

entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are issued in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. 1675(a)(1) and 19 U.S.C. 1677f(i)(1)).

Dated: August 31, 1999.

**Richard W. Moreland,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[Docket No. 990520139-9221-02; I.D. 050799B]

RIN 0648-AM68

### Disaster Assistance for Northeast Multispecies Fishery Failure

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

**ACTION:** Notice of final program.

**SUMMARY:** NMFS publishes a final program for disbursing funds to assist persons who have incurred losses from a commercial fishery failure due to the declining stocks of groundfish which has caused harm to the Northeast multispecies fishery. This document provides information concerning criteria for eligibility, limitations and conditions for receiving disaster assistance.

**DATES:** Effective September 7, 1999.

**ADDRESSES:** Questions or requests for information about financial assistance may be sent to: Leo Erwin, Chief, Division of Financial Services, NMFS, 1 Blackburn Drive, Gloucester, MA 01930. All other inquiries should be sent to: Kevin Chu, NMFS, 166 Water St., Woods Hole, MA. 02543.

**FOR FURTHER INFORMATION CONTACT:** Kevin Chu, Northeast Region (508) 495-2367.

#### SUPPLEMENTARY INFORMATION:

#### Background

In the Emergency Supplemental Appropriations section of the FY 1999 Appropriations Act (Public Law No. 105-277), Congress appropriated \$5

million to NOAA to provide emergency disaster assistance to persons or entities in the Northeast multispecies fishery who have incurred losses from a commercial fishery failure under a fishery resource disaster declaration made in 1994 pursuant to section 308(b) of the Interjurisdictional Fisheries Act (IFA) of 1986. Although the funds are available until used, NMFS is not obligated to compensate every individual affected by the Northeast multispecies collapse or to expend all the funding on assistance.

Pursuant to his authority under this section of the IFA, former Secretary of Commerce Ron Brown declared a fishery resource disaster on March 18, 1994, for the Northeast multispecies fishery. This disaster has extended through this year and is expected to continue, causing a number of additional fishery closures in New England and economic hardship in the fishery.

The Gulf of Maine stocks of groundfish have declined drastically over the past three decades. Since the first declaration of a fishery disaster in 1994, recovery measures for Northeastern groundfish have improved the prospects for commercially important cod, haddock, and yellowtail flounder stocks on Georges Bank, but measures intended to protect Gulf of Maine cod have not been as successful. Gulf of Maine stocks of cod, white hake, American plaice, and yellowtail flounder remain overfished. The spawning biomass continues to decline, reducing the probability that sizable groups of new fish will be produced. As a result of the continued crisis in the Northeast multispecies fishery, a number of areas in the Gulf of Maine have been closed to many types of fishing gear for up to 3 months during the period of February through June 1999, resulting in lost fishing opportunities.

On June 11, 1999, NMFS published a document in the **Federal Register** (64 FR 31542) seeking comments on the proposed program for disbursing the disaster assistance funds. This document presents the final program for disbursing the funds and responds to the comments received.

The final program has two components. First, NMFS will provide direct assistance by compensating Federal permit holders and crew for economic harm based on reductions in used Days-at-Sea (DAS) under the authority of section 308(d) of the IFA. In exchange for this compensation, permit holders must commit to operating their vessels for research on fishery-related subjects, participating in another

activity approved by the NMFS Northeast Regional Administrator (RA), or providing personal economic and social data important for evaluating the effects of fishery management decisions. Second, NMFS will set aside \$100,000 of the funds for the training and deployment of at-sea data collectors aboard scallop fishing vessels to monitor groundfish bycatch, particularly of yellowtail flounder. This document explains the direct assistance program, but does not discuss the training and deployment part of the program, which is already underway.

The direct assistance program has two goals: (1) To provide a mechanism to get financial assistance to fishermen most affected by the groundfish collapse; and (2) to involve the industry in fisheries and gear research, thereby providing additional data for the long-term management of the fishery. This program uses a formula for calculating lost fishing opportunities as an indicator of the economic harm caused by the declining groundfish stocks.

#### Comments and Responses

NMFS received comments from the States of Maine and Massachusetts, representatives of three commercial fishing organizations, two academic institutions, seven commercial fishermen, and one recreational fisherman. We have grouped similar comments here.

**Comment 1:** Because the program relies on a calculation of DAS not used, the program rewards persons who did not try to fish during the spring closures but penalizes the persons who used DAS to try to make a living by fishing, even if they lost money while doing so.

**Response:** NMFS recognizes that some persons may receive reduced benefits under this program because they made the effort to continue fishing by moving their fishing location in response to the 1999 rolling closures. These people will have expended extra money to try to keep fishing, and they may not have made enough to justify their costs. Since persons who did not fish will be compensated under this program, those who did fish are likely to feel that they are being unfairly penalized for making the effort to continue fishing, especially if they lost money doing so. NMFS notes, however, that such fishermen were able to move their operations to avoid the closures. NMFS continues to believe that the assistance program should target persons who could not move their operations to another port or farther offshore, and, therefore, were more vulnerable to the closures.

NMFS and fishermen agree that \$5 million is not enough to compensate all

persons and entities affected by the declining groundfish stocks. In developing this disaster assistance program, NMFS has had to make difficult decisions about how to spread a limited amount of money among a relatively large number of persons. This program is intended to assist those who have had the fewest options for making a living from fishing during the winter/spring 1999 rolling closures.

In developing this program, NMFS also considered the time it will take for eligible persons to receive compensation. The program is designed to use information already held by NMFS to calculate eligibility and compensation levels, hence, avoiding a lengthy review of the records of individual fishermen. While a program that somehow balances a person's financial need and his or her efforts to continue fishing could be developed, implementing such a program (reviewing individual case histories) would be extremely time-consuming. This would further delay the release of disaster assistance funds and extend the financial crisis for those who will be compensated, so that the overall benefit of the program would be substantially diminished.

*Comment 2:* The disaster assistance program excludes from compensation many people who were affected by the decline in the stocks of groundfish, including other fishermen and shore-based infrastructure. These people should also be eligible for compensation.

*Response:* NMFS agrees that many persons affected by the groundfish declines will not be eligible for compensation under this program. As noted in the response to Comment 1, the current level of funding for this program is not sufficient to compensate all persons who have been affected by the commercial fishery failure. NMFS believes it is appropriate to target the limited funds to that portion of the commercial harvesting sector that has been most heavily affected by groundfish declines, i.e., those persons who have been unable to move their operations to avoid the impacts of the rolling closures. This assistance may keep some vessels active that might otherwise have left the fishery, thus providing an indirect benefit for persons or industries that support the activities of such vessels.

*Comment 3:* Other fisheries such as the scup fishery in the Northeast are also in decline and deserve compensation. Also, since all federally permitted DAS vessels were prohibited from fishing in the rolling closure areas, scallop fishermen and groundfish

fishermen should all be allowed to receive compensation.

*Response:* NMFS agrees that other fisheries are also in decline and that other persons are also suffering economic hardship as a result of those declines. However, Congress specifically appropriated funds to assist persons or entities affected by the disaster declared in the Northeast multispecies fishery. Therefore, notwithstanding the economic need of persons in other fisheries, NMFS has targeted persons in the Northeast multispecies fishery for this assistance program. Furthermore, beginning in May 1999, scallop vessels were no longer prohibited from the inshore Gulf of Maine closed areas.

*Comment 4:* These disaster relief funds should be limited to the multispecies fishery. To the extent that these funds are to be utilized for observers, they should be observing groundfish vessels.

*Response:* NMFS agrees that these funds should be limited to the multispecies fishery (see Comment 3). However, we do not agree that this would require that only groundfish vessels be observed using these funds. Some of these funds are being used to train and deploy observers on scallop vessels. The purpose of these observers is to monitor the bycatch of groundfish species, especially yellowtail flounder, to ensure that it does not exceed levels set to conserve the species.

