

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

[Docket No. 160301163–8204–02]

RIN 0648–BF82

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

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

ACTION: Final rule.

SUMMARY: This action implements approved regulations for the New England Fishery Management Council's Omnibus Essential Fish Habitat Amendment 2. This rule revises essential fish habitat and habitat area of particular concern designations, revises or creates habitat management areas, including gear restrictions, to protect vulnerable habitat from fishing gear impacts, establishes dedicated habitat research areas, and implements several administrative measures related to reviewing these measures, as well as other regulatory adjustments to implement these measures. This action is necessary to comply with the requirements of the Magnuson-Stevens Fishery Conservation and Management Act to periodically review essential fish habitat designations and protections. The measures are designed to minimize to the extent practicable the adverse effects of fishing on essential fish habitat.

DATES: Effective April 9, 2018.

ADDRESSES: Copies of the Omnibus Essential Fish Habitat Amendment 2, including the Environmental Impact Statement, the Regulatory Impact Review, and the Initial Regulatory Flexibility Analysis (EIS/RIR/IRFA) prepared by the New England Fishery Management Council in support of this action are available from Thomas A. Nies, Executive Director, New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950. The supporting documents are also accessible via the internet at: <http://www.nefmc.org/library/omnibus-habitat-amendment-2> or <http://www.greateratlantic.fisheries.noaa.gov>.

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1. General Background

On January 3, 2018, NOAA's National Marine Fisheries Service (NMFS), on behalf of the Secretary of Commerce, approved the majority of the New England Fishery Management Council's recommendations for the Omnibus Essential Fish Habitat Amendment 2 (OHA2). This action implements the approved management measures in OHA2. NMFS approved all of the updated essential fish habitat designations (EFH), all of the recommended habitat area of particular concern (HAPC) designations, and the majority of the habitat management area (HMA) recommendations, all of the Dedicated Habitat Research Area (DHRA) recommendations, all of the seasonal spawning area recommendations, and both of the framework and administrative recommendations. Two Council recommendations were disapproved: (1) Establishment of The Cox Ledge HMA, which would prohibit hydraulic clam dredges and ground cables on trawl vessels; and (2) changes to the eastern Georges Bank Areas, as described in more detail below.

OHA2 was initiated in 2004 to review and update the EFH components of all the New England Fishery Management Council's fishery management plans (FMP). The Council established 10 goals and 14 objectives to guide the development of this action. Goals 1–8 were established in 2004 at the onset of the Amendment's development and focus on identification of EFH; fishing and non-fishing activities that may adversely affect EFH; and the development of measures and management programs to conserve, protect, and enhance EFH and to minimize to the extent practicable the adverse effects of fishing on EFH. The additional goals (9 and 10) were developed after the Council voted to incorporate revisions to the groundfish closures in the Amendment. These goals are focused on enhancing groundfish productivity, including protection of spawning groundfish, and maximizing

the societal net benefits from groundfish stocks.

The 14 objectives map to one or more of the Amendment's goals and provide more guidance on achieving each goal. For example, the objectives include identifying new data sources upon which to base the EFH designations (Objective A), developing analytical tools for EFH designation, minimization of adverse impacts, and monitoring the effectiveness of measures (Objective D; Goals 1, 3, and 5). Other objectives include modifying fishing methods to reduce impacts (Objective E; Goal 4), supporting the restoration of degraded habitat (Objective F; Goal 4), improving groundfish spawning protection, including protection of localized spawning contingents, and improving protection of critical groundfish habitats (Goals 9 and 10). Please see Volume 1, Section 3 of the EIS for more details on the goals and objectives of this Amendment.

2. Essential Fish Habitat Designations

The Magnuson-Stevens Act defines EFH as "those waters and substrate necessary to fish for spawning, breeding, feeding, or growth to maturity." The EFH regulations (50 CFR part 600, subpart J) require councils to describe and identify EFH in text that clearly states the habitats or habitat types determined to be EFH for each life stage of a managed species and in maps that display the geographic locations of EFH or within which EFH for each species and life stage is found. Further, FMPs should explain the physical, biological, and chemical characteristics of EFH and, if known, how these characteristics influence the use of EFH for the species/life stage. The EFH regulations state that councils should periodically review the EFH provisions of FMPs and revise or amend as warranted, based on available information, and that a complete review of all EFH information should be conducted at least once every five years.

A full description of the approved EFH designations, including maps and text designations, can be found in Volume 2 of the EIS. In addition, a thorough discussion of the data sources and methods used to assemble the designations is provided in Appendix A to the EIS. Another appendix (Appendix B) includes supplementary EFH information (e.g., prey species, temperature, and salinity preferences) for each species and life stage not included in the EFH text descriptions in Volume 2 that may be considered when the potential effects of any fishing or non-fishing activity that could adversely affect EFH are evaluated. All of the

Council's recommendations for EFH designations are approved.

3. Habitat Area of Particular Concern Designations

Habitat Areas of Particular Concern (HAPC) highlight specific types or areas of habitat within EFH that are particularly vulnerable to human impacts. Evaluations of such areas should give special attention to adverse effects, including any HAPCs designated that are particularly vulnerable to fishing activity. An HAPC designation alone does not provide any specific habitat management measures, such as gear restrictions, and no new measures are implemented as part of the HAPC designations in this amendment. Management measures are discussed under "Spatial Management for Adverse Effects Minimization," below.

HAPC designations are based on one or more of the following criteria: (1) The importance of the ecological function provided by the habitat, including both the historical and current ecological function; (2) the extent to which the habitat is sensitive to human-induced environmental degradation; (3) whether, and to what extent, development activities are, or will be, stressing the habitat type; and (4) the rarity of the habitat type (50 CFR 600.815(a)(8)). The Council solicited and considered HAPC proposals from the public and added selection criteria, including whether the designation would improve fisheries management in the U.S. Exclusive Economic Zone (EEZ); whether it included EFH for more than one Council-managed species or specifically for juvenile cod; and whether it met more than one of the regulatory HAPC criteria listed above. Discussion of the areas considered and the degree to which they satisfied the eight criteria can be found in Volume 2 of the EIS.

This action approves all of the Council's recommendations for HAPC, including the current Atlantic Salmon HAPC and the Northern Edge Juvenile Cod HAPC. In addition, the action approves the following areas as new HAPCs: Inshore Juvenile Cod HAPC; Great South Channel Juvenile Cod HAPC; Cashes Ledge HAPC; Jeffreys Ledge/Stellwagen Bank HAPC; Bear and Retriever Seamount HAPC; and 11 canyon/canyon complexes. Maps and coordinates for the HAPC designations can be found in Volume 2 of the EIS. A summary of the rationale for each designation (or set of designations) was provided in the proposed rule for this action (82 FR 51492; November 6, 2017) and further rationale is not repeated here. Detailed discussion of the

rationale is also provided in Volume 2, Section 3 of the EIS.

As described in the EIS, the HAPCs are non-regulatory designations. The designations are intended to provide for increased attention when habitat protection measures are considered. HAPCs that are particularly vulnerable to the potential impacts from fishing warrant special attention when determining appropriate management measures to minimize, compensate, or avoid those impacts.

4. Spatial Management for Adverse Effects Minimization

The Magnuson-Stevens Act requires that fishery management plans evaluate and minimize, to the extent practicable, the adverse effects of fishing on EFH. The evaluation should consider the effects of each fishing activity on each type of habitat found within EFH. Councils must prevent, mitigate, or minimize any adverse effects from fishing on EFH if there is evidence that a fishing activity adversely affects EFH in a manner that is more than minimal and not temporary in nature. Councils should consider the nature and extent of any adverse effects along with the long- and short-term costs and benefits of the management measures to EFH, associated fisheries, and the nation. A thorough description of the approach the Council took to achieve this requirement is provided in the proposed rule for this action and is not repeated here.

The approved and disapproved measures and a brief description of the rationale for the decision are included below. A thorough discussion of the other alternatives considered and the potential impacts, including economic impacts, from those alternatives are included in Volumes 3, 4, and 5 of the EIS. Coordinates and maps of all areas can be found in Volume 3 of the EIS.

Approved Habitat Management Measures

- Establish the (Small) Eastern Maine Habitat Management Area (HMA), closed to mobile bottom-tending gear;
- Maintain Cashes Ledge (Groundfish) Closure Area, with current restrictions and exemptions;
- Modify the Cashes Ledge Habitat Closure Area, closed to mobile bottom-tending gear;
- Modify the Jeffreys Ledge Habitat Closure Area, closed to mobile bottom-tending gear;
- Establish the Ammen Rock HMA, closed to all fishing, except lobster traps;

- Establish the Fippennies Ledge HMA, closed to mobile bottom-tending gear;
- Maintain the Western Gulf of Maine Habitat Closure Area, closed to mobile bottom-tending gear;
- Modify the Western Gulf of Maine Groundfish Closure Area to align with the Western Gulf of Maine Habitat Closure Area, with current restrictions and exemptions;
- Exempt shrimp trawling from the designated portion of the northwest corner of the Western Gulf of Maine Closure Areas;
- Add the Gulf of Maine Roller Gear restriction as a habitat protection measure;
- Remove the Closed Area I Habitat and Groundfish Closure Area designations;
- Remove the Nantucket Lightship Habitat and Groundfish Closure Area designations; and
- Establish the Great South Channel HMA, closed to mobile bottom-tending gear throughout and clam dredge gear in the defined northeast section. Clam dredge gear would be permitted throughout the rest of the HMA for 1 year while the Council considers restrictions that are more refined.

Disapproved Habitat Management Measures

The following recommendations were disapproved. Further rationale for disapproving these recommendations is included below in the "Georges Bank" and "Southern New England/Great South Channel" sections.

- The Cox Ledge HMA, which would have been closed to hydraulic clam dredges and prohibiting ground cables of trawl vessels;
- Removal of the Closed Area II Habitat and Groundfish Closure Areas;
- The Northern Edge Reduced Impact HMA, which would have been closed to mobile bottom-tending gears except groundfish vessels west of 67° 20' W Longitude and scallop vessels fishing in a scallop rotational program;
- The Northern Edge Mobile Bottom-Tending Gear HMA, which would have been closed to mobile bottom-tending gear; and
- The Georges Shoal HMA, which would have been closed to mobile bottom-tending gear, except hydraulic clam dredges that would have been exempted for 1 year.

Eastern Gulf of Maine

In the Eastern Gulf of Maine, this action establishes the Small Eastern Maine HMA, closed to all mobile bottom-tending gears. (Note, the regulations refer to this area as simply

the “Eastern Maine HMA.”) This measure is designed to protect habitats of similar species as the larger area that was considered, but with fewer economic impacts on the fishing industry. Its protection of vulnerable habitats and designated EFH coverage ranks towards the middle of the areas considered for this sub-region. Because there is currently no habitat management area in the eastern Gulf of Maine, implementing a mobile bottom-tending gear closure in any area represents an improvement in groundfish habitat protection in this sub-region. However, bottom trawls and dredges are used sparingly in any of the areas that the Council considered and lobster traps are not subject to any of the regulations in this amendment. Therefore, no short-term reductions in the adverse impacts of fishing in this sub-region are expected. Overall, the area provides potential long-term habitat protection benefits with minimal costs to the fishing industry.

Central Gulf of Maine

In the Central Gulf of Maine, this rule maintains the existing Cashes Ledge Groundfish Closure Area and modifies the existing Jeffreys Bank and Cashes Ledge Habitat Closure Areas, with their current fishing restrictions and exemptions; establishes the Fippennies Ledge HMA, closed to mobile bottom-tending gears; and establishes the Ammen Rock HMA, closed to all fishing except lobster traps.

This combination of measures is appropriate for this region. Maintaining the existing Cashes Ledge Groundfish Closure Area supports the goals and objectives of improving groundfish productivity, with no additional economic burdens on the industry. Maintaining this closure will also ensure that a more diverse array of bottom habitats that support a greater variety of species remain protected from fishing impacts.

The other actions in this sub-region are modifications to the existing Cashes Ledge and Jeffreys Bank habitat closures. These modifications were designed to more closely align with the location of the shallower, hard-bottom habitats and to increase fishery access to the deeper, less vulnerable mud and sand habitats that surround the ledges. Ammen Rock on top of Cashes Ledge is a unique feature within the Gulf of Maine and features kelp forest habitat that would benefit from enhanced protection, which is why there are additional management restrictions in that area. Fippennies Ledge is an additional hard bottom feature within the Cashes Ledge Groundfish Closure

Area that would be protected by maintaining the existing groundfish closure. However, should the Cashes Ledge Groundfish Closure Area be modified or removed at some point in the future when groundfish stocks have recovered and the closure is no longer required, Fippennies Ledge still warrants protection from the adverse effects of mobile bottom-tending gear. In terms of habitat protection and benefits to groundfish resources, the approved measures are high relative to other alternatives in this sub-region and the economic impacts are slightly more positive than the current measures.

Western Gulf of Maine

In the Western Gulf of Maine, this action maintains the existing Western Gulf of Maine Habitat Closure Area, closed to mobile bottom-tending gears, and modifies the eastern boundary of the Western Gulf of Maine [Groundfish] Closure Area to align with the habitat closure area, while maintaining the current fishing restrictions and requirements. This rule also creates an exemption area within the northwest corner of those closures for shrimp trawls and designates the existing Roller Gear Restricted Area requirements as a habitat protection measure.

The EIS describes the Council’s rationale for these areas in detail. In summary, these areas were selected to maintain decades’ worth of protections in this region, while modestly increasing fishing access to the eastern edge of the area. The shrimp exemption was designed to minimize the economic impact on a fleet whose gear has minimal habitat impact. The roller gear restriction has been required for several years and was originally implemented through Framework Adjustment 27 to the Northeast Multispecies Fishery Management Plan to minimize cod mortality by preventing trawl gear from fishing over rocky substrate. As such, it has been a de facto habitat protection measure and the Council wanted to note it formally as such.

These measures are expected to have the same level of positive impacts on habitat and groundfish resources as the existing closures, with the same economic benefits.

Georges Bank

On Georges Bank, the Council recommended removing the year-round and habitat closures of Closed Areas I and II and replacing them with three new areas: (1) The Georges Shoal 2 HMA, closed to mobile bottom-tending gear, with a 1-year delay in closure to hydraulic clam dredges; (2) the Northern Edge Reduced Impact HMA,

closed to mobile bottom-tending gear, with two exceptions described below; and (3) the Northern Edge Mobile Bottom-Tending Gear HMA, closed to mobile bottom-tending gear without any exceptions. Exemptions to the Reduced Impact HMA would have allowed scallop dredge fishing under the scallop rotational area program, and trawl fishing to the west of the existing western boundary of Closed Area II (67° 20’ W long.), in what is now the Eastern Georges Bank Special Access Program. In addition, any portions of the Closed Area II groundfish closed area north of 41° 30’ N lat. would have been closed to scallop fishing between June 15 and October 31 of each year. Volume 3 of the EIS describes the Council’s rationale in detail.

We approved a portion of this recommendation. The Council considered Closed Areas I and II in the same sub-region and included recommendations in the same alternative. However, the two closed areas are substantially distinct in their scope, nature, and impacts, and; therefore, changes to either area may be assessed independently. Whether the HMAs recommended by the Council meet the goals and objectives of the Amendment and Magnuson-Stevens Act requirements may also be assessed independently. The Closed Area I Groundfish Closure, which encompasses the Closed Area I North and South Habitat Closures, and a central portion that has long been part of the scallop access area program, is generally less vulnerable to the adverse effects of fishing than areas of Georges Bank to the north and east. This action establishes the Closed Area I South Habitat Closure as a DHRA (see # 6 below), which will be closed to mobile bottom-tending gears for at least 3 years and could be opened after a review of the research activities in the area. Closed Area I North Habitat Closure becomes a seasonal closure from February 1 to April 15, closed to commercial and recreational gears capable of catching groundfish except scallop dredges. (See #5 below.) The removal of the Closed Area I designations and proposed new designations do not compromise the ability of the Council’s FMPs to comply with the EFH requirements of the Magnuson-Stevens Act.

The changes the Council proposed would have opened an area that has been closed to mobile bottom-tending fishing gear for over 20 years. This would have allowed rotational scallop dredge fishing along the northern edge of Georges Bank. A portion of the Northern Edge Reduced Impact HMA

that would have been opened to rotational limited access scallop dredging as part of the Council's preferred alternative includes the northern portion of an area designated as a Habitat Area of Particular Concern in 1998 and that is reaffirmed in this amendment due to the ecological importance and vulnerability of the area for juvenile cod.

The Council's recommended areas on Georges Bank do not sufficiently address the impact of limited access scallop dredging on the highly vulnerable habitat within the Closed Area II Habitat Closure Area. Overall, the changes the Council recommended to Closed Area II and eastern Georges Bank are inconsistent with the Amendment's goals and objectives of improving juvenile groundfish habitat protection and the requirements of the Magnuson-Stevens Act to minimize the adverse effects of fishing to the extent practicable. Furthermore, the Closed Area II Habitat Closure Area has the same footprint as the Northern Edge Juvenile Cod HAPC. The area has been closed to mobile bottom-tending gear since 1995 and designated as an HAPC since 1998. The Council reaffirmed that designation in this Amendment, but the recommendation the Council had made does not avoid, minimize, or compensate for the adverse effects of this action on this HAPC.

Based on the factors analyzed in the Amendment, the quality of the habitat in the current Closed Area II Habitat Closure Area is considered much higher than the habitat in the proposed Georges Shoal HMA and higher than in the proposed Northern Edge Mobile Bottom-Tending Gear Closure Area. The Council's EIS supporting the Amendment describes the size, habitat content (sand/mud vs. gravel, cobble, boulder), and the results of an EFH overlap analysis, allowing us to compare the relative EFH "value" across areas. The EFH overlap analyses were done to show the extent to which the EFH designations for individual managed species overlap within each habitat management area the Council considered. This type of analysis favors larger areas and was done using several categories, as follows: Total number of EFH designations; EFH for overfished species; EFH for species/life stages with a known affinity for complex substrate; juvenile hotspots; and the count of unique species and designations.

The proposed Georges Shoal HMA ranks at or near the bottom of the analysis in almost every measure of EFH coverage, despite its much larger size, meaning far fewer managed species and life stages utilize this area. Of the 49

areas considered across all sub-regions, the Georges Shoal HMA ranks between 36th and 47th, depending on the measure; in contrast, the Closed Area II EFH area ranks between 8th and 27th in the same analysis. Among the 16 alternatives considered for the Georges Bank sub-region, the Georges Shoal HMA is the sixth largest, but last or almost last in each of the EFH overlap scores. The Georges Shoal HMA is sandier and more shallow, and, therefore, less vulnerable to fishing impacts, than Closed Area II, making it a much less efficient closure. The Northern Edge Mobile Bottom-Tending Gear HMA that had been proposed ranks in the lower half of almost every metric as well (from 7–12 out of 16), despite being a similar size to the existing Closed Area II EFH closure. The Northern Edge Reduced Impact HMA that had been proposed, where scallop fishing would have been allowed on a rotational basis, represents the most complex habitat and ranks in the upper half of each EFH metric (3–7 out of 16), despite its much smaller size.

Removing protections from, and allowing scallop dredging in, the most vulnerable portion of Closed Area II compromises the ability of the Council's FMPs to continue to meet the requirements of the Magnuson-Stevens Act to minimize to the extent practicable the adverse effects of fishing on EFH throughout the region and prevents the Council from achieving this action's goals and objectives. The potential benefits to habitat from the areas the Council had proposed to close do not outweigh the potential adverse effects on highly valuable EFH and vulnerable groundfish stocks that would result from opening the Closed Area II Habitat Closure Area to limited access scallop dredging.

In addition to the quality and importance of the habitat on eastern Georges Bank, the Closed Area II Habitat Closure Area is also the Northern Edge Juvenile Cod HAPC. As noted above, the Council initially made this designation in 1998 and reaffirmed the importance of the area in this Amendment. One of the four considerations for HAPC designation is sensitivity to anthropogenic stress. The Council concluded that there are "no known anthropogenic threats to this area beyond those associated with fishing activity." While there are no fishery restrictions associated with HAPC designations themselves, the designation should result in the Council taking a more precautionary approach to management of those areas, particularly when the only noted human-induced stress is fishing. The final rule for the

EFH regulations (67 FR 2343; January 17, 2002) notes, ". . . designation of HAPCs is a valuable way to highlight priority areas within EFH for conservation and management . . . Proposed fishing activities that might threaten HAPCs may likewise receive a higher level of scrutiny." This guidance suggests that councils should prioritize the protection of HAPCs where fishing is a primary or significant threat to the habitat.

The Council's recommendations in this Amendment would have opened the most vulnerable portions of the HAPC without closing other comparable habitat. The Council did not adequately explain its reasons for concluding that this HAPC should be opened to fishing or how the other areas adequately mitigated or compensated for the impacts of fishing in this area. The Council's recommendation to allow even rotational fishing in this sensitive habitat is inconsistent with its own rationale for the designation that the habitat in this area warrants particular concern and consideration. The Council also did not explain the conditions for allowing fishing in this area that would sufficiently minimize adverse effects. For these reasons, we disapproved the recommendations to remove the Closed Area II Habitat and Groundfish Closure Areas and replace them with the areas described above.

While disapproving the Council's recommendation for eastern Georges Bank will continue to result in lost opportunity costs for the scallop industry, approved changes to current area closures will provide substantial new economic opportunity for the scallop fishery. The Council currently estimates that access into the Closed Area I and Nantucket Lightship areas that were previously closed could increase scallop revenue by \$140-\$160 million in the next year (based on preliminary information in Scallop Framework Adjustment 29). The Council may choose to revisit habitat management on eastern Georges Bank in a subsequent action that could address the reasons for disapproval.

Great South Channel/Southern New England

This rule establishes the Great South Channel HMA. The northeast corner of the HMA (12.5 percent of the area) will be closed to all mobile bottom-tending gears. The effective date of the closure will be delayed by 1 year for hydraulic clam dredges throughout the remainder of the area. The Council considered the unique fishing practices in the surfclam fishery. Based on this information, the Council is working to identify sub-areas

that are less vulnerable to clam gear to determine whether some amount of clam fishing may continue in a manner that sufficiently minimizes impacts to vulnerable substrate. The Council recommended establishing two small HMAs on Cox Ledge, closed to hydraulic clam dredges, and prohibiting ground cables on trawls fishing in the areas; however, that recommendation was disapproved. The Nantucket Lightship Habitat Closure Area and the Nantucket Lightship Closed Area are removed by this action.

Throughout the development of the action, the Council's technical team expressed concern that the ground cable restriction measures would not minimize the habitat impacts of fishing. NMFS reiterated these concerns several times throughout the development of OHA2 management measures. Ground cables account for a significant portion of a bottom trawl's seabed impact. However, the sediment clouds they create "herd" fish toward the opening of the net. The gear modifications that had been proposed would have reduced the effectiveness of the gear and, in all likelihood, cause vessels to fish longer in order to compensate for reduced catch rates. No studies of the trade-offs between reduced impacts of ground cable removal and the duration or frequency of bottom trawl tows were cited in the EIS for OHA2. As a result, we disapproved this recommendation.

The approved recommendation of the Great South Channel HMA is a compromise between the larger Great South Channel East HMA (identified in the EIS as Alternative 3), located further to the east, and the slightly smaller Nantucket Shoals HMA (identified in the EIS as Alternative 5), located further to the west, closer to Nantucket Island. Bottom habitats in these areas are a mixture of less stable sand and more stable gravel, cobble, and boulder substrates and support fisheries for groundfish, clams, and scallops. The two most significant fisheries in the area are for surfclams and scallops. Scallop dredging is almost entirely restricted to deeper water along the western side of the Great South Channel and to an area east of Cape Cod. Clam dredging occurs in a large area of mixed bottom types in shallower water to the west. While the Council recognized the likelihood of negative economic impacts of these alternatives on the clam fishery, they were also concerned about the negative effects of hydraulic dredges on complex habitats occurring in the region. The discussion and development of more discrete exemption areas is currently occurring in a separate framework adjustment action.

This action also establishes two HAPCs in this sub-region. The Inshore Juvenile Cod HAPC includes waters off the Massachusetts coast to 20 m deep, and overlaps slightly with the Nantucket Shoals and Nantucket Shoals West HMAs. The Great South Channel Juvenile Cod HAPC includes additional waters north and east of the HMAs to a depth of 120 m and partially overlaps the Great South Channel HMA in this sub-region. No management measures were applied specifically to these areas; however, they are designated as HAPCs primarily because they are vulnerable to adverse anthropogenic impacts from non-fishing activities.

Results of the habitat impact analyses in the EIS indicated that the approved measures are expected to have positive habitat impacts compared to leaving the habitat and groundfish closures in the Nantucket Lightship area in place, even with the 1-year delay in closure for clam dredges in most of the area. Impacts to groundfish resources will be approximately the same for both the existing and new measures. The new measures will have a slightly negative economic impact on the groundfish fishery; approximately 1 percent of the total groundfish revenue from the statistical areas covered by the closure are expected to be impacted by this measure. A highly negative economic impact on the clam fishery after the 1-year delay expires would be expected, before more discrete exemption areas are approved and implemented.

5. Groundfish Spawning Measures

The Council has considered how to most effectively manage fishing during the spawning periods of key fish in several actions. During the development of this Amendment, the Council recommended, and NMFS implemented, several modifications to spawning protections for cod and other groundfish through Framework Adjustments 45 and 53. Because these measures were implemented prior to the completion of OHA2, there was much debate over what should be done in this action. Ultimately, the Council recommended, and this action implements, a few minor additional protections to what is required currently.

Gulf of Maine

In the Gulf of Maine, this action establishes two new, relatively small, cod spawning protections. They include the Winter Massachusetts Bay Spawning Closure, which will be in effect from November 1–January 31 of each year. During the closure, the area will be closed to all fishing vessels, with the

same exemptions as the existing Gulf of Maine Cod Spawning Protection Area (*i.e.*, Whaleback). These exemptions include vessels fishing in state waters that do not have a Federal Northeast multispecies permit; vessels fishing with exempted gears; charter/party and private recreational vessels, provided they are fishing with pelagic hook and line gear and there is no retention of regulated groundfish or ocean pout; and vessels that are transiting. In addition, a 2-week closure (April 15–April 30) within statistical area 125, referred to as the Spring Massachusetts Bay Spawning Protection Area, is established. This area will be closed to all vessels, except: Vessels fishing in state waters that do not have a Federal Northeast multispecies permit; vessels fishing with exempted gears; vessels in the mid-water trawl and purse seine exempted fisheries; scallop vessels fishing with dredges on a scallop day-at-sea; vessels fishing in the scallop dredge exemption area; and charter, party, and recreational fishing vessels.

Georges Bank

Because the Council's recommendation to remove the Closed Area II Groundfish Closure Area in Georges Bank was disapproved, the current year-round restrictions and exemptions remain in effect. Should the Council revisit habitat management on Georges Bank, and recommend the removal of the Closed Area II closure areas, a seasonal restriction would be in place for Closed Area II Groundfish Closure Area and the Closed Area I North Habitat Closed Area from February 1–April 15. During the closure season, the areas will be closed to all commercial and recreational vessels, except those that are transiting, fishing with exempted gears, participating in the mid-water trawl exempted fishery, and fishing with scallop dredges, unless otherwise prohibited elsewhere.

This action removes the May Georges Bank Spawning Closure. Sector vessels are exempted from this seasonal closure, rendering it virtually non-existent. Removing the closure should minimally reduce the administrative burden for sectors, as they will no longer have to request this exemption.

6. Dedicated Habitat Research Areas

In order to highlight research needs, particularly relating to evaluating the assumptions of the Swept Area Seabed Impact (SASI) model that the Council used as the basis for HMA development, this rule establishes two Dedicated Habitat Research Areas (DHRA), which will be in effect for 3 years, at which time the Regional Administrator will

consult with the Council as to whether the designation should be retained. The Council developed a series of questions to assist in this future discussion that include consideration of where in the research development process an activity is, how well it aligns with the Council's stated habitat research priorities, and what role the DHRA designation plays in the research.

This action establishes the Georges Bank DHRA (footprint is the same as the existing Closed Area I South Habitat Closure) and the Stellwagen DHRA (footprint within the existing Western Gulf of Maine Habitat Closure). The Georges Bank DHRA is closed to all mobile bottom-tending gear. The Stellwagen DHRA is closed to all commercial mobile bottom-tending gear, commercial sink gillnet gear, and commercial demersal longline gear. Maps and coordinates of the approved DHRAs can be found in Volume 3 of the EIS.

7. Framework Adjustments and Monitoring

The designation or removal of HMAs and changes to fishing restrictions within HMAs may be considered in a framework adjustment. In addition, this action establishes a review process to evaluate the performance of habitat and spawning protection measures. Finally, this action establishes a process for the Council to identify and periodically revise research priorities to improve habitat and spawning area monitoring.

8. Regulatory Changes

This rule implements measures for all of the approved measures. In order to improve clarity of the habitat-related management measures, we have reorganized § 648.81 to refer solely to year-round and seasonal closures designed for purposes of groundfish protection. All habitat-related measures, including the newly approved and existing HMAs and their accompanying regulatory text, the DHRAs and their accompanying text, and the Mid-Atlantic Fishery Management Council's Deep-Sea Coral Protection area can be found in a new subpart (subpart Q). In addition, the Council stated that all areas currently closed to scallop dredging should remain closed upon the implementation of OHA2 so that the Scallop Committee can better incorporate newly opened areas in the rotational management program. The existing EFH closures currently reside in both the groundfish (§ 648.81) and scallop (§ 648.61) regulations. This action adds the groundfish closed areas that would otherwise be removed by this action to the scallop closure section

(§ 648.61) to ensure that the restrictions on scallop fishing remain in place until a subsequent scallop action can modify them. The decisions related to scallop fishing year 2018 access are being implemented via Framework Adjustment 29 to the Atlantic Scallop FMP. The regulations also update cross-references and definitions as needed. The Council deemed the regulations as necessary and appropriate, as required in the Magnuson-Stevens Act, on March 28, 2017.

