Explanation of Flowchart

Ultimate Goal

The ultimate goal in comparing standards addressing a particular problem is assessing the real world performance of the covered vehicles or equipment in reducing fatalities and injuries. The most reliable basis for making that assessment is fatality and injury data directly drawn from actual crashes. Accordingly, the countries involved in making functional equivalence determinations should make appropriate efforts to assure the availability of such data.

Guiding Principles

Best Available Evidence

Country A should base its FE determinations on the best available evidence. If available, estimates of real world safety benefits based on fatality and injury data directly drawn from actual crashes are the best evidence. If such data are not available, then estimates based on other information, such as compliance test data, may be used, although increased caution needs to be exercised in making judgment based on those estimates. If sufficient crash data regarding real world safety benefits are available, and a comparison of those benefits shows that the Country B standard is less beneficial than the Country A standard, Country A could avoid wasting resources making comparisons on the basis of less definitive types of evidence.

Sufficiency of Evidence

Many types of data are available for a comparison of two standards. Often there is an abundance of one type of data and little or no data from other sources. If insufficient data are available, and such data either cannot be generated through engineering analysis (e.g., real world safety benefits estimates), or conducting additional research and development is not cost effective, then Country A should immediately stop consideration of such data and consider the other available data instead.

The horizontal path through the flowchart is intended to illustrate the sources of data that will be considered and a rough idea of the priority they will receive. Each step branches independently to the tentative determination of functional equivalency by its ''yes'' path. This may seem to preclude later steps once any ''yes'' path is encountered. In practice, however, all data sources will be considered to the extent that they are available before a determination of functional equivalency is made.

Best Practices

Country A should pursue a ''best practices'' policy, i.e., Country A should propose to upgrade its standards when it concludes that a Country B standard offers greater benefits than its counterpart Country A standard.

Conservatism

Country A should place priority on preserving the safety benefits of its standards. Country A can best preserve those benefits by being conservative in reaching any conclusion that Country B standard is FE to its counterpart Country A standard.

Reciprocity

Country A should take steps to encourage reciprocity by Country B. When Country A's comparison of standards indicates that one of its standards has benefits equal to or greater than its counterpart Country B standard, Country A should forward the results of that comparison to Country B and request consideration be given by Country B to determining that the Country A standard is FE to its counterpart Country B standard.

Notes

1. Instead of issuing a proposal to amend its standard by adding the alternative of complying with Country B's standard, Country A may decide to propose seeking to harmonize its standard with the foreign standard. This approach would enable Country A to maintain a single set of requirements and test procedures in its standard, thereby minimizing any effect on its enforcement resources.

2. There may be circumstantial differences, such as special environmental conditions, driver demographics, driver behavior, occupant behavior (e.g., level of safety belt use), road conditions, size distribution of vehicle fleet (e.g., proportion of big versus small vehicles and disparity between extremes), that could influence real world safety benefits. These differences may result in a particular standard having a safety record in one political jurisdiction that does not translate to the other jurisdiction.

3. Differences from model to model and manufacturer to manufacturer in margins of compliance may confound efforts to assess the relative stringency of two standards.

[FR Doc. 96–29213 Filed 11–13–96; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 961105310–6310–01; I.D. 102396A]

RIN 0648–AJ31

Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Framework Adjustment 17

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement Framework Adjustment 17 to the Northeast Multispecies Fishery Management Plan (FMP). This framework would implement a measure to restore unused days-at-sea (DAS) to vessels recorded under the DAS effort-control program as having fished less than one-sixth of their Amendment 7 allocation during the months of May and June 1996. The intended effect of this rule is to provide vessels with their full Amendment 7 allocation of DAS.

DATES: Comments must be received on or before November 25, 1996.

ADDRESSES: Comments on the proposed rule should be sent to Dr. Andrew A. Rosenberg, Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark the outside of the envelope: ''Comments on Multispecies Framework Adjustment 17.''