*Comment 5:* Persons who had set aside DAS to be used for groundfish fishing during the rolling closures of 1999 should be eligible for compensation. These people have been affected twofold by the closures, first by not fishing during other times because they were saving DAS for the winter months, and second by the closures themselves. Reserving 30 to 40 DAS should be considered evidence that the person intended to fish for groundfish during this time.

*Response:* NMFS understands that persons who were saving DAS to fish during the winter months and who were subsequently prevented from fishing were severely affected by the closures. However, NMFS does not have a mechanism to distinguish persons who saved DAS to be used during the rolling closures from persons who would not have used their full DAS anyway. Demonstrating the intent to fish during the closures would be difficult and time-consuming, because it would require reviewing each individual's case history. Therefore, because compensation cannot be released until the total number of DAS requested for compensation is known, NMFS will not

establish a mechanism to compensate persons based solely on the intent to fish.

*Comment 6:* Anyone who can document a major reduction in Gulf of Maine cod landings without attendant discard problems should be eligible to receive compensation.

*Response:* In concept, declines in cod landings could be a basis to allocate the disaster assistance. However, in practice, this would be difficult and time-consuming, as it would require a review of each permit holder's records.

*Comment 7:* The program should compare a vessel's DAS use from FY 1998 to FY 1999 for the entire year rather than on a month-to-month basis from February through June. By so doing, NMFS would then compensate for a net reduction in multispecies effort for the year.

*Response:* The concept of using days fished over the entire fishing year has merit. However, the current fishing year will not end until April 30, 2000. The impacts of the May and June 1999 closures would not be measurable until that time. NMFS believes that delaying the release of these funds until then is not acceptable.

*Comment 8:* Using DAS as a proxy measure for economic harm makes it appear as if NMFS is paying for unused DAS. NMFS should not set the precedent that DAS are a compensable right.

*Response:* NMFS agrees that DAS are not a compensable right. The use of DAS is only intended as a proxy measurement of the economic harm caused by the declining groundfish stocks. NMFS is not buying DAS, nor can DAS be traded between vessels or exchanged for any compensation.

*Comment 9:* The fishermen who would be compensated do not deserve financial assistance because they have been the impetus behind ineffective management measures and because the declining groundfish stocks are due to commercial overfishing.

*Response:* Overfishing is only one factor in the declines of groundfish stocks in the Northeast. Even if overfishing (of which commercial fishing is a substantial but not exclusive contributor) is the major factor in the groundfish decline, this does not change the fact that individuals are now in dire economic straits because of the reduction in fishing opportunities. Congress recognized the economic hardship caused by the continuing disaster in the multispecies groundfish fishery and appropriated funds to help alleviate the economic impact of the stock decline.

*Comment 10:* Fishermen should not have to offer their vessels for research, because the funds are to compensate for money already lost, and because the added cost of doing the research would diminish the economic value of the program to participants.

*Response:* Most fishermen who provided advice during the development of this program expressed the view that they do not want a handout from the government. Rather, they would like to find a creative way to give something back in exchange for the much-needed financial assistance this program will provide. Consistent with Congressional advice for this funding, this program is designed to compensate fishermen for their economic loss in exchange for information and research support for the long-term management of the fishery.

*Comment 11:* There is opposition to the provision that a permit holder would have to provide income tax information if their vessels were not used for research. The chief concerns are that the tax records might be used for enforcement purposes and that NMFS would not adequately protect privileged information.

*Response:* The purpose of collecting tax information is to obtain information needed to evaluate the economic impacts of future fishery management measures. NMFS is required by law to take account of the economic impacts as well as the biological consequences of regulations, but we have limited economic information on the operating costs of vessels upon which to base our analyses. The income tax information will improve our knowledge of the economic situation of groundfish fishermen.

NMFS has no intention of using the income tax information for enforcement purposes. NMFS assumes that the information provided to the Internal Revenue Service (IRS) is correct and complete. The Privacy Act of 1974 provides protection of privacy to individuals on whom records are maintained. We will keep tax information of individuals confidential in compliance with the Privacy Act, and will only release data to the public in aggregate form. Files will only be released to agency personnel who can demonstrate a need to know the financial information enclosed.

NMFS has modified the program such that it is not necessary to submit a 1998 income tax return to verify that a recipient's net income from commercial fishing does not exceed \$75,000 (\$150,000 if filing jointly). Instead, recipients must certify that their income does not exceed that threshold.

Certifications are subject to possible punishment under 18 U.S.C. 1001, including fine or imprisonment, for false statements. Suspected false submissions will be turned over to the Commerce Office of Inspector General (OIG) for investigation.

*Comment 12:* This program will set the precedent that the government should pay fishermen to provide economic and social data, which is a concern for programs that rely on such data to be provided on a voluntary basis.

*Response:* NMFS does not believe that persons should be paid to provide economic or social data necessary for fishery management decisions, nor do we believe that this program will set such a precedent. Persons are not being compensated for providing economic information, but rather because they have suffered economic harm from the declines in groundfish stocks. Because fishermen generally have wanted to give something back in return for financial assistance, compensation through this program carries with it a commitment by the recipient to help the government get better information upon which to base fishery management decisions. The commitment to provide economic information applies only if a permit holder is not asked to provide a vessel for research or does not perform an alternate approved activity.

*Comment 13:* The provision that logbooks would be used to determine historical activity only if they contain sufficient information to tell whether a vessel historically fished in the closed areas would exclude some fishermen from compensation based on a technicality. NMFS should have insisted earlier that this information be provided and should have returned incomplete logbooks for revision. NMFS should presume that a vessel's fishing activity was in a given block if the vessel sailed and landed from a port adjacent to a closed block within a 24-hour period. The number of permit holders that are affected by this provision is probably small, and it would not be administratively burdensome for NMFS to make some accommodation for these persons. Alternatively, the permit holder's statement that he or she fished in a closed area should be sufficient.

*Response:* NMFS will base its calculations of compensation on all logbooks that have been submitted as of July 15, 1999, that contain all the needed information, including information on the latitude/longitude (or Loran lines) of where gear was fished. Any other method of calculating historical activity would also be controversial, given the comments

received (see Comment 14), and would have an unfair impact on persons whose logbooks were correctly filled out and who complied with the regulations that have been in place since 1994. NMFS acknowledges the advice that the number of persons affected by this situation is probably small.

*Comment 14:* NMFS should limit its consideration to logbooks that were filed on a timely basis and from which reliable data can be obtained. Failure to require complete vessel logbooks to calculate historical activity as confirmation of eligibility would condone either willful disregard for management regulations or intentional deception.

*Response:* See response to Comment 13.

*Comment 15:* The income limit of \$75,000 is too low. People with higher incomes may also feel the hardship of not being able to work. Such persons may have greater financial commitments and, hence, have just as great a need for assistance. NMFS should justify this particular limit.

*Response:* NMFS will retain the limit on net incomes from commercial fishing of \$75,000 (or \$150,000 if filing jointly) as proposed. The limit of \$75,000 is approximately twice the median income of \$37,005 for U.S. households in 1997 (Census Bureau, September 1998). Joint tax filers will be allowed an income from commercial fishing of up to four times the U.S. median household income. NMFS agrees that persons or entities with incomes above this level also have financial commitments and that the declining groundfish stocks may have had a serious impact on their financial status. However, NMFS believes that the limited funds should not be used to provide assistance to persons or entities with incomes more than twice the median level.

*Comment 16:* Party/charter boats have had to readjust their operations or went bankrupt because of the declining groundfish stocks and, therefore, they also deserve compensation.

*Response:* NMFS agrees that party/charter vessels have also been affected by the groundfish declines. However, the impact has not been as drastic, because these vessels have not been excluded from fishing in the inshore rolling closure areas. Since disaster assistance funds are limited, NMFS does not believe it is appropriate to include party/charter vessels in this program.

*Comment 17:* Explain in detail how the disaster assistance funds will be spent.