9. Changes From the Proposed Rule

As described above, the differences from the proposed rule relate to the recommended measures that were disapproved by NMFS. Closed Area II Habitat Closure regulations will be reassigned to the new habitat management section in Subpart Q, while the Closed Area II Groundfish Closure Area will remain codified in § 648.81. Cross-references from other sections have also been updated to reflect these changes.

10. Comments and Responses

The Notice of Availability for this Amendment was published on October 6, 2017 (82 FR 46749), and the proposed rule was published on November 5, 2017 (82 FR 51492). The comment periods for both ended on December 5, 2017. In total, 72 comments were received; many of these comments were submitted on behalf of environmental or fishing organizations or businesses. Seventeen of the comments were not relevant to the issues under discussion in this action and were nominally about the commenter(s) concerns regarding global climate change. Those comments are not addressed here.

Comment 1: Nine comments focused exclusively on EFH, HAPC, and DHRA designations. Seven of the comments recommended approving the regulations, specifically the EFH, HAPC, and DHRA regulations, with most specifically noting the importance of the Inshore Juvenile Cod HAPC, that it was important to give other areas HAPC status because of their sensitivity to trawling, dredging, and other fishing impacts, and that these designations and related management measures can help boost the cod population. Three commenters also noted the importance of the Atlantic Salmon HAPC. Another comment supported the implementing OHA2 regulations that would allow the Council to develop analytical tools for EFH designation, and monitor the effectiveness of current/future conservation efforts.

Response: NMFS agrees that the EFH, HAPC, and DHRA regulations are

necessary and appropriate when supported by the best available science. We are approving all of the Council's recommendations for these designations, including the Atlantic Salmon and Inshore Juvenile Cod HAPCs. We disagree that the 20-meter depth limit for the Inshore Juvenile Cod HAPC is overly broad. It was based on the best scientific information available that indicates a broader depth range occupied by young-of-year and 1-year-old cod.

Comment 2: The U.S. Army Corps of Engineers submitted a comment regarding the winter flounder EFH designation that the Council and NOAA/NMFS consult with them to better inform EFH conservation recommendations. They are concerned about re-suspended sediments in or near designated habitat, and its effect on Atlantic sturgeon.

Response: This comment has been forwarded to NMFS staff in the Protected Resources Division for the Greater Atlantic Region who work on Atlantic sturgeon issues to address this concern with the Army Corps.

Comment 3: Mystic Aquarium submitted a comment expressing concern for the lack of analysis and development of alternatives to conserve deep-sea corals EFH in Gulf of Maine, Georges Bank, and southern New England regions under the purview of the Council. This commenter contends that because the revision of the EFH designation for Acadian redfish includes deep sea corals, and deep sea corals have been described as the most vulnerable form of EFH in reference materials developed by the NMFS Deep-Sea Coral Research and Technology Program and the Northeast Fisheries Science Center analysis of fishing effects that the Council should analyze the fishing effects on these habitats. Because the deep-sea coral considerations were split off into a separate action, the commenter requests that we leave the status quo HMAs and HAPCs, in both the Gulf of Maine and along the continental margin south and west of Georges Bank, until a refined proposal is produced by the Council that addresses these concerns. Alternatively, the commenter suggests that the Council's ongoing coral amendment could be redirected to address these issues regarding mitigation of the effects of fishing on corals functioning as EFH.

Response: This action does not directly address the impacts of fishing on corals as a component of EFH for redfish. Additional information specific to deep-sea corals would require further development and consideration of information that was not available for

this Amendment. The Council considered what measures were necessary for deep-sea coral protection in the recently completed deep-sea coral amendment. This action implements the retention of all three status quo habitat management areas in the Gulf of Maine, with some minor modifications, and all the HAPCs along the outer shelf, largely because of their importance for deep-sea corals.

Comment 4: Eighteen comments focused on maintaining the status quo spatial management measures. Most of these comments were from members of the public who identified themselves as recreational or for-hire fishing sector participants. Most commenters specifically opposed opening the Western Gulf of Maine and Closed Areas I and II to commercial fishing, noting that they considered the closed areas to be largely responsible for the recovery of the haddock stocks. A few commenters mentioned specific support for the new closed area off downeast Maine (*i.e.*, the Small Eastern Maine HMA), the new Great South Channel HMA, and for maintaining the Cashes Ledge Groundfish Closure Area with the current restrictions. Many commenters noted that recreational fishermen are currently not allowed to possess cod in the Gulf of Maine and that allowing increased commercial fishing pressure in an area known for cod would be inconsistent with that restriction.

Response: NMFS agrees that closed areas can be an effective tool in rebuilding overfished stocks and protecting vulnerable habitat. We have reviewed the best science available in this action relating to the costs and benefits of closed areas when determining whether the Council's recommendations minimize the adverse effects of fishing to the extent practicable, and whether they meet the Amendment's goals and objectives and comply with all other laws. NMFS supports the implementation of the Small Eastern Maine HMA and implements that measure in this action. We support maintaining the Cashes Ledge Closure Area closed as recommended by the Council. We also agree that the Cox Ledge proposal should not be implemented.

We disagree that opening a portion of the Western Gulf of Maine Closure Area is inconsistent with the current restriction on recreational anglers. The Council manages Gulf of Maine cod with an overall annual catch limit (ACL) and distinct sub-ACLs for various aspects of the fishery. We believe this system is sufficient to prevent overfishing and rebuild overfished stocks. Specific management measures

are developed to address the unique nature of both the commercial and recreational fisheries. The commercial fleet is primarily managed using a sector system, which further allocates the commercial sub-ACL to fishing sectors. The recreational sub-ACL is managed by setting an open fishing season, minimum fish size, and possession limit for the recreational and for-hire sectors that will prevent the sub-ACL from being exceeded.

The approved measures would reduce the area protected by about 25 percent; however, the area remaining closed has more vulnerable habitat than the area being opened. As described in the EIS, measures implemented by this rule will have a positive impact on groundfish, albeit slightly less beneficial than the status quo. Overall, however, NMFS determined that the collective measures in the Gulf of Maine represent an improvement to groundfish protections.

The Great South Channel HMA is being approved with the clam dredge exemption, contrary to the recommendations in some of these comments. The area covered by the Great South Channel HMA is currently open to fishing, including by hydraulic clam dredges, scallop dredges, and groundfish trawls. The majority of the area would be open only to clam dredges for 1 year while the Council attempts to develop more specific exemption areas. The Council notes that hydraulic clam dredges are capable of fishing in discrete areas of less vulnerable habitat around more complex structure. If, in the coming year, the Council is unable to develop a solution that effectively minimizes the adverse effects of fishing in this area while minimizing the economic impacts to the clam fishery, the exemption will expire, and hydraulic clam dredges would be prohibited throughout the HMA.

On Georges Bank, we partially agree with the recommendations to leave Closed Areas I and II as they are now. We are implementing the Council's recommendation to remove the Closed Area I groundfish and habitat closed area designations, but we are also implementing a seasonal spawning closure for Closed Area I North and a DHRA closed to mobile bottom-tending gear in Closed Area I South. We have disapproved the Council's recommendation for Closed Area II for the reasons described in the preamble of this rule.

Comment 5: The Nature Conservancy (TNC) believed some of the proposed measures likely meet the requirements of the Magnuson-Stevens Act to periodically review EFH designations

and the protection of such habitats. In particular, they recommended that NMFS approve all new EFH designations; the new Small Eastern Maine Habitat Management Area (HMA); continue existing protections in the Cashes Ledge Groundfish Closure Area; and approve the Jeffreys Bank and Cashes Ledge Habitat Closure Areas. They also supported the approval of the Fippennies Ledge HMA and establishing the Ammen Rock HMA, as well as the Cox Ledge spawning area. TNC also supported the Western Gulf of Maine Habitat Closure Area and all of the Council recommended HAPCs and DHRAs.

TNC expressed concerns with new habitat closed areas on Georges Bank and framework provisions that establish a pathway to allow exemptions for hydraulic clam dredge gear in habitat closed areas. Specifically, TNC is opposed to the Council's recommendation on Georges Bank, citing their Weighted Persistence Analysis, which is an analysis and that it supports the concerns noted by NMFS in the proposed rule. TNC also opposes the exemption for hydraulic clam dredges and suggests that a workshop should be held to review very high-resolution data to identify exemption areas that would be compatible with requirements to prevent adverse impacts of fishing. The letter contends that the TNC analysis showed that, apart from the Northern Edge Reduced Impact HMA, the Council recommended management measures are not located in high habitat value areas. According to TNC, this verifies the concerns the Agency expressed regarding the Georges Bank area in its request for comments. Because TNC feels that the proposed management measures for Georges Bank do not protect high value habitat, they strongly recommended that NMFS disapprove these provisions.

Further, as TNC wrote in its comments in 2015, surfclam/ocean quahog vessel monitoring system data show that this fishery, while largely concentrated in the Mid-Atlantic and Southern New England regions, is active in the Great South Channel, off Cape Cod, and on Georges Bank. TNC also asserts that hydraulic surfclam gear is highly destructive to structured habitats, and has a lesser impact in high-energy sand habitats. TNC suggests that a collaborative workshop process informed by very high-resolution spatial data could be used to identify exemption areas that would be compatible with requirements to prevent adverse impacts of fishing.

Response: NMFS agrees that the Weighted Persistence Analysis supports

our decision for Georges Bank and notes that we referenced that information when making this determination. The Cox Ledge area was not recommended as a spawning closure and is not being implemented as an HMA for the reasons noted in the preamble of this rule. NMFS supports the idea that a workshop to identify exemption areas within the Great South Channel HMA would be beneficial to both the Council and the clam industry, should the interested parties agree on that approach as a way forward.

Comment 6: The Cape Cod Commercial Fishermen's Alliance, representing 150 fishing businesses and over 300 fishing families, expressed support for the analytical basis for the Amendment, namely the SASI and Local Indicators of Spatial Association (LISA) analyses, noting this modeling framework allowed the Habitat Committee and the Council to make well-informed decisions when recommending preferred alternatives. The Fishermen's Alliance supported the Council's full recommendation to create a new Habitat Management Area (HMA) in the Great South Channel to protect this valuable ground, including closing 12.5 percent of the northeast HMA to all mobile bottom-tending gears. Additionally, the Fishermen's Alliance asserts that the prohibitions in the remaining area for dredging are warranted, particularly given opening of nearby regions to scalloping that pose less impacts to the benthic environment. They also strongly supported the Council's decision to designate the Great South Channel Juvenile Cod HAPC, stating that these actions would reduce fishing impacts on habitat, and (coupled with the Georges Bank Seasonal Closure Area) protect valuable spawning and rearing habitat for Atlantic cod.

The Fishermen's Alliance also expressed strong support for the removal of the Nantucket Lightship and Closed Area I closures, noting the significance of the areas to the small boat scallop fishery (*i.e.*, the limited access general category fleet), specifically noting that the habitat encompassed by the current closed areas is less important for valuable species such as Atlantic cod than the habitat that would be protected under the new Great South Channel HMA.

Response: We agree with the Fishermen's Alliance that the SASI/LISA results were an appropriate starting point for the Council's discussion. Based in part on those analyses, the Nantucket Lightship and Closed Area I closures are removed in this action. We are also approving the

recommendations in the Great South Channel for the reasons described above.

Comment 7: The Council submitted comments in support of implementing the measures as proposed. The Council contends that the full suite of measures submitted were in compliance with the requirements of the Magnuson-Stevens Act. The Council stated in its comment its recognition of the important habitats along the northern edge of Georges Bank for groundfish, including juvenile cod. The Council contends that its preferred approach to management on Georges Bank keeps certain areas closed to fishing with mobile bottom-tending gears, while allowing only rotational scallop fishing in most of the Reduced Impact HMA.

The Council took issue with how the preamble of the proposed rule implied that scallop fishing in the Reduced Impact HMA would be unlimited, contending that while the Council was not prescriptive about how rotational scallop fisheries on the northern edge might be conducted, this statement ignores the eighteen years of successful rotational sea scallop management since Amendment 10 to the Atlantic Sea Scallop Fishery Management Plan (FMP) formally adopted the approach. The Council also expressed concern that the preamble misconstrues the economic analysis in Volume 5 of the EIS with regard to the scallop fishery loss of opportunity versus realized costs. The Council states that they are confident that rational rotational management can be conducted on the northern edge while minimizing the adverse effects of fishing.

Finally, the Council responded to the concern that it did not give due consideration to the northern edge's status as an HAPC when deciding on measures to minimize adverse effects. The rationale for the HAPC given in the EIS notes that complex gravel habitats, especially those with structure-forming epifauna, provide cover for juvenile cod, reducing predation during a critical life history stage that may be a bottleneck for this species.

Response: For the reasons described in this rule's preamble, NMFS disapproved the Council's recommendation to allow rotational scallop fishing on the northern edge of Georges Bank. NMFS agrees that the scallop rotational program has successfully managed scallops, but the rotational program is designed to address scallop fishing issues. It was not designed specifically to minimize adverse effects on EFH or account for juvenile cod HAPC. NMFS determined that the Council did not adequately

describe or consider the relationship between the frequency of scallop fishing and the recovery time scale of the habitat features that are particularly important to juvenile groundfish in the region. NMFS acknowledges that the proposed rule inappropriately misconstrued the potential lost revenues to the scallop fishery and has updated the language in the final rule. As described above, NMFS disagrees that the Council gave due consideration to the northern edge's status as an HAPC.

Comment 8: The Northeast Seafood Coalition (NSC), representing 250 fishing businesses, submitted a comment generally in favor of the Council's recommendations. The comment was careful to point out that, while NSC supports the full suite of measures recommended by the Council, it is not fully "satisfied" with the Amendment as a whole. Specifically, NSC is unsatisfied with retaining groundfish closure measures in the Western Gulf of Maine and on Cashes Ledge. The NSC requests that the record identify the overarching purpose of the Cashes Ledge Closure and the Council's intention in recommending that it remain closed. NSC notes that the Council was neither bound by the existing closures nor to selecting new areas of comparable size. Further, NSC states that NMFS should not be evaluating the efficiency of the proposed Georges Bank recommendations by comparing them to habitat protection coincidentally provided by the existing mortality closures. NSC also questions NMFS's "one-sided" interest in CPUE as a relevant consideration for habitat impacts regarding the ground cable prohibition on Cox Ledge.

Response: While NMFS agrees that increases in fishing efficiency that reduces the amount of time that gear is in contact with the bottom can enhance habitat protection, increased efficiency is not the only way to minimize the adverse effects of fishing on EFH. Even highly efficient fishing with mobile bottom-tending gear can have adverse effects, defined as effects that are more than minimal and not temporary, on highly vulnerable habitat. The combination of reduced overall effort and high quality closures is one reason we supported the Council's approach that smaller HMAs that protect more vulnerable habitat are preferable to larger HMAs that cover less vulnerable habitat. As noted above, our disapproval of the Council's recommendation on eastern Georges Bank is in line with this approach. The Council recommended larger, less efficient closures as compensation for increased impacts in

highly vulnerable substrate. This is also consistent with our decision to disapprove the Council's recommendation on Cox Ledge. The Council's Plan Development Team noted on several occasions that it was unable to determine how much less efficient an average trawl would be without ground cables, and; therefore, unable to determine if total bottom contact time would be reduced or increased.

We disagree that the restrictions on gears capable of catching groundfish are unnecessary in the Western Gulf of Maine and Cashes Ledge groundfish closure areas and that these areas were not intended to support the Council's stated goals of improving protection of critical life stages, including spawning groundfish. In advance of the April 2015 Council meeting, where a motion was made to continue the protections on Cashes Ledge, NMFS advised the Council that the Council's goal of "improving" juvenile groundfish habitat protections would not likely be achieved without the Cashes Ledge Closure Area, particularly in combination with the reduced groundfish protections from the Western Gulf of Maine.

NMFS staff reviewed the audio recording of the April 2015 Council meeting in response to this comment. It is clear from that recording that the maker of the adopted motion for the Central Gulf of Maine made the recommendation in response to the Regional Administrator's letter dated April 14, 2015, noting our concerns relating to the Habitat Committee's recommendations in light of the Gulf of Maine cod stock status. This letter stated specifically "there is insufficient information in the record to show that the Committee's recommended preferred alternative improves juvenile groundfish habitat protections and would likely fail to meet the Council's stated goals and objectives." We agree that the Council discussion on the motion was clear that the intention was for cod protection given its current status, and that when the cod is considered healthy, the Council should consider the utility of the Cashes Ledge Closure Area under those conditions. NMFS would support a review of this area, as well as the Western Gulf of Maine Groundfish Closure measures, when cod and other groundfish stocks are rebuilt. The Council can revisit the overall objectives and collection of management measures in the Northeast Multispecies FMP as stock conditions change. This review should include all measures that have been implemented or maintained in support of rebuilding

stocks that may no longer be necessary when stocks recover.

Comment 9: The Massachusetts Division of Marine Fisheries submitted comments in support of the Council's recommendations, particularly those on Georges Bank, noting the decisions being developed in Scallop Framework Adjustment 29 are projected to result in lower overall groundfish bycatch, reduced open area effort, increased scallop catch, and increased revenue from access to Closed Area I and the Nantucket Lightship West area.

Response: While we disapproved the Council's recommendations for eastern Georges Bank, we are approving the recommendations to remove the Closed Area I and Nantucket Lightship Closure Areas as year-round closures. A decision on Framework 29 is pending finalization by NMFS, which, if approved, would authorize the scallop fishery to access portions of these former closure areas.

Comment 10: The Associated Fisheries of Maine (AFM), representing 25 fishing businesses, recommended eliminating closed area restrictions and allowing vessels to optimize fishing efficiency and thereby reduce the intensity and frequency of mobile gear on the ocean floor. Specifically, the AFM did not support maintaining the existing Cashes Ledge Groundfish Closure Area. AFM asserts that groundfish mortality objectives are met with annual catch limits and accountability measures. AFM contested the proposed rule claims that this closure was maintained to "improve protection of juvenile and spawning groundfish" because, according to AFM, the Closed Area Technical Team analysis does not show the Cashes Ledge area as either a groundfish juvenile or spawning "hotspot." AFM does support the modifications to the Cashes Ledge Habitat Closure Area to allow fishery access to deep mud and sand habitats.

AFM supported the proposal to align the eastern boundary of the Western Gulf of Maine Groundfish Closure Area with the Western Gulf of Maine Habitat Closure Area, as well as the exemption to allow shrimp trawls in the northwest portion of the area. AFM did not support maintaining the current groundfish restrictions in the Western Gulf of Maine Closure Areas, noting that groundfish mortality objectives are met through annual catch limits and accountability measures, and the use of fixed gear to target groundfish (as is allowed for recreational fishing) would not negatively affect any habitat objectives for this area.

AFM supported removal of the Closed Area I and II Groundfish Closure Areas. AFM contends that the proposed exceptions to the Northern Edge should include all mobile tending bottom gear. AFM asserted that the groundfish trawl fleet with the capacity to fish offshore has been greatly reduced by low annual catch limits, and therefore the intensity and frequency of trawl access to the Northern Edge would be minimal. AFM also supported the proposal for seasonal spawning closures on Georges Bank.

Response: As noted in the response to the Northeast Seafood Coalition, while NMFS agrees that increases in fishing efficiency that reduce the amount of time that gear is in contact with the bottom can enhance habitat protection, increased efficiency is not the only way to minimize the adverse effects of fishing on EFH. (See comment #4.) NMFS disagrees that the hotspot analyses in the EIS failed to show that Cashes Ledge area is an important area for juvenile and spawning groundfish species. The analysis indicates that there are a number of species that aggregate in this area as juveniles (redfish, American plaice, silver hake, white hake, and haddock) and as large adults (redfish, red hake, and witch flounder). In addition, research in this area shows there are resident and migratory populations of cod that use this this area, and that they are growing faster and living longer than cod collected outside the Cashes Ledge Groundfish Closed Area.

Comment 11: Seven comments were received from businesses and others with an interest in the surfclam and ocean quahog fishery. All seven comments recommended that NMFS disapprove the Council's recommendations for the Great South Channel and Georges Shoal because of the economic impacts to the surfclam/quahog fishery from those HMAs. These comments also noted that if we did approve the HMAs, we should only do so if the 1-year exemption for the clam fishery were extended. The commenters varied in the preference for the extension, but they ranged from 3 or 5 years to a permanent exemption.

Response: NMFS is disapproving the Georges Shoal HMA as part of the decision to partially disapprove the eastern Georges Bank recommendation. In the Great South Channel, NMFS is approving the Council's recommendation. The Council considered a permanent exemption, but selected the 1-year option instead. Currently, the Council is developing a framework adjustment that will consider more discrete, permanent exemptions for hydraulic clam dredges

within the Great South Channel HMA. NMFS agrees with the Council that the 1-year exemption is enough time to consider more discrete exemptions, particularly because it will have been nearly 4 years since the Council took final action on its recommendations when the exemption is scheduled to expire. The Council has been considering these issues during this time. The review and rulemaking development phase at NMFS has provided an additional 3 years for the clam industry to gather data and bring recommendations to the Council for consideration.

Comment 12: Three comments were submitted specific to lobster fishery issues. The American Offshore Lobstermen's Association (AOLA), which represents the majority of offshore lobster vessels, commented on the Council's recommendations for eastern Georges Bank. Specifically, the AOLA noted that NMFS has not codified the agreement between the lobster and groundfish fleets that is designed to eliminate gear conflicts by setting seasonal restrictions for each fishery. The comment also noted that the language in the Council's motion to eliminate gear conflicts between the scallop and lobster fisheries incorporates language that differs from the industry discussions. The organization also noted that there has been an increase in Jonah crab fishing in the Nantucket Lightship area and that if the area were to open in this action, gear conflicts may arise and should be addressed. The letter submitted by the Atlantic States Marine Fisheries Commission's American Lobster Board reiterated many of these same comments. The third letter, from a student in a public policy course, expressed his concern about the lack of impact analysis for certain fishing areas, specifically referencing the AOLA letter and the expansion of the Jonah crab fishery and lobster fisheries. The commenter also noted that data relied on in the document is more than five years old and that fish and crustacean populations are likely to have shifted during that time due to climate change.

Response: We are disapproving the Council's recommendations for eastern Georges Bank, which renders the concerns about the gear conflict agreement moot. In the Nantucket Lightship area, it is difficult to know how the fixed gear fisheries may interact with mobile gear fisheries because the area has been closed and we have no data showing an expected increase in gear conflicts. We support industry initiatives to minimize gear conflict in this region. We will work with the

Council and Commission to address these issues as they arise.

Comment 13: The Pew Charitable Trust submitted a comment signed by 8,493 members of the public that contends that the Amendment does not follow best available science, does not meet its own goals and objectives, and does not fulfill legal requirements to protect fish habitat, especially on Georges Bank and in Southern New England. Specifically, the letter focused on the Northern Edge of Georges Bank and the surrounding areas that have been closed to mobile bottom-tending fishing gears for over 20 years. The letter contended that the Northern Edge is one of the most ecologically important places in New England waters, and it should remain closed to dredging and trawling to provide refuge for depleted groundfish and other marine species, and that NMFS should reject the Council's proposed HMAs on Georges Bank, including the Northern Edge Reduced Impact Habitat Management Area, which would allow scallop dredging in an area that has been identified as critically important for juvenile cod since 1998. This letter also stated that all clam dredge exemptions should also be rejected, and this gear should not operate in any HMAs identified for protection. The letter further contends that in Southern New England, allowing clam dredging in the proposed Great South Channel HMA would introduce gear that is destructive to seafloor habitats. The comments also stated that NMFS should reject the Council's proposal to allow bottom trawling without ground cable in the Cox Ledge HMA because the commenters recommend that this area should be closed to all mobile bottom-tending gear. A nearly identical letter was also submitted by a private individual.

Response: NMFS agrees that, as proposed, some of the Council's recommendations fall short of achieving its stated goals and objectives for this action and the requirements of the Magnuson-Stevens Act. However, we have determined that, as approved, the Council's FMPs will comply with the Magnuson-Stevens Act, and that the approved provisions of this action were based on the best available scientific information. We agree, and are disapproving, the Council's recommendations for the Northern Edge and Cox Ledge. We are approving the clam exemption, for the reasons stated above.

Comment 14: The United States Department of the Interior, Office of Environmental Policy and Compliance, Bureau of Indian Affairs urged the

NMFS to engage interested Indian tribes as part of this rulemaking process and to provide such tribes a meaningful opportunity to consult directly on what impacts the rule would have on tribes and tribal resources.

Response: NOAA conducts government to government consultation with federally recognized tribes pursuant to the process identified in its November 2013 Tribal Consultation Handbook (<http://www.legislative.noaa.gov/policybriefs/NOAA%20Tribal%20consultation%20handbook%20111213.pdf>). The actions identified in this document are not expected to impact tribal rights or resources. No Federally recognized tribe expressed interest in the management measures proposed nor has any tribe commented on these measures at any time throughout the extensive public development of the Amendment.

Comment 15: Four environmental non-government organizations (Conservation Law Foundation, Oceana, Earthjustice, and the Natural Resource Defense Council; hereafter "Conservation NGOs") submitted a detailed, joint comment letter on the Amendment. These organizations noted their years of involvement in the development of this action and raised concern with the Amendment process. These conservation organizations contend that NMFS should not approve the Amendment until the completion of the required Endangered Species Act consultations, and that a reinitiation of the consultation that covers the affected fishery management plans is required. The Conservation NGOs also state that the Amendment does not satisfy the requirements of the Magnuson-Stevens Act, the National Environmental Policy Act, and the Endangered Species Act.

The Conservation NGOs' letter contends that OHA2 and its EIS fail to recognize the ecological importance of minimizing the impacts of fishing on EFH and actions are inconsistent with the OHA2's goals and related legal requirements. The Conservation NGOs contend that the management attention and analytical approaches on the vulnerable complex benthic habitats is too narrowly focused and does not acknowledge the potential for adverse effects to sandy or mud bottoms or the water column from fishing. The Conservation NGOs argue that this is a major deficiency of the Amendment from a Magnuson-Stevens Act, NEPA, and ESA perspective. This letter argues that the statutory task is not limited to minimizing the physical impacts of fishing gears on hard, complex benthic areas to which the bulk of the analysis in the EIS has been focused.

Response: NMFS does not agree that sandy or mud bottom habitats were ignored during the process of identifying candidate areas, or selecting preferred habitat management alternatives. The SASI model was specifically designed to assess the relative vulnerability of different types of bottom habitat to fishing gear impacts and output from the model accounted for habitat diversity with areas that included a greater proportion of more complex habitats receiving a higher score. Many of the preferred alternatives (e.g., the Western Gulf of Maine, Great South Channel) include sand and mud habitats as well as rocky habitats. The Council and NMFS have also determined that EFH within the water column is not adversely affected by fishing and does not require protection from fishing activities.

Comment 16: The Conservation NGOs argue that the Amendment and supporting documentation fails to protect EFH for managed stocks that its own analysis concludes is vulnerable to fishing gears.

Response: NMFS disagrees; the intent of the action is to minimize impacts to EFH globally and more specifically to critical groundfish species. Many of the HMA alternatives that NMFS approved protect vulnerable EFH for a variety of managed stocks. (See the EFH overlap analysis for each HMA in Volume 4; Tables 7, 13, 19, 27 and 33.) Approval of the Great South Channel HMA and disapproval of the Council's proposed alternative on eastern Georges Bank was predicated on the need to protect vulnerable habitat for juvenile cod. OHA2 also includes two new juvenile cod HAPCs. Other overexploited groundfish stocks, such as Georges Bank yellowtail flounder, occupy less vulnerable sandy habitats, and were thus not the subject of area management decisions.

Comment 17: The Conservation NGOs' letter argues that the OHA2 decision-making process and the selected alternatives ignored the important Weighted Fish Persistence modeling work done by The Nature Conservancy.

Response: NMFS acknowledges that the results of the TNC analysis were not formally incorporated into the EIS until after the Council selected preferred alternatives; however, these analyses were available to the Council prior to taking final action. Further, the Weighted Persistence Analysis did factor into NMFS's decision-making process, as noted above.

Comment 18: The Conservation NGOs argue that the Amendment fails to identify significant HMA areas, virtually

ignoring all of the habitat protection alternatives selected and the species hotspot and habitat vulnerable areas identified by the SASI, LISA, and Weighted Fish Persistence models. They assert numerous alternatives proposed by the Council's technical teams were eliminated by Committees or the Council out of hand, without any practicability analysis and based on multiple, legally irrelevant grounds.

Response: The work done by the Habitat PDT and the Closed Area Technical Team (CATT) was considered by the Habitat Committee when they decided which HMA and spawning area alternatives to retain for analysis. The Committee considered public comment and other information available to them to develop a reasonable scope of alternatives to address the Amendment's goals and objectives. These decisions removed infeasible alternatives because of extreme costs to the industry or insufficient EFH protection. The Council then used the analyses in the EIS to weigh the benefits and costs of each alternative and selected preferred alternatives that minimized EFH impacts without closing valuable fishing grounds. Practicability assessments in the EIS were based on a thorough analysis and comparison of the benefits and economic costs of all the habitat management areas considered in the Amendment.

Comment 19: The Conservation NGOs object to the Council's recommendations that would open extensive areas of known cod and other overfished groundfish EFH areas than are currently under protection.

Response: NMFS agrees that the Council's proposed action would have opened three large closed areas on Georges Bank and south of Nantucket, that provide habitats used by overfished groundfish species. We have approved the opening of the habitat and groundfish closed areas in Closed Area I and the Nantucket Lightship area, but not in Closed Area II. Our decision to disapprove the proposed alternative on eastern Georges Bank is based, in part, on the high EFH value of the northern edge of Georges Bank for cod and the low overall EFH value of the Georges Shoal area. We believe the analysis in the EIS shows that fishing impacts on more vulnerable hard bottom habitats used by overfished groundfish species (e.g., cod) will continue to be minimized by the OHA2 regulations even with the opening of Closed Area I and the Nantucket Lightship Closure Areas. Other overfished species like yellowtail flounder utilize less vulnerable sandy habitats, so opening closed areas will have less of an impact on their habitats

than opening areas more complex habitats.

