

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.14, paragraphs (a)(104) through (a)(109) are added and reserved, and paragraphs (a)(110) and (a)(111) are added to read as follows:

### § 648.14 Prohibitions.

(a) \* \* \*

(104) through (109) [Reserved].

(110) Fish for, possess or retain sea scallops in or from the areas described in § 648.57.

(111) Transit or be in the areas described in § 648.57 with scallop gear that is not properly stowed as required in § 648.57.

\* \* \* \* \*

3. Section 648.57 is added to subpart D to read as follows:

### § 648.57 Closed areas.

(a) *Hudson Canyon South Closed Area.* No vessel may fish for, possess, or retain sea scallops in or from the area known as the Hudson Canyon South Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request) unless all gear on board is properly stowed and not available for immediate use in accordance with the provisions of § 648.23(b) and § 648.81(e). Further, vessels not fishing in the scallop DAS program and fishing for species other than scallops or not in possession of scallops in this area must stow scallop dredge gear in accordance with the provisions of §§ 648.23(b) and 648.81(e). The Hudson Canyon South Closed Area is defined by straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
H1 .....	39°30' N.	73°10' W.
H2 .....	39°30' N.	72°30' W.
H3 .....	38°30' N.	73°30' W.
H4 .....	38°40' N.	73°50' W.

(b) *Virginia Beach Closed Area.* No vessel may fish for, possess, or retain sea scallops in or from the area known as the Virginia Beach Closed Area (copies of a chart depicting this area are available from the Regional Administrator upon request) unless all gear on board is properly stowed and not available for immediate use in accordance with the provisions of § 648.23(b) and § 648.81(e). Further, vessels not fishing in the scallop DAS program and fishing for species other than scallops or not in possession of scallops in this area must stow scallop

dredge gear in accordance with the provisions of §§ 648.23(b) and 648.81(e). The Virginia Beach Closed Area is defined by straight lines connecting the following points in the order stated:

Point	Latitude	Longitude
V1 .....	37°00' N.	74°55' W.
V2 .....	37°00' N.	74°35' W.
V3 .....	36°25' N.	74°45' W.
V4 .....	36°25' N.	74°55' W.

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[Docket No. 980318066-8066-01; I.D. 022698A]

RIN 0648-AK77

### Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 25

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

**ACTION:** Final rule and 1998 target total allowable catch (TAC) levels.

**SUMMARY:** NMFS issues this final rule to implement measures contained in Framework 25 to the Northeast Multispecies Fishery Management Plan (FMP). The primary purpose of this action is to significantly reduce fishing effort on Gulf of Maine (GOM) cod through a combination of direct and indirect measures. Direct measures include area closures and trip limits, and indirect measures include an incentive to shift effort from the GOM to Georges Bank with an increased haddock trip limit. This final rule implements management measures that include: 1-month sequential closures for each of four GOM inshore areas starting in Massachusetts Bay and extending to Penobscot Bay and for an offshore area comprising Cashes Ledge; a year-round closure encompassing parts of Stellwagen Bank, Jeffreys Ledge, and Wildcat Knoll; a reduction in the GOM cod landing limit from 1,000 lb/day (453.6 kg/day) to 700 lb/day (317.5 kg/day); an extension of the current 1,000 lb/day (453.6 kg/day) haddock landing limit, with a 10,000 lb (4,536 kg/day) landing cap per trip, for the period May 1 through August 31, and an increase to 3,000 lb/day (1,360.8 kg/day), with a 30,000 lb (13,608 kg/day) cap per trip,

beginning September 1; a requirement to use a raised footrope trawl in Small Mesh Area 1 and Small Mesh Area 2; and a 1-year postponement of the Vessel Tracking System (VTS) for multispecies vessels. The intent of this action is to implement measures to achieve the rebuilding goals of Amendment 7 to the FMP for the 1998 multispecies fishing year.

**DATES:** This final rule and the target total allowable catch levels are effective May 1, 1998.

**ADDRESSES:** Copies of Amendment 7 to the FMP (Amendment 7), its regulatory impact review (RIR), and the final regulatory flexibility analysis contained with the RIR, its final supplemental environmental impact statement, and Framework Adjustment 25 documents are available on request from Paul J. Howard, Executive Director, New England Fishery Management Council, 5 Broadway, Saugus, MA 01906-1097.

Comments regarding the collection-of-information requirements contained in this final rule should be sent to Andrew A. Rosenberg, Regional Administrator, Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930-2298 and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 (Attention: NOAA Desk Officer).

#### FOR FURTHER INFORMATION CONTACT:

Susan A. Murphy, Fishery Policy Analyst, 978-281-9252.

#### SUPPLEMENTARY INFORMATION:

Amendment 7, which became effective on July 1, 1996, established a procedure for setting annual TACs for the five primary stocks of cod, haddock, and yellowtail flounder (Georges Bank cod, haddock, and yellowtail flounder, Southern New England yellowtail flounder, and GOM cod), and an aggregate TAC for the combined stocks of the remaining regulated multispecies. Adjustment of target TACs, which are calculated based on the biological reference points of  $F_{max}$  for GOM cod and  $F_{0.1}$  for the remaining stocks of cod, haddock, and yellowtail flounder, is necessary to attain a fishing mortality rate that would allow cod, haddock, and yellowtail stocks to rebuild over time, and maintain current potential yield for the seven remaining multispecies. Adjustment of annual target TACs provides a measure by which to evaluate the effectiveness of the management program and to make determinations on the need for annual adjustments to this program.

