel also has been issued a Southeast Region Snapper/Grouper permit and fishes for, retains, or possesses black sea bass south of 35°15.3' N. lat.

(q) *Bluefish.* Unless participating in a research activity as described in § 648.160(h), it is unlawful for any person to do any of the following:

(1) *Permit requirement.* Possess in or harvest from the EEZ, Atlantic bluefish, in excess of the daily possession limit found at § 648.164, unless the vessel is issued a valid Atlantic bluefish vessel permit under § 648.4(a)(8)(i) and the permit is on board the vessel and has not been surrendered, revoked, or suspended.

(2) *Possession and landing.* (i) Land bluefish for sale in a state after the effective date of a notification in the **Federal Register** pursuant to § 648.161(b), that the commercial quota is no longer available in that state.

(ii) Land bluefish for sale after the effective date of a notification in the **Federal Register** pursuant to § 648.161(a), that the bluefish fishery is closed.

(3) *Transfer and purchase.* (i) Sell, barter, trade or transfer; or attempt to sell, barter, trade or otherwise transfer; other than for transport, bluefish that were harvested in or from the EEZ, unless the vessel has been issued a valid bluefish permit under § 648.4(a)(8)(i).

(ii) Purchase or otherwise receive for a commercial purpose bluefish harvested from the EEZ after the effective date of the notification published in the **Federal Register** stating that the commercial quota has been harvested.

(iii) Purchase or otherwise receive for a commercial purpose bluefish harvested by a federally permitted vessel after the effective date of the notification published in the **Federal Register** stating that the commercial quota has been harvested.

(4) *Charter/party restrictions.* Carry passengers for hire, or carry more than three crew members for a charter boat or five crew members for a party boat, while fishing commercially pursuant to a bluefish permit issued under § 648.4(a)(8).

(5) *Presumption.* For purposes of this part, the following presumption applies: All bluefish possessed on board a party or charter vessel issued a permit under § 648.4(a)(8)(ii) are deemed to have been harvested from the EEZ.

(r) *Atlantic herring*—(1) *All persons.* It is unlawful for any person to do any of the following:

(i) *Permit requirement.* Operate, or act as an operator of, a vessel with an Atlantic herring permit, or a vessel fishing for or possessing herring in or from the EEZ, unless the operator has been issued, and is in possession of, a valid operator permit.

(ii) *Possession and landing.* (A) Fish for, possess, retain or land herring, unless:

(1) The herring are being fished for, or were harvested in or from, the EEZ by a vessel holding a valid herring permit under this part and the operator on board such vessel possesses a valid operator permit that is on board the vessel.

(2) The herring were harvested by a vessel not issued a herring permit that fished exclusively in state waters.

(3) The herring were harvested in or from the EEZ by a vessel engaged in recreational fishing.

(4) The herring were possessed for personal use as bait.

(5) Unless otherwise specified in § 648.17.

(B) Possess, transfer, receive, or sell; or attempt to transfer, receive, or sell; more than 2,000 lb (907.2 kg) of herring per trip; or land, or attempt to land more than 2,000 lb (907.2 kg) of herring per day in or from a management area closed pursuant to § 648.201(a), if the vessel has been issued and holds a valid herring permit.

(C) Possess or land more herring than is allowed by the vessel's Atlantic herring permit.

(iii) *Processing requirements.* (A) Process herring that was caught in or from the EEZ by a U.S. vessel that exceeds the size limits specified in § 648.4(a)(10)(iii), in excess of the specification of USAP.

(B) Discard herring carcasses at sea after removing the roe, if a federally permitted vessel; or in the EEZ, if not a federally permitted vessel.

(C) Catch, take, or harvest herring for roe, at sea, if a federally permitted vessel; or if not federally permitted, in or from the EEZ in excess of any limit established by § 648.206(b)(24).

(iv) *Transfer and purchase.* (A) Purchase, possess, receive; or attempt to purchase, possess, or receive; as a dealer, or in the capacity of a dealer, herring harvested in or from the EEZ, without having been issued, and in possession of, a valid herring dealer permit.

(B) Purchase, possess, receive; or attempt to purchase, possess, or receive; as a processor, or in the capacity of a processor, herring from a fishing vessel with an herring permit or from a dealer with a herring dealer permit, without having been issued, and in possession of, a valid herring processor permit.