FOR FURTHER INFORMATION CONTACT: Susan A. Murphy, NMFS, Fishery Policy Analyst, 508–281–9252.

SUPPLEMENTARY INFORMATION: Amendment 5 (59 FR 9872, March 1, 1994) to the FMP established an effort-reduction program based primarily on reductions in DAS allocated to fishing vessels, with exceptions for certain classes of vessels. Under Amendment 5, the annual allocation of DAS was based on a multispecies fishing year that started on May 1. Amendment 7 (61 FR 27710, May 31, 1996), which became effective on July 1, 1996, eliminated most exceptions to the DAS program and accelerated the reductions in DAS for vessels already under the effort-control program. During the developmental stages of Amendment 7, when it became clear that the New England Fishery Management Council (Council) would be unable to submit the amendment in time for it to be

implemented before the start of the new fishing year, the Council agreed to prorate DAS to adjust for the gap between the start of the fishing year and the implementation date of the revised allocations. The preamble of the proposed rule for Amendment 7 (61 FR 8540), published on March 5, 1996, stated that ''DAS will be prorated to account for a full fishing year beginning May 1, 1996, through April 30, 1997.''

Comment from industry, received after the close of the proposed rule comment period, reflected that some members misconstrued how DAS prorations would be applied to different vessel groups upon implementation of Amendment 7. Vessel owners fishing under the DAS program in May and June believed that proration of DAS was meant to apply specifically to vessels that were exempt from the DAS program prior to Amendment 7 and that Amendment 5 call-in system vessels were to have their DAS in the months of May and June subtracted from their total Amendment 7 allocation. Because of this confusion and the resulting consequence that several vessels did not fish their full allotment of prorated DAS in the months of May and June, DAS vessel owners appealed to the Council to provide the full-year allocation pending verification of their lack of fishing activity.

In response to this concern, the Council submitted this proposed framework, which would restore unused DAS (up to one-sixth of the full-year allocation) to vessels enrolled in the call-in system in May and June 1996, that did not record more than one-sixth of their full-year allocation. In its submission, the Council specifically excluded vessels that were exempt from the DAS call-in requirement prior to Amendment 7. The Council asserted that since these vessels were not monitored before July 1, the vessel owners had no reason to believe that days not fished in May and June would be credited to their allocation. The Council argued that it would place an unacceptable burden on previously exempt vessel owners to demonstrate, and NMFS to review, a verification of groundfish activity during this 2-month period.

The analysis shows that 698 vessels held Amendment 5 DAS permits on June 30, 1996 (the last day that the Amendment 5 regulations were in effect), and were allocated a total of 95,715 DAS for the period May 1, 1996, through April 30, 1997 (Amendment 7). Of this number of vessels, 77 percent fished less than the prorated allocation of DAS (from May 1 through June 30) and 23 percent fished greater than or equal to their prorated allocation. For vessels fishing under DAS prior to implementation of Amendment 7, the result of approving this framework and restoring DAS is that the total number of DAS allocated under Amendment 7 in its first year of implementation will increase by 1.5 percent or less. This difference is negligible and would have no effect on the analysis conducted for Amendment 7. In fact, this difference is expected to dissipate during the remainder of the fishing year as the smaller vessels become constrained by winter weather.

Vessels holding a 1996 Amendment 5 northeast multispecies permit in the Individual, Fleet, or Combination Vessel categories were automatically assigned to categories and sent a permit upon implementation of Amendment 7. With this new permit, vessels were also sent an Amendment 7 application so that, if they choose to, they could request a change in permit category, provided that the application was completed and sent to the Regional Administrator by August 15, 1996. Because of this ability to change permit categories, the restoration of DAS will be calculated based on the permit category held by the vessel on August 16, 1996.

Classification

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

The Assistant General Counsel for Legislation and Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule would restore unused days-at-sea (DAS) for the months of May and June 1996, to fishing vessels that were enrolled in the DAS program under Amendment 5 to the FMP that did not record more than one-sixth of their 1996 fishing year allotment of DAS under Amendment 7.