Under Amendment 7, the Multispecies Monitoring Committee (MSMC) was established to review the

best available scientific information, adjust target TACs, and recommend management options to achieve the plan objectives. In response to the MSMC's advice for the 1997 fishing year, the New England Fishery Management Council (Council) developed, and NMFS implemented, Framework Adjustment 20 (62 FR 15381, April 1, 1997, and 62 FR 49144, September 19, 1997), which established a GOM cod landing restriction limiting vessels fishing under a multispecies days-at-sea (DAS) north of 42°00' N. lat. to 1,000 lb (453.6 kg) of cod per day, or any part of a day, for each of the first 4 days of a trip, and up to 1,500 lb (680.4 kg) of cod

per day, or any part of a day, in excess of 4 days.

In its report delivered at the December 9–11, 1997, Council meeting, the MSMC found that stock status has generally improved for the primary groundfish species, but that the condition of GOM cod remains poor. The report concluded that, at 0.78, the fishing mortality rate continues to be well above the overfishing definition (0.37) and the Amendment 7 mortality target of  $F_{MAX}$  (0.29). Further, recruitment is at record low levels and spawning stock biomass is declining. The MSMC estimated that, after consideration of the fishing mortality reductions to be gained from

the DAS reductions previously implemented under Amendment 7 for fishing year 1998, an additional 48 percent fishing mortality reduction is necessary to achieve the target  $F_{MAX}$  for GOM cod.

Based on projected 1998 stock sizes and Amendment 7's fishing mortality targets, the target TACs for the 1998 fishing year were set by the MSMC and adopted by the Council as follows:

Based on projected 1998 stock sizes and Amendment 7's fishing mortality targets, the target TACs for the 1998 fishing year were set by the MSMC as follows:

Species/area	1998 Target TACs (metric tons)	1997 Target TACs (metric tons)
Georges Bank cod .....	4,700	3,646
Georges Bank haddock .....	4,797	1,608
Georges Bank yellowtail flounder .....	2,145	776
Gulf of Maine cod .....	1,783	2,605
Southern New England yellowtail flounder .....	814	824
Aggregate for remaining regulated species .....	25,500	25,500

In addition to setting the target TACs, the MSMC report provided the Council with eight specific management options and several general options and recommendations to keep the target TACs from being exceeded. These options were based on DAS reductions, trip limits, and area closures in various combinations.

At its December 1997 meeting, the Council rejected options based on reducing DAS because they would directly and unnecessarily affect multispecies vessels fishing in areas outside of the GOM. In developing its options, the Council charged its Multispecies Oversight Committee to consider spawning area closure options that incorporate sequential GOM inshore closures, and GOM cod landing limit reductions. Because GOM cod is concentrated in near-shore waters, the Council recognized that measures directed at reducing effort on this stock would have a large impact on small inshore vessels, which account for most of the GOM cod landings. A sequential rolling closure, the Council reasoned, would affect vessels from various ports at different times and, thus, help mitigate inshore closure impacts on small vessels by allowing fishing to occur during the non-closure periods.

Therefore, to address further reductions needed for GOM cod, this framework replaces the current multispecies Massachusetts Bay and Mid-coast Area Closures with a 1-month

closure for each of four inshore areas, starting in Massachusetts Bay and extending to Penobscot Bay, Maine, and a 1-month offshore closure in an area known as Cashes Ledge. Additionally, the framework closes, year-round, an area in the western GOM comprising part of Stellwagen Bank, Jeffreys Ledge, and Wildcat Knoll. Exemptions to these new closed areas remain the same as those for the previous Massachusetts Bay and Mid-coast Closure Areas. Also, a vessel may transit through these closure areas provided its gear is stowed properly according to the regulations.

The third and final provision under this action to address needed reductions for GOM cod is a reduction in the current GOM cod landing limit from 1,000 lb/day (453.6 kg/day) to 700 lb/day (317.5 kg/day). A safeguard included in this last measure allows the Administrator, Northeast Region, NMFS (Regional Administrator), to reduce the landing limit to as low as 400 lb/day (181.4 kg/day) when 50 percent of the target TAC is reached through publication of a notification in the **Federal Register**. All GOM cod measures included in this framework will sunset after 3 years.

The GOM cod option selected by the Council and implemented by this rule imposes a short closure period for inshore grounds and provides an opportunity for small vessels to target other species, while achieving the conservation goals of the plan. A no-

displacement analysis completed by the Northeast Fisheries Science Center shows that the closure and trip limit would meet the mortality reduction goal. It should be noted, however, that these results are considered optimistic because the analysis assumes that all catch from the closed areas is conserved and no effort is displaced. Nevertheless, the Council rationalized, and NMFS concurs, that the effect of combining the area closures, trip limit (which could be reduced to 400 lbs (181.4 kg)), and current DAS controls, will be sufficient to achieve the fishing mortality reduction goal, while balancing the needs of the industry.

To address the 1998 target TAC increase for Georges Bank haddock, this rule relaxes the current haddock management measures by establishing a 1,000 lb/day (453.6 kg/day) haddock landing limit, up to a maximum of 10,000 lb/trip (4,536 kg/trip), for the period May 1 through August 31, 1998, and by increasing the landing limit to 3,000 lb/day (1,360.8 kg/day), up to a maximum of 30,000 lb/trip (13,608 kg/trip), beginning September 1. Similar to cod, this provision includes a trigger mechanism that authorizes the Regional Administrator to reduce the landing limit to either 1,000 lb/trip (453.6 kg/trip) or 1,000 lb/day (453.6 kg/day), up to a maximum of 10,000 lb (4,536 kg) per trip, when 75 percent of the Georges Bank haddock target TAC is caught,

through publication of a notification in the **Federal Register**.

This rule also requires the use of a raised footrope trawl to ensure that the net remains off of the ocean bottom when towed by trawl vessels fishing in the Small Mesh Area 1 and Small Mesh Area 2 exemption areas. The raised footrope design has been successfully used in experimental fisheries conducted by the Massachusetts Division of Marine Fisheries (MADMF) to reduce the incidental catch of several bottom-dwelling species, including regulated flatfish species, while engaged in the whiting fishery.