(C) Sell, barter, trade, or otherwise transfer; or attempt to sell, barter, trade, or otherwise transfer; for a commercial purpose, any herring, unless the harvesting vessel has been issued a herring permit, or unless the herring

were harvested by a vessel without a Federal herring permit that fished exclusively in state waters.

(D) Purchase, possess, or receive, for a commercial purpose; or attempt to purchase, possess, or receive, for a commercial purpose; herring caught by a vessel without a herring permit, unless the herring was harvested by a vessel without a Federal herring permit that fished exclusively in state waters.

(E) Transfer, or attempt to transfer, herring to a Canadian transshipment vessel that is permitted in accordance with Pub. L. 104–297, if the amount of herring transhipped exceeds the amount of the border transfer specified in § 648.200.

(v) *Gear and vessel requirements.* (A) If fishing with midwater trawl or purse seine gear, fail to comply with the requirements of § 648.80(d) and (e).

(B) Catch, take, or harvest Atlantic herring in or from the EEZ with a U.S. vessel that exceeds the size limits specified in § 648.4(a)(10)(iii).

(vi) *Area requirements.* (A) For the purposes of observer deployment, fail to notify NMFS at least 72 hr prior to departing on a trip by a limited access herring vessel fishing for herring in the GOM/GB Exemption Area specified in § 648.80(a)(17).

(B) Possess, land, transfer, receive, sell, purchase, trade, or barter; or attempt to transfer, receive, sell, purchase, trade, or barter, or sell more than 2,000 lb (907 kg) of Atlantic herring per trip taken from the GOM/GB Herring Exemption Area, defined in § 648.86(a)(3)(ii)(A)(1), after the haddock cap has been reached pursuant to § 648.86(a)(3), unless all herring possessed or landed by the vessel was caught outside of GOM/GB Herring Exemption Area.

(C) Transit the GOM/GB Herring Exemption Area, when the 2,000–lb (907.2–kg) limit specified in § 648.86(a)(3)(ii)(A)(1) is in place, in possession of more than 2,000 lb (907.2 kg) of herring, unless all herring on board was caught outside of GOM/GB Herring Exemption Area and all fishing gear is stowed and not available for immediate use, as required by § 648.23(b).

(D) Fish for herring in Area 1A from June 1 through September 30 with midwater trawl gear.

(vii) *Transit and transport.* (A) Transit or be in an area closed to fishing for Atlantic herring pursuant to § 648.201(a) with more than 2,000 lb (907.2 kg) of herring, unless all fishing gear is stowed as specified by § 648.23(b).

(B) Receive Atlantic herring at sea in or from the EEZ, solely for transport,

without a letter of authorization from the Regional Administrator.

(C) Fail to comply with a letter of authorization from the Regional Administrator.

(D) Transit Area 1A from June 1 through September 30 with more than 2,000 lb (907.2 kg) of herring without mid–water trawl gear properly stowed as required by § 648.23(b).

(E) Discard haddock at sea that has been brought on deck, or pumped into the hold, of a limited access herring vessel.

(viii) *VMS requirements.* (A) Catch, take, or harvest Atlantic herring in or from the EEZ, if a limited access herring vessel, unless equipped with an operable VMS unit.

(B) Fail to notify the NMFS Office of Law Enforcement of the time and date of landing via VMS, if a limited access herring vessel, at least 6 hr prior to landing herring at the end of a fishing trip.

(2) *Vessel and operator permit holders.* It is unlawful for any person owning or operating a vessel holding a valid Federal Atlantic herring permit, or issued an operator's permit, to do any of the following:

(i) Sell, purchase, receive, trade, barter, or transfer haddock or other regulated NE multispecies (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake); or attempt to sell, purchase, receive, trade, barter, or transfer haddock or other regulated NE for human consumption; if the regulated NE multispecies are landed by a vessel holding an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit.

(ii) Fail to comply with requirements for herring processors/dealers that handle individual fish to separate out, and retain, for at least 12 hr, all haddock offloaded from vessels holding an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit.

(iii) Sell, purchase, receive, trade, barter, or transfer; or attempt to sell, purchase, receive, trade, barter, or transfer; to another person, any haddock or other regulated NE multispecies (cod, witch flounder, plaice, yellowtail flounder, pollock, winter flounder, windowpane flounder, redfish, and white hake) separated out from a herring catch offloaded from a vessel that has an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit.