*Response:* Congress appropriated \$5 million for the disaster assistance program. Of this amount, \$4.65 million

will be used to compensate fishermen through the program detailed in this document. If all these funds are not claimed by fishermen, the remaining funding will be used to subsidize the additional costs to vessels of carrying out the cooperative research program.

Of the remaining \$350,000, \$100,000 will be used to train and deploy observers aboard scallop vessels to monitor the bycatch of groundfish, especially yellowtail flounder. Finally, \$250,000 will be used to cover administrative costs of the disaster assistance program.

*Comment 18:* NMFS should reserve any unclaimed funds for other disaster assistance programs rather than using the money for research.

*Response:* While the disaster assistance provided directly to fishermen through this program helps them cope with short-term problems, NMFS believes that helping to finance research will help the long-term recovery of the fishery, and, therefore, is a valid and useful part of the overall disaster assistance program. Both the fishing industry and the general public will benefit if NMFS uses unclaimed disaster assistance funds to help cover costs of research undertaken through this program. The research projects have the potential of providing important information about fish stocks and ways to reduce the catch of non-target species. The cooperative research program also has the potential to encourage greater understanding between fishermen and scientists.

*Comment 19:* The requirement that researchers pay for fuel and other operating costs could be an insurmountable obstacle for research projects. Some of the disaster assistance funds should be set aside to cover these costs or the fishermen should be required to pay them. NMFS should provide additional funds to the permit holder to cover costs associated with a research day at sea, including lost wages if the captain or crew have another job.

*Response:* NMFS believes that the researchers, not fishermen, should pay for research costs, since fishermen will be contributing their vessel, crew, and time to the research effort. If not all the disaster assistance funds are claimed by fishermen under this program, NMFS intends to use the remaining funding to cover the operating costs of the vessel. NMFS cannot promise, however, to cover any additional costs to the permit holders of executing this research, since there are no additional funds set aside for this purpose.

*Comment 20:* Clarify the process by which NMFS will decide which research projects qualify for using the

fishing vessel DAS committed under this program.

*Response:* NMFS will announce that we are seeking projects to use the available fishing vessels, and list the vessels available. NMFS may also publish information about the program in appropriate scientific journals so that persons are aware of the opportunity. NMFS will establish a committee or use an existing organization comprised of scientists, fishermen, and government officials to review each scientific proposal for its technical merit and feasibility and to decide which proposals should have priority. NMFS will either appoint an individual to coordinate the execution of the research projects and to keep track of DAS used, or contract this task out.

*Comment 21:* The research obligation of fishermen compensated through this program should be extended to May 31, 2001, because it will take time to find funding for and organize the research projects.

*Response:* NMFS agrees that it may take considerable time to organize and prepare for using fishing vessels for research, but we believe that permit holders should know as soon as possible whether they will be asked to provide their vessels for research. Therefore, NMFS will stipulate that if a permit holder is not asked to provide his or her vessel for research by September 30, 2000, the research obligation lapses. However, NMFS will modify the program to allow the obligation to complete research assigned by that date to extend beyond the April 30 deadline, if approved by the RA. This provision will allow permit holders more flexibility in scheduling research, and will allow researchers more time to find funding and prepare for the research project. If a permit holder is asked to do research but the researcher is not able to find funding or complete the project, the permit holder is not obligated to participate and will not lose DAS if that project is not completed.

*Comment 22:* NMFS should specify in advance whether research in closed areas will be allowed under this program.

*Response:* Each project will be reviewed on a case-by-case basis. NMFS will not authorize any research activity that compromises the conservation measures designed to rebuild the stocks of groundfish.

*Comment 23:* Clarify the policy on when and where research under the Massachusetts Fishery Recovery Commission Plan will occur.

*Response:* The Massachusetts Fishery Recovery Commission (MFRC) Plan is a separate activity from this program. The

MFRC prepared a draft strategic plan for fisheries research, which may be finalized prior to the publication of this document. NMFS has not been asked to approve the MFRC plan, nor is our approval needed. However, MFRC is welcome to submit its strategic plan to the committee that will review and prioritize research projects using the fishing vessels available through this disaster assistance program.

*Comment 24:* Fishermen might be forced to lose additional fishing time when fulfilling their commitment to perform research.

*Response:* NMFS does not intend for this program to diminish fishing opportunities for fishermen. The research commitment is expected to be fulfilled at a mutually convenient date for fishermen and researchers. For this reason and because it may take time to organize the research projects, NMFS is adding a provision whereby the date by which the research must be completed can be extended on a case-by-case basis by the RA (see Comment 21).

*Comment 25:* Justify the compensation level of \$1500.

*Response:* NMFS decided to compensate every applicant at the same rate in order to speed the release of the disaster assistance funds. The alternative, compensating persons based on an amount linked to the daily income of each vessel, has merit but would have required that large amounts of economic income data from each vessel be supplied and reviewed, a step that would have delayed the release of the compensation for months. Therefore, NMFS has decided to compensate persons based on a figure that is about average for the fleet. The specific figure of \$1500 per DAS is in line with the NMFS estimate of the net income per vessel affected by the Framework 26 closures of \$1596 per day.

*Comment 26:* Other ways to use fishing vessel DAS could include removing abandoned fishing gear from right whale critical habitat and providing vessel support to assist in whale disentanglements. Also, NMFS should consider allowing fishermen to spend a day teaching children about fishing instead of providing income tax information if their vessels are not used for research. Fishermen's participation in scientist/fishermen workshops and in long-term data collection programs should also qualify as alternatives.

*Response:* NMFS agrees that there may be other ways besides research to use the fishermen's time or their vessels that could benefit fishery management or the community. Therefore, NMFS will modify the program to allow other

conservation-oriented activities in addition to cooperative research in exchange for compensation, at the discretion of the RA. Because fishermen will be agreeing to undertake research, if asked, in exchange for disaster assistance, NMFS does not believe we should require a permit holder to engage in another type of activity, even if approved by the RA. Therefore, permit holders will have the right to refuse to participate in any alternative activity. If a permit holder chooses not to undertake an alternative activity and is not asked to provide his or her vessel for research by September 30, 2000, however, the permit holder would be obligated to provide economic and social information.

*Comment 27:* A cessation of fishing activity in 1998 (which would trigger NMFS' use of activity from 1997 to determine historical activity) might be because a vessel's DAS were used up.

*Response:* NMFS will check to see if a cessation in fishing activity occurred because a permit holder's DAS were used up. The combination of DAS actually fished and DAS used as a proxy for economic harm cannot total more than a permit holder's allotted annual DAS.

*Comment 28:* Calculating DAS not used on a month-to-month basis could result in a person receiving disaster assistance even if the person did not fish fewer days overall. For example, if a person has 5 days of historical activity in February 1998 and fished 10 days in February 1999, had zero days of historical activity in March 1998 and fished 5 days in March 1999, and had 20 days of historical activity in April 1998 but only fished 10 days in April 1999, the person would be eligible for 10 days of disaster assistance compensation, even though the person fished the same number of days in February through April 1999 as in 1998.

*Response:* We agree that the proposed plan of calculating DAS on a month-to-month basis could have allowed some persons to receive compensation without a decrease in fishing effort. This was not the intent of the program.

Therefore, we will modify the program so that if a person fished more days per month in 1999 than in 1998, the excess 1999 fishing days of one month will be subtracted from the number of days for which a person is eligible to receive compensation in another month. NMFS believes this situation will be rare.

*Comment 29:* The program would allow some persons who do not use up all their DAS in a year to receive compensation for days not fished, then fish harder later in the year and have a normal fishing year. NMFS should base

compensation on the difference between the total number of DAS used in 1998 versus 1999.

*Response:* NMFS agrees that persons who routinely do not use up all their DAS could receive compensation for days not fished in May and June 1999 and could also fish later in the year as many DAS as they are accustomed to fish. However, this scenario is not likely to be common. Persons who do not use up their DAS are part-time participants in the multispecies fishery. NMFS assumes that they engage in other ways of making a living at other times of the year, either in another fishery or in another field of work entirely. Such a part-time participant is likely to have an annual schedule that permits him or her to fish for multispecies only at certain times of the year. If that time has been denied because of closures, the economic consequences are likely to be just as great as those for a full-time fisherman, and the ability to recoup those losses may be just as difficult.