Finally, this rule postpones, for the 1998 fishing year only, the mandatory use of VTS by multispecies vessels with an individual DAS allocation. NMFS has completed field testing of the VTS and had informed the Council that the system could be operational by the start of the 1998 fishing year. Under current regulations, a multispecies vessel that possesses an individual DAS permit category (Individual DAS or Combination permit) would be required to install and maintain a VTS unit aboard the vessel to track DAS once the system is operational. The Council has requested an additional year for implementation to address comments and issues raised by members of the public.

Because parts of Small Mesh Area 2 and Stellwagen Bank/Jeffreys Ledge Juvenile Protection Area lie within the year-round Western GOM Area Closure, this rule adjusts the coordinates of these two areas to reflect this change.

#### Abbreviated Rulemaking

NMFS is making these revisions to the regulations under the framework abbreviated rulemaking procedure codified at 50 CFR part 648, subpart F. This procedure requires the Council, when making specifically allowed adjustments to the FMP, to develop and analyze the actions over the span of at least two Council meetings. The Council must provide the public with advance notice of both the proposals and the analysis, and an opportunity to comment on them prior to and at a second Council meeting. Upon review of the analysis and public comment, the Council may recommend to the Regional Administrator that the measures be published as a final rule if certain conditions are met. NMFS may publish the measures as a final rule, or as a proposed rule if additional public comment is needed.

The public was provided the opportunity to express comments on the management of GOM cod at numerous meetings beginning in December, 1996

when the MSMC informed the Council of the severely overfished status of GOM cod. Following development of Framework 20, the Council, through its Multispecies Oversight Committee and Area Closure Subcommittee, continued development of area closure alternatives for the GOM at public meetings held on several occasions during 1997. At the July Council meeting, the Northeast Fisheries Science Center presented results of its 24th Stock Assessment Workshop (SAW), updating the status of cod, haddock, and yellowtail flounder stocks, and advised the Council that fishing mortality on GOM cod be reduced to levels approaching zero.

On December 3, 1997, the MSMC released its annual report. On December 5, the Area Closure Subcommittee and Multispecies Plan Development Team held a public meeting in Saugus, MA to develop an area closure alternative that would meet the 1998 fishing year goals based on information contained in the MSMC report. The first framework meeting was the December 9–11, 1997, Council meeting. The Multispecies Oversight Committee (Groundfish Committee) met on December 15 to finalize options to be included in the framework document. On January 7, 1998, the Groundfish Advisory Panel met to draft comments on the options for consideration by the Council. The final meeting at which public comments were heard was the January 14–15, 1998, Council meeting. Documents summarizing the Council's proposed action, and the analysis of biological and economic impacts of this and alternative actions, were available for public review one week prior to the final meeting, as is required under the framework adjustment process. Written comments were accepted up to, and during, that meeting.

#### Comments and Responses

*Comment 1:* Approximately 100 letters and e-mails, as well as several phone calls, were received from members of conservation organizations urging the Council to develop measures necessary to continue achieving the Amendment 7 rebuilding plan goals.

*Response:* Framework 25 measures, implemented under this rule, are designed to achieve the fishing mortality rate goals for GOM cod in fishing year 1998, and to continue measures which have already achieved those goals for other critical stocks in order to rebuild stock biomass. The framework adjustment process allows the Council to monitor the progress of the plan and make adjustments as necessary to continually meet the plan goals.

*Comment 2:* Senators Edward Kennedy (MA), John Kerry (MA), Bob Smith (NH), and Judd Gregg (NH), Congressman John Sununu (NH) and John Tierney (MA), and NH Governor Jeanne Shaheen submitted written comments urging the Council to consider all options, including those presented by industry groups, and to select the one that fairly distributes the impacts of the conservation plan on all groups.

*Response:* A fishing industry group, the Gulf of Maine Fishermen's Alliance, submitted a proposal (the Alliance proposal) too late, pursuant to statutory deadlines, for consideration by the Council as an option for Framework 25. However, the Alliance proposal will be considered by the Council in a subsequent framework action. See response to comment 4.

The Council did select the framework document option that could be shown to meet the conservation goals of the plan and that distribute the impacts across vessel categories and geographical areas as equitably as possible. As noted previously, however, analyses of this option are considered optimistic in terms of meeting the conservation goal. Despite this, it is believed that the effect of this action in combination with current measures will adequately meet the fishing mortality reductions specified for GOM cod.

The Council recognizes that since GOM cod is concentrated in inshore waters, measures designed to protect that stock will directly impact inshore fleets and their associated communities. All of the options available to the Council would distribute impacts similarly because of the nature and the distribution of the GOM cod resource. The rolling 1-month feature that pertains to most of the closed area is designed to mitigate these impacts.

*Comment 3:* Several members of the public stated that they felt the Council failed to give adequate public notice for the framework meetings.

*Response:* The public had been informed of the dire need to address GOM cod on numerous occasions over the past year, e.g., the December 1996 Council meeting when the 1996 MSMC Report was delivered, the July 1997 Council meeting when the results of the 24th SAW were presented, and in December 1997 when the MSMC released its 1997 report. In addition, the Groundfish Committee and its Area Closure Subcommittee have discussed measures to address GOM cod at several public meetings during that time. The public has also known about the annual review and adjustment process since it was instituted by Amendment 7 to the

FMP in 1996. The December 9–11, 1997, Council meeting agenda containing an announcement of the MSMC report and initial framework meeting was mailed to approximately 1,650 interested parties on November 19, 1997, filed for public inspection by the Office of the Federal Register on November 24, 1998, and published in the **Federal Register** on November 28, 1997 (62 FR 63309). Also, adequate public notice was given for the December 15, 1997, Multispecies Committee meeting, and for the final Council meeting on this action, held January 14–15, 1998.