Comment 20: The Conservation NGOs contend that the Amendment contains only cursory references to reduced availability of prey species and does not discuss the loss of prey species and their habitat. They state this action does not adequately analyze the potential adverse effects to EFH for managed species consistent with the Magnuson-Stevens Act's requirement to minimize the adverse effects of fishing to the extent practicable.

Response: NMFS acknowledges that prey is a component of EFH, as defined by the EFH final rule. NMFS and the Council considered effects on prey to the degree afforded by the best available science. The Habitat PDT attempted to include infaunal prey organisms in the vulnerability assessment for SASI, but there was not enough information regarding the impacts of fishing gear on individual prey species and species groups. A section of the EIS describes what is known about the loss of prey species and their habitat and an appendix that summarizes available information on their distribution in the region. There was not enough spatial information available on the distribution and abundance of prey to use in defining habitat management alternatives. In addition, the Council's approach to focus on vulnerable substrate important to managed species indirectly protects epifaunal invertebrates that occupy gravel and rocky habitats substrates and are eaten by fish and the habitats that are important to prey.

Comment 21: The Conservation NGOs contend that, with the limited exception of the eastern Gulf of Maine, there are no alternatives that expand the area of existing protections within current closed areas or the size of currently protected areas.

Response: This is accurate; however, expansion of existing protections within current closed areas or the size of protected areas is not the charge to the Council from the Magnuson-Stevens Act. NMFS and the Council have made it clear from the beginning that size of HMAs alone is not sufficiently effective for maintaining habitat protections that minimize adverse impacts to habitat to the extent practicable. It is more effective and efficient to close smaller areas with a higher proportion of more vulnerable habitat and increase fishing access to less vulnerable areas. This provides for an improved balance of short- and long-term costs and benefits for minimizing adverse fishing impacts to the extent practicable.

Comment 22: The Conservation NGOs argue that because practicability by definition means “capable of being put into practice or of being done or accomplished: Feasible,” if an EFH impact minimization measure can be feasibly done, then it must be done. In several places, they compare to the North Pacific Council’s Alaska EFH plan and the Pacific Council’s Groundfish Amendments, where there were specific analyses on the amount of revenue put “at-risk” from the measures, ranging from \$2.4 to 36.3 million, depending on the Council/alternative. They further argue that “balancing” between habitat protection and economic costs is not what is required under the EFH language.

Response: NMFS does not agree that it is necessary to compare the approaches to minimizing adverse effect from fishing on EFH from other regional fishery management councils. Each council is afforded the flexibility to determine what is practicable for its particular fisheries and habitats. The recommendations made by the North Pacific and Pacific Councils, and the decisions made by NMFS in approving those recommendations, may be looked at for guidance on a particular approach, but it is not required.

Practicability does not mean to the extent possible. NMFS disagrees with the assertion that the Magnuson-Stevens Act requires any EFH protection that is possible. The Magnuson-Stevens Act requires minimizing adverse fishing impacts to the extent practicable. NMFS agrees that this consideration includes what is feasible. But feasible means that which is capable of being done. “What is capable” is determined by an analysis and consideration of the nature and extent of the adverse effect from fishing on EFH and the long- and short-term costs and benefits of potential management measures to EFH, associated fisheries, and the nation.

Comment 23: The Conservation NGOs stated that the economic/displacement discussion “ignores the reality of New England fisheries where gross revenues for the groundfish fleet have increased dramatically in the past two decades despite ever-escalating regulatory limits and the current habitat closures.”

Response: The statement that gross revenues in the groundfish fishery have “dramatically increased” over the past two decades is not supported by the facts. While there were increases in gross revenues in a few years, the overall trend in revenue has been downward, when adjusting for inflation, since 1981. See the “Measuring the Effects of Catch Shares Project” <http://www.catchshareindicators.org/>.

Comment 24: The Conservation NGOs further contend that the practicability analysis fails to adequately account for the role that closed areas play in hedging against the numerous forms of uncertainty inherent in both the marine environment and in attempting to manage an extractive industry within that natural environment. The letter also argues that the practicability analysis fails to provide a model or other meaningful support for its assumptions related to the likely human behavioral responses to management measures. The Conservation NGOs said that the heavy reliance on a simplistic analysis of the impacts of lost revenues on the fleet without consideration of human behaviors that might mitigate against potential short-term loss renders the estimate of the practicability of a given measure grossly unreliable and often improperly inflammatory.

Response: The Council considered potential behavioral responses to the degree available information supported responsive measures. The EIS acknowledges that there was no objective way to predict how fishermen would respond to new area closures, and the results of the analysis are described as “revenue at risk” calculations. While these calculations could have over-stated costs of area closures, NMFS believes that they provide a reasonable basis for incorporating potential uncertainty into what may be practicable. Further, our partial approval decisions were based on a careful evaluation of the habitat benefits and economic costs of the proposed alternatives.

Comment 25: The Conservation NGOs maintain that NEPA obligates NMFS to make available a redline version of the EIS for public review, and failure to do so violates NEPA requirements. The groups also object to the “ad-hoc” method of developing the final Council alternative on Georges Bank because it was not within the range of previously analyzed alternatives. In addition, the letter points out that The Nature Conservancy’s weighted persistence analysis was not formally incorporated into the draft EIS prior to the June 2015 decision meeting. The environmental organizations also argue that the EIS fails to include an adequate range of alternatives because, while the Council included an alternative that would have removed all closures, there was not an equally extreme alternative on the other end of the spectrum. The group also contend that EIS is deficient in that it fails to develop or analyze any alternatives that include mitigating the ubiquitous impacts of lobster gear on EFH. The letter goes on to argue that the

analysis in the Amendment is further flawed by its failure to consider all the adverse environmental effects to EFH associated with the alternatives. Instead, the Conservation NGOs argue that the analysis relied too heavily on the SASI/LISA tools to predict all environmental impacts.

Response: NMFS disagrees that the Council and the Agency failed to appropriately comply with NEPA. There is no requirement to provide a “red-line” version of the EIS for public review. Further, the Council did not limit itself to only one end of the spectrum of possibilities. The Amendment included a reasonable range of alternatives that addressed a wide spectrum of impacts that were detailed with thorough analysis that sufficiently informed the public, the Council, and NMFS. This allowed the Council and us to take a hard look at the impacts of the potential choices. For example, each sub-region, with the exception of the Central Gulf of Maine, which was smaller than other areas and addressed by changes to the Cashes Ledge area, included an alternative or a potential combination of areas that would have dramatically increased either the total size or total vulnerable habitat covered by a closure area. The Council’s selection of Alternative 10 on eastern Georges Bank, while insufficient for addressing the requirements of the Magnuson-Stevens Act and the Amendment’s goals and objectives, was within the range of alternatives previously analyzed. Further, the Georges Shoal HMA that the Council recommended was included in Alternative 7, and the concept of the Northern Edge Reduced Impact HMA, combined with a mobile bottom-tending gear closure to the south, was substantially and materially similar to Alternative 9.

The Conservation NGOs do not provide any information that was overlooked that would have better informed the Council’s actions or our decision. Nor do they provide information that contradicts our decision. The groups specifically point to the Bigelow Bight areas designed by the CATT as an example that would have better informed the Council’s decision if it were included within the range of alternatives. However, a large version of that area was incorporated in Western Gulf of Maine Alternatives 3 and 4, and a smaller version was in Western Gulf of Maine Alternative 5. Some of the CATT areas in the Western Gulf of Maine extended into state waters, and the Council determined it would be inappropriate and ineffective to implement closures in state waters

because they would only apply to federally permitted vessels and only fishing in state-waters would still be allowed. The Nature Conservancy's weighted persistence analysis was not formally incorporated in the draft EIS that was prepared for the April and June 2015 Council meetings because the information was received too late to be directly incorporated in the document. However, the information was distributed to Council members and was made available to the public in advance of those meetings.

The SASI model that was used as a first step in identifying potential HMAs included an analysis of the effects of fixed gears, such as lobster traps, and concluded that those impacts are minimal. For this reason, they were not considered when developing gear management options in OHA2. As described in the response to Comment #15, NMFS determined that the impacts to non-rocky habitats were addressed appropriately. Further, the Council analyzed and selected preferred alternatives partly based on output from the SASI model as well as information from a number of other sources, not just the vulnerability scores from the model. We are not sure what is meant by "all the adverse environmental effects to EFH associated with the alternatives." The only effect the Council is obligated to minimize is adverse impacts from fishing. To the extent that these effects are mitigated by natural disturbance factors, these were considered by the Council and NMFS in selecting and approving final HMA alternatives.

Comment 26: The Conservation NGOs supported the revised EFH designations; however, they contend that because the Phase I EFH designations were completed in 2007 and reviewed in 2011, they are now beyond due for the mandated five-year review, even before they are approved and implemented. They state NMFS must initiate action to analyze and confirm the validity of the information supporting these changes. Any required revisions should be immediately addressed through an appropriate action.

Response: The EFH final rule states that EFH designations "should be" revised, as necessary, every five years. The regulations do not require this. Updating the designations further in this action was impracticable. It could have further complicated and delayed this action. In practice, there is a great deal of variability in the timing of the EFH reviews conducted by the Councils and NMFS from region to region. Because it has been 20 years since the original EFH designations were approved in the region, we agree that

the Council will need to consider review of EFH designations in upcoming future actions. That review, however, is not part of the decisions made in this document.

Comment 27: The letter noted that the Conservation NGOs are deeply concerned that known coral areas in the Gulf of Maine that are essential habitat for Acadian redfish were not designated as HAPC, and requested that NMFS direct the Council to review those habitats for designation under the HAPC criteria, especially because the Council's Coral Amendment will not protect those areas.

Response: The EFH Final Rule does not require the Councils or NMFS to establish HAPCs. The Council is currently finalizing its Deep-Sea Coral Amendment, which will address deep-sea coral protection issues in the Gulf of Maine.

Comment 28: The Conservation NGOs further insisted that NMFS initiate action to use the final rule for OHA2 to confirm that each HAPC reflects current understanding about the vulnerability and susceptibility of these areas to fishing impacts. The comment states that any required revisions should be immediately addressed through an appropriate action.

Response: There is an analysis in the EIS that shows there is a high degree of spatial overlap of EFH within the HAPCs for several groundfish species that occupy more vulnerable hard bottom habitat. The EFH value for adult Atlantic cod, for example, is high in four of the five HAPCs and high in three of them for juvenile cod. The results for haddock are similar. Winter flounder EFH overlaps highly in three of the five HAPCs. Although there is no analysis that directly addresses the vulnerability of these areas to fishing impacts, the HAPCs are clearly well located in areas with vulnerable habitats used by managed species of groundfish. The EIS also describes, in general terms, the susceptibility of each HAPC to anthropogenic stresses, including fishing, because that is one of the criteria that were used to justify the designations. There are also maps indicating how well the HAPCs coincide with the proposed HMAs. In some situations, an HAPC is entirely contained within an HMA and, in others, it is partially included in an HMA. NMFS agrees with the Council that the HMAs include appropriate habitat protections associated with the HAPCs, with the exception of the Northern Edge Juvenile Cod HAPC. The proposed management measures in the Northern Edge Reduced Impact HMA did not appropriately protect the HAPC

from fishing impacts. This was one reason why the proposed alternative on Georges Bank was disapproved.

Comment 29: Generally, the Conservation NGOs believe that the habitat protection measures in the Gulf of Maine do not minimize the adverse effects of fishing on habitat to the extent practicable. Specific to the eastern Gulf of Maine, the groups contend that because vulnerable EFH must be protected from fishing impacts to the extent practicable in this amendment, selection of the Small Eastern Maine HMA as the preferred alternative is irrational. The alternative is not the most protective of the alternatives considered or of alternatives considered but rejected earlier on practicability grounds, coming in somewhere "in the middle" of the alternatives considered in the area. The Conservation NGOs also assert that this alternative also encompasses very little of the areas identified by The Nature Conservancy in its peer-reviewed Weighted Persistence Analysis, which identified this area as one of the highest scoring areas in the entire region.

Response: NMFS did note some concerns when preferred HMAs were being selected that prohibitions on the use of mobile bottom-tending gear in this area would do little to minimize the adverse impacts of this gear because there is little use of that gear in the area currently. NMFS acknowledged that the overall increase in protection in the region is relatively small. However, the same could be said for the other HMA alternatives in eastern Maine. This area was correctly deemed the most practicable because it was not adjacent to disputed waters just inside the U.S.-Canadian border and because it provided nearly the same degree of habitat protection as the Large Eastern Maine area. The primary benefit of any HMA in eastern Maine is to protect vulnerable bottom habitats from any future resumption of groundfishing, which used to be more active there.

Comment 30: In the Central Gulf of Maine, the Conservation NGOs contend that the failure to designate the entire Cashes Ledge Closure Area as an HMA with appropriate protections is inconsistent with statutory mandates, the goals and objectives of the Amendment, and the extensive record associated with this action. The letter says that it was one matter to have this area treated largely as a groundfish closure historically, but the Amendment process is intended to advance all feasible EFH habitat protection as such, not just as a beneficiary of closures or openings associated with managed species FMPs. The commenters

maintain that the entire current Cashes Ledge Closure Area should be identified as a habitat management area and managed accordingly to prohibit all commercial fishing, including gillnets in the water column EFH and the pelagic mobile gears may contact the bottom. The commenters contend that managing the area solely as a "groundfish mortality closure" leaves open the possibility that it will be re-opened by the Council whenever it determines that groundfish stock conditions have improved sufficiently.

The letter also argues that it is inconsistent with statutory purposes and the goals and objectives of the Amendment to reduce the size of the existing Cashes Ledge Habitat Closure area by 27 percent. In addition, the commenters suggest that the Council's proposed action in this sub-region was based in part on poor quality substrate data and a reliance on "general knowledge," particularly in regard to the extent of rocky bottom in the vicinity of Cashes Ledge and the predominance of muddy substrate in the deeper portions of the Cashes Ledge Closure Area. Re-designating current groundfish closures as habitat closures and expanding the existing protections for the Cashes Ledge Closure Area to include all gears would also represent an appropriate precautionary approach in light of the lack of survey data available for this area and the severely depleted status of Gulf of Maine cod.

Response: NMFS agrees with the Council recommendation that maintaining the gear regulations that have been in place since the closure was established in 2002 meets the EFH requirements to minimize the adverse effects of fishing on habitat. Maintaining these restrictions allow the protections afforded to the diversity of habitat types it encompasses to remain in place and more effectively protect the resident groundfish resources from fishing than regulations associated with HMAs that only prohibit the use of mobile bottom-tending gears. NMFS agrees that this is a reasonable approach to achieving the stated goals and objectives of the Amendment. As noted in the response to Comment #4, the Council voted to maintain the Cashes Ledge Closure Area in response to our concerns that the goals and objectives relative to critical groundfish life stages, among others, would be compromised if these protections were removed. The Council could decide in the future to remove the fishing restrictions in response to the full recovery of Gulf of Maine cod and other important groundfish stocks. The Council would need to consider how the changes minimize the adverse

effects of fishing on EFH to comply with the Magnuson-Stevens Act.

NMFS does not agree that this area should be designated as an HMA in order to prohibit all commercial fishing activity, including mid-water gillnets and trawls. Mid-water gears are not designed or intended to contact the bottom and do not impact marine habitats in any significant way so there is no need to prohibit their use in this area. In addition, the analysis in the EIS indicates that the Cashes Ledge HMA could be reduced in size without compromising the habitat protection benefits of the closure. NMFS agrees, and is implementing the Council's recommendation to modify the HMA on Cashes Ledge. NMFS agrees that substrate and resource survey data quality is poor in the central Gulf of Maine, but is convinced that the Council made the best possible use of available scientific information and did not make any unjustifiable decisions when selecting preferred alternatives in this sub-region.

Comment 31: In the Western Gulf of Maine, the commenters argue that the Amendment's proposal to reduce the size of the current areas with year-round habitat protection by 25 percent and to increase the gear exemptions within the closure is inconsistent with section 303(a)(7) requirements, unless it were infeasible for the Council to realize greater habitat and managed species benefits by protecting a larger area with more restrictive measures. Based on the information in the EIS, the commenters argue that the No Action Alternative 1 (unmodified) is clearly the rational preferred choice to the Western Gulf of Maine Preferred Alternative, as it realizes more habitat benefits at virtually the same fisheries cost.

Response: We approved the Council's proposed action because the bottom habitats just outside the eastern boundary of the current groundfish closure are primarily deeper, low vulnerability mud habitats. NMFS determined that allowing access to this area and maintaining the prohibitions on a wider variety of gears capable of catching groundfish in the smaller area would continue to minimize the adverse impacts of fishing and protect groundfish resources at approximately the same level. Allowing the groundfish fleet into productive fishing grounds located just outside the eastern boundary of the Western Gulf of Maine HMA maintains approximately the same level of protections in a less costly, more practicable way.

NMFS disagrees that that the exemption for shrimp trawls in the northwest corner of the closed area

negatively impact the protective measures of the closures. Shrimp trawls are not allowed to have ground cables; they are used in deeper, muddy bottom habitats; and are equipped with a grate to reduce the catch of juvenile groundfish. Furthermore, the shrimp resource is currently in very poor shape to the extent that fishing has been completely or severely restricted in recent years.

Comment 32: The Conservation NGOs argue that the Council should have selected Western Gulf of Maine Alternative 3 with Options 1 or 2 or Alternative 4 with Options 1 or 2, arguing that both perform the best in terms of minimizing the impacts of fishing on EFH and, with only moderately to slightly negative social and economic costs, both of those alternatives are feasible. They assert that any other selected alternative would be inconsistent with the record and contrary to law.

Response: Both of these alternatives include the Large Bigelow Bight HMA, which the Council did not propose for approval because of their negative social and economic costs. NMFS agrees with the Council's determination that they would incur unacceptable costs to the industry, particularly the inshore groundfish fishery and are, therefore, impracticable.

Comment 33: The commenters suggest that Council's proposed alternative on George Bank should be rejected by NMFS and returned to the Council for further development, public review and comment, and future action because the proposed assortment of HMAs do not minimize, to the extent practicable, the effect of fishing on the EFH in the Georges Bank sub-region. Of the alternatives considered, the alternatives that scored the highest in terms of biological benefits to habitats and managed resources from the habitat protection measures proposed were Alternative 6, Options 1 and 2 and Alternative 8, Options 1 and 2. The Council determined these alternatives (Alternatives 6 & 8 with Options 1 & 2) to be superior to the proposed suite of management measures (Alternative 10 with Options 1 & 2) for habitat generally and the large mesh groundfish resource. Economically, the preferred Georges Bank alternative (Alternative 10) is expected to provide similar short- and long-term economic impacts as the nine other alternatives/option combinations that were considered, including the No Action alternative.

Further, the letter notes that there is little, if any, social or economic cost to continuing the closed habitat areas on Georges Bank because these areas have

been closed for many years. The limited access scallop fishery will continue to be profitable if these areas remain closed. In addition, the proposed Georges Bank HMAs do not satisfy the objectives of OHA2 to improve protection of critical groundfish habitats or improve refuge for critical life stages (e.g., spawning fish) and they are inconsistent with the Council's designation of the Northern Edge Juvenile Cod HAPC that was established in 1998.

Response: NMFS agrees that there are no new direct costs to the industry if the status quo is maintained, although we acknowledge there has been substantial lost opportunity costs due to the closure of the northern edge that would continue. (See Comment #7.) NMFS agrees with the comments relating to the goals and objectives of OHA2 and the comment that the Council's proposal for eastern Georges Bank is inconsistent with the designation of the area as a juvenile cod HAPC, for the reasons described in the preamble. Because NMFS determined that the combination of newly approved and existing measures that will continue allow each of the Council's FMPs to comply with the EFH requirements of the Magnuson-Stevens Act, we did not remand the entire proposal to the Council for action. The Council may choose to revisit habitat protection on the northern edge, and NMFS would provide the necessary support and guidance throughout that process as we did for this Amendment. In order to address a number of the concerns cited in the preamble regarding the disapproved measures, NMFS contends that any future action should thoroughly evaluate the geographic extent, duration, and frequency of any future scallop dredging activity within any new access area on the northern edge of the bank and the habitat features that are used by groundfish at critical life stages that need to be protected from impacts.

Comment 34: Specific to the Southern New England region, the commenters note that the Amendment considered more than a dozen alternatives and options to conserve EFH in this sub-region, yet the Council proposed an alternative that does not minimize adverse effects on EFH to the extent practicable, does not satisfy the goals and objectives of the Amendment, and does not effectively conserve the newly designated Habitat Area of Particular Concern in the Great South Channel sub-region. The Council considered an alternative (Alternative 3) that could have achieved these multiple tasks in Great South Channel East HMA, yet chose a less protective area for its

preferred alternative. In addition, by failing to account for the displacement of fishing effort, the Conservation NGOs suggest that the EIS does not adequately evaluate the practicability of any of the action alternatives that were considered.

Response: The Council is not required to select the most protective alternative, regardless of economic impact, but must also consider their costs and benefits. The analysis in the EIS shows that the selected alternative does minimize impacts to the extent practicable and complies with the requirements of the Magnuson-Stevens Act. NMFS agrees with the Council that the Great South Channel HMA is a practicable HMA that minimizes adverse impacts of fishing on vulnerable EFH.

Further, unlike the Northern Edge HAPC, the Great South Channel Juvenile Cod HAPC is vulnerable to non-fishing impacts, as well as fishing impacts. The Council considered the HAPC and how to mitigate or compensate for adverse fishing impacts. NMFS determined that the Council's approach to overlaying fishing restrictions on the substantial amount of complex, gravel, cobble, and boulder habitat within the HMA, but outside of the HAPC, is an appropriate approach in this area, rather than simply relying on the boundaries of the HAPC to dictate where the HMA protections should be.

Comment 35: The chief concern of the Conservation NGOs with the Council's proposed action in Southern New England is the temporary one-year exemption for hydraulic clam dredges that allows them to continue fishing in most of the area. The Conservation NGOs maintain that if clam dredging is allowed to continue in areas of vulnerable bottom habitat after the exemption expires, the habitat protection benefits of the HMA will be substantially compromised.

Response: As approved, clam dredging will be prohibited in the Great South Channel HMA after one year. The Council considered the clam fishery's unique fishing activity as providing a possible basis for allowing limited fishing that would not substantially impact EFH for an additional year. The 1-year delay in the closure was predicated on the understanding that the Council and the clam industry would be working to identify the less vulnerable portions of the Great South Channel HMA where hydraulic clam dredging could be allowed to continue in such a way as to not compromise the protective benefits of the HMA overall. NMFS is working with the Council to ensure that any future framework adjustment achieves these goals and, as stated in the framework's problem

statement, that any potential long-term clam dredge exemption meets the goals and objectives of this Amendment.

Comment 36: The Conservation NGOs further argue that all of the alternatives that use gear modifications, such as trawl cable restrictions or elevating disks, to reduce the impacts of fishing on EFH rely on unproven methods to reduce adverse effects of fishing on EFH. Because these gear modification options would allow continued fishing in these vulnerable areas with no objective assessment of their singular or cumulative adverse effects on EFH, the commenters argue that the measures should be disapproved.

Response: NMFS agrees and has disapproved the Council's recommendation on Cox Ledge based on the recommendation of the Council's PDT that there was still too much uncertainty regarding the loss in efficiency from the modified gears to understand if adverse effects would be increased or reduced.

Comment 37: The Conservation NGOs state that the DHRAs will enhance habitat research and adaptive management, but that the proposed sunset provision that allows the DHRAs to lapse after three years if no habitat research is undertaken is unrealistic. The process of developing a research proposal, obtaining funding, and completing all necessary planning can take well more than three years.

Response: NMFS agrees that the DHRAs are an important component of the Council's overall plans to continue to improve habitat research and management. NMFS disagrees that the 3-year sunset provision is inadequate. The EIS describes a variety of considerations that the Regional Administrator should take into account when determining if a DHRA designation should be maintained, including whether funding has been requested (not simply obtained). The most important consideration will be that the research requires the DHRA to be successful and that it supports achieving the Council's stated habitat research goals.

Comment 38: The Conservation NGOs argue that the reductions of spawning measures from the status quo, specifically the reduction of current year-round groundfish closure areas to the seasonal areas recommended in the document, insufficiently protect spawning stocks and that there should be no exemptions from the spawning closures because any fishing can disturb spawning activities. They further assert that the spawning measures need to address all managed species and all closure areas should also be

redesignated as spawning protection areas. They do not support selection of Northeast multispecies Framework Adjustment 53 spawning measures.

Response: The Council has and continues to address spawning protection with a variety of approaches, generally relying on species- or fishery-specific actions. NMFS agrees with the Council that the measures proposed in this action augment existing spawning protection measures previously enacted, and, in combination with the approved HMAs, achieve the requirements to minimize to the extent practicable the adverse effects of fishing on EFH.

Comment 39: The Conservation NGOs contend that the proposed frameworking measures in the Amendment are directly contrary to NMFS guidance and should be disapproved. By adopting an exhaustive list of issues that can be addressed in a framework adjustment, the Council will make virtually anything possible through an abbreviated framework process that can take place in as few as two Council meetings. The commenters argue that this approach will make the proposals to modify, adjust, or reduce management restrictions implemented through this Amendment a continual target and will not provide these areas the long-term protection that they require.

Response: NMFS disagrees. Framework measures are limited to adjustments to FMPs and amendments. The frameworkable measures allow the Council to modify or adjust previously considered measures through a less onerous approach, provided the measures are not novel or substantial, and this is considered when determining in what manner a council may address the need for management changes. Further, the Council's collection of FMPs will still be required to comply with the requirements of the Magnuson-Stevens Act to continue to minimize to the extent practicable the adverse effects of fishing on EFH. As such, substantial changes in habitat measures would only be permitted if the Council could demonstrate, and NMFS agreed, that the changes would not compromise that requirement.

Comment 41: The Fisheries Survival Fund (FSF), representing over 250 full-time active Atlantic scallop limited access permit holders, submitted a detailed comment recommending that we fully implement the amendment as recommended by the Council as quickly as possible, with the exception of the "lobster closure" within Closed Area II. FSF contends that fishery closures in historic areas of scallop abundance, as considered in certain alternatives,

directly threaten the future success of scallop area management. Providing access to the most productive areas decreases scallop dredge bottom time and promotes bycatch reduction, cost efficiency, and safety, and fosters economic stability in our fishing communities.

FSF notes that the Magnuson-Stevens Act allows actions for habitat management only within a "practicability" standard, and requires FMPs only to avoid, minimize, or compensate for adverse impacts to habitat from fishing, and that the Council's recommendations properly weighed these mandates in choosing preferred alternatives from the many options available. That is, the letter contends the Council's recommendations balanced a comprehensive and strategic approach to protecting the improvement of fish habitat in New England with economic benefits to fisheries communities and the achievement of optimum yield.

Response: NMFS agrees that the Magnuson-Stevens Act requires the Council to avoid, minimize, or compensate for adverse effects from fishing on EFH in manner that is practicable. NMFS determined that, for the majority of the Council's recommendations, this requirement was met. However, for the reasons described above, the Council's recommendations for eastern Georges Bank did not. As FSF noted, the Magnuson-Stevens Act requires a habitat protection measure to meet two standards. While the recommendations for this region may have been practicable from an economic standpoint, they fell short of minimizing or compensating for adverse effects of fishing on highly vulnerable habitat, and within an HAPC designated specifically because of its vulnerability to fishing impacts.

Comment 42: FSF notes that fishery management decisions must be based on the best scientific information available. FSF asserts that, despite the Council's thorough efforts to update the scientific record and the abundance of scientific information upon which its preferred alternatives were selected, NMFS and the EIS continue to inappropriately rely on biased, qualitative statements to negatively characterize the Council's preferred alternative for Georges Bank (and, to a lesser extent, for Southern New England). The letter states that NMFS "falsely rel[ied] on the premise that any decrease in total area where fishing is prohibited results in negative impacts to habitat protection—regardless of the quality of habitat located in those areas—and that closed areas, once closed, should not re-open

regardless of what science dictates." FSF also notes that not only does the SASI model not support the contention that "bigger is better" for habitat closures, but asserts that NMFS staff advocated for this approach.

Response: NMFS agrees that fishery management decisions need to be based on the best scientific information available, and that overall, the Council's recommendations meet these standards. However, the SASI model and LISA cluster analyses were not developed to be the sole basis for habitat management decisions. For example, in areas where there is relatively poor data, the SASI model outputs, and consequently, the LISA cluster analysis, can overestimate the coverage of vulnerable substrate in a specific area if a single data point is "blown out" as the grid develops. This is why the Georges Shoal HMA appears, through the LISA cluster results, to be highly vulnerable. The Council's PDT, recognizing this shortcoming, removed the layers of the LISA cluster analysis to examine the underlying substrate data. Doing so, reveals that the Georges Shoal HMA is not a highly vulnerable area. Further, the SASI/LISA analyses are not the only measures of habitat value in the EIS. As described above, the utility of the area to fish stocks, represented by the EFH overlap analyses, demonstrate that the Georges Shoal HMA value is low, despite its much larger size, than current Closed Area II Closure Area. FSF assertion that NMFS required a "bigger is better" approach is an incorrect characterization of the Agency's advice during the development of the Amendment and of our decision. NMFS staff routinely pointed to the idea that smaller, higher quality closures were preferable to larger, less efficient closures in areas of less vulnerable habitat. We contend that our decision to disapprove the Council's recommendation on eastern Georges Bank supports this approach. The combination of the Council's two mobile bottom-tending gear closures are significantly larger than the existing Closed Area II habitat closure; however, these areas are less efficient in protecting vulnerable habitat, and, despite their size, include less EFH for managed species and life stages, as described above.