(iv) While operating as an at–sea herring processor, fail to comply with requirements to separate out and retain

all haddock offloaded from a vessel that has an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access Herring Permit.

(3) *Presumption.* For purposes of this part, the following presumption applies: All Atlantic herring retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested from the EEZ, unless the preponderance of all submitted evidence demonstrates that such Atlantic herring were harvested by a vessel fishing exclusively in state waters.

(s) *Spiny dogfish*—(1) *All persons.* It is unlawful for any person to do any of the following:

(i) *Permit requirement.* Purchase or otherwise receive, other than solely for transport on land, spiny dogfish from any person on board a vessel issued a Federal spiny dogfish permit, unless the purchaser/receiver is in possession of a valid spiny dogfish dealer permit.

(ii) *Transfer and purchase.* Purchase or otherwise receive for a commercial purpose spiny dogfish landed by a federally permitted vessel in any state, from Maine to Florida, after the EEZ is closed to the harvest of spiny dogfish.

(2) *Vessel and operator permit holders.* It is unlawful for any person owning or operating a vessel issued a valid Federal spiny dogfish permit or issued a valid Federal operator's permit to do any of the following:

(i) *Permit requirement.* Sell, barter, trade or transfer; or attempt to sell, barter, trade or otherwise transfer; other than solely for transport on land, spiny dogfish, unless the dealer, transferor, or transferee has a valid dealer permit issued under § 648.6(a).

(ii) *Possession and landing.* (A) Fish for or possess spiny dogfish harvested in or from the EEZ after the EEZ is closed to the harvest of spiny dogfish.

(B) Land spiny dogfish for a commercial purpose after the EEZ is closed to the harvest of spiny dogfish.

(C) Possess more than the daily possession limit of spiny dogfish specified in § 648.235.

(iii) *Prohibition on finning.* Violate any of the provisions in §§ 600.1203 and 600.1204 applicable to the dogfish fishery that prohibit finning.

(t) *Red crab.* It is unlawful for any person to do any of the following:

(1) *Permit requirement.* Fish for, catch, possess, transport, land, sell, trade, or barter; or attempt to fish for, catch, possess, transport, land, sell, trade, or barter; any red crab or red crab parts in or from the EEZ portion of the Red Crab Management Unit, unless in possession of a valid Federal limited

access red crab vessel permit or Federal red crab incidental catch permit.

(2) *Possession and landing.* (i) Fish for, catch, possess, transport, land, sell, trade, or barter; or attempt to fish for, catch, possess, transport, land, sell, trade, or barter; red crab in excess of the limits specified in § 648.263.

(ii) *Restriction on female red crabs.* Fish for, catch, possess, transport, land, sell, trade, or barter; or attempt to fish for, catch, possess, transport, land, sell, trade, or barter; female red crabs in excess of one standard U.S. fish tote.

(3) *Transfer and purchase.* (i) Transfer at sea, or attempt to transfer at sea, either directly or indirectly, any red crab or red crab parts taken in or from the EEZ portion of the red crab management unit to any vessel.

(ii) Purchase, possess, or receive; or attempt to purchase, possess, or receive; more than 500 lb (226.8 kg) of whole red crab, or its equivalent in weight in accordance with the conversion provisions in § 648.263(a)(2), caught or possessed in the EEZ portion of the red crab management unit by a vessel without a valid Federal limited access red crab permit.

(iii) Purchase, possess, or receive; or attempt to purchase, possess, or receive; up to 500 lb (226.8 kg) of whole red crab, or its equivalent in weight in accordance with the conversion provisions in § 648.263(a)(2), caught in the EEZ portion of the Red Crab Management Unit by a vessel that has not been issued a valid limited access red crab permit or red crab incidental catch permit under this subpart.

(4) *DAS.* (i) Possess, transport, land, sell, trade, or barter; or attempt to possess, transport, land, sell, trade, or barter; while fishing under a red crab DAS, more than 500 lb (226.8 kg) of whole red crab, or its equivalent in weight in accordance with the conversion provisions in § 648.263(a)(2), per fishing trip, in or from the Red Crab Management Unit, unless in possession of a valid Federal limited access red crab vessel permit.