*Comment 30:* If a person does not want to receive compensation for all his or her DAS not used, NMFS should provide compensation based on 1998 DAS first, so that a fisherman does not lose 1999 fishing opportunities as well as having lost 1998 DAS for which he or she does not receive compensation.

*Response:* NMFS agrees. If a person wishes to be compensated for only some of the DAS for which he or she is eligible, or if NMFS is only able to provide compensation for some but not all of the DAS requested, we will provide assistance based first on economic harm calculated from 1998/1999 DAS not used and will only compensate for 1999/2000 DAS not used if all eligible 1998/1999 DAS have been compensated for.

*Comment 31:* NMFS should allow fishing in the Western Gulf of Maine (WGOM) closure area to count toward historical activity. Otherwise, it would be arbitrary and capricious to treat a small vessel, forced out of the WGOM closure area with no place left to fish due to inshore closures, in the same fashion as a more mobile vessel that was able to relocate after the WGOM closure. Also, there is concern that the historical activity in the WGOM area might be lost forever.

*Response:* The disaster assistance program is targeted to persons affected by the short-term coastal closures that were instituted in 1999. The WGOM closure area is a 3-year, year-round closure that was instituted in 1998. Because of the different nature of the WGOM closure, NMFS does not believe it is appropriate to base historical activity upon fishing in this area,

irrespective of whether the boat could relocate to another area. NMFS agrees, however, that the decision to exclude fishing in the WGOM closure area for the purposes of this program does not imply that historical fishing activity in this area will be lost forever.

*Comment 32:* Assistance should be provided for persons affected by the Cashes Ledge closures of 1999.

*Response:* Any vessel fishing in this off-shore area would be sea-worthy enough to move its base of operations to open areas, and would have more flexibility than smaller vessels that have to stay near shore. NMFS believes that the focus of this program should be on those fishermen with the fewest choices that were most affected by the coastal rolling closures of February through June 1999. Therefore, NMFS will not include fishing on Cashes Ledge.

*Comment 33:* It is not appropriate for NMFS to ask permit holders to provide the names of crew members; a good captain would compensate his or her crew members in any case. This requirement indicates a lack of trust on the part of NMFS.

*Response:* NMFS believes that it is important to have a formal structure through which to compensate crew members. Crew members are less likely to have savings to withstand slow periods from fishing and may be particularly vulnerable to layoffs during closures. Asking permit holders to identify crew members that should receive compensation and to specify the percentage of the vessel's compensation that should go to the crew members would not seem to interfere with the permit holder's arrangements to compensate crew. Further, because NMFS will compensate the crew members directly, this approach would seem to reduce the paperwork and accounting burden on the permit holder. This arrangement was endorsed by the industry representatives who provided comment during the development of this proposal.

*Comment 34:* Permit holders should not have any discretion in the criteria used to determine which crew members would be eligible for compensation.

*Response:* NMFS does not believe that there is a single set of criteria for determining which crew members should be compensated that would apply to all crew situations. We do not have the information needed to make this decision, and it would be time-consuming to obtain the information. Therefore, we will leave this up to the permit holders to determine.

*Comment 35:* NMFS should consider requiring some form of proof that a crew

member worked for the permit holder for at least 6 out of the last 10 months.

*Response:* Since this is not a program requirement, but a guideline, no such proof is needed.

*Comment 36:* The loss of 2001/2002 DAS if a vessel did not comply with the requirement to engage in research by April 30, 2001, is a concern.

*Response:* NMFS believes that there should be some consequence if a person receives Federal funds but does not honor the commitment to engage in research. No fisherman commented that this provision was inappropriate. Further, DAS will only be deducted if a vessel owner fails to provide his or her vessel for research or to provide economic data as required.

*Comment 37:* NMFS should delete the provision that the research obligation may be kept by the original permit holder in the case of the sale of a vessel.

*Response:* NMFS did not intend that the research obligation remain with the original permit holder when the permit is sold to another person. Rather, the research obligation becomes a condition of the permit in all cases. Permits are assumed to transfer with sale of the vessel unless there is a purchase and sale agreement stating otherwise. If a vessel owner sells his or her boat but retains the permit, the research obligation remains with the original permit holder, who must then find a way to fulfill the research obligation or to provide economic data. We have clarified the language explaining this provision of the program.

*Comment 38:* In exchange for compensation, permit holders should be required to either operate their vessels for research or provide economic and social data. They should not be required to do both, as implied.

*Response:* NMFS intended the requirement to be to provide either vessels for research or economic and social data. In addition, NMFS will now allow other activities, if approved by the RA. The language in this document reflects that any of these alternatives is allowed.

*Comment 39:* When using the call-in/call-out system, day boat gillnet vessels are charged 15 hours at sea for any trip exceeding 3 hours. They should be allowed 15 hours of historical activity for these days.

*Response:* NMFS agrees and has clarified this point in this document.

*Comment 40:* Clarify whether NMFS will only use logbooks submitted within 15 days of the month following the fishing activity reflected in the logbook.

*Response:* NMFS will base its calculations of historical activity and economic harm on all logbooks

submitted by July 15, 1999, provided that they contain sufficient information to be used for these calculations.

*Comment 41:* Fishermen should not be required to fill out so many forms and be subjected to so many prerequisites for receiving funds. This shows a lack of trust on the part of NMFS. NMFS is trying to stifle all the attempts of the fishermen to receive any aid.

*Response:* NMFS acknowledges that there are many requirements for receiving compensation under this program. Besides the programmatic requirements themselves, NMFS must also apply the disaster assistance provisions of section 308(d) of the IFA and the legal and regulatory requirements for receiving financial assistance from the Federal Government. NMFS is not trying to stifle attempts to receive aid, but these are standard procedures for disbursing Federal funds to ensure accountability for taxpayers' dollars.

*Comment 42:* The funds would be better spent on preserving wetlands and essential fish habitat and providing marine access for recreational anglers or the boating public. Or, some portion should be invested in an experimental gear program and on incentives for industry to develop and use technologies that minimize codfish bycatch.

*Response:* Congress specifically appropriated the funds for disaster assistance for persons or entities in the Northeast multispecies fishery who have incurred losses from a commercial fishery failure. However, some of the research projects that will use vessels provided by fishermen under this program may focus on these areas.

*Comment 43:* Explain the selection of 10,000 lb (4535 kg) as the landings threshold for eligibility.

*Response:* The disaster assistance funds were appropriated to assist persons who have incurred losses from a commercial fishery failure in the multispecies fishery. There are many persons holding multispecies fishing permits who are not active in the fishery and, therefore, did not experience a commercial fishery failure. The threshold of 10,000 lb (4535 kg) is intended to ensure that the program targets active commercial multispecies fishermen for assistance.

*Comment 44:* If the permit holder decides to withdraw from the program, he or she should be required to send a certified letter to NMFS stating the intent to withdraw from the program. Any compensation should be repaid within 60 days of the date of this letter.

*Response:* NMFS agrees. Permit holders wishing to withdraw from the program will have to inform NMFS in writing by January 1, 2000, and will have 60 days from the date of receipt by NMFS of that letter to return all compensation received.

*Comment 45:* Clarify whether fishermen who fished in fisheries like monkfish in North Carolina during the appropriate months in 1999 would qualify.

*Response:* The calculation of economic harm subtracts only the multispecies DAS fished on a month-to-month basis from February through June 1999 (wherever that effort might have been) from the historical activity of the permit holder in the areas of the Gulf of Maine rolling closures during the appropriate months. If a permit holder has historical activity in the specified closed areas and moved to North Carolina in 1999 in order to continue fishing, that fishing effort would not be subtracted from historical activity unless multispecies DAS were used. Likewise, if a person fished in the same areas in 1999 as in 1998 but changed to another fishery that did not require the use of multispecies DAS, those days would not be subtracted from historical activity.