**Comment 4:** Approximately 90 individuals signed a petition opposing the option adopted by the Council in Framework 25. They contended that an alternative which would have added some offshore grounds to the rolling closure but which would have not closed any areas year round, and saying that Option 3 would do a better job of protecting the resource and the industry. Approximately 80 individuals signed a petition supporting a new alternative, the Alliance proposal, which was not available in time for full consideration by the Council for Framework 25. Numerous individuals also provided oral comment supporting this alternative at the Council's January 14–15, 1998, meeting. Massachusetts State Senator Bruce Tarr and State Representative Tony Verga both urged the Council to consider the proposal.

**Response:** Because of statutory deadlines, the Alliance proposal was submitted too late to be considered fully by the Council for Framework 25, but is currently being considered for a possible follow-up Framework action. At the time Framework 25 was submitted, the proposal was in the process of being revised by the Alliance members because it could not be shown to meet the biological goal. The Council has, however, given this proposal a high priority for consideration, and will take appropriate action at the earliest opportunity.

**Comment 5:** Approximately 15 fishers from Maine signed three letters to the Council supporting the rolling closures without exceptions for gears that were purported to not catch cod.

**Response:** With the exception of certain gear types discussed below, the Council adopted a rolling closure option which did not allow exceptions for gears, such as flounder or monkfish gillnets, that are purportedly able to be fished in a manner that has minimal impact on cod. The Council rejected these proposed gear exceptions due to enforcement difficulty resulting from allowing such fishing in an area closed to other very similar gears. However,

vessels fishing in closed areas with gear deemed not capable of catching regulated species, such as lobster pots, are exempted and these vessels are prohibited from possessing regulated species. NMFS concurs in the Council's findings.

**Comment 6:** Several industry members stated that closing inshore grounds for extended periods would cause small boat fishers to seek alternative fishing grounds beyond the safe range of their vessels.

**Response:** Framework 25 closes inshore areas for 1-month periods during the spring and summer months. The year-round closure is a narrow strip several miles offshore. Thus, the immediate inshore grounds remain open for 11 months of the year. The Council considered safety and purposefully selected an option that minimizes the closure of inshore grounds and provides opportunity to fish inshore. The safe operation of a vessel is the Captain's responsibility. NMFS concurs in the Council's conclusion.

**Comment 7:** Several individuals commented in opposition to a proposal to postpone the mandatory VTS only on vessels fishing in the GOM.

**Response:** NMFS concurs with the Council's decision to reject this proposal in favor of a 1-year postponement extended to all Individual DAS vessels, not just those fishing in the GOM. See discussion of the VTS postponement earlier in this document.

#### Classification

The Assistant Administrator for Fisheries, NOAA finds there is good cause to waive prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B). Public meetings held by the Council to discuss the management measures implemented by this rule provided adequate prior notice and an opportunity for public comment to be heard and considered; therefore, further notice and opportunity to comment before this rule is effective is unnecessary.

Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable. As such, none has been prepared. The primary intent for this action is to achieve the conservation goals established by Amendment 7 to the FMP while mitigating its economic impacts. The increased haddock trip limit for 1998 provides economic opportunity, while the postponement of mandatory VTS for

one year reduces short-term costs to vessels, thereby mitigating impacts of the FMP without compromising its conservation objectives.

This rule restates information collection requirements subject to the Paperwork Reduction Act (PRA) that have been approved by the Office of Management and Budget (OMB) under control number 0648–0202. Call-in requirements are estimated to take 2 minutes per call, and the transiting notification is estimated to take 3 minutes per notification. Send comments regarding any of these burden estimates or any other aspect of the collection of information, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

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

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

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: March 25, 1998.

**Gary C. Matlock,**

*Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

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

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

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

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

2. In § 648.10, paragraphs (d) and (f)(3)(i) are revised to read as follows:

##### § 648.10 DAS notification requirements.

\* \* \* \* \*

(d) *Temporary authorization for use of the call-in system.* The Regional Administrator may authorize or require, on a temporary basis, the use of the call-in system of notification specified in paragraph (c) of this section. If use of the call-in system is authorized or required, the Regional Administrator shall notify affected permit holders through a letter, notification in the **Federal Register**, or other appropriate means. From May 1, 1998, through April 30, 1999, multispecies vessels issued an Individual DAS or Combination Vessel (regarding the

multispecies fishery) permit are temporarily authorized to use the call-in system of notification specified in paragraph (c) of this section.

\* \* \* \* \*

(f) \* \* \*  
(3) \* \* \*

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

\* \* \* \* \*

3. In § 648.14, paragraphs (a)(101), (c)(7), (c)(10), (c)(24) and (c)(25) are revised, paragraphs (a)(105) through (109) are added and reserved, and paragraph (a)(110) is added to read as follows:

#### § 648.14 Prohibitions.

(a) \* \* \*

(101) Enter, fail to remove gear from, or be in the areas described in § 648.81(f)(1) through (i)(1) and in § 648.81(n)(1) during the time period specified, except as provided in § 648.81(d), (f)(2), (g)(2), (h)(2), (i)(2) and (n)(2).

\* \* \* \* \*

(105) [Reserved].  
(106) [Reserved].  
(107) [Reserved].  
(108) [Reserved].  
(109) [Reserved].

(110) Fish for, harvest, possess, or land in or from the EEZ, any of the exempted species specified in § 648.80(a)(8)(i), unless such species were fished for or harvested by a vessel meeting the requirements specified in § 648.80(a)(8)(iv).

\* \* \* \* \*

(c) \* \* \*

(7) Possess or land per trip more than the possession or landing limits specified under § 648.86(a), (b), and under § 648.82(b)(3), if the vessel has been issued a limited access multispecies permit.