(ii) Fish for, catch, possess, transport, land, sell, trade, or barter; or attempt to possess, transport, land, sell, trade, or barter; red crab in or from the Red Crab Management Unit if the vessel has declared out of the fishery prior to the start of the fishing year.

(5) *Prohibitions on processing and mutilation.* (i) Retain, possess, or land red crab claws and legs separate from crab bodies in excess of one standard U.S. fish tote, if fishing under a red crab DAS with a valid Federal limited access red crab permit.

(ii) Retain, possess, or land any red crab claws and legs separate from crab

bodies if the vessel has not been issued a valid Federal limited access red crab permit or has been issued a valid Federal limited access red crab permit, but is not fishing under a red crab DAS.

(iii) Retain, possess, or land more than two claws and eight legs per crab if the vessel has been issued a valid Federal red crab incidental catch permit, or has been issued a valid Federal limited access red crab permit and is not fishing under a red crab DAS.

(iv) Possess or land red crabs that have been fully processed at sea, i.e., engage in any activity that removes meat from any part of a red crab, unless a preponderance of available evidence shows that the vessel fished exclusively in state waters and was not issued a valid Federal permit.

(6) *Gear requirements.* Fail to comply with any gear requirements or restrictions specified at § 648.264.

(7) *Presumption.* For purposes of this part, the following presumption applies: All red crab retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested in or from the Red Crab Management Unit, unless the preponderance of all submitted evidence demonstrates that such red crab were harvested by a vessel fishing exclusively outside of the Red Crab Management Unit or in state waters.

(u) *Golden tilefish.* It is unlawful for any person owning or operating a vessel to do any of the following:

(1) *Permit requirements*—(i) *Operator permit.* Operate, or act as an operator of, a vessel with a tilefish permit, or a vessel fishing for or possessing tilefish in or from the Tilefish Management Unit, unless the operator has been issued, and is in possession of, a valid operator permit.

(ii) *Dealer permit.* Purchase, possess, receive for a commercial purpose; or attempt to purchase, possess, or receive for a commercial purpose; as a dealer, or in the capacity of a dealer, tilefish that were harvested in or from the Tilefish Management Unit, without having been issued, and in possession of, a valid tilefish dealer permit.

(iii) *Vessel permit.* Sell, barter, trade, or otherwise transfer from a vessel; or attempt to sell, barter, trade, or otherwise transfer from a vessel; for a commercial purpose, other than solely for transport on land, any tilefish, unless the vessel has been issued a tilefish permit, or unless the tilefish were harvested by a vessel without a tilefish permit that fished exclusively in state waters.

(2) *Possession and landing.* (i) Fish for, possess, retain, or land tilefish, unless:

(A) The tilefish are being fished for or were harvested in or from the Tilefish Management Unit by a vessel holding a valid tilefish permit under this part, and the operator on board such vessel has been issued an operator permit that is on board the vessel.

(B) The tilefish were harvested by a vessel that has not been issued a tilefish permit and that was fishing exclusively in state waters.

(C) The tilefish were harvested in or from the Tilefish Management Unit by a vessel engaged in recreational fishing.

(ii) Possess tilefish harvested in or from the Tilefish Management Unit in excess of the trip limit, pursuant to § 648.292, unless the vessel holds a valid limited access tilefish permit.

(iii) Land tilefish harvested in or from the Tilefish Management Unit for sale after the effective date of a notification in the **Federal Register**, pursuant to § 648.291, that notifies permit holders in a limited access category that the quota for that category is no longer available for the respective year.

(iv) Land tilefish in or from the Tilefish Management Unit, in excess of the trip limit pursuant to § 648.292, unless the vessel holds a valid limited access tilefish permit.

(3) *Transfer and purchase.* Purchase, possess, or receive for a commercial purpose, other than solely for transport on land; or attempt to purchase, possess, or receive for a commercial purpose, other than solely for transport on land; tilefish caught by a vessel without a tilefish permit, unless the tilefish were harvested by a vessel without a tilefish permit that fished exclusively in state waters.

(4) *Presumption.* For purposes of this part, the following presumption applies: All tilefish retained or possessed on a vessel issued any permit under § 648.4 are deemed to have been harvested in or from the Tilefish Management Unit, unless the preponderance of all submitted evidence demonstrates that such tilefish were harvested by a vessel fishing exclusively in state waters.