*Comment 46:* It is unclear how NMFS will certify that a fisherman normally fishes alone.

*Response:* NMFS does not intend to certify that a fisherman normally fishes alone. The application form asks fishermen to provide information on eligible crew members or to certify that the permit holder fishes alone. If evidence comes to light that a certification is false, NMFS will provide such evidence to the OIG. A false statement on the form could be grounds for possible punishment, including fine or imprisonment, under 18 U.S.C. 1001.

#### Changes From the Proposed Program

The following changes and clarifications have been made from the proposed program:

1. NMFS will allow the time period for completing the research obligation to be extended beyond the April 30, 2001, deadline by requesting an extension from the RA. This change has been made to allow more flexibility to the fishermen and researchers in scheduling research voyages at a mutually agreeable time and to allow more time, if necessary, for approved researchers to find funding and organize the project. NMFS retains the provision that permit holders must be informed that they are expected to provide their vessels for research by September 30, 2000. If a permit holder is asked to provide a

vessel for research, but the researchers cannot complete the project by April 30, 2001, and do not get the deadline extended, the permit holder's obligation to conduct the research ceases. Note that a request to extend the deadline for conducting research constitutes a collection of information as defined by the Paperwork Reduction Act (PRA). NMFS cannot grant extensions unless and until this collection of information is approved by the Office of Management and Budget (OMB). NMFS will seek approval of this aspect of the program in a timely manner.

2. Historical participation and economic harm for gillnetters will be based on the number of hours at sea assessed (a minimum of 15 hours per day for trips of greater than 3 hours), not on the number of hours the vessel was actually on the water.

3. If a permit holder chooses to withdraw from the program, he or she must inform NMFS of this decision in writing by January 1, 2000. The permit holder must then return the compensation received within 60 days of the receipt by NMFS of the decision to withdraw.

4. Income tax returns from 1998 are not required to be submitted to verify income level. However, NMFS has retained the requirement that assistance is limited to persons or entities that did not receive more than \$75,000 from commercial fishing in 1998. Persons applying for this compensation must certify that they meet the income limit and other eligibility requirements.

5. "Research" DAS may be fulfilled in ways other than providing one's vessel for research. Projects proposing alternative activities in lieu of the research commitment may be submitted to NMFS for approval on a case-by-case basis by the RA.

6. If a permit holder is eligible for compensation based on DAS in both the 1998/1999 and the 1999/2000 fishing years and that person does not wish to be compensated for the full number of days for which he or she is eligible, the 1998/1999 DAS will be compensated first. Likewise, if NMFS reduces the number of DAS for which a person receives compensation (because the requested compensation exceeds the available funding) and a person qualifies for compensation based on unused DAS from both years, NMFS will compensate for DAS not used in 1998/1999 first and will only compensate for unused DAS in 1999/2000 if a person has no more 1998/1999 DAS eligible for compensation.

7. Permit holders receiving disaster assistance who are not asked to provide their vessel for research (or to engage in

any other approved alternative activity) by September 30, 2000, will be required to submit only the last 3 years of income tax returns rather than 5 years of returns as proposed.

### Definitions

*Charter or party boat* means any vessel that carries passengers for hire to engage in recreational fishing.

*Commercial fishing or fishing commercially* means fishing that is intended to result in, or results in, the barter, trade, transfer, or sale of fish.

*Day(s)-at-Sea or DAS* means the 24-hour periods of time during which a fishing vessel is absent from port in which the vessel intends to fish for, possess or land, or fishes for, possesses, or lands regulated species.

*Dealer* means any person who receives, for a commercial purpose (other than solely for transport on land), from the owner or operator of a vessel issued a valid multispecies permit, any species of fish whose harvest is managed by 50 CFR part 648.

*Fishing year* means, for the Northeast multispecies fishery, the period of time from May 1 through April 30 of the following year.

*Historical activity* means fishing activity during 1998 (or, in some cases, 1997) in the areas listed in this document that were closed in 1999, excluding the Western Gulf of Maine closed area.

*Northeast multispecies, or multispecies finfish, or multispecies* means the following species:

American plaice—*Hippoglossoides platessoides*.  
Atlantic cod—*Gadus morhua*.  
Haddock—*Melanogrammus aeglefinus*.  
Ocean Pout—*Macrozoarces americanus*.  
Pollock—*Pollachius virens*.  
Redfish—*Sebastes fasciatus*.  
Red hake—*Urophycis chuss*.  
Silver hake (whiting)—*Merluccius bilinearis*.  
White hake—*Urophycis tenuis*.  
Windowpane flounder—*Scophthalmus aquosus*.  
Winter flounder—*Pleuronectes americanus*.  
Witch flounder—*Glyptocephalus cynoglossus*.  
Yellowtail flounder—*Pleuronectes ferrugineus*.

*Multispecies permit* means a permit issued by NMFS to fish for, possess, or land multispecies finfish in or from the Exclusive Economic Zone.

*Regulated species* means the subset of NE multispecies that includes Atlantic cod, witch flounder, American plaice, yellowtail flounder, haddock, pollock, winter flounder, windowpane flounder, redfish, and white hake.

### Eligibility

Permit holders are eligible to participate in this program if they hold a currently valid Federal multispecies permit and landed and sold at least 10,000 lb (4535 kg) of multispecies finfish to federally permitted dealers between May 1, 1997, and April 30, 1998. Verification of the sale will be based only on dealer weigh-out reports submitted to NMFS prior to April 1, 1999.

Party/Charter vessels are not eligible for this program, because they were not excluded from fishing in the closed areas.

Persons or entities with net annual revenues from commercial fishing in 1998 exceeding \$75,000 (or \$150,000 if filing a joint tax return) are not eligible for compensation. Persons or entities applying for disaster assistance will need to certify that their income does not exceed this threshold. The applicant's assertion of fishing income will be subject to audit, and if audited, the applicant may be required to provide documentation including, but not limited to, tax returns.

Any permit holder whose permit was sanctioned during the February through June 1999 closures cannot qualify for compensation from the period of the sanction.

Permit holders otherwise eligible for compensation who sold their vessels on or after February 1, 1999, will not be eligible to participate in this program. Likewise, persons purchasing a vessel on or after February 1, 1999, would not be considered to have historical activity and therefore are not eligible for compensation under this program, except that persons who owned a vessel that held a valid multispecies permit during the 1998–99 fishing year and who purchased a new vessel after February 1, 1999, will be eligible, based on the history of the vessel used during 1998.

### Calculation of Historical Activity

A. NMFS will calculate the historical activity of each eligible vessel based on the number of DAS fished during 1998 in the following months and areas:

February—blocks 124–125  
March—blocks 124–125  
April—blocks 123–125, 130–133  
May—blocks 129–133, 136–140  
June—blocks 139–147, 152

Figure 1 shows the areas of these blocks.