\* \* \* \* \*

(10) Enter, fail to remove sink gillnet gear or gillnet gear capable of catching multispecies from, or be in the areas, and for the times, described in § 648.87(a) and (b), except as provided in § 648.81(d), and (f)(2), and in § 648.87(a)(1)(ii).

\* \* \* \* \*

(24) Fail to enter port and report the hail weight of cod within 14 DAS after starting a multispecies DAS trip, as specified in § 648.10(f)(3), if the vessel exceeds the allowable limit of cod specified in § 648.86(b)(1)(i) and

(b)(3)(i), unless the vessel is fishing under the cod exemption specified in § 648.86(b)(2).

(25) Fail to remain in port for the appropriate time specified in § 648.86(b)(1)(ii)(A), except for transiting purposes, provided the vessel complies with § 648.86(b)(4).

\* \* \* \* \*

4. In § 648.80, paragraphs (a)(5)(i) and (a)(8) are revised to read as follows:

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

\* \* \* \* \*

(a) \* \* \*  
(5) \* \* \*

(i) The SB/JL Juvenile Protection Area (copies of a chart depicting the area are available from the Regional Administrator upon request (see Table 1 to § 600.502)) is defined by straight lines connecting the following points in the order stated:

#### STELLWAGEN BANK JUVENILE PROTECTION AREA

Point	N. lat.	W. long.
SB1 .....	42°34.0'	70°23.5'
SB2 .....	42°28.8'	70°39.0'
SB3 .....	42°18.6'	70°22.5'
SB4 .....	42°05.5'	70°23.3'
SB5 .....	42°11.0'	70°04.0'
SB6 .....	42°15.0'	70°07.4'
SB7 .....	42°15.0'	70°15.0'
SB8 .....	42°24.0'	70°15.0'
SB1 .....	42°34.0'	70°23.5'

#### JEFFREYS LEDGE JUVENILE PROTECTION AREA

Point	N. lat.	W. long.
JL1 .....	42°52.0'	70°21.0'
JL2 .....	42°41.5'	70°32.5'
JL3 .....	42°34.0'	70°26.2'
JL4 .....	42°43.1'	70°15.0'
JL5 .....	42°54.3'	70°15.0'
JL1 .....	42°52.0'	70°21.0'

\* \* \* \* \*

(8) *Small Mesh Area 1/Small Mesh Area 2.* (i) Vessels subject to the minimum mesh size restrictions specified in paragraph (a)(2) 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 of paragraph (a)(8)(iv) of this section, 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, except as specified in paragraph (a)(8)(ii) and (a)(8)(iii) of this section. A vessel may not fish for, possess on board, or land any species of fish other than:

Butterfish, dogfish, herring, mackerel, ocean pout, scup, squid, silver hake, and red hake, except for the following allowable incidental species (bycatch as the term is used elsewhere in this part), with the restrictions noted: Longhorn sculpin; monkfish and monkfish parts—up to 10 percent, by weight, of all other species on board; and American lobster—up to 10 percent, by weight, of all other species on board or 200 lobsters, whichever is less. These areas are defined by straight lines connecting the following points in the order stated (copies of a chart depicting these areas are available from the Regional Administrator upon request (see Table 1 to § 600.502)):

#### SMALL MESH AREA 1

Point	N. lat.	W. long.
SM1 .....	43°03'	70°27'
SM2 .....	42°57'	70°22'
SM3 .....	42°47'	70°32'
SM4 .....	42°45'	70°29'
SM5 .....	42°43'	70°32'
SM6 .....	42°44'	70°39'
SM7 .....	42°49'	70°43'
SM8 .....	42°50'	70°41'
SM9 .....	42°53'	70°43'
SM10 .....	42°55'	70°40'
SM11 .....	42°59'	70°32'
SM1 .....	43°03'	70°27'

#### SMALL MESH AREA 2

Point	N. lat.	W. long.
SM13 .....	43°05.6'	69°55.0'
SM14 .....	43°10.1'	69°43.3'
SM15 .....	42°49.5'	69°40.0'
SM16 .....	42°41.5'	69°40.0'
SM17 .....	42°36.6'	69°55.0'
SM13 .....	43°05.6'	69°55.0'

(ii) The portion of Small Mesh Area 2 that is north of 43°00.0' N. lat. shall be closed to all fishing during the period May 1 through May 31 to coincide with Inshore Closure Area I specified in § 648.81(g)(1)(iii). Therefore, during the May 1 through May 31 time period, Small Mesh Area 2 is defined by straight lines connecting the following points in the order stated:

#### SMALL MESH AREA 2

[May 1–May 31]

Point	N. lat.	W. long.
SM18 .....	43°00.0'	69°41.6'
SM15 .....	42°49.5'	69°40'
SM16 .....	42°41.5'	69°40'
SM17 .....	42°36.6'	69°55'
SM19 .....	43°00.0'	69°55'
SM18 .....	43°00.0'	69°41.6'

(iii) The portion of Small Mesh Area 2 that is south of 43°00.0' N. lat. shall be closed to all fishing during the period April 1 through April 30 to coincide with the Inshore Closure Area II specified in § 648.81(g)(1)(ii). Therefore, during the April 1 through April 30 time period, Small Mesh Area 2 is defined by straight lines connecting the following points in the order stated:

#### SMALL MESH AREA 2

[April 1–April 30]

Point	N. lat.	W. long.
SM18 .....	43°00.0'	69°41.6'
SM14 .....	43°10.1'	69°43.3'
SM13 .....	43°05.6'	69°55'
SM19 .....	43°00.0'	69°55'
SM18 .....	43°00.0'	69°41.6'

(iv) *Raised footrope trawl.* Vessels fishing with trawl gear must configure it in such a way that, when towed, the gear is not in contact with the ocean bottom. Vessels are presumed to be fishing in such a manner if their trawl gear is designed as specified in paragraphs (a)(8)(iv) (A) through (D) of this section and is towed so that it does not come into contact with the ocean bottom:

(A) Eight inch (20.3 cm) diameter floats must be attached to the entire length of the headrope with a maximum spacing of 4 feet (12.2 cm) between floats;

(B) The ground gear must all be bare wire not larger than 1/2-inch (1.2 cm) for the top leg, not larger than 5/8-inch (1.6 cm) for the bottom leg, and not larger than 3/4-inch (1.9 cm) for the ground cables. The top and bottom legs must be equal in length with no extensions. The total length of ground cables and legs must not be greater than 40 fathoms from the doors to wingends;

(C) The footrope must be longer than the headrope but not more than 20 feet (6.1 m) longer than the length of the headrope; and

(D) The sweep must be rigged so it is behind and below the footrope, and the footrope is off the bottom. This is accomplished by having the sweep longer than the footrope and having long dropper chains attaching the sweep to the footrope at regular intervals. The forward end of the sweep and footrope must be connected to the bottom leg at the same point, and in conjunction with the headrope floatation; this keeps the footrope off the bottom. The sweep and its rigging must be made entirely of 5/16 inch (0.8 cm) diameter bare chain. No wrapping or cookies are allowed on the chain. The total length of the sweep must be at least 7 feet (2.1 m) longer

than the total length of the footrope, or 3.5 feet (1.1 m) longer on each side. Drop chains must connect the footrope to the sweep chain and the length of each drop chain must be at least 42 inches (106.7 cm). One drop chain must be hung from the center of the footrope to the center of the sweep and one drop chain must be hung from each corner (the quarter or, the junction of the bottom wing to the belly at the footrope). The attachment points of each drop chain on the sweep and the footrope must be the same distance from the center drop chain attachments. Drop chains must be hung at 8-foot (2.4 m) intervals from the corners towards the wing ends. The distance of the drop chain that is nearest the wing end to the end of the footrope may differ from net to net. However, the sweep must be at least 3.5 feet (1.1 m) longer than the footrope between the drop chain closest to the wing ends and the end of the sweep that attaches to the wing end.

\* \* \* \* \*

5. In § 648.81, paragraphs (d), (g), (h) and (i) are revised, and paragraph (n) is added to read as follows:

#### § 648.81 Closed areas.

\* \* \* \* \*

(d) *Transiting.* Vessels may transit Closed Area I, the Nantucket Lightship Closed Area, the NE Closure Area, the GOM Inshore Closure Areas, the Cashes Ledge Closure Area, and the Western GOM Closure Area, as defined in paragraphs (a)(1), (c)(1), (f)(1), (g)(1), (h)(1), and (i)(1), respectively, of this section, provided that their gear is stowed in accordance with the provisions of paragraph (e) of this section.

\* \* \* \* \*

(g) *GOM Inshore Closure Areas.* (1) From May 1, 1998, through April 30, 2001, no fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, the GOM Inshore Closure Areas I through IV, as described in paragraphs (g)(1)(i) through (iv) of this section, for the times specified in those paragraphs, except as specified in paragraphs (d) and (g)(2) of this section (a chart depicting these areas is available from the Regional Administrator upon request (see Table 1 to § 600.502)).

(i) *Inshore Closure Area I.* From March 1 through March 31, the restrictions specified in paragraph (g)(1) of this section apply to Inshore Closure Area I apply to Inshore Closure Area III, which is the area bounded by straight

lines connecting the following points in the order stated:

#### INSHORE CLOSURE AREA I

[March 1–March 31]

Point	N. lat.	W. long.
GM1 .....	42°00'	(1)
GM2 .....	42°00'	(2)
GM3 .....	42°00'	(3)
GM4 .....	42°00'	70°00'
GM5 .....	42°30'	70°00'
GM6 .....	42°30'	(1)

<sup>1</sup> Massachusetts shoreline.

<sup>2</sup> Cape Cod shoreline on Cape Cod Bay.

<sup>3</sup> Cape Cod shoreline on the Atlantic Ocean.

(ii) *Inshore Closure Area II.* From April 1 through April 30, the restrictions specified in paragraph (g)(1) of this section apply to Inshore Closure Area II, which is the area bounded by straight lines connecting the following points in the order stated:

#### INSHORE CLOSURE AREA II

[April 1–April 30]

Point	N. lat.	W. long.
GM6 .....	42°30'	(1)
GM7 .....	42°30'	69°30'
GM8 .....	43°00'	69°30'
GM9 .....	43°00'	(2)

<sup>1</sup> Massachusetts shoreline.

<sup>2</sup> New Hampshire shoreline.

(iii) *Inshore Closure Area III.* From May 1 through May 31, the restrictions specified in paragraph (g)(1) of this section apply to Inshore Closure Area III, which is the area bounded by straight lines connecting the following points in the order stated:

#### INSHORE CLOSURE AREA III

[May 1–May 31]

Point	N. lat.	W. long.
GM9 .....	43°00'	(1)
GM8 .....	43°00'	69°30'
GM10 .....	43°30'	69°30'
GM11 .....	43°30'	(2)

<sup>1</sup> New Hampshire shoreline.

<sup>2</sup> Maine shoreline.

(iv) *Inshore Closure Area IV.* From June 1 through June 30, the restrictions specified in paragraph (g)(1) of this section apply to Inshore Closure Area IV (copies of a chart depicting this area are available from the Regional Administrator upon request (see Table 1 to § 600.502)), which is the area bounded by straight lines connecting the following points in the order stated:

## INSHORE CLOSURE AREA IV

[June 1–June 30]

Point	N. lat.	W. long.
GM11 .....	43°30'	(1)
GM12 .....	43°30'	69°00'
GM13 .....	(1)	69°00'

<sup>1</sup> Maine shoreline.