Comment 43: FSF states that NMFS must approve any FMP amendment submitted by a council unless that amendment is inconsistent with the law; that OHA2 is consistent with all relevant laws; therefore, it must be implemented as submitted, with the exception of the lobster closure, "even if some on NMFS' staff may not have

selected the same alternatives the Council did.”

Response: NMFS agrees that we are obligated to approve any FMP amendment submitted by a council if that action is determined to be consistent with applicable law. NMFS disagrees that all of the Council’s recommendations met this standard and; therefore, disapproved the portions of the Amendment that did not. Throughout the development of the Amendment, there were alternatives in many areas that NMFS staff appropriately advocated for that were ultimately not selected as preferred. However, with the exception of eastern Georges Bank and Cox Ledge, NMFS approved the Council’s recommendations.

Comment 44: FSF states that through the process of developing this amendment, the Council and its committees made enormous scientific advances using both new and existing analytical tools, relying on far more detailed substrate profiling information that was not available when the existing closures were implemented in the first Omnibus Habitat Amendment in 1998, such as scallop video survey work by the University of Massachusetts’ School for Marine Science and Technology, and that, therefore, spatial management for habitat conservation purposes will be improved by the selection of any science-based alternative.

Response: NMFS agrees, however, the scientific information presented in the EIS by the Council recognizes that there are areas within existing closures that are highly vulnerable to the adverse effects of fishing and that warrant continued protection. NMFS determined that the Council’s recommendations for eastern Georges Bank and Cox Ledge were not adequately supported by the scientific information in the EIS, for the reasons described above.

Comment 45: FSF notes that the supporting analyses for the EIS and proposed rule completely omit any consideration of possible unintended consequences that can, and do, result from effort displacement in areas with mixed fisheries. FSF contends that such consequences could readily nullify any possible benefits of closures or even incur greater harm to fishery resources. Failure to consider fishermen’s behavioral changes associated with closures can undermine the achievement of fishery management goals.

Response: NMFS agrees that displacement of fishing effort from an area that is closed into an area that is open to fishing could have an

unintended consequence of increasing habitat impacts in the open area, especially if it causes increased impacts on sensitive habitats that have not previously been exposed to much bottom fishing activity.

However, this is not likely to happen in the region affected by this action. With the exception of the clam fishery operating in proposed habitat management area east of Nantucket, none of the new HMAs that were approved are located in areas where there is much mobile bottom-tending gear fishing activity that could be displaced into vulnerable habitat areas. Hydraulic clam dredge vessels that fish here are likely to shift into nearby, less vulnerable sandy habitats in the current Nantucket Lightship Habitat Management Area (which will open because of OHA2) if and when they are required to stop fishing in the new Great South Channel HMA. In general, any vessel that is forced to leave a recently closed area is more likely to move into an area that is already being fished rather than a new undisturbed area, in which case the effects of the additional effort will have little added impact on the quality of bottom habitats. In this more likely scenario, the habitat benefits of prohibiting fishing in a closed area would exceed the habitat losses caused by additional bottom contact in an open area.

Comment 46: FSF also suggests that because management measures were developed based on consideration of whole sub-regions, the Council’s proposed measures provide far better protections for the depleted Georges Bank cod stock. FSF’s letter states that the proposed action on Georges Bank closes approximately 1,120 nm² of ocean bottom in areas of “high vulnerability.” They further note that the areas cover over 600 nm² of cobble, boulder, and granule pebble habitat, which in total exceeds all three no action habitat closures combined, and that a large area that is currently open with “demonstrably high habitat vulnerability on Georges Shoal would be completely closed to fishing.” They also note that most of the existing Northern Edge habitat closure would remain closed and that only the Northern Edge Reduced Impact HMA would be open to rotational scallop fishing. Last, they state that the Great South Channel HMA covers 1,400 nm² that is highly vulnerable, and that this alternative “includes more than sufficient mitigation measures to offset this action.”

Response: As noted above, the suggestion that the Georges Shoal HMA is more vulnerable than the Northern

Edge HAPC area is demonstrably incorrect. Our conclusion is based on other indicators of habitat suitability and vulnerability in addition to the output from the SASI model, which the Council relied on to initially identify areas of more vulnerable habitat where other information (*e.g.*, EFH value, substrate composition, and stability) proved to be more useful. The mean SASI vulnerability scores for bottom trawls for the Georges Shoal area are higher than for the HAPC, but only by about 4 percent and because the HAPC was sampled more intensively. Data support for substrate—the key underlying data for the SASI model—is much higher there than on Georges Shoal.

We agree that it is important to evaluate the benefits of spatial habitat management measures across individual groundfish stocks and that the effects of these alternatives on the Georges Bank cod stock in the Great South Channel and Georges Bank sub-region was not explicitly weighed against each other in this action. Nevertheless, this action includes the goal of improving groundfish protections overall. Because the Georges Bank cod stock is in such poor condition, protection for juvenile cod in both the Great South Channel and on the northern edge of Georges Bank is a positive element of this action. Improving benefits to the Georges Bank stock of cod is best achieved by approving the Great South Channel HMA and disapproving the proposed HMA in Closed Area II. Further, the rationale for the Council’s proposals on eastern Georges Bank does not adequately justify allowing an increase in adverse effects from fishing on an HAPC that was designated specifically because of its vulnerability to fishing.

Comment 47: The FSF letter also contends that the HAPC is appropriately treated because Reduced Impact HMA extends into currently open fishing area (that would remain open under the Haddock SAP rules) to compensate for impacts in the HAPC. Further, the comment states, “it is entirely permissible to allow fishing in the HAPC.” They also note that rotational scallop fishing will not have unlimited adverse habitat impacts and that any increased impacts in Reduced Impact HMA are offset by reduced bottom contact time.

Response: NMFS agrees that the designation of an area as an HAPC does not inherently require a fishing closure in the area. However, the Council provided insufficient information to understand which aspects of the area are critical to juvenile cod survival, how those aspects of the habitat are impacted

by scallop dredges, the recovery time for such impacts, and the anticipated rotation periods for scallop fishing that would sufficiently address the practicability of any proposed fishing or protective measures. Without a more full discussion of these critical components, it is not possible to sufficiently evaluate the nature, extent, and scope of rotational scallop fishing that may be permitted in the Northern Edge HAPC. The Council's recommendations in this Amendment would open the most vulnerable portions of the HAPC and do not adequately avoid, mitigate, or compensate for those adverse effects. The Council's recommendation to allow even rotational fishing in this sensitive habitat appears to be inconsistent with its own rationale for the designation that the habitat in this area is particularly susceptible to adverse fishing effects and warrants particular concern and consideration.

Comment 48: The scallop industry argues that the "lobster closure" should be rejected because it violates Council policy and adequate alternatives were not analyzed.

Response: NMFS is disapproving the lobster closure in conjunction with the recommendations on eastern Georges Bank. We agree that further discussion of this issue would be beneficial if the Council decides to revisit habitat management in Closed Area II.

Comment 49: FSF supported the designation of a DHRA within the existing Closed Area I South in Georges Bank. The scallop industry proposed this area to be dedicated to research because of the importance of ongoing scallop studies there. The fleet has collected video survey data in the area that will serve as baseline information for future studies. These studies will provide valuable information about scallop productivity, distribution, abundance, and growth. The designation of the DHRA is expected to streamline the permitting process for these research activities and to reduce administrative hurdles. Areas that are designated as DHRAs must have sunset provisions that will open an area if there is no habitat research conducted there within three years. FSF contends that there is no benefit to excluding commercial fishing from a DHRA if there is no interest in or capacity for actively pursuing research there.

Response: NMFS agrees and is implementing the DHRAs with the sunset provisions, as recommended.

Comment 50: Additionally, FSF supported adding changes in HMA designations or restrictions to the list of

items that may be modified through framework action.

Response: NMFS agrees and is implementing the recommendation as proposed.

Classification

The Administrator, Greater Atlantic Region, NMFS, determined that the approved portions of OHA2 are necessary for the conservation and management of the New England Fishery Management Council's fishery management plans and that the final rule is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

The Council prepared a final environmental impact statement for the Omnibus Essential Fish Habitat Amendment 2. The EIS was filed with the Environmental Protection Agency on October 18, 2017. A notice of availability was published on October 27, 2017 (82 FR 49802). In approving the amendment on January 3, 2018, NMFS issued a Record of Decision (ROD) identifying the selected alternative. A copy of the ROD is available from NMFS (see **ADDRESSES**).

This rule has been determined to be significant for purposes of Executive Orders (E.O.) 12866. Thus, this final rule is considered an E.O. 13771 deregulatory action. For the reasons stated earlier regarding updated scallop biomass information, in the accompanying EIS, and "Description of Methods and Supplemental Analysis of Economic Benefits of OHA2," we anticipate this rule will result in additional harvest opportunities.

Congressional Review Act: The Office of Information and Regulatory Affairs has determined that this rule is major under 5 U.S.C. 801 *et seq.* Under 5 U.S.C. 808, the minimum 60-day delay in effectiveness required for major rules is not applicable because this rule establishes a regulatory program for a commercial activity related to fishing.

This rule does not contain policies with Federalism, as defined in E.O. 13132, or "takings," as clarified in E.O. 12630.

Section 553 of the Administrative Procedure Act (APA) establishes procedural requirements applicable to rulemaking by Federal agencies. The purpose of these requirements is to ensure public access to the Federal rulemaking process and to give the public opportunity for comment as well as adequate notice. Because this rule opens some areas that are currently closed, those portions of the regulations are relieving restrictions and, pursuant to 5 U.S.C. 553(d)(1), are not subject to

the APA's requirement for a 30-day delay in effectiveness.

Additionally, pursuant to 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries finds good cause to waive the 30-day delay in effectiveness for the remainder of the rule's provisions because such a delay is unnecessary and contrary to the public interest. The delayed effectiveness is intended to provide adequate time for the affected public to comply with the new regulations. Because this rule is being implemented at the start of the fishing year when these types of changes are typically implemented and expected, there is minimal effort or time needed for vessel owners to come into compliance with the new measures, which generally only requires updating navigation systems to identify the new areas. In addition, fishermen are accustomed to adjusting to changes in available fishing areas.

Implementing the measures at the start of the fishing provide allows the fishing industry the maximum amount of time to fish in newly available areas. As such, the delay in effectiveness is unnecessary to allow sufficient time for vessel owners to comply with the new structure. Further, because NMFS's partial approval of the Council's recommendations was announced in early January, the affected public, *i.e.*, primarily the commercial groundfish, scallop, and clam industries, have been well aware of what changes are coming and have been anticipating the changes implemented via this rule.

Although this rule does impose new restrictions in that certain areas previously opened will be closed, the overall impact of the measures being implemented is a reduction in management restrictions in the majority of the areas considered. Particularly significant is the removal of Closed Area I and the Nantucket Lightship Closure Areas that will allow the scallop fishery, via Scallop Framework Adjustment 29, to establish access areas and allocations that are projected to result in an additional \$140–160 million in potential fishing revenue for the scallop fishery in the coming year. The regulated entities will benefit far more from these provisions that lift restrictions going into immediate effect, than they would be disadvantaged by the waiver of the 30-day delay for the aspects of the rule that impose restrictions. Even in areas that are resulting in new closures, the impacts are minimal because the Eastern Maine HMA closure is not expected to have any immediate impact on mobile bottom-tending gear fishing; the hydraulic clam dredge fishery is

exempted for one year from the date of implementation of the Great South Channel HMA; the Closed Area I Seasonal Closure is the same footprint as current year-round closure; and the Spring Massachusetts Bay Spawning Closure is small and not effective until April 15. Thus, NMFS finds good cause to waive the 30-day delay in effectiveness because it is in the regulated entities' interest.

A final regulatory flexibility analysis (FRFA) was prepared for this action. The FRFA incorporates the IRFA, a summary of the significant issues raised by the public comments in response to the IRFA, and NMFS responses to those comments, and a summary of the analyses completed to support the action. A copy of this analysis is available from the Council (see **ADDRESSES**). A summary of this analysis is provided below.

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. As part of this rulemaking process, a letter to permit holders that also serves as a small entity compliance guide was prepared. Copies of this final rule are available from the Greater Atlantic Regional Fisheries Office (GARFO), and the guide, *i.e.*, permit holder letter, will be sent to all holders of any GARFO permit because many of the measures impact fisheries at the gear, rather than permit, level. The guide and this final rule will be available upon request.

A Statement of the Need for and Objectives of the Rule

A statement of the necessity for and for the objectives of this action are contained in the Omnibus Amendment EIS, Volume 1, and in the preamble to this final rule, and is not repeated here.

A Summary of the Significant Issues Raised by the Public in Response to the IRFA, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Final Rule as a Result of Such Comments

No significant issues relative to the IRFA were raised in the public comments.

Description and Estimate of the Number of Small Entities To Which the Rule Would Apply

The Small Business Administration (SBA) defines a small business as one that is:

- Independently owned and operated;
- Not dominant in its field of operation;
- Has annual receipts that do not exceed—
 - \$20.5 million in the case of commercial finfish harvesting entities (NAIC¹ 114111)
 - \$5.5 million in the case of commercial shellfish harvesting entities (NAIC 114112)
 - \$7.5 million in the case of for-hire fishing entities (NAIC 114119); or
 - Has fewer than—
 - 750 employees in the case of fish processors
 - 100 employees in the case of fish dealers.

This rule affects commercial and recreational fish harvesting entities engaged in fisheries throughout New England that utilize bottom-trawls (large and small mesh), longlines, rod and reel, gillnets, pots and traps, scallop dredges, and hydraulic clam dredges. The gears primarily affected by this action are two non-mutually exclusive fishing operations: Fishermen using gears capable of catching groundfish and fishermen using mobile bottom-tending gears. Individually permitted vessels may hold permits for several fisheries, harvesting species of fish that are regulated by several different FMPs. Furthermore, multiple-permitted vessels and/or permits may be owned by entities affiliated by stock ownership, common management, identity of interest, contractual relationships, or economic dependency. For the purposes of the Regulatory Flexibility Act (RFA) analysis, the ownership entities, not the individual vessels, are considered the regulated entities.

Ownership entities are defined as those entities with common ownership personnel as listed on the permit application. Only permits with identical ownership personnel are categorized as an ownership entity. For example, if five permits have the same seven persons listed as co-owners on their permit application, those seven persons would form one ownership entity that holds those five permits. If two of those seven owners also co-own additional

vessels, these two persons would be considered a separate ownership entity.

On June 1 of each year, NMFS identifies ownership entities based on a list of all permits for the most recent complete calendar year. The current ownership dataset used for this analysis was created based on calendar year 2014 and contains average gross sales associated with those permits for calendar years 2012 through 2014.

In addition to classifying a business (ownership entity) as small or large, a business can also be classified by its primary source of revenue. A business is defined as being primarily engaged in fishing for finfish if it obtains greater than 50 percent of its gross sales from sales of finfish. Similarly, a business is defined as being primarily engaged in fishing for shellfish if it obtains greater than 50 percent of its gross sales from sales of shellfish.

A description of the specific permits that are likely to be affected by this action is provided below, along with a discussion of the impacted businesses, which can include multiple vessels and/or permit types.

NMFS issued a final rule establishing a small business size standard of \$11 million in annual gross receipts for all businesses primarily engaged in the commercial fishing industry (NAICS 11411) for RFA compliance purposes only (80 FR 81194; December 29, 2015). The \$11 million standard became effective on July 1, 2016, and is intended to be used in place of the SBA's current standards of \$20.5 million, \$5.5 million, and \$7.5 million for the finfish (NAICS 114111), shellfish (NAICS 114112), and other marine fishing (NAICS 114119) sectors, respectively, of the U.S. commercial fishing industry.

The Council took final action on OHA2 in June 2015, and the analyses in support of this action were developed throughout the decision process and following the Council's action, but prior to July 1, 2016. This analysis was not updated to reflect a small business reclassification for all of the vessels affected by this amendment using our new size-standards because we have determined that this analysis provides a sufficient estimate of the number of small entities to which the proposed rule applies for purposes of determining this action's impacts on small entities and the considerations required under the RFA. For the fisheries directly affected by this rule, RFA analyses have been completed on other actions since the implementation of the revised size standard. As described in the IRFA, data showed a change in the total number of entities from the last fishery

¹ The North American Industry Classification System (NAICS) is the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

management action analyzed under the SBA size standards and the first fishery management action analyzed under the revised NMFS policy standard. However, in terms of percentage of each of the major affected fisheries, the size standard change results in minimal changes in categories. As a result, the revised size standard does not change the conclusions of the analysis or notably change the estimation of the impact on small entities from this action. As such, it is reasonable to rely upon the Council's economic analyses. No comments or concerns were received specific to this analysis or about the change in size classifications.

Regulated Commercial Fish Harvesting Entities

Table 2 describes revenue by business type (large or small) and Table 3 describes the total number of commercial business entities potentially regulated by the action. As of the time of the Council's decisionmaking (2015), there were 4,071 small businesses (925 finfish, 2,713 shellfish, 433 for-hire) and 18 large businesses (all shellfish) potentially affected by this action. For fisheries utilizing mobile bottom-tending gear, the approved action directly regulates affected entities through restrictions on when and where vessels may fish to comply with the Magnuson-Stevens Act requirement to

minimize to the extent practicable the adverse effects of fishing on essential fish habitat. For fisheries that use gears capable of catching groundfish, this final rule additionally restricts location and timing of fishing to minimize impacts on spawning groundfish. According to the EIS, individuals fishing with mobile bottom-tending gear and midwater trawls tend to generate a substantial portion of their revenue from other gear types. The vast majority of individuals either fishing with mobile bottom-tending gear capable of catching groundfish or for-hire do not deviate from that mode, which could relate to the specialized nature of either the vessels or the captains' skills needed for these types of fishing.

TABLE 2—BUSINESS REVENUE BY TYPE

| Year | NAICS classification | Business type | Business revenue | Shellfish revenue | Finfish revenue | For-hire revenue |
|------|----------------------|---------------|------------------|-------------------|-----------------|------------------|
| 2012 | Finfish | Small | \$217,560,996 | \$33,546,543 | \$183,380,312 | \$634,141 |
| 2012 | For-hire | Small | 56,153,981 | 331,674 | 611,532 | 55,210,775 |
| 2012 | Shellfish | Large | 265,665,371 | 242,801,113 | 22,860,746 | 3,512 |
| 2012 | Shellfish | Small | 710,485,816 | 679,195,607 | 30,897,738 | 392,471 |
| 2013 | Finfish | Small | 191,870,635 | 25,008,297 | 166,326,851 | 535,487 |
| 2013 | For-hire | Small | 55,556,751 | 125,755 | 588,984 | 54,842,012 |
| 2013 | Shellfish | Large | 228,892,465 | 208,244,173 | 20,642,659 | 5,633 |
| 2013 | Shellfish | Small | 690,608,565 | 663,848,959 | 26,381,386 | 378,220 |
| 2014 | Finfish | Small | 209,370,022 | 23,888,931 | 185,335,274 | 145,817 |
| 2014 | For-hire | Small | 57,843,562 | 15,735 | 412,061 | 57,415,766 |
| 2014 | Shellfish | Large | 223,065,022 | 202,580,548 | 20,484,474 | ..... |
| 2014 | Shellfish | Small | 741,518,137 | 717,031,087 | 24,316,466 | 170,584 |

TABLE 3—NUMBER OF BUSINESSES AND REVENUE GENERATED BY SMALL AND LARGE BUSINESSES, BY COMMERCIAL GEAR CLASSIFICATION

[MBTG = Mobile bottom-tending gear, Groundfish = gear capable of catching groundfish, Both = Both MBTG and Groundfish designation, Midwater = Midwater trawls, Clam = clam dredge. Note some data not presented for privacy concerns.]

| Year | Gear type | Business type | Number of businesses | VTR revenue |
|------|------------|---------------|----------------------|---------------|
| 2012 | Both | Large | 17 | \$231,658,238 |
| 2012 | Both | Small | 574 | 580,827,338 |
| 2013 | Both | Large | 17 | 185,435,086 |
| 2013 | Both | Small | 539 | 445,971,382 |
| 2014 | Both | Large | 17 | 173,348,111 |
| 2014 | Both | Small | 528 | 396,470,511 |
| 2012 | Clam | Large | 5 | 31,160,893 |
| 2012 | Clam | Small | 42 | 27,738,596 |
| 2013 | Clam | Large | 4 | 30,008,134 |
| 2013 | Clam | Small | 47 | 27,874,110 |
| 2014 | Clam | Large | 2 | ..... |
| 2014 | Clam | Small | 41 | 26,867,813 |
| 2012 | Groundfish | Large | 2 | ..... |
| 2012 | Groundfish | Small | 668 | 74,103,358 |
| 2013 | Groundfish | Large | 2 | ..... |
| 2013 | Groundfish | Small | 605 | 47,920,414 |
| 2014 | Groundfish | Large | 1 | ..... |
| 2014 | Groundfish | Small | 592 | 48,959,328 |
| 2012 | MBTG | Large | 3 | 1,072,716 |
| 2012 | MBTG | Small | 125 | 6,120,800 |
| 2013 | MBTG | Large | 3 | 1,375,902 |
| 2013 | MBTG | Small | 87 | 2,940,183 |
| 2014 | MBTG | Large | 3 | 1,216,387 |
| 2014 | MBTG | Small | 26 | 2,857,405 |
| 2012 | Midwater | Large | 3 | 9,289,884 |
| 2012 | Midwater | Small | 14 | 22,865,976 |
| 2013 | Midwater | Large | 3 | 5,535,922 |

TABLE 3—NUMBER OF BUSINESSES AND REVENUE GENERATED BY SMALL AND LARGE BUSINESSES, BY COMMERCIAL GEAR CLASSIFICATION—Continued

[MBTG = Mobile bottom-tending gear, Groundfish = gear capable of catching groundfish, Both = Both MBTG and Groundfish designation, Midwater = Midwater trawls, Clam = clam dredge. Note some data not presented for privacy concerns.]

| Year | Gear type | Business type | Number of businesses | VTR revenue |
|------|-----------|---------------|----------------------|-------------|
| 2013 | Midwater | Small | 13 | 26,214,983 |
| 2014 | Midwater | Large | 3 | 4,909,077 |
| 2014 | Midwater | Small | 14 | 25,058,119 |
| 2012 | Other | Large | 2 | ..... |
| 2012 | Other | Small | 566 | 79,087,347 |
| 2013 | Other | Large | 4 | ..... |
| 2013 | Other | Small | 539 | 80,355,177 |
| 2014 | Other | Large | 3 | ..... |
| 2014 | Other | Small | 514 | 84,446,720 |

Description of the Projected Reporting, Record-keeping, and Other Compliance Requirements of This Proposed Rule

The action does not contain a collection-of-information requirement subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA), and the rule does not impose any other reporting or record-keeping requirements. This final rule requires compliance only with standard fishing-related issues, including compliance with gear restricted fishing areas or seasons.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the Stated Objectives of Applicable Statutes

The economic impacts of each type of habitat management measure are discussed in more detail in Volumes 3, 4, and 5 of the EIS. Because the primary objective of the Amendment is to comply with the Magnuson-Stevens Act requirement to minimize to the extent practicable the adverse effects of fishing on EFH, a variety of combinations of areas could have achieved those goals. The EFH and HAPC designations are primarily administrative in nature and are not expected to result in any direct economic impacts to the fisheries; although, indirect positive affects to stocks are expected.

In general, the overall approved changes are relatively modest, particularly when compared to other alternatives considered. The majority of areas approved are already closed to fishing. The current open areas that will close include the Eastern Maine HMA and the Great South Channel HMA. As described above, there is currently very little mobile bottom-tending gear fishing in the Eastern Maine HMA because groundfish stocks have decreased locally in that region. The Great South

Channel HMA was designed to minimize impact to the scallop fishery, particularly the design of the eastern boundary. Scallops occur primarily at depths beyond the closure boundary. There is not a significant amount of trawl fishing in that area because of the high level of natural disturbance. The hydraulic clam fishery will be allowed to continue to operate in this HMA for 1 year, while the Council develops more discrete exemption areas. It is expected that the subsequent action will attempt to balance the economic needs of the clam fishery with the objectives of OHA2 and the EFH protections required by the Magnuson-Stevens Act.

The approved measures that will increase fishing opportunities include: (1) Modifying the Western Gulf of Maine Groundfish Closure Area by aligning the eastern boundary with the Habitat Closure Area; (2) modifying the Jeffreys Bank Habitat Closure Area and exposing the deeper, northern portion to potential fishing; (3) eliminating the Nantucket Lightship Groundfish and Habitat Closure Areas; and (4) implementing Closed Area I North as a seasonal, versus year-round, closure area. The partial opening of the areas in the Gulf of Maine are expected to result in modest increases in groundfish revenue. The opening of the Nantucket Lightship and Closed Area I Closure Areas are expected to result in notable increases in scallop fishing. Scallop Framework Adjustment 29, which is intended to set management measures for the 2018 and 2019 scallop fishing years, estimates that with access to these newly opened areas will result in an additional \$140–160 million to the scallop fishery beyond what the status quo measures would have generated.

Habitat Management Measure Alternatives

In the Eastern Gulf of Maine, this action establishes the Small Eastern

Maine Habitat Management Area (HMA), closed to all mobile bottom-tending gears. (Note, the regulations refer to this area as simply the “Eastern Maine HMA.”) Other alternatives considered would have continued with no habitat management in this sub-region or implemented one or more additional areas. The Toothaker Ridge HMA, the Large Eastern Maine HMA, the Machias HMA, and the Small Eastern Maine were assembled into two alternatives. The EIS concluded, and NMFS agreed, that the Small Eastern Maine HMA achieves a notable level of protection for vulnerable habitat without significant economic impacts.

In the Central Gulf of Maine, this action maintains the existing Cashes Ledge Groundfish Closure Area, modifies the existing Jeffreys Bank and Cashes Ledge Habitat Closure Areas, with their current fishing restrictions and exemptions, establishes the Fippennies Ledge HMA, closed to mobile bottom-tending gears, and the Ammen Rock HMA, closed to all fishing except lobster traps. Other alternatives considered would have various combinations of eight total areas. In addition to the areas recommended as preferred, the Council considered habitat management in the existing Jeffreys Bank and Cashes Ledge habitat closure areas, two areas on Platts Bank and a small area on the top of Fippennies Ledge. The Council did not recommend the areas on Platts Bank because of the concern regarding the displacement of current fishing and the economic impact to a sub-set of the fleet. The final approved measures provide the best habitat protection without significant economic impacts.

In the Western Gulf of Maine, this action maintains the existing Western Gulf of Maine Habitat Closure Area, closed to mobile bottom-tending gears, and modifies the eastern boundary of the Western Gulf of Maine [Groundfish]

Closure Area to align with the Habitat Closure Area, while maintaining the current fishing restrictions and requirements. An exemption area within the northwest corner of those closures for shrimp trawls is also established and the existing Roller Gear Restricted Area requirements is designated as a habitat protection measure. Other alternatives would have established a large (Council's Alternatives 3 and 4 in Volume 3 of the EIS) or small (Alternative 5) version of a closure area along the state waters boundaries of New Hampshire and Maine covering Bigelow Bight, which was deemed by the Council to have overly severe economic impacts. Still other options included consideration of breaking up the existing Western Gulf of Maine Habitat Closure Area to focus on the most vulnerable sections of Jeffreys Ledge and Stellwagen Bank, either in two smaller combinations (Alternatives 4 and 5) or only a larger section of the Stellwagen Bank area (Alternatives 3 and 6). Finally, one option would have implemented the roller gear restriction over only the footprint of the other proposed habitat management areas (Alternative 7b).

On Georges Bank, this final action maintains the Closed Area II groundfish and habitat closure areas, but removes the Closed Area I groundfish and habitat closures as year-round closures.

Various combinations of 19 areas, including the 5 existing habitat and groundfish closed areas, were considered for this sub-region. When combined, these areas covered nearly the entire Bank area from the Hague Line up to the Great South Channel. Some areas were deemed too costly from an economic standpoint because of their size or specific location. These areas included the two alternatives across the majority of the bank: The Northern Georges mobile bottom-tending gear closure (Alternative 8) and the Northern Georges gear modification area (Alternatives 5). Various options of smaller areas on Georges Shoal, namely the Georges Shoal 1 (Alternative 5), Georges Shoal Gear Modification Area (Alternative 4), Georges Shoal 2 (Alternative 7), and Western HMA (Alternative 9), were also considered. Further variations focused more on the northern edge, included the Northern Edge HMA in Alternatives 3 and 4; two variations of expanding the existing Closed Area II habitat closure (Alternatives 6A and 6B); the EFH South HMA as part of Alternative 7; the Eastern HMA and a Mortality Closure in Alternative 9. The Council's recommendation (Alternative 10) was disapproved for the reasons described

above. The final approved measures maintain a long-standing closure, but opens Closed Area I. As described above, the opening of Closed Area I is expected to result in significant economic gains for the scallop fishery.

In the Great South Channel, this action establishes the Great South Channel HMA, closed to mobile bottom-tending gear, except hydraulic clam dredges for 1 year, outside of the northeast corner of the area. The Nantucket Lightship Habitat Closure Area and the Nantucket Lightship Closed Area are removed. Other alternatives were variations around the approved alternative, some extending farther to the east, and some extending farther to the west. The Council also recommended an HMA on Cox Ledge that would have prohibited hydraulic clam dredges and ground cables on trawl vessels. That recommendation was disapproved for the reasons described above. The Council also considered a single box to cover both Cox Ledge areas. The opening of the Nantucket Lightship Closure Areas is expected to result in significant economic gains for the scallop fishery in 2018 and 2019.

Groundfish Spawning Measure Alternatives

In the Gulf of Maine, the final rule establishes two new, relatively small cod spawning protections. They include the Winter Massachusetts Bay Spawning Closure, which would be in effect from November 1–January 31 of each year, and a 2-week closure (April 15–April 30) within statistical area 125. Other alternatives considered would have reinstated or added to existing rolling closures in the Western Gulf of Maine.

