

PART 227—THREATENED FISH AND WILDLIFE

1. The authority citation of part 227 continues to read as follows:

Authority: 16 U.S.C. 1531–1543; subpart B, § 227.12 also issued under 16 U.S.C. 1361 *et seq.*

2. In § 227.4, paragraph (o) is added to read as follows:

§ 227.4 Enumeration of threatened species.

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(o) Oregon Coast coho salmon (*Oncorhynchus kisutch*). Includes all naturally spawned populations of coho salmon in streams south of the Columbia River and north of Cape Blanco in Curry County, OR.

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

[Docket No. 980716182–8182–01; I.D. 062298C]

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Technical Amendment

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS issues a technical amendment to clarify regulations implementing Amendment 5, Framework Adjustments 20, 24, and 25 to the Northeast Multispecies Fishery Management Plan (FMP), and the final rule that consolidated several CFR parts. The purpose of this technical amendment is to comply with the intent of these actions by correcting unintended errors made in the minimum fish size, gillnet tagging, cod haul line, and raised footrope regulations, among other measures.

DATES: Effective August 10, 1998.

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

SUPPLEMENTARY INFORMATION: The regulations implementing Amendment 5 (59 FR 9872, March 1, 1994) established an exception to the multispecies minimum fish size requirement by

allowing persons aboard vessels issued limited access permits and fishing under a day-at-sea (DAS) to possess fillets that measure less than the minimum size. Because the intent of this measure was specific to vessels with multispecies limited access permits, this rule corrects § 648.83(b)(1) by changing the words “limited access permit” to “multispecies limited access permit.”

The interim final rule implementing Framework Adjustment 20 (62 FR 15381, April 1, 1997) established a gillnet gear restriction that requires vessel owners electing to fish under the annual Day gillnet designation to tag their gillnet gear. When implemented, the interim final rule correctly stated that all roundfish gillnets must have two tags per net, and all flatfish gillnets must have one tag per net. However, under the final rule implementing Framework 20 (62 FR 49144, September 19, 1997), roundfish nets were incorrectly identified as groundfish nets. This technical amendment corrects § 648.82(k)(1)(ii) by changing the word “groundfish” to “roundfish.”

The regulation implementing Framework Adjustment 24 (63 FR 11591, March 10, 1998) requires vessels subject to the cod landing limit to come into port and report to NMFS within 14 DAS of starting a trip and vessels that exceed the landing limit to remain in port and not call-out of the DAS program until sufficient DAS has elapsed to account for and justify the amount of cod harvested. For vessels that do not exceed their allowable limit of cod, the regulations clearly state that they must enter port and call-out of the DAS program at least once every 14 DAS. However, for vessels that exceed the limit, the regulation is less clear and states only that these vessels must enter port at least once every 14 DAS and report their haul weight of cod prior to offloading. This technical amendment clarifies and corrects § 648.10(f)(3)(ii) by including language which specifies that, after reporting their hauled weight of cod via the cod haul line, vessels that exceed the allowable limit of cod must remain in port and not call out of the DAS program until after sufficient DAS has elapsed to account for and justify the amount of cod on board. Once vessels have satisfied this required time in port, the next fishing trip may not begin until such time that these vessels have called-out of the multispecies DAS program. Also, in § 648.10(f)(3)(ii), the reference to § 648.86(b)(3) is corrected to read § 648.86(b)(4).

This rule makes several corrections to the regulations implementing Framework Adjustment 25 (63 FR

15326, March 31, 1998). Section 648.80(a)(8)(iv) outlines the raised footrope requirement that may pertain to a vessel fishing in areas known as Small Mesh Area 1 and 2. This rule corrects inadvertent errors in the language describing this gear modification by changing § 648.80(a)(8)(iv)(C) to read that “the footrope must be at least 20 feet (6.1 m) longer than the length of the headrope” rather than “no more than 20 feet (6.1 m) longer.” Also, § 648.80(a)(8)(iv)(D) is changed to clarify how the sweep and footrope are connected to ensure that the footrope remains off the bottom when towed. The corresponding prohibition, § 648.14(a)(112), is also clarified to reflect that vessels may employ either a raised footrope or an excluder device in their trawl gear when fishing in Small Mesh Area 1 and 2, depending on the species of fish targeted. In addition, in § 648.86(b)(1)(ii), the reference to (b)(1)(3) is corrected to read (b)(3); and in § 648.86(b)(1)(ii)(A), the reference to (b)(3) is corrected to read (b)(4), and the example that is used in this cite is corrected to be more explicit.

Finally, to address an error made in the final rule that consolidated six CFR parts governing the marine fisheries of the Northeast region (61 FR 34966, July 3, 1996), this rule corrects § 648.14(c)(2)(ii) by changing the reference § 648.10(a) to read § 648.10(b).