(v) *Skates*—(1) *All persons.* It is unlawful for any person to fish for, possess, transport, sell or land skates in or from the EEZ portion of the skate management unit, unless:

(A) Onboard a vessel that possesses a valid skate vessel permit.

(B) Onboard a federally permitted lobster vessel (i.e., transfer at sea recipient) while in possession of whole skates as bait only less than the maximum size specified at § 648.322(b)(2) and in accordance with § 648.322(c).

(2) *All Federal permit holders.* It is unlawful for any owner or operator of a

vessel holding a valid Federal permit to do any of the following:

(i) Retain, possess, or land barndoor or thorny skates taken in or from the EEZ portion of the skate management unit specified at § 648.2.

(ii) Retain, possess, or land smooth skates taken in or from the GOM RMA described at § 648.80(a)(1)(i).

(3) *Skate permitted vessel requirements.* It is unlawful for any owner or operator of a vessel holding a valid Federal skate permit to do any of the following:

(i) *Winter skates.* Fail to comply with the conditions of the skate wing possession and landing limits for winter skates specified at § 648.322, unless holding a letter of authorization to fish for and land skates as bait only at § 648.322(b).

(ii) *Possession and transfer.* (A) Transfer at sea, or attempt to transfer at sea, to any vessel, any skates taken in or from the EEZ portion of the Skate Management Unit, unless in compliance with the provisions of §§ 648.13(b) and 648.322(b).

(B) Purchase, possess, trade, barter, or receive; or attempt to purchase, possess, trade, barter, or receive; skates caught in the EEZ portion of the skate management unit by a vessel that has not been issued a valid Federal skate permit under this part.

(C) Fish for, catch, possess, transport, land, sell, trade, or barter; or attempt to fish for, catch, possess, transport, land, sell, trade, or barter; whole skates and skate wings in excess of the possession limits specified at § 648.322.

(iii) *DAS notification and skate wing possession.* Fail to comply with the provisions of the DAS notification program specified in §§ 648.53, 648.82, and 648.92; for the Atlantic sea scallop, NE multispecies, and monkfish fisheries, respectively; when issued a valid skate permit and fishing under the

skate wing possession limits at § 648.322.

(iv) *SNE Trawl and Gillnet Exemption areas restrictions.* Fail to comply with the restrictions under the SNE Trawl and Gillnet Exemption areas for the NE skate fisheries at §§ 648.80(b)(5)(i)(B) and 648.80(b)(6)(i)(B).

(4) *Presumption.* For purposes of this part, the following presumption applies: All skates retained or possessed on a vessel are deemed to have been harvested in or from the Skate Management Unit, unless the preponderance of evidence demonstrates that such skates were harvested by a vessel, that has not been issued a Federal skate permit, fishing exclusively outside of the EEZ portion of the skate management unit or only in state waters.

10. In § 648.51, paragraph (b)(4)(v) is added to read as follows:

§ 648.51 Gear and crew restrictions.

* * * * *

(b) * * *

(4) * * *

(v) *Measurement of twine top mesh size.* Twine top mesh size is measured by using a wedge-shaped gauge having a taper of 2 cm (0.79 inches) in 8 cm (3.15 inches) and a thickness of 2.3 mm (0.09 inches), inserted into the meshes under a pressure or pull of 8 kg (17.64 lb). The mesh size is the average of the measurements of any series of 20 consecutive meshes for twine tops having 75 or more meshes, and 10 consecutive meshes for twine tops having fewer than 75 meshes. The mesh in the twine top must be measured at least five meshes away from where the twine top mesh meets the rings, running parallel to the long axis of the twine top.

* * * * *

11. In § 648.52, paragraph (c) is revised to read as follows:

§ 648.52 Possession and landing limits.

* * * * *

(c) A vessel issued an Incidental scallop permit, or an IFQ or NGOM scallop permit that is not declared into the IFQ or NGOM scallop fishery as required under § 648.10(f), unless exempted under the state waters exemption program described under § 648.54, may not possess or land, per trip, more than 40 lb (18.1 kg) of shucked, or 5 bu (1.76 hL) of in-shell scallops. Such a vessel may land scallops only once in any calendar day. Such a vessel may possess up to 10 bu (3.52 hL) of in-shell scallops seaward of the VMS Demarcation Line.