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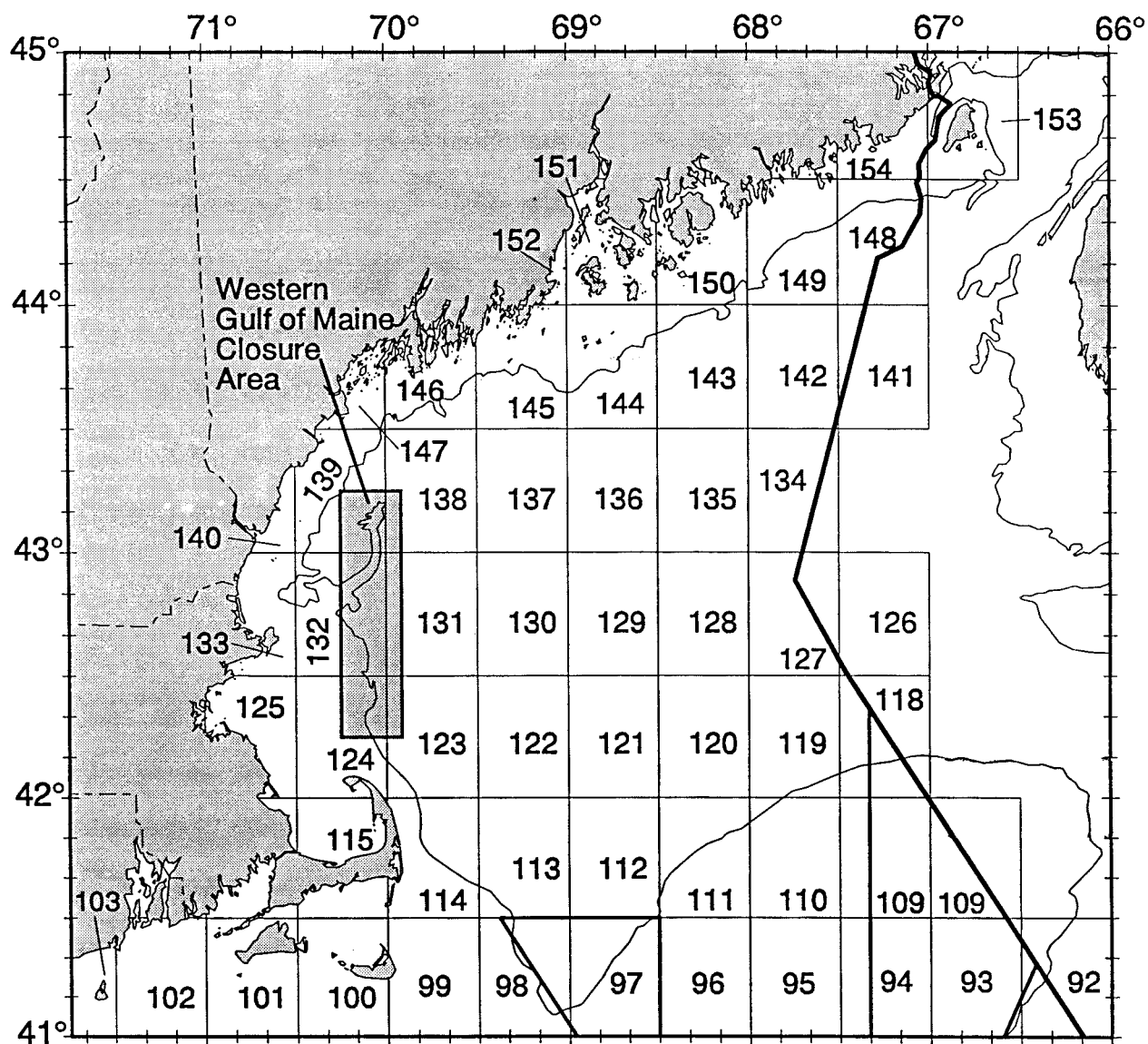


Figure 1. Gulf of Maine area closure reference blocks



Note that, for the purposes of this program, fishing activity in the Western Gulf of Maine Closed Area will not be considered as historical activity since that area is closed for 3 years on a year-round basis.

B. There were some closures in March, May, and June of 1998. Therefore, if a vessel used no DAS in May or June 1998, NMFS will calculate the number of DAS fished by that vessel in the appropriate areas during the same months of 1997. Some areas were closed from March 1 through March 30, 1998, but not closed on March 31 of that year. Therefore, if a vessel used no DAS during March 1998 or fished only on March 31 of that year, NMFS will calculate the number of DAS fished by that vessel in the appropriate areas during the same months of 1997. NMFS will not use 1997 DAS if a permit holder used all his or her DAS in 1998.

C. Some persons may have been prevented from fishing in 1998 because of illness or problems with their vessels. NMFS assumes that vessel owners have chosen fishing as their primary activity by virtue of their investment in their boats. Therefore, if there are two consecutive calendar months from February through June 1998 for which a vessel had no record of any fishing activity (e.g., negative vessel trip reports were submitted for March and April 1998 and/or no landings were recorded by dealers), NMFS will assume that the vessel was prevented from fishing by circumstances beyond the control of the vessel owner. In this circumstance, NMFS will calculate the number of multispecies DAS during those same months in 1997. However, if the 2-month gap in 1998 fishing activity was due to a permit sanction, NMFS will not consider 1997 fishing activity. NMFS will not use 1997 DAS if a permit holder used all his or her DAS in 1998.

D. Calculation of multispecies DAS fished will be made to the nearest hour of fishing time and will then be rounded down to the nearest half day. A permit holder can receive no more compensation for economic harm than the level represented by the number of days of historical activity as calculated using this method.

E. For gillnetters, historical activity will be based on the number of DAS hours they were charged (minimum 15 hours for trips greater than 3 hours) rather than on the number of hours they were gone from the dock.

F. The number of multispecies DAS fished during a fishing year plus the number of unused multispecies DAS for which a vessel receives compensation in that year cannot exceed the total

number of multispecies DAS allocated to that vessel for that year.

#### **Documentation Used To Determine Historical Activity**

A. For vessels greater than 30 ft (9.14 m), NMFS will use vessel call-in system reports and vessel trip reports received by NMFS prior to April 1, 1999, to determine whether a vessel fished in a 1999 closure area. If a trip was called in but no log report was submitted, or vice versa, the trip will not be included.

Some vessel trip reports have been submitted with insufficient information to determine whether the vessel fished in the closed areas, although this information is required. The permit holder will not get credit for historical activity on any trips for which the logbooks do not indicate where the gear was deployed.

B. For vessels 30 ft (9.14 m) or less, NMFS will base historical activity on vessel trip reports received by NMFS prior to April 1, 1999. (These vessels do not participate in the call-in system.) As with the larger vessels, the permit holder will not get credit for historical activity on any trips for which the logbooks do not indicate where the gear was deployed.

#### **Documentation Used To Determine 1999 Activity**

A. For vessels greater than 30 ft (9.14 m), NMFS will base activity on vessel call-in system reports.

B. For vessels 30 ft (9.14 m) or less, NMFS will base activity on vessel trip reports submitted by July 15, 1999. NMFS may compare dealer weigh-out reports and logbooks for May and June to confirm claims that no landings were made when no trip is reported.

#### **Calculation of Economic Harm**

A. For each month in which a vessel has historical activity, NMFS will tally the number of multispecies DAS fished in 1999. Economic harm will be calculated on a monthly basis as the historical DAS used that month minus the multispecies DAS used that month in 1999. For example, if a vessel has 10 DAS of historical activity in April 1998 and fished 5 DAS in April 1999, the permit holder and crew will be eligible for compensation for the equivalent of up to 5 DAS. If a vessel has 10 DAS of historical activity in April 1998 and fished 15 DAS outside the closed area in April 1999, the permit holder and crew will not be eligible for compensation for economic harm for that month.

If a vessel fished more days in a month during 1999 than it has historical activity in a closed area, the excess 1999

days will be subtracted from DAS for which the permit holder could receive compensation in another month. For example, if a permit holder has 10 days of historical activity from February 1998 and fished 15 days during February 1999, that person would have 5 days of excess 1999 fishing that would be subtracted from another month's compensation. If the same person had 10 days of historical activity from March 1998 and fished only 5 days during March 1999, the 5 days for which the person would otherwise have been eligible to receive compensation would be offset by the 5 days fished in excess of historical activity in February, and the person would not be eligible for compensation in March.

B. Compensation for economic harm will be at a rate of \$1500 for each 24-hour DAS and \$750 for each half DAS. This amount will be decreased to \$900 per DAS if the permit holder does not designate crew to receive compensation. However, persons fishing alone may designate themselves as crew and receive the full compensation. (See Compensation for Crew.)

C. A DAS for which a permit holder receives compensation will be considered a DAS used. For compensation received based on economic harm during the 1998–1999 fishing year (i.e., during the February, March, and April 1999 closures), DAS for which a permit holder receives compensation cannot be carried over to the 1999–2000 fishing year. For compensation received based on economic harm during the 1999–2000 fishing year (i.e., during the May and June 1999 closures), DAS for which a permit holder receives compensation will be subtracted from the total allowable DAS for the year. For example, if a permit holder in the fleet DAS category is compensated for 10 DAS not used in June 1999, the total 1999–2000 DAS for the vessel he or she currently owns would be reduced from 88 to 78.