Restoring DAS to the approximately 537 vessels that did not use one-sixth of their allotment under Amendment 7 in May and June 1996 would reestablish the original 1996 fishing year allocation for these vessels and was taken into account in analyses supporting Amendment 7 itself. Therefore, no new analysis is needed. The proposed action is unlikely to materially reduce or increase annual revenues beyond the analysis contained in Amendment 7 or increase production and compliance costs, and would not force small entities to cease business operations.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: November 7, 1996.

Rolland A. Schmitten,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

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

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

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

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

2. In § 648.82, paragraphs (b)(1)(i), (b)(2)(i), (b)(5)(i) and (b)(7)(i) are revised and paragraph (j) is added to read as follows:

§ 648.82 Effort-control program for limited access vessels.

* * * * *

(b) * * *

(1) * * *

(i) *DAS allocation*. A vessel fishing under the Individual DAS category shall be allocated 65 percent of its initial 1994 allocation baseline, as established under Amendment 5 to the NE Multispecies FMP, multiplied by the proration factor of 0.833 for the 1996 fishing year, unless a vessel qualifies for a restoration of DAS under paragraph (j) of this section, and 50 percent of its initial allocation baseline for the 1997 fishing year and beyond, as calculated under paragraph (d)(1) of this section.

* * * * *

(2) * * *

(i) *DAS allocation*. A vessel fishing under the Fleet DAS category shall be allocated 116 DAS (139 DAS multiplied by the proration factor of 0.833) for the 1996 fishing year, unless a vessel qualifies for a restoration of DAS under paragraph (j) of this section, and 88 DAS for the 1997 fishing year and beyond.

* * * * *

(5) * * *

(i) *DAS allocation*. A vessel fishing under the Combination Vessel category shall be allocated 65 percent of its initial 1994 allocation baseline, as established under Amendment 5 to the NE Multispecies FMP, multiplied by the proration factor of 0.833 for the 1996 fishing year, unless a vessel qualifies for a restoration of DAS under paragraph (j) of this section, and 50 percent of its initial allocation baseline for the 1997 fishing year and beyond, as calculated under paragraph (d)(1) of this section.

* * * * *

(7) * * *

(i) *DAS allocation*. A vessel fishing under the Large Mesh Fleet DAS category shall be allocated 129 DAS (155 DAS multiplied by the proration factor of 0.833) for the 1996 fishing year, unless a vessel qualifies for a restoration of DAS under paragraph (j) of this section, and 120 DAS for the 1997 fishing year, and beyond. To be eligible to fish under the Large Mesh Fleet DAS category, a vessel while fishing under this category must fish with gillnet gear with a minimum mesh size of 7–inch (17.78–cm) diamond mesh or trawl gear with a minimum mesh size of 8–inch (20.32–cm) diamond mesh, as described under § 648.80(a)(2)(ii), (b)(2)(ii), and (c)(2)(ii).

* * * * *

(j) *Restoration of unused DAS*. Vessels that held valid 1996 Amendment 5 NE multispecies permits in the Individual, Fleet or Combination Vessel categories are eligible for restoration of unused DAS if DAS fished during May and June 1996 was less than 1/6th of their 1996 Amendment 7 allocation. Restoration of DAS will be based on the NE multispecies permit category held on August 16, 1996. These vessels will be automatically credited with DAS equal to the difference between the proration reduction and their DAS fished during May and June 1996, as recorded in the NMFS call-in system specified at § 648.10(c) (or on other verifiable evidence of days spent fishing for multispecies). If the number of DAS fished during this time period exceeded the proration reduction amount, those days will not be subtracted from a vessel's 1996 allocation.

[FR Doc. 96–29172 Filed 11–8–96; 12:51 pm]

BILLING CODE 3510–22–F