* * * * *

12. In § 648.53, paragraph (b)(4) is revised to read as follows:

§ 648.53 Total allowable catch, DAS allocations, and Individual Fishing Quotas.

* * * * *

(b) * * *

(4) Each vessel qualifying for one of the three DAS categories specified in the table in this paragraph (b)(4) (Full-time, Part-time, or Occasional) shall be allocated the maximum number of DAS for each fishing year it may participate in the open area limited access scallop fishery, according to its category. A vessel whose owner/operator has declared out of the scallop fishery, pursuant to the provisions of § 648.10, or that has used up its maximum allocated DAS, may leave port without being assessed a DAS, as long as it has made an appropriate VMS declaration, as specified in § 648.10(f), does not fish for or land per trip, or possess at any time, more than 400 lb (181.4 kg) of shucked or 50 bu (17.6 hL) of in-shell scallops, and complies with all other requirements of this part. The annual open area DAS allocations for each category of vessel for the fishing years indicated, after deducting DAS for observer and research DAS set-asides, are as follows:

DAS Category	2008	2009 ¹
Full-time	35	42
Part-time	14	17
Occasional	3	3

¹If the IFQ program implementation is delayed beyond March 1, 2009, the 2009 DAS allocations will be: Full-time — 37; part-time — 15, occasional — 3.

* * * * *

13. In § 648.54, paragraphs (a)(1), (a)(2), and (d) are revised to read as follows:

§ 648.54 State waters exemption.

(a) * * *

(1) *DAS requirements.* Any vessel issued a limited access scallop permit is exempt from the DAS requirements specified in § 648.53(b) while fishing exclusively landward of the outer boundary of a state's waters, provided the vessel complies with paragraphs (d)

through (g) of this section, and the notification requirements of § 648.10(f)(5).

(2) *Gear and possession limit restrictions.* Any vessel issued a limited access scallop permit that is exempt from the DAS requirements of

§ 648.53(b) under this paragraph (a), and that has complied with the notification requirements of § 648.10(f)(5), is also exempt from the gear restrictions specified in § 648.51(a), (b), (e)(1), and (e)(2), and the possession restrictions specified in § 648.52(a), while fishing exclusively landward of the outer boundary of the waters of a state that has been issued a state waters exemption, provided the vessel complies with paragraphs (d) through (g) of this section.

* * * * *

(d) *Notification requirements.* Vessels fishing under the exemptions provided by paragraph(s) (a)(1) and/or (a)(2) of this section must notify the Regional Administrator in accordance with the provisions of § 648.10(f)(5).

* * * * *

14. In § 648.60, paragraph (a)(2) is revised to read as follows:

§ 648.60 Sea scallop access area program requirements.

(a) * * *

(2) Vessels participating in the Sea Scallop Access Area Program must comply with the trip declaration requirements specified in § 648.10(f) and vessel notification requirements specified in § 648.11(g) for observer deployment.

* * * * *

15. In § 648.82, paragraphs (e)(2)(iii)(B), (e)(3), (j)(1)(ii)(B), and (j)(2) are revised to read as follows:

§ 648.82 Effort-control program for NE multispecies limited access vessels.

* * * * *

(e) * * *

(2) * * *

(iii) * * *

(B) *Differential DAS counting when fishing in the SNE Differential DAS Area.* For NE multispecies DAS vessels that intend to fish, or do fish, some or all of their trip under a Category A DAS in the SNE Differential DAS Area, other than for transiting purposes, each Category A DAS, or part thereof, shall be counted at the ratio of 2 to 1 for the duration of the time spent in the SNE Differential DAS Area, as determined from VMS positional data. A vessel that has not declared its intent to fish in the SNE Differential DAS Area, and that is not transiting, as specified in paragraph (e)(2)(v) of this section, may be in the SNE Differential DAS Area, provided the vessel's fishing gear is stowed in accordance with the provisions of § 648.23(b) for the entire time the vessel is in the area and the vessel declares immediately upon entering the SNE Differential DAS Area, via VMS, that it is in the area. A vessel that fishes in

both the GOM Differential Area and the SNE Differential DAS Area on the same trip will be charged DAS at the rate of 2:1 for the entire trip. If the Regional Administrator requires the use of the DAS call-in, as described under § 648.10(e)(2)(iv), a vessel that fishes any portion of its trip in the SNE Differential DAS Area will be charged DAS at the rate of 2 to 1 for the entire trip.