On Georges Bank, this action establishes the existing Closed Area II Groundfish Closure Area and the Closed Area I North Habitat Closed Area as seasonal closures from February 1–April 15, and removes the May Georges Bank Spawning Closure. The Council considered making all of the existing Closed Area I groundfish closure area a seasonal spawning closure, but instead chose just the subset of that area in the northern portion.

Management alternatives in both regions included all commercial gears capable of catching groundfish (recreational fishing exempted), all commercial and recreational gears capable of catching groundfish, and an exemption for scallop dredges.

Dedicated Habitat Research Area Alternatives

This action establishes two DHRAs. The DHRAs will be effective for 3 years, at which time the Regional

Administrator would consult with the Council as to whether the designation should be retained. The Council considered three potential DHRAs, with varying management restrictions within them. The action establishes the Georges Bank DHRA (footprint is the same as the existing Closed Area I South Habitat Closure) and the Stellwagen DHRA (footprint within the existing Western Gulf of Maine Habitat Closure). The Council considered two "reference areas" within the Stellwagen DHRA that would have prohibited all fishing, including recreational groundfish fishing. No reference area was recommended and none will be implemented. The Georges Bank DHRA is closed to all mobile bottom-tending gear. The Stellwagen DHRA is closed to all mobile bottom-tending gear, sink gillnet gear, and demersal longline gear.

Framework Adjustments and Monitoring

Through this action, the designation or removal of HMAs and changes to fishing restrictions within HMAs may be considered in a future framework adjustment. In addition, this action establishes a review process to evaluate the performance of habitat and spawning protection measures. Finally, this action establishes a commitment by the Council to identify and periodically revise research priorities to improve habitat and spawning area monitoring. Alternatively, the Council considered not implementing a new process for habitat and spawning protection measures review and modification and using the existing ad-hoc process under its authority currently.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: March 29, 2018.

Alan D. Risenhoover,

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

For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

■ 2. Amend § 648.2 as follows:

- a. Revise the definition of "Bottom-tending mobile gear;"
- b. Add a definition for "Bridles," in alphabetical order;

- c. Revise the definition of “Gillnet gear capable of catching multispecies;”
- d. Add a definition for “Ground cables,” in alphabetical order; and
- e. Revise the definition of “Open areas.”

The revisions and additions read as follows:

§ 648.2 Definitions.

* * * * *

Bottom-tending mobile gear, means gear in contact with the ocean bottom, and towed from a vessel, which is moved through the water during fishing in order to capture fish, and includes otter trawls, beam trawls, hydraulic dredges, non-hydraulic dredges, and seines (with the exception of a purse seine).

Bridles connect the wings of a bottom trawl to the ground cables. The ground cables lead to the doors or otter boards. The doors are attached to the towing vessel via steel cables, referred to as wires or warps. Each net has two sets of bridles, one on each side.

* * * * *

Gillnet gear capable of catching multispecies means all gillnet gear except pelagic gillnet gear specified at § 648.81(b)(2)(ii) and (d)(5)(ii) and pelagic gillnet gear that is designed to fish for and is used to fish for or catch tunas, swordfish, and sharks.

* * * * *

Ground cables on a bottom trawl run between the bridles, which attach directly to the wings of the net, and the doors, or otter boards. The doors are attached to the towing vessel via steel cables, referred to as wires or warps.

* * * * *

Open areas, with respect to the Atlantic sea scallop fishery, means any area that is not subject to restrictions of the Sea Scallop Rotational Areas specified in §§ 648.59 and 648.60, the Northern Gulf of Maine Management Area specified in § 648.62, EFH Closed Areas specified in §§ 648.61 and 648.370, Dedicated Habitat Research areas specified in § 648.371, or the Frank R. Lautenberg Deep-Sea Coral Protection Area described in § 648.372.

* * * * *

- 3. Amend § 648.11 by revising paragraph (m)(1) to read as follows:

§ 648.11 At-sea sea sampler/observer coverage.

* * * * *

(m) * * *

(1) *Pre-trip notification*. At least 48 hr prior to the beginning of any trip on which a vessel may harvest, possess, or land Atlantic herring, a vessel issued a Limited Access Herring Permit or a

vessel issued an Areas 2/3 Open Access Herring Permit on a declared herring trip or a vessel issued an All Areas Open Access Herring Permit fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), and herring carriers must provide notice of the following information to NMFS: Vessel name, permit category, and permit number; contact name for coordination of observer deployment; telephone number for contact; the date, time, and port of departure; gear type; target species; and intended area of fishing, including whether the vessel intends to engage in fishing in the Northeast Multispecies Closed Areas (Closed Area I North (§ 648.81(c)(3)), Closed Area II (§ 648.81(a)(5)), Cashes Ledge Closure Area (§ 648.81(a)(3)), and Western GOM Closure Area (§ 648.81(a)(4))) at any point in the trip. Trip notification calls must be made no more than 10 days in advance of each fishing trip. The vessel owner, operator, or manager must notify NMFS of any trip plan changes at least 12 hr prior to vessel departure from port.

* * * * *

- 4. Amend § 648.14 by:
 - a. Revising paragraph (b)(10);
 - b. Adding paragraphs (b)(11) and (12);
 - c. Revising paragraphs (i)(1)(vi)(A)(1) and (2), (k)(6)(i)(E), (k)(6)(ii)(A)(5), and (k)(7)(i)(A) through (D);
 - d. Removing and reserving paragraph (k)(7)(i)(E);
 - e. Revising paragraph (k)(7)(i)(F);
 - f. Removing and reserving paragraph (k)(7)(i)(G); and
 - g. Revising paragraphs (k)(7)(ii), (k)(12)(iii)(B), (k)(16)(iii)(B), and (r)(2)(v) and (vi).

The revisions and addition read as follows:

§ 648.14 Prohibitions.

* * * * *

(b) * * *

(10) Fish with bottom-tending gear within the Frank R. Lautenberg Deep-sea Coral Protection Area described at § 648.372, unless transiting pursuant to § 648.372(d), fishing lobster trap gear in accordance with § 697.21 of this chapter, or fishing red crab trap gear in accordance with § 648.264. Bottom-tending gear includes but is not limited to bottom-tending otter trawls, bottom-tending beam trawls, hydraulic dredges, non-hydraulic dredges, bottom-tending seines, bottom longlines, pots and traps, and sink or anchored gill nets.

(11) If fishing with bottom-tending mobile gear, fish in, enter, be on a fishing vessel in, the EFH closure areas described in § 648.371, unless otherwise exempted.

(12) Unless otherwise exempted, fish in the Dedicated Habitat Research Areas defined in § 648.371.

* * * * *

(i) * * *

(1) * * *

(vi) * * *

(A) * * *

(1) Fish for scallops in, or possess or land scallops from, the EFH Closed Areas and Habitat Management Areas specified in §§ 648.61 and 648.370, respectively.

(2) Transit or enter the EFH Closure Areas or Habitat Management Areas specified in §§ 648.61 and 648.370, respectively, except as provided by § 648.61(b).

* * * * *

(k) * * *

(6) * * *

(i) * * *

(E) Use, set, haul back, fish with, possess on board a vessel, unless stowed and not available for immediate use as defined in § 648.2, 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(b)(2)(ii) and (d)(5)(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(b)(2)(ii) and (d)(5)(ii), or unless otherwise authorized in writing by the Regional Administrator.

* * * * *

(ii)

(A)

(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).

* * * * *

(7) * * *

(i) * * *

(A) *Groundfish Closure Area restrictions*. Enter, be on a fishing vessel in, or fail to remove gear from the EEZ portion of the areas described in § 648.81(a)(3), (4), and (5) and (d)(3), except as provided in § 648.81(a)(2), (d)(2), and (i).

(B) *Groundfish Closure Area possession restrictions*. Fish for, harvest, possess, or land regulated species in or from the closed areas specified in § 648.81(a) through (d) and (n), unless otherwise specified in § 648.81(c)(2)(iii), (d)(5)(i), (iv), (viii), and (ix), (i), (b)(2), or as authorized under § 648.85.

(C) *Restricted Gear Areas*. (1) Fish, or be in the areas described in § 648.81(f)(3) through (6) on a fishing

vessel with mobile gear during the time periods specified in § 648.81(f)(1), except as provided in § 648.81(f)(2).

(2) Fish, or be in the areas described in § 648.81(f)(3) through (5) on a fishing vessel with lobster pot gear during the time periods specified in § 648.81(f)(1).

(3) Deploy in or fail to remove lobster pot gear from the areas described in § 648.81(f)(3) through (5), during the time periods specified in § 648.81(f)(1).

(D) *Georges Bank Seasonal Closure Areas*. Enter, fail to remove gear from, or be in the areas described in § 648.81(c) during the time periods specified, except as provided in § 648.81(c)(2).

(E) [Reserved]

(F) *Closed Area II*. Enter or be in the area described in § 648.81(a)(5) on a fishing vessel, except as provided in § 648.81(a)(5)(ii).

(G) [Reserved]

(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, when fishing with bottom-tending mobile gear, fish in, enter, be on a fishing vessel in, the Habitat Management Areas described in § 648.370.

* * * * *

(12) * * *

(iii) * * *

(B) Enter or fish in Closed Area II as specified in § 648.81(a)(5), unless declared into the area in accordance with § 648.85(b)(3)(v) or (b)(8)(v)(D).

* * * * *

(16) * * *

(iii) * * *

(B) Fail to comply with the requirements specified in

§ 648.81(d)(5)(v) when fishing in the areas described in § 648.81(b)(3) and (4) and (d) during the time periods specified.

* * * * *

(r) * * *

(2) * * *

(v) Fish with midwater trawl gear in any Northeast Multispecies Closed Area, as defined in § 648.81(a)(3) through (5) and (c)(3) and (4), without a NMFS-approved observer on board, if the vessel has been issued an Atlantic herring permit.

(vi) Slip or operationally discard catch, as defined at § 648.2, unless for one of the reasons specified at § 648.202(b)(2), if fishing any part of a tow inside the Northeast Multispecies Closed Areas, as defined at § 648.81(a)(3) through (5) and (c)(3) and (4).

* * * * *

§ 648.27 [Removed]

■ 5. Remove § 648.27.

■ 6. Add § 648.58 to read as follows:

§ 648.58 Closed Area II Seasonal Scallop Closure.

From June 15 through October 31 of each year, no fishing vessel may fish with scallop dredge gear in the portion of Closed Area II, as specified in §§ 648.61(c)(4) and 648.81(c)(4), north of 41°30' N lat.

■ 7. In § 648.59, revise paragraph (a) introductory text to read as follows:

§ 648.59 Sea Scallop Rotational Area Management Program and Access Area Program requirements.

(a) The Sea Scallop Rotational Area Management Program consists of Scallop Rotational Areas, as defined in

§ 648.2. Guidelines for this area rotation program (*i.e.*, when to close an area and reopen it to scallop fishing) are provided in § 648.55(a)(6). Whether a rotational area is open or closed to scallop fishing in a given year, and the appropriate level of access by limited access and LAGC IFQ vessels, are specified through the specifications or framework adjustment processes defined in § 648.55. When a rotational area is open to the scallop fishery, it is called an Access Area and scallop vessels fishing in the area are subject to the Access Area Program Requirements specified in this section. Areas not defined as Scallop Rotational Areas specified in § 648.60, EFH Closed Areas specified in §§ 648.61 and 648.370, Dedicated Habitat Research Areas specified in § 648.371, or areas closed to scallop fishing under other FMPs, are governed by other management measures and restrictions in this part and are referred to as Open Areas.

* * * * *

■ 8. In § 648.60, revise paragraph (c)(1) to read as follows:

§ 648.60 Sea Scallop Rotational Areas.

* * * * *

(c) * * *

(1) The Closed Area I Scallop Rotational Area is defined by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request), and so that the line connecting points CAIA3 and CAIA4 is the same as the portion of the western boundary line of Closed Area I, defined in § 648.61(c)(3), that lies between points CAIA3 and CAIA4:

| Point | N lat. | W long. | Note |
|-------------|-------------|-------------|-------|
| CAIA1 | 41°26' N | 68°30' W | ..... |
| CAIA2 | 40°58' N | 68°30' W | ..... |
| CAIA3 | 40°54.95' N | 68°53.37' W | (1) |
| CAIA4 | 41°04' N | 69°01' W | (1) |
| CAIA1 | 41°26' N | 68°30' W | ..... |

¹ From Point CAIA3 to Point CAIA4 along the western boundary of Closed Area I, defined in § 648.61(c)(3).

* * * * *

■ 9. In § 648.61, revise the section heading and add paragraph (c) to read as follows:

§ 648.61 EFH and Groundfish Closed Areas.

* * * * *

(c) *Groundfish Closure Areas*. No vessel fishing for scallops, or person on a vessel fishing for scallops, may enter, fish in, or be in the Closure Areas described in paragraphs (c)(1) through

(5) of this section, unless otherwise exempted in the scallop access area program, described in § 648.59. A chart depicting these areas is available from the Regional Administrator upon request.

(1) *Western Gulf of Maine Closure Area*. The Western Gulf of Maine Closure Area is defined by straight lines connecting the following points in the order stated:

WESTERN GULF OF MAINE CLOSURE AREA

| Point | N lat. | W long. |
|------------|----------|----------|
| WGM1 | 42°15' N | 70°15' W |
| WGM2 | 42°15' N | 69°55' W |
| WGM3 | 43°15' N | 69°55' W |
| WGM4 | 43°15' N | 70°15' W |
| WGM1 | 42°15' N | 70°15' W |

(2) *Cashes Ledge Closure Area*. The Cashes Ledge Closure Area is defined by

straight lines connecting the following points in the order stated:

CASHES LEDGE CLOSURE AREA

| Point | N lat. | W long. |
|-----------|------------|------------|
| CL1 | 43°07' N | 69°02' W |
| CL2 | 42°49.5' N | 68°46' W |
| CL3 | 42°46.5' N | 68°50.5' W |
| CL4 | 42°43.5' N | 68°58.5' W |
| CL5 | 42°42.5' N | 69°17.5' W |
| CL6 | 42°49.5' N | 69°26' W |

**CASHES LEDGE CLOSURE AREA—
Continued**

| Point | N lat. | W long. |
|-----------|----------|----------|
| CL1 | 43°07' N | 69°02' W |

(3) *Closed Area I.* Closed Area I is defined by straight lines, unless otherwise noted, connecting the following points in the order stated:

CLOSED AREA I

| Point | N lat. | W long. |
|-----------|--------|---------|
| CI1 | 41°30' | 69°23' |
| CI2 | 40°45' | 68°45' |
| CI3 | 40°45' | 68°30' |
| CI4 | 41°30' | 68°30' |
| CI1 | 41°30' | 69°23' |

(4) *Closed Area II.* Closed Area II is defined by straight lines connecting the following points in the order stated:

CLOSED AREA II

| Point | N lat. | W long. | Note |
|-------------|-------------|------------|-------|
| CAII1 | 41°00' N | 67°20' W | ..... |
| CAII2 | 41°00' N | 66°35.8' W | ..... |
| CAII3 | 41°18.45' N | (1) | (2) |
| CAII4 | (3) | 67°20' W | (2) |
| CAII5 | 42°22' N | 67°20' W | ..... |
| CAII1 | 41°00' N | 67°20' W | ..... |

¹ The intersection of 41°18.45' N lat. and the U.S.-Canada Maritime Boundary, approximately 41°18.45' N lat. and 66°24.89' W long.

² From Point CAII3 to Point CAII4 along the U.S.-Canada Maritime Boundary.

³ The intersection of 67°20' W long. and the U.S.-Canada Maritime Boundary, approximately 42°22.06' N lat. and 67°20' W long.

(5) *Nantucket Lightship Closure Area.* The Nantucket Lightship Closure Area is defined by straight lines connecting the following points in the order stated:

NANTUCKET LIGHTSHIP CLOSURE AREA

| Point | N lat. | W long. |
|-----------|----------|----------|
| NL1 | 40°50' N | 69°00' W |
| NL2 | 40°20' N | 69°00' W |
| NL3 | 40°20' N | 70°20' W |
| NL4 | 40°50' N | 70°20' W |
| NL1 | 40°50' N | 69°00' W |

of paragraph (a)(5)(ii) or (a)(9)(ii) of this section, and § 648.86(d), from July 15 through November 15, when fishing in Small Mesh Area 1; and from January 1 through June 30, when fishing in Small Mesh Area 2. While lawfully fishing in these areas with mesh smaller than the minimum size, an owner or operator of any vessel may not fish for, possess on board, or land any species of fish other than: Silver hake and offshore hake, combined, and red hake—up to the amounts specified in § 648.86(d); butterflyfish, Atlantic mackerel, or squid, up to the amounts specified in § 648.26; spiny dogfish, up to the amount specified in § 648.235; Atlantic herring, up to the amount specified in § 648.204; and scup, up to the amount specified in § 648.128.

* * * * *

(11) *GOM Scallop Dredge Exemption Area.* Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, vessels with a limited access scallop permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, and vessels issued a General Category scallop permit, may fish in the GOM Regulated Mesh Area specified in paragraph (a)(1) of this section, when not under a NE multispecies DAS, providing the vessel fishes in the GOM Scallop Dredge Exemption Area and complies with the requirements specified in paragraph (a)(11)(i) of this section. The GOM Scallop Dredge Fishery Exemption Area is defined by the straight lines connecting the following points in the order stated

(copies of a map depicting the area are available from the Regional Administrator upon request):

GOM SCALLOP DREDGE EXEMPTION AREA

| Point | N lat. | W long. |
|-----------|----------|---------|
| SM1 | 41°35' | 70°00' |
| SM2 | 41°35' | 69°40' |
| SM3 | 42°49.5' | 69°40' |
| SM4 | 43°12' | 69°00' |
| SM5 | 43°41' | 68°00' |
| SM6 | 43°58' | 67°22' |
| SM7 | (1) | (1) |

¹ Northward along the irregular U.S.-Canada maritime boundary to the shoreline.

(i) * * *

(C) The exemption does not apply to the Cashes Ledge Closure Area or the Western GOM Area Closure specified in § 648.81(a)(3) and (4), respectively.

* * * * *

(12) *Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area.* Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, a vessel may fish with a dredge in the Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area, provided that any dredge on board the vessel does not exceed 8 ft (2.4 m), measured at the widest point in the bail of the dredge, and the vessel does not fish for, harvest, possess, or land any species of fish other than mussels and sea urchins. The area coordinates of the Nantucket Shoals Mussel and Sea Urchin Dredge Exemption Area are the same coordinates as those of the Nantucket

■ 10. Amend § 648.80 by:

■ a. Revising paragraphs (a)(9)(i)(A), (a)(11) introductory text, (a)(11)(i)(C), (a)(12), and the introductory text of paragraphs (a)(13), (14), (15), (16), (18), and (19);

■ b. Removing paragraph (b)(11)(ii)(D); and

■ c. Revising paragraphs (d)(2) introductory text, (d)(2)(i), (d)(5), and (g)(6).

The revisions read as follows:

§ 648.80 NE Multispecies regulated mesh areas and restrictions on gear and methods of fishing.

* * * * *

- (a) * * *
- (9) * * *
- (i) * * *

(A) Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, a vessel subject to the minimum mesh size restrictions specified in paragraph (a)(3) or (4) of this section may fish with or possess nets with a mesh size smaller than the minimum size, provided the vessel complies with the requirements

Shoals Dogfish Fishery Exemption Area specified in paragraph (a)(10) of this section.

(13) *GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area.* Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (a)(13)(i) of this section. The GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area is defined by straight lines connecting the following points in the order stated:

| N lat. | W long. |
|----------|---------|
| 41°35' | 70°00' |
| 42°49.5' | 70°00' |
| 42°49.5' | 69°40' |
| 43°12' | 69°00' |
| (1) | 69°00' |

¹ Due north to Maine shoreline.

* * * * *

(14) *GOM/GB Dogfish Gillnet Exemption.* Unless otherwise prohibited in § 648.81, § 648.370, or § 648.371, a vessel may fish with gillnets in the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area when not under a NE multispecies DAS if the vessel complies with the requirements specified in paragraph (a)(14)(i) of this section. The area coordinates of the GOM/GB Dogfish and Monkfish Gillnet Fishery Exemption Area are specified in paragraph (a)(13) of this section.

* * * * *

(15) *Raised Footrope Trawl Exempted Whiting Fishery.* Unless otherwise prohibited in § 648.370 or § 648.371, vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with, use, or possess nets in the Raised Footrope Trawl Whiting Fishery area with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraph (a)(15)(i) of this section. This exemption does not apply to the Cashes Ledge Closure Areas or the Western GOM Area Closure specified in § 648.81(a)(3) and (4), respectively. The Raised Footrope Trawl Whiting Fishery Area (copies of a chart depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION AREA
[September 1 through November 20]

| Point | N lat. | W long. |
|-------|-----------|-----------|
| RF 1 | 42°14.05' | 70°08.8' |
| RF 2 | 42°09.2' | 69°47.8' |
| RF 3 | 41°54.85' | 69°35.2' |
| RF 4 | 41°41.5' | 69°32.85' |
| RF 5 | 41°39' | 69°44.3' |
| RF 6 | 41°45.6' | 69°51.8' |
| RF 7 | 41°52.3' | 69°52.55' |
| RF 8 | 41°55.5' | 69°53.45' |
| RF 9 | 42°08.35' | 70°04.05' |
| RF 10 | 42°04.75' | 70°16.95' |
| RF 11 | 42°00' | 70°13.2' |
| RF 12 | 42°00' | 70°24.1' |
| RF 13 | 42°07.85' | 70°30.1' |
| RF 1 | 42°14.05' | 70°08.8' |

RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION AREA
[November 21 through December 31]

| Point | N lat. | W long. |
|-------|-----------|-----------|
| RF 1 | 42°14.05' | 70°08.8' |
| RF 2 | 42°09.2' | 69°47.8' |
| RF 3 | 41°54.85' | 69°35.2' |
| RF 4 | 41°41.5' | 69°32.85' |
| RF 5 | 41°39' | 69°44.3' |
| RF 6 | 41°45.6' | 69°51.8' |
| RF 7 | 41°52.3' | 69°52.55' |
| RF 8 | 41°55.5' | 69°53.45' |
| RF 9 | 42°08.35' | 70°04.05' |
| RF 1 | 42°14.05' | 70°08.8' |

* * * * *

(16) *GOM Grate Raised Footrope Trawl Exempted Whiting Fishery.* Unless otherwise prohibited in § 648.370 or § 648.371, vessels subject to the minimum mesh size restrictions specified in paragraphs (a)(3) or (4) of this section may fish with, use, and possess in the GOM Grate Raised Footrope Trawl Whiting Fishery area from July 1 through November 30 of each year, nets with a mesh size smaller than the minimum size specified, if the vessel complies with the requirements specified in paragraphs (a)(16)(i) and (ii) of this section. The GOM Grate Raised Footrope Trawl Whiting Fishery Area (copies of a chart depicting the area are available from the Regional Administrator upon request) is defined by straight lines connecting the following points in the order stated:

GOM GRATE RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION AREA
[July 1 through November 30]

| Point | N lat. | W long. |
|-------|--------|----------|
| GRF1 | 43°15' | 70°35.4' |
| GRF2 | 43°15' | 70°00' |

GOM GRATE RAISED FOOTROPE TRAWL WHITING FISHERY EXEMPTION AREA—Continued
[July 1 through November 30]

| Point | N lat. | W long. |
|-------|----------|---------|
| GRF3 | 43°25.2' | 70°00' |
| GRF4 | 43°41.8' | 69°20' |
| GRF5 | 43°58.8' | 69°20' |

* * * * *

(18) *Great South Channel Scallop Dredge Exemption Area.* Unless otherwise prohibited in § 648.370 or § 648.371, vessels issued a LAGC scallop permit, including limited access scallop permits that have used up their DAS allocations, may fish in the Great South Channel Scallop Dredge Exemption Area, as defined under paragraph (a)(18)(i) of this section, when not under a NE multispecies or scallop DAS or on a sector trip, provided the vessel complies with the requirements specified in paragraph (a)(18)(ii) of this section and applicable scallop regulations in subpart D of this part.

* * * * *

(19) *Cape Cod Spiny Dogfish Exemption Areas.* Unless otherwise prohibited in § 648.370 or § 648.371, vessels issued a NE multispecies limited access permit that have declared out of the DAS program as specified in § 648.10, or that have used up their DAS allocations, may fish in the Eastern or Western Cape Cod Spiny Dogfish Exemption Area as defined under paragraphs (a)(19)(i) and (ii) of this section, when not under a NE multispecies or scallop DAS, provided the vessel complies with the requirements for the Eastern or Western area, specified in paragraphs (a)(19)(i) and (ii) of this section, respectively.

* * * * *

(d) * * *

(2) When fishing under this exemption in the GOM/GB Exemption Area, as defined in paragraph (a)(17) of this section, the vessel has on board a letter of authorization issued by the Regional Administrator, and complies with the following restrictions:

(i) The vessel only fishes for, possesses, or lands Atlantic herring, blueback herring, or mackerel in areas north of 42°20' N lat. and in the areas described in § 648.81(c)(3) and (4); and Atlantic herring, blueback herring, mackerel, or squid in all other areas south of 42°20' N. lat.; and

* * * * *

(5) To fish for herring under this exemption, a vessel issued an All Areas Limited Access Herring Permit and/or an Areas 2 and 3 Limited Access

Herring Permit fishing on a declared herring trip, or a vessel issued a Limited Access Incidental Catch Herring Permit and/or an Open Access Herring Permit fishing with midwater trawl gear in Management Areas 1A, 1B, and/or 3, as defined in § 648.200(f)(1) and (3), must provide notice of the following information to NMFS at least 72 hr prior to beginning any trip into these areas for the purposes of observer deployment: Vessel name; contact name for coordination of observer deployment; telephone number for contact; the date, time, and port of departure; and whether the vessel intends to engage in fishing in Closed Area I, as defined in § 648.81(c)(3), at any point in the trip; and

* * * * *

(g) * * *

(6) *Gillnet requirements to reduce or prevent marine mammal takes—(i) Requirements for gillnet gear capable of catching NE multispecies to reduce harbor porpoise takes.* In addition to the requirements for gillnet fishing identified in this section, all persons owning or operating vessels in the EEZ that fish with sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(b)(2)(ii) and (d)(5)(ii)), must comply with the applicable provisions of the Harbor Porpoise Take Reduction Plan found in § 229.33 of this title.

(ii) *Requirements for gillnet gear capable of catching NE multispecies to prevent large whale takes.* In addition to the requirements for gillnet fishing identified in this section, all persons owning or operating vessels in the EEZ that fish with sink gillnet gear and other gillnet gear capable of catching NE multispecies, with the exception of single pelagic gillnets (as described in § 648.81(b)(2)(ii) and (d)(5)(ii)), must comply with the applicable provisions of the Atlantic Large Whale Take Reduction Plan found in § 229.32 of this title.

* * * * *

■ 11. Revise § 648.81 to read as follows:

§ 648.81 NE multispecies year-round and seasonal closed areas.

(a) *Year-round groundfish closed areas.* (1) *Restrictions.* No fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, the Cashes Ledge, Western Gulf of Maine, or Closed Area II Closure Areas, unless otherwise allowed by or exempted under this part. Charts of the areas described in this section are available from the Regional Administrator upon request.

(2) *Exemptions.* Unless restricted by the requirements of subpart P of this part or elsewhere in this part, paragraph (a)(1) of this section does not apply to a fishing vessel or person on a fishing vessel when fishing under the following conditions:

(i) Fishing with or using exempted gear as defined under this part, except for pelagic gillnet gear capable of catching NE multispecies, unless fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided that:

(A) The net is attached to the boat and fished in the upper two-thirds of the water column;

(B) The net is marked with the owner's name and vessel identification number;

(C) No regulated species or ocean pout are retained; and

(D) No other gear capable of catching NE multispecies is on board;

(ii) Fishing in the Midwater Trawl Gear Exempted Fishery as specified in § 648.80(d);

(iii) Fishing in the Purse Seine Gear Exempted Fishery as specified in § 648.80(e);

(iv) Fishing under charter/party or recreational regulations specified in § 648.89, provided that:

(A) A letter of authorization issued by the Regional Administrator is onboard

the vessel, which is valid from the date of enrollment until the end of the fishing year;

(B) No harvested or possessed fish species managed by the NEFMC or MAFMC are sold or intended for trade, barter or sale, regardless of where the fish are caught;

(C) Only rod and reel or handline gear is on board the vessel; and

(D) No NE multispecies DAS are used during the entire period for which the letter of authorization is valid.

(3) *Cashes Ledge Closure Area.* The Cashes Ledge Closure Area is defined by straight lines connecting the following points in the order stated:

CASHES LEDGE CLOSURE AREA

| Point | N lat. | W long. |
|-----------|------------|------------|
| CL1 | 43°07' N | 69°02' W |
| CL2 | 42°49.5' N | 68°46' W |
| CL3 | 42°46.5' N | 68°50.5' W |
| CL4 | 42°43.5' N | 68°58.5' W |
| CL5 | 42°42.5' N | 69°17.5' W |
| CL6 | 42°49.5' N | 69°26' W |
| CL1 | 43°07' N | 69°02' W |

(4) *Western Gulf of Maine Closure Area.* The Western Gulf of Maine Closure Area is defined by straight lines connecting the following points in the order stated:

WESTERN GULF OF MAINE CLOSURE AREA

| Point | N lat. | W long. |
|------------|--------|---------|
| WGM1 | 42°15' | 70°15' |
| WGM2 | 42°15' | 69°55' |
| WGM3 | 43°15' | 69°55' |
| WGM4 | 43°15' | 70°15' |
| WGM1 | 42°15' | 70°15' |

(5) *Closed Area II Closure Area.* (i) The Closed Area II Closure Area is defined by straight lines, unless otherwise noted, connecting the following points in the order stated:

CLOSED AREA II CLOSURE AREA

| Point | N lat. | W long. | Note |
|-------------|-----------|----------|-------|
| CAII1 | 41°00' | 67°20' | ..... |
| CAII2 | 41°00' | 66°35.8' | ..... |
| CAII3 | 41°18.45' | (1) | (2) |
| CAII4 | (3) | 67°20' | (2) |
| CAII5 | 42°22' | 67°20' | ..... |
| CAII1 | 41°00' | 67°20' | ..... |

¹ The intersection of 41°18.45' N lat. and the U.S.-Canada Maritime Boundary, approximately 41°18.45' N lat. and 66°24.89' W long.