(2) Paragraph (g)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraph (f)(2)(i), (ii), or (iii) of this section.

(h) *Cashes Ledge Closure Area.* (1) From May 1, 1998, through April 30, 2001, during the period June 1 through June 30, no fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, the area known as the Cashes Ledge Closure Area (a chart depicting this area is available from the Regional Administrator upon request (see Table 1 to § 600.502)), as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (d) and (h)(2) of this section:

## CASHES LEDGE CLOSURE AREA

[June 1–June 30]

Point	N. lat.	W. long.
GM14 .....	42°30'	69°00'
GM15 .....	42°30'	68°30'
GM16 .....	43°00'	68°30'
GM17 .....	43°00'	69°00'
GM14 .....	42°30'	69°00'

(2) Paragraph (h)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraph (f)(2)(ii), or (iii) of this section.

(i) *Western GOM Area Closure.* (1) From May 1, 1998, through April 30, 2001, no fishing vessel or person on a fishing vessel may enter, fish in, or be in, and no fishing gear capable of catching multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, the area known as the Western GOM Area Closure (a chart depicting this area is available from the Regional Administrator upon request (see Table 1 to § 600.502)), as defined by straight lines connecting the following points in the order stated, except as specified in paragraphs (d) and (i)(2) of this section:

## WESTERN GOM AREA CLOSURE

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'

(2) Paragraph (i)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraph (f)(2)(ii), or (iii) of this section.

\* \* \* \* \*

(n) *Area closures beginning May 1, 2001.* (1) No fishing vessel or person on a fishing vessel may enter, fish, or be in, and no fishing gear capable of catching NE multispecies, unless otherwise allowed in this part, may be in, or on board a vessel in, the area known as the Mid-coast Closure Area, as described in § 648.87(a)(1), during the period May 10 through May 30, or in the area known as the Massachusetts Bay Closure Area, as described in § 648.87(a)(3), during the period March 1 through March 30, (copies of a chart depicting these areas is available from the Regional Administrator upon request (see Table 1 to § 600.502)), except as specified in paragraphs (d) and (n)(2) of this section.

(2) Paragraph (n)(1) of this section does not apply to persons on fishing vessels or fishing vessels that meet the criteria in paragraph (f)(2)(i), (ii), or (iii) of this section.

6. In § 648.86, paragraphs (a)(1)(i), (a)(1)(ii), (b) introductory text, (b)(1) introductory text, (b)(1)(i), (b)(1)(ii), and (b)(3) are revised, and paragraphs (a)(1)(iii) and (b)(4) are added to read as follows:

**§ 648.86 Possession restrictions.**

(a) \* \* \*

(1) \* \* \*

(i) Except as provided in paragraphs (a)(1)(ii) and (iii) of this section, a vessel that is fishing under a NE multispecies DAS may land or possess on board up to 1,000 lb (453.6 kg) of haddock provided it has at least one standard tote on board. Haddock on board a vessel subject to this possession limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) During the period May 1, 1998, through August 31, 1998, a vessel may land up to 1,000 lb (453.6 kg) of haddock per DAS fished, or any part of a DAS fished, up to 10,000 lb (4,536.0 kg) per trip. Haddock on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(iii) Beginning September 1, 1998, through April 30, 1999, unless otherwise specified in this paragraph, a vessel may land up to 3,000 lb (1,360.8 kg) of haddock per DAS fished, or any part of a DAS fished, up to 30,000 lb (13,608 kg) per trip. When the Regional Administrator projects that 7.9 million lb (3,598 mt) will be harvested, NMFS will publish a notification in the **Federal Register** that on a specific date the limit will be reduced to either the 1,000 lb (453.6 kg) per trip possession limit restriction specified in paragraph (a)(1)(i) of this section, or the 1,000 lb (453.6 kg) per DAS fished, 10,000 lb (4,536.0 kg) maximum, landing limit restriction specified in paragraph (a)(1)(ii) of this section, depending on the risk of exceeding the target TAC. Haddock on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

\* \* \* \* \*

(b) *Cod—(1) Landing limit from May 1, 1998, through April 30, 2001.* (i) Except as provided in paragraph (b)(1)(ii) and (b)(2) of this section, and subject to the cod landing limit call-in provision specified at § 648.10(f)(3)(i), a vessel fishing under a NE multispecies DAS may land up to 700 lb (317.5 kg) of cod per DAS, or any part of a DAS, unless otherwise specified in this paragraph. Vessels calling-out of the multispecies DAS program under § 648.10(c)(3) that have utilized part of a DAS (less than 24 hours) may land up to an additional 700 lb (317.5 kg) of cod for that part of a DAS; however, such vessels may not end any subsequent trip with cod on board within the 24-hour period following the beginning of the part of the DAS utilized (e.g., a vessel that has called-in to the multispecies DAS program at 3 p.m. on a Monday and ends its trip the next day (Tuesday) at 4 p.m. (accruing a total of 25 hours) may legally land up to 1,400 lb (635.0 kg) of cod on such a trip, but the vessel may not end any subsequent trip with cod on board until after 3 p.m. on the following day (Wednesday)). When the Regional Administrator projects that 892 mt will be harvested, NMFS will publish a notification in the **Federal Register** that on a specific date the limit will be reduced to a specified amount between 400 lb (181.4 kg) and 700 lb (317.5 kg) per DAS depending on the risk of exceeding the target TAC. Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) A vessel subject to the cod landing limit restrictions described in