If a person is eligible to receive compensation for DAS not fished during both the 1998/1999 fishing year and the 1999/2000 fishing year, but elects to receive compensation for only some of those days, NMFS will compensate the 1998/1999 DAS first. For example, if a person is eligible to receive 10 days of compensation for lost fishing opportunities in 1998/1999 and 10 days of compensation for lost opportunities in 1999/2000, but chooses to commit his or her vessel for only 15 days of research, 10 days would be subtracted from the 1998/1999 DAS and only 5 would be subtracted from the 1999/2000 DAS allocation.

D. The number of DAS for which persons will receive compensation will be based on the total number of requests received by NMFS. No compensation will be paid until all requests are received. However, no applicant will be paid unless they satisfactorily complete a name check process required by the OIG. Because compensation cannot be released until the universe of applicants is known and because eligibility and unused DAS are calculated from official records held by NMFS and based on information required to be submitted to NMFS, there will be no appeals of NMFS determinations of eligibility or unused DAS.

E. If the total requests for compensation for economic harm exceed the funds available, the number of DAS for which each person is compensated will be reduced by the same proportion. If reduced, the proportional DAS for which each person is compensated will be rounded down to the nearest half day.

F. If the total requests for compensation for economic harm total less than the funds available, the excess funds will be used to defray costs in the following cooperative research program.

G. The agreement to participate in research in exchange for compensation through this program is binding. If a permit holder decides to withdraw from the program, he or she must inform NMFS of the decision to do so by January 1, 2000. Any compensation received through this program must be returned to NMFS within 60 days of receipt by NMFS of the letter informing of the decision to withdraw from the program. Returned funds may be used to defray costs in the cooperative research program.

#### **Compensation for Crew Members**

NMFS will ask permit holders to identify crew members who have also been harmed by the groundfish collapse and to specify in the application the vessel's share system. Crew members will be compensated a portion of the vessel's total compensation, based on the vessel's share system. An eligible crew member is expected to have worked for the permit holder for at least 6 out of the last 10 months. Each crew member identified by eligible permit holders will be required to certify that his or her income from commercial fishing does not exceed \$75,000 (\$150,000 if filing a joint tax return). Crew members will need to provide NMFS with bank information to allow direct deposit of disaster funds or to complete the requisite forms to receive a check. NMFS will pay each identified crew member based on the percentage

share specified by the permit holder and will pay the remainder of the vessel's compensation to the permit holder. Permit holders who do not specify any crew members for compensation will be compensated at a reduced rate of \$900 per DAS. However, a permit holder fishing alone may designate himself or herself as the captain of the vessel, thereby receiving the full \$1500 per DAS discussed above.

#### **Research Requirement**

Permit holders that receive compensation under this program will be required to participate in research projects (if asked) for the number of days they were compensated. A permit holder will only be obligated to provide his or her vessel for research for the number of DAS for which compensation is received. Permit holders will not be required to use their allotted fishing DAS for this research. However, if a permit holder intends to land multispecies fish caught during a research day, the permit holder would have to use a DAS, which would also count as a research day. Use of the vessel includes the use of fixed vessel equipment such as navigation devices and hauling equipment.

The cost of personnel (captain and crew) required to operate the vessel during this research is to be borne by the permit holder. This is a condition of receiving compensation. All other direct operation costs are to be borne by the researcher. Direct costs include fuel, ice, food, and scientific equipment. Fishermen are not required to provide fishing gear for scientific research, although they may choose to do so. If eligible fishermen do not claim all the available disaster assistance funds, NMFS may provide some of the operation costs of research conducted under this program.

If a permit holder is not asked to provide his or her vessel for research by September 30, 2000, this obligation will cease. Instead, the permit holder will be required to submit economic information in the form of 1997, 1998, and 1999 tax returns and to complete an economic and social survey, provided that this collection of information is approved by OMB. If this information is not received by May 1, 2001, the permit holder's DAS for the 2001–2002 fishing year will be reduced by the number of DAS for which he/she was compensated under this program.

The research must be undertaken at a mutually agreed date before May 1, 2001. However, the RA may grant an extension of the time allowed to complete the research, upon request from the researcher and after

consultation with the permit holder. NMFS cannot grant extensions of the completion date unless the collection of information required to assess a request is approved by OMB in compliance with the PRA. We will seek OMB approval in a timely manner.

If a vessel is requested for research by September 30, 2000, and the research is not conducted before May 1, 2001, because the fishing vessel is not available, then the vessel's allowed DAS for fishing year 2001–2002 will be reduced by the number of DAS for which it was committed for research, unless an extension is approved by the RA. If a vessel is requested for research but the researcher is unable to proceed with the project before May 1, 2001, and the deadline for completing the project is not extended, the permit holder's obligation to participate in this research ceases. In this case, the permit holder will receive credit for the DAS committed to this research project, even if the DAS are not used for research.

NMFS may authorize other uses for vessels and permit holders' time that can be substituted for the research commitment. A permit holder is not obligated to engage in any approved alternative projects, but may choose to do so (if asked) in lieu of the research requirement. The same deadlines and consequences apply to the alternative projects as to the research commitment. If the permit holder agrees to undertake an alternative project, the activity must be completed by May 1, 2001, unless extended by the RA, or the permit holder's DAS for the 2001–2002 fishing year will be reduced by the number of DAS for which he or she was compensated under this program. If the permit holder chooses not to engage in an alternative project and is not asked to engage in research by September 30, 2000, the permit holder will be obligated to provide 3 years of tax returns (subject to OMB approval of this collection of information).

If the vessel is sold while still under a research obligation, the commitment will transfer with the permit. Permits automatically transfer with the vessel upon sale, unless there is a written agreement stating otherwise. The research requirement will not be voided by the sale of a vessel, unless the permit holder permanently retires the vessel's multispecies permit.

If crew members are compensated as part of this program and are still with the vessel, they are expected to serve during the requested research period.

Permit holders will be expected to keep a record of the number of days they engaged in cooperative research.

### Application Process

A. NMFS will determine who is eligible to participate in the program based on dealer weigh-out reports and will calculate the maximum level of direct assistance for which the permit holder is eligible.

B. NMFS will notify all multispecies permit holders, explaining the program and informing them whether they qualify to participate and, if so, the maximum amount of economic harm they can claim based on unused DAS. The letter to qualified permit holders will contain an application form that asks the permit holder to identify the number of eligible DAS for which the permit holder will seek compensation in exchange for a commitment to make his or her vessel available for research in the future, if requested. The permit holder will be asked to identify crew members that should share in the compensation and to inform NMFS of the percentage of available compensation each crew member should get, which is expected to be based on the usual share system of the vessel. Qualified permit holders will have 30 days from the date of mailing to respond to the invitation to participate. A date by which all responses must be postmarked will be included in the invitation to participate.

When applying for disaster assistance, permit holders will have to certify that their net income from commercial fishing in 1998 did not exceed the threshold of \$75,000 (or \$150,000 if filing a joint tax return). They will do so by signing the application form certifying the information they provide, including income information. Crew members will also have to certify that their net income from fishing in 1998 did not exceed the same limits. Certification is subject to possible punishment for false statements, under 18 U.S.C. 1001. The assertion of fishing income will be subject to audit and may require documentation including, but not limited to, tax returns.

C. NMFS will tally the amount of eligible compensation requested in all applications received by the deadline, and will conduct a name check of eligible persons. If the total eligible compensation requested is less than the funds available, NMFS will approve payment of the requested amounts (provided that the recipients pass the required name check) and will set aside the remainder to help defray vessel costs for conducting research. If the eligible compensation requested exceeds the funds available, NMFS will approve payment for each permit holder based on a prorated reduction in the

number of DAS. The value of a DAS will remain the same, but fewer unused DAS will be compensated in this case. Partial DAS will be rounded downward to the nearest half DAS.