² From Point CAII3 to Point CAII4 along the U.S.-Canada Maritime Boundary.

³ The intersection of 67°20' W long. And the U.S.-Canada Maritime Boundary, approximately 42°22.06' N lat. and 67°20' W long.

(ii) Unless otherwise restricted under the EFH Closure(s) specified in paragraph (h) of this section, paragraph (a)(5)(i) of this section does not apply to persons on fishing vessels or fishing vessels—

(A) Fishing with gears as described in paragraph (a)(2) this section.

(B) Fishing with tuna purse seine gear outside of the portion of Closed Area II known as the Habitat Area of Particular Concern, as described in § 648.370(g).

(C) Fishing in the CA II Yellowtail Flounder/Haddock SAP or the Eastern U.S./Canada Haddock SAP Program as specified in § 648.85(b)(3)(ii) or (b)(8)(ii), respectively.

(D) Transiting the area, provided the vessel's fishing gear is stowed and not available for immediate use as defined in § 648.2; and

(1) The operator has determined, and a preponderance of available evidence indicates, that there is a compelling safety reason; or

(2) The vessel has declared into the Eastern U.S./Canada Area as specified in § 648.85(a)(3)(ii) and is transiting CA II in accordance with the provisions of § 648.85(a)(3)(vii).

(E) Fishing for scallops within the Closed Area II Access Area defined in § 648.59(c)(3), during the season specified in § 648.59(c)(4), and pursuant to the provisions specified in § 648.60.

(b) *Gulf of Maine spawning groundfish closures.* (1) *Restrictions.* Unless allowed in this part, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, the spawning closure areas described in paragraphs (b)(3) and (4) of this section, during the times specified in this section. Charts depicting the areas defined here are available from the RA upon request.

(2) *Exemptions.* Paragraph (b)(1) of this section does not apply to a fishing vessel or person on a fishing vessel:

(i) That has not been issued a NE multispecies permit that is fishing exclusively in state waters;

(ii) That is fishing with or using exempted gear as defined under this part, excluding pelagic gillnet gear capable of catching NE multispecies, except for a vessel fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided:

(A) The net is attached to the vessel and fished in the upper two-thirds of the water column;

(B) The net is marked with the vessel owner's name and vessel identification number;

(C) No regulated species or ocean pout are retained; and

(D) No other gear capable of catching NE multispecies is on board;

(iii) That is fishing as a charter/party or recreational fishing vessel, provided that:

(A) With the exception of tuna, fish harvested or possessed by the vessel are not sold or intended for trade, barter, or sale, regardless of where the species are caught;

(B) Any gear other than pelagic hook and line gear, as defined in this part, is properly stowed and not available for immediate use as defined in § 648.2; and

(C) No regulated species or ocean pout are retained; and

(iv) That is transiting pursuant to paragraph (e) of this section.

(3) *GOM Cod Spawning Protection Area.* Except as specified in paragraph (b)(2) of this section, from April through June of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, the GOM Cod Spawning Protection Area, as defined by straight lines connecting the following points in the order stated:

GOM COD SPAWNING PROTECTION AREA

| Point | N latitude | W longitude |
|-------------|------------|-------------|
| CSPA1 | 42°50.95' | 70°32.22' |
| CSPA2 | 42°47.65' | 70°35.64' |
| CSPA3 | 42°54.91' | 70°41.88' |
| CSPA4 | 42°58.27' | 70°38.64' |
| CSPA1 | 42°50.95' | 70°32.22' |

(4) *Winter Massachusetts Bay Spawning Protection Area.* Except as specified in paragraph (b)(2) of this section, from November 1 through January 31 of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or be on board a vessel in, the Massachusetts Bay Protection Area, as defined on the west and south by the outer limit of Massachusetts waters and on the northeast by a straight line connecting the following points, which fall along the Massachusetts state waters boundary:

WINTER MASSACHUSETTS BAY SPAWNING PROTECTION AREA

| Point | N latitude | W longitude |
|-------------|------------|-------------|
| WSPA1 | 42° 23.61' | 70° 39.21' |
| WSPA2 | 42° 07.68' | 70° 26.79' |

(5) *Spring Massachusetts Bay Spawning Protection Area.* (i) From April 15 through April 30 of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in the thirty-minute block defined by straight lines, unless otherwise noted, connecting the following points in the order stated:

SPRING MASSACHUSETTS BAY SPAWNING PROTECTION AREA

| Point | N latitude | W longitude | Note |
|-------------|------------|-------------|-------|
| SSPA1 | 42°30' | (1) | ..... |
| SSPA2 | 42°30' | 70°30' | ..... |
| SSPA3 | 42°00' | 70°30' | ..... |
| SSPA4 | 42°00' | (2) | (3) |
| SSPA5 | (4) | 71°00' | (3) |
| SSPA6 | (5) | 71°00' | (6) |
| SSPA1 | 42°30' | (1) | (6) |

¹ The intersection of 42°30' N lat. and the coastline at Marblehead, MA.

² The intersection of 42°00' N lat. and the coastline at Kingston, MA.

³ From Point SSPA4 to Point SSPA5 following the coastline of Massachusetts.

⁴ The intersection of 71°00' W long. and the coastline at Quincy, MA.

⁵ The intersection of 71°00' W long. and the northernmost coastline at East Boston, Boston, MA.

⁶ From Point SSPA6 back to Point SSPA 1 following the coastline of Massachusetts.

(ii) Unless otherwise restricted in this part, the Spring Massachusetts Bay Spawning Protection Area closure does not apply to a fishing vessel or person on a fishing vessel that meets the criteria in paragraphs (d)(5)(ii) through (vi) and (x) of this section (listed under the exemptions for the GOM Cod Protection Closures). This includes recreational vessels meeting the criteria specified in paragraphs (d)(5)(v)(A) through (D) of this section.

(c) *Georges Bank Spawning Groundfish Closures.* (1) *Restrictions.* Unless otherwise allowed in this part, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used on board a vessel in the spawning closure areas described in paragraphs (b)(3) and (4) of this section, and during the times specified in this section. Charts depicting the areas defined here are available from the RA upon request.

(2) *Exemptions.* Paragraph (c)(1) of this section does not apply to a fishing vessel or person on a fishing vessel:

(i) That is fishing with or using exempted gear as defined under this

part, excluding pelagic gillnet gear capable of catching NE multispecies, except for vessels fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided:

(A) The net is attached to the vessel and fished in the upper two-thirds of the water column;

(B) The net is marked with the vessel owner's name and vessel identification number;

(C) No regulated species or ocean pout are retained; and

(D) No other gear capable of catching NE multispecies is on board.

(ii) That is fishing for scallops consistent with the requirements of the scallop fishery management plan, including rotational access program requirements specified in § 648.59.

(iii) That is fishing in the mid-water trawl exempted fishery.

(iv) That is transiting pursuant to the requirements described in § 648.2.

(3) *Closed Area I North.* Except as specified in paragraph (c)(2) of this section, from February 1 through April 15 of each year, no fishing vessel or

person on a fishing vessel may enter, fish, or be in; and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, Closed Area I North, as defined by straight lines connecting the following points in the order stated:

CLOSED AREA I—NORTH

| Point | N lat. | W long. |
|------------|--------|---------|
| CIN1 | 41°30' | 69°23' |
| CIN2 | 41°30' | 68°30' |
| CIN3 | 41°26' | 68°30' |
| CIN4 | 41°04' | 69°01' |
| CIN1 | 41°30' | 69°23' |

(4) *Closed Area II.* Except as specified in paragraph (c)(2) of this section, from February 1 through April 15 of each year, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, Closed Area II, as defined by straight lines, unless otherwise noted, connecting the following points in the order stated:

CLOSED AREA II

| Point | N lat. | W long. | Note |
|-------------|------------------|------------------|------------------|
| CAII1 | 41°00' | 67°20' | ..... |
| CAII2 | 41°00' | 66°35.8' | ..... |
| CAII3 | 41°18.45 | (¹) | (²) |
| CAII4 | (³) | 67°20' | (²) |
| CAII5 | 42°22' | 67°20' | ..... |
| CAII1 | 41°00' | 67°20' | ..... |

¹ The intersection of 41°18.45' N lat. and the U.S.-Canada Maritime Boundary, approximately 41°18.45' N lat. and 66°24.89' W long.

² From Point CAII3 to Point CAII4 along the U.S.-Canada Maritime Boundary.

³ The intersection of 67°20' W long. and the U.S.-Canada Maritime Boundary, approximately 42°22.06' N lat. and 67°20' W long.

(d) *GOM Cod Protection Closures.* (1) *Restrictions.* Unless otherwise allowed in this part, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies may be used or on board a vessel in, GOM Cod Protection Closures I through V as described, and during the times specified, in paragraphs (d)(4)(i) through (v) of this section.

(2) *Review of closure.* The New England Fishery Management Council shall review the GOM Cod Protection Closures Areas specified in this section when the spawning stock biomass for GOM cod reaches the minimum biomass threshold specified for the stock (50 percent of SSB_{MSY}).

(3) *Seasons.* (i) GOM Cod Protection Closure I is in effect from May 1 through May 31.

(ii) GOM Cod Protection Closure II is in effect from June 1 through June 30.

(iii) GOM Cod Protection Closure III is in effect from November 1 through January 31.

(iv) GOM Cod Protection Closure IV is in effect from October 1 through October 31.

(v) GOM Cod Protection Closure V is in effect from March 1 through March 31.

(4) *GOM Cod Protection Closure Areas.* Charts depicting these areas are available from the Regional Administrator upon request.

(i) *GOM Cod Protection Closure I.* GOM Cod Protection Closure I is the area bounded by the following coordinates connected in the order stated by straight lines, unless otherwise noted:

GOM COD PROTECTION CLOSURE I
[May 1–May 31]

| Point | N latitude | W longitude |
|--------------|------------|-----------------------------------|
| CPCI 1 | 43°30' N | (¹) |
| CPCI 2 | 43°30' N | 69°30' W |
| CPCI 3 | 43°00' N | 69°30' W |
| CPCI 4 | 43°00' N | 70°00' W |
| CPCI 5 | 42°30' N | 70°00' W |
| CPCI 6 | 42°30' N | 70°30' W |
| CPCI 7 | 42°20' N | 70°30' W |
| CPCI 8 | 42°20' N | (²) (³) |
| CPCI 1 | 43°30' N | (¹) (³) |

¹ The intersection of 43°30' N latitude and the coastline of Maine.

² The intersection of 42°20' N latitude and the coastline of Massachusetts.

³ From Point 8 back to Point 1 following the coastline of the United States.

(ii) *GOM Cod Protection Closure II.* GOM Cod Protection Closure II is the area bounded by the following coordinates connected in the order

stated by straight lines, unless otherwise noted:

GOM COD PROTECTION CLOSURE II
[June 1–June 30]

| Point | N latitude | W longitude |
|-------------|------------|--------------|
| CPCII 1 ... | (1) | 69°30' W |
| CPCII 2 ... | 43°30' N | 69°30' W |
| CPCII 3 ... | 43°30' N | 70°00' W |
| CPCII 4 ... | 42°30' N | 70°00' W |
| CPCII 5 ... | 42°30' N | 70°30' W |
| CPCII 6 ... | 42°20' N | 70°30' W |
| CPCII 7 ... | 42°20' N | (2)(3) |
| CPCII 8 ... | 42°30' N | (4)(3) |
| CPCII 9 ... | 42°30' N | 70°30' W |
| CPCII 10 .. | 43°00' N | 70°30' W |
| CPCII 11 .. | 43°00' N | (5) (6) |
| CPCII 1 ... | (1) | 69°30' W (6) |

¹ The intersection of 69°30' W longitude and the coastline of Maine.

² The intersection of 42°20' N latitude and the coastline of Massachusetts.

³ From Point 7 to Point 8 following the coastline of Massachusetts.

⁴ The intersection of 42°30' N latitude and the coastline of Massachusetts.

⁵ The intersection of 43°00' N latitude and the coastline of New Hampshire.

⁶ From Point 11 back to Point 1 following the coastlines of New Hampshire and Maine.

(iii) *GOM Cod Protection Closure III.*

GOM Cod Protection Closure III is the area bounded by the following coordinates connected in the order stated by straight lines, unless otherwise noted:

GOM COD PROTECTION CLOSURE III
[November 1–January 31]

| Point | N latitude | W longitude |
|--------------|------------|-------------|
| CPCIII 1 ... | 42°30' N | (1) |
| CPCIII 2 ... | 42°30' N | 70°30' W |
| CPCIII 3 ... | 42°15' N | 70°30' W |
| CPCIII 4 ... | 42°15' N | 70°24' W |
| CPCIII 5 ... | 42°00' N | 70°24' W |
| CPCIII 6 ... | 42°00' N | (2) (3) |
| CPCIII 1 ... | 42°30' N | (1) (3) |

¹ The intersection of 42°30' N latitude and the Massachusetts coastline.

² The intersection of 42°00' N latitude and the mainland Massachusetts coastline at Kingston, MA.

³ From Point 6 back to Point 1 following the coastline of Massachusetts.

(iv) *GOM Cod Protection Closure IV.*

GOM Cod Protection Closure IV is the area bounded by the following coordinates connected in the order stated by straight lines, unless otherwise noted:

GOM COD PROTECTION CLOSURE IV
[October 1–October 31]

| Point | N latitude | W longitude |
|-------------|------------|-------------|
| CPCIV 1 ... | 42°30' N | (1) |
| CPCIV 2 ... | 42°30' N | 70°00' W |
| CPCIV 3 ... | 42°00' N | 70°00' W |

GOM COD PROTECTION CLOSURE IV—Continued
[October 1–October 31]

| Point | N latitude | W longitude |
|-------------|------------|-------------|
| CPCIV 4 ... | 42°00' N | (2) (3) |
| CPCIV 1 ... | 42°30' N | (1) (3) |

¹ The intersection of 42°30' N latitude and the Massachusetts coastline.

² The intersection of 42°00' N latitude and the mainland Massachusetts coastline at Kingston, MA.

³ From Point 4 back to Point 1 following the coastline of Massachusetts.

(v) *GOM Cod Protection Closure V.*

GOM Cod Protection Closure V is the area bounded by the following coordinates connected in the order stated by straight lines:

GOM COD PROTECTION CLOSURE V
[March 1–March 31]

| Point | N latitude | W longitude |
|------------|------------|-------------|
| CPCV 1 ... | 42°30' N | 70°00' W |
| CPCV 2 ... | 42°30' N | 68°30' W |
| CPCV 3 ... | 42°00' N | 68°30' W |
| CPCV 4 ... | 42°00' N | 70°00' W |
| CPCV 1 ... | 42°30' N | 70°00' W |

(5) *Exemptions.* The GOM cod protection closures specified in this section do not apply to a fishing vessel or person on board a fishing vessel under any of the following conditions:

- (i) No multispecies permit has been issued and the vessel is fishing exclusively in state waters;
- (ii) Fishing with or using exempted gear as defined under this part, except for pelagic gillnet gear capable of catching NE multispecies, unless fishing with a single pelagic gillnet not longer than 300 ft (91.4 m) and not greater than 6 ft (1.83 m) deep, with a maximum mesh size of 3 inches (7.6 cm), provided that:

(A) The net is attached to the boat and fished in the upper two-thirds of the water column;

(B) The net is marked with the owner's name and vessel identification number;

(C) No regulated species are retained; and

(D) No other gear capable of catching NE multispecies is on board;

(iii) Fishing in the Midwater Trawl Gear Exempted Fishery as specified in § 648.80(d);

(iv) Fishing in the Purse Seine Gear Exempted Fishery as specified in § 648.80(e);

(v) Fishing under charter/party or recreational regulations specified in § 648.89, provided that:

(A) A vessel fishing under charter/party regulations in a GOM cod

protection closure described under paragraph (f)(4) of this section, has on board a letter of authorization issued by the Regional Administrator that is valid from the date of enrollment through the duration of the closure or 3 months duration, whichever is greater;

(B) No harvested or possessed fish species managed by the NEFMC or MAFMC are sold or intended for trade, barter or sale, regardless of where the fish are caught;

(C) Only rod and reel or handline gear is on board; and

(D) No NE multispecies DAS are used during the entire period for which the letter of authorization is valid;

(vi) Fishing with scallop dredge gear under a scallop DAS or when lawfully fishing in the Scallop Dredge Fishery Exemption Area as described in § 648.80(a)(11), provided the vessel does not retain any regulated NE multispecies during a trip, or on any part of a trip;

(vii) Fishing in the Raised Footrope Trawl Exempted Whiting Fishery, as specified in § 648.80(a)(15), or in the Small Mesh Area II Exemption Area, as specified in § 648.80(a)(9);

(viii) Fishing on a sector trip, as defined in this part, and in the GOM Cod Protection Closures IV or V, as specified in paragraphs (f)(4)(iv) and (v) of this section; or

(ix) Fishing under the provisions of a Northeast multispecies Handgear A permit, as specified at § 648.82(b)(6), and in the GOM Cod Protection Closures IV or V, as specified in paragraphs (f)(4)(iv) and (v) of this section.

(x) Transiting the area, provided it complies with the requirements specified in paragraph (e) of this section.

(e) *Transiting.* (1) Unless otherwise restricted or specified in this paragraph (e), a vessel may transit the Cashes Ledge Closed Area, the Western GOM Closure Area, the GOM Cod Protection Closures, and the GOM Cod Spawning Protection Area, as defined in paragraphs (a)(3) and (4), (d)(4), and (b)(3), of this section, respectively, provided that its gear is stowed and not available for immediate use as defined in § 648.2.

(2) Private recreational or charter/party vessels fishing under the Northeast multispecies provisions specified at § 648.89 may transit the GOM Cod Spawning Protection Area, as defined in paragraph (b)(3) of this section, provided all bait and hooks are removed from fishing rods, and any regulated species on board have been caught outside the GOM Cod Spawning

Protection Area and has been gutted and stored.

(f) *Restricted Gear Areas*—(1) *Restricted Gear Area Seasons*. No fishing vessel with mobile gear on board, or person on a fishing vessel with

mobile gear on board, may fish or be in the specified Restricted Gear Areas, unless transiting, during the seasons below. No fishing vessel with lobster pot gear on board, or person on a fishing vessel with lobster pot gear on board,

may fish in, and no lobster pot gear may be deployed or remain in the specified Restricted Gear Areas. Vessels with lobster pot gear on board may transit during the seasons listed in the table in this paragraph (f)(1).

| | Mobile gear | Lobster pot gear |
|--------------------------------|----------------------------|-----------------------|
| Restricted Gear Area I | October 1–June 15 | June 16–September 30. |
| Restricted Gear Area II | November 27–June 15 | June 16–November 26. |
| Restricted Gear Area III | June 16–November 26 | January 1–April 30. |
| Restricted Gear Area IV | June 16–September 30 | n/a. |

(2) *Transiting*. Vessels with mobile gear may transit this area, provided that all mobile gear is on board the vessel while inside the area, and is stowed and

not available for immediate use as defined in § 648.2.
(3) *Restricted Gear Area I*. Restricted Gear Area I is defined by the following

points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

| Point | Latitude | Longitude | Note |
|----------|-------------|-------------|-------|
| AA | 40°02.75' N | 70°16.10' W | (*) |
| AB | 40°02.45' N | 70°14.10' W | (*) |
| AC | 40°05.20' N | 70°10.90' W | (*) |
| AD | 40°03.75' N | 70°10.15' W | (*) |
| AE | 40°00.70' N | 70°08.70' W | (*) |
| AF | 39°59.20' N | 70°04.90' W | (*) |
| AG | 39°58.25' N | 70°03.00' W | (*) |
| AH | 39°56.90' N | 69°57.45' W | (*) |
| AI | 39°57.40' N | 69°55.90' W | (*) |
| AJ | 39°57.55' N | 69°54.05' W | (*) |
| AK | 39°56.70' N | 69°53.60' W | (*) |
| AL | 39°55.75' N | 69°41.40' W | (*) |
| AM | 39°56.20' N | 69°40.20' W | (*) |
| AN | 39°58.80' N | 69°38.45' W | (*) |
| AO | 39°59.15' N | 69°37.30' W | (*) |
| AP | 40°00.90' N | 69°37.30' W | (*) |
| AQ | 40°00.65' N | 69°36.50' W | (*) |
| AR | 39°57.85' N | 69°35.15' W | (*) |
| AS | 39°56.80' N | 69°34.10' W | (*) |
| AT | 39°56.50' N | 69°26.35' W | (*) |
| AU | 39°56.75' N | 69°24.40' W | (*) |
| AV | 39°57.80' N | 69°20.35' W | (*) |
| AW | 40°00.05' N | 69°14.60' W | (*) |
| AX | 40°02.65' N | 69°11.15' W | (*) |
| AY | 40°02.00' N | 69°08.35' W | (*) |
| AZ | 40°02.65' N | 69°05.60' W | (*) |
| BA | 40°04.10' N | 69°03.90' W | (*) |
| BB | 40°05.65' N | 69°03.55' W | (*) |
| BC | 40°08.45' N | 69°03.60' W | (*) |
| BD | 40°09.75' N | 69°04.15' W | (*) |
| BE | 40°10.25' N | 69°04.40' W | (*) |
| BF | 40°11.60' N | 69°05.40' W | (*) |
| BG | 40°11.00' N | 69°03.80' W | (*) |
| BH | 40°08.90' N | 69°01.75' W | (*) |
| BI | 40°05.30' N | 69°01.10' W | (*) |
| BJ | 40°05.20' N | 69°00.50' W | (*) |
| BK | 40°04.35' N | 69°00.50' W | (*) |
| BL | 40°03.65' N | 69°00.00' W | (*) |
| BM | 40°03.60' N | 68°57.20' W | (*) |
| BN | 40°05.70' N | 68°52.40' W | (*) |
| BO | 40°08.10' N | 68°51.00' W | (*) |
| BP | 40°08.70' N | 68°49.60' W | (*) |
| BQ | 40°06.90' N | 68°46.50' W | (*) |
| BR | 40°07.20' N | 68°38.40' W | (*) |
| BS | 40°07.90' N | 68°36.00' W | (*) |
| BT | 40°06.40' N | 68°35.80' W | ..... |
| BU | 40°05.25' N | 68°39.30' W | ..... |
| BV | 40°05.40' N | 68°44.50' W | ..... |
| BW | 40°06.00' N | 68°46.50' W | ..... |
| BX | 40°07.40' N | 68°49.60' W | ..... |
| BY | 40°05.55' N | 68°49.80' W | ..... |
| BZ | 40°03.90' N | 68°51.70' W | ..... |
| CA | 40°02.25' N | 68°55.40' W | ..... |

| Point | Latitude | Longitude | Note |
|-------|-------------|-------------|------|
| CB | 40°02.60' N | 69°00.00' W | |
| CC | 40°02.75' N | 69°00.75' W | |
| CD | 40°04.20' N | 69°01.75' W | |
| CE | 40°06.15' N | 69°01.95' W | |
| CF | 40°07.25' N | 69°02.00' W | |
| CG | 40°08.50' N | 69°02.25' W | |
| CH | 40°09.20' N | 69°02.95' W | |
| CI | 40°09.75' N | 69°03.30' W | |
| CJ | 40°09.55' N | 69°03.85' W | |
| CK | 40°08.40' N | 69°03.40' W | |
| CL | 40°07.20' N | 69°03.30' W | |
| CM | 40°06.00' N | 69°03.10' W | |
| CN | 40°05.40' N | 69°03.05' W | |
| CO | 40°04.80' N | 69°03.05' W | |
| CP | 40°03.55' N | 69°03.55' W | |
| CQ | 40°01.90' N | 69°03.95' W | |
| CR | 40°01.00' N | 69°04.40' W | |
| CS | 39°59.90' N | 69°06.25' W | |
| CT | 40°00.60' N | 69°10.05' W | |
| CU | 39°59.25' N | 69°11.15' W | |
| CV | 39°57.45' N | 69°16.05' W | |
| CW | 39°56.10' N | 69°20.10' W | |
| CX | 39°54.60' N | 69°25.65' W | |
| CY | 39°54.65' N | 69°26.90' W | |
| CZ | 39°54.80' N | 69°30.95' W | |
| DA | 39°54.35' N | 69°33.40' W | |
| DB | 39°55.00' N | 69°34.90' W | |
| DC | 39°56.55' N | 69°36.00' W | |
| DD | 39°57.95' N | 69°36.45' W | |
| DE | 39°58.75' N | 69°36.30' W | |
| DF | 39°58.80' N | 69°36.95' W | |
| DG | 39°57.95' N | 69°38.10' W | |
| DH | 39°54.50' N | 69°38.25' W | |
| DI | 39°53.60' N | 69°46.50' W | |
| DJ | 39°54.70' N | 69°50.00' W | |
| DK | 39°55.25' N | 69°51.40' W | |
| DL | 39°55.20' N | 69°53.10' W | |
| DM | 39°54.85' N | 69°53.90' W | |
| DN | 39°55.70' N | 69°54.90' W | |
| DO | 39°56.15' N | 69°55.35' W | |
| DP | 39°56.05' N | 69°56.25' W | |
| DQ | 39°55.30' N | 69°57.10' W | |
| DR | 39°54.80' N | 69°58.60' W | |
| DS | 39°56.05' N | 70°00.65' W | |
| DT | 39°55.30' N | 70°02.95' W | |
| DU | 39°56.90' N | 70°11.30' W | |
| DV | 39°58.90' N | 70°11.50' W | |
| DW | 39°59.60' N | 70°11.10' W | |
| DX | 40°01.35' N | 70°11.20' W | |
| DY | 40°02.60' N | 70°12.00' W | |
| DZ | 40°00.40' N | 70°12.30' W | |
| EA | 39°59.75' N | 70°13.05' W | |
| EB | 39°59.30' N | 70°14.00' W | (*) |
| AA | 40°02.75' N | 70°16.10' W | (*) |

(4) *Restricted Gear Area II.* Restricted Gear Area II is defined by the following points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

| Point | Latitude | Longitude | Note |
|-------|-------------|-------------|------|
| AA | 40°02.75' N | 70°16.10' W | (*) |
| AB | 40°02.45' N | 70°14.10' W | (*) |
| AC | 40°05.20' N | 70°10.90' W | (*) |
| AD | 40°03.75' N | 70°10.15' W | (*) |
| AE | 40°00.70' N | 70°08.70' W | (*) |
| AF | 39°59.20' N | 70°04.90' W | (*) |
| AG | 39°58.25' N | 70°03.00' W | (*) |
| AH | 39°56.90' N | 69°57.45' W | (*) |
| AI | 39°57.40' N | 69°55.90' W | (*) |
| AJ | 39°57.55' N | 69°54.05' W | (*) |
| AK | 39°56.70' N | 69°53.60' W | (*) |

| Point | Latitude | Longitude | Note |
|-------|-------------|-------------|-------|
| AL | 39°55.75' N | 69°41.40' W | (*) |
| AM | 39°56.20' N | 69°40.20' W | (*) |
| AN | 39°58.80' N | 69°38.45' W | (*) |
| AO | 39°59.15' N | 69°37.30' W | (*) |
| AP | 40°00.90' N | 69°37.30' W | (*) |
| AQ | 40°00.65' N | 69°36.50' W | (*) |
| AR | 39°57.85' N | 69°35.15' W | (*) |
| AS | 39°56.80' N | 69°34.10' W | (*) |
| AT | 39°56.50' N | 69°26.35' W | (*) |
| AU | 39°56.75' N | 69°24.40' W | (*) |
| AV | 39°57.80' N | 69°20.35' W | (*) |
| AW | 40°00.05' N | 69°14.60' W | (*) |
| AX | 40°02.65' N | 69°11.15' W | (*) |
| AY | 40°02.00' N | 69°08.35' W | (*) |
| AZ | 40°02.65' N | 69°05.60' W | (*) |
| BA | 40°04.10' N | 69°03.90' W | (*) |
| BB | 40°05.65' N | 69°03.55' W | (*) |
| BC | 40°08.45' N | 69°03.60' W | (*) |
| BD | 40°09.75' N | 69°04.15' W | (*) |
| BE | 40°10.25' N | 69°04.40' W | (*) |
| BF | 40°11.60' N | 69°05.40' W | (*) |
| BG | 40°11.00' N | 69°03.80' W | (*) |
| BH | 40°08.90' N | 69°01.75' W | (*) |
| BI | 40°05.30' N | 69°01.10' W | (*) |
| BJ | 40°05.20' N | 69°00.50' W | (*) |
| BK | 40°04.35' N | 69°00.50' W | (*) |
| BL | 40°03.65' N | 69°00.00' W | (*) |
| BM | 40°03.60' N | 68°57.20' W | (*) |
| BN | 40°05.70' N | 68°52.40' W | (*) |
| BO | 40°08.10' N | 68°51.00' W | (*) |
| BP | 40°08.70' N | 68°49.60' W | (*) |
| BQ | 40°06.90' N | 68°46.50' W | (*) |
| BR | 40°07.20' N | 68°38.40' W | (*) |
| BS | 40°07.90' N | 68°36.00' W | (*) |
| BT | 40°06.40' N | 68°35.80' W | ..... |
| BU | 40°05.25' N | 68°39.30' W | ..... |
| BV | 40°05.40' N | 68°44.50' W | ..... |
| BW | 40°06.00' N | 68°46.50' W | ..... |
| BX | 40°07.40' N | 68°49.60' W | ..... |
| BY | 40°05.55' N | 68°49.80' W | ..... |
| BZ | 40°03.90' N | 68°51.70' W | ..... |
| CA | 40°02.25' N | 68°55.40' W | ..... |
| CB | 40°02.60' N | 69°00.00' W | ..... |
| CC | 40°02.75' N | 69°00.75' W | ..... |
| CD | 40°04.20' N | 69°01.75' W | ..... |
| CE | 40°06.15' N | 69°01.95' W | ..... |
| CF | 40°07.25' N | 69°02.00' W | ..... |
| CG | 40°08.50' N | 69°02.25' W | ..... |
| CH | 40°09.20' N | 69°02.95' W | ..... |
| CI | 40°09.75' N | 69°03.30' W | ..... |
| CJ | 40°09.55' N | 69°03.85' W | ..... |
| CK | 40°08.40' N | 69°03.40' W | ..... |
| CL | 40°07.20' N | 69°03.30' W | ..... |
| CM | 40°06.00' N | 69°03.10' W | ..... |
| CN | 40°05.40' N | 69°03.05' W | ..... |
| CO | 40°04.80' N | 69°03.05' W | ..... |
| CP | 40°03.55' N | 69°03.55' W | ..... |
| CQ | 40°01.90' N | 69°03.95' W | ..... |
| CR | 40°01.00' N | 69°04.40' W | ..... |
| CS | 39°59.90' N | 69°06.25' W | ..... |
| CT | 40°00.60' N | 69°10.05' W | ..... |
| CU | 39°59.25' N | 69°11.15' W | ..... |
| CV | 39°57.45' N | 69°16.05' W | ..... |
| CW | 39°56.10' N | 69°20.10' W | ..... |
| CX | 39°54.60' N | 69°25.65' W | ..... |
| CY | 39°54.65' N | 69°26.90' W | ..... |
| CZ | 39°54.80' N | 69°30.95' W | ..... |
| DA | 39°54.35' N | 69°33.40' W | ..... |
| DB | 39°55.00' N | 69°34.90' W | ..... |
| DC | 39°56.55' N | 69°36.00' W | ..... |
| DD | 39°57.95' N | 69°36.45' W | ..... |
| DE | 39°58.75' N | 69°36.30' W | ..... |
| DF | 39°58.80' N | 69°36.95' W | ..... |
| DG | 39°57.95' N | 69°38.10' W | ..... |

| Point | Latitude | Longitude | Note |
|-------|-------------|-------------|------|
| DH | 39°54.50' N | 69°38.25' W | |
| DI | 39°53.60' N | 69°46.50' W | |
| DJ | 39°54.70' N | 69°50.00' W | |
| DK | 39°55.25' N | 69°51.40' W | |
| DL | 39°55.20' N | 69°53.10' W | |
| DM | 39°54.85' N | 69°53.90' W | |
| DN | 39°55.70' N | 69°54.90' W | |
| DO | 39°56.15' N | 69°55.35' W | |
| DP | 39°56.05' N | 69°56.25' W | |
| DQ | 39°55.30' N | 69°57.10' W | |
| DR | 39°54.80' N | 69°58.60' W | |
| DS | 39°56.05' N | 70°00.65' W | |
| DT | 39°55.30' N | 70°02.95' W | |
| DU | 39°56.90' N | 70°11.30' W | |
| DV | 39°58.90' N | 70°11.50' W | |
| DW | 39°59.60' N | 70°11.10' W | |
| DX | 40°01.35' N | 70°11.20' W | |
| DY | 40°02.60' N | 70°12.00' W | |
| DZ | 40°00.40' N | 70°12.30' W | |
| EA | 39°59.75' N | 70°13.05' W | |
| EB | 39°59.30' N | 70°14.00' W | (*) |
| AA | 40°02.75' N | 70°16.10' W | (*) |

