

an intercompany item after the liquidation of a target corporation. This modification was made necessary in light of the regulations under section 368 that were issued in October 2007 addressing transfers of assets or stock following a reorganization.

**FOR FURTHER INFORMATION CONTACT:**

Mary W. Lyons, (202) 622-7930 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

A notice of proposed rulemaking by cross-reference to temporary regulations that is the subject of this document is under section 1502 of the Internal Revenue Code.

**Need for Correction**

As published, a notice of proposed rulemaking by cross-reference to temporary regulations (REG-139068-08) contains errors that may prove to be misleading and are in need of clarification.

**Correction of Publication**

Accordingly, the publication of a notice of proposed rulemaking by cross-reference to temporary regulations (REG-139068-08), which was the subject of FR Doc. E9-21323, is corrected as follows:

**§ 1.1502-13 [Corrected]**

1. On page 45791, column 1, paragraph (f)(5)(ii)(B)(1), lines 2 and 3, the language “amendments to § 1.1502-13(B)(1) is the same as the text of § 1.1502-13T(B)(1)” is corrected to read “amendments to § 1.1502-13(f)(5)(ii)(B)(1) is the same as the text of § 1.1502-13T(f)(5)(ii)(B)(1)”.

2. On page 45791, column 1, paragraph (f)(5)(ii)(B)(2), lines 2 and 3, the language “amendments to § 1.1502-13(B)(2) is the same as the text of § 1.1502-13T(B)(2)” is corrected to read “amendments to § 1.1502-13(f)(5)(ii)(B)(2) is the same as the text of § 1.1502-13T(f)(5)(ii)(B)(2)”.

3. On page 45791, column 1, paragraph (f)(5)(ii)(F), lines 2 and 3, the language “amendments to § 1.1502-13(F) is the same as the text of § 1.1502-13T(F)” is corrected to read “amendments to § 1.1502-13(f)(5)(ii)(F) is the same as the text of § 1.1502-13T(f)(5)(ii)(F)”.

**LaNita Van Dyke,**

*Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).*

[FR Doc. E9-23645 Filed 9-30-09; 8:45 am]

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**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

**50 CFR Part 648**

[Docket No. 0909011267-91269-01]

**RIN 0648-AY19**

**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:** NMFS is proposing to implement a regulatory amendment to modify the fishing vessel permit regulations to include specific terms and conditions for Federal fishing vessel permits obtained through the purchase of fishing vessels using Federal grant awards. The terms and conditions would authorize the NMFS Administrator, Northeast Region (Regional Administrator), to suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, or the rights thereto, if the terms and conditions of any Federal grant award used to obtain said permit, or an associated memorandum of understanding, are violated by the grant recipient.

**DATES:** Written comments must be received no later than 5 p.m., eastern standard time, on November 2, 2009.

**ADDRESSES:** You may submit comments, identified by RIN 0648-AY19, by any of the following methods:

- Electronic submissions: Submit all electronic public comments via the Federal e-Rulemaking portal <http://www.regulations.gov>.
- Fax: (978) 281-9135, Attn: Michael Pentony.
- Mail: Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930. Mark the outside of the envelope: “Comments on Vessel Permit Regulatory Amendment.”

Instructions: All comments received are 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. Attachments to electronic comments will be accepted via Microsoft Word, Microsoft Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the Regulatory Impact Review (RIR) are available upon request from Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, 55 Great Republic Drive, Gloucester, MA 01930.

**FOR FURTHER INFORMATION CONTACT:**

Michael Pentony, Senior Fishery Policy Analyst, phone (978) 281-9283.

**SUPPLEMENTARY INFORMATION:**

**Background**

This proposed rule would implement changes to the Northeast (NE) fisheries regulations at 50 CFR part 648 to authorize the Regional Administrator to suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, including the rights thereto, held by a person, corporation, non-profit organization, or government entity if the terms and conditions of any Federal grant award used to obtain said permit, or an associated memorandum of understanding, are violated by the grant recipient. The intent of this proposed action is to establish a new regulatory mechanism through which NOAA would be able to enforce the terms and conditions of any Federal grant award used to obtain Federal fishing vessel permits in the NE Region.

As several fisheries in the NE Region begin to transition to catch-share management strategies, various fishing organizations, conservations groups, and states are exploring alternatives to the traditional vessel-permit ownership model. Traditionally, an individual or corporation invests in a fishing vessel and obtains the appropriate vessel permits necessary to participate in the target fishery. An individual or corporation may own multiple vessels, but each of these vessels is generally associated with a unique vessel permit (or, a unique set of permits to operate in different fisheries may be associated with each vessel). An alternative model known as “permit banking” is developing in the Northeast, whereby an organization obtains a suite of permits in a particular fishery, with the option to lease out the fishing rights associated with those permits.