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

\* \* \* \* \*

(3) *Landing limit beginning May 1, 2001.* (i) Except as provided in paragraphs (b)(1)(ii) and (b)(2) of this section, and subject to the cod landing limit call-in provision specified at § 648.10(f)(3)(i), a vessel fishing under a NE multispecies DAS may land up to 1,000 lb (453.6 kg) of cod per DAS, or any part of a DAS, for each of the first 4 DAS of a trip, and may land up to 1,500 lb (680.4 kg) of cod per DAS for each DAS, or any part of a DAS, in excess of 4 consecutive DAS. Vessels calling-out of the multispecies DAS program under § 648.10(c)(3) that have utilized part of a DAS (less than 24 hours) may land up to an additional 1,000 lb (453.6 kg), or 1,500 lb (680.4 kg) if applicable, of cod for that part of a DAS; however, such vessels may not end any subsequent trip with cod on board within the 24-hour period following the beginning of the part of the DAS utilized (e.g., a vessel that has called-in to the multispecies DAS program at 3 p.m. on a Monday and ends its trip the next day (Tuesday) at 4 p.m. (accruing a total of 25 hours) may legally land up to 2,000 lb (907.2 kg) of cod on such a trip, but the vessel may not end any subsequent trip with cod on board until after 3 p.m. on the following day (Wednesday)). Cod on board a vessel subject to this landing limit must be separated from other species of fish and stored so as to be readily available for inspection.

(ii) [Reserved].

(4) *Transiting.* A vessel that has exceeded the cod landing limit as specified in paragraphs (b)(1) and (b)(3) of this section and is, therefore, subject to remain in port for the period of time described in paragraph (b)(1)(ii)(A) of this section, may transit to another port during this time, provided that the vessel operator notifies the Regional Administrator (see Table 1 to § 600.502) either at the time the vessel reports its hauled weight of cod or at a later time prior to transiting, and provides the following information: Vessel name and permit number, destination port, time of departure, and estimated time of arrival. A vessel transiting under this provision must stow its gear in accordance with one of the methods specified in

§ 648.81(e), and may not have any fish on board the vessel.

\* \* \* \* \*

7. In § 648.87, paragraph (a) introductory text, and paragraphs (a)(1)(i) and (a)(1)(ii) are revised, and paragraph (a)(3) is added to read as follows:

**§ 648.87 Gillnet requirements to reduce or prevent marine mammal takes.**

(a) *Areas closed to gillnet gear capable of catching multispecies to reduce harbor porpoise takes.* Section 648.81(f) sets forth a closed area restriction to reduce the take of harbor porpoise consistent with the harbor porpoise mortality reduction goals. Further, all persons owning or operating vessels in the EEZ portion of the areas and times specified in paragraphs (a)(1), (2) and (3) of this section must remove all of their sink gillnet gear and other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(2)(ii)), and may not use, set, haul back, fish with, or possess on board, unless stowed in accordance with the requirements of § 648.81(e)(4), sink gillnet gear or other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnet gear (as described in § 648.81(f)(2)(ii)) in the EEZ portion of the areas and for the times specified in paragraphs (a)(1), (2) and (3) of this section. Also, all persons owning or operating vessels issued a limited access multispecies permit must remove all of their sink gillnet gear and other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(2)(ii)), from the areas and for the times specified in paragraphs (a)(1), (2) and (3) of this section, and, may not use, set, haul back, fish with, or possess on board, unless stowed in accordance with the requirements of § 648.81(e)(4), sink gillnets or other gillnet gear capable of catching multispecies, with the exception of single pelagic gillnets (as described in § 648.81(f)(2)(ii)) in the areas and for the times specified in paragraphs (a)(1), (2) and (3) of this section.

(1) \* \* \*

(i) From March 25 through April 25, May 10 through May 30, and from September 15 through December 31 of each fishing year, the restrictions and requirements specified in paragraph (a) of this section apply to the Mid-coast Closure Area (copies of a chart depicting this area are available from the Regional Administrator upon request), except as provided in paragraph (a)(1)(ii) of this section, which is the area bounded by

straight lines connecting the following points in the order stated.

**MID-COAST CLOSURE AREA**

Point	N. lat.	W. long.
MC1 .....	42°30'	(1)'
MC2 .....	42°30'	70°15'
MC3 .....	42°40'	70°15'
MC4 .....	42°40'	70°00'
MC5 .....	43°00'	70°00'
MC6 .....	43°00'	69°30'
MC7 .....	43°15'	69°30'
MC8 .....	43°15'	69°00'
MC9 .....	(2)	69°00'

<sup>1</sup> Massachusetts shoreline.

<sup>2</sup> Maine shoreline.

(ii) Vessels subject to the restrictions and regulations specified in paragraph (a) of this section may fish in the Mid-coast Closure Area, as defined under paragraph (a)(1)(i) of this section, from November 1 through December 31 of each fishing year, provided that an acoustic deterrent device ("pinger") is attached at the end of each string of nets and at the bridle of every net within a string of nets, and is maintained as operational and functioning. Each pinger, when immersed in water, must broadcast a 10kHz +/- 2kHz sound at 132 dB +/- 4dB re 1 micropascal at 1 m. This sound must last 300 milliseconds and repeat every 4 seconds.

\* \* \* \* \*

(3) *Massachusetts Bay Closure Area.* From March 1 through March 30, the restrictions and requirements specified in paragraph (a) of this section apply to the Massachusetts Bay Closure Area (copies of a chart depicting this area are available from the Regional Administrator upon request (see Table 1 to § 600.502)), which is the area bounded by straight lines connecting the following points in the order stated.

**MASSACHUSETTS BAY CLOSURE AREA**

Point	N. lat.	W. long.
MB1 .....	42°30'	(1)
MB2 .....	42°30'	70°30'
MB3 .....	42°12'	70°30'
MB4 .....	42°12'	70°00'
MB5 .....	(2)	70°00'
MB6 .....	42°00'	(2)
MB7 .....	42°00'	(1)

<sup>1</sup> Massachusetts shoreline.

<sup>2</sup> Cape Cod shoreline.

\* \* \* \* \*

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