(5) *Restricted Gear Area III.* Restricted Gear Area III is defined by the following points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

| Point | Latitude | Longitude | Note |
|-------|-------------|-------------|------|
| AA | 40°02.75' N | 70°16.10' W | (*) |
| GL | 40°00.70' N | 70°18.60' W | (*) |
| GK | 39°59.80' N | 70°21.75' W | (*) |
| GJ | 39°59.75' N | 70°25.50' W | (*) |
| GI | 40°03.85' N | 70°28.75' W | (*) |
| GH | 40°00.55' N | 70°32.10' W | (*) |
| GG | 39°59.15' N | 70°34.45' W | (*) |
| GF | 39°58.90' N | 70°38.65' W | (*) |
| GE | 40°00.10' N | 70°45.10' W | (*) |
| GD | 40°00.50' N | 70°57.60' W | (*) |
| GC | 40°02.00' N | 71°01.30' W | (*) |
| GB | 39°59.30' N | 71°18.40' W | (*) |
| GA | 40°00.70' N | 71°19.80' W | (*) |
| FZ | 39°57.50' N | 71°20.60' W | (*) |
| FY | 39°53.10' N | 71°36.10' W | (*) |
| FX | 39°52.60' N | 71°40.35' W | (*) |
| FW | 39°53.10' N | 71°42.70' W | (*) |
| FV | 39°46.95' N | 71°49.00' W | (*) |
| FU | 39°41.15' N | 71°57.10' W | (*) |
| FT | 39°35.45' N | 72°02.00' W | (*) |
| FS | 39°32.65' N | 72°06.10' W | (*) |
| FR | 39°29.75' N | 72°09.80' W | (*) |
| GM | 39°33.65' N | 72°15.00' W | |
| GN | 39°47.20' N | 72°01.60' W | |
| GO | 39°53.75' N | 71°52.25' W | |
| GP | 39°55.85' N | 71°45.00' W | |
| GQ | 39°55.60' N | 71°41.20' W | |
| GR | 39°57.90' N | 71°28.70' W | |
| GS | 40°10.70' N | 71°10.25' W | |
| GT | 40°12.75' N | 70°55.05' W | |
| GU | 40°11.05' N | 70°45.80' W | |
| GV | 40°06.50' N | 70°40.05' W | |
| GW | 40°05.60' N | 70°17.70' W | |
| AA | 40°02.75' N | 70°16.10' W | (*) |

(6) *Restricted Gear Area IV.* Restricted Gear Area IV is defined by the following points connected in the order listed by straight lines (points followed by an asterisk are shared with an adjacent Restricted Gear Area):

| Point | Latitude | Longitude | Note |
|-------|-------------|-------------|------|
| AA | 40°02.75' N | 70°16.10' W | (*) |

| Point | Latitude | Longitude | Note |
|-------|-------------|-------------|------|
| GX | 40°07.80' N | 70°09.20' W | |
| GY | 40°07.60' N | 70°04.50' W | |
| GZ | 40°02.10' N | 69°45.00' W | |
| HA | 40°01.30' N | 69°45.00' W | |
| HB | 40°00.50' N | 69°38.80' W | |
| HC | 40°01.70' N | 69°37.40' W | |
| HD | 40°01.70' N | 69°35.40' W | |
| HE | 40°00.40' N | 69°35.20' W | |
| HF | 39°57.30' N | 69°25.10' W | |
| HG | 40°05.50' N | 69°09.00' W | |
| HH | 40°14.30' N | 69°05.80' W | |
| HI | 40°14.00' N | 69°04.70' W | |
| HJ | 40°11.60' N | 68°53.00' W | |
| HK | 40°13.60' N | 68°40.60' W | |
| BS | 40°07.90' N | 68°36.00' W | (*) |
| BR | 40°07.20' N | 68°38.40' W | (*) |
| BQ | 40°06.90' N | 68°46.50' W | (*) |
| BP | 40°08.70' N | 68°49.60' W | (*) |
| BO | 40°08.10' N | 68°51.00' W | (*) |
| BN | 40°05.70' N | 68°52.40' W | (*) |
| BM | 40°03.60' N | 68°57.20' W | (*) |
| BL | 40°03.65' N | 69°00.00' W | (*) |
| BK | 40°04.35' N | 69°00.50' W | (*) |
| BJ | 40°05.20' N | 69°00.50' W | (*) |
| BI | 40°05.30' N | 69°01.10' W | (*) |
| BH | 40°08.90' N | 69°01.75' W | (*) |
| BG | 40°11.00' N | 69°03.80' W | (*) |
| BF | 40°11.60' N | 69°05.40' W | (*) |
| BE | 40°10.25' N | 69°04.40' W | (*) |
| BD | 40°09.75' N | 69°04.15' W | (*) |
| BC | 40°08.45' N | 69°03.60' W | (*) |
| BB | 40°05.65' N | 69°03.55' W | (*) |
| BA | 40°04.10' N | 69°03.90' W | (*) |
| AZ | 40°02.65' N | 69°05.60' W | (*) |
| AY | 40°02.00' N | 69°08.35' W | (*) |
| AX | 40°02.65' N | 69°11.15' W | (*) |
| AW | 40°00.05' N | 69°14.60' W | (*) |
| AV | 39°57.80' N | 69°20.35' W | (*) |
| AU | 39°56.75' N | 69°24.40' W | (*) |
| AT | 39°56.50' N | 69°26.35' W | (*) |
| AS | 39°56.80' N | 69°34.10' W | (*) |
| AR | 39°57.85' N | 69°35.15' W | (*) |
| AQ | 40°00.65' N | 69°36.50' W | (*) |
| AP | 40°00.90' N | 69°37.30' W | (*) |
| AO | 39°59.15' N | 69°37.30' W | (*) |
| AN | 39°58.80' N | 69°38.45' W | (*) |
| AM | 39°56.20' N | 69°40.20' W | (*) |
| AL | 39°55.75' N | 69°41.40' W | (*) |
| AK | 39°56.70' N | 69°53.60' W | (*) |
| AJ | 39°57.55' N | 69°54.05' W | (*) |
| AI | 39°57.40' N | 69°55.90' W | (*) |
| AH | 39°56.90' N | 69°57.45' W | (*) |
| AG | 39°58.25' N | 70°03.00' W | (*) |
| AF | 39°59.20' N | 70°04.90' W | (*) |
| AE | 40°00.70' N | 70°08.70' W | (*) |
| AD | 40°03.75' N | 70°10.15' W | (*) |
| AC | 40°05.20' N | 70°10.90' W | (*) |
| AB | 40°02.45' N | 70°14.10' W | (*) |
| AA | 40°02.75' N | 70°16.10' W | (*) |

■ 12. Amend § 648.87 by revising paragraphs (c)(2)(i) introductory text and (c)(2)(ii)(B) to read as follows:

§ 648.87 Sector allocation.

* * * * *

(c) * * *
(2) * * *

(i) *Regulations that may not be exempted for sector participants.* The Regional Administrator may not exempt

participants in a sector from the following Federal fishing regulations: Specific times and areas within the NE multispecies year-round closure areas; permitting restrictions (e.g., vessel upgrades, etc.); gear restrictions designed to minimize habitat impacts (e.g., roller gear restrictions, etc.); reporting requirements; and AMs specified in § 648.90(a)(5)(i)(D). For the

purposes of this paragraph (c)(2)(i), the DAS reporting requirements specified in § 648.82, the SAP-specific reporting requirements specified in § 648.85, VMS requirements for Handgear A category permitted vessels as specified in § 648.10, and the reporting requirements associated with a dockside monitoring program are not considered reporting requirements, and the Regional

Administrator may exempt sector participants from these requirements as part of the approval of yearly operations plans. For the purpose of this paragraph (c)(2)(i), the Regional Administrator may not grant sector participants exemptions from the NE multispecies year-round closures areas defined as Habitat Management Areas as defined in § 648.370; Closed Area I North and Closed Area II, as defined in § 648.81(c)(3) and (4), respectively, during the period February 16 through April 30; and the Western GOM Closure Area, as defined at § 648.81(a)(4), where it overlaps with GOM Cod Protection Closures I through III, as defined in § 648.81(d)(4). This list may be modified through a framework adjustment, as specified in § 648.90.

* * * * *

(ii) * * *

(B) The GOM Cod Protection Closures IV and V specified in § 648.81(d)(4)(iv) and (v).

* * * * *

■ 13. In § 648.89, revise paragraph (e)(1) and remove and reserve paragraph (e)(2) to read as follows:

§ 648.89 Recreational and charter/party vessel restrictions.

* * * * *

(e) *Charter/party vessel restrictions on fishing in GOM closed areas*—(1) *GOM closed areas.* (i) A vessel fishing under charter/party regulations may not fish in the GOM closed areas specified in § 648.81(a)(3) and (4) and (d)(4) during the time periods specified in those paragraphs, unless the vessel has on board a valid letter of authorization issued by the Regional Administrator pursuant to § 648.81(d)(5)(v) and paragraph (e)(3) of this section. The conditions and restrictions of the letter of authorization must be complied with for a minimum of 3 months if the vessel fishes or intends to fish in the GOM cod protection closures; or for the rest of the fishing year, beginning with the start of the participation period of the letter of authorization, if the vessel fishes or intends to fish in the year-round GOM closure areas.

(ii) A vessel fishing under charter/party regulations may not fish in the GOM Cod Spawning Protection Area specified at § 648.81(b)(3) during the time period specified in that paragraph, unless the vessel complies with the requirements specified at § 648.81(b)(2)(iii).

* * * * *

■ 14. In § 648.202, revise paragraph (b)(1) to read as follows:

§ 648.202 Season and area restrictions.

* * * * *

(b) *Fishing in Northeast Multispecies Closed Areas.* (1) No vessel issued an Atlantic herring permit and fishing with midwater trawl gear, may fish for, possess or land fish in or from the Closed Areas, including Cashes Ledge Closure Area, Western GOM Closure Area, Closed Area I North (February 1–April 15), and Closed Area II, as defined in § 648.81(a)(3), (4), and (5) and (c)(3) and (4), respectively, unless it has declared first its intent to fish in the Closed Areas as required by § 648.11(m)(1), and is carrying onboard a NMFS-certified observer.

* * * * *

■ 15. Revise § 648.203(a) to read as follows:

§ 648.203 Gear restrictions.

(a) Midwater trawl gear may only be used by a vessel issued a valid herring permit in the GOM/GB Exemption Area as defined in § 648.80(a)(17), provided it complies with the midwater trawl gear exemption requirements specified under the NE multispecies regulations at § 648.80(d), including issuance of a Letter of Authorization.

* * * * *

■ 16. Add subpart Q to part 648 to read as follows:

Subpart Q—Habitat-Related Management Measures

Sec.

- 648.370 Habitat Management Areas.
- 648.371 Dedicated Habitat Research Areas.
- 648.372 Frank R. Lautenberg Deep-Sea Coral Protection Area.

Subpart Q—Habitat-Related Management Measures

§ 648.370 Habitat Management Areas.

Unless otherwise specified, no fishing vessel or person on a fishing vessel may fish with bottom-tending mobile gear in the areas defined in this section. Copies of charts depicting these areas are available from the Regional Administrator upon request.

(a) *Eastern Maine Habitat Management Area.* The Eastern Maine HMA is bounded on the northwest by the outer limit of Maine state waters, and bounded on all other sides by straight lines connecting the following points in the order stated:

EASTERN MAINE HMA

| Point | N latitude | W longitude |
|-------------------------|-------------|-------------|
| EMH1 ¹ | 44°07.65' N | 68°10.64' W |
| EMH2 | 44°02.50' N | 68°06.10' W |
| EMH3 | 43°51.00' N | 68°33.90' W |

EASTERN MAINE HMA—Continued

| Point | N latitude | W longitude |
|-------------------------|-------------|-------------|
| EMH4 ¹ | 43°56.62' N | 68°38.12' W |

¹ Points 1 and 4 are intended to fall along the outer limit of Maine state waters.

(b) *Jeffreys Bank Habitat Management Area.* The Jeffreys Bank HMA is defined by straight lines connecting the following points in the order stated:

JEFFREYS BANK HMA

| Point | N latitude | W longitude |
|------------|------------|-------------|
| JBH1 | 43°31' N | 68°37' W |
| JBH2 | 43°20' N | 68°37' W |
| JBH3 | 43°20' N | 68°55' W |
| JBH4 | 43°31' N | 68°55' W |
| JBH1 | 43°31' N | 68°37' W |

(c) *Cashes Ledge Habitat Management Area.* The Cashes Ledge HMA is defined by straight lines connecting the following points in the order stated:

CASHES LEDGE HMA

| Point | N latitude | W longitude |
|------------|------------|-------------|
| CLH1 | 43°01.0' N | 69°00.0' W |
| CLH2 | 43°01.0' N | 68°52.0' W |
| CLH3 | 42°45.0' N | 68°52.0' W |
| CLH4 | 42°45.0' N | 69°00.0' W |
| CLH1 | 43°01.0' N | 69°00.0' W |

(d) *Fippennies Ledge Habitat Management Area.* The Fippennies Ledge HMA is defined by straight lines connecting the following points in the order stated:

FIPPENNIES LEDGE HMA

| Point | N latitude | W longitude |
|------------|------------|-------------|
| FLH1 | 42°50.0' N | 69°17.0' W |
| FLH2 | 42°44.0' N | 69°14.0' W |
| FLH3 | 42°44.0' N | 69°18.0' W |
| FLH4 | 42°50.0' N | 69°21.0' W |
| FLH1 | 42°50.0' N | 69°17.0' W |

(e) *Ammen Rock Habitat Management Area.* (1) The Ammen Rock HMA is defined by straight lines connecting the following points in the order stated:

AMMEN ROCK HMA

| Point | N latitude | W longitude |
|------------|------------|-------------|
| ARH1 | 42°55.5' N | 68°57.0' W |
| ARH2 | 42°52.5' N | 68°55.0' W |
| ARH3 | 42°52.5' N | 68°57.0' W |
| ARH4 | 42°55.5' N | 68°59.0' W |
| ARH1 | 42°55.5' N | 68°57.0' W |

(2) No fishing vessel, including private and for-hire recreational fishing vessels, may fish in the Ammen Rock

HMA, except for vessels fishing exclusively with lobster traps, as defined in § 697.2.

(f) *Western Gulf of Maine Habitat Management Area.* (1) *Coordinates.* The Western GOM HMA is defined by the straight lines connecting the following points in the order stated:

WESTERN GULF OF MAINE HMA

| Point | N latitude | W longitude |
|-----------|------------|-------------|
| WGMH1 ... | 43°15' N | 70°15' W |
| WGMH2 ... | 42°15' N | 70°15' W |
| WGMH3 ... | 42°15' N | 70°00' W |
| WGMH4 ... | 43°15' N | 70°15' W |
| WGMH1 ... | 43°15' N | 70°15' W |

(2) *Western Gulf of Maine Shrimp Exemption Area.* Vessels fishing with shrimp trawls under the Small Mesh Northern Shrimp Fishery Exemption specified at § 648.80(a)(5) may fish within the Western Gulf of Maine HMA Shrimp Exemption Area which is defined by the straight lines connecting the following points in the order stated:

WESTERN GULF OF MAINE SHRIMP EXEMPTION AREA

| Point | N latitude | W longitude |
|------------|------------|-------------|
| SEA1 | 43°15' N | 70° W |
| SEA2 | 43°13' N | 70° W |
| SEA3 | 43°13' N | 70°05' W |

WESTERN GULF OF MAINE SHRIMP EXEMPTION AREA—Continued

| Point | N latitude | W longitude |
|------------|------------|-------------|
| SEA4 | 43°09' N | 70°05' W |
| SEA5 | 43°09' N | 70°08' W |
| SEA6 | 42°55' N | 70°08' W |
| SEA7 | 42°55' N | 70°15' W |
| SEA8 | 43°15' N | 70°15' W |
| SEA1 | 43°15' N | 70° W |

(g) *Closed Area II Habitat Closure Area.* The Closed Area II Habitat Closure Area is defined by the straight lines, except where otherwise noted, connecting the following points in the order stated:

CLOSED AREA II HABITAT CLOSURE AREA

| Point | N latitude | W longitude | Notes |
|-------------|------------|-------------|-------|
| CIIH1 | 42°10' N | 67°20' W | ..... |
| CIIH2 | 42°10' N | 67°9.38' W | (1 2) |
| CIIH3 | 42°00' N | 67°0.63' W | (2 3) |
| CIIH4 | 42°00' N | 67°10' W | ..... |
| CIIH5 | 41°50' N | 67°10' W | ..... |
| CIIH6 | 41°50' N | 67°20' W | ..... |
| CIIH1 | 42°10' N | 67°20' W | ..... |

¹ Point CIIH2 represents the intersection of 42°10' N lat. and the U.S.-Canada Maritime Boundary.
² From Point CIIH2 to Point CIIH3 along the U.S.-Canada Maritime Boundary.
³ Point CIIH3 represents the intersection of 42°00' N lat. and the U.S.-Canada maritime Boundary.

(h) *Great South Channel Habitat Management Area.* (1) *Coordinates.* The Great South Channel HMA is defined by the straight lines connecting the following points in the order stated:

GREAT SOUTH CHANNEL HMA

| Point | N latitude | W longitude |
|-------------|------------|-------------|
| GSCH1 | 41°30.3' N | 69°31.0' W |
| GSCH2 | 41°0.00' N | 69°18.5' W |
| GSCH3 | 40°51.7' N | 69°18.5' W |
| GSCH4 | 40°51.6' N | 69°48.9' W |
| GSCH5 | 41°30.2' N | 69°49.3' W |
| GSCH1 | 41°30.3' N | 69°31.0' W |

| Point | N latitude | W longitude |
|-------------|------------|-------------|
| GSC1 | 41°30.3' N | 69°31.0' W |
| MBTG2 | 41°21.0' N | 69°27.2' W |
| MBTG3 | 41°21.0' N | 69°43.0' W |
| MBTG4 | 41°30.0' N | 69°43.0' W |
| GSC1 | 41°30.3' N | 69°31.0' W |

(i) *Transiting.* Unless otherwise restricted, a vessel may transit the habitat management areas described in this section provided that its gear is stowed and not available for immediate use as defined in § 648.2.

(j) *Other habitat protection measures.* The Inshore Gulf of Maine/Georges Bank Restricted Roller Gear Area described in § 648.80(a)(3)(vii) is considered a habitat protection measure and the restrictions outlined in that section apply to all bottom trawl gear.

(k) *Review of habitat management measures.* The New England Fishery Management Council will develop a strategic process to evaluate the boundaries, scope, characteristics, and timing of habitat and spawning protection areas to facilitate review of these areas at 10-year intervals.

§ 648.371 Dedicated Habitat Research Areas.

(a) *Dedicated Habitat Research Area (DHRA) topics.* The areas defined in this section are intended to facilitate coordinated research on gear impacts,

habitat recovery, natural disturbance, and productivity.

(b) *Stellwagen Dedicated Habitat Research Area.* (1) The Stellwagen DHRA is defined by the straight lines connecting the following points in the order stated:

STELLWAGEN DHRA

| Point | N latitude | W longitude |
|------------|------------|-------------|
| SDHRA1 ... | 42°15.0' N | 70°00.0' W |
| SDHRA2 ... | 42°15.0' N | 70°15.0' W |
| SDHRA3 ... | 42°45.2' N | 70°15.0' W |
| SDHRA4 ... | 42°46.0' N | 70°13.0' W |
| SDHRA5 ... | 42°46.0' N | 70°00.0' W |
| SDHRA1 ... | 42°15.0' N | 70°00.0' W |

(2) Vessels fishing with bottom-tending mobile gear, sink gillnet gear, or demersal longline gear are prohibited from fishing in the Stellwagen DHRA, unless otherwise exempted.

(c) *Georges Bank Dedicated Habitat Research Area.* (1) The Georges Bank DHRA is defined by straight lines connecting the following points in the order stated:

GEORGES BANK DHRA

| Point | Latitude | Longitude |
|---------|-------------|-------------|
| GBDHRA1 | 40°54.95' N | 68°53.37' W |
| GBDHRA2 | 40°58' N | 68°30' W |
| GBDHRA3 | 40°45' N | 68°30' W |

(2) *Hydraulic Clam Dredge Exemption.* (i) Except for the portion of the Great South Channel HMA defined in paragraph (h)(2)(iii) of this section, surfclam and ocean quahog permitted vessels may fish with hydraulic clam dredges in the Great South Channel HMA.

(ii) The Hydraulic clam dredge exemption is effective until April 9, 2019, after which, no vessels fishing with hydraulic clam dredges may fish within the Great South Channel HMA.

(iii) The hydraulic clam dredge exemption does not apply in the area defined as the straight lines connecting the following points in the order stated:

GEORGES BANK DHRA—Continued

| Point | Latitude | Longitude |
|---------|----------|-----------|
| GBDHRA4 | 40°45' N | 68°45' W |

(2) Vessels fishing with bottom-tending mobile gear are prohibited from fishing in the Georges Bank DHRA, unless otherwise exempted.

(d) *Transiting*. Unless otherwise restricted or specified in this paragraph (d), a vessel may transit the Dedicated Habitat Research Areas of this section provided that its gear is stowed and not available for immediate use as defined in § 648.2.

(e) *Dedicated Habitat Research Areas review*. (1) The Regional Administrator shall initiate a review of the DHRAs defined in this section three years after implementation.

(2) After initiation of the review and consultation with the New England Fishery Management Council, the Regional Administrator may remove a DHRA. The following criteria will be

used to determine if DHRA should be maintained:

(i) Documentation of active and ongoing research in the DHRA area, in the form of data records, cruise reports or inventory samples with analytical objectives focused on the DHRA topics, described in paragraph (a) of this section; and

(ii) Documentation of pending or approved proposals or funding requests (including ship time requests), with objectives specific to the DHRA topics, described in paragraph (a) of this section.

(3) The Regional Administrator will make any such determination in accordance with the APA through notification in the **Federal Register**.

§ 648.372 Frank R. Lautenberg Deep-Sea Coral Protection Area.

(a) *Restrictions*. No vessel may fish with bottom-tending gear within the Frank R. Lautenberg Deep-Sea Coral Protection Area described in this section, unless transiting pursuant to paragraph (d) of this section, fishing

lobster trap gear in accordance with § 697.21 of this chapter, or fishing red crab trap gear in accordance with § 648.264. Bottom-tending gear includes but is not limited to bottom-tending otter trawls, bottom-tending beam trawls, hydraulic dredges, non-hydraulic dredges, bottom-tending seines, bottom longlines, pots and traps, and sink or anchored gillnets. The Frank R. Lautenberg Deep-Sea Coral Protection Area consists of the Broad and Discrete Deep-Sea Coral Zones defined in paragraphs (b) and (c) of this section.

(b) *Broad Deep-Sea Coral Zone*. The Broad Deep-Sea Coral Zone is bounded on the east by the outer limit of the U.S. Exclusive Economic Zone, and bounded on all other sides by straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Discrete Zone column means the point is shared with a Discrete Deep-Sea Coral Zone, as defined in paragraph (c) of this section.