Permit banks hold promise for addressing two important issues related to the development and implementation of effective catch-share management programs: First, permit banks can be

used to ease the transition to catch-share management by expanding the pool of catch shares available for use; and, second, permit banks could demonstrate that small fishing operations and small communities can be successful participants in catch-share management programs. Depending on the structure of the permit bank, and the criteria used for participation, permit banks could be very effective at protecting the fishing interests of small communities and small fishing operations by mitigating some of the consolidation of fishing rights that often follows implementation of catch-share programs.

Examples of new permit banks in the Northeast Region include those being developed by the Cape Cod Fisheries Trust, the Northeast Seafood Coalition, and The Nature Conservancy in partnership with the Penobscot East Resource Center. These groups are using donations and other funds to purchase fishing vessels with NE multispecies fishing permits. The permits would be held by the permit bank organization, which would then make the fishing rights associated with the permits available to its members or other qualified applicants. The fishing rights associated with the permits initially would include days-at-sea, to be leased out at generally below-market value. With the development of sector management in the NE multispecies fishery, the fishing rights may include annual catch entitlements (ACEs) associated with the permits (i.e., the shares of the overall quotas allocated to each permit based on fishing history). The ACEs may be used in establishing a new fishing sector, or to bolster the total catch shares available to an existing sector.

Interest in developing permit banking programs is expanding in the NE and, because of NOAA's policy position promoting catch-share management, the NMFS NE Regional Office has proposed a pilot program designed to guide the development and expansion of permit banks in order to facilitate the implementation of effective catch-share programs. In the spending plan for a recent Congressional authorization for New England fisheries assistance, NOAA proposed to award a \$1 million grant to develop this pilot permit banking program in the State of Maine. Since then, we have been working in partnership with Maine's Division of Marine Resources on a program that would allow the state to use the grant award to purchase fishing vessels with associated permits. The fishing rights associated with those permits would then serve as the basis for a permit bank to be operated by the state to facilitate

the transition to catch-share management by leasing additional fishing opportunities to qualified vessels in small ports. The State of Maine is very interested in developing such a partnership and establishing a permit bank. If the pilot program proves successful, NOAA may consider expanding the program throughout other parts of the NE Region.

Absent a regulatory change such as the proposed action, NOAA would not be able to retain sufficient control and oversight of the resulting permit banking program to ensure its success. Under current grant management rules and fishing vessel permit regulations, once a grant award is made to an organization, and the award is used to obtain fishing vessel permits, NOAA would lose all control over the implementation and operation of the resulting permit bank. Even if the grant includes special award conditions specifying the criteria to be used in operation of the permit bank, NOAA would have no effective mechanism to enforce those criteria once an organization obtains the permits. In order to protect NOAA's and the public's interests in the successful development, implementation, and operation of such a program, a regulatory change is required to provide NOAA with an appropriate enforcement mechanism.

The proposed action would amend the NMFS NE Region regulations regarding fishing vessel permits to include specific terms and conditions that would apply to Federal fishing vessel permits obtained through the purchase of fishing vessels using Federal grant awards. The terms and conditions would authorize the Regional Administrator to suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, including the rights thereto, held by a person, corporation, non-profit organization, or government entity if the terms and conditions of any Federal grant award used to obtain said permit, or an associated memorandum of understanding, are violated by the grant recipient.

#### Classification

Pursuant to section 305(d) of the Magnuson-Stevens Act, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Fishery Management Plans (FMPs) of the NE Region, other provisions of the Magnuson-Stevens Act, and other applicable law, and is necessary to discharge the general responsibility to carry out said FMPs,

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 intent of this proposed action is to establish a new regulatory mechanism through which NOAA would be able to enforce the terms and conditions of any Federal grant award used to obtain Federal fishing vessel permits. This action would have no effect on any Federal fishing vessel permit currently held by a person, corporation, non-profit organization, or government entity, and would only affect such permits obtained in the future if the person, corporation, non-profit organization, or government entity obtains a Federal fishing vessel permit using funds awarded to that entity through a Federal grant award. Further, the proposed action would have no effect on any entity unless that entity violates the terms and conditions of the Federal grant award used to obtain such a permit, or an associated memorandum of understanding. If the terms and conditions of a Federal grant award, or associated memorandum of understanding, are violated, this action would authorize the Regional Administrator to take appropriate action to enforce the terms and conditions of the grant award or memorandum of understanding. These administrative changes are intended to ensure NOAA has available appropriate enforcement mechanisms when awarding Federal grants that may be used to obtain Federal fishing vessel permits. As such, the rule will not have significant direct or indirect economic impacts on small entities.

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

#### List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 28, 2009.

**Samuel D. Rauch III,**

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

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

#### PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.4, paragraph (n) is added to read as follows:

**§ 648.4 Vessel permits.**

\* \* \* \* \*

(n) *Federal grant awards*. The Regional Administrator may suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing

vessel permit, issued pursuant to this section, including the rights thereto, held by a person, corporation, non-profit organization, or government entity if the terms and conditions of any Federal grant award used to obtain said

permit, or an associated memorandum of understanding, are violated by the grant recipient.

[FR Doc. E9-23704 Filed 9-30-09; 8:45 am]

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