D. NMFS will report payments disbursed under this program to the IRS and will issue IRS Form 1099-G to each recipient of compensation for economic harm.

E. NMFS will accept only complete, signed applications postmarked by the deadline date for consideration under this program. NMFS is not required to screen applications for completeness before the deadline nor to allow applicants to correct any deficiencies on their application form after initial submission.

### Classification

#### *National Environmental Policy Act*

NMFS requested comments on the potential impacts of this program on the human environment when it published the proposed program on June 11 in the **Federal Register**. No comments were received directed specifically to this point, although one person was of the opinion that the disaster assistance funds would be better spent in preserving wetland and habitat and in providing marine access for recreational anglers or the boating public. NMFS has conducted an Environmental Assessment of this program and has concluded that there are no significant impacts of this program on the human environment. A copy of the Environmental Assessment may be obtained from NMFS (see **ADDRESSES**).

#### *Regulatory Flexibility Act*

NMFS conducted an initial regulatory flexibility analysis (IRFA) for this action, which was included in the June 11 **Federal Register** notice. We received no comments concerning the IRFA. Therefore, the following constitutes the final regulatory flexibility analysis for this program.

This action is being taken as a result of concern about the economic impact of the declining groundfish stocks in the Gulf of Maine. The objective of the program is to compensate persons in the Northeast multispecies fishery who have incurred losses from a commercial fishery failure.

This program is open to permit holders of a currently valid Northeast multispecies permit who landed 10,000 lb (4535 kg) of multispecies fish between May 1, 1997, and April 30, 1998, as recorded by dealer weigh-out reports. NMFS estimates that fewer than 500 permit holders qualify for compensation by having landed 10,000

lb (4535 kg) of multispecies fish and having documented historical activity in the areas closed in 1999. Assuming that, on average, each permit holder employed one other crew member, there might be 1000 persons able to participate in this program.

The reporting or record-keeping requirements for this program include an initial form for permit holders to indicate willingness to participate in the program. The form will also allow permit holders to identify crew members that should share in the compensation. The program also requires permit holders to provide the services of their vessels, if asked, for future research at a mutually agreed date and time, not to exceed May 1, 2001, unless an extension is requested and granted by NMFS. The permit holders will be expected to cover the costs of captain and crew needed to operate the vessel during this research, which is estimated to be \$700 on average. The other costs of operating the vessel will be covered by the researcher or (in the event that not all disaster assistance funds are claimed by fishermen) may be covered by NMFS. Participation in the compensation program is voluntary, and persons are not expected to participate unless it is deemed economically beneficial to do so. Permit holders may also wish to keep a record of the number of days they have engaged in cooperative research. In addition, if a permit holder is not asked to engage in research or to perform an alternative, approved activity by September 30, 2000, the program calls for permit holders to submit 3 years of Federal income tax forms and to complete a survey of economic and social concerns instead, provided OMB approves this collection of information. Fishermen who have not kept copies of their tax returns will need to request copies from the IRS at a cost of \$23.00 per return.

There are no Federal rules that duplicate, overlap, or conflict with the proposed action. Persons engaging in research aboard any vessel available through this program will have to comply with all relevant Federal regulations.

In providing assistance to alleviate the economic harm caused by the fishery decline, any significant economic impacts of this program are expected to be positive and are intentional. NMFS has, however, made modifications to the program that reduce the cost of compliance for the permit holders. We have: (a) Added a provision that the date by which research must be completed may be extended, thereby lowering the risk that a permit holder

may lose DAS during the 2001/2002 fishing year; (b) added the possibility of permit holders participating in approved alternatives to research, some of which may be less costly for the permit holder than providing a vessel for research; and (c) clarified that if a person wishes to receive compensation for only some of the DAS for which he or she is eligible, then NMFS will compensate unused 1998/1999 DAS first, and will subtract 1999/2000 DAS only if all the eligible DAS from last fishing year are used up. This provision allows a fisherman to receive compensation for DAS which have expired, but to choose to fish with this year's DAS instead of receiving \$1500 per DAS compensation.

#### *E.O. 12866*

This program has been determined to be significant for the purposes of E.O. 12866.

#### *PRA*

This program contains a collection-of-information requirement subject to the PRA. The public reporting burden for this collection of information is estimated at 1.5 hours per response, to submit a form indicating willingness to participate in the program. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments were requested on this estimate when the proposed program was published in the **Federal Register**. NMFS received no comments on this estimate.

The collection of this information has been approved by OMB under control number 0648-0386.

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.

#### *Federal Policies and Procedures*

Recipients of Federal assistance (permit holders and crew members who receive compensation through this program) are subject to all Federal laws and Federal and Department of Commerce (Commerce) policies, regulations, and procedures applicable to Federal financial assistance awards and must comply with general provisions that apply to all recipients under Commerce Federal assistance programs.

#### *False Statements*

A false statement on the application or any document submitted for consideration of financial assistance is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment (18 U.S.C. 1001).

#### *Delinquent Federal Debts*

No award of Federal funds shall be made if the would-be recipient has an outstanding delinquent Federal debt or fine until: (a) The delinquent account is paid in full; (b) a negotiated repayment schedule is established and at least one payment is received; or (c) other arrangements satisfactory to Commerce are made.

#### *IRS Information*

An applicant classified for tax purposes as an individual, partnership, proprietorship, corporation, or medical corporation is required to submit a taxpayer identification number (TIN) (a social security number, or an employer identification number as applicable, or a registered foreign organization number) on IRS Form W-9, "Payer's Request for Taxpayer Identification Number." Tax-exempt organizations and corporations (with the exception of medical corporations) are excluded from this requirement. Form W-9 shall be submitted to NOAA upon application for assistance. The TIN will be provided to the IRS by Commerce on Form 1099-G, "Statement for Recipients of Certain Government Payments."

Disclosure of a recipient's TIN is mandatory for Federal income tax reporting purposes under the authority of 26 U.S.C., sections 6011 and 6109(d), and 26 CFR, 301.6109-1. This is to ensure the accuracy of income computation by the IRS. This information will be used to identify an individual who is compensated with Commerce funds or paid interest under the Prompt Payment Act.

#### *Name Check*

Recipients will be subject to a name check review process. Name checks are intended to reveal if they or any key individuals associated with an application for award have been convicted of, or are presently facing, criminal charges, such as fraud, theft, perjury, or other matters that significantly reflect on their management, honesty, or financial integrity. In the name check process, Commerce performs a credit check on businesses and individuals. A criminal background check on an individual's name is performed by the Federal

Bureau of Investigation. There is no charge to recipients for the name check.

#### *Audits*

Under the Inspector General Act of 1978, as amended, 5 U.S.C. App. 3, section 1 *et seq.*, an audit of the award of assistance may be conducted at any time. The Inspector General of Commerce, or any of his or her duly authorized representatives, shall have access to any pertinent books, documents, papers and records of the recipient, whether written, printed, recorded, produced or reproduced by any mechanical, magnetic or other process or medium, in order to make audits, inspections, excerpts, transcripts or other examinations as authorized by law. When the OIG requires an audit on a Commerce award, the OIG will usually make the arrangements to audit the award, whether the audit is performed by OIG personnel, an independent accountant under contract with Commerce, or any other Federal, state, or local audit entity.

#### *Government-Wide Debarment and Suspension*

Applicants must submit a completed Form CD-511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying." Prospective participants (as defined at 15 CFR 26.105) are subject to 15 CFR part 26, "Government-wide debarment and suspension (non-procurement) and government-wide requirements for drug-free workplace (grants)" and the related section of the certification form prescribed here applies.

Dated: August 26, 1999.

**Gary C. Matlock,**

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

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 082699D]

### Gulf of Mexico Fishery Management Council; Public Meeting

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

**ACTION:** Notice of public meeting.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) will