BROAD ZONE

| Point | Latitude | Longitude | Discrete zone |
|-------|-------------|-------------|---------------|
| 1 | 36°33.02' N | 71°29.33' W | |
| 2 | 36°33.02' N | 72°00' W | |
| 3 | 36°33.02' N | 73°00' W | |
| 4 | 36°33.02' N | 74°00' W | |
| 5 | 36°33.02' N | 74°42.14' W | |
| 6 | 36°34.44' N | 74°42.23' W | |
| 7 | 36°35.53' N | 74°41.59' W | |
| 8 | 36°37.69' N | 74°41.51' W | |
| 9 | 36°42.09' N | 74°39.07' W | |
| 10 | 36°45.18' N | 74°38' W | |
| 11 | 36°45.69' N | 74°38.55' W | |
| 12 | 36°49.17' N | 74°38.31' W | |
| 13 | 36°49.56' N | 74°37.77' W | |
| 14 | 36°51.21' N | 74°37.81' W | |
| 15 | 36°51.78' N | 74°37.43' W | |
| 16 | 36°58.51' N | 74°36.51' W | (*) |
| 17 | 36°58.62' N | 74°36.97' W | (*) |
| 18 | 37°4.43' N | 74°41.03' W | (*) |
| 19 | 37°5.83' N | 74°45.57' W | (*) |
| 20 | 37°6.97' N | 74°40.8' W | (*) |
| 21 | 37°4.52' N | 74°37.77' W | (*) |
| 22 | 37°4.02' N | 74°33.83' W | (*) |
| 23 | 37°4.52' N | 74°33.51' W | (*) |
| 24 | 37°4.4' N | 74°33.11' W | (*) |
| 25 | 37°7.38' N | 74°31.95' W | |
| 26 | 37°8.32' N | 74°32.4' W | |
| 27 | 37°8.51' N | 74°31.38' W | |
| 28 | 37°9.44' N | 74°31.5' W | |
| 29 | 37°16.83' N | 74°28.58' W | |
| 30 | 37°17.81' N | 74°27.67' W | |
| 31 | 37°18.72' N | 74°28.22' W | |
| 32 | 37°22.74' N | 74°26.24' W | (*) |
| 33 | 37°22.87' N | 74°26.16' W | (*) |
| 34 | 37°24.44' N | 74°28.57' W | (*) |
| 35 | 37°24.67' N | 74°29.71' W | (*) |
| 36 | 37°25.93' N | 74°30.13' W | (*) |
| 37 | 37°27.25' N | 74°30.2' W | (*) |
| 38 | 37°28.6' N | 74°30.6' W | (*) |
| 39 | 37°29.43' N | 74°30.29' W | (*) |
| 40 | 37°29.53' N | 74°29.95' W | (*) |
| 41 | 37°27.68' N | 74°28.82' W | (*) |

BROAD ZONE—Continued

| Point | Latitude | Longitude | Discrete zone |
|-------|-------------|-------------|---------------|
| 42 | 37°27.06' N | 74°28.76' W | (*) |
| 43 | 37°26.39' N | 74°27.76' W | (*) |
| 44 | 37°26.3' N | 74°26.87' W | (*) |
| 45 | 37°25.69' N | 74°25.63' W | (*) |
| 46 | 37°25.83' N | 74°24.22' W | (*) |
| 47 | 37°25.68' N | 74°24.03' W | (*) |
| 48 | 37°28.04' N | 74°23.17' W | ..... |
| 49 | 37°27.72' N | 74°22.34' W | ..... |
| 50 | 37°30.13' N | 74°17.77' W | ..... |
| 51 | 37°33.83' N | 74°17.47' W | ..... |
| 52 | 37°35.48' N | 74°14.84' W | ..... |
| 53 | 37°36.99' N | 74°14.01' W | ..... |
| 54 | 37°37.23' N | 74°13.02' W | ..... |
| 55 | 37°42.85' N | 74°9.97' W | ..... |
| 56 | 37°43.5' N | 74°8.79' W | ..... |
| 57 | 37°45.22' N | 74°9.2' W | ..... |
| 58 | 37°45.15' N | 74°7.24' W | (*) |
| 59 | 37°45.88' N | 74°7.44' W | (*) |
| 60 | 37°46.7' N | 74°5.98' W | (*) |
| 61 | 37°49.62' N | 74°6.03' W | (*) |
| 62 | 37°51.25' N | 74°5.48' W | (*) |
| 63 | 37°51.99' N | 74°4.51' W | (*) |
| 64 | 37°51.37' N | 74°3.3' W | (*) |
| 65 | 37°50.63' N | 74°2.69' W | (*) |
| 66 | 37°49.62' N | 74°2.28' W | (*) |
| 67 | 37°50.28' N | 74°0.67' W | (*) |
| 68 | 37°53.68' N | 73°57.41' W | (*) |
| 69 | 37°55.07' N | 73°57.27' W | (*) |
| 70 | 38°3.29' N | 73°49.1' W | (*) |
| 71 | 38°6.19' N | 73°51.59' W | (*) |
| 72 | 38°7.67' N | 73°52.19' W | (*) |
| 73 | 38°9.04' N | 73°52.39' W | (*) |
| 74 | 38°10.1' N | 73°52.32' W | (*) |
| 75 | 38°11.98' N | 73°52.65' W | (*) |
| 76 | 38°13.74' N | 73°50.73' W | (*) |
| 77 | 38°13.15' N | 73°49.77' W | (*) |
| 78 | 38°10.92' N | 73°50.37' W | (*) |
| 79 | 38°10.2' N | 73°49.63' W | (*) |
| 80 | 38°9.26' N | 73°49.68' W | (*) |
| 81 | 38°8.38' N | 73°49.51' W | (*) |
| 82 | 38°7.59' N | 73°47.91' W | (*) |
| 83 | 38°6.96' N | 73°47.25' W | (*) |
| 84 | 38°6.51' N | 73°46.99' W | (*) |
| 85 | 38°5.69' N | 73°45.56' W | (*) |
| 86 | 38°6.35' N | 73°44.8' W | (*) |
| 87 | 38°7.5' N | 73°45.2' W | (*) |
| 88 | 38°9.24' N | 73°42.61' W | (*) |
| 89 | 38°9.41' N | 73°41.63' W | ..... |
| 90 | 38°15.13' N | 73°37.58' W | ..... |
| 91 | 38°15.25' N | 73°36.2' W | (*) |
| 92 | 38°16.19' N | 73°36.91' W | (*) |
| 93 | 38°16.89' N | 73°36.66' W | (*) |
| 94 | 38°16.91' N | 73°36.35' W | (*) |
| 95 | 38°17.63' N | 73°35.35' W | (*) |
| 96 | 38°18.55' N | 73°34.44' W | (*) |
| 97 | 38°18.38' N | 73°33.4' W | (*) |
| 98 | 38°19.04' N | 73°33.02' W | (*) |
| 99 | 38°25.08' N | 73°34.99' W | (*) |
| 100 | 38°26.32' N | 73°33.44' W | (*) |
| 101 | 38°29.72' N | 73°30.65' W | (*) |
| 102 | 38°28.65' N | 73°29.37' W | (*) |
| 103 | 38°25.53' N | 73°30.94' W | (*) |
| 104 | 38°25.26' N | 73°29.97' W | (*) |
| 105 | 38°23.75' N | 73°30.16' W | (*) |
| 106 | 38°23.47' N | 73°29.7' W | (*) |
| 107 | 38°22.76' N | 73°29.34' W | (*) |
| 108 | 38°22.5' N | 73°27.63' W | (*) |
| 109 | 38°21.59' N | 73°26.87' W | (*) |
| 110 | 38°23.07' N | 73°24.11' W | ..... |
| 111 | 38°25.83' N | 73°22.39' W | ..... |
| 112 | 38°25.97' N | 73°21.43' W | ..... |
| 113 | 38°34.14' N | 73°11.14' W | (*) |

BROAD ZONE—Continued

| Point | Latitude | Longitude | Discrete zone |
|-------|-------------|-------------|---------------|
| 114 | 38°35.1' N | 73°10.43' W | (*) |
| 115 | 38°35.94' N | 73°11.25' W | (*) |
| 116 | 38°37.57' N | 73°10.49' W | (*) |
| 117 | 38°37.21' N | 73°9.41' W | (*) |
| 118 | 38°36.72' N | 73°8.85' W | (*) |
| 119 | 38°43' N | 73°1.24' W | (*) |
| 120 | 38°43.66' N | 73°0.36' W | (*) |
| 121 | 38°45' N | 73°0.27' W | (*) |
| 122 | 38°46.68' N | 73°1.07' W | (*) |
| 123 | 38°47.54' N | 73°2.24' W | (*) |
| 124 | 38°47.84' N | 73°2.24' W | (*) |
| 125 | 38°49.03' N | 73°1.53' W | (*) |
| 126 | 38°48.45' N | 73°1' W | (*) |
| 127 | 38°49.15' N | 72°58.98' W | (*) |
| 128 | 38°48.03' N | 72°56.7' W | (*) |
| 129 | 38°49.84' N | 72°55.54' W | (*) |
| 130 | 38°52.4' N | 72°52.5' W | (*) |
| 131 | 38°53.87' N | 72°53.36' W | (*) |
| 132 | 38°54.17' N | 72°52.58' W | (*) |
| 133 | 38°54.7' N | 72°50.26' W | (*) |
| 134 | 38°57.2' N | 72°47.74' W | (*) |
| 135 | 38°58.64' N | 72°48.35' W | (*) |
| 136 | 38°59.3' N | 72°47.86' W | (*) |
| 137 | 38°59.22' N | 72°46.69' W | (*) |
| 138 | 39°0.13' N | 72°45.47' W | (*) |
| 139 | 39°1.69' N | 72°45.74' W | (*) |
| 140 | 39°1.49' N | 72°43.67' W | (*) |
| 141 | 39°3.9' N | 72°40.83' W | (*) |
| 142 | 39°7.35' N | 72°41.26' W | (*) |
| 143 | 39°7.16' N | 72°37.21' W | (*) |
| 144 | 39°6.52' N | 72°35.78' W | (*) |
| 145 | 39°11.73' N | 72°25.4' W | (*) |
| 146 | 39°11.76' N | 72°22.33' W | (*) |
| 147 | 39°19.08' N | 72°9.56' W | (*) |
| 148 | 39°25.17' N | 72°13.03' W | (*) |
| 149 | 39°28.8' N | 72°17.39' W | (*) |
| 150 | 39°30.16' N | 72°20.41' W | (*) |
| 151 | 39°31.38' N | 72°23.86' W | (*) |
| 152 | 39°32.55' N | 72°25.07' W | (*) |
| 153 | 39°34.57' N | 72°25.18' W | (*) |
| 154 | 39°34.53' N | 72°24.23' W | (*) |
| 155 | 39°33.17' N | 72°24.1' W | (*) |
| 156 | 39°32.07' N | 72°22.77' W | (*) |
| 157 | 39°32.17' N | 72°22.08' W | (*) |
| 158 | 39°30.3' N | 72°15.71' W | (*) |
| 159 | 39°29.49' N | 72°14.3' W | (*) |
| 160 | 39°29.44' N | 72°13.24' W | (*) |
| 161 | 39°27.63' N | 72°5.87' W | (*) |
| 162 | 39°28.26' N | 72°2.2' W | (*) |
| 163 | 39°29.88' N | 72°3.51' W | (*) |
| 164 | 39°30.57' N | 72°3.47' W | (*) |
| 165 | 39°31.28' N | 72°2.63' W | (*) |
| 166 | 39°31.46' N | 72°1.41' W | (*) |
| 167 | 39°37.15' N | 71°55.85' W | (*) |
| 168 | 39°39.77' N | 71°53.7' W | (*) |
| 169 | 39°41.5' N | 71°51.89' W | (*) |
| 170 | 39°43.84' N | 71°44.85' W | (*) |
| 171 | 39°48.01' N | 71°45.19' W | (*) |
| 172 | 39°49.97' N | 71°39.29' W | (*) |
| 173 | 39°55.08' N | 71°18.62' W | (*) |
| 174 | 39°55.99' N | 71°16.07' W | (*) |
| 175 | 39°57.04' N | 70°50.01' W | (*) |
| 176 | 39°55.07' N | 70°32.42' W | (*) |
| 177 | 39°50.24' N | 70°27.78' W | (*) |
| 178 | 39°42.18' N | 70°20.09' W | (*) |
| 179 | 39°34.11' N | 70°12.42' W | (*) |
| 180 | 39°26.04' N | 70°4.78' W | (*) |
| 181 | 39°17.96' N | 69°57.18' W | (*) |
| 182 | 39°9.87' N | 69°49.6' W | (*) |
| 183 | 39°1.77' N | 69°42.05' W | (*) |
| 184 | 38°53.66' N | 69°34.53' W | (*) |
| 185 | 38°45.54' N | 69°27.03' W | (*) |

BROAD ZONE—Continued

| Point | Latitude | Longitude | Discrete zone |
|-----------|-------------|-------------|---------------|
| 186 | 38°37.42' N | 69°19.57' W | ..... |
| 187 | 38°29.29' N | 69°12.13' W | ..... |
| 188 | 38°21.15' N | 69°4.73' W | ..... |
| 189 | 38°13' N | 68°57.35' W | ..... |
| 190 | 38°4.84' N | 68°49.99' W | ..... |
| 191 | 38°2.21' N | 68°47.62' W | ..... |

(c) *Discrete Deep-Sea Coral Zones—*
 (1) *Block Canyon.* Block Canyon discrete deep-sea coral zone is defined by straight lines connecting the

following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An

asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

BLOCK CANYON

| Point | Latitude | Longitude | Broad zone |
|---------|-------------|-------------|------------|
| 1 | 39°55.08' N | 71°18.62' W | (*) |
| 2 | 39°55.99' N | 71°16.07' W | (*) |
| 3 | 39°49.51' N | 71°12.12' W | ..... |
| 4 | 39°38.09' N | 71°9.5' W | ..... |
| 5 | 39°37.4' N | 71°11.87' W | ..... |
| 6 | 39°47.26' N | 71°17.38' W | ..... |
| 7 | 39°52.6' N | 71°17.51' W | ..... |
| 1 | 39°55.08' N | 71°18.62' W | (*) |

(2) *Ryan and McMaster Canyons.* Ryan and McMaster Canyons discrete deep-sea coral zone is defined by straight lines connecting the following

points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad

Zone column means the point is shared with the Broad Deep-sea Coral Zone, as defined in paragraph (b) of this section.

RYAN AND MCMASTER CANYONS

| Point | Latitude | Longitude | Broad zone |
|---------|-------------|-------------|------------|
| 1 | 39°43.84' N | 71°44.85' W | (*) |
| 2 | 39°48.01' N | 71°45.19' W | (*) |
| 3 | 39°49.97' N | 71°39.29' W | (*) |
| 4 | 39°48.29' N | 71°37.18' W | ..... |
| 5 | 39°42.96' N | 71°35.01' W | ..... |
| 6 | 39°33.43' N | 71°27.91' W | ..... |
| 7 | 39°31.75' N | 71°30.77' W | ..... |
| 8 | 39°34.46' N | 71°35.68' W | ..... |
| 9 | 39°40.12' N | 71°42.36' W | ..... |
| 1 | 39°43.84' N | 71°44.85' W | (*) |

(3) *Emery and Uchupi Canyons.* Emery and Uchupi Canyons discrete deep-sea coral zone is defined by straight lines connecting the following

points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad

Zone column means the point is shared with the Broad Deep-sea Coral Zone, as defined in paragraph (b) of this section.

EMERY AND UCHUPI CANYONS

| Point | Latitude | Longitude | Broad zone |
|---------|-------------|-------------|------------|
| 1 | 39°37.15' N | 71°55.85' W | (*) |
| 2 | 39°39.77' N | 71°53.7' W | (*) |
| 3 | 39°39.55' N | 71°47.68' W | ..... |
| 4 | 39°30.78' N | 71°36.24' W | ..... |
| 5 | 39°27.26' N | 71°39.13' W | ..... |
| 6 | 39°28.99' N | 71°45.47' W | ..... |
| 7 | 39°33.91' N | 71°52.61' W | ..... |
| 1 | 39°37.15' N | 71°55.85' W | (*) |

(4) *Jones and Babylon Canyons*. Jones and Babylon Canyons discrete deep-sea coral zone is defined by straight lines connecting the following points in the

order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column

means the point is shared with the Broad Deep-sea Coral Zone, as defined in paragraph (b) of this section.

JONES AND BABYLON CANYONS

| Point | Latitude | Longitude | Broad zone |
|-------|-------------|-------------|------------|
| 1 | 39°28.26' N | 72°2.2' W | (*) |
| 2 | 39°29.88' N | 72°3.51' W | (*) |
| 3 | 39°30.57' N | 72°3.47' W | (*) |
| 4 | 39°31.28' N | 72°2.63' W | (*) |
| 5 | 39°31.46' N | 72°1.41' W | (*) |
| 6 | 39°30.37' N | 71°57.72' W | ..... |
| 7 | 39°30.63' N | 71°55.13' W | ..... |
| 8 | 39°23.81' N | 71°48.15' W | ..... |
| 9 | 39°23' N | 71°52.48' W | ..... |
| 1 | 39°28.26' N | 72°2.2' W | (*) |

(5) *Hudson Canyon*. Hudson Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated

(copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column

means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

HUDSON CANYON

| Point | Latitude | Longitude | Broad zone |
|-------|-------------|-------------|------------|
| 1 | 39°19.08' N | 72°9.56' W | (*) |
| 2 | 39°25.17' N | 72°13.03' W | (*) |
| 3 | 39°28.8' N | 72°17.39' W | (*) |
| 4 | 39°30.16' N | 72°20.41' W | (*) |
| 5 | 39°31.38' N | 72°23.86' W | (*) |
| 6 | 39°32.55' N | 72°25.07' W | (*) |
| 7 | 39°34.57' N | 72°25.18' W | (*) |
| 8 | 39°34.53' N | 72°24.23' W | (*) |
| 9 | 39°33.17' N | 72°24.1' W | (*) |
| 10 | 39°32.07' N | 72°22.77' W | (*) |
| 11 | 39°32.17' N | 72°22.08' W | (*) |
| 12 | 39°30.3' N | 72°15.71' W | (*) |
| 13 | 39°29.49' N | 72°14.3' W | (*) |
| 14 | 39°29.44' N | 72°13.24' W | (*) |
| 15 | 39°27.63' N | 72°5.87' W | (*) |
| 16 | 39°13.93' N | 71°48.44' W | ..... |
| 17 | 39°10.39' N | 71°52.98' W | ..... |
| 18 | 39°14.27' N | 72°3.09' W | ..... |
| 1 | 39°19.08' N | 72°9.56' W | (*) |

(6) *Mey-Lindenkohl Slope*. Mey-Lindenkohl Slope discrete deep-sea coral zone is defined by straight lines connecting the following points in the

order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column

means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

MEY-LINDENKOHL SLOPE

| Point | Latitude | Longitude | Broad zone |
|-------|-------------|-------------|------------|
| 1 | 38°43' N | 73°1.24' W | (*) |
| 2 | 38°43.66' N | 73°0.36' W | (*) |
| 3 | 38°45' N | 73°0.27' W | (*) |
| 4 | 38°46.68' N | 73°1.07' W | (*) |
| 5 | 38°47.54' N | 73°2.24' W | (*) |
| 6 | 38°47.84' N | 73°2.24' W | (*) |
| 7 | 38°49.03' N | 73°1.53' W | (*) |
| 8 | 38°48.45' N | 73°1' W | (*) |
| 9 | 38°49.15' N | 72°58.98' W | (*) |
| 10 | 38°48.03' N | 72°56.7' W | (*) |
| 11 | 38°49.84' N | 72°55.54' W | (*) |
| 12 | 38°52.4' N | 72°52.5' W | (*) |
| 13 | 38°53.87' N | 72°53.36' W | (*) |

MEY-LINDENKOHL SLOPE—Continued

| Point | Latitude | Longitude | Broad zone |
|-------|-------------|-------------|------------|
| 14 | 38°54.17' N | 72°52.58' W | (*) |
| 15 | 38°54.7' N | 72°50.26' W | (*) |
| 16 | 38°57.2' N | 72°47.74' W | (*) |
| 17 | 38°58.64' N | 72°48.35' W | (*) |
| 18 | 38°59.3' N | 72°47.86' W | (*) |
| 19 | 38°59.22' N | 72°46.69' W | (*) |
| 20 | 39°0.13' N | 72°45.47' W | (*) |
| 21 | 39°1.69' N | 72°45.74' W | (*) |
| 22 | 39°1.49' N | 72°43.67' W | (*) |
| 23 | 39°3.9' N | 72°40.83' W | (*) |
| 24 | 39°7.35' N | 72°41.26' W | (*) |
| 25 | 39°7.16' N | 72°37.21' W | (*) |
| 26 | 39°6.52' N | 72°35.78' W | (*) |
| 27 | 39°11.73' N | 72°25.4' W | (*) |
| 28 | 38°58.85' N | 72°11.78' W | ..... |
| 29 | 38°32.39' N | 72°47.69' W | ..... |
| 30 | 38°34.88' N | 72°53.78' W | ..... |
| 1 | 38°43' N | 73°1.24' W | (*) |

(7) *Spencer Canyon*. Spencer Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated

(copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column

means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

SPENCER CANYON

| Point | Latitude | Longitude | Broad zone |
|-------|-------------|-------------|------------|
| 1 | 38°34.14' N | 73°11.14' W | (*) |
| 2 | 38°35.1' N | 73°10.43' W | (*) |
| 3 | 38°35.94' N | 73°11.25' W | (*) |
| 4 | 38°37.57' N | 73°10.49' W | (*) |
| 5 | 38°37.21' N | 73°9.41' W | (*) |
| 6 | 38°36.72' N | 73°8.85' W | (*) |
| 7 | 38°36.59' N | 73°8.25' W | ..... |
| 8 | 38°28.94' N | 72°58.96' W | ..... |
| 9 | 38°26.45' N | 73°3.24' W | ..... |
| 1 | 38°34.14' N | 73°11.14' W | (*) |

(8) *Wilmington Canyon*. Wilmington Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated

(copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column

means the point is shared with the Broad Deep-sea Coral Zone, as defined in paragraph (b) of this section.

WILMINGTON CANYON

| Point | Latitude | Longitude | Broad zone |
|-------|-------------|-------------|------------|
| 1 | 38°19.04' N | 73°33.02' W | (*) |
| 2 | 38°25.08' N | 73°34.99' W | (*) |
| 3 | 38°26.32' N | 73°33.44' W | (*) |
| 4 | 38°29.72' N | 73°30.65' W | (*) |
| 5 | 38°28.65' N | 73°29.37' W | (*) |
| 6 | 38°25.53' N | 73°30.94' W | (*) |
| 7 | 38°25.26' N | 73°29.97' W | (*) |
| 8 | 38°23.75' N | 73°30.16' W | (*) |
| 9 | 38°23.47' N | 73°29.7' W | (*) |
| 10 | 38°22.76' N | 73°29.34' W | (*) |
| 11 | 38°22.5' N | 73°27.63' W | (*) |
| 12 | 38°21.59' N | 73°26.87' W | (*) |
| 13 | 38°18.52' N | 73°22.95' W | ..... |
| 14 | 38°14.41' N | 73°16.64' W | ..... |
| 15 | 38°13.23' N | 73°17.32' W | ..... |
| 16 | 38°15.79' N | 73°26.38' W | ..... |
| 1 | 38°19.04' N | 73°33.02' W | (*) |

(9) *North Heyes and South Wilmington Canyons*. North Heyes and South Wilmington Canyons discrete deep-sea coral zone is defined by

straight lines connecting the following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon

request). An asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

NORTH HEYES AND SOUTH WILMINGTON CANYONS

| Point | Latitude | Longitude | Broad zone |
|-------|-------------|-------------|------------|
| 1 | 38°15.25' N | 73°36.2' W | (*) |
| 2 | 38°16.19' N | 73°36.91' W | (*) |
| 3 | 38°16.89' N | 73°36.66' W | (*) |
| 4 | 38°16.91' N | 73°36.35' W | (*) |
| 5 | 38°17.63' N | 73°35.35' W | (*) |
| 6 | 38°18.55' N | 73°34.44' W | (*) |
| 7 | 38°18.38' N | 73°33.4' W | (*) |
| 8 | 38°19.04' N | 73°33.02' W | (*) |
| 9 | 38°15.79' N | 73°26.38' W | ..... |
| 10 | 38°14.98' N | 73°24.73' W | ..... |
| 11 | 38°12.32' N | 73°21.22' W | ..... |
| 12 | 38°11.06' N | 73°22.21' W | ..... |
| 13 | 38°11.13' N | 73°28.72' W | ..... |
| 1 | 38°15.25' N | 73°36.2' W | (*) |

(10) *South Vries Canyon*. South Vries Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated

(copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column

means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

SOUTH VRIES CANYON

| Point | Latitude | Longitude | Broad zone |
|-------|------------|-------------|------------|
| 1 | 38°6.35' N | 73°44.8' W | (*) |
| 2 | 38°7.5' N | 73°45.2' W | (*) |
| 3 | 38°9.24' N | 73°42.61' W | (*) |
| 4 | 38°3.22' N | 73°29.22' W | ..... |
| 5 | 38°2.38' N | 73°29.78' W | ..... |
| 6 | 38°2.54' N | 73°36.73' W | ..... |
| 1 | 38°6.35' N | 73°44.8' W | (*) |

(11) *Baltimore Canyon*. Baltimore Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated

(copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column

means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

BALTIMORE CANYON

| Point | Latitude | Longitude | Broad zone |
|-------|-------------|-------------|------------|
| 1 | 38°3.29' N | 73°49.1' W | (*) |
| 2 | 38°6.19' N | 73°51.59' W | (*) |
| 3 | 38°7.67' N | 73°52.19' W | (*) |
| 4 | 38°9.04' N | 73°52.39' W | (*) |
| 5 | 38°10.1' N | 73°52.32' W | (*) |
| 6 | 38°11.98' N | 73°52.65' W | (*) |
| 7 | 38°13.74' N | 73°50.73' W | (*) |
| 8 | 38°13.15' N | 73°49.77' W | (*) |
| 9 | 38°10.92' N | 73°50.37' W | (*) |
| 10 | 38°10.2' N | 73°49.63' W | (*) |
| 11 | 38°9.26' N | 73°49.68' W | (*) |
| 12 | 38°8.38' N | 73°49.51' W | (*) |
| 13 | 38°7.59' N | 73°47.91' W | (*) |
| 14 | 38°6.96' N | 73°47.25' W | (*) |
| 15 | 38°6.51' N | 73°46.99' W | (*) |
| 16 | 38°5.69' N | 73°45.56' W | (*) |
| 17 | 38°6.35' N | 73°44.8' W | (*) |
| 18 | 38°2.54' N | 73°36.73' W | ..... |
| 19 | 37°59.19' N | 73°40.67' W | ..... |
| 1 | 38°3.29' N | 73°49.1' W | (*) |

(12) *Warr and Phoenix Canyon Complex*. Warr and Phoenix Canyon Complex discrete deep-sea coral zone is defined by straight lines connecting the

following points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An

asterisk (*) in the Broad Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

WARR AND PHOENIX CANYON COMPLEX

| Point | Latitude | Longitude | Broad zone |
|---------|-------------|-------------|------------|
| 1 | 37°53.68' N | 73°57.41' W | (*) |
| 2 | 37°55.07' N | 73°57.27' W | (*) |
| 3 | 38°3.29' N | 73°49.1' W | (*) |
| 4 | 37°59.19' N | 73°40.67' W | ..... |
| 5 | 37°52.5' N | 73°35.28' W | ..... |
| 6 | 37°50.92' N | 73°36.59' W | ..... |
| 7 | 37°49.84' N | 73°47.11' W | ..... |
| 1 | 37°53.68' N | 73°57.41' W | (*) |

(13) *Accomac and Leonard Canyons*. Accomac and Leonard Canyons discrete deep-sea coral zone is defined by straight lines connecting the following

points in the order stated (copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad

Zone column means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

ACCOMAC AND LEONARD CANYONS

| Point | Latitude | Longitude | Broad zone |
|----------|-------------|-------------|------------|
| 1 | 37°45.15' N | 74°7.24' W | (*) |
| 2 | 37°45.88' N | 74°7.44' W | (*) |
| 3 | 37°46.7' N | 74°5.98' W | (*) |
| 4 | 37°49.62' N | 74°6.03' W | (*) |
| 5 | 37°51.25' N | 74°5.48' W | (*) |
| 6 | 37°51.99' N | 74°4.51' W | (*) |
| 7 | 37°51.37' N | 74°3.3' W | (*) |
| 8 | 37°50.63' N | 74°2.69' W | (*) |
| 9 | 37°49.62' N | 74°2.28' W | (*) |
| 10 | 37°50.28' N | 74°0.67' W | (*) |
| 11 | 37°50.2' N | 74°0.17' W | ..... |
| 12 | 37°50.52' N | 73°58.59' W | ..... |
| 13 | 37°50.99' N | 73°57.17' W | ..... |
| 14 | 37°50.4' N | 73°52.35' W | ..... |
| 15 | 37°42.76' N | 73°44.86' W | ..... |
| 16 | 37°39.96' N | 73°48.32' W | ..... |
| 17 | 37°40.04' N | 73°58.25' W | ..... |
| 18 | 37°44.14' N | 74°6.96' W | ..... |
| 1 | 37°45.15' N | 74°7.24' W | (*) |

(14) *Washington Canyon*. Washington Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated

(copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column

means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

WASHINGTON CANYON

| Point | Latitude | Longitude | Broad zone |
|----------|-------------|-------------|------------|
| 1 | 37°22.74' N | 74°26.24' W | (*) |
| 2 | 37°22.87' N | 74°26.16' W | (*) |
| 3 | 37°24.44' N | 74°28.57' W | (*) |
| 4 | 37°24.67' N | 74°29.71' W | (*) |
| 5 | 37°25.93' N | 74°30.13' W | (*) |
| 6 | 37°27.25' N | 74°30.2' W | (*) |
| 7 | 37°28.6' N | 74°30.6' W | (*) |
| 8 | 37°29.43' N | 74°30.29' W | (*) |
| 9 | 37°29.53' N | 74°29.95' W | (*) |
| 10 | 37°27.68' N | 74°28.82' W | (*) |
| 11 | 37°27.06' N | 74°28.76' W | (*) |
| 12 | 37°26.39' N | 74°27.76' W | (*) |
| 13 | 37°26.3' N | 74°26.87' W | (*) |
| 14 | 37°25.69' N | 74°25.63' W | (*) |
| 15 | 37°25.83' N | 74°24.22' W | (*) |

WASHINGTON CANYON—Continued

| Point | Latitude | Longitude | Broad zone |
|----------|-------------|-------------|------------|
| 16 | 37°25.68' N | 74°24.03' W | (*) |
| 17 | 37°25.08' N | 74°23.29' W | ..... |
| 18 | 37°16.81' N | 73°52.13' W | ..... |
| 19 | 37°11.27' N | 73°54.05' W | ..... |
| 20 | 37°15.73' N | 74°12.2' W | ..... |
| 1 | 37°22.74' N | 74°26.24' W | (*) |

(15) *Norfolk Canyon*. Norfolk Canyon discrete deep-sea coral zone is defined by straight lines connecting the following points in the order stated

(copies of a chart depicting this area are available from the Regional Administrator upon request). An asterisk (*) in the Broad Zone column

means the point is shared with the Broad Deep-Sea Coral Zone, as defined in paragraph (b) of this section.

NORFOLK CANYON

| Point | Latitude | Longitude | Broad zone |
|----------|-------------|-------------|------------|
| 1 | 36°58.51' N | 74°36.51' W | (*) |
| 2 | 36°58.62' N | 74°36.97' W | (*) |
| 3 | 37°4.43' N | 74°41.03' W | (*) |
| 4 | 37°5.83' N | 74°45.57' W | (*) |
| 5 | 37°6.97' N | 74°40.8' W | (*) |
| 6 | 37°4.52' N | 74°37.77' W | (*) |
| 7 | 37°4.02' N | 74°33.83' W | (*) |
| 8 | 37°4.52' N | 74°33.51' W | (*) |
| 9 | 37°4.40' N | 74°33.11' W | (*) |
| 10 | 37°4.16' N | 74°32.37' W | ..... |
| 11 | 37°4.40' N | 74°30.58' W | ..... |
| 12 | 37°3.65' N | 74°3.66' W | ..... |
| 13 | 36°57.75' N | 74°3.61' W | ..... |
| 14 | 36°59.77' N | 74°30' W | ..... |
| 15 | 36°58.23' N | 74°32.95' W | ..... |
| 16 | 36°57.99' N | 74°34.18' W | ..... |
| 1 | 36°58.51' N | 74°36.51' W | (*) |

(d) *Transiting*. Vessels may transit the Broad and Discrete Deep-Sea Coral Zones defined in paragraphs (b) and (c) of this section, provided bottom-tending trawl nets are out of the water and stowed on the reel and any other fishing

gear that is prohibited in these areas is onboard, out of the water, and not deployed. Fishing gear is not required to meet the definition of “not available for immediate use” in § 648.2, when a

vessel transits the Broad and Discrete Deep-Sea Coral Zones.

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