Classification

Because this rule corrects and clarifies only an existing set of regulations for which full prior notice and opportunity for comment were provided, the Assistant Administrator, under 5 U.S.C. 553(b)(B), finds for good cause finds that it is unnecessary to provide such procedures for this rule. Also, because this rule corrects and clarifies only existing provisions and imposes no new requirements on anyone subject to these regulations, under 5 U.S.C. 553(d)(3), it is not subject to a 30-day delay in effective date.

This rule is exempt from review under E.O. 12866.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: August 3, 1998.

Andrew A. Rosenberg,

*Deputy 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, paragraph (f)(3)(ii) is revised to read as follows:

§ 648.10 DAS notification requirements.

* * * * *

(f) * * *

(3) * * *

(ii) A vessel subject to the cod landing limit restriction specified in § 648.86(b)(1)(i) that exceeds or is expected to exceed the allowable limit of cod based on the duration of the trip must enter port no later than 14 DAS after starting a multispecies DAS trip and must report, upon entering port and before offloading, its hailed weight of cod under the separate call-in system as specified in § 648.86(b)(1)(ii)(B). Such vessel must remain in port, unless for transiting purposes as allowed in § 648.86(b)(4), until sufficient time has elapsed to account for and justify the amount of cod on board in accordance with § 648.86(b)(1)(ii), and may not begin its next fishing trip until such time that the vessel has called-out of the multispecies DAS program to end its trip.

3. In § 648.14, paragraphs (a)(112) and (c)(2)(ii) are revised to read as follows:

§ 648.14 Prohibitions.

(a) * * *

(112) Fish for, harvest, possess, or land in or from the EEZ, when fishing with trawl gear, any of the exempted species specified in § 648.80(a)(8)(i), unless such species were fished for or harvested by a vessel meeting the requirements specified in § 648.80(a)(3)(ii) or (a)(8)(iv).

* * * * *

(c) * * *

(2) * * *

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

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4. In § 648.80, paragraphs (a)(8)(iv)(C) and (D) are revised to read as follows:

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

* * * * *

(a) * * *

(8) * * *

(iv) * * *

(C) The footrope must be at least 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. This attachment, in conjunction with the headrope flotation, 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 toward 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.

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5. In § 648.82, paragraph (k)(1)(ii) is revised to read as follows:

§ 648.82 Effort-control program for limited access vessels.

* * * * *

(k) * * *

(1) * * *

(ii) Tagging requirements. Beginning June 1, 1997, when under a NE multispecies DAS, all roundfish gillnets fished, hauled, possessed, or deployed must have two tags per net, with one tag secured to each bridle of every net within a string of nets and all flatfish gillnets fished, hauled, possessed, or deployed must have one tag per net, with one tag secured to every other bridle of every net within a string of nets. Tags must be obtained as described

in § 648.4(c)(2)(iii), and vessels must have on board written confirmation issued by the Regional Administrator, indicating that the vessel is a Day gillnet vessel. The vessel operator must produce all net tags upon request by an authorized officer.

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6. In § 648.83, paragraph (b)(1) is revised to read as follows:

§ 648.83 Minimum fish sizes.

* * * * *

(b) * * *

(1) Each person aboard a vessel issued a multispecies limited access permit and fishing under the DAS program may possess up to 25 lb (11.3 kg) of fillets that measure less than the minimum size if such fillets are from legal-sized fish and are not offered or intended for sale, trade, or barter.

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7. In § 648.86, paragraphs (b)(1)(ii) introductory text and (b)(1)(ii)(A) are revised to read as follows:

§ 648.86 Possession restrictions.

* * * * *

(b) * * *

(1) * * *

(ii) A vessel subject to the cod landing limit restrictions described in paragraphs (b)(1)(i) and (b)(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:

(A) The vessel operator does not call-out of the DAS program as described under § 648.10(c)(3) and does not depart from a dock or mooring in port to engage in fishing, unless transiting as allowed in paragraph (b)(4) of this section, until sufficient time has elapsed to account for and justify the amount of cod harvested at the time of offloading regardless of whether all of the cod on board is offloaded (e.g., a vessel subject to the landing limit restriction, described in paragraph (b)(1)(i) of this section, that has called-in to the multispecies DAS program at 3 p.m. on Monday and that fishes and comes back into port at 4 p.m. on Wednesday of that same week with 2,800 lb (1,270.1 kg) of cod to offloads some or all of its catch, cannot call-out of the DAS program or leave port until 3:01 p.m. the next day, Thursday (i.e., 3 days plus one minute)); and

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