* * * * *

(3) *Regular B DAS Program 24-hr clock.* For a vessel electing to fish in the Regular B DAS Program, as specified at § 648.85(b)(6), that remains fishing under a Regular B DAS for the entire fishing trip (without a DAS flip), DAS shall accrue at the rate of 1 full DAS for each calendar day, or part of a calendar day fished. For example, a vessel that fished on 1 calendar day from 6 a.m. to 10 p.m. would be charged 24 hr of Regular B DAS, not 16 hr; a vessel that left on a trip at 11 p.m. on the first calendar day and returned at 10 p.m. on the second calendar day would be charged 48 hr of Regular B DAS instead of 23 hr, because the fishing trip would have spanned 2 calendar days. For the purpose of calculating trip limits specified under § 648.86, the amount of DAS deducted from a vessel's DAS allocation shall determine the amount of fish the vessel can land legally. For a vessel electing to fish in the Regular B DAS Program, as specified at § 648.85(b)(6), while also fishing in one of the Differential DAS Areas, defined in paragraph (e)(2)(i) of this section, Category B DAS shall accrue at the rate described in this paragraph (e)(3), unless the vessel flips to a Category A DAS, in which case the vessel is subject to the pertinent DAS accrual restrictions of paragraph (e)(2)(iii) of this section for the entire trip. For vessels electing to fish in both the Regular B DAS Program, as specified in § 648.85(b)(8), and in the Eastern U.S./Canada Area, as specified in § 648.85(a), DAS counting will begin and end according to the DAS rules specified in § 648.10(e)(2)(iii) or (e)(2)(iv).

* * * * *

(j) * * *

(1) * * *

(ii) * * *

(B) Vessels shall declare their required time periods through the notification procedures specified in § 648.10(k)(2).

* * * * *

(2) *Trip gillnet vessels.* When fishing under a NE multispecies DAS, a Trip gillnet vessel is required to remove all gillnet gear from the water before calling out of a NE multispecies DAS under

§ 648.10(h)(5). When not fishing under a NE multispecies DAS, Trip gillnet vessels may fish in an exempted fishery with gillnet gear, as authorized by § 648.80. Vessels electing to fish under the Trip gillnet designation must have on board written confirmation issued by the Regional Administrator that the vessel is a Trip gillnet vessel.

* * * * *

16. In § 648.85, paragraphs (a)(3)(ii)(A)(1), (b)(6)(i), (b)(6)(iv)(A) and (B), (b)(6)(v), and (b)(7)(iv)(A) are revised to read as follows:

§ 648.85 Special management programs.

(a) * * *

(3) * * *

(ii) * * *

(A) * * *

(1) The vessel operator must notify NMFS via VMS prior to leaving the Eastern U.S./Canada Area (including at the time of initial declaration into the Eastern U.S./Canada Area) that it is also electing to fish outside the Eastern U.S./Canada Area. With the exception of vessels participating in the Regular B DAS Program and fishing under a Regular B DAS, once a vessel electing to fish outside of the Eastern U.S./Canada Area has left the Eastern U.S./Canada Area, Category A DAS shall accrue from the time the vessel crosses the VMS Demarcation Line at the start of its fishing trip until the time the vessel crosses the VMS Demarcation Line on its return to port, in accordance with § 648.10(e)(2)(iii) and (e)(2)(iv).

* * * * *

(b) * * *

(6) *Regular B DAS Program.—(i) Eligibility.* Vessels issued a valid limited access NE multispecies DAS permit and allocated Regular B DAS are eligible to participate in the Regular B DAS Program, and may elect to fish under a Regular B DAS, provided they comply with the requirements and restrictions of this paragraph (b)(6), and provided the use of Regular B DAS is not restricted according to paragraphs (b)(6)(iv)(G) or (H), or paragraph (b)(6)(vi) of this section. Vessels are required to comply with the no discarding and DAS flip requirements specified in paragraph (b)(6)(iv)(E) of this section, and the DAS balance and accrual requirements specified in paragraph (b)(6)(iv)(F) of this section. Vessels may fish under the B Regular DAS Program and in the U.S./Canada Management Area on the same trip, but may not fish under the Regular B DAS Program and in a SAP on the same trip.

* * * * *

(iv) *Program Requirements.—(A) VMS requirement.* A NE multispecies DAS

vessel fishing in the Regular B DAS Program described in paragraph (b)(6)(i) of this section must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10.

(B) *Observer notification.* For the purposes of selecting vessels for observer deployment, a vessel must provide notice to NMFS of the vessel name; contact name for coordination of observer deployment; telephone number for contact; the date, time, and port of departure; and the planned fishing area or areas (GOM, GB, or SNE/MA) at least 72 hr prior to the beginning of any trip declared into the Regular B DAS Program as required by paragraph (b)(6)(iv)(C) of this section, and in accordance with the Regional Administrator's instructions. Providing notice of the area that the vessel intends to fish does not restrict the vessel's activity on that trip to that area only (i.e., the vessel operator may change his/her plans regarding planned fishing areas).

* * * * *

(v) *Definition of incidental TAC stock areas.* Under the Regular B DAS Program, the species stock areas associated with the incidental TACs are defined below. Copies of a chart depicting these areas are available upon request from the Regional Administrator.

* * * * *

(7) * * *

(iv) * * *

(A) *DAS use restrictions.* Vessels fishing in the Closed Area I Hook Gear Haddock SAP may not initiate a DAS flip. Vessels are prohibited from fishing in the Closed Area I Hook Gear Haddock SAP while making a trip under the Regular B DAS Program described in paragraph (b)(6) of this section. DAS will be charged as described in § 648.10.

* * * * *

17. In § 648.86, paragraphs (b)(1)(ii)(B) and (i) are revised to read as follows:

§ 648.86 NE multispecies possession restrictions.

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(B) Vessels that have been authorized by the Regional Administrator, in lieu of VMS, to utilize the DAS call-in system, as specified in § 648.10(h), may not call out of the DAS program under § 648.10(h)(5) and may not depart from a dock or mooring in port, unless transiting as allowed in paragraph (b)(3) of this section, until the rest of the additional 24-hr block of 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 hr at the time of landing may land only up to 1,600 lb (725.6 kg) of cod, provided the vessel does not call out of the DAS program or leave port until 48 hr have elapsed from the beginning of the trip.)

* * * * *

(i) *Offloading requirement for vessels possessing species regulated by a daily possession limit.* A vessel that has ended a trip as specified in § 648.10(e)(2)(iii) or (h)(5) that possesses on board species regulated by a daily possession limit (i.e., pounds per DAS), as specified at § 648.85 or § 648.86, must offload species in excess of the daily landing limit prior to leaving port on a subsequent trip. A vessel may retain on board up to one day's worth of such species prior to the start of a subsequent trip. Other species regulated by an overall trip limit may be retained on board for a subsequent trip. For example, a vessel that possesses cod and winter flounder harvested from Georges Bank is subject to a daily possession limit for cod of 1,000 lb (453 kg)/DAS and an overall trip limit of 5,000 lb

(2,267 kg)/trip for winter flounder. In this example, the vessel would be required to offload any cod harvested in excess of 1,000 lb (453 kg) (i.e., the vessel may retain up to 1,000 lb (453 kg) of Georges Bank cod, but must offload any additional cod), but may retain on board winter flounder up to the maximum trip limit prior to leaving port and crossing the VMS Demarcation Line to begin a subsequent trip.

* * * * *

18. In § 648.95, paragraph (e)(4) is revised to read as follows:

§ 648.95 Offshore fishery program in the SFMA.

* * * * *

(e) * * *

(4) A vessel issued a Category F permit must have installed on board an operational VMS unit that meets the minimum performance criteria specified in §§ 648.9 and 648.10 during the entire season established under paragraph (d) of this section. Unless otherwise required to maintain an operational VMS unit under the VMS notification requirements specified at § 648.10(b), a vessel issued a Category F permit may turn off its VMS unit outside of that season.

* * * * *

19. In § 648.263, paragraph (b)(3) is revised to read as follows:

§ 648.263 Red crab possession and landing restrictions.

* * * * *

(b) * * *

(3) *Mutilation restrictions.* (i) A vessel may not retain, possess, or land red crab claws and legs separate from crab bodies.

(ii) A vessel may not retain, possess, or land more than two claws and eight legs per crab.

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